



DISPROPORTIONATE MINORITY CONTACT

A Module for Democracy/Civic Mission Classrooms

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Disproportionate Minority Contact

Overview

Throughout the United States, a disproportionate percentage of racial minorities become caught up in the juvenile and criminal justice systems. It would be easy to simply attribute this large discrepancy to the notion that people of different racial groups commit different types of crimes. Yet data suggests that this is not the case, particularly among young people.

Disproportionate minority contact (DMC) raises difficult issues for the American criminal justice system. It threatens victim cooperation with police and prosecutors, the participation of minority jurors, and the validity of judicial decisions among members of minority and majority communities alike. Most fundamentally, it challenges the basic American assumption that everyone receives “equal justice under law.”

This unit highlights two different aspects of disproportionate minority contact. It examines the practice of racial profiling which some experts consider as the major cause of disproportionate traffic stops on minorities and a resulting skew in the racial composition of those charged, convicted and incarcerated. It also explores current trends and controversies relating to juveniles in detention, particularly the disproportionate number of minority youth in confinement despite arrest rates similar to those of white offenders.

Focus Questions

- < Should the police be allowed to consider race when deciding whether to stop someone?
- < If in Chicago or other cities in Illinois a disproportionate number of minorities are arrested and detained, should the City of Chicago or other cities form police/citizen committees to investigate why and to develop a plan based on their findings?
- < Should Illinois be compelled by the federal government to justify any over-representation of minorities at every stage of their juvenile justice systems or lose federal funding for its youth programs?

Objectives

- < Examine what role race plays in the criminal justice system.
- < Identify common public attitudes about law enforcement.
- < Explain racial profiling and disproportionate minority contact and express a reasoned opinion on what should be done about these issues.
- < State and support reasoned opinions about proposed policies and legislation. Propose alternative policies where appropriate.

Materials

- A: The Limits of Authority: Racial Profiling
- B: What Should Be Done About Profiling?
- C: Responding to Disproportionate Minority Contact
- D: Looking at Public Policy: G R A D E

E: Juvenile Justice: Current Trends and Controversies
F: Disproportionate Minority Contact: Suggested Service Projects
Disproportionate Minority Contact: Selected Internet Resources

A: The Limits of Authority: Racial Profiling

For many years, blacks and other minorities have complained that police often target minority drivers, pulling them over for minor infractions or no reason at all and often subjecting them to humiliating car or body searches. Christopher Darden, an African American and former prosecutor, has been stopped many times by police. He said that “to be pulled over for no good reason is very offensive. But then to be asked for consent to search your vehicle just ratchets things up another notch. And in those situations where you’ve been forced out at gunpoint or you’ve been asked to spread out on the street, to lay out on the pavement, makes you boiling with anger.”

John Lambeth of Temple University conducted a study to determine whether blacks were being targeted on the New Jersey Turnpike. He found that African Americans made up 13.5 percent of highway users and 15 percent of the speeders, but he found that they represented 35 percent of those stopped by police. They were almost five times more likely to be pulled over as other drivers. Similar results were found in studies conducted in Maryland and Florida.

Other minority community members complain that they too are stopped and questioned by authorities for no good reason. Latinos protest that they are targeted at Border Patrol checkpoints within the United States, and Arab-Americans claim that they are often detained for long periods by airport security, especially after some terrorist scare.

Pulling over a car, or stopping a person, solely on the basis of the driver’s race violates the 14th Amendment to the U.S. Constitution, which guarantees equal protection under the law. If proven, it would invalidate an arrest or the use of any evidence seized from the driver. Federal civil rights laws outlaw it and several states have passed laws specifically against this practice.

The more difficult question arises over police officer discretion in deciding who to pull over. In the 1996 case of *Whren v. U.S.*, the U.S. Supreme Court unanimously ruled that police may stop a car for any traffic or equipment violation even if they have a different motivation for making the stop, such as the suspicion of drug trafficking.

Some experts point to “profiling” as the major cause of disproportionate traffic stops on minorities. Profiles are systems used by police to predict criminal behavior. Some use scientific methods and statistics to develop a list of factors that make up a profile of a potential suspect. They might include age, location, type of car, time of day, driving patterns, route of travel, and whether the driver is alone. Profiles can also target white citizens. For example, a police officer might be more likely to pull over a late-model car for a minor traffic violation if it were driven by a white youth at night in an inner-city neighborhood where drug dealing occurs. In this case, the driver might fit a profile of someone who is likely trying to buy drugs.

There are two types of racial profiling—full and partial. A full racial profile is when race is the only factor that causes an officer to stop someone. As mentioned above, this practice is unconstitutional, illegal, and universally condemned. Even so, many minorities complain that it happens all the time. Police officials disagree and say the practice is not widespread.

In 1999, Connecticut and North Carolina passed laws requiring police to keep track of the race and ethnicity of everyone they stop. The data will be forwarded to experts to analyze whether and to what extent officers are targeting people on the basis of race or ethnicity. These laws are widely supported by minority leaders. Walter Wilson, legislative director of the National Association for the Advancement of Colored People, has stated: “The NAACP believes that comprehensive data

collection is critical to the process of ending racial profiling. Without data collection, there is no progress on this issue.”

Other states and the federal government are considering such laws. But strong opposition to these laws has come from police groups. They argue that stopping people is already hazardous and forcing officers to ask people about their race and ethnicity will needlessly lengthen stops and inflame the situation. They also don't think the statistics will prove anything because people stopped will probably reflect the racial makeup of the community they are stopped in. They believe that instead of collecting data, all allegations of officers targeting minorities should be thoroughly investigated.

Another set of issues concerns partial racial profiling, where race or ethnicity is one of several factors. Many people support this type of profiling. They argue that it is an effective law-enforcement tool. Bernard Parks, chief of the Los Angeles Police Department, has stated: “We have an issue of violent crime against jewelry salespeople. . . . It's a collection of several hundred Colombians who commit this crime. If you see six in a car in front of the Jewelry Mart, and they're waiting and watching people with briefcases, should we play the percentages and follow them? It's common sense.” Parks is an African American. He sees nothing wrong with partial racial profiling.

Randall Kennedy, a law professor at Harvard, opposes using race as a factor in profiles. He doesn't think that police necessarily use this practice because they have racist motives. He thinks they may believe it is an effective law-enforcement tool, and Kennedy believes they may be right. But Kennedy points out that many innocent people get stopped by police using these profiles. And, he says, they often don't just get stopped once, but many times. This, he says, causes great anger and alienation. “Alienation of that sort gives rise to witnesses who fail to cooperate with the police, citizens who view prosecutors as ‘the enemy,’ . . . and jurors who yearn to ‘get even’ with a system that has, in their eyes, consistently mistreated them. For the sake of better law enforcement, we need to be mindful of the deep reservoir of anger toward the police that now exists within many racial minority neighborhoods. Racial profiling is a big part of what keeps this pool of accumulated rage filled to the brim.”

For Discussion

1. A bank is robbed and the suspect is described as an Asian woman driving a red sports car. Police start looking for such a suspect. Is this a racial profile? Explain.
2. What is the difference between *partial* and *full* racial profiling?
3. Do you think profiling is an effective law-enforcement tool? If so, are its benefits worth its costs? Explain.
4. Should police ever be allowed to consider race when deciding whether to stop someone?

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B: What Should Be Done About Profiling?

Overview

To find out more about racial profiling, some states have passed laws requiring police to collect data on the race and ethnicity of everyone they stop. Other states and the federal government are considering doing the same. Opponents of data collection support other measures such as police videotaping every traffic stop or police distributing their card to everyone they stop so that people can easily file complaints. In this activity, students role play advisers to a state governor who is considering introducing legislation on racial profiling.

Instructions

Divide the class into small groups.

Each group should:

- < Discuss the problem of racial profiling and various proposals for addressing it.
- < Decide which proposal, if any, to support. (Students may create their own proposal.)
- < Prepare to report its decision and the reason for it back to the class.

Have the groups report back and discuss the various proposals. Conclude the activity by voting as a class on the proposals.

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C: Responding to Disproportionate Minority Contact

Focus Question

Should Illinois be compelled by the federal government to justify any over-representation of minorities at every stage of their juvenile justice systems or lose federal funding for its youth programs?

Activity

Distribute to each student E, “Juvenile Justice: Current Trends and Controversies.” Ask everyone in pairs or small groups. Have groups report out to check for understanding.

Explain that the policy above is one proposed response to the problem of disproportionate minority contact among juveniles.

Distribute D, “G R A D E.” Ask students, in teams or in pairs, to assess one of the policies in the focus questions based on the reading and using G R A D E. Ask groups to report out on the different components of the instrument.

To conclude, have the class divide into supporters and opponents of the policy. Ask each group to create a report (not more than 250 words) of recommendations on the proposal. The class report will include both majority and minority recommendations and not exceed 500 words.

D: Strategy: Looking at Public Policy: G R A D E

“Public Policy is a plan of action, adopted by government, to solve a problem or reach a goal.”

In a democracy, you have a say on government policies and proposed policies. It’s important that you take a critical look at them. Use the following GRADE test to analyze the proposed policy in “C.”

Goal	What is the policy and what is its goal? If you don’t know what it’s supposed to do, you can’t measure its success or failure. Policies are designed to address problems. What problem or problems is this policy supposed to address?
Rivals	Who supports this policy? Who opposes it? Knowing the rivals can help you understand who the policy might affect and whether the policy favors special interest. Also, rivals are terrific sources for information. Be sure to check their facts though.
Advantages	What are the policy’s benefits? What is good about the policy? Will it achieve (or has it achieved) its goal? Will it achieve the goal efficiently? Is it inexpensive? Does it protect people from harm? Does it ensure people’s liberties?
Disadvantages	What are the policy’s costs? What is bad about the policy? Is it inefficient? Is it expensive? Does it cause harm? Does it intrude on people’s liberties? Are there any potential consequences that may cause damage?
Evaluate the alternatives	One alternative is to do nothing. Most serious problems have various policy proposals. Evaluate them. Look at their goals, advantages, and disadvantages.

Adapted from: *The Challenge of Information*, © 1998, Constitutional Rights Foundation (Los Angeles)

E: Juvenile Justice: Current Trends and Controversies

Over the years, reformers have focused on different issues in the juvenile justice system. During the 1960s and early 1970s, advocates pushed for due-process rights for juveniles. The U.S. Supreme Court responded with its *Gault* decision, which declared juveniles did have these rights. Subsequent court decisions and much state legislation have further defined juveniles' rights.

Beginning in the mid-1970s, reformers turned their focus on detention issues, particularly on restricting who could be in secure lockups. The Juvenile Justice and Delinquency Act of 1974 and its subsequent amendments achieved two major reforms of detention. It outlawed placing status offenders in secure detention, and it mandated separate facilities for adults and juveniles.

From the late 1970s to the present, the public in many states has called for getting tough on juvenile offenders. Some jurisdictions have resisted. Many states, however, have locked up juveniles in record numbers. Even in periods when the juvenile arrest rate for violent crimes dropped, the incarceration rate climbed. In the wake of highly publicized, violent juvenile crimes, many have called for even harsher sentences on juveniles. Princeton Professor John DiIluio once warned of a "rising wave of superpredators," caused by the growing teen population. Shay Bilchik, former head of the Office of Juvenile Justice and Delinquency Prevention, dismissed the idea of a growing number of superpredators. "For starters, only about one-half of 1 percent of juveniles ages 10 to 17 were arrested for a violent crime last year [1999], and of all juvenile offenders, just 6 to 8 percent are serious, violent, or chronic offenders. So to talk of a generation of superpredators is not only false but unfair." Bilchik and others believe that getting tough has not and will not prevent violent crimes. They urge a return to the traditional model of rehabilitation for juvenile offenders.

The high detention rates have given rise to another controversy. Today, the overwhelming majority of juveniles in detention are minorities. Although African-Americans constitute only 15 percent of juveniles aged 10–17, they make up about 40 percent of the juveniles in custody. Only 37 percent of those in custody are white. Blacks do not commit more crimes than whites. The number of whites arrested far surpasses the number of blacks arrested. But as they make their way through the juvenile justice system, blacks tend to stay in the system and end up in custody. Whites tend to get out of the system and not be placed in custody. In fact, minority youth make up almost 70 percent of those in secure detention.

So the controversy arises: Does the juvenile justice system unfairly discriminate against minorities, particularly African-American youths?

Many experts believe that racial discrimination does not cause black youth to remain longer in the system. They point to two separate studies which have shown that black judges are more likely than white judges to keep a black juvenile in custody. They believe that social class rather than race explains why blacks stay in the system. Most of the blacks caught in the system come from poor inner-city neighborhoods. Most of the whites come from a middle-class background. If a middle-class white juvenile gets into trouble, the parents may get a lawyer and a psychologist to help. They will come to court with a plan of action. On the other hand, an inner-city juvenile may only have an overworked public defender, who probably will meet the juvenile just before the hearing. This juvenile has limited access to social services, community agencies, or psychologists. And the juvenile's neighborhood may be filled with gangs and drug traffickers. What is the best interest of each child? Given each juvenile's resources, a judge might find it better to let the middle-class juvenile stay at

home and better to send the inner-city offender to a detention facility that offers some social services. So social class rather than race may explain the different treatment of whites and blacks.

Other experts disagree. They say that while class may account for some of the disparity, racism also plays a role. The juvenile justice system allows decision makers wide discretion at every stage of the juvenile justice process. Racism, they argue, can easily creep into such a system.

The Office of Juvenile Justice and Delinquency Prevention commissioned a project to examine all the existing research about race in the juvenile justice system. In 1992, the project issued a report concluding that “there is substantial support for the statement that there are race effects in operation within the juvenile justice system, both direct and indirect in nature.” By “race effects,” the project meant that race explains why blacks remain in the system.

In 1989, Congress amended the Juvenile Justice and Delinquency Act. It required states to examine why so many minorities were in their lockups. States must justify any over-representation of minorities at every stage of their juvenile justice systems. In 1992, Congress further amended the act tying funding to compliance. Since then, about 40 states have started intervention and prevention programs aimed at helping youth who are at risk of engaging in crime.

For Discussion

Do you think the juvenile justice system should focus on rehabilitation or punishment? Why?

How do you account for the great number of minority youth in detention? What do you think can be done about it? Explain.

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F: Disproportionate Minority Contact: Suggested Service Projects

- § Gather community members, community leaders, and members of the police department for a forum on racial profiling. What is the police department's policy on racial profiling? What are the community members thoughts and feelings about racial profiling? Do they think they are affected by racial profiling? In what way(s)? Can police and the community work together to address the issue? A few forum-format suggestions: Ask experts on racial profiling - on both sides of the issue - to make presentations; select a facilitator and a heterogeneous group of people to serve in a round table discussion; form groups to discuss racial profiling who will then report out in a whole group discussion.
- § Write a letter to your U.S. Representative and U.S. Senators in Washington expressing your views about racial profiling and/or disproportionate minority contact. Invite your legislator or a member of their staff to discuss the issue with your class.
- § Create a website on these and related issues for use by students.

Disproportionate Minority Contact: Selected Internet Resources

"And Justice for Some"

Building Blocks for Youth

www.buildingblocksforyouth.org/justiceforsome

"The Color of Justice: An Analysis of Juvenile Adult Court Transfers in California"

Building Blocks for Youth

www.buildingblocksforyouth.org/colorofjustice

"Disproportionate Minority Confinement: 1997 Update"

Office of Juvenile Justice Delinquency Prevention, U.S. Department of Justice

www.ojjdp.ncjrs.org/pubs/correctionsum.html#170606

"Federal Disproportionate Minority Confinement Mandate: Impact on African American and Latino Youth"

Building Blocks for Youth

www.buildingblocksforyouth.org/dmc.htm

Federal Resources on Disproportionate Minority Confinement

National Center for Juvenile Research Services, U.S. Department of Justice

www.virlib.ncjrs.org/more.asp?category=51&subcategory=198

Illinois State Legislature

www.legis.state.il.us

Status and text of current Illinois legislation and laws

"Justice On Trial: Racial Disparities in the American Criminal Justice System"

Leadership Conference on Civil Rights

www.civilrights.org/policy_and_legislation/pl_issues/criminal_justice/cj_report/summary.html