
Racial Disparities in Utah's Juvenile Justice System

Like most juvenile justice systems across the country, Utah's juvenile justice system could do more to produce the outcomes that we all want for our kids and for our community. Our system should be restructured to more effectively ensure that as many kids as possible can stay in their homes and in their schools instead of being detained in environments that don't lead to justice or positive change. This report explores the racial disparities that result from flaws in Utah's current system.

In June 2016, Governor Gary Herbert – with the support of Chief Justice of the Utah Supreme Court Michael Durrant, Speaker of the Utah House of Representatives Greg Hughes, and President of the Utah Senate Wayne Niederhauser – announced the formation of a special Juvenile Justice Working Group to review Utah's juvenile justice system and recommend changes to improve public safety, system efficiency and responsible use of taxpayer dollars.

The Juvenile Justice Working Group was aided by analysts from the Pew Public Safety Performance Project, a policy project of the Pew Charitable Trusts. The Pew analysts were granted access to vast amounts of system data from Utah's juvenile courts, Department of Juvenile Justice Services (JJS), Department of Child and Family Services (DCFS), Youth Parole Board and other agencies. The working group's recommendations were adapted into a reform bill introduced during the 2017 Utah State Legislative Session.

Community stakeholders mobilized to participate in the process of improving Utah's juvenile justice system. Several non-profit organizations convened a "shadow working group" to the official process. This informal coalition included groups invested in Utah's youth, including: Voices for Utah Children, Racially Just Utah, Journey of Hope, the Disability Law Center, the YWCA of Utah, Utah's Coalition of La Raza, the Ogden Branch NAACP, the ACLU of Utah and Utah Educators for Social Justice.

The first action of this community stakeholder coalition was to develop comprehensive "Guiding Principles for Juvenile Justice Reform in Utah." These Guiding Principles were

shared with the Commission on Criminal and Juvenile Justice Executive Director Ron Gordon and endorsed by many additional stakeholder organizations such as Utah Minority Bar Association, Utahns Against Hunger, New Hope Center, and Comunidades Unidas.

The official Juvenile Justice Working Group (JJWG) was tasked with analyzing the juvenile justice system only after the point of youths' first contact with the juvenile justice system, so the community stakeholder coalition

THIS REPORT WAS AUTHORED BY REPRESENTATIVES OF THE FOLLOWING NON-PROFIT ORGANIZATIONS:

**American Civil Liberties Union of Utah
Voices for Utah Children
YWCA Utah
Racially Just Utah
Ogden Branch NAACP**

WITH ADDITIONAL SUPPORT FROM:

**Journey of Hope
The Disability Law Center
Utah Coalition of La Raza
Utah Educators for Social Justice
Utahns Against Hunger
SLC Area Anti-Discrimination Task Force**

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supplemented the official working group’s efforts by examining how and why young people (anyone below age 18) are referred to the system by law enforcement officers in the community or at school.

The community stakeholder coalition took care to address factors in place before contact with the juvenile justice system, such as poverty, education, immigration or refugee status, food insecurity, sexual abuse and undiagnosed learning disabilities—factors that increase the likelihood that young people may come into contact with the juvenile justice system.

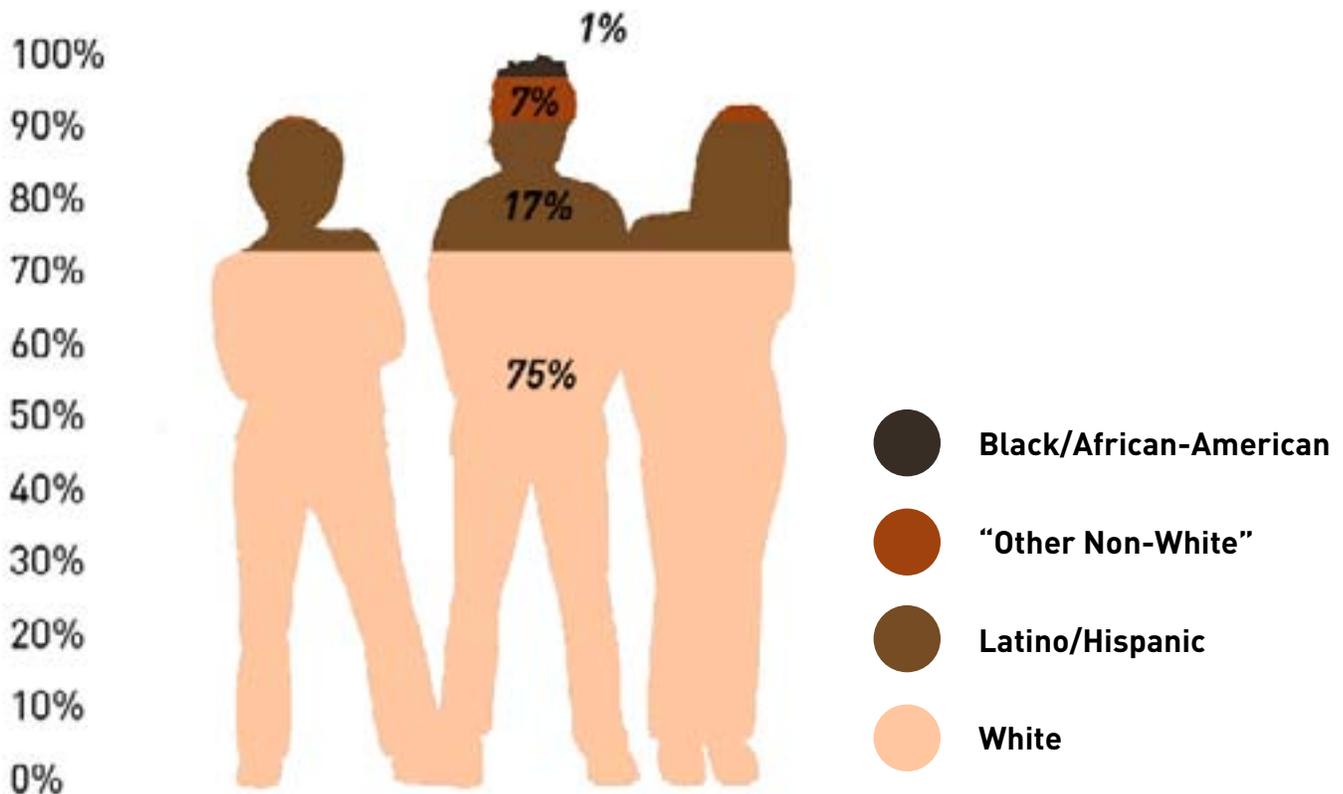
To its credit, the official state JJWG gathered extensive data about racial disparities in Utah’s juvenile justice system and made this data readily available to community stakeholders. However, overt conversations about race, implicit bias, racial discrimination, and racial disparities are difficult to conduct in formal working groups that must reach consensus on controversial issues, especially when

participants must acknowledge racial bias in decision making by themselves and their constituents. Our informal coalition chose to focus our efforts as a “shadow working group” on ensuring that these racial disparities were more fully explored in public dialogue.

This report, which is the culmination of hours of work on the part of community stakeholders, draws unflinching attention to serious racial disparities in Utah’s juvenile justice system and explains why such racial disparities should be considered problematic by all Utahns, not just those who claim membership in minority racial groups.

This report presents several bold recommendations for reducing disparities, preventing unequal treatment and protecting Utah’s youth of color. Our hope is that these recommendations will help to shape the next phase of juvenile justice system reform, building on the solid recommendations of the official state Juvenile Justice Working Group.

Figure 1. Utah Statewide Youth Population, by Race (2015)



Racial Disparities Data

All data reported in this section, except where noted, were obtained from the official Juvenile Justice Working Group (JJWG). These data were collected by the JJWG, with support from Pew analysts, from the Court and Agencies Record Exchange data system. Demographic information for youth within the juvenile justice system has been compared to State of Utah school enrollment demographics data to establish a baseline for racial disparities. The data collected and analyzed by the JJWG clearly shows what community stakeholders have long known: disparate treatment of youth of color is occurring at the initial stage of youth contact with the Utah juvenile justice system, and worsening as youth move deeper into the system.

BASELINE UTAH YOUTH POPULATION

Discussions of racial disparities must start with the establishment of a baseline. All data of youth involved in the Utah's juvenile justice system are compared to Utah's actual youth population, statewide, broken down by race.

Utah's total youth population, at 566,808 youth in 2015, (Figure 1) is majority white (75%, or about 425,100 individuals). The next largest racial group is comprised of Latino/Hispanic youth (17% or slightly less than 96,500 individuals). Black or African-American youth make up just 1% of the total juvenile population in Utah (nearly 5,700 individuals), and the remaining youth population (7%) is classified as "other non-white" (approximately 9,700 individuals).

Unfortunately, the data, as publicly reported in aggregated numbers, does not break down racial identity as carefully as we would like. The "other non-white" category encompasses very different racial and cultural groups. For example, we know from extensive qualitative and quantitative data that Polynesian and Native American youth are perceived and treated differently than Japanese and Korean youth by people in authority in schools and in juvenile justice settings. Similarly, Native Hawaiian youth are not perceived and treated the same as dark-skinned Southeast Asian youth from India or Pakistan. Although this frustrating lack of appreciation for how different racial minorities experience discrimination is a limitation, the available broad categories still reveal serious disparities in

how youth of color are treated relative to their white peers.

FIRST CONTACT WITH THE JUVENILE JUSTICE SYSTEM

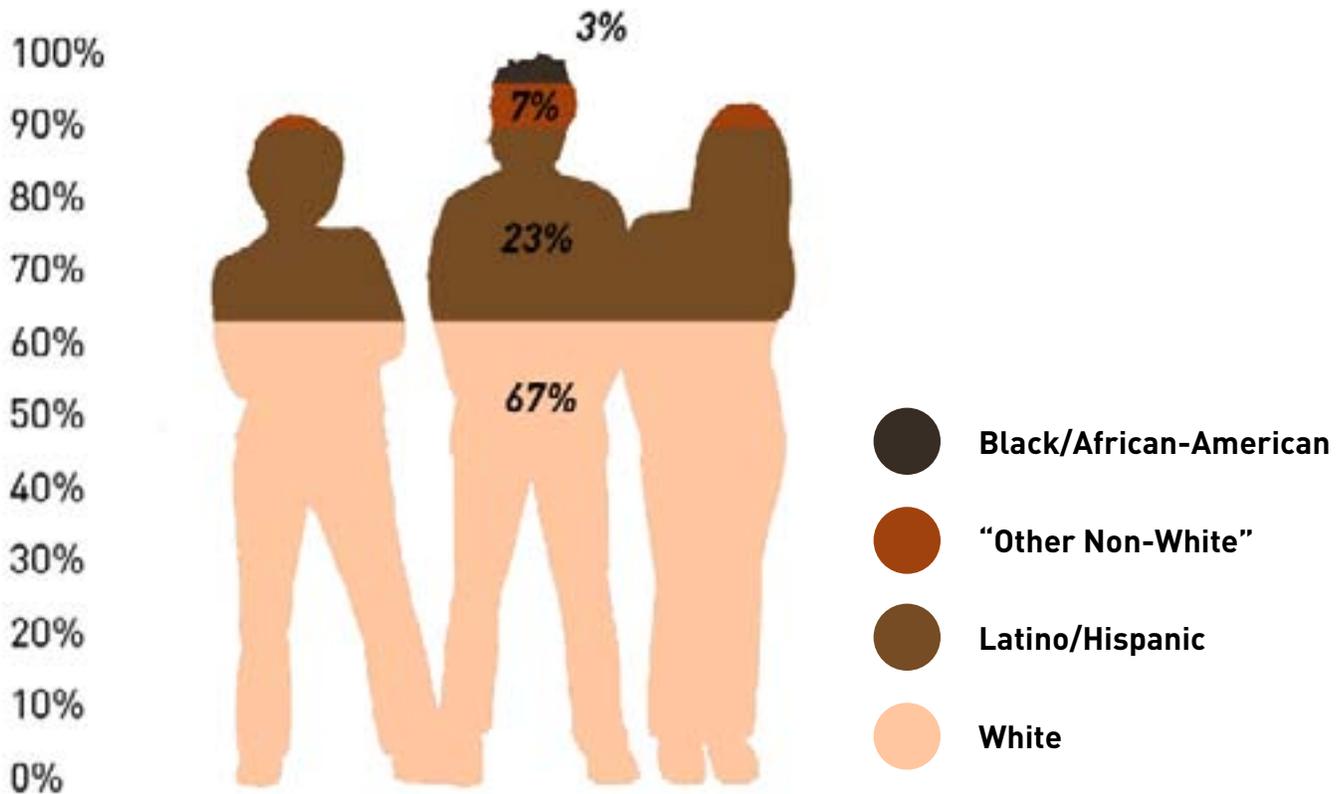
The JJWG gathered and analyzed data that begins with a youth's "first intake" into the system. This is when a young person is referred or made known to the juvenile justice system in some official way; this first contact can occur in a variety of situations and settings.

In many cases, teachers and public school administrators play a key role in a young person's first contact with the system, by referring that young person to law enforcement agents in response to school-based misconduct of varying levels of seriousness. The presence of a police officer, employed by a local law enforcement agency, in a school - typically called a School Resource Officer (SRO) - increases the likelihood that a young person's misconduct will be seen as a "juvenile justice" issue rather than a "school misbehavior" issue. SROs are much more likely to be present in lower-income schools, with higher proportions of racial minority students.

A young person may also come into the juvenile justice system through interaction with law enforcement in the community. For example, when a store manager apprehends a shoplifter, or through an "enforcement stop" on the street where a police officer on patrol may simply stop a young person and question them without provocation. Note that one of the earliest decisions in the juvenile justice pipeline occurs at this highly subjective stage, where public servants (police officers in the community or administrators in our schools) must decide whether youth enter the "official court process" at all.

Also, it is important to point out that the vast majority of youth will engage in some kind of misconduct - in the home, in the community, or in school. This might include shoplifting, experimenting with alcohol or marijuana, breaking into a locked building with friends after dark, or spray-painting private or public property. However, not all misconduct is seen as equally problematic by agents of our government institutions, depending on who engages in the misconduct. Misconduct engaged in by one young person

Figure 2. New “Intakes” to the Juvenile Justice System, by Race



may be seen as harmless experimentation, and handled within the family. When other youth engage in the same misconduct, they are more likely to be referred to the juvenile justice system. This helps to explain why we begin to see racial disparities in the official data at this “first intake” stage of the system. Certain misconduct is seen as “part of growing up” when undertaken by white youth, while the same activity – because of implicit or explicit bias – is interpreted as more threatening when a youth is of color.

If no racial disparities existed at this initial stage of the juvenile justice pipeline, we would expect to see that of the total population of Utah youth who make official contact with the system, about 73% would be white, 17% Latino/Hispanic, 7% “other non-white,” and just 1% Black or African-American. The population of justice-involved youth would essentially mirror the statewide youth population in racial breakdown.

However, racial disparities are indeed present. At “first intake” to the juvenile justice system (Figure 2) only

67% of youth are non-Hispanic white, 23% are Latino/Hispanic, and 3% are Black or African-American. On the other hand, “other non-white” youth represent 7% of the youth at “first intake,” which is the same as in the overall youth population statewide. However, as noted previously, we don’t know which “other non-white” youth – such as Polynesian or Southeast Asian youth – may be over- or underrepresented within this category.

At this initial stage, Latino/Hispanic youth are already overrepresented by 36%. Shockingly, Black/African-American youths are overrepresented by 200%.

NON-JUDICIAL ADJUSTMENTS VS PETITIONS TO COURT

A second decision point occurs when probation officers, informed by prosecuting attorneys, defense attorneys, and law enforcement officers, decide whether an individual youth will be made to appear before a judge in an official juvenile court (a “petition to the court” or “petition”).

Here is a chance to handle a young person’s misconduct through a “non-judicial adjustment” (NJA), rather than filing a petition to the court. This NJA allows the youth’s misconduct to be addressed through counseling, community interventions, an alternative program like a Peer Court, or some other non-court approach.

An NJA allows a young person to avoid having an “official” juvenile justice record. A petition, on the other hand, will almost certainly result in an official disposition by a juvenile court judge. An official disposition will ensure involvement with the system for at least several months. A petition also means that the young person will have an official juvenile record. That young person will have to answer to a judge who possesses enormous discretion to remove the youth from their home, if the judge perceives the youth to be non-compliant or “in contempt of court.”

There is no uniform decision-making process for determining whether a particular young person receives an NJA or a petition to appear in juvenile court. The absence of a uniform decision-making process results in distinct inconsistencies with regards to who is given a NJA and who

is given a petition to court. In addition, the absence of a uniform decision-making process allows a youth probation officer with no legal training or special training in youth development to potentially misinterpret various individual situations.

The data collected by the JJWG (Figure 3.1 and 3.2) clearly show that white youth are more likely than youth of color to have their cases dismissed, or receive non-judicial adjustments, without an adjudication by the juvenile courts. White youth make up only 68% of NJAs, and even less (58%) of petitions to court. To compare, Latino/Hispanic young people make up 25% of all youth who receive NJAs, and 32% of those who receive petitions to court. Black/African-American youth make up 3% of all NJAs, and 5% of all petitions to court.

This means that among youth who receive official petitions to appear in a juvenile court, Latino/Hispanic youth are overrepresented by nearly 90%, and Black/African-American youth are overrepresented in this same category by an overwhelming 400%.

Figure 3.1 Non-Judicial Adjustments

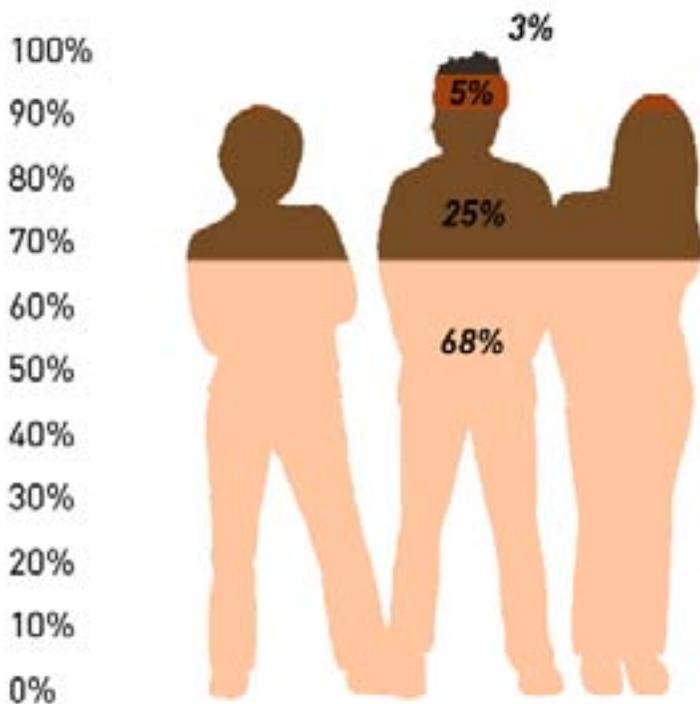
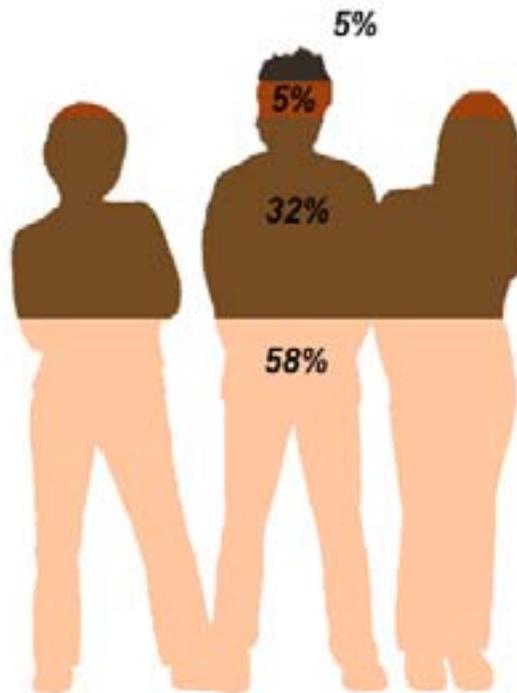


Figure 3.2 Petitions to Juvenile Court



WORSENING OF RACIAL DISPARITIES

Before youth appear in front of a judge or speak with an attorney, data shows that racial disparities are present. This is particularly clear in the reporting by Utah schools to the U.S. Department of Education's Office of Civil Rights, which was well dissected in the 2011 report, "From Fingerprint to Fingerprints," produced by students and faculty at the University of Utah S.J. Quinney College of Law.

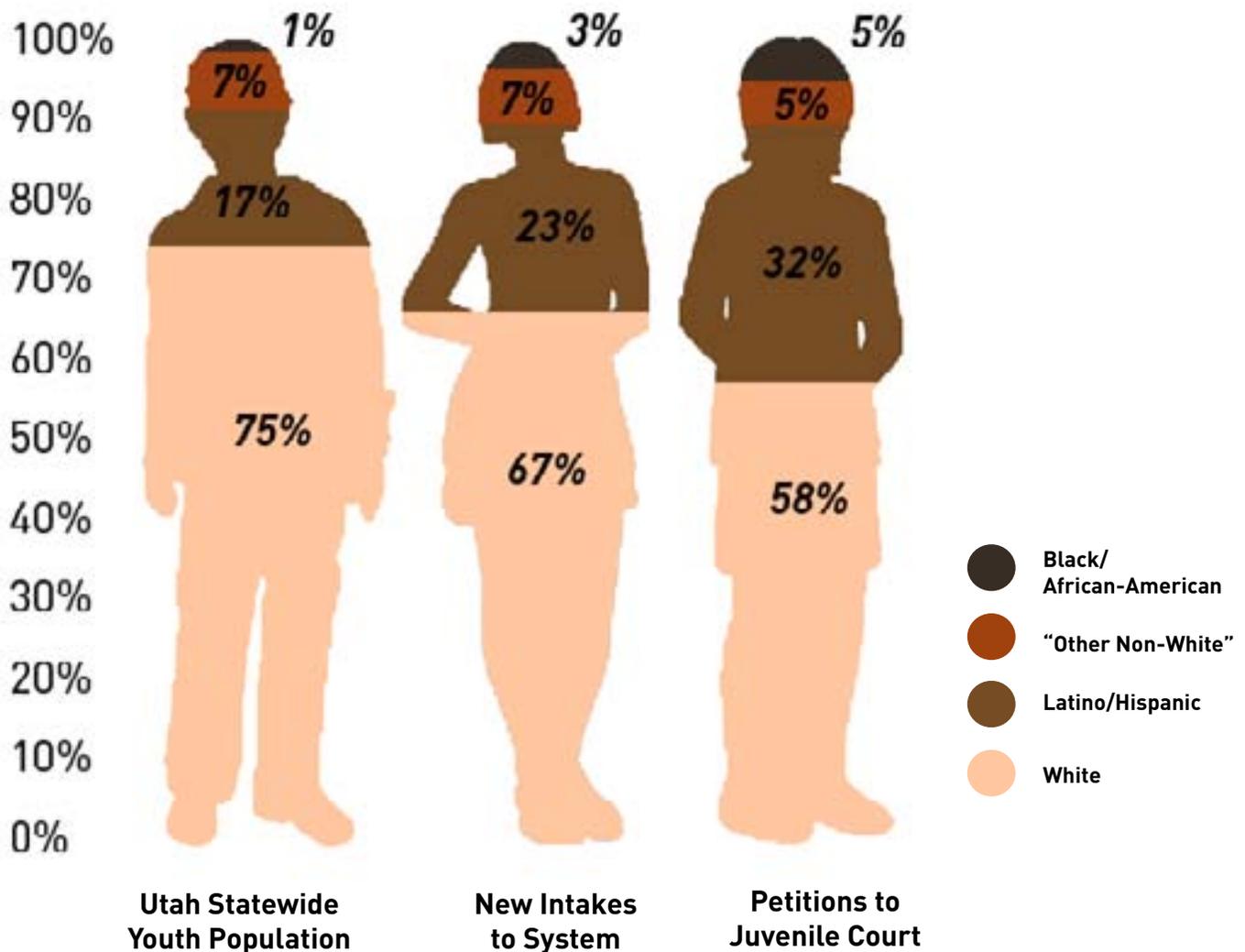
Disparities begin to widen as young people move from initial contact with the system toward deeper contact with

administrators, prosecutors, judges, private contractors and parole authorities.

To recap how these disparities become more pronounced up to this point in the system, we have compressed the data previously discussed in a single chart (Figure 4).

Note that the lack of disaggregated data for "other non-white" youth leaves us unable to assess how Polynesian, Asian, Native American and other youth from disparate minority groups fare up to this point. Going forward, we strongly urge the state to collect and analyze racial data for these youth at a more granular level, so individual ethnic communities can better respond to the needs and

Figure 4. Comparative Data, by Race, on Pre-Disposition Disparities



YOUTH OF DIFFERENT RACES RECEIVE DIFFERENT DISPOSITIONS

A third major decision point occurs when a young person finally appears before a juvenile court judge for an official judgement or “disposition.”

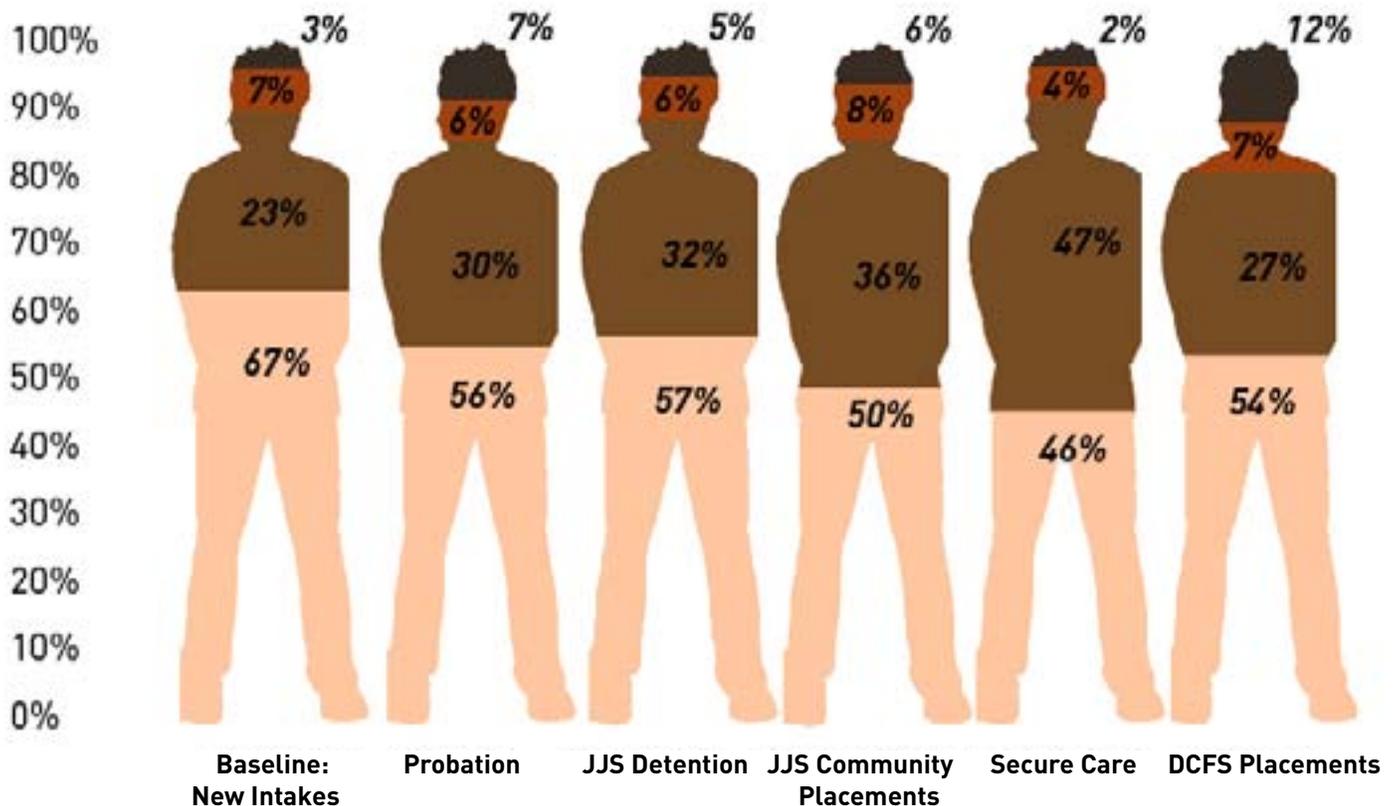
In the juvenile justice system, judges have broad discretion in sentencing a young person for their alleged misconduct. A judge’s disposition decision is influenced by the information passed to them by JJS probation officers, probation employees, caseworkers, advocates and therapists involved in the “intake” of young people at receiving and detention centers. Judges reported to the JJWG that the information they rely on from JJS employees’ includes disposition recommendations, written social history reports, risk and needs assessment results, pre-disposition reports and verbal reports. Regardless of the severity of the alleged misconduct, a judge can order any

one of, or a combination of, the following: fines, restitution, community service, probation, service in a work camp or on a work crew, secure detention, secure care, community placement or placement in a foster or proctor home.

Disposition guidelines, as established by state statute, do not bind judicial orders. This may explain why judges continue to sentence youth to various levels of state custody and/or secure detention for “status offenses” (curfew violations, alcohol infractions, running away, etc.) in apparent violation of official disposition guidelines.

The data collected by the JJWG show that white youth are underrepresented in every disposition category (Figure 5), compared to the baseline rate at which they make contact with the system initially. This indicates that white youth are likely than their peers of color to move out of the system post-intake but pre-adjudication, through a dismissal or non-judicial adjustment.

Figure 5. All Juvenile Dispositions Statewide



Possible Juvenile Justice Dispositions

FINES: can be assigned as monetary fines only, or in combination with any other disposition. Fines range from a standard of \$175 for a “status offense” or infraction to \$625 for a first degree felony. A judge can impose a fine on a young person up to \$750 for a Class C Misdemeanor, or up to \$10,000 for a first or second degree felony. There is no maximum fine for a status offense or infractions.

RESTITUTION: may be ordered, in addition to fines paid to the court. Restitution is paid to the victim (an individual or a business) of the alleged misconduct, to cover the cost of lost property, counseling or medical bills, or other expenses. Restitution can amount to thousands of dollars in some cases. When a youth (or their family) is unable to pay restitution immediately, work crew assignments (sometimes as part of on-site custodial detention) may be arranged to “pay off” the restitution to private individuals.

PROBATION: supervision by a youth probation officer who works for the juvenile court. Probation is recommended to last for three months, with six months recommended for probation violators. Fines, restitution and community service are often probation requirements, as well as curfews and other restrictions on behavior.

JUVENILE JUSTICE SERVICES (JJS) DETENTION: confinement to a facility that is designed for short-term stays (30 days or less). Youth and/or their families may be charged for the cost of the stay, as part of a “pay-to-stay” arrangement that is also common at adult county jail facilities.

JJS COMMUNITY PLACEMENT: both residential (work camp, residential treatment center, wilderness program or other out-of-home sentence) and non-residential (participation in a work crew or group therapy, without being taken from the home). Youth and/or their families may be charged for the cost of the stay, as part of a “pay-to-stay” arrangement that is also common at adult county jail facilities.

JJS SECURE CARE: describes confinement to a facility that is designed for long-term stays. This is the most restrictive type of state supervision, and can last for months or even years. Youth and/or their families may be charged for the cost of the stay, as part of a “pay-to-stay” arrangement that is also common at adult county jail facilities.

DEPARTMENT OF CHILD & FAMILY SERVICES (DCFS) PLACEMENT: involves removing youth from their homes and placing them in “proctor” home or with foster family for a designated length of time.

Comparatively, Latino/Hispanic youth are overrepresented, by various degrees, in every disposition category. Most shockingly, these youths are overrepresented in state secure-care facilities by more than 100%.

In fact, the JJWG data reveal that statewide, Latino/Hispanic youth actually slightly outnumber white youth in secure care facilities. In the general youth population throughout the state, white youth outnumber Latino/Hispanic youth nearly 4.5 to 1, and at initial intake with the juvenile justice system, almost 3 to 1. In secure care facilities, the ratio of white youth to Latino/Hispanic youth is almost 1 to 1.

Black/African-American young people represent 3% of all initial youth who come into contact with the juvenile justice system. They are overrepresented in every disposition category except secure care, when compared to their proportion of initial system intakes. In the case of secure care dispositions, however, Black/African-American youth are still overrepresented, compared to their proportion of the general youth population statewide, by 100%.

Compared to their proportion of initial intakes to the system, Black/African-American youth are overrepresented by approximately 100% in the probation, JJS detention and JJS community placement disposition categories.

Shockingly, Black/African-American youth make up 12% of all youth sentenced to DCFS placements in Utah via the juvenile justice system. This is 300% more than would be expected based on their proportion of initial contacts with the system...and a staggering 1100% more than we might expect based on the 1% of the statewide youth population they represent.

ARE YOUTH OF COLOR ENGAGED IN MORE SERIOUS MISCONDUCT THAN WHITE YOUTH?

It can be tempting to explain away these stark racial disparities. It is difficult to accept that youth of color are simply treated differently – and almost always more harshly – for the same misconduct engaged in by their white peers.

For example, perhaps Latino youth are overrepresented in secure care dispositions because the misconduct in which these youth engage is much more serious? Or, perhaps white youth are more likely to be granted probation because

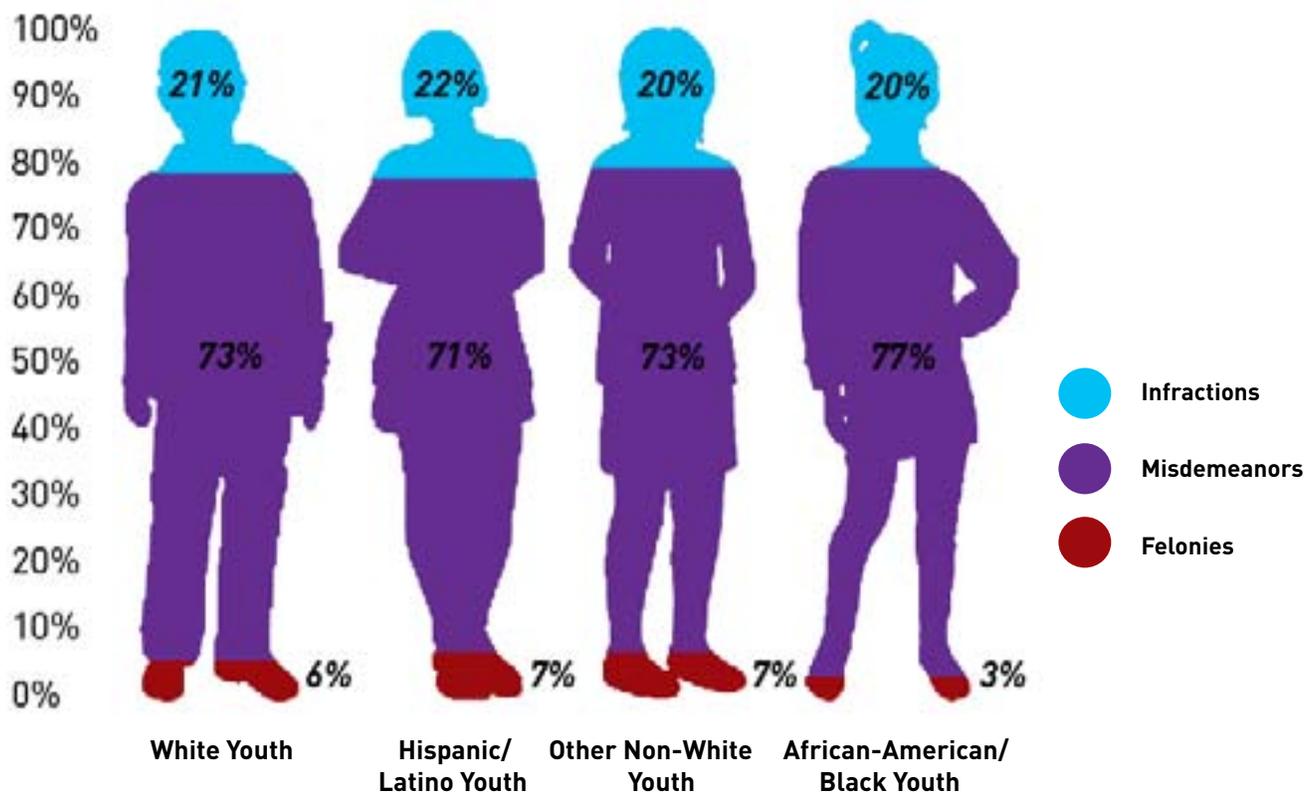
their misconduct is more likely to be at the status offense or infraction level?

The data collected and compiled by the JJWG indicate that this explanation is false. Youth of color who become engaged in the juvenile justice system are accused of committing the same level of offenses as white youth.

In fact, the vast majority of all young people who become involved in Utah’s juvenile justice system – regardless of race – have engaged in relatively low-level, non-violent misconduct. Few pose a legitimate public safety risk.

As we can clearly see from the data, there is little variation among racial groups with regard to level of most serious offense (Figure 6) at the time of intake. In fact, Black/African-American youth – who are overrepresented in initial intakes to the system by 200% – are actually less likely to be accused of a felony, compared to all other racial groups, at their first contact with the juvenile justice system.

Figure 6. Most Serious Charge at First Intake to System



However, as mentioned previously, juvenile court judges are able to impose any sentence for any level of offense. A startling number of youth in secure care, detention and community placements receive those dispositions for “status offenses” or for “contempt” charges stemming from failure to pay fines or otherwise satisfy original sentences for initial low-level status offenses.

ARE STATEWIDE RACIAL DISPARITIES CONCENTRATED IN ONE AREA OF UTAH?

During the Juvenile Justice Working Group’s informational meetings, working group members questioned whether racial disparities were a problem throughout the state or concentrated in particular judicial districts. Some members expressed the belief that large disparities in one area of the state could be skewing the statewide data, and suggested that a more targeted approach to racial disparities would be more appropriate (rather than addressing the disparities as a truly statewide problem).

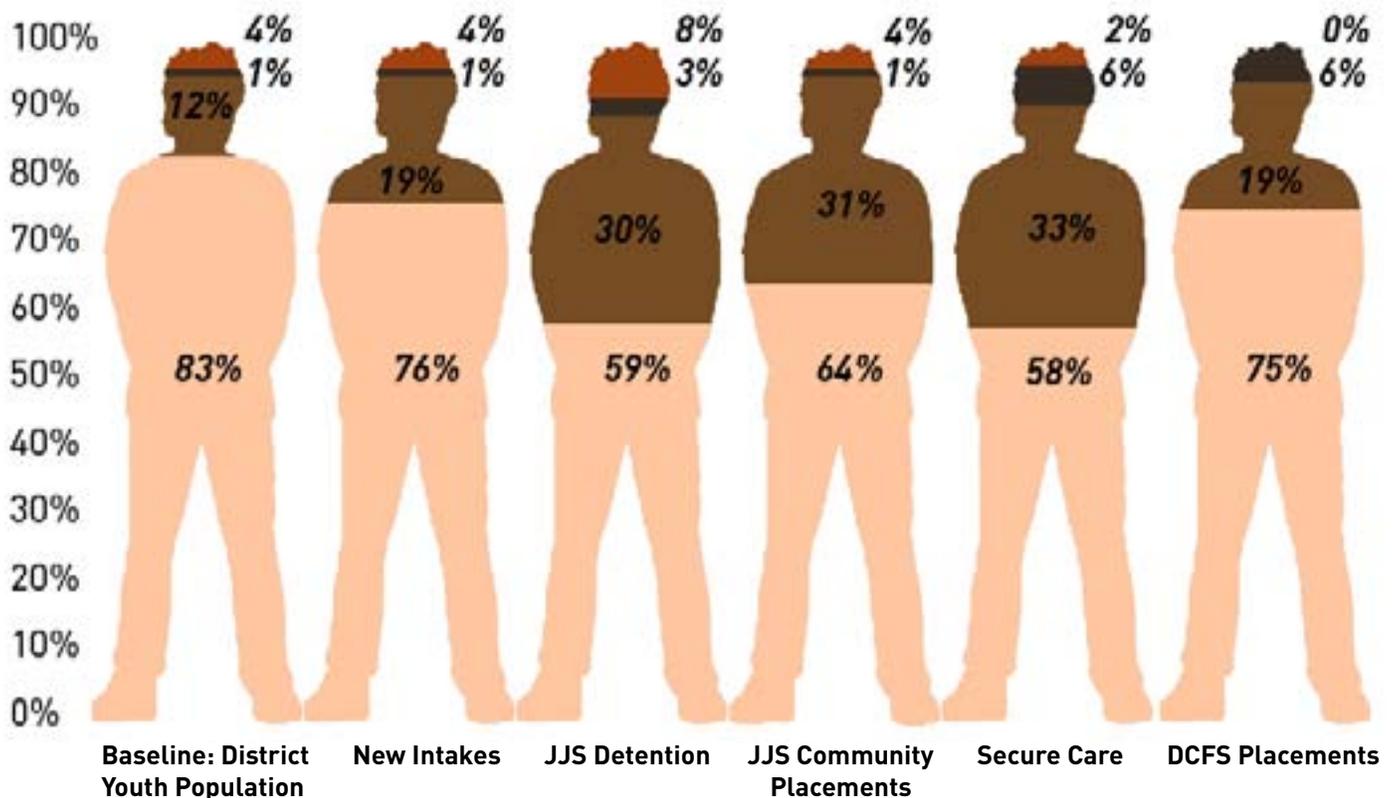
In response, the JJWG broke down the data on racial disparities by judicial district (Figures 7.1 – 7.8). This disaggregation shows clearly that racial disparities do indeed exist in every area of the state. The exact nature and scale of racial disparities may look different in different areas of the state, but they nonetheless exist statewide. All total district youth population figures are based on state of Utah school enrollment demographics data, 2015, as reported to the JJWG.

-> FIRST JUDICIAL DISTRICT

The First Judicial District is comprised of Box Elder, Cache and Rich Counties in Northern Utah. The total youth population (2015) in this district (Figure 7.1) is 34,766, with 83% white, 12% Latino/Hispanic, 1% Black/African-American, and 4% “other non-white.”

About 1.5% (508 youth) of the total youth population in the First District came into contact with the juvenile justice

Figure 7.1 Juvenile Dispositions in First Judicial District
(Box Elder, Cache and Rich Counties)



system in 2015. Reflecting the overall state trends, non-white youth are overrepresented at initial intake to the juvenile justice system, and those disparities become more pronounced as youth move deeper into the system. White youth are underrepresented, relative to their proportion of the youth population overall in the First District, at initial intake and in every category of disposition.

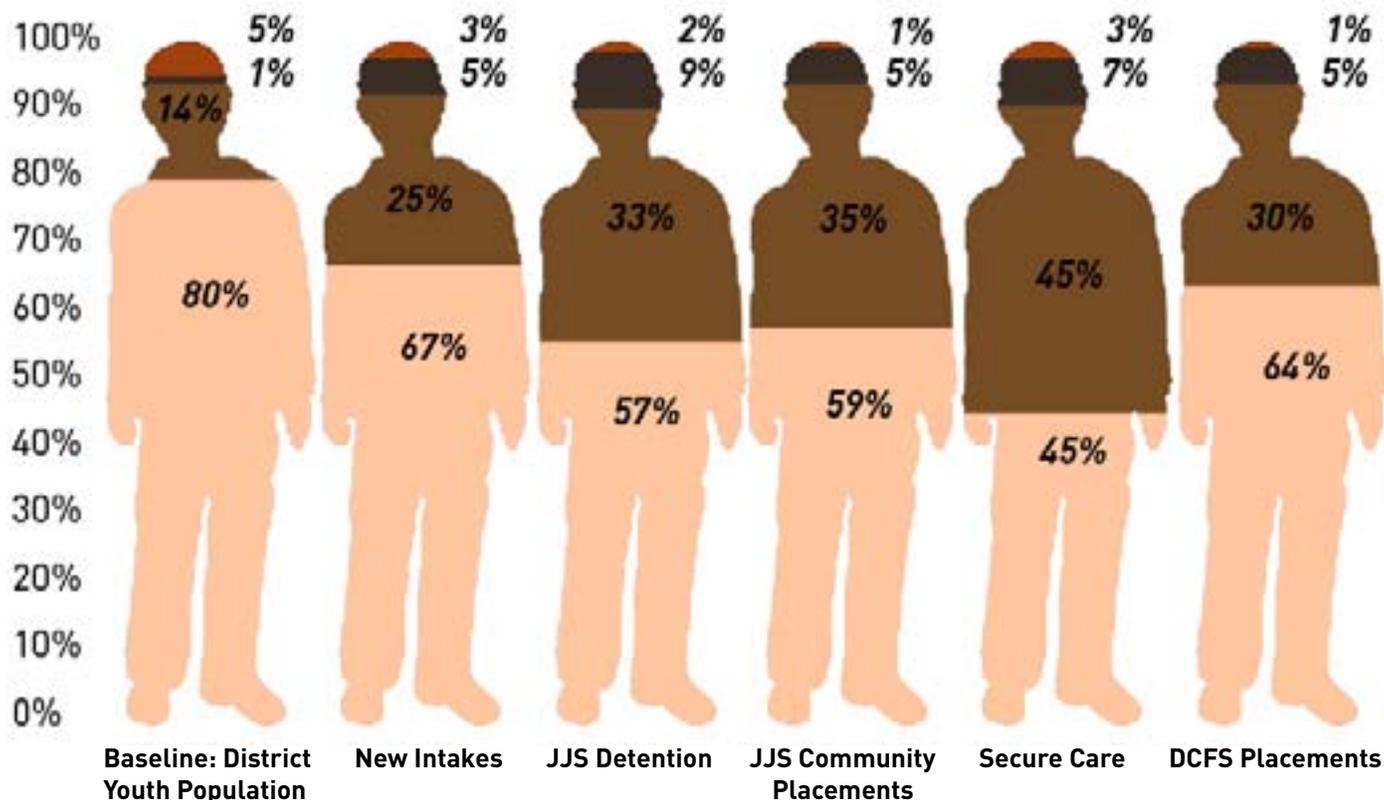
Latino/Hispanic youth comprise 19% of new intakes to the system in the First District at this initial stage. Compared to new intakes into the system (19%), Latino/Hispanic youth in the First District are significantly overrepresented in both JJS community placements (31%) and JJS secure care dispositions (33%). In the general youth population of the First District, you are likely to encounter approximately seven white youth for every one Latino/Hispanic young person (6.9:1). In JJS secure care dispositions in the First District, however, you are likely to encounter fewer than two white youth for every one Latino/Hispanic young person (1.75:1).

Black/African-American youth are significantly overrepresented in both JJS secure care dispositions and DCFS dispositions in the First District. While these young people make up only 1% of new intakes to the system in the First District, they make up 6% of both secure care and DCFS placements. The very low numbers of youth in either one of these categories (total of 48 youth in secure care, total of 16 youth with DCFS dispositions) mean that small fluctuations in actual numbers – two Black/African-American youth instead of one – can result in significant increases in racial disparities.

-> SECOND JUDICIAL DISTRICT

The Second Judicial District is a heavily-populated district comprised of Weber, Morgan and Davis Counties in Northern Utah. The total youth population (2015) in this district (Figure 7.2) is 116,027 with 80% non-Hispanic white, 14% Latino/Hispanic, 1% Black/African-American, and 5% “other non-white.”

Figure 7.2 Juvenile Dispositions in Second Judicial District
(Weber, Morgan and Davis Counties)



Similar to the First District, only about 1% (1,184 youth) of the total youth population in the Second District came into contact with the juvenile justice system in 2015. However, youth of color are significantly overrepresented relative to white youth among new intakes to the systems, with greater disparities than seen in the First District.

White youth are significantly underrepresented (67%) at initial intake, relative to their proportion of the youth population overall (80%) in the Second District. White youth are even more significantly underrepresented in every category of disposition. White youth make up about 45% of all JJS secure care dispositions in the Second District – nearly half of the number we would expect to find if all youth, regardless of race, were equally represented in secure care dispositions. While the Second District youth population features nearly six white young people for every one Latino/Hispanic youth, the groups are equally represented in JJS secure care dispositions (45% white, 45% Latino/Hispanic, or a ratio of 1 to 1).

Latino/Hispanic youth make up 25% of all new intakes to the juvenile justice system in the Second District, nearly double their rate in the total youth population there (14%). Black/African American youth are overrepresented among new intakes by 400%, as they make up only 1% of the total population but 5% of all new intakes.

The disparities increase in nearly every disposition category in the Second District, particularly for Latino/Hispanic youth. Latino/Hispanic youth make up a greater percentage of every disposition category – probation, community placement, secure care, and DCFS placements – than their proportion of new intakes would predict. Particularly stark is the overrepresentation of Hispanic/Latino youth in JJS secure care, as mentioned previously. There are nearly three times as many Latino/Hispanic youth in secure care than would be expected, based on their proportion of the total youth population in the Second District (14% of the total population versus 45% of the secure care population).

There are more than twice as many Latino/Hispanic youth with probation (33%), community placement (35%) and DCFS dispositions (30%) than would be expected based on their proportion of the total youth population (14%). Black/African-American youth are overrepresented, relative to their proportion among new intakes to the system (5%), in both JJS secure care dispositions (7%) and probation

dispositions (9%). Among the general youth population in the Second District, you would expect to encounter only one Black/African-American young person for every 80 white youth (80:1). Among JJS secure care dispositions, however, you would encounter just six white youth for every Black/African-American young person (6:1).

-> THIRD JUDICIAL DISTRICT

The Third Judicial District, the most populous and diverse judicial district in the state, is comprised of Salt Lake, Summit and Tooele Counties in Northern Utah. The total youth population (2015) in this district (Figure 7.3) is 205,474, with 65% white, 24% Hispanic/Latino, 2% Black/African-American, and 9% "Other Non-White."

Similar to the First and Second Districts, only about 1.2% (2,448 youth) of the total youth population in the Third District came into contact with the juvenile justice system in 2015. Non-white youth are overrepresented relative to white youth among new intakes to the systems, with smaller variances than within the First and Second Districts. While non-white youth make up 35% of the total youth population in the Third District, they make up 41% of initial intakes to the system.

According to the data, white youth in the Third District are more likely than their non-white peers to exit the juvenile justice system after initial intake, through a Non-Judicial Adjustment or a dismissal. While white youth make up approximately 2/3 of the total Third District youth population, white youth are not simply underrepresented, but actually outnumbered, by youth of color in every category of disposition

Among probation dispositions, about 244 of all 554 probation dispositions (44%) were awarded/sentenced to white youth. The remaining 310 dispositions (56%) – a significant majority – were awarded/sentenced to non-white youth. The disparities become greater, the more serious the disposition. In JJS secure care, 194 of 303 total dispositions were for non-white youth (64%) and 109 for white youth (36%) – a near reversal of the overall youth population breakdown between white (65%) and non-white (35%) youth. A similar near reversal can be seen among JJS community placement dispositions, where 633 of 1,055 total dispositions were for non-white youth (60%) and 422 for white youth (40%).

Among the 1,055 JJS community placement dispositions in the Third District, Latino/Hispanic youth (464 dispositions) outnumbered white youth (422 dispositions) – in a judicial district where white youth outnumber Latino/Hispanic youth by nearly 3 to 1 in the general youth population. Latino/Hispanic youth also physically outnumber white youth in JJS secure care dispositions, where only 109 white youth make up 36% of all secure care dispositions (303 total), compared to 157 Latino/Hispanic youth at 52%.

The Black/African-American population in the Third Judicial District is too small for Black/African-American youth to actually outnumber white youth in any disposition category, but in some ways, the disproportional rates are even worse, comparatively.

In the total youth population of the Third District, for every one Black/African-American youth, you are likely to encounter 32 or 33 white youth (32.5:1). In JJS secure care

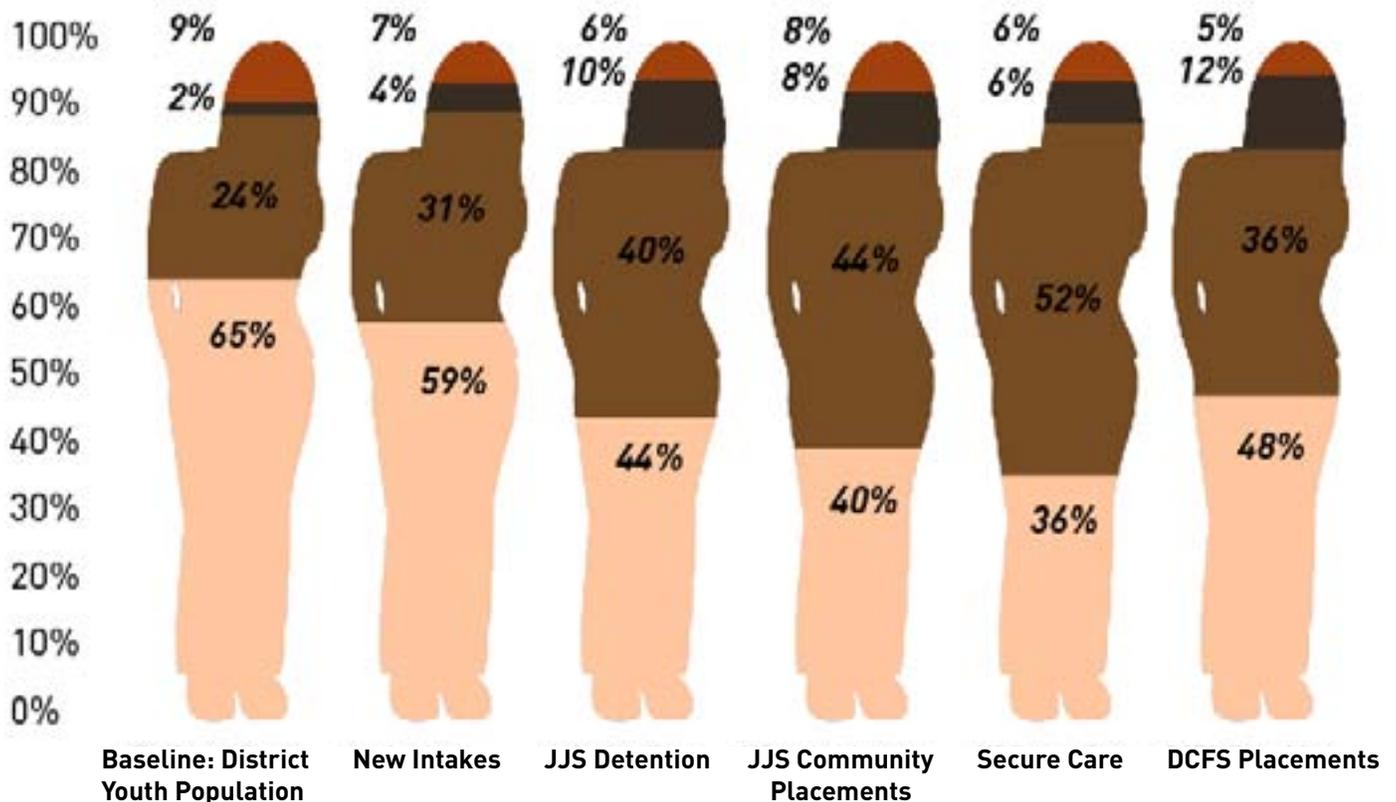
dispositions, the ratio diminishes significantly, with one Black/African-American young person for every six white youth (6:1). Among DCFS dispositions, the disparity is even more shocking, with one Black/African-American young person committed to DCFS placement for every four white young people (4:1).

-> FOURTH JUDICIAL DISTRICT

The Fourth Judicial District is a heavily-populated district in West-central Utah, comprised of Wasatch, Utah, Juab and Millard Counties. The total youth population (2015) of this district (Figure 11) is 136,360, with 82% white, 12% Latino/Hispanic, 1% Black/African-American, and 5% "Non-white Other." The youth population's racial composition is more similar to the First and Second District than to the Third.

The Fourth Judicial District has a comparatively small population of youth involved in the juvenile justice system,

Figure 7.3 Juvenile Dispositions in Third Judicial District
(Salt Lake, Summit and Tooele Counties)



with less than 0.8% (1,038) of the district's youth coming into contact with the juvenile justice system in 2015.

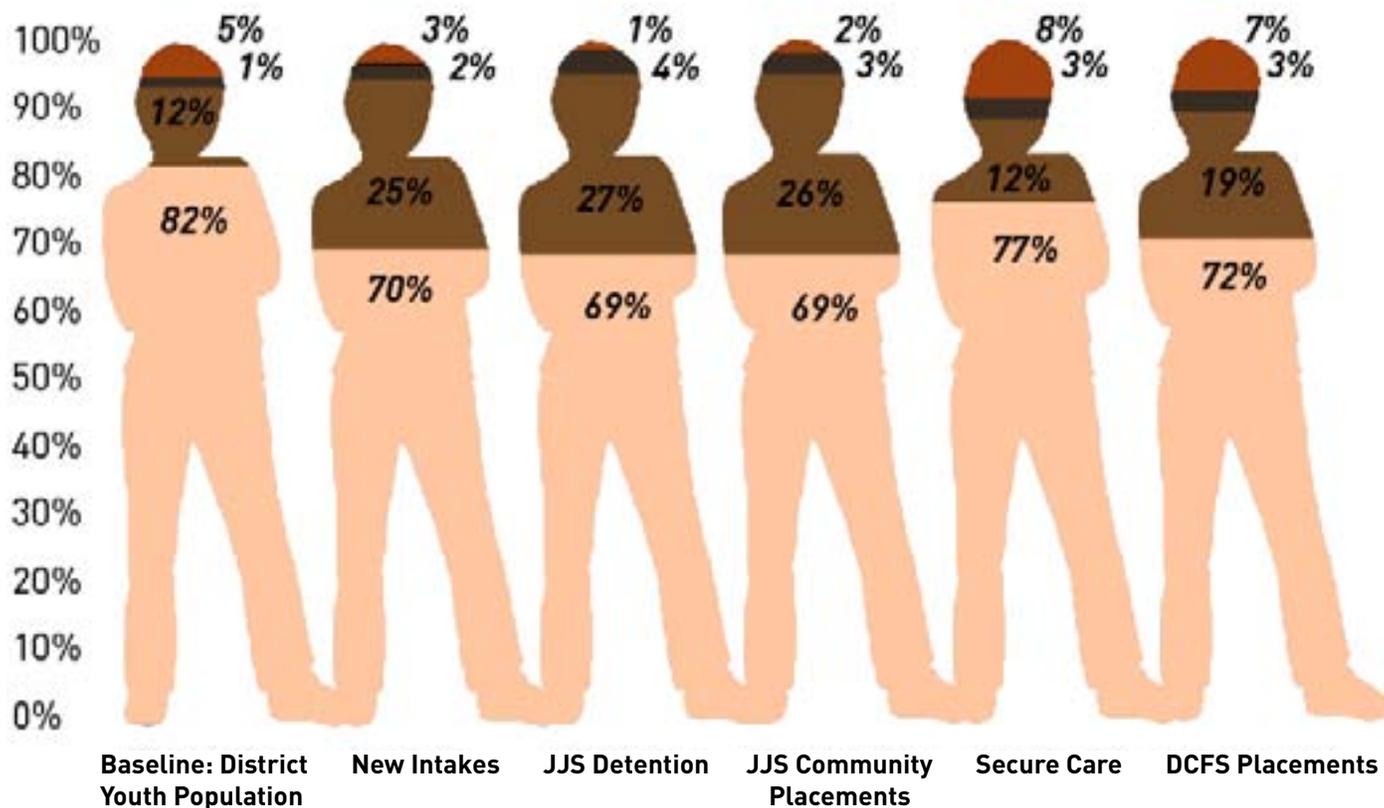
Racial disparities in the Fourth District are pronounced at initial contact – with both Latino/Hispanic and Black/African-American youth overrepresented by about 100%. Latino/Hispanic youth make up 25% of new intakes to the system (twice their representation among the overall youth population in the Fourth District), and Black/African-American youth make up 2% of new intakes (also, twice their representation in the overall youth population).

After this initial intake stage, however, the Fourth District shows less severe disparities in dispositions between non-white youth and white youth. White youth make up 70% of all new intakes to the juvenile justice system in the Fourth District, and they make up between 69% and 77% of all disposition categories thereafter.

The Fourth District is one out of only three Districts where white youth appear to be slightly overrepresented in JJS secure care dispositions, though this is true in the Fourth District only when secure care racial percentages (77% white) are compared to initial intake racial percentages (70% white) and not to the overall youth population (82% white) in the district.

Additionally, compared to the Second District, which boasts a similar yet slightly smaller overall youth population, the Fourth District has significantly fewer total secure care dispositions (65 in the Fourth District versus 175 in the Second) relative to its overall youth population. The Fourth District appears to prefer DCFS placements (273 in the Fourth District versus 81 in the Second), but non-white youth, in general, are not overrepresented in this category.

Figure 7.4 Juvenile Dispositions in Fourth Judicial District
(Utah, Wasatch, Juab and Millard Counties)



The Fourth District differs from the three previous districts by showing an overrepresentation of the “other non-white” youth group, with regards to disposition after initial intake. “Other non-white” youth make up 3% of new intakes to the juvenile justice system in the Fourth District, but 8% of all JJS secure care dispositions and 7% of all DCFS dispositions. Without breaking down this category into meaningful racial, cultural and ethnic identities, however, it is difficult to draw clear conclusions about racial disparities from the data.

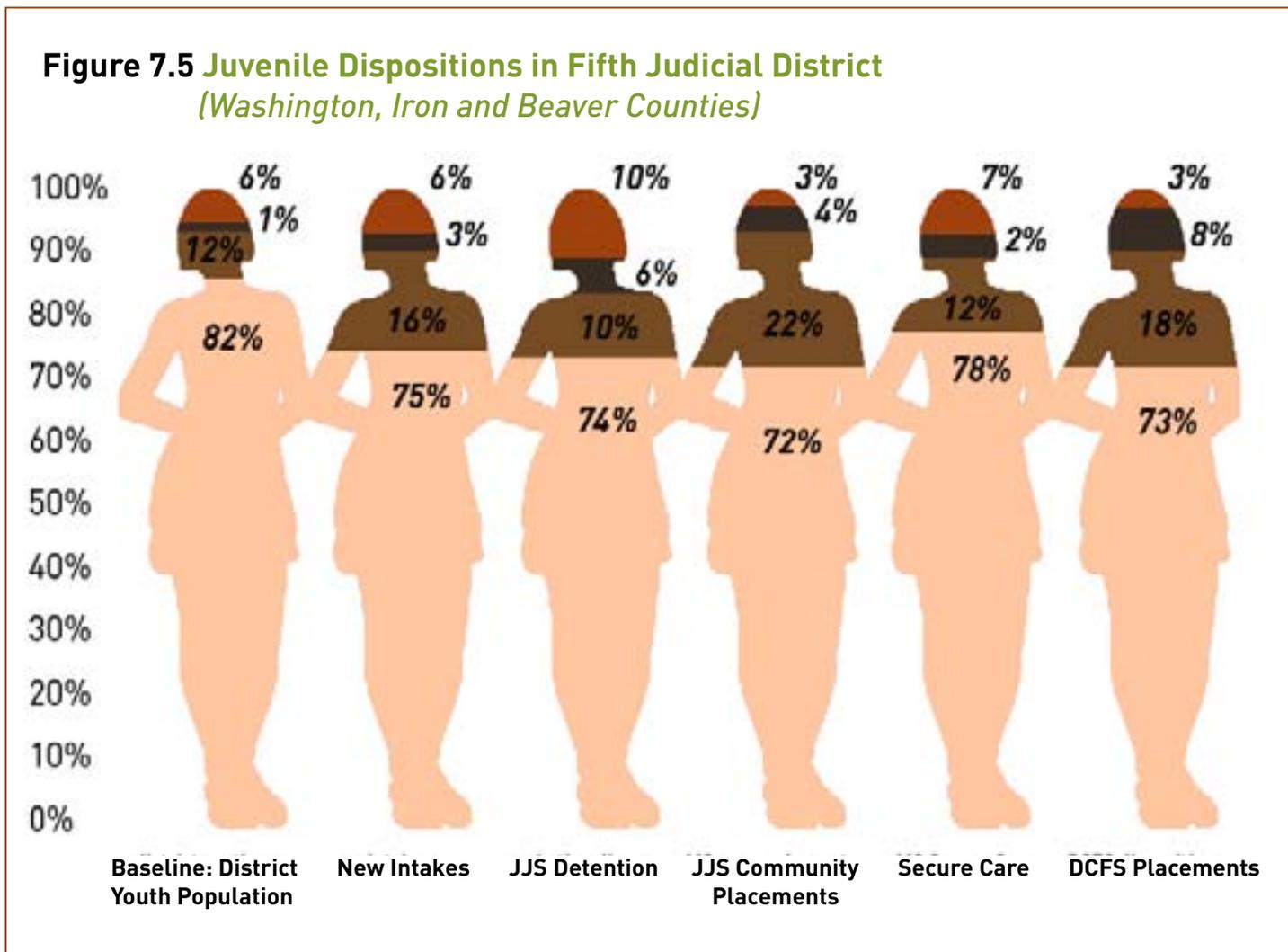
-> FIFTH JUDICIAL DISTRICT

The Fifth Judicial District is a moderately-populated district in Southwest Utah, comprised of Beaver, Iron and Washington Counties. Its total youth population, at 38,663, is comparable to (though somewhat higher than) that of the First Judicial District.

The racial breakdown of the Fifth District (Figure 7.5) is 82% white, 12% Latino/Hispanic, less than 1% Black/African-American, and about 6% “Other Non-White,” and about 1.5% of the total youth population in the district had initial contact with the juvenile justice system in 2015.

As with all other districts previously discussed, both Latino/Hispanic youth and Black/African-American youth are overrepresented among new intakes to the system. Latino/Hispanic youth represent 16% of all new intakes (about a third more than would be expected, based on their representation in the total district youth population); Black/African-American youth represent 3% of all new intakes (about three times more than would be expected).

Compared to all other judicial districts, the Fifth District has a fairly low rate of dispositions (264 total dispositions) relative to new intakes (587 total new intakes). This



results in a low number of dispositions in each disposition category, which produces some variable and perhaps inconclusive disparities across disposition categories.

For example, only 102 youth were given a JJS community placement disposition, out of a total of 587 new intakes into the system in 2015. Of these 102 youth, 22% were Latino/Hispanic – which is disproportionate when compared to both the total youth population (12% Latino/Hispanic) in the district and to the racial breakdown among new intakes (16% Latino/Hispanic). However just one less or one additional young Latino/Hispanic person assigned to JJS community placement, or just one less or one additional young white person, could result in a detectable shift in the racial breakdown in this disposition category. Because the total sample number of youth in each disposition category is so small, it is difficult to ascribe much significance to the racial disparities in each category, and also across categories, in this particular district.

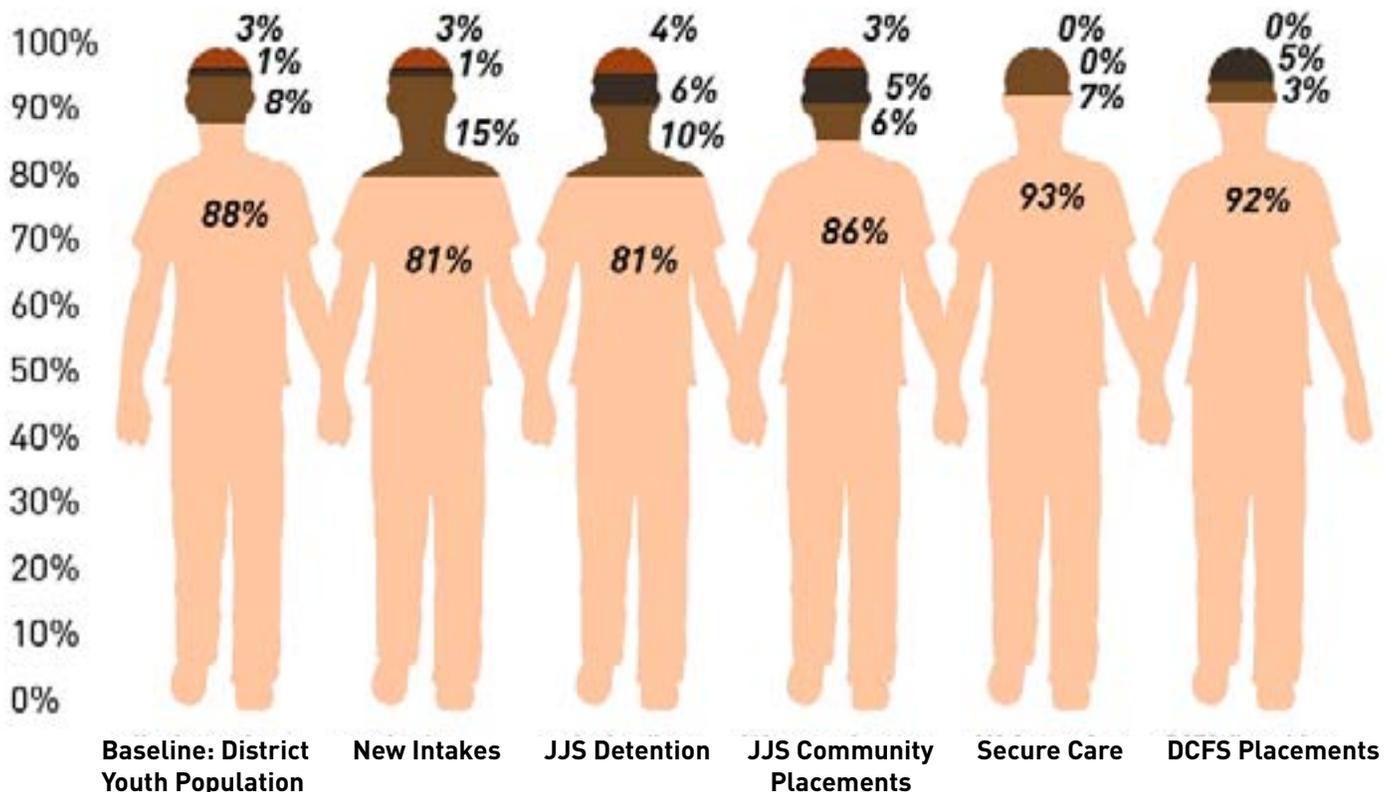
-> SIXTH JUDICIAL DISTRICT

The Sixth Judicial District is a sparsely-populated district in South-Central Utah, comprised of Sanpete, Sevier, Piute, Wayne, Garfield and Kane Counties. The total youth population (2015) of this district (Figure 7.6) is 12,945, with 88% white, 8% Latino/Hispanic, 1% Black/African-American, and 3% “Other Non-White.”

About 1.6% (214 youth) of the total youth population in the Sixth District came into contact with the juvenile justice system in 2015. With only 214 new intakes to the system in the Sixth District, and just 168 official dispositions recorded, sample sizes across disposition categories are too small to be informative.

That said, there are fewer white youth in initial intakes (81%) relative to their proportion of the total youth population in the Sixth District (88%). The number of Black/

Figure 7.6 Juvenile Dispositions in Sixth Judicial District
(Sanpete, Sevier, Piute, Wayne, Garfield and Kane Counties)



African-American and “Other Non-White” racial groups are in proportion. Both 1% of the total youth population and 1% of new intakes in the Sixth District are Black/African-American. Both 3% of the total youth population and 3% of new intakes are “Other Non-White.” This disproportionate representation of non-white youth among new intakes to the system, then, is accounted for almost entirely by Latino/Hispanic youth, who make up just 8% of the total youth population in the district, but 15% of all new intakes. At first contact with the system, Latino/Hispanic youth in the Sixth District are overrepresented by nearly 100%.

-> SEVENTH & EIGHTH JUDICIAL DISTRICTS

Data collected and publicly shared by the JJWG on the Seventh and Eighth Judicial Districts include racial breakdowns that are different from those in the other districts. There are more American Indian youth living in these districts than in others, as a proportion of the population. Accordingly, American Indian youth are identified here in their own racial category, rather than being included in the “other non-white” category. Conversely, the Black/African-American youth population in these districts is so small that these young people are counted in the “other non-white” racial group, rather than in a separate category. These two districts share other similarities as well, which is why we have grouped them together here.

The Seventh District is in Southeastern Utah, comprised of Carbon, Emery, Grand and San Juan Counties. The total youth population (2015) of this district (Figure 7.7) is 10,029, with 71% white, 10% Latino/Hispanic, 17% American Indian and 1% “other non-white.” Approximately 2.2% (228 youth) of the total youth population in the Seventh District had initial contact with the juvenile justice system in 2015 – a much higher rate than in the other districts.

The Eighth District is a sparsely populated district in South-Central Utah, comprised of Daggett, Duchesne and Uintah

Counties. The total youth population (2015) of this district (Figure 7.8) is 12,544, with 82% white, 8% Latino/Hispanic, 9% American Indian, and 1% “Other Non-White.”

Approximately 1.9% (246 youth) of the total youth population in the Eighth District had initial contact with the juvenile justice system in 2015 – not as high as in the Seventh District, but still high compared to other judicial districts in the state.

The Seventh and Eighth Districts are the only districts in the state where white youth appear to be overrepresented among new intakes to the system. In the Seventh District, white youth are 71% of the total youth population, but 75% of new intakes. In the Eighth District, white youth are 82% of the total youth population, but 89% of new intakes. It is important to note that these differences pale in scale when compared to the persistent and significant overrepresentation of non-white youth in other districts across the state.

In the Seventh District, Latino/Hispanic youth are also overrepresented among new intakes (14% of new intakes versus 10% of the total youth population), and are much more significantly overrepresented than white youth (nearly 50% more than we would expect to see based on their representation in the total youth population, versus just 6% more for white youth).

In Seventh District dispositions, Latino/Hispanic youth appear to be overrepresented in every disposition category relative to their presence among new intakes. However, as seen in previous sparsely populated districts, sample sizes within each disposition category may be too small to draw conclusions about racial disparities. For example, American Indian youth appear to have no representation among probation dispositions and JJS secure care dispositions; however, just one new disposition in either category for an American Indian youth would increase that racial group’s representation to nearly 3% or 4%, respectively.

Figure 7.8 Juvenile Dispositions in Seventh Judicial District
(Carbon, Emery, Grant and San Juan Counties)

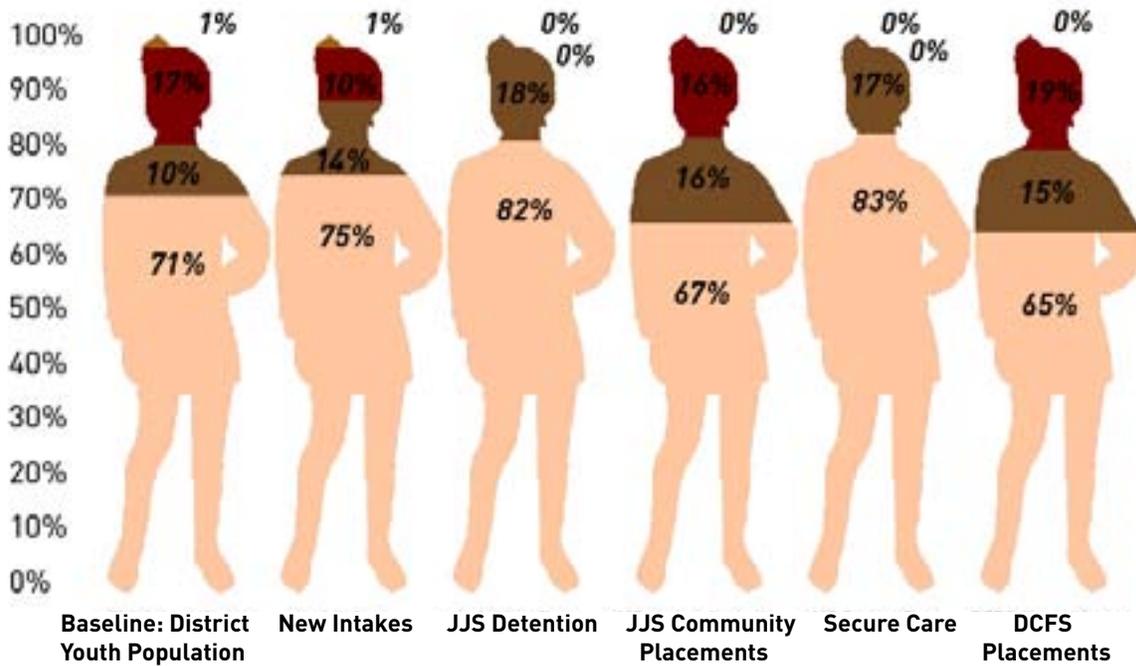
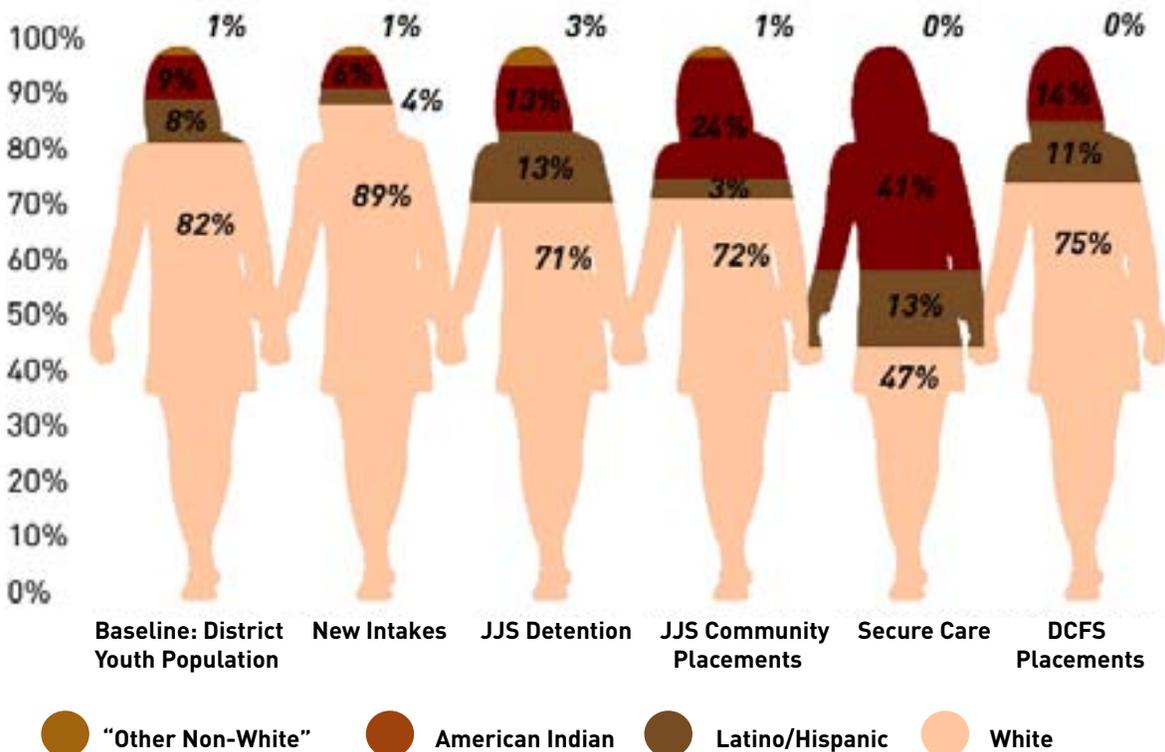


Figure 7.8 Juvenile Dispositions in Eighth Judicial District
(Daggett, Duchesne and Uintah Counties)



"Other Non-White"
 American Indian
 Latino/Hispanic
 White

ARE RACIAL DISPARITIES IN UTAH BETTER OR WORSE THAN IN OTHER STATES?

Utah's Juvenile Justice Working Group did not examine comparative data from other states. Because states track statistics differently, and often use different terminology, comparing one system to another can be difficult.

In 2016, the Sentencing Project - a national, non-partisan organization dedicated to criminal justice policy reform - released a briefing paper entitled "Racial Disparities in Youth Commitments and Arrests." The data published as part of that briefing paper (Figures 8.1 - 8.3) should be concerning to Utah leaders and policymakers.

According to the data analysis conducted by the Sentencing Project, Utah is one of only six states where Black youth are at least 10 times more likely as white youth to be sent to secure facilities (Figure 8.1).

Utah's racial disparities regarding secure commitment for Latino/Hispanic and American Indian youth are somewhat less stark, but nonetheless extremely troubling. Utah is one of 14 states where Latino/Hispanic youth are at least twice as likely as white youth (Figure 8.2) to be committed to a secure facility (but, fortunately, not among the four states where Latino/Hispanic youth are at least five times as likely to be committed).

Figure 8.1 Black/White Racial Disparity in Commitment Rates per 100,000 Youth (2013)*



As noted by the Sentencing Project, and as mentioned previously in this report, analysis of the representation of American Indian youth in the juvenile justice system can be difficult because of their relatively low number, except in concentrated areas (typically on or near designated reservations). However, the data indicate that in Utah, American Indian youth are at least five times more likely than white youth to be committed to secure juvenile facilities (Figure 8.3). Utah is among the fifteen states with a ratio of at least five to one in favor of commitment of American Indian youth.

Figure 8.2 Hispanic/White Racial Disparity in Commitment Rates per 100,000 Youth (2013)*

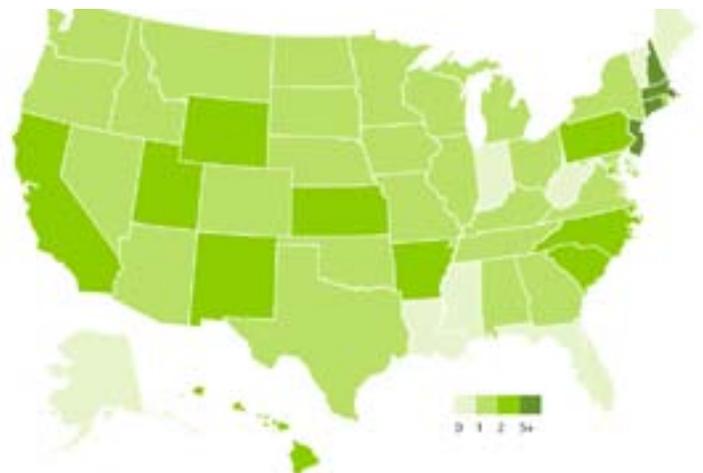
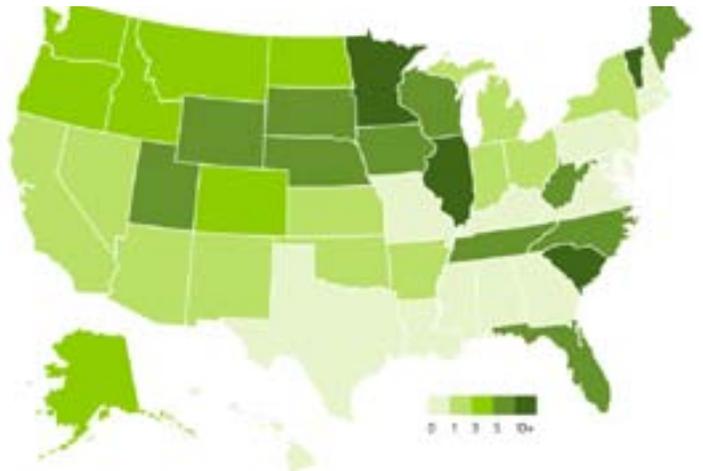


Figure 8.3 American Indian/White Racial Disparity in Commitment Rates per 100,000 Youth (2013)*



* Graphs reproduced from "Racial Disparities in Youth Commitments and Arrests," Sentencing Project Briefing Paper., 2016

Recommendations for Reducing Racial Disparities

1. Pass, and implement with fidelity, legislation based on the robust recommendations of the Juvenile Justice Working Group.

This community stakeholder group strongly urges Utah lawmakers to adopt legislation based on the recommendations in the official Juvenile Justice Working Group report. Many of the recommendations agreed upon by the JJWG - such as capping fines and community service hours, requiring implicit bias and juvenile development training for all juvenile justice system actors, limiting discretion of individual judges in the sentencing process and better utilizing qualified assessments - will move Utah toward reducing the troublesome racial disparities revealed in the working group's own data. However, these first-phase reforms will not go far enough toward reducing our systemic issues with racial inequality. These recommendations by our community stakeholder coalition are intended to provide additional guidance to the state as the initial reforms are adopted and implemented.

This community stakeholder group has been impressed with the efforts of the JJWG to fully engage the complex problems within Utah's juvenile justice system. The working group's process has resulted in recommendations that, if implemented as intended, will result in better outcomes for all Utah youth. These better outcomes will positively impact youth of color, as well. By giving full support to the legislation resulting from the JJWG's months-long effort, lawmakers will be taking the first step toward reducing racial disparities in Utah's juvenile justice system.

The official JJWG report includes thirteen broad policy recommendations, with specific directives under the umbrella of each recommendation. In the interest of brevity and focus, we will discuss a few select broad recommendation areas that we believe will have important implications for youth of color. The official report does not number its stated recommendations, but we have numbered them here, for purposes of clarity. These numbers are based on the order in which the recommendations are presented in the official report.

The JJWG's first broad policy recommendation (page 12 of the JJWG official report) is to "reinvest in early interventions," to provide support and assistance to youth and their families. Such support and assistance is anticipated to greatly reduce over-involvement of low-risk youth in a system of secure-care placements intended for much higher-risk youth. Early intervention includes adopting a "statewide tiered system of graduated responses prior to court referral," which should provide additional momentum for community efforts to reduce racial disparities in the juvenile justice system that originate in disproportionate and overly harsh discipline in the school setting. The recommendation stresses school-based alternatives such as Peer Court, which focus on true restorative justice principles, rather than punishment and school push-out.

The JJWG's second broad policy recommendation (page 13) is to "expand and create statewide standards for non-judicial adjustments," which occur at a key decision point in the system where youth can be diverted from deeper juvenile justice system involvement (and protected from the negative outcomes and collateral consequences that flow from such involvement). Of particular importance within this recommendations, are 1) the emphasis on access to legal counsel and access to alternative programs without admission of guilt, and 2) the specific recommendation to eliminate the use of fees, fines and restitution as a precluding factor for access to interventions such as non-judicial adjustments.

It is critically important that fees, fines and restitution do not become the primary driver for extensive involvement with the juvenile justice system. Our interviews with juveniles currently within the system, as well as those who have been recently involved in it, reveal that it is not uncommon for youth to spend time in a secure-care facility only due to inability to pay fines, fees and restitution –

as well as inability to complete unrealistic community service hour assignments (200, 300 or more hours). This exacerbates unacceptable socioeconomic disparities in Utah's juvenile justice system, which contributes to similarly unacceptable racial disparities. Considering a young person's ability to pay – which includes the ability of that young person's family to absorb the costs of juvenile justice system involvement – should be a critical component of all decisions related to that particular youth.

The JJWG's third broad policy recommendation (page 14) is to “reinvest in a continuum of community-based alternatives to detention in every judicial district, and focus pre-adjudication on youth who pose a public safety risk.” Meaningful alternatives should be available and utilized in every district, particularly rural districts where, in particular, youth of color may be especially vulnerable to negative stereotypes about their potential (but not actual) public safety risk.

It is crucial that lawmakers and public administrators not overlook our urban counties. Currently, some of the worst racial disparities in the state can be seen in the Third Judicial District, where more than one-third of the state's population resides. As we can see clearly in the data provided by the JJWG, youth of color comprise about one third of the youth population in the Third District, but nearly two thirds of the secure care dispositions are conveyed to youth of color. In the course of the JJWG's work developing and adopting the official recommendations, members of this community stakeholder group observed one prominent judge from the Third District state, “We don't have enough community-based services and alternatives available in Spanish; if we want a kid to get the program he needs, we just have to send him to detention.”

This approach is unacceptable. Secure care dispositions cost more than any other option, and provide the worst outcomes, particular for low-risk youth. The state must invest in community-based alternatives that are culturally appropriate, available in a variety of languages, accessible to gender-non-conforming youth, and sensitive to young people who are dealing with trauma from sexual assault. We can't afford to send young people to detention, simply because we aren't equipped to support them – as unique individuals – through more appropriate community-based programming.

The JJWG's fourth broad policy recommendation (page 15) is to “ensure that all youth receive legal counsel at every stage of the court process.” This systemic improvement offers great promise for the reduction in racial disparities, as well as the overrepresentation of youth with mental and physical disabilities, LGBTQ youth and young people suffering from trauma associated with sexual assault and domestic violence. A vigorous – and consistent – legal advocate can help identify mitigating factors underlying a young person's misconduct, and can assist the young person to articulate those issues before a judge or other system actor. As the obvious champion of the youth client's best interests, defense attorneys can play an important role in reminding judges, probation officers, case managers and even parents/guardians of evidence-based practices, and reform efforts, that favor their clients' future prospects and safety.

The JJWG's eighth broad policy recommendation (page 16) is to “increase the use of structured decision making to respond uniformly” and make sure that youth are not over-prescribed supervision and services. We believe that the increased use of standardized assessments may help to counter some of the implicit bias that contributes to the over-supervision, over-detention and over-punishment of youth of color, as well as other marginalized youth. If system actors such as judges, probation officers and case managers are required to respond to behavior, rather than a subjective interpretation of that behavior, we may see more equal treatment of young people of color for misconduct that is not seen as threatening when committed by white youth with greater social and financial capital.

It is critical, however, that the state rely not only on risk assessments. For youth who come into contact with the juvenile justice system multiple times for engaging in “anti-social” behavior that is not necessarily a threat to public safety, efforts must be made to assess and evaluate the needs of the individual young person as well as the particular challenges faced by that individual. The influence of sexual trauma, mental illness, learning disabilities, abuse and neglect by family, and other life-changing challenges cannot be overlooked if future anti-social behavior is to be dissuaded. These challenges, particularly learning disabilities and mental illnesses, are quite often overlooked in youth of color, in favor of less empathetic interpretations of misconduct (such as, “he is just a trouble-maker” or “she's aggressive by nature”).

2. Adopt a comprehensive, youth-centric vision for Utah's Juvenile Justice system.

While the Juvenile Justice Working Group has attempted to make several discrete system improvements, there remains a need to articulate an overall vision for a comprehensive, effective Juvenile Justice System.

We believe that the State of Utah would better serve its youth, as well as more effectively protect community safety, by reorienting its juvenile justice system to address this foundational question:

“WHAT IS GOING ON WITH THIS YOUNG PERSON?”

For many years, the juvenile justice system—like many systems intended to serve a distinct population and address complex social problems—has been created, developed, and evolved by well-intentioned policymakers focused on the question, “What is wrong with this young person?” rather than, “What is happening in this young person’s life that has led to this behavior?”

Our system simultaneously attempts to punish and support young people engaged in destructive and anti-social misconduct. This philosophical dichotomy eventually, and necessarily, collapses in a system that tends to move toward over-punishment, over-incarceration, and over-prescription of behavioral treatments. The system can better meet its stated goals to: (1) promote public safety and hold juvenile offenders accountable, (2) control costs, and (3) improve recidivism and other outcomes for youth, families, and communities (stated in official report) with a youth-centric, individualized system that accurately assesses all relevant factors in a child’s life (including criminogenic risks, past and ongoing trauma, mental illness, physical and cognitive ability, etc.); refers youth to age- and developmentally-appropriate, trauma-informed services based on that risk assessment; and seeks to address the root causes of the misconduct in order to prevent reoffending and encourage positive, pro-social, healthy behavior by youth that also protects community safety.

We fundamentally believe that most youth can be held accountable, and their problematic behavior addressed, with a youth-centric approach that provides more rather than less stability to the individual youth. Ultimately, this

approach can reduce recidivism, costs and overall burden on the juvenile justice system, and benefit the community as a whole.

In addition to criminogenic risks and needs, a youth-centric vision would support detailed assessments of trauma and other adverse childhood experiences (including ongoing experiences like racism and poverty), mental illness, learning (dis)ability, skills, challenges and family/social environment. A youth-centric system would not pretend to be color-blind, but would instead aspire to be culturally competent and trauma-informed, seeking community expertise to intervene in the best interests of both the young person and community safety.

A comprehensive vision for Utah’s juvenile justice system should also articulate that:

Each young person should be approached as an individual with their own rights and interests, sometimes distinct from those of their family, community, and the general public.

True restitution goes beyond financial compensation and aspires toward evidence-based restorative justice practices. Ensuring positive youth development and the prevention of reoffending, while remaining focused on individual responsibility and accountability, is more important than punishment.

Financial judgements, in the form of fines, that give preference to financially and socially privileged youth should be avoided entirely.

Out-of-home placement of youth should always be a last resort, reserved only for young people who pose a risk to public safety. Every effort must be made to meet the needs of a young person in the environment that is most stable for them and within which they are most likely to succeed. For example, foster care (also called proctor care) placements must be culturally and religiously appropriate. We have spoken with a number of youth whose proctor care placement was neither, and resulted in a failure to thrive (in many cases, lack of cultural or religious understanding led to a youth running away, which incurs additional charges from the court). A young person who identifies as LGBTQ

should not be placed in a family that is religiously opposed to the open expression of that young person's identity. Black/African-American, Native American and other youth of color who are placed with all-white families may struggle to feel fully included and supported.

Judges and other powerful system actors will be accountable for their judgements through regular reporting and performance reviews that address differential treatment of youth of color and families of different ethnic

backgrounds, as well as overly harsh punishment for status offenses and infractions.

Commitment to early childhood education, child health and food security, comprehensive mental health treatment, trauma-informed services for youth across various state systems and institutions, and sufficient public education funding are integral to reducing youth engagement with the juvenile justice system.

3. End unnecessary referrals of youth from schools into the juvenile justice system.

The Juvenile Justice Working Group examined data and created recommendations for the juvenile justice system with little or no involvement from leaders of Utah's education system.

The majority of referrals to the juvenile justice system come from our public schools, either directly from School Resource Officers (SROs) or through school administrators' inappropriate referrals to, and dependence on, SROs. While increased training and accountability for SROs is necessary, a complete assessment of the need for active placement of SROs within schools, period, should be the goal. In the meantime, and toward that ultimate goal, there must be full transparency and comprehensive reporting related to the use of SROs. There must be a complete accounting of school-based referrals to the juvenile justice system, rather than solely focusing on the system once a youth is engaged.

The State Board of Education should be collecting, compiling, and reporting all data related to juvenile justice system referrals. This data must include specific demographic information and be specific by both school and judicial district. In the same way that the Commission on Criminal and Juvenile Justice is responsible for collecting and reporting information from Utah law

enforcement agencies related to seizure of public property and the deployment of special tactical teams, we believe that the State Board of Education must provide annual, publicly available district- and school-level data tracking referrals to the juvenile justice system.

The State Board of Education should also require, and fund, the establishment of Peer Court and restorative justice programs in every school district. These programs must be collaborative efforts undertaken with community stakeholder groups that represent a variety of cultural and ethnic communities within that specific district. This must not be solely the responsibility of juvenile justice system actors; education administrators must be actively engaged in implementation, with substantive consequences for non-compliance.

Finally, the State Board of Education must be actively engaged in the Commission on Criminal and Juvenile Justice, as well as the Utah Board of Juvenile Justice, in order to be a meaningful part of comprehensive juvenile justice system improvement efforts. The process by which young people are referred from schools to the juvenile justice system must be fully assessed, understood, and ultimately reformed.

4. End the practice of tracking youth in undisclosed, non-transparent law enforcement databases.

Law enforcement agencies throughout the state, with the cooperation of public school administrators, have over-reacted, with dramatic negative consequences for youth of color, to the threat of gang violence in our communities. Some overly-broad and unlawful "gang suppression" tactics

have targeted young people – particularly young men – of color, while providing relatively little public safety benefit. Such tactics include Weber County's so-called "gang injunction," "gang sweeps" in Utah public high schools, the inclusion of very young Utahns in "gang databases," and

the photographing and cataloging of young people (without parental consent) suspected of gang association.

Community stakeholders have observed a connection between government overreaction to gang violence and the over-criminalization of misconduct by young men and women of color. Persistent negative stereotypes about Latino, Black, and Polynesian young men have led to assumptions of gang involvement, and therefore the over-criminalization of behavior that would otherwise be considered less serious if committed by young white men, particularly those with more financial means.

No person under the age of 14 should be included in a “gang database” maintained by any state government agency. Whenever such a database is maintained by a government agency, there should be a guaranteed process by which individuals can remove themselves without “disavowing” gang membership or admitting guilt without due process. Records should be regularly purged as time passes. There should also be a mechanism for review by

the legislature of any database used by law enforcement to collect this type information about community members. The public should have access to this legislative review, as well as overall effectiveness information related to these tracking systems, especially if they are being utilized to increase surveillance of certain individuals and groups in public spaces such as schools.

We believe that school policies must be revised to prohibit law enforcement “sweeps” or surveillance of students for the purpose of “gang mitigation.” Allowing law enforcement, without public review and transparency, to categorize young people as “gang involved,” “gang associated,” or “future gang members” creates the potential for future unfair punishment of youth of color for low-level offenses. It is critical for the positive development and education of youth, as well as increased community trust and safety, that school spaces be recreated and reserved primarily for educational, social, and cultural activities.

5. Empower and invigorate Utah’s Disproportionate Minority Contact Subcommittee to reduce racial disparities in the juvenile justice system.

Utah is very lucky to have a group of individuals, convened under the auspices of an executive branch agency, that openly acknowledges the reality of racial disparities in the juvenile justice system and collects data to track these disparities. However, the Disproportionate Minority Contact (DMC) Subcommittee is capable of much more significant work in this area, and deserves to be more empowered to address – assertively and decisively – the persistent racial disparities in the juvenile justice system. We believe that concrete changes need to be made with the current DMC Subcommittee to enhance its ability to address critical issues in our state.

The DMC subcommittee must be allowed to play an integral role in the implementation of the juvenile justice reforms recommended by the JJWG. The DMC’s capable members and staff are familiar with the nature of Utah’s persistent juvenile justice racial disparities, and the subcommittee already has a clear directive to “eliminate the disproportionate representation of minority youth at all points in the juvenile justice system.”

The priorities and activities of the DMC subcommittee should be reassessed in light of these important reforms. There is critical work, not currently being addressed elsewhere, that this group can undertake to capitalize on years of thorough data collection, research and statewide technical support. For example, the subcommittee can be the main collection point for more racially-specific demographic data on an annual basis from each component/entry/reporting point of the juvenile justice system, and subsequently report that data to the Commission on Criminal and Juvenile Justice, the Utah Board of Juvenile Justice, and the general public. This subcommittee would be an appropriate place to discuss disaggregation of data on “Other Non-White youth,” with input from system actors and impacted communities.

The committee might also assist in ensuring that regular reporting takes place regarding all youth who are in out-of-home placement, categorized by charge and race/ethnicity. Supporting data must also be available to connect these cases with specific law enforcement officers and

employees of the court to increase transparency and accountability around racial disparities as they arise in the system. Finally, the Disproportionate Minority Contact Subcommittee could be tasked with tracking the availability of restorative justice programs, and other alternatives to juvenile justice system engagement, at both the school and district level. Once successful programs and best practices are identified, the committee can serve as a resource for information and perhaps even grant funding to school districts to support expansion of these options for youth who are appropriate for referral.

We support the recommendations of the JJWG to improve upon the composition of the Disproportionate Minority Contact Subcommittee. In order to meet its intended goals, the committee should include more, and more diverse, community representation. The most important viewpoint, currently lacking, is that of youth and families who have been directly impacted by justice system involvement. As previously discussed in regard to the Commission on Criminal and Juvenile Justice and the Utah Board of Juvenile Justice, representation from both school districts and the State Board of Education on the DMC

subcommittee would also help to ensure that the use of SROs, and the process by which youth of color are referred to the juvenile justice system by schools, is part of any and all efforts undertaken by the committee to address the many faceted problem of disproportionate minority contact.

In addition to adding key voices to the official subcommittee, we recommend that the DMC subcommittee conduct regular focus groups with impacted youth and families, including young people who are currently engaged in detention, work programs, community placements and other juvenile justice dispositions. The lived experience of the individuals being processed through the system must be considered invaluable data for ongoing system improvements.

Ultimately, we believe that the DMC subcommittee can and should serve as an integral part of the system that will be responsible for acting upon the findings of the JJWG, implementing meaningful change, and creating a juvenile justice system that is fair, responsive and effective, for Utah's youth and the communities the DMC subcommittee is intended to serve.

ADDITIONAL RESOURCES REFERENCED IN THIS REPORT:

ACLU of Utah: Guiding Principles for Juvenile Justice Reform in Utah (2016)

(available at <http://acluutah.org/blog/item/1191-principle-jjr>)

The Sentencing Project: Racial Disparities in Youth Commitments and Arrests (2015)

(available at <http://www.sentencingproject.org/wp-content/uploads/2016/04/Racial-Disparities-in-Youth-Commitments-and-Arrests.pdf>)

University of Utah SJ Quinney College of Law: Fingerpaint to Fingerprints (2011)

(available at <http://law.utah.edu/projects/public-policy-practicum/>)

Utah Juvenile Justice Working Group: Final Report (2016)

Utah Juvenile Justice Working Group: Utah System Assessment Parts 1 & 2 (2016)

Utah Juvenile Justice Working Group: Data Follow-Up Analysis (2016)

(all available at https://justice.utah.gov/ccjj_juvenile_justice_policy_study.html)

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This report can be found online at www.acluutah.org.

