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## Investigating Racial Disparity at the Detention Decision: The Role of Respectability

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### ABSTRACT

*A concern over inequity and the existence of racial disparity of youth served by the juvenile justice system has long been a topic of considerable interest among scholars, policymakers, and court officials. Numerous empirical studies undertaken by academics and various public and private organizations have attempted to shed some light on this phenomenon. Research findings on disproportionate minority contact have hardly been uniform, leaving much of this practice unexplained. This study uses data obtained at the detention decision point over a three-year period examining variance in juvenile case processing related to race. Findings suggest that extra-legal factors influencing the decision to detain vary by race. The absence of informal social control in the lives of Non-White youth in the research population affects the odds of detention at arrest; however informal social control does not influence detention practices of the White population. These findings indicate that the subjective decision of intake officers still partially reflects stereotypical fears associated with minority populations.*

**Key Words:** Disproportionate Minority Contact (DMC), juvenile justice

## INTRODUCTION

A concern over inequity and the existence of racial disparity in the treatment of youth served by the juvenile justice system has long been a topic of considerable interest among scholars, policy makers, and court officials. This concern is evidenced by an expansive amount of research on the topic (Pope, Lovell, & Hsia, 2002, p.18). Although numerous empirical studies have been undertaken by scholars, and various public and private organizations have attempted to shed light on this phenomenon, findings have not been uniform (Albonetti, 1991; Bishop & Frazier, 1996; Bridges & Steen, 1998; Cohen & Kluegel, 1979; Engen, Steen, & Bridges, 2002; Leiber, 2002; Sampson & Laub, 1993; Tittle & Curran, 1988; Tracy, 2002; Wordes, Bynum, & Corkey, 1994). While research regarding the impact of race and social context on juvenile justice processes is established, much of the current work in this area continues to be conducted within the confines of the criminal justice system (Johnson, 2005; Parker & Stultz, 2006; Schlesinger, 2005). Moreover, policymakers have only recently begun to address the issue. The current research evaluates factors that influence the differential treatment of minority youth in a small Kansas judicial district.

In 1992, the Juvenile Justice and Delinquency Prevention Act (JJJPA 1974) expanded national attention to include, as one of its four core requirements, the issue of Disproportionate Minority Confinement (DMC). The provision was implemented to address the phenomenon of disproportionality in the racial composition of youth housed in secure juvenile detention and juvenile correctional facilities as compared to their representation in the general population. The disproportional confinement of minority youth became apparent during the years 1987 to 1996, as delinquency cases involving detention increased 71% for African-American youth, while their White counterparts increased by only 18% (Stahl, 2003). Likewise, the rate at which African American youth were represented in juvenile correctional facilities increased from 28% to 40%, while accounting for only 15% of the at-risk population nationally (Stahl, 2003).

As this problem manifested itself on a national level, policymakers further expanded the scope of the JJJPA legislation. In 2002, the DMC component of the national JJJPA (1974) was broadened as confinement came to replace “contact,” in an effort to address the DMC phenomenon not only at those points designed to manage youth in a secure environment, but at all points of the juvenile justice system.

## THE DETENTION DECISION

Each year as many as 600,000 youth are placed in secure detention environments pending further court hearings following an arrest for offending behaviors (Justice, 2004). In Kansas, detention remains a fairly common option for offender pretrial custodial care, and is widely used as a sanction for probation or aftercare violations. The utilization of detention, primarily to confine youth prior to adjudication, reflects community concerns that pretrial offenders will continue to offend or flee the jurisdiction of the court. In Kansas, legal statutes clearly define the criteria necessary to place a youth in detention upon arrest. Although legal factors define the detention criteria in the state, some subjectivity remains in the language of the statute (see Appendix A. Kansas’s Detention Criteria). The overwhelming racial disparity of youth housed, not only in detention facilities, but also in long-term juvenile correctional facilities, motivated expansion of the core requirements of the JJJPA act to include DMC.

The detention decision is a crucial point within the local system which may not only result in confinement for the youth, but also greatly influence the manner in which a case is subsequently processed (Leiber, 2003). The Kansas statute mandates considerable expediency (48 business hours during a normal business week) in bringing the youth before the court following detention. This procedure accelerates the legal processes subsequent to detention and, therefore, expedites disposition.

As with arrest, the decision to detain at charge does not involve judicial review. Street officers, in collaboration with juvenile intake staff, interpret the statute, perform risk-needs assessments, and levy an appropriate response. Intake officers act as core decision makers in regards to detention placement at arrest. Due to their position as entry-level employees within the local infrastructure, intake officers, often having substantially less education and experience than those at other points within the system, make detention decisions. As a result, in the absence of a concrete decision-making apparatus based on legal information, the subjectivity of the decision makers frequently results in variation in case-processing outcomes.

Due to the substantial academic and public interest in this topic, investigations addressing DMC started with the JJDPa itself, and increased in volume following the formalization of DMC as a JJDPa core requirement. However, interest in differential treatment based on race was a salient research topic for a much greater period of time (Albonetti, 1991; Bishop & Frazier, 1992; Cohen & Kluegel, 1979; Matsueda & Heimer, 1987; Tracy, 2002; Wordes et al., 1994).

## THEORETICAL FOUNDATIONS FOR DMC

The overrepresentation and differential processing of minority youth in the criminal justice system has attracted the attention of scholars, policymakers, and criminal justice practitioners. Despite considerable interest in the topic, the existing literature on DMC is limited (Pope et al., 2002; Pope & Feyerherm, 1990). Conducting a review of DMC literature for the Office of Juvenile Justice and Delinquency Prevention, Pope, Lovell, and Hsia (2002) found only 34 published journal articles on the subject between 1989 and 2001. Additionally, research has frequently produced mixed results, adopted various theoretical foundations, and examined divergent units of analysis (Leiber, 2002; Pope et al., 2002; Pope & Feyerherm, 1990). Despite the dearth of research and mixed theoretical foundations, several authors have provided key theoretical contributions to the literature.

## THEORETICAL EXPLANATIONS OF DMC

Explanations for the overrepresentation of minorities within the justice system have generally adopted one of two opposing theories. The *differential selection thesis* posits that minority youth are processed differently as a result of racial stereotyping and systemic bias within the juvenile justice system (Leiber, 2003; Tracy, 2002). Conversely, the *differential involvement hypothesis* purports that the systems handles minority youth differently due to factors related to the frequency, duration, and seriousness of criminal behavior; for example, arrest for a more serious criminal offense, past criminal records, and failed interventions (Tracy, 2002).

Regarding the latter explanation, some researchers suggest that focusing on DMC conceals a greater concern of the juvenile justice system—that of disproportionate minority involvement in criminal behavior. Tracy (2002) conducted research on DMC in Texas and argues that,

“The findings show an absence of strong and consistent race and ethnic differentials in juvenile processing...even when such differentials occur, they do not affect the most important stage of juvenile justice decision making—the final disposition” (p.175). The author argues that societal inequalities account for greater involvement of minority offenders in the justice system, rather than racism on the part of practitioners in the juvenile justice system.

Despite some research supporting the disproportionate minority involvement thesis, the vast majority of DMC literature focuses on differential case processing and treatment of minority offenders. In this regard, Sampson and Laub’s (1993) research remains a seminal contribution to the DMC literature. Using a macro-level of analysis guided by a conflict perspective, the authors provide several crucial findings relevant to this study. First, poverty and racial inequality increase the likelihood of juvenile justice involvement, particularly for pre-trial confinement in secure facilities. Regarding disposition, the authors find a disproportionate use of out-of-home placement of African-American youth adjudicated for property or drug offenses. These findings prompted Sampson and Laub (1993) to conclude that increased formal social control results in the confinement of African-American males because of their perceived threat to middle-class populations.

Other researchers have focused on the influence of social-psychological processes on the decision making of juvenile justice workers. For example, Tittle and Curran (1988) focus on the concept of symbolic threats as they relate to disparities in dispositional decisions in the juvenile justice system. Operating from a threat hypothesis, the authors focus on “elite” statuses of income, race, and age. Their findings did not indicate strong systematic variation in processing based solely on the degree of threat. However, the authors suggest that race has the strongest influence on decision making for drug and sex offenses in jurisdictions that have a large Non-White population. Consequently, Tittle and Curran argue that Non-White youths charged with specific offenses symbolize qualities that incite fear among White adults. Furthermore, they argue that a social-psychological perspective should focus on the application of sanctions to minority youth under conditions where these juveniles represent symbolic threats to community elites.

Other research examining social-psychological processes indicates that decision making interacts with race to influence court decision making based on concerns of localized communities. Drawing from court data, Leiber (2003) used a weighted sample of more than 7,000 youths to observe the influence of extra-legal, race, and family factors on case processing at all points within the juvenile justice system. He found that, controlling for offense characteristics and relevant legal factors, race influenced decision making in all four counties. However, the exact influence of race on juvenile justice decision points varied by county and was affected by the tradition, history, and correctional orientation of the local juvenile courts. Minority youths in the wealthiest and most crime-free county were disproportionately referred for additional court processing. Leiber also found a coupling of court control with a rehabilitation orientation in counties with higher levels of racial inequality and children born to unwed parents. This generated increased referrals for further court processing among African-American youth from single-parent households.

In a related study examining the joint influences of gender, race, and family structure, Leiber and Mack (2003) found that these factors affect decision making at several points in the juvenile justice system. For African-American males, family structure has a significant influ-

ence on how cases are processed. For instance, African-American males from single-parent homes are less likely to receive diversion and more likely to have a formal petition than White youth. The strongest indication of racial bias in this research occurs at intake; consistent with the symbolic threat hypothesis.

### **Informal Social Control and “Respectability”**

The relationship between informal social control and workers’ assessments of “respectability” remains an understudied process in regards to juvenile case processing. Although these factors directly relate to symbolic threat theory and other DMC literature, there has been little examination of how the concept of respectability influences court processing and, more importantly, how race interacts with this concept to produce disproportionate outcomes by race. This notion of respectability plays an important role in Donald Black’s sociological analysis of the behavior of law.

In *The Behavior of Law* socio-legal theorist Donald Black (1976) argues that the concept of respectability, or normative location, strongly influences the outcomes of justice systems, or what he more broadly describes as “the behavior of law.” For Black, the presence of respectability predicts the relationship between informal social control and legal decision making. According to Black, “a juvenile with a past record is more vulnerable to law” (Black, 1976, p.11). Black defines law as the manifestation of governmental social control that embodies its own animated behavior varying across time and space. Under this assumption, prior criminal behavior and other prime markers of a lack of respectability of juvenile offenders may elevate the level of psychological discomfort experienced by intake officers (Tittle & Curran, 1988), and, consequently, an officer may be more likely to detain these youths at arrest.

When Staples (1987) directly applied the concept of respectability as an explanation of variation in juvenile justice processing, he found mixed results. Specifically, age, referral source, and prior offense history affected case processing in the juvenile justice system, providing some support for the notion that perceptions of respectability interact with informal social control in deciding case outcomes. Staples argued that fluctuations in historical contexts influence the application of formal social control to individuals considered unrespectable by society. Over time, some groups may be deemed more or less respectable depending on the social-historical context (Staples, 1987, p.18). This finding is particularly valuable for the current research, as some literature indicates that differences in the social context of units as small as judicial districts influences case processing according to characteristics such as race and family structure (Leiber, 2003). In other words, space and time govern the perception of respectability and the appropriate responses to those youth deemed as unrespectable.

Perceptions of respectability and culpability play distinct roles in juvenile offender case processing. Decision makers within the criminal justice system frequently assess beliefs regarding the origin of individual criminal behavior and the risk of further offending based on assessments of personal characteristics (Bridges & Steen, 1998). Official perceptions of juvenile offenders represent an important aspect of case processing, providing another example of differential assessment based on the interaction of race and evaluations of informal control and respectability. For instance, Bridges and Steen (1998) report that Black youths are described as more culpable, more dangerous, and less amenable to treatment than Whites committing similar offenses. These negative perceptions of Black youths expose them to more severe sanctions

and limit alternative treatments. In essence, informal assessments stemming from stereotypical images of violent Black males become manifested in formal court assessments of risk.

Within the confines of juvenile justice decision making, we assert that, although many extra-legal factors influence the decision to detain for all youth, a lack of informal social control and other prime markers of respectability will have the greatest influence on the processing of minority youths. We predict that the effects of information and data reflecting the presence of informal social control in youths' backgrounds will influence the detention decision for all youth; however, these factors will vary by race. When one examines the statutory criteria for detention, legal variables such as "offense type" and "severity" are the most salient factors influencing the decision to detain. However, other factors previously appearing in the literature are also valuable in exploring the detention decision. For example, whether or not a youth was from a single-parent household may influence perceptions of levels of parental (informal) control and supervision. Within the context of the detention decision, we argue that decision makers are more likely to detain youth from single-parent households. In this instance, more *legal* social control is applied to the youth based on the perception that one parent cannot exert as much *informal* social control over their children as compared to two-parent households (Black, 1976). This assertion is supported by prior research denoting the interaction between family structure, minority status, and decision making by justice administrators (Leiber, 2003; Leiber & Mack, 2003).

A juvenile's prior history partially determines the placement outcome for offenders in Kansas. Relevant factors include previous drug and alcohol treatment, concern for parental mental health, family criminal history, and other information available to police and intake staff when making placement decisions. In addition, the content of this information serves as an illustration of the presence and effectiveness of previous behavior interventions, as well as general family health (Matsueda & Heimer, 1987; Messner & Krohn, 1990). Based on these considerations, we test the following three hypotheses regarding detention outcomes in a Kansas judicial district.

H1. Offense type and severity will have the strongest influence on the relative odds of detention at arrest.

H2. Extra-legal factors that reflect the absence or presence of "informal social control" and "respectability" will influence the odds of detention at arrest for all youths.

H3. Extra-legal factors that reflect the absence and presence of "informal social control" and "respectability" will have a greater influence on the relative odds of detention for Non-White youths.

## METHODOLOGY

### Data and Population

Data collection for this study utilizes two primary sources of information. We include juvenile offender intakes conducted by a community corrections organization within the State of Kansas occurring between January 1, 2002, and December 31, 2004. The Juvenile Intake and Assessment Juvenile Information Management System (JJIAMS), a standardized intake assessment tool utilized by intake workers in the State of Kansas, provides the majority of

background information included in the analysis. The JJIAMS database management system contains detailed records regarding arrest outcomes for all juvenile intakes conducted by the local jurisdiction. Official admission reports from the primary juvenile detention facility used by the host judicial district provide additional detention information for this study. The data include only cases involving arrest and subsequent processing by juvenile intake. The authors eliminated all data regarding matters not applicable for processing by the district (state) court. As a result, the data excludes all administrative reports forwarded to the prosecutor without a formal arrest, all violations of municipal codes, and all traffic ordinance violations. Additionally, youths detained on active warrants or for probation violations were excluded, because the decision to detain in these instances is entered by a district court judge. After filtering all non-applicable cases, 497 juvenile offender intakes met the pre-defined criteria and are included in the sample.

At the point of contact, juvenile intake staff administer the Juvenile Intake and Assessment Questionnaire (JIAQ). In Kansas, the juvenile intake staff serve as gatekeepers of the juvenile justice system and the chief collection point of all front-end data. The JJIAMS database maintains self-report data collected during the interview conducted prior to the intake decision. Although the majority of information collected during the intake reflects the youth's self-reports, the intake officers interpret the responses and code them accordingly. The JIAQ includes all relevant social, educational, familial, and behavioral information applicable to the processing of any juvenile matter. This valuable information helps intake workers make an appropriate placement decision. Table 1 displays information regarding relevant self-reported and arrest data.

Our data have a number of limitations that should be noted. Although the current measures are an adequate assessment of extra-legal factors, the intake worker's rationale for detention was not specifically measured. Additionally, this study does not have details about the juveniles' behavior at the time of intake that might also influence the decision-making process. Although the attitudes and assessments of intake workers are not formally included in the models, we utilize measures of non-legal factors that are incorporated into the JIAQ assessment process. Finally, the small sample size and data-collection process limits the generalizability of the findings. The sample size also required us to assess minorities as a group, which does not allow for unique examination of outcomes for race and ethnic subpopulations. This research represents part of an on-going federal and state DMC pilot project, and the current sample represents the first wave of data collection. Finally, the sample represents only data collected from law enforcement and court sources in one jurisdiction. In spite of these limitations, the current study does allow an examination of intake decision-making outcomes in the current jurisdiction and provides a foundation for further scholarship.

## **Logistic Regression**

Logistic regression is the primary method of analysis, as it is the most appropriate tool when working with a dichotomous dependent variable such as the decision to detain. The dependent variable for this research is placement in detention at the point of arrest. Control variables reflecting whether or not the youths are of minority status, have family members with a criminal history, live in a single-parent household, have previously received drug and alcohol treatment, and are enrolled in school are constructed from JJIAMS data. Legal descriptors, such as type



and severity of the presenting offense, as well as prior arrest history, are also constructed from JIAJMS and arrest data. Coding details and descriptive statistics are displayed in Table 1.

**TABLE 1. MODEL VARIABLES IN THE ANALYSIS OF THE DECISION TO DETAIN.**

Variable	Coding Method	ALL YOUTH N=497		WHITE N=363		NON-WHITE N=134		X <sup>2</sup>
		N	%	N	%	N	%	
<b>Dependent Variable</b>								
Detention Placement	1= Yes 0=No	59	11.8	40	11	19	14.1	.934
<b>Independent/ Control Variables</b>								
Felony Offense	1=Felony 0=Misdemeanor	145	29.1	106	29.2	39	29.1	.000
Person Offense	1=Person 0=Non-person	103	20.7	74	20.3	29	21.6	.794
Male	1=Male 0=Female	351	70.6	262	72.1	89	66.4	1.564
Racial Minority	1=Non-White 0=White	134	26.9	N/A	N/A	N/A	N/A	N/A
Substance Abuse Tx	1=Any D/A Treatment 0=No Previous Access	49	9.8	39	10.7	10	7.4	1.186
Prior Arrests	1=Prior Arrest Record 0=No Priors	212	42.7	157	43.2	55	41	.195
Enrolled in School	1=Enrolled 0=Not Enrolled	405	81.5	296	81.5	109	81.3	.003
Family Criminal History	1=Family w/ Criminal History 0=No Family Criminal History	181	36.4	119	32.7	62	46.2	7.68*
Single Parent Household	1=Single Parent Home 0=More than One Parent/ Guardian	122	24.4	86	23.6	36	26.8	.532

X<sup>2</sup> by race \*(p<.05)

To test for interaction effects between race and case outcomes, we run separate regression models for minority and White youths and calculate *Z-values* to determine if the regression coefficients differ significantly across racial categories (For a detailed discussion of testing the equality of regression coefficients across sub-groups, see Paternoster, Brame, Mazerolle, & Piquero, 1998; Brame, Paternoster, Mazerolle, & Piquero, 1998). This analysis allows us to determine if causal effects are equivalent when estimated within two independent samples. We calculate *Z-values* according to the unbiased formula presented by Paternoster et al. (1998). For ease of interpretation, we report “yes” for *Z-test* reaching the value of statistical significance (an absolute value greater than 1.96) and “no” for non-significant values.

## FINDINGS

An examination of the distribution of detained youths by racial category, provides evidence that some measure of disproportionality exists. Table 2 displays the racial breakdown of youths in the county’s population, of youths in the arrested sample, and of youths detained at arrest. All minority youths comprise less than 15% of the county’s total youth population, but they comprise 27% of those arrested, and 32.2% of youths detained at intake. The disparity of minority detention is of particular note among the African American youths in the research population. These youth represent less than 8% of the county’s population, but nearly a quarter of those detained. Even in a cursory manner, it is evident that some form of disproportionality based on race exists in the population of youth detained by the jurisdiction.

**TABLE 2. POPULATION DISTRIBUTION AT ARREST AND DETENTION**

Racial Category	% of community youth age 10-17	% of arrests	% detained
White	85.5	73.0	67.8
African American	7.8	19.9	22.0
Hispanic	4.2	3.2	5.1
Asian	2.0	1.8	1.7
Pacific Islander	.1	1.2	0
American Indian	.3	.8	3.3
All Minorities	14.5	27.0	32.2

In assessing the impact of extra-legal factors on the application of law, we conduct a number of logistic regressions with various combinations of independent variables and control variables. Table 3 presents a logistic regression analysis for the decision to detain for all youth in the research population. In accordance with Kansas statute and our first hypothesis, legal variables representing offense type and severity are two of the strongest in the model. Youths arrested for felony offenses are more than seven times as likely to be detained at intake than youths processed for misdemeanor offenses. This result is logical given that, under Kansas law, misdemeanor offenders are detained only under highly unusual circumstances (refer to Appendix A). Youths arrested for person offenses are four times more likely to be detained than youths charged with non-person offenses. Again, this finding is consistent with the detention criteria that directly address violent or person offenses.

**TABLE 3. LOGISTIC REGRESSION FOR DECISION TO DETAIN FOR ALL YOUTH**

<b>Variables</b>	<b>B.</b>	<b>S.E.</b>	<b>Wald.</b>	<b>O.R.</b>
<b>Racial Minority</b>	.556	.388	2.055	1.744
<b>Male</b>	1.075	.459	5.480	2.930*
<b>Felony Offense</b>	2.063	.372	30.373	7.868***
<b>Person Offense</b>	1.410	.371	14.451	4.095***
<b>Prior Arrest History</b>	.983	.384	6.555	2.673**
<b>Substance Abuse Tx</b>	1.679	.459	13.404	5.360***
<b>Enrolled</b>	-.708	.412	2.954	.492
<b>Family Criminal History</b>	.778	.363	4.584	2.177*
<b>Single Parent Household</b>	.762	.380	4.012	2.142*

\*p.<05, \*\*p<.01, \*\*\*p<.001      Nagelkerke R square .445

While controlling for other variables in the model, several of the offense history and control variables are statistically significant. Male arrestees are almost three times more likely to be detained at intake than female offenders. Indications of a criminal history or past deviant behavior also influence the odds of detention at arrest. Youths with a prior history of substance abuse treatment are more than five times more likely to be detained. Arrestees with a criminal history are more likely to be held in a secure setting ( $\exp(B) = 2.673$ ). These findings may be attributed to both subjective and objective decision making by intake officers. Kansas statute allows for the detention of youth with a history of felony adjudication, which could partially explain this finding. Additionally, the statute permits secure confinement if the arrested youth presents self-destructive behavior. Intake officers have a fair amount of discretion when interpreting what constitutes self-destructive behavior and are apt to consider past criminal behavior. Finally, research consistently shows a link between substance abuse and criminal behavior (Sorenson & Brownfield, 1995; Stahl, 2001). Consequently, juveniles with a history of drug abuse are more likely to be involved in criminal behavior, which influences an intake officer’s assessment of the juvenile’s behavior.

As predicted by the second hypothesis, a lack of informal social control significantly influences odds of detention. Residing in a family with a history of criminal behavior more than doubles the odds of detention at arrest. The odds of detention are also doubled if the youth resides in a single-parent home ( $\exp(B) = 2.142$ ). These findings support the theoretical foundation of this paper—the idea that in the absence of informal control, the juvenile justice system applies more “formal legal control.” Family criminal history and coming from a single-parent household significantly increases the probability of placement in detention upon arrest. None of the statutory requirements address these specific concerns, so their relationship with detention rests clearly in the subjective interpretation of the intake officer.

Because decisions to detain largely rest on legal criteria, one can reasonably assume that offense type and severity have the most salient effect on case processing outcomes. A primary goal of this paper is to investigate how legal and extra-legal factors in the decision to

detain vary by race. Table 4 reports two separate logistic regression models for the decision to detain differentiated by race, and the *Z-values* comparing regression coefficients across racial categories.

**TABLE 4. LOGISTIC REGRESSION FOR DECISION TO DETAIN DIFFERENTIATED BY RACE**

Variable	White Youth			Minority Youth			Z-Value
	B	SE	OR	B	SE	OR	Significant Yes/No
Male	.538	.552	1.713	2.143	.930	8.526*	No
Felony	2.360	.476	24.632***	1.751	.668	5.760*	No
Person	1.001	.445	2.721*	2.846	.794	17.218***	No
Prior Arrest	1.246	.481	3.478**	-.783	.714	.457	Yes
Substance Tx	1.961	.515	7.106***	1.395	1.320	4.033	No
Family Criminal History	.545	.418	1.702	1.385	.776	3.995*	No
Single Parent Household	.723	.462	2.061	1.819	.731	6.163*	No
Enrolled	-.281	.540	.755	-2.727	.886	.065**	Yes
Nagelkerke R square .367			Nagelkerke R square .364				

\*p.<05, \*\*p<.01, \*\*\*p<.001

Many of the key legal and independent variables have a different influence on detention decisions for minorities as compared to Whites. For both populations, felony offenses have a strong relationship with the decision to detain at arrest. This factor is particularly salient for White youth. An arrest for a person offense is significant in both the White and Non-White models; however, the effect is much stronger for minority youth. One would expect these variables to remain significant in both models given the nature of the detention criteria in Kansas. One interesting finding is that detention of males becomes insignificant among Whites, yet remains a powerful variable for the minority youth. This may reflect the fear of crime associated with Black males (Tittle and Curran, 1988).

For Whites, prior behavior appears as the most important extra-legal factor. White youths with a history of substance abuse treatment are more than seven times more likely to be detained. Additionally, prior criminal history among White youths more than triples the odds of detention ( $\exp(B) = 3.478$ ). Among Non-Whites in this study, criminal history and substance abuse are not significant.

The regression analysis for informal social control and measures of “respectability” again illustrates disparity between factors influencing the detention of White and Non-White youths, providing some support for the third hypothesis. According to the model, none of the remaining informal control or respectability variables are significant for White youths. For Non-White youths, all of these variables are significant. Family criminal history increases the odds of detention at arrest by four times for Non-White youth, yet it remains insignificant for White youths. Non-White youths from single-parent households are six times more likely to be detained than those residing in two-parent homes. This finding confirms the conclusions of

past research indicating an interaction between race and family structure in relation to court processing (Leiber, 2003).

It can be argued that, next to the family, school is the first introduction and the chief milieu of social control (Franklin, 1974; Spring, 2003). Therefore, it is permissible to assume that youth enrolled in school are subjected to more social control than those who are not. The appearance of social control via regular school attendance substantially decreases the likelihood of detention for Non-White youths ( $\exp(B) = 0.065$ ), but consistent with the other social factors, it is not significant for Whites.

The presence of family criminal history, single parent household, and school enrollment have effects on the decision to detain, which supports our assertion that familial and informal control factors play a more important role in case processing outcomes for Non-White youths. It is not necessarily our intent to assert how schools or families apply control and subsequently influence the application of law. Rather, we are interested in differences in how the presence of these already established sources of control vary between youth of minority and non-minority status, as well as how these controls subsequently influence the detention decision (Leiber, 2003; Leiber & Mack, 2003).

In the absence of legal controls, familial factors such as family criminal history and coming from a single-parent household influence the detention decision for Non-White youth. In the absence of a better explanation, this may largely be due to a pervasive negative stereotype, of the stability and effectiveness of minority families. This is important because these factors are not significant for White youths, which illustrates the presence of differential decision making based on race. The application of more legal formal control for Non-White youths based on familial rather than legal criteria is congruent with the law/social control relationship posited by Black (1976) and latent extra-legal stereotypes appearing in the symbolic threat literature (Tittle & Curran, 1988).

The final step of our analysis is to compare regression coefficients across racial types through the calculation of relevant *Z-statistics*. Table 4 reports the *Z-statistics* for the coefficients from the minority and White samples, providing “yes” responses to all *Z-values* reaching the 95% confidence level. “Yes” responses indicate that the probability of the values observed between two coefficients occurred by chance is less than 5% ( $z > 1.96$ ). The prior arrest variable is significantly different across racial categories and works in different directions for White and minority youth. Finally, being enrolled in school has a stronger impact on the detention decisions for minority youth, providing additional support for hypothesis three.

## DISCUSSION AND CONCLUSION

Our findings indicate that outcomes of juvenile justice processing of minority youths inevitably subjects them to more legal controls, regardless of the presence of previous behavior interventions and other indicators of serious delinquency. The differential detention of minority-youth-based familial features represents an important finding in the sample. When considering the consequences of pretrial detention, namely quicker case review processes with exposure to a correctional environment and contact with riskier peers, the relevant connection regarding the impact of familial features becomes amplified.

Although we do not have explicit measures of intake workers' perceptions toward informal social control in relation to the detention decision, our findings reveal that sources of informal control continue to influence detention outcomes. It is plausible that decision makers consider the appearance of family dysfunction and disorganization to be a greater contributor to delinquency for minority families as compared to non-minority families (Leiber, 2003; Leiber & Mack, 2003).

The most plausible remedy for differential treatment at detention is the application of a formal decision-making apparatus or assessment tool based solely on legal criteria. Various forms of detention assessments arose during the detention reform process in the early 1990s, in part due to a response to the other core requirements of the JJDP (i.e., deinstitutionalization of status offenders and jail removal).<sup>1</sup> At a minimum, an assessment tool reduces some of the subjectivity still present in the statute and helps to ensure that decisions are based on presenting behaviors rather than misconceptions. We acknowledge that intake workers, court officials, and police organizations resist the utilization of assessment tools because of the loss of autonomy and the perceived threat to their status as professionals. Alternative detention environments, such as home arrest and shelter placements, offer another viable option for reducing disproportionality at detention while offering the additional benefit of lowering cost.

Remedies for DMC could include the use of multiple decision makers at detention and a complete review of each case subsequent to processing (Pope & Feyerherm, 1995). The involvement of more than one decision maker can reduce some of the latent stereotypes in justice processing. Additionally, such practices require that workers clearly articulate their rationale for detention, further illuminating any under-the-surface predispositions related to race. Reviewing previously processed cases may also refine the skills of intake workers and make all decisions transparent to workers and supervisors. Both of these practices can be easily implemented in existing jurisdiction at a relatively minor cost. In fact, if these practices reduce the use of costly detention placement, they may ultimately save money. This is true even in rural settings that often lack fiscal resources and adequate numbers of justice practitioners.

Although removing some of the subjectivity from the decision-making process and finding alternatives to detention may help to reduce the disproportionate detainment of minority youth, these tactics hardly address the greater difficulties that influence processing at all levels of the juvenile justice system. The stark reality is that racial minorities in this country still face copious amounts of social, educational, and economic disadvantage. These ever-present social facts and the shift to a "tough on crime" model promote increased disproportionate contact of minority youth.

Although this problem still looms large on the social horizon, we are encouraged by its acknowledgement and the subsequent legislation designed to address it. We are also hopeful of the on-going efforts of various early intervention and prevention programs intended to attack delinquency at the earliest stages of childhood development. Ultimately, we believe that these efforts will have substantial long-term effects in addressing the existing DMC crisis.

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1. Detention assessment tools assist in crafting decisions based on legal criteria. Although the Kansas Detention Criteria (Appendix A), which directs the detention decision, places a great deal of emphasis on presenting behaviors, ambiguity regarding "seriously assaultive" and "self destructive" behaviors remains in the language. A formal decision-making tool which considers only presenting behavior and criminal behaviors would further reduce ambiguous language.

Future research should examine samples from jurisdictions with varying racial compositions in order to determine how differing proportions of minorities in the population influence the impact of respectability and the use of informal social control in the decision to detain. Blalock's (1967) classic "threat hypothesis" suggests that discriminatory efforts by the majority are influenced by the level of minority concentration, but to our knowledge, this hypothesis has not been applied to the issue of juvenile detention. In addition, policy-oriented research should address the usefulness of assessment tools and other efforts to reduce disproportionate minority contact. This work should be sensitive, however, to the possibility that criminal justice workers are unlikely to freely relinquish their discretion and autonomy and, consequently, might pursue informal methods of discretionary decision making.

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## **APPENDIX A: 38-1640. CRITERIA FOR DETENTION OF JUVENILE IN DETENTION FACILITY.**

- (a) Except as provided in subsection (b), the following are criteria for determining whether to place a juvenile in a juvenile detention facility pursuant to subsection © of K.S.A. 38-1624 or subsection (e) of K.S.A. 38-1632, and amendments thereto:
- (1) There is oral or written verification that the juvenile is a fugitive sought for an offense in another jurisdiction or that the juvenile is currently an escapee from a juvenile detention facility.
  - (2) The juvenile is alleged to have committed an offense which if committed by an adult would constitute a class A, B or C felony if committed prior to July 1, 1993, or would constitute an off-grid felony, a nondrug severity level 1, 2, 3, 4, 5, 6 or 7 felony or drug level 1, 2 or 3 felony if committed on or after July 1, 1993, or would constitute a crime described in article 35 of chapter 21 of the Kansas Statutes Annotated.
  - (3) The juvenile is awaiting court action on another offense which if committed by an adult would constitute a felony.
  - (4) The juvenile has a record of failure to appear in court or there is probable cause to believe that the juvenile will flee the jurisdiction of the court.
  - (5) The juvenile has a history of violent behavior toward others.
  - (6) The juvenile exhibited seriously assaultive or destructive behavior at the time of being taken into custody and continued such behavior after taken into custody.
  - (7) The juvenile exhibited self-destructive behavior at the time of being taken into custody and continued such behavior after taken into custody.
  - (8) The juvenile has a record of adjudication or conviction of one or more offenses which if committed by an adult would constitute felonies.
  - (9) The juvenile is a juvenile offender who has been expelled from placement in a nonsecure facility as a result of the current alleged offense.
  - (10) The juvenile has been arrested by any court services officer or juvenile community correction officer pursuant to subsection (b) of K.S.A. 38-1624 and amendments thereto.
- (b) No person 18 years of age or more shall be placed in a juvenile detention center.
- (c) This section shall be part of and supplemental to the Kansas Juvenile Justice code.



## REFERENCES

- Albonetti, C. A. (1991). An integration of theories to explain judicial discretion. *Social Problems*, 38(2), 247-266.
- Bishop, D. M., & Frazier, C. E. (1992). Gender bias in juvenile justice processing: Implications of the JJDPA act. *The Journal of Criminal Law and Criminology*, 82(4), 1162-1186.
- Bishop, D. M., & Frazier, C. E. (1996). Race effects in juvenile justice decision-making: Findings of a statewide analysis. *The Journal of Criminal Law and Criminology*, 86(2), 392-414.
- Black, D. (1976). *The behavior law*. New York: Academic Press.
- Blalock, H. M., Jr. (1967). *Toward a theory of minority-group relations*. New York: Wiley.
- Bridges, G. S., & Steen, S. (1998). Racial disparities in official assessments of juvenile offenders: Attributional stereotypes as mediating mechanisms. *American Sociological Review*, 63(4), 554-570.
- Coalition for Juvenile Justice. (2004). *Unlocking the future: Detention reform in the juvenile justice system*. Washington, DC: Coalition for Juvenile Justice.
- Cohen, L. E., & Kluegel, J. R. (1979). The detention decision: A study of the impact of social characteristics and legal factors in two metropolitan juvenile courts. *Social Forces*, 58(1), 146-161.
- Engen, R. L., Steen, S., & Bridges, G. S. (2002). Racial disparities in the punishment of youth: A theoretical and empirical assessment of the literature. *Social Problems*, 49(2), 194-220.
- Franklin, B. (1974). Education for social control. *History of Education Quarterly*, 14(1), 131-136.
- Johnson, B. D. (2006) The multilevel context of criminal sentencing: Integrating judge-and county-level influences. *Criminology*, 44(2), 259-29.
- Leiber, M. J. (2003). *The context of juvenile justice decision making: When race matters*. Albany, NY: State University of New York Press.
- Leiber, M., J., & Mack, K. Y. (2003). The individual and joint effects of race, gender, and family status on juvenile justice decision making. *Journal of Research in Crime and Delinquency*, 40(1), 34-70.
- Leiber, M. J. (2002). Disproportionate minority contact (DMC) of youth: An analysis of the state and federal efforts to address the issue. *Crime and Delinquency*, 48(1), 3-45.
- Messner, S. F., & Krohn, M. D. (1990). Class, compliance structures, and delinquency: Assessing integrated structural-Marxist theory. *The American Journal of Sociology*, 96(2), 300-328.
- Pope, C. E., Lovell, R., & Hsia, H. M. (2002). Disproportionate minority confinement: A review of the research literature from 1989 through 2001. Washington, DC: US Department of Justice, Office of Juvenile Justice and Delinquency Prevention.
- Parker, K. F., Stults, B. J., et al. (2005). Racial threat, concentrated disadvantage and social control: Considering the macro-level sources of variation in arrests. *Criminology*, 43(4): 1111-1134
- Pope, C. E., & Feyerherm, W. (1990). *Minorities and the juvenile justice system*. Office of Juvenile Justice and Delinquency Prevention.

- Sampson, R. J., & Laub, J. H. (1993). Structural variations in juvenile court processing: Inequality, the underclass and social control. *Law and Society Review*, 27(2), 258-311.
- Schlesinger, T. (2005) Racial and ethnic disparity in pretrial criminal processing. *Justice Quarterly*, 22(2) 170-192.
- Snyder, H., Tierney, N., Finnegan, T., Stahl, A., & Puzancherra, C. (2003). Juvenile court statistics 1999. Washington, DC: Office of Juvenile Justice and Delinquency Prevention.
- Sorenson, M. A., & Brownfield, D. (1995). Adolescence drug use and general theory of crime: An analysis of theoretical integration. *Canadian Journal of Criminology*, 37(1), 19-37.
- Spring, J. (2003). *Deculturalization and the struggle for equality: A brief history of the education of dominated cultures in the United States* (4th ed.). Blacklick, Ohio: McGraw-Hill College.
- Stahl, A. (2001). *Drug offense cases in juvenile courts, 1989-1998*. Washington, DC: Dept. of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention.
- Stahl, A. L. (2003). *Delinquency cases in juvenile courts, 1999 Factsheet*. Washington, DC: OJJDP.
- Staples, W. G. (1987). Law and social control in juvenile justice dispositions. *Journal of Research in Crime and Delinquency*, 24(1), 7-22.
- Tittle, C. R., & Curran, D. A. (1988). Contingencies for dispositional disparities in juvenile justice. *Social Forces*, 67(1), 23-58.
- Tracy, P. E. (2002). *Decision making and juvenile justice: An analysis of bias in case processing* (1st ed.). Westport, Connecticut: Praeger Publishing.
- Wordes, M., Bynum, T. S., & Corkey, C. J. (1994). Locking up youth: The impact of race on detention decisions. *The Journal of Research in Crime and Delinquency*, 31(2), 149-165.

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