Minority over-representation in the juvenile justice system

Shirley G Burgess
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MINORITY OVER-REPRESENTATION IN THE
JUVENILE JUSTICE SYSTEM

By

Shirley G. Burgess

Master of Arts
University of Nevada, Las Vegas
1998

A thesis submitted in partial fulfillment
of the requirements for the degree of

Master of Arts

in

Criminal Justice

Department of Criminal Justice
University of Nevada, Las Vegas
December 1998
The Thesis prepared by

Shirley Burgess

Entitled

The Over-Representation of Minorities in the Juvenile Justice System

is approved in partial fulfillment of the requirements for the degree of

Master of Arts in Criminal Justice

Examination Committee Chair

Dean of the Graduate College
ABSTRACT

MINORITY OVER-REPRESENTATION IN THE
JUVENILE JUSTICE SYSTEM

by

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Dr. Randall Shelden, Examination Committee Chair
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Minority over-representation in the juvenile justice system is a national concern. Research in this area is limited, however, there is indication that minority over-representation, particularly of African-American youth, seems to occur at various stages of juvenile justice processing. It is my belief that once arrested, minority youth are more likely to be certified as an adult than white youth. This paper examines the certification process in Clark County, Nevada, by studying a random sample of 200 cases. The results suggest that this theory holds true. The labeling perspective offers the best explanation of disparate treatment of African-American youth. Discrimination has been ever-present in every aspect of their lives while whites have enjoyed unwavering legal protections. Research also shows that crimes committed by minorities are more visible, detection is more likely, and the behaviors and general life styles of minorities are more likely to be labeled as “deviant.”
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ACKNOWLEDGMENTS

My dear mother is not alive to witness this lifelong dream, but it was she who initiated the desire in me to pursue this effort. My husband and children never wavered in their support and understanding, therefore, they have my eternal love.

I am deeply grateful to my examination committee, particularly Committee Chair, Dr. Randall Shelden and Dr. Michelle Hussong and Dr. Kriss Drass, for their unfailing assistance, guidance, and knowledge. Dr. Shelden was instrumental in keeping me focused and provided the majority of the ideas for this project. Special thanks to Dr. Esther Langston, Chair of the School of Social Work, who has always been a friend and mentor, to June Darrow who helped with important deadlines, and to Professor Carl Pope, for providing research that was used as a resource for this project.
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CHAPTER I

STATEMENT OF THE PROBLEM

Statistical data compiled by the Nevada Development Authority indicates that Clark County, Nevada, is among the fastest growing counties in the country. In view that an estimated 4,000 new residents per month moved to Clark County in 1994, this partly translated into an increase of youth referrals to the Department of Family and Youth Services (DFYS). An annual report completed by DFYS for the period 1995-1996 indicates an incredible growth over the last 10 years (Annual Report, 1995-96). Since 1985, there was an 87.6% increase in the number of referrals to the department. There has been an increase of 256% in the number of crimes against persons from 1,309 in 1985 to 4,657 in 1995. One of the most alarming statistics is the increase in the number of youth referred to the agency between the ages of 9 and 11. From 1985-1995, there was an increase of over 123%. While this age group represented 3.8% of youth referred in 1985, in 1995 the percentage had almost tripled to 9.3%. This increase represented an escalation in the number of 9-11 year old youth versus the total referred population by more than 140%.

Actual statistical data on minority representation in this age group is unavailable for the most recent period. However, based upon a previous study by DFYS from 1994 to November 1995, it could be assumed that at a minimum, minority youth are over-
represented in proportion to their percentage of the total youth population in Clark County. According to that study, minority youth, on average, are 2.4 times more likely to be arrested than the general population, 2.7 times more likely to be detained, and 5.2 times more likely to be transferred from juvenile to adult court. Further, minority youth are 3.3 times more likely to be committed to youth institutions. In 1994, 54% of detentions, 84% of transfers, and 62% of commitments involved minorities (DFYS Study, 1994-95).

Lastly, minority youth are more likely to be referred to juvenile court for felonies and misdemeanors, and in a pattern similar to that observed for referrals, minority youth are more likely to be detained in the detention facility prior to adjudication at significantly higher rates than white youth. Despite disproportionately high rates of referrals, minority youth are less likely than whites to be diverted from prosecution.

This thesis examines the issue of the over-representation of minorities in the juvenile justice system. The main focus is how this particular issue is illustrated at one important stage of the processing of juveniles through the system, the certification of a juvenile as an adult. While much has been written about minority over-representation at various stages of the juvenile justice system (from arrest, through detention, through adjudication and disposition), the certification or waiver to the adult system represents perhaps the most extreme disposition within the juvenile justice system, yet the least likely to be studied (some exceptions include: Champion 1989; Bishop, Frazier, Lanza-Kaduce, and Wisner, 1996). The guiding hypothesis of this study is that once arrested, a
minority youth is more likely to be certified as an adult than white youth, even when considering other factors, such as seriousness of offense and prior referrals.

This issue has in recent years taken on national importance. Evidence of this can be seen in a series of congressional investigations into the matter of minority over-representation, which resulted in a mandate to the states requiring them to assess whether this problem exists within their jurisdictions and to take steps to resolve them or face losing program funding. This mandate was partly a result of a report from the National Coalition of Juvenile Justice Advisory Groups (1989) called *A Delicate Balance*, submitted to the President, Congress, and Chief Administrator of the Office of Juvenile Justice and Delinquency Prevention (OJJDP). The report identified problems facing minority youth in the juvenile justice system and their over-representation in secure facilities across the country. The Coalition succeeded in impressing Congress to consider this as a priority issue. Congress’ response was to amend the Delinquency Prevention Act of 1974 by providing two phases to address the problem of over-representation. States are required to determine whether disproportionate minority confinement exists in secure detention facilities compared to their proportion in the general population. The causes are to be identified and methods developed to reduce the proportion of minority youth detained or confined in detention facilities, correctional facilities, jails, and lockups. States were asked to examine the various stages of juvenile processing such as intake, detention, adjudication, and disposition through additional data collection efforts and establish policies and procedures to reduce minority over-representation (Pope and Feyerherm, 1996). More recent progress noted by the Coalition
is a Disproportionate Minority Confinement Technical Assistance Manual produced by the OJJDP in 1990. The manual provides states with a road map and resource guide for developing programs to reduce over-representation of minorities in the juvenile justice system. Over $2 million has been spent since 1989 on additional projects including studies and initiatives in five pilot sites (Coalition for Juvenile Justice, 1995). Failure to address over-representation results in states being ineligible to receive Formula Grant allocations.

On a national level, data show 42 states in compliance with the first phase of this mandate as of 1992. Research has noted that there are degrees of over-representation according to jurisdiction and the degree varies by minority group with African-American youth having the highest number in secure facilities. There is also a trend wherein the degree of over-representation increases as youth progress into the juvenile justice system. Research demonstrates that minorities are over-represented in the juvenile justice system at all stages with a higher number of African-Americans being incarcerated in local detention facilities and in state training schools, as well as being certified as adults (Miller, 1996). One comprehensive study (Pope and Feyerherm 1990, 1993) illustrates the extent that minority youth are disadvantaged and face harsher treatment at intake, detention, adjudication, and disposition. In a more recent study, Pope, Clear and Conley (1994) offer a qualitative view of minority over-representation by focusing on police encounters with minority youth suspected of gang affiliations. In another study, Wordes, Bynum and Corley (1994) examined differences in detention processing of minority and white youth in the state of Michigan. They found that African-American...
and Hispanic youth were at a higher risk of being detained and placed in secure facilities by police and the courts. An analysis of the states of California, Florida, Michigan, Minnesota, Pennsylvania, and Wisconsin consistently support the argument that minority youths are usually at a greater risk of receiving severe outcomes compared to white youths (Kempf-Leonard, Pope, and Feyerherm 1995).

Evidence of racial and other forms of bias (both class and gender) have been documented for many years. Studies as far back as the late 1950s and early 1960s provide evidence of both class and racial bias (Goldman 1963; Piliavan and Briar 1964; Terry 1967; Wolfgang, Figlio, and Sellin 1972; Thornberry 1973; Chambliss, 1975). More recent studies suggest the pattern remains, especially when considering the most severe punishments, including both waiver to adult courts and institutionalization (Krisberg and Austin, 1993; Reiman, 1998). Illustrating the importance of such bias and the long-term impact of racial bias, a recent study projects that if the 1991 incarceration rate continues, 5.1 percent of all United States residents would expect to serve time in a state or federal prison at some point in their lives. This report was issued by the Bureau of Justice Statistic and assumes that recent rates of crime, incarceration, and death will not change. These rates are applied to a hypothetical population of newborns over their lifetimes. The most startling of this information is that African-American female and male newborns have a 16.2 percent chance of serving time in prison at some point during their lives, compared to 9.2 percent Hispanic newborns and 2.5 percent white newborns. Overall, 28.5 percent of African-American male newborns, compared to 16 percent Hispanic male and 4.4 percent white males, are projected to go to prison at some
point in their lives (Proband, 1997). Given these projections and evidence of racial bias, a more thorough study of one aspect of this problem, bias in the certification of youths to adult courts seems timely and appropriate.

Several interrelated factors appear to contribute to this problem. Racism, discrimination, economics, and patterns of criminal behavior are all important. A more detailed exploration of these will be undertaken in the next chapter.
CHAPTER II

REVIEW OF THE LITERATURE AND THEORETICAL FRAMEWORK

The problem of minority over-representation needs to be understood within the context of several interrelated variables. Certainly racism and discrimination are of major importance. Theoretically, within the field of criminology several different perspectives may help account for racial bias. These would include social disorganization theory, conflict theory and the labeling perspective. Space does not permit a complete overview of all of these criminological perspectives, therefore special concentration will be devoted to the labeling view, since it appears to have the most direct bearing on the subject under consideration. The bulk of this chapter will be devoted to examining the extant research on racial bias within both the criminal and juvenile justice system and a review of the labeling theory.

Historical Overview of Race and Racism

In a classic study, Allport (1958) examined the origins of prejudice and the impact of discrimination upon the personality and social development of African-Americans. He proposes a universalist approach to the causes and ensuing consequences of prejudice. He states that racism is a historically developed process that
commences with exploitation of culturally different people. Allport notes that ethnic prejudice destroys interpersonal relationships and unless we understand the roots of ethnic prejudice, the history and the social structure surrounding such prejudice, we cannot reduce its negative impacts upon society. Prejudice and discrimination have carried over into the criminal justice system and result in differential treatment of minorities by the police and courts.

Walker, Spohn, and DeLone (1996) expand the focus on race, ethnicity, and crime to include all people of color. They commence with W.E.B. Du Bois’s view that “the problem of the twentieth century is the problem of the color line.” Racism and racial discrimination are the main problems facing modern society. They provide several illustrations of current crises, such as over-representation of minorities in the criminal justice system, the high number of African-Americans currently on death row, and the high number of executions of African-Americans over the past 66 years. They also include crimes expressed as racial fears in American politics by whites and fear of racial integration in neighborhoods. They note how society prefers to designate racial and ethnic groups with the use of labeling, stereotypes, and discrimination in the criminal justice system.

Race relations between African-Americans and whites today are strained, and it appears that any gains made in the recent past may be deteriorating. A recent poll shows a majority of Americans between 18 and 30 years old are prejudiced toward African-Americans and a large number of whites continue to perceive African-Americans in
stereotypical terms, such as dangerous and violent. Additionally, white supremacists

Walker (1980) notes the importance of the term "dangerous classes" as an
illustration of racial and class stereotypes. This term was used throughout the 19th
century to refer to certain immigrant groups that threatened the social order according to
dominant groups. During the mid-1800s a number of riots occurred and many poor
European immigrant children eventually relocated to inner cities with no viable means
of support or resources. The image of cities became that of a dangerous, unhealthy
environment which presented problems relating to delinquency. A well known private
charity called the Children’s Aid Society focused on a majority of these homeless
children and provided assistance in educational, vocational and self-discipline before
placing them with families. Around the 1920s, there was a similar occurrence after
race riots and African-Americans migrated to the cities. African-Americans and whites
competed for jobs, schools and transportation which caused tension between the
races. World War II later strained resources to an all time high delinquency within
the youth culture became a major concern and the societal response was more crime
control policies. Unfortunately, those affected most by such policies as “get tough on
crime” and the “war on drugs” were racial minorities, particularly, African-
Americans.

In view that racism in the form of negative stereotypes is historically prevalent
in our culture and is mirrored in social institutions, the response to African-Americans
results in selectively higher arrests and higher incarceration rates of minority and
African-American youth. Krisberg and Austin (1993) conclude that crime control policies aimed at controlling what is perceived as threats to mainstream society values have manifested into over-representation of minorities in the adult and juvenile justice systems. Research has continually unveiled a picture of differential treatment toward minorities. While there are alternatives to detention, conviction and harsh prison sentences, such as diversion programs, juvenile courts appear to reserve such programs for white male and female offenders (Donziger, 1996; Tonry, 1995).

Many of the early ideas about the relationship between human nature and social behavior centered around biological determinism or what has been referred to as “nature versus nurture.” Sociologists challenged main themes such as describing and documenting disadvantages of African-Americans living in America, biological inferiority of African-Americans, and interpreting disadvantages of African-Americans resulting from prejudice and discriminatory whites. These themes and assumptions were used by social scientists to explain criminal behavior in various ethnic groups (Hawkins, 1995; DeGre, 1955).

W. E. B. Du Bois was challenged by the racist views of social Darwinists even though they both focused on data which indicate higher rates of arrests, convictions and imprisonment in the African-American population than in the white population. Hawkins (1995) notes that this data represents increased rates for crimes committed by African-Americans in urban areas and the south after slavery ended. This led to the assumption by proponents of biological determinism that the abolition of slavery caused an effect upon African-American crime because they believed slavery socially controlled the so-
called "natural tendencies" of African-Americans to commit crime. Dubois, on the other hand, looked at increased criminal activities by African-Americans in the south and in Philadelphia from the standpoint of an increase in migrants from other geographical locations. Dubois contributes this to a series of race riots, including the rebellion by Nat Turner, to the Pennsylvania legislature enacting laws that negatively impacted African-Americans in 1937. These changes, according to Dubois, exacerbated race relations and led to racial disproportionality of African-Americans in prison. Dubois considers such factors as degraded conditions of African-American life or the African-American underclass in Philadelphia for explanations. He argued that African-Americans' increased involvement in crime resulted naturally not genetically due to a social upheaval after the end of slavery (Hawkins, 1995:13-16).

Hawkins (1995) assesses the work of Sellin (1928, 1938) and Sutherland (1924, 1934) who looked at rates of crime within various groups of white immigrants. Both Sellin and Sutherland caution against drawing conclusions that African-Americans have a greater involvement in crime than whites because there was evidence of bias against African-Americans. Social disorganization theory, as exemplified in the works of Shaw and McKay (1942), highlights the relationship of race, ethnicity, and crime, a relationship that is due to the type of community rather than racial characteristics per se. Another researcher and contributor to the study of race and crime is Bonger (1943). Bonger believed there was insufficient research by European schools to accurately examine the link between crime and race. Bonger further notes that the criminal label as defined by the state and punishment methods served the general interests of a
community. He challenged the empirical basis used by European schools to draw conclusions about these issues, but despite his reliance on the work of American researchers such as Sellin, Sutherland, and others, Bonger's views are similar to social Darwinists.

Wolfgang and Cohen (1970) attempt to refute common misconceptions about the relationship between race and crime. They say that explanations of criminal behavior on the basis of genetic assertions are worthless. They raise questions about the so-called link between race and crime and suggest that more research is necessary on possible racial discrimination and bias within the administration of justice. They further argue that it is difficult to examine criminal behavior based on race due to the number of African-Americans with mixed ancestry and nonwhite genes. They further note that it is economically and socially difficult for African-Americans, unlike whites, to gain upward mobility and access positions in skilled labor. Wolfgang and Cohen comment that racial prejudice is more pronounced for African-Americans than for ethnic whites.

Hawkins (1995) traces the transition from rural to urban society in the 1800s. During this period, immigrants who settled in United States cities lived in poor urban areas that promoted drunkenness and crime. Although it was not proven that immigrants were responsible for these problems, anti-immigration sentiment led to drinking prohibitions and restrictions on immigration through the establishment of the Federal Bureau of Immigration in 1891. There was often a suggestion that poor immigrant children would turn to illegal activities because their parents lacked the ability to
supervise and guide them in a foreign culture, and these children would suffer from feelings of deprivation compared to the middle-class. Information pertaining to these issues depended upon official police records which often represented prejudice and self-serving interests. Data collected on ethnicity, nativity and religion reveal that such assumptions were due to confusion and prejudice.

Hawkins (1995) states that most research literature on variations of crime control due to differences in the population size of a minority group can be traced to the "threat hypothesis" (Liska, 1992). This hypothesis suggests that as the size of a minority group increases, the majority group intensifies their attempts to maintain dominance. The argument is that the threat is based on fear of losing dominance to a culturally different group and is influenced by the minority group size due to social disorganization, ethnically different cultures. Sociopolitical questions are more urgent when the subordinate group is larger. The mechanism used to address this fear is said to be through crime control policies and the main resource in achieving desired outcomes is the police, described as the central subjects of threat research. Liska (1992) expounds on the threat hypothesis by examining a number of methods such as the lynchings of African-Americans (especially in the South), coercive controls such as mental health labels and welfare programs, unemployment, and increased imprisonment of African-Americans.

African-Americans' overall satisfaction with law enforcement authorities has consistently been below that of white Americans. This has been largely because of such factors as police department personnel being mostly non-minority, police misconduct.
and the perception by African-Americans of brutality and insensitivity of police officials in handling citizen complaints. Recent incidents across the country have perpetuated this perception. The Rodney King beating by white Los Angeles police officers has been recognized as the most obvious evidence of police brutality as a result of its national coverage and capture of the incident on film.

Implementation of get tough on crime policies during the past 15 years and the war on drugs campaign have resulted in increased incarceration of African-Americans even though illegal drug use among African-American and whites are approximately the same (Donziger, 1996; Shelden, 1998). Social responses of this nature appear to only perpetuate the conspiracy theory among African-Americans and other minorities that there is a design by the dominant race to keep minorities at a disadvantage through manipulation of crime control and social policies to protect their interests.

Walker, Spohn, and DeLone (1996) state that given the official data used to categorize individuals with respect to race and ethnicity, it is extremely difficult to determine when there is disparity, defined as a difference, or discrimination, which is based upon differential treatment of groups. In discussing how certain criminal incidents shape America's view of crime in our society, they believe the perception is that a typical crime involves an African-American offender and a white victim. This perception is inaccurate because the white population is higher, therefore, they incur more arrests. Disproportionately, however, people of color are arrested at a higher rate given their 20 percent population. What also needs to be underscored with regard to the racial distribution of crime is the fact that some of the most serious crimes either go
undetected, are not even considered as "criminal," or are rarely punished. These crimes are those that fit into the general category of "white collar" and "corporate" crimes. The main perpetrators of these crimes are white middle and upper class persons (Reiman, 1998).

With regard to minority over-representation, Walker, Spohn, and DeLone (1996) argue that the differences in disparity between racial and ethnic groups cannot be explained merely by different patterns of offending. They provide data which show 31 percent of the inmates in federal prisons and 51 percent in state prisons are African-Americans, while they constitute only about 12 percent of the general population. This, in their assessment, could be related to arrest and conviction of African-Americans for index crimes which are usually assigned to state offenses and drug crimes which are usually felonies. The percentages presented above show whites are under-represented at 66 percent in federal prisons and 48 percent in state prisons compared to their population of 80 percent. Hispanics represent a 9 percent overall population but 27 percent in federal prisons and 13 percent in state prisons, possibly attributed to the war on drugs. Although the racial composition of juveniles vary at key stages of the justice system, African-Americans make up the majority at every stage of the decision-making process and they are at greater risk of harsher treatment than whites. In pre-hearing detentions, minorities were detained in secure facilities at 28 percent compared to 19 percent of whites in 1989.

A unique assessment by Walker, Spohn, and DeLone (1996) is the discrimination continuum wherein they illustrate how the criminal justice system is not free of racial
bias or is systematically racially biased. One end of the continuum represents pure
justice with no discrimination anywhere in the justice process and at the other end is
systematic discrimination which is observed at all stages of the justice process. They
state that the American criminal justice falls somewhere between the two and is more
contextual discrimination with racial minorities receiving harsher treatment than whites at
some stages but no different at other stages. Such treatment is observed in various
regions or jurisdictions with certain types of offenses and racially biased judges. They
conclude that the American criminal justice system is, and never will be, color-blind
despite some reforms that have reduced the likelihood of systematic racial discrimination
in all stages, at all places, and at all times.

The Labeling Perspective

The labeling perspective does not address in any direct way the causes of crime or
deviance, but rather focuses on three interrelated processes (Schur, 1971): (1) how and
why certain behaviors are defined as "criminal" or "deviant"; (2) the response to crime or
deviance on the part of authorities (e.g., the official processing of cases from arrest
through sentencing, what factors other than the offense [such as race] are related to such
processing) and, (3) the effects of such definitions and official reactions on the person or
persons so labeled (e.g., how official responses to groups of youth may cause them to
come closer together and begin to call themselves a "gang"). The key to this perspective
is reflected in a statement by Becker who wrote: "Social groups create deviance by
making the rules whose infraction constitutes deviance, and by applying those rules to
particular people and labeling them as outsiders" (1963:8-9).
One charge that the labeling perspective makes is that the criminal justice system itself (including the legislation that creates laws and hence defines "crime" and "criminals") helps to perpetuate crime and deviance. For example, numerous studies over the years have focused on the general issue of how the criminal and juvenile justice system helped to perpetuate certain kinds of criminal behavior (Werthman and Piliavin, 1975; Quinney, 1970, 1974; Chambliss, 1975; Chambliss and Seidman, 1982; Chambliss, 1995; Reiman, 1998).

One of the most significant perspectives on crime and criminal behavior to emerge from the labeling tradition was Quinney's theory of the social reality of crime (1970). Quinney organized his theory around six interrelated propositions, which are as follows (1970: 15-25):

1. Crime is a definition of human conduct that is created by authorized agents in a politically organized society.

2. Criminal definitions describe behaviors that conflict with the interests of the segments of society that have the power to shape public policy.

3. Criminal definitions are applied by the segments of society that have the power to shape the enforcement and administration of criminal law.

4. Behavior patterns are structured in segmentally organized society in relation to criminal definitions, and within this context persons engage in actions that have relative probabilities of being defined as criminal.

5. Conceptions of crime are constructed and diffused in the segments of society by various means of communication.
6. The social reality of crime is constructed by the formulation and application of criminal definitions, the development of behavior patterns related to criminal definitions, and the construction of criminal conceptions.

One important component of Quinney's theory is the concept of power, which he defined as "is the ability of persons and groups to determine the conduct of other persons and groups. It is utilized not for its own sake, but is the vehicle for the enforcement of scarce values in society, whether the values are material, moral, or otherwise" (Quinney, 1970: 9-11). Power is important if we are to understand how policies, such as certification, came about. Public policies, including crime control policies, are shaped by groups with special interests, according to this perspective. In a class and racially divided society, some groups have more power than others and therefore are able to have their interests represented in policy decisions, often at the expense of less powerful groups. Also, the application of a deviant label is essentially an exercise of power - in the court system it is a contest between the accused and the accusers and the side with the most power and resources usually wins (Chambliss and Seidman, 1982). Applying this principle to juvenile justice and minorities, since minorities have fewer resources to offset the labeling by juvenile justice officials (and the police too), this perspective would predict that in the case of certification, white youths would be more able to resist such an extreme form of power.

As noted earlier, while there are several possible theoretical explanations of racial bias within the criminal justice system, the labeling perspective is best suited to address
disparate treatment of African-American youth. Since African-Americans arrived in the
United States, prejudice and discrimination have been ever-present in every aspect of
their lives while whites have enjoyed unwavering legal protections. Addressing bias in
terms of stereotypical images of crime, Free (1996) states racial differences in the
criminal justice process are usually explained through conflict and labeling perspectives.
The conflict theory involves the dominant racial group's use of powerful social
institutions such as the courts to protect their interests. In other words, crime control
policies implemented by those in power are an attempt to manipulate the legal system and
they place minorities at a disadvantage by increasing the likelihood of arrests,
convictions and longer prison sentences. The labeling theory relates to the criminal and
juvenile justice systems' reaction to illegal activity. For the purpose of this research,
the labeling perspective seems to provide the best explanation of minority over-
representation in the juvenile justice system. This is because, as so much research has
made clear, crimes committed by minorities are more visible, detection is more likely and
the behaviors and general life styles of minorities (especially if they are poor) are more
apt to be labeled as "deviant" and responded to accordingly (e.g., hanging out in public).

One important aspect of the labeling perspective is Lemert's notion of primary
*and secondary deviance* (Lemert, 1967). According to Lemert, the primary deviant is one
who, although having committed a deviant act, is able to deal with the consequences
without much of an effect on his or her self-concept. Others (and the individual deviant)
may react to the deviance by suggesting that "this is not like you" or this act is not
"indicative of who you *really* are." In other words, the person and/or others can
rationalize the act and deal with it in a socially acceptable way. In short, the response is something like, "you did a bad thing, but this does not mean you are bad." The person is able to carry on his or her various roles in society, along with the role of "deviant." The deviant role remains of minor importance.

In contrast, secondary deviance develops after repeated actions that result in a changing perception of the person by others and the individual deviant. The person has more and more difficulty rationalizing the behavior and the deviant role becomes more and more important. We could say that the role of "deviant" becomes a primary role or perhaps the main role that shapes one's identity and how others see them. Instead of one who has merely done something bad, that person, along with others, begin to label him/herself as a "bad" person, as "dangerous," as a "criminal" or "delinquent" or "gang member," etc.

A central thrust of the labeling argument is that the passage from primary to secondary deviance is helped considerably by the official responses of agencies of social control. Thus, the continuing labeling of certain behaviors (whether or not they are harmful may not matter) and/or a person as "criminal" or "deviant" by agents of social control and others in authority (e.g., parents, school officials) may help propel a person into a life of crime, creating a sort of "self-fulfilling prophecy." Stereotyping and stigmatization helps to perpetuate this process, and is especially relevant if a person already occupies a lowly status in society merely on account of his or her race or ethnicity. Upon becoming labeled a criminal, the label is provided to criminal justice officials, neighborhoods, the media and schools (Bohm, 1997).
What the labeling perspective does is to help provide an explanation of the bias operating within the judicial system. In the next section the extent of racial bias within the juvenile justice system is explored in more detail.

Racial Bias in the Juvenile Justice System

Krisberg and Austin (1993) argue that minorities are facing disparate treatment when arrested, prosecuted and incarcerated, resulting in higher rates in these categories. They note that gender and race influence the taking of youth into custody and examine decisions that result in more punitive court actions based on these factors. While there is a broad agreement among researchers that minority youth are over-represented at various stages of the juvenile justice process, there is less agreement on the explanation for high rates of confinement. The view that higher incarceration rates for minorities is a result of involvement in serious crime is not supported by data collected on arrests and self-report delinquency surveys (Krisberg and Austin, 1986). Other data actually raise questions about the decision-making process in the juvenile justice system which may negatively impact minority youth incarceration (Pope and Feyerherm, 1993).

The National Coalition of State Juvenile Justice Advisory Groups (1989) refers to minority over-representation as a disaster of major proportions on the same level as school dropout rates and unemployment. In 1991, approximately 44 percent of the juveniles in public correctional facilities were African-American, 18 percent Hispanic, and 34 percent white. In training schools African-Americans constituted 47 percent of those incarcerated, compared to 32 percent in private facilities. The Coalition estimates show that 1 in 64 white males compared to 1 in 13 African-American males would be
taken into custody before age 13. Pope and Feyerherm (1990) state that racial disparities against minorities that cannot be explained by patterns of crime are more evident in the juvenile justice system than in the adult system. They review reports released by 41 of 42 states that revealed minority over-representation in secure detention facilities and 13 of 13 states revealed evidence of minority over-representation in other areas of juvenile justice such as intake, detention, filing of petitions, transfers to adult court and adjudication. They note evidence gathered by researchers in 1990 from records of 150 counties in Georgia's juvenile system that revealed racial disparity. Despite the contention by some who say that offense and prior records are legally neutral factors, the major determinants of case dispositions were the severity of the offense and the extent of prior contact by the youth with the juvenile justice system. Minorities are more likely to have a previous record simply due to increased monitoring by police officials in their neighborhoods. We can use previous arrest record as both dependent and independent variables when measuring data, because getting stopped, being questioned, and being subject to search are part of the normal police procedure and are strongly related to race. The data on other juvenile facilities also revealed that African-American youth were most likely to be arrested for severe crimes than were white youth.

Georges-Abeyie (1984) states that in juvenile processing, the effects of initial decisions, such as detention, can be amplified at subsequent hearings if decisions are made in a discriminatory nature. In his review of the justice system and minorities, he found strong supportive evidence that the American criminal justice system never
intended to function in a racially and ethnically blind manner. In other words, Georges-Abeyie states that discretionary policies by the police and courts result in a dual system wherein American justice applied to African-Americans is more punitive than for whites. In dispensing punishment for African-Americans who commit crimes against other African-Americans, the courts often appear lenient. Long, Long, Leon and Weston (1975) provide an in-depth and well thought accounting of the American legacy of oppression of racial and ethnic groups. Finally, while several classic studies (already noted) find evidence of racial bias, they generally concluded that severity of crime and prior arrests records are the main determinants in the type of action taken by police or type of sentence imposed by the courts (Goldman 1963; MacEachern and Bauzer 1967; Piliavin and Briar 1964; Terry, 1967). However, to complicate matters, several researchers have charged that many previous studies have erroneously assumed that "severity of the crime" and "prior record" may not be merely independent variables but may be very dependent upon race (Miller, 1996; Reiman, 1998). The argument is that the both the actual charge made by the police and/or prosecutors and the probability of having a prior record is race related. In many jurisdictions, as a recent study by Chambliss noted (1995), if you are black you may have as much as a 70 percent chance of having an arrest record, even if it is for what is often called "DWB" or "driving while black"!

Obviously the arrest stage is of critical importance in understanding racial bias. After all, the first stage of the formal juvenile and criminal justice system is when a person is "taken into custody" by the police (as is common knowledge, police use several "informal" methods of social control, such as "stop and frisk" and filling out "field
interrogation cards," both of which usually stop short of a formal arrest). To what extent can racial bias be shown to exist at the arrest stage will be explored in the next section.

Arrests

Donziger (1996) notes that crime rates in the U.S. have neither gotten worse nor better despite the fact that the public is led to believe the situation has been exacerbated. During the last two decades, crime rates have remained stable, however, the nature of criminal violence has changed. Donziger’s states that since firearms are now more prevalent in today’s society, young males are now at a higher risk of being killed. This carries over into the suburbs and rural areas, causing fear throughout the country. He notes two significant measures of crime - perception and reality - and that major sources of confusion about crime rates can be better seen if we compare the Uniform Crime Reports (UCR) and the National Crime Victim Survey (NCVS). The UCR reports are compiled by the FBI and actually over exaggerate crime rates based upon state input. Data from NCVS are supposed to be more accurate because countrywide sampling over the telephone is conducted by the Census Bureau for each preceding year. Criminologists believe scientific polling is more reliable, however, the lack of breakdown per State creates a problem.

In comparing imprisonment rates across the country, African-Americans are incarcerated at a rate that is more than 7 times that of whites (Mauer 1997: 9). Donziger asserts that our criminal justice policies prevent many African-Americans from claiming their stake in the American dream. This contributes to the destruction of our national idea of racial harmony. Unanticipated consequences, according to Donziger, are the criminal
justice system’s contributions to social instability in America. He especially believes that high rates of arrest shape people’s behavior which undermine respect for the law and arrest records diminish prospects for employment, education and financial stability. Donziger also believes youth violence should be addressed by developing community policing strategies, amongst other prevention strategies, to minimize the risk factors associated with delinquency and, thus; reduce incarceration rates. Some of these measures are aimed at protecting individual and family influence, school influence, peer group influence and neighborhood and community programs.

A collection of data by Shelden on the modern prison system presents the view of a form of apartheid. Shelden reviews the most current figures in June 1996 which show over one and a half million people behind bars and more that five million people under state supervision. Particularly, there has been a substantial increase of African-Americans and other minority groups in prison during recent years, largely due to the war on drugs (Shelden, 1998).

Miller (1996) states that African-Americans between the ages of 18 and 35 have an inordinate likelihood of encountering the criminal justice system. The drug war’s racial bias has heightened prejudice throughout the criminal justice system which makes it more likely that young African-American males will encounter the system, develop minor offenses that are more easily plea-bargained than contested and accumulate records that result in mandatory prison sentences for subsequent encounters. Miller describes the criminal justice process as alienating and socially destabilizing, creating more problems than it solves. He discusses symbolic interactionism which
is the labeling of social problems by society and rabble management which is the inappropriate application of law and a wide range of social problems that afflict the poor and minorities (see also Irwin, 1985). Miller examines racial bias and finds that even though African-American males made up only 12 percent of the country’s population, more than half of the daily arrests were African-American. The assumption shared by most of the nation is that many African-American youth and young adults are being jailed because they are committing the most violent crimes. Miller’s research on racial bias demonstrates the importance of knowing how local social context influences decision-making in the courts and law enforcement agencies.

How do we explain the patterns of arrest and imprisonment noted above? It seems logical to begin by addressing the more general problems of racism and inequality in the larger society by reviewing various researchers and social scientists who have explored factors which they consider as possible explanations for disparate treatment amongst racial groups.

Reinarman and Levine (1997) discuss the devastating affects of our failed national drug policies, the myths about crack cocaine, and the failure of the United States to honestly deal with the reality of the harm to economic and racial equality. The period explored by Reinarman and Levine is between 1986 and 1992, and is described as “anti-drug extremism” (1997:1). During this period, the media, the Reagan administration, and self-serving politicians caused mass moral panic through false information, misinformation and propaganda. Unfortunately those suffering the most harm from crack were the usually disadvantaged groups in society - minorities, delinquent youth,
and working-class immigrants. It was not until crack became accessible to urban areas, ghettos, and within “dangerous groups,” (1997:19) that the media and politicians worked harder to cause panic when statistical evidence illustrated that the scare was unnecessary. Reinarman and Levine state that research demonstrates the most common methods of using crack, such as sniffing and snorting, have been grossly exaggerated in their effect on the consumer. Evidence resulting from this research proves that dependence on crack is not directly related to any specific method. Despite research findings, our government enacted and promulgated new drug laws specifically addressing the crack cocaine user and offender, while knowing these laws to be unnecessary (Baum, 1996). This had a profound effect upon individuals residing in poverty-stricken areas because they elected to make a profit from selling this cheaper form of cocaine to those who could afford it in economically depressed areas. As a result, economic problems developed, deviant behavior became more prevalent and drug-related arrests soared.

Mann (1993) talks about how the law defines and explains crime problems in connection with race. There is a need to examine closely the notions about such problems because statistical information may omit issues of racial discrimination and relative deprivation within the minority communities. Mann’s research indicates that African-Americans and whites report crime differently depending on the type of crime. For instance, she notes that both whites and African-Americans report higher rates of rape by African-Americans. An analysis of statistical data suggests that this may be
the result of false accusations and over-reporting. Other possible explanations may relate to popular racial stereotypes and misconceptions of racial identity.

Limited studies on minorities and crime are usually related to African-Americans. Minorities consistently report more cultural biases across the United States in police responses which may reflect a larger societal problem. This bias can be traced from initial contacts with police throughout subsequent stages of the criminal justice process. As demonstrated in statistical data for the past several decades, there is a higher number of incidents of negative contacts between police and minorities. Minorities believe there is a substantial amount of unequal treatment in initial stops for questioning which often lead to illegal searches.

Mann (1993) contends there is less attention and research on the stages between arrest and final disposition and she particularly notes the pretrial detention and bail experiences for minorities. As other researchers have demonstrated, minorities suffer a higher rate of pretrial detention and loss of freedom. Mann states prosecutors are afforded too much discretion in deciding how cases should be handled which result in detrimental outcomes for minorities. Juries also often exclude minorities and plea bargains are usually accepted by minorities hoping to receive favorable or lenient court decisions.

In discussing racial determinants in transferring youths to adult court, Fagan, Forst, and Vivona (1987) conclude that contradictory findings in various research could be explained by examining the designs and methods used in those studies. Their findings suggest that offense type and age are major factors considered by the court in
such transfers and the "race effects disappeared when other variables were controlled" (p.276). Poulos and Orchowsky (1994) examine cases relating to predictors of how serious juvenile offenders are transferred to criminal court. They found a total of 13 variables used by judges in deciding such transfers which do not include race. These variables include prior record, current offense, prior commitments, history of mental health problems, education, and age. Again, they scrutinize designs and methods to reach their conclusions.

Certification Process: An Overview of the Waiver Process

In examining the topic of youth in adult court, Bartollas and Miller (1994) state that today's mission of the juvenile court is an issue of debate. Advocates of the juvenile court state that its role is to address all criminal behavior, however, a heightened fear of violence by juveniles resulted in "get tough" legislation that has called for similar punishment for juveniles as for adults. Some policy makers have even lobbied to reduce the age for juveniles to be tried as adults and prosecutors are seeking the death penalty for certain crimes.

From the Middle Ages to the Renaissance period, children of the poor became adults at the early age of seven, and those with aristocratic backgrounds became adults after receiving the proper education to rule society. With the advent of the industrial revolution, education was vital for individuals to secure and maintain employment. Thus, children were considered adults after they completed school and this holds
true in today's society. There was an assumption that education would offer some measurable way to determine whether a juvenile had become a responsible adult with moral foundations, however, that was not the case (Bartollas, 1994).

Bartollas (1994) points out that because advocates of the juvenile court believed juveniles lacked social conscience, contriteness, maturity and sufficient responsibility it gave juvenile courts jurisdiction over them until these deficiencies no longer existed. The main disagreement centers on when juveniles are considered old enough to be tried in adult court. Those youth who engage in violent crimes fuel media portrayals of youth violence and perpetuate the public perception that this particular population has serious problems. In arguing their position, advocates of get tough policy believe those youth who commit felony crimes should be waived to adult court to be dealt with in the same manner as adults. Bartollas (1994) states hard line advocates contend that the resources of the juvenile court should be used to treat neglected and abused youth.

Nationally, administrative procedures allow juveniles to be transferred to adult court through two procedures, legislative waiver and judicial waiver. There are four components to the legislative process of waiver: 1) excluding certain offenses; 2) lowering the age limit to 16; 3) establishing age-specific crimes; and 4) granting discretionary powers to the prosecutor or judge. Under judicial waiver, it is the decision-making process that drives the direction of a case. State laws require that prosecutors or judges make the decision on how a case should be handled. Such a process begins at intake or arrest continuing through referral, incarceration, and adjudication. Based upon due process violations such as holding hearings in adult court without the benefit
of counsel or a hearing, and lack of probable cause, two major court Supreme Court cases resulted.

*Kent v. United States*

This case involved a youth named Morris Kent, Jr who was arrested for rape by juvenile authorities in the District of Columbia after his fingerprints were found inside the victim’s apartment. He was later detained and interrogated without the knowledge of his parents and attorney, and waived to adult court without having findings entered in the official records supporting the court’s decision. There was also evidence of possible mental health problems which were ignored by the court. A sentence of 30 to 90 years for rape, robbery, and breaking into a house, subsequently imposed was successfully appealed by the defense attorney. The Supreme Court found that Kent’s due process rights were violated setting the stage for other juveniles to receive due process and fair treatment (*Kent v United States*, 383 U.S. 541, 1966).

*Breed v. Jones.*

In this case, Jones was arrested, placed into custody, and detained pending a hearing in juvenile court. Jones was subsequently found guilty of robbery, waived to adult court, and found guilty as charged. The defense attorney successfully appealed the case on the basis of double jeopardy because Jones was not properly waived to adult court prior to being determined guilty in juvenile court and prior to being tried on the same offense in adult court (*421 U.S. 519*, 95 S. Ct 1779, 1975).
Bartollas’ analysis is that even though waivers reduce the number of serious cases in juvenile court, high caseloads and inadequate experience of juvenile court judges suggest the judges lack the knowledge necessary to deal with such cases. Bartollas also notes that youths sometimes receive less severe treatment than adults because of these inconsistencies in various jurisdictions (Bartollas, 1996). In Krisberg and Austin’s view (1992), the Kent decision is a significant impact on courts but they believe there is no way to guarantee cases are dealt with fairly. In addition to the organizational factors that have an effect on the decision-making process, there is the conflict between the “due process model,” which provides for constitutional rights, and the “crime control model,” which empowers police officials to strictly execute the law (Packer, 1968). Law enforcement officials prefer having some flexibility in dispensing their duty, and this can lead to disparate treatment of ethnic groups. Krisberg and Austin state the we must assess the arrest and referral process of law enforcement officials in order to understand the rate of over-representation of minorities in the juvenile justice system.

A study by Bishop, Frazier, Lanza-Kaduce, and Wisner (1996) considered whether it makes a difference in transferring juveniles to criminal court. They found that although changes in transfer policies were made to reduce crime by juveniles, those changes were not supported by research. As a result, they proceeded in studying how Florida compared recidivism rates of juveniles who remained in the juvenile justice system with those who were transferred to adult court. By matching samples from both groups and controlling for severity of offense of transfer crimes, charges, prior offenses,
seriousness of prior crimes and age, gender, and race, Bishop, Frazier, Lanza-Kaduce, and Wisner, ensured that the samples were equal. Their findings indicate that those juveniles who were transferred to adult court had a higher rate of recidivism than the non-transferred group.

The target area involved in my study has a similar juvenile process to other jurisdictions. I found that the district attorney initially makes a recommendation to certify a juvenile based upon police reports, charge, prior record and prevailing legislative statutes. After the recommendation, the juvenile appears at a plea hearing but the court prohibits the juvenile from entering a plea of guilt or innocence. Meanwhile, the juvenile’s detention status continues pending further proceedings. At the plea hearing, the court orders juvenile probation officials to complete a report and they make a recommendation for certification or non-certification based upon prior services, prior record, the existing charge, and the juvenile’s amenability to rehabilitation. Once the report is completed, the court orders the juvenile and his or her family to appear in court at which time a final determination is made by the court. If the juvenile is certified, he or she is sent to a secure adult facility (i.e. the county jail). If not, the juvenile may enter a plea of guilt or innocence at the hearing and juvenile processing commences.

Having reviewed the literature on racial bias, both generally and within the juvenile justice system, it is time to review the methods used to examine the extent of racial bias at one stage of the processing within the juvenile justice system, that of certification or waiver to adult court.

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CHAPTER III

METHODS AND RESULTS

The Sample and Data Analysis

This research examines the nature and scope of minority youth certified as adults and transferred to adult status in Clark County (Las Vegas), Nevada. The methodology used for the study is primarily quantitative. I collected data on a sample of 200 cases involving white and minority juveniles for the period covering July, 1995 through November, 1997. The juveniles selected had been processed through the juvenile court. The data were collected through a survey and evaluation of record printouts which contain personal history and other background information. Among the information contained in these files included social demographic variables such as race; legal variables such as prior referrals, prior offenses, prior adjudication and prior detention, current offenses charged along with the various dispositions at several stages, such as intake decision, petition filed, prosecutor’s decision, and/or the final disposition in the case.

The sample was randomly selected and consisted of 100 serious offenders who were not certified as adults and 100 offenders who were certified. Thus, this distinction is my measure of the dependent variables certified and not certified. The independent
variables are type of charge(s) (classified as violent and property)\(^1\) whether or not a weapon\(^2\) was used, prior services, age, type of victim, number of referrals, and race. The dependent variable was certification (1 = certified). All variables were measured using information available in records. Due to a low number of females, Hispanics, and Asians who were ultimately certified, these groups were omitted from the study. Also, cases having no final dispositions were dropped, producing a final sample size of 139. The study is based on a quantitative analysis using simple bivariate relationships between the race and case disposition controlling for all other independent variables. The dependent variables of certification was affected by two significant laws passed by the Nevada state legislature which required mandatory certifications for use of a deadly weapon such as knives, bats, etc., and later amended to include the use of a firearm.

Results

Table 1 shows frequencies, codings and labels for variables used in my study. Over fifty percent of the sample was certified as an adult. Nearly seventy percent fall in the category of violent offenses, while nearly fifty percent of youths used a weapon in their crime. The number of youths receiving prior services was over eighty percent. Those juveniles receiving seven or fewer referrals represented over fifty-five percent. The

\(^1\)Violent offenses are defined as assault with deadly weapon, battery, battery with deadly weapon, robbery, robbery with deadly weapon, sexual assault and weapons charges. Property offenses are defined as burglary, grand larceny, and possession of stolen vehicle.

\(^2\)For the purposes of this research, weapon includes knives, bats, guns, etc.
table also shows the youngest juvenile is 11-1/2 years of age while the oldest was 18.6 years of age. White youths represent about 42 percent with African-American youths representing the remainder.

**Description of Variables**

<table>
<thead>
<tr>
<th>Variables</th>
<th>N</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Type of Disposition</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Certified = 1</td>
<td>73</td>
<td>53.0</td>
</tr>
<tr>
<td>Not Certified = 0</td>
<td>66</td>
<td>47.0</td>
</tr>
<tr>
<td><strong>Type of Charge</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Violent = 1</td>
<td>96</td>
<td>69.0</td>
</tr>
<tr>
<td>Property = 2</td>
<td>43</td>
<td>31.0</td>
</tr>
<tr>
<td><strong>Weapon</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Yes = 1</td>
<td>69</td>
<td>49.6</td>
</tr>
<tr>
<td>No = 2</td>
<td>70</td>
<td>50.4</td>
</tr>
<tr>
<td><strong>Type of Victim</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Person = 1</td>
<td>94</td>
<td>68.0</td>
</tr>
<tr>
<td>Personal Property</td>
<td>25</td>
<td>18.0</td>
</tr>
<tr>
<td>None = 0</td>
<td>20</td>
<td>14.0</td>
</tr>
<tr>
<td><strong>Prior Services</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Yes = 1</td>
<td>118</td>
<td>85.0</td>
</tr>
<tr>
<td>No = 0</td>
<td>21</td>
<td>15.0</td>
</tr>
<tr>
<td><strong>Number of Referrals</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>7 or less = 1</td>
<td>67</td>
<td>48.0</td>
</tr>
<tr>
<td>8 or more = 2</td>
<td>72</td>
<td>52.0</td>
</tr>
<tr>
<td><strong>Age at Hearing</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>11.5 to 16 = 1</td>
<td>48</td>
<td>34.5</td>
</tr>
<tr>
<td>16.1 to 18.6 = 2</td>
<td>91</td>
<td>65.5</td>
</tr>
<tr>
<td><strong>Race</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>White = 0</td>
<td>56</td>
<td>40.3</td>
</tr>
<tr>
<td>African-American = 1</td>
<td>83</td>
<td>59.7</td>
</tr>
</tbody>
</table>

Table 2 shows the simple bivariate relationship between the disposition and race of offender. There is a statistically significant relationship between race and disposition.

A total of 73 youths were certified as an adult. Of these, over two-thirds (70%) were
African-Americans. Proportionately, African-American offenders were more than one and one-half times more likely to be certified than whites (61.4% versus 39.3%). Clearly, there appears to be a strong relationship between race and whether or not a youth will be certified as an adult. The question is, do other factors explain this relationship? Prior research by Walker, Spohn, and DeLone (1996) explores all racial groups and conclude that there have been recent mandates in juvenile justice reform which address differential treatment of minority youths. However, these efforts have not eliminated racial disparity in the criminal justice system.

Table 2. Relationship Between Race of Offender and Disposition of Case.

<table>
<thead>
<tr>
<th>Race of Offender</th>
<th>Disposition of Case</th>
<th>N</th>
<th>%</th>
<th>N</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>White</td>
<td>Certified</td>
<td>22</td>
<td>39.3</td>
<td>51</td>
<td>61.4</td>
</tr>
<tr>
<td></td>
<td>Not Certified</td>
<td>34</td>
<td>60.7</td>
<td>32</td>
<td>38.6</td>
</tr>
<tr>
<td>African-American</td>
<td>Certified</td>
<td>51</td>
<td>61.4</td>
<td>32</td>
<td>38.6</td>
</tr>
<tr>
<td></td>
<td>Not Certified</td>
<td>32</td>
<td>38.6</td>
<td>34</td>
<td>60.7</td>
</tr>
<tr>
<td></td>
<td>Total</td>
<td>56</td>
<td>100.0</td>
<td>83</td>
<td>100.0</td>
</tr>
</tbody>
</table>

chi-square = 6.58; p < .01

Table 3 shows the relationship between race and case disposition for the type of charge. Examining violent offenses, it appears that a significant relationship between race and case disposition remains. While just under 40 percent of the white violent offenders were certified as adults, just over 73 percent of African-American violent offenders were certified. However, this relationship does not hold true for property
offenses. Prior research points out minority youths are incarcerated at a higher rate than whites for violent offenses (Krisberg, Schwartz, Fishman, Eisikovits, and Guttman, 1986).

Table 3. Relationship Between Race of Offender and Disposition Controlling for Type of Charge.

<table>
<thead>
<tr>
<th>Race of Offender</th>
<th>Violent Type of Charge</th>
<th>Property Type of Charge</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>White</td>
<td>African-American</td>
</tr>
<tr>
<td>Disposition of Case</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Certified</td>
<td>38.9%</td>
<td>73.3%</td>
</tr>
<tr>
<td>Not Certified</td>
<td>61.1%</td>
<td>26.7%</td>
</tr>
<tr>
<td>Total</td>
<td>100.0</td>
<td>100.0</td>
</tr>
<tr>
<td>(n = 36)</td>
<td>(n = 60)</td>
<td>(n = 20)</td>
</tr>
</tbody>
</table>

chi-square = 11.16; p < .001  
chi-square = .431; ns.

Table 4 shows the relationship between race and case disposition controlling for the use of a weapon in the crime. When a weapon was involved, white offenders were certified in just over half of the cases, compared to about 73 percent of African-American offenders. When there was no weapon, just under one-third of the white offenders were certified, compared to almost 46 percent African-American violent offenders. Although these relationships are not statistically significant, race appears to be a factor here. The lack of statistical significance could stem from the fact that a much larger proportion of African-Americans used a weapon in the commission of their crime (53%) than whites (33%). This finding is similar to prior research which points out that there is racial bias at just about every stage of the juvenile justice process and that
African-American youths are arrested at a higher rate than white youths when drugs and weapons are involved (Donzinger, 1996).

Table 4. Relationship Between Race of Offender and Disposition Controlling for Weapon.

<table>
<thead>
<tr>
<th>Race of Offender</th>
<th>Weapon</th>
<th>No Weapon</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>White</td>
<td>African-American</td>
</tr>
<tr>
<td>Disposition of Case</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Certified</td>
<td>52.4</td>
<td>72.9</td>
</tr>
<tr>
<td>Not Certified</td>
<td>47.6</td>
<td>27.1</td>
</tr>
<tr>
<td>Total</td>
<td>100.0</td>
<td>100.0</td>
</tr>
</tbody>
</table>

(n = 21) (n = 48) (n = 35) (n = 35)

chi-square = 2.772; ns
chi-square = 1.51; ns

Table 5 shows the relationship between race and case disposition controlling for the type of victim (person, private property, and not applicable). For person offenses, we find a strong relationship between race and disposition, as African-Americans are twice as likely as whites to be certified. For property offenses and for those with no identifiable victims, this relationship does not exist. While the data were not available to address this question, it could be that the race of the victim played a role here, as much research has shown (Hawkins, 1995). If the victim is white and the offender is black, the punishment typically is more severe than if it is the reverse or if it is intra-racial.
Table 5. Relationship Between Race and Case Disposition Controlling for Type of Victim.

<table>
<thead>
<tr>
<th>Type of Victim</th>
<th>Personal</th>
<th>Property</th>
<th>NA</th>
</tr>
</thead>
<tbody>
<tr>
<td>Race of Offender</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>White</td>
<td>37.1% (n=35)</td>
<td>50.0% (n=14)</td>
<td>100.0% (n=7)</td>
</tr>
<tr>
<td>African-American</td>
<td>74.6% (n=59)</td>
<td>27.3% (n=11)</td>
<td>30.8% (n=13)</td>
</tr>
<tr>
<td>White</td>
<td>62.9% (n=59)</td>
<td>50.0% (n=11)</td>
<td>100.0% (n=13)</td>
</tr>
<tr>
<td>African-American</td>
<td>25.4% (n=59)</td>
<td>72.7% (n=11)</td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>100.0%</td>
<td>100.0%</td>
<td>100.0%</td>
</tr>
</tbody>
</table>

chi-square = 12.897; p < .001

Table 6 shows the relationship between race and case disposition controlling for the number of prior services or contacts. While not statistically significant, African-Americans with prior services are more likely to be certified than whites. This may suggest that white offenders are being given more chances at reform by being left within the juvenile justice system longer. It may also be an indication that white offenders are deemed by court officials as being either less "dangerous" or more "redeemable" than their black counterparts. Since there are so few cases of certification with no prior services, no statistical comparisons can be made, although it is noteworthy that all but one of the African-Americans with no prior services were certified. This would further support the suggestion above that African-Americans are more likely to be deemed "dangerous" or "unredeemable." This could also mean that juvenile justice officials - and perhaps legislators as well - have less patience when it comes to African-American offenders, that they are more likely to "give up" on these offenders. Despite the fact that
minorities are struggling more than ever before, there has been a lack of compassion since the 1994 congressional elections. Politicians renewed age-old stereotypes and stigmas by accusing the poor of being lazy, welfare-dependent, sexually promiscuous, and violent. Moreover, there is a general perception is that poor people are African-American who produce violent communities and families; thus, leading to a so-called “dangerous underclass,” that is undeserved of the public’s help (Sidel, 1996).

Table 6. Relationship Between Race of Offender and Disposition Controlling for Prior Services or Contacts.

<table>
<thead>
<tr>
<th>Race of Offender</th>
<th>Prior Services</th>
<th>No Prior Services</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>White</td>
<td>African-American</td>
</tr>
<tr>
<td>Disposition of Case</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Certified</td>
<td>38.8%</td>
<td>55.1%</td>
</tr>
<tr>
<td>Not Certified</td>
<td>62.2</td>
<td>44.9</td>
</tr>
<tr>
<td>Total</td>
<td>100.0 (n = 49)</td>
<td>100.0 (n = 69)</td>
</tr>
</tbody>
</table>

chi-square = 3.047; ns  
chi-square = too few cases for accurate statistical tabulation

Table 7 shows the relationship between race and disposition controlling for the number of referrals. As noted here, with eight or more referrals, African-Americans were about one and one-half times more likely as whites to be certified (about two-thirds versus 40 percent). Although not statistically significant, African-Americans with fewer than eight referrals were more likely to be certified. This further supports the interpretation of the results of Table 6, namely that it appears that African-Americans are
more likely to be viewed as "unredeemable" or that juvenile justice officials have less patience than is the case for white offenders.

Table 7: Relationship Between Race of Offender and Disposition Controlling for Number of Referrals.

<table>
<thead>
<tr>
<th>Race of Offender</th>
<th>7 or Less</th>
<th>8 or More</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>White</td>
<td>African-American</td>
</tr>
<tr>
<td>Disposition of Case</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Certified</td>
<td>38.5%</td>
<td>56.5%</td>
</tr>
<tr>
<td>Not Certified</td>
<td>61.5</td>
<td>43.5</td>
</tr>
<tr>
<td>Total</td>
<td>100.0</td>
<td>100.0</td>
</tr>
<tr>
<td>(n = 26)</td>
<td>(n = 46)</td>
<td>(n = 30)</td>
</tr>
</tbody>
</table>

chi-square = 2.167; ns.  
chi-square = 5.092; p < .05

Table 8 shows the relationship between race and disposition controlling for age. As shown here, even though the relationship is not statistically significant, white offenders under the age of 16 were half as likely to be certified than African-Americans (20.8 percent versus 41.7 percent). For older offenders, the discrepancy is not as great, although again white offenders were less likely than African-Americans to be certified. Once again, the interpretation given for the previous two tables applies here. In this case, one could draw the conclusion that there is less patience when it comes to African-American offenders. Perhaps it is an attitude of "get 'em while they are young before they become really dangerous"! The intent during the 1970s and 1980s was to perpetuate the "myth of violent teenagers" (Miller, 1991). This label allowed those juveniles labeled as dangerous to be held in secure facilities to minimize risks to political agendas, rather
than assure the safety of the community. Meanwhile, middle-class and upper-class white youths were sent to private treatment facilities for rehabilitation.

Table 8: Relationship Between Race of Offender and Disposition Controlling for Age.

<table>
<thead>
<tr>
<th>Race of Offender</th>
<th>under 16</th>
<th>16 or over</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>White</td>
<td>African-American</td>
</tr>
<tr>
<td>Disposition of Case</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Certified</td>
<td>20.8%</td>
<td>41.7%</td>
</tr>
<tr>
<td>Not Certified</td>
<td>79.2%</td>
<td>58.3%</td>
</tr>
<tr>
<td>Total</td>
<td>100.0</td>
<td>100.0</td>
</tr>
<tr>
<td>(n = 24)</td>
<td>(n = 24)</td>
<td>(n = 32)</td>
</tr>
</tbody>
</table>

chi-square = 2.424; ns  
chi-square = 2.404; ns
CHAPTER IV

DISCUSSION AND CONCLUSIONS

In analyzing the above information, the study demonstrates that the question of disparity holds true and race does seem to make a difference when we control for most variables. Although in some cases there is a lack of statistical significance, it is clear in the overall pattern that whites are less likely to be certified than are African-Americans. It is also of significant importance to note that in cases where both white and African-American offense percentages closely parallel, African-Americans are over-represented when compared to their percentage of the true population in the target community. However, given the relatively small sample size and the fact that all variables were not controlled simultaneously, it is best to treat these findings as suggestive rather than definitive.

Returning to one of the central theoretical perspectives of this thesis, it is clear that the labeling perspective best explains the facts gathered during the course of this study. Also, consistent with the history of racism in American society, African-American youthful offenders are more likely to be deemed as "dangerous" and "unredeemable," and hence needing to be controlled, even when their white counterparts engage in similar if not identical behavior.
This research supports the idea that African-Americans are viewed as “unredeemable.” In Thomas Bernard’s book, *The Cycle of Juvenile Justice* (1992), he points out that the term “juvenile delinquent” first originated in 1800. A “delinquent” meant failure to do something that was required and “juvenile” referred to a person who was “malleable” or subject to change and being molded, such as one who is redeemable.

By the 1700s, with college and private boarding schools developing, various “informal” methods of social control of more privileged youths emerged. Eventually, more formal systems of control emerged to control the number of working and lower class “delinquents” around the 1800s, including the juvenile justice system and uniformed police. Thus, informal systems of control have always been reserved for the more privileged youths, while the less privileged have been subjected to formal systems of control. However, if we examine history closely, with few exceptions, it has almost always been the case that minority youths have been much more likely to be viewed not as “juvenile delinquents” (i.e., malleable and thus redeemable) but as “hardened criminals” not redeemable (since by definition “adults” are more fixed in their ways and less redeemable).

Little wonder that such a great proportion of those certified (i.e., viewed as “unredeemable” adult criminals) have been minorities. In fact, we can probably define “certification” as a process of redefining a youthful offender from a “juvenile delinquent” (hence, malleable and redeemable) to “criminal” (hence, not redeemable). Maybe this is just another way of segregating minorities, especially, African-Americans, into a sort of “apartheid” existence in today’s society.
In the cycle of juvenile justice, juvenile crime rates increase despite criminal justice policies and there is a demand by the justice system and the general public to do something or "toughen up." The problem arises when the response moves from too few alternatives or treatments to harsher penalties. My data points out that the target group for harsher penalties is likely to be minorities which inevitably leads to overrepresentation. Bernard also points out that the same problems which existed 200 years ago remain today.

So why is it that we continue to demonize African-American youths as a hopeless group of dangerous criminals then proceed to impose harsher penalties? We know what the previous mistakes have been, yet there are no foreseeable solutions to implement policies that will be equitable in the present and future. This must change by breaking the cycle of juvenile justice as it has been and admit that the certification process unfairly targets African-American males and correct the problem. History has shown that no other racial group has suffered more unequal justice under the criminal justice system.

Prior research clearly demonstrates that police and the courts have treated minority youths with such intolerance that there has been irreparable harm upon this group as indicated in this research. It is easy to discern the injustice applied through systematic assault on African-American male youths and there seems to be little concern that this target community has been sanctioned by the courts more than any other population in recent history. Such disregard for minority youths has led to the destruction
of families, lives, and communities in the name of reducing juvenile crime (Miller, 1991, 1996).

When look at how prejudice and discrimination have impacted a culturally different society that has been viewed as “dangerous” and “unredeemable” for decades, by individuals who are expected to be objective in dispensing justice, it is disheartening. By using the labeling perspective to present my thesis on over-representation of minorities, the pattern of differential treatment is clear. Miller’s observations on the likelihood of African-American males having involvement in the criminal justice system over lengthy periods have materialized continually, commencing with training schools in Massachusetts. He enlightens us on just how serious the problems are in his discussion of governmental spending on rising crime rates. In essence, Miller states that the focus has been on African-American males in inner cities who have been intruded upon for mostly minor offenses. He further notes that they have been stigmatized and torn from their families and loved ones for extended periods while serving time. This continues to exist in Clark County, Nevada, as well as throughout the country.

In the beginning of this report, it is mentioned that racism developed historically by exploiting culturally different people. Furthermore, prejudice and discrimination have carried over in the criminal justice system and is manifested in differential treatment by the courts and police. We can clearly see the trend of racial bias in the treatment of African-American youths. Most researchers take a moderate stance in supporting this view while offering other possible factors for disparate treatment. More vocal and challenging researchers such as Krisberg and Austin, Hawkins, Miller, and Pope and
Feyerherm are emphatic in their assessment that racial bias exists in the juvenile justice system.

Statistical data, nationally and locally, demonstrate that racial bias exists in sentencing and the certification process. Although there are national study groups reviewing whether or not states are in compliance with laws addressing minority-over representation, the root of the problem has not been adequately addressed (i.e., initial police contacts and discretionary powers of prosecutors and the courts). The courts have to be active participants in this ongoing travesty of justice. In Miller’s book (1991) he notes that African-American youths diagnosed as mentally disturbed in Pennsylvania during the 1970s, were expose to biases by probation officers, youth workers, the courts, psychologists and psychiatrists. These youths were merely reclassified and locked up in mental institutions. He provides a more profound view of how African-American youths are virtually sought and destroyed as targets in a costly drug war.

The over-representation of minority youth in the juvenile justice system has become a central and recurring concern. Minority youth, by and large, are arrested, incarcerated, prosecuted, committed to youth institutions, and certified as adults at a rate that far exceeds that of the general population. This is evident in Clark County, Nevada, as well as on a national level where minority youth are over-represented at all stages in the juvenile justice system.

While a number of factors contribute to minority over-representation, the focal point is on stereotypical labels and a lack of sensitivity by law enforcement officials and the courts in the plight of minority youth. These trends are exacerbated on a national
level in major urban centers where it is not uncommon to find one out of three African-American males involved in the criminal justice system under some form of supervision and/or incarceration.
APPENDIX I

OPERATIONAL DEFINITIONS

Juvenile: A person between the ages 8-18 who has been adjudicated as a delinquent offender.

Arrest: Juveniles arrested for delinquent acts and booked at the detention facility.

Referral: Considered to be each time a juvenile is formally booked or referred to the department as a result of either an arrest by the police or a referral from another agency (e.g., school) or by a parent or guardian.

Prior Services: Agency or community-based counseling; the juvenile was warned and released; or the juvenile received informal or formal probation.

Detained: Those juveniles placed in the secure detention facility for alleged delinquent acts.

Prosecuted: Those juveniles charged through the petition (formal) process by the district attorney for an alleged delinquent act(s).

Adjudicated: Those juveniles found to be delinquent by the juvenile court.

Certified/Transferred to Adult Court: Those juveniles waived to adult court following a transfer hearing.
<table>
<thead>
<tr>
<th>Term</th>
<th>Definition</th>
</tr>
</thead>
<tbody>
<tr>
<td>Commitment</td>
<td>Those adjudicated delinquent juveniles ordered by the court to placement in a state facility such as Nevada State Training School (Elko or Caliente) and DFYS’s Spring Mountain Youth Camp.</td>
</tr>
<tr>
<td>Minority</td>
<td>Refers to juveniles who are Asian, African American, Hispanic and Native American. Because there are so few Asians, Hispanics and Native Americans in the sample, only African-Americans are used here.</td>
</tr>
<tr>
<td>Over-representation</td>
<td>The discrepancy in the percentage in a particular group of youth in the juvenile justice system when compared to the groups’ population in the larger society.</td>
</tr>
<tr>
<td>Juvenile Justice System:</td>
<td>A separate judicial system or processing and service delivery for youth in trouble with the law. It is defined in Nevada by Chapter 62 of the <em>Nevada Revised Statutes</em>.</td>
</tr>
<tr>
<td>Incarceration</td>
<td>Confinement of youth in jails, detention centers, halfway houses, ranches and correctional institutions for delinquent youth and are supported by public funds.</td>
</tr>
</tbody>
</table>
REFERENCES


52


Poulos, Tammy Meredith and Stan Orchowski. “Serious Juvenile Offenders: Predicting the Probability of Transfer to Criminal Court (Virginia).” Crime and Delinquency, Vol. 40, Issue n1, January 1994, pp. 3-17.


RESUME

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EDUCATION

November 1998, Completed course work for MA Degree in Criminal Justice, University of Nevada, Las Vegas, Las Vegas, Nevada

May 1984, BA Degree in Political Science, University of Nevada, Las Vegas, Las Vegas, Nevada

May 1982, AA Degree in General Studies, Clark County Community College, North Las Vegas, Nevada

WORK EXPERIENCE

1995 - Present
United States District Court, District of Nevada
United States Pretrial Services Officer
Las Vegas, Nevada

Duties include supervising defendants pending trial, conducting prebail investigations, pretrial diversion investigations and designated to handle special offender cases. Also serves as EEO Coordinator and Employee Dispute Resolution Officer.

1985 - 1995
United States Probation
United States Probation Officer

1985 - 1987: appointed as a United States Probation Officer in September 1985. Duties included preparing presentence investigation reports for Magistrate and District Court Judges; supervised probationers, parolees and performed other routinely assigned tasks.
Shirley G. Burgess  
Page Two  

1987 - 1989: worked in the Drug and Alcohol Unit supervising cases and conducting presentence and other routinely assigned investigations.

1989 - 1992: worked in the Travel/Special Offender Unit. Monitored out of district travelers, specifically, special offenders, supervised cases and conducted presentence investigations.

1992 - 1995: worked in the Supervision Unit. Duties included supervising cases requiring special attention such as mental health treatment, drug and alcohol treatment and organized crime offenders.

1985  
United States Probation  
Volunteer Probation Officer  

Served as a volunteer United States Probation Officer in the District of Nevada. Supervised mostly pretrial diversion cases.

1984 - 1985  
University of Nevada, Las Vegas  
Assistant Academic Advisor  

Assisted college students through orientation, counseling and appropriate class schedules.

1975 - 1981  
Nevada State Welfare Division  
Welfare Investigator  

Investigated allegations of fraud, initiated wage attachments and provided on-the-job training for general staff and investigative supervisors. Also conducted internal investigations, performed arrests, served subpoenas, and worked coordinated fraud cases with offices of the Attorney General, District Attorney and U.S. Attorney.

1973 - 1975  
Nevada State Welfare Division - Food Stamp Office  
Eligibility Worker  

Determined eligibility status of clients for State aid, group homes in outlying areas and shelters. Also provided on-the-job training for staff and served on policy and procedures committees.
TRAINING

Currently conducts EEO training as to new personnel on an as needed basis.

Conducted officer safety training in Nevada and Arizona in 1993. Faculty member for the Federal Judicial Center in staff safety training.


Completed Nevada Peace Officers Standards and Training (P.O.S.T.), 14th Session in 1979.

AFFILIATIONS

Member of Political Science National Honor Society's Theta Pi Chapter of Pi Sigma Alpha as an undergraduate student.

Member of Delta Sigma Theta Sorority, Inc, 1985 - 1986

Appeared in Public Service Broadcasts for Minority Adoptions in 1982 and 1983 on KLAS-TV 8.

OTHER

Currently serves as a mentor for students in the Yes, Inc. Program at Chaparral High School.

Awarded pay bonus for developing the first Third Party Custody Program for Pretrial Services in the country in 1998.

Awarded Chief's Commendation for having an outstanding caseload in August 1995.

Awarded Certificate of Appreciation as a Mentor for the University of Nevada, Reno, Cooperative Extension in June 1995.

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Thesis Title: Minority Over-Representation in the Juvenile Justice System

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