How Just is Manifest Injustice?

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Background

The Washington State Juvenile Justice Act of 1977 has its foundations in accountability and rehabilitation. It allows for sentencing outside standard sentencing guidelines if the court concludes that the disposition would effectuate a *Manifest Injustice.*

Manifest Injustice (MI)

Increase in sentence to protect the community

- UP: sentenced to a term *longer* than the standard sentencing range
- IN: sentenced to *institutionalization* when guidelines did not previously

Decrease the sentence when it is an injustice to the offender

- DOWN: sentences to a term *shorter* than the standard sentencing range

Anecdotally, some youth are MI'd in and up to access behavioral health services. While the juvenile justice system is part of the behavioral system of care, systems of care must strive to be just and efficient.

Questions

Is the court is using MI to institutionalize youth for mental health treatment?

Is it appropriate for youth who do not otherwise meet the threshold for adjudication be institutionalized simply for mental health treatment?

How many youth are being sentenced using MI?

Sentence Type	#	%
MI Down	46	9.6
MI Up	63	13.2
MI In	79	16.6
Standard	221	46.3
Adult	51	10.7

29.8% of all sentences were *intensified* with MI

Parole Revoke and Detention populations not shown, but accounted for in calculations.

What are the population characteristics?

WA State

White	80.3%
Black/AA	4.1%
Hispanic	12.4%
Mixed	4.6%

JRA

White	197	41.3%
Black/AA	103	21.6%
Hispanic	76	15.9%
Mixed	67	14.0%

What factors contribute to youth being sentenced by Manifest Injustice?

Percent of Current Youth Sentenced by MI, by race

	Any MI	MI Down	MI Up or In
White	91 / 51.4%	22 / 51.1%	68 / 52.3%
Black/AA	26 / 14.6%	8 / 17.7%	18 / 13.8%
Hispanic	39 / 22.0%	9 / 20.0%	30 / 23.0%
Mixed	19 / 10.7%	5 / 11.1%	14 / 10.7%
Total	175	45	130

Odds Ratio = 2.38
1.01 - 5.64

Odds Ratio = 5.16
CI = 1.68 - 17.25

What are the mental and behavioral health needs of youth in JRA?

Prevalence of Diagnoses

Mental Health Only	15%
SUD Only	21%
Co-Occuring MH + SUD	51%
Total	**87%**

Number of Clinical Treatment Needs
Cognitive, Substance Abuse, Mental Health, or Sex Offender

1	120	25.2%
2	259	54.3%
3	88	18.4%
4	10	2.1%

Do the factors used in a finding of manifest injustice differ depending on whether or not the offender has sufficient points for commitment?

Use of MI with committable offenders (n=63)

- As number of prior offenses decreased (standard sentencing guidelines account of number of prior offense, so for those with fewer prior offenses MI was used to lengthen the sentence)
- As number of concurrent offenses decreased (similar explanation as above)
- Increasing seriousness of offenses
- Evidence of psychological problems
- If juvenile was not attending school

Use of MI with non-committable offenders (n=257)

- As the number of prior defenses decreased
- As the number of concurrent offenses increased (as each offense is considered sentenced separately, so it might not add up to commitment)
- As the number of prior probation sentences increased
- As the number of prior commitments increased
- If a presentence diagnostic evaluation was completed
- Indications of a psychological problem
- Juvenile or parents had a negative attitude toward the court

Conclusions

- African Americans are *most disproportionately* represented in the Washington State juvenile justice system.
- Within JRA, white youth were at least *twice as likely* to have their sentence reduced than youth of African American descent
- In Washington State, youth of African American descent more than *five times* as likely to have their sentence intensified than their white peers
  - They are also *less likely* to have their sentenced reduced.

Clinical Implications

- Youth sentences are increased when judges determine that the standard sentencing guidelines are unsatisfactory.
  - The use of MI is not used equally among different racial groups.
  - Psychological needs contribute to the use of MI, which may be related to poor faith in community mental health resources.
- Investing in community-based services may decrease the rate youth are institutionalized with MI for mental health reasons.
  - This would likely be more cost effective.
- Using MI in the juvenile justice system to access mental health treatment is not just. Instead, non-juvenile justice systems of care must be available and responsive to youth and family needs.

Limitations

- Data does not account for the offense committed.
- No outcome data is available.

Future Directions

- Has the stated purpose of manifest injustice been realized? Is this cost effective? What are the trends over time?
- Are youth engaged in community mental health care more or less likely to be sentenced by manifest injustice compared to youth who are not in treatment?
- What types of services, including residential and substance use, have been provided to youth MI'd up/in versus no MI up/in?
- Has the use of manifest injustice reduced recidivism rates in juveniles within the justice system? Is the public safer?

References

Doyon Ph.D, Richard A. (1982). *Factors Related to the use of Manifest Injustice in Juvenile Court Sentencing.* Olympia, Washington: Office of Research and Data Analysis, Department of Social and Health Services
Juvenile Justice Act of 1977, RCW 13.40.160 (2) - Manifest Injustice
Juvenile Rehabilitation Administration Population Report January 1, 2016.
US Census Bureau, (2015, July 1). *State and County Quickfacts*: Washington State. Retrieved October 2nd, 2016, http://www.census.gov/quickfacts/table/PST045215/53

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