



SERVICE ACCESS THROUGH JUVENILE COURTS Special Challenges for Culturally Competent Systems of Care



Culturally competent systems of care must assure that all youth have access to services that appreciate their culture and respond effectively to their unique needs. Juvenile courts have long been challenged to respond to the needs of ethnically diverse populations of youth. Among the various responses courts can offer on behalf of young offenders is treatment referral, either to community-based mental health (MH) or alcohol and drug related (A&D) services. This article describes a recent study that examined the role youths' ethnicity plays in courts' decisions to provide offenders access to MH or A&D services. The study also provides an example of how a series of complex issues—legal, moral, political, and methodological—come into play in interpreting data, and in deciding how to use the data to inform efforts to increase cultural competence.

A Current Study

The Juvenile Court Study (JCS), conducted through Vanderbilt University's Center for Mental Health Policy sheds light on the role of the court in facilitating mental health and substance abuse services to juvenile offenders and, in particular, whether such service-related decisions are influenced by youth's ethnicity. Statewide data from Tennessee were obtained on all youth referred to any of 98 courts for either delinquency or status offenses during 1997. Based on the nearly 40,000 Black and White youth between five and eighteen years of age, data suggest that courts refer, on average, 3% of young offenders to formal MH services, and about 4% to formal A&D services. Service-related referrals vary widely between courts and are low relative to even the more conservative estimates of service need for this population of youth (Otto, Greenstein, Johnson, & Friedman, 1992).

At first glance, the data suggest different rates of service referral for Black and White offenders, particularly for A&D service referrals. About 2.2% of Blacks and 2.7% of Whites are referred to formal MH services (e.g., counseling); 2.2% of Blacks and 4.7% of Whites are referred to formal A&D services. However,

Black and White offenders differ on various measures that can influence court decisions, including the nature of the current offense and the youth's prior offense history—two legal criteria that research finds predict court outcomes most consistently (Marshall & Thomas, 1983). Thus, a key question is whether any ethnic differences observed in service access might be attributable to ethnic differences on other factors salient for decision-making.

Mental Health (MH) Service Referrals

Study findings suggest that youth's ethnicity has little direct effect on the court's use of MH services independent of its relationship to other variables. Rather, as prior research on other types of court decisions has found, legal criteria predict MH referrals better than characteristics of youth's social profile. For example, the least (status) and most (crimes against person) serious offenders are more likely than other offenders to be referred to care. Relatively high rates of referral for status offenders may reflect the court's interest in intervening in early stages of delinquency before problems become more intractable. Elevated referrals for violent youth may reflect the availability of specialized programs for violent youth (e.g., sex offender programs, conflict management) or the court's unwillingness to give up rehabilitative efforts for even the most serious of offenders.

While ethnicity has no independent effect on MH referrals, other aspects of youth's social profiles help predict who is referred to MH care. Offenders between 10 and 15 years of age are more likely than either those younger or older to be referred to formal services. Youth living in single parent households are referred at a higher rate than youth living with both biological parents, which may indirectly improve service access for Blacks more than for Whites given the disproportionate number of Blacks who live with single parents.

Nearly all of the effects of variables on MH referrals are of the same magnitude for Black and White youth with one exception: for violent offenders. As noted above, violent offenders are more likely to be referred to MH care than other types of offenders (except status offenders, who are as likely as violent offenders to be

referred). This is the case for both Black and White youth. However, the magnitude of the effect tends to be greater for Whites than for Blacks, such that White violent offenders are more likely to receive MH services through the court than their Black counterparts.

A&D Service Referrals

When we examine the court's decisions to refer offenders to formal A&D services, the picture remains generally the same as for mental health referrals. Legal factors, rather than social profiles, most strongly predict the court's use of A&D services for juvenile offenders. Youth charged with an A&D offense (e.g., sale or possession) are significantly more likely than other types of offenders to be referred to A&D services. As with MH referrals, youth with a prior offense record are also more likely than those without a prior record to be service referred. As with MH referrals, age matters, with older offenders generally more likely than younger offenders to be referred to A&D treatment.

Youths' ethnicity generally has little effect on the court's use of A&D services independent of its relationship to other variables. However, there are exceptions. One has to do with the nature of the offense. While youth with A&D offenses, both Black and White, are more likely than other types of offenders to be referred to A&D services, this increased service access is greater for Whites than for Blacks. This has to do with a decision the court makes at intake—whether to handle a case informally or file a formal petition against the youth. Results suggest that White offenders are more likely to be referred to A&D services than their Black counterparts, especially when cases are handled informally. When cases are handled formally, the ethnic disparity, while present, is not nearly as great.

Summary and Discussion

It is clear that juvenile courts must play a bigger role in providing access to community-based services to youth and their families who may benefit from them. Too few youth, Black and White, have the opportunity to access care through the courts, despite the fact that courts may represent a rare chance for receiving care that can help young offenders live more productive and happier lives.

Most of the tests for ethnic bias in courts' decisions to refer youth to services conducted in this study failed to find it. In a few instances, results suggest that youth's ethnic identification does matter for

service-related decisions by courts, however its effect is not simple or direct. Rather, ethnicity seems inextricably linked to other variables that, in some circumstances, create greater service access for Whites, while in other circumstances, greater access for Blacks. For example, courts appear more likely to refer youth from single headed households to MH services compared to youth from other living arrangements, which indirectly provides greater service access for Blacks. To the extent that courts perceive single headed households as more "symptomatic" or in greater need of therapeutic supports, this variable could alternately be viewed as a discriminatory factor or as a legitimate influence on court outcome. Legal scholars disagree about whether considering the social situation of the offender is appropriate during decision making in juvenile courts.

Findings also show that ethnicity *moderates* the effect other variables have on service-related decisions, indicating potential bias. For example, among violent offenders the increased odds of MH referral are higher for Whites than for Blacks. Some of this ethnic difference, found only among violent offenders, may be attributable to the nature of violent crime committed. These data suggest that violent White offenders disproportionately commit sex-related offenses for which specialty mental health services are frequently available. On the other hand, Blacks are still less likely than Whites to be referred to mental health care when the most common types of violent offenses, including aggravated assaults, are involved.

It would seem that other factors must account for the ethnic disparity in service access for violent offenders. Bias is always a possibility. Attention must be given to why court officials seem to be less inclined to consider therapeutic options for violent Black youth, and whether and why they perceive this group to be less amenable to treatment than their White counterparts. The adequacy of research must also be considered. For example, the measure used in this study for *prior offense record*, a significant predictor of outcome and a covariate of ethnicity, is based on youth's encounters over a single year with the same court. A different measure of prior record that reflects a longer timeframe or a broader scope of jurisdiction might help explain some of the difference found in courts' responses to violent Black and White youth. Too, there may be other aggravating or mitigating circumstances the data for which were not available in this study that may help account for ethnic differences in courts' responses when it comes to violent youth.

The study also finds that White A&D offenders are more likely to be referred to A&D services than their Black counterparts. Some of this disparity may be attributable to the specific type of A&D offense with which youth are charged. These data suggest that Whites are more likely than Blacks to have alcohol related offenses (e.g., DUI, public intoxication). Higher treatment referral rates for White A&D offenders might reflect a heightened availability or awareness of services directed toward alcohol use rather than use of other substances. Data also suggest that Whites are more likely to be charged with *possession* of controlled substances, while Blacks are more likely to be charged with *sale*. Some (Peterson & Hagan, 1984) suggest that drug laws demonize nonwhite offenders to the extent that they are, or are defined to be, *pushers* rather than *users*, *villains* rather than *victims*. Similar distinctions can be found in laws regarding crack cocaine (associated with Blacks) versus powder cocaine (associated with Whites). Findings here suggest that the distinctions in legal codes which courts are bound to uphold find expression in significantly reduced chances for therapeutic responses for Black A&D offenders. Efforts to improve service access for A&D offenders will require advocacy on the legislative front regarding drug laws. Also, as others have advocated, demands can be made for a public health response for *all* A&D offenders, regardless of the specific nature of the A&D offense.

Finally, the courts' decision at intake to handle a case more informally rather than file a formal petition against the youth tends to provide greater access to A&D services for Whites than for Blacks. This finding highlights the importance of viewing court outcomes not as decisions made at a single endpoint in time, but as the culmination of a series of interrelated decisions (Bishop & Frazier, 1988), such that the impact of ethnicity can be nonsignificant at any single point but can have a significant cumulative effect across multiple decision points throughout the judicial process. The finding also underscores the significance of discretion for court outcomes, and the need for vigilance, particularly in those situations where due process protections associated with more formal proceedings may be absent. However, it is noteworthy that the informality that seems to diminish access to A&D services for Black youth does not also diminish their access to MH services.

The critical question of ethnic bias in court decision making is longstanding, and receives greater import in the current context of efforts to develop *culturally competent* systems of care. Systems of care expressly recognize the key role juvenile courts must play in effecting the delivery of mental health services to

youth, and in promoting the rehabilitative ideal of the courts' heritage (Breda, 2001). Culturally competent systems of care explicitly recognize potential differences in service needs based on youth's ethnic identification (as well as other characteristics such as gender) and, at least implicitly, the legal legitimacy of servicerelated decisions based on ethnicity in order to best meet the needs of culturally diverse youth. On the other hand, within the legal framework of the court system, ethnicity based decisions typically indicate discrimination (U.S. Dept. of Justice, 1999). Working creatively between these two imperatives represents a special challenge for juvenile courts—a challenge that must be met creatively if courts are to participate meaningfully in culturally competent systems of care.

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This research is funded by NIMH grant MH5463801A2. The author thanks the NIMH and the Tennessee Council of Juvenile and Family Court Judges for making the research possible.

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