



IMPLICIT BIAS: WHY IT MATTERS FOR YOUTH JUSTICE

A National Juvenile Justice Network Snapshot*

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Bias against youth of color has deep historical roots in this country with overrepresentation of black youth and disparities in treatment originating with the first juvenile court's inception.¹ The view of youth of color as different and deserving of harsher treatment was intensified in the 1980s with the perpetuation of the "superpredator" myth—that a new breed of brutal youth, commonly viewed as youth of color, were going to terrorize the country.² Disparate treatment of youth of color is no doubt impacted by the racism that continues to infect our society—most recently and glaringly represented by the August 2017 demonstration by white supremacists in Charlottesville, Virginia. While explicit and structural racism contribute to the widespread racial and ethnic disparities in the juvenile justice systems across the country, a more insidious contributor to this problem is that of implicit bias. This snapshot will provide a brief overview of this issue as well as resources to find more information.

Racial and Ethnic Disparities

Even though white youth and youth of color engage in illegal behavior at similar rates, substantial over-representation of youth of color in the juvenile justice systems across our country and disparities in treatment remains a serious problem. In 2015, youth of color comprised a majority (69 percent) of the more than 47,000 youth incarcerated on any given day, and were significantly more likely to be incarcerated than white youth—black youth were 5 times as likely, Native American youth were 3.1 times as likely, and Latino youth were 1.6 times as likely to be incarcerated as white youth.³ When the data is broken down by [decision point](#) in

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the juvenile justice system, it shows over-representation of youth of color throughout the process from arrest through court referral and placement out of home.⁴ Comprehensive assessments have also found that youth of color with similar offenses and offense histories as white youth receive disparate and harsher treatment—for example, researchers found that black youth with no prior admissions to state facilities were nine times as likely to be committed to state facilities as white youth with no prior admissions.⁵

Differing rates of delinquency among youth of different races and ethnicities do not explain the vast disparities in their involvement at various points in the juvenile justice system.⁶ 2015 survey data compiled by the Centers for Disease Control and Prevention (CDC), shows that black, Hispanic, and white youth are engaged in illegal behaviors at similar rates.⁷ If we view our juvenile justice system as a maze in which there are many entrances in but far too few exits out, for youth of color the entrances are multiplied and the exits out are blocked.

What is Implicit Bias?

Implicit bias has been defined as “the attitudes or stereotypes that affect our understanding, actions, and decisions in an unconscious manner.”⁸ When thoughts or feelings are implicit, we are unaware of them. We are relying on “cognitive shortcuts” to filter information and categorize people according to cultural stereotypes.⁹

Implicit biases are significant because everyone possesses these unconscious associations and they cause people to behave in automatic ways that may not correspond with their conscious values.¹⁰ For example, researchers have found that white people have a “white preference,” meaning that they associate white faces more quickly with positive words and African-American faces with negative words.¹¹ Multiple studies have found that those with higher negative implicit bias levels towards African-Americans were more likely to categorize them as holding a weapon when they, in fact, were not.¹²

Distorted Perceptions of Youth of Color

Recent studies have found that adults have distorted perceptions of both male and female youth of color. In a 2014 study by Prof. Phillip A. Goff and colleagues, they found that study participants viewed black boys as older and less innocent than white boys and Latino boys beginning when youth were ten years old.¹³ When investigating police officer responses in particular, Goff found that officers overestimated the age of black and Latino male youth suspects, though not of white youth, and overestimated black youths’ ages the most. Police assumed that black youth suspected of felonies were 4.59 years older than they actually were, meaning a thirteen-year-old male would be viewed as an adult. In contrast, officers actually underestimated the age of white felony-level youth suspects by a year.¹⁴

Georgetown Law’s Center on Poverty and Inequality examined adult perceptions of the age and innocence of black girls and found that adults held distorted perceptions of these youth as well.¹⁵ Beginning as early as five years old, participants viewed black girls as behaving and seeming

older than their stated age and as more knowledgeable about adult topics – including sex. Participants viewed black girls as more adult than white girls and as needing less protection and nurturing than white girls. These studies lend support to the theory that decision makers, such as police, probation officers, and prosecutors, may treat youth of color more harshly than white youth in part because of this implicit bias to ignore developmental immaturity in youth of color.¹⁶

How Implicit Bias Impacts the Justice System

The pervasiveness of negative stereotypes about youth of color in America has led many people to “consciously or subconsciously associate black youth with crime and dangerousness.”¹⁷ In a 2012 Stanford University study, researchers found that study participants were more in favor of harsh sentences for a young person when primed to believe the youth was black than when they thought the youth was white. This was true even when controlling for the participants’ political ideology and evidence of racial bias.¹⁸

Juvenile Justice System Stakeholders

Juvenile justice system stakeholders are not immune to this problem. Studies have found “evidence of bias in perceptions of culpability, risk of reoffending, and deserved punishment for adolescents when the decision maker *explicitly* knew the race of the offender.”¹⁹ These biases likely influence the day-to-day behavior of justice system stakeholders. Below are descriptions of these studies:

Implicit Bias Study of Police and Probation Officers

- Graham and Lowery designed two studies to examine the impact of implicit racial biases of police and probation officers on perceptions of youths’ culpability, responsibility, blameworthiness, and expected recidivism.²⁰
 - Both police and probation officers judged hypothetical offenders that they had been primed to believe were African-American as less immature, more culpable, and more deserving of punishment.
 - These conclusions were consistent across the decision makers’ ethnicity and gender and stated consciously held prejudices or desires to avoid prejudice.

Implicit Bias Study of Probation Officers

- In a 1998 study, researchers George S. Bridges and Sara Steen examined why African-American youth with similar delinquency histories who were charged with the same offenses as white youth received harsher sentencing recommendations. They found that:²¹
 - Probation officers were more likely to see the offenses of youth of color as caused by individual failings, such as inadequate moral character, for which state intervention was the only solution;

- Probation officers were more likely to view offenses committed by white youth as caused by “external forces,” such as a poor home life and lack of appropriate role models.

Judges

In a study of 133 judges from three different jurisdictions across the country, the researchers found that implicit racial biases were widespread among judges and that these biases can influence their judgment. However, when the judges were made aware of the need to monitor their responses for the influence of implicit racial biases, they were often able to do so in the laboratory setting. Whether this understanding would enable them to avoid bias on a continual basis in their own courtrooms was unclear.²²

What Can Policy Advocates Do?

Policymakers and the public need to be educated on the effects of implicit racial biases in the juvenile justice system. Advocates should further ensure that when youth policies are developed, they recognize and account for the likely influence of implicit racial bias as well as identify and account for the impact of the policy on youth and communities of color. Advocates and policymakers should ask the questions below as they endeavor to reform the justice system – and we encourage the use of this [“Race Equity and Inclusion Guide”](#) as a tool to assist you in asking these questions:

- Stakeholders — who was at the table and who should have been at the table in developing the policy?
- Data — was the data used to develop the policy sufficient? If not, what other data should have informed the policy?
- Policy analysis — does the policy take into account the root causes of the problem it is trying to address?
- Implicit bias — does the policy manage the presence of implicit bias in stakeholders, by structuring or putting checks on their decision-making?
- Implementation — does the implementation plan incorporate checks on implicit bias through oversight, training, or data collection? Who should be involved in crafting the implementation and evaluation plans?

For More Information

- The Juvenile Justice Information Exchange section on [“Racial-Ethnic Fairness”](#) outlines this issue and provides additional information and resources.
- The Ohio State University’s [Kirwan Institute for the Study of Race and Ethnicity](#) is a comprehensive source of information and research reports on implicit bias. See their most recent [Implicit Bias Review](#) from 2016 for academic literature on the topic.
- The Annie E. Casey Foundation’s [“Race Equity and Inclusion Action Guide”](#) details seven key steps to advance race equity and inclusion.

- The Center for Children’s Law and Policy’s [Racial and Ethnic Disparities Reduction Practice Manual](#) provides practitioners with concrete guidance and strategies, downloadable tools and resources, and examples of successful reform work in jurisdictions throughout the country.
- See Prof. Kristin N. Henning’s article, [“Criminalizing Normal Adolescent Behavior in Communities of Color: The Role of Prosecutors in Juvenile Justice Reform,”](#) for a discussion and analysis of recent studies on implicit bias, the impact of race on perceptions of adolescent culpability, and how prosecutors can forge a path forward for reform; and see her [Annotated Bibliography on Race and Adolescent Development](#) for details on resources confirming that adolescent development manifests in similar behavior across racial and socio-economic lines.
- The Centers for Disease Control and Prevention’s (CDC) 2015 report on self-reported youth risk behavior can be found [here](#).
- Harvard’s Project Implicit provides a virtual laboratory for collecting data on the public’s implicit biases. You can take an Implicit Association Test (IAT) at [this link](#).
- The study by Prof. Jeffrey J. Rachlinski, et. al, on implicit biases among trial court judges can be found [here](#).
- [“The Essence of Innocence: Consequences of Dehumanizing Black Children”](#) by Prof. Phillip A. Goff, et. al., researched implicit racial biases among adults and police officers.
- [“Girlhood Interrupted: The Erasure of Black Girls’ Childhood”](#) reports on the Georgetown Law Center on Poverty and Inequality’s study showing that adults view black girls as less innocent and more adult-like than their white peers.

¹ James Bell, “Repairing the Breach: A Brief History of Youth of Color in the Justice System” (The W. Haywood Burns Institute for Youth Justice Fairness & Equity, 2016): 10- 12, <http://bit.ly/2g2LHMV>.

² Bell, “Repairing the Breach,” 15-16.

³ Data was compiled by The Burns Institute from data provided by the Office of Juvenile Justice and Delinquency Prevention from their one-day count data which shows how many youth are detained, committed, or otherwise sleeping somewhere other than their home by court order on any given day in a particular year. The W. Haywood Burns Institute, “Unbalanced Juvenile Justice,” accessed Aug. 17, 2017, <http://data.burnsinstitute.org/about>.

⁴ C. Puzzanchera and S. Hockenberry, “National Disproportionate Minority Contact Databook” (Developed by the National Center for Juvenile Justice for the Office of Juvenile Justice and Delinquency Prevention, 2016), accessed Aug. 17, 2017, <http://bit.ly/2vm0cgz>.

⁵ Center for Children’s Law and Policy (CCLP), “Racial and Ethnic Disparities Reduction Practice Manual” (Washington, DC: CCLP, 2015): Chp. 1, 19-20, <http://bit.ly/2wBKDGa>.

⁶ Juvenile Justice Information Exchange, “Racial-Ethnic Fairness: Key Issues,” accessed Aug. 17, 2017, <http://bit.ly/2w0NFBz>; citing The Annie E. Casey Foundation, “Detention Reform: An Effective Approach to Reduce Racial and Ethnic Disparities in Juvenile Justice” *Detention Reform Brief*, vol. 3 (Baltimore, MD: The Annie E. Casey Foundation, 2009): 2, <http://bit.ly/1giQzCD>.

⁷ Laura Kann, Tim McManus, William A. Harris, et. al., “Youth Risk Behavior Surveillance – United States, 2015” *MMWR Surveill Summ*, Vol. 65, No. 6 (Atlanta, GA: U.S. Dept. of Health and Human Services, Centers for Disease Control and Prevention), 2016, <http://bit.ly/2h0s2g3>.

⁸ Cheryl Staats, Kelly Capatosto, Robin A. Wright, and Victoria W. Jackson, “State of the Science: Implicit Bias Review 2016” (Columbus, OH: The Ohio State University, Kirwan Institute for the Study of Race and Ethnicity, 2016): 14, <http://bit.ly/2aMH1RR>.

⁹ Kristin Henning, “Race and the Development of Juvenile Justice Policy,” PowerPoint presentation by Prof. Kristin Henning at the 2017 National Juvenile Justice Network Forum, Washington, DC, <http://bit.ly/2fgvSik>.

¹⁰ Perception Institute, “Implicit Bias,” accessed Aug. 21, 2017, <https://perception.org/research/implicit-bias/>;

Henning, “Race and the Development of Juvenile Justice Policy; Staats et. al., “Implicit Bias Review 2016,” 15.

¹¹ CCLP, “Racial and Ethnic Disparities Practice Manual,” Chp. 1, 22-3.

¹² Perception Institute, “Implicit Bias.”

¹³ Study participants were 123 students from a large public university. Phillip Atiba Goff, Matthew Christian Jackson, Brooke Allison Lewis Di Leone, Carmen Marie Culotta, and Natalie Ann DiTomasso, “The Essence of Innocence: Consequences of Dehumanizing Black Children,” *Journal of Personality and Social Psychology* 106: 4 (2014): 526-45, 529-32, <http://bit.ly/1CHmE6C>.

¹⁴ Goff, et. al., “The Essence of Innocence: Consequences of Dehumanizing Black Children,” 533-5.

¹⁵ The participants were 325 adults of varying racial and ethnic backgrounds recruited through an online service. Rebecca Epstein, Jamilia J. Blake, and Thalia Gonzalez, “Girlhood Interrupted: The Erasure of Black Girls’ Childhood,” *Georgetown Law Center on Poverty and Inequality*, (June 2017); 7, <http://bit.ly/2thWyaQ>.

¹⁶ Kristin N. Henning, “Criminalizing Normal Adolescent Behavior in Communities of Color: The Role of Prosecutors in Juvenile Justice Reform,” *Cornell Law Review* 98 (2013): 420, <http://bit.ly/1aOzLzG>.

¹⁷ Henning, “Criminalizing Normal Adolescent Behavior,” 419.

¹⁸ Henning, “Criminalizing Normal Adolescent Behavior,” 423.

¹⁹ Henning, “Criminalizing Normal Adolescent Behavior,” 422.

²⁰ Henning, “Criminalizing Normal Adolescent Behavior,” 420-21; citing Sandra Graham & Brian S. Lowery, “Priming Unconscious Racial Stereotypes About Adolescent Offenders,” 28 *LAW & HUM. BEHAV.* 483, 494, 499 (2004).

²¹ Eleanor Hinton Hoytt, et al., “Reducing Racial Disparities in Juvenile Detention,” *Pathways to Juvenile Detention Reform* 8 (Baltimore, MD: Annie E. Casey Foundation, 2001): 24-25, <http://bit.ly/1aC6qbi>; see also, Henning, “Criminalizing Normal Adolescent Behavior,” 422.

²² Jeffrey J. Rachlinski, et al., “Does Unconscious Racial Bias Affect Trial Judges?” *Notre Dame Law Review* 84 (March 2009): 1195, 1221, 1225, <http://bit.ly/1c72ofJ>.