Juvenile court judges’ pretrial decisions: Does race matter?

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Abstract
Overrepresentation of minorities within the justice system is an on-going, nationwide problem (Harris, Steffensmeier, Ulmer, & Painter-Davis, 2009; Mooradian, 2007; Pope & Leiber, 2005). Despite increasing attention and efforts to reduce this problem, research regarding disproportionate minority contact, especially within the juvenile justice system, is lacking. This study was a replication and extension of a study completed by Freiburger, Marcum, and Pierce (2010), who examined the impact of race on pretrial sentencing decisions in an adult population. The present study was conducted with a juvenile population, with some modifications from the original study. The results did not find race to have a significant impact on pretrial sentencing decisions, which was inconsistent with the study being replicated. Possible explanations for this inconsistency, as well as limitations and directions for future research are discussed.

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JUVENILE COURT JUDGES' PRETRIAL DECISIONS: DOES RACE MATTER?

A DISSERTATION
SUBMITTED TO THE FACULTY
OF
SCHOOL OF PROFESSIONAL PSYCHOLOGY
PACIFIC UNIVERSITY
HILLSBORO, OREGON
BY
JOSCELYN R. WILSON
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Abstract

Overrepresentation of minorities within the justice system is an on-going, nationwide problem (Harris, Steffensmeier, Ulmer, & Painter-Davis, 2009; Mooradian, 2007; Pope & Leiber, 2005). Despite increasing attention and efforts to reduce this problem, research regarding disproportionate minority contact, especially within the juvenile justice system, is lacking. This study was a replication and extension of a study completed by Freiburger, Marcum, and Pierce (2010), who examined the impact of race on pretrial sentencing decisions in an adult population. The present study was conducted with a juvenile population, with some modifications from the original study. The results did not find race to have a significant impact on pretrial sentencing decisions, which was inconsistent with the study being replicated. Possible explanations for this inconsistency, as well as limitations and directions for future research are discussed.
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Juvenile Court Judges’ Pretrial Decisions: Does Race Matter?

Disproportionate Minority Contact (DMC) refers to the overrepresentation of minorities who have had contact with the justice system (Huizinga et al., 2007). Federally mandated efforts to reduce DMC in the juvenile justice system began in 1992, leading to the issue of DMC receiving increasing attention nationwide (Cabaniss, Frabutt, Kendrick, & Arbuckle, 2007; Hoytt, Schiraldi, Smith, & Ziedenberg, 2002). Although there have been some improvements, the problem of DMC persists. There are many points of contact a juvenile may have within the justice system, and the pretrial sentencing decision is one of many that disproportionately affects minorities (Demuth, 2003; Freiburger et al., 2010; Shook & Goodkind, 2009). This early point of contact is of particular importance because it can impact later sentencing decisions. Despite the importance of the pretrial sentencing decision, little research has examined this part of the court process. This study attempted to provide more information regarding the impact of race on pretrial sentencing decisions in a juvenile court. It was a replication of a study (Freiburger et al., 2010) that examined these variables in an adult population.

Minorities within the Justice System

Disproportionate Minority Contact

Although DMC initially referred to the disproportionate amount of minorities in confinement, the term has more recently been expanded to include disparity at all points of contact with the justice system (Nellis & Richardson, 2010). It is a problem in both the adult system (Harris et al., 2009) and the juvenile justice system (Bishop, Leiber, & Johnson, 2010; Kempf-Leonard, 2007; McCarter, 2009; Mooradian, 2012). The issue of DMC exists nationwide with all but 1 of the 50 states in this country reporting some level of DMC in 2003 (Mooradian, 2007; Pope & Leiber, 2005). In 2004, 16% of youth in the United States between the ages of 10-
17 were African American. Meanwhile, 39.1% of youth detained, 35.9% of youth formally processed in the juvenile courts, 33% of youth adjudicated delinquent, and 44% of youth transferred to adult courts were African American (McCarter, 2009). In a report on DMC in Washington, Pullmann et al. (2013) provided DMC data for various decision points in the juvenile justice system throughout the state. By using data from the Administrative Office of the Courts’ Center for Court Research (AOC-CCR) and interviewing stakeholders from twelve jurisdictions, Pullmann et al. (2013) found that in 2007-2009 African American youth in Washington were 30-34% less likely to receive diversion, and 1.2 times more likely to be detained than White youth. They also found similar disproportionality with Latino youth being 18-22% less likely to receive diversion, and 1.1 to 1.2 times more likely to be detained than White youth.

There are a variety of theories regarding the causes of, and explanations for, DMC. Ten probable causes have been identified in the literature: a) selective law enforcement, b) differential opportunities for treatment, c) institutional racism, d) socioeconomic factors, e) differential offending, f) biased risk assessment instruments, g) differential administrative practices, h) unequal access to effective legal counsel, i) legislative policies that unequally affect youth of color, and j) the lack of detention alternatives and diversion programs available (Mooradian, 2007; Nellis & Richardson, 2010). Additionally, research has supported the idea that the problem of DMC is exacerbated by a combination of these factors occurring together and building upon each other, which increases the severity of the problem (Cabaniss et al., 2007; Kempf-Leonard, 2007; Nellis & Richardson, 2010).

Selective law enforcement refers to the tendency of police to more heavily patrol urban areas that have larger populations of minority individuals. This leads to an increased likelihood
of arrest and formal processing of minorities (Hsia, Bridges, & McHale, 2004; Huizinga et al., 2007; Kempf-Leonard, 2007). Researchers have also supported the idea that minorities do not have the same opportunities for treatment compared to Whites (Hsia et al., 2004; Janku & Yan, 2009; Salekin, Yff, Neumann, Leistico, & Zalot, 2002). For example, although African Americans are overrepresented in the juvenile justice system, they are underrepresented in court orders for mental health services (Janku & Yan, 2009).

Institutional racism, another identified cause of DMC, refers to racial stereotyping and cultural insensitivity that remains in the justice system, both intentionally and unintentionally (Bishop & Frazier, 1988; Poe-Yamagata & Noya, 2005). Socioeconomic factors contribute to DMC in a variety of indirect ways. For example, Hsia et al. (2004) explained that a “disproportionate number of youth in confinement came from low-income, single-parent households and households headed by adults with multiple low-paying jobs or unsteady employment” (p. 13). These circumstances are related to lower levels of supervision, which puts youth at greater risk of committing legal offences (Snyder & Sickmund, 2006). Additionally, poverty can reduce the likelihood that youth are able to access resources and detention alternatives (Bishop, 2005; Hsia et al., 2004). Differential offending is another factor contributing to DMC, meaning that some of the racial differences in arrests and sentencing can be attributed to minorities committing different crimes than Whites (Pope & Snyder, 2003). For example, based on analysis of reported data from the National Incident-Based Reporting System (NIBRS), Pope and Snyder (2003) noted that minority juveniles were 3% more likely to commit crimes involving multiple victims, 12.7% more likely to commit crimes in pairs or groups, and 7% more likely to possess a weapon, such as a firearm, knife, or club, than White juveniles.
These incident characteristics can impact various decision points, including arrest and sentencing, leading to increased DMC at these points.

The issue of biased risk assessment instruments has contributed to DMC because many of these instruments include questions that are more likely to negatively affect minorities by indicating a higher level of risk. An example of this would be rating a youth who does not reside with both parents as higher risk, when this is less common in the African American community (Cabaniss et al., 2007). Differential administrative practices can include a variety of subjective considerations, such as relying on reports from probation officers regarding perceived causes of crimes and perceived risk of re-offending (Bridges & Steen, 1998). Similar to the indirect socioeconomic effects, minorities may have unequal access to competent or effective legal counsel because they are less likely to afford private attorneys (Hsia et al., 2004; Nellis & Richardson, 2010). Various legislative policies can unequally affect minorities because they can disproportionately impact minority populations (Nellis & Richardson, 2010). For example, “zero tolerance” rules on school campuses are more likely to be implemented in urban, low-income school districts. These policies drive minority youth into the legal system by criminalizing school infractions (Nellis & Richardson, 2010). Finally, the lack of detention alternatives and diversion programs increases the confinement of minorities because without these alternatives, “nearby detention centers become ‘convenient’ placements for urban minority youth” (Hsia et al., 2004, p. 12).

The issue of DMC in the juvenile justice system has been recognized by the federal government for many years, and in 1992, Congressional amendments required states receiving funding under the Juvenile Justice and Delinquency Prevention Act to demonstrate efforts to reduce DMC (Cabaniss et al., 2007). There are several common practices that have been shown
to reduce DMC, although these have not eliminated the problem. Effective practices include data review and decision-point mapping, cultural competency training, increasing community-based detention alternatives, removing subjectivity in decision-making, reducing barriers to family involvement, and increasing state leadership to create laws that can promote change at the system level (Cabaniss et al., 2007; Mooradian, 2007; Pope & Leiber, 2005).

Data review and decision-point mapping is an important step in addressing DMC because it provides information regarding each point of contact, which then brings to awareness the contact point(s) that may be contributing most to DMC in a given county (Cabaniss et al., 2007). The levels of DMC at each contact point can vary widely, and variations may also be seen between states and counties. By reviewing data and mapping decision points, this then provides critical information for developing effective intervention strategies to lower overall levels of DMC in a particular area.

After determining which decision points are contributing most to DMC and developing intervention strategies, the intervention strategies can then be implemented. Several of the described intervention strategies can be effective for targeting DMC at multiple decision points. For example, cultural competency training can be provided for many employees that are involved in various aspects of the justice system, including police officers, probation officers, attorneys, judges, and other juvenile court staff members. By providing cultural competency training to the people involved in making decisions, awareness of racial stereotyping and biases and how these can impact DMC will increase (Cabaniss et al., 2007), which should then decrease the effects of these problems on decision-making. In addition, this would increase awareness of culturally competent practices within the justice system.
Removing subjectivity in decision-making is another DMC intervention strategy that is applicable in multiple contact or decision points. Judgments are made throughout the legal process regarding the level of risk for a juvenile to endanger his/her community, reoffend, or fail to appear for scheduled hearings (Bridges & Steen, 1998). When the legal process allows for subjectivity in making these judgments, personal biases are more likely to impact the decisions. Some ways to remove subjectivity in decision-making include utilizing culturally appropriate risk assessment instruments, developing a sanctions grid that provides a specific range of discipline options for probation violations, or utilizing a standardized assessment tool to help police officers make decisions regarding citing and releasing youth upon initial contact (Cabaniss et al., 2007).

Family involvement can also impact a variety of decisions throughout the legal process. For example, juveniles in families who do not have reliable transportation or have chaotic home environments may be less likely to appear to scheduled court hearings, judges may decide to detain a juvenile who does not have adequate supervision at home, and language barriers may negatively impact evaluations regarding the appropriateness of juveniles returning to their families (Cabaniss et al., 2007). Reducing barriers to family involvement in all aspects of the legal process can also help to lower DMC (Hoytt et al., 2002). This could be done in a variety of ways, such as contacting families by phone to remind them of scheduled court hearings, providing bus tickets or access to transportation to and from the court, working with families to increase parental supervision, and reducing language barriers by hiring bilingual staff members or using interpreters.

Increasing the availability of community-based detention alternatives for minority youth can also be very helpful in decreasing DMC (Mooradian, 2007). These programs may not be as
accessible to minority youth as they are to White youth, although they can be just as beneficial for minority youth (Wilson, Lipsey, & Soydan, 2003). Because being sentenced to detention does not decrease recidivism in juveniles (McGrath & Weatherburn, 2012; Mendel, 2007), it is important that detention alternatives, which do help reduce recidivism (Mendel, 2007), be available to minority youth. This would then lead to a decrease in DMC.

Finally, system-level change is an important piece in addressing DMC because it is a system-wide problem (Mooradian, 2007). Increasing the time and attention state leaders give to the issue of DMC would help to influence system-level change through legislative reform (Cabaniss et al., 2007). For example, this may help to create more laws that will prevent the subjectivity in decision making within the justice system.

**Pretrial Sentencing Decisions**

After a juvenile receives a criminal charge, there is an arraignment within the juvenile court, which is when the juvenile enters a plea of either guilty or not guilty. For those who plead not guilty, a trial is set for a later date. At this point, the judge makes a decision to either hold the juvenile in detention until the scheduled trial, or release the juvenile prior to the trial. Pretrial sentencing decisions have important implications for juveniles, such as leading to more severe sentencing decisions post-trial (Demuth, 2003; Williams, 2003). As described by Shook and Goodkind (2009), the pretrial decision “is a particularly important point in the juvenile justice process because decision making is a cumulative process where subsequent decisions build upon those that have come before” (p. 264). Additionally, it has been suggested that racial disparities are greatest at the earlier decision-points, and the pretrial sentencing decision is one of many decision-points that disproportionately affects minorities (Demuth, 2003; Freiburger et al., 2010;
Leiber & Johnson, 2008; Shook & Goodkind, 2009), contributing to and exacerbating the problem of disproportionate minority contact (DMC) in the justice system.

Although much of the existing research focuses on later sentencing decisions, pretrial sentencing decisions are just as important (Demuth, 2003; Freiburger et al., 2010; Schlesinger, 2005; Shook & Goodkind, 2009). For example, one study found that juveniles who are detained prior to their trials were more likely to be adjudicated delinquent ($b=1.063$, $p<.001$) and more likely to receive harsher sentencing following adjudication ($b=2.58$, $p<.001$), such as being sentenced to an out-of-home placement (Bishop & Frazier, 1992). Additionally, Spohn (2007) found that post-trial incarceration increased the likelihood of recidivism ($b=0.78$, $p<.05$), and Schlesinger (2005) suggested that defendants who are held in detention prior to their trial may experience the same negative effects, such as increased likelihood of recidivism, as those who are sentenced to jail or detention after being convicted. Similarly, Demuth (2003) described pretrial detention as a form of punishment prior to conviction with lasting negative effects. Some of these effects include stigmatizing the defendant and disrupting families, employment, and community ties. Additionally, researchers have found that pretrial detention can negatively affect later case processing decisions, such as leading to more severe sanctions and increasing the likelihood of post-trial incarceration (Demuth, 2003; Feeley, 1979; Goldkamp, 1979; Rankin, 1964; Williams, 2003). For example, Rankin (1964) found that defendants detained pretrial were 20% more likely to be convicted and 47% more likely to be sentenced to prison than defendants out on bail. In considering the effects of pretrial detention on a juvenile population, it is also important to consider school disruptions and the long-term effects that may result from these disruptions, such as decreased academic performance due to missing school for extended periods of time.
While there are guidelines for sentencing to provide structure for judicial decision-making and to ensure equal treatment of defendants with similar situations, pretrial sentencing decisions receive less oversight and lack the same guidelines and structure as post-trial sentencing (Demuth, 2003). Instead, pretrial sentencing decisions are guided by judges’ perceptions, often involving incomplete information (Demuth, 2003). Steffensmeier, Ulmer, and Kramer (1998) presented a theory suggesting that there are three main considerations that judges use when determining whether to hold or release a defendant prior to his/her trial: blameworthiness, dangerousness, and practical constraints. This theory has been used in research that has examined pretrial sentencing decisions (Demuth, 2003; Freiburger et al., 2010). When determining blameworthiness, judges may take into consideration the type of offense, severity of the offense, and the defendant’s prior record. Dangerousness may be determined by taking into account the extent of the defendant’s prior record, as well as other factors such as employment status. Finally, practical constraints might include considerations such as space available in jails and prisons (Freiburger et al., 2010). With two of the three theorized considerations used to guide pretrial sentencing being very subjective, this allows room for individual and systemic biases to have an impact on these decisions.

Demuth (2003) reviewed other subjective considerations that have also been used in judges’ determination of pretrial sentencing. For example, judges are encouraged to rely on factors such as employment status, community ties, marital status, criminal history, and perceived likelihood that the defendant will appear for scheduled court hearings to help them make their decision to either hold or release the defendant prior to the trial. All of these considerations have the potential to differentially affect minority individuals. For instance, differential law enforcement is a systemic issue that causes minorities to have more frequent
contact with police officers, increasing their likelihood of having more extensive criminal
histories (Nellis & Richardson, 2010). Additionally, discrimination in the workforce increases
levels of unemployment among minorities (Farley, 1987) and socioeconomic factors may impact
an individual’s ability to build and maintain community ties (Kempf-Leonard, 2007). Each of
these systemic issues contribute to how the factors used in pretrial sentencing decisions can
differentially affect minorities, again highlighting the importance of further examination of this
decision-point.

**Impact of race on pretrial sentencing decisions.** Despite the importance of pretrial
sentencing decisions, little research has focused on this aspect of the court process, and even
fewer studies have examined the impact of race on pretrial decisions. This is concerning, not
only because of the subjectivity and openness for the effects of systemic biases, but also because
racial disparities tend to be greatest at the earlier decision-points in case processing (Demuth,
2003; Freiburger et al., 2010; Leiber & Johnson, 2008). Of the studies that have examined the
impact of race on pretrial sentencing decisions, the results have been mixed. Several researchers
have found that race significantly impacts pretrial sentencing decisions, including whether to
detain or release the defendant prior to the trial, as well as decisions regarding bail amounts
(Demuth, 2003; Demuth & Steffensmeier, 2004; Freiburger et al., 2010; Petee, 2001;
Schlesinger, 2005; Shook & Goodkind, 2009), whereas some researchers have found that race
does not significantly impact pretrial sentencing decisions (Katz & Spohn, 1995; Nagel, 1983).
Demuth (2003) attributed the mixed results in the literature to a variety of limitations in the
research including not controlling for relevant legal factors, failing to differentiate pretrial
release decisions and outcomes, utilizing inappropriate statistical methods, small numbers of
minorities in a jurisdiction, and utilizing data sets that are 20 years old.
Impact of other variables on pretrial sentencing decisions. Research has been more consistent in demonstrating the impact of several other variables on pretrial sentencing decisions. Specifically, gender, the severity of the offense, and the number of prior charges have been found to significantly influence pretrial sentencing decisions (Demuth & Steffensmeier, 2004; Freiburger et al., 2010; Petee, 2001). The impact of age on pretrial sentencing decisions has been inconsistent in previous research, with some studies showing age as a significant variable (Bishop & Frazier, 1992; Shook & Goodkind, 2009), and others finding no significant effect of age (Bishop & Frazier, 1988; Freiburger et al., 2010). When examining how race impacts pretrial sentencing decisions, it is important to also examine the role of these additional variables in order to be able to control for these variables and better understand differences observed.

The severity of the offense provides some information regarding the blameworthiness and dangerousness of the individual, helping to guide judges’ pretrial sentencing decisions (Freiburger et al., 2010). Studies have supported the idea that judges consider the severity of the offense when deciding whether to release or detain an individual prior to the trial. For example, Petee (2001) used archived data to examine the factors that affect pretrial release decisions in an adult population and found that offense severity was among these factors that significantly predicted release decisions. More specifically, high severity crimes reduced the likelihood of a defendant being released pretrial ($b=-2.254$, $p<.001$). Similarly, Demuth and Steffensmeier (2004) found that defendants with more serious charges were more likely to be detained than those with less serious charges. For example, in charges involving rape and robbery, odds of being detained increased by 2.85 and 3.36, respectively. Conversely, when charged with a nonviolent, property crime, defendants were about 28% less likely to be detained. In examining the effects of race on pretrial sentencing decisions, it is important to control for offense severity
because research supports the idea that more severe offenses increase the likelihood of pretrial detention.

An extralegal variable that has been found to influence pretrial sentencing decisions is the gender of the juvenile or adult defendant. Demuth and Steffensmeier (2004) found that in an adult population, female defendants received more favorable pretrial treatment than males, including nonfinancial release options and lower bail amounts. Additionally, females were 37% less likely to be sentenced to pretrial detention than males in their study. Freiburger et al. (2010) also found gender differences in pretrial decisions in an adult population. Specifically, females were more likely to receive lower set bail amounts than males (b=.826, p<.01).

Prior charges are another source that can be used to inform judges about the dangerousness of the individual when making pretrial sentencing decisions (Freiburger et al., 2010). Studies have supported the idea that individuals with more extensive criminal histories are more likely to be detained prior to their trials than those with less extensive criminal histories (Demuth, 2003; Demuth & Steffensmeier, 2004). Similarly, Freiburger et al. (2010) found that the number of prior felonies had a significant effect on an individual being released prior to the trial (b=-.097, p<.05): as the number of prior felonies increased, the odds of being released decreased.

The impact of age on pretrial sentencing decisions has had mixed results in previous research. Steinberg and Scott (2003) provide an argument supporting the idea that age should be used as mitigation in juvenile justice processing. They support their argument by highlighting developmental differences between adolescents and adults, such as the diminished capacity for decision-making, susceptibility to coercion, and continuing development of character during adolescence. Some studies have found that age does impact juvenile case processing at pretrial
sentencing (Bishop & Frazier, 1992; Shook & Goodkind, 2009). More specifically, Shook and Goodkind (2009) found that “youth faced a 29% increase in their odds of being detained for each year in age” (p. 261). Conversely, Bishop and Frazier (1988) did not find a significant effect of age on pretrial sentencing decisions for juveniles. Additionally, some of the research in adult populations has not supported age as a significant predictor of pretrial sentencing decisions (Freiburger et al., 2010).

Current Study

Among the research examining factors that affect pretrial sentencing decisions, only five studies have focused on juvenile populations. In those five studies, three have examined the impact of race on pretrial sentencing decisions for juveniles. In an effort to fill in this gap in the literature, I have replicated and extended a study completed by Freiburger et al. (2010), who examined the impact of race on the pretrial decisions for an adult population. I conducted the replication study with a juvenile population, and some slight modifications were made in order to ensure the study would be appropriate for juveniles.

Freiburger et al. (2010) examined the effect of race on the pretrial release decisions and bail amounts for drug offenders by analyzing data gathered from presentence investigation reports and court dockets for 312 individuals charged with a drug offense in Pennsylvania. The researchers used logistic regressions to determine how several variables influenced the decision to release on recognizance (ROR), whether or not the defendant posted bail, and the judges’ decision of bail amount. The variables examined included offense severity, number of charges, prior felony charges, prior misdemeanor charges, gender, race, age, education, employment, marital status, and attorney type. In this study, race significantly (b=-1.529, p<.001) impacted judges’ decisions to release or detain offenders prior to their trials, with black offenders more
likely to be detained than white offenders. Additionally, the researchers found that the higher number of prior felonies a defendant had, the less likely he/she would receive ROR. Other findings included that full time employment increased the odds of a defendant receiving ROR, and having a private attorney decreased the odds of receiving ROR. Finally, the decision of bail amount was significantly impacted by offense severity, gender, marital status, and attorney type.

In replicating this study with juveniles, several modifications were necessary. First, juveniles rarely receive bail, so it would not be beneficial to include whether or not bail was posted or the determined bail amount. Additionally, the following variables would not be appropriate to consider for a juvenile population: employment status, marital status, and attorney type. Employment status would not be an appropriate consideration in this study because not all juveniles are of the legal age to work. A better measure of a juvenile’s functioning and participation in the community would be education status; however, this information was not available in the database that was used in this study. Because marital status is not applicable to a juvenile population, I considered including a family status variable (e.g., two-parent versus single-parent family); however, this information was also not available in the database. Although attorney type had a significant impact on pretrial sentencing decisions in the study done by Freiburger et al. (2010), this variable was not included in this study because this information was not available in the database. In order to broaden the generalizability of this study and increase the sample size, I included all types of juvenile offenders, rather than limiting the sample to only drug offenders. Finally, although it has not been included in previous research, I included the number of times on warrant status as a variable in this study. A juvenile is placed on warrant status when he/she flees or does not show up for court-ordered
appointments or hearings, and it was thought that number of times on warrant status would provide information regarding the likelihood a juvenile will attend his/her trial if released.

**Hypotheses**

After considering the existing research regarding pretrial sentencing decisions, several hypotheses were made: a) race will significantly predict pretrial sentencing decisions, with minorities more likely to be detained than Whites, b) gender will significantly predict pretrial sentencing decisions, with males more likely to be detained than females, c) age will significantly predict pretrial sentencing decisions, with older juveniles more likely to be detained than younger juveniles, d) offense severity will significantly predict pretrial sentencing decisions, with felonies more likely to lead to pretrial detention than misdemeanors, e) number of prior charges will significantly predict pretrial sentencing decisions, with the higher number of charges leading to pretrial detention than fewer numbers of charges, and f) number of times on warrant status will significantly predict pretrial sentencing decisions, with the higher number of times on warrant status increasing the likelihood of pretrial detention.

**Method**

**Participants**

Archived data from 43 juvenile offenders in Clark County, Washington were used. Although this sample size is not ideal, it included all of the juveniles in Clark County who met inclusion criteria for this study. Participants must have been under the age of 18 at the time of their latest criminal charge, and they must have gone to trial in juvenile court for the alleged crime. In 2008 and 2009, the number of juveniles referred to CCJC averaged 3,360, with an average of 1,345 of those cases being diverted (Pullmann et al., 2013). Considering that there are thousands of CCJC referrals each year, it is surprising that only 43 cases met inclusion
criteria for this study. Many juveniles plead guilty at arraignment and do not go to trial, and some juveniles are transferred to adult court for their trials. Both of these issues contributed to the difficulty in finding participant data that could be used. In an effort to increase the sample size, data were used for juveniles who met inclusion criteria and had a criminal charge in the past 5 years. By using data from the past 5 years, I was able to increase the sample size while minimizing the effects of possible confounding variables such as changes in procedures that may have taken place more than 5 years ago. Personnel at CCJC have indicated that the court underwent significant procedural changes in 2007, and this contributed to the decision to use data from 2008-2012. Finally, juveniles who were in the Juvenile Recovery Court (JRC) program were removed from the sample because JRC follows court procedures that are specific to that program, and these vary greatly from typical court procedures at Clark County Juvenile Court (CCJC).

Of the 43 juveniles who met inclusion criteria for this study, the majority were White (86%). Males also represented the majority of participants, with 35 males (81.4%) and 8 females (18.6%). Twenty-five (58%) juveniles were facing a felony charge and 18 (42%) were facing a misdemeanor charge. Ages of the juveniles ranged from 14-17 years, with the mean being 15.6 years. Number of prior charges ranged from 0-28, with the mean being 4.5. Number of times on warrant status ranged from 0-10, with the mean being 0.9. For complete data on the demographics of participants, please see Table 1.

Research Design and Procedure

A proposal to conduct research was submitted to Pacific University’s Institutional Review Board (IRB) in October 2012 and was approved in January 2013. Following IRB approval, I began working with CCJC personnel in order to obtain the archived data. Several
challenges arose while working to obtain the necessary data. First, the requested data was not available all together in a single database, and therefore, CCJC personnel had to cross-reference information for each case with data in another database.

Table 1.  
Participant Demographics

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<tr>
<th>Category</th>
<th>Number of Participants per Category (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Age</strong></td>
<td></td>
</tr>
<tr>
<td>14</td>
<td>9 (20.9)</td>
</tr>
<tr>
<td>15</td>
<td>9 (20.9)</td>
</tr>
<tr>
<td>16</td>
<td>14 (32.6)</td>
</tr>
<tr>
<td>17</td>
<td>11 (25.6)</td>
</tr>
<tr>
<td><strong>Gender</strong></td>
<td></td>
</tr>
<tr>
<td>Female</td>
<td>8 (18.6)</td>
</tr>
<tr>
<td>Male</td>
<td>35 (81.4)</td>
</tr>
<tr>
<td><strong>Race</strong></td>
<td></td>
</tr>
<tr>
<td>Asian/Pacific Islander</td>
<td>1 (2.3)</td>
</tr>
<tr>
<td>Black</td>
<td>1 (2.3)</td>
</tr>
<tr>
<td>Hispanic</td>
<td>4 (9.3)</td>
</tr>
<tr>
<td>White</td>
<td>37 (86)</td>
</tr>
<tr>
<td><strong>Charge Severity</strong></td>
<td></td>
</tr>
<tr>
<td>Felony</td>
<td>25 (58)</td>
</tr>
<tr>
<td>Misdemeanor</td>
<td>18 (42)</td>
</tr>
<tr>
<td><strong>Prior Charges</strong></td>
<td></td>
</tr>
<tr>
<td>0</td>
<td>14 (33)</td>
</tr>
<tr>
<td>1</td>
<td>6 (14)</td>
</tr>
<tr>
<td>2</td>
<td>3 (7)</td>
</tr>
<tr>
<td>3</td>
<td>4 (9)</td>
</tr>
<tr>
<td>4</td>
<td>3 (7)</td>
</tr>
<tr>
<td>&gt;4</td>
<td>13 (30)</td>
</tr>
<tr>
<td><strong>Times on Warrant Status</strong></td>
<td></td>
</tr>
<tr>
<td>0</td>
<td>29 (67)</td>
</tr>
<tr>
<td>1</td>
<td>8 (19)</td>
</tr>
<tr>
<td>2</td>
<td>1 (2)</td>
</tr>
<tr>
<td>3</td>
<td>1 (2)</td>
</tr>
<tr>
<td>&gt;3</td>
<td>4 (9)</td>
</tr>
</tbody>
</table>

Another obstacle was that the pretrial sentencing decisions were not clearly recorded. In order to determine whether a juvenile was held or released pretrial, I had to compare the arraignment and trial dates with dates each juvenile was in detention. With help from CCJC personnel in cross-
referencing data, and after determining pretrial sentencing decisions for each case, I had all of
the necessary data and began data analysis.

**Statistical Analyses**

A binary logistic regression was conducted to examine which independent variables
(race, gender, age, offense severity, number of prior charges, and number of times on warrant
status) predicted judges’ decisions to release or detain a juvenile prior to his/her trial. This
analysis was chosen because the dependent variable is dichotomous (held or released) while the
independent variables include continuous, discrete, and dichotomous variables. Analysis was
performed with SPSS statistical software, version 21.0 (International Business Machines, IBM

**Results**

The data were first analyzed for problems due to outliers and multicollinearity prior to
further interpretation. No outliers were found and there was no evidence of multicollinearity
between the independent variables. Therefore, the model was interpreted. A test of the full
model with all six predictors against a null model was statistically significant, $\chi^2 (6, N = 43) =
20.49$, $p < .05$, indicating that the six predictors, used together, reliably distinguished between
juveniles who were held and those who were released pretrial. Regarding prediction success,
71% of juveniles who were released were correctly predicted, and 81% of juveniles who were
held were correctly predicted, for an overall prediction success rate of 77%.

Regression coefficients, Wald statistics, odds ratios, and 95% confidence intervals for
odds ratios for each of the six predictors are presented in Table 2. According to the Wald
criterion, three of the six independent variables predicted whether a juvenile was released or held
pretrial. The predictors making the biggest contribution to the model included offense severity,
gender, and number of prior charges, respectively. The juveniles’ race, age, and number of times on warrant status were not found to be statistically significant in predicting pretrial sentencing decisions.

As shown in the table, the severity of the charge ($b = -2.28, p < .05$) had a significant effect on whether the juvenile was held or released pretrial, with those facing a felony charge more likely to be held. The number of prior charges ($b = 0.52, p < .05$) also had a significant effect on the pretrial sentencing decision. For each increase in number of prior charges, the likelihood of being held also increased. Finally, gender ($b = 2.87, p < .05$) was the only extra legal variable found to significantly impact judges’ pretrial sentencing decisions, with females less likely to be held than males.

Table 2.
*Logistic Regression Analysis of Pretrial Sentencing Decisions as a Function of Demographic and Legal Variables (N = 43)*

<table>
<thead>
<tr>
<th>Predictor</th>
<th>B</th>
<th>Wald’s $\chi^2$</th>
<th>Odds Ratio</th>
<th>95% Confidence Interval for Odds Ratio</th>
</tr>
</thead>
<tbody>
<tr>
<td>Constant</td>
<td>2.78</td>
<td>0.20</td>
<td>16.11</td>
<td></td>
</tr>
<tr>
<td>Race</td>
<td>2.08</td>
<td>2.43</td>
<td>7.99</td>
<td>0.59 - 108.65</td>
</tr>
<tr>
<td>Gender</td>
<td>2.87</td>
<td>4.44*</td>
<td>17.59</td>
<td>1.22 - 253.64</td>
</tr>
<tr>
<td>Age</td>
<td>-0.23</td>
<td>0.33</td>
<td>0.79</td>
<td>0.36 - 1.75</td>
</tr>
<tr>
<td>Severity of charge</td>
<td>-2.28</td>
<td>4.14*</td>
<td>0.10</td>
<td>0.01 - 0.92</td>
</tr>
<tr>
<td>Number of times on warrant status</td>
<td>-0.32</td>
<td>1.01</td>
<td>0.73</td>
<td>0.39 - 1.35</td>
</tr>
<tr>
<td>Number of prior charges</td>
<td>0.52</td>
<td>6.06*</td>
<td>1.68</td>
<td>1.11 - 2.53</td>
</tr>
</tbody>
</table>

* $p < .05$

**Discussion**

This study explored the impact of race, along with several other variables, on the pretrial sentencing decision for juveniles in Clark County, Washington. It was hypothesized that race would significantly impact the pretrial sentencing decision, with minorities being more likely to be held than Whites; however, this hypothesis was not supported. There were two other
hypotheses that were also not supported: a larger number of times on warrant status did not increase the likelihood of being held, and younger juveniles were not less likely to be held than older juveniles.

The main purpose of this study was to examine the impact of race on pretrial sentencing decisions, and although the impact was not significant, there are several important considerations that may help explain this inconsistency with previous research. First, within the already small sample size of this study, there were only six minority individuals. With few cases representing racial minorities within the sample, it is difficult to say with any certainty whether or not race impacts pretrial sentencing decisions. A potential problem with data accuracy is another consideration. In a report on DMC assessment in the state of Washington, it was noted that data collection procedures from 2007-2009 in Clark County were inconsistent and may have led to some Latino and Middle Eastern youth being classified as White (Pullmann et al., 2013). Additionally, because the pretrial sentencing decisions were not clearly recorded, I had to make an assumption regarding each pretrial sentencing decision based on trial dates and detention episode dates. This process could have led to incorrect assumptions in some cases.

It was also hypothesized that age would significantly impact pretrial sentencing decisions, with older juveniles more likely to be held than younger juveniles, and this hypothesis was not supported. Previous research regarding the impact of age and pretrial sentencing decisions has been inconsistent (Bishop & Frazier, 1992; Bishop & Frazier, 1988; Freiburger et al., 2010; Shook & Goodkind, 2009), and little research has examined this in juvenile populations. Consistent with the study being replicated (Freiburger et al., 2010), this study did not find significant effects of age.
Of the six variables examined, severity of the charge, number of prior charges, and gender were the only three variables found to significantly impact the pretrial sentencing decision. It was hypothesized that females would be less likely to be held prior to the trial than males, and this hypothesis was supported. Additionally, the hypotheses that juveniles facing felony charges, and those who had a larger number of prior charges would be more likely to be held were both supported.

The finding that females were less likely to be detained pretrial than males is consistent with previous literature (Demuth & Steffensmeier, 2004; Freiburger et al., 2010). Freiburger et al. (2010) suggested the possible explanation that females are viewed as less dangerous than males and less of a risk in regard to running away or not showing up for their trials. Regardless of the reason, this study provides further support that gender impacts pretrial sentencing decisions.

Also consistent with previous research, the severity of the charge and the number of prior charges significantly impacted pretrial sentencing decisions. These legal variables are appropriate considerations for pretrial sentencing decisions because they provide more objective information regarding the blameworthiness and dangerousness of the individual (Freiburger et al., 2010). In other words, it is thought that higher severity charges provide some indication that an individual may be more dangerous to the community, therefore influencing pretrial sentencing decisions. Likewise, an increasing number of prior charges may imply to a judge that a defendant is blameworthy, given his/her history of criminal activity.

Limitations

There were several limitations to this study. First, the sample size was quite small. According to Hosmer, Lemeshow, and Sturdivant (2013), a minimum of ten cases per
independent variable is necessary when using a logistic regression. With six independent variables, I would have needed a minimum sample size of 60 in order to meet this guideline. The small sample size in this study may have contributed to issues such as an overestimate of odds ratios (Nemes, Jonasson, Genell, & Steineck, 2009), and large confidence intervals (Tabachnick & Fidell, 2007). For example, the 95% confidence interval for gender was 1.22 to 253.64, suggesting that although gender significantly contributed to judges’ pretrial sentencing decisions, the odds ratio is not necessarily reliable.

The inclusion criteria for this study could also be considered a limitation. Juveniles who were transferred to adult court were not included in this study because their information was not available in the database used. Additionally, juveniles who were in JRC were not included in this study because JRC follows different court procedures than CCJC, which made data regarding pretrial detention for JRC cases unable to be determined. The exclusion of juveniles who were transferred to adult court, as well as the exclusion of many drug offense cases may have had a significant impact on the results. Research supports that one DMC point for juveniles is transfer/wavier to adult court, with minority juveniles more likely to be transferred to adult court than White juveniles (McCarter, 2009). By excluding these cases, there may be a misrepresentation of the demographics of juveniles being held or released pretrial. Additionally, existing research suggests that minority individuals are disproportionately charged with drug offenses (Demuth, 2003). Therefore, it is possible that the exclusion of JRC cases decreased the observed number of minorities at the pretrial decision point. Finally, the results are likely not generalizable to other populations, especially populations within the juvenile justice system in the United States.
Implications and Future Research

The number of minorities within the sample for this study was fairly representative of the population in Clark County based on the 2010 Census (U.S. Census Bureau, 2010), with a slight over-representation of Hispanic/Latino juveniles. This is particularly interesting considering that in 2008 and 2009 Hispanic/Latino youth were significantly less likely to be referred to juvenile court in Clark County than White youth (Pullmann et al., 2013). Pullmann et al. (2013) also found that compared to White youth, Black youth were significantly more likely to be referred to juvenile court in 2008 and 2009, and were significantly more likely to be detained in 2008.

Based on these statistics, it is clear that for CCJC, DMC has been a problem at several decision points within the past 5 years; however, the pretrial sentencing decision point, as examined in this study, appears to be less affected by DMC. As mentioned previously, many juveniles in Clark County plead guilty at arraignment and do not go to trial. Considering this point, along with the presence of DMC at some decision points, a question arises regarding why there are so few minorities going to trial at CCJC. It could be that minorities are more likely to plead guilty at arraignment, in which case it would be important to consider systemic issues and/or cultural differences that might influence this tendency. For example, perhaps minority youth have fewer resources (e.g., financial resources, family support, understanding of/access to legal information), causing them to feel unable to continue with court proceedings. Another possibility could be that minorities may be disproportionately more likely to be transferred to adult court in Clark County. Future research examining the reasons for minorities being overrepresented in detention and court referrals, but not at the point of trials, is indicated.

This study did not find a significant impact of age on the pretrial sentencing decision, and previous research has demonstrated mixed results regarding age and pretrial sentencing.
Additionally, few studies have examined this variable in juvenile populations. With research lacking in this area, future research further examining which decision points within the juvenile justice system are impacted by age, as well as how age may interact with other variables, could help inform directions for intervention.

This study along with previous research consistently support that gender significantly impacts pretrial sentencing decisions, with females less likely to be detained than males. This finding has been supported in both adult and juvenile populations, and some researchers have hypothesized reasons for this common finding. Future research further examining the reasons females are less likely to be held pretrial than males is indicated. This research would be important as it would further our understanding regarding how reliance on gender as a factor in determining sentencing decisions may be appropriate and/or problematic.

The number of times on warrant status was hypothesized to significantly impact judges’ pretrial sentencing decisions, with the higher number of times on warrant status increasing the probability that a juvenile would be held pretrial. This hypothesis was not supported. Although previous research has not included number of times on warrant status as a variable, it was included in this study at the request of CCJC personnel. The hypothesis regarding warrant status was made because the number of times a juvenile has been on warrant status provides objective information regarding the likelihood that the juvenile will show up for the trial based on his/her past behavior. In other words, a juvenile is put on warrant status when he/she runs away or does not show up for court, suggesting that this variable could be helpful in determining pretrial sentencing. The reason for this hypothesis not being supported is unclear, and future research regarding judges’ pretrial sentencing decisions could help clarify how their decisions are made.
The exclusion of many cases that involved drug offenses (JRC cases) was a limitation in this study, especially in light of previous research supporting that minorities are disproportionately charged with drug offenses (Demuth, 2003). Future research focusing on DMC within Clark County’s JRC may be useful in gaining a better understanding of decision points at CCJC that are affected by DMC. This would provide helpful information regarding recommendations for intervening and reducing DMC.

Finally, after examining factors that contribute to judges’ pretrial sentencing decisions, a question arises regarding what factors we would hope judges would consider when making these decisions. As discussed previously, it would be ideal for judges to rely on objective considerations that provide information regarding the dangerousness and blameworthiness of an individual; however, in juvenile populations, it is also important to consider the amount of supervision a juvenile would have if released pretrial. Although this may appear to be an objective consideration, it leads to biases that can negatively affect minorities and low-income families. For example, juveniles from low-income families may receive less supervision at home due to parents working multiple jobs. Additionally, the lack of available resources within many minority and low-income communities creates a problem regarding access to other types of supervision for these families. Consideration of the level of supervision a juvenile receives at home leads to the inclusion of biases, yet it is a crucial factor to consider because lower levels of supervision increase the likelihood of engagement in criminal activity for juveniles (Murray & Farrington, 2010). Therefore, this research highlights the importance of addressing these systemic biases and working to minimize their effects through future research.
References


IBM SPSS Statistics for Windows (Version 21.0) [Computer software]. Armonk, NY: IBM Corp.


