

DISPROPORTIONATE MINORITY CONTACT AND STATUS OFFENSES

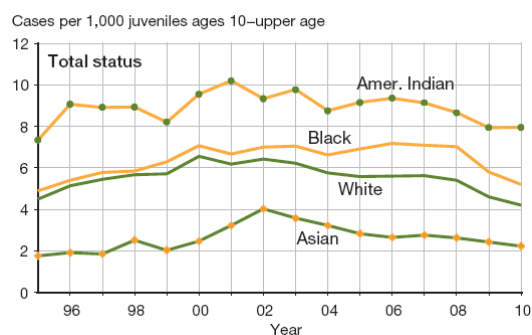
I. BACKGROUND

In 1988, the Juvenile Justice and Delinquency Prevention Actⁱ (“the Act”) required that states participating in the Act’s formula grant program develop and implement plans to address disproportionate minority confinement of juveniles in secure facilities, including jails and lockups. At that time, nearly 7 out of 10 youth in these facilities were minority youth, an overrepresentation of more than double their percentage in the general population.ⁱⁱ In 1992 the Act was strengthened by making DMC reduction a core requirement of the JJDP. When the Act was reauthorized in 2002, Congress expanded the core requirement even further, from *confinement* to disproportionate minority *contact* (“DMC”). The purpose of the requirement remained the same: “to ensure equal and fair treatment for every youth in the juvenile justice system, regardless of race and ethnicity.”ⁱⁱⁱ

Now, more than a decade later, states continue to grapple with both accurately measuring DMC and with identifying effective strategies to address it. According to 2011 data, only 34 states had implemented DMC systems improvement and delinquency prevention strategies,^{iv} and those efforts continue to be largely focused on the population of youth at risk for, or charged with, delinquency. But what of DMC among youth at risk for, or charged with, status offenses?

Unfortunately, national data on youth held in out-of-home placement for, or charged with, non-delinquent offenses remain limited. We do know that in 2010 alone, an estimated 137,000 status offense cases were petitioned in juvenile courts, a 6 percent increase from 1995. Of those 2010 cases, 10,400 involved detention and 6,100 resulted in an out-of-home placement.^v

Petitioned status offense case rates declined for White youth between 1995 and 2010, but increased for all other racial groups.



In 2010 (the most recent year data on individual status offenses is available):

- Black youth had ungovernability case rates that were more than twice that of White youth;
- American Indian youth had liquor law violation case rates more than three times that of White youth; and
- Black youth had runaway case rates that were more than three times that of White youth.²

Source: Puzzanchera, Charles, and Sarah Hockenberry. 2013. *Juvenile Court Statistics 2010*. Pittsburgh, PA: National Center for Juvenile Justice. Graphic reprinted with permission.

The most recent data from the Census of Juveniles in Residential Placement show that more than 2,239 status offenders were held in residential placement facilities on the census date in 2011 and 1,876 of those were held in locked facilities.^{vi} Of these youth in residential placement, 1,060 (47.3%) were White as compared to 736 (32.9%) Black, 228 (10.2%) Hispanic, and 95 (4.2%) American Indian youth.^{vii} On their face, these numbers indicate significant disproportionate representation of youth of color—particularly Black youth—among those in residential placement for status offenses: In 2011, 76.2 percent of U.S. youth age 12-17 were White, 16.6 percent were Black, and 1.8 percent were American Indian; 16.9 percent were of Hispanic ethnicity.^{viii}

II. WHY FOCUS ON NON-DELINQUENT YOUTH?

Research has long established that youth charged with status offenses are placed at risk when housed with and engaging in corrections programs with seriously delinquent youth. Research shows that youth charged with status offenses are stigmatized, suffer collateral consequences when removed from home and school and may develop anti-social attitudes and behaviors when exposed to other status offenders and delinquent youth.^{ix} These young people are also more “likely to have difficulty transitioning back into community, home and school settings and are more likely to be arrested again . . . and to be formally charged, adjudicated and committed to a juvenile corrections institution.”^x

Despite these negative outcomes, jurisdictions continue to use confinement for youth charged with status offenses and other non-delinquent youth, sometimes for significant periods of time prior to

adjudication or more appropriate placement. In 2011, 220 youth were detained in locked facilities for status offenses while awaiting adjudication on the census date. Of those youth, 39.5 percent were White, 38.6 percent were Black, 15.5 percent were Hispanic and 3.6 percent were American Indian.^{xi} As compared to the percentages of youth in the general population, discussed above, these numbers demonstrate the overrepresentation of youth of color. The majority of detained youth (112 youth) had been in a residential facility without adjudication for less than a week, but a significant number (40) had been in a facility for more than 30 days and some had been detained for more than 180 days without any adjudication. The data show that Black youth were also more likely than White youth to have been in a residential facility for a week or more.^{xii}

These relatively small numbers only tell part of the story. In 2011 the Census of Juveniles in Residential Placement found 9,883 juveniles in residential facilities due to technical violations. Technical violations are acts that disobey valid court orders or conditions of probation or parole. They can include being late for appointments, failing to complete a program, or even committing a status offense, like running away or skipping school, once a judge has ordered a youth not to. Of the nearly 10,000 youth in placement for technical violations, more than a third (35.9%) were Black and more than a quarter (26%) were Hispanic.

III. ADDRESSING THE DATA DEFICIT ON DISPROPORTIONALITY AMONG STATUS OFFENDERS

DMC among status offenders and its relationship to disproportionality in the larger justice system is a critical issue to address, in large measure because it is

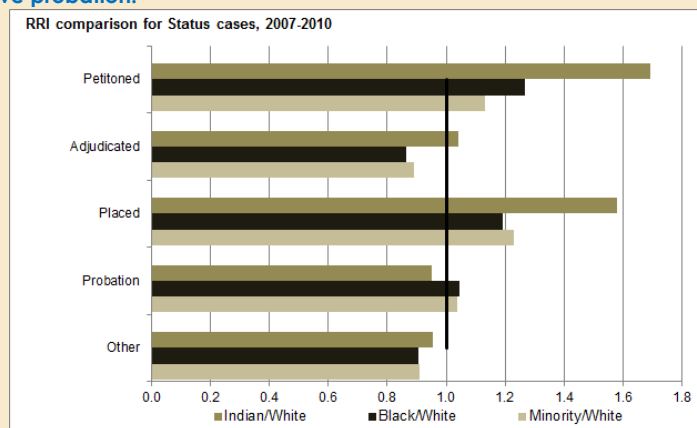
the entry point for which data are most limited. There are several reasons for this lack of information, including the fact that status offense cases are often handled outside of the courts, and current national data collection focuses largely on petitioned court cases. Other factors limiting available data are: 1) the likelihood that youth who enter the juvenile justice system as status offenders are also involved with other systems (i.e., they are “crossover youth”) and there is confusion about which system takes primary responsibility for them; 2) the nature of status offense proceedings is such that youth cycle in and out of the system more rapidly than in delinquency proceedings, making it more difficult to keep track of them; and 3) the persistent misperception that youth who commit status offenses are simply “pre-delinquent” and will ultimately show up in the delinquency system where they will be taken into account.

In fact, there is significant evidence that some youth charged with status offenses are in the most benign of circumstances, just young people being young people, acting out in ways that are consistent with their age and stage of development. In less benign circumstances, they are youth who have serious, often complex, unmet needs. In neither case should future delinquency be a foregone conclusion; and in both cases, confinement in a juvenile facility is counterproductive.

New data on status offenses and disproportionality

As part of its ongoing collaboration with CJJ, the National Center for Juvenile Justice (NCJJ) recently analyzed status offense cases petitioned to juvenile court between 2007 and 2010 to develop relative rate index comparisons. (A relative rate index (RRI) is “the rate of activity involving [youth of color] divided by the rate of activity involving [white youth].”)

They found that Black youth were petitioned to court at a rate 1.27 times that of White youth but adjudicated at a rate .86 times that of White youth; meaning that Black youth were more likely than White youth to be petitioned to court, but less likely to be adjudicated. American Indian youth were petitioned at a rate 1.69 times that of White youth and adjudicated at close to the same rate (1.04 times that of White youth). Black and American Indian youth were also more likely than White youth to be placed in residential placement. Black youth and White youth received probation at nearly the same rate, but American Indian youth were less likely than White youth to receive probation.



NCJJ's data analysis also revealed differences in outcomes based on the nature of the offense. Black youth charged with running away were petitioned at a rate 3 times that of White youth, but were slightly less likely than White youth to be adjudicated. Black youth were also more than two times as likely to be petitioned for ungovernability but were adjudicated at almost the same rate. (American Indian youth were much less likely than White youth to be petitioned for ungovernability.) Black youth and American Indian youth were also more than twice as likely as White youth to be petitioned for curfew violations but less likely to adjudicated. For liquor-related status offenses American Indian youth were more than twice as likely to be petitioned and somewhat more likely to be adjudicated, while Black youth were petitioned at approximately one quarter the rate of White youth but adjudicated at nearly the same rate (.89 times). Although more research is needed to determine why these disparities exist and what they mean for juvenile justice practice and policy, it is clear that significant disproportionality exists for Black and American Indian youth who are alleged to have committed status offenses.

Despite evidence of DMC among status offenders and the fact that this disproportionality may feed DMC in the delinquency system, there are significant obstacles to resolving this problem. In 2011, only 18 states had completed their OJJDP mandated DMC assessments; only 29 states had collected data for all nine of the DMC contact points, and only 30 received funding and/or technical assistance to implement nationally recognized DMC reduction models.^{xiii}

Addressing DMC among status offenders will not be easy: some states experience significant resource challenges to collecting system-wide data, and there are still considerable societal barriers to frank discussion of racial disparities. Also, policy and practice reform efforts that implicate status offenders often force juvenile justice stakeholders to reach beyond their comfort zone and enter into close partnerships with new actors.^{xiv} If states are in the beginning stages of understanding and addressing DMC among the population of youth charged with delinquency, it may be ambitious to expect that they would have the capacity to address it among the population of youth charged with status offenses. Still, the unique characteristics of youth charged with status offenses that make them a somewhat confounding population for the juvenile justice system also make them particularly well-suited for more holistic interventions outside of and beyond that system.

IV. IMPLICATIONS FOR JUVENILE JUSTICE REFORM

The Coalition for Juvenile Justice (CJJ) “Safety, Opportunity & Success (SOS): Standards of Care for Non-Delinquent Youth Project” (“The SOS Project”) engages multiple stakeholders to guide states in implementing policies and practices that divert non-

delinquent youth from juvenile courts and locked confinement to connect them to family and community-based systems of care that can more effectively meet their needs. Through this project, CJJ connected with advisors from a variety of disciplines to develop the National Standards for the Care of Youth Charged with Status Offenses (“the National Standards”). The National Standards include specific recommendations for system professionals—from law enforcement to social service providers and courts—to reduce racial and ethnic disparities, including:

- Collect and analyze data at all decision points so intentional strategies can be developed to reduce racial and ethnic disparities.
- Use culturally competent screening and assessment tools at appropriate points and throughout a status offense case.
- Implement practices that are culturally and linguistically competent.
- Implement family engagement and alternative dispute resolution strategies during status offense cases.
- Provide access to family-connected and community-based services in youths’ home communities, especially where a community may have disproportionately high involvement in the status offense system.

The National Standards also address several other issues that may affect DMC among youth charged with status offenses, such as efforts to identify the cause of the status offense before court involvement, avoiding secure detention for status offenders, and access to culturally-competent prevention and intervention services and treatment for youth and their families. Further, the National Standards reframe the conversation about status offenders away from

how the juvenile justice system ought to be involved with this population and toward whether the juvenile justice system ought to be involved with this population. In so doing, the National Standards

provide a framework that could help discontinue the overrepresentation of minority youth in the nation's juvenile justice system.



To learn more, or to get involved in the Coalition for Juvenile Justice Safety, Opportunity & Success: Standards of Care for Non-Delinquent Youth Project, or to get a copy of the National Standards for the Care of Youth Charged with Status Offense:

Contact: Lisa Pilnik, CJJ Deputy Executive Director, 202-467-0864
Pilnik@juvjustice.org

Visit: <http://www.juvjustice.org/sos.html>
Facebook: www.facebook.com/juvjustice
Twitter: [@4juvjustice](https://twitter.com/4juvjustice)

ⁱ Pub. L. 93—415, 42 U.S.C. 5601 et seq.

ⁱⁱ U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention, *Disproportionate Minority Confinement: Lessons Learned From Five States* (Washington DC: December 1998).

ⁱⁱⁱ U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention, *In Focus: Disproportionate Minority Contact* (Washington DC: November 2012), available at <http://www.ojjdp.gov/pubs/239457.pdf>.

^{iv} *Id.*

^v Puzzanchera, Charles, and Sarah Hockenberry. 2013. *Juvenile Court Statistics 2010*. Pittsburgh, PA: National Center for Juvenile Justice. Available at <http://www.ncjj.org/pdf/jcsreports/jcs2010.pdf>.

^{vi} 2011 is the most recent year for which data is available. Sickmund, M., Sladky, T.J., Kang, W., & Puzzanchera, C. (2013). "Easy Access to the Census of Juveniles in Residential Placement." Available: <http://www.ojjdp.gov/ojstatbb/ezacjrp/>. Locked facilities are those in which "juveniles are restricted within the facility or its grounds by locked doors, gates, or fences some or all of the time" and include group homes, shelters, detention centers, boot camps and other types of placements.

^{vii} The number of Asian and Pacific Islander youth were 13 and 9, respectively.

^{viii} Puzzanchera, C., Sladky, A. and Kang, W. (2013). "Easy Access to Juvenile Populations: 1990-2012." Online. Available: <http://www.ojjdp.gov/ojstatbb/ezapop/>. Note that the numbers add up to more than 100% because in the Easy Access to Juvenile Populations the number of Hispanic youth is measured under ethnicity rather than race (unlike the data on residential placement from the Census of Juveniles in Residential Placement) so a youth can be counted, for example, as both White and Hispanic or both Black and Hispanic.

^{ix} Holman, B., et al., (2007) *The Dangers of Detention: The Impact of Incarcerating Youth in Detention and Other Secure Facilities*. Justice Policy Institute, Annie E. Casey Foundation.

^x U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention, *Alternatives to Secure Detention and Confinement of Juvenile Offenders* (Washington DC: 2005).

^{xi} Sickmund, M., Sladky, T.J., Kang, W., & Puzzanchera, C. (2013). "Easy Access to the Census of Juveniles in Residential Placement." Available: <http://www.ojjdp.gov/ojstatbb/ezacjrp/>.

^{xii} *Id.*

^{xiii} U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention, *In Focus: Disproportionate Minority Contact* (Washington DC: November 2012), available at <http://www.ojjdp.gov/pubs/239457.pdf>.

^{xiv} One example would be the working with schools to reduce the number of referrals or analyze causes for youth of color being referred at higher rates.