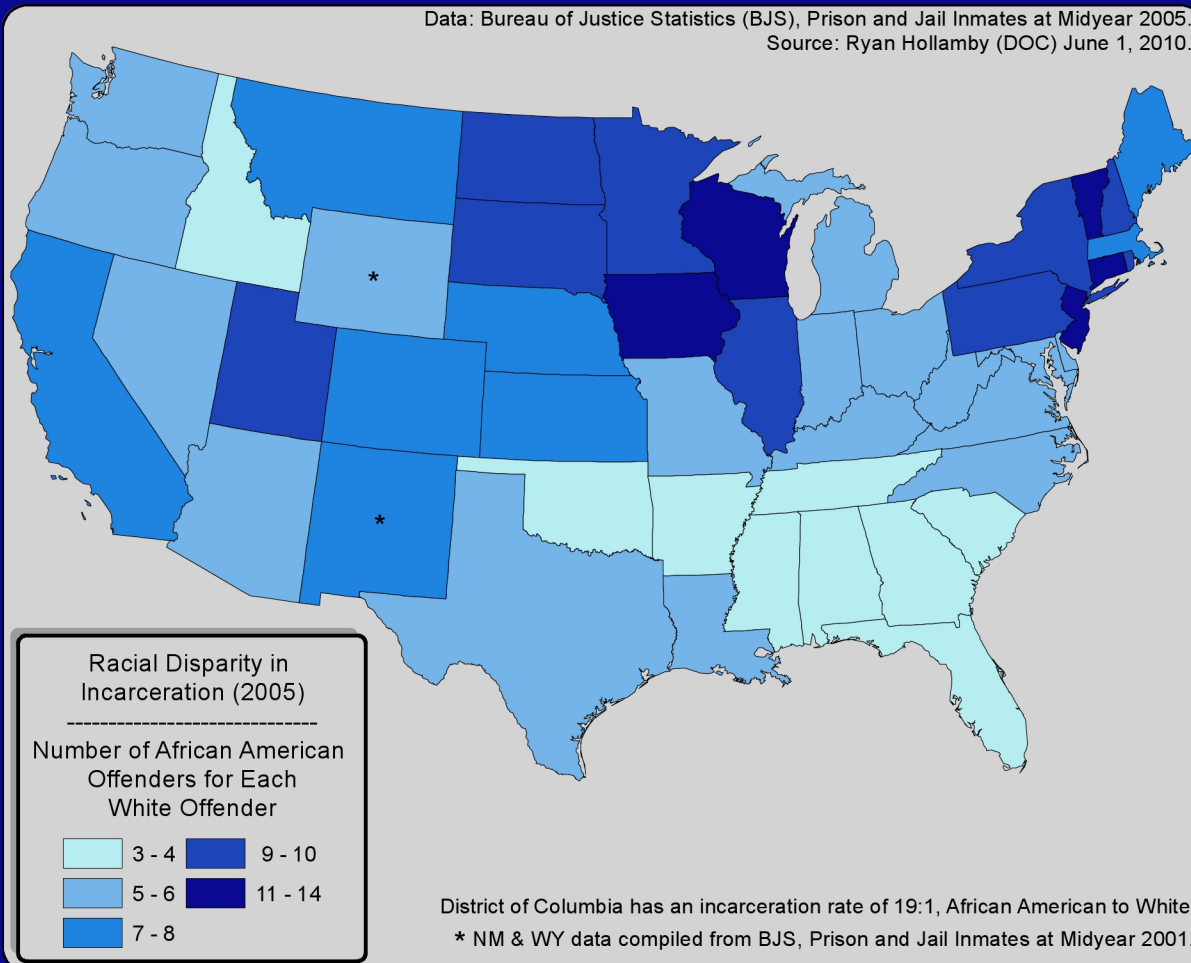# Minority Overrepresentation in Colorado's Criminal Justice System:

An Interagency Report to the Colorado Commission on Criminal & Juvenile Justice

Data: Bureau of Justice Statistics (BJS), Prison and Jail Inmates at Midyear 2005.
Source: Ryan Hollamby (DOC) June 1, 2010.

Racial Disparity in
Incarceration (2005)

Number of African American
Offenders for Each
White Offender

3 - 4	9 - 10
5 - 6	11 - 14
7 - 8	

District of Columbia has an incarceration rate of 19:1, African American to White.
* NM & WY data compiled from BJS, Prison and Jail Inmates at Midyear 2001.

Heather Wells
Maureen O'Keefe
June 2010

Aristedes W. Zavaras

Executive Director, Department of Corrections

Jeaneene E. Miller

Director of Adult Parole, Community Corrections and Youthful Offender System

Tom Quinn

Director of Probation Services

Minority Overrepresentation Committee Task Force Members

Heather Wells
Researcher, Department of Corrections, Office of Planning and Analysis

Maureen O'Keefe
Director of Research, Department of Corrections, Office of Planning and Analysis

Susan Colling
Juvenile Programs Coordinator, Judicial Department, Division of Probation Services

Tim Hand
Deputy Director of Regional Operations, Department of Corrections, Division of Adult Parole

Eileen Kinney
Manager of Evaluation Unit, Colorado Judicial Department, Division of Probation Services

Anna Lopez
Colorado Juvenile Justice Disproportionate Minority Contact Coordinator, Department of Public Safety, Division of Criminal Justice

Thomas Quinn
Director of Probation Services, Judicial Department, Division of Probation Services

Edward Wensuc
Director of Research and Evaluation, Department of Human Services, Division of Youth Corrections

Dana Wilks
Management Analyst, Judicial Department, Division of Probation Services

Anthony Young
Manager of Offender Mental Health Programs, Department of Human Services, Division of Behavioral Health

Contents

Executive Summary

Background

- Throughout the U.S., more African Americans are arrested, incarcerated, denied early parole, and re-arrested than would be expected given their representation in the overall population.

- There is some evidence that Hispanics are also overrepresented in the criminal justice system, but many government agencies do not collect ethnicity data.

What Colorado Has Done to Reduce Minority Overrepresentation

- Juvenile Justice and Delinquency Prevention (JJDP) Council has tracked racial/ethnic disparity in juvenile justice and funded the Minority Family Advocacy Program.

- Both DOC and the Judicial Branch offer cultural competency training.

- Both DOC and the courts provide written and verbal translations in many languages.

- Parole and probation are each developing structured decision-making processes to help decide the consequences of parole/probation violations.

Current Results from Colorado

- There is evidence of racial/ethnic disparities in both probation and parole outcomes.

- Staff diversity at the DOC, probation, and courts reflects Colorado's general population.

Recommendations

- Equalize access to services by identifying and filling gaps in services for minority juveniles and adults.

- Improve cultural competence of criminal justice agencies.
  - Seek technical assistance to improve our cultural competence training.
  - Collaborate with stakeholders from other agencies and invite them to develop an action plan.

- System change
  - Review all proposed criminal justice legislation to determine whether it will create adverse impact.
  - Recruit minority group members to serve on community boards.
  - Adopt structured decision making instruments for parole and probation violations.

- Research
  - Determine at what step in the criminal justice system the most adverse impact occurs for adult offenders.
  - Measure race and ethnicity with separate items, in order to more accurately assess Latino overrepresentation in the criminal justice system.
  - After the changes are implemented, evaluate to what degree they are effective.

Literature Review

There are racial and ethnic inequalities in the U.S. criminal justice system. A disproportionately high number of African Americans are arrested, convicted, incarcerated, denied early parole and re-arrested (Nellis, Greene, & Mauer, 2008). There is some evidence of ethnic (Hispanic vs. non-Hispanic) disparities. However, many government agencies do not collect ethnicity data, so it is more difficult to draw firm conclusions about ethnic disparity. There is a similar lack of information about American Indian or Alaska Natives and Asians due to their relatively small percentages in the population, but there is some evidence that American Indian or Alaska Natives are overrepresented, whereas Asians' criminal justice outcomes are similar to those of Whites. However, there is a lot of variability in culture and socioeconomic status between different Asian subgroups, so it is likely that their experiences in the criminal justice system vary widely (Johnson & Betsinger, 2009).

This report was mandated by HB 08-1119, which states that the Colorado Criminal Commission on Criminal & Juvenile Justice should conduct and review studies and make recommendations regarding the reduction of racial disparities in the criminal justice system. This paper focuses on adult offenders. For information about how juvenile offenders' race affects their criminal justice outcomes, please see the bibliography released by the Technical Assistance and Research Center (TARC) at New Mexico University (Bond-Maupin et al., n.d.). For information about minority overrepresentation among juveniles in Colorado, please see Colorado's Three-Year Juvenile Justice and Delinquency Prevention Plan (Juvenile Justice and Delinquency Prevention Council & Office of Adult and Juvenile Justice Assistance, 2009). This paper defines race and ethnicity, explores the extent of the problem in each stage of the criminal justice system nationwide (policing, pre-trial detention, sentencing and court processing, community supervision, prison and the death penalty), discusses possible reasons why such disparities occur, and describes Colorado's efforts to reduce the problem. The current study explores criminal justice outcomes in Colorado by race and ethnicity; staff diversity at Colorado's Department of Corrections (CDOC), Division of Probation Services, and state court system; and probation and parole release types by race and ethnicity. The paper concludes with recommendations for reducing racial and ethnic disparities in Colorado.

Defining Race and Ethnicity

Race and ethnicity are based on social and cultural background as well as ancestry (Office of Management and Budget, 1997). The Office of Management and Budget defines racial and ethnic groups for the federal government. They define ethnicity as whether a person is Hispanic or Latino, which is, "A person of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin, regardless of race" (Grieco & Cassidy, 2001, p. 2). Therefore, people who identify themselves as Hispanic can be of any race. The Office of Management and Budget defines six different categories of race (American Indian or Alaska Native, Asian, Black or African American, Hispanic or Latino, Native Hawaiian or Other Pacific Islander, and White) although they recognize that an individual can be more than one race. The Office of Management and Budget's terminology for racial and ethnic groups is used in this paper. Groups for which the Office of Management and Budget provides more than one label are given the label that the majority of the group members prefer. For example, a recent Gallup survey showed that 24% of African Americans prefer the term, "African American," 13% prefer the term "Black," and 61% say that it doesn't matter. Therefore, the term "African American" is used in the remainder of this paper. Similarly, a survey by the Pew Hispanic Center found that 35% of Hispanics over the age of 16 prefer the term "Hispanic," 14% prefer "Latino," and the rest have no preference (Taylor, 2009). So, the term "Hispanic" is used throughout this paper.

Police officers serve as gatekeepers to the criminal justice system, so it is vital to explore how police officers' likelihood of stopping or arresting a suspect varies by the race of parties involved (the offenders, victims and police officers). Nationwide, there is a racial and ethnic disparity in arrest rates, especially for drug crimes, and there is evidence of both racial profiling and differential police response to victims according to their race (Hartney & Vuong, 2009; Thomas & Hansen, 2004).

Arrest rates. Compared to Whites, African Americans are arrested 2.5 times as often, American Indian or Alaska Natives are arrested 1.5 times as often, and Asians and Pacific Islanders are arrested 0.3 times as often (Hartney & Vuong, 2009). There is little data on the arrest rates of Hispanics in the U.S. because ethnicity, defined by the U.S. Census Bureau as being of Hispanic or Latino origin, is often not recorded by government agencies separately from race. However, Hartney and Vuong (2009) gathered arrest data by ethnicity from five states and found that Hispanics are slightly overrepresented in Arizona, California, and Pennsylvania.

Arrests for drug crimes. There is even more racial and ethnic disparity in arrests for drug crimes than there is for arrests overall. According to recent data from U.S. Department of Justice (2002), Hispanics are arrested 3 times as often as Whites for drug offenses while African Americans are arrested 3.5 times as often, American Indian or Alaska Natives 1.7 times as often, and Asians and Pacific Islanders 0.2 times as often. However, African Americans, Hispanics and American Indian or Alaska Natives are no more likely than other groups to self-report using illegal drugs, and they are also less likely to self-report using alcohol (Coyle, 2003). Therefore, there is evidence that some minority groups are arrested at a disproportionately high rate for drug crimes despite not using illegal drugs at a higher rate than other groups.

There is some evidence that minority overrepresentation in drug arrests is decreasing. Mauer (2009) reports that from 1999 to 2005, the proportion of African American adults arrested for drug offenses (excluding marijuana possession) declined by 17.2%. Mauer suggests several possible reasons for this, including a decline in the severity of sentences for crack cocaine offenses, decreased police targeting of minority neighborhoods, a shift in drug sales from outdoors to indoors and a shift from selling to both strangers and acquaintances to selling to acquaintances only, as discussed by Curtis (1998).

Racial profiling. Racial profiling occurs when police stop and question or search a citizen primarily because of his or her race or ethnicity, rather than evidence of criminal activity. In Colorado, the Biased Policing Task Force was created in 2000 to determine to what degree racial profiling was a problem in Denver (Thomas & Hansen, 2004). Police officers were required to fill out a contact card each time they conducted a traffic stop or pedestrian stop. The contact card included the suspect's race/ethnicity and gender, the reason for the stop, the actions the officer took and other relevant information. The authors argued that it is not appropriate to compare traffic and pedestrian stop information with population percentages from census data because only about half of the traffic stops and 72% of the pedestrian stops involved Denver residents. They proposed that it is more appropriate to make comparisons about how suspects are treated once they are stopped and to compare traffic stop data with citizens' requests for service and victim identified suspects from offense reports. For example, there were differences in consensual, cursory, and incident to arrest searches by race and ethnicity. In a consensual search, the police officer asked the suspect for permission to search their person, vehicle or property. A cursory search is defined as a frisk of the outer clothing of a suspect for weapons. Whereas police officers may conduct consensual or cursory searches at their discretion, incident to arrest searches of a person and/or vehicle are mandated by Denver Police Department policy after an arrest

for any criminal violation. After traffic stops, only 1.4% of Whites were given consensual searches, compared to 2.0% of Hispanics and 3.0% of African Americans. Similarly, after traffic stops, only 3.3% of Whites were given cursory searches as compared to 10.7% of Hispanics and 9.8% of African Americans. After traffic stops, only 3.8% of Whites were given incident to arrest searches as compared to 10.7% of Hispanics and 13.7% of African Americans.

There is evidence that White police officers are not the only group engaging in racial profiling. Brown and Frank (2006) used trained observers to examine the effects of police officers' and suspects' race on arrests. They observed police officers of the Cincinnati Police Department between 1997 and 1998 and found that African American officers were more likely to arrest African American suspects than were White officers. However, White officers were overall more likely to arrest suspects. The authors suggest that many African American officers may feel like outsiders in predominantly White police departments. In their effort to fit in and not appear to unfairly favor African American suspects, they may go to the opposite extreme and arrest African American suspects more often than their White colleagues. However, their findings can also be explained by the "black sheep effect," which is people's tendency to judge others in their in-group (a group of people with whom they identify) in a more extreme manner than people in their out-group (people with whom they do not identify). Specifically, a person judges negatively valued people as even less favorable if they are in his/her in-group and judges positively valued people as even more favorable if they are in his/her in-group. The black sheep effect occurs because people want to view themselves favorably, and they can achieve this by viewing their in-group favorably. By devaluing in-group members who are perceived negatively, people protect their favorable opinion of their in-group (Marques, 1990). In the Brown and Frank (2006) study, police officers may have viewed suspects negatively because the police officers believed the suspects had committed a crime, and the police officers may have viewed the suspects as part of their "in-group" if the police officer and suspects shared a racial/ethnic background. Therefore, African American police officers may have arrested African American suspects more often than White police officers because the African American police officers devalued the African American suspects in order to protect their overall favorable opinion of African Americans.

Pre-Trial Detention

Just as racial disparities exist in policing, they also exist in pre-trial detention. A meta-analysis of 25 studies that examined the effect of race on bail and on pre-trial release decisions found that African Americans were charged higher bail amounts than Whites (Free, 2002). Six of the studies found an effect of race on bail amounts even after controlling for legally relevant variables such as criminal history and offense type. Only two studies found no relationship between race and bail amount. The two studies that included female offenders found that the relationship between race and bail amount holds for both genders. In 9 out of 14 studies that examined the relationship between race and pre-trial release, African Americans were less likely to be released than Whites. However, most of these studies did not take into account the fact that whether or not a defendant was released before trial depends on his/her ability to meet the terms of release, probation or parole detention holds, and holds due to other pending charges.

A study using a sample of 39,435 defendants from the State Court Processing Statistics (SCPS) program provided corroborating evidence of Free's (2002) finding that African Americans were less likely to be released before trial than Whites and also found that Hispanics were less likely to be released before trial than Whites (Demuth & Steffensmeier, 2004). After controlling for current offense severity and criminal history, Hispanic defendants were 1.4 times more likely to be charged bail than White defendants. In addition, among defendants who were charged bail, Hispanic defendants were charged about 7% more bail than White defendants. Both African American and Hispanic defendants

were nearly twice as likely to be held on bail as White defendants after controlling for current offense severity and criminal history. However, Whites, African Americans and Hispanics were equally likely to be denied bail. The authors noted that there is a greater racial/ethnic disparity in whether defendants are held in jail for failure to post bail than there is in whether they are charged bail. This is because a greater percentage of Whites can afford to post bail as compared to African Americans and Hispanics.

Demuth and Steffensmeier (2004) also found both a main effect of gender and an interaction between race and gender. The main effect is that women tend to have more favorable pre-trial release outcomes than men. The interaction is that the racial/ethnic disparity is slightly greater for men than for women, after controlling for current offense and criminal history. The authors explain the main effect of gender using focal concerns theory, which says that judges' criteria for releasing defendants before trial included the defendant's culpability, how dangerous the defendant was to the community and to what degree the community might be disrupted by the defendant's incarceration (Steffensmeier, 1980). Women may be perceived as less culpable than men because they are seen as being coerced into their offense by a man or driven to crime by a substance abuse or mental health problem. Similarly, women are often perceived as less dangerous than men, and they are more likely than men to have close ties to the community, including primary caregiver responsibilities for children, that serve as a prosocial influence. Therefore, women of all races and ethnicities are more likely to be released before trial than men. The interaction between race/ethnicity and gender may occur because judges tend to perceive women of all races and ethnicities as not dangerous or culpable, but judges base their perceptions of men's dangerousness and culpability at least partially on their race and ethnicity.

Sentencing and Court Processing

Like pre-trial detention decisions, sentencing and court processing decisions also vary according to race and ethnicity. Mitchell (2005) conducted a meta-analysis of 71 studies that examined the direct effect of race on sentencing. The studies analyzed data from 1929 to 2000, but the majority of the effect sizes (76%) were calculated from data with a mid-point in the 1970s or 1980s. An effect size is a measure of the strength of the relationship between two variables, in this case race and sentence severity. Mitchell only included studies using U.S. populations that controlled for both sentence type and criminal history, but he included both published and unpublished studies. Most studies measured sentence severity as whether or not someone was incarcerated, their sentence length, or both. However, a few studies measured sentence severity on a scale with probation sentences being the least severe, short-term incarceration being the next most severe, and longer-term incarceration being the most severe. In addition, a few studies measured sentence severity as discretionary punitiveness or leniency. These studies classified sentencing decisions as whether or not the defendant was punished more harshly than recommended by sentencing guidelines. The authors calculated that, overall, combining all the different ways that sentence severity was measured, African Americans were 1.15 to 1.28 times more likely to receive a severe sentence as compared to Whites (1.15 using federal sentencing data and 1.28 using non-federal sentencing data).

Three variables that moderated the relationship between race/ethnicity of the defendant and sentencing were method of measuring sentence severity, structured sentencing guidelines and methodological rigor (Mitchell, 2005). These moderator analyses were performed using non-federal data because Mitchell's federal data set was relatively small. African Americans were 1.38 times more likely to be imprisoned, 1.23 times more likely to have a longer than average sentence, 1.05 times more likely to have a severe sentence (as measured on a scale from probation to long-term incarceration), and 1.73 times more likely to have a judge use his/her discretion to give a more punitive sentence as compared to Whites. Judicial discretion led to the most racial disparity of the four methods of

measuring sentence severity, which suggests that sentencing guidelines might reduce racial bias by reducing discretion.

Studies in jurisdictions where there were structured sentencing guidelines showed less racial disparity than studies in jurisdictions where there were no structured sentencing guidelines (Mitchell, 2005). In jurisdictions with structured sentencing guidelines, African Americans were 1.18 times more likely to receive a severe sentence compared to Whites, whereas in jurisdictions without structured sentencing guidelines, African Americans were 1.34 times more likely to receive a severe sentence. However, an analysis of federal data showed that after federal sentencing guidelines were passed in 1987, racial disparity for drug offenses increased. Therefore, the use of structured sentencing guidelines may either decrease or increase bias, depending on the content of the guidelines.

For studies with greater methodological rigor, racial disparity was smaller than for studies with less methodological rigor (Mitchell, 2005). Specifically, studies that measured criminal history using an ordinal scale showed less racial disparity than studies that measured criminal history using a dichotomy (any previous crime vs. no criminal record). Similarly, studies that used more nuanced categories of offense type showed less racial disparity than studies that divided offenses into broad categories. Studies that compared African Americans to Whites showed less racial disparity than studies that compared non-Whites in general to Whites, probably because studies with only African American and White categories may include Hispanics in both categories, which clouds the results. In addition, studies that controlled for type of counsel, method of disposition, weapon possession or use, and socio-economic status showed less racial disparity than studies that did not control for these variables. Studies with the greatest methodological rigor showed that African Americans were 1.13 times more likely to be sentenced severely than Whites. Therefore, studies that are methodologically rigorous tend to show small but statistically significant effect sizes for the relationship between race/ethnicity and sentence severity.

In contrast to Mitchell's (2005) conclusion that race affects sentencing, 15 out of 24 studies analyzed by Free (2002) found no effect of the defendant's race on the prosecutor's decision to prosecute versus dismiss the case. However, two studies that utilized federal court data found that African Americans were more likely to be prosecuted for misdemeanors than Whites, and one study found that African Americans were less likely to be prosecuted for felonies than Whites.

Like Free's (2002) meta-analysis, Pratt's (1998) meta-analysis of 47 studies from 1974 to 1996 found that race had no significant effect on sentencing. They did not examine the effect of ethnicity on sentencing because few studies had measured ethnicity. There was a high degree of variation between studies in the relationship between race and sentencing outcomes. Like Mitchell (2005), Pratt (1998) found that studies that categorized race as White vs. African American showed a smaller effect of race on sentencing than studies that categorized race as White vs. non-White. This may be because the studies with only White and non-White categories may include Hispanics in both categories, which clouds the results. Other methodological differences between studies may explain the wide variation in findings. For example, the time period, area of the country, level of analysis (individual judge's decisions vs. institution's decisions), and the number of jurisdictions analyzed can all affect measures of the relationship between race and sentencing.

Unlike Pratt (1998), Crow (2008) found that race affected sentencing. Crow conducted an archival study using the Florida Department of Corrections' data on 567,061 felons. He found a direct effect of race and ethnicity on sentencing; African American and Hispanic offenders were more likely to be incarcerated than White offenders for all offense types.

Steffensmeier and Demuth's (2004) study, discussed in the section on pre-trial detention, also examined sentencing. Just as they found an interaction between race and gender on pre-trial detention, they also found that race and gender interacted to influence sentencing. Specifically, they found that race and ethnicity of the defendant influenced sentences for men but not for women. African American and Hispanic men were about 40% more likely to be incarcerated than White men and receive sentences that were about 8% longer than White men's. Female defendants were less likely to be incarcerated than male defendants and sentences tended to be shorter for women than for men. However, African American, Hispanic, and White women were equally likely to be incarcerated and serve similar sentence lengths. This is similar to Steffensmeier and Demuth's finding that the effect of race on pre-trial release is smaller for women than for men. Just as the authors explained the interaction between race and gender on pre-trial sentencing using focal concerns theory, they used the same theory to explain the interaction between race and gender on sentencing. Focal concerns theory suggests that judges use a defendant's dangerousness as an important criterion in deciding his/her sentence. Therefore, judges who are influenced by stereotypes of minorities as dangerous and culpable tend to sentence minorities harshly, and judges who are influenced by stereotypes of women as not dangerous or culpable tend to sentence women leniently. In this case, judges sentencing female offenders seem to have been more influenced by stereotypes of women than by stereotypes of minorities.

There is some evidence that the effect of race on sentencing is beginning to change. Although Mitchell (2005) found no significant change between 1970 and 2000 in the effect of race on sentencing outcomes in state courts, more recent data on drug offenses shows a decline in racial disparity. In state courts from 1998 to 2004, the proportion of people convicted of drug offenses who were African American decreased by 13% overall and by 17% for drug trafficking offenses (Mauer, 2009). This decrease mirrors the decrease in arrests of African Americans for drug offenses over the same time period. In contrast, an analysis of federal sentencing outcomes found that there was greater racial disparity after the federal sentencing guidelines passed in 1987 than before they passed (Mitchell, 2005). Prior to 1987, African Americans were 1.02 times more likely to receive a severe sentence compared to Whites. After 1987, African Americans were 1.58 times more likely to receive a severe sentence compared to Whites.

The studies discussed so far have examined the relationship between race, ethnicity and sentencing. Steen, Engen, and Gainey (2005) took a different approach and examined a possible mediator between race/ethnicity and sentencing: stereotypes. They interviewed 23 judges, prosecuting attorneys, and defense attorneys about typical drug cases. The interviewees identified three characteristics common to the most threatening drug offenders: they are male, have a long criminal history, and have been convicted of at least one drug delivery offense. In phase two of the study, the authors reviewed the sentences for African American and White drug offenders convicted of drug offenses between 1995 and 1998, and they found that White offenders who fit the stereotype of a threatening drug offender (male dealers with a long criminal history) were sentenced significantly more harshly than other White drug offenders. In contrast, most African American offenders were sentenced harshly regardless of whether or not they fit the stereotype. The only African American offenders who were not sentenced harshly were female non-dealers and male non-dealers with no prior convictions. The authors concluded that judges and attorneys tend to stereotype African American drug offenders as threatening by default, which causes African Americans to be sentenced harshly. In contrast, judges and attorneys only stereotype White drug offenders as threatening if they meet certain criteria, so most White drug offenders are sentenced less harshly than African American drug offenders.

Just as race and ethnicity affect sentencing, they also affect adjudication. In Florida, judges may choose to withhold adjudication for offenders who have pled guilty or have been found guilty, thus allowing them to retain all civil rights and to truthfully say that they have never been convicted of a felony (Bontrager, Bales, & Chiricos, 2005). Judges were more likely to withhold adjudication for White offenders than they were for African American or Hispanic offenders, even after controlling for individual level variables such as case seriousness, age at sentencing, prior supervision violations, legal residency, prior prison commitment, violent primary offense, property primary offense, and drug primary offense. After also controlling for county level variables, such as drug arrest rate, violent crime rate, percent African American, percent Hispanic, concentrated disadvantage, and caseload, judges were still less likely to withhold adjudication for African American offenders, especially for drug offenses. After controlling for both individual and county level variables, judges were less likely to withhold adjudication for Hispanic drug offenders, but not for other Hispanic offenders. The ethnic disparity is larger for drug offenses than for other types of offenses. The authors explain why racial and ethnic disparity is greater for drug offenses than for other offenses using the social threat hypothesis. The social threat hypothesis holds that minorities are often stereotyped in the media and popular culture as dangerous or criminal and, therefore, threatening to the interests of authorities (Liska, 1992). This perceived threat causes the authorities to take measures to control minority populations such as providing more funding for police departments in minority neighborhoods (Chamlin, 1989), arresting minorities at greater rates than Whites (Harer & Steffensmeier, 1992), and adjudicating minorities at a greater rate than Whites (Bontrager et al., 2005). Bontrager et al. (2005) hold that African Americans are stereotyped as gang members who distribute drugs, and Hispanics are stereotyped as drug smugglers, which according to the social threat hypothesis would make African Americans and Hispanics even more likely to be stereotyped as threatening to the interests of authorities when they are associated with a drug crime than when they are associated with another type of crime. Therefore, Bontrager et al. (2005) support the social threat hypothesis.

Incarceration Rates

Given the effects of race and ethnicity on sentencing, it should come as no surprise that racial disparities exist in incarceration rates. According to the 2005 Bureau of Justice Statistics data, 2.3% of African Americans were incarcerated compared to 0.7% of Hispanics and 0.4% of Whites (Harrison & Beck, 2006). In Colorado in 2005, 3.5% of African Americans were incarcerated compared to 1.0% of Hispanics and 0.5% of Whites. So, the racial disparity for incarcerations is even more pronounced in Colorado than it is nationwide.

Despite the statistics above, there is some evidence that racial disparities in incarceration rates are narrowing, at least for African Americans. The rate of imprisonment for African American men and women decreased from 2000 to 2007, while it increased for most other groups (West & Sabol, 2008). Between 1999 and 2005, the number of African Americans in state prisons for drug offenses decreased by 21.6% (Mauer, 2009). This change may be attributable to decreased arrest rates, increased use of drug courts, and changes in sentencing policies. For example, in 2007 the United States Sentencing Commission retroactively lowered the sentencing guidelines for crack cocaine offenses and the Supreme Court ruled that judges could sentence defendants below the recommended sentencing guidelines for crack cocaine offenses due to the excessive penalties for those offenses. Between 1999 and 2005, the number of Whites in state prisons for drug offenses increased by 42.6%. The author suggests that this trend may be partially explained by the increasing popularity of methamphetamine, which is more commonly used by Whites and Hispanics than by African Americans (Johnson, O'Malley, Bachman, & Schulenberg, 2009). For example, in Minnesota the number of people incarcerated for a methamphetamine offense more than quadrupled between 2001 and 2005 (Minnesota Department of

Corrections, 2005). The data from the Minnesota study was not broken down by race. However, the fact that methamphetamine offenses increased and that methamphetamine is more commonly used by Whites than by African Americans provides some support for the theory that the increased percentage of Whites in prison for drug offenses was driven at least partially by increased methamphetamine use.

Institutional Violations

Institutional violations are offenders' violations of prison rules. Research shows that there are racial and ethnic differences in offenders' likelihood of being charged with various types of institutional violations. For example, Steiner and Wooldredge (2008) analyzed U.S. Census Bureau surveys from 9,828 male offenders in 204 state facilities across the U.S. in 1991 and 10,022 male offenders in 203 facilities across the U.S. in 1997 in order to assess the effects of individual and environmental conditions on prison rule violations. They found that African American and Hispanic offenders were more likely to engage in assaults against other offenders or staff, yet they were less likely to engage in drug offenses than White non-Hispanic inmates. The authors suggest that cultural adaptation theory explains their findings. Cultural adaptation theory states that residents of impoverished minority neighborhoods may develop values that are counter to those of the larger society, such as viewing crime as an expected part of daily life (Harer & Steffensmeier, 1996). If minority offenders are more likely than White offenders to develop counter-cultural values, then those values could explain why they are more likely to engage in assaults. However, the authors were assuming that because African Americans and Hispanics are being charged with more institutional violations, they were actually committing more assaults. It is possible that minority offenders are no more likely to commit assaults than White offenders, but minority offenders are more likely to be charged. The authors speculate that minorities are less likely to engage in drug offenses than White offenders because the opportunities to do so are less plentiful than when they are on the outside, but this argument is unconvincing because the opportunities to commit drug offenses are less plentiful for all offenders when incarcerated compared to being on the outside.

A study of inmates sentenced to life without parole also found evidence of racial differences in offenders' institutional violations (Sorensen, Wrinkle, & Gutierrez, 1998). Specifically, the authors found that African American offenders received more assault convictions than White offenders. Again, the authors did not differentiate between the actual behavior (assaults) and the outcome (institutional violations).

Prison Treatment Programs

Just as racial and ethnic disparities exist with respect to institutional violations, they also exist with respect to accessing prison substance abuse and mental health treatment programs. This is important because research has shown that prison treatment programs can reduce recidivism (e.g., Andrews et al., 1990; Aos, Miller, & Drake, 2006; French & Gendreau, 2003; McGuire, 1995). For example, a study on offenders incarcerated in federal prisons across Texas found that Hispanics were less likely to have received substance abuse treatment than any other ethnic group, despite the fact that Hispanics were more likely to be arrested for drug offenses than other ethnic groups (Mumola, 1999). This disparity is particular egregious considering that minority group members may benefit from drug treatment programs just as much, if not more so, than Whites (Case, 2008).

Racial disparities are an issue in prison mental health treatment as well as substance abuse treatment. For example, a study on jail inmates who were admitted to a psychiatric unit found that African American inmates were more likely to be diagnosed with a psychotic disorder (such as schizophrenia or paranoid delusional disorder), and White inmates were more likely to be diagnosed with a mood disorder, such as depression or affective disorder (Paradis, Horn, Yang, & O'Rourke, 1999).

The authors speculated that this racial disparity could be driven by several factors, including an actual difference in the incidence of depression and affective disorders by race in the prison population, racial differences in help-seeking behavior for mental health problems, and the misdiagnosis of African American offenders by predominantly White mental health professionals.

Community Supervision

Probation.   The research on racial disparities in probation is somewhat mixed.   Studies that found no difference in probation outcomes by race will be reviewed first, followed by studies that found racial disparities in probation outcomes.

Vidal and Skeem (2007) found no difference in probation outcomes by race. In their study, probation officers read a hypothetical case about either "Jake," a White young man, or "DeShawn," an African American young man. The probation officers were then asked to fill out a survey rating their expectations for the offender's future behavior, recommendations for level of supervision and treatment, and approach to supervision. None of the outcomes varied by race. However, the authors did not check to see whether the probation officers noticed the race of hypothetical offenders, for fear that it would make the probation officers more guarded about discriminating by race. So, it is possible that the probation officers simply did not notice the offender's race even though it was explicitly stated in the written scenarios.

Like Vidal and Skeem's (2007) study, an archival study of 266 offenders from Tennessee who had probation terms of two years or more found no racial disparity (Morgan, 1994). The researchers defined probation failure as revocation, absconding, or being sentenced for another offense in another jurisdiction, and they defined success as completing the probation term. The researchers found that African American and White offenders did not differ significantly in terms of their probation success. However, they do not report how large their sample of African Americans was, so it is unclear whether the sample was adequate to draw conclusions.

In contrast, other recent studies found racial disparities in probation outcomes. For example, Graham and Lowery (2004) primed half of the probation officers in their study to be unconsciously aware of stereotypes about African Americans by flashing words related to these stereotypes (such as "Harlem," "rap," and "dreadlocks") across their computer screens too quickly for a person to consciously recognize them.   The other half of the probation officers were primed with race-neutral words, unrelated to any racial stereotype. Half of the race-neutral words were positive (e.g., "enjoyment," "heaven," and "kindness") and half were negative (e.g., "coffin," "devil," and "stress"). The reason for using both positive and negative words on the race-neutral word list was because the stereotypical word list also included words that could be considered positive (e.g., "basketball") and negative (e.g., "slum"). The researchers wanted the two lists to be roughly equivalent with respect to positivity and negativity so that any differences between the two groups could be attributed to priming stereotypes about African Americans rather than priming negativity. The probation officers who were primed with the stereotypical word list rated a hypothetical juvenile offender as being guiltier, more likely to recidivate, and as deserving harsher punishment than the probation officers who were primed with neutral words, despite the fact that the offender's race was never mentioned. The racial primes had the same effect on probation officers' ratings of the offender regardless of the probation officers' self-reported attitudes about race. Therefore, even people who considered themselves to be unbiased were capable of acting on unconscious stereotypes.

A study of probationers in Wisconsin also found evidence of racial disparity. African Americans were almost 3 times more likely to have their probation revoked than Whites (Coggs & Wray, 2008). Similarly, Carmichael, Grover, Koons-Witt and Inabnit (2005) found that White females were more likely

to successfully complete their community supervision (probation or parole) than minority females (all minorities were combined in this study). This study did not take current offense severity or criminal history into account. Also, it did not analyze parolees and probationers separately.

Just as Carmichael et al. (2005) and Coggs & Wray (2008) found racial disparities in revocations, Olson and Ramker (2001) found differences by race in the imposition of probation fees. Specifically, White offenders were more likely to have probation fees imposed than non-White offenders. White offenders also paid a larger percentage of their probation fees than non-White offenders. The authors speculate that the reason White offenders were more likely to be charged probation fees was because judges seldom had information about the offender's income, so they stereotyped White offenders as having a greater ability to pay than minority offenders.

A study of probation officers' reports to the court at disposition also found racial disparities (Bridges & Steen, 1998). Probation officers were more likely to attribute White youths' delinquency to their social environment and African American youths' delinquency to their attitude and personality traits, even after controlling for prior convictions and whether the offense was violent. Probation officers recommended harsher sentences for youths whose delinquency they had attributed to attitude and personal traits.

So, there is some evidence that race affects probation officers' attributions regarding the cause of the offenders' delinquency, in addition to affecting outcomes such as probation fees imposed and revocations. Two studies reviewed that did not find an effect of race on probation outcomes had methodological problems. Vidal and Skeem (2007) did not check to determine whether the probation officers who participated in their study noticed and remembered the hypothetical offender's race. Morgan (1994) did not report their sample size broken down by race, so it is unclear how large the effect of race on probation outcomes would have to be for their study to be able to detect it. Some of the studies that found an effect of race on probation outcomes also had methodological flaws. For example, Carmichael et al. (2005) combined all minorities into one group. Their study would be more rigorous if they had distinguished between different minority groups, because there may be important differences in parole outcomes between different minority groups. However, evidence regarding stereotyping and attribution errors strengthens the case that race affects probation outcomes because it explains the mechanisms by which race affects probation outcomes. For example, Graham and Lowery (2004) showed that the relationship between race and probation outcomes is mediated by stereotyping. Similarly, Bridges and Steen (1998) showed that the relationship between race and probation outcomes is mediated by attribution errors.

Parole. Nationwide in 2006, African Americans were on parole at over 5 times the rate for Whites (Glaze & Bonczar, 2007). In Colorado, African Americans were on parole at 6.4 times the rate for Whites, American Indian or Alaska Natives were on parole at 3.5 times the rate for Whites, and Hispanics were on parole at 2.5 times the rate for Whites. Asians and Pacific Islanders were on parole at half the rate of Whites.

Release from prison to parole. Little research has been conducted on the effects of race on parole release decisions, and what research has been conducted has had mixed results. For example, an Alabama study of offenders who had committed Class A violent felonies with injury to the victim found no significant effect of race on either selection for parole consideration or parole release decisions (Morgan & Smith, 2008). They controlled for seriousness of the offense, total felony convictions, total number of convictions (felony or misdemeanor), number of rehabilitation programs the offender participated in, number of institutional violations, and number of months since the offender's last institutional violation.

In contrast, Huebner and Bynum (2008) found that White male offenders were released to parole sooner than African American male offenders, and this discrepancy was maintained across models that included the following variables: age, education, employment, mental health, gang membership, time served, whether or not the offense was a "serious personal crime," whether or not the offense was a drug crime, parole guidelines score, prior convictions, institutional misconduct, and three measures of the offender's community: concentrated disadvantage, violent crime rate, and drug arrest rate. Huebner and Bynum defined concentrated disadvantage as being on public assistance, below the poverty level, unemployed, African American, and living in female-headed households. Hispanic men were released on parole more quickly than White men, but this result may not be generalizable because the sample included only 21 Hispanics out of a total of 423 male inmates between the ages of 17 and 24. The study did not take into account victim participation in the parole hearing process or demographic characteristics of the parole board.

A major difference between these two studies is that the study that found no racial differences (Morgan & Smith, 2008) used a sample of violent offenders, whereas the study that found racial and ethnic differences (Huebner & Bynum, 2008) included a broader sample of offenders. So, it is possible that there is an interaction of race and offense type, such that violent offenders tend not to be released early regardless of their race, but among offenders who have committed less severe offenses, Whites and Hispanics tend to be released sooner than African Americans. Such interactions between race and offense type have been found in sentencing research (e.g., Crow, 2008). It is also possible that the differences between the studies were due to inter-state differences in the demographic composition of the general population and of the parole board. Morgan and Smith's sample was from Alabama. Huebner and Bynum do not report in which state their study was conducted, but the racial composition of the samples in the two studies differed (48% African American, 7% Hispanic and 45% White in Huebner and Bynum's study and 64% African American and 33% White in Morgan and Smith's study). If Alabama has a more racially diverse parole board to reflect its more racially diverse population than state from which Huebner and Bynum sampled, then this could explain the differences in their findings. More research is needed to test the hypotheses that offender race and offense type and/or offender race and racial composition of the parole board have an interactive effect on releases to parole.

Revocation of parole. Like the research on parole releases, the research on parole revocations is mixed. For example, a study that followed 604 male and female parolees in Hawaii for two to three years found that a greater percentage of Native Hawaiians (54%) and Pacific Islanders (61%) had their probation revoked compared to Whites (46%), African Americans (45%), Hispanics (31%) or Asians (39%). However, race and ethnicity did not have a significant effect on parole revocations after controlling for the offender's prior parole experience, type of offense, substance abuse problems, employment history, and willingness to accept responsibility for his/her actions (as assessed by the offender's parole officer; Kassebaum, 1999). A follow-up study with a sample of 304 parolees found no effect for race/ethnicity after controlling for criminal history and conventional lifestyle (Kassebaum & Davidson-Corondo, 2001). Conventional lifestyle was measured using an interviewer's ratings of the offender's prosocial relationships, substance abuse problems, percent of time the offender was employed in the year prior to his/her current sentence, and quality of employment.

In contrast, Steen and Opsal (2007) found that African American offenders were 19% more likely than White offenders to have their parole revoked for a new offense and were 50% more likely than Whites to have their parole revoked for a technical violation, even after controlling for other demographic and legal factors such as gender, age at the time of release from prison onto parole, education, the most serious offense for which the offender was convicted for the current incarceration, and the length of time the offender has spent on parole prior to revocation. The authors argue that the

effect of race on parole revocations may be a result of the relatively large amount of discretion available in decisions about whether to file for a revocation when an offender violates parole and about whether to revoke such an offender's parole. Steen and Opsal did not control for the type of new offense or technical violation in this study.

Steen and Opsal (2007) also found that prior felony incarcerations had a greater effect on revocations for Whites than for African Americans, because parole officers are more likely to revoke parole for African Americans with no prior offenses than they are to revoke parole for Whites with no prior offenses. The authors argue that this is because race makes more of a difference in decision making for less serious cases, in which the decision to revoke the offender's parole is less clear. However, the authors did not control for type of offense.

A study of female offenders found that White females were more likely to successfully complete their community supervision (probation or parole) than minority females (all minorities were combined in this study; Carmichael et al., 2005). This study did not take offense severity or criminal history into account. Also, it did not analyze parolees and probationers separately. More research needs to be done before firm conclusions can be drawn regarding the effects of race and ethnicity on parole revocations.

Recidivism

Racial disparities in incarceration rates are echoed in recidivism rates. A study by the U.S. Department of Justice (Langan & Levin, 2002) followed offenders from 15 states for 3 years after their release from prison. They measured race and ethnicity using two separate items and found that 72.9% of African Americans were re-arrested as compared to 62.7% of Whites. African Americans were also returned to prison at a higher rate (54.2%) than Whites (49.9%). However, only 64.6% of Hispanics were rearrested as compared to 71.4% of non-Hispanics. Similarly, only 51.9% of Hispanics returned to prison as compared to 57.3% of non-Hispanics.

Although African Americans have higher recidivism rates than Whites, prison education and substance abuse programs can effectively reverse this racial disparity. A study of 18,177 offenders in Ohio found that 32% of African Americans returned to prison as compared to 17% of Whites (Case, 2008). However, African American offenders who participated in prison education and substance abuse programs had a better chance of staying out of prison than White offenders who participated in the same programs. The author did not explain how offenders were chosen for programs in the Ohio system. It is possible that only the best-behaved African American offenders were chosen, and White offenders were chosen whether they were well-behaved or not. This selection bias, if it occurred, would explain why African American offenders seemed to benefit more from the treatment than White offenders.

Death Penalty

Just as racial disparities exist throughout the criminal justice system, they also exist in the application of the death penalty. Using data from the Bureau of Justice Statistics and the U.S. Census, it was calculated that in 2007, 0.39% of African Americans in the U.S. were under sentence of death, compared to 0.09% of Whites, 0.11% of American Indian or Alaska Natives, 0.03% of Asians, and 0.10% of Hispanics (Snell, 2007; U.S. Census Bureau, 2008).

A meta-analysis of 20 studies conducted by Free (2002) indicated that the relationship between the defendant's race and the prosecutor's decision to seek the death penalty was ambiguous (Free, 2002). However, 19 out of 20 studies showed that the *victim's* race had an effect on the decision to seek the death penalty, such that the prosecutor was more likely to seek the death penalty when the victim was White than when the victim was African American. In addition, the likelihood of the

prosecutor seeking the death penalty in cases with a White victim was greater when the defendant was African American.

Unlike Free (2002) who examined the effects of race on the death penalty at the level of the individual offender, Pritchard and Wiatrowski (2008) examined a similar question at the state level. Specifically, they found that states with higher concentrations of African Americans and conservative populations and political elites (mostly in the South) have a higher number of offenders on death row and execute a higher number of offenders. The authors define political elites as political activists (such as campaign volunteers, contributors, convention delegates, and party officials) and people who seek office (whether or not they are elected). States with a higher percentage of Hispanics are more likely to have the death penalty, have a higher number of offenders on death row and execute a higher number of offenders. In contrast, states with higher concentrations of African Americans and liberal populations and political elites are less likely to legislate capital punishment and execute fewer offenders.

Pritchard and Wiatrowski (2008) hypothesized that the number of offenders on death row and the number of executions are higher in more conservative states because conservatives tend to believe that crime is a choice and that criminals should be punished. In contrast, liberals tend to believe that society causes crime and that criminals should be rehabilitated. Among conservative states, the number of offenders on death row and the number of executions are higher in states with higher proportions of African Americans because, according to cultural conflict theory, economically or politically elite groups often feel threatened by racial or cultural minorities (Turk, 1969). The authors hold that the death penalty is a response to this feeling of threat.

Why is There Minority Overrepresentation?

The literature suggests that a complicated interaction of economic, social, psychological, legal and political factors contribute to minority overrepresentation in the criminal justice system. For example, the poverty rate is 24% among African Americans, 21% among Hispanics, 10% among Asians and Pacific Islanders and 8% among non-Hispanic Whites (DeNavas-Walt, Proctor, & Smith, 2007). When the children of low income families have behavioral problems, they are less likely to have access to resources such as counseling, substance abuse treatment, or treatment of learning disabilities than middle class children. In addition, alternatives to detention tend to be less prevalent in low income communities. Therefore, minority youths are more likely to become involved in the juvenile justice system (Nellis et al., 2008).

In addition to the relationship between poverty and access to resources, another socioeconomic factor leading to racial and ethnic disparities is that police tend to target law enforcement efforts on low socioeconomic status minority neighborhoods. As a result of the high police presence, the residents of minority neighborhoods are more likely to be arrested than the general population. In support of this idea, the National Institute of Justice funded a study that found that the San Jose Police Department assigned more police officers to minority neighborhoods (Walker, 2001).

In addition to socioeconomic factors, discrimination can lead to minority overrepresentation in the criminal justice system. One manifestation of discrimination is racial profiling. As discussed previously, the Denver Police Department's contact card data analysis found that African Americans and Hispanics were more likely to be searched during traffic stops than Whites (Thomas & Hansen, 2004), which suggests that police officers may be using racial profiling.

Another possible manifestation of discrimination is the lack of minority staff in criminal justice fields (Stokes & Scott, 1996). This contributes to minority group members' perceptions of unfairness on the part of criminal justice personnel. However, racial diversity without cultural competence will not

necessarily reduce minority overrepresentation in the criminal justice system, as demonstrated by Brown and Frank's (2006) study, which found that African American police officers are actually more likely to arrest African American suspects than are White police officers. As further evidence of the importance of cultural competence, Walker, Senger, Villaruel, and Arboleda (2004) described the case of a judge who gave a Hispanic youth a harsher sentence because he thought the youth's lack of eye contact was a sign of disrespect and guilt. In Hispanic culture, downcast eyes are actually a sign of respect for an authority figure.

Legal factors contributing to racial and ethnic disparities include disparities in the mandatory minimum sentences for crack and powder cocaine, "three strikes" legislation, and lack of access to good legal representation and language assistance. Despite changes to the sentencing guidelines for crack cocaine in 2007, mandatory minimum sentences for possession of crack cocaine, which is more commonly used by African Americans, remain harsher than the mandatory minimum sentences for possession of powder cocaine, which is more commonly used by Whites and Hispanics (Mauer, 2009). A mandatory minimum sentence of five years is triggered by possession of 500 grams of powder cocaine or just five grams of crack (United States Sentencing Commission, 2009). Likewise, a mandatory minimum sentence of ten years is triggered by possession of 5000 grams of powder cocaine or 50 grams of crack. In 2007, the Sentencing Commission recommended that Congress raise the amount of crack cocaine that would trigger mandatory minimum sentences, but Congress has not done so.

A second legal factor that contributes to minority overrepresentation is legislation that mandates harsher punishments for habitual offenders (such as "three-strikes" legislation), which tends to have disproportionate impact against minorities. For example, in Florida, offenders who are convicted as habitual are not eligible for earned time. A study found that after controlling for prior record, current offense, and several county level variables (rate of violent crime, rate of drug crime, percentage of the population that is African American and income inequality) African Americans are more likely to be sentenced as habitual offenders than Whites (Crawford, Chiricos, & Kleck, 1998).

A third legal factor leading to racial and ethnic disparities is the minorities' lack of access to good legal representation. Hispanics in state prison in 1999 were more likely than Whites (but less likely than African Americans) to have publicly-financed attorneys (73% for Hispanics, 77% for African Americans, and 69% for Whites; U.S. Department of Justice, 2003). Of defendants found guilty in federal district courts, 88% with publicly-financed counsel received jail or prison sentences compared to 77% of defendants with private counsel (Harlow, 2000). The disparity is even more striking at the state level. From 1994 to 1998, of those defendants found guilty in large state courts, 71% with public counsel were sentenced to incarceration compared to only 54% of defendants with private attorneys. In addition, some Hispanics, especially recent immigrants, may be disadvantaged by our legal system because they may not be aware of their rights or may need language assistance (Walker et al., 2004). Many jurisdictions with a high proportion of Spanish-speaking residents do not have sufficient bilingual staff and do not provide justice system documents in Spanish.

The political reasons for racial and ethnic disparities are discussed in a study that used data from the National Corrections Reporting System between 1983 and 1999 to examine the reasons for the high incarceration rate of African Americans (Keen & Jacobs, 2009). They found that the more the African American population increases, the more threatened the White majority feels and the more African Americans are incarcerated. However, this positive relationship between the African American population and the incarceration rate of African Americans only holds up to the point where the African American population grows large enough to influence the outcomes of elections. Once the African American population grows large enough to influence the outcomes of elections, then any further increase in the African American population leads to a decrease in the incarceration rate of African

Americans. The idea that African Americans are punished by criminal justice institutions that are staffed primarily by Whites is called the threat hypothesis. Keen and Jacobs also found a positive relationship between increases in states' murder rates and increases in racial disparities in incarceration rates, which they also explain using the threat hypothesis.

Colorado's Efforts to Reduce Minority Overrepresentation

Juvenile justice. The Juvenile Justice and Delinquency Prevention (JJDP) Act of 2002 [P.L. 107-273 Title II Subtitle B Sec. 12209 (P) (23)] says that States must "Address juvenile delinquency prevention efforts and system improvement efforts designed to reduce, without establishing or requiring numerical standards or quota, the disproportionate number of juvenile members of minority groups, who come into contact with the juvenile justice system."

In 1994 Colorado completed the first phase of compliance with the JJDP Act when a study identifying the extent of the problem was completed (Hunter & Jones). Every year identification data along with an assessment of trends are updated and data and available assessments are used to continually drive Colorado's intervention processes. This year in order to assess the area where Colorado continues to see the highest rates of overrepresentation for African-American and Hispanic youth, an assessment of the arrest decision point will be undertaken. This assessment at a minimum should identify areas of the state that have particularly high minority arrest rates, what types of crimes are involved and if there are certain locales such as schools where the arrests are occurring. This information should assist the state in developing appropriate intervention strategies to address the high rates of arrest for both African American and Hispanic youth.

For the past twelve years, the JJDP Council has been funding intervention strategies to address the overrepresentation of minority youth at the pre-adjudicated detention stage as well as focus on reducing the number of minority youth committed to the Division of Youth Corrections (DYC). Twelve years ago these were the two areas where Colorado was seeing the largest overrepresentation of minority youth. The intervention strategy that was chosen, based on outcomes, was the Minority Family Advocacy Program. This program was developed in Mesa County in 1996 to specifically address the issue of minority overrepresentation at the pre-adjudicated detention and commitment to DYC stages of the juvenile justice system. Over the years, this program has been replicated in several communities across Colorado, including El Paso County, Boulder, Montezuma, Denver, Pueblo, Montrose and Durango. Both the Mesa County and the Pueblo Family Advocacy Programs are highlighted on the Office of Juvenile Justice and Delinquency Prevention's Model Program Guide. [1]

In addition, the JJDP Council has prioritized funding for programs addressing the prevention of delinquency for the next three years. The ultimate goal is to address risk factors associated with future delinquency thus avoiding arrest. As such, a focus of the Council's work will be to evaluate efforts funded with Formula Grant funds and see if there was a discernable impact on the minority arrest rates where there were funded programs. This is a great example of the Council's shift to data driven planning.

Cultural competency. Both Colorado's DOC and Judicial Branch offer cultural competency training. Colorado's DOC requires all staff to attend a 1-hour class called Unlawful Discrimination and Workplace Harassment and a 2-hour class called Cultural Awareness. The performance objectives of the Unlawful Discrimination and Workplace Harassment class are to define harassment, sexual harassment and unlawful discrimination, assess the difference between a message sender's intent and a message

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[1] The OJJDP's Model Program Guide is available at http://www2.dsgonline.com/mpg/dmc_default.aspx.

receiver's perception, identify a strategy for dealing with an incident of discrimination or harassment and review the DOC's administrative regulation related to discrimination and harassment. The performance objectives of the cultural diversity class are to explain how a diverse population is a source of strength for all DOC employees, define stereotyping and prejudice, understand how all aspects of correctional relationships are impacted by cultural awareness, and review the DOC's administrative regulation related to cultural diversity.

The Judicial Branch offers a 7-hour class called Introduction to Cultural Competency. In the Introduction to Cultural Competency training, the trainer defines cultural competence, invites trainees to recognize and appreciate the differences and similarities among cultures, and identifies ways to work effectively in an organization that values cultural competence. Trainees learn about social cognition theory, which explains how the brain is prone to create schemas, which can lead to implicit biases. These biases are discussed in terms of gender, race/ethnicity, disability, sexual orientation, and socioeconomic status. Trainees also discuss practical applications of the training and good communication skills as the key to cultural competence.

Translators. Colorado's court system and the DOC both offer translators for people who need them. Colorado's courts offer on-site and telephone translators for over 50 languages. They also offer printed and electronic materials in English and Spanish. Colorado's DOC provides offenders with both written and verbal translations. Written translations for various documents, including orientation materials, are provided in many languages by GlobeLink Foreign Language Center. DOC employees or contract workers may provide verbal translations only if they are approved by the appointing authority. If additional interpreters are needed, they are contracted from GlobeLink Foreign Language Center. Offenders may not be used as translators.

Structured decision-making processes. In January of 2010, the Division of Adult Parole and the Division of Probation Services both started developing structured decision-making processes to help decide the consequences of parole/probation violations. Research shows that recidivism can be predicted more accurately using an empirically-based risk assessment than by using expert judgment alone (Grove & Meehl, 1996). In addition, structured decision-making processes are unbiased as long as either none of the criteria on the instrument are correlated with race or the unique effect of race is statistically removed from the prediction process (Gottfredson & Snyder, 2005).

Purpose

The literature suggests that some racial and ethnic groups are over-represented in the criminal justice system nationwide. However, the severity of the problem of minority overrepresentation in Colorado was unknown. Therefore, four studies were conducted to examine minority overrepresentation in various aspects of Colorado's criminal justice system. Because these studies were exploratory, no hypotheses were generated. Study 1 examined disproportionate minority contact (DMC) with adults throughout the criminal justice system. Study 2 examined staff diversity in the courts, probation, and DOC as compared to statewide demographics. Study 3 examined adult and juvenile release types from probation by race/ethnicity. Study 4 examined releases from community transition, releases to and from parole, and level of supervision while on parole by race/ethnicity.

Study 1

The first study examined DMC in each stage of Colorado's criminal justice system, from arrest to parole. The purpose of this was to determine in which stages of the criminal justice system and for which racial and ethnic groups DMC occurs.

Method

Colorado's Department of Criminal Justice gathered data from FY 2008 on the racial and ethnic breakdown of the following: Colorado's adult population; arrests; filings of charges in court; findings of the court (convicted, not convicted, or deferred); placement by the court into Probation, ISP, jail, community transition, or the DOC; probation terminations; admissions to the DOC or Youthful Offender System (YOS); disciplinary violations; and parole. The population data are from the 2008 U.S. Census Bureau general population estimates for Colorado. Arrest data were from the Uniform Crime Report, which was provided by the Colorado Bureau of Investigation of the Colorado Department of Public Safety. Filing, findings, and placement data were extracted from the case management system for the trial courts in Colorado (Eclipse) via the Colorado Justice Analytics Support System (CJASS). Probation termination data were provided by Probation Services at the State Court Administrator's Office. Information about the DOC and the Division of Adult Parole was provided by the Office of Planning and Analysis.

Results and Discussion

In FY 2008, the percentages of African Americans in Colorado who were arrested, had charges filed against them, were convicted, were placed in community corrections or the DOC, received disciplinary violations, and had their probation or parole revoked were disproportionately high (see Table 1). For Hispanics, arrest data was not available, but filings, convictions, and placements in community corrections and the DOC were not disproportionately high. However, parole revocations for both technical violations and new crimes were disproportionately high for Hispanics. As a result, DOC admissions of Hispanics were disproportionately high, because this number included admissions for technical parole violations, whereas placements by the court to the DOC only included placements that occurred as the result of new felony filings. Likewise, the number of disciplinary violations was disproportionately high for Hispanics. Only a small percentage of Colorado's population was American Indian or Alaska Native, but similar to Hispanics, no disproportionality was evident in American Indian or Alaska Natives' rates of arrests, filings, convictions, or placements, but their admissions to the DOC, disciplinary violations, technical probation violations, and parole violations were all disproportionately high. Asians also comprised a small percentage of the population, but their level of involvement in the criminal justice system was disproportionately low. The arrest data for Whites was not accurate because many Hispanics were counted as Whites. Whites had a disproportionately high level of filings, convictions and placement in community transition and on probation, and a slightly higher level of initial placement at DOC. However, Whites' overall admissions to the DOC were lower than their occurrence in the population, because a smaller proportion of them were on parole, and those who were on parole were regressed back to prison for parole violations less often.

Table 1: *Race/Ethnicity across the Adult Criminal Justice System in Colorado, FY 2008*

	N	American Indian	Asian/ Pacific Islander	African American	Hispanic	White	Other/ Unknown[a]	Total
Population								
Population	4,939,456	1.2%	2.7%	4.3%	20.2%	89.7%	N/A	118%[b]
Arrests								
CO Adult Arrests[c]	158,062	0.8%	0.9%	11.8%	N/A	86.1%	0.6%	14%
Filings[d]								
Filings	44,292	0.7%	0.8%	12.1%	10.1%	75.0%	1.3%	100%
Findings[d]								
No Conviction	6,810	0.7%	0.7%	12.3%	8.0%	75.1%	3.1%	100%
Deferred	5,663	0.4%	1.1%	8.6%	7.3%	81.7%	0.9%	100%
Convicted	31,819	0.7%	0.8%	12.7%	11.1%	73.8%	0.9%	100%
Placement[d]								
None	2,907	0.7%	0.8%	8.0%	9.2%	79.7%	1.6%	100%
Probation	18,894	0.6%	0.9%	10.8%	9.8%	76.9%	0.9%	100%
ISP	1,164	0.3%	0.7%	16.0%	10.5%	71.7%	0.8%	100%
Jail	2,548	0.8%	0.4%	10.9%	12.8%	74.0%	1.1%	100%
Probation and Jail	3,423	0.6%	1.0%	9.1%	13.5%	75.3%	0.5%	100%
Comm. Corr.	1,545	0.6%	0.3%	13.7%	8.0%	76.7%	0.6%	100%
DOC	6,931	0.9%	0.6%	18.1%	11.1%	68.2%	1.0%	100%
Probation Terminations								
Successful	23,106	0.8%	1.1%	5.8%	12.0%	79.7%	0.5%	100%
Technical Violator	3,784	2.3%	0.7%	12.2%	17.1%	67.5%	0.3%	100%
New Crime	2,724	1.1%	0.6%	11.9%	17.7%	68.5%	0.2%	100%
Absconder	4,481	2.1%	0.8%	11.5%	20.4%	64.7%	0.5%	100%
DOC								
Admits	10,853	2.9%	0.6%	19.8%	32.1%	44.6%		100%
Stock Population[e]	23,329	2.5%	1.0%	19.7%	31.5%	45.2%		100%
YOS Admits	59	0.0%	0.0%	24.0%	49.0%	27.0%		100%
Disc. Violations	19,785	2.9%	0.7%	22.0%	34.1%	40.4%		100%
Parole								
Parole Population	10,738	1.9%	0.9%	16.3%	32.9%	47.9%		100%
Technical Violator	3,456	3.6%	0.8%	23.4%	31.2%	41.0%		100%
New Crime	1,277	3.8%	0.7%	23.3%	31.2%	41.0%		100%

[a]For number of arrests, 0.6% are of unknown race/ethnicity. All other percentages in this column are of "other" race/ethnicity.

[b]Percentages do not sum to 100% because participants chose both a race and an ethnicity.

[c]Hispanic is included in White in Colorado arrest data.

[d]Data represents cases closed in calendar year 2008.

[e]The stock population is from October 2008.

Study 2

In order to determine the extent to which criminal justice staff represent Colorado's population, study 2 compared the racial and ethnic composition of staff within Colorado Probation, courts and the DOC to Colorado's general population and their respective offender populations.

Method

DOC staff data was collected from a survey conducted in June of 2009. Probation and court staff data was from May 2009. Data on offenders incarcerated in the DOC and filings are the same as in Table 1, and data on probationers is the total of all state and private adults and juveniles on regular probation supervision in FY08. Colorado's population data was from the U.S. Census Bureau's 2008 population estimates. The Census Bureau measures race and ethnicity using separate items, offering the option to select two or more races. In contrast, the DOC and Judicial (Probation and the courts) measure race/ethnicity using a single item (where the choices are American Indian or Alaska Native, Asian, African American, Hispanic, or Native Hawaiian or other Pacific Islander). Therefore, at the DOC and within Judicial, it is not possible for staff to choose both a race and an ethnicity or multiple races. So, it is not possible to precisely compare staff race and ethnicity at the DOC and Judicial with the Colorado population, but it is possible to make a rough comparison.

Results and Discussion

Tables 2, 3, and 4 show that staff demographics at the DOC, Probation, and the courts are representative of Colorado's population. However, the staff demographics differ from the offender demographics. At the DOC, Probation, and the courts, a smaller percentage of staff members are African American as compared to the population served by the agency. At the DOC, a smaller percentage of staff members are Hispanic as compared to the stock population incarcerated. At Probation and the courts, a slightly larger percentage of staff members are Hispanic as compared to the population served by each agency. The staff and offender demographics are not directly comparable with Colorado's population numbers because the U.S. Census required participants to choose both a race and an ethnicity, whereas the staff surveys required participants to choose either a race or Hispanic/Latino.

Table 2: *Race/Ethnicity of Staff at the DOC, Compared to DOC Offenders and Colorado's Population*

Race/Ethnicity	DOC Staff		DOC Offenders		Colorado Population	
	n	%	n	%	n	%
American Indian/Alaska Native	90	1.4%	583	2.5%	60,375	1.2%
Asian	50	0.8%	233	1.0%	131,084	2.7%
Black/African American	265	4.2%	4,596	19.7%	211,249	4.3%
Hispanic/Latino	1,185	18.7%	7,349	31.5%	997,062	20.2%
Native Hawaiian/Pacific Islander	15	0.2%	N/A	N/A	7,469	0.2%
Two or More Races – Not Hispanic	N/A	N/A	N/A	N/A	96,903	2.0%
White	4,742	74.7%	10,545	45.2%	4,432,376	89.7%
TOTAL	6,347	100.0%	23,329	100.0%	Numbers do not sum to 100% because of overlap between categories.	

Table 3: *Race/Ethnicity of Staff at the Division of Probation Services, Compared to Probationers and Colorado's Population*

Race/Ethnicity	Probation Staff		Probationers		Colorado Population	
	n	%	n	%	n	%
American Indian/Alaska Native	6	0.5%	331	0.9%	60,375	1.2%
Asian	6	0.5%	358	0.9%	131,084	2.7%
Black/African American	52	4.4%	3,458	9.0%	211,249	4.3%
Hispanic/Latino	232	19.7%	5,617	14.6%	997,062	20.2%
Native Hawaiian/Pacific Islander	5	0.4%	N/A	N/A	7,469	0.2%
Other	N/A	N/A	297	0.8%	N/A	N/A
Two or More Races – Not Hispanic	N/A	N/A	N/A	N/A	96,903	2.0%
White	879	74.5%	28,334	73.8%	4,432,376	89.7%
TOTAL	1,180	100.0%	38,395	100.0%	Numbers do not sum to 100% because of overlap between categories.	

Table 4: *Race/Ethnicity of Court Staff, Compared to Filings and Colorado's Population*

Race/Ethnicity	Court Staff		Filings		Colorado Population	
	n	%	n	%	n	%
American Indian/Alaska Native	6	0.3%	310	0.7%	60,375	1.2%
Asian	19	0.9%	354	0.8%	131,084	2.7%
Black/African American	49	2.3%	5,359	12.1%	211,249	4.3%
Hispanic/Latino	302	14.1%	4,474	10.1%	997,062	20.2%
Native Hawaiian/Pacific Islander	3	0.1%	N/A	N/A	7,469	0.2%
Other/Unknown	2	0.1%	576	1.3%	N/A	N/A
Two or More Races – Not Hispanic	2	0.1%	N/A	N/A	96,903	2.0%
White	1,757	82.1%	33,219	75.0%	4,432,376	89.7%
TOTAL	2,140	100.0%	44,292	100.0%	Numbers do not sum to 100% because of overlap between categories.	

Study 3

The purpose of study 3 was to determine to what extent race and ethnicity predict juveniles' and adults' success or failure on probation after controlling for several criminal risk variables.

Method

Probation termination types were gathered from Eclipse for 4,852 juvenile offenders[2] and 18,683 adult offenders[3] and who terminated probation between January 1, 2008, and December 31, 2008. Unsuccessful terminations included revocations to prison for technical violations, new crimes, and absconding. Successful terminations mean that the offenders completed their probation sentences and were released from supervision.
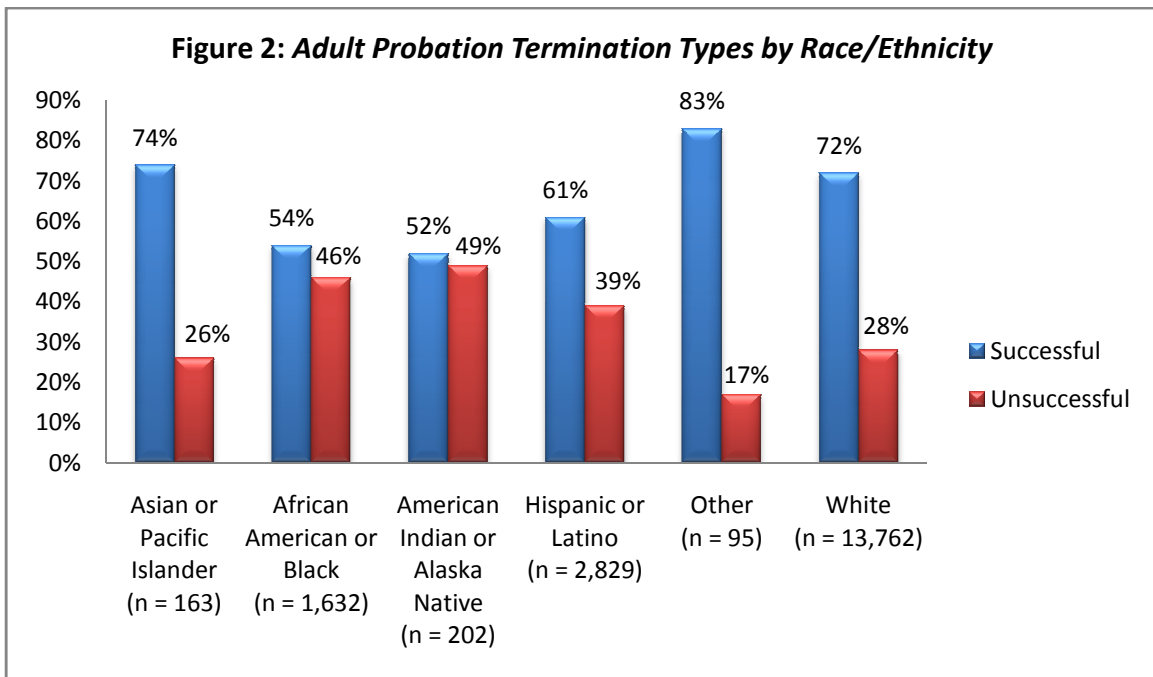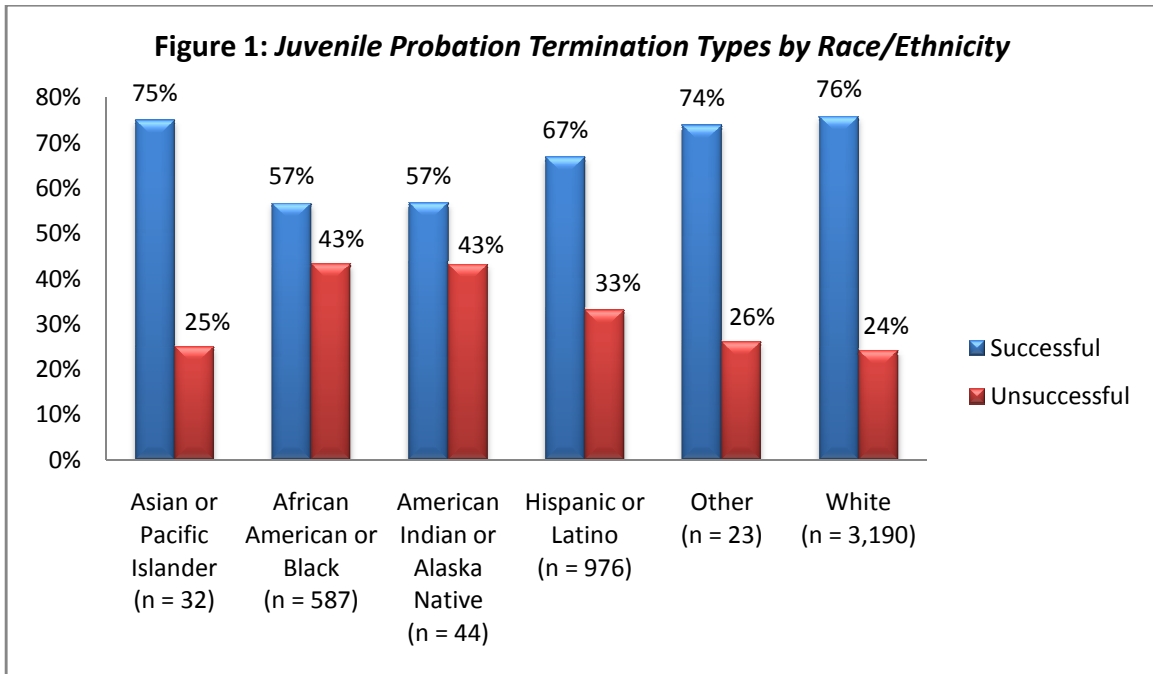
In order to determine whether other variables can account for the relationship between race/ethnicity and probation termination types, an initial set of five independent variables (IVs) was chosen based on a theoretical association with probation success: age, gender, LSI score, sentencing district, and race/ethnicity. Two logistic regression analyses were run, one for juvenile offenders and one for adult offenders. For both regressions, all of the IVs except race/ethnicity were entered in the first block, with race/ethnicity entered as an IV in the second block. The dependent variable (DV) was successful termination vs. unsuccessful termination. Race/ethnicity was dummy coded with White offenders as the comparison group.

Results and Discussion

Of the juvenile offenders, 71.5% (3,471) terminated successfully from probation and 28.5% (1,381) were terminated unsuccessfully. Of the adult offenders, 68.9% (12,864) terminated successfully from probation and 31.1% (5,819) terminated unsuccessfully. Figures 1 and 2 show probation termination types by race and ethnicity for juvenile and adult offenders, respectively.

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[2] All regular supervision and specialized program probationers included. Misdemeanor and felony cases included.

[3] All regular supervision and specialized program offenders included. Total also includes state and private probationers, as well as misdemeanor and felony cases.

Figure 1: *Juvenile Probation Termination Types by Race/Ethnicity*

Asian or Pacific Islander (n = 32): Successful 75%, Unsuccessful 25%
African American or Black (n = 587): Successful 57%, Unsuccessful 43%
American Indian or Alaska Native (n = 44): Successful 57%, Unsuccessful 43%
Hispanic or Latino (n = 976): Successful 67%, Unsuccessful 33%
Other (n = 23): Successful 74%, Unsuccessful 26%
White (n = 3,190): Successful 76%, Unsuccessful 24%

Figure 2: *Adult Probation Termination Types by Race/Ethnicity*

Asian or Pacific Islander (n = 163): Successful 74%, Unsuccessful 26%
African American or Black (n = 1,632): Successful 54%, Unsuccessful 46%
American Indian or Alaska Native (n = 202): Successful 52%, Unsuccessful 49%
Hispanic or Latino (n = 2,829): Successful 61%, Unsuccessful 39%
Other (n = 95): Successful 83%, Unsuccessful 17%
White (n = 13,762): Successful 72%, Unsuccessful 28%

For the logistic regression analysis predicting juvenile probation termination types, the overall model fit was adequate, $\chi^2(9, 4{,}852) = 1{,}410.03$. The block including race accounted for more of the variance in juvenile probation termination types than the block including all independent variables except race, $\chi^2(5, 4{,}852) = 48.10$, $p < .001$. Please see Table 5 for the parameter estimates. African Americans and Hispanics were more likely to have their probation supervision terminated unsuccessfully than Whites ($p < .001$ for both comparisons). There was no significant difference between Asians,

American Indian, or Alaska Natives or those who were identified as "other" in comparison with the termination rates of Whites. The odds ratios indicated that African Americans were 1.92 times more likely than Whites to have their supervision terminated unsuccessfully. Similarly, Hispanics were 1.40 times more likely than Whites to have their supervision terminated unsuccessfully. The LSI-R accounted for the largest amount of variance in probation termination type, which is not surprising because the LSI-R is a measure of criminal risk.

Table 5: *Logistic Regression Analysis Predicting Probation Termination Type for Juvenile Offenders*

Predictor	B	Significance	Odds Ratio
District	-.01	.249	1.00
Age at termination	.07	.002	1.07
Gender	-.70	.000	.50
LSI Score	1.52	.000	4.58
Race		.000	
Asian/Pacific Islander	.15	.762	1.16
African-American	.65	.000	1.92
Hispanic	.34	.000	1.40
American Indian or Alaska Native	.56	.123	1.74
Other	.45	.387	1.57
Constant	-5.07	.000	.01

Note. DV: Successful Term = 0, Unsuccessful Term = 1

The regression results for adult offenders were similar to those for juvenile offenders. For adult offenders, the overall model fit was adequate, $\chi^2(9, 18,683) = 4,640.11$, $p < .001$. The model including all independent variables explained more of the variance in probation termination types than the model excluding race, $\chi^2(5, 18,683) = 134.77$, $p < .001$). African Americans, Hispanics, and American Indian or Alaska Natives were more likely to have their probation supervision terminated unsuccessfully than Whites ($p < .001$ for all comparisons). Please see Table 6 for the parameter estimates. There is no significant difference between Asians or those who were identified as "other" in comparison with the termination rates of Whites. The odds ratios indicate that African Americans were 1.73 times more likely to have their supervision terminated unsuccessfully than Whites. Similarly, Hispanics were 1.41 times more likely and American Indian or Alaska Natives were 2.37 times more likely than Whites to have their supervision terminated unsuccessfully.

Table 6: *Logistic Regression Analysis Predicting Probation Termination Type for Adult Offenders*

Predictor	B	Significance	Odds Ratio
District	.01	.061	1.01
Age at termination	-.02	.000	.98
Gender	-.64	.000	.53
LSI Score	1.40	.000	4.04
Race		.000	
Asian/Pacific Islander	.13	.523	1.14
African-American	.55	.000	1.73
Hispanic	.34	.000	1.41
American Indian or Alaska Native	.86	.000	2.37
Other	-.51	.092	.60
Constant	-2.79	.000	.06

Note. DV: Successful Term = 0, Unsuccessful Term = 1

Study 4

The purpose of study 4 was to determine to what extent race and ethnicity influence offenders' type of release from community transition (successful vs. unsuccessful), type of release to parole (mandatory vs. discretionary), level of supervision (regular parole vs. intensive supervision program [ISP]), and type of release from parole (successful vs. unsuccessful).

In order to understand the effect of race and ethnicity on offenders' community transition and parole outcomes, it is first necessary to understand how decisions are made about community transitions and parole. In Colorado, community transition is a community corrections program for inmates who are transitioning from prison to the community. Offenders' type of release to parole is decided by the Parole Board. With the exception of class one felons with life sentences, offenders become eligible for parole once they have completed either 50% or 75% of their sentence minus earned time, depending on whether or not they committed a crime of violence. Class one felons with life sentences may never become eligible for parole, or they may become eligible for parole after ten, twenty, or forty years depending on when they committed their crime, because the statutes about parole eligibility for class one felons have changed frequently since the 1970s. The Parole Board reviews eligible offenders' criminal records, current offenses including aggravating and mitigating factors, behavioral history while incarcerated, participation in treatment programs, current psychological and medical evaluations, risk assessment scores, and current parole guidelines, as set out in statute, in order to determine whether to grant discretionary parole. Offenders who are not granted discretionary parole must serve their full sentence, minus earned time, followed by mandatory parole. Parolees' levels of supervision are determined by their parole officers based on parolees' LSI scores and the Parole Board's recommendations about whether the parolees should receive ISP. The Parole Board recommends ISP based on the same criteria they use to determine whether to grant discretionary parole.

Method

Archival data from DCIS was analyzed from 2,522 offenders who released from community transition between January 1 and December 31, 2008, 2,961 offenders who paroled between January 1 and May 1, 2009, 8,032 offenders who were on regular or ISP parole on June 30, 2009, and 7,615 offenders who released from parole between July 1, 2007, and June 30, 2008. The time period for releases to parole was chosen because prior to January 1, 2009, offenders who received mandatory parole on a weekend were incorrectly classified as discretionary parole.

Results and Discussion

First, percentages of offenders who had each type of outcome (type of release from community transition, type of release to parole, type of release from parole, and regular vs. ISP parole) were calculated by race/ethnicity. Then, two logistic regression analyses were conducted to determine whether controlling for the effects of risk variables would eliminate the effects of race/ethnicity on type of release from community transition and type of release from parole.
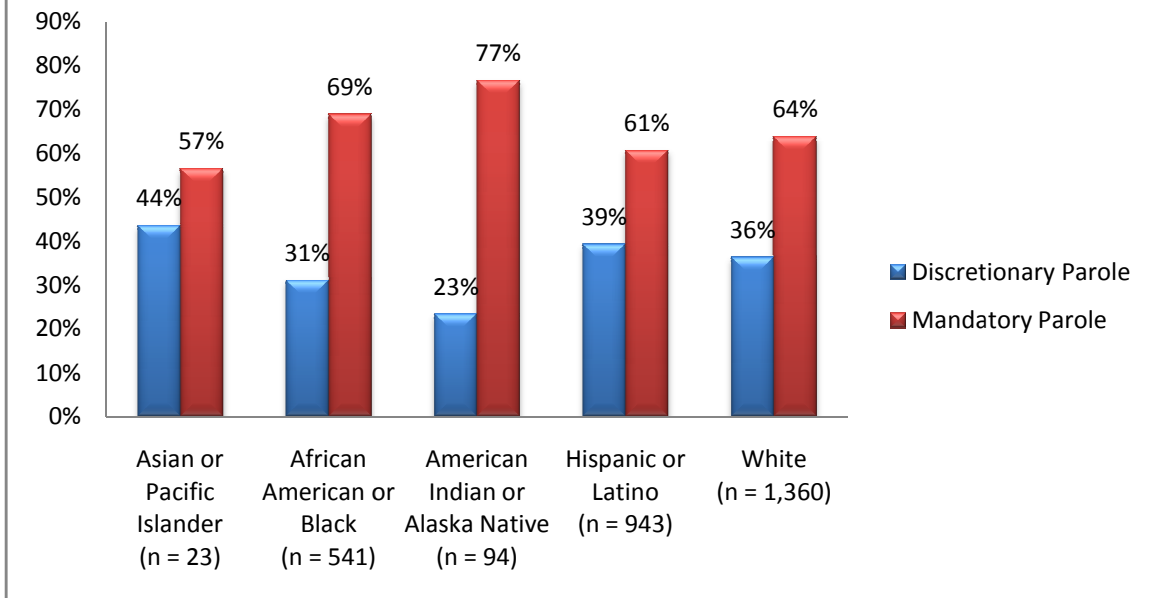
Descriptive statistics. The majority of releases from community transition were successful (67.2%, N = 1,695), whereas 32.8% (N = 827) were unsuccessful, as defined by returning to prison or escaping. As shown in Figure 3, African Americans, American Indian or Alaska Natives, and Hispanics had the highest percentages of unsuccessful outcomes. A chi-squared test showed that there were statistically significant differences in release type from community transition by race/ethnicity, $\chi^2(4, 2,522) = 80.3$, $p < .001$. Post hoc tests showed that African Americans had more unsuccessful community

transition outcomes ($p < .01$) and Whites had more successful community transition outcomes ($p < .01$) than would be expected if race was unrelated to community transition outcomes.
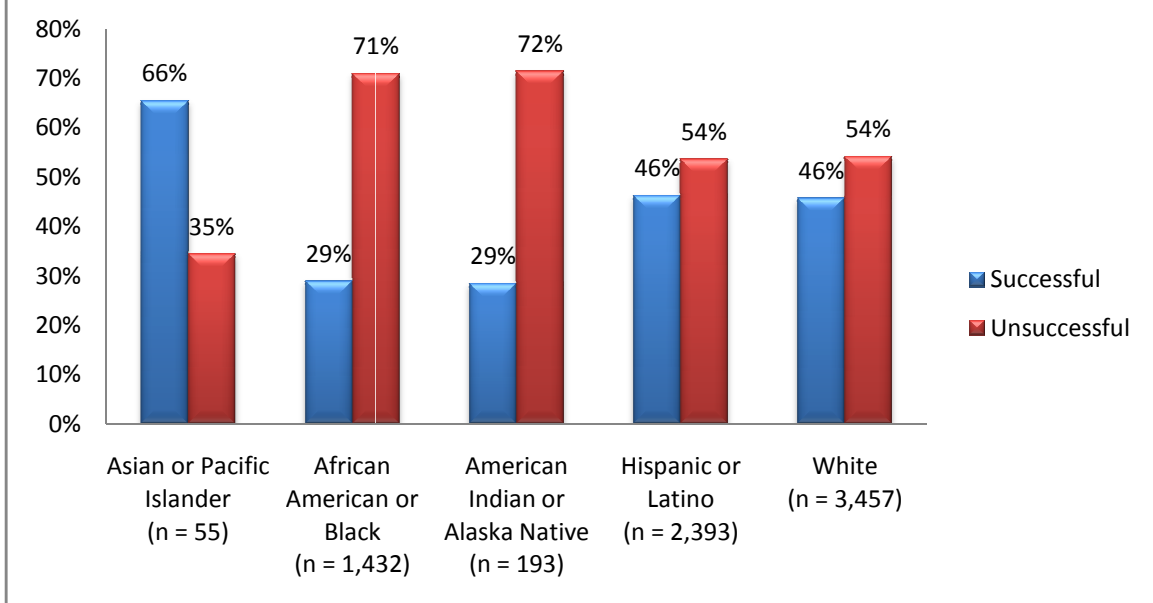
Figure 3: *Type of Release from Community Transition by Race/Ethnicity*
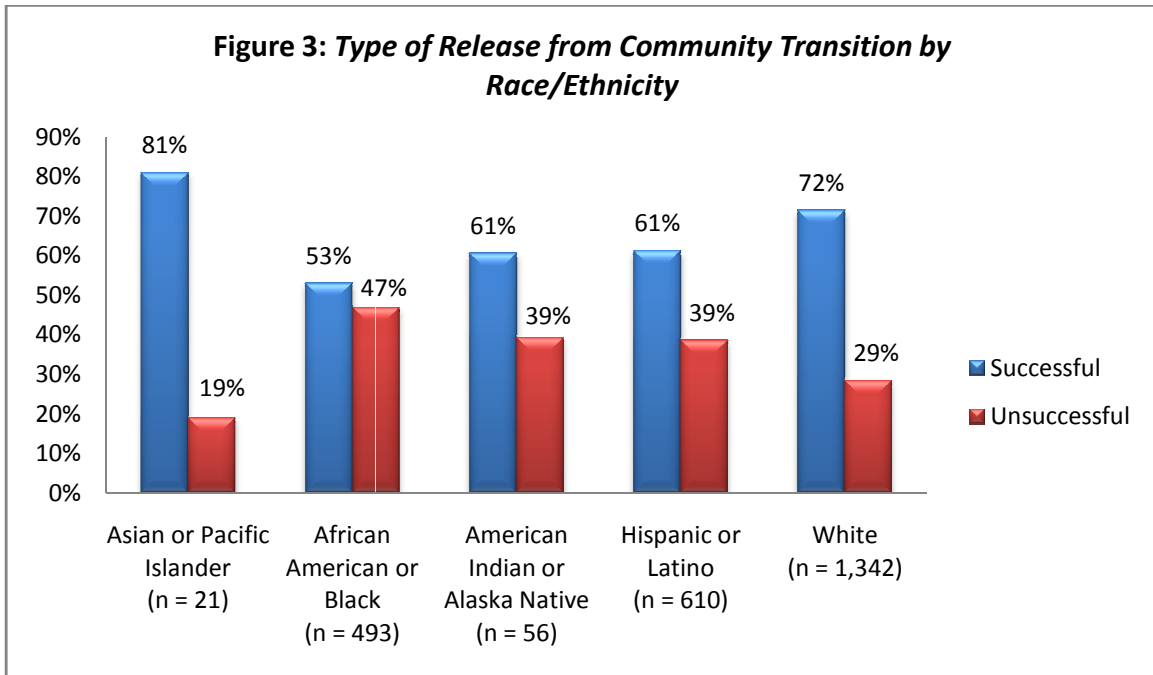
Almost two-thirds of inmates received mandatory parole (64.1%, N = 1,897), whereas 35.9% (N = 1,064) received discretionary parole. Figure 4 shows percentages of offenders who received discretionary or mandatory parole by race/ethnicity. A chi-squared test showed that there was a statistically significant difference in type of release to parole by race, $\chi^2(4, 2,961) = 17.4$, $p < .01$. Post-hoc tests showed that American Indians or Alaska Natives ($p < .05$) and African Americans ($p < .10$) were less likely to get discretionary parole than would be expected if there were no relationship between race and type of release to parole.

Figure 4: *Type of Release to Parole by Race/Ethnicity*

Legend: Discretionary Parole, Mandatory Parole

- Asian or Pacific Islander (n = 23): 44%, 57%
- African American or Black (n = 541): 31%, 69%
- American Indian or Alaska Native (n = 94): 23%, 77%
- Hispanic or Latino (n = 943): 39%, 61%
- White (n = 1,360): 36%, 64%

The majority of our sample (56.9%, N = 4,332) had their parole revoked, 42% (N = 3,198) successfully completed their parole, and 1.1% (N = 85) died while on parole. After excluding offenders who died while on parole (see Figure 5), a chi-squared test showed that there is a significant difference in parole release type by race $\chi^2(4, 7,530) = 164.3$, $p < .001$. Post-hoc tests showed that a greater percentage of African Americans ($p < .001$) and American Indians/Alaska Natives ($p < .01$) had their parole revoked than would be expected if there were no effect of race on parole release type. A smaller percentage of Whites, Hispanics, and Asians had their parole revoked than would be expected if there were no relationship between race/ethnicity and parole release type ($p < .01$ for all comparisons).

Figure 5: *Type of Release from Parole by Race/Ethnicity*

Legend: Successful, Unsuccessful

- Asian or Pacific Islander (n = 55): 66%, 35%
- African American or Black (n = 1,432): 29%, 71%
- American Indian or Alaska Native (n = 193): 29%, 72%
- Hispanic or Latino (n = 2,393): 46%, 54%
- White (n = 3,457): 46%, 54%

Only a minority of parolees (14.2%) was on ISP parole, but a larger proportion of ISP parolees than regular parolees were Hispanic, African American, or American Indian or Alaska Native (see Table 7).

Table 7. *Regular Parole vs. ISP Parole by Race/Ethnicity, 6/30/09*

Race/Ethnicity	Regular Parole		ISP-Parole	
White	4,240	52.8%	536	40.2%
Hispanic	2,243	27.9%	417	31.3%
African-American	1,313	16.3%	325	24.4%
American Indian or Alaska Native	163	2.0%	44	3.3%
Asian	73	0.9%	12	0.9%
Total	8,032	100.0%	1,334	100.0%

Logistic regression analyses for community transition success. An initial set of independent variables was chosen based on a theoretical association with criminal risk: age, gender, LSI-R (Level of Supervision Inventory-Revised) score, gang affiliation, sex offender needs, mental health needs, substance abuse needs, whether the offender has completed a high school degree or GED, vocational needs, offense degree, institutional behavior, number of previous incarcerations, number of prior felony arrests, marital status, and race/ethnicity. A logistic regression analysis was run with all of the independent variables besides race/ethnicity entered in the first block in a forward stepwise manner based on the likelihood ratio, and race/ethnicity entered as an IV in the second block. The DV was success vs. failure in community transition. Race/ethnicity was dummy coded with White offenders as the comparison group and type of degree (high school, GED, or neither) was dummy coded with "neither" as the comparison group.

The overall model fit was adequate, $\chi^2(14, 2,265) = 352.91$, p < .001). In addition, the block that included race/ethnicity fit the data better than the block without race/ethnicity, $\chi^2(4, 2,252) = 28.41$, $p <$ .001). The following variables were eliminated in the stepwise procedure: gang membership, prior incarcerations, felony arrests, and marital status. The model accounts for approximately 20% of the variance in community transition completions (Nagelkerke $R^2 = .20$). African American offenders and Hispanic offenders were significantly more likely than White offenders to be regressed or to escape ($p <$ .001 for African Americans and p < .01 for Hispanics). There was no significant difference between Whites and Asians, or between Whites and American Indian or Alaska Natives, with respect to the DV. The odds ratios indicate that African American offenders were 1.95 times more likely to be regressed or escape than White offenders. Similarly, Hispanic offenders were 1.37 times more likely to be regressed or to escape when compared to White offenders.

The standardized regression coefficients and significance levels are listed in Table 8. Regression coefficients range from -1 to 1. The larger the absolute value of a regression coefficient for an independent variable, the more that independent variable influences the dependent variable. A positive regression coefficient means that as the IV increases, the DV also increases. A negative regression coefficient means that as the IV increases, the DV decreases. The variables that had the strongest effect on success in community transition were sex offender needs and institutional behavior. Offenders with sex offender needs and higher numbers of institutional behavior violations were more likely to fail in community transition. Two of the independent variables had relationships with community transition that were in the opposite direction than was expected. For example, offenders with substance abuse needs were more likely to succeed in community transition than offenders without substance abuse

needs. However, the difference was small: 68% of offenders with substance abuse needs succeed in community corrections, whereas 64% of offenders without substance abuse needs succeed. This small difference could be due to the fact that substance abuse needs are measured within the first few weeks of an offender's incarceration, and offenders with substance abuse needs usually receive treatment in prison and in community transition, which may reduce the likelihood that they will recidivate. In addition, many community transition programs are tailored for substance abusing offenders, and these offenders receive a great deal of support and supervision from their programs, which helps them to succeed. The second unexpected result was that offenders with more severe offenses were more likely to succeed in community transition. This could be because there were very few class one or two offenders in community transition (2 class one offenders and 38 class two offenders). In addition, offenders who committed more severe offenses tend to have longer prison sentences and are therefore older and less likely to reoffend by the time they enter community transition. Also, offenders who committed more severe offenses tend to receive more treatment than other offenders in community transition, which could increase the chances of success for offenders with more severe offenses.

Table 8: *Logistic Regression Analysis Predicting Community Transition Success*

Predictors	Standardized B	Significance	Odds Ratio
Gender (0=Female, 1=Male)	.25	.057	1.29
LSI (scale of 0-54)	.66	.000	1.92
Age	-.51	.000	.60
Offense Degree (1-6, 1 is the most severe)	.24	.024	1.27
Substance Abuse Level (0=no needs, 1=needs)	-.50	.001	.61
Mental Health Needs (0=no needs, 1=needs)	.55	.000	1.74
Sex Offender Needs (0=no needs, 1=needs)	1.72	.000	5.56
Degree Type		.099	
High School Diploma	-.28	.060	.76
GED	-.23	.059	.80
Behavioral Violations	1.13	.000	3.09
Race/Ethnicity		.000	
Asian American	-.31	.585	.73
African American	.67	.000	1.95
American Indian or Alaska Native	.42	.187	1.52
Hispanic	.32	.009	1.37
Constant	-.52	.004	.60

Note. For the DV, success = 0 and failure = 1

Logistic regression analyses for type of release from parole. The same set of IVs was used for this analysis as was used for the previous analysis. This is because the IVs are related to criminal risk, and by controlling for criminal risk, it is possible to determine if race and ethnicity have an effect on type of release from parole regardless of criminal risk. A logistic regression analysis was run with all of the IVs besides race/ethnicity entered in the first block in a forward stepwise fashion based on the likelihood ratio, and race/ethnicity entered as an IV in the second block. The DV was success vs. failure on parole. As in the previous analysis, race/ethnicity was dummy coded with White offenders as the comparison group, and type of degree the offender earned was dummy coded with no high school diploma or GED as the comparison group.

The final overall model fit was adequate, $\chi^2(17, 7,140) = 1,821.16$, $p < .001$, after eliminating the following IVs: substance abuse needs level, anger needs level, prior incarcerations, and marital status.

The final model is summarized in Table 9. The Nagelkerke $R^2 = .30$, indicating that approximately 30% of the variance in success or failure on parole can be explained by the model. Race/ethnicity added significantly to the prediction of parole release type above and beyond the other IVs, $\chi^2(4, 7{,}140) = 47.96$, $p < .001$. After controlling for the other IVs, African Americans and Native Americans were more likely to have their parole revoked than Whites ($p < .001$ for both). The odds ratios indicated that African Americans were 1.49 times more likely than Whites to have their parole revoked, and Native Americans were 1.85 times more likely than Whites to have their parole revoked. The best predictor of parole outcomes was the LSI. Unexpectedly, parolees with high school diplomas and GEDs were less likely to succeed on parole than parolees with neither degree. One reason why parolees with GEDs are less likely to succeed is that offenders who have spent more time in prison are more likely to earn a GED.

Table 9: *Logistic Regression Analysis Predicting Parole Success from Risk Factors and Race/Ethnicity*

Predictor	Standardized B	Sig	Odds Ratio
Gender (0=Female, 1=Male)	.20	.016	1.22
LSI (Scale of 0-54)	1.41	.000	4.11
Age	-.57	.000	.57
Gang Membership (0=No gang, 1=Gang)	.18	.014	1.20
Offense Degree (1-6, 1 is the most severe)	-.64	.057	.53
Mental Health Needs (0=No needs, 1 =Needs)	-.13	.058	.88
Sex Offender Needs (0=No needs, 1 =Needs)	.43	.000	1.54
Degree		.000	
High School Diploma	.28	.001	1.32
GED	.34	.000	1.40
Number of Behavioral Violations	.32	.000	1.37
Number of Felony Arrests	.86	.000	2.37
Race/Ethnicity		.000	
Asian/Pacific Islander	-.75	.017	.47
African American	.40	.000	1.49
Native American	.62	.001	1.85
Hispanic	-.04	.570	.96
Constant	.002	.981	1.002

Note. For the DV, parole discharge = 0 and revocation back to prison = 1. For gang membership, 1 indicates gang member, associate or suspect.

Concluding Discussion and Recommendations

Studies 1, 3 and 4 showed that minority overrepresentation exists in the Colorado criminal justice system just as it does nationwide, and study 2 found that staff at the DOC, courts, and Division of Probation Services are as racially and ethnically diverse as Colorado's population, but that staff demographics differ from offender demographics. Study 1 found that in Colorado, a disproportionately high number of African Americans are arrested, have charges filed against them, are convicted, are placed at the DOC, and have their parole revoked. There is not enough evidence from study 1 to determine whether Hispanics are overrepresented across Colorado's criminal justice system because offenders' ethnicity is not recorded separately from their race. A second limitation of this study is that it did not control for criminal risk. However, studies 3 and 4 did control for criminal risk when examining the effects of race on supervision outcomes.

Study 2 found that staff at the DOC, Probation and courts are representative of Colorado's overall population, but not of the populations they serve. Specifically, a greater percentage of DOC offenders than DOC staff members are African American (19.7% vs. 4.2%) and Hispanic (31.5% vs. 18.7%), and a smaller percentage of DOC offenders than DOC staff members are White (45.2% vs. 74.7%). A greater percentage of probationers than probation staff members are African American (9.0% vs. 4.4%). A smaller percentage of probationers than probation staff are Hispanic (14.6% vs. 19.7%). Similarly, the percentage of cases filed against African Americans is larger than the percentage of African American court staff (12.1% vs. 2.3%), and the percentage of cases filed against Hispanics is slightly smaller than the percentage of Hispanic court staff (10.1% vs. 14.1%).

Study 3 found that race and ethnicity predict juveniles' and adults' success or failure on probation even after controlling for district, age, gender, and LSI-R score (a measure of criminal risk). This finding is consistent with previous studies that found a relationship between race and probation outcomes (e.g., Graham & Lowery, 2004; Bridges & Steen, 1998; Coggs & Wray, 2008). However, this study contributes to the literature because no other study has controlled for LSI-R score when examining the relationship between race and probation outcomes, and our study showed that LSI-R score was the best predictor of probation outcomes.

Similarly, study 4 found that race and ethnicity affect success or failure in community transition, mandatory vs. discretionary releases to parole, level of supervision while on parole, and success or failure on parole. African American and Hispanic offenders were significantly more likely to have unsuccessful outcomes from community transition (revocation or escape) than White offenders, even after controlling for gender, LSI score, age, gang membership, offense degree, substance abuse needs, mental health needs, sex offender needs, type of degree (high school diploma, GED, or neither), number of behavioral violations while incarcerated, number of incarcerations, number of felony arrests, and marital status. There has been little previous research on the effects of race and ethnicity on community transition outcomes, but these findings are consistent with evidence of minority overrepresentation in other community supervision areas such as parole and probation.

In addition to finding evidence that race and ethnicity affect community transition outcomes, study 4 also found evidence that race affects type of release to parole. African Americans and American Indians or Alaska Natives were less likely to get discretionary parole than would be expected if there were no relationship between race and type of release to parole. No previous research has studied American Indians and Alaska Natives' releases to parole, although Huebner & Bynum (2008) found that White male offenders were released to parole sooner than African American male offenders, even after controlling for criminal risk.

The racial disparities in releases to parole are also evident in level of supervision while on parole. A larger proportion of ISP parolees than regular parolees were Hispanic, African American, or American Indian or Alaska Native. A literature search found no previous research on the effects of race on level of supervision while on parole.

Just as study 4 found evidence of disparities in level of supervision while on parole, it also found evidence that race affects success or failure on parole. African Americans and American Indians or Alaska Natives were more likely to have their parole revoked than Whites, even after controlling for gender, LSI score, age, gang membership, offense degree, substance abuse needs, mental health needs, sex offender needs, type of degree (high school diploma, GED, or neither), number of behavioral violations while incarcerated, number of incarcerations, number of felony arrests, and marital status. This finding is consistent with previous research which found that African Americans were more likely to have their parole revoked than Whites (Steen & Opsal, 2007). However, previous research has not compared the parole revocation rates of American Indians or Alaska Natives with other groups.

Although further research is needed to determine which stages of the criminal justice system are causing the most adverse impact in Colorado, this study provides evidence to support the large body of literature that indicates that minority overrepresentation is a problem. Therefore, the remainder of this paper will focus on evidence-based practices for how to reduce racial and ethnic disparities. Many causes contribute to minority overrepresentation, and therefore, a multimodal approach may be more effective than a single intervention when attempting to reduce minority overrepresentation (Devine, Coolbaugh, & Jenkins, 1998). The Office of Juvenile Justice and Delinquency Prevention conducted an extensive literature review and concluded that there is not enough evidence to prescribe one strategy over another for reducing minority overrepresentation (Gies, Cohen, & Villarruel, 2009). However, the following four types of interventions show some theoretical and empirical support: equalizing access to services, improving cultural competence, system change, and research. In addition, a second set of recommendations from the University of Colorado Law School Conference entitled "Still Chained? The Overrepresentation of African Americans in the Criminal Justice System" is outlined in Appendix A.

Equalizing Access to Services

Nationwide, the poverty rate among African Americans (24%) and Hispanics (21%) is higher than the poverty rate among non-Hispanic Whites (8%; DeNavas-Walt, Proctor, & Smith, 2007). In Colorado, there is a similar pattern: the poverty rate among African Americans (22%), Hispanics (23%) and American Indians and Alaska Natives (18%) is higher than the poverty rate among Whites (10%) and Asians (8%; Colorado Fiscal Policy Institute, 2009). The high poverty rate among African Americans, Hispanics, and American Indians and Alaska Natives leads to a lack of resources and opportunities in minority neighborhoods, which makes it more difficult for the next generation to get a quality education and a good career and to avoid involvement in the criminal justice system (Squires & Kubrin, 2005). Types of needed services include prevention, early intervention, diversion, alternatives to secure confinement and advocacy.

Prevention and early intervention. It is better to prevent people from ever committing a crime and being arrested than it is to intervene after they have been arrested. Through prevention, victimization could be reduced, and people who avoid involvement in the criminal justice system could have better educational and vocational opportunities than they would otherwise have (Walker et al, 2004). Preventative services include family therapy, parent training, cognitive behavioral treatment, mentoring, academic skills enhancement, after school recreation, vocational training, and wraparound services.

Researchers have identified several characteristics of effective prevention/early intervention programs. For example, programs can maximize recidivism reduction by providing more intensive treatments for offenders with higher levels of risk, targeting offenders' criminogenic needs, and matching interventions to offenders' learning styles (Andrews, Bonta & Hoge, 1990). In addition, The National Council on Crime and Delinquency evaluated 209 prevention and intervention programs for youth (Krisberg, Currie, Onek, & Wiebush, 1995). They concluded that effective programs are holistic, are based on individualized treatment plans, involve multiple contacts per week, provide frequent, constructive feedback, operate outside the formal juvenile justice system, build on youths' strengths rather than weaknesses, use a socially grounded framework, and have energetic and committed staff.

Diversion. Two types of diversion programs that can reduce recidivism while keeping people out of the criminal justice system are restorative justice and drug courts. Restorative justice and drug courts can reduce minority overrepresentation because African Americans are arrested and convicted at a greater rate than Whites, as shown by study 1 (see also Hartney & Vuong, 2009). Therefore, if African Americans and Hispanics have equal access to restorative justice and drug court programs, then they will benefit disproportionately. In addition, Jenkins (2006) argues that restorative justice programs that incorporate Afrocentric values such as a communal rather than individualistic orientation, spirituality, and a belief that humans are naturally good may be more effective for African Americans than non-culturally specific restorative justice programs or the traditional legal system, because both African American offenders and community members are more likely to accept a program that is consistent with their values. This hypothesis that Afrocentric restorative justice programs are more effective for African Americans has not been tested, but it is a promising area for future research. Also, African Americans, Hispanics, and American Indians or Alaska Natives are arrested for drug crimes at a greater rate than Whites (U.S. Department of Justice, 2002), so if they had equal access to drug courts, they would benefit disproportionately.

Restorative justice is a process in which the offender, victims and other community members who were affected by the offender's crime work together to develop a plan for the offender's rehabilitation and reparations (Marshall, 1999). Restorative justice has been successfully used in schools, workplaces, and in criminal cases (Sherman & Strang, 2007). Common restorative justice interventions include victim-offender mediation, community reparative boards, family group conferencing, and circle sentencing. All of these interventions involve the offender and others coming to a consensus on what harm the offender's actions caused and developing a plan to repair the damage caused by the crime, but they differ in the composition of the group involved. In victim-offender mediation, the victim and offender meet face to face, with a trained mediator. In community reparative boards, community members meet with the offender. Family group conferencing includes the offender, his/her family, and other community members and agents of the criminal justice system. Circle sentencing includes all of the stakeholders: victims, community members, the offender, and the offender's family and friends.

A recent literature review found that restorative justice interventions reduce recidivism for both juvenile and adult offenders, especially for violent offenses and more serious offenses (Sherman & Strang, 2007). In addition, restorative justice interventions reduce victims' post-traumatic stress symptoms because receiving a sincere apology from the offender tends to reduce victims' anger and anxiety (Strang & Sherman, 2003). A study of juvenile offenders in Arizona that excluded sex offenders and violent offenders found no significant difference in how well family group conferencing works for Whites vs. African Americans or Hispanics (Rodriguez, 2007). However, the results did indicate that family group conferencing works best for offenders with zero or one prior conviction. Restorative justice interventions have not been shown to work with offenders who have not admitted that they

committed the alleged crime (Sherman & Strang, 2007). Likewise, restorative justice interventions do not work as well for crimes that have no obvious victim, such as drunk driving cases where the offender was not involved in a motor vehicle accident (Sherman, Strang, & Woods, 2000).

In Colorado, House Bills 07-1129 and 08-1117 created a restorative justice option for juvenile offenders. Many Colorado communities offer restorative justice programs for adult offenders as well as juveniles,[4] but the opportunities for adult offenders to participate in restorative justice are more limited than for juveniles. Therefore, we recommend that restorative justice programs be expanded for both juvenile and adult offenders and that steps be taken to ensure that access to these programs are not impacted by race. That is, individuals of all race categories should receive referrals to restorative justice programming and have equal access to these services.

Like restorative justice programs, drug courts are alternatives to incarceration that could reduce minority overrepresentation. Drug courts require offenders to complete an appropriate treatment program, and failure to complete treatment results in legal sanctions. Legal sanctions are necessary because 80% to 90% of offenders drop out of conventional drug treatments before the minimum effective duration of one year (Huddleston, Freeman-Wilson, & Boone, 2004). A meta-analysis found that of six studies that tracked participants' recidivism from 12 to 24 months after completion of a drug court program, four showed that drug courts reduced recidivism (although only two of the studies conducted analyses to show that the difference was statistically significant; Belenko, 2001). Similarly, a report by the National Institute of Justice found that drug courts generally reduce recidivism, but the degree of success varies widely depending on how well the court resources match the needs of the offenders in the drug court program, whether proper assessment, treatment planning and service delivery are conducted, whether offenders interact with a single judge or multiple judges, and external factors such as trends in drug use and whether drug courts are used for diversion or after disposition (Gonzales, Schofield, & Schmitt, 2006). It is possible that if drug courts impose sanctions for failure to comply with treatment that are more severe than the sanctions the offender would have faced in the traditional justice system, drug courts could actually make minority overrepresentation worse. Therefore, drug courts should use a graduated system of sanctions in which the worst sanction is no more severe than the offender would have faced without the drug court.

Alternatives to secure confinement. Like diversion, alternatives to secure confinement are based on the idea that incarceration can do more harm than good for some offenders. People who have been incarcerated are more likely to be unemployed and have lower lifetime earnings than those who have never been incarcerated (Western, 2006). In addition, children whose parents have been incarcerated have higher levels of delinquency, mental illness, and drug abuse and lower levels of success in school and employment than children whose parents have never been incarcerated (Murray & Farrington, 2008). Considering that approximately one in three black males and one in six Hispanic males will be incarcerated during his lifetime if current incarceration levels remain the same (Bonczar, 2003), the effects of imprisonment on minority families and communities can be devastating. The high incarceration rates in minority communities can strain family relationships, increase poverty, deprive children of male mentors and role models, and heighten distrust of police (Clear, 2008). Alternatives to secure confinement enable offenders to stay in their communities, where they can continue to have access to needed resources, maintain family and other prosocial relationships, avoid the stigma of incarceration, and in some cases continue to work or attend school. These programs have the additional advantage of saving the public's money. Examples of alternatives to secure confinement include house

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[4] Please see Judicial's website for information about restorative justice programs throughout Colorado:
http://www.courts.state.co.us/Probation/RJ/County.cfm

arrest, day treatment, shelter care or specialized foster care for youthful offenders and non-residential intensive supervision programs. Equal access to alternatives to secure confinement could help alleviate poverty and avoid breaking up families.

Advocacy. A fourth type of direct service that can reduce minority overrepresentation is advocacy. Advocates can help offenders and their families understand their legal rights and the court process, gain improved access to counsel, facilitate coordination within the justice system or between the justice system and other agencies, develop a release plan that includes appropriate community services and specific objectives, and present the release plan to the judge. As discussed previously, JJDP is currently funding the Minority Family Advocacy Program. We recommend that advocacy programs be expanded into communities where they are needed but are not currently available.

Improving Cultural Competence

A second area for reducing minority overrepresentation is to improve the cultural competence of criminal justice staff and programs. Three ways to accomplish this are cultural competence training, collaborating with stakeholders from other agencies, and building on our culturally competent staffing practices. As discussed previously, Colorado's DOC and Judicial already offer cultural competence training, but it is possible that the training could be improved by reviewing the curriculum developed by the American Correctional Association and the Police Executive Forum entitled *Training in Cultural Differences for Law Enforcement/Juvenile Justice Practitioners.*[5]

A second way to improve the cultural competence of Colorado's criminal justice staff is for all criminal justice agencies to develop a joint action plan for reducing minority overrepresentation. Each agency's personnel have different expertise and perspectives. By collaborating across agencies, we can increase our understanding of the needs and culture of Colorado's population as well as available resources and services. For example, Navajo traditional probation officers take a different approach to managing offenders than other probation officers in Colorado. In a process similar to restorative justice, Navajo probation officers work with the offender and his or her clan to develop a plan for the offender's rehabilitation and payments of restitution to the victim (Muller, 2001). Probation officers could learn a great deal about managing Navajo offenders by talking with Navajo traditional probation officers.

A third way of improving our agencies' cultural competence is staffing practices. As shown in study 2, Colorado's DOC, Judicial, and Probation are already hiring and retaining qualified minority candidates. We should continue to monitor our diversity across agencies, and we should continue to actively recruit minority candidates for job opportunities and to serve on community boards.

System Change

Like improving cultural competence, system change is a method of reducing minority overrepresentation. System change strategies aim to change rules, policies, and procedures about how the criminal justice system operates. System change strategies that may help reduce minority overrepresentation include legislative reform and structured decision making.

Legislative reforms include monitoring bills regarding criminal justice issues to determine whether they would result in statutes that increase minority overrepresentation. If a bill is likely to increase minority overrepresentation, the legislature should consider whether it is possible to achieve the same public safety goals in a different way without increasing adverse impact. For example, zero

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[5] http://www.ncjrs.gov/App/publications/Abstract.aspx?id=163318

tolerance policies tend to increase minority overrepresentation, so any bill introducing a new zero tolerance policy should be reviewed carefully.

The use of structured decision-making instruments can reduce minority overrepresentation because these instruments are racially unbiased as long as the items on the instrument are unrelated to race. As discussed previously, the Division of Adult Parole and Probation are currently developing structured decision-making instruments to help decide the consequences of parole and probation violations. We recommend that these structured decision making instruments be completed and implemented in a timely manner.

Research

In addition to the interventions recommended above, further research should be done to study the causes and possible solutions for minority overrepresentation in the criminal justice system. For example, if race and ethnicity were measured with separate items, it would be possible to more accurately assess Hispanic overrepresentation in the criminal justice system. Currently race/ethnicity is measured with a single item, so offenders may be classified as "White" if they are both White and Hispanic, and they may be classified as "African American" if they are both African American and Hispanic.

A second research need is to determine at what steps in the criminal justice system the most adverse impact occurs for adult offenders. It would then be possible to target interventions at the stages that create the greatest racial/ethnic disparities. Focusing interventions on earlier stages that create high adverse impact would likely have the most beneficial effect, because it would prevent involvement in the criminal justice system rather than intervening after people already have a criminal record.

A final need for research is to evaluate the interventions that are implemented in order to assess their effectiveness. This will allow us to change our interventions over time in order to maximize their effectiveness. It will also contribute to the research literature and allow other states to learn from us how best to reduce minority overrepresentation.

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Appendix A: Recommendations from the UC Law School Conference "Still Chained? The Overrepresentation of African Americans in the Criminal Justice System"

In March 2010, the University of Colorado Law School at Boulder hosted a conference on the overrepresentation of African Americans in the criminal justice system. Presenters, panelists and moderators at the conference are listed below. Each of the recommendations was suggested by one or more of the conference participants.

Presenters

- Professor Paul Bulter, Associate Dean for Faculty Development and the Carville Dickinson Benson Research Professor of Law at George Washington University Law School

- Professor Jennifer Eberhardt, Ph.D., Assistant Professor of Psychology at Stanford University

- Professor Kevin Reitz, James Anneberg Levee Land Grand Chair in Criminal Procedure Law at the University of Minnesota

Panelists

- The Honorable Judge Wiley Daniel of the United States District Court for the District of Colorado

- Ms. Lisa Wayne, Esq., a nationally recognized trial lawyer

- Dr. Tracie Keese, Division Chief of Research, Training and Technology for the Denver Police Department

- Ms. Ann Roach, State Training Director for the Colorado State Public Defender

- Mr. Lamar Sims, Chief Deputy District Attorney with the Denver District Attorney's office

Moderators

- Dr. Hillary Potter, Associate Professor of Sociology, University of Colorado

- Professor Ahmed White, University of Colorado Law School

Recommendations

- Sentencing reform
  - Decrease the penalties for drug offenders and non-violent offenders.
  - Eliminate the death penalty because of the large racial disparity in death penalty cases nationwide.

- Policing
  - Screen police officers for racial and ethnic biases and psychological traits such as aggression.
  - Change police culture to discourage discrimination. Work with the Consortium for Police Leadership in Equity to accomplish this.
  - Install video cameras on squad cars in order to ensure that police officers do not engage in racial profiling or other discriminatory behavior.
  - Improve police recruitment of minorities.

- Other
  - Examine if adequate funding exists for public defenders in Colorado.
  - Parole should no longer be mandatory for all offenders. Instead, low-risk, nonviolent, non-sex offenders should be released without parole so that re-entry services can be focused on the offenders who need them the most.

Colorado Department of Corrections
Office of Planning and Analysis
2862 South Circle Drive
Colorado Springs, CO 80906
http://www.doc.state.co.us