

U.S. Senate Judiciary Committee

The Juvenile Justice and Delinquency Prevention Act (JJDP) Reauthorization:

Racial and Ethnic Disparities in the Juvenile Justice System

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INTRODUCTION

Good Morning Senators.

My name is Richard Miranda, and I am Chief of the Tucson Police Department. Thank you for the opportunity to be here today to represent the men and women of the Tucson Police Department. I appreciate the opportunity to address the reauthorization of the Juvenile Justice and Delinquency Prevention Act (JJDP) and specifically to speak to the issue of racial and ethnic disparities in the juvenile justice system.

I offer a practitioner's perspective regarding the crisis of over-representation of young people of color in our justice systems. Our officers are on the frontline dealing with youth, families and communities and there is no doubt that the majority of youth and families that are being served by our local law enforcement teams are youth of color.

Indeed, in Tucson the issue of the overrepresentation of youth of color in the juvenile justice system is very important to communities of color as well as the Anglo community. It is for this reason that I am particularly pleased to have the opportunity to speak with you today about enhancing the core protection in the JJDP that focuses specifically on the overrepresentation of youth of color in the juvenile justice system.

NATIONAL SCOPE OF THE CRISIS

Youth of color are disproportionately represented at every decision making point in juvenile justice system, and this disadvantage accumulates as they move through the system¹. Youth of color are overrepresented in arrests, referrals to court, secure detentions, and placements in secure correctional facilities. Recent national Office of Juvenile Justice and Delinquency Prevention (OJJDP) data reveals that white youth represent 78% of the overall youth population, and 70% of youth arrested, 66% of court referrals, and 60% of youth securely detained pre-adjudication. In contrast,

Black youth represent 17% of the overall youth population, but 28% of youth arrests, 31% of court referrals and 37% of youth securely detained pre-adjudication.²

While youth of color comprise 35% of the total youth in the United States,³ youth of color make up 65% of the population securely detained pre-adjudication. Justice Department data reveal that each year, more than 300,000 youth are detained in pre-trial juvenile detention facilities.⁴ Black and Latino youth comprise the overwhelming majority of this disproportionality with Asian Pacific Islander and Native American youth represented in numbers that need further analysis as well.

The degree of youth of color overrepresentation in secure detention far exceeds the rates of youth of color offending.⁵ Overall, by 1997, youth of color represented the majority of youth in detention in 30 of the 50 states.⁶ These thirty states contain 83% of the U.S. population.⁷ Currently, approximately 4 out of every 5 new youth detained in the juvenile justice system are youth of color.⁸ Therefore, I am pleased that you saw fit to accept my testimony on the importance of the DMC requirement of the JJDP.

If this over-representation was offense driven, these statistics would be alarming but not need a federal statutory response. However, research indicates that youth of color receive more severe sanctions than white youth, even when charged with the same category of offense. For example, although white youth make up 76% of referrals to court for drug offenses, they represent only 62% of those detained. In contrast, African-American youth make up 22% of referrals to court for drug offenses, but 36% of those detained.⁹ In 2003, about 3 in 4 (77%) of drug cases involving African-American youth were formally processed while only half of those cases involving white youth were formally processed.¹⁰ The disparity remains in the disposition of drug offenses. For example, in 2003 White youth represented 73% of youth adjudicated delinquent for drug offenses but 58% of youth sent to out of home placement and 75% of youth whose case resulted in probation. Conversely, African Americans youth, who represented 25% of the youth adjudicated delinquent for drug offenses, represented 40% of the sent to out of home placement but only 22% of youth whose case resulted in probation.¹¹

LOCAL TUCSON EFFORTS

The national statistics I just mentioned are similar to what we experience in Tucson. Youth of color comprise 47% of our court aged population but are detained at a rate of 67%. Since 2004, my department has been participating in a collaboration of stakeholders that came together to analyze the root causes of this dynamic. We have engaged the W. Haywood Burns Institute and the Juvenile Detention Alternatives Initiatives (JDAI) to determine if this over-representation is offense driven or the result of other factors. We have learned that to effectively reduce racial and ethnic disparities, a coordinated body of juvenile justice and community stakeholders must engage in an intensive, data-driven examination of juvenile justice policies, practices and procedures that may disparately impact youth of color.

Essential to the success of our work has been the collaboration of police, prosecutors, probation, public defenders, schools, community service providers and the courts. We conducted an in depth examination of how all juvenile justice departments and agencies interrelate as well as how our various departmental policies and practices may be contributing to disproportionality. Furthermore, we have developed and implemented a strategic plan that focuses specifically and intentionally on reducing racial and ethnic disparities in the juvenile justice system with measurable results.

The goals of this plan included:

- ensuring that all key decisions affecting youth in the juvenile justice system are based on criteria that are demonstrably objective and race-neutral;
- that only youth who meet this criteria are detained;
- that we develop alternatives to detention in collaboration with families and community stakeholders;
- that we develop community dialogue regarding racial and ethnic disparities in the system; and
- that we develop and implement an ongoing plan for detention self-assessment.

Indeed, we are proud to report measurable results with all of these goals. Among other successes:

- We have implemented two alternatives to detention programs located in communities in which youth of color are disproportionately represented in the juvenile justice system;
- We have decreased arrests for African American, Latino and Native American youth;
- We have reduced the average daily population in our juvenile detention facility of both African American and Native American youth; and
- We have reduced the average length of stay in our juvenile detention facility for African American, Latino and Native American youth.

The successes in Pima County's effort to reduce racial and ethnic disparities in the system would not have been possible without the specific and intentional focus on racial and ethnic disparities.

While there is no doubt that poverty and related issues outside the control of law enforcement can be a significant contributor to delinquent behavior, we endeavor to examine if the way the Tucson Police Department does business exacerbates over-representation. Indeed, we knew that two jurisdictions in the country—Portland, OR and Santa Cruz, CA—reduced their over-representation of youth of color in the juvenile justice system, lowered their youth crime rate and saved taxpayers millions of dollars by participating in a similar process.

As the Chief of Police for our great City, I want to assure that our exemplary officers dispatch their duty to serve the citizens of Tucson with fairness and equity. I want to lead a department that clearly demonstrates that youths' race/ethnicity or place of residence does not determine the way justice is administered by our officers. It is for this reason that we have embarked on a project to examine attitudes, policies and

practices regarding arrest and referral of youth throughout the Tucson Police Department.

I am proud to tell the Committee that we are the first Police Department in the country to engage in this level of self-examination.

Specifically, in conjunction with the Burns Institute we are:

- Developing and implementing a qualitative survey on officer attitudes and perceptions about the causes of over-representation of youth of color in the juvenile justice system and their role in reducing the over-representation;
- Mapping and analyzing decision points within the Tucson Police Department to determine where youth of color have the most contact with law enforcement;
- Measuring the impact of those decision points on youth of color; and
- Comparing this information with the policies and practices within the juvenile probation department and the juvenile courts.

We are in the early phases of this work and anticipate surveying approximately 1/3 of the officers in the department by the end of December. This first ever comprehensive examination of how the TPD interacts with children and families in trouble with the law reflects our commitment to operating a department that is innovative and responsive to the community. I look forward to continuing our work with the foremost expert on this type of work— the W. Haywood Burns Institute—well into 2008.

I mention what we are doing about over-representation in the Tucson Police Department because our work through my leadership reflects the level of intentionality that is needed to address racial/ethnic disparities in the youth justice system. In my opinion, the JJDPA is one of the most important legislative vehicles setting juvenile justice policy throughout the nation. Indeed, the federal dollars and legislative mandates set the agenda for what happens in the states, counties and cities.

By enhancing the core requirement of the JJDPA regarding disproportionality in the juvenile justice system, you are making a statement that you recognize the intentionality necessary to reduce racial and ethnic disparities in the system and are make this work a national priority. You are giving states, counties and cities the direction and incentive to follow Tucson's lead.

ENHANCING THE JJDPA

In 2002, Congress reauthorized the JJDPA and required states to examine youth of color over-representation at specific, individual decision points of “contact” within its respective juvenile justice systems, instead of merely confinement.¹² We know, however, that examining decision points is not enough. For decades now we have

seen research indicating that disproportionality exists. Now, we must take action based on the data.

Taking action based on data in no way suggests that the collection and analysis of reliable data is not critical to effectively reducing racial and ethnic disparities. In fact, the successes illustrated in Pima County would not be possible without the commitment of juvenile justice stakeholders using data to identify where racial and ethnic disparities exist in our juvenile justice system and to track and analyze these disparities, using descriptors disaggregated as appropriate by race, ethnicity, gender, geography, offense, delinquency history and age. It was based on these analyses that we developed our goals and work plan.

Moreover, we realize that not all jurisdictions are where they need to be with regard to the collection of data on race and ethnicity. For example, many states and jurisdictions cannot measure the extent of overrepresentation of Latino youth because their data systems do not count or track Latino youth accurately. Many jurisdictions fail to separate youths' race from their ethnicity. For example, they may ask youth only whether they are White, Black, Native American, Asian or Other. As a result, Latino youth are often misidentified as White youth. Consequently, Latino youth are often under-counted and white youth are often over-counted; making disparities in the juvenile justice system appear less significant than they really are.¹³

Tucson, like other cities around the country has seen an increase in the over-representation of youth of color involved in the juvenile justice system and many officials are at a loss about what to do. In Tucson, we have an active commitment to the collection and analysis of reliable data that tells us about that increase. More importantly, though, we have an active commitment to looking behind the statistics at the youth and families that are implicated by system involvement. We commit to taking action based on these data. I believe that the reauthorization of the JJDP should encourage other jurisdictions to do likewise.

Currently, the JJDP only requires that states "address" DMC. It does not require oversight of DMC reduction efforts, mapping of critical decision points, accurate collection of relevant data, development of work plans with measurable objectives, or regular monitoring, evaluation, and reporting. This vague requirement that states "address" efforts to reduce DMC has left state and local officials without a clear mandate or guidance for reducing racial and ethnic disparities. Jurisdictions need to approach work to reduce disparities with focused, informed, data-driven strategies.¹⁴ Otherwise, jurisdictions can get stuck studying the problem or endlessly working on projects that do not lead to measurable changes.¹⁵

For example, according to the OJJDP Technical Assistance Manual, designed to provide support for states receiving federal Formula Grant funding to amend DMC in their respective jurisdictions,¹⁶ DMC is broken down into four phases: (1) Identification to determine the extent to which DMC exists;¹⁷ (2) Assessment to assess the various reasons for DMC;¹⁸ (3) Intervention to develop and implement intervention

strategies to address the identified reasons;¹⁹ and (4) Evaluation to evaluate the effectiveness of the chosen intervention strategies.²⁰ Despite this effort, and various local agencies across the country collecting juvenile data, few jurisdictions have moved beyond the “Identification” and “Assessment” phase.

This has resulted in “intervention strategies” reported to OJJDP that fail to directly target DMC. Mentoring programs and cultural diversity trainings comprise a high percentage of states’ DMC reduction implementation strategies. While these types of state “programs” involve youth of color in some way, their impact on reducing DMC is attenuated at best. After 10 years we have learned that a direct, intentional approach is necessary.

Thus, I propose that the reauthorization of the JJCPA require that states engage in specific approaches to address racial/ethnic disparities while maintaining public safety. I recommend doing this by strengthening the core protection by replacing the current requirement that States “address DMC” to language that require that local juvenile justice and community stakeholders engage in policy, practice, and system improvement strategies at the local and state levels that are specifically and intentionally designed to reduce racial and ethnic disparities throughout the juvenile justice system.

Just as we have done in Pima County, the strategy must include the collaboration of local juvenile justice stakeholders, including community leaders of communities in which youth of color are disproportionately represented in the juvenile justice system.

The strategy must include the mapping local and state juvenile justice systems to identify key decision points and how departmental policy, practice and procedure may disparately impact youth of color and be contributing to disproportionality.

The strategy must include the development and implementation of data systems that identify where racial and ethnic disparities exist in the juvenile justice system and track and analyze such disparities, using descriptors disaggregated as appropriate by race, ethnicity, gender, geography, offense, delinquency history and age.

The strategy must include the development and implementation of a work plan to reduce racial and ethnic disparities that includes measurable objectives for system change and/or policy and practice change designed to reduce any forms of bias, differential treatment of youth of color or disparity found to be associated with race and ethnicity; and

Moreover, to ensure compliance, these efforts must publicly report and progress towards measurable objectives in reducing racial and ethnic disparities must be monitored and evaluated on an annual basis.

Thank you for the opportunity to address you regarding this critical issue. In Pima County, we have realized that reducing racial and ethnic disparities in the juvenile

justice system while maintaining public safety is possible. We also know that it is only possible by implementing the strategies enumerated above.

In closing, all of law enforcement officers take an oath that commits them to expectation of fairness and a lack of prejudice in administration of justice. I am confident that we in law enforcement are taking every step possible to meet that expectation, and on a daily basis, police officers throughout the country demonstrate that dedication to the office. However, introspection and innovation must be tenets that are part of every police department's charge. When issues and problems come forward from our community members we must be responsive and develop conduits of communication that reflect remedy towards enhancing the quality of life for all citizens of our cities- irrespective of their race, ethnicity or what side of town they reside in. Through the extension of funding of for the Juvenile Justice and Delinquency Prevention Act, we in law enforcement can continue to meet the mandates and goals of making our nations youth contributing members of our great country.

I am happy to answer any questions you might have regarding my testimony.

¹ National Council on Crime and Delinquency. 2007. "And Justice for Some: Differential Treatment of Youth of Color in the Justice System." Oakland, CA: National Council on Crime and Delinquency, available at http://www.nccdcrc.org/nccd/pubs/2007jan_justice_for_some.pdf .(last visited November 29, 2007).

² Snyder, H., Puzzanchera, C., and Adams, B. (2007). National Disproportionate Minority Contact Databook. Developed by the National Center for Juvenile Justice for the Office of Juvenile Justice and Delinquency Prevention. Online. Available: <http://ojjdp.ncjrs.gov/ojstatbb/dmcd/b/>. It should be noted that because of data collection limitations, ethnicity is not reflected in the National Disproportionate Minority Contact Databook, Thus, Latino youth, who comprise a significant portion of both the youth population and youth in contact with the juvenile justice system, are included within and not counted distinctly from White, Black, American Indian or Alaskan Native and Asian, Hawaiian, or Pacific Islander youth.

³ Eleanor Hinton Hoytt, Vincent Schiraldi, Brenda V. Smith & Jason Zienenberg, *Reducing Racial Disparities in Juvenile Detention: 8 Pathways to Juvenile Detention Reform*, 10, (Feb 3, 2002), available at <http://www.aecf.org/upload/PublicationFiles/reducing%20racial%20disparities.pdf> (last visited on November 29, 2007).

⁴ *Fact Sheet*, BUILDING BLOCKS FOR YOUTH, available at <http://www.buildingblocksforyouth.org/issues/conditions/facts.html> (last visited November 29, 2007).

⁵ Bill Rust, "Juvenile Jailhouse Rocked," *AdvoCasey* (Baltimore, MD: Annie E. Casey Foundation, Fall/ Winter 1999), available at http://www.aecf.org/upload/PublicationFiles/advocasey_fall1999.pdf (last visited November 29, 2007)

⁶ *Id.*

⁷ *Id.*

⁸ Vincent Schiraldi and Jason Zienenberg, "Reducing Disproportionate Minority Confinement: The Multnomah County, Oregon Success Story and it's Implications." Center on Juvenile and Criminal Justice. 2002, available at <http://www.cjcj.org/pubs/portland/portland.html> (last visited on November 29,2007).

⁹ National Council on Crime and Delinquency. 2007. "And Justice for Some: Differential Treatment of Youth of Color in the Justice System." Oakland, CA: National Council on Crime and Delinquency, available at http://www.nccdcrc.org/nccd/pubs/2007jan_justice_for_some.pdf .(last visited November 29, 2007).

¹⁰ *Id.*

¹¹ *Id.*

¹² The 2002 reauthorization of the JJDPA changed the standard methodology for determining DMC in the juvenile justice system from *Disproportionate Representation Index* (DRI) to *Relative Rate Index* (RRI). RRI has been celebrated as a more accurate methodology of DMC than DRI when it is used to compare youth of color to White youth populations as a whole. While RRI may be more accurate in general, when used to compare youth of color to White youth at a particular point of contact, the RRI methodology only compares the percentage of White youth and youth of color at each decision point of the juvenile justice system to the percentage of White youth and youth of color at the previous point, failing to take into account the youth population as a whole.

¹³ Francisco A. Villarruel, Nancy Walker, et al., *¿Dónde Está la Justicia? A call to action on behalf of Latino and Latina youth in the U.S. justice system*, July 2002, p. 5-7.

¹⁴ W. Haywood Burns Institute, <http://www.burnsinstitute.org/reducing.html>.

¹⁵ W. Haywood Burns Institute, http://www.burnsinstitute.org/img/brochure_1105.pdf.

¹⁶ Hsia, H., Wilson, M., Wilson, K., & Frabutt, J. M. (2006). Federal, state and local efforts to reduce disproportionate minority contact. In *Disproportionate minority contact technical assistance manual, 3rd edition* (pp. 6.1-6.26). Washington, DC: U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention. Available online at: http://www.ncjrs.gov/html/ojjdp/dmc_ta_manual/index.html (last visited on November 29, 2007).

¹⁷ The purpose of the Identification Phase is to determine if youth of color are overrepresented in the State's secure facilities. This is completed through data collection of the number of youth involved at every point of contact with the juvenile justice system.

¹⁸ The Assessment Phase of the DMC process requires a more in-depth look at and understanding of the discrepancies between White youth and youth of color at the various decision points in the juvenile justice system. The focus of the Assessment Phase is on *why* overrepresentation exists.

¹⁹ The Intervention Phase involves devising and implementing strategies to reduce youth of color overrepresentation. While identification and assessment activities are generally more the purview of the State, the bulk of planning and implementing *solutions* to DMC necessarily shifts to the targeted communities.

²⁰ The Evaluation Phase analyzes State initiatives' ability to reduce DMC and is essential to determining the effectiveness of DMC efforts.