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PREDICTORS OF JUVENILE COURT DISPOSITIONS IN A FIRST-TIME OFFENDER POPULATION

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Scholars and policy makers have long been troubled by the potential for some youth to receive disparate sanctioning as a function of extralegal factors, especially against the backdrop of ethnic/racial minority group overrepresentation in the juvenile justice system as a whole. Beginning in the late 1990s, many states began to adopt a graduated sanctions model in response to the emerging ‘get tough’ zeitgeist of the day. Originally intended by the federal government to reinforce juvenile accountability and to ensure equitable treatment of all youth in custody, some stakeholders began to note concerns about uneven outcomes in the use of graduated sanctioning schemes. Specifically, data across multiple jurisdictions suggested that racial and ethnic minority youth were receiving more restrictive than expected sanctions. The current study in one large urban jurisdiction explored this issue in a group of 2,786 racially and ethnically diverse first-time juvenile male offenders (ages 10-17). Results indicated that race/ethnicity was *not* a predictor of receiving a more restrictive than expected sanction; however, variables related to offending (offense severity, history of violence), age (older), and parental supervision (inadequate) *were* significant predictors of such departures.

Keywords: juvenile justice, graduated sanctions, predictors of dispositional outcomes, racial/ethnic minorities

Over the past four decades, the scales of juvenile justice have swung between traditional goals of rehabilitation (embodied in the *Juvenile Justice and Delinquency Prevention Act of 1974* [JJDP]), and ‘get tough’ policies premised upon punishment and ‘accountability.’ During the late 1990s, juvenile justice moved aggressively towards an adult model (Bishop, 2005), with many states adopting increasingly stringent policies built on a new

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progressive sanctions standard (see Matese, 1997). During this time, many states lowered the age at which a juvenile could be waived to adult criminal court, enhanced sanctions for lower level offenses, and made commitment to state correctional facilities possible for first time offenders. This direction, some argued, was incompatible with the original intent of the founders of the juvenile court, which was premised upon the principle of *parens patriae*. Consistent with this principle, the court's duty comprised both care *and* correction, as would be provided by a parent. However, it is precisely this discretionary latitude that creates what some today have called a "Pandora's box of dispositional factors" (Sanborn & Salerno, 2005, p. 358). The relatively greater freedom to impose individualized sanctions, usually considered a strength of the juvenile justice system, has led to concern about disparate treatment due to a presumed overreliance on non-relevant *extralegal* factors (which could include, for example, race/ethnicity, socioeconomic status, and mental health or need-based factors). The duty to punish youthful offenders, while functioning as a "kind and just parent" has placed the juvenile justice system in a tenuous borderland of competing public safety and rehabilitation goals.

More than four decades ago, the Supreme Court in *Kent v. United States* (1966) observed "there may be grounds for concern that the child gets the worst of both worlds: that he gets neither the protections accorded to adults nor the solicitous care and regenerative treatment postulated for children" (p. 556). The following year, the Court delivered an even sterner reprimand referring to the juvenile court as a "kangaroo court" (*In re Gault*, 1967, p. 28). Not only was the juvenile justice system failing to provide rehabilitation, the punishment it visited upon youth was not attended by the usual protections and due process afforded adults in similar situations.

Today, similar concerns prevail. Some scholars have called it a 'no-win' situation. If courts consider only offense and legal factors in sentencing, the juvenile system is nothing but an adult model, gutted of constitutional protections and not too dissimilar from that of *Kent* fame. If however extralegal factors are considered in individual cases, the courts can be accused of dispensing uneven justice. As a result the Court, some say, has been "backed into a corner by current commentators and researchers" (Sanborn & Salerno, 2005, p. 360). Wide-spread indictments of the juvenile justice system have led others to conclude that the juvenile court is "a noble idea, unrealized," in part due to "pervasive disparities in the treatment of youth by race"¹ and "disproportionate sanctions for minor and predictable misbehavior" (Annie E. Casey Foundation, 2008, pp. 7-8). Others have noted the relative paucity in some jurisdictions of racially diverse court personnel or probation officials and suggest this as one reason for the failure to fully embrace the mandate to address disproportionate minority confinement/contact (DMC) (Ward, Kupchik, Parker, & Starks, 2011).

1. The term "race" when used herein may be construed as race/ethnicity. Use of the term "minority" refers to ethnic/racial minorities. Given that *Hispanic* is an ethnic designation and not a racial group, for the sake of clarity *White* used herein refers to *non-Hispanic White*, and *Hispanic* refers to those identified in the one-race category as *Hispanic/Latino*. *Black* refers to those identified as *non-Hispanic Black/African American*.

The 'Get Tough' Era

In many ways, the history of juvenile justice policy is the story of a dance between federal and state partners—always just slightly out of step with each other. In the late 1970s and early 1980s, many state legislatures were beginning to draft legislation that began to blur the lines between the traditionally rehabilitative juvenile model and the punishment-oriented adult system—despite juvenile crime rates that were largely stable or even slightly declining (McCord, Spatz Widom, & Crowell, 2001). At the same time, policymakers at the federal level were urging the juvenile court to embrace prevention and rehabilitation. Congress passed amendments to the JJDPA throughout the 1980s focused on prevention and treatment, mandatory separation of child and adult offenders, and removal of status-offense-only offenders from secure placement. By the late 1980s, DMC had become a focal point of federal reform efforts (Bishop, 2005).

The JJDPA and subsequent reauthorizations strove to maintain the long articulated ideals of restoring delinquent children to a state of functional and law abiding citizenship. However, fueled by reports of impending waves of juvenile 'super predators' following a short-lived crime spike in the mid 90s (see DiIulio, 1996), many state legislatures began to pass increasingly stringent juvenile crime control laws which appeared to impact minority youth disproportionately (see Bishop, 2005). Then, in the spring of 1997, the Office of Juvenile Justice and Delinquency Prevention (OJJDP) released a fact sheet outlining the federal government's stand on juvenile "accountability"—essentially a directive to implement some form of graduated sanctions in order to maintain eligibility for certain federal grants (see Matese, 1997; Redding & Mrozowski, 2005). Many state administrators saw "accountability" and read that directive as a mandate to intensify the focus on punishment.

In retrospect, the data revealed no surge of super predators, and no juvenile crime 'epidemic.' In fact, the United States enjoys one of the lowest rates of juvenile crime since the 1970s. Pulling the lens back further reveals that youth are responsible for a remarkably stable one-quarter of all violent crimes committed for decades (see Snyder & Sickmund, 2000). Not only did harsher sanctions fail to reduce recidivism (Bishop & Frazier, 2000), there was disturbing evidence of racial inequity in how those sanctions were sometimes applied (Bishop & Frazier, 1996; Poe-Yamagata & Jones, 2002).

Race and Juvenile Justice

Nearly forty years after the JJDPA was introduced, nationwide evidence suggests disturbing DMC trends which persist despite forceful federal guidance and accountability measures. Numerous studies have found minority group overrepresentation and racially disparate treatment in the juvenile justice system (see Bishop, 2005; Pope & Feyerherm, 1990, 1995; Pope, Lovell, Hsia, 2002; Sickmund, 2003). However, not all researchers have found racial/ethnic minority youth disfavored in court processing (e.g., Mears & Field, 2000, finding White youth receiving harsher sanctions than minority youth). Outcomes appear to depend upon the decision point under study (see Freiburger & Jordan, 2011, for review). For example, minority youth are more likely than White youth to be arrested, detained and to receive an out-of-home placement; however, overall, minority youth are actually *less* likely to be adjudicated than are White youth (see Leiber & Rodriguez, 2011). A

multilevel sociological study on petition decisions found that race, at the individual level, did *not* impact the prosecution's decision to petition a case—but the percentage living in poverty in the youth's community did interact with race to produce a negative outcome for minority youth (Freiburger & Jordan, 2011).

Although the majority of studies have found overrepresentation of racial/ethnic minority youth in the justice system—the *reason* for this overrepresentation is not as clear (Bishop 2005; Bridges, Conley, Engen, & Price-Spratlen, 1995; Leiber & Stairs, 1999; Pope, Lovell, & Hsia, 2002; Welsh, Jenkins, & Harris, 1999). The most parsimonious explanation—differential rates of offending—has been and will continue to be the subject of investigation and debate. However, a large body of empirical research reflects the presence of greater need in *all* juvenile offenders as compared to their non-delinquent peers (e.g., Grisso, 2000; Lipsey & Derzon, 1998). For ethnic/racial minority youth, this unmet need may be even greater as a result of the disproportionately impoverished families and communities from which they come. Many leading scholars currently acknowledge that the juvenile justice system has become a *de facto* end-of-the-line last resort and the only place disadvantaged youth receive services or treatment (see Melton, Lyons & Spaulding, 1998). One nationwide study revealed that juvenile detention facilities in 33 states reported routinely holding mentally ill youth awaiting transfer to treatment beds, without any charge against them. Most administrators did not embrace the practice, but rather expressed frustration at the lack of options available to help troubled youth and their families (U.S. House of Representatives Committee on Government Reform, 2004). Even more compelling is the testimony of an alarming number of parents who have chosen to relinquish custody of their children simply to obtain for them much needed services (see Grisso, 2004; Mental Health Association in Texas, 2003). These data suggest that some differences in handling may, in fact, be an attempt by the state to fulfill the *parens patriae* obligation—to facilitate delivery of treatment or services to resource-poor juveniles and their families who tend disproportionately to be minority group members.

Unfortunately, need is a double-edged sword. Stewart and Trupin (2003) found that youth with serious mental health problems had a greater likelihood of receiving longer sentences and were therefore less likely to be deemed eligible for community transition programs. Even when evaluated for mental health problems (and many juveniles in the system are not), research continues to reflect evidence of differential diagnosing as a function of race/ethnicity (see Hicks, 2004). Others have found a bias in family court referrals to court-ordered inpatient treatment (favoring younger, White females) (Gunter-Justice & Ott, 1997).

Among possible explanations for DMC and related disparate handling is (a) a systemic bias in sentencing, (b) individualized attempts to address need manifested more in some groups than others, (c) differential rates of offending by race/ethnicity, or (d) a combination of these or other variables. Not race *per se*, but perhaps factors linked differentially to minority groups—may interact to create disadvantage. A number of studies have found race to be a predictor of secure placement (see for example, Wordes, Bynum, & Corley, 1994), whereas others have not. Some have found it was *not* race that predicted confine-

ment—but prior offense severity, a history of secure confinement, and whether a juvenile was on probation (Pope, Lovell, Stojkovic, & Rose, 1996). Reflecting a more multifaceted reality, Leiber and Fox (2005) conclude that although legal factors do account for some of the variance in DMC, so too does race.

Rationale for the Present Study

During the 1990s, a number of states began adopting model policies like the progressive sanctions guideline used in the jurisdiction under study. These discretionary models outlined sanction levels based on the seriousness of the offense and the history of the juvenile. Although sanctioning schemes were fundamentally discretionary in nature, many states required any deviations from the guideline to be officially reported. Deviations could be ‘upward’ (more restrictive) or ‘downward’ (more lenient) compared to the recommended sanction. Those sanctions which matched the recommended level were considered appropriate and non-deviated.

The current study undertook an investigation of these issues in one large urban jurisdiction in the southwest United States, using archival data from 2,786 first-time juvenile male offenders adjudicated in 2002. Utilizing the graduated sanctioning scheme in place at the time² (Table 1) we sought to determine which variable or group of variables predicted receiving a more restrictive than expected sanction. Using a binary logistic regression method, we investigated whether those juveniles receiving upwardly deviated (more restrictive than expected) sanctions differed systematically from their non- or downwardly deviated peers across a range of variables. We also explored the role race played in any group differences. Based upon a review of the literature, we formulated the following hypotheses:

Hypothesis 1: Consistent with nationwide trends, a race bias (disfavoring racial/ethnic minorities) would be evident for juveniles receiving more restrictive than expected sanctions.

Hypothesis 2: Reflecting existing research, juveniles who received more restrictive than expected sanctions would have committed offenses of greater severity, and/or would have more violence in their histories than their lesser-sanctioned peers.

Hypothesis 3: Youth receiving more restrictive than expected sanctions would show a higher level of mental health/psychosocial problems relative to their lesser-sanctioned peers.

2. Enacted in 1995 as the *Progressive Sanctions Guideline*, this law was amended in 2003, eliminating the reporting requirement and reframing the paradigm as a “model” with recommended but not mandated sanctions. See http://www.lbb.state.tx.us/PubSafety_CrimJustice/6_Links/bmarkimpact.pdf and <http://www.senate.state.tx.us/src/pdf/78thhighlights.pdf> (pg. 54).

Table 1. Offense, Sanction, and Severity Levels

Offense Classification	Recommended Sanction	Sanction Level	Offense Severity Rating
• Administrative Action	N/A	N/A	0
• Class C Misdemeanor • CINS (Child in Need of Supervision) Offenses/ Status Offenses • City Ordinance Violations • Violation of Probation	Supervisory Caution/ Counseling	1	1
• Expulsion from Alternative Education Program • Class A or B Misdemeanor not involving a weapon • Contempt of municipal or justice court	Deferred Prosecution	2	2
• Any misdemeanor using a weapon • State Jail Felony • Third Degree Felony	Court Ordered Probation and/or Residential (Non-Secure) Treatment	3	3 (Misdemeanor A) 4 (State Jail Felony) 5 (3 rd Degree Felony)
• Second Degree Felony	Intensive Supervision & Probation (ISP)	4	6
• First Degree Felony not involving use of a deadly weapon or serious bodily injury	Secure Residential Placement	5	7
• First Degree Felony involving use of a deadly weapon or serious bodily injury • Aggravated Controlled Substance offense • Capital Felony	Commitment to Youth Correctional Facility	6	7
• First Degree Felony involving use of a deadly weapon or serious bodily injury • Aggravated Controlled Substance offense • Capital Felony	Determinate Sentence to Youth Correctional Facility or Certification to Criminal Court	7	8

METHOD

As noted, the primary goal of this study was to determine which variable or combination of variables best predicted receiving a more restrictive than expected sanction. A secondary goal was to investigate the role race played across all variables.

Design

Potential sanction levels ranged from one through seven (see Table 1). Each adjudicated youth's case was evaluated and three sanction scores computed (i.e., the sanction actually received per the disposition, the recommended sanction per the guideline, and the difference between the two, or deviation score). The groups, as depicted by the sanction deviation matrix (Table 2), yielded the following results: Upwardly deviated (UP) youths formed the largest group ($n = 1,461$); non-deviated (NON) were second largest ($n = 1,110$), and downwardly deviated (DOWN) ($n = 215$) comprised the smallest group. For conceptual reasons, and because of the small number of downwardly deviated youth, NON and DOWN groups were combined for analysis (NON/DOWN, $n = 1,325$ or 47.6%), and compared to the upwardly deviated group (UP, $n = 1,461$ or 52.4%).

Table 2. Sanction Deviation Matrix

Sanction Expected (Guideline)	Sanction Given (Disposition)							Total # Youth
	1	2	3	4	5	6	7	
1	434	2	1	0	0	0	0	437
2	10	107	907	257	38	0	0	1319
3	0	7	397	165	25	3	0	597
4	1	2	138	158	21	3	15	338
5	0	0	7	4	0	0	0	11
6	0	0	23	9	14	13	24	83
7	0	0	0	0	0	0	1	1
Total # Youth	445	118	1473	593	98	19	40	2786

Note. Numbers on the clear diagonal are non-deviated juveniles (NON group, $n = 1110$); light shading in the upper right reflects upwardly deviated youth (UP group, $n = 1461$); those in the darkest shaded section in the bottom left are downwardly deviated juveniles (DOWN group, $n = 215$)

The juveniles receiving non-deviated and downwardly deviated sanctions were combined in the design and analyses for two main reasons. Conceptually, the research question concerns itself primarily with those juveniles receiving sanctions that are more restrictive than would be expected based on the guideline (UP group). Additionally, given the relatively few cases falling into the downwardly deviated group, including this group in a polychotomous or multinomial analysis would cause model-fitting problems as the result of the considerably unequal group sizes and a large number of zero-filled probability cells.

Thus, the dependent variable for binary logistic regression analyses comprised: (a) UP Group: youth receiving more restrictive than recommended sanctions, and (b) NON/DOWN Group: youth receiving the recommended level of sanction, combined with those receiving less than the recommended sanctions.

Sample

Archival data were collected for a cross-sectional sample of first-time male offenders receiving a disposition in 2002, in a large urban jurisdiction in the southwest United States. Youth receiving an informal disposition (Sanction Level 1 or 2), as well as those receiving a court decision (Level 3 through 7) were included in analyses. Initially, the data yielded 2,825 juveniles who received a disposition. Three racial/ethnic groups together comprised only 1.3% of the total (American Indian 0.6%; Asian 0.5%; Other 0.2%). These cases ($n = 39$) were excluded from analyses because of insufficient numbers. The final sample comprised 2,786 racially and ethnically diverse first-time male juvenile offenders who were equally distributed across UP, NON, and DOWN groups: Black ($n = 928$ or 33.3%); Hispanic ($n = 911$ or 32.7%); and White ($n = 947$ or 34%). Juveniles ranged from 10 to 17 years of age, with a mean of 14 years ($Mdn = 15$, $SD = 1.42$).

Procedures

Archival data were available for the entire sample for the following variables: demographics, offense, disposition, sanction and related legal factors ($N = 2,786$). Mental health and psychosocial data were available for a much smaller subsample ($n = 188$). It has been suggested that 10-20 cases per variable are sufficient for regression, although some urge as many as 50 (Aldrich & Nelson, 1984). In the current study, all analyses far exceeded the more restrictive criterion except for mental health/psychosocial variables which contained 23 cases per variable ($n = 188$). Because this research was conducted in vivo, utilizing real world agency data, variables of interest were chosen based on theoretical importance and practical availability.

Sanction computations. The state offense code table (comprising 814 possible offenses) was reviewed and each offense description assigned a value (1 through 7) based on recommended sanctions outlined by the progressive sanction guidelines (Table 1). Next, a code table of all possible court dispositions and referral recommendations (totaling approximately 120) was reviewed and assigned sanction values also linked to the guidelines protocol. Thus, the result was a sanction matrix of all possible offenses, all potential dispositions, and the corresponding guideline sanction value that attached.

Three sanction scores were created for each juvenile. To determine the *sanction expected* score, the offense charge was evaluated and assigned the guideline recommended sanction level. A *sanction given* variable was created based on the actual disposition. Finally, a *sanction deviation* score was calculated for each juvenile by subtracting the value of *sanction expected* from the value of *sanction given*. Deviation scores ranged from -3 to +3. Those youth with deviation scores from -3 to -1 comprised the DOWN group. Youth with deviation scores of zero (0) were non-deviated (NON group). The youths with positive deviation scores (+1 to +3) comprised the UP group (Tables 2, 3).

Measures

Demographic. Only males were studied, therefore, two variables were employed for demographic information: *Age at offense* (range 10-17) and *Race* (Black, Hispanic, and White) ($N = 2,786$).

Legal and offense-related variables. Several legal variables were available (e.g., *Offense category*, *Offense description*, *Offense charged*, *Referral recommendation*, *Court decision*, *Disposition*, *Type of placement facility*); some were used directly in analyses but others contributed to the creation of a new variable. For example, a new variable called *Offense severity* (range 0-8) was created and assigned to each offense code category ($N = 2,786$) (Table 1).

Mental health and psychosocial variables. An internal agency-designed measure of psychological and psychosocial functioning and risk factors was available for a subset of juveniles. This agency measure comprised a very broad range of factors relating to mental health and psychosocial functioning and included 80 input fields on 14 subscales (not all of which were usable) (Table 4). The variables for which sufficient data were available and thus considered for inclusion were: *family problems*, *delinquent history*, *parental supervision* [inadequate], *relationships*, *peers*, *school behavior*, *substance abuse*, *general history of psychosocial problems*, *school behavior*, and *violence history* (this violence item was self- or parent-reported and not based on official records). It must be noted that this agency measure was developed upon intuitive variables of interest, but has not been empirically validated and is used generally to inform potential placement decisions (i.e., sanction levels 3-7). The possible range of scores varied, but typically fell between 0 and 5 on most subscales. Scores on this measure were subjectively assessed by probation officials or reported by juveniles or family members.

Table 3. Distribution for Sanction Deviation Levels by Race

Race		Sanction Deviation Level							of Total
		-3	-2	-1	0	+1	+2	+3	
Black	Count	7	5	53	376	374	95	18	928
	% at Level	29.2	27.8	30.6	33.9	33.4	33.2	32.1	
Hispanic	Count	7	9	51	354	368	102	20	911
	% at Level	29.2	50.0	29.5	31.9	32.9	35.7	35.7	
White	Count	10	4	69	380	377	89	18	947
	% at Level	41.7	22.2	39.9	34.2	33.7	31.1	32.1	
Total	Count	24	18	173	1110	1119	286	56	2786

Note. $\chi^2(12, N = 2786) = 7.956, p = 0.789, \Phi = .053$

Table 4. Agency Mental Health/Psychosocial Measure Subscales

Subscale	Examples of items assessed
Appearance	Depressed, disoriented
Violence History	Verbal threats, assaultive, destruction of property, injured person/pet/animal
Delinquent History	Arson, lying, cheating, frequent stealing
Self Image	Very negative, does not fit in
Substance Abuse	Evidence of weekly or often use of cocaine, marijuana, inhalants etc.
Abuse	As victim: sexual/physical/emotional
Developmental	History of developmental lags, bedwetting
Education	Attending alternative or public school, dropped out
Attendance	Chronic truancy
Relationships	Non-supportive, lack stability
School Behavior	Infractions, participation
Academic	Grades repeated, learning disabled, below grade
Parental Supervision	Inconsistent/ineffective discipline, no supervision, encourages delinquency
Family Problems	Parental criminality, substance abuse, marital discord, gang involvement

Dependent variables. For primary binary logistic regression analyses, the dependent variable was the naturally formed sanction deviation group membership (i.e., UP and NON/DOWN).

In secondary analyses investigating potential differences among racial/ethnic groups, the dependent variables were those variables that varied as a function of race (e.g., *age at offense*, *offense severity*, *type of placement*).

Independent variables. For the primary analyses, the independent variables were those that predicted (or not) sanction deviation group membership (e.g., *race*, *age at offense*, *offense severity*, *parental supervision*, *violence history*). In secondary analyses of potential racial group differences the independent variable was *race*.

RESULTS

Results revealed that when sanctions deviations did occur, they were, for the most part, modest and did not involve large departures from the guideline. The average deviation was less than one sanction level (+0.57). The largest deviated group ($n = 907$), received probation (level 3) as opposed to the expected sanction of deferred prosecution (level 2) (see Table 2). Additionally, race/ethnicity was *not* a predictor of receiving a more restrictive than expected sanction; however, variables related to offending (*offense severity*, *history of violence*), *age* (older), and *parental supervision* (inadequate) were significant predictors of such departures.

Hypothesis 1: The average sanction deviation for the entire sample was less than one sanction level (+0.57) ($Mdn = +1.00$, $Mode = +1.00$) (Table 3). Contrary to expectations, *race* did not emerge as a significant predictor of UP group membership. A forward binary logistic regression was conducted ($N = 2,786$) to determine which demographic variables predicted UP group membership; only *age at offense* entered into the model, which was significant ($\chi^2(1) = 8.893$, $p = .003$), and resulted in an overall classification success rate of 54.1%. However, this model explained less than one half of one percent of the variance between groups (Nagelkerke $R^2 = .004$). For every one year increase in the variable *age at offense*, the likelihood of being in the UP group increased by 8.3% ($\text{Exp}(\beta) = 1.083$) (Table 5).

Table 5. Logistic Regression Results for Demographic Variables

<i>Variable</i>	<i>B</i>	<i>S.E.</i>	<i>Wald</i>	<i>Score</i>	<i>df</i>	<i>Sig.</i>	<i>Exp(β)</i>	95% C.I. for <i>Exp(β)</i>	
								Lower	Upper
VAR(S) ENTERED									
AGE @ OFF	.080	.027	8.861		1	.003	1.083	1.028	1.141
Constant	-1.044	.385	7.339		1	.007	.352		
VAR(S) NOT ENTERED									
WHITE				1.558	2	.459			
BLACK				0.139	1	.709			
HISPANIC				0.730	1	.393			
Overall				1.558	2	.459			

Hypothesis 2: We expected that juveniles who received more restrictive than expected sanctions would have committed offenses of greater severity and have more violence in their histories than their lesser-sanctioned peers. This hypothesis was supported in an unexpected manner: Both *offense severity* and *violence history* were significant predictors, but *offense severity* was negatively associated. A forward binary logistic regression ($n = 218$) considered for inclusion the variables *offense severity*, *violence history*, *delinquent history*, and *school behavior*. Regression results indicated *violence history* and *offense severity* were statistically significant predictors in the model ($\chi^2(2) = 54.424, p < .001$), resulting in an overall classification success rate of 78%. This model explained a sizable 30% of the variance between groups (Nagelkerke $R^2 = 0.299$) (Table 6). Accordingly, results indicate that for every one unit increase on the *violence history* subscale, the likelihood of being in the UP group increased by 29% ($\text{Exp}(\beta) = 1.285$). The negative coefficient on *offense severity* however, indicated for every one unit increase, the likelihood of being in the UP group actually *decreased* by 43% ($\text{Exp}(\beta) = .572$). In other words, increasing *offense severity* was associated with being in the non- or downwardly deviated group (as opposed to UP). Because the result obtained for the *offense severity* variable demonstrated an inverse relationship with UP group membership, further analyses were carried out. Results of descriptive analyses revealed the following: the downwardly deviated group ($n = 215$) actually had the highest *offense severity* values ($M = 6.01, Mdn = 6, Mode = 6$); the next group was non-deviated ($n = 1,110$) with overall mid-range values ($M = 3.04, Mdn = 4, Mode = 1$). The upwardly deviated group ($n = 1,461$) had the lowest overall *offense severity* values of the three groups ($M = 2.75, Mdn = 2, Mode = 2$). (See p. 31 for further discussion.)

Table 6. Logistic Regression for Offending Variables

<i>Variable</i>	<i>B</i>	<i>S.E.</i>	<i>Wald</i>	<i>Score</i>	<i>df</i>	<i>Sig.</i>	<i>Exp(β)</i>	95 % C.I. for <i>Exp(β)</i>	
								Lower	Upper
VAR(S) ENTERED									
VIOLENCE Hx	.250	.084	8.966		1	.003	1.285	1.090	1.514
OFF SEVERITY	-.559	.097	33.101		1	<.001	.572	.473	.692
Constant	2.087	.397	27.603		1	<.001	8.060		
VAR(S) NOT ENTERED									
SCHOOL BEH				1.184	1	.178			
DELINQ_HISTORY				1.870	1	.171			
Overall				4.268	2	.118			

Hypothesis 3: We wondered whether youths receiving more restrictive than expected sanctions would show pronounced need in mental health/psychosocial domains that are present to a significantly lesser degree in the NON/DOWN group. Only *parental supervision* emerged as a significant predictor of UP group membership. Variables considered for inclusion were: *family problems, delinquent history, parental supervision, relationships, peers, school behavior, substance abuse, and general history of psychosocial problems*. Binary logistic regression results ($n = 188$) indicated only one variable, *parental supervision*, was entered into the model ($\chi^2(1) = 6.708, p = .010$), correctly classifying 58.0%. This model explained only 5% of the variance between groups (Nagelkerke $R^2 = .047$). For every one unit increase on the *parental supervision* subscale, the likelihood of being in the UP group increased by 15% ($\text{Exp}(\beta) = 1.156$) (Table 7).

Secondary Research Question - Race: After looking at predictors for UP group membership, we wanted to explore the issue of race further by decombining the original sanction deviation grouping and reforming three groups based on race (Black, $n = 928$; Hispanic, $n = 911$; White, $n = 947$). We then submitted variables of interest to analyses ($N = 2,786$). Contrary to expectations, the majority of results indicated no significant differences among racial groups across a number of variables; the only exception was *age at offense*.

Sanction Group by Race: Races were evenly represented in the UP and NON-deviated groups; the DOWN group showed a slightly greater percentage of Whites (38.6%) compared to Blacks (30.2%) or Hispanics (31.2%). However, differences were non-significant ($\chi^2(4, N = 2786) = 3.095, p = 0.542, \Phi = .033$).

Table 7. Logistic Regression for Psychosocial Variables

<i>Variable</i>	<i>B</i>	<i>S.E.</i>	<i>Wald</i>	<i>Score</i>	<i>df</i>	<i>Sig.</i>	<i>Exp(β)</i>	95% C.I. for <i>Exp(β)</i>	
								Lower	Upper
VAR(S) ENTERED									
PARENTAL SUP	.145	.055	7.032		1	.008	1.156	1.039	1.286
Constant	-.227	.233	.949		1	.330	.797		
VAR(S) NOT ENTERED									
FAMILY PROB				.043	1	.835			
HISTORY				.055	1	.815			
PEERS				.021	1	.885			
RELATIONSHIPS				.050	1	.823			
SCHOOL BEHAV				3.048	1	.081			
SUBST ABUSE				2.027	1	.155			
Overall				4.444	6	.617			

Sanction Deviation Level by Race: Crosstabulation of *sanction deviation* levels (i.e., deviation groups -3 through +3) by *race* revealed comparable numbers in each category and no significant differences by race ($\chi^2(12, N = 2786) = 7.956, p = 0.789, \Phi = .053$) (Table 3).

Placement Facility Type by Race: Crosstabulation of *placement type* by *race* revealed that only a small percentage of all youth (227 or 8% of 2,786) received placements of any kind (secure or residential). A total of 150 youth were retained in secure settings, whereas 77 were placed in residential facilities. There were no significant differences by race ($\chi^2(4, N = 2786) = 5.408, p = 0.248, \Phi = .044$) (Table 8).

Offense Severity by Race: The average *offense severity* rating (0 – 8) for all youth was 3.12 ($SD = 1.715$). Racial group means were closely aligned: Black ($M = 3.13, SD = 1.696$); Hispanic ($M = 3.09, SD = 1.689$); and White ($M = 3.13, SD = 1.759$). A one-way ANOVA was nonsignificant ($F(2, 2783) = 0.196, p = .822, \eta^2 = .00014$).

Sanction Expected and Given, by Race: *Sanction expected* scores ($M = 2.43, SD = 1.09$) are largely a function of *offense severity* and thus, a finding of nonsignificance ($F(2, 2783) = 0.327, p = .721, \eta^2 = .00024$) was not surprising. However, because *sanction given* ($M = 3.0, SD = 1.15$) is somewhat discretionary, we examined this variable to see if it varied by race. An ANOVA was nonsignificant ($F(2, 2783) = 0.166, p = .847, \eta^2 = .00012$).

Table 8. Placement Facility Type by Race

Race	Placement Facility Type			Total
	Residential	Secure	None	
Black				
Count	31	45	852	928
% Within facility type	40.3	30.0	33.3	
Hispanic				
Count	28	55	828	911
% Within facility type	36.4	36.7	32.4	
White				
Count	18	50	879	947
% Within facility type	23.4	33.3	34.3	
Total	77	150	2559	2786
% of Total N	2.8	5.4	91.9	100.0

Note: $\chi^2(4, N = 2786) = 5.408, p = 0.248, \Phi = .044$

Age at Time of (First) Offense by Race: The variable *age at offense* (range 10 – 17) had an overall mean of 14.35 years ($SD = 1.424$). *Levene's* statistic suggested unequal variances so *Welch's* computation was employed; results were significant (Welch's $F(2, 1850.536) = 17.296, p < .001$). Black youth in our study were statistically significantly younger at first offense ($M = 14.12, SD = 1.516$) than White ($M = 14.49, SD = 1.406$) or Hispanic juveniles ($M = 14.45, SD = 1.313$); there was no significant difference between Hispanic and White youth. However, although significant, in practical terms the difference was a matter of months, and *age* accounted for only 1% of the variance ($\eta^2 = .01324$).

DISCUSSION

Contrary to expectations race was *not* a predictor of upward departures from sentencing guidelines whereas offense-related variables, age, and inadequate parental supervision *were* significant predictors of such departures. No race differences were found across variables—with only one exception: age at first offense. Significant predictors of UP group membership included both offending-related characteristics (i.e., *violence history*) as well as psychosocial need (*parental supervision*). *Age at (first) offense* was a significant posi-

tive predictor of UP group membership, and was the only variable for which a small but significant racial group difference was found (Black youth being youngest).

Findings for Race

As noted, we did not find evidence of racial bias in upward deviations. Relative to the rest of the nation, the southwest United States is unique in its rich racial and ethnic diversity and this was reflected in our sample. In 2000, the county under study was 33% Hispanic (twice the national average); Blacks represented 19% (compared to 12% nationally), with Whites making up 59% (versus 75% nationwide) (U.S. Census Bureau, online). In our sample of juveniles, Hispanic youth comprised 32.7%, Blacks 33.3%, and Whites 34.0% of the total. Many scholars lament the absence of data distinguishing minority groups (i.e., many studies report only White and non-White categories) (Bishop, 2005)—the current study was able to address that problem. Consistent with most reports, Black youth were overrepresented and Whites underrepresented in our sample—but the same cannot be said of Hispanic youth relative to the jurisdiction. This unique fact, along with the ability to analyze large numbers of Black and Hispanic youth separately, allow for some insight into an important, fast growing population.

The most parsimonious explanation for the absence of a race effect in these juvenile dispositions may be that there exists no systemic bias within the jurisdiction under study; however, a few alternative hypotheses must be considered. The fact that this study analyzed data from first-time offenders means that court and related personnel were unlikely to have had much, if any, prior contact with the youth. Research has shown a cumulative effect for disparate treatment (Redding & Mrozski, 2005), and so, subsequent follow up studies of juvenile offender trajectories will assess for that. This sample represented only those youth receiving a disposition in 2002; it is possible that results from this year are not representative of dispositions from other years (for example, before concerted media attention focused on DMC-related issues). Additionally, whatever occurred prior to the youth entering the system is unknown (i.e., whether some youth were subject to disproportionate police contact, and the potential effects of that). Finally, as is the case whenever working with real-world agency data, the information obtained may have been unrepresentative of the larger population in unknowable ways. However, there was no evidence to suggest that any bias influence operated systematically on data or analyses.

Findings for Offense and Violence Related Variables

We hypothesized that juveniles receiving more restrictive than expected sanctions would have committed more severe offenses or exhibited more violent histories as measured by several psychosocial scales tracked by juvenile justice personnel. Both *offense severity* and *violence history* variables were included in the final model that correctly classified 78% of the sample and accounted for a sizable 30% of the variance between groups. This finding conformed to expectations that a behaviorally disturbed and violent history might be associated with a perception of elevated risk, thus prompting a more restrictive than expected sanction. Interestingly however, its model-mate, *offense severity*, exhibited a significant *inverse* relationship. Because this finding at first appeared non-intuitive, the

variable was submitted to further inspection. Descriptive analyses revealed a clear inverse pattern within the three levels of sanction groups.

As the sanction matrix illustrates (Table 2), for offenses of greater severity there is simply less “room” to deviate upwardly as the maximum sanction is a level 7. Thus, available disposition options for most high-level severity offenses are to be (a) non-deviated or (b) downwardly deviated. Additionally, for offenses of greater severity, when legal stakes are higher, there is much less judicial discretion and thus less likelihood of deviating in either direction from guidelines. Also true for low-level offenses (1-2), constrained by legal process and protections, there is likely to be less deviation. However, when deviation does occur for lower-level offenses, it must necessarily be in an upward direction. Inspection of the sanction matrix bears this out; there is relatively little deviation at either end of the spectrum. Indeed, the greatest discretion falls in the mid-ranges (levels 3-5), and this is precisely where we see the greatest deviation (albeit small, representing approximately half of one level). Thus, the inverse pattern created by variable *offense severity* is what would be expected given the structure of the sanction guideline and legal process factors. The inverse relationship between *offense severity* and upward deviation may also reflect an acknowledged agency preference in the disposing of juveniles to *community supervision* (level 3) instead of the more costly and stigmatizing *intensive supervision and probation* (level 4). This preference would result in such juveniles being categorized as downwardly deviated in the sanction matrix.

Ultimately, for the current sample under study, first-time offender Black and Hispanic male youth did *not* receive disparate sanctions for similar offenses, when compared to their White peers. Nor was there evidence of differences in *offense severity* among racial groups. Most youth committed low level offenses (Misdemeanor B and Status Offenses), for which they received community supervision (level 3). We also failed to find any significant differences by race in placement decisions for youth (residential vs. secure); indeed, the vast majority of youth (92%) were *not* given an out-of-home placement.

Findings for Mental Health and Psychosocial Variables

A range of variables addressing functioning in mental health and psychosocial domains was submitted to analyses. Although conceptually relevant, this data must be viewed with caution as sample size was small ($n = 188$), data were self-reported or subjectively assessed, and the agency measure has not been empirically validated. Only one subscale emerged as a significant predictor of upward deviation from sanction guidelines: *parental supervision*. Every one point increase on the *parental supervision* scale increased the odds of being in the upwardly deviated group by 15%.

Although it is less clear why none of the other variables entered into the model, the inclusion of the *parental supervision* variable is striking given its established empirical link to developmental risk factors for juvenile delinquency (see Herrenkohl et al., 2000). The fact that this variable—not a behavior or characteristic over which a juvenile has control—significantly predicts his membership in the UP group should be of concern to juvenile justice administrators. Prior research has well established the link between poor supervision

and offending history of caregivers, and a juvenile's own propensity to become delinquent (e.g., Lipsey & Derzon, 1998). Our findings offer tentative support for the idea that not only can deficient parenting influence the development of delinquency, but it may actually place a child at risk of receiving more restrictive than recommended sanctions. It could be argued the system was responding to its *parens patriae* obligation and, in the absence of adequate parental supervision, assumed the guardian role in the only manner it is capable of doing (by inflicting a greater degree of state supervision). However, interpretation of this finding must be cautious, as the agency measure is typically used for those juveniles already being considered for placement (i.e., sanction levels 3-7) and thus would not generally include those juveniles disposed of informally (levels 1-2).

Non-significant Findings

The failure of some variables to emerge as significant predictors (e.g., *negative peers, school behavior, family problems, and substance abuse*) should be considered in light of what this study primarily attempted to determine. There is an abundance of research implicating a host of variables in delinquency; however, this study did not test for the mere presence of psychosocial problems or need but rather asked whether *upwardly deviated* juveniles possessed these characteristics to a greater degree than lesser-sanctioned peers. Thus, the absence of significant findings is not to say that the problems were not present in the sample, but rather they did not *distinguish* between groups.

Limitations

There were several limitations to this study that must influence interpretation and directions for future research. First, the purpose of this investigation was to formulate rather than test predictive models; the exploratory nature of this study should guide interpretation of the results. Stepwise logistical regression was utilized to test for associations among variables identified in the literature as having some relationship with delinquency. What was unknown was whether any of these variables could predict receiving *more restrictive than recommended* sanctions. Thus, our findings should be considered preliminary. Second, the choice of youths to include was selective; only male first-time offenders adjudicated in a large, urban jurisdiction in 2002 were included. A longitudinal study, tracking this cohort of juvenile offenders, will provide much more detail and allow for multi-stage analyses, something which scholars agree is critical (Bishop, 2005). Finally, although mental health and psychosocial data provided by the host agency were plentiful, it was not all usable, empirically validated, or necessarily representative. Some critical information was not available (e.g., mental health treatment records, history of prior hospitalizations, family income data). Without this larger context, it is impossible to determine the impact of unmet need on dispositional outcomes (especially relative to placement decisions). Additionally, within agencies where numerous data entry ports are available, data quality may be compromised. For these reasons, caution is called for when generalizing beyond the current sample.

Future Research

The issue of disparity has dominated the past two decades and appears positioned to continue its central role in national research endeavors. Disparity, in any form, is an issue worthy of concerted investigation. However, within the juvenile justice system with

its emphasis on individualized dispositions, it is critical to consider the whole picture, not simply one facet of a multifaceted problem. In some cases, disparate outcomes may be the result of systemic bias in the system proper; in other cases, dispositional variation may be the result of limited community-level resources and the court's attempt to address the need exhibited by many troubled youth. In most cases, it is likely to be the result of a combination of legal and extralegal factors, interacting and being influenced by still other factors. Research in this area must incorporate a wide-angle view of the juvenile-in-context. At a minimum, the following elements should be considered: (a) multiple decision points in the process; (b) detailed offense, sanction, and related legal data; (c) psychosocial and mental health history; (d) detailed socioeconomic and school record data; (e) non-aggregated race/ethnicity data; and (f) the jurisdiction's response capability (i.e., whether there exists a range of community-based resources or if the only or best options that exist are within state custody). Some researchers insist that including community level factors is essential when attempting to tease apart the predictors of disparity manifested in the juvenile justice system (Freiburger & Jordan, 2011). What is clear is that without a wide-angle view of the embedded context, sanction data alone may be meaningless at best or misleading at worst.

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