RACIAL AND ETHNIC DISPARITIES AND PROBATION PRACTICE
Workshop goals

- Define RED/DMC
- Understand why it is important to address RED
- Understand ways that bias contributes to RED
- Learn strategies for talking about race
- Explore tools and strategies for enhancing equity in probation practice and juvenile justice
Why is it important to focus on racial and ethnic disparities?

- Fairness
- Effectiveness
- Accountability
- Support
How do we define RED/DMC?

1. **Over-representation** of youth of color
2. **Disparate treatment** of youth of color
3. **Unnecessary entry and moving deeper into the juvenile justice system**

The goal is to reduce **all three** types of disparities, but reduction of **any type** of disparity is a significant achievement.
What is the scope of racial and ethnic disparities?

- Youth of color are over-represented at every stage of the juvenile justice system.
- Youth of color are treated more harshly than white youth in similar circumstances.
- Disparities are greater at the front end of the system.
- Disparities cumulate in the system.
- Youth of color are about one-third of the adolescent population, but two-thirds of incarcerated youth.
What are the causes of racial and ethnic disparities?

- Differential risk factors
- Differential offending
- Differential enforcement of the law
- Negative stereotypes and media imagery of youth of color
- Differential processing by the JJ system
- Other systems feeding the JJ system
What are effective ways to reduce racial and ethnic disparities in the juvenile justice system?
Effective efforts to reduce RED

- Governance, oversight, and collaboration with all stakeholders, including families and youth
- Intentional about changing the system’s impact on youth and communities of color
- Local focus
- Regular collection, analysis, reporting of data at key decision points
- Data-driven interventions
- Focused on targeted system reform
  - Policy
  - Practice
  - Programs
The Juvenile Justice Process:
Key Decision Points and Pathways Out

Arrest:
- Law enforcement
- Schools
- Probation
- Child welfare

Referral:
- Intake staff

Detention:
- Judge

Petition:
- Prosecutor

Adjudication:
- Judge

Disposition:
- Judge

Transfer to Adult Court

Diversion:
- Community service
- Youth court

Diversion Informal process:
- Consent decree

Diversion Release home:
- Alternative to detention

Diversion Post-adjud
- ATD Dismissal

Diversion Probation:
- Non-secure placement
- Non-residential treatment
## Strategic approaches for addressing RED

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<tr>
<th>Cross System Collaboration</th>
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<td>• Improve collaboration and communication among agencies within the juvenile justice and with other child-serving systems (i.e. Schools, Child-welfare)</td>
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<tr>
<th>Data Practices</th>
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<td>• Establish a structure and process for regular use of data in system management</td>
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<th>Cultural and Community Responsiveness</th>
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<tr>
<td>• Improve cultural competence and responsiveness of juvenile justice programs and services</td>
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<th>Policy and Practice</th>
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<td>• Structure policies, protocols and practices to facilitate objective and consistent decision-making and service delivery to all youth</td>
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<th>Programs</th>
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<td>• Increase capacity and improve access to culturally responsive programs and services that prevent deeper involvement or enhance diversionary pathways out of the system for youth of color</td>
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What would you do? (ABC News)

http://www.youtube.com/watch?v=ge7i60GuNRg
What is implicit bias?

- Attitudes or stereotypes that affect our understanding, actions, and decisions in an unconscious manner
  - Pervasive
  - Do not necessarily align with conscious beliefs
  - Can skew in positive and negative directions
  - Favor one’s own ingroup

Source: Kirwan Institute, State of the Science: Implicit Bias Review 2015
Implicit bias: How does it occur?

1. **Schemas** - Mental maps or templates

2. **Stereotypes** - Traits we associate with a particular group of people

3. **Prejudice** - Feelings associated with a group of people

4. **Discrimination/Disparate Treatment** - How one acts toward the members of a group

Implicit bias

Stereotypes are traits we associate with a particular group of people, i.e. elderly = frail.

Prejudices are feelings we have about a group based on stereotypes, i.e., positive feelings about people who attended our alma mater; negative feelings about people from a rival school.
Implicit bias is more likely to occur:

- In cognitively taxing environments
- With complex decisions under time pressure
- With imperfect information
- When decision-makers are cognitively depleted, anxious, or distracted
Research on police and probation officers’ perceptions of crime reports:

Does race affect judgments about culpability and punishment?
Research on bias: Police and probation officers

- Police and probation officers who were primed to think about race were less likely to judge the offender as immature (by virtue of adolescence) and more likely to perceive him as culpable and deserving of punishment.

- Consciously-held beliefs about African Americans (e.g., to avoid racial prejudice) did not influence these judgments.

Research on bias: Probation officers

Research on pre-disposition reports by probation officers:

Bad kids or bad environments?
Research on bias: Probation officers

Findings:

- Reports on **black youth** were more likely to include negative internal attributions (personality, values) than reports on white youth.

- Reports on **white youth** were more likely to include negative external attributions (environment, peers) than reports on black youth.

- **Black youth** were judged to have a higher risk of re-offending than white youth.

Cleaning the lens of implicit bias

- Education
- Exposure
- Cognitive load
- High Effort Processing
- Mindfulness
- Environment
- Organizational Review
- Checklists
- Debriefing

Key points to keep in mind

- Systems don’t make decisions — people make decisions.
- Systems provide opportunities for people to use discretion when they make decisions.
- People have implicit biases.
- The intersection of discretionary decision-making and implicit bias is where most RED occurs.
Video: The R-Word (The Daily Show)

http://www.cc.com/video-clips/g65t3j/the-daily-show-with-jon-stewart-the-r-word?
xrs=share_copy_email
Difficulties in talking about race

- **Avoidance** – “It’s really about poverty.”
- **Denial** – “They commit more crimes.”
- **Distraction** – “What name for the committee?”
- **Defensiveness** – “I don’t discriminate against anyone.”
- **The “blame game”** – video games, TV violence, rap music, poor schools, bad parents
- **“The culture of politeness”**
- **“Motion without movement”**
- **Data without Direction** – Analysis Paralysis
Making conversation about race more productive

- Diversity collaborative group
  - Include All Stakeholders
- Use Data
- Identify Shared Goals
- Conversation Starters
- Use research to support conversations
- Seek external support
- Establish ground rules of engagement
Racial and Ethnic Disparities Practice Manual

Introduction and Chapter 1: Beginning or Restarting Work to Reduce Racial and Ethnic Disparities

http://cclp.org/practicemanual.php
RED Practice Manual - Overview

- History of bias against youth of color in the juvenile justice system
- Definitions of key terms
- Research on implicit bias
- Getting started
  - Collaboration
  - Using Data
Arrest, detention, disposition, post-disposition and transfer

Sample tools such as diversion criteria, detention screening instruments, and graduated response grids;

Examples of successful efforts to reduce racial and ethnic disparities;

Contact information for organizations working on racial equity reforms in juvenile justice.
Engaging the process to shift practice

The Graduated Responses Tool is an example of intentional effort to impact racial and ethnic disparities.
Graduated Responses Toolkit

New Resources and Insights to Help Youth Succeed on Probation

http://www.cclp.org/graduatedresponses.php
What Does the Research Tell Us?

"The use of incentives is equally important (and often not sufficiently considered) in probation and parole supervision"

"[S]anctions and incentives should be used in conjunction with one another to promote compliance and positive behavior"


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### Range of Responses for Technical Violations

<table>
<thead>
<tr>
<th>Technical Violation Level</th>
<th>Minimum</th>
<th>Medium</th>
<th>Maximum</th>
<th>Intensive</th>
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<td>Low</td>
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<td>Curfew</td>
<td>Warning (verbal or written)</td>
<td>Warning (verbal or written)</td>
<td>Warning (verbal or written)</td>
<td>Community Service</td>
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<td>Driving without permission</td>
<td>Literacy/Tutoring</td>
<td>Literacy/Tutoring</td>
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<td>School Attendance or behavior</td>
<td>Restrict/control driving privileges</td>
<td>Restrict driving</td>
<td>Restrict driving</td>
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<td>Positive drug screen for Alcohol/marijuana</td>
<td>Weekly attendance/behavior/verification reports for school and counseling</td>
<td>Parent/Child Conference</td>
<td>Parent/Child Conference</td>
<td>Parent/Child Conference</td>
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<tr>
<td>Individual/Group/Family Counseling</td>
<td>Community Service</td>
<td>Curfew Adjustments</td>
<td>Curfew Adjustments</td>
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<td>Alcohol/marijuana (possession/presence)</td>
<td>Parent/Child Conference</td>
<td>CSO (non-traditional hours)</td>
<td>CSO (non-traditional hours)</td>
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<td>Community Restoration o Community Service</td>
<td>Increased Drug and Alcohol screens</td>
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<td>o Restitution</td>
<td>Increased phone contact</td>
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<td>o Fines</td>
<td>Curfew-adjust</td>
<td>Submit proof of employment application</td>
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<td>Parents</td>
<td>Day Reporting, including school</td>
<td>Day Reporting, including school</td>
<td>Day Reporting, including school</td>
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<td>Associates</td>
<td>Limit contact with friends</td>
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<td>Travel</td>
<td>AA/NA</td>
<td>Parenting classes</td>
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<td>Associates</td>
<td>MADD panel</td>
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<td>Food bank donation</td>
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<td>Restrict travel</td>
<td>MST (Multi-systemic therapy)</td>
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<td>Parent/Child Mediation</td>
<td>JJS Triage Referral for group home/RTC placement</td>
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<td>Failure to complete any sex offender treatment</td>
<td>House Arrest</td>
<td>House Arrest</td>
<td>House Arrest</td>
<td>Warrant</td>
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<td>Failure to complete treatment in an out of home placement</td>
<td>Day Reporting</td>
<td>Day Reporting</td>
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<td>Failure to comply with ISS General behavior</td>
<td>Judicial Review</td>
<td>Electronic Monitoring/GPS</td>
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<tr>
<td>Narcotics/Inhalants (Possession/Presence)</td>
<td>Referral to BHC (CSW)</td>
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<td>Failure to submit to drug screen</td>
<td>Request Petition to Revoke</td>
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<td>Weapon (possession/presence)</td>
<td>Increased drug tests</td>
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<td>Driving (Adjudicated DWI, Vehicular Homicide, Leaving the scene of an accident (Great Bodily Harm)</td>
<td>Gun Safety course</td>
<td>Drug Court</td>
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*Note: The table provides a range of responses for technical violations at different supervision levels.*
Many jurisdictions have “implemented” graduated responses …

But in the most recent federal census of youth in residential placement, 25% of youth were incarcerated for technical violations of probation or court orders . . .

And in many jurisdictions, VOPs and VCOs represent the leading reasons for detention and commitment . . .

Youth of color are often overrepresented among youth incarcerated for this reason.
Where to Start

- Review existing incentives and sanctions grids and compare with other models
- Determine whether structure will change
- Plan for communication with youth, families and court stakeholders
- Identify and define behaviors to incentivize and sanction
- Work from master lists to identify potential incentives and sanctions
- Develop policy and training materials
Why?

- Reforms to policy, not practice
- Staff buy-in
- Skeptical stakeholders
- Meaningful incentives
- Alignment with policies and practices
- Lack of intentionality
- Not data driven approaches
Staff Buy-in: Resources

- Staff Training Curriculum
  - PowerPoint with trainer notes
  - New research on effective behavior change
  - Outline of benefits to staff
  - Built-in interactivity
  - Practice scenarios with discussion guide
  - Purposeful RED lens

We already do this...
Skeptical Stakeholders: Resources

- Fact sheet for judges, prosecutors, and public defenders
- Courtroom scenario designed to help staff practice explaining their approach to a “zero tolerance” judge
Identifying Meaningful Incentives

- Appeal
- Availability
- Accessibility
- Accountability
Alignment with Other Policies and Practices

- Court orders
- Probation orders
- Case plans
- Other documents

Do these reflect the spirit of the graduated responses system?

Are they youth- and family-friendly?

Are they culturally responsive?

Roadmap for a Tune-Up

1) Define the purpose of the graduated response system
   - Purpose of probation
   - Terms and conditions
   - Alignment with reform values

2) Gather data
   - Ensure race, ethnicity and gender are collected

3) Interview stakeholders
   - Sample focus group questions

4) Form a committee
   - Internal and External stakeholders
Roadmap for a Tune-Up

9) Test draft materials
   - Checklist of key considerations

10) Develop capacity to evaluate implementation and effectiveness

11) Train staff and educate youth and family members
    - Staff training curriculum
    - Practice scenarios
    - Family member fact sheet

12) Evaluate implementation and make adjustments
Racial and ethnic disparities are improved by the practice of intentionality.

- Get more information
- Ask questions
- Apply what you learn
- Be a champion of change

intentional (adj.)

an action performed with awareness; done deliberately, consciously, on purpose
Contacts

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