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**EXAMINING THE
OVERREPRESENTATION OF
BLACK MALES IN THE YOUNG
OFFENDER SYSTEM**

School of Social Work
Faculty of Graduate Studies and Research
McGill University, Montreal

In Partial Fulfillment of the Requirements
For
The Master's Degree of Social Work.

by

Druscilla Johnson



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ABSTRACT

There is an ongoing and polarizing discourse with respect to the impartiality of the criminal justice system in its transactions with visible minority populations. Much of the controversy centers on the cause of the disproportionate number of minority youth cases in North America and the U.K. criminal justice systems. In Canada, there is a dearth of research into the overrepresentation of Black youths in the Young Offender System. An examination of Montreal's Young Offender court records from 1992-1998 (n=1714) reveals that race is a strong predictor of charge ($p < .05$) and disposition ($p < .0001$), controlling for age, language and birthplace. The study further finds that Black youth are charged with more violent offenses and receive more restrictive dispositions. Impact and implications for youth, the criminal justice system and social work are discussed. Further research including socioeconomic factors and prior history is recommended.

RESUME

Il y a une continuelle divergence d'opinions au sujet de l'impartialité du système judiciaire criminel dans ses rapports avec la population des minorités visibles. Plusieurs controverses sont axées sur la cause du nombre disproportionné de cas dans le système judiciaire criminel impliquant les jeunes minorités en Amérique du Nord et la Grande Bretagne. Au Canada, il y a une insuffisance de recherches vis-a- vis ce phénomène. Une étude quantitative des données à la cour juvenile de Montréal 1992-1998 (N=1714) démontre que la race était un fort élément de prédilection quant a l'inculpation pour les délits ($p=.02$) et leurs sentences ($p=.00$). Les jeunes de race noire ont été souvent jugés plus sévèrement et ont reçu des sentences plus restrictives. Les accusations et sentences ont été analysées selon une charte variable en rapport avec les facterus légaux (genre d'accusations) versus l'âge, la race et le lieu de naissance. De plus amples recherches englobant les facteurs socioéconomiqués et historique sont nécessaires afin d'apporter plus d'éclaircissement sur le sujet.

PREFACE

"Fourteen-year-old George Stinney was arrested for the [alleged] murder of an 11-year-old [white] girl in Clarendon, South Carolina, March 1944. Less than three months later, he was lashed into an electric chair and a mask was put over his face. He was then given a hit of 2,400 volts. The mask, which was perhaps too big for him, thereupon slipped off. The witnesses saw his wide-open and weeping eyes, and his dribbling mouth, before another two jolts ended the business and fried him for good" (Vanity Fair June, 1999 p. 77).

In his 1988 campaign, George Bush used the image of Willie Horton to exemplify his tough on crime platform. Willie Horton was a convicted felon who was accused of the rape of a White woman while out on furlough. Horton's face was plastered on placards and his name was used for trendy campaign slogans, which effectively put a face to crime, specifically a Black face (Walker, Spohn & DeLone, 1996).

"The riot that devastated Los Angeles in May 1992, leaving over 50 people dead and over 750 million worth of property destroyed, was an expression of outrage over perceived racial injustice: an all white jury had acquitted 4 white police officers of beating Rodney King, an African American" (Walker et al., 1996, p.2).

Thanks to Dr. Julia Krane and Dr. Sydney Duder for their tireless efforts. To my family and friends, love and heartfelt appreciation for nurturing my mind, body and spirit through this process.

1. INTRODUCTION

The three cases identified in the preface are examples of racial injustice endured by Black males over a 50-year span. The case of George Stinney is an example of the harsh consequences experienced by Black males for intra-racial crimes in the 1940's. Willie Horton's story reflects how effective the racialization of crime can be on public perception. By displaying Horton's face in tangent with slogans that affirm a "tough on crime" stance, Bush's political campaign both subliminally and overtly demonstrated a connection between race, in this case a Black man, and dangerous crime. Rodney King's treatment by members of the Los Angeles police and the subsequent verdict underscore unfair practices at both the law enforcement and court levels.

This thesis addresses the seemingly long-standing problem of how the criminal justice system deals with Black males. The extant research is largely based on experiences in the United States. Canadian research in this area has been sorely lacking (Mosher, 1997; Schissel, 1990). This study attempts to augment Canadian scholarship by examining the effects of race on charge and disposition, controlling for available demographic variables as derived from Anglophone Young Offender court records from 1992-1998.

What remains constant in Canada, Britain and the United States is that there are disproportionate numbers of Black youth per capita represented in arrests, trials and custodial institutions (Crow, 1994; Hawkins, 1995; Mosher, 1997; Walker et al., 1996).

Numerous research studies have sought to examine the relationship between race, crime and the justice system. Some studies have emphasized the extra-legal factors of race, socioeconomic status and family dynamics, suggesting that these outweigh legal factors in nuancing decisions at the policing, adjudication and disposition levels (Bell & Lang, 1985; DeComo, 1998). Others have concluded that the judicial process and decisions have more to do with legal factors such as serious crime, criminal history and recidivism (Hindelang, 1982; Kleck, 1981; Wilbanks, 1987). Still other studies have proposed that racism is the motive force at work in decisions made by officials of the justice system (Ontario Commission on Systemic Racism, 1994; Schissel, 1993; Urban Alliance of Race Relations, 1994).

This thesis examines the relationship between extra-legal factors (race) and legal factors (charge and disposition) in the Young Offender System, in an effort to document the influence of race on judicial decisions in that system. This chapter provides a brief explanation of terms used in this thesis. It begins with a definition of the Young Offender System, followed by an exploration of the concepts of race and racism and an examination of existing scholarship, both theoretical and empirical. Chapter 2 identifies the methodology used in the present study (i.e., sample size, analysis). Key findings specific to this study will be highlighted in Chapter 3. Chapter 4 embarks upon a discussion of the pertinent findings, including suggestions for future research and impact and implications for Black youth, as well as for the criminal justice system. Additionally, recommendations for social work practice are included. Concluding arguments will be offered in Chapter 5.

1.1. Young Offender System

In Canada, the Young Offenders Act is the legal governing mandate to address crimes perpetrated by youth between the ages of 12 and 18. The Young Offenders Act was introduced in 1984. It replaced the Juvenile Delinquent Act, which was initiated in 1908 (Rosen, 1996; Kirvan, 1995). According to Kirvan (1995), the Young Offenders Act was heralded as a major social and legal reform as it recognized that young offenders had different needs than adult offenders and therefore required different judicial and treatment interventions. The Young Offender Act incorporates four fundamental principles: accountability of the offenders; public protection; legal safeguards to protect youth rights; and recognition that youth require supervision, control, guidance and assistance.

Schissel (1990) states that “one of the primary considerations of the Young Offender Act is to reduce the subjectivity of the court in an attempt to eliminate the arbitrary nature of youth justice” (p. 59). It has been argued that the Canadian criminal justice system, including the Young Offender System, continues to treat Blacks and other visible minority groups in a differential manner, largely as a consequence of their race (Mosher, 1997; Schissel, 1990).

1.2. Race

The subject of race is an ideal one for examining the process by which a problem claims the attention of academicians and scientists, how it gets into their writing, thinking and teaching, thereby reflecting and at the same time perpetuating the tenor of the society of which they are members. It has often been said that

"behavior rises to match expectations". The behavior of social scientists is no exception. It becomes evident that the way a problem is conceptualized often impedes solution of the problem and, in fact, concepts are very often no more than value judgements.

Race, ethnicity and culture have been concepts used to describe differences among people. According to Li (1990), there has been a tendency in popular vernacular to interchange the meaning of the three concepts. It can be said that there are certain commonalities intrinsic to all three, however nuances in the conceptualization exist within each concept. Although race is the primary focus of this study, ethnicity and culture are referred to within this thesis; therefore, a brief definition of both terms is included as defined by Li (1990).

Li refers to ethnicity as commonalities shared by a particular group, demonstrated in shared heritage, traditions, identity and origin. He suggests that invisible boundaries within ethnic communities serve to maintain these commonalities within specific groups.

Culture has been defined by Li as "consisting of values and orientations that are learned through socialization" (p. 9). Family relationships, language and religion serve as conduits for this cultural socialization process.

The concept of race has generated contentious debate in the scholarship. Race has been conceptualized in both biological and sociological based frameworks. Li (1990) contends that the way in which race is defined has a direct influence on patterns of interactions between groups.

Historically, science and biology based explanations were proffered to delineate and categorize groups according to race (Joseph, 1994; Li, 1990; Russell, 1998; Satzewich, 1998). Skin color and other superficial physical characteristics, for example, were used to define race. The concept of a superior and inferior race was theorized based on biological hierarchy (Joseph, 1995). For example, the size of the cranium and structure of the face was thought to indicate levels of intelligence. Physical characteristics common to Blacks were thought to be intrinsically inferior to that of Whites. Additionally, proclivity to commit crime was thought, by some theorists, to be based on genetic factors (Armour, 1997).

Scientific evidence does not support race differences based on skin color, nor have intelligence quotients been successfully attributed to racially genetic factors (Joseph, 1995; Li, 1990). Consequently, the concept of race has increasingly become viewed as a social construct used to categorize groups of people, whereby biological determinates are actualized in social relationships.

There is a growing reticence by some social scientists to use the term race because of the debunked biological explanations (Satzewich, 1998). They believe that the concept of race is archaic. Therefore, any examination of differences between the races would be better served starting from a sociological perspective. Concepts of class and economics, for these social scientists, are more accurate methods of addressing the similarities and differences among groups of people (Satzewich, 1998).

The terms White and Black are not utilized in this thesis to suggest homogeneity among all persons of Caucasian and African heritage, but as terms that

are purposeful in the language of most of the literature cited in this thesis. For the purposes of this study race as defined by Bolaria and Li (1988) will be used. According to these authors "racial and ethnic groups are constructed on the basis of social relationships, not on genetic differences or primordial features. Here the focus is on the institutional framework within which groups are defined as racial or ethnic and how social interactions are organized accordingly" (p.5). Institutional frameworks can be understood as social markers used to measure, determine, and distinguish notions of superiority and inferiority. According to Li (1990) it is in this measurement that racism occurs.

1.3. Racism

Overt racist practices are not new. The colonization of Africa, slavery in North America and the holocaust in Germany are prominent historical examples. In each of these cases, subjugation of one group over another was at the center of the maelstrom. Racism is a historic fact and a contemporary reality (Walker et al., 1996). The concepts of race and racism are nuanced by the interplay of power, privilege and prejudice (Wilson, 1973). Race and racism are both socially constructed terms. Racism has been understood as operating at different levels (e.g., individual, institutional and systemic) (Gabor & Roberts, 1994; Walker et al, 1996).

Individual racism has been defined as one individual ascribing negative attributes and traits to another based on his/her particular racial group. The practice denotes the power of one group to define another (Wilson, 1973). As a consequence of being born into membership of the majority group, White individuals have more

power. A White person benefits from the racial legacy of his/her birth regardless of his/her views on the issue of race and racism (McIntosh, 1988). These individuals inherit unearned privileges that substantiate and reinforce their placement in the social structure. According to Wilson (1973), acting on this power and privilege promotes prejudicial behavior and thinking which in turn facilitates racist attitudes.

Mann (1995) describes institutional racism as "social, political, economic and educational structures that benefit one race at the expense of other races" (p.260). Those groups who possessed the greater social and economic power have, without exception defined the distinctions made between groups. Dominant Eurocentric cultures have historically used prejudiced and discriminatory practices to enforce power and sustain laws through social, political, economic and educational institutions (Marger, 1994). Resources within these structures are distributed unequally (Satzewich, 1998).

George-Abeyie (1989) furthers Mann's definition by distinguishing between intent and result. He states that "institutional racism is often the legacy of overt racism of de facto practices that often get codified and thus sanctioned by *de jure* mechanisms" (p. 260). Subtle effects of racism in institutions are a direct result of blatant practices that while no longer politically correct, are entrenched in current practices.

Systemic racism can be understood as the infiltration of biased and unfair policies and practices in social structures and institutions (Walker et al., 1996). For example, educational institutions that fail to include curriculum that reflects the

contributions and histories of people from different racial and cultural backgrounds, lead to the perpetuation of the dominant group's values to the exclusion of any other.

As previously stated there is growing disfavor for the concept of race (Satzewich, 1998). Some of those individuals who believe racism does not exist suggest that understanding discriminatory practices would be better served by shifting the focus from racism to class and gender (Satzewich, 1998). Ascribing tacit legitimacy to this point of view effectively debunks the reality of race and the impact of racism on certain groups. Members of visible and non-visible minority groups have emphatically denounced the supposition that racism no longer exists in modern day society (Gibbs, 1988; Joseph, 1995; Mosher, 1997; Province of Ontario Commission on Systemic Racism, 1994; Russell, 1998; Schissel, 1990). Many theorists and academics would indeed agree that racism continues to exist on different levels. Past injustices in the criminal justice system towards Blacks have led a number of authors to the conclusion that racism is a contributory factor in the large numbers of Black youths in the court system.

A stark example of racism in the justice system is an historical one. At one time in history, Blacks were thought to be three-fifths human, and legislation was enacted to deny them the rights commonly taken for granted by Whites (Joseph, 1995; Mann, 1993; Williams, 1987). The miscegenation law was an offshoot of the three-fifths rule, which was designed to prohibit the mixing of races so as not to dilute and taint the purity of the White race. Jim Crow laws ensured that segregation between the races would continue to be a reality (Armour, 1997; Mann, 1993). Satzewich (1998) argued that although racist laws, such as these listed above, have

been eradicated the feeling of racism still exists in structures and institutions that affect marginalized and powerless groups. Therefore, these laws still have de facto effects.

1.4. Perceptions of Black Males

Members of the majority population have historically viewed Black males as a threat (Armour, 1997; Mosher, 1997). Black males have been perceived and classified as shiftless, dishonest, of low moral character and highly sexed. Although these ideas may not be given as much credence today as in the past, belief in these notions can be manifested in covert and subtle ways. Witness the prevalence of negative Black stereotypes commonly depicted in media characterizations (Armour, 1997; Mosher, 1997; Pinderhughes, 1997). The three authors give examples of how Black males are portrayed in film and television. Often the dramatized roles are of pimps, drug pushers or members of street gangs. According to Pinderhughes (1997) these celluloid depictions can be and often are accepted as reality. In everyday life, an approaching Black male might cause a White woman to cross the street out of a pre-conditioned belief that he might intend to cause her harm. His entrance into a store may make a merchant vigilantly monitor his movements because of prevailing negative stereotypes of Blacks as shoplifters. In addition, his driving a late model automobile can increase his chance of being stopped by the police. This last example is a practice commonly referred to in the United States as D.W.B (driving while Black) (P. July, August, 1999, personal communications).

Dominant perceptions about Black males can be a powerful influence on those in decision-making positions like justice officials. Police, young offender workers, lawyers and judges can make decisions based on racial definitions and personal beliefs (Mosher, 1997).

1.5. Extra- Legal and Legal Factors : A Definition

To clarify the implications of race on judicial decisions the following section will identify and examine stages where racism might occur, specifically legal and extra-legal factors.

Extra-legal factors are understood as areas outside of the purview of the justice system. Extra-legal factors can be defined as such: demographic factors as race, socioeconomics, age, community neighborhoods, immigration status and language. Other examples of extra-legal factors are family composition, attitude, and behavior of the youth. Legal factors can be understood by those contingencies that have direct bearing on decisions made at the police and court levels. Examples of these factors are type and severity of offense, juvenile history and rehabilitation and intervention concerns.

A number of questions surface when examining the overrepresentation of Black youth in the criminal justice system. At issue is whether more weight is given to extra-legal factors in decisions at the policing and adjudication stages. Does membership in a particular racial group increase the risk of committing a crime or receiving biased treatment by the criminal justice system? Some of the noted risk factors that have been linked to criminal activity are poverty, low education and urban

neighborhoods (Siegel & Senna, 1994). Do these risk factors increase a Black youth's chance of engaging in criminal activity? Does a youth's race have a direct influence on charge and disposition decisions?

A popular perception about Black males is that they engage in crime in part because of lower socioeconomic conditions (Shaw & McKay, 1972). This perception gives rise to assumptions that these individuals lack the necessary tools and or motivation to attain levels of success appreciated by White individuals (Russell, 1998). If one were to believe these perceptions about Black males one might more readily accept this group as being prone to criminal behavior. Black males might be viewed as suspect as a result of disadvantaged circumstances.

1.6. Socioeconomic Factors and Race

Socioeconomic factors refer to the interaction of social and economic agents, which have a bearing on the lives of individuals and groups. Instances of these agents can be found in the areas of employment, poverty, family composition, lifestyles and social structure

To better understand the relationship between race and socioeconomic factors, it is important to recognize that visible minorities are overrepresented in poverty and typify marginalized populations in society (Chambliss, 1993; Gibbs, 1988; Siegel & Senna, 1994). Many Black urban communities are impoverished, have high unemployment, are crime ridden and lack essential services (Siegel & Senna, 1994, Joseph, 1995). It has been reported in a McGill University demographic study that Black persons in Canada were consistently underrepresented in mid-management

positions, received substantially lower incomes, and were disproportionately represented in service positions (Torczyner, 1991). The study found that more than three out of ten Blacks lived in poverty despite the fact that Blacks were less likely to depend on transfer payments and represented a higher percentage in the work force relative to the larger Canadian population.

Poverty rates have soared, in general, in North America (Mosher, 1997; Walker et al., 1997) and the U.K. (Cook & Hudson, 1993) since the 70's. Mosher (1997) documented how Canadian and British immigration policies have historically streamlined visible minorities into low wage jobs, engaged in unfair housing practices and denied them property membership. The gap between the 'haves' and 'have nots' is widening notwithstanding the belief by many authors that there are now more opportunities available to visible minorities (Staples, 1987; Walker, 1994; Walker et al., 1996). The three authors suggested that subordinate groups are consistently relegated to low level salaried positions, thereby denying them the full benefits of society.

Family composition is often cited as another contributory factor to increased poverty rates endured by Black families (Gibbs, 1988). Single parent households are typically situated on the lower rungs of the socioeconomic ladder (Gibbs, 1988; Joseph, 1995; Mann, 1993; Mosher, 1997; Schissel, 1990; Walker et al., 1996). Almost half of Black females in the U.S. are single mothers (Gibbs, 1988). In Canada, single parent families consist of one in four Black persons (23.8%) (Torczyner, 1991). According to Schissel (1990) matrifocal families are dealt with prejudicially and are seen as criminogenic.

It has been suggested that as a consequence of bankrupt socioeconomic conditions young Black males were more likely to require greater assistance from social service agencies and the justice system (Bartley, et al., 1992; Duder & Dayagi, 1994). Rambally (1995) concurred with Duder and Dayagi's findings with respect to the overrepresentation of Black clients in the Quebec social service system. She found that Black clients were overrepresented in social service agencies by 400%. However, she cited racism within the system to be the underlying source rather than socioeconomic factors.

St. Lewis (1990) conjectured that the Canadian legal system reinforces the power paradigm present in society with respect to vulnerable minority communities and the dominant White community. According to St. Lewis, criminal justice decisions are in accordance with the greater society's morals and serve to reinforce the power imbalance.

1.7. Socioeconomics and the Criminal Justice System

There remains a plethora of questions as to the impact of socioeconomic factors on decision making in the justice system. Liberal minded criminologists, who believe that crime is directly related to social influences, explored the link between the two in the 60s and 70s (Walker et al., 1996). They conjectured that changed and improved external influences would likely impact crime levels.

Sandborn (1996) conducted a study using open ended survey interviews. He interviewed 100 juvenile court workers in different American jurisdictions (i.e. rural, suburban and urban) to ascertain their perspectives on the factors that should and do

affect juvenile court dispositions. Eighty-one percent of court workers, from all three jurisdictions, cited dysfunctional families (i.e. lack of control/supervision, and lack of involvement in the treatment plan) as having an influence on decisions at the court level.

Youth were further perceived by the workers to receive preferential treatment when they had strong families, were female, had good school records, were young, White, from the middle and upper classes and had the benefit of private counsel. Sandborn observed that "juvenile court dispositions were perceived as being discriminatory against youths who came from dysfunctional families and were Black males from the lower class" (p.108).

In the United States, Chiricos and Crawford (1995) reviewed 38 previous studies, which explored the relationship between race, socioeconomic factors and imprisonment. They distinguished between the decision to incarcerate and sentencing, controlling for prior record, unemployment, crime seriousness and percentage of Blacks in the urban and rural areas. They found that Black youth were disadvantaged in 85% of decisions to incarcerate. Leniency towards Blacks indicated a significant negative relationship. In/out decisions, explained by the author as incarceration or not detained, showed stronger race effects than sentence length even controlling for crime seriousness and prior criminal history. Members of Black communities in southern regions in the U.S. seemingly received harsher treatment

than their cohorts in other parts of the country. Unemployment was also found to correlate with high levels of crime. This finding is in keeping with others (Crutchfield, 1995; Fagan et al., 1987) who have documented unemployment is an important factor in crime levels perpetrated by Black, White and Hispanics youths and adults.

Tatum (1996) also looked at macroeconomic factors and the impact on arrest rates of Black and White youths. Variables used for this investigation were unemployment and juvenile and adult poverty rates. Tatum obtained her sample from 57 N.Y. State county census records and found that economics more than any other factor significantly affected crime rates among Black youth. She argued that Black youths are overrepresented in low-income households and consequently have higher levels of crime. She added, however, that diminished economic status had similar causal effects on poor White youth. This concluding statement might suggest that the motivating factors to engage in crime might be quite similar regardless of race.

Walker (1994) theorized that the lack of economic stability is one of the causal factors in delinquent behavior. Deteriorated conditions in the inner cities have resulted in a flight of capital to the suburbs, economic decline, reduced life chances and choices (Satzwich, 1998; Shaw & McKay, 1972; Walker, 1994). According to Walker (1994) life in these segregated districts has fostered increased contact with criminals and has an adverse effect on crime levels.

Urban neighborhoods have demonstrated a higher crime level than in rural and suburban geographic residential areas (Myers & Talarico, 1986; Siegel & Senna, 1994). Diverse racial and ethnic groups typify urban centers on both sides of the

Atlantic. Joseph (1995) labeled these residential areas as "socially toxic neighborhoods" (p. 65). In the U.S., 69% of the Black population live in urban centers with a disproportionate 56% living in the inner cities. Segregated urban centers have been statistically linked with higher incidence of crime (Siegel & Senna, 1994)

As a consequence of a growing awareness of the importance of social ecology issues, in the early twentieth century researchers began to take note of the living conditions of criminal offenders (Siegel & Senna, 1994). Ecology theory is concerned with the interrelationship between people and their environment and the influences of both on behavior (Siegel & Senna, 1994). It was felt that conflict arose from the experience of impoverished social and economic conditions.

Conflict theories have provided social scientists one way to understand the relationship between socioeconomic factors and crime (Mann, 1993; Siegel & Senna, 1994). These theories, based on a Marxist perspective of capitalistic power structures, have been used to provide a general understanding of causal factors of crime among visible minority groups (Baker, 1994). Though the theories do not specifically refer to race, the central theme is that of ownership of power (Shoemaker, 1990). The theory suggests that those with economic, political and cultural power are those who rule and dictate the laws those with less power must follow.

According to West (1984), crimes generated by the powerful (ruling class) are exploitation, repression and oppression (i.e., corporate crimes, and white-collar crimes). Crimes committed by the disadvantaged and working class (proletariats) are said to generate crimes of resistance and accommodation (i.e., street crime, and blue-

collar crime). The crimes committed by the latter group are seen by social pathologists (clergy, justice officials, etc.) as the main culprit of deviance (West 1984). White-collar crime, generally committed by those members of the ruling class is said to be far more costly to society but is not perceived as critical. However incidents of blue-collar and street crime are given much more attention and perceived to be more dangerous (Mosher, 1997; West, 1984).

Institutions like the judicial system, according to conflict theories, have been shaped in a manner that ensures that agents of these systems are, ipso facto, socializing and controlling operatives of visible minorities and the marginalized. A seemingly intractable issue in criminology is the weight that extra-legal factors (economics, race, family constellation, etc.) have on criminal justice system decisions. The consequences of minority groups' disproportionate numbers in impoverished residential areas has supported the notion that ecological issues (i.e., income, neighborhood, family constellation, etc.), play a role in the perpetuation and maintenance of crime in communities (Brake, 1993; Headley, 1993).

1.8. Police and Race

Allegations of excessive force and harassment at the hands of the police have been a frequent outcry in both North America (Armour, 1997; Baker, 1994; Gibbs, 1988; Joseph, 1995; Mann, 1993; Mosher, 1997; Walker, 1994) and Britain (Cook & Hudson, 1993; Solomos & Rackett, 1991). According to Walker et al., (1996) "the police are the symbolic representatives of the established order, incidents of excessive

force are perceived as part of the broader patterns of inequality and discrimination in society" (p.97).

Police are thought to have wide discretionary powers when deciding who to arrest, how to charge, whether to detain prior to adjudication and the tone of the pre-disposition report (Walker et al, 1996). Law enforcers can make decisions as to whether to give a youth a warning or charge him with an offense. Black youth are less likely to receive warnings by the police than their White counterparts (Juvenile Justice, 1998; Siegel & Senna, 1994). Both the attitude of the youth and the manner in which law enforcement decodes the attitude and the situation may in fact tip the scales towards more formal procedures, such as official processing (Sandborn, 1996). Further, the tone of the incident report can benefit or harm the youth at the adjudication stage.

Police interventions are considered to be the first stage of the judicial process (Mann, 1993). Selection bias (discretionary decisions to arrest), at this early stage has far reaching implications as it can influence the accuracy of official statistics and negatively affect the youth throughout the judicial process (Bynum & Paternoster, 1984).

Conley (1994) noted the importance of focusing on the early stage of the justice process. In her estimation, it is at this stage where negative stereotypes on both sides (police and minority suspects) can take root. Roberts and Doob (1997) concur with Conley's assertion. They however, go further by stating that the policing stage most likely encompasses the potential for the most discrimination.

Crow (1987) stated that "discrimination at one part of the process, either direct or indirect, is likely to feed through to other parts" (p.199). His study, conducted in Britain, demonstrated that 11.5% of Black male youth vs.5% of White male youth received longer sentencing and were more likely to be arrested due to the type of policing in racially and ethnically diverse neighborhoods.

Wordes, Bynum and Conley (1994) conducted a study on the impact of race on juvenile detention. They focused on felony charges in five counties in the U.S, correlating 1,497 records from court and 728 police records at three stages: police detention, court intake detention and preliminary hearings. The researchers asserted that race as a factor accounted for significant results at all three levels. The strongest correlation (.30) was between race and police detention. The study also revealed that both Blacks and Latinos were charged with more serious offenses.

A number of researchers concluded that race had a significant and independent impact on arrests and charges during the early stages (i.e., police contact) of the process and would likely have a detrimental impact on later decisions (Wordes et al., 1994; Bishop & Frazier, 1988; Crow, 1987; Petersilia, 1983; Pope & Feyerherm, 1990).

The politics of differential policing in predominant Black neighborhoods, according to Brown and Warner (1995) leads to faulty perceptions by the police. Heavy police presence in Black areas suggests the need for tighter law enforcement control among this population. Excessive police practices are said to take place in neighborhoods with a large Black population (George-Abeyie, 1989; Solomos & Rackett, 1991).

To examine the effects of race on decisions made in the U.S. youth justice system, Conley (1994) reviewed 1,777 court records, conducted 170 interviews with court personnel, observed police interaction, and court proceedings. Her research concentrated on five racial groups: African-American, White, Hispanic, Native American and Asian. Conley acknowledged that African-American youths, in comparison to White youths, were two times more likely to be arrested. African American youth were five times more likely to be detained and eleven times more likely to be charged with an offense. She attributed these findings to the type of community policing that occurs in different areas. Urban centers are thought to receive heavier policing (e.g., in malls and on street corners).

In contrast, Petersilia (1983) and Wilbanks (1987) did not find widespread discrimination. As Petersilia stated, "racial disparities appeared to develop from the justice system having adopted procedures without analyzing their possible effects on different racial groups" (p.92). Petersilia used two sources for her study: California's 1980 offender based statistics and the Rand inmate survey. Both sources are used to compile data on the offender. She investigated arrest rates with incarceration sentences and noted that Blacks and Hispanics were more likely to be released, before the prosecutorial process, mainly because of lack of evidence rather than any form of leniency by justice officials. She submitted that this practice was due in large part to being arrested on weak evidence. Results indicated, however, when a sentence had been handed down that visible minority group members received longer sentences.

Arrests are reflected in official statistics. Increased arrests of Black youth, according to some sources, could indicate, at a cursory glance, that these youth might

pose more of a threat to society (Chambliss 1993). However, given Petersilia's assertion that visible minorities are more likely to be arrested without sufficient evidence, one must interpret the statistics with reservations.

Chambliss (1993) observed that official statistics, like the Uniform Crime Statistics (UCR) used to compile information on the type and frequency of crime and police reports, do not necessarily present an accurate picture of crime committed among racially diverse groups. These reports detail number of arrest and court cases more than crime levels. According to Chambliss, officials to suit their own agenda (e.g. funding) can manipulate statistics. Headley (1993) used the term exploitative politics to demonstrate how numbers garnered from official crime reports can be used as political platforms.

Chambliss proposed that if certain segments of the population were arrested more than others they would be overly represented in statistics that are then used to implement policies and practices. The inference is that Black youth may not necessarily engage in more crime but rather encounter more police intervention.

The status of Black youths in the U.K. is not dissimilar to that of North America. Research in Britain has, since the 1970s, linked crime to Black communities, notably the West Indian population (Crow, 1987). Commissions were formed as a result of a perceived rising conflict between the police and this group (Crow, 1987). The major finding was indeed that a tense, distrustful relationship existed between the two groups. Negative stereotypes of West Indians in Britain gave rise to erroneous perceptions that this group lived off immoral earnings, participated in drug trafficking and welfare fraud (Black, 1990). Crow (1987) contended that laws

were implemented to increase the discretionary powers of law officials over certain groups. One example used in Britain was the "Sus Law" which gave police the legal mandate to disband congregated groups on the street. West Indian youth were especially targeted, which led to aggressive policing in areas heavily populated by this community (Crow, 1987).

Canadian Black youths have found police tactics to be excessive and have cited discrimination as the main cause (James, 1998). There is no independent civilian body in Quebec to oversee police operations. Municipal police forces are investigated by the provincial Surete du Quebec (Schissel, 1990). Henry, Tator, Mattis and Rees (1995) contended that the police force is a breeding ground for racism. They postulated that the negative relationship between minority groups and the police is the result of poor police community relations, lack of visible minority officers, police discretionary powers and excessive use of force without fear of reprisals. They argued that the Canadian police like their fellow American and U.K. officers engage in racialization of crime.

A focus group discussion involving Black males, (17-22) years involved with Ontario's criminal justice system revealed that many of the young men had personal experiences with police practices. The participants described the police as racist, oppressive, angry and unfair (Urban Alliance on Race Relations, 1993).

A widely accepted perception is that young Black males engage in criminal activity (Hawkins, 1995; Joseph, 1995; Russell, 1998; Walker, 1994). Pervasive stereotypes conveyed by popular media sources effectively taint perceptions about specific groups (Armour, 1997; Mann, 1993; Mosher, 1997; Urban Alliance of Race

Relations, 1994). Stereotypical views and responses are common features of police intervention with Black youth, according to Walker et al. (1996). The authors contend that prejudice among the police is not to be viewed as the exception, but rather as an accurate reflection of the contextual discrimination that exists in society (Walker et al., 1996). Contextual discrimination refers to the disparity of treatment that is not pervasive but found to be in certain places and under certain conditions (Walker et al., 1996).

The acceptance of negative stereotypes about Black youth by some members of law enforcement can become so effectively ingrained that these stereotypes serve to influence judgements and decisions made in the line of duty. Labeling theory has been offered by various authors as an explanation of the interaction between Black youths and the police (Joseph, 1995; Siegel & Senna, 1994). The main tenet of labeling theory is that labels are seen as a consequence of the social definition of the act, as identified by others, rather than a reflection of the act itself (Siegel, 1994, Thornberry, 1997). Theorists interested in the concept of labeling have been historically less interested in causal factors of deviance and more interested in the effects on the deviant person in response to the commission of an offense (Siegel & Senna, 1994). Deviancy takes on a particular meaning in the interaction of the individual and those in society that react to his actions. Social control agents, such as the police and judges, are pivotal in determining who is labeled and who is not (Shoemaker, 1990). According to Shoemaker, this top down process has the effect of making labels more adhesive to lower class individuals than to those of higher class. What might be considered "acting out" in White communities would more likely be

considered deviant behavior when carried out in the inner city Black areas (Joseph, 1995).

Shoemaker (1990) held that two consequences of effective labeling are self-fulfilling prophecies and typecasting. Self-fulfilling prophecy refers to the internalization of false beliefs. According to Schissel (1990) "social control agencies like the police, through the process of selective detection and publication not only produce given rates of crime, but also contribute to the psychological process whereby vulnerable individuals come to internalize society's negative labels" (p. 103).

Typecasting occurs when the deviant label is widely accepted and automatic. Police officers believing that Blacks are more resistant to arrest may use unnecessary force when restraining a suspect. This in turn increases the likelihood of more resistance from the youth. Labels attached to Black youth (e.g., "gangbanger", "thief", etc.) become active descriptions in defining who they are. These descriptions then become subjective and objective perceptions of identity. According to Rubington and Weinberg (1987) "The culture's repertoire of deviant types and stereotyping is ordinarily created, defined, sustained and controlled by highly valued realms of the culture (e.g., psychiatry, law, religion)" (p.7).

1.9. Criminal Justice System and Race

The adjudicated process is understood by some in the field to have the most impact on a youth (Clement, 1997; Fagan et al., 1987). Conditions for Blacks are not mirror images across Canada, Britain and the U.S. What is common, however, is the disproportionate numbers of visible minority youth in arrest and custodial

placements. In Canada, Black males account for 6% of the prison population and a little over 1% of the general population (Corrections Canada, 1997). In Britain, Blacks make up 5-6% of the population and represent 17% of arrests (Cook & Hudson, 1993). Blacks, in America, represent 12% of the population and are overrepresented in prisons and jails by approximately 50% (Gibbs, 1988; Joseph, 1995; Mann, 1993; Russell, 1998; Siegel & Senna, 1994; Walker et al, 1996).

If the criminal justice system were seen as two parts of a whole, conceivably one part might represent law enforcement and the other law-breakers. As the above numbers suggest a large percentage of Blacks' involvement with the criminal justice system is concentrated on the law-breaking side. Contrarily, Blacks are underrepresented in professional positions in the criminal justice system. An article in the Montreal Gazette (March 1, 1999) stated that "The Canadian Bar Association remains a bastion for White males and excludes minorities both overtly and subtly" (p. A2). Additionally, the article postulated that judge selection ensures class bias because the vast majority of judges come from privileged backgrounds such as prestigious law firms, and have powerful social and political connections (Mann, 1993). Mann maintains that judges and attorneys, like the police, can essentially make decisions based on biased personal beliefs.

Researchers have examined to what degree the interplay of race and professional power might have on decisions made during adjudication. Ontario's Commission on Systemic Racism (1994) conducted opinion surveys with justice system officials, and Black, White and Chinese residents of Metro Toronto. When asked about treatment by justice officials between Black and White individuals, 52%

of the Black respondents, 36% of White and 31% of Chinese respondents believed that judges did not treat both groups the same. The findings suggested a perceived hierarchy of treatment disparity with Blacks receiving the less favorable treatment, followed by Chinese residents. White residents were assumed to receive the best treatment. Seventy-four percent of crown attorneys believed that Black and White defendants were treated the same, as compared to 50% of defense counsel. The majority of the judges believed that all individuals received fair and impartial treatment in the justice system, 64% of provincial judges and 72% of general division judges. The study reveals stark differences of opinion depending on one's social location or relationship with the criminal justice system.

Two Nova Scotia studies, funded by the Commission on the Donald Marshall Jr. Prosecution (1988) examined overall treatment by the justice system to different racial groups. The Commission was formed in response to the case of Donald Marshall, a Native young man who was convicted in the 1970s and sentenced for a murder that he did not commit. The first study examined effects of race on sentencing with Black and White individuals. Three strategies were used for data collection. Surveys and interviews were undertaken with 365 Blacks and 159 from other racial groups. As well an examination of 177 individual records was undertaken (51 Blacks, 126 from other racial groups). The Commission found that regardless of summary (non-serious) or index (serious) offense, there was a race effect on sentencing. Stepwise regression analysis, with severity of sentence as the dependent variable, showed that prior convictions, education and age were the best predictors of sentencing controlling for race. Blacks received zero percent of

absolute discharge as compared to the non-Black individuals who received 11.1%. The second area that showed a disparity was incarceration. Blacks received custodial placement in 33.3% of the cases as opposed to the other racial group that received 9.5%. In interviews with lawyers and members of the Black community, it was learned that the respondents found that the courts were guilty of the most discriminatory practices. The lawyers were especially critical of the system. Demographic factors were highlighted as having an impact on outcomes (e.g., socioeconomic factors, urban vs. rural jurisdictions).

Similarities have been drawn in the scholarship between Black and Aboriginal communities. Aboriginal people in Canada face similar situations to the Blacks across North America and Britain (Crow, 1987; Schissel, 1993). In Manitoba and Saskatchewan, the Native community is comprised of 10% of the population and represents 60% of incarcerated individuals (O'Reilly-Flemming, 1993).

Schissel (1990) was particularly interested in Native communities' representation in Canada's legal system. He tested the influence of race, family, and type of council on dispositions in a Canadian court. Data were collected on appearances in court by 1,582 young men and women. The race variables were grouped into White, Native and other. He looked at legal and extra-legal factors. He found that Whites in the younger age group (12 to 15 years) committed and were arrested for more serious crime than Natives and others. In the older age group (15 years and older), the reverse was true: non-Whites were more likely to be arrested for serious crimes. In the case of non-serious crimes, Natives on average were more often detained (i.e., held in custody). Furthermore, Native youth received more

convictions and incarceration for non-serious crimes than the other two groups. In testing the effects of counsel representation, Schissel found that a young offender with private counsel was less likely to plead guilty. Further, those youth represented by private counsel were more likely to be found not guilty. Upon receiving a guilty decision, these youth received lighter sentences.

The second study conducted by the Commission on the Donald Marshall Jr. Prosecution examined the treatment of Natives in Nova Scotia. One thousand four hundred and twelve Native individuals and justice system personnel were interviewed. Although the results of the interviews pointed to clear treatment disparity by the police, a finding on sentence disparity was inconclusive. Crown prosecutors and defense counsel suggested that certain judges use different criteria for Natives as compared to the rest of the population.

In the U.S., larger contrasts can be highlighted with respect to treatment disparity along racial lines, as there are a greater percentage of Blacks per capita in the United States than in Canada (Mosher, 1997). American research has examined a number of factors, including race, which were thought to have some bearing on decisions made at the court level (e.g., jurisdictional influence, type of offences, commonly held perceptions about Black youth).

Sandborn (1996) was interested in investigating whether the interchange between court jurisdictions, extra legal and legal factors had an impact on the adjudication process. His findings highlighted the inherent complexities at work when attempting to examine procedures among and between different court jurisdictions. He suggested that there were variations in the disposition structure and operation

among the three court jurisdictions. Sandborn conducted interviews with 100 court officials from three juvenile courts (urban, suburban and rural). He established that in all three courts, extra legal factors such as, residential location and family composition were frequently authenticated as important factors in judicial decisions. Legal factors such as prior record, current offenses, character of the individual and treatment needs were also considered important.

Legal factors were also critical to McGarrel's (1991) research study. He was interested in investigating the trends in racial disproportionality between the years 1985-1989. McGarrel reported that during those years there was a rise in the numbers of non-White youth in the juvenile justice system. McGarrel surveyed court records in 17 states and 825 counties in the United States, exploring four stages in the adjudication process: referral, detention, petition and placement. He also examined the effects of offense categories (i.e., prison, property, drugs and public order) on decisions made in court. Although, there were discrepancies among counties, overall non-White youth, in all offense categories, were referred to court disproportionately more often than other groups (White 4.3% vs. 38.5% non-White). Placement dispositions showed a large discrepancy, 41.8% of non-Whites receive custodial dispositions as compared to 2.7% of White youth.

McGarrell's findings are in keeping with a study by Steffensmeir, Ulmer and Kramer (1998). They analyzed sentencing data (offense type, severity, prior record, number of convictions and other court contextual variables) for Black and White adults and youth between the years 1989 to 1992. They all found that there was an increase in the numbers of Black youth who received restrictive sentencing.

Historical documentation offers countless examples of unfair practices by the criminal justice system towards Blacks suspected of intraracial offenses (Armour, 1997; Mosher, 1997; Russell, 1997). Hagan's (1978) research found interracial capital offense cases resulted in stricter sentences for visible minorities in Southern regions. However, in non-capital offenses, controlling for type of offense and prior history, the relationship between race and disposition was no longer significant.

Hagan's finding was inconsistent with later studies by Kleck (1981) and Wilbanks (1987), both of whom found no discrimination in dispositional decisions. Both Kleck and Wilbanks stated that there in fact appeared to be more leniencies towards Blacks. Wilbanks asserted that racial discrimination in the justice system is a myth. His statement sparked tremendous controversy. Most of those who took exception to Wilbanks' study did so because of the way in which he conceptualized the problem. Wilbanks proposed that institutional racism should not be considered as a possible factor in the disproportionate numbers of visible minorities in custodial facilities because among other factors it negated the notion of personal choice for one's actions.

Wilbanks did an exhaustive study of previous research, which examined race effects at different points of the process: police contact, arrest, sentencing and parole. He suggested that there may well be the existence of isolated race effects at some points of the process and by some social control agents, but not to a degree to be considered as a widespread judicial problem. Further, because there was no consistent evidence of racial disparity, Wilbanks contended that there was no consistent race impact. He had gone as far as to say that visible minorities are, in

fact, the ones who are racially prejudiced against members of the dominant society. Most crime, according to Wilbanks, is interracial with the majority of crimes perpetrated against members of the majority. This finding is in opposition to other research studies which concluded that crime is intraracial (Frazier & Bishop, 1990; Mosher, 1997, Walker, 1994). Wilbanks assertions are an illustration of how the racialization of crime can be perpetuated, through the criminalization of Blacks.

Racialization of crime, as previously referred to, is the result of negative perceptions and beliefs about Black males that serve to substantiate criminal activity. The interactions between perceptions, beliefs and experiences can be solidified in stereotypical labels. Bridges and Steen (1998) surmised that negative images and stereotypes play a part in judicial decisions. They examined the link between race, perceptions held about both members of minority and majority offenders. They reviewed probation officers' assessments, re-offending risks and dispositions in 233 probation officers' narrative reports during the years 1990-1991. In total, there were 170 White youth and 63 Black youth in three different jurisdictions. They found that Black youth were perceived as more of a threat than White youth. Negative attributes were thought to influence re-offending risk and sentence recommendations.

One could hypothesize that policies and practices, within the criminal justice system, demonstrate changes in accordance to current societal mores. Acceptable practices in the 1800's, towards Black males, likely would not be tolerated in today's criminal justice system. Is it possible to conjecture that remnants of past policies and practices still have effects, albeit diluted, on decisions made in the same system?

Zatz (1987) analyzed the relationship between race and dispositions in the judicial system as identified through research conducted over the past 70 years. She found evidence of overt discrimination between 1930- 1960. During the 60s and 70s overt discriminatory practices in the justice system waned, due in part to the civil rights movement. The 1980s saw studies that were more sophisticated, documenting discrimination at different stages in the justice system.

Walker et al. (1996) made a similar assertion, based on reviews of previous research, that racism in the justice system was contextual. The lack of definitive findings led the authors to take the position that racism in this forum can be a function of both legal and extra-legal factors. The criminal justice system, according to the authors, "is neither completely free of racial bias nor systematically racially biased" (p.229). They contend that the justice system operates on a continuum. Degrees of discrimination follow a flow from one extreme to another (systematic discrimination, institutionalized discrimination, contextual discrimination, individual acts of discrimination and pure justice).

The focus of this section was to highlight theoretical and empirical knowledge on the topic of the overrepresentation of Black males in the youth justice system. With the exception of Petersilia (1983) and Wilbanks (1987), studies cited in this review suggested that Black youth were disadvantaged in interactions with justice personnel at both the police and court levels.

Review of the literature precludes a blanket statement that racism is widespread in all jurisdictions and at all levels in the criminal justice system. Instead,

a case may be made for contextual biases at the police and court stages as advanced by Zatz (1983) and Walker et al., (1996).

A number of extra-legal factors appear to influence decisions to varying degrees. Socioeconomic factors appear to have some influence at the police and court stages (Chiricos & Crawford, 1995; Sandborn, 1996). The disadvantaged social and economic conditions experienced by Black youth may lead to negative perceptions that in turn have a deleterious impact on decisions made in the criminal justice system. Consequently, some authors suggest that Black neighborhoods may be policed differently to their White counterparts (Crow, 1987; George-Abeyie, 1989). Furthermore, decisions made at the court level may be effected by type of counsel (i.e., legal aid or private). However, the studies do not address those individuals who live in impoverished areas who do not engage in crime.

Many of the studies examined in this thesis focus on single variables (e.g. socioeconomic factors, neighborhood locale, disposition and/or charge). The following study will examine interrelationships among a number of variables: race, charge, disposition, and seriousness of crime, birthplace and age. Controlling for extra-legal factors is there evidence of direct racism at work in policing and in courts? The examination into this phenomenon will address Canadian concerns, specifically found in Montreal.

2. METHOD

2.1 Data Collection

This study took the form of a secondary analysis of existing data from Montreal youth court records obtained from Batshaw Youth and Family Centers' Young Offender Department. The collected data covered a six year span, 1992-1998. Data for a total of 1714 males, ages 12 to 18, were abstracted. The study was restricted to males because they are reported to have higher levels of involvement with the criminal justice system.

Classification information about each youth was encrypted by the court system for confidentiality reasons, which made identifying multiple offenses by a single individual difficult; only the most violent offense for each individual was used in the study.

The variables available for each individual consisted of department identification number, place of birth, race, maternal language, language spoken, date of birth, type of offense (charge), disposition and court date. Six variables were used in this study: age (calculated from date of birth and court date), place of birth, maternal language, race, offense charged and court disposition. All of these variables have been reported in earlier studies to have an impact on disposition.

2.2 Analysis

The goal of the investigation was to examine the effect of race on the target variables, charge and disposition, controlling for birthplace, language and age. The main statistical procedure used in this study was Chi-Squared Automatic Interaction Detection (CHAID), (SPSS, Inc., 1998). The CHAID procedure was used because of its ability to classify and segment information. It is a functional and effective form of analysis when using nominal variables with few categories and a reasonably large sample. Tree diagrams are produced to illustrate significant and predictive associations between variables. Each successive node is a potential predictor of the prior node. The procedure is hierarchical, analogous to stepwise regression, in that the most significant predictors are selected first and the effect of each variable is controlled for preceding variables, but not for subsequent variables. CHAID default options were used.

Two CHAID analyses were performed. The first used charge as the dependent variable, with race, birthplace and language as independent variables. The second used disposition as the dependent variable, with the above three variables plus charge as independent variables.

For analysis, variables were dichotomized as follows:

- **Disposition:**

Restrictive: placement in an open or locked juvenile custodial facility.

Non-restrictive: probation, volunteer work, community service, financial restitution, etc.

- **Race:**

Black

White and Other: the "Other" category was comprised of non-Black racial and ethnic groups (e.g., Native, Jewish, Asian, Greek, and Italian).

- **Charge:**

Violent: physical or sexual harm or aggression towards another person (e.g., murder, assault, rape, taxing).

Non-violent: (e.g., drug, weapon, burglary, and failure to appear infractions).

- **Language:**

English: maternal language

Other: any language other than English that was the maternal or spoken language (e.g., Arabic, Chinese, Hebrew, French, Greek, Italian).

- **Birthplace:**

Canadian: those youth who were born in Canada

Other: defined youth born outside of Canada (e.g., Israel, Greece, Africa, United States, China, South America).

- **Age:**

Lowest to 15 (12-15)

16 to highest (16-18)

3. FINDINGS

3.1. Description of Sample

Table 1 summarizes the characteristics of the sample as obtained from youth court records. Twenty-eight percent of the youths were Black. As expected, the vast majority of the sample was Canadian born. More than half of the youths were in the 16-18 category and most charges fell into the non-violent category. The majority of dispositions were non-restrictive.

3.2. Predictors of Charge

Figure 1. gives a graphic illustration of the relationship between charge and race in the sample. For the Black sample, the percentage charged with violent offenses is greater than for the White and Other group.

To explain this, Figure 2 shows the tree diagram produced for the dependent variable charge. The most significant predictor of charge was race, chi-square ($1, N=1714$)=4.93, $p < .05$. Thirty-six percent of Black youth were charged with violent offenses, compared to only 30.5% of youth in other racial categories.

A second predictor of charge for non-Black youths was place of birth, chi-square ($1, N=1234$)=4.59, $p < .05$. Twenty-nine percent of Canadian born youths were charged with violent offenses, compared to 37% of youth born outside of Canada.

Table 1. Description of Sample (N=1714)

	<i>N</i>	%
<u>Charge</u>		
Murder	6	.4
Sexual/Physical Aggression	163	9.5
Taxing	380	22.2
Drugs	84	4.9
Accidental/Negligent Death	6	.4
Non-Violent ¹	1075	62.7
<u>Disposition</u>		
Restrictive (Open unit)	201	11.7
Restrictive (Closed unit)	179	10.4
Non-Restrictive	1334	77.8
<u>Race</u>		
Black	480	28.0
White	960	56.0
Other ²	274	16.0
<u>Age (Years)</u>		
12 - 15	801	46.7
16 - 18	913	53.3
<u>Birthplace</u>		
Canada	1392	81.2
Other ³	322	18.8
<u>Language Spoken</u>		
English	1314	76.7
French	86	5.0
Other ⁴	314	18.3

¹ Breaking and entering, car theft, vandalism, failure to appear, disturbing the peace.

² Jewish, East Asian, South Asian, Middle Eastern, Pacific Isles, American Indian.

³ Caribbean Islands, North, South and West Africa, Latin America, Asia, United States, Europe.

⁴ Chinese, Italian, Portuguese, Spanish, Greek, Arabic.

Figure 1. Charge by Race

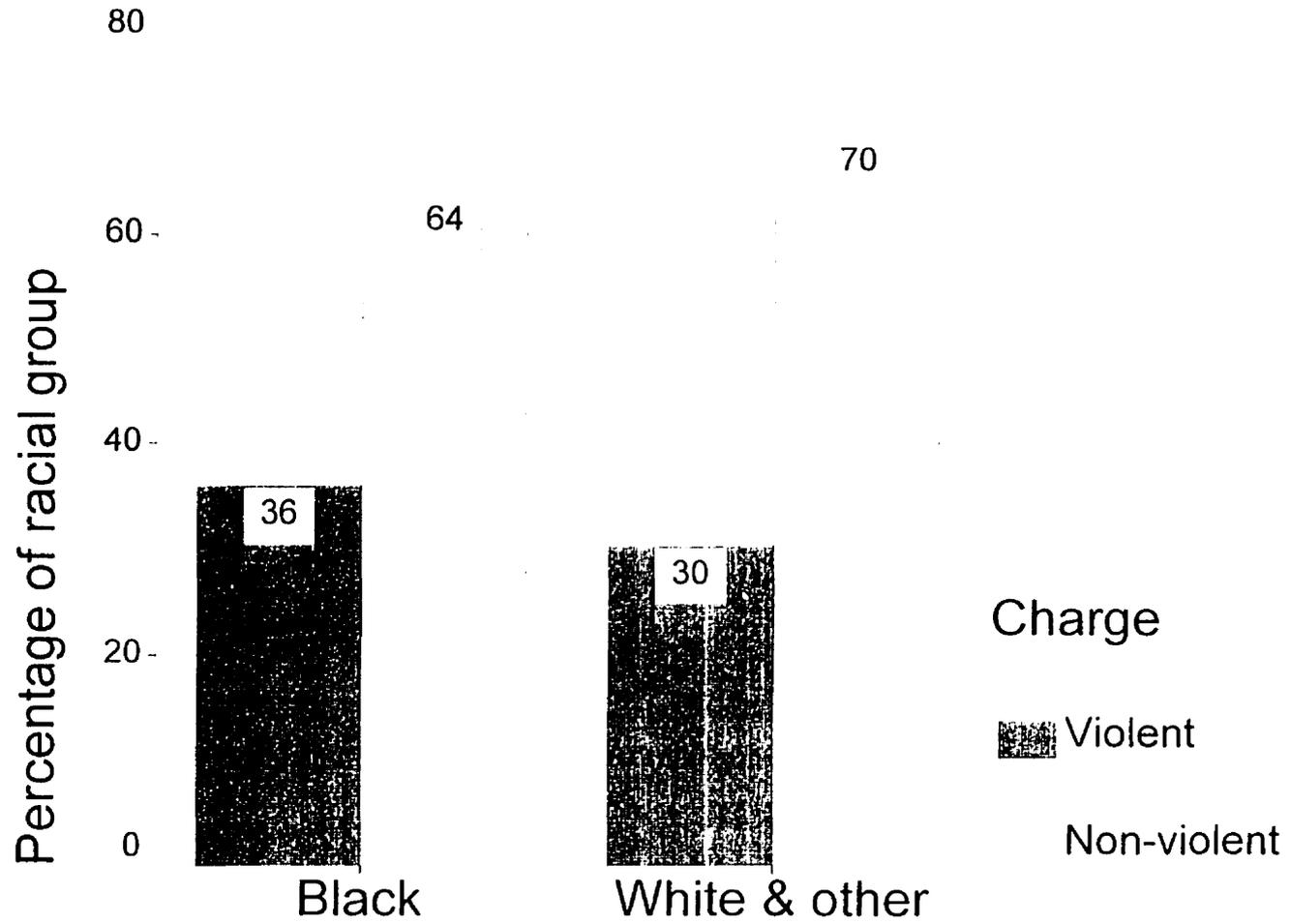
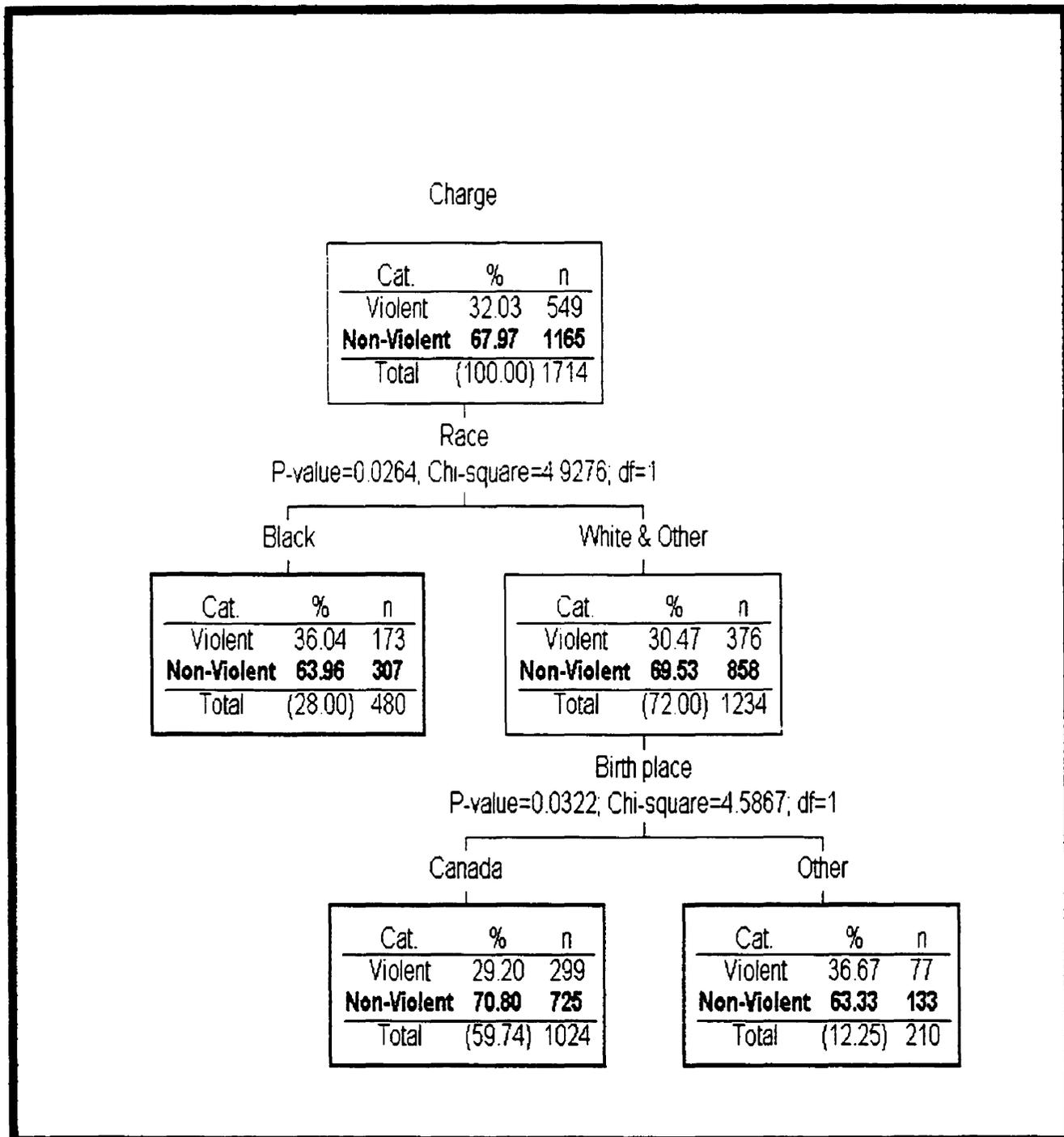


Figure 2. Predictors of Charge



In Figure 2, race emerges as the strongest predictor of charge. However, this effect was not controlled for the second predictor, birthplace. Table 2 shows a cross tabulation of race by charge, controlling for birthplace.

Table 2. Charge by Race and Birthplace

Birthplace	Race	Charge		Total	
		Violent	Non-Violent		
Canada ¹	Black	<i>N</i>	136	232	368
		%	37.0	63.0	100.0
	White/Other	<i>N</i>	299	725	1024
		%	29.2	70.8	100.0
	Total	<i>N</i>	435	957	1392
		%	31.3	68.8	100.0
Other Countries ²	Black	<i>N</i>	37	75	112
		%	33.0	67.0	100.0
	White/Other	<i>N</i>	77	133	210
		%	36.7	63.3	100.0
	Total	<i>N</i>	114	208	322
		%	35.4	64.6	100.0

¹ Chi-square (1, *N*=1392) = 7.58, *p*<.01

² Chi-square (1, *N*=322) = .516, n.s.

The top half of the table shows that for the 1392 youth born in Canada, 37% of Black youth, compared to only 29.2% of non-Black youth, were charged with violent offenses. This difference was highly significant.

For the sample of youth born outside Canada, the percentage of Black youth charged with violent offenses was actually slightly lower than the percentage of non-Black youth, though this difference was not statistically significant.

3.3. Predictors of Disposition

Figure 3 shows a breakdown of disposition by race. Black youth receive almost double the proportion of restrictive dispositions as compared to the White and Other group. For both groups there were more non-restrictive than restrictive dispositions.

Figure 4 shows the tree diagram produced for the dependent variable disposition. Again, the most significant predictor was race, chi-square ($1, N=1714$)=38.0, $p < .0001$. Of the Black youths in the sample, 32.1% received restrictive dispositions, compared to 18.3% of the White and Other group.

For the sample of Black youths a second predictor of disposition was charge, chi-square ($1, N=480$)=9.96, $p < .01$. Black youth received 41% restrictive disposition for violent offenses and 27% for non-violent offenses.

The second predictor for those youths in the non-Black category was age, chi-square ($1, N=1234$)=12.83, $p < .001$. The younger age group (12-15) received 14% restrictive dispositions as compared to 21.8% for the older teens.

A third predictor of disposition for the non-Black older age group (16-18) was identified as charge, ($1, N=687$)=6.4, $p < .05$. The older teens received 27.9% restrictive dispositions for violent offenses and 19.2% restrictive for non-violent. In both violent and non-violent offense categories, the percentages of restrictive dispositions were lower than the corresponding percentages for Black youth on the left branch of the tree diagram.

Figure 3. Court Disposition by Race

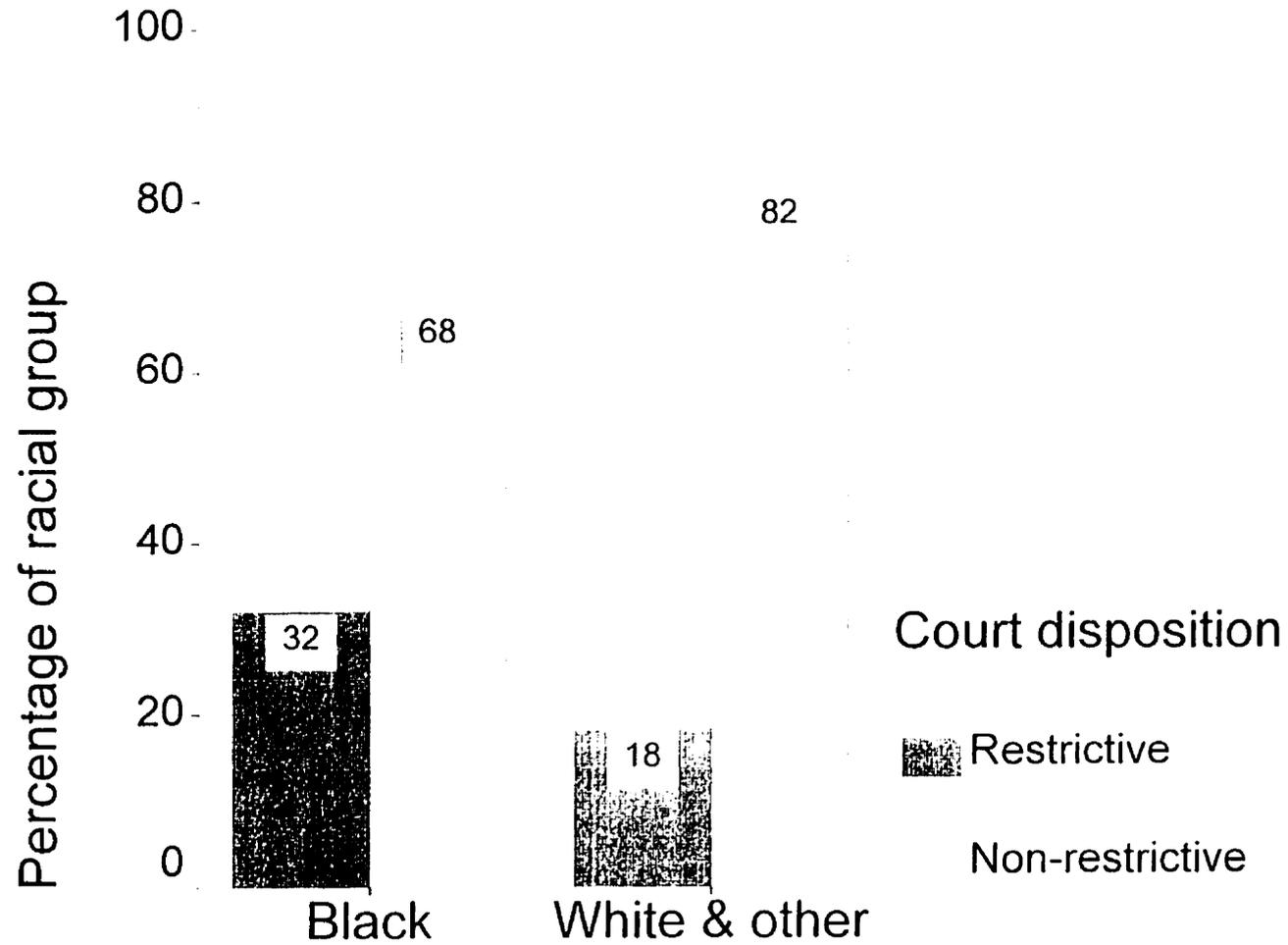


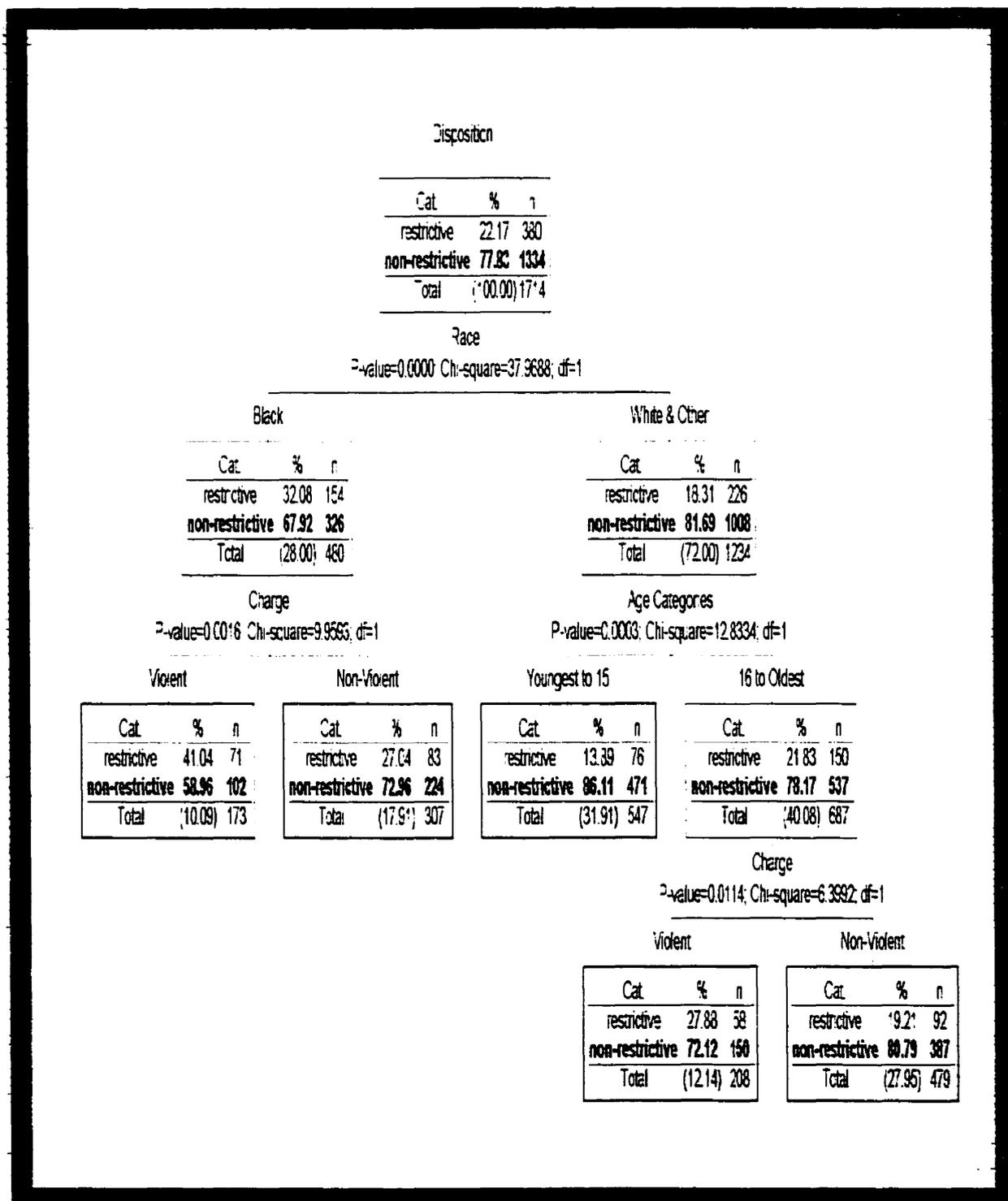
Figure 4. Predictors of Disposition

Table 3 shows a cross tabulation of race by disposition, controlling for age and charge. For all four combinations of age and charge, the percent of Black youth that received restrictive dispositions was higher than the percentage of White and Other youth. In all four cases this difference was highly significant. The most marked difference was found for youth under 16 charged with violent offenses; 35.0% of Black youth received restrictive dispositions, as compared to 13.7% of the Other racial category.

Table 3. Disposition by Race, Age and Charge

Age	Charge	Race	Disposition		Total	
			Restrictive	Non-Restrictive		
12-15	Violent ¹	Black	<i>N</i>	35	65	100
			%	35.0	65.0	100.0
		White/Other	<i>N</i>	23	145	168
			%	13.7	86.3	100.0
		Total	<i>N</i>	58	210	268
			%	21.6	78.4	100.0
Non-Violent ²		Black	<i>N</i>	38	116	154
			%	24.7	75.3	100.0
		White/Other	<i>N</i>	53	326	379
			%	14.0	86.0	100.0
		Total	<i>N</i>	91	442	533
			%	17.1	82.9	100.0
16-18	Violent ³	Black	<i>N</i>	36	37	73
			%	49.3	50.7	100.0
		White/Other	<i>N</i>	58	150	208
			%	27.9	72.1	100.0
		Total	<i>N</i>	94	187	281
			%	33.5	66.5	100.0
Non-Violent ⁴		Black	<i>N</i>	45	108	153
			%	29.4	70.6	100.0
		White/Other	<i>N</i>	92	387	479
			%	19.2	80.8	100.0
		Total	<i>N</i>	137	495	632
			%	21.7	78.3	100.0

¹ Chi-square (*I*, *N*=268) = 16.78, *p*<.01² Chi-square (*I*, *N*=533) = 8.84, *p*<.01³ Chi-square (*I*, *N*=281) = 11.14, *p*<.01⁴ Chi-square (*I*, *N*=632) = 7.11, *p*<.01

4. DISCUSSION

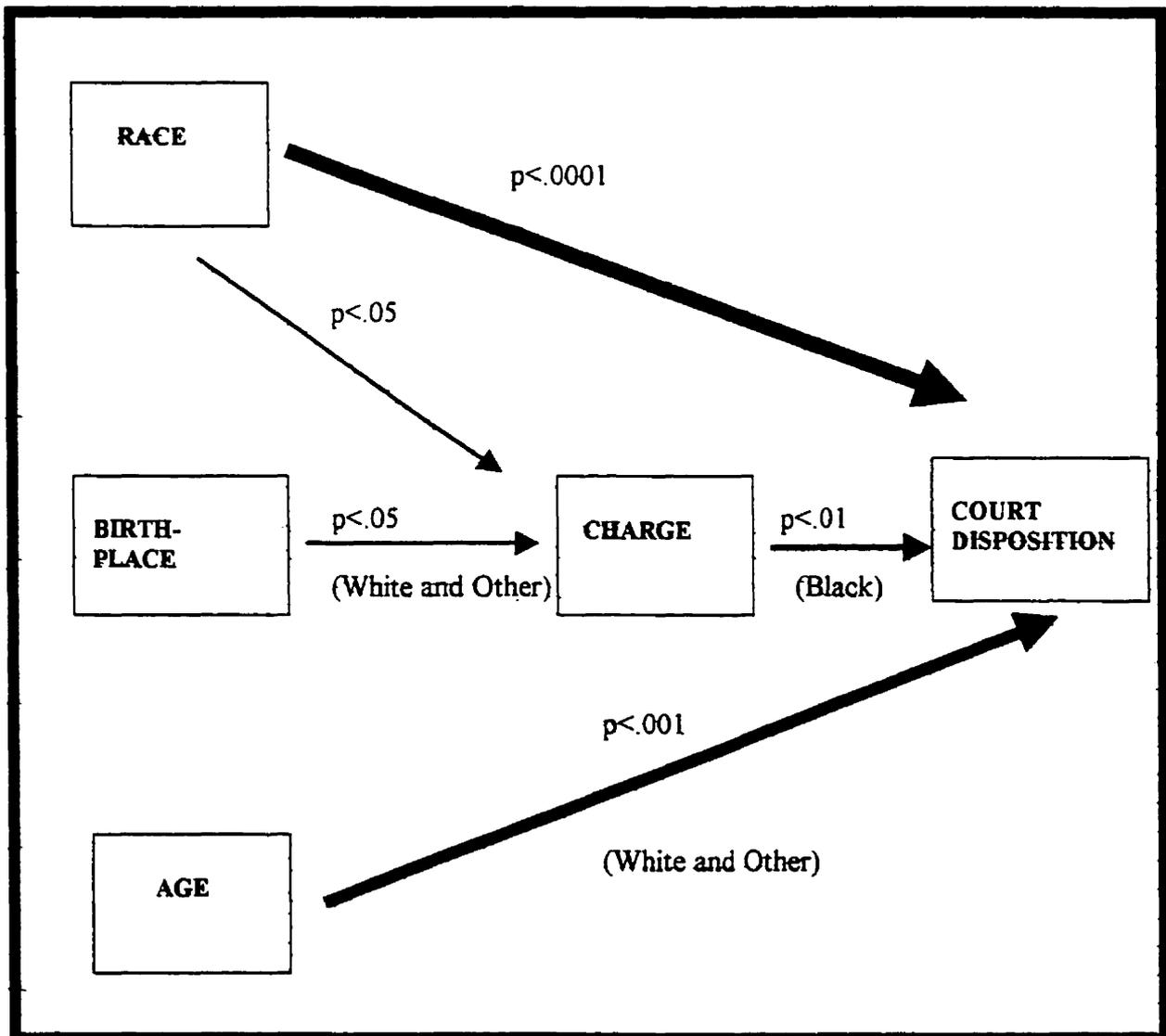
4.1. Key Findings

There was support in this study for treatment disparity towards Black youth in the criminal justice system. For both charge and disposition, race was the most significant predictor in all categories, even when controlling for birthplace and age. There were five significant findings summarized graphically in the path diagram in Figure 5.

- 1. Male Black youth were charged with more serious offences than the other racial group.**
- 2. Black youth had a higher probability of receiving restrictive dispositions.**
- 3. Birthplace had a significant effect on charge. Those non-Black youth born outside of Canada received more violent charges than Canadian non-Black youth.**
- 4. Age had an impact on disposition for the non-Black group. Older youth received more restrictive dispositions and less non-restrictive dispositions than their younger counterparts.**
- 5. Charge was a strong predictor of disposition; youth charged with violent offenses were more likely to receive restrictive dispositions.**

The last two findings offer no surprises. One would expect that the type of offense a youth committed would have a direct effect on charge and disposition. Similarly, with respect to age, older youth might be expected to receive dispositions that are more restrictive partly because of the expectation that older youth are capable

Figure 5. Path Diagram: Predictors of Charge and Disposition



Note: Probabilities are taken from the CHAID diagrams.

of more mature judgements. Judges might also give more severe consequences to an older youth as a way to deter the youth from further delinquent activity. In this way, dispositions can serve as a prevention aid against adult criminality.

The areas that highlight cause for concern lay within the first three findings: influence of race on charge and disposition and the influence of birthplace on charge. As the issue of race is of prime interest in this thesis emphasis will be given in this discussion to the influence of race on charge and disposition. However, some suggestions for future research based on all five significant findings will be included.

4.2. Limitations

The three key findings detailed above must be interpreted with caution because of limitations inherent to this study. Because of the method in which the data set was originally coded, it was not possible to accurately record multiple charges for each individual. Further, the potential for embedded factors could not be addressed. Embeddedness in the data set refers to the possibility that a youth may be currently serving a sentence at the time of adjudication for another offense. This type of situation is likely to occur in cases of chronic offenders, and consequently could affect charge and disposition outcomes.

The absence of socioeconomic information precluded fuller analyses of the data. The link between poverty and crime has been referred to in this thesis, however, because this data set did not include this information, any possible relationship between socioeconomic factors and delinquency could not be directly addressed in this study.

Lastly, some studies suggest that the demeanor of the youth can have a negative impact on his judicial outcome (Bridges & Steen, 1998). Attitudinal information on the youth or for that matter on justice officials was not available for this study.

4.3. Implications for Research

Although the specified limitations had an effect on this study, the findings are provocative enough to suggest further research be undertaken in this area. The following discussion identifies suggestions for future investigation.

A number of questions surface in the examination of the disproportionate numbers of Black males in the criminal justice system. What are the predominant influences that affect charge and disposition? Is it possible that Black males are more violent than other youth therefore receive harsher dispositions? Alternatively, does racial bias occurring at the early stages (i.e., police intervention) have a deleterious effect on decisions made at the later stages (i.e., adjudication)?

Constraints limited this study's attempt to isolate single and multiple offenses. It would follow that multiple charges would affect disposition severity. Consequently, it would be necessary to include this variable in future research. One would need to obtain assistance from young offender workers to decode the encrypted information.

The connection between race and class vis-a-vis the criminal justice system is an important one. It is difficult to scientifically determine whether racism exists in the police and/or court system without controlling for socioeconomic risk factors. A

youth's economic status, according to much of the literature, appears to have some impact at different stages throughout the criminal justice system. It has been suggested that police monitor upscale neighborhoods differently than low income residential areas (Crow, 1984; Mosher, 1997; Walker et al., 1996). In addition, middle class backgrounds may afford the youth and his family the ability to engage private counsel to handle their defense. The type of counsel one can afford and secures has been theorized in the scholarship (Walker et al., 1996) and in research (Sandborn, 1996; Schissel 1993) to have an effect at the disposition level.

It would be beneficial to isolate and incorporate risk factors associated with social and economic data, to ascertain the impact of these factors on the overrepresentation of Black youth in the justice system. Undertaking a comparative study of youth offenders from different socioeconomic backgrounds might highlight the presence of differential practices by the justice system. Further, this type of study might provide explanations for crime committed among upper and middle class youth (i.e., motivational factors). If Black youth are indeed committing more violent offenses than other youth, this type of research might highlight contributory factors and therefore identify where corrective action might be most effective.

Socioeconomic information can be obtained from client files within the youth protection and young offender systems. As a social worker at Batshaw Youth and Family Centers, I am aware that demographic information (i.e., employment status of the youth and/or his parents, family composition and place of residence) is retrievable from client files.

Another extra-legal factor that has been thought to have some impact on discretionary decisions is attitude and behavior demonstrated by the youth (Sandborn, 1996; Siegel & Senna, 1994). Cross-referencing youth protection and young offender records with police records might offer further information on the weight given to extra-legal factors. Does a youth's demeanor sway charge and subsequently disposition decisions? Police records may provide useful information with respect to criteria used for detainment, arrest and type of charge given to the youth. Attitudes and demeanor demonstrated by Black youth has been suggested to influence criminal justice decisions (Sandborn, 1996). Review of police reports may determine if a young offender's attitudes had any bearing on arrest and detainment decisions. Further, examining the police reports may furnish information on any policy guidelines presently used for writing reports. It would seem important to ascertain if guidelines for writing police reports are the same across jurisdictional lines. Are these reports reviewed and approved by department supervisors? How instrumental are these reports for judges?

Sandborn (1996) suggested that variability exists in operation and procedure among court jurisdictions. Although he asserts that subtle nuances may exist across jurisdictional lines, a cross-comparative study of police and courts among and between provinces could likely provide useful data for policy and practice.

In addition to quantitative studies, that ascertain statistically the disproportionate representation of Black males in the young offender system, qualitative studies would likely yield important information and facilitate comprehension of the realities faced by Black youth. Examples of pertinent

qualitative techniques are observation, focus groups, ethnographic studies and interviews. Leigh (1998) suggested that ethnographic interviewing is a valuable tool to elicit narratives in a non-threatening way. Ideally, participants in both the quantitative and qualitative studies would include youth, law enforcement personnel and youth court lawyers and judges.

According to Schissel (1990) most of the personnel in the North American criminal justice system reflects a White majority. This fact may impede research findings as Black and other minority youth may demonstrate less trust towards a White researcher. Keeping this fact in mind, the use of researchers that are racially matched to the sample group may be pivotal in evoking richer findings with regards to the interactions between Black youth and the police and the courts. This type of data can highlight areas where effective interventions might be employed to decrease the potential for biased practices.

It might be of use to learn the race of not only the perpetrator of the offense but also the victim, in order to assess if treatment disparity, in Canada, differs for interracial and intraracial crimes.

This study dichotomized race into two groups: Black youth and White and Other youth. Future research might facilitate more information by breaking down the groups further, for example, dichotomizing the sample into three groups: Black, White and Other (i.e., Native, Jewish, Asian, etc.). This strategy may yield comprehensive data with respect to the impact and influence of legal and extra-legal factors, specifically race, on charge and dispositions.

A historical research into the relationship between Blacks and the criminal justice system could shed light on some of the antecedent factors present in the relationship between the two groups. Pinderhughes (1997) suggested that negative perceptions commonly associated with Blacks are often reinforced through the media. Review of print and visual media forms by both criminal justice system personnel and Black youth might uncover to what degree these perceptions affect law enforcement, judges and Black youths themselves.

The present study examined only Anglophone youth court records. It would be advisable to incorporate the French sector as well in future research by including French speaking Black youths (e.g., Haitians and West Africans).

According to Time Magazine (May, 1999) immigration trends, in Canada, have changed over the years. The Canadian populace over time has demonstrated an increase in the immigration of diverse racial, ethnic and cultural communities. This trend identifies specific areas of concern (i.e., family reunification, cultural conflicts and economic factors). Vargas and Koss-Chioino (1992) suggest that immigrant youth often face acculturation conflicts, because they find themselves caught between two cultures. As birthplace was demonstrated in this study to be a predictor for violent charges, among non-Black youth, future research is recommended in this area. Possible research questions might include the following: What role, if any, do economic, cultural and language factors play at the police level? Do these factors contribute to the incidence and type of crimes committed by immigrant youth? To ascertain if the realities between native Canadians and immigrants are similar in the criminal justice system, examination of first, second and/or third generation

immigrants and native-born Canadians could serve as a useful comparative study. Additionally, information may be obtained with respect to similarities and differences of life stresses experienced by the two groups.

Not surprisingly, age was a strong predictor of disposition. Both the young and older non-Black youth appeared to have similar representation in violent charges. However, the older group was a stronger predictor of restrictive disposition. Charges for violent crimes, understandably, resulted in more restrictive dispositions than charges for non-violent crimes. Future research in this area may give some indication to the impact of age on decisions made at the court level. Possible queries for further examination might be as follows: Does the age of the youth influence the severity of disposition? Are older teens more likely to be multiple offenders and therefore receive stricter dispositions? Are there more rigorous attempts made during the adjudication process, for older youth, as a way to deter recidivism and adult criminality? Is the motivation to engage in crime similar for both young and old youth?

4.4. Impact and Implications for Policy and Practice in the Criminal Justice System

Can it be said that Black youth are criminogenic and therefore require more severe charges and restrictive dispositions for similar offenses committed by White and other youth? As previously noted, there have been no definitive answers to explain the overrepresentation of Black males in the criminal justice system. Biological based theories linking crime and race have been debunked (Satzewich,

1998). Sociological driven theories suggest a list of factors that may have an influence on crime among Black youth (i.e., poverty, family, peers, neighborhood, racism). However, there is no consensus in the scholarship with respect to which sociological factors may bear more weight in decision-making at the charge and court levels. According to Figueura and McDonough (1998), agents of change must unravel the constructs in place that affect Black youth (i.e., unemployment, blocked opportunities, and lack of community resources). The authors suggest that this unraveling process would serve to move the focus from pathologizing to gaining a deeper understanding of the interaction between social conditions and crime.

In searching for commonalties among the various research studies and books reviewed for this thesis, the one point that appeared to receive unanimous agreement in the scholarship is that Blacks are marginalized and disadvantaged in White society.

Given this study's findings that Blacks receive more serious charges and dispositions disproportionate to their representation in the Anglophone young offender system, and the fact that Blacks are disadvantaged in society, one might hypothesize that racial bias is present in decisions made in the criminal justice system. Alternatively, one might hypothesize that Black youth are sociologically predisposed to engage in criminal acts given their lack of social, economic and political power. This study's findings do not provide definitive answers either way. However, important questions emerge through interpretation of the findings. Given the status of Blacks in North America and U.K. it is essential to ask who are the

lawmakers? How is power distributed among society's members? If power is unequally distributed among members of society what institutions and/or agents, by design or default, are instrumental in the maintenance of the status quo? What have been the historical antecedents between Black males and White dominant society? How have changes between the two groups been demonstrated in modern day? Is the motivation to engage in crime different among races? Does the lack of Black representation in criminal justice positions have a significant impact on decisions made in the system?

One can surmise that questionable police tactics and custodial placements in detention centers would only further disenfranchise a group that has limited political, economic and social power, thereby perpetuating stigmatization of this group. Acceptance of this theory would suggest that the criminal justice system, at some level, reinforces inequitable practices towards Black youth.

Policies and practices in the system through the proliferation of overt and covert biases may be said to demonstrate systemic racism. Rather than effectively addressing the problem (i.e., the overrepresentation of Black youth in the justice system), practices and policies inherent to the criminal justice system may provide contributory factors to both the problem and the solution.

4.4.1. Police

The present study indicates that Black youth were charged with more violent offenses. However, it is not clear whether they have indeed committed offenses that were more serious in nature than the offenses committed by other racial groups.

Alternatively, the disparity in numbers with respect to charges may be due to intentional or unintentional discriminatory practices against Black male youths by the police.

Police officers are legally mandated to ensure the protection of the law. Subsequently they are accorded discretionary power to carry out their duties (Mosher, 1997; Schissel, 1990). This discretionary power is actualized in decisions arrived at while in the process of enforcing law and order. Examples of decisions made by police officers are as follows: determining who might be considered a suspect, issuing warnings or formally processing, modes of questioning, whether to detain and arrest suspected individuals (Siegel & Senna, 1994).

It has been stated that this discretionary power has been frequently used to the disadvantage of Black youth (Schissel, 1990). A number of authors suggested that Black youth in North America receive less warnings than their White counterparts for criminal infractions (Siegel & Senna, 1994). Issues of police harassment in Black neighborhoods and negative perceptions of Black males are said to play a part in decisions at the policing stage (Crow, 1987; Gibbs, 1988). If biased discretionary power exists at the police level one might surmise that this occurrence would have far reaching connotations for policy and practice.

In light of the above suppositions, one could speculate that narrowing police officers' discretionary power might decrease the percentage of Black males charged with violent offences. Henry et al. (1995) contended that police in the province of Quebec are essentially investigated by fellow police officers. This practice likely has implications for the manner in which officers carry out their duties and how the police

are perceived by Black youth. Another possible implication is that this type of investigative procedure fosters an increased cynicism of law enforcement, thereby having the effect of undermining the credibility of the system among Black youth and their families, culminating in poor community police relations.

Instituting a racially diverse civilian body whose mandate would be to address and investigate allegations of misuse of power might ensure equitable and just discretionary decisions and accountability among the police. Efforts could be made to ensure that these civilian committees received adequate training in police procedures to enable the members to make well-founded decisions. This type of community based initiative might serve to not only promote stronger community and police interactions but also decrease the possibility of unfair charging practices leveled at Black youth.

Chambliss (1993) contends that official statistics do not provide definitive information and should be accepted with a degree of reservation. If Black youth are the recipients of discriminatory practices by law enforcers these youth may be more likely to be formally processed (i.e., detained, arrested and charged) in greater numbers than White youth. The disproportionate numbers may reinforce the notion that Black youth are criminogenic, therefore serve as rationale for practice and policy initiatives. Support for this theory can be found in Petersilia's (1983) assertion that Black youth are arrested more than White and other youth based on weak evidence. According to Petersilia, the case often does not get to the adjudication stage because of the lack of evidence. Comprehensive record keeping that includes information on

the suspect as well as all interventions whether or not the youth is officially processed might ensure accurate statistics and accountability.

Both Brown and Warner (1995) and Conley (1994) suggested that community policing was conducted differently in neighborhoods with a large Black population. If police monitor areas where Black youth are known to congregate more intensely than other areas, it is possible that youth in these areas might have more involvement with police and subsequently be charged with more offenses. Additionally, if members of Black communities have knowledge that police monitor Black neighborhoods differently it might promote distrust by the community. Distrust towards the police by Black youth could manifest itself in different ways. These youth might experience anger, adopt an anti-authority attitude and/or rebel against perceived oppression. Under these circumstances, it would be fair to assume that there would be more chances for negative encounters between police officers and Black youth. Given a choice, police officers, while investigating a Black suspect's culpability for an offense, might be more inclined to choose the more serious charge because of the youth's attitude (e.g., breaking and entering versus robbery).

I propose that increased positive contact between the police and Black youth would likely facilitate better relations between the two groups. Establishing ongoing programs that afford non-threatening contact (i.e., social and athletic activities) might serve to create a more conducive and less adversarial atmosphere.

Additionally, implementing foot patrols in Black communities could provide multiple benefits and have an impact on the way in which crime is handled in these neighborhoods. This strategy could serve to increase familiarity on both sides.

Officers familiar with community members (i.e., local residents and businesses) may be able to enlist the support of these members for the purpose of prevention and correction. Employing alternative interventions in some cases in lieu of official processing (i.e., charge) may address the disproportion of violent charges. For example as a first recourse, efforts could be made to include parents and/or community leaders assistance immediately in intervention strategies.

Second, increased contact between youth and police would likely serve to increase knowledge and awareness of the realities and needs of Black youth and the expectations of the police. Police might be better able to ascertain through first hand knowledge what resources are available or lacking in these communities.

It is possible to conjecture that some Black youth feeling that the odds are stacked against them engage in self-fulfilling prophesizing as defined by Shoemaker (1990). This form of thinking might be said to have a direct affect on recidivism rates. Internalizing negative perceptions about themselves these youth may react out of anger and might be more inclined to adopt a "why not attitude" demonstrated through rebellion against institutions and societal norms. In turn, this type of attitude may facilitate increased involvement in serious crimes, which may culminate in receiving more serious charges.

The Willie Horton example referred to in the preface of this thesis demonstrates how pervasive the racialization of crime can be. Public participation by law enforcement to debunk commonly held negative perceptions about Black males might serve to diminish the racialization of crime. Implementing discussion forums, at the community level designed to promote increased comprehension between the

two groups could be a useful mode of intervention to combat these perceptions. Acknowledging that negative perceptions exist about Black males and being sensitive to the potential harm of these perceptions may have an impact on charge and arrests decisions.

4.4.2. Courts

The present study illustrated that race was a strong predictor of restrictive dispositions. Black youth received almost double the percentage of custody orders in comparison to White and Other youth. The overrepresentation of Black youth in detention facilities highlights a number of issues. Custodial placement can lead to family disintegration Rambally (1995). Loss of support systems might serve to increase chances of recidivism. The youth may be stigmatized by not only the criminal justice system and society but also his family. Custodial detention centers may inadvertently create a climate, which has a negative impact on recidivism rates. Chances of healthy socialization with other peers are likely hindered by the greater opportunities for the youth to be influenced by chronic offenders. Lack of mainstream education, especially in the case of older youth, might impede admittance into university and ability to access gainful employment. Custodial placements might also have a deleterious impact on self-esteem. As a consequence of being Black and male in a predominately White society these youth are likely more sensitive to the consequences of oppression. As a result, these youth may appropriate a negative understanding about themselves and the world around them, because of experiences of oppression and powerlessness. Once inside these detention facilities, seeing a large

representation of other Black males may sustain skewed beliefs. Rather than serving as a deterrent and promoting accountability for one's actions, custodial detention may in fact promote the adverse effect, such as, increasing multiple and serious infractions of the law. In so doing these youth increase their chances of receiving custody orders as opposed to non-custodial dispositions.

Establishing policies that focus not only on corrective action but also seek to offer opportunities to improve life conditions for Black youth is one suggestion. The use of alternative measures as a first recourse might decrease custodial placement. Alternative measures are non-custodial options that are employed at the judge's discretion. Examples of alternative measures are community and volunteer work, curfews, victim restitution, and participation in mandatory programs, etc. These measures may decrease the negative consequences of custodial detention and demonstrate more proactive practices.

The Jamaican Association in Montreal presently has an outreach program for incarcerated young adult Black men. The program is designed to offer the males skills to assist them in their reintegration process, (e.g., life skills, educational and employment services). I would contend that there are benefits to establishing more of these types of programs before detention and instead of detention in some cases.

It has been suggested that an offenders' lack of social and economic privileges can influence decisions made by judges (Sandborn, 1996). The reality is that lack of financial resources, limits the ability to engage in the market relationship between lawyers and clients. Black youth because of limited funds are more likely to be represented by publicly funded lawyers (Mosher, 1997). Studies, reviewed in this

thesis, have found that the type of legal representation procured has an influence on outcome decisions in the adjudication process. Schissel (1990) has suggested that clients represented by private counsel receive less guilty convictions, are less likely to accept plea-bargains and receive less harsh dispositions. The implication of this situation is that Black youth, as a consequence of their economic status, are further disadvantaged by their inability to retain private counsel.

Legal-aid lawyers, likely face different time and case load constraints to those of private lawyers. For legal-aid lawyers too little time to work on too many cases for too little money may in effect influence the quality of their clients' defense. Additionally, if collateral testimony from external professionals is required, such as psychological assessment, for defense arguments, a privately funded lawyer might be in a better position to research and procure services from highly specialized professionals. Increasing the financial gains for legal aid lawyers and ensuring manageable case loads might provide an incentive that would help to promote more equitable decisions and reduce the numbers of Black males in placement.

According to one young offender worker at Batshaw, predisposition reports are often helpful in the adjudication process. These reports provide additional information about the case and can assist the judge in arriving at his determination. The judge, at his own discretion, may request that a predisposition report be included. If court systems provided funding for and routinely used predisposition reports it might remove economic inequalities faced by Blacks in the system and address the overrepresentation issue.

Although it appears that Blacks are overrepresented in the criminal justice system, the same can not be said for employees of this same system (Mosher, 1997). One issue that could be commonly addressed at both the police and court stages is the lack of Black representation at decisional levels in the criminal justice system. The Canadian criminal justice system much like the American system is comprised of mostly White men (Mosher, 1997; Schissel, 1990). Multi-cultural consideration built in to all components and at all stages of the criminal justice system could prove beneficial in addressing the disproportionate numbers of Black males in the system.

Weinfeld (1998) discusses the concept of ethnic matching as a viable solution to working with different communities in health and social service professions. Ethnic matching involves incorporating within these professions increased knowledge of diverse racial and ethnic groups and/or inclusion of personnel from these groups. For example, a service provider agency might routinely pair a Black service provider with a Black client. The thinking behind this form of intervention is commonalities between client and professional can potentially increase not only the efficacy of services but promote practices that are more equitable. Although Weinfeld (1998) highlights the viability of this practice, he also identifies potential limitations of this approach. It would be imperceptive to view ethnic matching as a panacea for all interventions among diverse peoples. For one, Weinfeld suggests that research in this area has been sparse. Therefore, caution must be exercised in narrowly adopting this approach as it may have the effect of homogenizing members of specific racial and ethnic groups and thereby deflect focus from the individualization of the client's needs. Another inherent limitation is that the efforts of one professional, while

worthwhile, likely will have less effect if not demonstrated at the organizational level. Consequently, if a given racial community negatively construes the practices and policies inherent in an agency's mandate, effective intervention may be constrained. Additionally, agencies must be cognizant to the possibility that the person receiving the service might prefer, for a variety of reasons, to work with a service provider who is not a member of their community. Therefore, it would be a sagacious choice to adopt a degree of flexibility in addressing the needs of members of diverse racial and/or ethnic groups.

These limitations in mind, devising policies that ensure the hiring of more Black police officers, lawyers and judges can likely go a long way in facilitating practices that ensure anti-racist policies. The effects of these policies may be demonstrated in practice through increased awareness and sensitivity to the realities of Black males.

While it would seem that there are untold benefits to ensure diverse racial and ethnic personnel, it is equally important that existing employees in the youth criminal justice system receive ongoing multicultural training. It might be useful to include young Black men in the implementation and training design. In this way, issues specific to this population might be better accented. Periodic review of these training modules would allow agencies to assess the content and effectiveness of this type of training.

At present, Batshaw Youth and Family Centers has implemented multicultural - multiracial training sessions for all employees, including young offender workers. The mandatory training is offered on a yearly or semi-yearly basis. The training was

devised in response to a one-day study, referred to in this thesis, that found that Black youth were overrepresented in the youth protection and young offender system. Batshaw's effort to implement an initiative that addresses diverse racial and cultural communities is positive. However, there lacks consensus, among many of the employees, as to the efficacy of these programs in day to day practice. Inclusion of Black employees in routine supervision, at the police and court level, might be one way to assess the efficacy of this form of training as well as promote unbiased practices in work with Black young offenders.

4.5. Recommendations for Social Work

I would contend that at its best the field of social work operating in tandem with the criminal justice system (e.g., young offender and youth protection workers) is in a pivotal position to address the disproportionate numbers of Black males in the criminal justice system. Interventions by these workers could be instrumental in areas such as: prevention, training, advocacy and support. At its worse, social service agencies can serve to perpetuate bias and facilitate marginalization of Black youth.

Social workers in youth protection and young offender spheres are in a unique position to intervene in a number of social structures that are involved with youth (i.e., police departments, courts, schools and family). The very nature of their work places these practitioners in an intermediary role. On the one hand, workers have knowledge of the mechanics of the systems that operate in the youth justice system. These workers provide assistance to police and judges to ensure public protection through the promotion of youth accountability. Additionally, through work with the

youth and his family workers have an opportunity to gain a fuller understanding of the realities experienced by their clients. The realities of these clients are typically demonstrated in areas such as: social networks and support systems, economic contingencies and motivation for change. Familiarity with the conditions of an individual's life can provide a more global perspective and highlight areas where corrective actions might be taken.

To avoid the worse case scenario referred to previously, a number of authors have suggested that the promotion of anti-racist practices within social service institutions would likely increase the effectiveness of the service provided (Dominelli, 1988; Green, 1995). Green suggests four components that should be present in work with diverse racial, ethnic and cultural populations. The first is increasing one's knowledge base about clients served. Secondly, he contends that workers need to identify the needs of the client and the salience of related cultural factors. Third, treatment plans should take into consideration the client's social context. Finally, Green suggests that workers understand the concept of power at work within institutions and within the therapeutic dyad. He states that "power is exercised in practice and routine" (p. 72). According to Green, it is in the routine where racist practices can be rendered so subtle that it operates at an invisible level. To combat this invisibility quotient service provider agencies need to bring to the fore that which is hidden (Dominelli, 1988; Green, 1995). Rather than deny the existence of racism, these agencies should acknowledge that power differentials witnessed in society in general likely play a part within their own organizations. Incorporating this approach can promote cultural competent service providers and anti-racist

institutions. Green states that social workers must strike a balance between individualizing their client and comprehending the social context of which the individual is a part. Therefore, the implementation of pro-active anti-racist policies should be the point from which all practice originates

Social work practitioners adapting an anti-racist approach in their mediator role with Black youth and the criminal justice system might have a positive influence on decreasing the overrepresentation of Black males. Black youth offenders might be brought on board to examine ways in which to address their needs. These youth might be able to offer suggestions for creative prevention and intervention programs and in so doing become an integral part of solution focused intervention. Involving Black youth in problem solving strategies would likely have an effect on decreasing the power differential encased in the professional and client relationship. Domenilli (1988) suggests that the promotion of this practice would serve to decrease the paternalistic nature of social work. Rather than becoming primary advocates for Black youth, social workers would operate within a climate that is supportive of this group's efforts towards self-advocacy.

Given this study's findings youth workers might ask how best to address the number of violent charges and custodial orders given to Black youth. One way to elicit information might be in the implementation of ongoing public discussions among Black youth, police and judges. Workers might be instrumental at the community level in the implementation of preventative programs focused on the youth (e.g., anger management, conflict resolution). The Impact program, which operates out of the YMCA (NDG location in Montreal), is one such program.

According to one youth community worker, participation in these programs is often as a condition of court orders. The challenge for the workers in this program is to generate, among the youth, an acknowledgement of personal power to effect change and accountability for one's actions. Recommendations for participation in these types of programs as a first recourse might have a direct impact on decreasing the numbers of Black males in locked and open facilities. Equally important, participation in these programs might promote and support preventative measures. Offering these programs before the commission of an offense might circumvent participation in criminal activities. Mandatory courses offered in schools might be one viable approach. Community training and family support programs might also prove to be beneficial.

One Batshaw young offender worker suggested that concerted efforts need to be made to ensure parental involvement as early as possible in the intervention. In this worker's experience, a youth had a better chance not to re-offend when family involvement was primary. Further, the worker stated that in cases of custodial placement, family members' early inclusion in the intervention plan made family reunification and societal reintegration more effective and decreased potential for recidivism. Social workers could be instrumental in providing information to the family with a view to demystifying the young offender system, as well as working towards conceivable methods of correction. This type of intervention can be especially beneficial for families that are not originally from Canada.

5. CONCLUSION

When all is said and done we are still left with one presiding question. Is the overrepresentation of Black male youth in Montreal's Young Offender System due in part to racial bias? Although this study does not demonstrate indisputable scientific evidence of racism in the Young Offender System, it also does not refute its existence. What it does highlight is cause for concern.

Racist practices do not have to be overt and intentional to demonstrate racism (Satzewich, 1998). Unintentional racism is just as destructive as intentional. Systemic racism can be subtly demonstrated through the proliferation of policies and practices that serve to engender societal inequalities between groups. If police and judges operate under an assumption that young Black males are more aggressive and dangerous to public safety, policies and practices may be adopted based on these assumptions. In other words, the offenders profile can lead to expectations, which can be actualized in the manner in which police and judges intervene with Black males.

According to Mann (1993) questioning the existence of racism within societal structures and institutions is a moot point. She contends that it is past the point of asking does racism have a significant impact on decisions made in the criminal justice system. Instead, acknowledgement should be given to the view that despite apparent non-racist policies, one can expect organizations, which are run primarily by White

employees, and functioning in a predominately White society, to perpetuate a racist status quo (Hall, 1994).

The challenge for both social work and criminal justice systems is to acknowledge that racial inequalities do exist within many of society's institutions. According to Dominelli (1988) this acknowledgement serves to break the code of silence and facilitates positive change.

The challenge for Black families and communities is to address risk factors that might influence incidents of criminal infractions among young males, while advocating for unbiased treatment by criminal justice officials. Families and communities have a role, like police and judges in ensuring that these youth are accountable for their actions.

In closing, I offer a recent personal experience. A friend of mine called her local police department in the west-end of Montreal to report a disturbance in her building. She expressed concern that an elderly neighbor in her building was involved in a physical altercation with two young men. The first question she was asked by the duty officer was "Are they Black or White"? It would appear that we still have a great distance to go to effect changes related to racism.

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