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In Pursuit of Racial Justice: The Politics and Consequences of Racial Disparity Reform in the U.S. Criminal and Juvenile Justice Systems

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In Pursuit of Racial Justice: The Politics and Consequences of Racial Disparity Reform in the U.S. Criminal and Juvenile Justice Systems

Abstract

Overrepresentation of racial and ethnic minorities is a troubling fact in the U.S. criminal and juvenile justice systems. The scope and racial character of American criminal processing is critically shaped by politics. Scholarship has focused on the politics that helped to forge a large and racially disparate criminal justice system as well as recent political attempts to scale back criminal justice operations. This study examines the political development and consequences of policies aiming to reduce racial inequalities in the adult and juvenile justice systems. It introduces the concept of "racial disparity reform," or any policy that seeks to diminish unnecessary or adverse criminal processing differences among racial groups. Reforms range from exploratory studies and restrictions on using race as a decision-making factor to mandatory interventions throughout an entire justice system. These measures are based on policymakers' beliefs about the consistent and legitimate application of the law. This research argues racial disparity reform is politically possible and consequential in curbing inequalities. Three methodological strategies support this claim. First, this study uses legislative and executive documents to qualitatively test how different problem definitions of racial inequality led to distinct national policy responses. Ideas of disproportionate impact motivated exploratory reform in capital punishment, beliefs of discrimination encouraged prohibitory reform in racial profiling, and constructions of disparity and discrimination prompted comprehensive reform in youth confinement. Second, it quantitatively identifies the socio-political factors associated with reform developments in the states. Reform is more likely when Democrats control the elected branches, racial disproportionalities worsen, and judiciaries do not have active reform efforts. Finally, this study uses multivariate techniques to distinguish the racially egalitarian effects of a congressional mandate requiring states to reduce the disproportionate number of minorities processed throughout their juvenile justice systems. Intervention on behalf of this racial disparity reform diminishes the likelihood of punitive sanctioning and decreases the size of processed minority youth populations. This study concludes politics is important in generating more racially just criminal processing practices and redefining the future of American criminal justice.

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IN PURSUIT OF RACIAL JUSTICE:
THE POLITICS AND CONSEQUENCES OF RACIAL DISPARITY REFORM
IN THE U.S. CRIMINAL AND JUVENILE JUSTICE SYSTEMS

Ellen Ann Donnelly

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Ellen Ann Donnelly

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ABSTRACT

IN PURSUIT OF RACIAL JUSTICE: THE POLITICS AND CONSEQUENCES OF RACIAL DISPARITY REFORM IN THE U.S. CRIMINAL AND JUVENILE JUSTICE SYSTEMS

Ellen A. Donnelly
John M. MacDonald

Overrepresentation of racial and ethnic minorities is a troubling fact in the U.S. criminal and juvenile justice systems. The scope and racial character of American criminal processing is critically shaped by politics. Scholarship has focused on the politics that helped to forge a large and racially disparate criminal justice system as well as recent political attempts to scale back criminal justice operations. This study examines the political development and consequences of policies aiming to reduce racial inequalities in the adult and juvenile justice systems. It introduces the concept of "racial disparity reform," or any policy that seeks to diminish unnecessary or adverse criminal processing differences among racial groups. Reforms range from exploratory studies and restrictions on using race as a decision-making factor to mandatory interventions throughout an entire justice system. These measures are based on policymakers' beliefs about the consistent and legitimate application of the law. This research argues racial disparity reform is politically possible and consequential in curbing inequalities. Three methodological strategies support this claim. First, this study uses legislative and executive documents to qualitatively test how different problem definitions of racial inequality led to distinct national policy responses. Ideas of disproportionate impact motivated exploratory reform in capital punishment, beliefs of discrimination encouraged prohibitory reform in racial profiling, and constructions of disparity and discrimination prompted comprehensive reform in youth confinement. Second, it quantitatively identifies the socio-political factors associated with reform developments in the states.

Reform is more likely when Democrats control the elected branches, racial disproportionalities worsen, and judiciaries do not have active reform efforts. Finally, this study uses multivariate techniques to distinguish the racially egalitarian effects of a congressional mandate requiring states to reduce the disproportionate number of minorities processed throughout their juvenile justice systems. Intervention on behalf of this racial disparity reform diminishes the likelihood of punitive sanctioning and decreases the size of processed minority youth populations. This study concludes politics is important in generating more racially just criminal processing practices and redefining the future of American criminal justice.

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CHAPTER ONE - POLITICS AND RACIAL DISPARITY REFORM IN THE U.S. CRIMINAL JUSTICE SYSTEM

Overrepresentation of racial and ethnic minority groups in the U.S. adult and juvenile justice systems has stood as an enduring and pernicious issue.¹ Since the establishment of integrated correctional structures, minorities have been disproportionately processed at all stages of the criminal justice continuum (Balduis & Woodworth, 2004; Mauer, 2013; Pope & Feyerherm, 1990; Spohn, 2000; Tonry & Melewski, 2008).² Nearly 10% of all African American and 4% of all Hispanic citizens are under correctional supervision on any given day (Pew Center on the States, 2009, p. 8). Over 50% of the nation's incarcerated population identify as nonwhite (Guerino, Harrison, & Sabol, 2011). More disturbing estimates project that one in three African American males and one in six Hispanic males born in 2001 will spend time in prison during his lifetime (Bonczar, 2003; Mauer & King, 2007).

Politics has been instrumental in defining the size and racial character of the U.S. criminal justice system. Policymaking accounts of the modern criminal justice system have traditionally linked the expansion of American crime controls with the exacerbation of racial inequality in criminal processing (Mauer, 1999; Simon, 1996; Tonry, 1995; Western, 2006). Demands for "law and order" following the end of the Civil Rights Movement were politically lucrative despite their racial connotations (Beckett, 1997; Murakawa, 2005; Weaver, 2007). Unanimous commitment to "getting tough" on crime

¹ Hereafter, this dissertation uses the term "criminal justice system" to describe government processing of adults and juveniles for criminal or delinquent acts. It also refers to racial and ethnic minorities under the term "racial minorities." This choice reflects policymakers' frequent treatment of racial and ethnic inequalities as a singular problem. It likewise responds to criminal justice record-keeping practices, as many criminal justice and juvenile justice agencies do not differentiate between racial and ethnic categories (Mauer & King, 2007).

² Prior to the 1960s, Jim Crow segregation masked rates of minority overrepresentation (Ward, 2012).

among Democrats and Republicans proliferated more stringent crime controls throughout the 1980s and 1990s. Such punitive policymaking would have devastating impacts on racial minorities (Clear, 2007; Mauer & Chesney-Lind, 2002; Western, 2006). The sheer number of minorities entangled with the criminal justice apparatus and the acute disadvantages of a criminal record resulting from these measures have inspired some to allege the criminal justice system has produced a new Jim Crow order (Alexander, 2010; Wacquant, 2001, 2009)

In the past ten years, political discourse on criminal justice has been changing. Amid dropping crime rates and economic recession, policymakers across the country have sought to decrease the size of the nation's massive correctional population (Weisberg & Petersilia, 2010). States like Michigan, Mississippi, Washington, and Kansas have revised their sentencing practices and initiated new diversionary programs to curb their soaring imprisonment rates (Jacobson, 2006). In a few jurisdictions, these measures have even contributed to the closure of prisons (Pew Charitable Trusts, 2013). A growing corpus of literature has documented political efforts aimed at decreasing criminal justice operations (Dagan & Teles, 2014; Gottschalk, 2006). Today, it is uncertain whether these reforms are sustainable or if they are capable of eradicating the criminal justice apparatus' various extensions of social control (Gottschalk, 2010).

Since the 1970s, a distinct and under-explored politics has developed around concerns for racial inequality. Policymakers in the legislature, judiciary, and executive branch have actively supported policies to reduce racial inequities in the criminal processing of adults and juveniles (King & Smith, 2011). Notable reforms have ranged from President Bush's ban on racial profiling (Bush, 2001), the passage of Racial Justice Acts prohibiting racially discriminatory capital sentencing in Kentucky and North Carolina (Mosteller, 2012), and the establishment of state commissions on racial disparities in criminal justice (Mauer, 2011; Neeley, 2008; Norris, 2011). More recently, racial inequality in criminal justice has captured national political attention in several ways. In 2013, the acquittal of George Zimmerman in the Trayvon Martin murder trial triggered a series of congressional attempts to eliminate racial profiling (Fox, 2013). The Obama administration announced revisions to mandatory minimum sentences for low-

level drug offenders. A federal court also determined that the New York City Police Department's stop-and-frisk policies were unconstitutional. The press has hailed these developments as "powerful signals that the pendulum has swung away from the tough-on-crime policies of a generation ago" (Savage & Goode, 2013).

This dissertation contends that the political system is capable of generating consequential reforms to redress racial inequalities in the adult and juvenile justice systems, particularly when political actors recognize that these inequalities are caused by illegitimate and inconsistent applications of the law or other criminal justice policies. It proposes a "racial disparity reform" refers to any policy that seeks to change the existing practices, policies, or structures of criminal justice institutions in a manner that diminishes unnecessary or adverse differences among racial groups. A racial disparity reform is marked by its focus on a racial subject matter and intent to mitigate differential treatment of or disparate impact upon minority groups (Amar & Caminker, 1996). Racial disparity reforms emerge from politically-defined problems of disparate impact, discrimination, and disparity. Reform assumes various forms ranging from additional studies of racial differences and guarantees of non-discrimination to technical adjustments to standing criminal processing practices. As policymakers increasingly recognize problems of bias and inconsistency in the application of the law, reforms promoting broader and more system-wide change are becoming important. This dissertation examines the political development and consequences of racial disparity reforms in the U.S. adult and juvenile justice systems with the aim of illuminating the potential for future racial justice reforms.

This introductory chapter situates racial disparity reform within scholarship on politics and the criminal justice system. It begins by summarizing prevailing policymaking accounts of the rise of the modern criminal justice system and resultant racial inequalities. These accounts assert a tough-on-crime ideology derived from opposition to the civil rights movement and partisan realignment of the South. Crime became a convenient and profitable issue to displace disappointment with new racial egalitarianism without blatantly reversing civil rights gains. Given this linkage between crime and race, the racially disparate impacts of modern crime controls should come as

little surprise. Next, the chapter briefly describes contemporary political efforts to rollback the criminal justice apparatus. Economic considerations have motivated new public questioning of the scale of American criminal justice. Criticism of the criminal justice system has largely sprung from the right, raising the question of whether conservatives will genuinely abandon long-standing promises of “law and order.” The chapter then lays out the concept of racial disparity reform as an alternative to existing accounts of criminal justice politics and policymaking. It offers a definition of racial disparity reform and separates it from other types of criminal justice reform. The chapter concludes with an overview of the six chapters ahead.

Politics, Race, and Criminal Justice Reform (1964-2000)

The role of politics in shaping the size and racial composition of the U.S. criminal justice system is deeply-rooted. Over the past fifty years, crime has become “a, if not, the defining problem of government” (Simon, 1996, p. 13). Dominant narratives of criminal justice policymaking have illuminated a corrosive relationship among politics, criminal justice, and race between 1964 and 2000. According to these accounts, the modern “carceral state” finds its origins in opposition to the Civil Rights Movement (Lerman & Weaver, 2014). The 1960s marked a transformative period in American politics. The extension of civil rights to African Americans and white resistance to desegregation fractured the reigning political order (Carmines & Stimson, 1980; King & Smith, 2005). Unrest due to large-scale protests, freedom rides, sit-ins, and repressive violence made civil rights an unavoidable issue (Lee, 2002).

Throughout the 1960s, Southern political leaders defended their anti-egalitarian positions by claiming civil rights would incite criminal behavior. The fact that riots occurred in northern cities corroborated these assertions. If additional civil protections were granted, these events forewarned of a subsequent crime wave. After the passage of the Civil Rights Act of 1964, politics strengthened this racialized connection between civil rights and crime. Crime rates climbed as a result of such instability in urban centers,

demographic shifts, changing capacities of law enforcement agencies, and technical revisions to crime reports. The accuracy of the Federal Bureau of Investigation's crime statistics is contested, but it is likely these factors upwardly biased estimates of crime during this period (Weaver, 2007).

The appearance of ubiquitous and unrelenting lawlessness fuelled public cries for the federal government to restore order (Mauer, 1999; Tonry, 1995). Prior to this period, national policymakers had limited influence over criminal justice issues (Weaver, 2007). Although issues of immigration, prohibition, juvenile delinquency, and prostitution had inspired calls for political action, no durable federal crime controls were promulgated because federal and state criminal justice institutions lacked the capacity to effectively address crime (Gottschalk, 2006). Federal involvement would decidedly change under the Johnson Administration. In 1965, President Johnson established the Commission on Law Enforcement and Administration of Justice. The commission concluded the nation's growing crime rates derived from poverty, joblessness, residential segregation and widespread racial discrimination. To solve the nation's crime problem, politicians would have to address the vast racial inequities in society. Based upon these findings, liberals too began to form their own connection between contentious racial issues and crime (Murakawa, 2005).

A year later, Johnson proclaimed a "war against crime" in his message to Congress. Johnson called upon policymakers to take a two-pronged approach to crime. For Johnson, short-term investments in law enforcement had to be accompanied with long-term campaigns to eradicate poverty (Beckett, 1997). In his own words before an audience in Dayton Ohio,

"The war on poverty... is a war on crime and a war on disorder. [...] There is something mighty wrong when a candidate for the highest public office bemoans violence in the streets but votes against the war on poverty, votes against the Civil Rights Act, and votes against major educational bills that have come before him as a legislator" (L. Johnson, 1964).

The need to take action became more pressing after “long hot summer” of 1967 that sparked riots in 128 cities. The National Advisory Commission on Civil Disorders’ report (also known as the Kerner Report) famously asserted “our nation is moving toward two societies, one black, one white—separate and unequal” unless government undertook considerable actions to reverse social decay. While the report emphasized Johnson’s long-term approach to correcting crime through social policy, Congress embraced the short-term approach of providing immediate federal government assistance to state and local law enforcement agencies. Debate on the resultant Safe Streets Act of 1968 was largely unconcerned about this extension of federal powers and concentrated on the proper means of allocating federal funds (Beckett, 1997). Congress and President Johnson thus forged a federal-state partnership that laid the foundation for contemporary criminal justice operations (Gottschalk, 2006).

As violence and racial tensions continued into 1969, however, the anti-poverty and anti-discrimination strands of the war on poverty faded from political discourse. A “silent of majority” of Americans opposed liberal idealism, rights-based activism, anti-Vietnam protests, and the contemporary counter-culture. Crime came to be seen less as a product of lingering discrimination and entrenched inequalities. Instead, crime was a byproduct of an overly lenient and generous society. A “culture of poverty” promoting under-education, single-motherhood, joblessness had to be extinguished. Astute politicians capitalized upon fermenting “law and order” sentiments. Republican Party leaders like Barry Goldwater and Richard Nixon incorporated promises to clamp down on lawlessness into their political platforms (Murakawa, 2014; Tonry, 2011). These appeals particularly resonated among Southerners who felt betrayed by the Democratic Party over civil rights.

The message of “getting tough” on crime ultimately reached its peak during the Reagan and Bush administrations. Reagan assumed office under the 1980 Republican Party platform of enhancing criminal penalties to deter violent crime and prevent a developing danger: drug offending. Decimated by deindustrialization (W. J. Wilson, 1987) and the flight of affluent whites and blacks to the suburbs (Massey & Denton, 1993), American cities became home to blossoming drug markets that enraptured idle,

able-bodied men seeking a sort of socio-economic mobility (Anderson, 1999; Western & Wildeman, 2009). Two years into his first presidential term, Reagan announced the beginning of the “War on Drugs” that solidified executive and legislative commitments to expansive crime controls (Tonry, 1994). Congress swiftly enacted harsher and more certain sanctioning schemes like sentencing guidelines and mandatory minimums that lengthened 1 to 2 year sentences to 5 years to life in prison (Shane-DuBow, Brown, & Olsen, 1985; Tonry & Melewski, 2008). National policymakers further promulgated new drug statutes under the Comprehensive Crime Control Act of 1984 and the Anti-Drug Abuse Acts of 1986 and 1988. The War on Drugs became the most significant federal drug interdiction initiative since the Harrison Narcotics Act of 1917 (Zimring, Hawkins, & Kamin, 1994). George H. W. Bush continued these anti-drug campaigns, declaring drug use was “the most pressing issue facing the nation” during his first year in office (Alexander, 2010, p. 54). States too followed national policymakers’ leads in expanding prison capacities and combating drug use, particularly in Republican strongholds in the South and West (Western & Wildeman, 2009).

Unchecked consensus among policymakers proliferated anti-crime initiatives over the next decade. While known for his assurances to create a “third way” to divisive problems of the day, 1992 presidential candidate Bill Clinton vowed to be tougher on crime than his Democratic and Republican opponents (Holian, 2004). At the time, public concerns for crime reached their highest levels since the late 1960s (Murakawa, 2014). Clinton endorsed “three-strikes” life sentencing laws, community-oriented policing, extended lists of capital crimes, and enlarged prison and jailing operations. The \$30 million Violent Crime Control and Law Enforcement Act of 1994 was a source of pride for Democrats, who believed its passage would seize the issue of crime from the Republicans (Kramer, 1994). During the Clinton years, state and federal governments experienced their largest increases in penal populations (Alexander, 2010; Justice Policy Institute, 2001).

Inequality and Race in Criminal Justice

Punitive policymaking that consumed American politics during the later half of the twentieth century had immediate and devastating consequences. The U.S. incarceration rate soared, rising every year from 1973 to its peak in 2009 (Goode, 2013). Imprisonment rates became divorced from fluctuations in crime rates, as national and state penal populations grew by 430% while crime only increased by 3% over the course of three decades (D. Cole, 2011). Juvenile incarceration likewise doubled during this time amid steady declines in youth crime rates after 1994 (Western, 2006). Despite four years of dropping incarceration levels, more than 1.5 million adults are behind bars today. Nearly 7 million individuals are being supervised under probation, parole, jail, or prison. On any given day, 1 in 35 Americans are involved with the correctional system (Glaze & Herberman, 2013). The American penal population outnumbers those of other Western democracies by seven-fold (Tonry, 2011). To no surprise, the United States is the world's leader in imprisoning its citizens (Gottschalk, 2006).

“Mass incarceration” or “mass imprisonment” that denotes the explosion of the American carceral practices only captures part of the criminal justice system's transformative effects on citizens (Garland, 2001). The impacts of tougher crime controls have been decidedly concentrated among particular groups. Nine out of ten prison and jail inmates are male. Most criminal offenses are committed before the age of 40. Offenders typically do not possess a high school diploma, lack stable employment at the time of their incarceration, and earn average lower wages than similarly educated peers (Western, Kleykamp, & Rosenfeld, 2004). Drug laws are generally responsible for the majority of prison admissions by federal and state courts. Drug offenders alone constitute 50% of the nation's incarcerated male population and 58% of its female population (Carson & Golinelli, 2013).

Race is the clearest marker of the criminal justice system's disparate effects. Prior to the imposition of tough-on-crime measures, racial disparities in imprisonment were evident as early as the mid-1920s. Then, African Americans were admitted to state and federal prison at three times the rate as whites (Langan, 1991). Beginning in 1976,

differences between black and white imprisonment rates rapidly sharpened. Representing 12% of the general population, African Americans constituted 44% of all prisoners in 1986. Since 1993, the disproportionate racial composition of the nation's correctional population has remained relatively the same (Western & Wildeman, 2009). Similar disparities reverberate in other parts of the criminal justice system. In juvenile processing, minorities represent 62% of detained and 67% of securely confined youths (Hsia, Bridges, & McHale, 2004). In the capital punishment system, African Americans make up 42% of all inmates sentenced to death and 48% of all executions since 1930 (Sourcebook of Criminal Justice Statistics, 2010).

Racial disparities have primarily worsened as a result of criminal justice policies rather than differences in criminal behaviors (Blumstein, 1982; Tonry & Melewski, 2008). Historically, African Americans have been the overwhelming victims and perpetrators of violent crimes, yet such overinvolvement in these serious offenses has fluctuated over time (Tonry, 1995). Violent crime rose by 66% to just over 1.3 million offenses in 1990, but dropped to 1.1 million offenses in 2001. Violent crime imprisonment rates nevertheless tripled in size during this period. This disjuncture between criminal activity and imprisonment stems from shifts in policing and sentencing practices. The chance an arrest would lead to imprisonment doubled from 13% to 28% by the early 2000s. Lengths of imprisonment sentences also expanded from an average of 33 months in 1980 to 53 months in 2001 (Western, 2006, p. 43).

Elevated likelihoods of imprisonment and extended sentences likewise exacerbated racial inequalities in sanctions for non-violent offenses. Property crime imprisonment rates have doubled since the late 1980s. Although African Americans commit fewer property crimes than whites, blacks are apprehended and confined at higher rates for these offenses. Harsh drug policies have especially sharpened racial disparities. Available survey and drug-related emergency room visit data indicate whites have been the predominant users of all illicit substances except for crack cocaine (Tonry & Melewski, 2008). Historically, whites are half as likely as African Americans to be arrested for drug offenses (Western, 2006). Since the 1990s, drug offenses account for nearly a third of court commitments to prison among black inmates and a quarter of such

commitments among Hispanic inmates (Carson & Golinelli, 2013). While drug use and trade tendencies are difficult to approximate, the unequal apprehension of blacks and Hispanics for drug offenses has likely derived from concentrating drug enforcement on certain substances and areas in which minorities reside (Tonry, 2011).

The collateral consequences of interacting with the criminal justice system have been steep. Offenders are disadvantaged with respect to most life course outcomes (Clear, 2007; Pettit, 2012). The very experience of incarceration removes individuals from the labor market, eroding stable employment, work experience, and earnings (Holzer, Raphael, & Stoll, 2006). Upon returning to mainstream society, offenders face additional job search hurdles associated with hiring restrictions and the stigma of a criminal record (Weiman, 2007; Western et al., 2004). Social safety nets are thin. Congress has severely restricted offenders' access to social services like welfare (Temporary Aid to Needy Families), public housing, food stamps, and Social Security benefits (Allard, 2002; Rose & Clear, 1998; Travis, 2002). States have introduced numerous other restrictions on offenders' rights like termination of parental privileges and bans on firearms (Ewald, 2012; Olivares, Burton, & Cullen, 1996). Offenders have limited political recourse to contest these proclamations. To illustrate, voting rights are denied for various offenders in every state except for Maine and Vermont (Burch, 2013; Meredith & Morse, 2014; The Sentencing Project, 2014; Uggen & Manza, 2002). Diffuse and "invisible punishments" therefore haunt offenders long after formal interaction with the criminal justice system ends (Travis, 2002).

The prevalence of incarceration, disproportionate contact of minorities with criminal justice structures, and totality of disadvantage due to a criminal record have encouraged some to see American criminal justice as creating a perverse racial order. The criminal justice system has been portrayed as the latest "peculiar institution" descended from slavery and Jim Crow segregation that controls and restrains "nonwhite" populations (Wacquant, 2009). The so-called "New Jim Crow Order" places more African Americans under correctional control than under slavery in 1850 (Alexander, 2010, p. 175). This characterization has a mixed reception, but scholars generally agree on two points (Forman, 2012). On the one hand, American criminal justice does not

begin to approximate the brutality and cruelties minorities endured under prior systems of racial control. On the other, changes to ideological thinking regarding race, equality, law, and criminality must occur to alter the course of American criminal justice.

The path to forge a more racially egalitarian criminal justice system has divided scholars. Citing previous challenges to slavery and Jim Crow, some contend a new civil rights movement is necessary to topple the prevailing correctional system (Lerman & Weaver, 2014). Alexander (2010) laments racial inequality is so durable that “criminal justice reform efforts—standing alone—are futile” (p. 217). Such understandings of criminal justice policymaking may be overly pessimistic. Instead, politics can be a critical catalyst for ushering in new era of criminal justice and racial justice in America.

Movement for Deescalation (2000-Present)

In the recent decade, the politics of criminal justice has started to move away from unwavering commitments to more intensive crime controls (Gottschalk, 2010). National and state governments have backed away “lock ‘em up” arguments as a result of several changing political dynamics. First, the public has become decidedly less concerned with crime. Since their peak in the mid-1990s, crime rates have steadily decreased (Goode, 2013). As of 2012, the violent crime rate of 389.7 offenses per 100,000 was just above half the rate of 666.9 per 100,000 in 1989 (Federal Bureau of Investigation, 2011). Imprisonment rates have similarly dropped in the past three years, though the association between crime and imprisonment is loosely connected (Maruschak & Parks, 2012). Public fears of crime have quieted amid these declines. Twenty years ago, crime and violence stood as the nation’s most important problems (Dagan & Teles, 2014). Public opinion today no longer ranks crime as a top priority (Clear, 2011)

Although policymakers do not always follow or correctly interpret public views of crime (Lyons & Scheingold, 2000; Scheingold, 1984), political elites no longer see political profit in toughening domestic crime controls. Following Clinton’s ascendancy to the presidency, Republicans and Democrats were largely indistinguishable in their

approaches to criminal justice. Some conservatives devoted to re-owning “punitiveness,” have “exported” the war on crime to terrorist organizations and other nations (D. Cole, 2011; McLeod, 2010). Immigration has especially contributed to the internationalization of crime controls. Through measures like the congressional Illegal Immigration Reform and Immigrant Responsibility Act and Arizona’s S.B. 1070, ordinary police officers can enforce legal documentation and other immigration restrictions (King & Smith, 2011).

Other political elites have sought to expose the unnecessary expenses of the war on crime. Fiscal pressure of skyrocketing imprisonment rates pressed many states to rollback incarceration practices in the early 2000s (J. Greene & Mauer, 2010). Economic recession since 2008 galvanized additional scrutiny of criminal justice spending and expenditures. Politicians have actively reframed crime control an unsustainable fiscal problem (Gottschalk, 2010). Arguments for a more austere criminal justice system have particularly resonated among Tea Party-affiliated elected officials and libertarian activists hostile to “big” government (Dagan & Teles, 2014). The Republican Party has thus become fractured by fiscal skepticism and historic commitments to criminal justice. As a result, bipartisan alliances between mass incarceration conscious liberals and fiscal conservatives have been developing.

Consensus among the public and political leaders to scale back the U.S. criminal justice system have consequently given rise to various reform initiatives (Jacobson, 2006; Weisberg & Petersilia, 2010). Graduated sanctions for probation violations, alternatives to incarceration for nonviolent offenses, and increased access to parole and probation have emerged as common prescriptions for adult and juvenile offenders (Lerman & Weaver, 2014). Elimination of mandatory minimum sentences in Michigan, New York, and Kansas have greatly abated state prison populations (J. Greene & Mauer, 2010). The recognized failure of the War on Drugs to restrain drug use has also encouraged diversionary and treatment-based sentencing reforms for low-level drug offenses. Several states have taken steps to legalize or decriminalize the possession of marijuana under certain circumstances, including Colorado, California, Massachusetts, Kentucky, and Washington (D. Cole, 2011). Finally, “public health” approaches to criminal justice have sought to redirect government resources away from incarceration and toward rebuilding

communities devastated by crime. Approximately half of the states are experimenting with “justice reinvestment” programs aimed at reducing spending on incarceration and increasing public safety (Clear, 2011).³

Taken together, the contemporary political environment has begun to reconsider the nature of American criminal justice. While policymakers and the public have grown more supportive of reduced criminal justice operations, politics’ ability to make transformative change has yet to be fully seen. Incarceration rates of the most progressive states remain extremely high relative to those of other developed nations (Tonry, 2011). Critics have called recent deescalation reforms “myth and ceremony” due to their limited impacts on poverty, joblessness, policing, and government social controls (Wacquant, 2009). Others fear frustrations with government’s handling of crime could be parlayed into more submerged forms of crime control like private prisons (Gottschalk, 2014) or demands for decreased social services (Mauer, 2011). The deescalation movement has nevertheless been a sign of changing tides in the politics of American criminal justice.

What is Racial Disparity Reform

While deescalation efforts are striving to decrease the scope of American criminal justice following the law and order movement’s establishment of expansive and racially disparate crime controls, policymakers’ efforts to promote more equality for racial minorities interacting with the criminal justice system constitute a separate and consequential strand of criminal justice politics. Specifically, political attempts to reduce

³ Notable organizations like the Urban Institute, Pew Charitable Trusts’ Center on the States, Vera Institute of Justice, and Council of State Governments Justice Center have likewise led multi-million dollar jail and prison-oriented reinvestment projects across the country. The Obama Administration has continued to broaden national leadership and support for justice investment through evidence-based practices (Ibid).

racial inequalities in criminal justice have been overlooked and remarkable.⁴ “Racial disparity reform” refers to any proposal, decision, or enacted provision that seeks to change existing criminal justice institutions in a manner that diminishes unnecessary or adverse differences among racial groups. “Criminal justice institution” means any entity designated by the state that exercises control over persons or objects with regard to crime and punishment (Orren & Skowronek, 2004, p. 123). These institutions include prisons, jails, juvenile and criminal courts, probation departments, and law enforcement agencies. “Racial group” refers to the classifications of persons into racial and ethnic categories that reflect historical context, social relations among groups, and meanings imported to an individual’s ancestry and/or affiliations with others (Banton, 1998; Omi & Winant, 1994). Racial disparity reform thus presumes a sense of “racial order,” in which the state grants permissions and prohibitions based upon accepted beliefs about race (Hochschild, Weaver, & Burch, 2012; King & Smith, 2005). Such understandings of race do not respond to any real differences among individuals (Banton, 1998; Brubaker, 2004; R. Smith, 1993). Instead, race is a social construct, where its meaning is made and remade by institutions like the criminal justice system (Frampton, Lopez, & Simon, 2008; Schneider & Ingram, 1993).

By shifting the practices of governing institutions to diminish problematic racial distinctions, racial disparity reform has two defining characteristics: 1) reform must address a racial subject matter and 2) reform must seek to reduce differential treatment, disproportionate impact, or harms incurred by minority groups (see “racial in character” jurisprudence, Amar & Caminker, 1996). Reform must first respond to issues affecting racial and ethnic minority communities. While any policy change is motivated by multiple interests, racial disparity reform makes racial problems its primary focus. Such consciousness of race is not simply apparent in the political rhetoric surrounding a reform,

⁴ This dissertation does not attempt to rebuke scholarly consensus that the opposition to civil rights, poverty reform, drugs, and crime fused to become a compelling political agenda that inspired the design of harsher and more expansive crime controls. It does assert that the politics of criminal justice policy development has been far more dynamic with regard to race than current accounts of the law and order movement’s ascendancy would indicate.

but usually appears in the language of the reform itself. To illustrate, the proposed congressional Traffic Stops Statistics Act of 1997 called for the mandatory collection of race and ethnicity information for all individuals stopped for traffic violations. Its proponents made clear the bill was meant to extinguish “D.W.B.” or “driving while black” as a ground for stops (H.R. Rep. No. 105-435).

The second hallmark of racial disparity reform is its egalitarian aims, or at least the appearance of a commitment to more fair and equal ends. Reforms strive to revise status quo practices by eliminating or moderating their detrimental consequences for minorities. Similar initiatives can proactively limit racial inequality by outlining undue racial effects of extant or proposed statutes, as recently seen in racial impact statements (Mauer, 2009). Racially-conscious, anti-egalitarian reform is a rare, but plausible alternative. For instance, in 2011, Governor Susana Martinez of New Mexico rescinded Executive-Order 2005-019 prohibiting state law enforcement officials from inquiring about criminal suspects’ immigration status (New Mexico Executive Order No. 2011-009, 2011). Critics of Martinez’s order have equated it with racial profiling (McCoy, 2011).

Whether racial disparity reforms actualize their goals of creating more equality among racial groups is a separate question. Watershed racial disparity reforms have been cast by critics as merely symbolic (see Neal, 2004 on the Kentucky Racial Justice Act), a claim sometimes unable to be tested empirically (see Liederbach, Trulson, Fritsch, Caeti, & Taylor, 2007 on anti-racial profiling legislation). Just as policies that try to correct poverty, but fail to make demonstrable reductions, are called antipoverty strategies, racial disparity reforms are identified by their goals rather than effectiveness in altering criminal justice practices.

The fundamental purpose of solving racial inequality separates racial disparity reforms from other criminal justice reform initiatives. Racial disparity reform is first distinct from its precursor, disparity reform. A disparity reform seeks to eradicate distinctions in the treatment of individuals without regard to identity, social status, or group affiliations. Federal sentencing reform embodied this type of policy change. During the 1970s and 1980s, unwarranted disparity was a “rallying cry” for sentencing reformers and proponents of the federal Sentencing Commission (Stith & Koh, 1993, p.

105). In the courts, discretion had become synonymous with arbitrariness. In the prison, indeterminate sentences supposedly failed to deter crime and did nothing to rehabilitate offenders (Lipton, Martinson, & Wilks, 1975; Martinson, 1974). Advocacy for sentencing reform did have a racial dimension (Howard, 1975; Wicker, 1976). As Frankel (1972) summarizes in a footnote, “If it is not all tabulated in neat statistics, there is familiar evidence that race and class prejudice, personal views about specific crimes, deformed notions of patriotism, and all sorts of individual quirks affect sentences (pp. 42-43).⁵ Concerns for certainty, leniency, and deterrence ultimately took precedence over racial considerations, however. In 1984, the Comprehensive Crime Control Act established federal sentencing guidelines with the expressed goal of broadly eliminating disparities among the convicted.⁶ Because the act did not intend to primarily target racial inequalities or mention race as a source of disparity, federal sentencing guidelines in their original formulation do not meet the criteria of racial disparity reform.

Racial disparity reforms also stand in contrast to race-neutral initiatives that may have profound impacts on the treatment of minorities. Consider movements for deescalating sentencing policies. Redefining imprisonment in terms of months for most offenses and single digit years for more serious crimes would undoubtedly affect all offenders and shrink the nation’s enormous incarcerated population. At the same time, reductions in the nation’s incarceration rate could dramatically cut the size of minority offender populations (Pew Center on the States, 2009; Raphael & Stoll, 2013; Western, 2006). Tonry alleges if the U.S. prison population were scaled back to 1980s levels, the

⁵ Not all studies supported evidence of racial disparities during this time. In reports submitted to the Sentencing Commission, race was not a significant predictor of sanctions in federal courts prior to the introduction of sentencing guidelines (McDonald & Carlson, 1994; Stith & Cabranes, 1998).

⁶ Since becoming effective in 1987, many experts have faulted these measures for perpetuating, and in some cases, exacerbating disparities among offenders (Spohn, 2000; Ulmer, Light, & Kramer, 2011; Weisburd, 1992). It remains unclear whether disparities on the whole have increased or decreased as a result of these guidelines (Tonry, 1996).

black imprisonment rate would fall by 66%, or 700,000 persons (2011, p. 17) Although racial imbalances would likely still persist after radical reductions in imprisonment, African Americans would benefit most from diversionary and less punitive sentencing reforms. Carceral reform is nevertheless largely driven by non-racial concerns like economic cost or deterrence (Gottschalk, 2006). Race-neutral reforms thus do not prioritize or address racial disproportionalities in a manner that approximates racial disparity reforms. Race-neutral and ordinary disparity correctives may still serve as complements to racial disparity reforms in attempting to eradicate of racial inequalities in criminal justice.

Racial disparity reform primarily originates from the executive and legislative branches. For instance, a governor can issue an order to examine the racial discrimination in the application of the death penalty or a legislature can pass a measure prohibiting racial profiling. Reforms can still come from other segments of government. Many state supreme court systems have developed racial fairness committees tasked with assessing issues of racial inequality and designing appropriate interventions (Norris, 2011; also see Chapter 4). Procedures like comparative proportionality review in capital punishment have also sought to eliminate disparate impacts (Baldus & Woodworth, 2004). Courts may even issue rulings that seek to eliminate racial disparities. As mentioned earlier, a federal court invalidated the New York City Police Department's stop-and-frisk policies due to their racial discriminatory nature (Goldstein, 2013). Yet these rulings are circumscribed by constitutional questions and precedents allowing for racial disparate impacts in criminal processing, as further described in the case studies of national racial disparity reforms in Chapter 3 (O.C. Johnson, 2007).

Criminal justice bureaucracies, such as state police forces or juvenile probation offices, may likewise choose to revise their practices on behalf of promoting more racial equity. Reform can even originate from non-governmental actors working with criminal justice system bureaucracies to change extant practices. For instance, nonprofit organizations like the Annie E. Casey Foundation and the American Bar Foundation have stood at the forefront of developing racially-conscious, alternative criminal justice programs such as the Juvenile Detention Alternatives Initiative (JDAI) and the Racial

Justice Improvement Project, respectively (American Bar Foundation, 2015; Annie E. Casey Foundation, 2014). Because a bureaucracy is often protective of its existing practices without regard to their racial consequences (J.Q. Wilson, 1989), however, legislative and executive oversight typically drives bureaucratic racial disparity reform.

This dissertation will focus on reforms promulgated by the elected branches, but these potential sources of racial disparity reform bear important consequences. While multiple venues could address racial inequalities in the criminal justice system, political and social context mediate the shape and potential of racial disparity reform.

Overview of Dissertation

Racial inequality has been a troubling and complicated issue in the U.S. adult and juvenile justice systems. While policymaking accounts have focused on the rise of a large, racially disparate criminal justice system and on the newly emerging deescalation movement, this chapter has argued that policymakers' endeavors to reduce racial differences in the criminal justice system's treatment of offenders warrant further examination. It introduced the idea of racial disparity reform to capture policymaking attempts aimed at diminishing racial inequalities. The chapters ahead explore the various types of racial disparity reforms, problem definitions and emergence of racial disparity reform in politics, the socio-political factors associated with the enactment of racial disparity reform, and the effectiveness of racial disparity reform in promoting system-wide change.

Chapter 2 introduces a theoretical framework for racial disparity reform. It begins with an overview of racial inequality in criminal processing. It contends racial disparity reforms respond to problems of disparate impact, disparity, and discrimination that require distinct policy responses. These are differentiated by policymakers' beliefs about the consistent and legitimate application of the law by criminal justice agencies. These problems of racial inequality are then discussed with respect to social science literature on race and criminal justice. The chapter finally identifies four types of racial disparity

reform: exploratory, prohibitory, policy-specific, and comprehensive measures. This typology is explained with examples from national and state politics.

With an understanding of the different expressions of racial inequality and their policy solutions, this dissertation explores different aspects of racial disparity reform from the federal, state, and local levels. Chapter 3 traces the emergence of racial disparity reform in national politics. It tests the argument from Chapter 2 that different problem definitions generate certain types of racial disparity reforms. It qualitatively examines Congress and U.S. presidents' treatment of racial differences in capital sentencing, racial profiling, and youth confinement. The chapter suggests policymakers' beliefs about racial inequality in these three criminal justice areas are shaped by partisanship, judicial rulings concerning the constitutionality of racial considerations, controversial events, and criminological studies of racial differences. Stronger reforms develop when national elected officials believe in problems of inconsistency and illegitimacy in criminal justice decision-making.

Given this qualitative assessment of reform politics at the national level, Chapter 4 explores racial disparity reform within the states. As "laboratories of democracy," states display a variety of policy approaches to racial inequalities in their criminal justice systems. This chapter first presents an inventory of enacted policies and various types of reform measures within policies. The chapter delves further into the policymaking process of racial disparity reform by quantitatively analyzing the social, economic, and political conditions predicting policy enactments. Event history results demonstrate that Democratic control of governing institutions, the absence of efforts to promote racial fairness within the judiciary, and racial disproportionalities in criminal processing are most strongly correlated with racial disparity reform. These findings affirm a linkage among elected officials recognizing unresolved problems of racial inequality, acting on civil rights ideals, and developing policy solutions.

Finally, while federal and state institutionalization of racial disparity reforms represents an important political development, whether reforms alter the criminal justice system's treatment of minorities is a vital concern. More pressingly, it remains unclear whether comprehensive racial disparity reform, an increasingly attractive policy

alternative requiring interventions throughout an entire system, can actually change criminal processing. Chapters 5 and 6 take a closer look at whether a racial disparity reform is capable of producing more racially egalitarian outcomes and under what conditions such a policy can be powerful. These chapters analyze the Disproportionate Minority Contact (DMC) mandate, a congressional provision demanding federally funded states to reduce the disproportionate number of minorities handled throughout their juvenile justice systems. This comprehensive racial disparity reform is specifically examined in Pennsylvania, a state known for its minority overrepresentation issues as well as for its dedication to addressing these problems. Descriptive statistics in these chapters show racial disparities remain present in the Pennsylvania juvenile justice system. Multivariate assessments indicate that intervention on behalf of the DMC mandate has nonetheless mitigated the disadvantaging effects of minority status in processing outcomes and curtailed the size of the state's processed minority youth populations.

Given these qualitative and quantitative assessments of past racial disparity reforms, Chapter 7 draws lessons about future scholarly, political, and policy efforts to reduce racial inequalities in criminal justice. Racial disparity reform as a framework underscores more attention must be given to the progressive and racial-targeted aspects of criminal justice policymaking in scholarship. Racial justice advocacy going forward should consider pursuing more broadly focused and system-wide reforms within the elected branches while attempts are made to reengage the courts under statutory and constitutional doctrines. Enacted policies from such advocacy are most successful when reform initiatives are localized, grounded in rigorous social science evidence, and involve multiple interventions throughout the criminal justice continuum. In the wake of the Trayvon Martin tragedy, the events of Ferguson, Missouri, and the Obama administration's commitments to reducing disproportionate minority contact with the criminal justice apparatus, racial disparity reform will be instrumental in the political future of the U.S. criminal justice system.

CHAPTER TWO - A THEORETICAL FRAMEWORK OF RACIAL DISPARITY REFORM

Over the past four decades, policymakers have promulgated a diverse array of racial disparity reforms in the U.S. adult and juvenile justice systems. This chapter offers a theoretical framework for why and how elected officials develop policies that seek to diminish racial inequalities in criminal processing. The chapter proceeds in three parts. It first distinguishes the political motivations for racial disparity reform. Elected officials are prompted to initiate reforms given civil rights ideals and interests in socially efficient policymaking. Neither motivation is completely dominant, however, because policy responses vary in strength. Another theoretical step must be taken to explain why elected officials pursue weak reforms (e.g. studies) in some circumstances and stronger reforms (e.g. funding mandates to change criminal justice practices) in other circumstances.

The next two parts of the chapter assert policymakers construct of problems of racial inequality and subsequently create reforms based on these beliefs. Specifically, consensus in policy debates about the shape of racial inequality, as approximated by the beliefs of the median elected official, will determine reform outcomes. The chapter asserts elected officials define problems of racial inequality in terms of consistency and legitimacy. Four problems of racial inequality emerging from perceptions of consistency and legitimacy are disproportionate impact, discrimination, disparity without discrimination, and disparity and discrimination. These constructions are forged with political and scientific information. While Chapter 3 explores the political process of problem definition and policy response, this chapter describes each of these four problems within regard to race and criminal justice scholarship. This chapter finally provides a typology of racial disparity reforms. Four types of reforms are exploratory, prohibitory, policy-specific, and comprehensive measures. Examples of national and state reform measures are provided for each of these reform types.

Motivations for Racial Disparity Reform

A framework of racial disparity reform helps to elucidate how criminal justice policies targeting racial inequality emerge in politics. Policymakers adopt racial disparity reforms for two broad reasons. First, elected officials respond to racially egalitarian ideals entrenched in American politics. Second, they receive electoral and institutional benefits for solving problems.

A primary motivation for racial disparity reform derives from prevailing ideals of civil rights and equality. Race is an integral part of American politics because governing institutions shape understandings of race, relations across racial groups, and the consequences of race on citizenship (Hochschild et al., 2012). Such “racial order” in American society comes from a tension between “white supremacist” and “transformative racially egalitarian” traditions (King & Smith, 2011). The former defends the subjugation of minorities under restrictive regimes like slavery or Jim Crow segregation. The latter endorses equal rights and equal opportunities for all based on natural rights doctrines (King & Smith, 2005, p. 85). While these two racial traditions underpin policymaking today, they can explain divergent criminal justice reforms by elected officials. Anti-egalitarian ideas inspire punitive policy change, but progressive ideals motivate racial disparity reform. These civil rights ideals are most likely to be endorsed by Democrats and black and Latino elected officials who tend to be more liberal and responsive to minority groups’ issues (Cameron, Epstein, & O’Halloran, 1996; Herring, 1990; Yates & Fording, 2005)

A secondary motivation for racial disparity reform comes from elected officials’ need to develop socially efficient policies (Esterling, 2004; Sunstein, 1988). Politicians have strong incentives to respond to social concerns. First, reelection depends on satisfying the demands of constituents and interest groups. Policymaking provides opportunities for elected officials to take positions that separate them from other candidates (Krehbiel, 1992; Mayhew, 1974). It also allows elected officials to claim credit for solving problems and make “good” public policy for their electoral base (Fenno, 1978). Second, elected officials can use policymaking as a way to maintain institutional

power. In a system of separated powers, the development of socially desirable laws can enhance the reputation, capacity, and governance of an elected official's institution (Patashnik & Peck, 2015). A publicly supported institution can further yield electoral benefits for individual policymakers.

At the same time, elected officials wish to design "efficient" social policies. Reforms should address a problem in a way that does not produce controversy, waste resources, or otherwise fail to deliver promises. In criminal processing, new policies should not lead to increases in criminal behaviors or introduce new forms of injustice. In electoral politics, too much racial consciousness may alienate white voters who may not believe in the illegitimacies and inconsistencies elected officials see in the system (W.J. Wilson, 1987). Too progressive stances may encourage voters to see elected officials as too weak on crime, as seen in the derailing Michael Dukakis' 1988 presidential campaign due to Willie Horton's furlough (Tonry, 2011). Simply put, elected officials are conscious that any of these inefficiencies will make them vulnerable to political opponents (Sunstein, 1988). A major issue in designing efficient reforms is elected branches lack the internal capacity to discern the state-of-knowledge on a problem and sort through all available alternatives to design a technically elegant policy (Esterling, 2004, p. 77). An issue like racial inequality in criminal justice especially raises tremendous challenges for elected officials to design publicly acceptable solutions.

From Motivations to Problem Definition and Policy Response

While ideological and problem-solving motivations for reform may exist for elected officials, racial disparity reform varies in scope and character. Elected officials sometimes address racial differences through additional study or data collection. Other times, these measures are more substantive, such as creating a new commission tasked with improving racial fairness throughout the criminal justice continuum. If either civil rights ideals or socially efficient policymaking completely dominated the thinking of

elected officials, strong racial disparity reforms would be a more regular feature of criminal justice policymaking.

A framework of racial disparity reform must take into account the empirical reality of varying racial disparity reform responses in light of civil rights ideals and socially efficient policymaking reasons. Elected officials develop racial disparity reforms based upon their own political constructions of racial inequality in criminal processing (Blumer, 1971; Rochefort & Cobb, 1994; Schattschneider, 1960). As Loury (2002) observes, policymakers confronted with racial problems in law enforcement “need to tell themselves a ‘story,’ to adopt some ‘model’ of what has generated their data, to embrace some framework for gauging how best to respond” (p. 158). How a problem in criminal processing is cast determines a problem’s placement on a policymaking institution’s agenda, policy debate, and possible resolution among certain alternatives (Kingdon, 1984; Petracca, 1992; Schattschneider, 1960).

Problems are not purely defined by technical assessments (Rochefort & Cobb, 1994; Wildavsky, 1979). Issues are also constructed by government actors and involved groups to reflect their interests, values and ideas (Spector & Kitsuse, 1977). Elected officials define their own problems by merging scientific information with relevant political information. While scientific information is based on expert or academic studies, political information includes the positions of other elite political actors (e.g. the courts) and the views of constituents (Whiteman, 1995, p. 40).

Because policy enactments require a degree of consensus among elected officials, this information helps to develop shared constructions of racial inequality and point to socially efficient reforms. Consensus about what problem of inequality exists can be approximated by the views of the median electoral official (Downs, 1957). When a racial disparity reform is finally enacted, elected officials on the whole meet societal demands, improve the welfare of the criminally processed, and advance their own political interests.⁷

⁷ An emphasis is placed on aggregate benefits because socially efficient policies will not please all elected officials, interests groups, or constituents. As Esterling (2004) observes, socially

Perceptions of Racial Inequality in Criminal Justice Decision-Making

For scholars, decision-making in the criminal justice system is generally understood as a product of a multiplicity of demands, a strong need for compromise, and a degree of unpredictability (Hagan, 1989). A singular understanding of how criminal officials—ranging from police officers and correctional staff to probation officials and judges—arrive at certain choices to handle adult or juveniles offenders has proven elusive. Decisions broadly embody some collection of principles and objectives esteemed by unequal actors that varies over time and place. No single interest, ideology, or belief entirely dominates criminal justice officials' choices (Gibbs, 1986; Hagan, 1989; Sutton, 1988, p. 244)

For policymakers, two fundamental principles underlie their perceptions of inequality in criminal justice decision-making: consistency and legitimacy (Blumstein, Cohen, Martin, & Tonry, 1983). These ideals are distinguished by Blumstein et al. (1983) with respect to any inequalities in sentencing by judges. This dissertation expands on this framework by 1) extending it to all forms of criminal processing and criminal justice officials and 2) focusing on inequality with respect to race. Consistency refers to the similar treatment of individuals under the law. All persons should expect a criminal justice official will handle their cases in manner that accords with the approaches to others presenting comparable circumstances. Similarity of treatment is based upon an individual's prior contacts, the interactions of one's acquaintances, and the experiences of the general public with the criminal justice system (MacDonald, 1997; Tyler, 1990). The concept of consistency thus presumes criminal justice officials apply the law with a degree of uniformity.

Legitimacy refers to the legal permissibility of the criteria used in a decision to enforce a law or policy. Legitimate factors are attributes of a case that characterize an

efficient policies are “only hypothetical solutions to policy problems” that reflect overall political consensus (p. 78-79).

offense, an offender's culpability, or an offender's potential for future criminality (Blumstein et al., 1983). These factors are popularly accepted and legally sanctioned by governing officials (Fagan, 2008b). More importantly, these considerations underpin essential qualities of an ideal criminal justice system like procedural fairness, security, and proportionality (Meares, 2000; Tyler, 1990). By contrast, illegitimate criteria are inappropriate and morally objectionable considerations that bear little relevance to a case from a legal perspective. While race or national origin rank among the most suspect classifications in American jurisprudence (O. C. Johnson, 2007), other personal characteristics like gender, socio-economic status, or religious identity also have no legitimate place in criminal justice decision-making.

Interacting the dimensions of consistency and legitimacy gives rise to four perceived types of racial inequality in criminal processing. Each outcome is represented by a distinct quadrant shown in Table 1. Outcomes in Quadrants III (discrimination) and IV (disparity and discrimination) generally follow the definitions of Blumstein et al. (1983), but Quadrants I (disproportionate impact) and II (disparity) are marked by a different set characteristics described in the following. Again, while the legitimacy and consistency of criminal justice operations can be seriously contested (Tyler, 1990), this 2x2 framework is based on the views of the median elected official, whose perceptions reflect consensual beliefs of policymakers.

First, when the median policymaker believes criminal justice officials consistently apply the law and ground their decisions in legitimate criteria (Quadrant I), criminal justice decisions appear to be just. That is, the criminal justice system functions properly according to legal standards set forth by government and society. While procedurally just, issues of disproportionate impact due to legal factors may still occur. An example is elected officials observing more African Americans being convicted for homicide offenses because blacks are the overwhelming victims and perpetrators of homicide.

The remaining quadrants reflect departures from a system believed by the median policymaker to be operating from principles of consistency and legitimacy. If an elected official sees the steady, palpable influence of illegitimate criteria in criminal justice outcomes, the problem is indicative of discrimination (Quadrant III). The consistent uses

of gender or race in sentencing decisions are examples of discrimination. An example of discrimination is also sentencing all death-eligible black defendants to death if they killed a white victim (Baldus and Woodworth, 2004).

Conversely, when the median elected official understands that enforcement of criminal justice policies is lawful, but inconsistent, disparity without discrimination exists (Quadrant II). Disparity generally refers to differences among cases with similar attributes without regard to any specific reason for such distinctions (Blumstein et al., 1983, p. 72; Spohn, 2000, p. 432). Differences among like-cases can be manifested in outcomes (e.g. length of sentence) or changes in the likelihood a case is handled in a certain way (Bishop, 2005, pp. 24–25; Sickmund, 2004, p. 12). Yet in Quadrant II, disparity without discrimination suggests legitimate factors are unevenly applied without prejudice, bias, or the influence of illegitimate factors like race. For instance, a judge considers an offender's prior record more heavily than another judge in the same jurisdiction. These disparities in criminal justice decision-making can become problematic under the guarantee of equal protection because they can inadvertently map onto racial lines. In the above scenario, racial inequality could be exacerbated if African Americans are more likely to possess prior records than other racial groups (Mauer, 1995).

Finally if the median elected official thinks criminal justice operations are marked by biases and the uneven administration of the law, criminal processing suffers from the dual challenges of discrimination and disparity (Quadrant IV). Disparity and discrimination could coexist, for instance, when some, but not all police officers use race as a pretext for stops and searches. In these situations, the boundary between these issues may be difficult to define.

Prior Literature on Race, Inequality, and the Criminal Justice System

The four expressions of perceived racial inequalities in criminal justice decision-making that emerge from the median policymaker's beliefs of consistency and legitimacy

correspond to important divides in social science literature on significance of race in the U.S. criminal justice system. Prior to the 1940s, social scientists were relatively united in their conceptualizations of criminality. Crime was closely linked to contemporary doctrines of scientific racism. Many scholars of the 19th and early 20th centuries subscribed to biological or physiological explanations of criminal behavior. Criminal disposition was inheritable with signs of criminality marking the body (Gould, 1996; Lombroso, 2006). These “stigmata” of one’s nature rested upon, and signaled, the presumptive inferiority of “nonwhite” populations (Gabbidon, 2009; Merton & Ashley-Montagu, 1940; Rafter, 1997). Little by little, pioneering studies by Du Bois (1941), Johnson (1941), and Sellin (1928, 1935) questioned such widely held narratives of black and immigrant criminality. Prejudice and the low-social position of racial and ethnic minorities were instead identified as the key drivers of these groups’ disproportionate rates of arrest, jailing, and imprisonment. Minorities were believed to offend at higher rate than whites, yet racial animus and bigotry placed nonwhites under greater surveillance and harsher social controls (Tonry, 1995).

Following the demise of Jim Crow segregation, the stark numbers of racial minorities processed by the criminal and juvenile justice systems relative to minority groups’ representation in the general population sparked new inquiries into the equality and fairness of the criminal justice operations. Debate over “discrimination,” “differential involvement,” or “disparity” as the chief source of minority overrepresentation in criminal justice institutions has since characterized modern criminological research on race. The appeal of one perspective over another has varied over time and with the development of methodological innovations (Spohn, 2000; Zatz, 1987).

The following discussion of modern criminal justice research speaks to the claim that elected officials often use scientific evidence with political information to formulate their constructions of racial inequality problems. Relevant scholarly theories are presented for each quadrant of Table 1. In brief, Quadrant I (disproportionate impact) is best captured by consensus theory, Quadrant III (discrimination) by conflict, symbolic threat, and other theories of discrimination, Quadrant II (disparity without discrimination)

by loosely coupled systems and bureaucratic theories, and Quadrant IV (disparity and discrimination) by most empirical criminological research and the contextual approach.

Consensus Theory

Quadrant I of Table 1 finds its intellectual roots in the sociological tradition of consensus theory. This Durkheimian perspective maintains that society agrees upon a common set of norms and beliefs. Acts or persons that threaten collective values must be rebuked (Engen, Steen, & Bridges, 2002). The state, law, and legal principles internalize and seek to uphold societal values. Punishment is then essentially a “passionate reaction of graduated intensity that society exercises through the medium of a body acting upon those members who have violated certain rules of conduct” (Durkheim, 1997, p. 96). The courts and law enforcement agencies accordingly sanction criminal behavior given the seriousness of an offense and broadly-based social expectations (Bridges, Crutchfield, & Simpson, 1987; Leiber, 2003). By result, criminal justice decisions should be viewed as legal and socially acceptable.

Under the consensus perspective, social structure wields an important, yet indirect influence over criminal justice administration. Economic inequalities deprive individuals of resources and opportunities, driving society’s most disadvantaged towards strain, anomie, and criminality (Cloward and Ohlin, 1960; Cohen, Kluegel, & Land, 1981; Merton, 1957). Impoverished areas generate the highest levels of crime and the highest levels of imprisonment (Rose and Clear, 1998; Western, 2006; W. J. Wilson, 1987). Social controls consequently have the greatest impact upon the poor. Proponents of consensus theory would acknowledge wealth disparities contribute to overrepresentation of the poor among society’s criminally processed population. Such disproportion is justified, however, as it derives from the differential involvement of the impoverished in crime.

Race should also never directly enter into criminal processing. Because all segments of society would not consent to incorporating racial considerations into

deliberations of criminal responsibility, the consensus tradition rejects the possibility that race itself will introduce new inequities in criminal justice administration. Whites and nonwhites should be treated equivalently given the objectivity and universality of legal principles. Racial bias is a random occurrence (Leiber, 2003), and the existence of a racist criminal justice system is simply a myth (Wilbanks, 1987).

Racial differentials will only appear in criminal justice outcomes under two conditions: 1) if race is correlated with legal factors like crime severity, prior records, or number of charges (Liska & Tausig, 1979) or 2) if race is associated with socioeconomic deprivation, which increases an individual's propensity toward criminal involvement and results in higher probabilities of formal criminal processing (Sampson & Laub, 1993). An empirical model properly controlling for legal characteristics and socioeconomic status, though, will show race does not exert any additional influence on these decisions.

A reality in criminal justice is that both differential offending behavior and the low socioeconomic positioning of racial minorities skew the racial composition of the nation's criminally processed population (Hindelang, 1969). Legal characteristics elucidate a non-trivial portion of minority overrepresentation in modern American prisons (Blumstein, 1982; Langan, 1985), though their explanatory power has diminished in more recent years (Tonry & Melewski, 2008). From a consensus perspective, racial disproportion does not necessarily call into question the operations of the criminal justice system. If consistently enforced based upon legitimate principles, laws and criminal justice policies may have normatively permissible racially disproportionate impacts. A system is only unjust if it deviates from its socially-ordered legal functions.

Conflict, Symbolic Threat, and Other Theories of Discrimination

In sharp contrast to the consensus tradition, Quadrant III encapsulates several theoretical perspectives purporting the discriminatory nature of the criminal justice system. The conflict tradition serves as the intellectual foundation for claims of systematic bias. Acquiring momentum with the rise of "new" or radical criminology in

the 1960s, conflict theory alleges a powerful, majority continually seeks to preserve its dominance over marginalized populations. Elites design social structures to maintain extant power hierarchies (Chambliss, 1973; Liska, 1992; Quinney, 1975). The struggle between the powerful and powerless is manifested in rulemaking, organizational processes, and interpersonal relations (Schur, 1971). Punishment is a vital instrument of social control (Garland, 2001; Liska, 1992; Lynch & Groves, 1989). The very label of “deviant” or “criminal” acts as a potent device, eliciting negative social responses and further circumscribing an individual’s access to social institutions (Becker, 1963; Lemert, 1967).

In a system of differential power, the law will excessively discipline the poor, uneducated, foreign, and otherwise marginalized to ensure their repression (Myers & Talarico, 1987; Tittle & Curran, 1988). With regard to race, racial animus will permeate all aspects of criminal justice administration. Minorities will incur disadvantages from police patrols to sentencing due to the acrimony of the powerful. The constant influence of racial prejudice coupled with a lack of any political, economic, or social recourse to discrimination heightens the likelihood of certain and harsh sanctions for minorities (Chambliss & Seidman, 1971).

Symbolic threat theories give nuance to the traditional conflict perspective. This literature problematizes the narrative of the powerful’s relentless suppression of the powerless by offering that struggle actually occurs when two groups approximate each other in economic or social status. Specifically, one group becomes increasingly threatened by another that competes for similar resources, opportunities, and positions (Hawkins, 1987). Extending this logic to race relations, white fears develop in response to the growing presence of minorities within a certain population or greater minority group visibility due to social gains (Blalock, 1967). Feelings of threat may especially intensify as economic differences among racial groups narrow (Frazier, Bishop, & Henretta, 1992, p. 199). More simply, threat may even originate from perceived violations of middle-class norms or values (Sampson & Laub, 1993; Tittle & Curran, 1988).

Regardless of its origins in social hierarchy or social proximity, discrimination has had a demonstrable impact on criminal processing. Within social science scholarship, discrimination is evidenced by purposeful intent or by the persistent effect of illegitimate factors after relevant control variables are introduced (Spohn, 2000; Zatz, 1987). First wave criminological research on newly integrated correctional facilities documented lingering discriminatory practices in the processing of adults (Bedau, 1976; Wolfgang, Kelly, & Nolde, 1962) and juveniles (Arnold, 1971; Thomas & Sieverdes, 1975; Thornberry, 1979) upon these grounds. The conclusion of pervasive racial bias, though, was far from universally embraced. Methodologists like Cohen and Kluegel (1979), Hindelang (1969), and Meade (1974) quickly faulted discrimination studies for their weak methods, reliance on older datasets, and focus on Southern jurisdictions. Many of these scholars sought to sustain the differential involvement thesis of the consensus tradition (Zatz, 1987). The dramatic growth of the American criminal justice apparatus and the system's exacting collateral consequences for minority communities have nevertheless instilled new life into scholarly accounts of entrenched racial hierarchy (Alexander, 2010; Wacquant, 2009).

Loosely Coupled Systems and Bureaucratic Autonomy Theories

Against the backdrop of the “discrimination” and “no discrimination” divide between consensus and conflict theorists, scholars in the 1970s began presenting an alternative view of differences in criminal justice outcomes. The structure and function of the criminal justice system did not tightly fit with dominant social beliefs, norms, and ideologies (Hagan & Leon, 1977; Sutton, 1988). “Disparity” rather than uniformity due to shared social principles characterized criminal justice decisions of the day (Stith & Koh, 1993; Tonry, 1996; S. Walker, 1993). While disparity is commonly tied to the use of illegitimate criteria like race and gender in decision-making (see Quadrant IV), disparity without discrimination (Quadrant II) arises when criminal justice officials legitimately, but unevenly apply social controls due to the norms, routines, or structures

of a particular criminal justice institution. This problem is grounded in public policy and political science literature emphasizing the importance of bureaucratic structure and action.

According to Scheingold (1984), disparity is a consequence of criminal justice bureaucracies' "political accommodation" to their local settings (p. 230). Law enforcement agencies, courts, prisons, jails, and juvenile detention centers as criminal justice bureaucracies express a significant degree of bureaucratic autonomy.⁸ Insofar that criminal agencies operate as autonomous institutions, criminal processing and decision outcomes will vary across jurisdictions. To better understand these disparities, autonomy in criminal justice bureaucracies can be analyzed according to three perspectives: the individual approach, the organizational approach, and the environmental approach (Eisenstein & Jacob, 1977). Each level of analysis illuminates different dimensions of agency power and sources of disparity in processing outcomes.

The individual approach posits key decision-makers are responsible for defining the goals, practices, and independence of an agency (G. F. Cole, 1973; Packer, 1968; J. Q. Wilson, 1989). In the criminal justice system, individuals and their contributions to agency autonomy arguably become more significant as one moves down the administrative hierarchy to the "street-level bureaucrat" (Lipsky, 1969; Thompson, 1962). These public officials handle the everyday affairs of citizens through involuntary interactions and deal with problems over which they have little control. Such danger and authority grant street-level bureaucrats a substantial degree of independence, discretion, and legitimacy within a community (J.Q. Wilson, 1968). As these figures develop their routines and simplifications of common situations, little may check the ways they arrive at their decisions.

Autonomy also stems from the organizational structure of the criminal justice system. The criminal justice system is often described as a loosely coupled system (Bishop, Leiber, & Johnson, 2010; Hagan & Leon, 1977; Singer, 1997). According to

⁸ Bureaucratic autonomy is evinced by an institution's development of its own organizational capacities, distinct interests, and legitimacy in public and political spheres (Carpenter, 2001)

Weick (1976), such a system is denoted by subparts that are responsible to each other but retain their own identities and physical or logical separateness. Subparts, like the police department or the criminal court, are connected to each other by only a few shared goals or responsibilities (e.g. ensure public safety). Each subpart, however, differs substantively in how these goals or activities are acted upon (Glassman, 1973; March & Olsen, 1975). These weak linkages among subparts afford an agency flexibility, distance from outside influences, and the opportunity to develop its own interests (Weick 1976). By result, the criminal justice system will suffer from poor coordination, frequent violations of rules, uneven implementation of policies, and barriers to changing everyday routines (Hagan, Hewitt, & Alwin, 1979; Meyer & Rowan, 1977).

Finally, the environmental approach asserts the autonomy of criminal justice bureaucracies derives from their unique expressions of political and social dynamics within their particular communities (Bridges & Crutchfield, 1988; Eisenstein & Jacob, 1977; Flemming, 1973; Ulmer, 1997). According to this view, a singular criminal justice system does not exist. Every town, city, county, and state has its own criminal justice system, and no two work in the same way (Presidential Commission on Law Enforcement and Administration of Justice, 1967, p. 7). Who gets justice and how it is administered depends upon conditions in the local setting (Eisenstein, Flemming, & Nardulli, 1988). Justice by geography, for example, illustrates this argument. Urban jurisdictions notably develop more streamlined processing procedures in response to greater caseloads, delivering divergent outcomes from suburban or rural courts with more limited resources, less experience with “routine types” of offenders, or fewer needs to maintain order (Feld, 1991; K. L. Kempf & Austin, 1986; Leiber, 2003; Miethe & Moore, 1985).

Putting these three approaches together, criminal justice bureaucracies exercise considerable discretion, independence, and authority that directly generate disparities in decision outcomes. Each criminal justice institution arguably promotes its own forms of justice. As Nardulli, Flemming, and Eisenstein (1985) explain,

“[Bureaucratic justice] is a justice premised not on strict adherence to due process or committed to the refined, individualized treatment of individuals; nor is it wedded to the swift and severe punishment of defendants based upon some consistent ideology but rather one premised on strict adherence to bureaucratic routine grounded in relatively pragmatic concerns. That routine in a given county is the result of an adjustment to an amalgam of contextual and environmental factors” (p. 1129).

In all, the development of bureaucratic justices assures some disparity in processing outcomes must be anticipated within the criminal justice system as a whole. Still too much disparity even without prejudice requires correction by policymakers.

Empirical Criminological Research and the Contextual Approach

The preponderance of criminological research has ascribed to Quadrant IV’s position that disparity and discrimination affect outcomes at all decision-points (Bishop, 2005; Chiricos & Crawford, 1995; Kansal, 2005; Spohn, 2000; Tonry, 1995). This general agreement arose during 1980s that marked a key turning point in the research design and statistical approaches to racial inequality (Zatz, 1987). Hagan (1974), Kleck (1981), and others launched rigorous empirical efforts to unpack the complexities of race in criminal justice decision-making. The introduction of previously unconsidered variables, interactions, and multivariate statistical techniques to richer datasets underscored the multifaceted influence of race on processing outcomes (Crutchfield, Fernandes, & Martinez, 2010; MacLean & Milovanovic, 1990). A main effect of race after controlling for relevant factors has continued to signify the possible influence of discrimination (Mitchell, 2005; Paternoster & Iovanni, 1989). Yet criminologists have distinguished several additional dimensions of racial inequality in criminal processing.

First, race exerts indirect or conditional influences on decision-making through its relationships with other relevant variables (Pope & Feyerherm, 1990). The effects of race

may be mediated by another variable, such as a youth's family status (Kempf-Leonard & Sontheimer, 1995), prior record (Bishop & Frazier, 1996; Steffensmeier, Ulmer, & Kramer, 1998), bail status (LaFree, 1985), or judicial procedures (Chiricos & Crawford, 1995; DeJong & Jackson, 1998). Race may alternatively have interactive effects on decisions. Differences in treatment may exist within racial groups and between-racial group distinctions may vary across levels of key social or legal characteristics (Bishop, 2005; Miethe & Moore, 1986). Models simply testing the main effects of variables can mask the reality that race is more meaningful for certain subpopulations (Klepper, Steven, Nagin, & Tierney, 1983; Spohn & Spears, 2003).

Second, the inclusion of multiple social, legal, and environmental factors may cause a statistically significant coefficient for race to disappear. These changes do not necessarily point to the conclusion that racial considerations have no influence on offenders' treatment, however (Leiber, 1994; Pope & Feyerherm, 1993). The phenomenon of cumulative disadvantage supports this contention. Race tends to become more important at later processing stages along the criminal and juvenile justice continuums. Small disadvantages due to indirect or understated forms of racial bias can accumulate at early decision-points. As racial minorities incur progressively more harsh treatment due to biased decision-making, severe inequities among white and nonwhite offenders will appear at the sentencing or disposition stages (Bortner & Reed, 1985; Fagan, Slaughter, & Hartstone, 1987).

Criminological studies highlighting the existence of disparity and discrimination underscore the degree to which race matters depends upon the decision-making "context." Context broadly refers to the structural conditions, political climates, and social processes that affect the shape and appearance of racial differentials (S. Walker, Spohn, & DeLone, 2011, p. 29). Although researchers share different beliefs about what contexts or conditions exactly matter in decision processes, the goal is to capture a range of legal and extra-legal factors into one's framework or empirical model (Sampson & Lauritsen, 1997). To illustrate, Ulmer (1997), Conley (1994), and Leiber (2003) among others combine processing record information with ethnographic observations of courts to show how court orientations sway sanctioning practices. The contextual approach forges an

especially important role for public policy. If racial inequality is not an immutable reality of decision-making, legislation (Nicosia, MacDonald, & Arkes, 2013; Petersilia, 1983; Ulmer & Kramer, 1996) or judicial decisions (Ulmer, Light, & Kramer, 2011; United States Sentencing Commission, 2010) can diminish racially discriminatory or disparate practices. While criminological literature indicates disparity and discrimination exist—even after reform—experts and scholars often have to convince policymakers of this problem-construction and the need for intervention.

Types of Racial Disparity Reform

Because each quadrant of Table 1 introduces a specific construction of racial inequality in criminal justice, policy interventions on behalf of promoting more egalitarian and just outcomes for racial minorities will assume distinct forms. As Table 2 shows, racial disparity reforms fall into four categories: exploratory, prohibitory, policy-specific, and comprehensive. These types are intended to generalize policymaking solutions to racial inequality, even though inequalities and their policy responses may be complex.

Exploratory reforms are associated with a criminal justice system believed by the median policymaker to be properly and uniformly applying the law. Because Quadrant I permits racially disproportion given the procedural justice of the system's operations, reform addressing any racial inequality will target potentially disproportionate impacts on minority groups. Without clear threats to consistency or legitimacy, society must ask to what extent and what types of racial disproportion are acceptable. More precisely, society must contemplate what racial equality means in numerical, proportional, and subjective terms (Hagan, 1983; Nettler, 1979).

Exploratory reforms seek to illuminate differences among racial groups by requiring the collection of data and/or additional study of racial differences within a jurisdiction. An example is President Clinton's directive to federal law enforcement agencies to track their activities with statistics relating to race, ethnicity, and gender

(Holmes, 1999). Racial impact statements, or required reports outlining the possible consequences of legislative proposals altering criminal justice procedures upon minority groups, represent a more forceful example of exploratory reform (Mauer, 1999). The motivation behind such reform is two-fold: policymakers and practitioners get a better understanding of the racial impacts of current policies and public awareness of racial differences can encourage more critical assessment of the criminal justice system.

Exploratory reforms are a weaker reform strategy. Even while displaying racial differences, consensus about racial justice may differ according to the statute, practice, or institution in question. For instance, suppose American society seeks to rectify the known overrepresentation of young black males in its prisons. Members of this group are overwhelmingly the perpetrators and victims of violent crime. At the same time, black men are disproportionately prosecuted under federal crack-cocaine laws (Tonry, 2011). Responses to racial differentials under drug policies may diverge from those under violent crime provisions, as violence and drugs potentially present different types of threat to broadly-based social values. By result, “racial justice” in the processing of offenders represents an evolving and continually negotiated ideal, even when the criminal justice system functions in accordance with socially prescribed laws.

Prohibitory reforms emerge when the median policymaker endorses the belief that race is inappropriately used as a decision-making factor in Quadrant III. Restrictions on the use of race as a category and other anti-discrimination measures are common solutions. The Bush administration’s ban on federal agencies considering race in investigations not relating terrorism and other threats to national security represents one such measure (U.S. Department of Justice, 2003). Sometimes racial imbalances or disparate impacts may be proscribed. Prohibitory reforms also typically stipulate judicial resources for continued acts of discrimination. For instance, the Kentucky Racial Justice Act bars the imposition of the death penalty if statistical evidence shows race may have influenced the decision to seek a capital sentence (Neal, 2004).

The possibility of judicial intervention in prohibitory reform is crucial to emphasize. Historically, the courts have stood as the primary institution for championing the interests of the less powerful in modern times (Mucciaroni, 2009; Scheingold, 1974).

Landmark cases like *Yick Wo v. Hopkins* (1886), *Shelley v. Kraemer* (1948), *Brown v. Board of Education* (1954), and *Batson v. Kentucky* (1986) sought to dismantle systems of racial discrimination when comparable policymaking activity in Congress and the executive would have never transpired (Epstein, 1985; Hochschild, 1984; Scheingold & Sarat, 2004). Although discrimination in criminal justice used to be fought on constitutional grounds (i.e. violation of the Equal Protection Clause), cases like *McCleskey v. Kemp* (1987) have prompted legislatures to ensure non-discrimination in criminal justice through additional statutory protections like the Civil Rights Act of 1964 or Violent Crime Control and Law Enforcement Act of 1994. When judicial enforcement does not exist, prohibitory reforms can become toothless. Under circumstances of judicial non-intervention, elected officials can could also attempt to enforce prohibitory measures through federal funding sanctions (Simmons, 2008).

Next, the median policymaker introduces policy-specific reforms to resolve perceived disparities without discrimination. Policy-specific reforms intend to promote consistency by revising the practices of criminal justice bureaucracies. The legislative or executive branch that created the bureaucracy usually introduces measures to reign in an agency's deviations from politically accepted standards. Typically, reform is accomplished by making new legislation (Ferejohn & Shipan, 1990), but it may also include renewing or withdrawing agency appropriations, confirming agency appointees, and eliminating a service all together (Aberbach, 1990; Howell & Lewis, 2002; S. K. Snyder & Weingast, 2000). The scope of such reform is usually narrow, obtaining to only a certain subset of offenses, penalties, or criminal processing stages. Reforms tend to be more technical and structural in nature to ensure the practices of criminal justice bureaucracies are altered. In this regard, these policies intend to make incremental change rather than overhaul an entire criminal processing system. The Fair Sentencing Act of 2010 typifies policy-specific reform.⁹ The law reduced the 100:1 crack and power cocaine sentencing disparity that resulted longer federal drug law sentences for African

⁹ Also see the rollback of New York's Rockefeller Drug Laws, under which 90% of the state's drug offenders were black or Hispanic (D. Cole, 2011).

Americans, who are the predominant users of crack cocaine. The new 18:1 statutory ratio has made sentencing fairer, but it does not eliminate the disparity in sanctions for two forms of the same drug (Mauer, 2011)

When the median policymaker recognizes problems of bias and the uneven application of the law (Quadrant IV), comprehensive reforms advancing more systematic changes in criminal processing are formed. Comprehensive reforms call for regular assessments of racial disproportionalities within an entire system, intervention given these findings, and evaluation of introduced correctives. An emphasis is placed on the reform's system-wide focus that motivates institutional changes within multiple criminal justice bureaucracies. Examples include providing cultural sensitivity training to probation officers, redefining "zero tolerance" juvenile detention policies, and improving local courts' data collection on offenders (Coggs & Wray, 2008). Sometimes comprehensive reforms also incorporate local communities into reform initiatives (Griffith, Jirard, & Ricketts, 2012). Such measures are becoming increasingly popular. Since 2003, seven states have initiated comprehensive reform processes by establishing commissions tasked with analyzing and developing plans to amend racial and ethnic disparities.¹⁰ Similar comprehensive reform strategies have been applied to public health and environmental justice (Bullard, 2007; Clear, 2011; D. B. Smith, 1999).

While policymakers' endorsements of multi-pronged and system-wide solutions to the complexities of racial inequality sound promising, it remains unclear what comprehensive reform looks like within a system and whether such politically fashionable measures generate meaningful changes in criminal processing. These gaps becomes more glaring as most criminologists believe Quadrant IV best reflects the current state of criminal processing. This point is revisited in Chapters 5 and 6 that assess a potential model of comprehensive racial disparity reform.

¹⁰ These states include Arkansas, Colorado, Connecticut, Illinois, Minnesota, Virginia, and Wisconsin. See Figure 2.

Summary

This chapter has laid out a theoretical framework for racial disparity reform. It has asserted elected officials are motivated to adopt these policies based on civil rights ideals and interests in socially-efficient policymaking. Because elected officials are not entirely committed to following either of these motivations, the framework then explains why policymakers develop weaker and stronger racial disparity reforms. Policy responses are crafted based on the policymakers' beliefs of legitimacy and consistency in criminal justice decision-making. These beliefs are made using scientific and political information. Inequality affecting racial minorities can appear in the forms of disproportionate impact, disparity without discrimination, discrimination, and disparity and discrimination. All of these problems map onto important divides in social science literature on race and criminal justice.

Potential solutions to these politically-defined problems of racial inequality in criminal justice are varied. Exploratory reforms call for additional data collection or studies. Prohibitory reforms ban the use of race as a category and other discriminatory practices. Policy-specific reforms narrowly target a set of criminal justice practices or programs while comprehensive reforms call for evidence-based interventions throughout an entire criminal processing system. The next two chapters assess the emergence of racial disparity reforms in their exploratory, prohibitory, policy-specific, and comprehensive forms. Specifically, Chapter 3 qualitatively tests how differences in the definitions of racial inequality led to the construction of different national racial disparity reforms. Chapter 4 distinguishes the social and political factors that encourage racial disparity reform policymaking.

CHAPTER THREE- THE EMERGENCE OF RACIAL DISPARITY REFORM IN POLITICS: A NATIONAL POLITICS ANALYSIS

Since the end of the Civil Rights Era, national policymakers have produced punitive policies with obvious racially disproportionate impacts. As Chapter 1 discussed, Congress and U.S. presidents actively developed numerous and expansive initiatives to “restore” lawfulness in society. Although the national politics of criminal justice was decidedly committed to “getting tough” at seemingly any cost, policymakers have not been immune to the racial disparate consequences of their enacted crime controls. Over the course of criminal justice policymaking during this period, the racial justice of criminal processing has been regularly questioned and addressed by various remedies.

This chapter examines the emergence of racial disparity reforms enacted by U.S. presidents and Congress in three areas of criminal justice: capital punishment, racial profiling, and youth confinement. These selected issues first capture different aspects of criminal processing. More importantly, variation in policymakers’ definitions of racial inequality across these areas allows us to test Chapter 2’s assertion that these visions produce distinct policy responses. These cases studies indicate national elected officials came to a consensus about racial disparity reform based on 1) partisanship, 2) judicial rulings concerning the constitutionality of racial considerations, 3) controversial events¹¹, and 4) studies of race in criminal processing. When the median national elected official saw racial inequality as a more glaring problem, reforms assumed more potent forms.

Capital Punishment

While the influence of race on death sentencing has been long established in criminological research (Baldus, Woodworth, & Charles Pulaski, 1994; Baldus,

¹¹ I follow Mayhew (2007) in defining a controversial event as an incident or occurrence that changes a political context by creating a new sense among policymakers about the importance of certain ideas, the urgency of societal problems, and the desirability of proposed solutions (p. 101).

Woodworth, & Pulaski, 1990; Gross & Mauro, 1989; Kleck, 1981; Klein, Berk, & Hickman, 2006), political treatment of racial differences in capital punishment has been contentious. National elected officials have often acknowledged great racial disproportion in death sentencing, but remain deeply divided over whether such disproportionality is acceptable. Although some policymakers have attempted to respond to the Supreme Court's call to legislatures to redress racial inequalities in *McCleskey v. Kemp* (1987), most national elected officials have accepted racial inequality in capital punishment as a form of disproportionate impact. This vision continues because policymakers, like the courts, have rejected the premise that statistical evidence can show illegitimacy and inconsistency in the application of the death penalty. Such a vision of disproportionate impact also quelled fears of the death penalty's abolishment. Without a foundation to convince the median elected official of injustices in capital punishment, prohibitory or stronger remedies have yet to take shape in national politics.

The Court's Closure and Congressional Opportunity for Reform after *McCleskey*

Impetus for racial disparity reform in capital punishment came from the Supreme Court's approach to inequality and the death penalty. Judicial concern about the uneven application of the death penalty first became evident in *Furman v. Georgia* (1972). The Supreme Court determined "untrammeled" discretion within American death sentencing procedures and resultant arbitrary patterns of capital sentences had violated Eighth Amendment guarantees against cruel and usual punishment. The Court halted the imposition of the death penalty until new procedural and constitutionally acceptable standards that diminished risks of arbitrariness could be developed (Baldus et al., 1994).

While *Furman* touched off a flurry of state legislation to codify death sentence criteria, the decision left open the possibility of questioning the death penalty on the basis of race. A majority of the *Furman* opinions hinted at the possibility that racial discrimination would create risks of capriciousness and arbitrariness forbidden under the Eighth Amendment. A similar logic appeared in *Zant v. Stephens* (1983), in which the

Supreme Court identified race as an impermissible and irrelevant “aggravating” factor in death eligible cases (Baldus et al., 1990, p. 308).

Other race-based litigation implied the death penalty could be challenged under the Fourteenth Amendment’s guarantees of non-discrimination. Since the passage of the Civil Rights Act of 1964, race-based violations of equal protection were successfully litigated with the help of statistical evidence in jury exclusion, school administration, and employment cases.¹² The Supreme Court ultimately set a high bar for establishing claims of racial discrimination under the Fourteenth Amendment. In *Griggs v. Duke Power Co.* (1971) and *Washington v. Davis* (1976), the Court proclaimed known racially disparate impacts in employment do not definitely prove the existence of racial discrimination. Defendants had to further show discriminatory intent in employers’ decisions in order to substantiate civil rights violations. For death penalty opponents, these precedents were unclear regarding whether the courts would invalidate capital sentences if classwide evidence of race of defendant or race of victim discrimination existed.

The courts would firmly close their doors to constitutional challenges to racial disparities in death sentencing and other penalties in *McCleskey v. Kemp* (1987). Sentenced to death for killing a white police officer, McCleskey contested his punishment on the grounds that the renowned Baldus study showed cases involving white victims significantly increased a defendant’s likelihood of receiving the death penalty. The Rehnquist Court consequently faced the question of whether statistical analyses displaying the importance of race in capital sentencing demonstrated violations of the Eighth Amendment or Fourteenth Amendment.

Writing for the majority, Justice Lewis Powell pronounced that the proffered statistical evidence, while valid, did not prove purposeful discrimination or discriminatory effects in McCleskey’s sentence. The Court proclaimed racially disparate

¹² Disparate impact litigation typically invoked Title VII and Title VI of the Civil Rights Act of 1964. The former bans discrimination by employers on the basis of race, color, or national origins while the latter prohibits such discrimination in federal agencies and all other public institutions receiving federal funds. Title VI was specifically praised as “the sleeping giant of civil rights” as it was designed to dismantle state-maintained inequalities (O. C. Johnson, 2007).

impact did not deem the death penalty unconstitutional based on either amendment. If ruling otherwise, the Court feared statistical evidence would “throw into serious question the principles of the entire criminal justice system.” Instead, the Court charged legislatures with the task of evaluating statistical studies. It was the responsibility of elected officials to weigh such evidence against local conditions and redesign any penalty that disproportionately impacted particular groups.

Exploratory Reform as a Congressional Response

Over the next year, *McCleskey* and the question of congressional responses to racial equality in death sentencing would figure prominently in deliberations of the Anti-Drug Abuse Act of 1988. Congress sought to reinstate federal death sentences in an omnibus crime bill and redefine procedural standards to ensure the penalty would not be imposed in an arbitrary manner. Senator Kennedy, death penalty opponents, and other liberals took this opportunity to assert racial minorities were disproportionately sentenced to death without any sign of relief. “Racial discrimination is intolerable,” Senator Kennedy proclaimed, “. . .it is a wrong that cries out to be remedied by the Congress” (134 Cong. Rec. 13978). Representative John Conyers censured the Court’s conclusion that racial discrimination is an “inevitable part of the judicial process” as “unconscionable” (Juvenile Justice and Delinquency Prevention Amendments of 1988, 1988, p. 1).

Racial disparity reform proponents opted for a multi-pronged, prohibitory strategy. The proposed Racial Justice Act of 1988 first prohibited the racially disproportionate application of the death penalty. It then required the systematic collection of data on death sentencing in states and localities. Based upon these data, a prima facie case of discrimination could be made if a greater frequency of capital sentences involved defendants or victims of a particular race. Any defendant of a death-eligible case could access these data. Defendants also reserved the rights to appoint counsel, investigative experts, and other parties with financial support from the courts to initiate challenges of racial discrimination. The defendant never had to show how discriminatory intents

affected his or her specific decision. Experts applauded this congressional effort. The focus on collecting more data was key, as it could lead to more subsequent corrective action. Testifying before Congress, University of Miami Law Professor Steven Winters summarized the importance of this exploratory dimension of the bill, declaring

“Proving that [racial disproportionate sentencing] is occurring, it puts on the public record in a demonstrable and irrefutable way that the system is not working properly. That is always the first step to fixing it, to bring into public consciousness that blacks are not being protected by the criminal justice system the ways are being protected” (Juvenile Justice and Delinquency Prevention Amendments of 1988, 1988, p. 39).

In the death penalty deliberations that followed, other members of Congress accepted well-established statistics showing the death penalty was more often applied to blacks defendants, especially in cases involving white victims (134 Cong. Rec. 13978-80). Yet many disagreed with the conclusion that such disproportionate impacts demonstrated the illegitimate or inconsistent application of capital punishment. Senator Alfonse D’Amato (R-NY) noted differential involvement in crime could easily drive these racial statistics. He observed it would be fallacious to assert prejudice affects the prosecution of those engaged in securities fraud because such offenders are disproportionately white. “I do not believe you can simply take a statistic and say that because there are more people of one race who have the death penalty applied to them...it is discrimination,” he concluded (134 Cong. Rec. 13980).

Legislators also pointed to judicial precedent that statistics could not prove discrimination in death sentencing. Senators invoked the Supreme Court’s decision that the unprecedented Baldus study presented in *McCleskey* was detailed, but “far from conclusive” (134 Cong. Rec. 14098). It would be a leap to say statistical evidence could illuminate racial bias in specific cases when courts heavily scrutinize any claims of discrimination (134 Cong. Rec. 13988). Other cases like *Spinkellink v. Wainwright* (1978) highlighted the possibility that omitted factors may account for differences in

outcomes between death-eligible “black victim” and “white victim” cases (134 Cong. Rec. 14097). In light of these immeasurable conditions, the courts could not firmly say a deleterious racial effect was real. Senator Orrin Hatch (R-UT) urged his colleagues to follow judicial approaches to statistics by succinctly stating, “The courts have been unanimous: statistical justice is no justice” (134 Cong. Rec. 13988).

As Quadrant I of Table 1 predicts, acceptance of disproportionate impact in capital punishment by the median elected official led to exploratory reform as Congress’ preferred policy solution. On June 9, 1988, Senator Kennedy offered a two-part amendment to reduce racial inequality in the state and federal capital punishment systems. The amendment first introduced the Racial Justice Act. Second, the amendment required the Comptroller General to conduct a study that investigated whether race represented a “significant risk” that influenced sentencing outcomes. Race of victim and race of defendant effects would be thoroughly examined using ordinary statistical methods. The amendment went nowhere.

The following day, Senator Kennedy reintroduced his amendment without the Racial Justice Act. Moreover, he emphasized the commissioned General Accounting Office (GAO) study was purely exploratory. The study could only assist Congress in “studying” and “fashioning appropriate responses” to any revealed racial inequalities (134 Cong. Rec. 14096). It could not be used for legal proceedings concerning discrimination and otherwise would have no effect beyond gathering more information. This revised, exploratory amendment passed the Senate with little fanfare.

In February 1990, the Government Accountability Office (GAO) released its requested report on race and capital sentencing to the House and Senate Committees of the Judiciary. The findings were clear. Surveying 28 criminological studies of varying quality and relying on 23 distinct datasets, race had substantial impacts on charging, sentencing, and application of the death penalty in the years following *Furman*. The race of the victim had consistently strong punitive effects, as cases involving white victims were more likely to impose a death sentence. The race of the offender had more inconsistent and less harmful consequences, yet many studies indicated being black or Latino generally elevated the likelihood of receiving the death penalty (U.S. General

Accounting Office, 1990). Although the GAO document did not offer any policy prescriptions, it solidified for Congress that capital punishment was marked by patterns of racial disproportion (Edwards & Conyers, 1994).

Attempts at Prohibitory Reform: The Congressional Racial Justice Act

Given the exploratory reform foundation of the GAO capital punishment study, several members of Congress designed several politically-charged, prohibitory remedies. The Racial Justice Act first reappeared in the House under new terms in 1990, but acquired national significance in the 1994 debates on the Violent Crime Control and Law Enforcement Act. Introduced by Representative Conyers, the act sought to proscribe “racially discriminatory” rather than racially disproportionate capital sentencing. The bill maintained its reliance on ordinary statistics to establish discrimination, though the 1994 version removed the requirement for data collection on all death eligible cases (Schoeman, 1995).

The discrimination-focus of the bill had polarizing effects. For anti-death penalty advocates and liberals, the legislation was an extension correcting trends of racial disproportion formally announced by the GAO study (140 Cong. Rec. S6113, daily ed. May 19, 1994).¹³ Yet Congress as a whole could not be convinced of persistent illegitimate uses of race in capital punishment. Instead, many members of Congress held on to the vision of disproportionate impact for two reasons. First, congressmen saw death sentencing as being consistently applied to offenders using the legal criteria of offense severity. For instance, Senator Chuck Grassley (R-IA) noted that the death penalty is sanction narrowly applied in response to a crime and nature of an offender. “Today, each death sentence is rigorously reviewed for adherence to constitutional norms, sometimes even to the point of excess. At least those reviews are based on the facts of the case and the culpability of the offender,” he observed (140 Cong. Rec. S5210, daily ed. May 5,

¹³ I use daily editions of the Congressional Record because these were available via the Library of Congress website. Statement of Senator Carol Moseley-Braun (D-IL).

1994). Representative Steven Horn (R-CA) repeated this point in voicing his opposition to the Racial Justice Act. According to Representative Horn, “this Act disregards the fundamental principle of our criminal justice system that an individual is tried on the facts of his or her case” (140 Cong. Rec. H3272, daily ed. May 11, 1994). Senator D’Amato went further, adding the Racial Justice Act would “shatter the entire foundation of the criminal justice system” by rejecting “the most basic principle in criminal justice that the punishment must fit the crime” (140 Cong. Rec. S9562, daily ed. July 22, 1994).

Second, congressmen believed statistical evidence could never be employed to show discrimination in the case of an individual, but could be used to wrongly invalidate all capital sentences. Representative Bill McCollum (R-FL), who supported strengthening prohibitions on racial considerations in capital sentencing through the Equal Justice Act, rejected the assumption that statistics could prove discriminatory decision-making. Stating prosecutors and juries would not be able to impose the death penalty in the right proportion, Representative McCollum concluded, “The proponents of this bill, knowing that we cannot and will not play such a number game, fully expect the legislation to effectively end capital punishment in this country” (140 Cong. Rec H2532, daily ed. April 20, 1994). Senator Hatch expressed even stronger objections. “[The Racial Justice Act will] convert every death penalty case into a massive sideshow of statistical squabbles and quota quarrels,” he declared, “As prosecutors already recognize, they would ultimately have no choice but to adopt a death penalty quota that equals zero--in short, to abolish the death penalty” (140 Cong. Rec. S4979, daily ed. May 5, 1994).

With a vote of 217-212, an omnibus crime bill containing racial justice guarantees barely passed the House in the summer of 1994. Backed by victims’ rights and prosecutor advocacy organizations,¹⁴ death penalty supporters in the Senate and House motioned their commitments to “totally reject” the Racial Justice Act in conference (see 140 Cong.

¹⁴ Organizations rejecting the Racial Justice Act included the National Association of Attorneys General, the National District Attorneys Association Board of Directors, Citizens for Law and Order, Arizona Prosecuting Attorneys’ Advisory Counsel, the Pennsylvania District Attorneys Associations, and the Washington Association of Prosecuting Attorneys (Lungren & Krotoski, 1994, p. 660).

Rec. S5526, daily ed. May 17, 1994 and 140 Cong. Rec. H4619, daily ed. June 16, 1994). Deadlock over the crime bill prompted President Clinton to strike a deal with House Democrats and Congressional Black Caucus members who endorsed the Racial Justice Act. If proponents would eliminate the Racial Justice Act from the crime bill, Clinton vowed to enact similar act through an executive order (Cooper, 1994; Davidson, 1994). The conference committee subsequently dropped the Racial Justice Act from the omnibus bill and President Clinton signed the Violent Crime Control and Law Enforcement Act into law.¹⁵ The promise of an executive order never materialized, however. This final failure of the Racial Justice Act signaled Congress could not achieve prohibitory racial disparity reform in capital punishment.

Further Exploratory Reform from the Executive Branch

Despite the “great controversy” of the Racial Justice Act and Clinton’s broken assurances for executive-led prohibitory reform¹⁶, the executive branch soon emerged as the primary venue for further racial disparity reform in capital punishment. The Clinton and Bush administrations continued to view racial inequality as a form of disproportionate impact. Thus U.S. presidents have extended exploratory policymaking efforts.

Concerns for the racial neutrality in capital sentencing resurfaced at the tail end of the Clinton administration. In August 2000, Juan Raul Garza, a convicted drug trafficker and murderer under the Anti-Drug Abuse Act of 1988, was scheduled to be first person

¹⁵ An executive order would have likewise proven difficult as the Dole, D’Amato, and Hatch Amendment prohibited the U.S. Justice Department from using its funds to support any policy supporting statistical assessments of race in death penalty cases (140 Cong. Rec. S9531, daily ed. July 22, 1994). The popular costs of Clinton coming to the rescue of those convicted of committing serious and heinous crimes may have also been far too great (Edwards & Conyers 1994).

¹⁶ See the remarks of Senator Moseley-Braun (140 Cong. Rec. S9540, daily ed. July 22, 1994).

executed by the federal government since 1963. As a final plea, Garza appealed his sentence on the grounds that the decision was unfairly based upon his ethnicity. The publicity of the first post-*Furman* execution by the federal government and the memory of the failed Racial Justice Act produced a presidential response. Clinton delayed Garza's execution to December 2000. He then ordered the Justice Department to describe their decision-making processes in death penalty cases with an emphasis the racial, ethnic, and geographic characteristics of defendants and victims.

On September 12, 2000, Attorney General Janet Reno published the administration's federal death sentencing report. The manuscript affirmed the federal death sentencing system too manifested clear racial disproportionalities. More poignantly, the report underscored drug sentencing had disparate impacts on Hispanics. Hispanic defendants, particularly those tried in Texas like Garza, were overwhelmingly sentenced to death relative to whites. Despite these results, Clinton did not affirm any illegitimacies or inconsistencies in recent death sentencing. He called for a follow-up study to determine whether racial or ethnic bias may have affected Garza's or other current federal death penalty cases. While the Justice Department would share its study by April 2001, Garza's execution would be stayed until June 2001 when the president could make a fully informed decision.

In between the Justice Department's exploratory study and Garza's execution, George W. Bush assumed political office. During his confirmation hearings, Attorney General John Ashcroft answered with an unequivocal "yes" to the question of whether he agreed with President Clinton that there is a need for continuing study of possible racial and regional bias in the administration of the federal death penalty (Confirmation Hearing on the Nomination of John Ashcroft to be Attorney General of the United States, 2001). Not without controversy, the Bush administration would assume a different approach to the importance of race in capital sentencing. In January 2001, Attorney General Ashcroft among other high-ranking Justice Department officials met to discuss the future of the race and death penalty study. While the exact contents of the meeting remain disputed, most accounts relay Ashcroft proclaiming such a study could not authoritatively show the influence of race in capital sentencing deliberations. "There was sort of a consensus, as I

understand it, that perhaps the study as contemplated would not give a definitive answer to the problem of these disparities,” Assistant Attorney General Larry Thompson testified before Congress (Racial and Geographic Disparities in the Federal Death Penalty System, 2001).

Under intense political pressure, the Justice Department released a supplementary analysis of the federal death sentencing system on June 6, 2001. The Ashcroft report acknowledged minority overrepresentation in federal capital cases relative to the racial and ethnic composition of general U.S. population. The high proportion of nonwhite federal defendants was attributed to “normal factors” affecting federal and state prosecution practices, such as the nature of an offense, demographics of the jurisdictions in which the crime was committed, and activities of federal and state law enforcement authorities. The report concluded the Department of Justice found “no evidence of bias against racial and ethnic minorities” (U.S. Department of Justice, 2001).

For the Bush administration, the bottom-line was the federal death penalty could not be contested with assertions of insidious bias and apparent racial disproportionalities in sentencing outcomes were acceptable.¹⁷ In the following days, Ashcroft announced there was no reason to delay the execution of Juan Garza (Thomas, 2001). Garza was executed eight days after Timothy McVeigh by lethal injection.

The release of the Ashcroft report and the completion of the first post-*Furman* federal executions marked an end of significant racial disparity reform policymaking in capital punishment. After the botched execution of Clayton Lockett in Oklahoma,

¹⁷ The Ashcroft report sparked immediate criticism and skepticism. The American Civil Liberties Union launched one of the greatest attacks, documenting numerous methodological flaws. Among its shortcomings, the Ashcroft report only examined cases with capital punishment charges rather than all death eligible cases, omitted charging and plea decision information. It further failed to consider a range of factors like geography or aggravating circumstances in explaining why these non-biased sentencing patterns occurred (American Civil Liberties Union, 2001). Subsequent statistical analyses of the cases contained in the Reno report conducted by Klein, Berk, and Hickman (2011) maintained race was not factor in federal death penalty decisions.

President Obama recently ordered the Department of Justice to examine death penalty procedures in the states in light of racial bias arguments (Goad, 2014). Beyond this study, the Obama administration and Congress have not announced any proposals to remedy racial inequalities in capital sentencing.

Racial Profiling

In the mid-1990s, racial profiling by law enforcement officials burst on to the national political agenda.¹⁸ Racial profiling, or selection by law enforcement for stops or searches that relies on an individual's presumed race, is an early form of processing in which minority overrepresentation can occur (Fagan, 2002; Ramirez et al., 2000). National policymakers took an exploratory turned prohibitory approach to addressing racial profiling. Growth in consensual beliefs about the consistent, illegitimate use of race in police stops and searches, also known as discrimination, were based on limited relief from the courts, mounting evidence of racially-biased policing, and public outcry against such practices. Just when a bipartisan policy to "end" racial profiling seemed likely, concern for national security after the September 11th terrorist attacks reoriented political dialogue on racial profiling and left the nation with a moderated ban on racial considerations by federal law enforcement officials. Nevertheless, the idea of racial profiling as a problem of discrimination has left a durable mark on policymakers, who continue to pursue prohibitory strategies.

¹⁸ Although unwarranted and abusive police targeting of minorities has occurred for centuries, racial profiling as a concept has only developed within the past twenty years. Prior to 1994, the practice only showed up a handful of times in newspapers from around the country. By 1999, racial profiling has regularly generated over 1,000 hits in media content searches (Skolnick & Caplovitz, 2001).

Limited Relief from the Courts

Racial profiling emerged as a problem for national elected officials due to decades of limited or no relief from the courts. Prior to being deemed “racial profiling,” the use of race by law enforcement initially raised legal concerns in the 1970s. The Supreme Court first reviewed the appropriateness of race in U.S.-Mexico border patrol stops and searches under the Fourth Amendment. In *United States v. Brignoni-Ponce* (1975), the Supreme Court ruled that the Mexican ancestry alone did not support a “founded suspicion” of illegal immigration under the Fourth Amendment. The decision thus established police stops had to be based upon other “reasonable” factors related to suspicions of illegal activity.

The courts notably stopped short of prohibiting any use of race or ethnicity in immigration enforcement, however. A year after *Brignoni-Ponce*, the Court declared ethnicity could be a legitimate factor in recommendations for additional border patrol inspections in *United States v. Martinez-Fuerte* (1976). The majority asserted that selective diversion of motor vehicles that led to defendant Amado Martinez-Fuerte’s arrest for transporting illegal aliens were based on numerous factors besides Mexican ancestry. This fact also implied disparate stopping and questioning of drivers with Mexican appearances was constitutional. The Court concluded, “Even if it be assumed that such referrals are made largely on the basis of apparent Mexican ancestry, we perceive no constitutional violation.”

These early border patrol precedents would motivate further judicial scrutiny of race in federal and state law enforcement decisions. Race-based profiling by law enforcement officials slowly emerged as a civil rights problem during the late 1980s and 1990s. The primary question concerned the role of race in pretextual traffic stops to initiate searches of vehicles suspected of being involved in criminal activity. Pretextual stops were a central component of law enforcement efforts to combat drug trafficking. At the height of the War on Drugs, the Drug Enforcement Agency launched Operation Pipeline, a drug interdiction training program for federal, state, and local law enforcement officers patrolling U.S. highways. The program trained officers to stop

automobiles and drivers matching the “typical” traits of drug couriers. While criteria like drivers who “do not fit the vehicle” and “wearing lots of gold” had racial overtones, it is contested whether the race of an automobile’s occupants was identified as a factor for drug courier profiles (Harris, 1999).¹⁹

Anecdotal evidence of disproportionate stops and searches of black and Hispanic surfaced, but lawsuits in New Jersey and Maryland sparked a national dialogue about racial profiling. *State of New Jersey v. Pedro Soto, et al.* originated from a motion to suppress evidence against 17 African American defendants who faulted discriminatory traffic enforcement along the New Jersey Turnpike for their arrests between 1988 and 1991. *Wilkins v. Maryland State Police* was filed by the American Civil Liberties Union on behalf of Robert Wilkins, an African American attorney, and three others who were unfairly detained and searched along the I-95 corridor.

These cases rested upon the first systematic assessments of race, stops, and searches conducted by John Lamberth. The premise of Lamberth’s first-wave studies was simple: compare the racial composition of motorists detained and searched by law enforcement to the racial composition of motorists traveling on the highway and motorists violating traffic laws. The studies featured stationary and rolling surveys, in which researchers stopped/drove along the highway recording the race of drivers passing them by (speeders) and drivers they passed (non-speeders). Using these observations, Lamberth approximated the percent of all motorists and of traffic violators who were black, Hispanic, white, or other. The states of New Jersey and Maryland then provided information about their law enforcement stops.²⁰

¹⁹ Official statements by the Drug Enforcement Agency and a review by the Justice Department’s Civil Rights Division, however, allege racially-biased profiles were not apart of the program (U.S. Congressional Research Service, 2004).

²⁰ These data contained the race of the searched motorist and whether the search led to the recovery of any illicit substance. The records did not identify the race of motorists stopped by Maryland State Police. Consequently, Lamberth had to operate from the assumption that the racial composition of traffic violators should approximate the racial composition of motorists actually detained by law enforcement officers.

Percentage-wise comparisons of traffic violators and searched individuals revealed glaring disparities. In New Jersey, blacks represented 13.5% of all motorists and 15% of traffic violators, but constituted 35% of motorists stopped by police. Given this discontinuity, the Supreme Court of New Jersey ruled such racial imbalance in stops violated the state and U.S. constitutions (Lamberth, 1998). In Maryland, blacks made up 17.5% of the eligible traffic stop population, but constituted 74.9% of all searches. When additional evidence suggested that recovery rates for contraband in searches were identical for blacks and whites, this gross disparity in search decisions became extraordinary (Lamberth, 1996). Following the study, Maryland State Police promised to reform its policing practices under consent decree.

Although class-action concessions and consent decrees within state courts seemed to signal judicial willingness to sanction racial disparate law enforcement practices, the constitutional question of whether pretextual traffic stops and searches, particularly those motivated by race, violated the Fourth Amendment worked its way up to the Supreme Court. Filing an amicus brief, the American Civil Liberties Union cautioned any defense of pretextual stops would effectively “invite discriminatory enforcement” (Harris, 1999). In *Whren v. United States* (1996), the Court proclaimed traffic violations constituted a legitimate pretext for drug searches. In a sweeping movement, the majority distinguished the Fourteenth Amendment as the sole constitutional means for objecting to intentionally discriminatory applications of stops and searches. While police cannot selectively enforce the law, the Fourth Amendment could not be used to redress claims of racial discrimination in policing. In light of *McCleskey*, this decision implied evidence of racially disproportionate stops and searches like the Lamberth studies also could not show racial discrimination without proof of discriminatory intent. Racial profiling lawsuits would continue throughout the 1990s, but the courts refused to ban the use of race in law enforcement decisions on a constitutional basis (Gross & Livingston, 2002).

Exploratory Reform as a First Step in Addressing Racial Profiling

The Supreme Court's delivery of *Whren* prodded Congress take immediate action. Representative Conyers and the Congressional Black Caucus took the lead in crafting new legislative remedies. Within the year, the Traffic Stops Statistics Act of 1997 (H.R. 118) was introduced before the House. The bill compelled the Attorney General to conduct a study of routine traffic violations by law enforcement officials and share its findings with Congress. The study would identify the race and ethnicity of stopped individuals its primary goal. The measure was purely exploratory. Data could not be used in any legal or administrative proceeding to establish the inference of discrimination. Moreover, additional data collection was meant to explore the nature and extent of racial profiling given few existing studies on subject (H.R. Rep. No. 105-435). Optimists about the legislation like Professor David Harris of the University of Toledo School of Law raved the act would "put to rest once and for all the idea that African Americans who have been stopped for 'driving while black' are just imagining that this is a common practice" (Drake, 1998).

Although doing nothing to regulate stops or ensure the equal application of the law, every attempt to pass the Traffic Stop Statistics Act would be thwarted. In March 1998, the Traffic Stop Statistics Act initially passed a Republican-controlled House by voice vote. Strong opposition to the bill came from the Senate. Police organizations especially denounced the bill as a means of punishing officers for performing their duties (Harris, 1999). Unable to pass through the Senate Judiciary Committee, the measure died. Nearly identical versions of the bill proposed by Representative Conyers and Senator Frank Lautenberg (D-NJ) never made it out of committee during the 106th Congress (see H.R. 1443 and S.821).

With Congress in gridlock over a traffic stops statistics study, President Clinton launched the nation's first exploratory initiative to examine racial profiling by federal law enforcement officials via executive order. On June 9, 1999, President Clinton directed the Attorney General, the Secretary of the Interior, and the Secretary of Treasury to design data systems that gathered information on the race, ethnicity, and gender of all persons

processed by their respective law enforcement agencies within 120 days.²¹ All affected agencies were ordered to then devise a report summarizing the racial characteristics and results of their investigations. The President in consultation with the Attorney General would evaluate federal data collection and processing efforts. Opponents to the directive cited Clinton's study had nothing to do with ordinary police interactions. As Richard Gallo, the Federal Law Enforcement Officer Association Director, put it, "[f]ederal agencies don't do traffic stops" (U.S. Congressional Research Service, 2004, p. 13). Clinton's executive order still effectively challenged policymakers to uncover racial profiling by law enforcement "anywhere it exists" (Holmes, 1999). The directive led to field testing in nearly thirty locations at national parks, train stations, and airports throughout the country (U.S. General Accounting Office, 2000).

During that same summer, the Bureau of Justice Statistics began to implement its own data collection initiative to approximate the prevalence of racial profiling. Under the Violent Crime Control and Law Enforcement Act of 1994, BJS was required to document incidents of police misconduct to Congress in an annual report. BJS used this mission statement add new questions about police-citizen contact during traffic stops to its 1999 nationally representative survey of 90,000 adults. Results of the survey indicated blacks had higher chances of being stopped than whites or Hispanics. Specifically, 12.3% of African American drivers compared to 10.4% of white drivers were stopped by police officers (Langan, Greenfeld, Smith, Dunrose, & Levin, 2001, p. 13). Overrepresentation of blacks in multiple traffic stops was also noticeable. BJS concluded that while these racial differences were real, they did not demonstrate whether race was used as a factor in police decision-making or confirm the existence of racial profiling (Ibid).

²¹ Across the Departments of Justice, Interior, and Treasury, five federal agencies were affected by this order. These agencies were the Drug Enforcement Administration and Immigration and Naturalization Service of the Department of Justice, the National Park Service of the Department of the Interior, and the U.S. Customs Service and the Secret Service of the Department of Treasury (U.S. General Accounting Office, 2000).

Racial Profiling As a Form of Discrimination

By the end of 1999, the median national policymaker could no longer believe racial profiling was simply an unfortunate result of disproportionate impact. The offense of “driving while black” had decidedly captured public attention. Popular magazines like *Time* and *People* exposed law enforcement mistreatment of minorities across the country (Fields-Meyer, 1996). Gallup polls reported an increasing percentage of African Americans indicating unfair treatment by police and a majority of Americans (59%) saying racial profiling was widespread (Gallup & Gallup, 1999). Police violence had also ignited public outrage. The killing of West African immigrant Amadou Diallo by New York City Police Department officers after mistaking his wallet for a handgun incited the denouncement of unbridled law enforcement power and further interrogation of the racial neutrality of police-citizen interactions. This incident was sharpened by the sanctioning of two police officers for beating and sexually assaulting Haitian immigrant Abner Louima just a few weeks earlier (Holmes, 1999). Following these events, the ACLU deemed racial profiling the “lead civil rights issue of the 1990s” (Chaffin, 2005, p. 17)

National elected officials began to cast racial profiling as an issue of discrimination, or the consistent use of race as an illegitimate decision-factor. “We no longer need just a study. We now have the facts that show us racial profiling is... a real and measurable phenomenon,” Senator Russ Feingold (D-WI) observed in proposing the End Racial Profiling Act (H.R. 2074; S. 989) (147 Cong. Rec. S5892, daily ed. June 6, 2001). The measure sought to eliminate racial profiling by any law enforcement officer or agency. Law enforcement agencies at all levels of government found engaging in prohibited racial profiling practices would be sanctioned by federal funding reductions. Any individual injured by racial profiling could seek relief in the courts. Proof of racial profiling could be evidenced by disparate impact on racial and ethnic minorities in any routine investigatory activity. Other congressional variations of the provision like the Racial Profiling Prohibition Acts (H.R. 965; H.R.1907) went further, imposing federal aid restrictions upon any state whose highway patrols inappropriately enforced the law based upon race, ethnicity, or national origin.

Beliefs in racial profiling as an issue of discrimination affected Republicans too. “Too many citizens have cause to doubt our Nation’s justice when the law points the finger of suspicion on groups instead of individuals,” President George W. Bush observed in his 2001 State of the Union Address. Earlier that morning, Bush issued a memorandum to Attorney General Ashcroft to assess federal law enforcement agencies’ use of race in stops, searches, and other investigations. The order went on to encourage Ashcroft to work with Congress to develop data collection and study methods to determine the extent of race-based profiling in federal law enforcement. The administration affirmed its commitments to putting an end to racial profiling as a wrongful practice without compromising safety. Because problems of discrimination motivate prohibitory reform (Quadrant III in Table 1), bans on the use of race as a decision-making factor seemed imminent.

Racial Profiling as Discrimination? : The Events of September 11th and Prohibitory Reform

Just as a national bipartisan, prohibitory solution to racial profiling seemed possible, policymakers backed away from completely rejecting race as a decision-making factor. The terrorist attacks of September 11, 2001 fractured American perspectives on the proper scope of law enforcement activities (U.S. Congressional Research Service, 2004). Polling evidence indicated nearly 70% of the public approved of racial profiling as a tool to prevent terrorism. Over 50% of Americans supported requiring those of Arab descent to incur “special, more intensive security checks” and carry “special I.D.s” (Weinstein, Finnegan, & Wantanabe, 2001). “Politely and respectfully” using race and ethnicity in investigations was accepted as a means to prevent further tragedies (Taylor, 2001; Higgins, 2003). Backlash against the racial unfairness of profiling was quickly silenced, as challenges to racially-conscious investigations would be seen as unpatriotic or even sympathetic to the causes of terrorists.

The events of September 11th muted congressional anti-racial profiling efforts, but profoundly shaped the Bush administration's racial profiling initiative. The resultant U.S. Department of Justice's guidance on racial profiling internalized two reform sentiments. On the one hand, the directive reflected a national consensus to eliminate racial profiling as a widespread and discriminatory criminal justice practice. The document stipulated race and general stereotyping could not be used "to any degree" in a routine law enforcement activities. On the other, it conceded race could be considered in national security investigations "in accordance with Constitution and law of the United States." This caveat was non-trivial. Standing judicial precedent affirmed that race could constitutionally be apart of law enforcement decision-making. The policy was also silent on the administration's plans to enforce the ban or address complaints of continued racial profiling practices.

While the Justice Department set new national standards for appropriate investigatory practices, the executive's commitment to racial profiling reform was unconvincing for many. Critics saw the administration's racial profiling policy as symbolic. The director of the ACLU's Washington Legislative Office, Laura Murphy, denounced the administration for "trying to get the public relations benefits of a new law without actually creating a new law" (Lichtblau, 2003). Controversy surrounding the BJS' 2005 study of police and citizen interactions likewise raised concerns. Lawrence Greenfeld was reportedly demoted by the administration for refusing to minimize findings of racial disparity in police stops and searches. The incident called into question the insularity of research agencies within the executive as well as the administration's interest in eradicating racial profiling (Lichtblau, 2005).

Prohibitory reform remains the preferred strategy for national policymakers, who attempt to extinguish racial profiling as a form of discrimination. The End Racial Profiling Act (H.R. 2851; S.1038) reemerged after George Zimmerman was found not guilty for the murder of Trayvon Martin. Although Martin was not killed by a police officer, Representative Conyers explained Martin's death exposed the need to redress the linkage between race and reasonable criminal suspicion that underpins law enforcement debates (Fox, 2013). The Obama administration has also largely preserved federal bans

on racial profiling practices and narrowed acceptable uses of race for security purposes (Horwitz & Markon, 2014).

Youth Confinement

As political attention turned to the legitimacy of racial imbalances in death sentencing in 1980s, minority youth confinement also worked its way on to the national political agenda. Confinement here refers to the jailing, detention, confinement, and other commitments of youths to secure public facilities during or after determinations of delinquency (Hsia et al., 2004). Like adult incarceration, confinement in the juvenile justice system has been historically marked by sharp racial disproportionalities (Bishop, 2005; Leiber, Peck, & Rodriguez, 2013; Pope & Feyerherm, 1990). Problems of minority youth confinement have roused national policymakers to make significant, yet generally underappreciated policy-specific and comprehensive reforms. Stronger ideas of disparity (i.e. the inconsistent application of the law) and disparity and discrimination (i.e. the illegitimate and inconsistent application of the law) have allowed Congress to take exemplar acts of racial disparity reform.

Policy-Specific Reform in the Disproportionate Minority Confinement Mandate

Between 1968 and 1988, massive changes to juvenile justice had occurred. The Supreme Court's due process revolution of the 1960s had accorded numerous protections to juveniles, including the right to counsel in *In re Gault* (1967) and proof of guilt by a standard of reasonable doubt in *In re Winship* (1970) (Butts & Mitchell, 2000). The Court strengthened procedural restrictions on *parens patriae* and judicial "treatment" of youths, effectively "constitutionally domesticating" juvenile processing (Feld, 1999, p. 79). Congress too cemented institutional safeguards in the Juvenile Justice and Delinquency Prevention Act (JJDP) of 1974. All states were required to 1) separate juvenile defendants and delinquents from adults by sight and sound, 2) deinstitutionalize status

offenders, and 3) remove all juveniles from adult jails and detention centers. In conjunction with declining juvenile arrests, national juvenile justice policymaking triggered a 21% decline in youth detention and confinement rates between 1974 and 1982 (Krisberg et al., 1987).

At the same time, the fall of the Jim Crow order ended separate institutional treatment of minority youths. Historically, black children were barred from Houses of Refuge and other reformatories addressing juvenile delinquency because of scientific beliefs of their injurious presence to white youths. In the North, African American youths were often sent to adult working houses, jails, and prisons until “colored sections” of existing juvenile institutions or separate facilities were constructed (Pisciotta, 1983). Southern treatment of African American delinquents was strongly modeled after “plantation discipline.” Black boys were required to complete hard manual labor while black girls learned to perform domestic work and other house servant duties (Ward, 2012). Segregation, poor treatment, and disproportionate classification as “unredeemable” also affected Native-American and Hispanic youths (Chavez-Garcia, 2012). Later in the 20th century, African American and other minority communities devised their own “child-saving” institutions to promote social order and racial uplift outside of the state (Ward, 2012). Given such institutional practices of minority exclusion, minority contact with the juvenile justice system would be substantially underreported until racial integration occurred.

The confluence of the “due process revolution” and desegregation led to dramatic transformations in the size and racial composition of incarcerated youth populations. While community-based alternatives to incarceration proliferated for white youths who were eligible for secure confinement, these sanctions were not consistently extended to similarly situated minority youths (Krisberg et al., 1987). In fact, the number of incarcerated minorities steadily rose (Krisberg et al., 1987). By 1977, blacks and Hispanics made up 41% of juveniles held in public facilities. When youth incarceration rates escalated during the 1980s, black, Hispanic, Asian-American, and Native American youth represented 93% of incarceration increases (National Coalition of State Juvenile Justice Advisory Groups, 1989, p. 4).

Minority overrepresentation issues in juvenile justice reached Congress in the late 1980s (Krisberg et al., 1987, p. 33). Testifying before the House Subcommittee on Human Resources in 1986, former OJJDP administrator Ira Schwartz first distinguished minority youth confinement as “a potentially very explosive issue” (Oversight Hearing on the Juvenile Justice and Delinquency Prevention Act, 1986 p. 73). Schwartz stressed policymakers must take a harder look at these inequalities and use Congress’ “particularly strong a unique position” to address the issue now before racial disparities severely worsened (Ibid).

Schwartz’s warning shook members of Congress, who began contemplating that disparity was a problem government should solve. Representatives Dale Kildee (D-MI) and Thomas Tauke (R-IA) held a series of hearings on minority overrepresentation in youth confinement. “Data in this area is [sic] alarming. It indicates minority juveniles are disproportionately incarcerated,” Representative Tauke explained, “we need to figure if a dual juvenile justice system is emerging” (Hearing on H.R. 1801 To Reauthorize the Juvenile Justice and Delinquency Prevention Act, 1987, p. 3). Experts like Barry Krisberg of the National Council on Crime and Delinquency confirmed that the high numbers of incarcerated minorities in the system were not just because of discrimination but also due to disproportionate involvement in crime. The very doctrine of *parens patriae* also contributed to problematic differences in juvenile processing outcomes (Ibid, pp. 12-13).

A vision of disparity stemming from troubling inconsistencies in the treatment of juveniles grew among members of Congress. Responding to high ratios of black and Hispanics in secure facilities, Representative Pete Visclosky (D-IN) observed, “My sense is you what you want to try to do is to find that balance, to maintain flexibility of that system, but to prevent what would almost appear to be an abuse that has occurred here (Hearing on H.R. 1801 To Reauthorize the Juvenile Justice and Delinquency Prevention Act, 1988, p. 170). Congressional intervention that changed secure confinement practices was then thought to be necessary. “We’re dealing with young people who are just now in the process of developing their personal, some of which is already damaged. That’s a very high priority to promote human dignity,” Representative Kildee proclaimed

(Hearing on H.R. 1801 To Reauthorize the Juvenile Justice and Delinquency Prevention Act, 1988, p. 172).

Juvenile justice reform advocates urged Congress to see the Office of Juvenile Justice and Delinquency Prevention (OJJDP) as a source of institutional reform. At minimum, they proposed the office could lead educational campaigns or demonstration projects to reduce minority youth confinement. Others imagined a more forceful OJJDP presence based on JJDP requirements. “If OJJDP is going to continue with the requirements for State plans,” William Bogan of the National Coalition of Hispanic Health and Human Services Organizations stated, “put some language in that increases their accountability for minority issues” (Hearing on H.R. 1801 To Reauthorize the Juvenile Justice and Delinquency Prevention Act, 1988, p. 116).

Congress was receptive to a new JJDP amendment due to controversy surrounding OJJDP. The office had first come under fire under its administrator, Alfred Regnery, a former Republican staff aid with limited experience in juvenile affairs. Regnery had expressed interest in addressing racial inequality in juvenile justice. In fact, he convened the federal government’s first two-day national conference on minority youth crime and ways to relieve the “common knowledge” problem of racial disparity (Office of Juvenile Justice and Delinquency Prevention, 1985, p. 2). Regnery upset Congress, though, by censuring its deinstitutionalization of status offenders as “anti-family” because emancipated truants, runaways, and youth-in-conflict remained in the streets rather than in correctional facilities. He further alienated youth advocacy organizations by basing official reports on crude statistics, misrepresenting scholarly work on juvenile crime rates, and funding ideological projects “outside the spirit” of the office (National Coalition of State Juvenile Justice Advisory Groups, 1986).²² The message was clear that only Congress could initiate juvenile justice reforms, especially with regard to minority overrepresentation issues (I. M. Schwartz, 1989).

²² In his own words, Schwartz comments, “During his tenure as administrator, Regnery managed to repoliticize the office, mislead the American people, and destroy the credibility of the entire federal juvenile justice effort” (1989, pp. 109-110).

Believing in problems of disparity (Quadrant II of Table 1) and seeing a political opportunity to revise the JJDP, Congress would pursue policy-specific reform. During the developmental stages of the Anti-Drug Abuse Act of 1988, Congress formulated a JJDP amendment demanding states to reduce minority overrepresentation within public custody facilities. Specifically, states had to decrease the proportion of a given minority group of youth detained or confined in detention facilities, secure correctional facilities, jails, and lockups if this amount exceeded the proportion of that group in the general population (Hsia et al., 2004).

Congressional proponents of this Disproportionate Minority Confinement (DMC) amendment had high hopes. The provision was intended to provoke states to approach racial disparities “in a comprehensive manner” (H.R. Rep. No. 100-605, p. 10). To meet the provision’s goals, states were to examine various aspects of minority overrepresentation like arrest differentials, improving minority access to diversionary programs, and reaching out to community-based organizations serving minority communities (Ibid). Unlike the contemporary Racial Justice Act prohibiting racially disproportionate capital sentencing, the DMC amendment was signed into law as part of the omnibus crime bill of 1988.

Comprehensive Reform in the Disproportionate Minority Contact Mandate

Once the DMC mandate was ratified into law, federal and state juvenile justice bureaucracies began efforts to diminish racial disparities in secure confinement. At the national level, OJJDP took the lead in helping states make sense of this unprecedented policy. Almost immediately, the agency initiated a technical assistance campaign to provide instruction on fulfilling all aspects of the DMC mandate (Leiber 1992). OJJDP similarly launched DMC pilot programs in five states to find promising reform strategies (Coleman 2010).²³ Congress hoped the mandate would allow practitioners and researchers to identify, publish, and replicate interventions that produced more race-

²³ These five states were Arkansas, Florida, Iowa, North Carolina, and Oregon (Coleman, 2010).

neutral results (H.R. Rep. No. 100-605, p. 10). Yet several factors would inspire the revision of this policy-specific measure.

First, Congress began to reevaluate the DMC mandate because criminological research continued to reveal severe minority overrepresentation among securely confined youth populations. Racial disproportion in detention and secure confinement facilities continued to swell, as over 60% of juveniles in custody belonged to a minority group (Minority Overrepresentation in the Juvenile Justice System, 1991). By 1999, 7 out of 10 juveniles in confinement were nonwhite (145 Cong. Rec. S5560, daily ed. May, 1999). Unexplainable racial inequalities were also remarkable at prior decision-points like referral to juvenile court and adjudication (Pope and Feyerherm, 1990). Interest groups like the National Coalition of State Juvenile Justice Advisory Groups expressed frustration with the “infancy” of the DMC mandate. “There is enormous frustration in addressing this agenda,” its chair Vicki Neiberg observed, “[but] enormous pride when we chip away” (Juvenile Justice, A New Focus on Prevention, 1992, p. 12).

Findings of enduring racial imbalances in youth confinement irked national legislators. For instance, a four-fold disparity in the racial composition of California’s general and confined youth populations prompted Representative Matthew Martinez (D-CA) to sigh, “You know, I imagined that because this is a mandate, a study would be done and something constructive would be done about disproportionate minority confinement” (Proposed Legislation for the Juvenile Justice and Delinquency Prevention Act, 1997, p. 45). Juvenile justice advocates and liberals in Congress believed in the DMC mandate, but hoped for a more expansive measure. Liberal policymakers saw minority overrepresentation as part of larger problems within society. Describing a new generation of truly disadvantaged children, Senator Joseph Biden (D-DE) notably praised the DMC mandate as a tool to “incorporate the special needs of minority youth” in a broader national response to juvenile delinquency (Ibid, p. 3). In his testimony, OJJDP administrator Shay Bilchik acknowledged some states were working hard to meet the revised DMC mandate. Uncertainty about what the measure intended to accomplish and what type of changes were necessary had thwarted substantive shifts in state processing. Bilchik agreed that enlarging the scope of the provision to include disproportionate

minority “contact” with any part of the juvenile justice system would emphasize the importance of intervention through the entire system and better align the provision with congressional intentions (Proposed Legislation for the Juvenile Justice and Delinquency Prevention Act, 1997, pp. 46-47).

Second, policy developments in affirmative action raised doubts among legislators that the Disproportionate Minority Confinement mandate could lawfully produce more racially equal processing practices. In *Adarand Constructors, Inc. v. Peña* (1995), the Supreme Court designated race as a category whose use requires strict scrutiny by the courts. The federal government could only rely on race-based numeric standards to further a “compelling state interest.” A month after the decision’s announcement, the White House announced new federal government standards for gender, racial, and ethnic considerations. President Clinton called for the elimination of any program that creates racial quotas, preferences for unqualified individuals, reverse discrimination, or unnecessary benefits after equal opportunity has been achieved. Any use of race or ethnicity in decision-making would otherwise have to meet constitutional standards (Clinton, 1995).

These events figured prominently into public and political views of Congress’ minority youth confinement corrective. Juvenile justice practitioners complained the DMC mandate’s imperative to reduce disparities in the racial composition of securely confined youth populations effectively amounted to an unconstitutional quota. One Oklahoma juvenile justice administrator testified before Congress that “quotas are not the answer. Youth are placed in a system based on their acts, not their race” (H.R. Rep. No. 107-203, p. 29). Some worried the policy would inspire states to make illogical interventions like ignore racial inequalities at previous processing stages or release dangerous offenders in the name of racial equality (H.R. Rep. No. 105-155).

In pondering the fate of the DMC mandate, members of Congress largely invoked issues of disparity and discrimination in the juvenile justice system. Following expert testimony that inequalities in confinement partly derive from crime and partly from discriminatory practices like disproportionate surveillance of black communities, Representative Michael Castle (R-DE) proclaimed, “This is a fact which I think I can

understand” (Juvenile Justice and Delinquency Prevention Act: Preventing Juvenile Crime at School and in the Community, 1999, p. 50). Senators like Paul Wellstone (D-MN) drew more detailed conclusions from disproportionate minority confinement studies and congressional discussion on the topic. “I do not think this whole problem of disproportionate minority confinement is the product of bigoted or racist authorities, though there is too much bigotry and there is too much racism,” he observed. Differences in poverty, education, and political connections created “unconscionable” racial distinctions as well (145 Cong. Rec. S5560, daily ed. May 19, 1999). Senator Kennedy added an ideal response to minority youth confinement should make states “more sensitive” to the everyday socioeconomic and racial challenges individuals face in American society (145 Cong. Rec. S5565, daily ed. May 19, 1999).

Not all members of Congress endorsed a race-focused, system-wide corrective to inequalities in juvenile justice. The most vocal opponents to an expanded DMC mandate were Senate Republicans. Party leaders like Senator Hatch and Senator Jeff Sessions (R-AL) asserted the measure first violated the Constitution and federal government restrictions on using racial categories. Overrepresentation in confinement first only applied to minority groups. The measure implied that non-minority classes could not be disproportionately processed or even disadvantaged by the juvenile justice system. Second, critics claimed there was no compelling interest in correcting racial discrimination because no youths were alive during the Jim Crow era. Finally, the measure could possibly be used to justify other forms of disproportionate attention to minorities like racial profiling by police officers (145 Cong. Rec. S5564, daily ed. May 19, 1999). Summarizing objections to the DMC mandate, Senator Hatch lamented,

“This is what you call a bleeding heart amendment. They can’t show the facts; they don’t have the facts on their side. They are using statistics. They are ignoring the facts that people are convicted of these crimes and need to serve time for them, regardless of skin color. It is nice to talk about civil rights... If anyone can show me where there is prejudice, if they can show me where these people are not justly

convicted, that is another matter. I will be right there marching with them. But they can't and they know it" (145 Cong. Rec. S5574, daily ed. May 19, 1999).

For these reasons, DMC mandate opponents modified the extant provision to prohibit the disproportionate contact of *any* segments of the juvenile population with juvenile justice structures (see the Violent and Repeat Offender Accountability and Rehabilitation Act, H.R. 1501). Senator Paul Wellstone (D-MN) retorted juvenile justice reform was fundamentally a racial issue. "When we get to the question of sentencing, you don't think that has anything to do with race," he charged, "You are sleepwalking through history... This is all about race. This is a civil rights issue and this is a civil rights vote" (145 Cong. Rec. S5572, daily ed. May 19, 1999). While a race-neutral, contact-reduction measure later passed the Senate in summer 1999, Representatives Carolyn Kilpatrick (D-MI) and Conyers successfully reinstated an expanded DMC mandate in a House amendment (145 Cong. Rec. H4553, daily ed. June 17, 1999). Unresolved differences like the fate of the DMC mandate in the two chambers' bills ultimately derailed the enactment of any national juvenile justice legislation.

With continued support in the House and a coalition of liberal Senators,²⁴ the DMC mandate reappeared as a comprehensive racial disparity reform in 2001. Debates in the Senate affirmed the need for comprehensive reform. Child advocacy organizations like the Youth Law Center and the Children's Defense Fund worked extensively with Democrats to "put ideology aside" and preserve the JJDP's core protections that help to prevent "physical and emotional scars" among detained youths (147 Cong. Rec. S222, daily ed. Jan. 22, 2001).

With the median member of Congress endorsing a vision of racial inequality in youth confinement as a problem of disparity and discrimination, Congress expectedly developed a comprehensive reform (Quadrant IV of Table 1). It expanded the DMC mandate from "confinement" to "contact" with the juvenile justice system. Addressing

²⁴ These six senators included Senator Kennedy, Senator Wellstone, Senator Feingold, Senator Diane Feinstein (D-CA), and Senator Dick Durbin (D-IL).

disparities, the Disproportionate Minority Contact mandate intended to ensure individuals charged with the same crime and same circumstances would be treated uniformly. Tackling discrimination, the measure promised to “eliminate true bias” throughout the juvenile justice continuum (H.R. Rep. No. 107-203, p. 29). The comprehensive DMC mandate was enacted in the reauthorized Juvenile Justice and Delinquency Prevention Act of 2001. The provision requires federally-funded states to reduce the disproportionate number of minorities handled at all decision-points in the juvenile justice system without the use numeric standards or quotas. It became the nation’s first racial disparity reform to tackle inequalities throughout an entire justice system. Today, it is a model for comprehensive reform proposals for adult criminal processing (Racial Disparities in the Criminal Justice System, 2009). For instance, an adult-focused version of the DMC mandate can be found in the proposed Justice Integrity Act of 2014 (Lerman & Weaver, 2014).

Summary

Over the past four decades, issues of racial inequality have pressed policymakers to act against growing racial imbalances in criminal justice. National elected officials have devised numerous correctives that vary in scope and character. This chapter used the racial disparity reform framework to explain why U.S. presidents and Congress develop certain policy responses. Case studies of reforms in capital punishment, racial profiling, and youth confinement revealed three findings. First, reforms are products of policymakers’ beliefs of about racial inequality in the U.S. criminal justice system. Second, the median national elected officials’ beliefs about racial inequality are forged in light of partisanship, judicial decisions concerning the constitutionality of racial considerations, controversial events, and studies of race in criminal processing. Given these two dynamics, different racial disparity reform policies emerged in these three areas of criminal justice. An exploratory reform targeted racial differences in capital punishment because national elected officials accepted the penalty’s disproportionate

impacts. A prohibition on racial profiling developed as policymakers increasingly came to believe in the prevalence of discriminatory law enforcement practices. Recognition of continuing disparities and discrimination in youth confinement ultimately prompted Congress to adopt a comprehensive reform reducing disproportionate minority contact with juvenile justice structures.

CHAPTER FOUR - PREDICTING THE ENACTMENT OF RACIAL DISPARITY REFORM: A STATE POLITICS ANALYSIS

As “policy laboratories,” states have also enacted a diverse array of reforms addressing racial inequalities in their adult and juvenile justice systems. While Chapter 3 showed how differences in problem definitions explain the emergence of different types of racial disparity reform using three case studies, more variation—like that seen at the state-level—is needed to identify the specific social and political factors that underpin racial disparity reform policymaking. This chapter examines racial disparity reforms established by state legislatures and executives from 1998 to 2011. It first discusses how to operationalize the theoretical explanations for racial disparity reform introduced in Chapter 2. It then describes reform data for all fifty states. Next, it employs a series of event history models to identify the socio-political factors associated with the reform activities of state elected officials. Event history models reveal severe racial disproportionalities in incarceration and arrests significantly elevate the likelihood of racial disparity reform enactments. The absence of ongoing racial fairness efforts within a state judicial system and Democratic control of governing institutions also strongly predict policymaking. These results support arguments for ideological and problem-solving motivations for racial disparity reform.

Testing Social and Political Explanations of Racial Disparity Reform

This chapter evaluates the importance of the two motivations for racial disparity reform previously described in Chapter 2. To recap, elected officials should promulgate reforms due to racially egalitarian ideals entrenched in American politics. Second, policymakers receive electoral and institutional benefits for solving pressing social problems.

Motivation for racial disparity reform first derives from prevailing civil rights ideals (King & Smith, 2011). Again in today’s contemporary racial order, anti-egalitarian

ideas encourage punitive policy change, but liberal principles motivate racial disparity reform (King & Smith, 2005; Hochschild et al., 2012). The influence of the racially egalitarian tradition on public policy is arguably best approximated by partisanship. Across the two major political parties, Democrats endorse more progressive ideals and remain key civil rights proponents for minorities (Kinder & Sanders, 1996). Democratic Party members also tend to see crime as a symptom of structural inequality. Offenders cannot be held responsible for the failing schools, residential segregation, discrimination, and joblessness that put them under correctional supervision (Beckett & Sasson, 2000). By contrast, Republicans continue to emphasize choice and equal opportunity. Offenders freely choose to break the law and should incur the consequences for their behaviors (Scheingold, 1984).

Empirical evidence generally supports the literature's argument that partisanship is crucial to anti-egalitarian criminal justice policymaking. At the national level, Republican control of the elected branches is associated with greater justice expenditures (Jacobs & Helms, 1999). In the states, harsher sanctioning, as seen in more death penalty laws or higher incarceration rates, increase under Republican governors and with more Republicans in the legislature (Jacobs & Jackson, 2010; Greenberg & West, 2001; Yates & Fording, 2005). This difference in ideological outlooks suggests racial disparity reform is more plausible when Democrats control the legislative and/or executive branches. Partisan explanations lend to three different hypotheses:

H₁ : Unified control of the executive and legislative branches by Democrats elevates the probability of racial disparity reform.

H₂ : A large Democratic presence in a state legislature increases the likelihood of racial disparity reform.

H₃ : When a state governor is a Democrat, racial disparity reforms are more likely to be adopted.

A second motivation for racial disparity reform comes from politicians' needs to address social concerns. To ensure their reelection, elected officials must take positions on pressing issues and claim credit for developing policy solutions (Krehbiel, 1991; Mayhew, 1974). These activities allow elected officials to distinguish themselves from other candidates. Making "good" public policy further affirms politicians' fitness for office among voters and interest groups (Fenno, 1978; Sunstein, 1988).

Given such electoral interest in solving problems (Esterling, 2004; Fenno, 1978; Mayhew, 1974), the severity of racial disproportion within a state criminal justice system should stimulate reform. Problem severity is a key motivator for policy innovation within states (Nice, 1994; Sapat, 2004; J. L. Walker, 1969). Racial inequality in criminal justice is an obvious challenge for state policymakers. From arrests to sentencing, racial minorities are overrepresented in every aspect of criminal processing (Mauer, 2011; Tonry, 1995; Western, 2006). Such disproportionate minority contact cannot be entirely explained by differential involvement in crime (Tonry & Melewski, 2008).

Problems of racial disproportion can vary within and across states. Disproportionality is typically measured by taking the ratio of minority criminal processing rates to white criminal processing rates at a particular decision-point (Leiber, 2002). For example, the black-to-white ratio of incarceration was 12.1:1 in Pennsylvania and 6.3 to 1 in California for 2011 (U.S. Bureau of Justice Statistics, 2012). Racial disproportion tends to worsen at later criminal processing stages such that disparities in arrests do not perfectly predict disparities in incarceration (Blumstein, 1982; Tonry & Melewski, 2008). Historically, states like Kentucky and Illinois have possessed the highest black-to-white ratios in arrests. Meanwhile, Iowa, Connecticut, and Wisconsin boast the highest levels of racial disproportion in incarceration (Mauer & King, 2007). Reform may then respond to racial disproportionalities at different processing points along the criminal justice continuum, which suggests a fourth hypothesis:

H₄ : As a state experiences worsening problems of racial disproportion in its criminal justice system, elected officials are more likely to develop racial disparity reforms.

Policymaking in response to social problems also accords benefits to elected branches as governing institutions. A system of separated powers prompts each branch to preserve and assert its authority (Patashnik & Peck, 2015). Struggles over institutional power encourage one branch to monitor the decisions of the others. When a governing institution fails to take action on an important issue, other branches will respond in hopes of enhancing their reputation (Blackstone, 2013). “Governance as dialogue” is strong between the judicial and elected branches because notions of judicial supremacy have grown over time (Miller, 2009; Whittington, 2006).

The interplay among the judicial and elected branches should be another source of racial disparity reform. While courts have retreated from racial issues in criminal justice on constitutional grounds (see Chapter 3), several judicial systems have launched campaigns to redress racial inequalities in criminal proceedings. Starting in New Jersey in 1983, state court systems have created racial fairness commissions tasked with improving minority access to justice (National Consortium of Racial and Ethnic Fairness in the Courts, 2014). These commissions are typically led by a state’s highest court or in conjunction with a mandatory state bar association (National Center for State Courts, 2014). Twenty-nine states have established least one racial and ethnic bias commission in their judicial systems (Neeley, 2008).

While developing racial fairness commissions within a state court system requires considerable “momentum” (Neeley, 2008), reform efforts of these bodies vary. In Washington, the State Minority and Justice Commission has initiated numerous reforms, including a drug-charging study in three counties, a regular newsletter on racial issues, and annual reports on its progress to reduce racial inequalities. Others like Michigan’s Racial and Ethnic Fairness Commission have yet to publicly publish a set of reform goals and recommendations. Most commissions create a research agenda, complete a system-wide review of racial inequalities, and offer preliminary remedies. Regular release of these reports is the primary means by which the courts educate the public and other policymakers about their racial justice activities (Norris, 2011). Nevertheless, not all commissions or judicial systems take steps to share their reform plans, pointing to a fifth hypothesis:

H₅ : Elected officials are less willing to adopt racial disparity reforms when state supreme court systems are active in introducing their own corrective efforts.

Alternative Explanations

Citizen Ideology. In addition to the political orientations of elected officials, citizen ideology may affect criminal justice policymaking. States possess different policies across issue areas due to variation in public attitudes (Erikson, Wright, & McIver, 1993). Empirical evidence is mixed on the influence of citizen ideology on criminal justice reforms. Some studies indicate states with more conservative citizens possess higher incarceration rates (Greenberg & West, 2001; Yates & Fording, 2005), more death penalty laws (Jacobs & Carmichael, 2001), and stronger restrictions on offenders' rights (Ewald, 2012). Other studies do not find significant impacts of citizen ideology on state criminal justice practices (Christie, 2014; K. B. Smith, 2004). Because racial egalitarian ideals are stronger among liberals, states with more liberal citizens should be more likely to promulgate racial disparity reforms.

Social Threat. Scholarship has recognized that perceived threats from marginalized groups motivate the tightening of crime controls (Garland, 2001). Two commonly cited "dangerous classes" are the poor and racial minorities. Poverty can destabilize social order and proliferate criminal activity. To deter further disorder, policymakers may adopt more punitive criminal justice policies. An association between the threat of the poor and incarceration has been demonstrated empirically (Greenberg & West, 2001). Poverty may likewise signal to elected officials that crime is an issue of economic disadvantage rather than a problem of race. In this respect, racial disparity reform should be less likely to occur in states with high poverty rates.

The presence of racial minorities within a state is traditionally cast as another social threat. Increases in black populations can stir fears that whites may lose political

power or access to economic resources (Blalock, 1967; Key, 1949). Given the inconsistent role of racial threat in punitive criminal justice reforms (Jacobs & Jackson, 2010), the effect of a strong African American presence in a state on racial disparity reform is ambiguous. Racial threat theories suggest states with smaller black populations will be more likely to enact racial disparity reforms. Yet theories of policy responsiveness would predict the opposite (Keech, 1968; Keiser, Mueser, & Choi, 2004). Greater black electoral strength due to population size may inspire more racially egalitarian criminal justice reforms by politicians.

Crime and Punitiveness. Criminal justice reforms might reflect a state's crime problems and punitiveness. When crime rates rise, policymakers toughen criminal laws (Yates & Fording, 2005). It is expected elevated crime rates will deter elected officials from advocating for more racially fair processing practices. A state's approach to criminal justice may likewise shape the reform activities of elected officials. The most visible form of state punitiveness is its incarceration rate (Uggen & Manza, 2002). A state with high levels of incarceration may be culturally and structurally more resistant to altering criminal justice policies in order to reduce their harms on racial minorities.

Dependent Variables

Data on racial disparity reforms adopted between 1998 and 2011 by state legislature and executives were collected for all fifty states. This time period is selected for several reasons. During the late 1990s, race and criminal justice issues became salient concerns. Racial profiling was barely mentioned before 1997 (Skolnick & Caplovitz, 2001), yet nearly 60% of Americans believed the practice was widespread by 1999 (Gallup 1999). Police violence likewise decidedly captured public attention, inspiring significant questioning of racial injustice (U.S. Congressional Research Service, 2004). Second, elected officials began to reverse their commitments to tougher crime controls (Jacobson, 2006). Even conservatives started to advocate for reduced criminal justice

operations and enhanced prisoner reentry programs due to the enormous societal costs of criminal processing (Dagan & Teles, 2014). Lastly, states began to systematically collect data on race in arrests and imprisonments (Mauer & King, 2007). Table 3 presents the mean and standard error of all variables for all state-year observations. Appendix 2 displays the number of racial disparity reform policy enactments and measure enactments for each state.

Enacted racial disparity reform policies were identified by electronic searches of enacted laws from state legislatures and executive orders passed by state governors. Appendix 1 details the process for coding racial disparity reforms. Legislation was found using a combination of searches of state “regulations, administrative codes, and statutes” on LexisNexis and state legislatures’ databases. A total of 94 pieces of legislation were enacted into law between 1998 and 2011. Executive orders issued by governors were also examined using electronic executive and state government archives. A total of 24 executive orders responded to racial problems in criminal justice. Together, 118 distinct racial disparity reforms were ratified in law during this fourteen-year period.

Figure 1 presents the total number of racial disparity reform policies adopted by each state between 1998 and 2011. Two trends become immediately apparent from this figure. Policies are not concentrated in any one region of the country. They also do not appear with greater frequency in ideologically more liberal or “blue” states (i.e. states that usually vote Democratic in national elections).

Provisions in legislation and executive orders were then coded according to the type(s) of reform measures the policy introduced to address racial inequalities. The contents of enacted policies were classified as exploratory, prohibitory, policy-specific, or comprehensive measures. A total of 150 reform provisions were identified from 118 distinct policies. Of these, 58 were exploratory, 38 were prohibitory, 37 were policy-specific, and 17 were comprehensive. Most policies with multiple reform provisions target racial profiling. For instance, in a single 2000 law, the California legislature banned racially-biased policing (prohibitory reform), introduced new racial and cultural sensitivity standards for law enforcement officers (policy-specific reform), and required a legislative report on racial profiling (exploratory reform) (see Appendix 1).

Figure 2 displays the distribution of these four types of racial disparity reform measures within the states. This figure shows policy-specific and prohibitory reform measures are prevalent throughout the country. Many states have established two or more exploratory reform measures. Few comprehensive reform measures were enacted, but these provisions are more common in southwestern states.

Major Independent Variables

Partisanship. This study tests partisan theories of racial disparity reform using three variables. Partisan control of both elected branches is captured by a dummy variable for whether or not there is unified Democratic control of the executive and legislature (*unified Democratic control*). Partisanship in the legislature is measured by the change in the percentage of Democrats within a legislature from a previous year (*percent Democrat*). Partisanship in the executive is represented by a Democrat in control of the executive branch (*Democratic governor*, where 0 = Republican or non-major party and 1 = Democrat, following Klarner, 2011).

Racial Disproportion in Criminal Processing. This study relies on two measures to test whether racial disproportion in criminal processing influences racial disparity reform enactments. Due to limitations in criminal justice agencies' information on race and ethnicity (Mauer & King, 2007), this study focuses on disproportionalities in criminal processing that affect African Americans. *Black-white disparity in arrest rates* is measured annually by dividing the arrest rate of African Americans by the arrest rate of whites. An arrest rate is estimated by dividing a racial group's number of arrests by its total population in a state. *Black-white disparity in incarceration rates* similarly compares the annual incarceration rate of African Americans to the incarceration rate of whites. Again, an incarceration rate is determined by dividing a racial group's number of incarcerated persons by its total population in a state.

Judicial Racial Disparity Reform Efforts. The judicial non-intervention hypothesis is tested using the National Consortium on Racial and Ethnic Fairness in the Courts' and the National Center on State Courts' data on state court system efforts to improve racial fairness. A dummy variable is constructed for whether a state had a racial fairness commission that published a report or plans to improve racial inequalities in the courts between 1998 and 2011. Publishing a report indicates *Judicial racial disparity reform efforts* are ongoing (1) rather than non-existent (0).

Other Independent Variables

Citizen Ideology. A one-year lagged measure of citizens' ideological orientation is included to determine the influence of public opinion on reform enactments. The log of Berry, Ringquist, Fording and Hanson (2012)'s electorate liberalism scores is used to make hazard ratios more interpretable.

Social Threat. To test social threat theories, this study relies on three variables capturing states' economic and racial characteristics. *Percent poverty* gauges the annual percentage of a state population living below the poverty line (U.S. Bureau of the Census, 2012b). *Unemployment rate* measures a state's annual unemployment rate (U.S. Bureau of Labor Statistics, 2012). Racial threat is approximated by the annual percentage of a state's population that is African American (*percent black*) (U.S. Bureau of the Census, 2012a).

Crime and Punitiveness. This study uses two variables to determine whether crime and punitiveness shape racial disparity reform development. *Crime rate* is measured by the log of the annual total number of offenses per 100,000 residents in a state (Federal Bureau of Investigation 2011). *Incarceration rate* approximates states' approaches to criminal justice. It is measured by the annual total number of prisoners per 100 state population (U.S. Bureau of Justice Statistics, 2012).

Method

This study relies on event history analysis to discern the socio-political factors associated with racial disparity reform policy and measure enactments. Event history analysis is a “survival time” process by which one can observe whether a state’s elected officials enacted a racial disparity reform within a specific period of time. Once the event of a reform enactment has been experienced, a state is no longer observed or becomes at-risk for another event (Cleves, 2010; Golder, 2014). Observations of whether a state’s elected officials developed a racial disparity reform policy are made for every year between 1998 and 2011. Observations are also made for each type of racial disparity reform measure within enacted policies.

Event history analysis provides two important advantages in evaluating influences on racial disparity reform enactments. First, the technique’s reliance on state-year observations permits us to measure changes in relevant political or social variables over time. Other multivariable methods using policy or measure counts as an outcome variable can mask such variation in the explanatory variables. Event history models can then provide a more dynamic account of racial disparity reform policymaking.

To show the benefits of the event history analysis method, Figure 3 displays the survival functions associated with a Cox regression model of racial disparity reform policy enactments for a select set of the twelve independent variables discussed above. These functions show the predicted probability a state will “survive” never passing a racial disparity reform policy with respect to 1) unified Democratic control of the elected branches, 2) judicial racial disparity reform activities, 3) black-white disparities in arrest rates, and 4) black-white disparities in incarceration rates holding all other predictors at their means. These figures plainly show states with Democrats governing the legislature and executive, judiciaries lacking intervention, and increasing disproportionalities at different criminal processing points are more likely to adopt racial disparity correctives.

While ordinary Cox regression findings give preliminary support for this chapter’s hypotheses, event history analysis has the additional benefit of being able to take into account the repeatability of reforms. Once a policy or measure has been established, the likelihood of a subsequent reform enactment will change. Specifically,

elected officials will not adopt the same policy/measure twice and they will have different views on the necessity of multiple reforms. Event history models can adjust for dependency among repeatable events by changing the baseline hazard rate of developing a racial disparity reform given the occurrence of any previous reform enactment. Related empirical models like logistic regression predicting elected officials' adoption of a racial disparity reform do not adjust for these policymaking considerations.

More technically, a repeatable events model stratifies state-year observations of a policy/measure enactment by the number of previously adopted policies/measures. A baseline hazard rate is created for each strata of previous enactments and all coefficients are restricted to be the same. A general model for the hazard of enacting a racial disparity reform is given by

$$h(t|x_j) = h_{0n}(t) \exp(x_j\beta_x), \text{ if } j \text{ is in strata } n$$

where $h(t|x_j)$ is the overall hazard of reform, $h_{0n}(t)$ is the baseline hazard rate for a strata, n is the number of previous reforms, and x is the set of independent variables (Cleves, 2010).

Results

Table 4 presents Cox regression results predicting the enactment of racial disparity reforms. The first two columns distinguish the socio-political factors associated with state elected officials' development of racial disparity reform policies. Column 1 is a first event model showing estimates of the conditions leading up to a state's first racial disparity reform policy. Once a state has promulgated its first policy addressing racial inequality in criminal processing, the rest of its data are censored. Column 2 is a repeatable event model displaying estimates of the conditions influencing the development of any racial disparity reform policy given the presence of any previous policy enactment.

Across the models predicting racial disparity reform policymaking, racial disproportion is a strong and consistent predictor of policy enactments. Black-white disparities in arrests and incarceration consistently increase the likelihood of reform. As the ratio of black to white incarceration rate ratio increases by 1 (e.g. an increase from a 1:1 to 2:1 ratio), state elected officials are 22% more likely to promulgate an initial policy and 17% more likely to do so for any policy. Similarly, a one unit increase in the black to white arrest rate ratio increases the probability of policymakers making their state's first policy by 40% and any policy by 15%. As racial disproportion in a criminal justice system grows, one or more policy solutions are likely to emerge from a state's elected branches. Support for the fourth hypothesis is thus found.

Judicial efforts to introduce racial disparity reforms also have profound impacts. When judiciaries take steps to improve racial equality within the courts, elected officials are 90% less likely to establish a first policy response. These policymakers are 66% less likely to promulgate other policies. Decreases in the hazard of developing racial disparity reforms policies given the presence of judicial correctives are statistically significant. These results affirm the fifth hypothesis.

Partisanship has more mixed effects. Unified control of the executive and legislative branches almost doubles the probability state elected officials adopt policy correctives. Democratic composition of the legislature has no effect on a state's first policy enactment, but becomes more somewhat more important in subsequent policymaking. Democratic control of the executive, however, does not appear to affect policy developments. These findings provide support for the first and third hypotheses.

The effects of citizen ideology, social threats, and crime and punitiveness on racial disparity reform policies are more unexpected. Liberalism among the electorate has no influence on policy outcomes. Social threats have uneven effects. Low poverty and large African American populations do increase the hazard of producing an initial racial disparity reform policy. These social circumstances are unimportant, though, when all policy developments are considered. An increased unemployment rate does not change the likelihood of producing reforms. Lastly, crime encourages the adoption of policies.

High crime rates make a state more prone to developing one or more policies, but high incarceration rates have no such effect.

The remaining four columns of Table 4 show the socio-political factors tied to the creation of the four kinds of racial disparity reform measures within enacted policies. Like Column 2, these estimates allow for repeatable instances of reform. Namely, a new baseline hazard rate for the enactment of each type of measure is created given the adoption of *any* previous measure. For instance, the baseline hazard of a comprehensive reform measure may change based upon the previous adoption of an exploratory reform. Simply stated, the likelihood elected officials mandate system-wide changes in their criminal justice system may vary depending upon whether elected officials previously commissioned study on racial differences in criminal processing.

Columns 3-6 of Table 4 show each type of racial disparity reform measure is likely to be generated under slightly different circumstances. Some support is found for each of the five hypotheses, where racial disproportion in criminal processing, judicial non-intervention, and/or partisanship matter in the adoption of at least one of the four measures types. The severity of black-white disparities in incarceration is once again one of the strongest predictors, increasing the probability of enacting three of the four measure types. Elected officials are 24% more likely to design prohibitory measures, 17% more likely to adopt policy-specific measures, and 19% more likely to introduce comprehensive measures given a one-unit increase in black-white incarceration ratios. Racial disproportion in arrests increases the risk of prohibitory reform adoptions by 33%. These measures are also more likely to be promulgated when crime is high. These findings may reflect political division over disproportionate minority contact with police. Arrest disparities are hotly contested as results of discrimination or legitimate law enforcement, so elected officials may prefer to adopt weaker correctives.

The absence of judicial racial disparity reform efforts in criminal proceedings also encourages the development of more intensive reform measures types. Judicial reform activities decrease the hazard of policy-specific reform and comprehensive reform by 75% and 72%, respectively. Exploratory and prohibitory measures are less affected by such judicial interventions. Studying racial differences and strengthening anti-

discrimination measures may be symbolically “good” policymaking for any elected official. Such provisions may then emerge from the elected branches without regard to similar remedial efforts by the judiciary.

Partisanship further shapes the creation of various racial disparity measures. Exploratory reform is nearly three times more probable to occur under a unified Democratic government. A strong Democratic presence in the legislature also increases the probability of elected officials adopting prohibitory provisions. As a final note, a more liberal electorate further induces comprehensive reform policymaking concerned eradicating system-wide racial inequalities.

On Alternative Multivariate Modeling

Appendix 3 and Appendix 4 present alternative multiple regression models of racial disparity reform enactments. Appendix 3 displays Poisson regression estimates of the factors affecting the number of racial disparity reforms enacted by state elected officials. State-year observations of the number of adopted racial disparity reform policies and number of enacted measures by type are made for all fifty states between 1998 and 2011. The Poisson models generally conform to the event history results. As Column 1 shows, more policies are created under unified Democratic control of the elected branches and more Democratic representation in the legislature. The party of the state's executive has no effect. Columns 2 through 5, predicting the development of the four measures types, show more exploratory reforms and prohibitory reforms emerge when Democrats are in power. Racial disproportion has the expected effect of increasing racial disparity reform policymaking. As disparities become greater in arrests and incarceration, state elected officials take more remedial actions. This is especially true for comprehensive and prohibitory measures. Surprisingly, the effect of judicial racial disparity reform effects disappears. With the exception of crime rates that marginally increase policy developments, no other social or political conditions consistently affect the number of racial disparity reform policies or measures generated. While these Poisson

results confirm ideological and problem-solving reasons motivate state elected officials to adopt racial disparity reforms, these findings are tempered by a major limitation. Specifically, there is little variation in the number of policies and measures a state adopts each year. On average, less than two policies and one of each measure type is developed annually. By implication, event count models may not precisely estimate the contributions of relevant social and political factors to the racial disparity reform policymaking process.

Appendix 4 shows logistic regression estimates of the factors affecting the likelihood of racial disparity reform enactments in the states between 1998 and 2011. State-year observations of whether state elected officials promulgated at least one racial disparity reform are made for all fifty states during this fourteen-year period. Coefficient estimates in Column 1 indicate Democratic strength in the legislature and a unified Democratic government increase the probability of a policy enactment. In Columns 2 through 5 predicting the passage of the four measure types, only exploratory reforms seem to respond to party control of the elected branches. Racial disparities in incarceration and arrests substantially elevate the likelihood of policy adoptions. Columns 2 through 5 further show elected officials are more likely to adopt comprehensive and prohibitory reforms when racial disproportion in imprisonment is high. Judicial racial disparity reforms have little influence on the probability of reform by elected officials. Other social and political factors have inconsistent impacts. In all, some support is found for ideological and problem-solving theories. Unlike the event history models, logistic regression findings are constrained by the fact that the models do not adjust for changes in the likelihood of reform given the existence of previous reforms.

On Alternative Model Specifications

Repeatable event history analysis models containing the addition of other potentially important social and political variables were also examined. Two of these variables were racial disproportionalities in black-white homicide offending rates and the percentage of state elected officials who are Latino. The former might suggest that racial

disparity reform may be less likely because high disproportion in homicide offending may raise racial fears and reduce propensities to modify sanctions for minorities (Jacobs & Jackson, 2010). The latter might show elected officials who are racial or ethnic minorities may be more willing to endorse civil rights ideals and support racially-conscious modifications to disparate criminal justice policies (Cameron, Epstein, & O'Halloran, 1996; Swain, 1993; Yates & Fording, 2005). Results for these variables are reported in Appendix 5.

Overall the direction and magnitude of the main independent variables from the previous event history repeatable event model remains the same across the supplemental models. Black-white disparity in homicide offending has little discernible effect on the likelihood of enacting a racial disparity reform policy. This holds true when the other crime rate variable is omitted (not shown). This variable was not selected for the final model because missing data would eliminate the entire state of Florida (that does not document the race of homicide offenders) and another year's worth of observations. A one percent increase in the percentage of Latino elected officials in a state government produces a 2% increase in the hazard of racial disparity reform policies. Data were sought for black elected officials, but could not be obtained for every year between 1998 and 2011 due to changes in the Joint Center for Political and Economic Studies.

Summary

This chapter tests the racial disparity reform framework by examining reforms enacted by legislatures and executives in the states. From Chapter 2, elected officials are motivated to adopt racial disparity reforms first in response to civil rights ideals and second due to electoral and institutional benefits in solving pressing social problems. Operationalizing these ideological and problem-solving theories, this chapter postulated that racial disparity reform emerges from elected branches when 1) Democrats are in power 2) judiciaries do not initiate their own reform efforts, and 3) disproportionalities in criminal processing worsen. The chapter relied on an original database of policies and

various corrective measures within each policy enacted by state legislatures and executives between 1998 and 2011.

At first glance, reforms do not appear to be concentrated by geography or political ideology across states. Event history analyses uncovered racial disparity reform is a product of partisanship and elected officials' responsiveness to the unresolved problems of racial inequality. Policy response is more probable when Democrats control both elected branches and sometimes when Democrats have a large presence in the legislature. Politicians are more likely to promulgate remedial policies when racial disparities in arrests and imprisonment widen. Corrective action also tends to occur when courts do not offer relief. These ideological and problem-solving dynamics also shape the creation of the four types of racial disparity reform measures within policies, with the development exploratory measures being explained more by the former and the development of more intensive measures being explained more by the latter.

Limitations of Data and Analyses

Because this present study represents an initial attempt to document and predict racial disparity reform by state policymakers, it is limited by several factors. First, the study only analyzes enacted policies by elected officials. This study does not examine the political process by which racial disparity reforms are proposed or evaluated by elected officials. For instance, it cannot generalize the process of enactment to the processes of bill proposal, committee passage, or floor voting in the legislature. Proposals alone may be motivated by a distinct set of political factors, such as ideology and personal interests in criminal justice reform.

Next, this particular chapter identifies racial disparity reforms based upon their explicit mentioning of race with regard to criminal justice issues (see Appendix 1). It is possible a reform may be intended to alter criminal justice institutions' treatment of racial minorities without invoking race in the policy. For instance, reductions in New York's Rockefeller Drug Laws may be considered racial disparity reforms because state elected

officials distinguished the statutes' racially disparate impacts as grounds for change (D. Cole, 2011). Yet the revised drug laws do not mention race or the racial considerations that motivated their enactment. Racial disparity reforms may then be undercounted if a policy was intended to achieve racially egalitarian change, but makes no mention of this purpose in its actual language.

Finally, this study does not fully capture the influence of other relevant policymaking factors like interest group advocacy and issue salience. The trade-off of large N rather than small N analysis of state reforms is the inability to detail the particulars of reform processes. Other work like O'Brien and Grosso (2011)'s study of the North Carolina Racial Justice Act identifies how a diverse coalition of anti-death penalty and civil rights organizations came together to highlight the unfairness of capital punishment procedures and successfully demand more racially egalitarian ways. While this study suggests the racial disproportionalities in criminal processing elevate the likelihood of racial disparity reform, selected case studies can further distinguish the mechanisms by which problems of racial inequality become political concerns. More importantly, such qualitative process-tracing can highlight the coalitions and compromises that helped to define the nature of various racial disparity reforms.

CHAPTER FIVE - DOES RACIAL DISPARITY REFORM WORK? : THE CASE OF
THE DISPROPORTIONATE MINORITY CONTACT MANDATE I
(METHODOLOGY)

Given the proliferation of racial disparity reforms from the legislative and executive branches over the past four decades, it is essential to determine whether enacted reforms effectively generate more racially egalitarian outcomes in criminal processing. Such inquiry is pertinent as national and state elected officials are increasingly considering and promulgating comprehensive racial disparity reforms requiring system-wide changes. The present research examines these issues from the context of juvenile justice and whether the Disproportionate Minority Confinement (DMC) mandate of 2002 has successfully diminished extant racial inequalities in the juvenile justice system. As discussed in Chapter 3, this federal provision requires states receiving federal funding to reduce the disproportionate number of minority youth who come into contact with the juvenile justice system without the use of numeric quotas or standards (Juvenile Justice and Delinquency Prevention Act of 1974, as amended)

The chapter proceeds as follows. First, it discusses the significance of the DMC mandate as a case to consider the effectiveness of racial disparity reform in altering the justice processing of minority offenders. It also outlines previous research on the DMC mandate's impacts on juvenile justice decision outcomes. The chapter then moves toward the present research analyzing juvenile processing in Pennsylvania before and after intervention on behalf of the DMC mandate. It introduces the two central hypotheses underpinning subsequent empirical analyses. It then details the selection of Pennsylvania as a case, the state's DMC reduction activities, and the major characteristics of the state's juvenile processing data. With this backdrop, the chapter concludes with a description of the present research's analysis plan.

The Disproportionate Minority Contact (DMC) Mandate of 2002

The Disproportionate Minority Contact (DMC) mandate of 2002 represents a landmark reform in criminal justice for several reasons. At its core, the measure is racially-conscious and unequivocal about decreasing minority overrepresentation in juvenile processing. Unlike ordinary disparity reforms such as mandatory minimums or sentencing guidelines that could target racial inequities indirectly through “race-neutral” language (W. J. Wilson, 1987), the DMC mandate fits squarely within the definition of racial disparity reform, as it is narrowly directed at the treatment of minority youth. At the same time, this policy stands in contrast to other racial disparity reforms aimed at prohibiting discriminatory behavior or raising awareness about racial problems through the mandatory data collection or additional study. Enacted in 1988, the original Disproportionate Minority Confinement mandate was innovative in demanding states to reduce racial disproportion among juvenile populations confined in jails, detention centers, and other secure facilities. Since its congressional revision in 2002, the DMC mandate is far more comprehensive, obliging states to address the disproportionate processing of minorities throughout the entire juvenile justice system.

To actualize this end, the Office of Juvenile Justice and Delinquency Prevention (OJJDP) requires states to take four steps. State must initially identify racial imbalances within their juvenile justice systems. If minority overrepresentation is revealed, states must assess the sources of these issues and design plans for intervention. Once interventions have been implemented, states must evaluate their corrective programs and re-identify lingering racial disproportionalities (Hanes, 2012) This four-part strategy pushes states to confront racial disparities while affording states a significant degree of discretion in going about implementing these directives (Hamparian & Leiber, 1997; Kempf-Leonard, 2007; Leiber, 2002). No other national measure orders states to continually monitor and reduce system-wide racial disparities within public institutions.

The requirement to rectify racial disproportion without regard to a juvenile justice system’s contribution to such conditions also makes the DMC mandate noteworthy. Historically, most government institutions have avoided dealing with racial disparities by questioning evidence of these structures causing these problems and citing reasonable interests for why imbalances exist (Boardman & Vining, 1983). Within the courts, such

concerns for “causality” and “justifiability” have allowed public institutions to perpetuate racially disparate practices without judicial injunctions. These arguments have narrowed the space for reformers seeking to challenge disparate impacts in the public sphere. Although elected officials tend to skirt issues of civil rights, the DMC mandate exemplifies a much sought after legislative response to an absence of judicial recourse. This development too marks a departure from touted political indifference to racial inequalities (O. C. Johnson, 2007, p. 411; Loury, 2002).

Beyond simply compelling states to amend their juvenile processing practices, the DMC mandate carries heavy sanctions for non-compliance. States failing to make a good faith effort in assessing, monitoring, and amending minority overrepresentation in their systems risk losing 20% of their federal grant funds for the fiscal year and having their remaining funds reallocated towards meeting compliance standards (Hsia et al., 2004). Although few states have been formally reprimanded for making insufficient progress (Office of Juvenile Justice and Delinquency Prevention, 2014), the threat of sanction is arguably credible.²⁵ With the exception of Wyoming, all states have taken federally approved action against existing racial disparities since the policy’s introduction (Hanes, 2012).²⁶

Finally, the DMC mandate warrants attention as it may serve as a possible model for racial disparity reform in the future. A version of the mandate was offered in a 2009 hearing before the House Subcommittee on Crime, Terrorism, and Homeland as a plausible national remedy for redressing racial inequalities in the criminal justice system (Racial Disparities in the Criminal Justice System, 2009, p. 16). Specifically, one the DMC mandate’s original proponents, Barry Krisberg of the National Council on Crime and Delinquency, endorsed legislation requiring federally funded jurisdictions to conduct

²⁵ Only Mississippi has been sanctioned for poor reform activity in the past five years (OJJDP 2014).

²⁶ Wyoming does not participate in OJJDP’s federal formula grants program and therefore does not have to meet JJDPA requirements like the DMC mandate. Wyoming has still asserted, however, it has sought to comply with the JJDPA’s provisions given the importance of the problems the act has intended to resolve.

disparity analyses and introduce good-faith interventions. Such emphasis on affirmatively approaching racial disproportionalities signals a faith in public policy as an effective means to administer, but also improve justice within society.

Prior Literature on the DMC Mandate and Its Consequences

Despite federal requirements for states to assess problems of racial disparity in their juvenile justice systems at least every three years, rigorous empirical evaluations of the DMC mandate's impacts on juvenile processing outcomes are surprisingly limited and uneven in quality (Leiber, 2002). Too often, states lack easily accessible record-keeping systems that track the basic characteristics of processed youth. In the early 2000s, many states could only report minority overrepresentation statistics for a few decision-making points or share data for a handful of selected counties. Other states like Florida and Delaware do not differentiate processing outcomes among minority groups, as they simply document whether their juveniles are "nonwhite" or "minorities." A nontrivial proportion of states continue to omit relevant legal and social information about their juvenile cases due to existing data practices, limited staffing, or concerns for youth confidentiality (Hamparian & Leiber, 1997; Kempf-Leonard, 2007). Given such data restrictions, multivariate assessments of juvenile processing decisions are difficult to complete. Longitudinal studies are more rare, as even the most comprehensive state records can vary in content, electronic format, and availability for disclosure to social scientists.

In spite of these empirical challenges, criminologists have recently undertaken the task of evaluating effects of the DMC mandate on juvenile justice decision-making with a degree of success. Prior academic studies have suggested the policy-specific DMC mandate concerning minority confinement has been consequential. Analyzing processing decisions in single county in Iowa, Leiber et al. (2011) assert the DMC mandate of 1988 had decidedly mixed effects on black and white youth processing between 1989 and 2000. This conclusion is based upon reviewing the relative importance of race in predicting

intake and placement decisions before and after the mandate's introduction. Across both periods, African Americans had significantly greater odds of facing formal processing. The effect of being black on recommendations for formal court review also remained constant over time. The DMC mandate had stronger impacts at the placement stage. Although being black had no influence on placement decisions before the DMC mandate's enactment, African Americans became significantly less likely than whites to receive out-of-home placements after the policy went into effect. These findings lead Leiber et al. (2011) to conclude the DMC mandate in its original form did alter decision-making processes, but "...irrespective of the intentions of Congress, racial distinctions are highly resistant to change" (p. 487).

Davis and Sorensen (2013) convey more promising results. Comparing arrest and placement (i.e. commitment to secure confinement) proportions over time, their ten-year analysis of OJJDP national census of incarcerated children figures purports that black-white disparities in confinement have declined since Congress elevated the DMC mandate to a core requirement in 1992. At the national level, black youth are nearly 3 times more likely to be securely confined than white youth. Between 1997 and 2006, national black to white confinement ratios decreased by nearly 20% after controlling for the groups' arrest rates. This non-trivial drop in secure confinement ratios occurring post-arrest therefore underscores a system-wide change in juvenile justice processing. Although unable to pinpoint specific DMC interventions within states driving these findings, Davis and Sorensen are optimistic that compliance with the DMC mandate has resulted some important declines in the disproportionate confinement of black youth. Curiously, the study makes no attempt to compare confinement disparities before and after the 2002 expansion of the original DMC mandate to include minority contact with the juvenile justice apparatus.

While these two studies capture elements of the DMC mandate's influence, no study has analyzed the consequences of the DMC mandate as it currently pertains to disproportionate minority contact. No study has used an entire state as a unit of analysis. Finally, no study has evaluated DMC intervention upon achieving the policy's stated goal of reducing the disproportionate number of minorities processed at each decision-making

stage. This dissertation responds to these gaps in the DMC literature by distinguishing the impacts of DMC intervention on juvenile processing in Pennsylvania.

Main Hypotheses of Present Research

This dissertation posits that the DMC mandate of 2002 has effectively reduced minority overrepresentation within the juvenile justice system. Success in diminishing minority overrepresentation is assessed in two ways. Following previous DMC studies, it is first hypothesized intervention on behalf of the mandate should moderate the importance of race in juvenile justice decision-making. Secondly, in accordance with the language of the current DMC mandate, it is hypothesized intervention should decrease the number of minority youth handled at all decision-points along the juvenile justice continuum.

Why Pennsylvania

This dissertation specifically assesses juvenile processing outcomes in Pennsylvania. Pennsylvania represents an intriguing case for analysis. First, the state has historically ranked among the top five states with the highest minority confinement rates in the country. According to OJJDP's 1999 Census of Juveniles in Residential Placement, Pennsylvania's minority confinement rate to nonminority confinement rate exceeded 10 to 1 (Sickmund, 2004, p. 11). As of 2010, this outstanding ratio has tapered to 8 to 1, but Pennsylvania retains its position as one of four states with the greatest rates of racially disproportionate confinement in the country (Hockenberry, 2013). Due to such longstanding and significant problems with minority overrepresentation in its juvenile structures, Pennsylvania must seriously consider the DMC mandate (Griffith et al., 2012; K. Kempf, 1992; Kempf-Leonard & Sontheimer, 1995).

Next, Pennsylvania stands out for its geographic and demographic diversity. Of its 67 counties, the state contains a mix of rural, suburban, and urban jurisdictions.

Geography produces meaningful changes for juvenile justice, as urban courts tend to operate with more streamlined, impersonal, and often more punitive decision-making routines relative to the processes of suburban or rural institutions (Feld, 1991). Likewise, geography may have significant indirect effects over juvenile court decisions. For instance, race tends to be more salient in the decisions of rural and suburban courts because residential populations tend to be more homogenous and white (K. L. Kempf & Austin, 1986; Leiber, 2003). If justice should vary by geography, Pennsylvania allows one to explore how different types of counties may react to the DMC mandate in distinct ways.

Pennsylvania's youth population is remarkable in its diversity as well. During the 2000s, approximately 79% of Pennsylvanians ages 10-17 were white, 14% were African American, and 6% were Hispanic (see Table 11). The racial composition of Pennsylvania's processed juvenile population is more diverse as black and Hispanic youth constituted 37% of all juvenile court referrals, 44% of cases with determinations of delinquency, and 54% of all out-of-home placements in 1997 (see Table 5 through Table 10). Together, geography and demography generate interesting expressions of racial disproportion. For example, Philadelphia and Allegheny counties produce the greatest numbers of nonwhite juvenile delinquents, but the counties' racial compositions mitigate the extent of disproportionate minority representation at each of their processing stages.

Pennsylvania is also attractive because of its comprehensive record-keeping. Record-keeping is an essential component of meeting the DMC mandate's requirements, as the state must determine whether and where racial disparities occur. In 1959, the legislature created the Juvenile Court Judges Commission, charged with producing juvenile court statistics for the Commonwealth among other responsibilities. JCJC standardized record-keeping practices by introducing the Juvenile Court Statistical Card in 1981 (Hsia & Hamparian, 1998; Pennsylvania Juvenile Court Judges' Commission, 2008). By the 1980s, most counties constructed records that identified minority youth and their processing outcomes. In addition to basic charge and case information, these records noted key social characteristics like a child's schooling status, family structure, and living arrangements. In the language of criminologists studying race and ethnicity, these

“contextual variables” provide a fuller portrait of how social factors affect delinquency and processing decisions. The longitudinal span and fullness of Pennsylvania’s juvenile processing records thus make the state especially appealing for empirical analysis.

Minority Overrepresentation Issues and DMC Intervention in Pennsylvania

The history of the DMC mandate in Pennsylvania is unique. The state stands out for its keen interest in issues of racial disproportion in its juvenile justice system. In 1986, the Pennsylvania Commission on Crime and Delinquency (PCCD) declared minority overrepresentation in entrance and advancement through the state’s juvenile justice system as a pressing concern (Clouser, 1994).²⁷ Following other processing trends across the country, Pennsylvania’s juvenile justice institutions began handling a growing number of minority youth that far outpaced changes in the state’s youth population (K. Kempf, 1992). Although this promulgation did not effectuate any immediate interventions, it encapsulated political interest in addressing racial inequalities. What PCCD did not anticipate is that this statement would prime Pennsylvania juvenile justice officials for recognizing and executing the DMC mandate of 1988.

²⁷ In Pennsylvania, juvenile justice policymaking is closely connected to the state’s criminal justice planning structure. Following the passage of the Juvenile Justice and Delinquency Prevention Act of 1974, all states were mandated to establish State Advisory Groups (SAG) tasked with formulating regional juvenile justice plans, monitoring reform, and avoiding potential backsliding in fulfilling federal mandates. The Juvenile Justice and Delinquency Prevention Advisory Committee (JJDPAC) serves as Pennsylvania’s SAG, but remains a subcommittee of PCCD. Every year, JJDPAC submits annual recommendations, budgets, and priorities to the governor and PCCD as its overseeing agency. In technical terms, PCCD has ultimate authority in promulgating guidelines, dispersing federal and state funds, and otherwise shaping the direction of juvenile justice administration in Pennsylvania. Nonetheless, JJDPAC stands as the primary entity for juvenile justice officials seeking financial and technical assistance in implementing juvenile justice reforms. (Pennsylvania Commission on Crime and Delinquency, 2013; R. Schwartz, 2013).

Following the passage of this federal provision, Pennsylvania promptly sought to redress its minority overrepresentation issues. While many states struggled to get a handle on their existing racial disparity problem over the next four years (Coleman, 2010), Pennsylvania juvenile justice officials swiftly introduced new studies, programs, and structures targeting racial disproportionalities in juvenile processing. In 1990, the Juvenile Advisory Group, a subcommittee of PCCD and official liaison between the state and OJJDP, created its own Disproportionate Minority Confinement subcommittee. During its first year of operation, the DMC Subcommittee commissioned the Kempf (1992) empirical study of racial disproportion in the state's juvenile justice system.

The Kempf study comprehensively investigated issues of racial inequality using a variety of statistical methods. The study relied upon a sample of juvenile processing data from 1989. The sample featured cases from 14 counties with the largest proportions of black and Hispanic youth populations.²⁸ Descriptive statistics revealed black and Hispanic youth were overrepresented at all points along the juvenile justice continuum. Statistical tests demonstrated race had a persistent effect in enhancing a youth's likelihood of receiving more punitive outcomes after controlling for legal, social condition, and demographic factors. Overall, the study confirmed the reality of disproportionate minority processing in Pennsylvania's juvenile justice system and underscored the necessity for intervention. As Kempf (1992) closes, "Policy makers in Pennsylvania are well advised to institutionalize the objective of juvenile justice free from racial and sexual bias as a long term goal and pursue a policy agenda explicitly aimed at reaching that goal" (p. 77).

In light of the Kempf study's findings, PCCD and the DMC Subcommittee began to develop strategies to curb racial imbalances. Pennsylvania officials approached the issue of disproportionate minority confinement with two priorities: 1) concentrate reform efforts in specific counties showing the greatest levels of racial disproportion and 2) introduce community-based interventions that holistically seek to tackle the causes of

²⁸ These counties are Allegheny, Beaver, Berks, Chester, Dauphin, Delaware, Erie, Lancaster, Lehigh, Mercer, Montgomery, Northhampton, Philadelphia, and York.

delinquency among minority youth in the first place. Once again, Pennsylvania juvenile justice officials and practitioners preceded members of Congress in acknowledging that racial disparity at late processing stages should be remedied through more systematic reform. The DMC Subcommittee decided to fund local youth programs in which 50 to 75% of all participants were referred by juvenile justice officials while the remainder could be classified as “at risk” for future involvement with the juvenile justice system. Programs would be fully funded with federal and state resources for two years and 50% funded for an additional year. Local practitioners were encouraged to partner with one another to build strong community commitments to reducing minority youth delinquency. This structure was intended to foster programs’ self-sufficiency. Throughout the process, the DMC Subcommittee would help to coordinate community partnerships, explain grant processes, and strengthen DMC-specific programming (Clouser, 1994).

From 1991 until the early 2000s, Pennsylvania fulfilled the DMC mandate of 1988 with this strategy. PCCD developed three DMC reduction sites in the counties showing the greatest minority overrepresentation problems. Dauphin County, containing the state capitol of Harrisburg, became the first target area in 1991. PCCD supported five programs for 30 months that offered educational, after-school, and vocational opportunities to minority youth. By 1993, local civic and youth organizations in Dauphin County formed the Youth Enhancement Services (YES) Coalition that actively sought to forge alliances with local stakeholders, secure additional funding, and formulate contracts with county youth services to reduce youth arrests and rearrests.

A year later, PCCD initiated DMC correctives in Philadelphia County. Here, DMC activities were primarily focused on arrests, as the county produced the most number of minority youth arrests in the state. Delinquency and conflict prevention programming began in the 25th Police District of Philadelphia. The East Division Coalition of probation officers, school officials, police, and community activities directed these efforts.

In 1996, Allegheny County became the third DMC reduction site. As in the previous PCCD-supported DMC reduction sites, a newly formed Youth Coalition of Western Pennsylvania worked closely with the Allegheny Youth Crime Prevention

Council located in the Pittsburgh mayor's office to implement programming in minority neighborhoods (Hsia & Hamparian, 1998; Welsh, Jenkins, & Harris, 1999)

As initial DMC intervention funding expired in the late 1990s, PCCD commissioned Temple University to ascertain the effectiveness the state's community-based programs. (Welsh, Harris, & Jenkins, 1996; Welsh et al., 1999) completed assessments of 9 DMC reduction programs in Dauphin and Philadelphia Counties. The overarching goal was to maximize the potential of such programs in preventing delinquency. Per PCCD's directive, the recommendations of these studies were to be incorporated into Philadelphia's corrective programming plans and shared with Harrisburg officials, whose funding had already elapsed (Welsh et al., 1996, p. 90). The Welsh et al. studies expressed a particular interest in understanding how program participation affected the development of delinquent youth. Although having little impact on truancy, academic performance, and school drop out rates, exposure to DMC reduction programs considerably lessened minority youth recidivism over a three-year period. While 53% of youth who never participated in DMC programs were rearrested, nearly 26% of the highest attending youth recidivated during this period. These studies had a clear message: minority overrepresentation still remains a problem, but DMC reduction programs were working. As Welsh et al. (1999)

observe, "community-based programs do at least as more secure detention facilities in reducing recidivism" (1999, p. 105). This conclusion affirmed state commitments to not simply curtail disproportionate minority confinement, but disproportionate minority interactions with juvenile justice structures.

Over the next four years, DMC intervention in Pennsylvania would decidedly intensify under new requirements, partnerships, and evidence-driven approaches to racial disparities. Beginning in 1999, the Pennsylvania General Assembly compelled JJDPAC to submit comprehensive plans outlining the aims and needs of the juvenile justice system at least once every two years (R. Schwartz, 2013). The DMC Subcommittee also began convening annual "Promising Approaches" conferences for juvenile justice officials throughout Pennsylvania to share their disparity reform strategies (Griffin, 2008). Interest in conducting rigorous evaluation of racial disproportionalities, improving

performance outcomes, and developing new strategies in minority youth processing would remain key components of the state's approach to juvenile justice.

These priorities would ultimately become common ground for the state's partnership with the MacArthur Foundation. In the early 2000s, the MacArthur Foundation wanted to reorient its funding priorities from supporting the research of national juvenile justice organizations to developing and evaluating state-based reforms. The organization thus sought to align with reform-minded and capable states. After recognizing the potential for innovative and extensive juvenile justice reform, the MacArthur Foundation named Pennsylvania as its first Models for Change site in 2003 (R. Schwartz, 2013). Models for Change initiatives in Pennsylvania were officially announced in early 2004 along with collaborations with the National Coalition for Juvenile Justice and the Juvenile Law Center. Since then, state interventions on behalf of disproportionate minority contact among other juvenile justice issues have been inextricably linked to activities and resources of these organizations.²⁹

Current DMC Intervention Efforts

Following the passage of the DMC mandate of 2002 and the unfurling of Models for Change initiatives over the next three years, five counties in Pennsylvania have been designated as DMC reduction sites. These counties are Allegheny, Berks, Dauphin, Lancaster, and Philadelphia. DMC intervention within these counties has come as a mix of institutional and community-based reforms. Beginning in late 2003, all five counties have regularly held community forums in which minority youth discuss their experiences and relations with school administrators, juvenile court and probation

²⁹ With MacArthur Foundation investments alone, federal funds for juvenile justice fell by 65% from over \$16 million to \$6 million while state funds were slashed by 85% from nearly \$13 million to just over \$2 million between 2002 and 2011 (R. Schwartz, 2013, p. 5). This shift in financial resources underscores the MacArthur Foundation alliance has heavily shaped Pennsylvania's juvenile justice reforms in the recent decade.

officials, and police officers. The intention of forums has been to quell discontents, hostilities, and misperceptions among youth and authorities to reach a better understanding of the role of law enforcement in the lives of juveniles (Griffith et al., 2012). These meetings have become increasingly more structured with discussion panels, videos, role-playing scenarios, and pre/post attitudinal tests introduced by JJDPAC's DMC Subcommittee (Griffin, 2008; R. Schwartz, 2013).

Each county has further initiated its own distinct set of reforms. Often, seemingly effective DMC reduction programs in one county are replicated in the other four jurisdictions. As the primary recipient of MacArthur Foundation-led reform since 2005, Berks County has put into operation a broad range of DMC reduction initiatives. The county's minority overrepresentation issues primarily involve Hispanic youth due to the city of Reading's rapidly growing Hispanic population. As a first response to language and cultural barriers disadvantaging Hispanic youth, the Berks County juvenile court translated important documents into Spanish, hired in-court translators, provided court and probation staff with cultural sensitivity training, and expanded Spanish language educational resources (Ibid). Next, revised risk assessment instruments were introduced to curb the county's disproportionate rates of minority youth detention and placement. Addressing the county's 80% detention rate, a revised detention assessment tool has limited the use of "zero-tolerance" policies for offenses like auto-thefts and adjusted point values to encourage the release or referral of youth to detention alternatives (Steinhart, 2008). Placement decision-making guidelines for probation violators have also been modified to include more community-based sanctions supported by empirical evidence. Finally, the county established an evening reporting center. Serving an average of ten youths per night, the evening reporting center operates as an alternative to secure detention and out-of-home placement (R. Schwartz, 2013). According to Models for Change estimations of these interventions, detention decreased by 60% while out-of-home placements have declined by 67%. The overwhelmingly beneficiaries of these processing changes have been Hispanics and African Americans (Shoenberg, 2012).

Allegheny County and Lancaster County have followed Berks County in pursuing institutional reforms targeting youth detention and placement. Under the auspices of the

MacArthur Foundation, both counties have adopted new detention risk assessment instruments that privilege less restrictive outcomes for minority youth (Griffith et al., 2012). Allegheny County has furthered this focus by sponsoring the National Coalition for Juvenile Justice's failure to adjust study. This initiative documented the experiences of minority youth ejected from non-secure placement programs and subsequently committed to secure facilities until an alternative placement could be determined (Ibid). The study has been a touchstone for restructuring placement decision-making to ensure programs avoid adjustment failures and better meet youth needs (Griffin, 2008). It has also inspired rethinking of Allegheny County probation officials' use of secure detention as a sanction for delinquent youth in place of commitments to secure confinement facilities (Puzzanchera, Knoll, Adams, & Sickmund, 2012).

In Lancaster County, an evening reporting center housing an average of ten youths per day has reportedly contributed to declines in the county's detained minority youth populations (Shoenberg, 2012). The county has buttressed these reforms by cultivating relationships with community organizations. Given the high concentration of churches, county officials actively work with local stakeholders to provide needed youth and family services (DMC/Juvenile Justice Action Network: A Project of Models for Change, 2010). To illustrate, the county's Juvenile Probation Office has joined the Intra-City Progressive Pastoral Association and County Council of Churches in holding strategic planning forums concerning juvenile delinquency prevention. The forum has brought together over 50 houses of worship throughout the county. Churches have also been instrumental in supporting diversionary programs. First Presbyterian Church of downtown Lancaster, for instance, has hosted the city's Youth Aid Panel, a board that informally handles low-level offending youth diverted from formal juvenile court processing (DMC/Juvenile Justice Action Network: A Project of Models for Change, 2011).

In Dauphin County, DMC intervention has largely retained its community-based focus. This jurisdiction contains the state's sole DMC-specific, educational program for youth. Within its city school district predominantly educating African American youth, middle school students receive ten lessons of instruction about issues of minority group

involvement with the juvenile and criminal justice systems. The curriculum is intended to inform youth about the unfortunate facts of minority overrepresentation in the American criminal justice system and proactively instill lessons about a citizen's various interactions with law enforcement and criminal courts. For example, students learn about their rights, protections, and responsibilities as citizens when they encounter criminal justice officials (Harrisburg School District, 2010). More recently, the county has considered investing in institutional reforms. In 2011, the county officials received funds to launch its own evening reporting center, confirming a growing state-wide interest in changing youth confinement practices.

Finally, Philadelphia County has endorsed two additional DMC intervention strategies aimed at policing and placement following probation violations. Extending the minority-law enforcement forum idea, the county has instituted a DMC training curriculum for new and experienced Philadelphia Police Officers. The training program centers on cultivating cultural competency and promoting better communication with the city's minority youth population. The Police Academy Curriculum contains four modules of training. These sessions instruct officers about interactions with youth that promote positive assertions of authority (Philadelphia Working Group of the Pennsylvania Commission on Crime and Delinquency DMC Subcommittee, 2009) In just the past five years, the curriculum has trained over 700 police officers (Shoenberg, 2012).

Philadelphia County too has sought to redefine sanctioning for juvenile probation offenders through a graduated sanctions court. The graduated sanctions model is premised upon the idea that sanctioning for previously adjudicated delinquents can come in the forms of additional home and community-based intervention, more intensive delinquency adjustment programming like boot camp or drug treatment, or severe correction like commitment to a secure facility (Bilchik, 1998). In Philadelphia County, most juveniles violating probation are subject to out-of-home placements due to relatively minor infractions like truancy, failed drug tests, or missed appointments. Since the court's creation in 2008, approximately half of all probation violators have successfully completed probation and avoided long-term placement. The court serves about 75 youth at given time (Shoenberg, 2012).

In all, review of Pennsylvania's historic reception of the DMC mandate and its recent DMC reduction activities illuminate two qualities of the state's DMC intervention strategy. Even under the original DMC mandate concerning confinement practices, Pennsylvania juvenile justice officials have agreed that minority overrepresentation must be checked at all decision-points. Current reforms reflect this priority from improving minority youth-police communications and making courtroom procedures more culturally accessible to redefining criterion for out-of-home placements. Secondly, reforms must be measurable and responsive to racial disproportionalities. Prior to OJJDP's pronouncement making assessment a core part of DMC compliance, Pennsylvania juvenile justice officials consistently endorsed efforts to evaluate their interventions and shape their future plans. As DMC Subcommittee chair Dan Elby observed, "Everything we do is data-driven" (Griffin, 2008, p. 3). While preliminary evidence of DMC intervention success in certain counties seems promising, whether DMC intervention has altered minority youth processing remains a pressing question.

Data

Given the advantages Pennsylvania offers in discerning the influence of the DMC mandate, this study uses de-identified juvenile processing records collected by the Center for Juvenile Justice Training and Research (CJJT&R), a division of the Pennsylvania Juvenile Court Judges' Commission (JCJC) that manages state juvenile court statistics. These records date from 1985 to 2011. This dataset contains over 1.5 million juvenile delinquency cases involving new allegations, disposition reviews, and placement reviews. New allegations refer to cases involving initial complaints and charges of delinquency (Pennsylvania Juvenile Court Judges' Commission, 2008, p. 32). Disposition reviews and placement reviews involve previously adjudicated delinquency cases. Following a disposition, juvenile court judges may call for a review hearing determining a youth's compliance with court orders and general rehabilitative progress "at any time". Disposition review hearings are held for modifying commitments, transferring youth to

more secure facilities, determining permanency, and monitoring sexually violent juvenile offenders. When a child is ordered to be removed his/her home or placed in a residential facility, a placement hearing must be held every six months until commitment is completed (Ibid, p. 131).

Analysis for this project focuses on cases involving new allegations of delinquency dating from 1997 to 2011. These data begin with the referral of a youth to a juvenile court and capture all subsequent processing stages until the imposition of a disposition. The longitudinal span of these data allow for processing trends before and after Pennsylvania's implementation of DMC intervention in 2005. All 67 counties also report their case outcomes to JCJC every year during this period. These data permit statewide analyses of juvenile justice decision-making that currently do not exist in academic studies of the current DMC mandate.

To form a baseline for juvenile processing in Pennsylvania, two additional datasets are used to discern state arrest and population patterns. Arrest data collected by the FBI Uniform Crime Reporting (UCR) Program were downloaded from the National Archive of Criminal Justice Data. Juvenile arrests were aggregated by county and year from "Agency-Level Arrests by Age, Sex, and Race" monthly reports for 1997 through 2011 (Federal Bureau of Investigation, 2011). Population data were generated from the National Center for Juvenile Justice and OJJDP's *Easy Access to Juvenile Populations: 1990-2012* website. This analysis tool was designed to make county, state, and national population estimates readily available to researchers and practitioners assessing youth processing practices. *Easy Access* data are based upon the National Center for Health Statistics intercentennial estimates of the U.S. resident population. *Easy Access* population estimates are employed given their accepted use by OJJDP in official state DMC assessments (Sickmund, Sladky, & Kang, 2014).

Dependent Variables

The dependent variables of interest involve processing at four stages: petitioning, adjudication, disposition to placement (hereafter placement), and disposition to secure confinement (hereafter secure confinement). Processing in the Pennsylvania juvenile justice system begins at the referral stage. The majority of referrals to juvenile courts come from police, but referrals may also originate from schools, probation departments, social agencies, district magistrates, different juvenile courts, relatives, and other sources.³⁰ Following a referral, an attorney from the Commonwealth or a juvenile court intake official decides whether an allegation of delinquency warrants additional review. Cases can be handled formally by a juvenile court with the filing of a petition.^{31,32} Conversely, cases can be diverted out of the juvenile court system if informal adjustment “would be in the best interest of the public and the child” (Pennsylvania Juvenile Court Judges’ Commission, 2008, p. 42). The petitioning stage is coded according to whether a youth is recommended for formal processing.

All petitioned cases are then subject to an adjudicatory hearing. If the juvenile court finds that a juvenile has committed a delinquent act, the youth is adjudicated as delinquent. Youth who are not deemed delinquent typically have their cases dismissed,

³⁰ Between 1997 and 2011, approximately 23% of all cases involved non-police referrals into the juvenile justice system.

³¹ In this study, cases transferred to criminal court are removed from the petitioning and adjudication stage totals.

³² Due to the inability to connect processing records with arrest and other referral information, this study does not examine whether formally filed charges deviate from alleged offenses described by intake officers, police, or other referring entities. Because prosecutorial discretion has mixed effects on the treatment of minority youth (Bishop, 2005; Kempf-Leonard & Sontheimer, 1995; Leiber, Bishop, & Chamlin, 2011; Leiber & Jamieson, 1995; MacDonald & Chesney-Lind, 2001), it possible minorities may incur disadvantages (or possibly advantages) not simply in terms of whether a petition is filed, but also with regard to the charges contained within the petition. Harsher charging decisions may also have down-stream impacts at adjudication or disposition, known as cumulative disadvantage (Pope & Feyerherm, 1990). This limitation is discussed in Chapter 6.

informally adjusted, or handled by consent decree. Adjudication is coded to separate substantiated cases from unsubstantiated cases.

Upon a determination of delinquency, the court must determine what disposition (sentence) to impose in a case. In Pennsylvania, dispositions are driven by the question of whether an adjudicated youth is “in need of treatment, supervision, or rehabilitation” (Pennsylvania Juvenile Court Judges’ Commission, 2008, p. 120). The juvenile court must specifically determine whether to sanction a youth within his/her community or remand the youth to an out-of-home placement. Delinquency adjustments within a community include probation, fines and costs, consent decrees, warning and counseling, continuance of previous disposition, and other sanctions. Placements are reserved for youth who have committed serious offenses, home lives disruptive to rehabilitation, or substantial needs for treatment in institutional care (Pennsylvania JCJC Benchbook 2008, p. 120). This placement stage is coded to denote whether youth are disposed to sanctions within the community or out-of-home placements.

Among youth recommended for out-of-home placements, the juvenile court must determine to send a youth to a secure facility or non-secure residential program. Commitments to non-secure residential programs are diverse. These public and private programs include group homes, youth development centers, drug and alcohol treatment facilities, outward bound programs, and boot camps, among other institutions. Secure confinement is reserved for the most intensive cases, in which the less restrictive options do not seem viable. As a guiding principle in the Pennsylvania juvenile justice system, secure confinement is to be kept to a minimum length of time consistent with the rehabilitation needs of the child and protection of the public (Pennsylvania Juvenile Court Judges’ Commission, 2008, p. 119). Initial commitments to secure confinement cannot exceed more than four years or the length of incarceration an adult committing a similar offense would incur (Ibid). On average, less than one percent of all cases carry a disposition of secure confinement. In this study, out-of-home placement decision-making is referred to as the secure confinement stage, which is coded to distinguish between commitments to secure and non-secure institutions.

Independent Variables for Assessments of Hypothesis I

To test the first hypothesis that DMC intervention decreases the importance of race in predicting processing outcomes, this study will follow extant empirical research on racial disparities in the juvenile justice system (Bishop, 2005; Davis & Sorensen, 2013; Leiber et al., 2011). This study relies on measures of race, other demographic characteristics, social conditions, and legal factors. The demographic characteristics include *age* and *sex*. Age is a continuous variable. Sex is a dichotomous variable (female=1 and male=2).

Social conditions are measured by three variables. *School status* reflects the enrollment of a youth in school (0=yes and 1=no). Non-attendance in school has been shown to elevate a youth's odds of receiving formal court review and harsher dispositions (Bishop, 2005; Kempf-Leonard & Sontheimer, 1995; Leiber, 1994). *Natural family status* is gauged by whether the child's natural parents are married (0) or divorced or separated, never married, or other (1). This ordering of family statuses follows prior literature indicating children with less traditional family structures are often perceived as requiring additional adjustment and supervision from the state (Bishop & Frazier, 1996). Finally, *Living arrangements* denote whether the child lives with two parents (0) or a single parent, relative, foster parent, other guardian (1). This categorization scheme likewise seeks to capture perceptions of instability within a child's home environment that often produce more punitive outcomes for youths (K. L. Kempf, Decker, Bing, Safety, & Group, 1990; Leiber et al., 2011)

Legal factors are measured by three variables.³³ *Number of charges* is an interval variable ranging from one to seven. All charges are then classified according to a 77-

³³ A key legal variable contained in the data is type of legal representation (Guervara, Spohn, & Herz, 2004). Certain counties document whether a juvenile waived their right to representation or were represented by a court appointed attorney, a public defender, or a private attorney. Studies are divided over whether the presence of counsel is a mitigating (Carrington & Moyer, 1990; Ferster, Courtless, & Snethen, 1971) or aggravating factor (Burruss & Kempf-Leonard, 2002;

point severity index developed by the National Juvenile Court Data Archive that builds upon Wolfgang's Crime Severity Index (Wolfgang et al., 1985). This severity index has been employed in previous studies to analyze juvenile processing in Hawaii (MacDonald, 2001, 2003) and Ohio (Wu, 1997). *Severity of charge* reflects the most serious charge a youth faces on this index. *Grade of charge* measures whether the most serious charge is a felony (0) or a misdemeanor (1).

Lastly, three dummy variables measuring race are constructed (1=yes and 0=no). These variables are based upon four, mutually exclusive racial identities consistently used in processing records across time: black, Hispanic, white, and other. *Black* denotes whether a youth identifies as African American, *white* for whether he or she identifies as Caucasian, and *Hispanic* for whether he or she identifies as Hispanic or Latino. *Other* distinguishes those of Asian, Native American, multiracial, or other descent.

Independent Variables for Assessments of Hypothesis II

To ascertain whether DMC intervention reduces minority youth processing as the second hypothesis proposes, this study primarily relies on two dummy variables corresponding to the development of DMC reduction programs. The first variable, *period*, denotes whether a case was processed after DMC intervention began (1=yes and 0=no). The second variable, *intervention*, represents whether a county implemented DMC intervention strategies (1=yes and 0=no). As discussed in the analysis plan, the interaction between these variables is important to consider using non-experimental methods like difference-in-differences estimation.

This study further introduces several sets of demographic, sociopolitical, and juvenile justice characteristics of counties. A first set of controls account for six county conditions related to rates of juvenile delinquency. The *youth poverty rate* measures the

Duffee & Siegal, 1971; Feld, 1991) in juvenile court decision-making. Given substantial missingness, particularly at the petitioning stage, this variable is omitted from subsequent empirical analyses.

percent of youths living below the poverty line per 100,000 residents in a county (U.S. Bureau of the Census, 2012b). *Percent urban* corresponds to the percent of a total county population living in urban areas. For these county-level variables, cases handled between 1997-1999 are matched with 1990 Census data while 2000-2009 and 2010-2011 cases are matched to 2000 and 2010 Census data, respectively (U.S. Bureau of the Census, 2012a). Next, *high school dropout rate* measures the proportion of secondary-school students who drop out during a school year (Pennsylvania State Data Center, 2012) while *unemployment rate* approximates each county's annual, non-seasonally adjusted unemployment rate (U.S. Bureau of Labor Statistics, 2012). Two youth population measures are likewise included: *general youth population* estimating county youth populations ages 10-17 reported by OJJDP (Puzzanchera, Sladky, & Kang, 2014) and *juvenile arrest rate* measuring juvenile arrests per 1,000 youth population (Federal Bureau of Investigation, 2011).

A second set of punitiveness variables seek to capture county orientations towards juvenile crime. *Percent Republican* measures the percent of voters registered as Republican and proxies for political conservatism. Politically conservative communities prompt local criminal justice agencies to mete out harsher carceral and non-carceral punishments (Helms, 2009; Huang, Finn, Ruback, & Friedmann, 1996; Myers & Talarico, 1987). *Imprisonment rate* measures the number of county court commitments to the state prison per 100,000 residential population and gauges a county's propensity to issue harsh sanctions to offenders (Pennsylvania State Data Center, 2012).

A third set of variables approximates racial group representation in arrests and referrals. Specifically, the number of African American/white youths arrested and the number of African American/Hispanic youths referred into the juvenile justice system are used to directly control for changes in the frequency of cases handled in the juvenile justice system. Due to unreliability of Hispanic youth arrest figures in the Uniform Crime Reports data, the number of white youths arrested is employed because most Hispanics identify as white (Mauer & King, 2007).

A final set of controls takes into consideration the average characteristics of cases handled by a county. The mean traits of all cases and youths processed by a county are

calculated for each year. These variables are simply county-aggregated measures of demographic, legal, and social factors used to evaluate the study's first hypothesis.

On Prior Record of Referral

As a key caveat, prior record of referral is one legal factor omitted in the empirical analyses. This limitation stems from a deliberate choice to examine processing outcomes for the entire state of Pennsylvania rather than a select set of counties. Because this dataset contains all juvenile processing records since 1985, this study could readily match new allegation records for youth offending between 1997 and 2011 to earlier records using fixed characteristics (i.e. birthdate, race, sex). Given the juvenile justice system's age of jurisdiction (10 to 21 years old), construction of prior record in this way should be valid as the data should contain all previous records of the oldest youth who began to be processed in 1997. Prior record, however, is only available for 65 of Pennsylvania's 67 counties. Chester County failed to report one year of processing outcomes (1991) and Philadelphia County records are missing from 1986 to 1996. Since Philadelphia County is vital to understanding juvenile processing at the state level, omitting it from empirical analyses would provide a false portrait of the DMC mandate's consequences. Nevertheless, since omission of prior record has been demonstrated to bias coefficients of racial variables (Bishop & Frazier, 1996; Steffensmeier, Ulmer, & Kramer, 1998b), robustness checks are completed for the counties permitting the construction of prior record to assess the validity of coefficients without controls for previous referrals. These are included in Appendix 13.

Analysis Plan

Analysis of the DMC mandate's consequences proceeds in two parts. First, minority overrepresentation in Pennsylvania's juvenile justice system is examined between 1997 and 2011. Proportions first distinguish the racial composition of youth

processed at various decision-points along the state's juvenile justice continuum. Relative Rate Indices measuring the rates of minority youth's and white youth's movement through the juvenile justice system are also presented. After displaying these statewide trends, racial disproportion is then evaluated within the 5 DMC intervention counties and 62 non-intervention counties using percentages. These descriptive statistics will form the baseline for comparing minority youth processing within these two jurisdictions.

In the second part of this analysis, three sets of multivariate analyses are used to isolate the effects of DMC intervention on juvenile processing: continuation ratio logistic regression models, bivariate probit models, and difference-in-differences models. Across these three sets of empirical methods, the consequences of DMC intervention are approximated by separating processing outcomes into two temporal periods: 1997-2004 and 2005-2011. The year 2005 marks the point when MacArthur Foundation in conjunction with the state of Pennsylvania began implementing large-scale DMC reduction programs. The year also captures approximately seven years of decision outcomes for each period, providing an opportunity to longitudinally review of minority youth processing. Separate empirical models are run before and after the beginning of DMC intervention. Coefficients from these regressions can be compared to determine if the relative influence of any factor changes between these intervention periods (Paternoster, Brame, Mazerolle, & Piquero, 1998). Attention is given to understanding youth processing in the entire state of Pennsylvania as well as comparing the decision-making of DMC intervention counties and non-intervention counties. Sorting cases into DMC intervention and non-intervention county sets helps to disentangle processing changes due to DMC reduction activities from those resulting from other statewide factors.

As a diagnostic measure for the multivariate tests, Appendix 6 to Appendix 8 contain summary statistics of the characteristics of cases referred to the juvenile justice system for Pennsylvania, DMC intervention counties, and non-intervention counties. Bivariate correlations were also estimated to determine collinearity among key independent variables. Correlations among these variables are acceptable, indicating that multicollinearity is not a concern (see Appendix 10). Appendix 9 displays summary

statistics of the county-level characteristics of jurisdictions containing or lacking DMC reduction programs.

The first two sets of multivariate analyses seek to distinguish the relative importance of race in juvenile justice decision-making. If state intervention as a result of the DMC mandate is meaningful as the study's first hypothesis conjectures, race should become a less relevant factor in processing decisions in these models. The approaches of these models to juvenile court decision-making, however, are distinct. Continuation ratio logistic regressions are employed to predict a youth's advancement to more punitive points along the juvenile justice continuum. The continuation ratio method assumes that youth cannot reach a certain decision-point in the juvenile justice system without first passing through all previous points. For instance, a youth cannot be remanded to secure confinement without first being petitioned, adjudicated, and disposed to placement. In mathematical terms, assume $\Pr(y = m | x)$ is probability of being in stage m given x and $\Pr(y > m | x)$ is the probability of being in a stage later than m . The continuation ratio model can be expressed in terms of log odds by:

$$\ln\left(\frac{\Pr(y = m | x)}{\Pr(y > m | x)}\right) = \alpha_m + \beta x_i \text{ for } m = 1 \text{ to } J - 1$$

This approach constrains β s to be the same across decision-making stages and allows intercepts to differ given the constant term α_m (Feinberg, 1980). The coefficients associated with each independent variable are then interpreted as increasing or decreasing a youth's odds of closing their case at one stage to being handled and ending case review at a later stage (Long & Freese, 2006). In this study, advancement within the juvenile justice system is measured by four movements from 1) referral to petitioning, 2) petitioning to adjudication, 3) adjudication to disposition to placement, 4) disposition to placement to commitment to secure confinement.

To get a closer approximation of the significance of race in juvenile processing, bivariate probit model with selectivity bias are subsequently used to identify the criteria influencing a youth's likelihood of petitioning, adjudication, placement, and secure

confinement. The standard probit model approximates a latent variable, y^* , representing the underlying propensity for how juvenile justice officials handle a case at each processing point (MacDonald, 2001; Montmaequette, Mahseredjian, & Houle, 1996). This latent variable is related to observed independent variables by the following structural equation

$$y_i^* = \beta x_i + \varepsilon_i$$

where i is an observation and ε is an error term (Long & Freese, 2006). Because the dependent variable of this equation is never observed, one must examine binary outcomes determining whether cases were handled affirmatively or exited out of the juvenile justice system. For example, at the petitioning stage, the probit model estimates the underlying tendency of recommending a case for formal processing when a binary outcome (petitioned or not petitioned and diverted out of the juvenile court) is observed. A similar logic applies to the adjudication, placement, and secure confinement stages. Thus,

$$y_i = \begin{cases} 1 & \text{if } y_i^* > 0 \\ 0 & \text{otherwise} \end{cases}$$

With one independent variable, the latent-variable model for a binary outcome is approximated by

$$\Pr(y = 1 | x) = \Pr(\varepsilon > -[\alpha + \beta x | x])$$

The error term ε is assumed to be normally distributed with a mean of 0 and variance of 1.

Ordinary probit models, however, can suffer from problems of selection bias. As a one moves toward later processing stages, cases become more homogeneous and distinct from cases exiting at previous decision-points (Berk, 1983). Empirical models should therefore attempt to account for the non-random selection of cases at each processing stage by distinguishing the probability a case is included in a sample of a

previous stage (Leiber, 2003). For instance, assessments of the factors affecting delinquency determinations at the adjudication stage should control for the probability youth are selected for formal court processing (i.e. petitioned). In juvenile justice research, Heckman's two-step procedure is a commonly applied corrective (Kempf-Leonard & Sontheimer, 1995; Leiber et al., 2011). The effectiveness of the Heckman correction, though, rests upon good exclusion restrictions. Such variables help to predict selection within a particular sample, but they do not affect the outcome variable. A flaw in criminological scholarship is overuse of the Heckman correction due to the omission or poor theoretical motivation of chosen exclusion restrictions (Bushway, Johnson, & Slocum, 2007).

Given the lack of available exclusion restrictions in this dataset, this study uses bivariate probit models and controls for selection bias by employing a "bounding approach" utilized by MacDonald (2001) and Klepper et al. (1983). Examining two decision-points at a time, the method makes assumptions about the correlations between the error terms of the models predicting decision-making at each stage. The bivariate probit models use two observed binary outcomes variables y_1 and y_2 that estimate two underlying propensities to a handle a case, y_1^* and y_2^* , where

$$y_{1i} = \begin{cases} 1 & \text{if } y_{1i}^* > 0 \\ 0 & \text{otherwise} \end{cases}$$

$$y_{2i} = \begin{cases} 1 & \text{if } y_{2i}^* > 0 \\ 0 & \text{otherwise} \end{cases}$$

and

$$y_{1i}^* = \beta_1 x_{1i} + \varepsilon_{1i}$$

$$y_{2i}^* = \beta_2 x_{2i} + \varepsilon_{2i}$$

ε_{1i} and ε_{2i} are assumed to be distributed normally with a correlation coefficient, ρ (rho) (W. H. Greene, 2003). Specifically,

$$\begin{pmatrix} \varepsilon_{1i} \\ \varepsilon_{2i} \end{pmatrix} | X \sim N \left(\begin{bmatrix} 0 \\ 0 \end{bmatrix}, \begin{bmatrix} 1 & \rho \\ \rho & 1 \end{bmatrix} \right)$$

If advancement from the first stage is non-random and not accounted for in one's model of decision-making at the second stage, the error terms of these two stages will be correlated due to selection bias (i.e. $\rho \neq 0$) (W. H. Greene, 2003). The magnitude of selection bias, however, is not known. The bounding approach addresses this limitation by fixing the degree of correlation between the disturbance terms of the first stage and second stage models, encapsulated by rho. By setting rho at different values, a range of coefficients for each independent variable are generated that contain an estimate of the coefficient if correlation between the two stages were known apriori (Klepper, Steven et al., 1983, pp. 75–76). This analysis fixes rho at 0 and .9. While rho equaling 0 assumes no relationship exists between error terms of these two stages, a rho value of .9 accounts for strongly correlated error terms. Effectively, this bounding approach gauges the sensitivity of coefficients under varying degrees of selection bias (MacDonald, 2001).

Controlling for these fixed rhos, the bivariate probit models estimate values of β_1 and β_2 a using maximum likelihood function. The maximum likelihood function of this model is given by

$$\begin{aligned} \sum & (y_{1i} y_{2i} \ln \Phi (\beta_1 x_{1i}, \beta_2 x_{2i}, \rho) + (1 - y_{1i}) y_{2i} \ln \Phi (-\beta_1 x_{1i}, \beta_2 x_{2i}, -\rho) \\ & + y_{1i} (1 - y_{2i}) \ln \Phi (\beta_1 x_{1i}, -\beta_2 x_{2i}, -\rho) + (1 - y_{1i}) (1 - y_{2i}) \ln \Phi (-\beta_1 x_{1i}, -\beta_2 x_{2i}, \rho)) \end{aligned}$$

where Φ is the bivariate normal distribution's cumulative distribution function (W. H. Greene, 2003). Cases that exit the juvenile justice system at the first stage do not contribute anything to the maximum likelihood function. Bivariate probit models control for selection bias between 1) petitioning and adjudication, 2) adjudication and placement, and 3) placement and secure confinement. For reference, stage-specific logistic regressions without selection bias corrections displaying the odds of being petitioned, adjudicated, placed, and securely confined are provided in Appendix 14 to Appendix 17

Finally, difference-in-differences techniques are utilized to determine whether DMC intervention has altered the number minority youth processed in Pennsylvania while attempting to account for other related processing changes during this period. The study's second hypothesis asserts DMC intervention has accomplished this end. The difference-in-differences method is a technique used to discern the effect of a treatment in a non-experimental setting. Following experimental design, outcomes from one group receiving a treatment are compared with those from another lacking the treatment. These treatment and control groups are observed for two periods: pre-treatment and post-treatment. Differences between the treatment and control are then compared for each period. By taking the difference in the differences between these two groups from each point in time, the effect of treatment is isolated (Angrist & Pischke, 2008; Ashenfelter & Card, 1985; Card & Krueger, 1994). In this study, the treatment is DMC intervention. In equation form, assume y represents the number of minorities processed at a particular stage in the juvenile justice system, $period$ is a dummy variable for the period when DMC intervention begins, and $intervention$ is a dummy variable for whether a county implemented DMC reduction programs. The difference-in-differences model can be written as

$$y = \beta_0 + \beta_1 intervention + \delta_0 period + \delta_1 intervention * period + \varepsilon$$

The coefficient of δ_1 is of primary interest because it multiplies the interaction between period ($time$) and treatment counties ($intervene$) (Imbens & Wooldridge, 2007). From this coefficient, the difference in the differences estimate is given by

$$\hat{\delta}_1 = (\bar{y}_{\text{Non-Intervention},2} - \bar{y}_{\text{Non-Intervention},1}) - (\bar{y}_{\text{DMC Intervention},2} - \bar{y}_{\text{DMC Intervention},1})$$

If DMC-intervention is successful, difference-in-differences estimates ($\hat{\delta}$) should reflect one of two scenarios. First, minority youth processing can decline within DMC intervention counties while such processing diminishes more gradually, increases, or holds constant within non-intervention counties. Secondly, minority youth processing can

rise or remain stable within DMC intervention counties, but it will grow more rapidly within non-intervention counties. In either scenario, difference-in-differences coefficients should be negative and statistically significant, suggesting DMC intervention has actualized the mandate's goal of cutting the disproportionate number of minority youth processed by the Pennsylvania juvenile justice system.

CHAPTER SIX - DOES RACIAL DISPARITY REFORM WORK? : THE CASE OF THE DISPROPORTIONATE MINORITY CONTACT MANDATE II (FINDINGS)

This chapter presents findings related to minority overrepresentation in the Pennsylvania juvenile justice system and the impacts of the Disproportionate Minority Contact (DMC) mandate of 2002 on processing outcomes. The chapter is divided into two parts. The first part of this chapter introduces descriptive statistics of juvenile processing in Pennsylvania. It first displays the percentages of minority youth processed at various stages along the juvenile justice continuum from 1997-2011. It then compares the rates at which minority youth progress through the juvenile justice system relative to those of white youth using a federally required measure called the Relative Rate Index. Lastly, this section describes racial disproportion in the processing outcomes of counties implementing state-sponsored DMC reduction programs (hereafter, DMC intervention counties) and counties lacking such activities (non-intervention counties). After identifying Pennsylvania's disproportionate minority youth processing issues, the second part of the chapter turns toward the present research's hypotheses that state intervention in response to the DMC mandate has successfully diminished minority overrepresentation by 1) reducing the importance of race as a decision-making factor and 2) decreasing the number of black and Hispanic youth handled at each stage of the juvenile justice system. It discusses the results of three multivariate assessments of DMC intervention: continuation ratio logistic regressions, bivariate probit models with selectivity bias, and difference-in-differences estimations. Support is found for this study's two hypotheses, suggesting DMC intervention has been effective in curtailing racial inequalities in the juvenile justice system.

Part I: Descriptive Statistics of Juvenile Processing in Pennsylvania

Statewide Juvenile Processing Trends: Percentages

To begin to evaluate the success of the DMC mandate as a racial disparity reform in addressing minority overrepresentation, a statewide examination of juvenile processing trends is necessary. Table 5 to Table 10 show the annual and average percentages of minority youth processed at the arrest, referral, petition, adjudication, placement, and secure confinement stages from 1997-2011. In accordance with the official racial categories used by the Pennsylvania juvenile justice system, each table distinguishes the percent of youth who identified as black, white, Hispanic, or other (i.e. Asian, multiracial, or Native American).

Although police officers are not directly affected by the DMC mandate, arrest represents the first point of contact with the juvenile justice system for most youth.³⁴ Uniform Crime Report data for 1997-2011 use four racial categories: black, white, Asian, and Indian. The latter two categories are merged into an “other” category to better approximate the Pennsylvania juvenile justice system’s coding scheme. Given the unreliability of figures for ethnicity (i.e. Hispanic/Latino origins), figures for arrested Hispanic youth cannot be displayed. At this first decision-point, minority overrepresentation is readily apparent. Black youth constitute an average of 13.6% of Pennsylvania’s 10-17 year old population, yet represent an average of 36.7% of all youth arrests. The proportion of black youth in juvenile arrests has steadily grown throughout the mid-2000s. Other youth and white youth are consistently underrepresented in arrests (on average, .07% and 62.6%, respectively), relative to their presence in the general population (2.5% and 77.9%). Since 1997, white youth make up a smaller proportion of

³⁴ To note, referrals may also be made by schools, family, probation officers, social agency officials, district magistrates, and other juvenile courts.

Pennsylvania's arrested youth population, though this change may be largely attributed to increasing diversity in the state's general youth population.³⁵

At the referral stage, racial disproportion broadly corresponds to patterns in youth arrests. The major difference between the referral and arrest populations is the reduction in the presence of African Americans and whites due to the introduction of the Hispanic category. A slightly higher percentage of other youth are likewise represented, a result associated with a greater presence of this group in nonpolice referrals. Examining all groups together, minority overrepresentation at the referral stage has enlarged over the past 14 years. More recently, a majority of referred youth identify as either black or Hispanic. Representation of Hispanic youth alone has doubled since 1997 to nearly 13% in 2011. Proportional declines in white referrals outpacing demographic changes also contribute to increasing percentages of minorities at this stage.

Moving toward more formal processing in the juvenile justice system, racial imbalances in juvenile processing become more pronounced. Among petitioned cases, minorities constitute a larger share of formally processed cases relative to their share of referrals. To illustrate, black youth made up 31.2% of referrals, but 39.3% of petitioned cases in 1997. Across all years, the proportion of African American youth advancing from the referral to petition stage increases by approximately 7%. To a lesser extent, this trend holds true for Hispanic and other youth as well. Representation of these two groups grows slightly between the referral and petition stages for much of the early 2000s, but has leveled off in more recent years.

At adjudication, racial imbalances among youth deemed delinquent are stark, but do not severely worsen from the petitioning stage. On average, overrepresentation of all minority groups is somewhat smaller at adjudication (48.7%) than at petitioning (51.6%), suggesting racial considerations may play a smaller role in determinations of delinquency. That being said, this conclusion does not hold true for all racial groups. For each year

³⁵ From 1997 to 2011, the proportion of white youth in the state's general youth population decreased from 85.6% to 73.9%. This reduction is much greater than the decline in white representation among arrested youth.

between 1997 and 2011, African Americans become less represented in the state's adjudicated population relative to its petitioned population. By contrast, disproportionate representation of Hispanics rises every year during this period. The proportion of adjudicated whites meanwhile closely approximates that of petitioned whites.

The most substantively important and striking portrayals of minority overrepresentation are found at the placement and secure confinement stages. Confirming extant criminological literature, racial disproportion in the Pennsylvania juvenile justice system is greatest at these last decision-points (Bishop, 2005; Pope & Feyerherm, 1990; Pope, Lovell, & Hsia, 2002). Since the late 1990s, the average percentage of black youth disposed to placement (41.3%) has been over three times larger than the average proportion of this group in the general population (13.6%). Overrepresentation of Hispanic youth is less distorted, with an average of 10.7% of placed youth being Hispanic compared to 6.0% of all Pennsylvanian youth. White representation among placed youth has hovered around 45%, though this share has likewise declined during the late 2000s.³⁶

The racial skew of Pennsylvania's securely confined youth population is more glaring. White youth on average receive just over a third of all commitments to secure confinement. For much of the 2000s, African Americans alone received over 45% of all secure confinement dispositions. The percentage of Hispanics among the state's securely confined population has consistently fluctuated around 15.0%. Since 2005, the presence of African Americans and Hispanics within juvenile secure confinement facilities has been enlarging. Although minority youth appear face a cumulative disadvantage in the juvenile justice system, the number of securely confined youth is still small relative to vast amount of cases handled by the Pennsylvania juvenile justice system. On average, just 286 out of over 45,000 youth referred to the juvenile justice system were sent to

³⁶ Appendix 7 and Appendix 8 show changes in the racial composition of non-secure, placed populations before and after DMC intervention begins. These figures indicate Hispanics have become more represented in most types of non-secure placement programs since the beginning of DMC intervention. With the exception of foster care, African Americans make up a smaller proportion of non-secure residential programs' populations since the late 2000s.

secure facilities every year from 1997 to 2011, with secure confinement disposition reaching a high-point of 418 individuals in 2003. This amounts to less than 1% of juvenile delinquency cases ending with commitments to secure facilities.

Statewide Juvenile Processing Trends: Relative Rate Indices

An alternative approach to analyzing racial disproportion in the Pennsylvania juvenile justice system is comparing the rates at which racial groups advance to each processing stage. In 2003, the Office of Juvenile Justice and Delinquency Prevention introduced a new measure of minority overrepresentation called the Relative Rate Index (Coleman, 2010). This metric compares the rate at which minority juveniles progress from one stage to another relative to the rate at which white juveniles do so. That is,

$$RRI = [(C_2/P_2) / (C_1/P_1)]$$

where C stands for the number of youths processed at the current decision-point of interest, P represents the number of youths handled at the preceding decision-point, 1 refers to white youths, and 2 refers to Hispanic, black, or other youths (Blumstein, 1982; Office of Juvenile Justice and Delinquency Prevention, 2014). If a RRI equals 1.00, no differences exist in the handling of white youth and minority youth. A ratio above 1.00 signals overrepresentation of minorities and a ratio below 1.00 denotes underrepresentation of minorities relative to whites. Because so few arrested juveniles reach the adjudication and placement stages, use of Relative Rate Indices can help to adjust for changes in the total number of juveniles processed at different stages and thus provide a fuller understanding of a particular stage's racial composition.³⁷

³⁷ One weakness of this strategy is Relative Rate Indices depend upon both nonwhite and white racial groups advancing to another processing stage. For instance, an index cannot be generated if only nonwhites (or whites) were placed in secure facilities, which may obscure obvious problems of racial inequality. Although statewide analyses usually contain a sufficient number of juveniles

Figure 4 to Figure 9 show annual Relative Rate Indices comparing the movement of black, Hispanic, and other youth through various decision-points along the juvenile justice continuum from 1997 to 2011. Referral to arrest ratios are initial measures for assessing minority overrepresentation. Given available racial categories used in arrest data, Relative Rate Indices are generated for other and black youth. These ratios conform to the patterns shown from the percentages of minority youth treated at these decision-points. With the exception of 1997, black youth are slightly more likely to be referred to juvenile court beyond their arrest tendencies. Disproportionality in referrals for African Americans has marginally increased between 2005 and 2011. Other youth express much greater disproportion in their referrals given extant arrest data. Such overrepresentation also becomes strong in the late 2000s. These patterns for other youth continue to hold when police referrals to the juvenile justice system are compared to arrests (not shown).

Petition to referral ratios affirm that racial disproportion is exacerbated as youth face formal court processing. Minority youths generally receive formal court review at higher rates than white youths. Referred black youth consistently experience formal processing at a higher rate than referred white youth given an average Relative Rate Index of 1.25. Between 1997 and 2010, overprocessing of African Americans somewhat diminishes. This narrowing of the petitioning ratio gap is far more pronounced for Hispanic and other youth during this period (average RRI=1.13 and 1.14, respectively).

Once again, the adjudication stage presents striking outcomes for minority groups. Although the overrepresentation of black youth grows from arrest to petitioning, black juveniles are generally adjudicated as delinquent at a lower rate than white peers (average RRI= .86). Until the early 2000s, black and white youth were deemed delinquent at similar rates. The rest of this period is marked by an *underrepresentation* of black youth as delinquents. Hispanic youth are marginally more likely than white youth to be adjudicated while other youth are likewise slightly underrepresented in delinquency

of all races to compare the handling of groups at the most punitive stages, the lack of available or reliable Relative Rate Indices may present more problems for reviews of county or local-level practices (Piquero, 2008).

determinations. As seen at petitioning, overprocessing of Hispanic youth tends to decline throughout the 2000s (average RRI= 1.07). These ratios and previous percentages of delinquent minority youth suggest adjudication may be a vital stage for reducing disadvantages for minority groups.

Finally, placement to adjudication and secure confinement to adjudication ratios disclose the state's most severe problems with minority overrepresentation. Hispanic youth show the highest rates of overrepresentation in all placement programs and secure confinement facilities with average Relative Rate Indices of 1.27 and 2.43, respectively. Even after being adjudicated a lower rate than whites, black youth are also slightly more likely than white youth to be remanded to placement (average RRI = 1.17). This disproportion intensifies for commitments to secure confinement (average RRI = 1.81). Placement and secure confinement ratios, however, are less stable for other youth. Other youth fluctuate between being highly underrepresented to severely overrepresented in placement decisions without consistent patterns. Such instability may be a result of the small number of cases involving other youth.

Although minority overrepresentation is clear among placements and commitments to secure confinement, RRI figures for these stages have dramatically dropped for all minority groups since the late 1990s. Overprocessing of Hispanic youth has fallen by nearly 25% in placement dispositions and 67% in secure confinement commitments. Rates of African American youth dispositions to placement and secure confinement similarly declined by 11% and 23%, respectively. These reductions in minority youth processing stages are obscured by only examining the proportional representation of these groups among the state's placed and securely confined populations.

DMC Intervention and Non-Intervention Counties' Juvenile Processing Trends

While percentages of processed youth and Relative Rate Indices attest that minority overrepresentation in juvenile justice is a demonstrable concern, it is crucial to

consider whether such racial imbalances have been responsive to policy reform in recent years. Since the 1970s, Pennsylvania has stood as a leader in developing juvenile justice interventions that comply with JJDP requirements (Griffith et al., 2012; Hsia & Hamparian, 1998; K. Kempf, 1992; R. Schwartz, 2013). As previously described in Chapter 5, the state has recently introduced a series of programs targeting minority youth processing that meet the demands of the DMC mandate of 2002. State-sponsored DMC interventions have been launched in five counties: Allegheny, Berks, Dauphin, Lancaster, and Philadelphia. To evaluate the consequences of DMC intervention, comparisons in minority youth processing must be drawn between these 5 DMC intervention counties and 62 non-intervention counties.

As a first step, racial disproportion in the juvenile processing of DMC intervention counties is examined. Table 11 summarizes changes in the racial composition of processed youth from referral to the petitioning, adjudication, placement, and secure confinement stages. The referral stage is selected as a reference population because it is the first processing stage under the direct control of juvenile justice officials. Table 11 illuminates several aspects of minority youth processing within DMC intervention counties. Most minority youth cases originate from Philadelphia and Allegheny Counties. These cases primarily involve African Americans. In fact, nearly 80% of all minority youth processed between 1997 and 2011 in DMC intervention counties are black. Moreover, racial disproportion tends to worsen as referred youth advance through the juvenile justice system. Minorities overwhelmingly make up each intervention county's placed and securely confined populations. To illustrate, the proportion of Hispanic and black youth swells by 14.4% among Berks County's placed youth population and by 26.6% among the county's securely confined youth population. These expansions are complemented with 13.1% and 24.9% declines in white youth representation at these stages, respectively.

Table 12 replicates racial composition figures for processed youth in non-intervention counties and the entire state. Two additional trends become evident. First, approximately 60% of all cases handled by the Pennsylvania juvenile justice system derive from non-intervention counties. Nearly 1/3 of all cases involving African

Americans and slightly less than half of all cases involving Hispanics also come from non-intervention counties. This distribution of cases will make any processing shifts within DMC intervention counties prominent in statewide decision-outcomes. Secondly, while minority youth presence is greater at the referral stage in DMC intervention counties, the racial composition of processed youth in non-intervention becomes more racially disparate at later decision-points. Growth in the overrepresentation of African Americans and underrepresentation of whites at the placement and secure confinement stages in non-intervention counties nearly doubles these trends in DMC intervention counties. This finding not only illustrates racial disproportion affects all parts of Pennsylvania, but also encourages additional probing into the importance of race in decision-making across DMC intervention and non-intervention counties.

Part II: Multivariate Assessments of the Consequences of DMC Intervention

Given the pervasiveness of minority overrepresentation at the state-level as well as within DMC intervention and non-intervention counties, multivariate statistical techniques can shed light upon any changes in the treatment of minority youth following implementation of DMC mandate intervention. These methods move past percentages and RRIs described in the previous section by identifying racial differences in youth handling while controlling for important legal factors, social conditions, and demographic characteristics. Three sets of empirical methods are discussed in this section: continuation ratio logistic regressions, bivariate probit models with selectivity bias, and difference-in-differences estimations. The first two methods test the study's first hypothesis that DMC intervention has moderated the influence of race as a factor in processing decisions. The third method tests the study's second hypothesis that intervention has actualized the DMC mandate's stated goal of reducing the disproportionate number of minority youth handled at all decision-points along the juvenile justice continuum.

Continuation Ratio Logistic Regression Model Assessments

Full Sample (1997-2011) Models

Continuation ratio logistic regressions predicting advancement from the referral to the secure confinement stage are first used to assess the influence of race in juvenile justice decision-making. Continuation ratio logistic regressions are initially run on all cases processed by the state of Pennsylvania, counties with DMC intervention, and counties lacking intervention between 1997 and 2011. For these three jurisdictions, three models are then estimated. The first model includes demographic, social conditions, and legal factors without any race variables. The second model only contains race variables (black, Hispanic, and other). A third (full) model includes all legal, social conditions, demographic, and race variables.

Table 13 presents the results from these full sample regressions. Reviewing all cases handled in Pennsylvania, it becomes evident cases advancing to later stages share common characteristics. Legal factors like severity, grade, and number of charges are expectedly key predictors in moving cases to more punitive processing stages. Demographic characteristics and social conditions, however, also affect processing outcomes. Older youth and males have a greater likelihood of advancing to later stages of juvenile processing. Youth who do not live in a two-parent household, do not have married parents, and currently attend school are likewise more likely to face further processing. The magnitude and direction of the demographic, social conditions, and legal factors' coefficients remain unchanged between the full model and first model omitting race variables. Of paramount interest, race wields significant influence over decision-making. Across all three jurisdictions, black status and Hispanic status are significant predictors of additional processing. Controlling for all relevant factors, being Hispanic and being African American Pennsylvania elevate a youth's odds of entering later processing stages by 8.0% and 3.0%, respectively. Racially other status, though, has no discernible impact on advancement. To note, these findings accord with those of Appendix 13 that runs continuation ratio models for 65 counties in Pennsylvania with and

without prior record information (see the previous chapter's discussion on prior record data limitations). Inclusion of prior record in these models does not significantly bias the estimated impacts of being black or being Hispanic on advancement in juvenile processing.

Analogous results are evident among DMC intervention and non-intervention counties. For both county sets, more severe, felony, and a higher number of charges are strongly associated with further juvenile processing. Age, sex, and social conditions continue to affect advancement in similar directions. These county sets only differ with regard to family status, which has little or no impact in DMC intervention counties' processing decisions. Again, being black and being Hispanic are associated with greater higher odds of advancement, though Hispanic status is somewhat less important in counties with DMC reduction programs.

Pre-DMC Intervention (1997-2004) and Post-DMC Intervention (2005-2011) Models

In light of these full sample findings, the next step is to discern whether DMC intervention alters the role of race in juvenile justice decision-making. Separate continuation ratio logistic regressions are run before and after the beginning of DMC intervention. Coefficients from these regressions are then compared to determine if the relative influence of any factor changes between these intervention periods (Paternoster et al. 1988). While outcomes are analyzed for the entire state of Pennsylvania, processing decisions are again reviewed for the DMC intervention and non-intervention county sets in an effort to better discern where intervention has its greatest impacts.

Continuation regression logistic regression models predicting advancement in juvenile processing before and after DMC intervention in these three jurisdictions are shown in Table 14. At the state level, the weight of legal characteristics in decision-making is largely unchanged across time. Youth with more serious cases from a legal perspective still tend to progress forward through the system. Youth with less traditional social conditions also tend to receive harsher sanctions, but the effects of family and school status diminish over time. Age and maleness considerably heighten a youth's odds

of advancement, but only sex becomes more prominent in post-DMC intervention decision-making. Moving toward evaluating the consequences of DMC intervention on state minority youth processing, African American and Hispanic youth are significantly more likely advance to later processing stages across all periods. Yet some remarkable patterns appear in the post-DMC intervention period. Being black and being Hispanic become substantially less salient features in decision-making following intervention. Specifically, the odds of advancement decrease by 6.4% for African American youth and 24.5% for Hispanic youth. These declines are highly significant ($p < .01$), indicating race has become less predictive of advancement to more punitive decision-points since DMC intervention began.

Case processing outcomes of DMC intervention and non-intervention counties affirm these developments. In both county sets, the roles of legal characteristics and social conditions in contributing to additional juvenile processing are generally constant over time. As one exception, school status had more influence in decision-making within DMC intervention counties before 2005. While being male becomes a stronger predictor of advancement for DMC intervention counties over time, age has weaker effects on advancement in non-intervention counties the post-DMC intervention period.

The most striking pre/post DMC intervention results concern race. Prior to any intervention, being black and being Hispanic do raise a youth's odds of advancement regardless of where his or her case is processed. These disadvantages of minority status, however, become somewhat attenuated over time. Within non-intervention counties, a Hispanic youth is 11.7% less likely to receive further juvenile processing in the post-DMC intervention period. The odds for advancement for black youth remain the same. As anticipated, more prominent changes occur in counties implementing DMC reduction programs. Black and Hispanic statuses become significantly less defining features in a youth's movement through the juvenile justice system. Since the introduction of DMC intervention, a black youth's odds of advancement fall by 2.5%. More surprisingly, a Hispanic youth actually becomes less likely than a non-Hispanic peer to face additional processing. This change in the magnitude and direction of the Hispanic coefficient is highly significant ($p < .01$).

Bivariate Probit Model with Selectivity Bias Assessments

While the continuation ratio logistic regression method exposes the changing significance of race in a youth's movement through the juvenile justice system following DMC intervention, race may have varying degrees of influence at each processing stage. Rather than running one model predicting advancement in juvenile processing before and after DMC intervention, bivariate probit models are used to identify the effects of race and other relevant factors on adjudication given a petition for formal court review, placement given a determination of delinquency, and secure confinement given a disposition to placement during these periods.

Processing outcomes associated with these three pairs of decision-making stages are examined for the entire state, DMC intervention counties, and non-intervention counties. For each jurisdiction, two sets of bivariate models assuming different levels of correlation between the two decision-point stages of interest (i.e. $\rho = 0$ or $.9$) are subsequently generated to account for selection bias and judge the sensitivity of coefficients estimates (Klepper, Steven et al., 1983; MacDonald, 2001). For reference, stage-specific logistic regressions without controls for selection bias are presented in Appendix 14 to Appendix 17. The findings of these models generally parallel the results of the bivariate probit models.

Table 15, Table 16, and Table 17 display the first set of bivariate probit model results predicting delinquency determinations following the filing of a petition in the pre- and post-DMC intervention periods. These tables show processing outcomes for all counties, counties with DMC reduction programs, and counties lacking such programs, respectively. Looking at the models of all three tables, the influence of demographic, social conditions, legal, and race variables on petitioning and adjudication outcomes is generally consistent across varying levels of correlation between these two decision-making stages. The direction and significance of pre/post DMC intervention differences between the coefficients associated with these variables are also similar, signaling the

conclusions about DMC intervention should hold true under different levels of possible correlated and omitted variables.

At the petitioning stage, grade of offense, age, family status, school status become less important in state petitioning decisions after DMC intervention begins. Similar patterns are found in counties containing DMC reduction programs, though living arrangements acquire more importance in recommendations for formal court review. Petitioning practices remarkably diverge between the pre-DMC and post-DMC intervention periods with respect to race. In general, being non-black and being non-Hispanic correspond to lower likelihoods of petitioning. Nonetheless, the relative weight of racial factors in petitioning decisions changes over time. Hispanic youth experience a dramatically reduced risk of petitioning in the post-DMC intervention period. While such reductions are seen in all three jurisdictions, Hispanic youth in DMC intervention counties become significantly less likely than non-Hispanic peers to be petitioned. Substantial declines in the salience of African American status also take place for the entire state and DMC intervention counties. Black youth in non-intervention counties, though, continue to face the same elevated chances of receiving formal court review. Another noteworthy pattern corresponds to racially other status. At the state level and within non-intervention counties, other youth are initially more likely to receive formal court recommendations in the pre-DMC intervention period. This likelihood diminishes in more recent years, suggesting the relevance of race in decision-making may change in the absence of official DMC intervention.

Continuing review of Table 15, Table 16, and Table 17, processing at the adjudication stage likewise appears to change following DMC intervention. For all Pennsylvania counties, social conditions and grade of charge become less predictive of delinquency determinations. Males face greater odds of adjudication in the post-DMC intervention period. Similar trends are found in DMC intervention counties. Adjudication decisions in non-intervention counties meanwhile become less reliant on age and family status. More pertinently, transformations in the roles of race are apparent in each jurisdiction. Across the entire state, African Americans become substantially less likely than non-African Americans to be deemed delinquent following DMC intervention.

Being black in non-intervention continues to enhance a youth's chances of adjudication across the different intervention county sets. Adjudication decisions of all jurisdictions become less dependent upon Hispanic status in the post-DMC intervention period. Hispanic youth of DMC intervention counties, however, become less likely to be deemed delinquent than non-Hispanic peers.

Moving to the sanctioning of youth, additional shifts occur in placement decision-making following DMC intervention. Table 18, Table 19, and Table 20 present bivariate probit models pinpointing case characteristics affecting the likelihood adjudicated youth are disposed to out-of-home placements rather than community sanctions.³⁸ Changes in adjudication practices reflected in these models accord with previously discussed findings.

Examining statewide dispositions, sex bears more weight on out-of-home placement outcomes in the post-DMC intervention. Living arrangements also become somewhat less pertinent in placement decision-making. Placement outcomes notably differ with regard to race between the pre- and post-DMC intervention periods. Since the introduction of DMC reduction programs, African Americans are significantly more likely to receive community (rather than out-of-home placement) sanctions. Hispanic youth continue to have a higher likelihood of out-of-home placement, but Hispanic status is far less determinative of recent dispositions.

Breaking down placement decision-making by DMC reduction activity reveals age, sex, and grade of charge have differential impacts on placement decisions over time. In review of racial factors, DMC intervention counties are primarily responsible for producing the state's racially egalitarian shifts in placement outcomes. Being black and being Hispanic in intervention counties are associated with lower likelihoods of out-of-home placement in the post-DMC intervention period. Conversely, African American status and Hispanic status in non-intervention counties become *more strongly* tied to out-of-home placements during this period.

³⁸ The sample for these two stages only contains petitioned cases. Multivariate probit modeling is not completed for this point, so the bivariate probit models of placement decisions given adjudication do not account for selection bias between the petitioning and adjudication stage.

Table 21, Table 22, and Table 23 display a final set of bivariate probit models predicting commitments to secure confinement given an out-of-home placement decision.³⁹ As seen with adjudication outcomes, factors associated with out-of-home placements in these models are broadly consistent with aforementioned estimates. The contrast between DMC intervention and non-intervention counties in diminishing the importance of race in placement decisions, however, becomes more stark. As Table 23 shows, the adverse influence of minority status in non-intervention counties does not change whatsoever.

The underlying factors of secure confinement decisions tend to be consistent over time. After DMC intervention begins, age becomes less predictive and grade of charge more predictive of state secure confinement commitments. Like previous decision-points, the disadvantages of minority status are attenuated at the secure confinement stage. Black and Hispanic youth have higher odds of being remanded to secure confinement, but such youth are less likely to be confined than similarly situated peers sanctioned just a few years earlier. Reductions in the salience of a youth's characteristics personal characteristics, including sex and race, are particularly marked for DMC intervention counties. Within counties lacking DMC intervention, reductions in the likelihood of secure sanctioning are inconsistent across models for Hispanic youth, but not for black youth whose odds of commitment to secure facilities remain unchanged.

Difference-in-differences Model Assessments

A Basic Difference-in-differences Estimation Approach

While continuation ratio logistic regression and bivariate probit models indicate

³⁹ As previously seen with the adjudication to placement models, the sample for the placement to secure confinement models only contains petitioned cases with a determination of delinquency. These models do not account for selection bias from petitioning to adjudication and from adjudication to placement.

DMC intervention has mitigated the detrimental influence of race in decision-making, it remains unclear whether intervention has also reduced the disproportionate number of processed minority youth as the DMC mandate stipulates. Difference-in-differences estimation techniques explored in this last section seek to empirically test the study's second hypothesis that DMC intervention has successfully achieved the policy's stated ends.

Following the language of the DMC mandate, changes in the number of African Americans and Hispanics processed at each decision-point are assessed. Focus is given to African Americans and Hispanics due to the size of these populations and the previously established significance of these racial statuses in processing decisions. These outcome measures offer distinct insights into the impacts of DMC intervention. Compared to assessing the relative importance of racial factors in processing decisions as an outcome variable, the number of minority youth handled at each point provides an absolute measure of youth movement through the juvenile justice system. It may also more closely respond to the concerns of juvenile justice officials, who must maintain a sense of how many minorities enter and exit from local juvenile justice systems in order to comply with federal requirements.

Table 24 offers an initial glimpse into understanding changes in minority youth processing following DMC intervention. This table presents difference-in-differences estimates of the average numbers of African Americans and Hispanics petitioned, adjudicated, disposed to placement, and remanded to secure confinement in DMC intervention and non-intervention counties before and after the introduction of DMC reduction programming. These estimates do not include any controls or regression-based adjustments. Prior to implementing DMC programs, DMC intervention counties on average handle an extraordinarily high number of cases involving African Americans and Hispanics relative to non-intervention counties. Disparities in average caseloads are most apparent at the placement and secure confinement stages. Once DMC intervention begins, however, these two county sets take distinct processing paths. Far more African Americans and Hispanics are processed in non-intervention counties at all decision-points. Minority youth processing concurrently drops within DMC intervention counties. As a

net result of these dynamics, contractions occur in the minority youth processing differences among DMC intervention and non-intervention counties. With the exception of petitioned African Americans, such reductions in the average number of Hispanic and black youth handled at each decision-point are highly significant ($p < .01$). DMC intervention therefore seems to curtail the disproportionate processing minority youth across juvenile justice continuum.

Pre- and post-intervention averages identified by these basic difference-in-differences models can be further broken down by year to show the trajectory of minority youth processing over time. Figure 10 and Figure 11 present the predicted average numbers of African Americans and Hispanics processed by DMC intervention and non-intervention counties at four decision-points for 1997 through 2011.⁴⁰ The plotted lines visually represent the relationship between DMC reduction programs and the size of the juvenile justice system's minority youth populations. These figures plainly show a narrowing in the processing practices between DMC intervention and non-intervention counties. While counties with DMC reduction programs continue to handle a large number of cases involving Hispanics and African Americans, average minority youth populations at each decision-point in these jurisdictions are getting smaller. Meanwhile, minority youth processing in non-intervention increases across the juvenile justice continuum. The growing convergences in the decision-making trajectories of DMC intervention and non-intervention counties are particularly evident at later decision-points.

Based upon these difference-in-differences estimates, one can also approximate the number of minorities exiting the juvenile justice system at earlier stages as a result of DMC intervention. The consequences of DMC intervention can be roughly gauged by isolating changes in the average processed minority youth populations of DMC intervention counties from statewide difference-in-differences estimates. Shifts in the

⁴⁰ In these figures, the natural log of the average number of minorities processed at each decision-point is used given the substantially higher number of minority youth handled in DMC intervention counties and the consequent need to compare non-intervention and DMC intervention counties' outcomes on a similar scale.

average practices of DMC intervention counties are then multiplied by five (i.e. the number of counties with DMC reduction programs) to get an annual measure of the total number of minorities removed from various juvenile processing stages. For example, approximately 629 fewer Africans Americans and 139 fewer Hispanics were adjudicated delinquent each year after DMC programs began. Over the course of six years, reductions in minority youth processing have been consequential.

Overall, DMC intervention has led to 1,184 fewer petitions and 7,583 less determinations of delinquency among black and Hispanic youth. More crucially, DMC programs have allowed 4,731 minorities to remain within their communities rather than received sanctions of out-of-home placement. Over 250 minority youths were not sent to secure confinement facilities. These figures translate into reductions in intervention counties' minority youth populations at petitioning by 2.2%, at adjudication by 27.4%, at placement by 51.0%, and secure confinement by 35.4% relative to their pre-DMC intervention populations.

A Minority Youth Population-Weighted Difference-in-differences Estimation Approach

Because difference-in-differences models of Table 24 lack any controls or adjustments, differences among DMC intervention and non-intervention counties could be overdrawn. More rigorous empirical difference-in-differences modeling can help to further isolate the consequences of DMC intervention. One criticism of this basic difference-in-differences approach is that processing outcomes from counties with predominantly white youth populations are accorded equal weight as those from racially diverse jurisdictions. To address this concern, black and Hispanic youth population weights privileging jurisdictions with larger general minority youth populations should be incorporated into the difference-in-differences models. Relatedly, initial difference-in-differences models do not control for relevant factors that correlate with outcome variables. Weighted difference-in-differences models should thus include various sets of control variables.

Table 25 displays minority youth population weighted difference-in-differences

estimates of changes in the number of black and Hispanic youth processed before and after DMC intervention. It presents results for five models. To form baseline estimates, Model I contains no controls. The remaining four models include various sets of covariates. While the constitutive variables of these sets are described in Chapter 5, these sets correspond to 1) conditions related to juvenile delinquency, 2) county punitiveness, 3) racial group representation in arrests and referrals, and 4) average annual characteristics of cases handled within a county. Each model incrementally introduces various sets of control variables with Model V being a saturated model.

As Table 25 exhibits, the inclusion of population weights throws processing differences under DMC intervention into stark relief. Relative to the basic difference-in-differences estimates of Table 24, population weighted difference-in-differences coefficients are markedly larger in magnitude and generally move in the direction that the DMC intervention has alleviated minority overrepresentation. Across all models in Table 25, the numbers of processed black and Hispanic youth plunge for almost every stage after the development of DMC reduction programs. Highly significant differences in the processing trajectories of the non-intervention and DMC intervention county sets do expectedly decline as models become more saturated with controls.

A Fixed County-Year Effects Difference-in-differences Estimation Approach

A limitation of the basic difference-in-differences approach is the inability to fully control for county-specific and year-specific particularities in the treatment of juveniles. Fixed effects regression modeling addresses this problem by treating the values of explanatory variables as non-random quantities and assuming each model's error terms are fixed constants (Angrist & Pischke, 2008). In a juvenile justice context, a fixed county and year effects model presumes youth processing and relevant factors influencing juvenile court operations in a locality are not entirely random over time. Such modeling, however, only permits the inclusion of relevant time-variant control variables. Results for fixed county and year effects difference-in-differences regression models are presented in Table 26. Once again, each model introduces an additional set of controls

culminating in Model V containing all relevant factors. The fixed effects coefficients parallel the basic difference-in-differences estimates of Table 24 in size and direction.

Table 26 generally shows a diminished frequency of African Americans and Hispanics being processed since the introduction of DMC reduction programs. Across all five models, fewer minorities are adjudicated, placed, and securely confined. Recommendations for formal court review appear more resistant to change under DMC intervention. Models IV and V featuring variables measuring the size of arrested and referred minority populations, however, suggest important shifts in petitioning have still transpired. These fuller models demonstrate black and Hispanic youth processing in Pennsylvania has fallen considerably since the development of current DMC interventions.

Summary

This chapter has explored racial disproportion in the Pennsylvania juvenile justice system and the consequences of the Disproportionate Minority Contact (DMC) mandate on minority youth processing. This study submits that DMC intervention has successfully diminished minority overrepresentation in the Pennsylvania juvenile justice system by attenuating the importance of race in decision-making and decreasing the number of minorities handled at various processing stages. Descriptive statistics first confirm disproportionate minority youth processing is a pressing concern in Pennsylvania. Percentages of minority youth moving along the juvenile justice continuum plainly display African American and Hispanic overrepresentation. Racial imbalances in youth processing are most pronounced the more punitive stages of placement and secure confinement. Since the passage of the DMC mandate in 2002, black and Hispanic youth have increasingly constituted greater segments of each processing stage's population. The relative rate at which minority youth advance to subsequent decision stages, though, has somewhat declined. These conclusions inspired further review into whether intervention on behalf of the DMC mandate has altered minority youth processing in Pennsylvania.

More specifically, this study probed whether processing outcomes varied between counties implementing DMC reduction programs and those without intervention.

Three sets of multivariate methods show DMC intervention is redefining minority youth processing Pennsylvania. Continuum logistic regression and bivariate probit models support the present research's first hypothesis that DMC intervention has mitigated the significance race in processing decisions. Findings from these models show race carries tangible disadvantages in juvenile processing, as minority youth are far more likely to have their cases handled at later and more punitive decision-points. The role of race in decision-making is not immutable, however. While often still predictive of more punitive outcomes, minority status has become a less essential consideration in the processing decisions of recent years. Although encouraging decreases in the influence of racial factors are visible for the entire state, such progressive shifts are concentrated in counties implementing DMC reduction programs. This result accords with Leiber et al. (2011)'s conclusion DMC intervention in a single Iowan county can moderate the association between minority status and harsher consequences for processed youth.

Difference-in-differences models aver the second hypothesis that DMC intervention has shrunk the number of black and Hispanic youth handled at all decision-points along the juvenile justice continuum. These reductions endure under population-weighted models and fixed effects models with various controls. State DMC initiatives have thus actualized the DMC mandate's requirement to cut down the disproportionate number of minorities processed in the juvenile justice system. These numeric findings align with Davis and Sorensen (2013)'s determination that national black-white disparities in commitments to secure confinement have declined after the DMC mandate's expansion.

Taken together, DMC intervention has been consequential in accelerating racially egalitarian processing changes. Intervention has accomplished the DMC mandate's overarching goals of subduing racial inequities in juvenile justice at the state-level. Intervention has especially profound impacts for the jurisdictions supporting DMC reductions programs. Pennsylvania's execution of the DMC mandate underscores the policy's strength as a racial disparity reform. Namely, faithful implementation of the

DMC mandate can help to restructure ordinary decision outcomes for individual youths as well as reshape the size and composition of processed youth populations. The implications of the DMC mandate and rigorous implementation of DMC intervention for the future of racial disparity reforms in the U.S. criminal justice system are discussed in Chapter 7.

Limitations of Data and Analyses

The present study has several limitations to keep in mind. First, the de-identified processing data only contain cases referred into the juvenile justice system. This limitation obscures youth processing at the arrest stage. Because research suggests that police arrest and refer minority youth for formal processing at greater rates than similarly-situated white peers, selection bias among gender, class, and racial lines may have occurred before a case reached the juvenile justice system (Bishop, 2005; Fagan et al., 1987; Goldman, 1963; Pope et al., 2002; Thornberry, 1979). Similar racial disproportionalities in discipline may be present among non-police referrals, particularly those from schools (Horner, Fireman, & Wang, 2010; Skiba et al., 2011; U.S. Department of Education, 2014). While the DMC mandate holds juvenile justice bureaucracies rather law enforcement and other youth agencies accountable for reducing minority overrepresentation, the state's development of minority youth and police forums, educational curriculum, and community partnerships signals a commitment to changing youth discipline as part of a comprehensive reform strategy. Whether such intervention has shifted arrest and referral practices remains an important question.

Constraints of the processing data also prevent analysis of minority youth overrepresentation transfers to and from criminal prosecution. While the dataset includes cases judicially waived to criminal court in its referrals ($N = 2,866$ or .5% of all cases), it does not contain cases legislatively excluded from juvenile court review. Under the 1995 Juvenile Act amendments or "Act 33," the Pennsylvania legislature installed a series of exclusion provisions that automatically move certain cases committed by juveniles to

criminal court.⁴¹ Today, a juvenile of at least 15 years of age who is charged with a violent crime or an offense with a deadly weapon can be tried as an adult (Pennsylvania Juvenile Court Judges' Commission, 2008). Under certain circumstances, legislatively excluded juveniles may also submit reverse waivers to have their cases tried in juvenile court. In 1996, decertification occurred for approximately 1/3 legislatively excluded cases in Allegheny, Dauphin, and Philadelphia Counties (Snyder et al., 1999; Jordan and Myers, 2008).⁴²

Transfer waivers could bias empirical results, as these cases sent to and remaining within the adult system disproportionately involve minority children (Fagan, 2008a). Placement and secure confinement stages may be especially impacted given the severity of the allegations associated with these cases. Bias may be a minimal concern, however, as most legislatively excluded cases would have been judicially waived from juvenile court review under pre-1995 reform conditions (H. N. Snyder et al., 1999).⁴³

⁴¹ Before this point, Pennsylvania juvenile courts retained original jurisdiction over all offenses, but murder committed by juveniles.

⁴² In Jordan and Myers' analysis of reverse waivers in Pennsylvania, 144 out of 345 legislatively excluded cases were decertified to juvenile court. While this study confirmed that white youth were overrepresented among successful reverse waivers, race had no significant influence on a youth's likelihood of decertification (2008).

⁴³ Snyder and Sickmund (2000) specifically examine legislative exclusions and judicial waivers three counties between 1995 and 1996. In 1995, these three counties judicially waived 237 juvenile cases to adult court. When legislative exclusions became operative in 1996, judicially waived cases dropped to 157. A total of 473 cases were legislatively excluded and approximately 135 of these cases led to an adult conviction. Snyder and Sickmund use 135 as an estimate since only 109 of these 473 cases led to an adult conviction and many more cases remained open during the publication of their study in 2000. They argue the decline in judicially waived cases (120) nearly equals their projected number of adult convictions (135) from legislatively excluded cases. The primary fault of this study is that Snyder and Sickmund do not provide the adult criminal court conviction rates of judicial waivers. The pair seems to assume that judicial waivers produce more adult convictions than legislative exclusions, but this is never fully explained.

While analyses of processing data attempt to isolate shifts in the treatment of minority youths by controlling for relevant factors, empirical models may not capture changes in important subtleties in juvenile processing associated with race. For instance, quantitative techniques do not show whether DMC intervention has transformed attitudes toward or stereotypes of minority youth that mediate juvenile court decision-making (Kakar, 2006; Rodriguez, Smith, & Zatz, 2009). Furthermore, these models cannot show to what extent cumulative disadvantage in processing may negatively impact minorities handled in intervention counties (Bishop, 2005; Pope & Feyerherm, 1990; Tonry, 2011). While disproportionate minority processing may decrease at an aggregate level, small and additive penalties associated with race may be difficult to eradicate in the processing individuals (Leiber et al., 2011). It becomes important to reassess whether subtler forms of disparity and discrimination persist following DMC intervention (Spohn, 2000; Zatz, 1987).

Finally, processing data and interpretations of the DMC mandate's impacts originate from a single state. Given its administrative structure, policies, and priorities concerning juvenile justice, Pennsylvania is quite exceptional in its compliance with the DMC mandate and other JJDPAs amendments. Pennsylvania may not then reflect the "average" state experience with the DMC mandate. Results from this study may still be generalizable to DMC reduction sites within states or other states heavily invested in racial disparity issues. These findings from Pennsylvania also underscore the potential of an unprecedented racial disparity reform when states take policy implementation seriously.

CHAPTER SEVEN - CONCLUSIONS AND THE FUTURE OF RACIAL DISPARITY REFORM

This dissertation has explored the political development and consequences of policies that attempt to reduce racial inequality in the U.S. adult and juvenile justice system. Recognizing the legacy of politics in creating more racially disparate, retributive crime controls and in recently decreasing criminal justice operations across the country, this dissertation concentrated on understudied political endeavors—symbolic, restrained, failed, and landmark—deliberately aimed at diminishing differences in the treatment of minority groups at various criminal processing stages. By tracing the trajectory of racial disparity reform in the U.S. criminal justice system, this dissertation fills a void in understanding how politics engages with the issue of racial equality in criminal justice and how far the policy correctives enacted by elected officials can go. This concluding chapter will illuminate the implications of this dissertation for scholarly theories of criminal justice policymaking, racial justice advocacy, and public policy.

To recapitulate the dissertation's key findings, Chapter 2 presented a theoretical framework of racial disparity reform. It posited civil rights ideals in American politics and electoral and institutional benefits of responding to social problems prompt elected officials to take action. Politicians design corrective efforts in response to constructed problems of disproportionate impact, discrimination, and disparity. These constructions are based upon whether policymakers see the criminal justice system as inconsistently and illegitimately applying the law (Blumstein et al. 1983). Four types of reform are exploratory, prohibitory, policy-specific, and comprehensive correctives. These policies range in scope from undertaking further study of racial influences and restricting the use of race as a decision-making factor to creating programmatic interventions in criminal processing.

Chapter 3 applied the racial disparity reform framework to explain how U.S. presidents and Congress have responded to racial differences in criminal processing. A qualitative analysis of reform developments in capital punishment, racial profiling, and youth confinement revealed two findings. First, consensus for reform among national

elected officials is forged in light of partisanship, Supreme Court decisions concerning the constitutionality of racial considerations, controversial events, and studies of race in criminal processing. Second, policymakers' portrayals of racial inequality engender varied policy solutions. Reform in capital punishment has primarily been exploratory, as national elected officials have gathered, questioned, and collected again statistical evidence of racial disproportion. Prohibitions against racial profiling were developed as policymakers came to believe in the prevalence of illegitimate, racially-motivated law enforcement practices. Recognition of persistent disparities and discrimination in youth confinement ultimately prompted Congress to develop a compulsory, comprehensive reform reducing disproportionate minority contact with juvenile justice structures.

Chapter 4 tested the racial disparity reform framework by examining racial disparity reforms in the states. The chapter introduced an original database of policies and various corrective measures within these policies enacted by state legislatures and executives between 1998 and 2011. At first glance, reforms do not appear to be concentrated by geography or political ideology across states. Event history analyses uncovered racial disparity reform is a product of ideology and elected officials' responsiveness to racial inequality. Politicians are more likely to promulgate remedial policies when racial disparities in arrests and imprisonment widen and courts do not offer relief. Policy response is more probable with unified Democratic control of the elected branches and a strongly Democratic legislature. These dynamics similarly shape the adoption of different types of racial disparity reform measures within policies.

Chapters 5 and 6 considered whether racial disparity reform can actualize its ends of diminishing racial differences in criminal processing. The national Disproportionate Minority Contact (DMC) mandate of 2002 has been acclaimed by racial justice proponents as a model reform due to its requirement for states to decrease the number of minorities coming into contact with their juvenile justice structures. Comprehensive reform, as captured by the DMC mandate, is also becoming a more popular intervention strategy. Analysis of the policy underscores such political attention is warranted. These chapters determined intervention on behalf of the current DMC mandate has been relatively successful in the Pennsylvania juvenile justice system. Pennsylvania is known

for its racial disparities in juvenile justice as well as its commitments to redressing these problems (Griffith, Jirard, & Ricketts, 2012; Kempf, 1992).

While descriptive statistics showed persistent overrepresentation of minorities throughout the juvenile justice continuum, multivariate statistics revealed important egalitarian changes in minority youth processing. Continuation ratio logistic regression and bivariate probit models demonstrated that race has become less predictive of harsher sanctioning. Being African American and being Hispanic continue to elevate a youth's risk of additional processing. The disadvantaging effect of minority status has still decreased since DMC intervention began. Various specifications of difference-in-differences models further showed great reductions in the size of Pennsylvania's processed minority youth populations. These models consistently indicated statistically significant decreases in determinations of delinquency, out-of-home placements, and commitments to secure facilities as a result of DMC intervention. Declines in petitions for formal court review were much smaller. Because petitioning decisions are largely based upon arrests and charging decisions of police officers and prosecutors who are unaffected by the DMC mandate, it may be more difficult to legally divert youths out of the system at this point. Together, these findings suggest Pennsylvania's DMC reforms like new risk assessment tools, graduated sanctions, and confinement alternatives are effective in diminishing disproportionate minority contact. These results align with Davis and Sorenson (2013)'s and Leiber, Bishop, and Chamblin (2011)'s conclusions that the DMC mandate could produce more racially equal outcomes in juvenile justice.

Implications for Theory

This study's qualitative and quantitative findings concerning racial disparity reform underscore two conclusions for theories of criminal justice policymaking. On the one hand, racial disparity reform as a framework helps to capture a more dynamic state of thinking about race, equality, and criminal justice. Social science scholarship emphasizes the centrality of government in molding notions of race, racial identities, and race

relations in society (Hochschild, Weaver, & Burch, 2012; Omi & Winant, 1994). Tensions between white supremacist and racially egalitarian ideologies define American politics and citizenship in the United States (King & Smith, 2005). The politics of criminal justice is undoubtedly marked by racial influences, typically producing policies that exacerbate racial divisions in American society (Beckett, 1997; Mauer, 1999; Murakawa, 2014; Tonry, 2011). Racial egalitarianism is nonetheless present in criminal justice policymaking (King & Smith, 2011). Although scholars have analyzed prescriptions to racial problems like racial profiling by law enforcement or disproportionate capital sentencing of minorities for decades, no overarching narrative anchors the diverse array of race-targeted and egalitarian reforms emerging since the end of the Civil Rights Era. Racial disparity reform as a framework encourages scholars to see that anti-egalitarian ideologies can produce more retributive, racially disparate crime controls, but racial egalitarian ideologies can potentially resolve unfairness in a system promising equality under the law. It is crucial to accentuate the racially-conscious, progressive elements of crime politics and their manifestation in public policies.

On the other, criminal justice policies are produced by distinct political processes. Scholarship concurs that partisanship and racial fears helped to develop the massive criminal justice system known today (Ewald, 2012; Smith, 2004; Weaver, 2007; Yates & Fording, 2005). The politics of punitiveness does not generalize all criminal justice policymaking, however. Racial disparity reform in national and state politics first highlights a greater receptiveness among elected officials to solve racial problems than previously thought. Politicians are seemingly not immune to growing minority overrepresentation in criminal processing and the importance of government intervention to halt it. But elected officials most frequently design weaker responses. Controversial events and criminological research help to highlight extant racial problems. Importantly, judicial reluctance in redressing racial bias in criminal processing inspires more legislative and executive attempts to ensure equal rights protections. Together more intensive reforms are designed when racial disparities worsen and courts fail to act.

Second, racial disparity reform as a framework suggests an alternative role for partisanship in criminal justice policymaking. Scholarship on punitive reforms cast

Republicans as unwavering in their demands for “law and order,” and Democrats as acquiescing to these cries by participating in get-tough efforts (Murakawa, 2014). Partisan influences in racial disparity reform are different. Democrats, as the traditional champions of racial egalitarianism, are helping to lead a different criminal justice reform movement with a degree of success. In the states, Democratic legislatures and governors are more likely to enact racial disparity reforms. In the federal government, Democrats like the late Senator Kennedy, Representative Conyers, and President Obama have pioneered national reform efforts. Republicans too can come to endorse or adopt landmark correctives, particularly when unresolved race and criminal justice problems are thrust on to the political agenda. By implication, partisan approaches to criminal justice may be more complex when different types of reforms are deliberated.

Implications for Racial Justice Advocacy

Several political implications can be drawn from analyses of racial disparity reform at the national and state levels. Advocacy on behalf of criminally processed minority groups is challenging due to the stigmas, restricted rights, poor resources, limited political access, and other disadvantages these citizens face (Strolovitch, 2008; Travis, 2002). Yet vast inequalities and explosive moments of injustice keep racial problems in criminal justice on the political agenda. To improve chances for success, reform proponents might reflect on prior reform initiatives, turn to the elected branches as more hospitable venues for change, and use racially-conscious arguments to advance their demands.

Racial justice advocates first should carefully consider previous reform efforts. Racial disparity reform in criminal justice is not a new political phenomenon. Looking back, some reform has been possible under seemingly less than favorable political conditions. Congress enacted measures like the Disproportionate Minority Confinement mandate and the GAO study of race and capital punishment at the height of political calls to “get tough” on crime. The Bush administration released an unprecedented ban on

racial profiling after the September 11th attacks. These policies are often criticized for not going far enough. They are flawed because they respond to policymakers' visions of racial inequality as something other than a product of discrimination and disparity. If these policies can be understood as A) non-preferred responses or B) incremental change in criminal justice, racial justice advocates can glean new insight into racial disparity reform politics. With respect to the former understanding, advocates can examine how to frame racial inequality in a way that encourages more comprehensive or stronger policy responses, thus avoiding undesirable, symbolic reforms. With respect to the latter, reformers might also recognize a weak reform might not immediately effectuate change, but it may be a stepping-stone for more intensive steps to solve persistent racial problems.

Additionally, reformers should pursue policy change within the legislative and executive branches. The courts have slowly closed their doors to amending racially disparate criminal justice practices since *McCleskey* (Alexander, 2010; O.C. Johnson, 2007). Although cases like *Texas Department of Housing and Community Affairs v. Inclusive Communities Project, Inc.* (2015), signal a potential willingness of the courts to accept disparate impact claims, new statutes must first be designed to allow for judicial correction in the realm of criminal justice. Only some judicial systems have sought to improve racial fairness through evaluations and interventions of specialized task forces (Neeley, 2008; Norris, 2011). Recent judicial decisions surrounding the tragic deaths of Michael Brown, Trayvon Martin, and Eric Garner among others have raised more questions concerning the courts' ability to deliver racial justice. Minimal and unsatisfactory amends from the courts have affirmed a role for elected officials in addressing rampant racial inequities in the criminal justice system. The findings of this dissertation show elected officials do, in fact, respond with policy after such judicial non-intervention. Recognizing the "hollow hope" of correcting racial injustices in the courts, reformers might then call on elected officials to resolve racial issues in criminal justice.

Finally, racial justice proponents might not rely solely on economic cost arguments, but emphasize racial differences highlighted in events or criminological research. In today's policymaking environment, some contend race-neutral, economic arguments may be persuasive as outlandish fiscal costs affect the taxpaying all (Dagan

and Teles, 2014). Fear rather than fiscal rationality, however, has inspired Americans to spend millions on anti-crime measures. Public willingness to pay for such policies could even resume with a stronger economy or future crime increases. Qualitative evidence suggests controversial events and criminological studies regarding race can help make illegitimacies and inconsistencies in criminal justice into pressing political issues. In championing criminal justice reform, advocates should not be afraid to invoke evidence of troubling racial differences. With such evidence, reform can more strongly appeal to people's self-interests and to their sense of justice (Cole, 2011, p. 46). Such findings enhance the problem frames that racial inequality in criminal processing threatens the nation's assurance of equal justice. These realities also show how racial distinctions disadvantage offenders, but also afflict their children, family members, and law-biding citizens in their neighborhoods. Raising concerns for racial justice can thus move beyond cost-based arguments for changing disparate criminal justice practices.

Implications for Public Policy

The study's assessment of the Disproportionate Minority Contact (DMC) mandate as a racial disparity reform points to two major policy implications. First, a national and comprehensive reform can inspire egalitarian change in state juvenile justice operations. The DMC mandate, like other racial disparity reforms, may have developed as a result of political pressures from a few professional advocacy organizations, federal agency administrators, and other national experts removed from everyday local and state juvenile justice affairs (Tracy, 2002). The policy may also have uneven influence due to differences among states in their capacities or willingness to meet the DMC mandate (Leiber, 2002). Despite its political origins and implementation challenges, this national policy has prompted almost every state to do something about disproportionate minority representation within its juvenile justice system. In an environment where racial inequalities in the juvenile or adult justice systems do not readily garner remedial action, a varying "something" is better than "nothing."

Second, the success of racial disparity reform depends not simply on the convergence of political interests and research (Feyerherm, 1995) but on commitments to the policy's ends (Feeley & Sarat, 1980). Faithful implementation of a measure like the DMC mandate can reshape justice processes. Without multiple, localized, and diverse interventions at various decision-points, unwarranted disparities among processed youth populations would likely persist or proliferate. The DMC mandate's present system-wide focus and enforcement through federal funding sanctions has prodded juvenile justice practitioners to design meaningful processing changes. By successfully diverting more minorities out of the juvenile justice system at every decision-point after arrest and reducing the penalty of minority status in individual decision-making, practitioners have taken a great stride in accomplishing the more arduous task of eradicating racial inequality in juvenile justice. In this regard, the DMC mandate as a mandatory and system-wide measure deserves to be deemed a new paradigm for advancing racial equality through public policy (O.C. Johnson, 2007). By implication, tying compliance with racial disparity reforms to funding may compel other criminal justice bureaucracies (e.g. law enforcement agencies) to redesign their decision-making processes based on local findings of racial difference. Supplemental initiatives to educate and reorient court officials unaffected by funding incentives (e.g. prosecutors) toward evidence-based practices can further augment system-change.

Future Research

This dissertation has examined political attempts to mitigate racial inequalities in the U.S. criminal system by focusing on the political development of reforms and the effects of policy on justice processing. The study highlights several avenues for future research on race, criminal justice, and politics. At the writing of this dissertation, racial issues in criminal justice erupted in American society, seizing the attention of the public and prompting immediate responses by policymakers. Protests and mass demonstrations following the acquittal of George Zimmerman in the Trayvon Martin case, the shooting

of Michael Brown in Ferguson, Missouri, and the death of Freddie Gray as a result of injuries during his arrest by Baltimore Police Department officers among other troubling events have blared demands for racial justice. Two research questions arise from these mass demonstrations against racial inequities. Can a “racial justice” consensus develop among the public? Polling evidence suggests the public can believe in the excess and brutality of the criminal justice system, but large partisan, ideological, and racial divisions exist over the treatment of minorities by criminal justice officials (Pew Research Center, 2013, 2014, 2015)? Even if divisive, does mass mobilization affect the policy decisions of elected officials and/or criminal justice officials regarding race and criminal justice practices? Examining contemporary public opinion and mass mobilization for racial justice is crucial, as similar forces gave rise to law and order politics that left an enduring mark on criminal justice policymaking.

Discontents with extant criminal justice policies among elected officials have recently become clear as well. Policymakers have done more to scale back criminal processing during the last five years than at any other point in history (Savage & Goode, 2013). Elected officials of various backgrounds are now seeking to formulate new criminal justice policies, including racial disparity reforms. The Bipartisan Summit on Criminal Justice Reform featuring former House Speaker Newt Gingrich, Senator Cory Booker, and Attorney General Eric Holder represents a major stand by lawmakers to resolve the problems of the American legal system. Future research might explore the ways in which policymakers sign on to criminal justice reform. For instance, how might diverse interest groups united in their calls for reform, such as the Center for American Progress and Koch Industries, influence elected officials to fix a broken a criminal justice system (Hulse, 2015)? This question is especially important for racial disparity reform, as elected officials may react differently to different frames of racial inequality and the two major parties may be polarized on issues of race and criminal justice.

The major public policy challenge of effectively promoting more racial equality in the criminal justice system also remains. A priority for future research is to distinguish promising policies and practices for change. Social science literature on race and criminal justice has primarily focused on the failure, if not willful inaction, of policymakers to

promulgate any meaningful correctives to extant disparities. Nevertheless, elected officials are increasingly looking to experts and scholars to provide policy answers. From the recommendations of the Obama Administration's Task Force on 21st Century Policing to mandatory evaluations of state disproportionate minority contact reform activities, research has a vital role in shaping criminal justice policy at this time of uncertainty. As new reforms are introduced, future research should attempt to isolate the impacts of specific policy interventions in the name of promoting more racially fair criminal processing. For instance, are policy revisions to drug laws as impactful on racial disproportionalities as amendments to violent crime laws? Such studies should take care in tracing policy implementation in hopes that the conditions promoting success (or failure) can be replicated (or avoided).

Looking ahead, complete abolition of racial inequalities in adult and juvenile justice processing will require great reenvisioning of American sentencing and imprisonment practices. Yet exploration of previous racial disparity reforms in U.S. national and state politics shows elected officials can still institute social change. Soss, Fording, and Schram (2011) observe, "racial disparities do not flow directly from social structures. They depend ultimately on what specific human agents decide and do in the process of governing," (p. 14). Racial disparity reform involves engagement in the politics of criminal justice, yet resultant policies can be key to changing the nature of American criminal processing.

TABLES AND FIGURES

Table 1: Policymakers' Characterizations of Racial Inequality in the Criminal Justice System in Terms of Consistency and Legitimacy⁴⁴

	Application of Law and Criminal Justice Policies	
Legitimacy of Criteria in Decision to Apply Law or Criminal Justice Policies	Consistent	Inconsistent
Legitimate	Procedurally Just, Disproportionate Impact ⁴⁵ (I)	Disparity (II)
Illegitimate	Discrimination (III)	Disparity and Discrimination (VI)

⁴⁴ This framework represents an adaptation and expansion of the Blumstein et al. (1983)'s portrayal of sentencing decisions in the U.S. criminal justice system.

⁴⁵ A procedurally just system may or may not express issues with disproportionate impact of a law on certain populations. Disproportionate effects are assumed to occur as a result of discrimination and/or disparity in Quadrants II-IV.

Table 2: Types of Racial Disparity Reform Responding to Racial Inequality in the Criminal Justice System

	Application of Law and Criminal Justice Policies	
Legitimacy of Criteria in Decision to Apply Law or Criminal Justice Policies	Consistent	Inconsistent
Legitimate	Exploratory (I)	Policy-Specific (II)
Illegitimate	Prohibitory (III)	Comprehensive (IV)

All Racial Disparity Reform Policies (1998-2011)

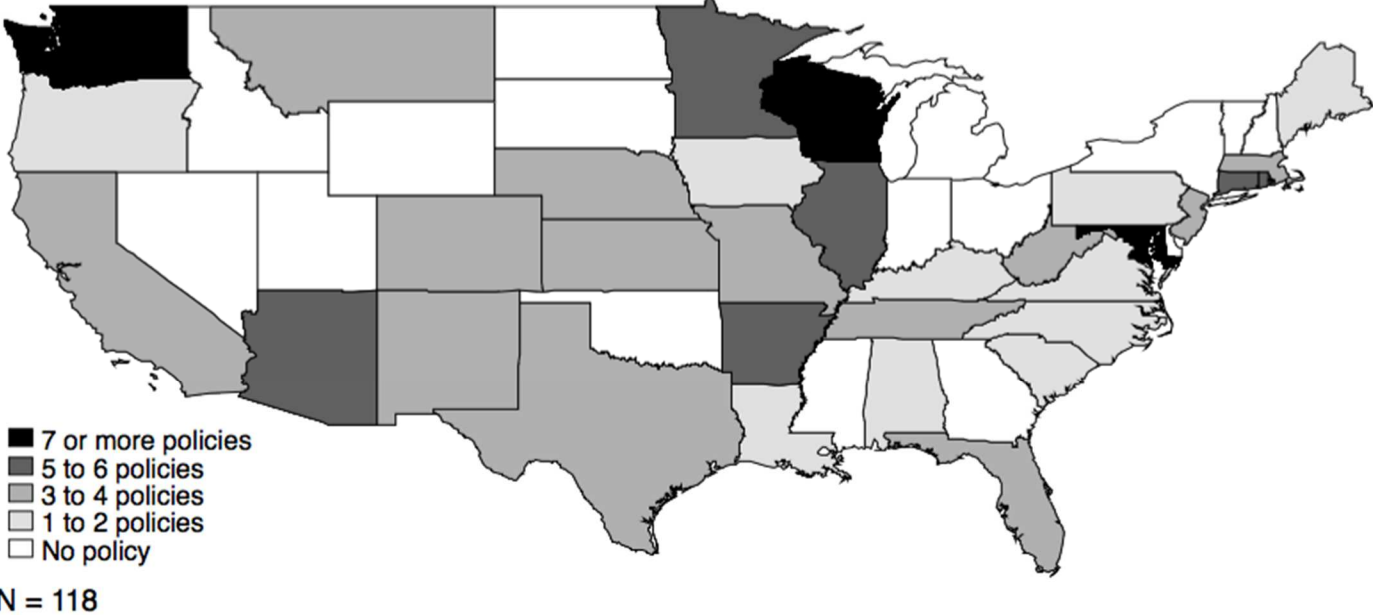


Figure 1: Number of Racial Disparity Reform Policies Enacted by State Elected Officials (1998-2011). This figure displays the number of racial disparity reform policies established by state legislatures or executives between 1998 and 2011. Not pictured: Alaska and Hawaii with zero policies.

Types of Racial Disparity Reform Measures (1998-2011)

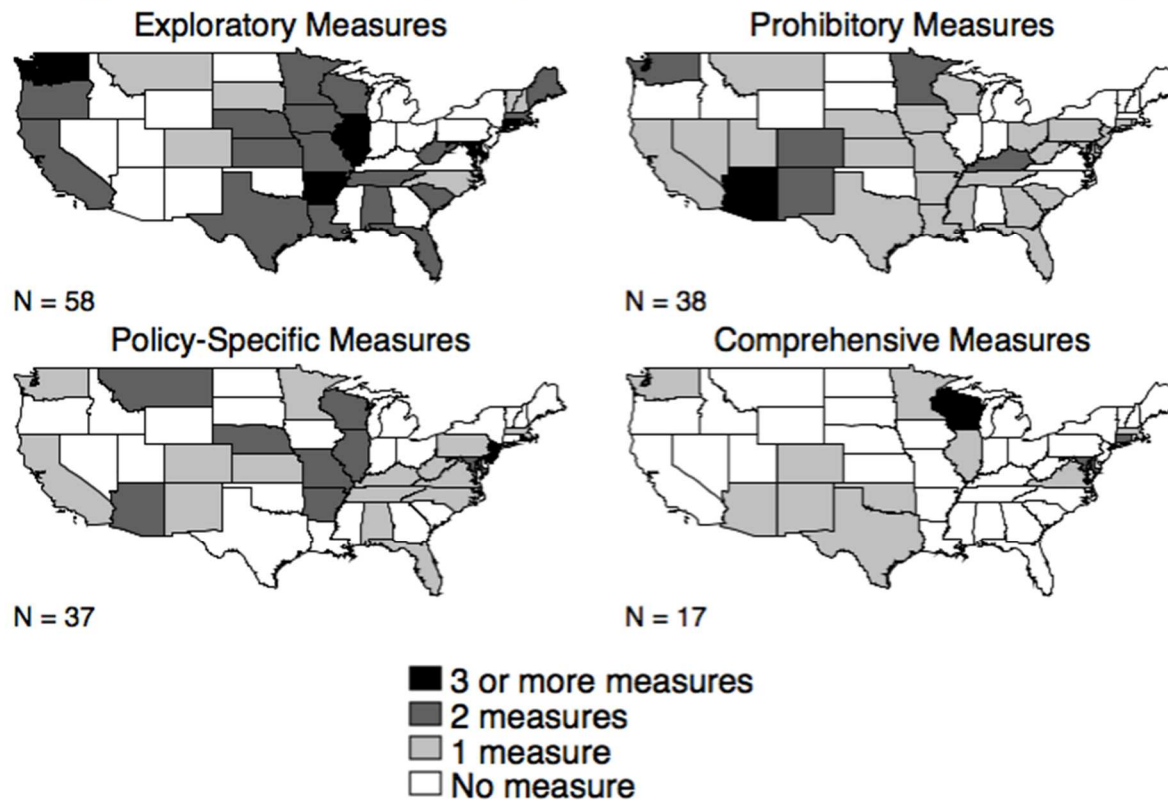


Figure 2: Number and Types of Racial Disparity Reform Measures Enacted by State Elected Officials (1998-2011). This figure presents the number of exploratory, prohibitory, policy-specific, and comprehensive measures in racial disparity reform policies created by state legislatures and executives between 1998 and 2011. Not pictured: Alaska or Hawaii with zero measures.

Table 3: Summary Statistics for All Variables Predicting State Racial Disparity Reform Policy and Measure Enactments (1998-2011)

Variable	Observations (State-Years)	Mean	Standard Error
Dependent Variables			
Policies Enacted	700	1.80	0.08
Exploratory Measures Enacted	700	0.69	0.04
Prohibitory Measures Enacted	700	0.50	0.02
Policy-Specific Measures Enacted	700	0.44	0.03
Comprehensive Measures Enacted	700	0.11	0.01
Explanatory Variables			
Unified Democratic Control (0 'no unified control of executive and legislature by Democrats' ; 1 'unified control by Democrats')	686	0.21	0.02
Change in Percent Democrat in Legislature	686	0.04	0.33
Democratic Governor (0 'Non-major party or Republican'; 1 'Democrat';)	700	0.45	0.02
Black-White Incarceration Disparity	700	6.25	0.11
Black-White Arrest Disparity	695	2.37	0.06
Judicial Racial Disparity Reform Efforts (0 'none'; 0 'ongoing')	700	0.19	0.01
Log Citizen Ideology (One year lag)	700	3.89	0.34
Percent Poverty	700	12.53	0.12
Unemployment Rate	700	5.73	0.08
Percent Black	700	0.1	0.03
Log Crime Rate	700	8.37	0.01
Incarceration Rate	700	0.36	0.01

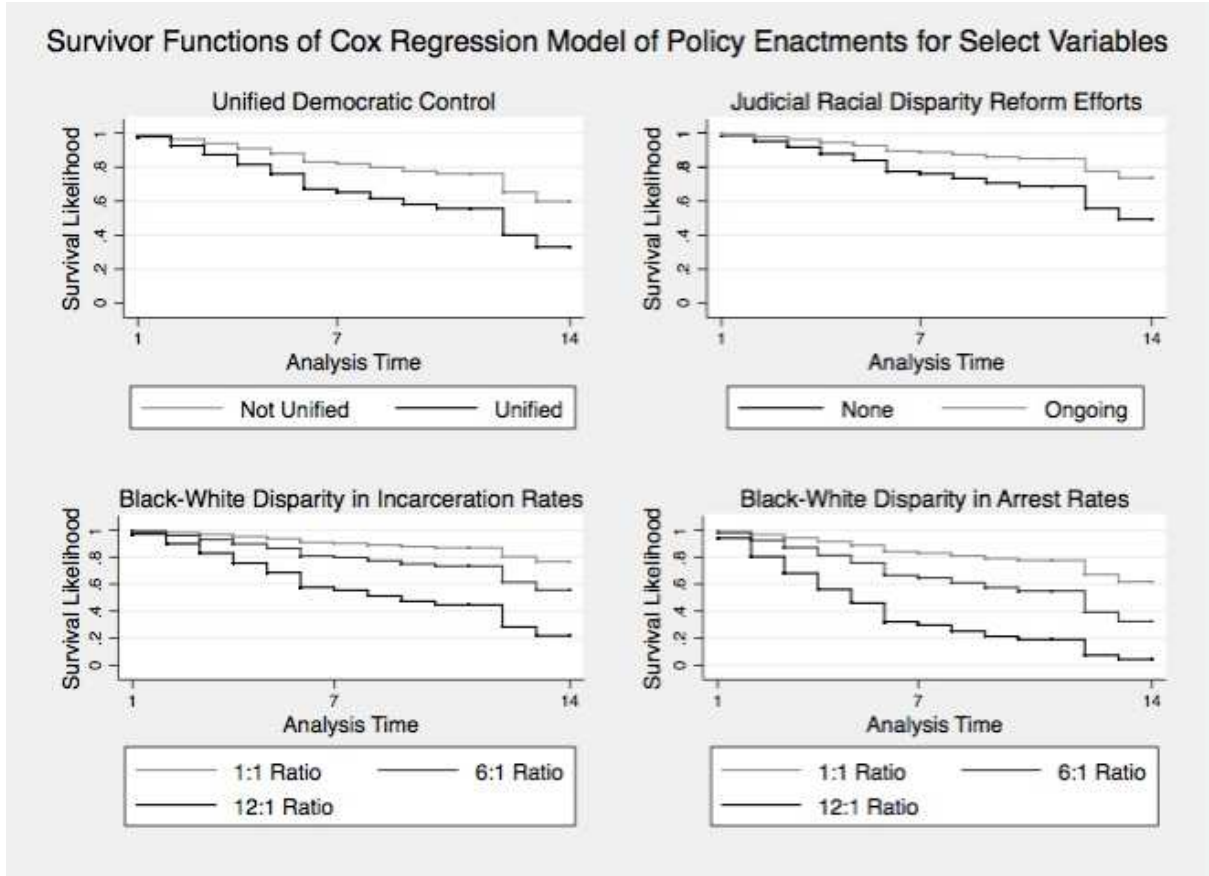


Figure 3: Plots of Survivor Functions of Cox Regression Model of Racial Disparity Reform Policy Enactments in States for Selected Variables. These plots show the associated survival functions for enacting a racial disparity reform policy for the variables of unified Democratic control, judicial racial disparity reform efforts, black-white disparity in incarceration rates, and black-white disparity in arrest rates at the mean of all other predictors. These variables show reform is more likely when Democrats control the executive and legislature, judiciaries do not introduce their own reforms, and racial disproportionalities in criminal processing increase.

Table 4: Event History Analysis of Factors Affecting the Likelihood of Racial Disparity Reform in States (1998-2011)

Variable	Enacted Policies		Enacted Measures			
	I. First Policy	II. All Policies	III. Exploratory Measures	IV. Prohibitory Measures	V. Policy-Specific Measures	VI. Comprehensive Measures
Unified Democratic Control	2.25	2.21**	4.36***	0.99	1.13	1.38
Change in Percent Democrat in Legislature	1.26	0.83	2.05	0.51	0.62	1.25
Democratic Governor	1.01	1.01*	1.00	1.02*	1.01	1.03
	(0.01)	(0.01)	0.01	(0.01)	(0.01)	(0.02)
Black-White Disparity in Incarceration Rates	1.41	1.04	1.03	1.02	1.11	2.01
	(0.57)	(0.29)	0.61	(0.43)	(0.59)	(1.44)
Black-White Disparity in Arrests Rates	1.22***	1.17***	1.10	1.24***	1.17**	1.19*
	(0.09)	(0.06)	0.10	(0.08)	(0.08)	(0.12)
Judicial Racial Disparity Reform Efforts	1.40**	1.15**	1.10	1.32**	1.09	0.85
	(0.22)	(0.07)	(0.08)	(0.15)	(0.12)	(0.26)
Log Citizen Ideology (One year lag)	0.10***	0.33**	0.48	0.33	0.25**	0.28*
	(0.06)	(0.14)	(0.41)	(0.24)	(0.16)	(0.20)
Percent Black	1.06	0.95	0.68	1.10	1.17	4.54**
	(0.60)	(0.28)	(0.38)	(0.56)	(0.58)	(3.07)
Percent Poverty	1.08***	1.02	1.00	1.01	1.04	1.05
	(0.02)	(0.03)	(0.03)	(0.03)	(0.03)	(0.07)
Unemployment Rate	0.86***	0.93	0.89	0.97	0.9	0.85
	(0.05)	(0.05)	(0.06)	(0.07)	(0.08)	(0.12)
Log Crime Rate	0.97	1.08**	1	1.04	1.13	0.97
	(0.07)	(0.04)	(0.08)	(0.09)	(0.10)	(0.10)
Incarceration Rate	33.90***	4.31***	3.53	14.43***	2.69	2.43
	(31.22)	(2.28)	(2.94)	(13.04)	(2.75)	(3.95)
Log Pseudo-likelihood	1.74	0.9	2.21	0.48	0.06	1.54
N	(3.43)	(1.02)	(4.38)	(0.66)	(0.11)	(4.21)
	-170.63	-379.32	-166.30	-151.03	-133.34	-46.98
	300	680	680	680	680	680

Notes: Hazard ratios are presented for repeatable event Cox regression models. * p<0.10, ** p<0.05, *** p<0.01

Table 5: Race of Juveniles Arrested in Pennsylvania, 1997-2011

	<i>Black</i>	<i>Other</i>	<i>White</i>	<i>N</i>
<i>Average % Population*</i>	13.6%	2.5%	77.9%	
<i>Arrest % Year**</i>				
1997	35.4%	1.0%	63.6%	91,011
1998	30.3%	0.4%	69.4%	119,911
1999	31.0%	0.3%	68.6%	98,388
2000	28.8%	0.6%	70.6%	118,567
2001	31.3%	0.8%	68.0%	114,910
2002	33.6%	0.8%	65.6%	118,480
2003	36.2%	0.7%	63.1%	116,848
2004	37.7%	0.6%	61.5%	122,398
2005	41.5%	0.7%	57.7%	117,768
2006	41.7%	0.6%	57.6%	125,959
2007	40.4%	0.6%	58.9%	119,407
2008	40.5%	0.6%	58.7%	115,432
2009	40.7%	0.6%	58.7%	102,051
2010	41.8%	0.7%	57.5%	95,191
2011	40.3%	0.8%	58.9%	83,363
<i>Average Arrest %</i>	36.7%	0.7%	62.6%	

* Puzzanchera, Charles, Anthony Sladky and Wei Kang. (2013). "Easy Access to Juvenile Populations: 1990-2012." Online. Available: <http://www.ojjdp.gov/ojstatbb/ezapop/>

** Federal Bureau of Investigation. (1997-2011). Uniform Crime Reporting Program Data [United States]: Arrests by Age, Sex, and Race, Summarized Yearly, 1997-2011. Washington, DC: FBI.

Note: Percentages may not add up to 100 due to rounding error.

Table 6: Race of Juveniles Referred to the Pennsylvania Juvenile Justice System, 1997-2011

	<i>Black</i>	<i>Hispanic</i>	<i>Other</i>	<i>White</i>	<i>N</i>
<i>Average % Population*</i>	13.6%	6.0%	2.5%	77.9%	
<i>Referral % Year**</i>					
1997	31.2%	5.5%	0.7%	56.8%	38,449
1998	29.9%	5.1%	0.8%	60.3%	41,841
1999	30.8%	5.6%	1.1%	58.7%	42,865
2000	32.4%	6.4%	1.1%	55.9%	44,007
2001	33.8%	6.9%	1.1%	53.6%	44,432
2002	31.4%	6.2%	1.0%	56.6%	41,304
2003	34.3%	6.0%	0.8%	51.7%	42,561
2004	37.2%	8.0%	0.8%	52.5%	43,530
2005	37.0%	10.0%	0.7%	51.3%	46,893
2006	39.9%	9.7%	0.6%	49.3%	43,939
2007	39.4%	9.9%	1.1%	48.8%	45,571
2008	39.8%	9.7%	2.0%	47.6%	43,752
2009	41.9%	10.3%	1.9%	44.7%	41,560
2010	39.4%	11.0%	2.2%	45.9%	37,340
2011	38.0%	12.8%	2.8%	45.2%	33,586
<i>Average Referral %</i>	35.8%	8.2%	1.3%	51.9%	

* Puzzanchera, Charles, Anthony Sladky and Wei Kang. (2013). "Easy Access to Juvenile Populations: 1990-2012." Online. Available:

<http://www.ojjdp.gov/ojstatbb/ezapop/>

** Center for Juvenile Justice Training and Research. (1997-2011). Juvenile Processing Data. Harrisburg, PA: CJJT&R; Juvenile Court Judges Commission.

Note: Percentages may not add up to 100 due to rounding error.

Table 7: Race of Juveniles Petitioned in the Pennsylvania Juvenile Justice System, 1997-2011

	<i>Black</i>	<i>Hispanic</i>	<i>Other</i>	<i>White</i>	<i>N</i>
<i>Average % Population*</i>	13.6%	6.0%	2.5%	77.9%	
<i>Petitioned % Year**</i>					
1997	39.3%	6.7%	0.9%	53.2%	16,861
1998	36.8%	5.8%	1.0%	56.3%	18,930
1999	38.3%	6.7%	1.2%	53.8%	19,878
2000	39.5%	8.0%	1.3%	51.3%	20,566
2001	39.7%	8.1%	1.2%	51.1%	19,784
2002	36.1%	7.4%	1.1%	55.5%	20,147
2003	42.0%	7.3%	1.0%	49.7%	20,432
2004	42.5%	8.1%	0.9%	48.5%	21,379
2005	42.3%	9.1%	0.7%	47.8%	21,940
2006	44.6%	9.0%	0.6%	45.8%	21,173
2007	43.8%	9.7%	1.1%	45.2%	22,395
2008	44.5%	9.5%	1.9%	43.8%	21,294
2009	46.8%	9.4%	2.0%	41.5%	19,566
2010	45.1%	9.8%	2.2%	42.7%	17,202
2011	45.4%	11.1%	2.9%	40.2%	15,179
<i>Average Petition %</i>	41.8%	8.4%	1.3%	48.4%	

* Puzzanchera, Charles, Anthony Sladky and Wei Kang. (2013). "Easy Access to Juvenile Populations: 1990-2012." Online. Available: <http://www.ojjdp.gov/ojstatbb/ezapop/>

** Center for Juvenile Justice Training and Research. (1997-2011). Juvenile Processing Data. Harrisburg, PA: CJJT&R; Juvenile Court Judges Commission.

Note: Percentages may not add up to 100 due to rounding error.

Table 8: Race of Juveniles Adjudicated Delinquent in the Pennsylvania Juvenile Justice System, 1997-2011

	<i>Black</i>	<i>Hispanic</i>	<i>Other</i>	<i>White</i>	<i>N</i>
<i>Average % Population*</i>	13.6%	6.0%	2.5%	77.9%	
<i>Adjudicated % Year**</i>					
1997	37.6%	7.1%	0.8%	51.3%	15,205
1998	34.4%	6.8%	0.8%	56.0%	14,988
1999	34.9%	7.6%	1.3%	53.9%	15,592
2000	35.8%	8.6%	1.3%	51.9%	16,081
2001	37.3%	9.1%	1.1%	49.7%	16,660
2002	33.7%	8.3%	1.0%	54.2%	14,692
2003	39.1%	7.7%	0.9%	48.0%	16,596
2004	36.4%	9.1%	0.8%	53.6%	14,009
2005	37.5%	10.6%	0.7%	51.2%	14,205
2006	39.9%	10.3%	0.6%	49.2%	14,179
2007	39.7%	10.4%	0.9%	48.9%	13,663
2008	40.5%	10.3%	2.1%	47.1%	13,783
2009	43.7%	9.4%	1.9%	44.9%	12,867
2010	42.8%	10.7%	2.4%	44.2%	11,136
2011	43.2%	12.7%	2.7%	41.4%	9,847
<i>Average Adjudication %</i>	38.4%	9.2%	1.3%	49.7%	

* Puzzanchera, Charles, Anthony Sladky and Wei Kang. (2013). "Easy Access to Juvenile Populations: 1990-2012." Online. Available:

<http://www.ojjdp.gov/ojstatbb/ezapop/>

** Center for Juvenile Justice Training and Research. (1997-2011). Juvenile Processing Data. Harrisburg, PA: CJJT&R; Juvenile Court Judges Commission.

Note: Percentages may not add up to 100 due to rounding error.

Table 9: Race of Delinquent Juveniles Disposed to Placement in the Pennsylvania Juvenile Justice System, 1997-2011

	<i>Black</i>	<i>Hispanic</i>	<i>Other</i>	<i>White</i>	<i>N</i>
<i>Average % Population*</i>	13.6%	6.0%	2.5%	77.9%	
<i>Placed % Year**</i>					
1997	42.2%	9.2%	0.9%	45.6%	3,894
1998	40.0%	8.7%	0.9%	49.1%	4,053
1999	40.0%	9.8%	1.0%	48.0%	4,388
2000	39.3%	10.4%	0.9%	47.4%	4,287
2001	40.3%	10.3%	0.9%	46.6%	4,208
2002	37.8%	9.6%	0.7%	49.8%	3,990
2003	46.8%	8.7%	1.0%	40.6%	5,573
2004	37.9%	10.2%	0.8%	51.0%	3,348
2005	40.1%	10.8%	0.8%	48.3%	3,424
2006	42.0%	11.4%	0.4%	46.3%	3,623
2007	40.1%	13.2%	0.8%	45.8%	3,361
2008	40.0%	12.5%	2.6%	44.8%	3,262
2009	44.9%	10.0%	2.2%	42.8%	2,697
2010	42.9%	12.6%	2.7%	41.8%	2,467
2011	44.9%	13.2%	3.3%	38.6%	2,301
<i>Average Placement %</i>	41.3%	10.7%	1.3%	45.8%	

* Puzzanchera, Charles, Anthony Sladky and Wei Kang. (2013). "Easy Access to Juvenile Populations: 1990-2012." Online. Available: <http://www.ojjdp.gov/ojstatbb/ezapop/>

** Center for Juvenile Justice Training and Research. (1997-2011). Juvenile Processing Data. Harrisburg, PA: CJJT&R; Juvenile Court Judges Commission.

Note: Percentages may not add up to 100 due to rounding error.

Table 10: Race of Delinquent Juveniles Disposed to Secure Confinement in the Pennsylvania Juvenile Justice System, 1997-2011

	<i>Black</i>	<i>Hispanic</i>	<i>Other</i>	<i>White</i>	<i>N</i>
<i>Average % Population*</i>	13.6%	6.0%	2.5%	77.9%	
<i>Securely Confined% Year**</i>					
1997	58.0%	16.4%	0.8%	22.9%	262
1998	48.8%	14.0%	0.0%	35.8%	293
1999	47.4%	16.8%	0.0%	34.9%	304
2000	43.3%	15.3%	0.7%	38.8%	307
2001	41.4%	16.7%	0.0%	40.5%	348
2002	41.3%	16.5%	0.3%	40.4%	334
2003	48.1%	11.2%	1.4%	36.4%	418
2004	38.6%	14.1%	0.4%	47.0%	249
2005	50.0%	11.0%	0.0%	39.0%	236
2006	45.3%	13.2%	0.3%	41.1%	287
2007	42.1%	18.5%	0.7%	38.7%	271
2008	50.7%	16.7%	1.4%	31.3%	288
2009	56.9%	11.5%	2.3%	29.4%	262
2010	53.9%	16.8%	1.7%	27.6%	232
2011	49.8%	16.3%	3.3%	30.6%	209
<i>Average Secure Confinement %</i>	47.7%	15.0%	0.9%	35.6%	

* Puzzanchera, Charles, Anthony Sladky and Wei Kang. (2013). "Easy Access to Juvenile Populations: 1990-2012." Online. Available: <http://www.ojjdp.gov/ojstatbb/ezapop/>

** Center for Juvenile Justice Training and Research. (1997-2011). Juvenile Processing Data. Harrisburg, PA: CJJT&R; Juvenile Court Judges Commission.

Note: Percentages may not add up to 100 due to rounding error.

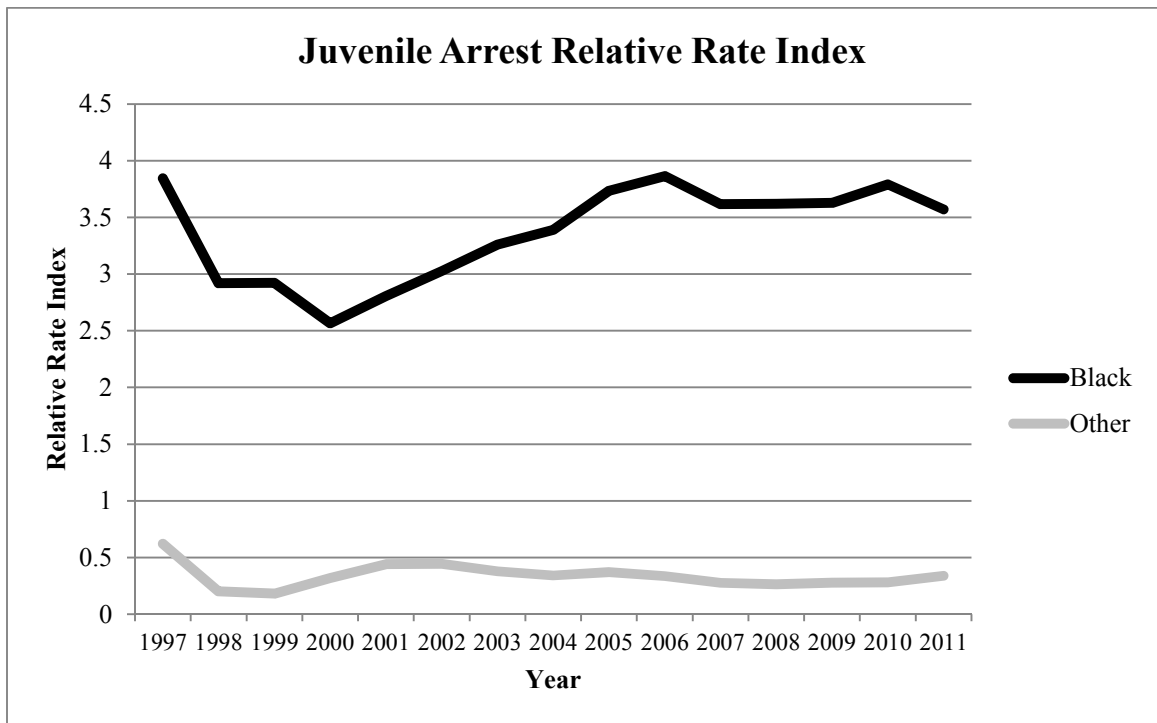


Figure 4: Statewide Juvenile Arrest Relative Rate Index for Pennsylvania, 1997-2011. This index compares arrests per 1,000 10-17 year old general population of black and other youth to the arrest rate of white youth.

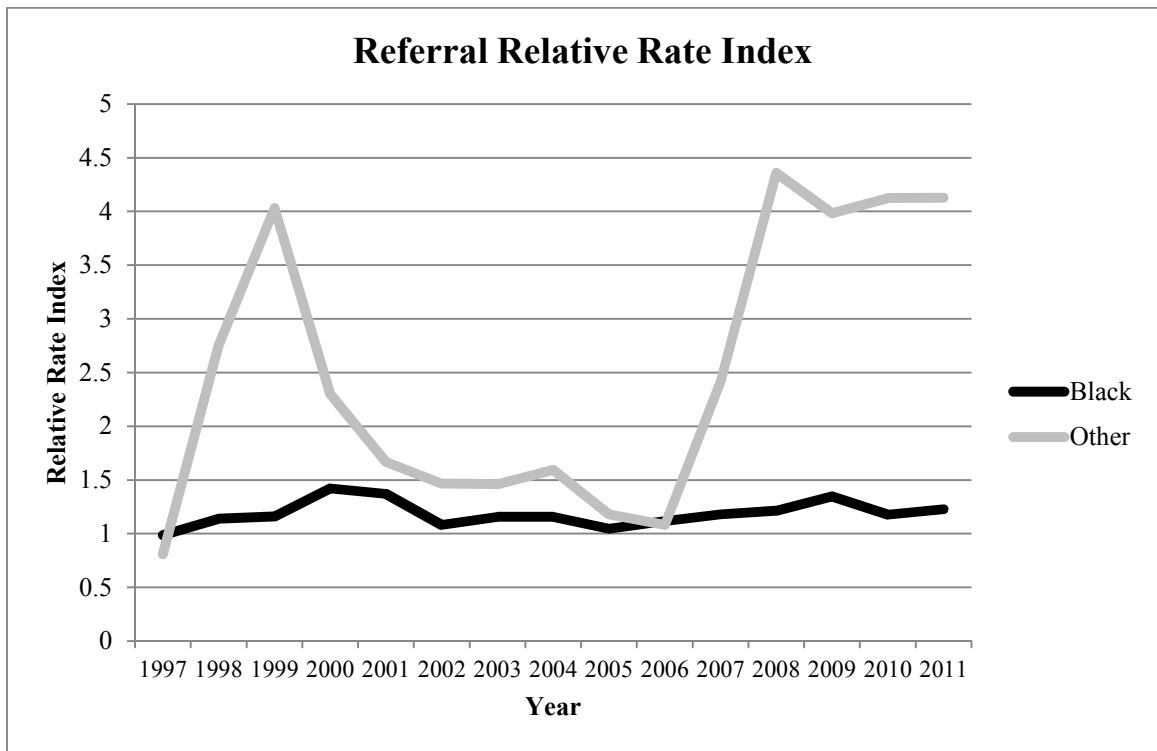


Figure 5: Statewide Referral to Juvenile Court Relative Rate Index for Pennsylvania, 1997-2011. This index compares referrals per 100 arrests of black and other youth to the referral rate of white youth.

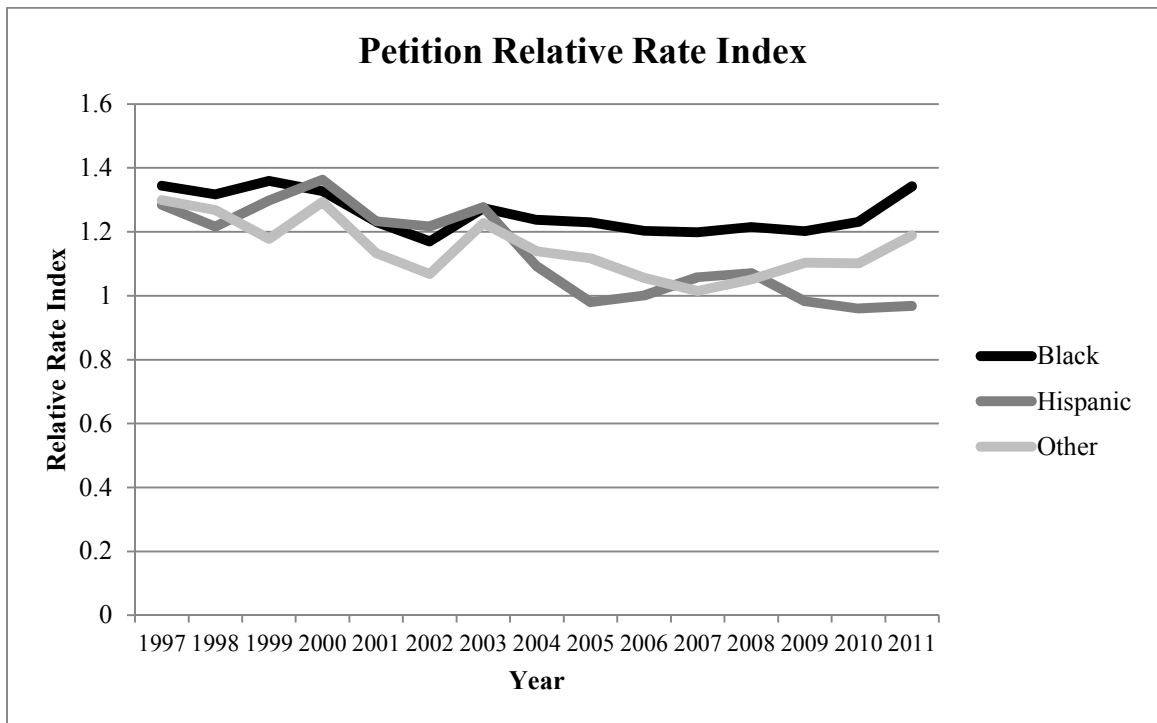


Figure 6: Statewide Petition Relative Rate Index for Pennsylvania, 1997-2011. This index compares petitioned cases per 100 referrals of black, Hispanic, and other youth to the petition rate of white youth.

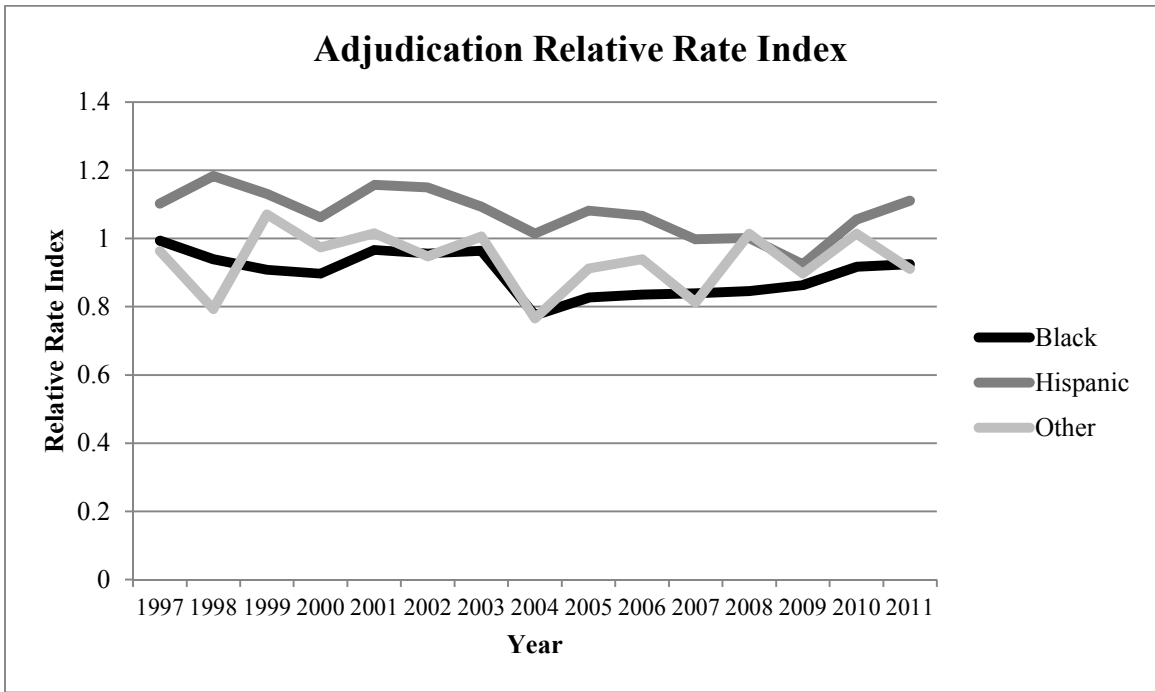


Figure 7: Statewide Adjudication Relative Rate Index for Pennsylvania, 1997-2011. This index compares cases resulting in delinquent findings per 100 petitions of black, Hispanic, and other youth to the adjudication rate of white youth.

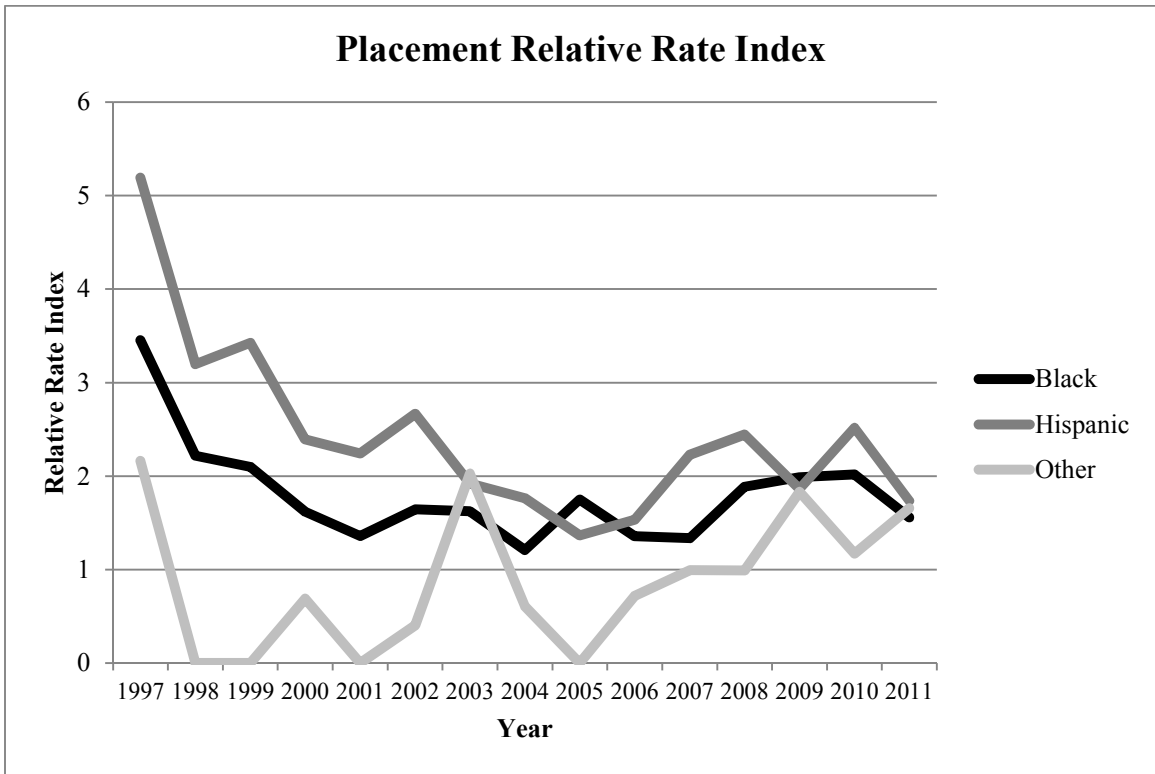


Figure 8: Statewide Placement Relative Rate Index for Pennsylvania, 1997-2011. This index compares cases disposed to placement per 100 cases with findings of delinquency for black, Hispanic, and other youth to the placement rate of white youth.

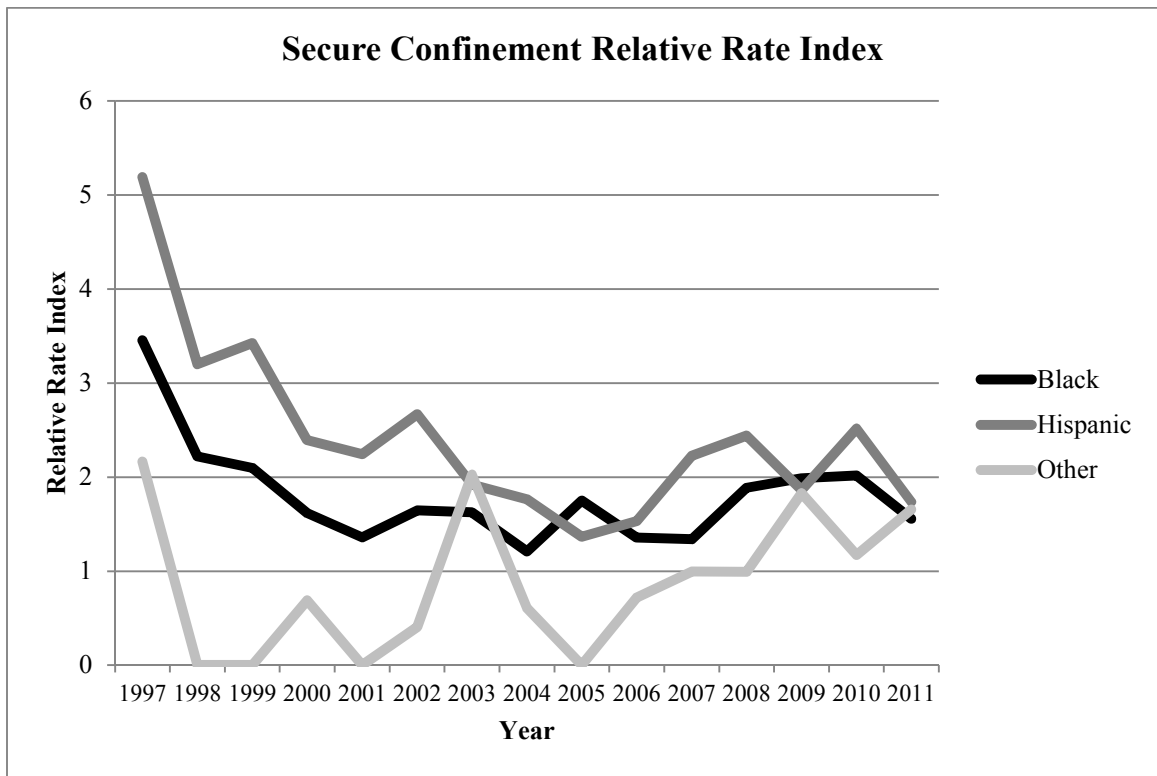


Figure 9: Statewide Secure Confinement Relative Rate Index for Pennsylvania, 1997-2011. This index compares cases of delinquency disposed to secure confinement per 100 cases with findings of delinquency for black, Hispanic, and other youth to the adjudication rate of white youth.

Table 11: Racial Composition of Youth Moving through Juvenile Justice Systems in Pennsylvania's DMC Intervention Counties 1997-2011

County	Racial Group	Average General Youth Composition	Initial Composition	Change in Composition*			
				Referral	Petition	Adjudication	Placement
<i>Allegheny</i>	Black	19.0%	59.2%	2.6%	7.1%	12.3%	18.4%
	Hispanic	1.4%	0.4%	0.0%	-0.1%	-0.1%	-0.4%
	White	77.6%	38.6%	-1.6%	-3.2%	-8.2%	-17.1%
	Other	2.0%	0.9%	-0.1%	-0.1%	-0.2%	-0.6%
	N	124,213	62,397	45,777	20,185	5,266	358
<i>Berks</i>	Black	5.5%	14.9%	1.4%	2.9%	5.8%	10.0%
	Hispanic	18.7%	39.1%	-1.7%	4.1%	8.6%	16.6%
	White	72.4%	44.3%	1.1%	-5.8%	-13.1%	-24.9%
	Other	1.4%	0.9%	-0.4%	-0.5%	-0.6%	-0.9%
	N	44,561	21,693	11,275	5,644	2,195	201
<i>Dauphin</i>	Black	24.2%	56.9%	-0.3%	5.9%	12.0%	20.7%
	Hispanic	7.6%	8.9%	-0.1%	0.7%	0.6%	8.3%
	White	65.4%	32.6%	0.4%	-6.5%	-6.1%	-20.0%
	Other	2.8%	1.3%	0.1%	0.0%	0.1%	0.2%
	N	28,851	21,373	15,962	7,844	2,360	277
<i>Lancaster</i>	Black	4.1%	13.0%	-1.2%	1.0%	5.7%	14.4%
	Hispanic	9.9%	17.4%	-3.0%	-0.1%	0.5%	6.3%
	White	83.8%	40.4%	-5.2%	0.8%	-9.0%	-0.2%
	Other	2.1%	1.1%	-0.3%	-0.2%	-0.5%	-0.8%
	N	58,437	21,025	11,494	9,535	1,835	299
<i>Philadelphia</i>	Black	54.3%	73.7%	0.6%	-0.5%	0.0%	4.1%
	Hispanic	13.9%	11.1%	0.0%	0.8%	1.5%	1.7%
	White	26.7%	13.0%	0.1%	0.0%	-0.8%	-5.0%
	Other	5.1%	1.5%	0.0%	0.1%	0.2%	-1.5%
	N	16,6691	120,931	100,890	39,663	10,688	751
<i>All Counties</i>	Black	29.8%	58.7%	4.1%	1.8%	4.5%	5.4%
	Hispanic	9.8%	11.7%	-1.1%	0.6%	2.2%	5.6%
	White	57.0%	27.4%	-2.1%	-1.9%	-6.1%	-9.9%
	Other	3.2%	1.3%	0.0%	-0.1%	-0.1%	-0.5%
	N	422,753	247,419	185,398	82,871	22,344	1,886

* Change in composition figures may not add up to zero due to rounding and missing data.

Table 12: Racial Composition of Youth Moving through Juvenile Court Systems in Pennsylvania, DMC Intervention Counties, and Non-Intervention Counties, 1997-2011

<i>County</i>	<i>Racial Group</i>	<i>Average General Youth Composition</i>	<i>Initial Composition</i>	<i>Change in Composition*</i>			
				Referral	Petition	Adjudication	Placement
<i>DMC Intervention Counties</i>							
	Black	29.8%	58.7%	4.1%	1.8%	4.5%	5.4%
	Hispanic	9.8%	11.7%	-1.1%	0.6%	2.2%	5.6%
	White	57.0%	27.4%	-2.1%	-1.9%	-6.1%	-9.9%
	Other	3.2%	1.3%	0.0%	-0.1%	-0.1%	-0.5%
	N	422,753	247,419	185,398	82,871	22,344	1,886
<i>Non-Intervention Counties</i>							
	Black	4.5%	21.0%	2.4%	2.9%	5.2%	9.1%
	Hispanic	3.4%	5.8%	0.5%	1.2%	2.3%	5.6%
	White	90.6%	67.8%	1.0%	-2.3%	-4.9%	-23.7%
	Other	1.9%	1.2%	0.1%	0.0%	1.0%	-0.4%
	N	763,914	384,213	212,560	130,632	32,532	2,750
<i>All Counties</i>							
	Black	13.5%	35.8%	5.9%	2.4%	5.5%	11.6%
	Hispanic	5.6%	8.2%	0.2%	0.0%	2.3%	6.8%
	White	78.7%	52.0%	-3.4%	-2.0%	-6.0%	-16.1%
	Other	2.3%	1.2%	0.1%	0.0%	0.6%	-0.4%
	N	1,186,667	631,632	397,958	213,503	54,876	4,300

* Figures are derived from the differences in the percentage a racial group represents at a certain stage and the percentage that group initially constitutes among referrals to the Pennsylvania juvenile court system (see also Leiber 2003, p. 68). Change in composition figures may not add up to zero due to rounding and missing data.

Table 13: Continuation Ratio Logistic Regression Results Predicting Advancement in Juvenile Processing in Pennsylvania, DMC Intervention Counties, and Non-DMC Intervention Counties, 1997-2011

	<i>All Counties</i>			<i>DMC Intervention Counties</i>			<i>Non-Intervention Counties</i>		
	Model 1	Model 2	Full Model	Model 1	Model 2	Full Model	Model 1	Model 2	Full Model
Age	0.19*** (0.01)		0.19*** (0.01)	0.19*** (0.01)		0.19*** (0.01)	0.18*** (0.01)		0.18*** (0.01)
Sex	0.18*** (0.01)		0.18*** (0.01)	0.21*** (0.01)		0.21*** (0.01)	0.15*** (0.01)		0.15*** (0.01)
Living Arrangements	0.08*** (0.01)		0.08*** (0.01)	0.07*** (0.01)		0.07*** (0.02)	0.08*** (0.01)		0.07*** (0.01)
Family Status	0.04*** (0.01)		0.03*** (0.01)	0.03* (0.02)		0.02 (0.02)	0.06*** (0.01)		0.05*** (0.01)
School Status	0.08*** (0.01)		0.08*** (0.01)	0.09*** (0.01)		0.09*** (0.01)	0.06*** (0.01)		0.06*** (0.01)
Severity of Charge	-0.01*** (0.00)		-0.01*** (0.00)	-0.00*** (0.00)		-0.00*** (0.00)	-0.01*** (0.00)		-0.01*** (0.00)
Grade of Charge	-0.25*** (0.01)		-0.25*** (0.01)	-0.34*** (0.01)		-0.34*** (0.01)	-0.24*** (0.01)		-0.24*** (0.01)
Number of Charges	0.07*** (0.00)		0.07*** (0.00)	0.04*** (0.00)		0.04*** (0.00)	0.08*** (0.00)		0.08*** (0.00)
Black		0.22*** (0.00)	0.02*** (0.00)		0.17*** (0.01)	0.03*** (0.01)		0.18*** (0.01)	0.10*** (0.01)
Hispanic		0.17*** (0.01)	0.07*** (0.01)		0.08*** (0.01)	0.00 (0.01)		0.20*** (0.01)	0.16*** (0.01)
Other		0.12*** (0.02)	0.00 (0.02)		0.08*** (0.02)	-0.03 (0.03)		0.11*** (0.02)	0.05* (0.03)
Log Likelihood	-611034.59	-903108.38	-610993.92	-241610.62	-371185.64	-241598.60	-368385.39	-531633.64	-368208.03
N	907,458	1,307,080	907,458	356,301	539,143	356,301	551,157	767,937	551,157

Notes: * p<0.1, ** p<0.05, *** p<0.01. Standard errors are shown in parentheses.

Table 14: Continuation Ratio Logistic Regression Results Predicting Advancement in Juvenile Processing in Pennsylvania, DMC Intervention Counties, and Non-Intervention Counties Before (1997-2004) and After (2005-2011) DMC Intervention

	<i>All Counties</i>			<i>DMC Intervention Counties</i>			<i>Non-Intervention Counties</i>		
	Pre-DMC Intervention	Post-DMC Intervention	Difference	Pre-DMC Intervention	Post-DMC Intervention	Difference	Pre-DMC Intervention	Post-DMC Intervention	Difference
Age	0.22*** (0.01)	0.17*** (0.01)	-3.54**	0.20*** (0.01)	0.20*** (0.01)	0.00	0.22*** (0.01)	0.14*** (0.01)	-5.66***
Sex	0.15*** (0.01)	0.19*** (0.01)	2.83**	0.18*** (0.01)	0.22*** (0.01)	2.83***	0.14*** (0.01)	0.16*** (0.01)	1.41
Living Arrangements	0.09*** (0.01)	0.07*** (0.01)	-1.41	0.09*** (0.02)	0.08*** (0.02)	0.35	0.08*** (0.02)	0.07*** (0.02)	-0.35
Family Status	0.05*** (0.01)	0.02* (0.01)	-2.12**	0.03 (0.02)	0.02 (0.02)	0.35	0.05*** (0.02)	0.04* (0.02)	-0.35
School Status	0.09*** (0.01)	0.06*** (0.01)	-2.12**	0.15*** (0.02)	0.08*** (0.01)	-3.13***	0.06*** (0.01)	0.05*** (0.01)	-0.71
Severity of Charge	-0.01*** (0.00)	-0.01*** (0.00)	0.00	-0.00*** (0.00)	-0.00*** (0.00)	0.00	-0.01*** (0.00)	-0.01*** (0.00)	0.00
Grade of Charge	-0.25*** (0.01)	-0.23*** (0.01)	1.41	-0.33*** (0.01)	-0.34*** (0.01)	-0.71	-0.22*** (0.01)	-0.24*** (0.01)	-1.41
Number of Charges	0.06*** (0.00)	0.08*** (0.00)	0.00	0.04*** (0.00)	0.02*** (0.00)	0.00	0.06*** (0.00)	0.11*** (0.00)	0.00
Black	0.08*** (0.01)	-0.00 (0.01)	-5.66***	0.08*** (0.01)	0.05*** (0.01)	-2.12**	0.09*** (0.01)	0.08*** (0.01)	-0.71
Hispanic	0.22*** (0.01)	0.00 (0.01)	-15.56***	0.18*** (0.02)	-0.05*** (0.02)	-8.13***	0.25*** (0.02)	0.12*** (0.01)	-5.81***
Other	0.07* (0.04)	-0.02 (0.02)	-2.01**	0.02 (0.06)	0.02 (0.04)	0.00	0.09** (0.05)	0.02 (0.03)	-1.20
Log Likelihood	-260799.82	-349905.48		-93565.95	-147586.23		-167086.83	-200907.88	
N	388,344	519,114		139,661	216,640		248,683	302,474	

Notes: * p<0.1, ** p<0.05, *** p<0.01. Standard errors are shown in parentheses.

Table 15: Bivariate Probit Model Results Predicting Adjudication Given Petitioning in Pennsylvania Before and After DMC Intervention

	<i>Model 1</i>			<i>Model 2</i>		
	Pre-DMC Intervention	Post-DMC Intervention	Difference	Pre-DMC Intervention	Post-DMC Intervention	Difference
<i>Petition</i>						
Age	0.28*** (0.01)	0.18*** (0.01)	-7.07***	0.27*** (0.01)	0.18*** (0.01)	-6.36***
Sex	0.17*** (0.01)	0.18*** (0.01)	0.71	0.17*** (0.01)	0.18*** (0.01)	0.71
Living Arrangements	0.05*** (0.01)	0.08*** (0.01)	2.12**	0.06*** (0.01)	0.07*** (0.01)	0.71
Family Status	0.08*** (0.01)	0.02 (0.01)	-4.24***	0.07*** (0.01)	0.01 (0.01)	-4.24***
School Status	0.08*** (0.01)	0.04*** (0.01)	-2.83***	0.09*** (0.01)	0.04*** (0.01)	-3.54***
Severity of Charge	-0.02*** (0.00)	-0.01*** (0.00)	0.00	-0.01*** (0.00)	-0.01*** (0.00)	0.00
Grade of Charge	-0.48*** (0.01)	-0.44*** (0.01)	2.83***	-0.46*** (0.01)	-0.40*** (0.01)	4.24***
Number of Charges	0.09*** (0.00)	0.17*** (0.00)	0.00	0.08*** (0.00)	0.15*** (0.00)	0.00
Black	0.34*** (0.01)	0.19*** (0.01)	-10.61***	0.31*** (0.01)	0.15*** (0.01)	-11.31***
Hispanic	0.34*** (0.02)	0.01 (0.01)	-14.76***	0.33*** (0.02)	0.00 (0.01)	-14.76***
Other	0.18*** (0.04)	0.04 (0.02)	-3.13***	0.17*** (0.04)	0.03 (0.02)	-3.13***
<i>Adjudication</i>						
Age	0.27*** (0.01)	0.25*** (0.01)	-1.41	0.27*** (0.01)	0.25*** (0.01)	-1.41
Sex	0.22*** (0.01)	0.26*** (0.01)	2.83***	0.22*** (0.01)	0.26*** (0.01)	2.83***
Living Arrangements	0.13*** (0.01)	0.10*** (0.01)	-2.12**	0.13*** (0.01)	0.10*** (0.01)	-2.12**
Family Status	0.05*** (0.01)	0.01 (0.01)	-2.83***	0.05*** (0.01)	0.02 (0.01)	-2.12**
School Status	0.17*** (0.01)	0.08*** (0.01)	-6.36***	0.17*** (0.01)	0.08*** (0.01)	-6.36***
Severity of Charge	-0.01*** (0.00)	-0.01*** (0.00)	0.00	-0.01*** (0.00)	-0.01*** (0.00)	0.00
Grade of Charge	-0.36*** (0.01)	-0.30*** (0.01)	4.24***	-0.36*** (0.01)	-0.31*** (0.01)	3.54***
Number of Charges	0.08*** (0.00)	0.10*** (0.00)	0.00	0.08*** (0.00)	0.11*** (0.00)	0.00
Black	-0.05*** (0.01)	-0.15*** (0.01)	-7.07***	-0.05*** (0.01)	-0.15*** (0.01)	-7.07***
Hispanic	0.25*** (0.01)	-0.01 (0.01)	-18.38***	0.25*** (0.01)	-0.02*** (0.01)	-19.09***
Other	0.03 (0.04)	-0.08*** (0.02)	-2.46***	0.03 (0.04)	-0.08*** (0.02)	-2.46***
rho (ρ)	0.00	0.00		0.90	0.90	
Log Likelihood	-196599.00	-265596.11		-168783.73	-242016.69	
N	170,864	239,021		170,864	239,021	

Table 16: Bivariate Probit Model Results Predicting Adjudication Given Petitioning in DMC Intervention Counties Before and After DMC Intervention

	<i>Model 1</i>			<i>Model 2</i>		
	Pre-DMC Intervention	Post-DMC Intervention	Difference	Pre-DMC Intervention	Post-DMC Intervention	Difference
<i>Petition</i>						
Age	0.29*** (0.02)	0.19*** (0.01)	-4.47***	0.28*** (0.02)	0.20*** (0.01)	-3.58***
Sex	0.19*** (0.02)	0.22*** (0.01)	1.34	0.20*** (0.02)	0.22*** (0.01)	0.89
Living Arrangements	-0.02 (0.03)	0.08*** (0.02)	2.77***	-0.01 (0.03)	0.08*** (0.02)	2.50***
Family Status	0.16*** (0.03)	0.00 (0.02)	-4.44***	0.14*** (0.03)	0.00 (0.02)	-3.88***
School Status	0.05** (0.02)	0.00 (0.02)	-1.77	0.08*** (0.02)	0.01 (0.02)	-2.47***
Severity of Charge	-0.01*** (0.00)	-0.01*** (0.00)	0.00	-0.01*** (0.00)	-0.01*** (0.00)	0.00
Grade of Charge	-0.71*** (0.02)	-0.51*** (0.01)	8.94***	-0.69*** (0.02)	-0.50*** (0.01)	8.50***
Number of Charges	0.11*** (0.00)	0.12*** (0.00)	0.00	0.10*** (0.00)	0.11*** (0.00)	0.00
Black	0.32*** (0.01)	0.17*** (0.01)	-10.61***	0.29*** (0.01)	0.15*** (0.01)	-9.90***
Hispanic	0.17*** (0.02)	-0.15*** (0.02)	-11.31***	0.16*** (0.02)	-0.16*** (0.02)	-11.31***
Other	0.12 (0.07)	0.03 (0.04)	-1.12	0.11 (0.07)	0.04 (0.04)	-0.87
<i>Adjudication</i>						
Age	0.27*** (0.01)	0.35*** (0.01)	5.66***	0.27*** (0.01)	0.34*** (0.01)	4.95***
Sex	0.27*** (0.01)	0.35*** (0.01)	5.66***	0.27*** (0.01)	0.35*** (0.01)	5.66***
Living Arrangements	0.20*** (0.02)	0.12*** (0.02)	-2.83***	0.19*** (0.02)	0.12*** (0.02)	-2.47***
Family Status	-0.02 (0.02)	0.02 (0.02)	1.41	-0.02 (0.02)	0.02 (0.02)	1.41
School Status	0.38*** (0.02)	0.13*** (0.01)	-11.18***	0.37*** (0.02)	0.12*** (0.01)	-11.18***
Severity of Charge	-0.00*** (0.00)	-0.00 (0.00)	0.00	-0.00*** (0.00)	-0.00 (0.00)	0.00
Grade of Charge	-0.48*** (0.01)	-0.49*** (0.01)	-0.71	-0.48*** (0.01)	-0.47*** (0.01)	0.71
Number of Charges	0.06*** (0.00)	0.00 (0.00)	0.00	0.06*** (0.00)	0.00* (0.00)	0.00
Black	-0.04*** (0.01)	-0.01 (0.01)	2.12**	-0.03*** (0.01)	-0.02* (0.01)	0.71
Hispanic	0.24*** (0.02)	-0.03* (0.02)	-9.55***	0.24*** (0.02)	-0.04*** (0.02)	-9.90***
Other	-0.03 (0.06)	0.01 (0.03)	0.60	-0.03 (0.06)	-0.00 (0.03)	0.45
rho (ρ)	0.00	0.00		0.90	0.90	
Log Likelihood	-61570.82	-105979.08		-56216.28	-98839.21	
N	59,258	101,636		59,258	101,636	

Table 17: Bivariate Probit Model Results Predicting Adjudication Given Petitioning in Non-Intervention Counties Before and After DMC Intervention

	<i>Model 1</i>			<i>Model 2</i>		
	Pre-DMC Intervention	Post-DMC Intervention	Difference	Pre-DMC Intervention	Post-DMC Intervention	Difference
<i>Petition</i>						
Age	0.26*** (0.01)	0.16*** (0.01)	-7.07***	0.26*** (0.01)	0.26*** (0.01)	-7.78***
Sex	0.15*** (0.01)	0.14*** (0.01)	-0.71	0.15*** (0.01)	0.15*** (0.01)	-0.71
Living Arrangements	0.10*** (0.02)	0.07*** (0.02)	-1.06	0.10*** (0.02)	0.10*** (0.02)	-1.41
Family Status	0.03 (0.02)	0.03* (0.02)	0.00	0.03 (0.02)	0.03 (0.02)	0.00
School Status	0.11*** (0.01)	0.05*** (0.01)	-4.24***	0.10*** (0.01)	0.10*** (0.01)	-4.24***
Severity of Charge	-0.02*** (0.00)	-0.01*** (0.00)	0.00	-0.02*** (0.00)	-0.02*** (0.00)	0.00
Grade of Charge	-0.34*** (0.01)	-0.41*** (0.01)	-4.95***	-0.34*** (0.01)	-0.34*** (0.01)	-2.12**
Number of Charges	0.08*** (0.00)	0.21*** (0.00)	0.00	0.08*** (0.00)	0.08*** (0.00)	0.00
Black	0.14*** (0.01)	0.12*** (0.01)	-1.41	0.13*** (0.01)	0.13*** (0.01)	-1.41
Hispanic	0.36*** (0.02)	0.10*** (0.01)	-11.63***	0.36*** (0.02)	0.36*** (0.02)	-11.18***
Other	0.16*** (0.05)	0.01 (0.03)	-2.57***	0.17*** (0.05)	0.17*** (0.05)	-2.74***
<i>Adjudication</i>						
Age	0.28*** (0.01)	0.18*** (0.01)	-7.07***	0.27*** (0.01)	0.27*** (0.01)	-7.07***
Sex	0.19*** (0.01)	0.21*** (0.01)	1.41	0.18*** (0.01)	0.18*** (0.01)	2.12
Living Arrangements	0.07*** (0.02)	0.11*** (0.02)	1.41	0.07*** (0.02)	0.07*** (0.02)	1.41
Family Status	0.12*** (0.02)	0.03* (0.02)	-3.18***	0.11*** (0.02)	0.11*** (0.02)	-2.47***
School Status	0.06*** (0.01)	0.05*** (0.01)	-0.71	0.06*** (0.01)	0.06*** (0.01)	-0.71
Severity of Charge	-0.01*** (0.00)	-0.01*** (0.00)	0.00	-0.01*** (0.00)	-0.01*** (0.00)	0.00
Grade of Charge	-0.36*** (0.01)	-0.40*** (0.01)	-2.83***	-0.36*** (0.01)	-0.36*** (0.01)	-3.54***
Number of Charges	0.09*** (0.00)	0.17*** (0.00)	0.00	0.09*** (0.00)	0.09*** (0.00)	0.00
Black	0.13*** (0.01)	0.14*** (0.01)	0.71	0.13*** (0.01)	0.13*** (0.01)	0.71
Hispanic	0.36*** (0.02)	0.23*** (0.01)	-5.81***	0.36*** (0.02)	0.36*** (0.02)	-6.26***
Other	0.10** (0.04)	0.03 (0.03)	-1.40	0.10** (0.04)	0.10** (0.04)	-1.60
rho (ρ)	0.00	0.00		0.90	0.90	
Log Likelihood	-133017.80	-151789.07		-109726.00	-134187.30	
N	111,606	137,385		111,606	137,385	

Table 18: Bivariate Probit Model Results Predicting Placement Given Adjudication in Pennsylvania Before and After DMC Intervention

	<i>Model 1</i>			<i>Model 2</i>		
	Pre-DMC Intervention	Post-DMC Intervention	Difference	Pre-DMC Intervention	Post-DMC Intervention	Difference
Adjudication						
Age	0.19*** (0.01)	0.23*** (0.01)	2.83***	0.20*** (0.01)	0.23*** (0.01)	2.12**
Sex	0.19*** (0.01)	0.23*** (0.01)	2.83***	0.19*** (0.01)	0.23*** (0.01)	2.83***
Living Arrangements	0.14*** (0.02)	0.09*** (0.01)	-2.24**	0.13*** (0.02)	0.08*** (0.01)	-2.24**
Family Status	0.03* (0.02)	0.01 (0.01)	-0.89	0.03** (0.02)	0.01 (0.01)	-0.89
School Status	0.18*** (0.01)	0.07*** (0.01)	-7.78***	0.18*** (0.01)	0.08*** (0.01)	-7.07***
Severity of Charge	-0.00*** (0.00)	-0.00*** (0.00)	0.00	-0.00*** (0.00)	-0.00*** (0.00)	0.00
Grade of Charge	-0.20*** (0.01)	-0.18*** (0.01)	1.41	-0.19*** (0.01)	-0.16*** (0.01)	2.12**
Number of Charges	0.05*** (0.00)	0.05*** (0.00)	0.00	0.05*** (0.00)	0.05*** (0.00)	0.00
Black	-0.25*** (0.01)	-0.26*** (0.01)	-0.71	-0.24*** (0.01)	-0.25*** (0.01)	-0.71
Hispanic	0.11*** (0.02)	-0.02 (0.01)	-5.81***	0.13*** (0.02)	-0.01 (0.01)	-6.26***
Other	-0.08** (0.04)	-0.12*** (0.02)	-0.80	-0.09** (0.04)	-0.11*** (0.02)	-0.45
Placement						
Age	0.28*** (0.01)	0.26*** (0.01)	-1.41	0.26*** (0.01)	0.24*** (0.01)	-1.41
Sex	0.25*** (0.01)	0.29*** (0.01)	2.83**	0.24*** (0.01)	0.28*** (0.01)	2.83**
Living Arrangements	0.20*** (0.02)	0.10*** (0.02)	-3.54***	0.20*** (0.02)	0.11*** (0.02)	-3.18***
Family Status	0.07*** (0.02)	0.06*** (0.02)	-0.35	0.08*** (0.02)	0.05*** (0.02)	-1.06
School Status	0.03** (0.01)	0.02 (0.01)	-0.71	0.02 (0.01)	0.01 (0.01)	-0.71
Severity of Charge	0.00*** (0.00)	0.00*** (0.00)	0.00	0.00*** (0.00)	0.00*** (0.00)	0.00
Grade of Charge	-0.28*** (0.01)	-0.26*** (0.01)	1.41	-0.29*** (0.01)	-0.29*** (0.01)	0.00
Number of Charges	0.05*** (0.00)	0.06*** (0.00)	0.00	0.05*** (0.00)	0.06*** (0.00)	0.00
Black	-0.03*** (0.01)	-0.14*** (0.01)	-7.78***	-0.04*** (0.01)	-0.14*** (0.01)	-7.07***
Hispanic	0.19*** (0.02)	0.05*** (0.01)	-6.26***	0.17*** (0.02)	0.06*** (0.01)	-4.92***
Other	0.01 (0.05)	-0.00 (0.03)	-0.17	0.03 (0.05)	-0.01 (0.03)	-0.69
rho (ρ)	0.00	0.00		0.90	0.90	
Log Likelihood	-132993.11	-175850.02		-124377.39	-165287.24	
N	121,967	170,142		121,967	170,142	

Table 19: Bivariate Probit Model Results Predicting Placement Given Adjudication in DMC Intervention Counties Before and After DMC Intervention

	<i>Model 1</i>			<i>Model 2</i>		
	Pre-DMC Intervention	Post-DMC Intervention	Difference	Pre-DMC Intervention	Post-DMC Intervention	Difference
<i>Adjudication</i>						
Age	0.21*** (0.02)	0.33*** (0.01)	5.37***	0.21*** (0.02)	0.33*** (0.01)	5.37***
Sex	0.25*** (0.02)	0.33*** (0.01)	3.58***	0.25*** (0.02)	0.33*** (0.01)	3.58***
Living Arrangements	0.23*** (0.02)	0.11*** (0.02)	-4.24***	0.23*** (0.02)	0.11*** (0.02)	-4.24***
Family Status	-0.07*** (0.03)	0.03 (0.02)	2.77***	-0.06** (0.03)	0.03 (0.02)	2.50***
School Status	0.45*** (0.02)	0.14*** (0.02)	-10.96***	0.45*** (0.02)	0.14*** (0.02)	-10.96***
Severity of Charge	0.00*** (0.00)	0.00*** (0.00)	0.00	0.00*** (0.00)	0.00*** (0.00)	0.00
Grade of Charge	-0.30*** (0.01)	-0.35*** (0.01)	-3.54***	-0.30*** (0.01)	-0.34*** (0.01)	-2.83***
Number of Charges	0.03*** (0.00)	-0.02*** (0.00)	0.00	0.03*** (0.00)	-0.02*** (0.00)	0.00
Black	-0.15*** (0.01)	-0.08*** (0.01)	4.95***	-0.15*** (0.01)	-0.07*** (0.01)	5.66***
Hispanic	0.23*** (0.02)	0.03* (0.02)	-7.07***	0.23*** (0.02)	0.04** (0.02)	-6.72***
Other	-0.09 (0.07)	0.00 (0.04)	1.12	-0.09 (0.07)	0.00 (0.04)	1.12
<i>Placement</i>						
Age	0.28*** (0.02)	0.41*** (0.02)	4.60***	0.28*** (0.02)	0.39*** (0.02)	3.89***
Sex	0.36*** (0.02)	0.43*** (0.02)	2.47***	0.35*** (0.02)	0.42*** (0.02)	2.47***
Living Arrangements	0.19*** (0.03)	0.15*** (0.03)	-0.94	0.19*** (0.03)	0.17*** (0.03)	-0.47
Family Status	0.05 (0.03)	0.04 (0.03)	-0.24	0.04 (0.03)	0.04 (0.03)	0.00
School Status	0.19*** (0.03)	0.14*** (0.02)	-1.39	0.19*** (0.03)	0.14*** (0.02)	-1.39
Severity of Charge	0.00*** (0.00)	-0.00 (0.00)	0.00	0.00*** (0.00)	0.00*** (0.00)	0.00
Grade of Charge	-0.34*** (0.02)	-0.43*** (0.02)	-3.18***	-0.35*** (0.02)	-0.45*** (0.02)	-3.54***
Number of Charges	0.05*** (0.00)	-0.02*** (0.00)	0.00	0.04*** (0.00)	-0.01*** (0.00)	0.00
Black	0.05*** (0.02)	-0.02 (0.02)	-2.47***	0.05*** (0.02)	-0.02 (0.02)	-2.47***
Hispanic	0.32*** (0.02)	0.10*** (0.02)	-7.78***	0.33*** (0.02)	0.10*** (0.02)	-8.13***
Other	-0.01 (0.08)	0.07 (0.05)	0.85	0.02 (0.08)	0.06 (0.05)	0.42
rho (ρ)	0.00	0.00		0.90	0.90	
Log Likelihood	-51975.43	-71976.22		-47153.59	-66521.38	
N	47,833	78,196		47,833	78,196	

Table 20: Bivariate Probit Model Results Predicting Placement Given Adjudication in Non-Intervention Counties Before and After DMC Intervention

	<i>Model 1</i>			<i>Model 2</i>		
	Pre-DMC Intervention	Post-DMC Intervention	Difference	Pre-DMC Intervention	Post-DMC Intervention	Difference
<i>Adjudication</i>						
Age	0.19*** (0.01)	0.14*** (0.01)	-3.54***	0.20*** (0.01)	0.15*** (0.01)	-3.54***
Sex	0.15*** (0.01)	0.19*** (0.01)	2.83***	0.16*** (0.01)	0.19*** (0.01)	2.12**
Living Arrangements	0.01 (0.02)	0.10*** (0.02)	3.18***	0.01 (0.02)	0.09*** (0.02)	2.83***
Family Status	0.15*** (0.02)	0.02 (0.02)	-4.60***	0.15*** (0.02)	0.02 (0.02)	-4.60***
School Status	-0.00 (0.02)	0.03* (0.01)	1.34	0.01 (0.02)	0.03** (0.01)	0.89
Severity of Charge	-0.01*** (0.00)	-0.00*** (0.00)	0.00	-0.01*** (0.00)	-0.01*** (0.00)	0.00
Grade of Charge	-0.26*** (0.01)	-0.29*** (0.01)	-2.12**	-0.25*** (0.01)	-0.26*** (0.01)	-0.71
Number of Charges	0.06*** (0.00)	0.10*** (0.00)	0.00	0.06*** (0.00)	0.10*** (0.00)	0.00
Black	0.08*** (0.01)	0.11*** (0.01)	2.12**	0.08*** (0.01)	0.10*** (0.01)	1.41
Hispanic	0.23*** (0.03)	0.26*** (0.02)	0.83	0.25*** (0.02)	0.25*** (0.02)	0.00
Other	0.02 (0.05)	0.03 (0.03)	0.17	-0.00 (0.05)	0.03 (0.03)	0.51
<i>Placement</i>						
Age	0.28*** (0.02)	0.18*** (0.02)	-3.54***	0.25*** (0.02)	0.16*** (0.02)	-3.18***
Sex	0.19*** (0.02)	0.25*** (0.01)	2.68***	0.18*** (0.01)	0.24*** (0.01)	4.24***
Living Arrangements	0.19*** (0.02)	0.09*** (0.03)	-2.77***	0.18*** (0.02)	0.10*** (0.02)	-2.83***
Family Status	0.10*** (0.02)	0.09*** (0.03)	-0.28	0.11*** (0.02)	0.08*** (0.02)	-1.06
School Status	-0.05*** (0.02)	-0.05*** (0.02)	0.00	-0.06*** (0.02)	-0.05*** (0.02)	0.35
Severity of Charge	0.00 (0.00)	0.00 (0.00)	0.00	0.00*** (0.00)	0.00*** (0.00)	0.00
Grade of Charge	-0.28*** (0.01)	-0.31*** (0.01)	-2.12**	-0.29*** (0.01)	-0.35*** (0.01)	-4.24***
Number of Charges	0.05*** (0.00)	0.08*** (0.00)	0.00	0.05*** (0.00)	0.08*** (0.00)	0.00
Black	0.08*** (0.01)	0.11*** (0.01)	2.12**	0.08*** (0.01)	0.11*** (0.01)	2.12**
Hispanic	0.15*** (0.03)	0.21*** (0.02)	1.66*	0.12*** (0.03)	0.22*** (0.02)	2.77***
Other	0.05 (0.06)	0.11*** (0.04)	0.83	0.08 (0.06)	0.11*** (0.04)	0.42
rho (ρ)	0.00	0.00		0.90	0.90	
Log Likelihood	-78797.82	-95484.57		-75218.98	-91920.35	
N	74,134	91,946		74,134	91,946	

Table 21: Bivariate Probit Model Results Predicting Confinement Given Placement in Pennsylvania Before and After DMC Intervention

	<i>Model 1</i>			<i>Model 2</i>		
	Pre-DMC Intervention	Post-DMC Intervention	Difference	Pre-DMC Intervention	Post-DMC Intervention	Difference
Placement						
Age	0.26*** (0.02)	0.20*** (0.02)	-2.12**	0.26*** (0.02)	0.20*** (0.02)	-2.12**
Sex	0.22*** (0.01)	0.24*** (0.01)	1.41	0.22*** (0.01)	0.23*** (0.01)	0.71
Living Arrangements	0.17*** (0.02)	0.08*** (0.02)	-3.18***	0.17*** (0.02)	0.08*** (0.02)	-3.18***
Family Status	0.08*** (0.02)	0.07*** (0.02)	-0.35	0.08*** (0.02)	0.07*** (0.02)	-0.35
School Status	-0.03** (0.02)	-0.00 (0.02)	1.06	-0.03** (0.02)	0.00 (0.02)	1.06
Severity of Charge	0.00*** (0.00)	-0.00*** (0.00)	0.00	0.00*** (0.00)	-0.00*** (0.00)	0.00
Grade of Charge	-0.23*** (0.01)	-0.20*** (0.01)	2.12**	-0.23*** (0.01)	-0.19*** (0.01)	2.83***
Number of Charges	0.04*** (0.00)	0.04*** (0.00)	0.00	0.04*** (0.00)	0.04*** (0.00)	0.00
Black	0.11*** (0.01)	-0.00 (0.01)	-7.78***	0.11*** (0.01)	-0.01 (0.01)	-8.49***
Hispanic	0.19*** (0.02)	0.10*** (0.02)	-3.18***	0.19*** (0.02)	0.10*** (0.02)	-3.18***
Other	0.04 (0.06)	0.07* (0.04)	0.42	0.03 (0.06)	0.06* (0.04)	0.42
Confinement						
Age	0.49*** (0.05)	0.32*** (0.04)	-2.65***	0.49*** (0.04)	0.34*** (0.04)	-2.65***
Sex	0.08** (0.03)	0.07** (0.03)	-0.24	0.07** (0.03)	0.05* (0.03)	-0.47
Living Arrangements	0.07 (0.05)	0.01 (0.05)	-0.85	0.09* (0.05)	-0.01 (0.05)	-1.41
Family Status	0.11** (0.05)	0.18*** (0.05)	0.99	0.10** (0.05)	0.20*** (0.05)	1.41
School Status	0.23*** (0.03)	0.19*** (0.03)	-0.94	0.20*** (0.03)	0.17*** (0.03)	-0.71
Severity of Charge	-0.00*** (0.00)	-0.00 (0.00)	0.00	-0.00** (0.00)	0.00** (0.00)	0.00
Grade of Charge	-0.26*** (0.03)	-0.35*** (0.03)	-2.12**	-0.26*** (0.03)	-0.36*** (0.02)	-2.77***
Number of Charges	0.02*** (0.01)	0.03*** (0.01)	0.71	0.02*** (0.01)	0.03*** (0.01)	0.71
Black	0.23*** (0.02)	0.15*** (0.02)	-2.83***	0.21*** (0.02)	0.17*** (0.02)	-1.41
Hispanic	0.45*** (0.03)	0.23*** (0.03)	-5.19***	0.42*** (0.03)	0.22*** (0.03)	-4.71***
Other	-0.08 (0.15)	0.02 (0.09)	0.57	-0.02 (0.13)	0.03 (0.08)	0.33
rho (ρ)	0.00	0.00		0.90	0.90	
Log Likelihood	-49854.73	-54312.11		-48644.58	-52462.49	
N	74,651	86,746		74,651	86,746	

Table 22: Bivariate Probit Model Results Predicting Confinement Given Placement in DMC Intervention Counties Before and After DMC Intervention

	<i>Model 1</i>			<i>Model 2</i>		
	Pre-DMC Intervention	Post-DMC Intervention	Difference	Pre-DMC Intervention	Post-DMC Intervention	Difference
Placement						
Age	0.24*** (0.03)	0.31*** (0.03)	1.65*	0.24*** (0.03)	0.31*** (0.03)	1.65
Sex	0.31*** (0.03)	0.34*** (0.03)	0.71	0.30*** (0.03)	0.34*** (0.03)	0.94
Living Arrangements	0.09*** (0.04)	0.12*** (0.04)	0.53	0.10*** (0.04)	0.12*** (0.04)	0.35
Family Status	0.12*** (0.04)	0.04 (0.04)	-1.41	0.12*** (0.04)	0.04 (0.04)	-1.41
School Status	0.01 (0.03)	0.11*** (0.03)	2.36***	0.01 (0.03)	0.11*** (0.02)	2.77
Severity of Charge	0.00 (0.00)	-0.00*** (0.00)	0.00	0.00 (0.00)	-0.00*** (0.00)	0.00
Grade of Charge	-0.26*** (0.02)	-0.32*** (0.02)	-2.12**	-0.25*** (0.02)	-0.32*** (0.02)	-2.47***
Number of Charges	0.04*** (0.00)	-0.01 (0.00)	0.00	0.04*** (0.00)	-0.00 (0.00)	0.00
Black	0.16*** (0.02)	0.05** (0.02)	-3.89***	0.16*** (0.02)	0.05** (0.02)	-3.89***
Hispanic	0.29*** (0.03)	0.15*** (0.03)	-3.30***	0.29*** (0.03)	0.14*** (0.03)	-3.54***
Other	0.04 (0.10)	0.08 (0.07)	0.33	0.05 (0.10)	0.07 (0.07)	0.16
Confinement						
Age	0.47*** (0.07)	0.39*** (0.08)	-0.75	0.48*** (0.07)	0.45*** (0.07)	-0.30
Sex	0.13** (0.06)	-0.01 (0.05)	-1.79*	0.14** (0.05)	-0.01 (0.05)	-2.12**
Living Arrangements	0.14* (0.08)	0.03 (0.08)	-0.97	0.12* (0.07)	0.07 (0.08)	-0.47
Family Status	-0.02 (0.08)	0.18** (0.08)	1.77*	-0.03 (0.07)	0.18** (0.08)	1.98**
School Status	0.17*** (0.05)	0.24*** (0.04)	1.09	0.17*** (0.05)	0.22*** (0.04)	0.78
Severity of Charge	-0.00 (0.00)	0.00 (0.00)	0.00	-0.00 (0.00)	0.01*** (0.00)	0.00
Grade of Charge	-0.16*** (0.04)	-0.39*** (0.05)	-3.59***	-0.18*** (0.04)	-0.42*** (0.04)	-4.24***
Number of Charges	0.02*** (0.01)	0.03*** (0.01)	0.71	0.03*** (0.01)	0.02** (0.01)	-0.71
Black	0.20*** (0.04)	0.11** (0.05)	-1.41	0.21*** (0.04)	0.14*** (0.04)	-1.24
Hispanic	0.45*** (0.05)	0.14** (0.06)	-3.97***	0.46*** (0.05)	0.14** (0.06)	-4.10***
Other	-0.45 (0.36)	-0.06 (0.15)	1.00	-0.50 (0.35)	-0.02 (0.13)	1.29
rho (ρ)	0.00	0.00		0.90	0.90	
Log Likelihood	-17824.47	-18385.28		-17270.80	-17727.24	
N	24,947	30,112		24,947	30,112	

Table 23: Bivariate Probit Model Results Predicting Confinement Given Placement in Non-Intervention Counties Before and After DMC Intervention

	<i>Model 1</i>			<i>Model 2</i>		
	Pre-DMC Intervention	Post-DMC Intervention	Difference	Pre-DMC Intervention	Post-DMC Intervention	Difference
Placement						
Age	0.27*** (0.02)	0.18*** (0.02)	-3.18***	0.26*** (0.02)	0.18*** (0.02)	-2.83***
Sex	0.18*** (0.02)	0.21*** (0.02)	1.06	0.18*** (0.02)	0.21*** (0.02)	1.06
Living Arrangements	0.21*** (0.03)	0.07** (0.03)	-3.30***	0.21*** (0.03)	0.07** (0.03)	-3.30***
Family Status	0.06** (0.03)	0.10*** (0.03)	0.94	0.05** (0.03)	0.09*** (0.03)	0.94
School Status	-0.05** (0.02)	-0.05*** (0.02)	0.00	-0.04** (0.02)	-0.05** (0.02)	-0.35
Severity of Charge	0.00*** (0.00)	-0.00*** (0.00)	0.00	0.00** (0.00)	-0.00*** (0.00)	0.00
Grade of Charge	-0.21*** (0.01)	-0.20*** (0.01)	0.71	-0.21*** (0.01)	-0.20*** (0.01)	0.71
Number of Charges	0.03*** (0.00)	0.05*** (0.00)	0.00	0.03*** (0.00)	0.06*** (0.00)	0.00
Black	0.07*** (0.02)	0.08*** (0.01)	0.45	0.07*** (0.02)	0.08*** (0.01)	0.45
Hispanic	0.10*** (0.03)	0.14*** (0.02)	1.11	0.11*** (0.03)	0.14*** (0.02)	0.83
Other	0.04 (0.07)	0.12** (0.05)	0.93	0.03 (0.07)	0.12** (0.05)	1.05
Confinement						
Age	0.51*** (0.06)	0.29*** (0.05)	-2.82***	0.49*** (0.06)	0.29*** (0.05)	-2.56***
Sex	0.04 (0.04)	0.11*** (0.04)	1.24	0.03 (0.04)	0.10*** (0.04)	1.24
Living Arrangements	0.02 (0.07)	-0.00 (0.07)	-0.20	0.05 (0.06)	-0.04 (0.07)	-0.98
Family Status	0.19*** (0.07)	0.19*** (0.07)	0.00	0.19*** (0.06)	0.21*** (0.07)	0.22
School Status	0.27*** (0.04)	0.15*** (0.04)	-2.12**	0.24*** (0.04)	0.14*** (0.04)	-1.77*
Severity of Charge	-0.01*** (0.00)	-0.00* (0.00)	0.00	-0.00*** (0.00)	-0.00** (0.00)	0.00
Grade of Charge	-0.30*** (0.03)	-0.34*** (0.03)	-0.94	-0.29*** (0.03)	-0.32*** (0.03)	-0.71
Number of Charges	0.03*** (0.01)	0.03*** (0.01)	0.00	0.02*** (0.01)	0.02*** (0.01)	0.00
Black	0.20*** (0.04)	0.18*** (0.03)	-0.40	0.17*** (0.03)	0.18*** (0.03)	0.24
Hispanic	0.40*** (0.05)	0.27*** (0.04)	-2.03**	0.33*** (0.05)	0.25*** (0.04)	-1.25
Other	0.04 (0.17)	0.06 (0.11)	0.10	0.10 (0.14)	0.05 (0.11)	-0.28
rho (ρ)	0.00	0.00		0.90	0.90	
Log Likelihood	-31978.91	-35647.32		-31325.32	-34414.59	
N	49,704	56,634		49,704	56,634	

Table 24: Number of African American and Hispanic Youths Processed Before and After DMC Intervention in Pennsylvania

Variable	<i>Pre-DMC Intervention</i>		<i>Post-DMC Intervention</i>		Difference-in-Differences
	Non- Intervention Counties	DMC Intervention Counties	Non- Intervention Counties	DMC Intervention Counties	
# of African Americans Petitioned	46.43 (23.68)	1565.85 (83.38)	61.37 (25.31)	1533.63 (89.13)	-47.16 (126.88)
# of African Americans Adjudicated	28.73 (10.06)	764.20 (35.41)	39.27 (10.75)	559.66 (37.86)	-215.09*** (53.89)
# of African Americans Placed	7.89 (3.28)	246.75 (11.54)	10.62 (3.50)	121.03 (12.33)	-128.45*** (17.56)
# of African Americans Securely Confined	0.80 (0.25)	18.83 (0.87)	0.99 (0.26)	13.03 (0.93)	-5.99*** (1.32)
# of Hispanics Petitioned	10.55 (3.84)	265.75 (13.52)	19.02 (4.10)	258.69 (14.45)	-15.53 (20.57)
# of Hispanics Adjudicated	7.25 (2.11)	158.78 (7.43)	12.88 (2.26)	110.54 (7.95)	-53.86*** (11.31)
# of Hispanics Placed	2.13 (0.66)	54.33 (2.33)	3.66 (0.71)	26.63 (2.49)	-29.23*** (3.55)
# of Hispanics Securely Confined	0.30 (0.09)	5.70 (0.32)	0.38 (0.10)	2.83 (0.34)	-2.95*** (0.48)

Notes: * p<0.1, ** p<0.05, *** p<0.01
Standard errors are shown in parentheses

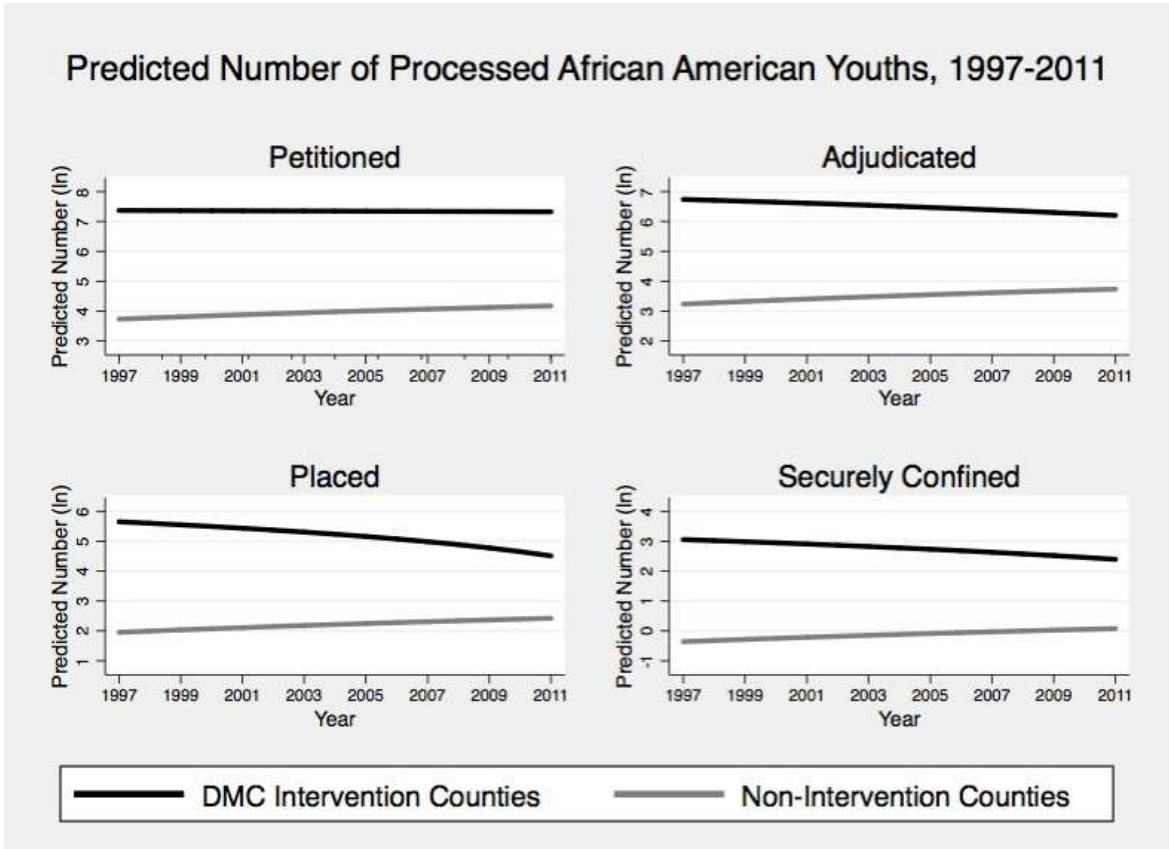


Figure 10: Annual Predicted Average Number of African Americans Processed in DMC Intervention and Non-Intervention Counties, 1997-2011. This figure depicts the association between DMC intervention and the predicted average numbers of African Americans petitioned, adjudicated, disposed to placement, and remanded to secure confinement annually for counties with/without DMC reduction programs.

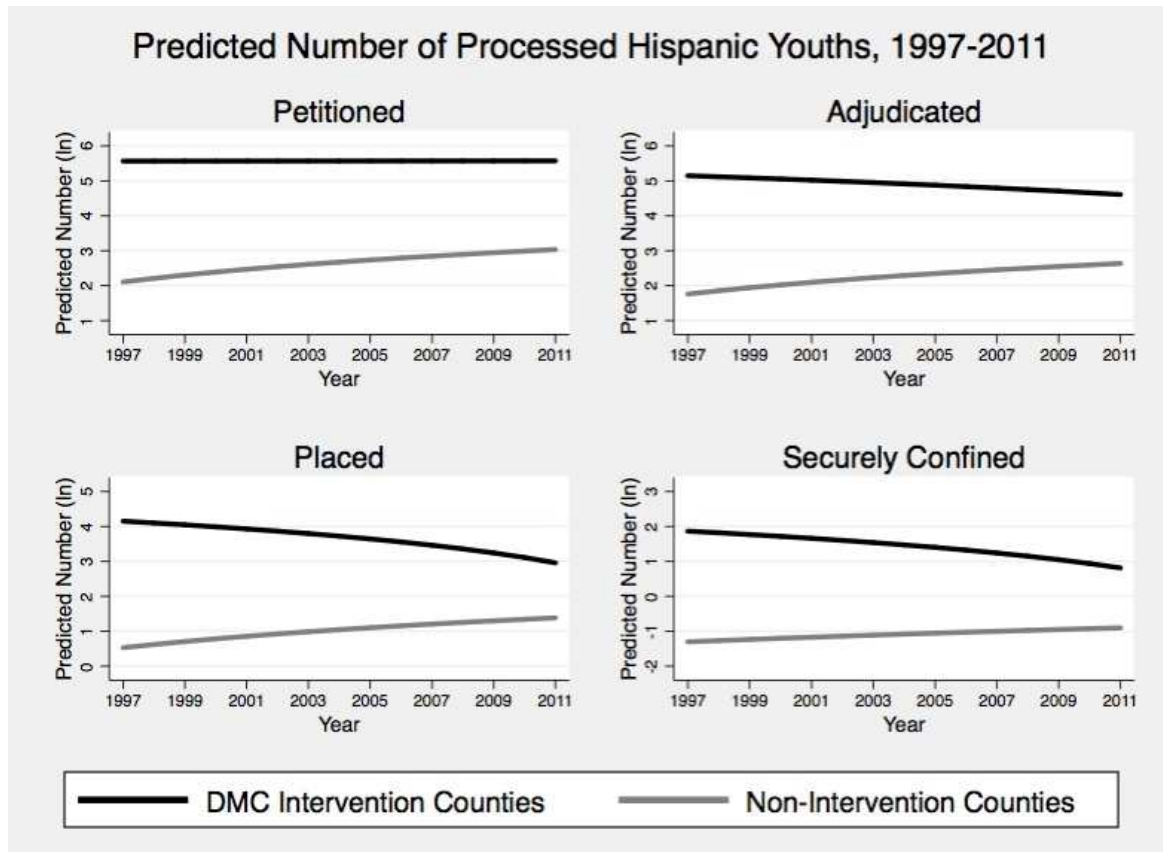


Figure 11: Annual Predicted Average Number of Hispanics Processed in DMC Intervention and Non-Intervention Counties, 1997-2011. This figure depicts the association between DMC intervention and the predicted average numbers of Hispanics petitioned, adjudicated, disposed to placement, and remanded to secure confinement annually for counties with/without DMC reduction programs.

Table 25: Minority Youth Population-Weighted Difference-in-Differences Estimates of Changes in the Number of African American and Hispanic Youths Processed Following DMC Intervention

Variable	Model I	Model II	Model III	Model IV	Model V
# of African Americans Petitioned	-599.42*** (3.80)	-320.16*** (1.34)	-215.70*** (1.37)	-327.40*** (0.83)	-368.86*** (0.74)
# of African Americans Adjudicated	-877.00*** (1.61)	-733.25*** (1.06)	-619.55*** (1.07)	-586.76*** (0.97)	-679.04*** (0.78)
# of African Americans Placed	-128.45*** (17.56)	-418.19*** (0.63)	-361.14*** (0.65)	-353.06*** (0.66)	-408.10*** (0.52)
# of African Americans Securely Confined	-20.67*** (0.05)	-18.38*** (0.05)	-17.42*** (0.05)	-16.67*** (0.05)	-24.48*** (0.04)
# of Hispanics Petitioned	-119.61*** (0.82)	-26.18*** (0.44)	-3.20*** (0.43)	-82.55*** (0.27)	-82.52*** (0.25)
# of Hispanics Adjudicated	-166.92*** (0.41)	-112.75*** (0.32)	-97.03*** (0.32)	-83.59*** (0.24)	-87.75*** (0.23)
# of Hispanics Placed	-74.49*** (0.13)	-59.82*** (0.12)	-52.79*** (0.12)	-33.72*** (0.10)	-39.43*** (0.09)
# of Hispanics Securely Confined	-4.78*** (0.02)	-3.83*** (0.02)	-4.01*** (0.02)	-3.78*** (0.02)	-3.99*** (0.02)
Controls for county, year, and county conditions related to juvenile delinquency	No	Yes	Yes	Yes	Yes
Controls for county punitiveness	No	No	Yes	Yes	Yes
Controls for racial group representation in arrests and referrals	No	No	No	Yes	Yes
Controls for average characteristics of cases handled in a county	No	No	No	No	Yes

Notes: * p<0.1, ** p<0.05, *** p<0.01. Standard errors are shown in parentheses.

Table 26: Fixed County and Year Effects Difference-in-Differences Estimates of Changes in the Number of African American and Hispanic Youths Processed Following DMC Intervention

Variable	Model I	Model II	Model III	Model IV	Model V
# of African Americans Petitioned	-47.16* (25.07)	26.11 (25.67)	27.21 (25.80)	-69.49** (15.87)	-62.22*** (15.97)
# of African Americans Adjudicated	-215.08*** (21.25)	-137.44*** (21.37)	-134.27*** (21.48)	-116.81*** (20.29)	-111.53*** (20.40)
# of African Americans Placed	-128.45*** (12.09)	-82.66*** (12.07)	-80.94*** (12.13)	-71.81*** (12.44)	-70.58*** (12.54)
# of African Americans Securely Confined	-5.98*** (0.92)	-4.77*** (0.97)	-4.78*** (0.97)	-4.16*** (1.01)	-4.06*** (1.02)
# of Hispanics Petitioned	-15.53*** (5.97)	3.72 (6.01)	5.90 (6.01)	-38.84*** (5.05)	-38.02*** (5.09)
# of Hispanics Adjudicated	-53.86*** (5.19)	-35.42** (5.20)	-33.79*** (5.20)	-58.33*** (4.90)	-58.51*** (4.87)
# of Hispanics Placed	-29.23*** (2.00)	-21.77*** (2.00)	-21.18*** (2.00)	-23.14*** (2.06)	-23.24*** (2.06)
# of Hispanics Securely Confined	-2.95*** (0.27)	-2.93*** (0.29)	-2.95*** (0.29)	-2.70*** (0.31)	-2.77*** (0.31)
Controls for county conditions related to juvenile delinquency	No	Yes	Yes	Yes	Yes
Controls for county punitiveness	No	No	Yes	Yes	Yes
Controls for racial group representation in arrests and referrals	No	No	No	Yes	Yes
Controls for average characteristics of cases handled in a county	No	No	No	No	Yes

Notes: * p<0.1, ** p<0.05, *** p<0.01. Standard errors are shown in parentheses.

APPENDIX

Appendix 1: Coding Process for Racial Disparity Reforms in the States

Enacted legislation and executive orders were identified as racial disparity reforms through a three-step process. First, keyword searches for enacted legislation and executive orders between 1998 and 2011 were completed using the terms “minority,” “race,” “communities of color,” “racial,” “ethnic,” “black,” “African American,” “Hispanic,” “Latino,” “Asian,” “Native American,” “disparate,” “disparity,” “discrimination,” “discriminatory,” “inequality,” “unequal,” “bias,” “overrepresentation,” “disproportion,” and their variants. Searches were completed using one keyword at a time. These keywords broadly fall into two categories: terms describing citizens belonging to minority groups and terms defining problems of racial inequality. Within these terminology sets, keywords were selected to maximize the number of relevant policies targeting racial minority groups (Hochschild, Weaver, & Burch, 2012; Omi & Winant, 1994) and racial problems commonly identified by policymakers (Blumstein et al., 1983).

Keyword searches of enacted policies were narrowed to 1998 and 2011. Any policy enacted before 1998 or after 2011 was omitted from the sample. Any bill that was not adopted into law was also omitted. Enacted policies that were later reversed are contained in the sample. For example, the North Carolina Racial Justice Act of 2009 remains in the sample even though it was repealed in June 2013 (Associated Press, 2009).

All policies containing these terms were then inspected for their relevance to criminal justice issues. Specifically, the section of the enacted policy where the keyword is located must be related to 1) the treatment of racial minorities and 2) any aspect of criminal processing like arrest, judicial procedure, sentencing, incarceration, jailing, youth detention, parole, probation, or policing. To illustrate, the 2003 Illinois Capital Punishment Reform Study Committee was tasked with examining several issues in death sentencing reforms, including whether revised policies eliminated differences in outcomes related to geography and the race of victim (20 ILCS 3929).

At this juncture, policies affecting racial minorities or racial issues in ways that do not relate to criminal justice (e.g. employment regulations, general civil rights commissions, health disparities task forces) were eliminated from the sample. Policies corresponding to criminal justice issues without explicit regard to race were also excluded. For instance, the statutory requirement for parole agencies in Alaska to generate reports that consider unjustified disparity in the sentencing of prisoners is not included because it does not explicitly consider race (Ala Stat. § 33.16.110). The shortcomings of this latter coding decision in measuring the universe of all criminal reforms aimed at reducing racial inequalities are addressed in the limitations section of Chapter 4.

Finally, using qualitative data analysis software, provisions within policies were coded according to the four types of racial disparity reforms (i.e. exploratory, prohibitory, policy-specific, and comprehensive). A policy can possess multiple reform measures, but each reform measure is only classified once as one of the four types according to the definitions set forth above. To illuminate the coding decision process, consider California

Penal Code § 13519.4 that concerns racial profiling. Amended by the legislature in 2000, the full section reads as follows,

“13519.4. (a) The commission shall develop and disseminate guidelines and training for all law enforcement officers in California as described in subdivision (a) of Section 13510 and who adhere to the standards approved by the commission, on the racial and cultural differences among the residents of this state. The course or courses of instruction and the guidelines shall stress understanding and respect for racial and cultural differences, and development of effective, noncombative methods of carrying out law enforcement duties in a racially and culturally diverse environment.

(b) The course of basic training for law enforcement officers shall include adequate instruction on racial and cultural diversity in order to foster mutual respect and cooperation between law enforcement and members of all racial and cultural groups. In developing the training, the commission shall consult with appropriate groups and individuals having an interest and expertise in the field of cultural awareness and diversity.

(c) For the purposes of this section the following shall apply:

(1) "Disability," "gender," "nationality," "religion," and "sexual orientation" have the same meaning as in Section 422.55.

(2) "Culturally diverse" and "cultural diversity" include, but are not limited to, disability, gender, nationality, religion, and sexual orientation issues.

(3) "Racial" has the same meaning as "race or ethnicity" in Section 422.55.

(d) The Legislature finds and declares as follows:

(1) Racial profiling is a practice that presents a great danger to the fundamental principles of a democratic society. It is abhorrent and cannot be tolerated.

(2) Motorists who have been stopped by the police for no reason other than the color of their skin or their apparent nationality or ethnicity are the victims of discriminatory practices.

(3) It is the intent of the Legislature in enacting the changes to Section 13519.4 of the Penal Code made by the act that added this subdivision that more than additional training is required to address the pernicious practice of racial profiling and that enactment of this bill is in no way dispositive of the issue of how the state should deal with racial profiling.

(4) The working men and women in California law enforcement risk their lives every day. The people of California greatly appreciate the hard work and dedication of law enforcement officers in protecting public safety. The good name of these officers should not be tarnished by the actions of those few who commit discriminatory practices.

(e) "Racial profiling," for purposes of this section, is the practice of detaining a suspect based on a broad set of criteria which casts suspicion on an entire class of people without any individualized suspicion of the particular person being stopped.

- (f) A law enforcement officer shall not engage in racial profiling.
- (g) Every law enforcement officer in this state shall participate in expanded training as prescribed and certified by the Commission on Peace Officers Standards and Training.
- (h) The curriculum shall utilize the Tools for Tolerance for Law Enforcement Professionals framework and shall include and examine the patterns, practices, and protocols that make up racial profiling. This training shall prescribe patterns, practices, and protocols that prevent racial profiling. In developing the training, the commission shall consult with appropriate groups and individuals having an interest and expertise in the field of racial profiling. The course of instruction shall include, but not be limited to, adequate consideration of each of the following subjects:
 - (1) Identification of key indices and perspectives that make up cultural differences among residents in a local community.
 - (2) Negative impact of biases, prejudices, and stereotyping on effective law enforcement, including examination of how historical perceptions of discriminatory enforcement practices have harmed police-community relations.
 - (3) The history and the role of the civil rights movement and struggles and their impact on law enforcement.
 - (4) Specific obligations of officers in preventing, reporting, and responding to discriminatory or biased practices by fellow officers.
 - (5) Perspectives of diverse, local constituency groups and experts on particular cultural and police-community relations issues in a local area.
- (i) Once the initial basic training is completed, each law enforcement officer in California as described in subdivision (a) of Section 13510 who adheres to the standards approved by the commission shall be required to complete a refresher course every five years thereafter, or on a more frequent basis if deemed necessary, in order to keep current with changing racial and cultural trends.
- (j) The Legislative Analyst shall conduct a study of the data being voluntarily collected by those jurisdictions that have instituted a program of data collection with regard to racial profiling, including, but not limited to, the California Highway Patrol, the City of San Jose, and the City of San Diego, both to ascertain the incidence of racial profiling and whether data collection serves to address and prevent such practices, as well as to assess the value and efficacy of the training herein prescribed with respect to preventing local profiling. The Legislative Analyst may prescribe the manner in which the data is to be submitted and may request that police agencies collecting such data submit it in the requested manner. The Legislative Analyst shall provide to the Legislature a report and recommendations with regard to racial profiling by July 1, 2002.”

Three reforms can be identified within this section. First, an exploratory measure is located in part j, whereas “The Legislative Analyst shall conduct a study of the data...” and report to the legislature within two years. A prohibitory measure is found in part f, whereas “A law enforcement officer shall not engage in racial profiling.” Finally, a

policy-specific regarding the Commission on Peace Officer Standards and Training's development of culturally sensitive training course is located in part a and continues to be described in the remaining subsections. Specifically, "[t]he commission shall develop and disseminate guidelines and training for all law enforcement officers in California...[stressing] understanding and respect for racial and cultural differences, and development of effective, noncombative methods of carrying out law enforcement duties in a racially and culturally diverse environment."

Appendix 2: Total Racial Disparity Reform Policy and Measures Enactments by State (1998-2011)

State	Enacted Policies		Enacted Measures			
	Year of First Policy	Total Policies	Total Exploratory Measures	Total Prohibitory Measures	Total Policy-Specific Measures	Total Comprehensive Measures
AK	2000	3	2	0	1	0
AL	-	0	0	0	0	0
AR	2003	6	0	3	2	1
AZ	2001	6	3	1	2	0
CA	2002	4	2	1	1	0
CO	2001	5	1	2	1	1
CT	1999	6	3	1	0	2
DE	2000	1	0	1	0	0
FL	2004	5	2	1	1	0
GA	2000	1	0	1	0	0
HI	-	0	0	0	0	0
IA	-	0	0	0	0	0
ID	2003	6	3	0	2	1
IL	2000	1	0	0	0	0
IN	2001	3	2	1	0	0
KS	2000	4	2	1	1	0
KY	1998	3	0	2	1	0
LA	2001	3	2	1	0	0
MA	2009	2	2	0	0	0
MD	1999	9	3	1	2	2
ME	2000	4	2	0	1	1
MI	-	0	0	0	0	0
MN	2000	6	2	2	1	1
MO	2004	1	0	1	0	0
MS	2001	5	2	1	2	0
MT	2003	4	1	1	2	0
NC	2000	5	2	1	2	0
ND	2003	1	0	1	0	0
NE	2009	1	1	0	0	0
NH	2001	4	0	1	3	0
NJ	2003	4	0	2	1	1
NM	-	0	0	0	0	0
NV	2000	2	1	0	1	0
NY	-	0	0	0	0	0
OH	2010	1	0	1	0	0
OK	2009	1	0	0	0	1
OR	2001	2	2	0	0	0

Appendix 2 (Continued): Total Racial Disparity Reform Policy and Measures Enactments by State (1998-2011)

State	Enacted Policies		Enacted Measures			
	Year of First Policy	Total Policies	Total Exploratory Measures	Total Prohibitory Measures	Total Policy-Specific Measures	Total Comprehensive Measures
PA	2000	2	0	1	1	0
RI	2000	6	2	1	3	0
SC	2005	3	2	1	0	0
SD	2002	1	1	0	0	0
TN	2001	4	2	1	1	0
TX	2001	4	2	1	0	1
UT	2002	1	0	1	0	0
VA	2003	1	1	0	0	0
VT	2002	2	0	0	1	1
WA	2002	8	4	2	1	1
WI	2002	4	2	1	1	0
WV	1999	8	2	1	2	3
WY	-	0	0	0	0	0
Mean		1.33	0.69	0.5	0.44	0.11

Appendix 3: Poisson Regression Analysis of Factors Affecting Racial Disparity Reform in States (1998-2011)

Variable	Enacted Policies	Enacted Measures			
	I. All Policies	II. Exploratory Measures	III. Prohibitory Measures	IV. Policy-Specific Measures	VI. Comprehensive Measures
Unified Democratic Control	0.62** (0.25)	1.29*** (0.44)	-0.22 (0.42)	0.14 (0.53)	0.43 (0.65)
Change in Percent Democrat in Legislature	0.02** (0.01)	0.00 (0.02)	0.03* (0.02)	0.01 (0.02)	0.03 (0.02)
Democratic Governor	0.01 (0.24)	-0.25 (0.49)	0.10 (0.36)	-0.03 (0.47)	0.47 (0.55)
Black-White Disparity in Incarceration Rates	0.08*** (0.03)	0.02 (0.05)	0.10** (0.04)	0.08 (0.05)	0.19*** (0.05)
Black-White Disparity in Arrests Rates	0.06** (0.03)	0.04 (0.06)	0.12* (0.07)	0.03 (0.07)	-0.04 (0.12)
Judicial Racial Disparity Reform Efforts	-0.29 (0.35)	-0.56 (0.50)	-0.22 (0.49)	-0.96* (0.58)	0.00 (0.49)
Log Citizen Ideology (One year lag)	-0.12 (0.31)	-0.44 (0.50)	-0.24 (0.49)	-0.05 (0.42)	1.35*** (0.50)
Percent Black	0.00 (0.01)	0.01 (0.02)	-0.01 (0.02)	0.02 (0.02)	0.00 (0.04)
Percent Poverty	-0.05 (0.03)	-0.10** (0.04)	0.02 (0.04)	-0.04 (0.06)	-0.05 (0.07)
Unemployment Rate	0.06 (0.04)	0.03 (0.08)	-0.01 (0.08)	0.11 (0.09)	0.00 (0.11)
Log Crime Rate	0.64* (0.38)	0.57 (0.68)	1.40** (0.65)	0.36 (0.61)	0.34 (0.60)
Incarceration Rate	-0.04 (0.81)	-0.10 (1.34)	0.07 (0.98)	-1.51 (1.35)	0.52 (1.78)
Log Pseudo-likelihood	-308.20	-189.07	-140.77	-129.56	-72.27
N	680	680	680	680	680

Notes: * p<0.10, ** p<0.05, *** p<0.01

Appendix 4: Logistic Regression Analysis of Factors Affecting Racial Disparity Reform in States (1998-2011)

Variable	Enacted Policies	Enacted Measures			
	I. All Policies	II. Exploratory Measures	III. Prohibitory Measures	IV. Policy-Specific Measures	VI Comprehensive Measures
Unified Democratic Control	0.69** (0.34)	1.27*** (0.47)	-0.15 (0.45)	0.12 (0.56)	0.47 (0.69)
Change in Percent Democrat in Legislature	0.02* (0.01)	0.00 (0.02)	0.03 (0.02)	0.01 (0.02)	0.03 (0.02)
Democratic Governor	-0.06 (0.26)	-0.06 (0.51)	0.03 (0.37)	0.03 (0.49)	0.49 (0.57)
Black-White Disparity in Incarceration Rates	0.12*** (0.03)	0.04 (0.06)	0.09* (0.05)	0.09 (0.06)	0.20*** (0.05)
Black-White Disparity in Arrests Rates	0.13** (0.06)	0.05 (0.08)	0.17 (0.11)	0.04 (0.08)	-0.04 (0.13)
Judicial Racial Disparity Reform Efforts	-0.48 (0.33)	-0.35 (0.58)	-0.44 (0.48)	-0.95 (0.60)	0.00 (0.52)
Log Citizen Ideology (One year lag)	-0.14 (0.33)	-0.54 (0.55)	-0.12 (0.53)	0.07 (0.48)	1.43*** (0.54)
Percent Black	0.00 (0.02)	-0.01 (0.02)	0.00 (0.02)	0.02 (0.03)	0.01 (0.04)
Percent Poverty	-0.04 (0.04)	-0.09* (0.05)	0.00 (0.04)	-0.04 (0.07)	-0.06 (0.07)
Unemployment Rate	0.08 (0.05)	0.01 (0.08)	0.02 (0.08)	0.08 (0.09)	0.00 (0.11)
Log Crime Rate	0.76* (0.41)	0.68 (0.73)	1.54** (0.73)	0.44 (0.67)	0.35 (0.63)
Incarceration Rate	0.04 (0.91)	0.79 (1.48)	-0.33 (0.96)	-1.56 (1.46)	0.52 (1.89)
Log Pseudo-likelihood	-259.05	-143.87	-133.11	-125.52	-71.74
N	680	680	680	680	680

Notes: Coefficients are presented for logistic regression models of racial disparity reform enactments. * p<0.10, ** p<0.05, *** p<0.01

Appendix 5: Event History Analysis With Additional Factors Affecting the Likelihood of Racial Disparity Reform Policy Enactments

Variable	I. With Black-White Homicide Offending Disparity	I. With Percent of Hispanic Elected Officials
Unified Democratic Control	2.57** (0.99)	1.87 (0.73)
Change in Percent Democrat in Legislature	1.01 (0.01)	1.01 (0.01)
Democratic Governor	0.98 (0.29)	1.07 (0.29)
Black-White Disparity in Incarceration Rates	1.17*** (0.06)	1.12** (0.06)
Black-White Disparity in Arrests Rates	1.11* (0.07)	1.18*** (0.07)
Judicial Racial Disparity Reform Efforts	0.34** (0.16)	0.33** (0.15)
Log Citizen Ideology (One year lag)	0.92 (0.29)	0.95 (0.28)
Percent Black	1.02 (0.03)	1.03 (0.03)
Percent Poverty	0.92 (0.05)	0.89** (0.05)
Unemployment Rate	1.09** (0.04)	1.07* (0.04)
Log Crime Rate	4.19** (2.48)	3.63*** (1.80)
Incarceration Rate	0.98 (1.12)	0.75 (0.80)
Black-White Disparity in Homicide Offending	1.01 (0.27)	
Hispanic Elected Officials (Percent)		1.04*** (0.02)
Log Pseudo-likelihood	654	-376.66
N	-351.35	680

Notes: Hazard ratios are presented for repeatable event Cox regression models.

* p<0.10, ** p<0.05, *** p<0.01

Appendix 6: Summary Measures and Racial Differences in Juvenile Processing Outcomes for Pennsylvania, 1997-2011

	<i>Mean</i>	<i>Standard Error</i>		
<i>I. Demographic Variables</i>				
Age	0.84	0.000		
Sex	1.77	0.001		
<i>II. Social Conditions Variables</i>				
Living Arrangements	0.78	0.001		
Family Status	0.76	0.001		
School Status	1.09	0.000		
<i>III. Legal Variables</i>				
Severity of Charge	37.17	0.024		
Grade of Offense	1.61	0.001		
Number of Charges	2.95	0.003		
<i>IV. Racial Variables</i>				
White	0.52			
Black	0.36			
Hispanic	0.08			
Other	0.01			
<i>V. Dependent Variables</i>				
Pre-DMC Intervention				
Dismissal	0.34			
Petition	0.29			
Adjudication	0.27			
Placement	0.09			
Confinement	0.01			
Post-DMC Intervention				
Dismissal	0.38			
Petition	0.31			
Adjudication	0.24			
Placement	0.07			
Confinement	0.01			
<i>VI. Racial Differences Across Dependent Variables</i>				
Pre-DMC Intervention	<u>White</u>	<u>Black</u>	<u>Hispanic</u>	<u>Other</u>
Dismissal	0.40	0.23	0.25	0.28
Petition	0.26	0.37	0.28	0.33
Adjudication	0.26	0.28	0.32	0.30
Placement	0.08	0.11	0.13	0.09
Confinement	0.00	0.01	0.02	0.00
Post-DMC Intervention	<u>White</u>	<u>Black</u>	<u>Hispanic</u>	<u>Other</u>
Dismissal	0.43	0.30	0.43	0.38
Petition	0.27	0.38	0.26	0.31
Adjudication	0.24	0.24	0.23	0.23
Placement	0.06	0.07	0.07	0.07
Confinement	0.00	0.01	0.01	0.01

Appendix 7: Summary Measures and Racial Differences in Juvenile Processing Outcomes for DMC Intervention Counties, 1997-2011

	<i>Mean</i>	<i>Standard Error</i>		
<i>I. Demographic Variables</i>				
Age	0.84	0.001		
Sex	1.79	0.001		
<i>II. Social Conditions Variables</i>				
Living Arrangements	0.84	0.001		
Family Status	0.82	0.001		
School Status	1.08	0.001		
<i>III. Legal Variables</i>				
Severity of Charge	32.49	0.036		
Grade of Offense	1.47	0.001		
Number of Charges	3.22	0.004		
<i>IV. Racial Variables</i>				
White	0.27			
Black	0.59			
Hispanic	0.12			
Other	0.01			
<i>V. Dependent Variables</i>				
Pre-DMC Intervention				
Dismissal	0.20			
Petition	0.40			
Adjudication	0.28			
Placement	0.11			
Confinement	0.01			
Post-DMC Intervention				
Dismissal	0.30			
Petition	0.44			
Adjudication	0.21			
Placement	0.05			
Confinement	0.01			
<i>VI. Racial Differences Across Dependent Variables</i>				
Pre-DMC Intervention	<u>White</u>	<u>Black</u>	<u>Hispanic</u>	<u>Other</u>
Dismissal	0.27	0.16	0.21	0.16
Petition	0.37	0.43	0.32	0.43
Adjudication	0.28	0.28	0.31	0.29
Placement	0.08	0.12	0.14	0.12
Confinement	0.01	0.01	0.02	0.00
Post-DMC Intervention	<u>White</u>	<u>Black</u>	<u>Hispanic</u>	<u>Other</u>
Dismissal	0.37	0.24	0.42	0.33
Petition	0.40	0.48	0.33	0.41
Adjudication	0.19	0.22	0.19	0.20
Placement	0.04	0.05	0.05	0.05
Confinement	0.00	0.01	0.01	0.00

Appendix 8: Summary Measures and Racial Differences in Juvenile Processing Outcomes for Non-Intervention Counties, 1997-2011

	<i>Mean</i>	<i>Standard Error</i>		
<i>I. Demographic Variables</i>				
Age	0.86	0.001		
Sex	1.76	0.001		
<i>II. Social Conditions Variables</i>				
Living Arrangements	0.75	0.001		
Family Status	0.73	0.001		
School Status	1.10	0.001		
<i>III. Legal Variables</i>				
Severity of Charge	40.17	0.032		
Grade of Offense	1.70	0.001		
Number of Charges	2.77	0.003		
<i>IV. Racial Variables</i>				
White	0.68			
Black	0.21			
Hispanic	0.06			
Other	0.01			
<i>V. Dependent Variables</i>				
Pre-DMC Intervention				
Dismissal	0.43			
Petition	0.23			
Adjudication	0.26			
Placement	0.08			
Confinement	0.01			
Post-DMC Intervention				
Dismissal	0.44			
Petition	0.22			
Adjudication	0.25			
Placement	0.08			
Confinement	0.01			
<i>VI. Racial Differences Across Dependent Variables</i>				
Pre-DMC Intervention	<u>White</u>	<u>Black</u>	<u>Hispanic</u>	<u>Other</u>
Dismissal	0.43	0.37	0.31	0.36
Petition	0.23	0.24	0.21	0.27
Adjudication	0.25	0.28	0.33	0.30
Placement	0.08	0.10	0.12	0.07
Confinement	0.00	0.01	0.02	0.00
Post-DMC Intervention	<u>White</u>	<u>Black</u>	<u>Hispanic</u>	<u>Other</u>
Dismissal	0.45	0.40	0.44	0.42
Petition	0.23	0.22	0.18	0.24
Adjudication	0.25	0.28	0.27	0.25
Placement	0.07	0.09	0.09	0.09
Confinement	0.00	0.01	0.01	0.01

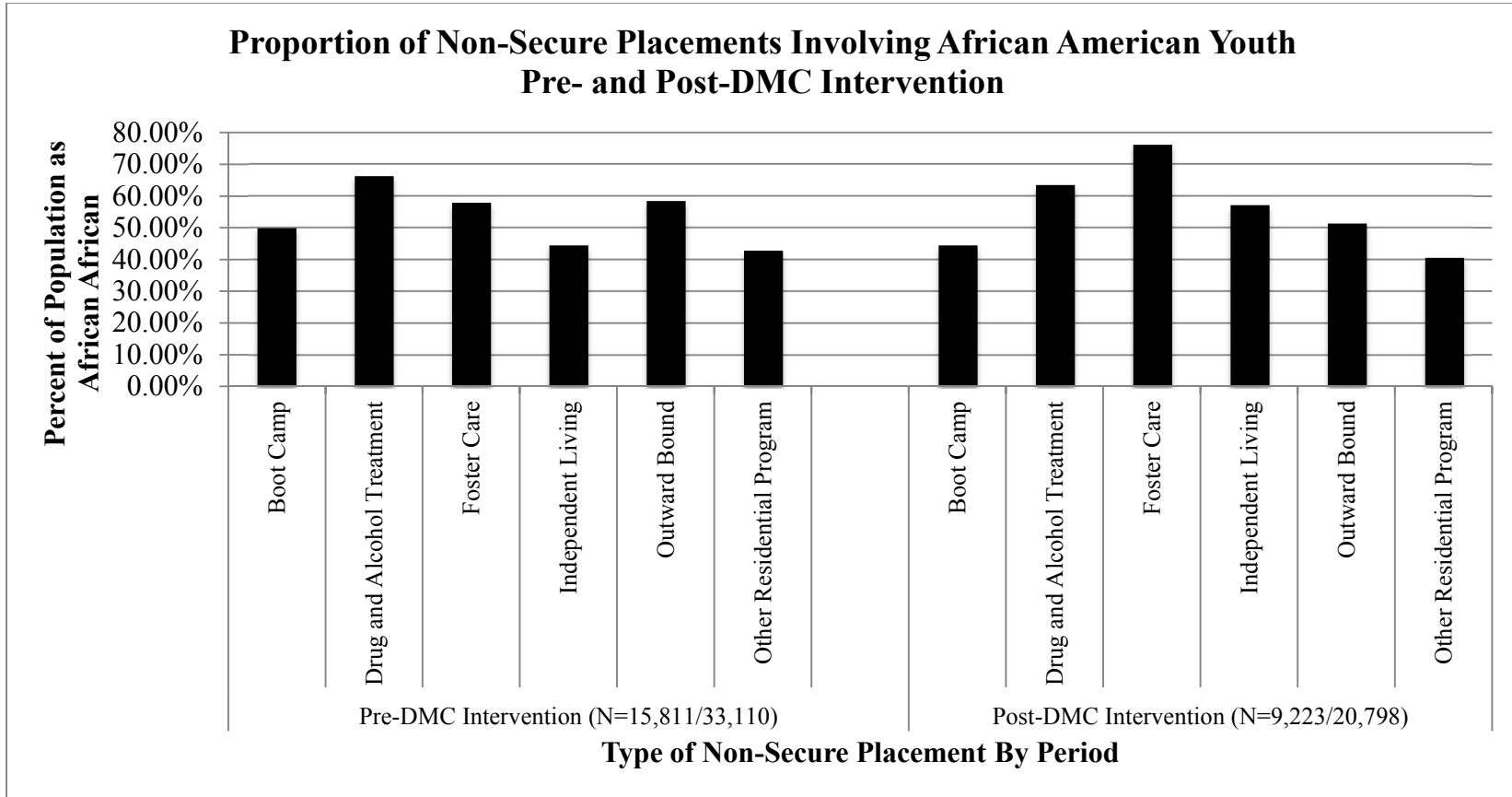
Appendix 9: Summary Statistics of DMC Intervention and Non-Intervention County-Years in Pennsylvania, 1997-2011 (N = 1020)

<i>Variables</i>	<i>DMC Intervention Counties</i>			<i>Non-Intervention Counties</i>		
	n	Mean	Standard Error	n	Mean	Standard Error
Dependent Variables						
# of African Americans Petitioned	75	1550.81	217.68	930	53.40	4.23
# of African Americans Adjudicated	75	668.75	89.04	930	33.65	2.85
# of African Americans Placed	75	188.08	30.66	930	9.17	0.69
# of African Americans Securely Confined	75	16.12	2.11	930	0.89	0.08
# of Hispanics Petitioned	75	262.45	31.43	930	14.50	1.46
# of Hispanics Adjudicated	75	136.27	15.07	930	9.88	1.08
# of Hispanics Placed	75	41.40	5.11	930	2.84	0.32
# of Hispanics Securely Confined	75	4.36	0.52	930	0.34	0.06
Control Variables						
Youth Poverty Rate	75	17.59	0.89	930	14.65	0.16
% Urban	75	83.72	1.50	930	45.95	0.86
Dropout Rate	75	2.66	0.19	930	1.59	0.02
Unemployment Rate	75	5.41	0.22	930	6.08	0.06
Total General Youth Population	75	84563	6122	930	15101	574
Juvenile Arrest Rate	75	105.93	6.49	930	60.86	1.32
% Voters Registered as Republican	75	39.82	1.82	930	48.41	0.49
Imprisonment Rate	75	150.49	8.98	930	87.30	1.70
# of African Americans Arrested	75	5978.04	1044.95	930	172.43	13.78
# of Whites Arrested	75	4523.37	386.76	930	752.56	29.51
# of African Americans Referred	75	1935.72	257.24	930	86.79	6.16
# of Hispanics Referred	75	387.49	40.55	930	24.15	2.34
Mean Sex (0 'female'; 1 'male')	75	0.77	0.00	930	0.77	0.00
Mean Age (0 ' ≤ 15 '; 1 '>15')	75	0.51	0.00	930	0.53	0.00
Mean School Status (0 'enrolled'; 1 'not enrolled')	75	0.10	0.01	928	0.11	0.00
Mean Family Status (0 'married'; 1 'divorced, separated, never married, or other')	75	0.79	0.01	929	0.70	0.00
Mean Living Arrangements (0 'two parents'; 1 'single parent, relative, or other')	75	0.17	0.00	927	0.19	0.00
Mean Severity of Offense (1-77 adapted Wolfgang Severity Index)	75	35.36	0.55	930	38.01	0.21
Mean Number of Charges (1-7)	75	2.71	0.16	930	2.69	0.04
Mean Grade of Offense (0 'felony'; 1 'misdemeanor')	75	1.58	0.02	930	1.68	0.00

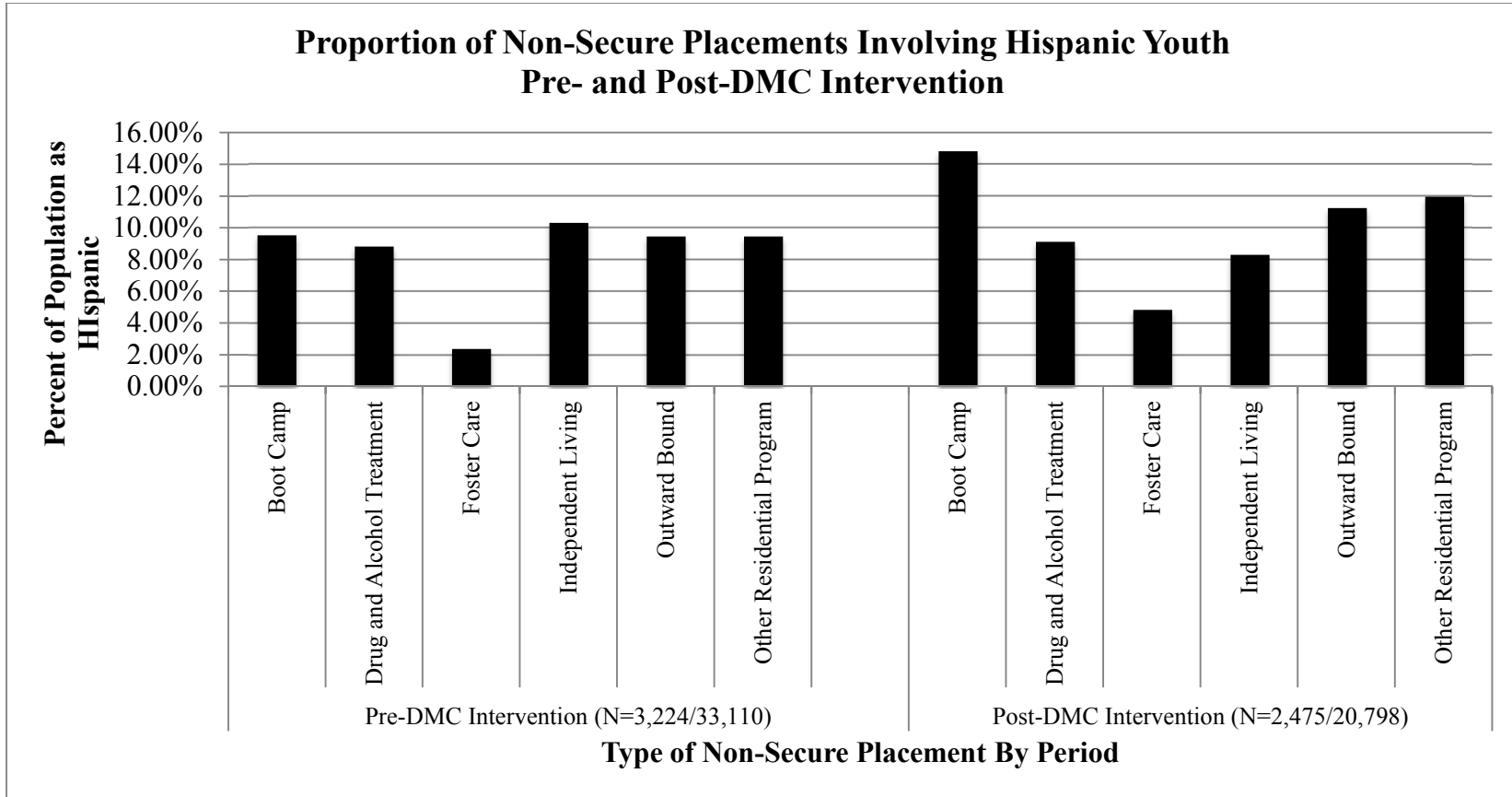
Appendix 10: Zero-Order Correlations Among Demographic, Social Conditions, Legal, and Race Variables

<i>Variable</i>	1	2	3	4	5	6	7	8	9	10	11
1. Age	1.000										
2. Sex	0.0065*	1.0000									
3. Living Arrangements	-0.0277*	-0.0429*	1.0000								
4. Family Status	-0.0345*	-0.0441*	00.8539*	1.0000							
5. School Status	0.1122*	0.0030*	0.0338*	0.0310*	1.0000						
6. Severity of Charge	0.0728*	-0.1113*	0.0078*	-0.0104*	0.0414*	01.0000					
7. Grade of Charge	0.0040*	-0.1235*	-0.0670*	-0.0670*	-0.0121*	0.4930*	1.000				
8. Number of Charges	-0.0027*	0.1188*	0.0085*	-0.0049*	-0.0008	-0.4816*	-0.4457*	1.000			
9. Black	-0.0618*	-0.0098*	0.2096*	0.2195*	-0.0509*	-0.1506*	-0.1930*	0.1121*	1.0000		
10. Hispanic	0.0008	0.0140*	0.0421*	0.0553*	0.0319*	0.0048*	-0.0192*	-0.0242*	-0.2224*	1.0000	
11. Other	0.0026*	-0.0005	-0.0247*	-0.0136*	-0.0072*	-0.0049*	0.0000	0.0049*	-0.0829*	-0.0331*	1.0000

Note: * p<0.05



Appendix 11: Percent of Statewide Non-Secure Placements Involving African American Youth By Type Before and After DMC Intervention.



Appendix 12: Percent of Statewide Non-Secure Placements Involving Hispanic Youth By Type Before and After DMC Intervention.

**Appendix 13: Continuation Ratio Logistic Regression Results Predicting
Advancement in Juvenile Processing in 65 Pennsylvania Counties With and Without
Prior Record of Referral Information, 1997-2011**

	<i>Non-Racial Factors Model</i>			<i>Full Model</i>		
	Without Priors	With Priors	Difference	Without Priors	With Priors	Difference
Age	0.19*** (0.01)	0.18*** (0.01)	0.71	0.20*** (0.01)	0.19*** (0.01)	0.71
Sex	0.16*** (0.01)	0.15*** (0.01)	0.71	0.17*** (0.01)	0.16*** (0.01)	0.71
Living Arrangements	0.09*** (0.01)	0.09*** (0.01)	0.00	0.09*** (0.01)	0.08*** (0.01)	0.71
Family Status	0.06*** (0.01)	0.06*** (0.01)	0.00	0.04*** (0.01)	0.04*** (0.01)	0.00
School Status	0.08*** (0.01)	0.08*** (0.01)	0.00	0.08*** (0.01)	0.08*** (0.01)	0.00
Severity of Charge	-0.01*** (0.00)	-0.01*** (0.00)	0.00	-0.01*** (0.00)	-0.01*** (0.00)	0.00
Grade of Offense	-0.29*** (0.01)	-0.29*** (0.01)	0.00	-0.28*** (0.01)	-0.28*** (0.01)	0.00
Number of Charges	0.08*** (0.00)	0.08*** (0.00)	0.00	0.08*** (0.00)	0.08*** (0.00)	0.00
Black				0.11*** (0.01)	0.10*** (0.01)	0.71
Hispanic				0.13*** (0.01)	0.13*** (0.01)	0.00
Other				0.03 (0.02)	0.04* (0.02)	-0.35
Prior Record	N/A N/A	0.07*** (0.00)		N/A N/A	0.07*** (0.00)	
Log Likelihood	-494604.96	-494389.33		-494368.27	-494175.28	
N	740,367	740,367		740,367	740,367	

Note: * p<0.1, ** p<0.05, *** p<0.01. Standard errors are shown in parentheses.

Appendix 14: Logistic Regression Results Predicting Petitioning in Juvenile Processing in Pennsylvania, DMC Intervention Counties, and Non-Intervention Counties Before and After DMC Intervention

	<i>All Counties</i>			<i>DMC Intervention Counties</i>			<i>Non-Intervention Counties</i>		
	Pre-DMC Intervention	Post-DMC Intervention	Difference	Pre-DMC Intervention	Post-DMC Intervention	Difference	Pre-DMC Intervention	Post-DMC Intervention	Difference
Age	0.46*** (0.02)	0.30*** (0.01)	-7.16	0.51*** (0.03)	0.33*** (0.02)	-4.99	0.43*** (0.02)	0.26*** (0.02)	-6.01
Sex	0.27*** (0.01)	0.30*** (0.01)	2.12	0.32*** (0.03)	0.37*** (0.02)	1.39	0.24*** (0.02)	0.24*** (0.01)	0.00
Living Arrangements	0.09*** (0.02)	0.13*** (0.02)	1.41	-0.03 (0.05)	0.15*** (0.04)	2.81	0.17*** (0.03)	0.12*** (0.03)	-1.18
Family Status	0.13*** (0.02)	0.03 (0.02)	-3.54	0.27*** (0.05)	0.00 (0.04)	-4.22	0.04 (0.03)	0.06* (0.03)	0.47
School Status	0.14*** (0.02)	0.07*** (0.02)	-2.47	0.09** (0.04)	0.02 (0.03)	-1.40	0.18*** (0.02)	0.09*** (0.02)	-3.18
Severity of Charge	-0.03*** (0.00)	-0.02*** (0.00)	0.00	-0.02*** (0.00)	-0.01*** (0.00)	0.00	-0.03*** (0.00)	-0.02*** (0.00)	0.00
Grade of Charge	-0.83*** (0.01)	-0.80*** (0.01)	2.12	-1.29*** (0.03)	-0.91*** (0.02)	10.54	-0.58*** (0.02)	-0.76*** (0.02)	-6.36
Number of Charges	0.15*** (0.00)	0.32*** (0.00)	0.00	0.20*** (0.01)	0.23*** (0.01)	2.12	0.14*** (0.00)	0.38*** (0.01)	24.00
Black	0.57*** (0.01)	0.34*** (0.01)	-16.26	0.57*** (0.03)	0.32*** (0.02)	-6.93	0.23*** (0.02)	0.21*** (0.02)	-0.71
Hispanic	0.57*** (0.03)	0.01 (0.02)	-15.53	0.27*** (0.04)	-0.25*** (0.03)	-10.40	0.61*** (0.04)	0.15*** (0.02)	-10.29
Other	0.30*** (0.07)	0.06 (0.04)	-2.98	0.22* (0.13)	0.06 (0.06)	-1.12	0.27*** (0.08)	0.01 (0.05)	-2.76
Log Likelihood	-88814.72	-119549.41		-23887.74	-47005.99		-63942.75	-71910.201	
N	170,864	239,021		59,258	101,636		111,606	137,385	

Notes: * p<0.1, ** p<0.05, *** p<0.01. Standard errors are shown in parentheses

Appendix 15: Logistic Regression Results Predicting Adjudication in Juvenile Processing in Pennsylvania, DMC Intervention Counties, and Non-Intervention Counties Before and After DMC Intervention

	<i>All Counties</i>			<i>DMC Intervention Counties</i>			<i>Non-Intervention Counties</i>		
	Pre-DMC Intervention	Post-DMC Intervention	Difference	Pre-DMC Intervention	Post-DMC Intervention	Difference	Pre-DMC Intervention	Post-DMC Intervention	Difference
Age	0.31*** (0.02)	0.37*** (0.02)	2.12**	0.34*** (0.03)	0.54*** (0.02)	5.55***	0.31*** (0.02)	0.22*** (0.02)	-3.18***
Sex	0.30*** (0.02)	0.38*** (0.01)	3.58***	0.40*** (0.03)	0.54*** (0.02)	3.88***	0.25*** (0.02)	0.31*** (0.02)	2.12**
Living Arrangements	0.22*** (0.03)	0.14*** (0.02)	-2.22**	0.37*** (0.04)	0.18*** (0.03)	-3.80***	0.02 (0.03)	0.16*** (0.03)	3.30***
Family Status	0.05** (0.03)	0.01 (0.02)	-1.11	-0.11*** (0.04)	0.05 (0.03)	3.20***	0.25*** (0.03)	0.03 (0.03)	-5.19***
School Status	0.29*** (0.02)	0.12*** (0.02)	-6.01***	0.74*** (0.04)	0.22*** (0.02)	-11.63***	0.00 (0.03)	0.05** (0.02)	1.39
Severity of Charge	-0.01*** (0.00)	-0.00** (0.00)	0.00	0.00*** (0.00)	0.01*** (0.00)	0.00	-0.01*** (0.00)	-0.01*** (0.00)	0.00
Grade of Charge	-0.32*** (0.01)	-0.28*** (0.01)	2.83***	-0.49*** (0.02)	-0.57*** (0.02)	-2.83***	-0.43*** (0.02)	-0.48*** (0.02)	-1.77
Number of Charges	0.09*** (0.00)	0.09*** (0.00)	0.00	0.05*** (0.00)	-0.04*** (0.00)	0.00	0.10*** (0.00)	0.16*** (0.00)	0.00
Black	-0.40*** (0.01)	-0.41*** (0.01)	-0.71	-0.24*** (0.02)	-0.13*** (0.02)	3.89***	0.13*** (0.02)	0.18*** (0.02)	1.77
Hispanic	0.19*** (0.03)	-0.02 (0.02)	-5.82***	0.37*** (0.04)	0.05* (0.03)	-6.40***	0.39*** (0.04)	0.43*** (0.03)	0.80
Other	-0.13* (0.07)	-0.18*** (0.04)	-0.62	-0.14 (0.11)	0.01 (0.06)	1.20	0.02 (0.09)	0.04 (0.06)	0.18
Log Likelihood	-78916.61	-114823.92		-31961.14	-50670.83		-44996.26	-57657.16	
N	121,967	170,142		47,833	78,196		74,134	91,946	

Notes: * p<0.1, ** p<0.05, *** p<0.01. Standard errors are shown in parentheses.

Appendix 16: Logistic Regression Results Predicting Placement Dispositions in Juvenile Processing in Pennsylvania, DMC Intervention Counties, and Non-Intervention Counties Before and After DMC Intervention

	<i>All Counties</i>			<i>DMC Intervention Counties</i>			<i>Non-Intervention Counties</i>		
	Pre-DMC Intervention	Post-DMC Intervention	Difference	Pre-DMC Intervention	Post-DMC Intervention	Difference	Pre-DMC Intervention	Post-DMC Intervention	Difference
Age	0.42*** (0.03)	0.36*** (0.03)	-1.41	0.40*** (0.04)	0.55*** (0.06)	2.08**	0.43*** (0.03)	0.31*** (0.03)	-2.83***
Sex	0.37*** (0.03)	0.42*** (0.02)	1.39	0.53*** (0.05)	0.63*** (0.05)	1.41	0.29*** (0.03)	0.38*** (0.03)	2.12**
Living Arrangements	0.29*** (0.04)	0.14*** (0.04)	-2.65***	0.16*** (0.06)	0.22*** (0.07)	0.65	0.36*** (0.05)	0.11** (0.05)	-3.54***
Family Status	0.14*** (0.04)	0.12*** (0.04)	-0.35	0.19*** (0.06)	0.07 (0.07)	-1.30	0.10** (0.04)	0.16*** (0.05)	0.94
School Status	-0.07** (0.03)	0.00 (0.03)	1.65	0.01 (0.05)	0.20*** (0.04)	2.97***	-0.09*** (0.03)	-0.08** (0.03)	0.24
Severity of Charge	0.00*** (0.00)	-0.00*** (0.00)	0.00	0.00** (0.00)	-0.01*** (0.00)	0.00	0.00*** (0.00)	-0.00*** (0.00)	0.00
Grade of Charge	-0.40*** (0.02)	-0.34*** (0.02)	2.12**	-0.44*** (0.04)	-0.58*** (0.04)	-2.47***	-0.37*** (0.02)	-0.34*** (0.02)	1.06
Number of Charges	0.06*** (0.00)	0.07*** (0.00)	0.00	0.06*** (0.01)	-0.01 (0.01)	-4.95***	0.06*** (0.01)	0.09*** (0.01)	2.12**
Black	0.17*** (0.02)	-0.01 (0.02)	-6.36***	0.27*** (0.03)	0.10** (0.04)	-3.40***	0.12*** (0.03)	0.13*** (0.02)	0.28
Hispanic	0.31*** (0.03)	0.18*** (0.03)	-3.06***	0.48*** (0.05)	0.26*** (0.05)	-3.11***	0.15*** (0.05)	0.24*** (0.03)	1.54
Other	0.08 (0.09)	0.11* (0.07)	0.26	0.09 (0.17)	0.14 (0.12)	0.24	0.08 (0.11)	0.20** (0.08)	0.88
Log Likelihood	-43398.86	-46056.04		-14897.90	-15118.51		-28462.67	-30665.15	
N	74,980	86,746		24,994	30,112		49,986	56,634	

Notes: * p<0.1, ** p<0.05, *** p<0.01. Standard errors are shown in parentheses.

Appendix 17: Logistic Regression Results Predicting Confinement Dispositions in Juvenile Processing in Pennsylvania, DMC Intervention Counties, and Non-Intervention Counties Before and After DMC Intervention

	<i>All Counties</i>			<i>DMC Intervention Counties</i>			<i>Non-Intervention Counties</i>		
	Pre-DMC Intervention	Post-DMC Intervention	Difference	Pre-DMC Intervention	Post-DMC Intervention	Difference	Pre-DMC Intervention	Post-DMC Intervention	Difference
Age	1.00*** (0.13)	0.51*** (0.11)	-2.88	0.93*** (0.18)	0.55*** (0.21)	-1.37	1.05*** (0.19)	0.49*** (0.14)	-2.37
Sex	-0.19** (0.09)	-0.30*** (0.08)	-0.91	-0.14 (0.14)	-0.70*** (0.13)	-2.93	-0.26** (0.11)	-0.12 (0.10)	0.94
Living Arrangements	0.04 (0.12)	-0.11 (0.13)	-0.85	0.25 (0.18)	-0.16 (0.22)	-1.44	-0.14 (0.17)	-0.09 (0.17)	0.21
Family Status	0.14 (0.12)	0.40*** (0.14)	1.41	-0.16 (0.18)	0.39* (0.22)	1.93	0.38** (0.17)	0.39** (0.18)	0.04
School Status	0.61*** (0.07)	0.46*** (0.07)	-1.52	0.37*** (0.12)	0.48*** (0.11)	0.68	0.77*** (0.09)	0.42*** (0.09)	-2.75
Severity of Charge	-0.01*** (0.00)	-0.00 (0.00)	0.00	-0.01** (0.00)	-0.00 (0.00)	0.00	-0.01*** (0.00)	-0.00 (0.00)	0.00
Grade of Charge	-0.36*** (0.07)	-0.60*** (0.07)	-2.42	-0.04 (0.11)	-0.51*** (0.13)	-2.76	-0.51*** (0.10)	-0.63*** (0.08)	-0.94
Number of Charges	0.02 (0.01)	0.04*** (0.01)	1.41	0.01 (0.02)	0.10*** (0.02)	3.18	0.02 (0.02)	0.00 (0.02)	-0.71
Black	0.46*** (0.06)	0.36*** (0.06)	-1.18	0.31*** (0.10)	0.16 (0.12)	-0.96	0.45*** (0.09)	0.37*** (0.07)	-0.70
Hispanic	0.93*** (0.08)	0.43*** (0.08)	-4.42	0.77*** (0.13)	0.22 (0.15)	-2.77	0.94*** (0.13)	0.48*** (0.10)	-2.80
Other	-0.35 (0.42)	-0.07 (0.23)	0.58	-1.24 (1.01)	-0.39 (0.41)	0.78	-0.06 (0.46)	0.01 (0.28)	0.13
Log Likelihood	-4979.77	-5632.13		-2164.27	-2046.03		-2794.15	-3570.97	
N	20,685	20,247		7,560	6,384		13,125	13,863	

Notes: * p<0.1, ** p<0.05, *** p<0.01. Standard errors are shown in parentheses.

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