

# Addressing Systemic Bias in Violence Risk Assessment

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Criminal history plays a prominent role in violence risk assessments. For people in nondominant groups, disproportionate criminal justice involvement may unfairly and inaccurately elevate violence risk in evaluations. Criminal justice reports continue to document higher rates of arrest and convictions for those in minoritized racial groups. Bureau of Justice surveys have found that ethnic minorities are more likely to serve time when crime is violent than are Whites. Black males ages 18 and 19 were 12.7 times more likely to be imprisoned than White males of the same ages. In fact, across all age bands, from 18 to 65 and older, Blacks had higher rates of imprisonments than Whites. Racial inequities in incarceration rates can translate into a Black offender receiving higher risk scores on actuarial instruments than a White offender and thus a biased misclassification as high risk. Awareness of the impact of structural biases that may be embedded in violence risk assessments is critical to fair assessments. We highlight sources of potential systemic racial bias embedded within existing violence risk assessment methods and conclude with potential methods to enhance structural competency and reduce the risk of biased assessments.

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An individual's history of criminal justice involvement plays a prominent role as a risk factor for recidivism in violence risk assessment.<sup>1</sup> There is growing concern, however, regarding systemic bias in the criminal justice system against minoritized groups for whom there are disproportionately higher rates of arrest and conviction than for those in the dominant

group.<sup>2,3</sup> These concerns are relevant to forensic evaluators and decision-makers, particularly if the methodology employed is biased against and inflates violence risk for minoritized groups. Triers of fact and other decision-makers relying on these evaluations may not be aware of bias within assessments.<sup>4</sup> Thus, the potential for unwarranted detention or restriction is high. Given the possibility for serious repercussions stemming from the findings from these evaluations, variables that can affect opinions regarding risk must be thoroughly considered. Awareness of the impact of structural biases that may be embedded in violence risk assessments is one step toward enhancing fair and ethical forensic practice. In this article, we highlight sources of potential systemic racial bias embedded within existing violence risk assessment methods and conclude with potential methods to reduce bias in assessments.

Biased assessments may emerge from disparity. Disparity is a quantitative concept, reflected in the disproportionate measured differences in criminal history between dominant and minoritized groups. The proportionately higher rates of criminal arrests

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and prosecutions, or disparity, is created by inequities caused by ethno-racial and economic disadvantage. We use disparity to refer to criminal arrest disproportionality and inequity to refer to the unfair social justice practices that cause this disproportionality.<sup>5</sup>

### **Biasing Factors in Violence Risk Methods**

Prior criminal history is a statistically established predictor of criminal recidivism.<sup>1</sup> Consequently, it is a prominent risk factor within violence risk methods, such as structured professional judgements<sup>5</sup> and actuarial risk assessments.<sup>6</sup> Structured professional judgments (SPJ) consist of empirically identified risk factors for clinical decision-making about level of risk, but without the use of numeric values or calculations. Actuarial risk assessment tools assign a numeric value to risk factors and provide probabilistic estimates of risk level using statistical algorithms to provide estimates of future criminal recidivism.<sup>7</sup> Some argue actuarial methods reduce the risk of evaluator bias, as they are grounded in statistical science and leave little room for clinical judgment,<sup>8</sup> thus gaining prominence as a preferred method of violence and sexual violence risk assessment.<sup>9–12</sup> Forensic clinicians may be reluctant to dismiss or override prior criminal history, as they may risk appearing unscientific. This charge has been levied by prominent psychologists,<sup>8</sup> who have alleged that the anti-actuarial or anti-statistical clinician suffers from, among other factors, a poor education where their training had not placed a value on the development of “skeptical scientific habits of thought” (Ref. 8, p 25).

Countering the argument that criminal history is a scientifically supported risk factor that should not be overridden is whether there are race inequities in who is arrested and prosecuted. If such inequities exist, then prior criminal history can result in inaccurate risk assessments. Harcourt,<sup>2</sup> citing incarceration statistics in the United States, noted:

Reliance on criminal history has proven devastating to African American communities and can only continue to have disproportionate impacts in the future. The reason is that the continuously increasing racial disproportionality in the prison population necessarily entails that the prediction instruments, focused as they are on prior criminality, are going to hit hardest the African American communities (Ref. 2, p 240).

Applying the term “cumulative disadvantage,” Trestman<sup>13</sup> pointed out that each element and stage of the justice system unfairly affects minoritized groups,

especially Black people. Inequities in who is arrested and prosecuted may cause members of many minoritized groups to experience unfair treatment. Such treatment, which may include falsification of evidence and coerced confessions or bias in witness observation,<sup>12</sup> leads to unwarranted arrests, convictions, and incarcerations. Trestman cited studies showing that minoritized groups are subject to more profiling than Whites and are therefore more likely to be arrested; once arrested, they are more likely to be incarcerated. Minoritized groups are also more likely to live in heavily policed neighborhoods with high arrest rates, making individuals who live in those neighborhoods likely to be arrested.

### **Criminal Justice System Racial Disparities**

Racial disparities in incarceration rates can translate into a Black offender receiving higher risk scores than a White offender, given that people who have a history of incarceration are more likely to be incarcerated for future offenses. This is especially relevant for violence risk assessment, as prior sanctions and reincarceration after sanction play prominent roles in evaluations and sentencing algorithms. In any violence risk scheme, therefore, the more criminal history is weighted, the more likely that a minoritized person will have a high score and be deemed a high risk. Surveys of national arrest and incarceration rates by the Bureau of Justice Statistics (BJS) illustrate racial disparities. The data repeatedly demonstrate that Black males tend to be arrested and incarcerated at disproportionately higher rates than White males across all age bands (from young to old). For American Indian and Alaskan Natives (AI/AN), the rates of incarceration are second only to Blacks<sup>14</sup> (see Table 1).

Black males are more likely to be incarcerated in state and federal prisons than White males. Although the U.S. Census Bureau<sup>15</sup> survey indicated that Blacks represented approximately 14 percent of the U.S. population in 2019, for that same year Blacks made up approximately 29 percent of those in state and federal prison custody.<sup>16,17</sup> Young Black males (ages 18 and 19) were 12.7 times more likely to be imprisoned than White males in the same age bracket.<sup>16</sup> Hispanic males ages 18 and 19 were 3.3 times as likely as their White male counterparts to be imprisoned.<sup>16,17</sup> Across all age bands Blacks males and females had higher rates of imprisonments than

**Table 1** Bureau of Justice Data for Black and White Male Prisoners

| Prisoner Group             | Study year (s)          | Imprisonment per 100,000 residents by race  |
|----------------------------|-------------------------|---|
| Jail inmates               | 2018 <sup>18</sup>      | 592 per 100,000 Black residents<br>187 per 100,000 White residents                  |
| State or federal prisoners | 2018 <sup>17</sup>      | 2,272 per 100,000 Black residents<br>292 per 100,000 White residents                |
|                            | 2019 <sup>16</sup>      | 1,096 per 100,000 Black residents<br>214 per 100,000 White residents                |
|                            | 2008–2018 <sup>17</sup> | 2,196 to 1,501 per 100,000 Black residents<br>316 to 268 per 100,00 White residents |

White males and females. Black females in the 18-19 age bracket were over 3.5 times as likely to be imprisoned than White females.

Despite declining jail and prison rates over the 2008 to 2018 period, incarceration rates remained higher for Blacks than for Whites.<sup>17,18</sup> A brief snapshot of the BJS surveys illustrates this point. For year-end 2018, the prison imprisonment rate of Black males was 5.8 times that of White males; for Black females, the rate was 1.8 times that of White females.<sup>17</sup> As in the earlier reports for 2018 and 2019, when examined over the 10-year period, young Black males (ages 18 to 19) were 12.7 times more likely to be imprisoned than White males in the same age group; Hispanic males ages 18 to 19 were 3.3 times as likely as white males in the same age range to be imprisoned at year-end 2018.<sup>17</sup>

Surveys also marked racial imbalances in sentencing. Minoritized groups have been found to be more likely to serve time for violent crimes than Whites. Although there were no statistical differences between Whites' and Blacks' violent crime arrests in 2018,<sup>19</sup> among those sentenced to state prison by year-end 2017, more Blacks (60%) were serving terms for violent crimes in comparison to Whites (48%),<sup>20</sup> and Black defendants disproportionately experience increased harshness in sentencing related to external biasing factors.<sup>21</sup>

### Criminal History as a Proxy for Race

Some argue that criminal history functions as a proxy for race<sup>2</sup> and social disadvantage.<sup>22</sup> Criminal justice policies, such as habitual offender laws, accelerate poverty and increase the likelihood of marginalization through limiting reentry to employment opportunities.<sup>22,23</sup> Legal scholar Ahmed White<sup>23</sup> observed that harsh sentencing is skewed against those who “exist at the intersection of economic

deprivation and racial exclusion” (Ref. 23, p 741). White wrote, “the criminalization of criminality is an exercise in asserting more strongly the general, if not indelible, criminality of the poor and the socially oppressed,” resulting in dual economic and racial marginalization (Ref. 23, p 742). The imbalance in who is arrested, sentenced, and imprisoned that is racially driven aggravates rather than mitigates racial disparities within the criminal justice system.<sup>13,21–23</sup> According to Harcourt, “the use of risk instruments focused on prior criminal history is toxic” (Ref. 2, p 240). When a group is more likely to be arrested,<sup>14–20</sup> coerced into a confession, have ineffective counsel, be perceived as dangerous,<sup>2</sup> and be convicted of violent crimes for which they are more likely to have a documented criminal and violent history,<sup>19</sup> then the use of risk methods that heavily weigh criminal history have the potential to be inherently unfair.<sup>3,13</sup>

A counter to this point, promulgated by a prominent legal scholar, Christopher Slobogin, is that statistical algorithms that are well-validated can guide judges in their sentencing decisions.<sup>24</sup> Slobogin believed algorithms were fair and just, as they offer the fairest approach in how to treat people of equal risk, even if a higher percentage of people of color are identified as high risk. Slobogin<sup>24</sup> also acknowledged, however, that policing and prosecutorial practices can reduce the validity of risk instruments. Skeem and Lowenthal suggested that if the instruments worked equally well across racial groups in their prediction of violence, with recidivism rates as proxies for violence, then such tools may be less vulnerable to the criticism of racial bias.<sup>25</sup> To test this assertion, they studied the relationship between race and risk assessment in a sample of 34,794 federal offenders on supervision, using the Post Conviction Risk Assessment (PCRA) instrument and its ability to predict future arrest. The

PCRA predicted arrests equally well for Black and White offenders. Black offenders on average, however, had slightly higher scores than White offenders, and the racial difference was attributed to criminal history.<sup>25</sup> The authors characterized criminal history as a mediator and not a proxy for race that camouflages discrimination. Nonetheless, they recommended the development of risk instruments based on a broad range of factors that are less correlated with race than criminal history.

In contrast, Vincent and Viljoen<sup>3</sup> observe that actuarial risk instruments, by the very nature of their construction (such as statistical modeling), are more likely to classify Blacks in North America as higher risk than Whites. As they stated in a 2020 article, “Due to simple mathematics, we must expect that if Black defendants have a higher rate of official recidivism than White defendants, and an algorithm is highly predictive of or well calibrated to those outcomes, the algorithm will classify a greater proportion of Black defendants as high risk” (Ref. 3, p 1580). They pointed out that a greater proportion of Black defendants will be classified as high risk, even though they ultimately did not recidivate. Vincent and Viljoen thus argued the inherent unfairness, “In short, we are confounding the question of who is likely to engage in illegal and potentially harmful conduct with who is likely to get apprehended, and we are shining a light on the long-standing problem of systemic injustices.” (Ref. 3, p 1581).

### Substance Abuse, Peers, and Mental Illness

Other commonly identified risk factors, such as substance use, antisocial associates, noncompliance with treatment or parole/probation supervision, and mental illness diagnosis, may elevate risk in minoritized groups. Substance use is more likely to be detected and formally documented in minoritized groups, who are more subject to suspicion, search, arrest, monitoring, and incarceration. In the 1990s, users of crack cocaine, who were more likely to be Black than White, were subject to harsher sanctions than were users of cocaine, who were more likely to be White.<sup>26</sup> State and federal criminal legislation increased the severity of sentences for crack cocaine offenses but not for powder cocaine offenses.<sup>26</sup> Trestman,<sup>13</sup> citing national surveys of drug use patterns,<sup>27</sup> observed that although Black and White individuals were equally likely to use drugs, Blacks were more likely to be arrested for drug crimes (at a rate

more than five times higher than other racial groups), including marijuana possession. Black youths are more likely to be arrested for drug use and sales despite being less likely to be involved in these activities.<sup>28</sup> Further, monitoring requirements may be burdensome for poor individuals, who often lack reliable transportation, access to electricity to charge global positioning devices, stable housing, or the resources to follow the conditions of stay-away or noncontact orders.

Psychotic disorders are more likely to be diagnosed in Blacks (three to four times) and Latinx/Hispanics (three times) than their White counterparts.<sup>29</sup> Members of the public, and even judges and juries, are more likely to perceive people with mental disorders as dangerous, even though these links are weak.<sup>30</sup> A major mental disorder diagnosis can increase the odds of jail incarceration by 50 percent.<sup>7,31,32</sup> The repercussions of overdiagnosis of serious mental illness in minoritized groups may have compounding effects and increase the perceived dangerousness of people in marginalized groups.

Instruments such as the Historical-Clinical-Risk Management-20, Version 3 (HCR-20V3)<sup>6</sup> include items related to mental illness, lack of insight, and treatment compliance and alliance. These factors can be influenced by a person’s cultural context, values, and the meaning of having a mental illness.<sup>33,34</sup> Cultural mistrust of clinicians may lead to failures to comply with treatment.<sup>35–37</sup> Several decades ago, prominent African-American psychiatrists Grier and Cobbs<sup>36</sup> noted that cultural distrust was actually adaptive among African-Americans, given their experiences of generational racism. This distrust, however, may be misinterpreted by clinicians as paranoia and diagnosed as schizophrenia.<sup>38,39</sup>

### School-to-Prison Pipeline

Early juvenile criminal history is a factor in several violence risk assessments (e.g., HCR-20V3, SAVRY, PCL-YV).<sup>6,40,41</sup> Racial disparity is evident in who enters the juvenile justice system and who is diverted to other less punitive disciplinary approaches.<sup>42–47</sup> Minors who engage in disruptive behavior may be handled either through diversionary mental health systems or the juvenile justice system. The U.S. juvenile justice system has a history of detaining minoritized youth at rates much higher than White youths. The “school-to-prison pipeline” describes the disproportionate application of juvenile justice controls to

minoritized youth when compared with White youth, even when poverty and urban environments are controlled.<sup>42–44</sup>

The pernicious effect of the school-to-prison pipeline is the interruption of education, which predicts dropping out of school, poverty, unemployment, and adult criminality. Black and Latinx students are suspended or expelled from school at three times the rate of White students.<sup>7,43,44</sup> Minority youth were eight times more likely than White peers to be housed in juvenile detention.<sup>47</sup> In mid-2000, minoritized youth represented over 60 percent of those detained in juvenile justice.<sup>48</sup> Black juveniles were placed in residential facilities 88 percent more often than their White juvenile counterparts in a national data set of 38 states over five periods of observation (1997, 1999, 2001, 2003, 2006).<sup>49</sup> Despite state reforms and federal mandates,<sup>50,51</sup> minority youth continue to be overrepresented in the juvenile justice system, i.e., 62 percent, even though youth of color represent 34 percent of the U.S. population.<sup>52</sup>

A recent study examined the link between race, expulsions, suspensions, and adult criminality.<sup>45</sup> Students in school districts with high suspension rates were 17 percent more likely to be arrested, 20 percent more likely than those with low suspension rates to go to jail, and had increased rates of later nonviolent criminal behavior (drugs, arson, burglary). There was a racial and gender effect. Middle-school boys of color (Blacks and Hispanics) in schools with punitive disciplinary practices for misbehavior were more likely to be arrested and incarcerated as adults than similar students who attended less strict schools. The more days students were suspended, the higher their probability of being incarcerated as adults, with the effects largest for Blacks and Hispanic males.

Racial bias against male Black students begins early. One study found male Black preschoolers accounted for 48 percent of suspensions though they only represented 18 percent of the preschool population.<sup>44</sup> School principals, for the most part, developed disciplinary protocols.<sup>45</sup> Such actions by educators may reflect stereotypes about poor students of color, e.g., they lack work ethic, do not value school, are disrespectful of authority, and are likely to be disruptive.<sup>44</sup>

These data underscore that racial inequities are evident in school disciplinary practices and juvenile justice placement, serving as a caution against the over-reliance of such factors as markers of antisociality in violence risk assessment.

## Mitigating Racial and Cultural Biases

Addressing racial and cultural bias in risk assessment is consistent with the forensic psychiatry and psychology ethics guidelines' admonition for professionals to be cognizant of the potential for and sources of biases and aspire to mitigate them.<sup>53,54</sup> Implicit biases (largely unconscious attitudes) or explicit biases (conscious attitudes) influence negative perceptions of others outside one's own group.<sup>55,56</sup> Both forms of biases have the potential to elevate risk for minoritized groups.

## Recognize Upstream Systemic Inequities

Forensic evaluators should develop structural competency in recognizing upstream policy determinants, such as biases in criminal justice practices, that create downstream racial inequities, such as the disproportionate arrest and incarceration of minoritized groups. As Hamilton noted, "risk assessment tools commonly operate to conflate criminal past with future recidivism potential" (Ref. 22, p 96). Past criminal history should be viewed cautiously in minoritized groups as this factor may inaccurately characterize risk in minoritized groups.<sup>2,3,22,23</sup>

An actuarial instrument may be constructed so that it can be reliably scored; that is, there may be a high degree of interrater reliability between clinicians, but it may not be a valid assessment. If the risk is increased based upon criminal justice history, such as prior arrests, prior convictions, and violence convictions, then it is vulnerable to racially biased criminal justice practices,<sup>22,23</sup> and the recidivism risk percentages may be inflated for that individual. Coding rules in several actuarial schemes count arrests that are dropped from prosecution and charges that are later dismissed.<sup>11</sup> Such methodology is biased against those who may be subject to recurrent arrest as a consequence of profiling and unfair law enforcement practices.<sup>2,22,58</sup> The resulting risk score and percentages may not be a valid indicator of sexual or violent recidivism risk. Several actuarial schemes<sup>10,12,59</sup> double the effect of historical events, counting both the initial arrest and the later conviction, thus elevating risk.<sup>22</sup>

Structured professional judgment (SPJ) is an alternative approach to actuarial assessment, although not a panacea for managing bias. SPJ instruments such as the HCR-20V3<sup>6</sup> classify violence risk and weight past criminal history. By using individual

analysis rather than group risk percentages, however, SPJs can reduce overemphasis on criminal histories that inflate actuarial risk scores.<sup>3</sup> Forensic evaluators should also address whether the instrument allows for the integration of culturally contextualized individual assessments.<sup>60,61</sup>

### **Consider Applicability of Risk Factors**

Researchers<sup>60</sup> have cited low minority representation in the study populations used to develop adult violence risk instruments and raised questions as to their applicability to minoritized groups.<sup>62</sup> Risk assessment instruments have differential predictive validity based on race. A meta-analysis of nine commonly used actuarial and SPJ risk instruments found that the highest predictive validity was for White samples rather than minoritized groups.<sup>7</sup>

Normative data within actuarial instruments, even when they include minority groups, may not correct for cultural and structural biases. Cultural biases stemming from historical governmental policies have brought about the loss of language and culture, as well as generational disintegration of the family and unstable psychosocial histories.<sup>22,60,62</sup> Risk assessment methods have built-in biases when minority family relationships that differ from the dominant culture are characterized as unstable. Poor employment history is another risk factor that is influenced by economic disadvantage as well as ethnoracial effects.<sup>22,62</sup> Although SPJs can individualize assessment, biases may still exist, including those related to the inclusion of historical risk factors derived largely from the majority culture or the exclusion of culturally relevant protective factors (e.g., having elder mentors and cultural support as found in AI/AN groups).<sup>60,62</sup> Many of the empirically identified protective factors are biased toward the dominant culture, e.g., as to who and what constitute family, an intimate relationship, and a stable childhood. Friedman<sup>33</sup> observed that blindness to the cultural context of a marginalized evaluatee's behavior and history erodes objectivity, can lead to overestimates of risk, stimulates fear, and results in inappropriate testimony. Griffith's<sup>63</sup> cultural formulation in forensic assessments considers the impact of culture on the evaluatee's actions. Candilis and Griffith wrote, "This is what opposes systemic racism: the emphasis of social and personal perspectives that bring it into stark relief" (Ref. 64, p 14). Thoughtful forensic practice involves the evaluator's sensitivity to the biasing effects of the historical information

presented and framing that history through a culturally sensitive narrative.<sup>64</sup> These narratives acknowledge the social inequities encountered by the defendant, including disadvantages faced by people of color in the justice and economic systems. Included would be the impact of mass incarceration on the individual's family, economic status, and upbringing.

### **Awareness of Inequities in Juvenile Sanctions**

Racial inequities are present in the juvenile justice system. Minoritized youth with disruptive behavior are disproportionately funneled into the school-to-prison pipeline, while White youth are more likely to experience less punitive sanctions and rehabilitative efforts.<sup>65</sup> Some youth who committed offenses of moderate severity may receive a harsher sentence based on their physical presentation, including having darker skin.<sup>66</sup>

Equivocal findings as to the applicability of juvenile risk assessment tools among ethnically diverse groups have led to a call for research using diverse cohorts.<sup>62</sup> The SAVRY<sup>40</sup> and PCL-YV<sup>41</sup> represent the most commonly used juvenile risk assessment measures. They were developed on predominantly White, mostly male groups and have potentially lowered applicability to minoritized groups.<sup>40,62,65</sup> We suggest that forensic evaluators consider in their evaluations how the school-to-prison pipeline biases may inflate risk for minoritized groups.

Forensic evaluators should explicitly address, both in their reports and in their testimony, how risk factors such as juvenile justice history, age at first arrest, prior incarceration, and whether the justice system's response to the individual's offense behavior may be sources of bias.<sup>67</sup>

### **Culturally Informed Practices**

Integrating culturally informed practices remains a gap in violence risk assessment.<sup>60</sup> Group norms identifying observed rates of violence or sexual violence at future points offer the temptation of a snapshot analysis, have the allure of quantification, and are less time-intensive for the evaluator than the type of narrative cultural formulation recommended by Griffith.<sup>63</sup> As Friedman aptly observed, however, we cannot evaluate all persons in the same way; biases stem from blindness to culture, and "culture is part of us all, not only the defendant in front of us" (Ref. 33, p 139). Kirmayer and colleagues<sup>68</sup> observed that cultural background

can influence the capacity to form criminal intent; the forensic psychiatrist's evaluation therefore offers an avenue to culturally contextualize the individual's experience for triers-of-fact. The DSM 5<sup>69</sup> Cultural Formulation Interview (CFI) is a method that can enhance a person-centered assessment. Another avenue is to consider violence risk factors through the lens of a cultural contextual appraisal of items contained in the instrument that is employed.

Rogers<sup>70</sup> characterized evaluations emphasizing aggravating static factors (such as criminal history) and minimizing protective factors (such as social support) as biased and lopsided. A risk evaluation is also lopsided if it only considers the viewpoint of the majority culture,<sup>71</sup> as with most current standard methods.<sup>6,7,10,12,40,41,59</sup> Shepherd and Lewis-Fernandez<sup>72</sup> highlight that it is culture that is determinative in what is labeled as dysfunctional and deviant. Existing forensic risk assessment instruments are constructed to reflect dominant Eurocentric values and beliefs. Treatment noncompliance, a factor that is viewed as elevating risk, can be culturally biased. A minoritized individual may reject dominant culture treatment as not meaningful (e.g., relapse prevention substance abuse treatment) but willingly engage in culturally-relevant interventions and practices processes (e.g., sweat lodge, elder mentors).<sup>71</sup> As culture-specific practices are not embedded in current risk instruments,<sup>6,7,10,12,40,41,59</sup> evaluators may not view them as legitimate.<sup>71</sup>

Dominant-culture driven tools may also diminish or devalue the cultural experience and values of a minoritized individual. Shepherd and Willis-Esqueda<sup>60</sup> solicited responses from American Indian/First Nations (AI/FN) legal and health care professionals regarding the SAVRY<sup>40</sup> risk assessment tool developed for juveniles. Four themes emerged: negative labeling; cultural de-contextualization (e.g., questions did not consider why there may have been a failure to comply with intervention, or that they may have been compliant with cultural versus court-ordered treatment); absence of cultural manifestations of behavior (e.g., lack of awareness that aboriginal/indigenous youth tend to be quiet or shy, which may be misinterpreted as poor coping ability); and absence of cultural norms and practices (e.g., lack of integration of traditional teaching, nuclear families inaccurately labeled by non-Natives as extended families, differences between Native and non-Native child rearing practices, and lack of consideration of tribal ceremonies as prosocial involvement).

Shepherd and Lewis Fernandez<sup>72</sup> suggested that the ethnocentric focus of the risk tools and its limitations should be acknowledged when applied to marginalized groups. Although it is beyond the scope of this article to review specific items of all violence and sexual violence risk assessment tools, a useful guideline would be to consider whether the item reflects the dominant culture's values and devalues the minoritized evaluatee. Items such as juvenile arrests, prior adult arrests, prior charges, and convictions are vulnerable to discriminatory criminal justice policies and practices and can inflate risk. Failures to comply with supervision, lack of stable housing, and harboring violent attitudes are prominent factors in risk assessment schemes.<sup>7,11,12,40,41,59</sup> Such behaviors may reflect distrust of dominant culture authority figures rather than antisociality or paranoia.<sup>37,38</sup> These factors may be attributable to the dual effects of minoritized status and economic disadvantage. Poverty may result in lack of consistent access to reliable transportation, thus resulting in failures to report to supervision or mandated treatment sessions. Unstable living situations in urban areas with high levels of criminality may reinforce aggression as a survival mechanism. These items, when interpreted within the specific context of the individual, may suggest the impact of race and poverty, rather than disregard for authority or antisocial attitudes, as driving the behavior.

### **Environmental Factors**

Conduct problems may be associated with environmental factors (such as poverty, high crime neighborhoods, low performing schools, delinquent peers, and exposure to violence), and family risk factors (such as incarcerated parents, and harsh or inconsistent discipline).<sup>43-47</sup> Considering such elements can enhance an individualized analysis of predisposing, precipitating, and perpetuating factors for violence in at-risk youths. They are also relevant to recognizing an adult offender's path to criminal behavior. Such a method may be more meaningful for an understanding of what contributes to risk and what factors can be targeted to facilitate community reintegration. An approach that considers environment factors includes an assessment of the predisposing and precipitating factors to juvenile justice contact. The following questions could be considered: What led to school suspensions and expulsions? What

caused the adolescent to be placed in a foster home? What led to running away, to truancy, or to gang involvement? What was the impact of educational and emotional disruption caused by juvenile hall placement? Why and how was criminality perpetuated into adulthood?

White<sup>23</sup> observed that social policies such as habitual offender laws overwhelmingly affect those who “exist at the intersection of economic deprivation and racial exclusion” (Ref. 23, p 741) and contribute to a pernicious cycling of such individuals in and out of the criminal justice system. White argues that such individuals become career criminals not because they are morally depraved but because it reflects their social status of poverty and social oppression. To minimize the impact of inflating risk contributed by systemic criminal justice disparities, the forensic evaluator should consider if and how social marginalization led to a history of arrests and incarceration. Careful consideration may lead to a reduction of both systemic bias (related to overreliance on mere quantitative assessments based on a tally of arrests and incarcerations) and to the resulting character attributions (e.g., that the individual is criminogenically inclined, psychopathic, or severely antisocial).

### **Develop Awareness of Bias Blind Spots**

Forensic evaluators, like all other people, are prone to and may not recognize their own bias, a phenomenon known as the “bias blind spot,”<sup>73</sup> and may attribute bias to others, though not themselves.<sup>74</sup> In addition, they may unconsciously perceive outsiders as dangerous and underestimate the risk of danger for people in their own group.<sup>75</sup> Indeed, this is why introspection alone is an ineffective strategy to mitigate bias.<sup>76,77</sup> Recognition of biases may be fostered by strategies such as periodic case discussions with other professionals, enhancing cultural competence and awareness through education and training, and review of the evaluator’s database of their own evaluations for patterns of potential bias.<sup>67,75,76</sup>

Griffith’s<sup>63</sup> recommendations over two decades ago remain relevant to cultural competence within current forensic practice. Griffith described the process of cultural formulation as requiring a genuine interest on the part of the forensic evaluator in understanding evaluatees within their lived context. Griffith argued for a narrative method that offered a “fuller story of how the forensic event occurred”

(Ref. 63, p 181). This type of narrative contextualizes the incident under review. It can reduce the risk of biases created by social policies and economic disadvantage, and it puts into perspective the case details of prior criminal history which may be inflammatory and biasing if their remoteness is not considered.<sup>64</sup>

### **Conclusion**

Although some researchers underscore the value of standardized risk methods to reduce biases created by race,<sup>24,25</sup> these methods may still be unfair to those with histories of marginalization due to race and economic disadvantage.<sup>3,13,22,23</sup> Whether constructed to address bias or not, risk assessment instruments alone cannot overcome the racial and ethnic disparities in the criminal justice system.<sup>3</sup> Ultimately, forensic psychiatrists and psychologists must understand and account for structural and other systematic biases that affect violence risk factors; recognize and correctly manage the strengths and limitations of risk assessment methods; adhere to their ethics obligations to conduct fair, culturally sensitive assessments; and be aware of and effectively mitigate their own vulnerability to implicit biases. These efforts and transparency not only project objectivity, but also support ethical behavior. To do less is a failure to uphold our personal integrity and that of our profession. This professional obligation, moreover, is crucial when the concerns at hand carry significant consequences for both the examinee and the public.

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