

Toward a Better Juvenile Justice System in Utah: Facing the Reality of Racial Disparities



October 2017

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*Artwork by Christian Quinones, from his time spent in the
Genesis Program at Salt Lake Youth Detention Facility.*

Introduction to Special Edition

This is a re-issued edition of a report first released in February 2017, entitled “Racial Disparities in Utah’s Juvenile Justice System.” Our informal coalition of community stakeholder organizations (listed on page three) is re-issuing this information as part of the annual Week of Action Against School Pushout, spearheaded by the Dignity in Schools Campaign.

The Week of Action Against School Pushout is an awareness-building effort aimed at educating the general public, policy makers and elected officials about the “School-to-Prison Pipeline,” and advocating for the fair, thoughtful treatment of all youth in the school system.

The School-to-Prison Pipeline is a phenomenon by which youth are subjected to overly harsh and disproportionate discipline in the school setting, leading to involvement in the criminal justice system. Youth trapped in the School-to-Prison Pipeline are often pushed out of school for a variety of reasons – truancy, “insubordination” and pregnancy, for example – that should not warrant expulsion or exclusion.

Rather than dealing with misconduct in an education-oriented manner that allows young people to complete their traditional schooling, the School-to-Prison Pipeline relies on the juvenile justice system to control youth behavior in the most ineffective and expensive ways possible. It is this loss of promising young people to the juvenile justice system and other opportunity-limiting environments that the Week of Action Against School Pushout seeks to end.

Young people who are expelled and suspended from school, or who are diverted from the mainstream classroom environment into “alternative” educational programs that stress **control** over **learning**, will likely fail to complete their high school education, much less advance to higher education opportunities. When all attempts are made to keep youth in school, regardless of the challenges they face, youth have much better long-term education and social outcomes.

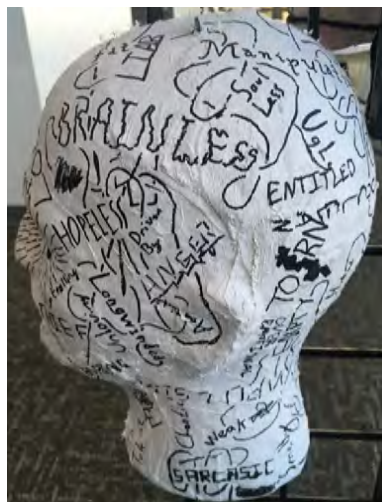
We are reissuing this report, in celebration of the 2017 Week of Action Against School Pushout, to remind state decision makers, educators and community members about two main points:

First, young people who are “acting out” almost always are struggling with multiple complex emotional, social and even physical challenges that deserve our patience and understanding, rather than outsized disciplinary action.

Second, when outsized disciplinary action is taken against youth who are struggling in school, it is almost always taken in ways that result is troubling and unjust racial disparities.

In addition to the statistical data we presented in our initial report, we have included in this version several stories from youth who have been through the juvenile justice system in Utah.

When our coalition first began to meet in the summer of 2016, we worked together to identify guiding principles for juvenile justice reform in Utah (page three). We also discussed the critical importance of



Self-portraits of young women incarcerated by Utah Juvenile Justice Services.

sharing youth voices as part of the reform conversation. It seemed to us that the lived experiences of young people within the system should be considered invaluable qualitative data, to be fully incorporated into policy decisions by public administrators and elected officials.

We were very pleased to note that the state of Utah, as it pursued juvenile justice reform with technical assistance from the Pew Public Safety Performance Project, shared this interest in prioritizing direct input from youth in the system. As part of the official State Juvenile Justice Working Group's data collection effort, to best inform policy proposals geared toward systemic reform, several focus groups and interviews were conducted with young people currently involved in Juvenile Justice Services programs throughout the state.

This input was helpful in shaping the policy reform proposals captured in HB 239, "Juvenile Justice Amendments," a fairly comprehensive piece of legislation that was passed during the 2017 State Legislative Session and is now being phased into our educational and juvenile justice systems statewide. However, it is easy to forget, in the final reading of that bill, and the report that underpins it, that the statistics and outcomes discussed represent the real lives of very real young people.

We believe it is important to share young people's experiences of life in the juvenile justice system, in their own voices and in all their complexity. Our coalition partners conducted interviews with multiple young people in various juvenile justice programs, as well as with young people who are several years out of the system. We also collected stories from the families of young people who did not survive the juvenile justice system, but rather met with tragic ends within just a year or two of their exit from official state supervision.

We present here three stories that capture many of the common themes we observed among these young people. For example, we know from extensive research

– both national and state-level – that kids of color and kids with disabilities experience disproportionate school-based discipline and thus are more likely to end up in the juvenile justice system.

The stories presented here feature young people who either belong to racial minority groups or who are perceived by others to be non-white. We also know that young people in the juvenile justice system are, almost without exception, touched by multiple traumas early in life, and that in the case of young women especially, that trauma is very often related to sexual assault, molestation and rape.

We know from the data collected by the official State Juvenile Justice Working Group that young people in Utah's juvenile justice system: stay too long in the system, leave the system worse off than when they entered and are given dispositions (in both school and in court) that are out of proportion to the original misconduct. The stories shared with us by young people in the system corroborate that collected data.

Our primary hope in sharing these stories is that they will paint a more detailed, complicated picture of what young people are going through in their personal lives, at the same time they are moving through the juvenile justice system.

Often, when young people tell their stories about their juvenile justice involvement, they don't focus on criminal charges or the programs to which they were sentenced. Instead, they more naturally focus on the things that occupy the thoughts of most adolescents, regardless of juvenile justice system involvement: fights with their friends, confusion over physical intimacy and relationships, fears about not fitting in, frustrations with family and adults who "don't get it," and hopes and dreams for the future.

We have tried to reflect the personal priorities of these young people, as expressed by the youth themselves, while also including specific information about their journeys through Utah's juvenile justice system.

GUIDING PRINCIPLES FOR JUVENILE JUSTICE REFORM IN UTAH

September 2016

The state of Utah, with the blessing of leadership from each branch of government, has embarked on an analysis of our juvenile justice system with technical support from the Pew Public Safety Performance Project. Community-based organizations and advocacy groups with a stake in systemic reform in the juvenile justice system wish to ensure that their valuable input is considered from the outset.

Specifically, the below-signed organizations present this series of “Guiding Principles” to direct the analysis and problem-solving of the Juvenile Justice Working Group, assembled by state leaders to manage this process.

Our hope is that these Guiding Principles are held in mind by the Juvenile Justice Working Group, to appropriately shape eventual legislative and administrative improvements, as well as to initiate future and complementary improvements that will continue to serve Utah’s youth in the years ahead.

Voices for Utah Children

National Alliance on Mental Illness (NAMI) Utah

Journey of Hope Utah

Pacific Islander Civic Engagement Coalition

YWCA Utah

Utah Coalition Against Sexual Assault

Racially Just Utah

Utah Minority Bar Association

HOPE Center Utah

Salt Lake Peer Court

Utah Coalition of La Raza

Utah Educators for Social Justice

NAACP of Ogden

Utah Prisoner Advocate Network

Disability Law Center

Comunidades Unidas / Communities United

ACLU of Utah

Catholic Diocese of Salt Lake City

True juvenile justice reform will...

- **Promote the critical role of early, non-criminal-justice intervention in the lives of young people, for the purpose of avoiding future justice involvement.**

Early intervention includes not just obvious diversion programs for youth at risk for criminal justice involvement, but programs that ensure a solid footing of health, education and community support long before any involvement with the criminal justice system becomes likely or even possible. Such programs include: comprehensive trauma-informed health coverage for children, as well as pregnant and nursing mothers; early childhood education for all children regardless of ability to pay; and regular access to pro-social before- and after-school activities in the community.

- **Address the over-criminalization of age-appropriate behavior among young people, which has contributed to this urgent need for reform in our juvenile justice system.**

A fight in the school parking lot need not become a misdemeanor assault charge that introduces a young person to the criminal justice system. Occasionally skipping school need not land a child in front of a juvenile court judge, who can eventually detain that child for contempt. A third-grader who tags a sign near his elementary school does not need to be labeled a “gang associate” at age eight.

- **Address the documented racial disparities in our juvenile justice system, as well as overrepresentation of youth with disabilities and LGBTQ youth.**

Stereotypes of kids of color as “hyper-aggressive” and inherently violent or criminal have infused our juvenile justice system in many ways; these often unconscious biases must be openly acknowledged and compassionately addressed. For example, the over-prosecution of “status crimes” and overly-aggressive “anti-gang” strategies disproportionately and negatively impact kids of color. Perhaps unintentionally, such strategies tend to enforce, rather than challenge, implicit racial biases among juvenile justice system public servants and the general public.

- **Utilize diverse and numerable early alternatives to official involvement in the criminal justice system, such as peer court and other school-based, peer-oriented restorative justice approaches.**

Recognizing that juvenile justice system involvement is one of the strongest predictors of adult justice system involvement, every opportunity to avoid contact with the system, even for children engaged in seemingly-criminal activity, must be explored before official system contact is initiated. Offering a full suite of early alternatives will help us to better address issues related to substance use disorder, dating violence, and other serious issues that require attention but not necessarily criminal justice involvement.

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- **Provide or refer resources to address the trauma and abuse frequently experienced by young people prior to, or in conjunction with, their involvement with the juvenile justice system.**

Physical, psychological and sexual abuse play an integral role in the anti-social behavior of juveniles, including boys but especially for girls and gender-non-conforming children. Legitimate reform efforts will reflect a gender-responsive, identity-accepting and trauma-informed approach. This includes addressing the trauma of witnessing domestic violence in the home.

- **Ensure that all juveniles who appear in court prior to and in the process of adjudication are represented by vigorous legal representation, regardless of their ability to pay for such counsel.**

Juveniles in crisis are incredibly vulnerable. They require and deserve a legal advocate who is: always working in their best interest; not overly burdened with high workloads and low resources; cognizant of the many collateral consequences of various degrees of justice involvement; and sensitive to the unique needs, abilities, characteristics of children and adolescents.

- **Improve detention conditions endured by juveniles who are detained in state custody and “community-based programs” affiliated with the juvenile justice system.**

- Juveniles in detention are incredibly vulnerable to sexual assault by staff as well as by other juveniles; every provision must be made to protect the physical safety and bodily integrity of even the most difficult and dangerous child.
- Adequate and appropriate mental health treatment must be provided to youth in detention, as detention itself can and should be considered a mental health stressor.
- Detention facilities must also offer substantial transitional services, and coordinate with community support programs to ensure ongoing care for vulnerable juveniles.

- **Ensure the proper identification and classification of justice-involved juveniles with special needs (including mental health issues and learning disabilities).**

There is strong evidence that Utah is seriously undercounting the number of children in the juvenile justice system who have significant learning disabilities and other challenges. These issues may have contributed to juveniles’ involvement in the system in the first place, and they continue to present obstacles to recovery, education and rehabilitation while in state custody. Utah must ensure that youths are appropriately diagnosed and treated during their time in contact with the juvenile justice system.

- Focus on schools, not just courtrooms and secure facilities, as areas in desperate need of “criminal justice” reform.

Many of the issues that contribute to overrepresentation of youth of color, youth with disabilities and LGBTQ youth in the juvenile justice system begin in public schools: over-criminalization of age-appropriate behavior; overly harsh punishment for status offenses, including truancy and dress code violations; too-early referral to law enforcement without adequate opportunity for non-court diversion; punishment for alternative cultural expression and language utilization; and so on.

- Consider the unique needs of juveniles who are adjudicated, incarcerated and supervised in the adult system, as well.

When a court legally determines that a child can be tried as an adult for a serious crime, the community is not immediately alleviated of its moral responsibilities to attend to the unique needs of that child. The physical safety, mental health, emotional stability and rehabilitative progress of juveniles in the adult system must be a priority.



Artwork by Christian Quinones, from his time spent in the Genesis Program at Salt Lake Youth Detention Facility.

Marcus' Story

Marcus* is a slim, handsome young man with a brilliant smile, smooth brown skin, and glasses held together with tape. Hopping from subject to subject with plenty of warmth and good humor, Marcus randomly dispenses wisdom on such diverse topics as relationships, basketball, music and religion. He is excited to be getting his high school diploma early, in one-and-a-half months.

"I'm an all-around kind of dude... I'm always dancing, I love sports, I taught myself to play a bunch of instruments, and I'm really into art," he said. "I want my next step to be Salt Lake Community College, take care of my generals so I can major in visual arts and design, learn more about photography."

At the time of this interview, Marcus was incarcerated at Decker Lake Youth Correctional Facility. His most recent charge was possession with intent to distribute. He was caught with \$20 worth of cocaine, by a police officer on the street.

Marcus was born in South Salt Lake City, Utah. He bounced between Utah and Nevada for many years. When his mother lost custody of him and older his brothers, Martell and Shane, Marcus was just four years old. His grandmother, a no-nonsense nurse who was raised in a military family in Texas, took the boys into her home in Salt Lake. In addition to his brothers, Martell and Shane,

Marcus has two older half-brothers with whom he shares a father but has never met, and three younger siblings (a little brother and two little sisters) with whom he shares a mother.

"My mom has struggled a lot with drugs and stuff, she has a lot of trauma and anxiety, and has to take pills to get to sleep," he shared. "My mom and dad

were never married.

My dad used to beat my mom in front of me and my siblings. He was an alcoholic, and he died in 2009."

Attending Jackson Elementary, a diverse school on the west side of Salt Lake City, Marcus was a hyperactive kid who did pretty well academically.

"I was very active, I always wanted to interact with other kids and impress the girls," he remembered. "But I did get all As and Bs...class was pretty boring for me. I really excelled in anything that was hands-on, I excelled in science."

Marcus' grandmother was strict, but she looked out for Marcus, his siblings and his cousins. She emphasized the importance of education, and the role it could play in Marcus finding a good job in the future. She liked to tease him that unfortunately for him, chasing girls wasn't the type of career that could make Marcus a real living.



Self-portrait of a young man incarcerated by Utah Juvenile Justice Services.

**All names, and some minor details, have been changed to protect the identities of the youth involved.*

Marcus' mother drifted in and out of the picture as she dealt with her substance abuse issues. She spent a total of three years, in and out of rehab, missing key moments in her children's lives. Sometimes Marcus' mother would show up at his grandmother's house, and they would fight in front of the children, working the household into a frenzy. Marcus took it upon himself to calm down his siblings – including his older brothers – after stressful visits from their mother.

Life took a turn for Marcus when he left elementary school and headed into junior high. He took the school bus across town to Bryant Junior High School with a bunch of other kids from his neighborhood. There, his rambunctiousness and propensity to question authority were not as well tolerated as they had been at Jackson Elementary.

"I was hot-headed, yeah, never physically violent, but definitely could be verbally aggressive," he remembered. "I didn't want to put my hands on anyone, but I had one hell of a mouth on me."

In one particularly memorable incident, Marcus got into an argument with a teacher over some offensive racial comments the teacher made in class.

"This teacher was always going off on kids, saying stupid things, like how black people aren't all that smart, how you only ever really see them on T.V. getting arrested and stuff like that. I jumped up from my desk and confronted him, asking him why he was being so racist. I didn't understand why I was supposed to leave the conversation, why it was cool for him to say this stuff but I was expected to just sit there and take it."

Marcus was called to the principal's office, to answer to Mrs. Mitchell, the administrator in charge of student discipline. She was herself a woman of color, and Marcus was hopeful Mrs. Mitchell would understand his point of view. But – in Marcus' opinion – she just didn't like him from the very beginning: "She didn't like that I would argue with her, even when she was wrong!" Mr. Mitchell punished Marcus

for his outburst; Marcus didn't ever learn if the teacher was reprimanded, as well.

Marcus' tendency to push back against authority figures continued to get him into hot water, especially with Mrs. Mitchell. She restricted Marcus from attending school trips, explaining that her decision was motivated by his constant "acting up." At the end of his seventh grade year, Marcus was expelled from Bryant Junior High.

"When summer started," he recalled, "they sent my grandma a letter saying that I couldn't come back."

Marcus had to attend a different junior high school for eighth grade. He took public transit across town, by himself. He didn't know any of the other students, who lived in different neighborhoods from his own. Marcus did okay academically, but he often found himself bored in class. A friend introduced him to marijuana, and it quickly became a habit. Smoking pot became his go-to method of chilling out, meeting girls and fitting in.

"I was ready to do whatever to fit in – have fun, skip school, be a joker, whatever. I was always taught that the way to be successful is, you make yourself a network, you make connections."

Marcus' grandmother continued to push him to work hard at school, but increasingly, he felt desperate to escape the pressures he felt at home. There wasn't ever any money for Marcus to do fun and engaging activities, like go to the movies or take an art class.

Marcus watched with envy as his cousin Quincy left their grandmother's home, got a job and did whatever he wanted. At just 14, Marcus was starting to wish he could do the same.

"People were always asking me to do things, I always felt responsible for my brothers, I wanted to be able to live a little," he said. "I never got to do what I wanted to do, for me."

Things got tougher for Marcus as he transitioned into

high school. At West High School, he “felt invisible.” Reunited with the kids from his neighborhood he’d been separated from during eighth grade, Marcus felt, once again, like he didn’t really fit in.

“I was just going along, just living, trying to make something happen. I was really bored. When I started to get into art, music, photography, that’s when people started to notice me. Art was something that I choose to do, not something someone else told me to do. I wanted to distinguish myself somehow, I started to care a lot about what people thought about me.”

Marcus didn’t make it through a full year at West High. Though he was enrolled in honors classes and had no juvenile justice involvement at the time, the marijuana use in his social circle (as well as his documented problems in from junior high school) put him on the administration’s radar. Marcus was expelled when a school resource officer caught him with pot.

“It wasn’t even my pot, my friend had dumped it and took off when the officer showed up. I end up in the school cop’s office, and he is telling me, ‘based on what you did, you are expelled.’ I went home and my grandma yelled at me. They had already called her to tell her that I couldn’t come back.”

Marcus was referred to Horizonte, an alternative school for students who get kicked out of mainstream high school. It was there, in tenth grade, that Marcus finally learned that he was dyslexic.

“I knew I always got left and right mixed up when I was a kid, had to come up with little tricks for remembering numbers and things, and I hated reading. But think about it: I was dyslexic that whole time, and still getting As and Bs.”

At Horizonte, Marcus also started to come into contact with kids who were involved in the juvenile justice system. Some of them identified as gang members. These kids became his friends, first by selling him drugs, then by helping him get started as a dealer. By selling drugs, Marcus finally was able to

make a little extra money for himself. He sold drugs to girls, who began to show interest in him. He got invited to parties and became sexually active. He also started to get into fights while he was high, usually over girls.

“I never used to be violent or anything, but I have a lot of anger built up in me,” he reflected. “I hold little things in, let them build up, then I snap. Relationships are not my thing. I fear relationships. I don’t want to hurt someone else. I don’t want to ever hit a woman, I don’t want to be like Ray Rice or Chris Brown.”

Marcus’ first official charge came when he was picked up for possession. He never sold or did drugs at school, but he was hanging out with other young men that were often under police surveillance. Marcus was caught with spice, which he was planning to sell. The judge gave him community service, and he went home the same day. As part of his disposition, Marcus had to complete over 100 hours of community service. He spent those hours working with neighborhood kids at the Boys & Girls Club near his old elementary school.

Contempt charges quickly followed, however. Marcus kept violating his probation by missing curfew and not being home when he was supposed to. In the next four years, Marcus would make about 18 trips to detention. He would collect charges, stay in detention, get released, and run away. Warrants would be issued, he’d get picked up, and the cycle would start all over again.

Marcus appeared regularly before Judge Dane Nolan, whom Marcus liked, because “he talked to me like he knew me. He was the same judge who oversaw the adoption of my little sister.” Marcus was usually represented by the same attorney from Salt Lake Juvenile Defenders Association, who he described as “a good guy.”

Marcus began to collect new charges, as he spent less time at school and more time hanging out with friends downtown. When he was 16, Marcus was stopped by a couple of police officers, who could tell he was high as he wandered around downtown. The

police searched Marcus' backpack and found a couple of cement bricks, as well as an old rusty bayonet given to him by a homeless man. They arrested Marcus for possession of a deadly weapon. During the arrest, Marcus got into a scuffle with one of the cops. That added "assault on a police officer" to his charges.

By the time Marcus was 17, he had exhausted just about every program and placement that the Utah Department of Juvenile Justice Services had to offer. He was locked up with "hardcore gang-bangers" in detention. He spent three months in a group home located in rural Sanpete County, as part of a drug rehabilitation program to address his substance use issues. He was sent to another group home, for "behavioral health issues," also in rural Utah.

Marcus took anger management classes. He participated in drug therapy groups. He attended court-ordered therapy. None of it made much of an impression.

"I just couldn't get into the therapy. I was too defensive, I have serious trust issues. Who was this guy to tell me how to fix my life? What about his life, is his life perfect? Why should I listen to him? I guess did learn a few things about myself. Like, I'm smart, but I'm too smart for my own good. I've got a mouth on me. I don't always tell the whole truth. And I'm definitely hyperactive."

When Judge Nolan lost patience with Marcus' constant probation violations, he was removed from his home and sent to "Observation and Assessment" for 45 days.

"The judge sent me to O&A to figure out why I kept running," he said. "Well, it was because nobody ever wanted to do anything at my house, we never had any money to go anywhere, my grandma worked all the time. I just wanted to get out and live my life." Shortly after Marcus turned 17, he witnessed the shooting of one of his friends by police officers. His friend was in a coma for weeks, and then confined a wheelchair due to spinal damage from the shooting. The incident shook Marcus to the core.

"I was so pissed off. I was sick all night, throwing up, crying. I've known him for years. I went to the hospital to visit him, he was all stitched up all over, he had to be in a wheelchair. I couldn't even play basketball any more when he was around. It didn't seem right, us playing basketball, while he was sitting there in a wheelchair."

Marcus was the victim of violence himself, in the same area of the city, about six months later. During a brief stint between community program placements and detention stays, Marcus found himself hanging out near the Greyhound bus station in downtown Salt Lake City. He was by himself when he was jumped by a group of older men. Marcus was beaten violently, his nose broken and all his belongings stolen. To this day, he doesn't know who did it, or why.

"I wasn't scared, really, more just embarrassed that I got beat up like that. I mean, I learned in detention that you had to prove yourself, you could not be a pushover."

Marcus had to have surgery to repair his broken nose. To this day, he tells people he was in an accident at the gym, rather than admit he was beaten up.

It wasn't long after his surgery that Marcus was picked up again, in the same downtown area. Busted for loitering in front of a "No Trespassing" sign, Marcus was searched and the police officer found cocaine on him. The possession, along with Marcus' intent to sell the cocaine, landed him in Decker Lake Youth Center. At the time of this interview, he had been there for more than eight months.

"Some of the counselors here are pretty cool. My caseworker Zane is basically like part of the family now. I've learned a lot about addiction, about what I will do to seek those endorphins. It's boring, though, and the food is garbage. Kids in here are always coming at me wrong, getting me upset. The whole system has really gotten to me."

Marcus wants to feel hopeful about the future, but he acknowledges that his entire social scene revolves around the activities he should probably avoid once

he is released. He can't wait to get out in a few weeks, but his only plan so far is to "not hang out with anybody." He also wants to get several new tattoos, based on artwork he created while incarcerated.

Marcus spends a lot of his time at Decker Lake playing basketball and sketching, trying to keep his body fit and his creativity engaged. He has trouble sleeping. He worries about gaining weight. He is pretty sure he has an ulcer, and he cut short his final interview complaining of stomach pain.

As Marcus waited for a staff member to collect him and escort him back to his locked room, he wondered aloud about how things might have been different.

"I think just some funding would have made a big difference for me," he said. "Like, maybe I could have

gone to art school, or dance school. Something that could keep me engaged, keep me out of trouble. We just never had any money for anything like that. It wasn't possible."

Just a few months after getting released from Decker Lake, an inquiry placed with Marcus' former program revealed that Marcus is once again incarcerated. At nearly 19, though, he is now housed at Salt Lake County Jail, with adult offenders.

Marcus had been busted once again in downtown Salt Lake for possession with intent to distribute, a second-degree felony. In the adult system, that means a sentence of between one and fifteen years in state prison.

Author's note: This story reflects Marcus's telling of his own personal experience, retaining as much of his original words and phrasing as possible. This information was gathered over the course of two interviews in June 2017. Both interviews were conducted at the Decker Lake Youth Center in South Salt Lake City, Utah, where Marcus had been sentenced to secure detention for an open-ended period.

Marcus's story highlights several common themes of the "School-to-Prison Pipeline" phenomenon. For example, it is common for young people who get into trouble at school to be experiencing acute emotional distress arising from non-school situations (in Marcus' case, his tumultuous home life and family history of substance abuse). Like Marcus, many youth in the juvenile justice system come from low-income backgrounds, wherein the family lacks resources to respond to a youth's particular strengths and needs.

It is shockingly common, though underreported, for young children of color to struggle with undiagnosed learning disabilities. In Marcus' case, his difficulties at school were never connected to his hyperactivity or dyslexia. Rather, administrators were comfortable labeling him as a trouble-maker who did not require special learning accommodations.

Bethany's Story

Bethany* is a pretty young woman with dark hair and olive skin. "People always think I'm Mexican, like my adopted mom," she reports. "But I'm actually half-Turkish." She is well-spoken and mature, but her voice emanates from a body that is tucked up tightly into itself. She hugs her knees to her chest while she shares her story.

Bethany has lived in American Fork, Utah, since elementary school. She is animated and enthusiastic, and her interests run from the athletic to the artistic. Bethany played hockey for years, "until my mom got tired of driving me to practice, and I was always getting home too late to do my homework. She also loves writing, and recently won an award for her moving submission to a statewide essay contest (a letter to the mother who gave her up for adoption).

Bethany says she generally likes school and is on track to graduate early from high school. She is particularly proud of her AP Spanish test score: a 5 out of 5. She is interested in attending the Mountainland Applied Technology Academy in Lehi, "So I can get a cooler job than fast food."

Bethany was a resident in the Gemstone Program at the Salt Lake Youth Detention Facility at the time of this interview. She is just a few days away from being released, and just a couple of months from her 18th birthday.

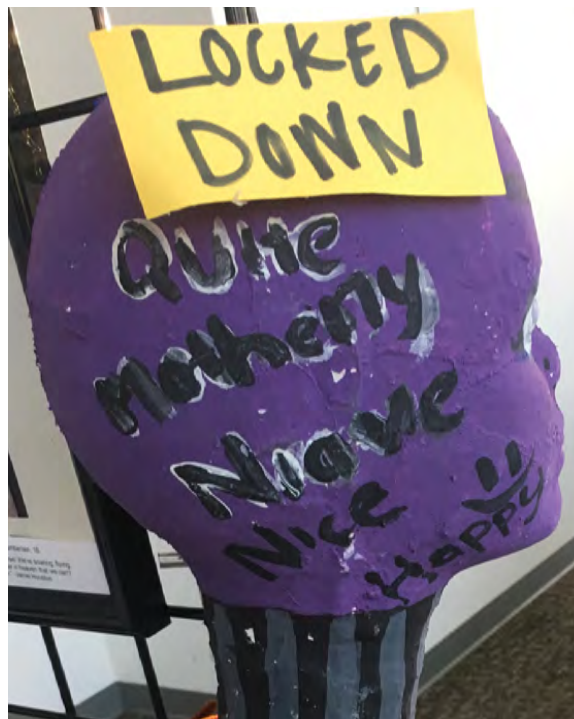
Bethany has landed in this residential community placement program, with other young women working off community service hours and restitution, after a long stretch of charges for assault, possession and possession with intent to distribute. Young women sentenced to the Gemstone Program receive counseling and attend classes; their parents are billed for the time they spend in the facility.

The final straw that sent Bethany to Gemstone was an arrest for drunk driving. Bethany had been stopped by police, driving a friend's car to the store to buy toiletries, after her parents reported her missing. The reason for her running away from home? Bethany had been in California, buying pot and heroin with friends. They used the heroin, she planned to sell the pot.

Bethany was born in Utah, but bounced back and forth between her aunts in Utah and Texas until her biological mother gave her up for adoption. She landed in a caring, religious family that stressed morals and values. They were a mixed-race family living in Utah County: a white father, a Mexican mother, and an

adopted Native American brother.

Bethany started to struggle emotionally in the fourth grade, where she was one of very few darker-skinned kids in American Fork's Legacy Elementary. It was in fourth grade, when Bethany was 9, that her adopted father gave her a recent picture of her birth



Self-portrait of a young woman incarcerated by Utah Juvenile Justice Services.

**All names, and some minor details, have been changed to protect the identities of the youth involved.*

mother. Her mother was holding a little brother Bethany hadn't known she had.

"I think my dad was just trying to help me, by showing me that my brother and mom were okay. He didn't expect me to cry that whole night and hate myself every time I looked in the mirror. But I did."

After that, Bethany struggled with her identity as an adopted daughter a lot. She asked herself, over and over, "Why? Why did you keep my little brother, and not me? What can I do to make you want me again?"

As she grew up, Bethany tried to contact her birth mother through social media, peppering her with questions about her biological father, and trying to understand why her mother gave her up for adoption but kept her little brother.

"My birth mom finally blocked me on Facebook," she said, "For asking too many questions."

Bethany first started to run up against the juvenile justice system when she was 12 and entering junior high school. "I was really angry at my parents, I blamed them for me being adopted," she recalls. "I started smoking weed, and made some bad friends. My best friend's older brother smoked pot, and so did a friend of a friend. That's how I started."

Bethany started to get in fights, too. She admits to "acting out a lot. When I didn't like someone, I would hit. I played hockey and had brothers. It didn't feel like a big deal. My dad wasn't really upset at first."

When one girl started teasing her at school early in her seventh-grade year, Bethany challenged her to a fight. The girls walked a block away from campus and started to throw punches at each other, while other students filmed the fight with cell phones.

The other girl told her parents. Her parents told the school. When Bethany was called to the office the next day, the police were there, too. She was suspended, sent to juvenile court, and sentenced to community service. The other girl didn't get in trouble.

Bethany's smoking escalated throughout junior high. Drugs were pretty common at her school, with most kids opting to take pain pills stolen from their parents' medicine cabinets. Bethany stuck with marijuana, staying away from harder drugs and even alcohol. Hanging out with the "druggies" at school gave her a sense of belonging, but it got expensive.

When Bethany stole nearly \$1,000 from her parents, they pulled her out of her junior high school. She had taken the money to buy weed for all her friends to celebrate April 20, "Weed Day."

"I didn't even have a dealer or anything, I just gave the money out to different people to get pot," she said. "My mom found out right away that I took the money. The minute she figured it out, she came right to the school, checked me out, and took me home. They put me in a different junior high after that."

Bethany didn't last long at that school, either. When she registered, the administrators at her new school were told of her "background," and the reasons she left her last junior high school. The administrators told her that if they caught her with pot, even just once, they would kick her out of school.

"Someone told them I had weed, so they searched my locker," recalled Bethany. "They found a notebook that I had drawn all these pot leaves on, and they used that as evidence that I needed to be kicked out of school."

After a brief suspension, Bethany's new junior high did allow her to come back to school. Her reputation as a "problem kid," however, was even more entrenched. Her life became a cycle of skipping school, smoking pot and fighting with her parents. She racked up charges for fighting at school, getting caught with marijuana and skipping class. She was suspended at least once a year, starting in junior high and all throughout high school.

By the start of high school, some of Bethany's friends were becoming sexually active, and she felt left out.

"My best friend, Alex, and I did everything together. We started out really 'Molly Mormon,' but then started to hang out with people who smoked pot and stuff. When we were 14, Alex had this boyfriend, they were really serious. She didn't tell me at first, but I found out they had sex, and then that was something that was different between us. I was still a virgin, and she wasn't."

Bethany became interested in an older guy who played soccer at the LDS Spanish-Speaking Branch she and her family attended. The soccer player was almost 20. Bethany was still just 14.

"We double-dated to a movie, and the other couple left. I was supposed to go home with Alex after the movie, but I couldn't find her. So I went with him back to his place, to hang out. I'd never had sex before. I didn't want to at the time. I was scared. I didn't know what to do. I sort of wanted to, because Alex had, but I was really scared with him. Afterwards, I just kind of left. He said he would take me home, but he didn't."

Bethany experienced vaginal bleeding for two days after the sexual assault. She finally gave in and told her bishop what happened. The age of consent for sexual activity in Utah is 16; what happened to Bethany constituted statutory rape. Her bishop followed mandatory child abuse reporting laws and reported Bethany's rape to the authorities. A social worker took her to the hospital to check on her physical health, and Bethany was invited to a therapeutic group for young women who had been sexually assaulted.

"My mom and me, or my dad and me, would go. My mom went to therapy for parents of kids who were raped. I went to therapy for junior high school girls who had been raped. But I wasn't sure if I had been raped. I didn't feel like I had been raped."

Bethany became very sexually active after the rape. She continued skipping class and smoking pot, and started running away from home regularly. She would meet guys through social media, usually

college age or older, and would run away to hook up with them. She experienced other sexual assaults during this time, some reported, most not.

"I would have sex all the time with different guys," she said. "I wouldn't go home. I would just go and have sex with guys."

Bethany landed in detention for the first time at 15. In addition to smoking pot, Bethany had started selling it to other students at her high school. Most people at school knew about her drug connections. Administrators would call her to the office at random times and search her. They eventually caught her with a joint in her beanie and pot in her backpack. She switched schools two more times.

Bethany also accumulated new assault charges – not for fighting at school, but for getting in physical fights at home, with her parents. Heated family arguments quickly escalated into shouting matches that spilled onto the front lawn. Bethany would throw punches, and neighbors would call the police.

In her award-winning essay, "The Letter," this is how Bethany described this period of her life:

"I turned to drugs, thinking it would take away the pain of betrayal, thinking I could fill the hole I have in my heart and find love. I started giving my body to every boy that would give me attention. I blamed the family that adopted me. I hated them. Every time they tried to love me, I pushed them away, because I didn't want to receive love from the people who replaced my broken family. I attempted suicide six times."

Her visit to detention at 15 was one week long, but did nothing to deter her behavior. Bethany went back to detention at 16, and struggled with the terms of her probation afterwards. Contempt charges built up on her record as she ran away, broke curfew and failed to check in. She doesn't recall ever having a consistent legal defender, probation officer or case worker. The one professional she recalls from her time cycling through the system was her judge.

"He would get so annoyed with me, and he would talk down to me," she recalls. "I couldn't stand him."

Bethany spent the next two years dating a series of very troubled young men. One boyfriend, Troy, was gang-affiliated and controlling; he "wouldn't let me talk to anyone else, especially anyone who was repping a different gang." At 17 years old, Troy was facing attempted murder charges for stabbing his stepfather during a fight. For a time, Bethany worried that she was pregnant with Troy's child.

"I never used condoms, never was on birth control. I wasn't ever afraid of getting pregnant, I thought it wasn't possible for me to get pregnant. If the guy didn't want to use a condom, I just didn't insist."

Another boyfriend, Larson, convinced Bethany to run away to California with him and some friends, to buy drugs. Larson was also in the juvenile justice system, sentenced to an independent living community home as part of the state's "Proctor Care" program. Young men staying in the home were regularly given drug tests, and weren't allowed to have young women in their rooms. After testing positive for heroin and getting caught with Bethany in his room, Larson decided to run away from the group home. He convinced Bethany to come with him. Along with a carful of friends and cousins, they took off for California to buy drugs and get away from their problems.

This was the ill-fated trip that landed Bethany in the Gemstone Program at 17.

"The judge was so over me messing up, he asked me why he should give me another chance, what I was going to do with it," she recalls. "I told him that I wanted to graduate from high school, no matter what. He laughed at me. That made me so mad."

During her time in Gemstone, Bethany worked with a counselor and stopped using drugs. She started writing, and penned "The Letter" for the essay contest. She worked with older women who acted as mentors and treated her like an individual. She was encouraged to work through her sexual trauma.

With the judge's scoffing laughter in her mind, Bethany made up her mind to finish high school. She also worked with Juvenile Justice Services staff to develop a "safety plan" for when she was released, and presented it to her parents. She wants to get a job, so she can pay back the money she owes to her parents, for things she stole and for the cost of her incarceration.

"I am graduating early. I've been sober for two months now. And I am getting the counseling I need to help me find healthy ways to fill the hole in my heart. I'm learning how to forgive."

Author's note: *This story reflects Bethany's telling of her own personal experience, retaining as much of her original words and phrasing as possible. This information was gathered during an interview in February 2017. The interview occurred at the Salt Lake Youth Detention Facility in South Salt Lake City, Utah, where Brittany had been sent to participate in the Gemstone Program for young women.*

Bethany's story highlights several common themes of the "School-to-Prison Pipeline" phenomenon. For example, it is common for young people who get into trouble at school to be experiencing acute emotional distress arising from non-school situations (in Bethany's case, related to her abandonment by her biological mother and subsequent adoption). It is also distressingly common for young women in the juvenile justice system to have experienced one or more incidences of sexual assault. Trauma related to sexual assault often either underpins young women's misconduct at school, or exacerbates existing misconduct (as in Bethany's situation).

Junior's Story

Junior* is a large young man with a reserved countenance. He speaks quietly and politely. At more than six feet tall, Junior looks like an fully-grown adult, but his warm, shy smile makes him appear much younger.

Junior likes working with his hands, dealing with concrete projects such as fixing up cars. He would love to find a job as an auto mechanic someday. Right now, though, with his high school diploma firmly in hand, he is focused on following up with a recruiter from UPS. He's eager to start working, so that he can afford his own apartment.

At the time of this interview, Junior is incarcerated at the Decker Lake Youth Center. He has been at Decker Lake for almost a full year, since being charged with auto theft. He is 18 years old.

Junior was born in Seattle, Washington, where his immigrant family moved directly from Vietnam. He was the first in his family to be born in the United States. When Junior was still an infant, he moved to Utah with his father, grandmother and older brother. Junior's biological mother stayed in Seattle. He never saw her after the move. He thinks he has a half-sister somewhere, too, but he's never met her.

Junior's father spent time behind bars throughout Junior's childhood. He struggled with gambling and drug addiction. He would do well for a year or two, and then fall back into old habits. Once he stole Junior's brother's car, to sell for gambling money.

"He's not really stable, so I learned not to invest any time in him," said Junior. "I won't see him for months, he'll be locked up, then he will get himself stable and come around. But I can't rely on him."

Junior's grandmother took custody of Junior and his older brother, Binh. She was in her early 60s at the time, and spoke very little English. Keeping tabs on

two young boys in a foreign country proved to be a real challenge, especially when the boys started to assimilate into the U.S. culture. Eventually, Junior learned to take advantage of his role as her de facto translator for school administrators, probation officers and the police.

Junior acknowledges that he was "a little trouble maker," even back in elementary school. The main thing he liked about attending Jackson Elementary on the west side of Salt Lake City was getting to see his friends every day. There were plenty of young kids to play with in the neighborhood, and school was another place to hang out with them. Junior did okay in school, but he never enjoyed it.

As he came to the end of his elementary school years, Junior underwent a serious growth spurt. He was, seemingly overnight, taller and heavier than almost all of his peers. That made him hard for teachers and staff to overlook him when he got into trouble. He also was diagnosed with Attention-Deficit/Hyperactivity Disorder (ADHD), which made sitting still and staying focused very difficult for him. He was sent to special "resource" classes for kids who struggled to keep up.

"By fifth and sixth grade, it seemed like I was always getting suspended for little things, like mouthing off, or not following directions. I never had to go to court, but I'd get sent home for two or three days at a time. It was so boring at home. When I got tired of sitting around watching TV, I'd hop out the window and go goof around."

Junior and his friends started to learn new "hobbies" from older kids in the neighborhood. They experimented with shoplifting, stole bikes and stayed out until 1:00 or 2:00 in the morning. They developed a bad reputation among community members and business owners, who could be quick to call the police.

**All names, and some minor details, have been changed to protect the identities of the youth involved.*

At around this time, Junior's older brother Binh moved out of their grandmother's house. He worked hard at his job and was able to afford his own apartment, big enough for his girlfriend and their new baby. Junior looked up to Binh, admiring his independence and industriousness. Binh made it clear to Junior that he didn't approve of Junior's behavior, but with his own growing family to care for, Binh couldn't always keep an eye on his younger brother.

Alone with his aging grandmother, now in her early 70s, Junior spent more and more time wandering the neighborhood with his friends. He learned how to steal a stereo deck out of a car...then he learned how to steal an entire car.

Junior recognized that, to some extent, all this "trouble-making" was influenced by his environment. There were parts of his neighborhood that were nice, but there were other areas that felt unsafe and rundown. It was not uncommon to hear gun shots while he was falling asleep at night. Most of the families in his area struggled to afford the basic necessities.

"I just thought we were normal kids, that that's what kids did. I figured out how to get what I needed and what I wanted. I didn't want to be in school, I wanted to work and make money, so I could support my needs and wants. We barely had enough money for rent and for food. When I look back on all the stuff I did, it was almost always just to get things that I couldn't afford."

By the time Junior started junior high school, he had managed to avoid any juvenile justice system contact, but not for lack of trying. Junior did okay at Northwest Middle School, at least for the first few months. He didn't mind P.E., and he enjoyed science, where the teacher "knew how to explain things so I could understand." He earned As and Bs in those classes.

But he struggled in just about every other subject, finishing his first term with mostly Fs. He started

skipping the classes he didn't like. By the end of his first year of middle school, he'd basically stopped going at all.

It was during middle school that a friend introduced him to drugs. Smoking pot became a social thing, a good way to pass the time. He and his friends would just hang out and play video games when they smoked together. They would smoke in the morning, before class, and again after school. Some kids would smoke in the bathroom at school, but Junior always thought that was too risky.

When he was 13, Junior caught his first official charge. He had stolen a car, rode around in it, and then parked it a few blocks from his middle school. Local kids referred to this as "car hopping": hotwiring an older model car with basic tools, and then dumping it a few hours later after a quick joyride. Junior had done it several times before, but this time, a teacher from his middle school noticed him parking the car.

Halfway through the school day, the school resource officer called Junior down to the office. The teacher had taken photos of Junior getting out of the car. They called his grandmother, and the police. Junior spent a few days in detention before going before a judge. He had a public defender, and recalled thinking, "No big deal, I'll get to go home. I'm young, I'll go home soon."

The judge sent Junior back to detention for a week, then released him on probation. That's when "things went downhill quickly," according to Junior. As part of his probation, school attendance was mandatory. But he struggled to earn passing grades, and he felt like the school resource officer was always watching, waiting for him to fail.

"I just kept messing up. I kept doing the same things, never checking in when I was supposed to, violating my probation. Every time I failed to check in, they would issue a new warrant. I'd get picked up by the police and taken back to detention. I would stay for a couple of weeks. I had about 200 hours

of community service hours I was supposed to do, I would work off a little bit of it every time I was in detention.”

When he was between stays at detention, Junior performed his community service at a local non-profit organization, where he was in charge of cleaning out the vans used to take children to and from activities. Junior had access to the vehicle keys for his cleaning duties. One night, he and a friend stole one of the vans and rode around the neighborhood, throwing stolen bikes in the back as they went. They returned the van before the next morning, without anyone realizing that it had been missing.

Junior kept committing violations, which kept him from getting released from court supervision. His caseworker tried to work with him, but Junior continued to commit violations. He received plenty of court-ordered therapy, from different therapists, but never felt comfortable with any of them.

“They wanted me to talk about what was bothering me, what’s irritating me, to help me solve my issues. It was always new people, the therapy was all over the place. I felt like I could learn how to cope with my problems on my own.”

To keep himself straight, Junior tried to spend as much time as possible at Binh’s house. His brother had gotten married to his girlfriend, and there were now two nieces for Junior to babysit. Binh had a good, steady job and Junior felt welcome in his home. But Junior also had a hard time staying away from his friends, and his friends always seemed to be in the police spotlight.

“The cops would stop a car full of us kids, like a routine stop, and they would run everyone’s name. That’s how they would catch me on the warrants a lot of the time, when they couldn’t find me at my house or at school.”

Now about halfway through his first year of high school, Junior was still on probation and the judge

presiding over his case was losing patience. The judge sent Junior to “Observation & Assessment” for 60 days, to determine what next steps should be taken to curtail Junior’s misconduct.

In O&A, Junior learned about his many “thinking errors.” For example, he was told he was in denial about how his behavior impacted other people, and that he used selective hearing and thinking to justify his misconduct. He also learned some ways to focus better, despite his ADHD.

At the end of his two months at O&A, the staff recommended that Junior be removed from his home and sent to proctor care, a type of foster care for youth in the juvenile justice system. The O&A staff expressed concern to the judge about Junior’s grandmother’s ability to keep him under control. Because Junior was the one who translated all the citations and letters from law enforcement, his grandmother often didn’t have a full picture of whatever trouble Junior was in. He would be better off, the court determined, in a home with more structure and oversight.

Junior was sent to live with a proctor family in West Valley City. There were three biological kids and another proctor son in the home.

“My proctor dad had been through a lot of stuff as a kid and he had gotten into trouble, too. He was really understanding. He joined the Marines and got out of trouble, then he wanted to help other kids who were struggling like he did. He didn’t always report me when I messed up, we would talk about it instead. He had a thing for rebuilt cars, and I loved cars, too. The family was Mormon, but they didn’t make me go to church or anything. They were really good people, I got attached to them. I loved them.”

Junior’s educational experience during proctor care was not so positive. He didn’t go to school for the entire three months he was with his proctor family. He attended a “community program” that felt like day care to him, where he was in a class with much younger kids. He was supposed to be participating

in online courses, but it took so long to get him registered that he didn't actually take any classes before leaving proctor care.

"My proctor family wanted to help me get home as soon as possible, but I thought it would be really cool to stay longer. They weren't always worried about money. We got to do a lot of cool things together. I got to go on vacation for the first time in my life."

Three months after he left his proctor care placement, Junior successfully completed probation. Finally, three years after his original charge, he was finally terminated from court supervision at 16.

Unfortunately, Junior was not welcome back at his high school. Instead, school administrators had referred him to an alternative school. Again, Junior struggled academically, and fell into old habits.

"The classes weren't any fun. It was just a bunch of kids who got rejected from other schools. I mean, they were cool kids, and the teachers knew how to handle us. I just got tired of it. I sluffed classes."

Junior eventually was expelled from his alternative high school for committing a "Safe Schools violation."

"I was so mad at myself, it was such a dumb thing. I dropped a cigarette in a trash basket, and some paper in there caught on fire. It was an accident. All the serious things I'd done, and I got expelled for something I didn't even mean to do, I wasn't trying to hurt anyone. I guess I had messed up too many times, skipping class and stuff, so when I went to court for the 'Safe Schools violation,' they didn't really have a choice except to kick me out."

The Safe Schools violation landed Junior back on probation, and he was sent to a new alternative school program. Junior was one of about one dozen students who spent all day in a single classroom plowing through course packets on a variety of subjects. Junior described his class as "all the kids who got in fights, brought guns to school, did

something to get kicked out of alternative school."

Around this time, at the age of 16, Junior was involved in a drive-by shooting – not as a participant, but as a victim. He was hanging out with friends at an apartment complex in the neighborhood, "at the wrong place at the wrong time," when a group of young men drove past and opened fire. Junior was hit once in the chest and twice in the leg.

Junior wasn't gang-involved, but it was hard to stay completely out of the on-going "beefs" between various gang members in the community. He knew the kids who committed the drive-by shooting, but he wasn't sure if it had anything to do with him.

"I was more mad than scared. It burned, but it didn't hurt as much as I thought getting shot would hurt. I was bleeding everywhere, and had to go to the hospital. One of the bullets hit my ribs and sorta bounced around. They just left it in there, it would have cost too much to get the surgery to remove it."

Junior should have been at home, as part of his probation, at the time he was injured. Despite the requirements of his court supervision, though, Junior rarely went home. He would keep in touch with his grandmother, stopping by her house occasionally to eat, but he mainly stayed with different friends around the neighborhood. "I pretty much lived with my friends," he said. "They were like a second family, they took care of me."

Hanging out with his old crowd, Junior got back into "car hopping." He also learned how to strip parts from cars, either to sell or to use in fixing up other cars. At 17, Junior was charged two more times with auto theft and possession of a stolen vehicle. By now, his criminal history included multiple felonies.

The judge sent him to proctor care again, but Junior's West Valley proctor family was no longer available to host him. He was sent to a family in Orem, which he found overly strict and somewhat indifferent: "They had no clue about what kids go through. They didn't understand."

Junior ran away from that proctor home. He was picked up by the police, and spent another month in detention. Junior's next stop was an independent living group home, a small house where a few older kids lived under the supervision of a Juvenile Justice Services staff member. The judge told Junior that this placement was his "last chance" before getting sent to Decker Lake.

"I was just done. I stopped going to therapy. I snuck out of the group home to hang out with girls, and got busted for not being there when I was supposed to."

Junior ran away from the independent living home, too. When police caught him with a friend in a stolen truck, that was the final straw. Junior spent two months in detention, then the judge sentenced him to Decker Lake. He turned 18 there.

In some ways, Junior preferred Decker Lake to short-term detention. His days were more structured, but he had enough freedom to do some thing he wanted, as well. Mandatory therapy was part of his stay, but it didn't feel helpful. Junior just wanted to get out and work.

"My brother has a third kid on the way, and I can't wait to go and live with him once I get out of here. I got my diploma last month, by working on course packets while I have been in here. I want to get a job, and try to get my own place."

When he is released, Junior will be on parole for 90 days. His caseworker and judge have made it clear that there will be "zero tolerance" for parole violations. Junior wants to be optimistic about his chances once he leaves Decker Lake, but he's not sure he will be able to adhere to the rules of community supervision, in light of his past failures. Junior will need to continue weekly therapy, submit to drug testing and check in with his caseworker on a regular basis. He hopes that focusing on work, following the example of his brother Binh, will keep him from falling back into his old habits.

"It's easy for me to say, 'I won't come back.' But I see other kids say the same thing when they get out, and then I see them come back. They can't take the pressure of trying to stay straight. I mean, I feel like I still don't even know what made me do all this. It was just crazy, all the stuff I have been through."

Author's note: This story reflects Junior's telling of his own personal experience, retaining as much of his original words and phrasing as possible. This information was gathered during an interview in June 2017. The interview occurred at the Decker Lake Youth Center in South Salt Lake City, Utah, where Junior had been sentenced to secure detention for an open-ended amount of time.

Junior's story highlights several common themes of the "School-to-Prison Pipeline" phenomenon. For example, it is common for young people from immigrant families to have access to culturally competent approaches to discipline and behavioral issues. Like Junior, many young people from cultural minority communities band together for social support and protection, which can sometimes lead to gang involvement and criminal activity.

It is common for young people of color to suffer from learning disabilities and emotional issues that can lead to disciplinary issues at school. Administrators often mistake these legitimate challenges for character flaws that are entirely the fault of youth themselves. Unfortunately, rather than receiving learning assistance, youth are diverted to alternative schools and programs that provide very little in terms of substantive educational offerings, as was the case for Junior.

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**

FEBRUARY 2017

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.

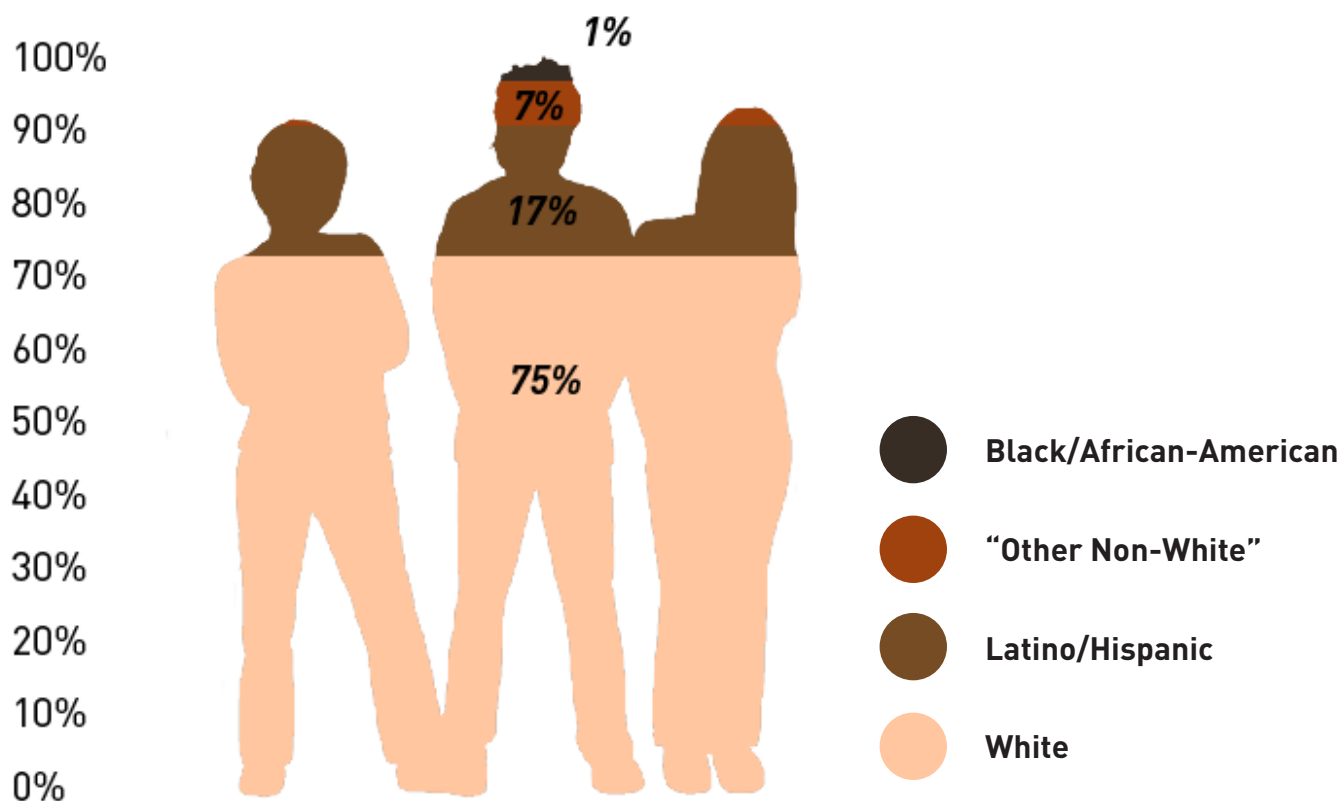
To its credit, the official state JJWG gathered extensive data about racial disparities in Utah’s juvenile justice system and made this data readily available to community stakeholders. However, overt conversations about race, implicit bias, racial discrimination, and racial disparities are difficult 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

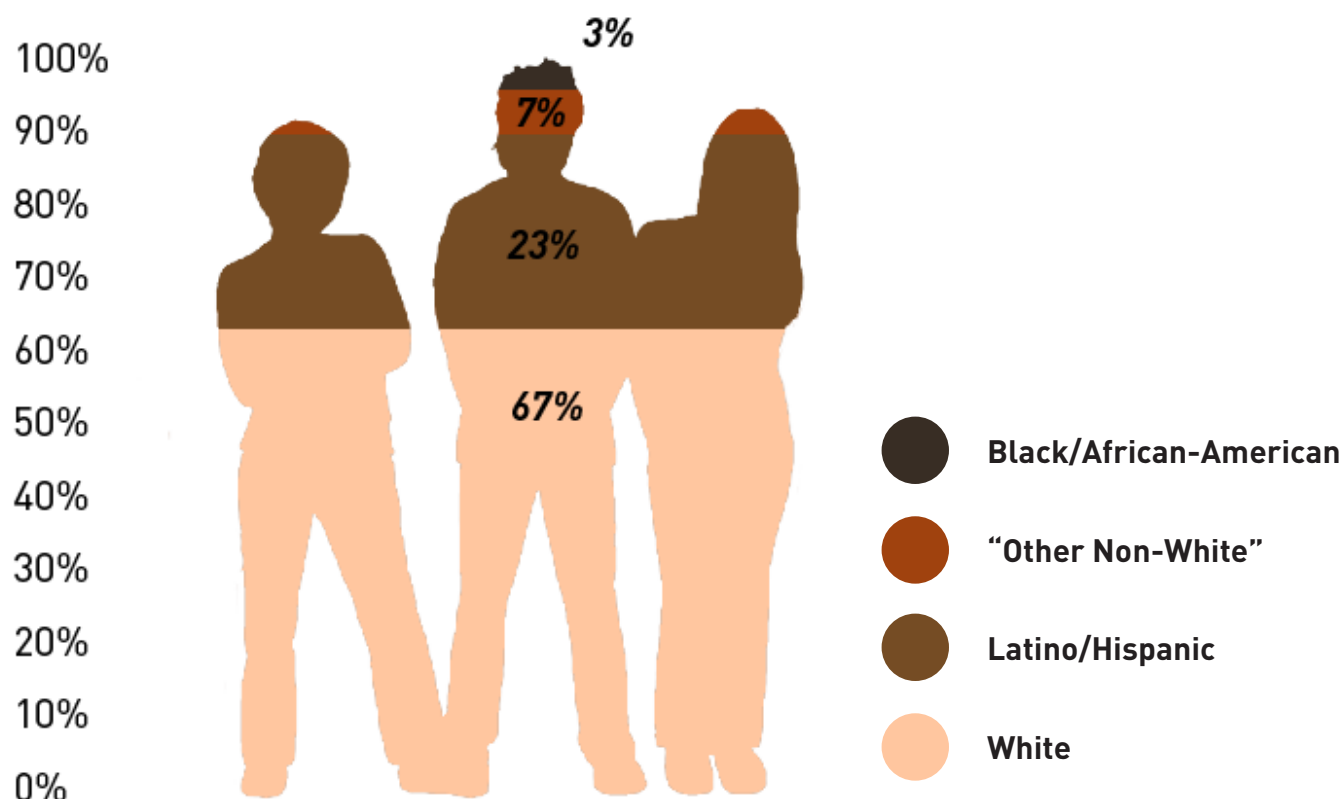
The JJWG gathered and analyzed data that begins with a youth's "first intake" into the system. This is when a young person is referred or made known to the juvenile justice system in some official way; this first contact can occur in a variety of situations and settings.

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 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

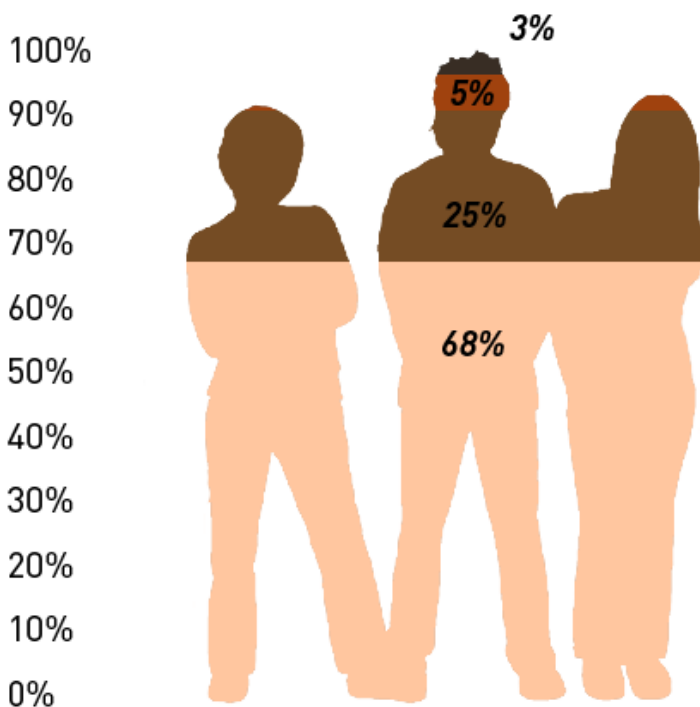
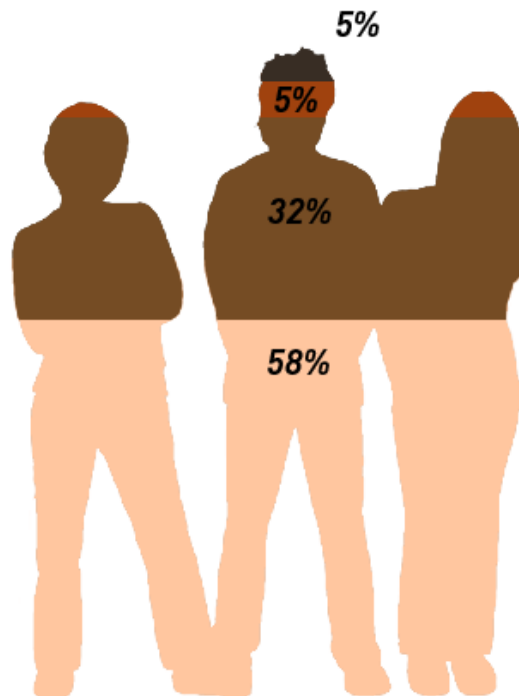


Figure 3.2 Petitions to Juvenile Court



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.

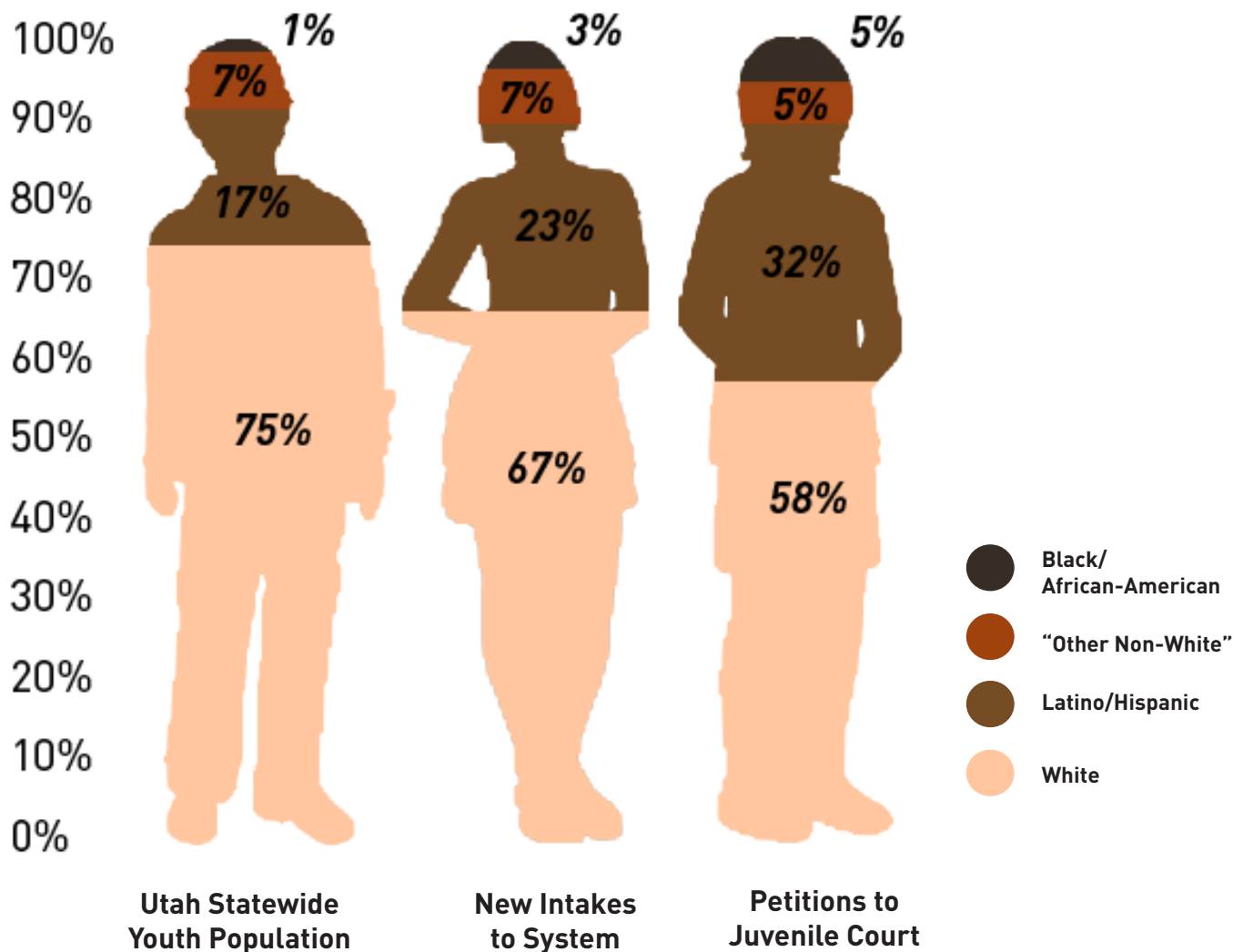
Disparities begin to widen as young people move from initial contact with the system toward deeper contact with administrators, prosecutors, judges, private contractors

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 challenges facing their youth in a culturally-appropriate manner.

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.”

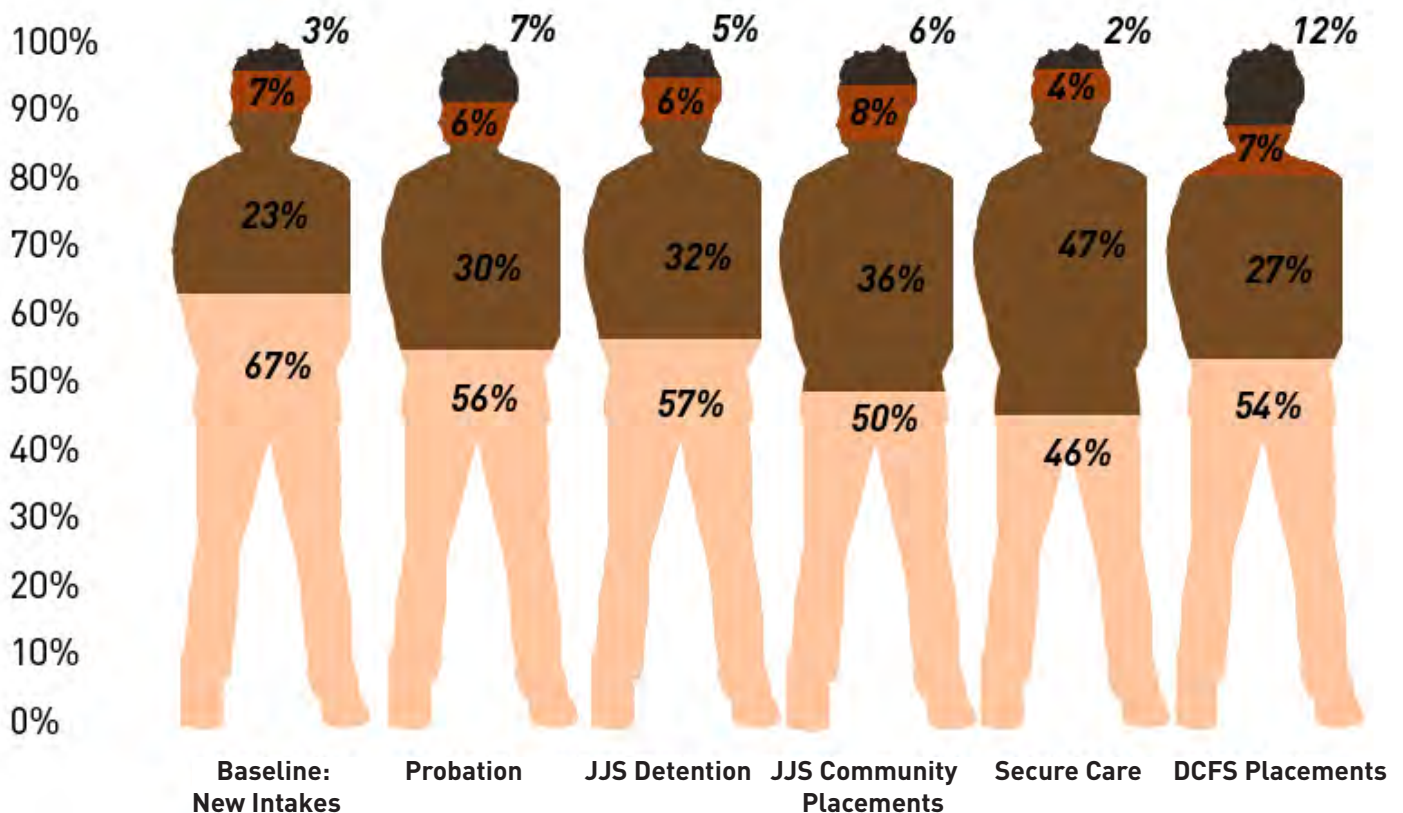
In the juvenile justice system, judges have broad discretion in sentencing a young person for their alleged misconduct. A judge’s disposition decision is influenced by the information passed to them by JJS probation officers, probation employees, caseworkers, advocates and therapists involved in the “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

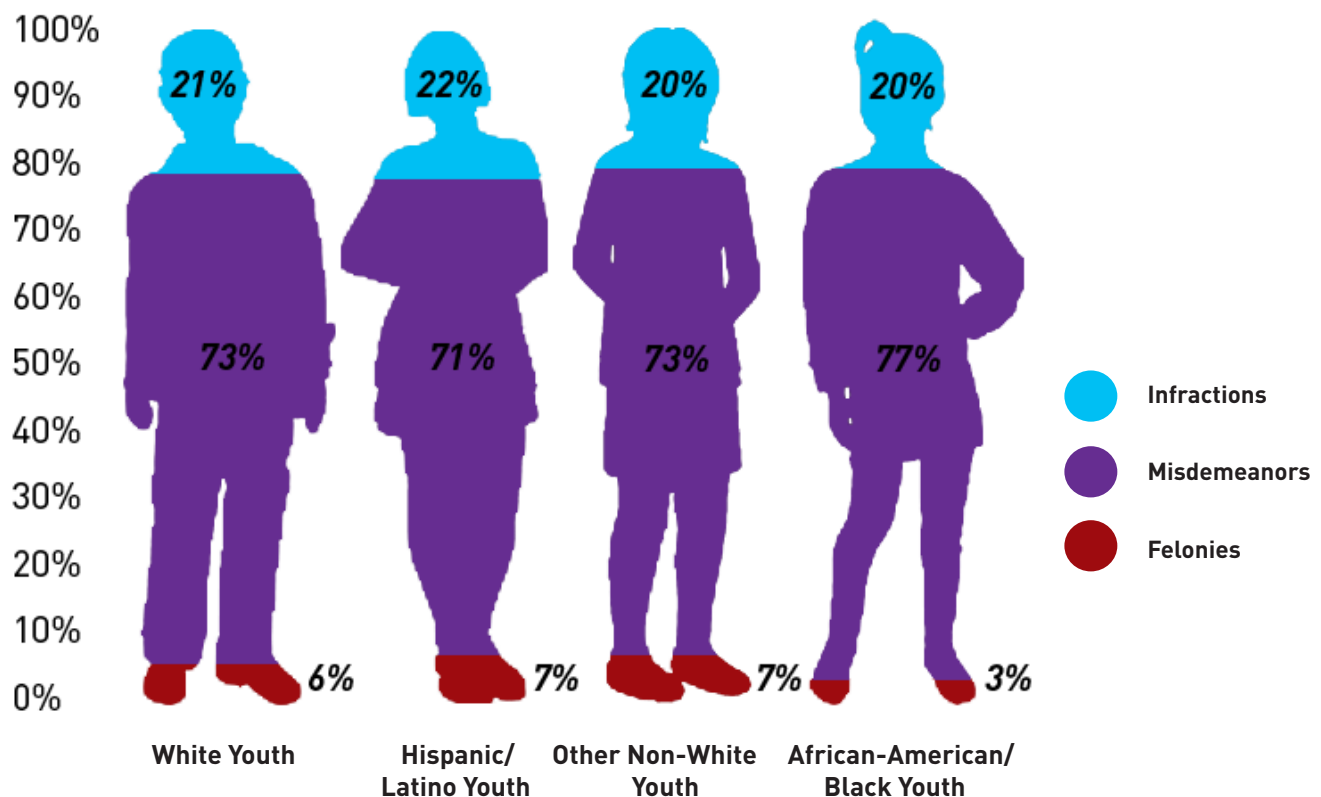
their misconduct is more likely to be at the status offense or infraction level?

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).

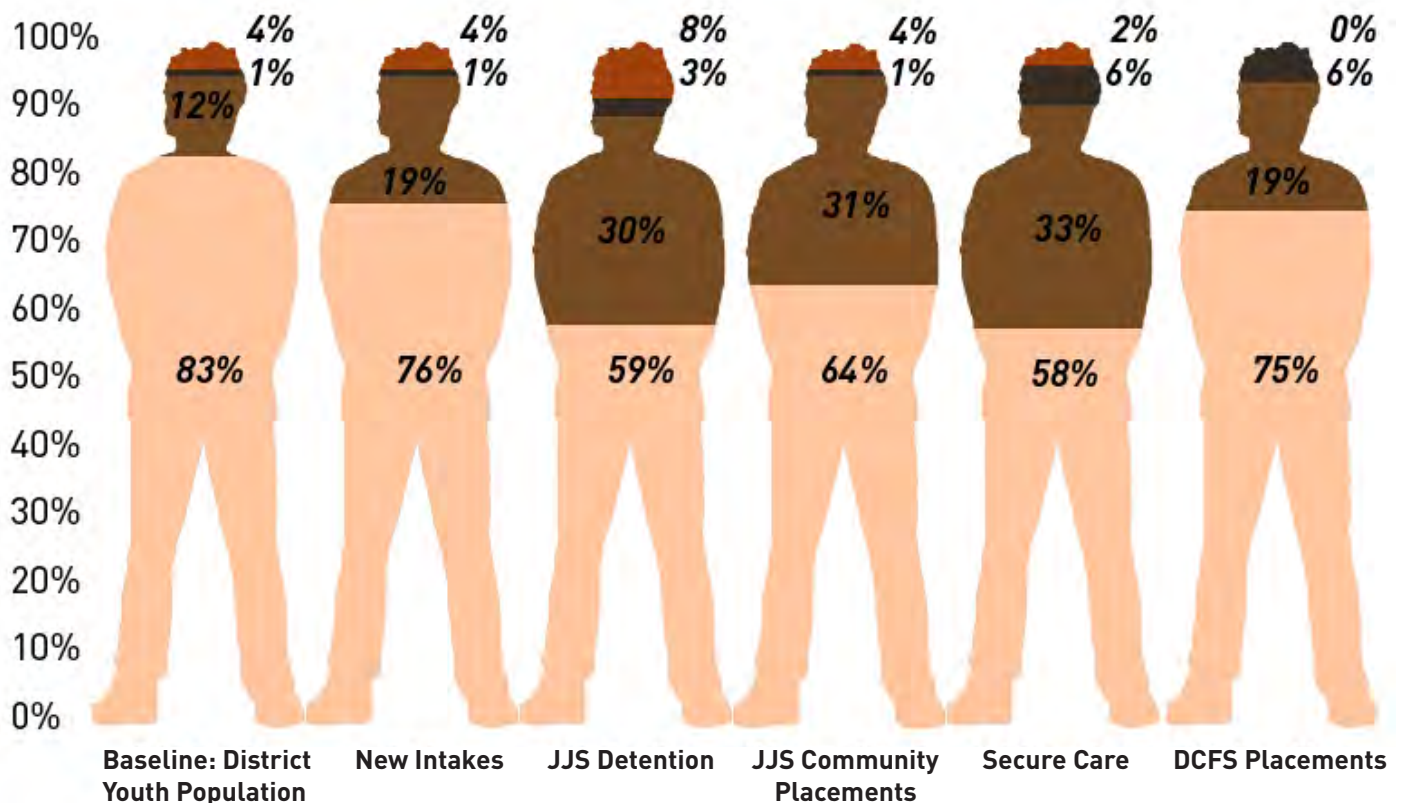
In response, the JJWG broke down the data on racial disparities by judicial district (Figures 7.1 – 7.8). This disaggregation shows clearly that racial disparities do indeed exist in every area of the state. The exact nature and scale of racial disparities may look different in different areas of the 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.

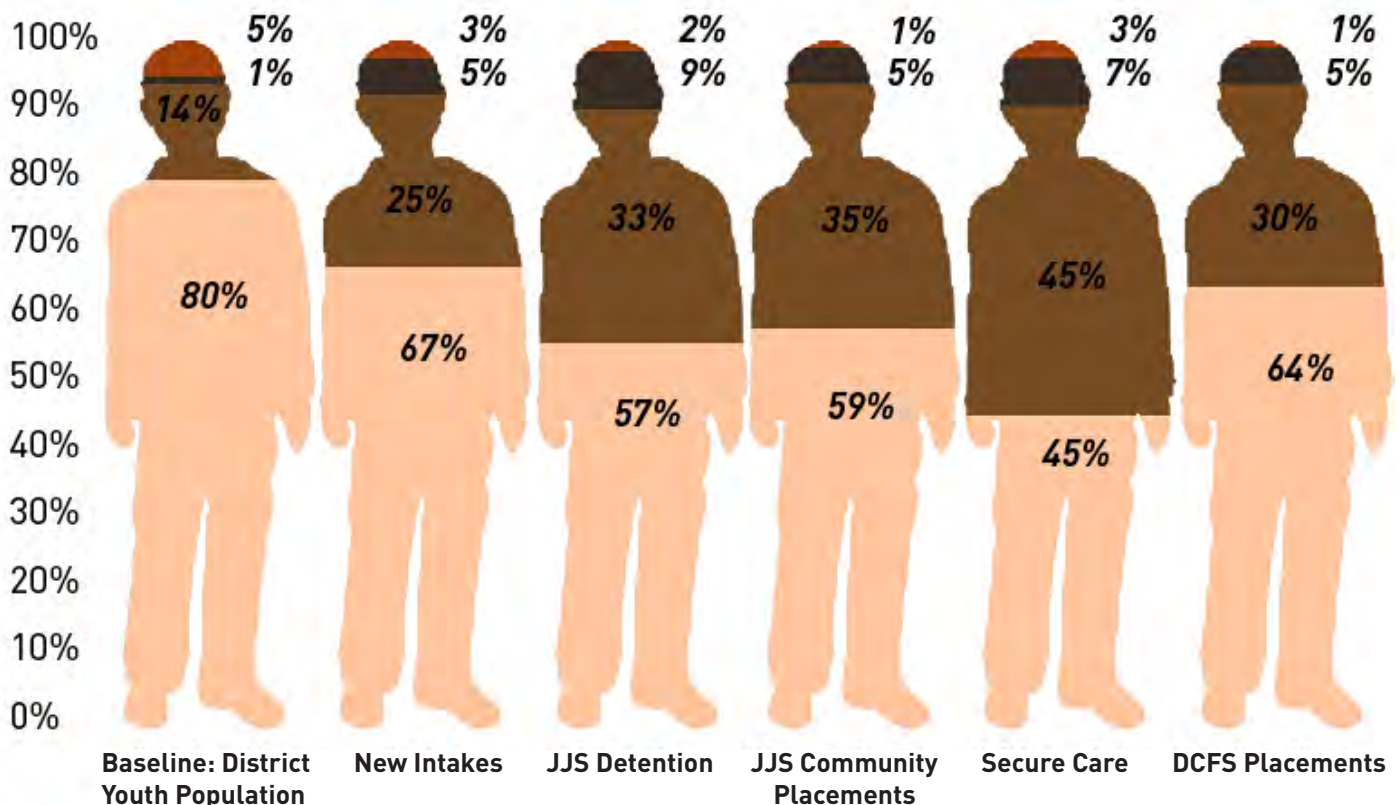
Latino/Hispanic youth comprise 19% of new intakes to the system in the First District at this initial stage. Compared to new intakes into the system (19%), Latino/Hispanic youth in the First District are significantly overrepresented in both JJS community placements (31%) and JJS secure care dispositions (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

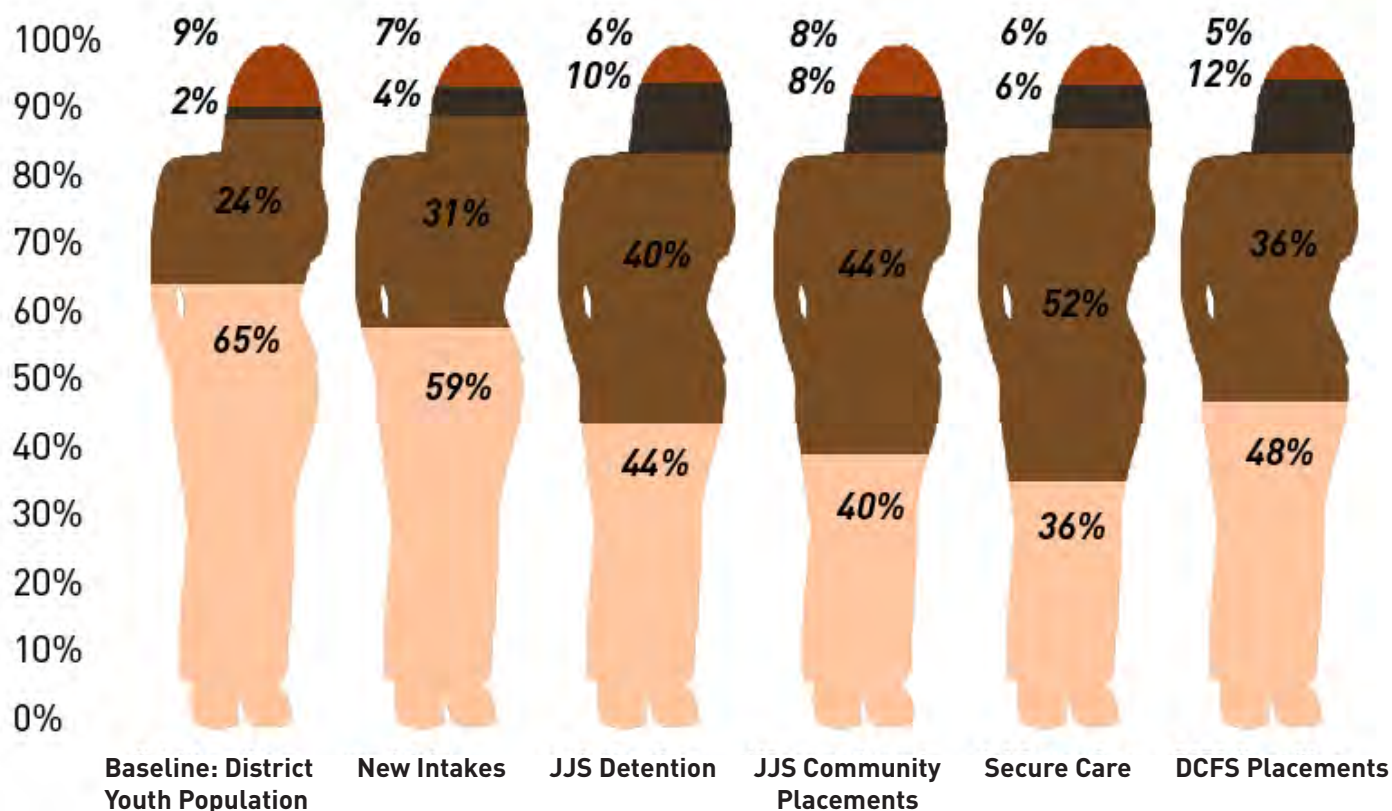
dispositions, the ratio diminishes significantly, with one Black/African-American young person for every six white youth (6:1). Among DCFS dispositions, the disparity is even more shocking, with one Black/African-American young person committed to DCFS placement for every four white young people (4:1).

-> 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.

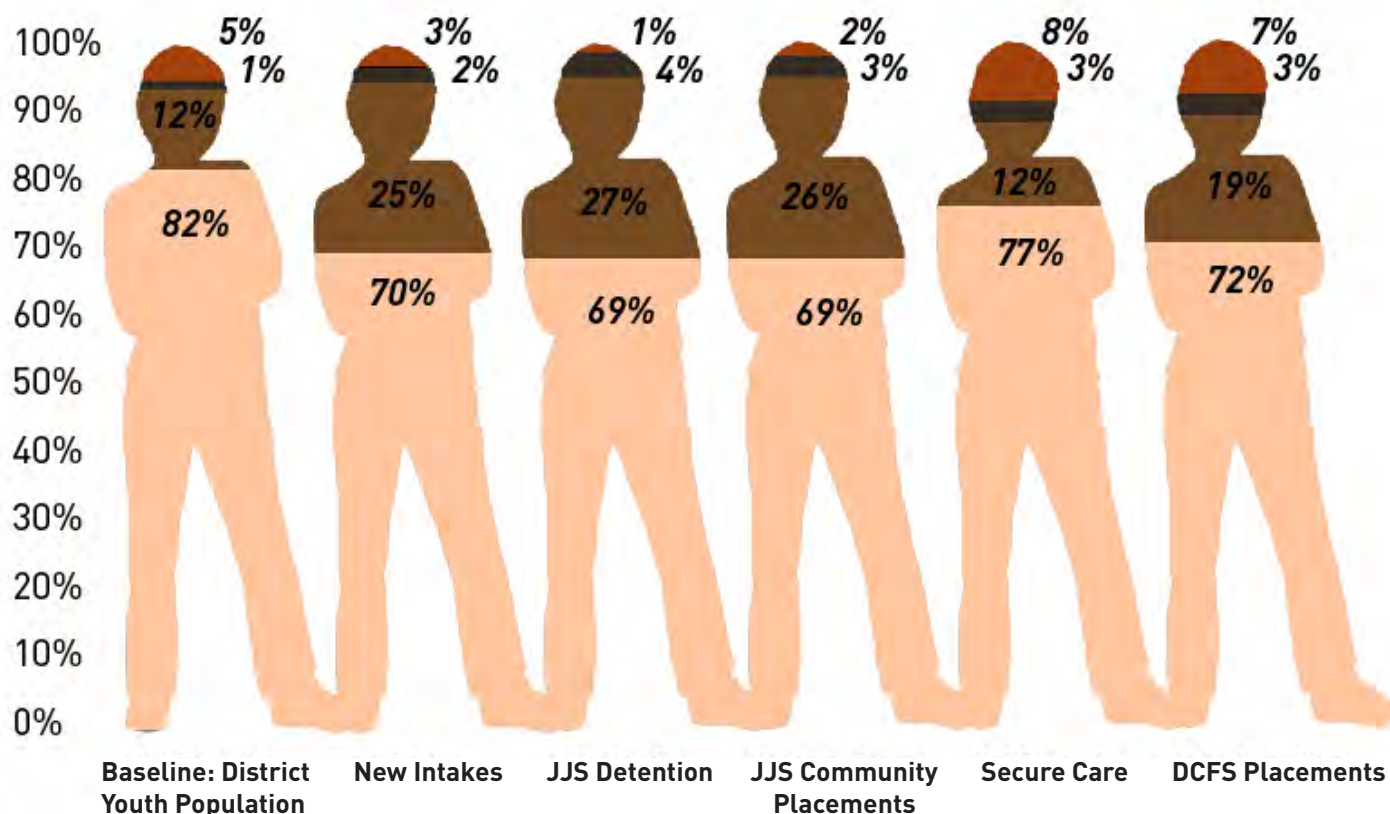
Racial disparities in the Fourth District are pronounced at initial contact – with both Latino/Hispanic and Black/African-American youth overrepresented by about 100%. Latino/Hispanic youth make up 25% of new intakes to the system (twice their representation among the overall youth population in the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

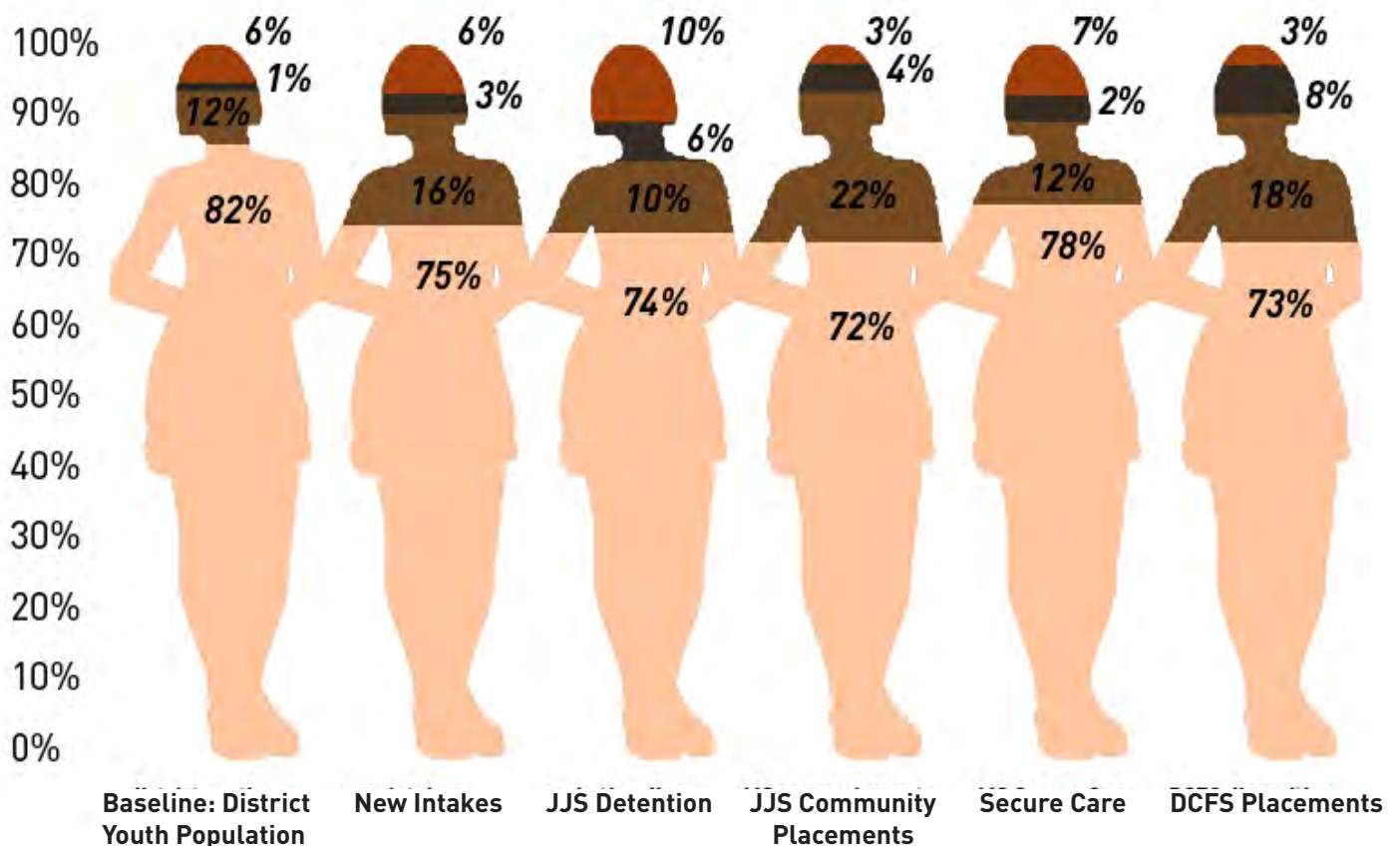
The Fifth Judicial District is a moderately-populated district in Southwest Utah, comprised of Beaver, Iron and Washington Counties. Its total youth population, at 38,663, is comparable to (though somewhat higher than) that of the First Judicial District.

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

Figure 7.5 Juvenile Dispositions in Fifth Judicial District
(Washington, Iron and Beaver Counties)



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.

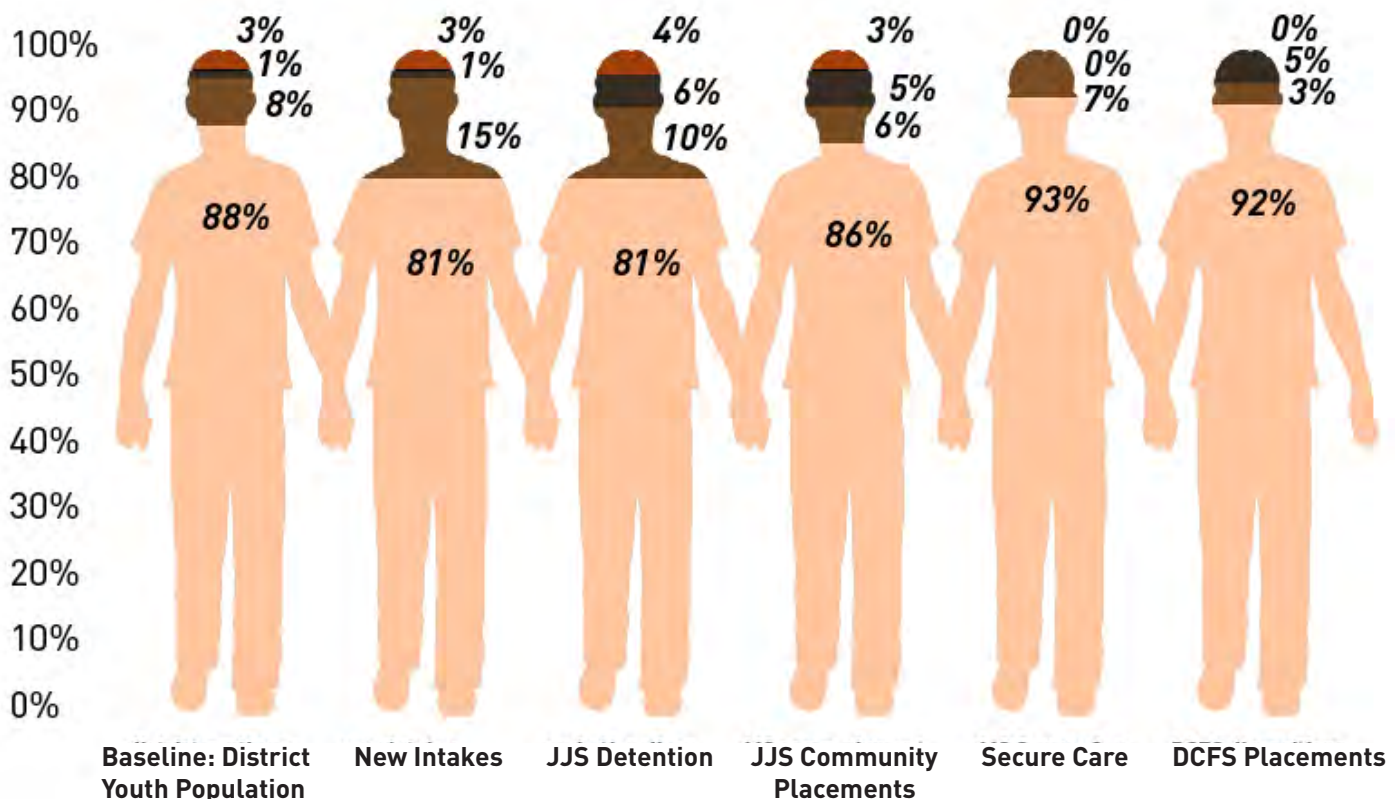
-> SIXTH JUDICIAL DISTRICT

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)

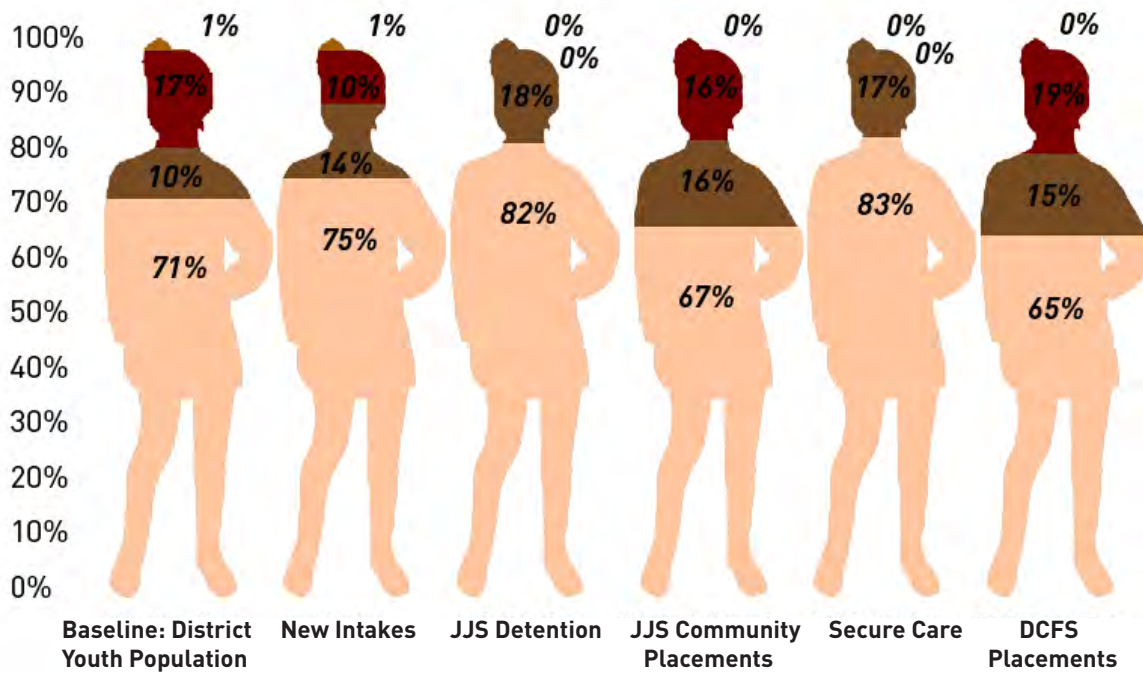
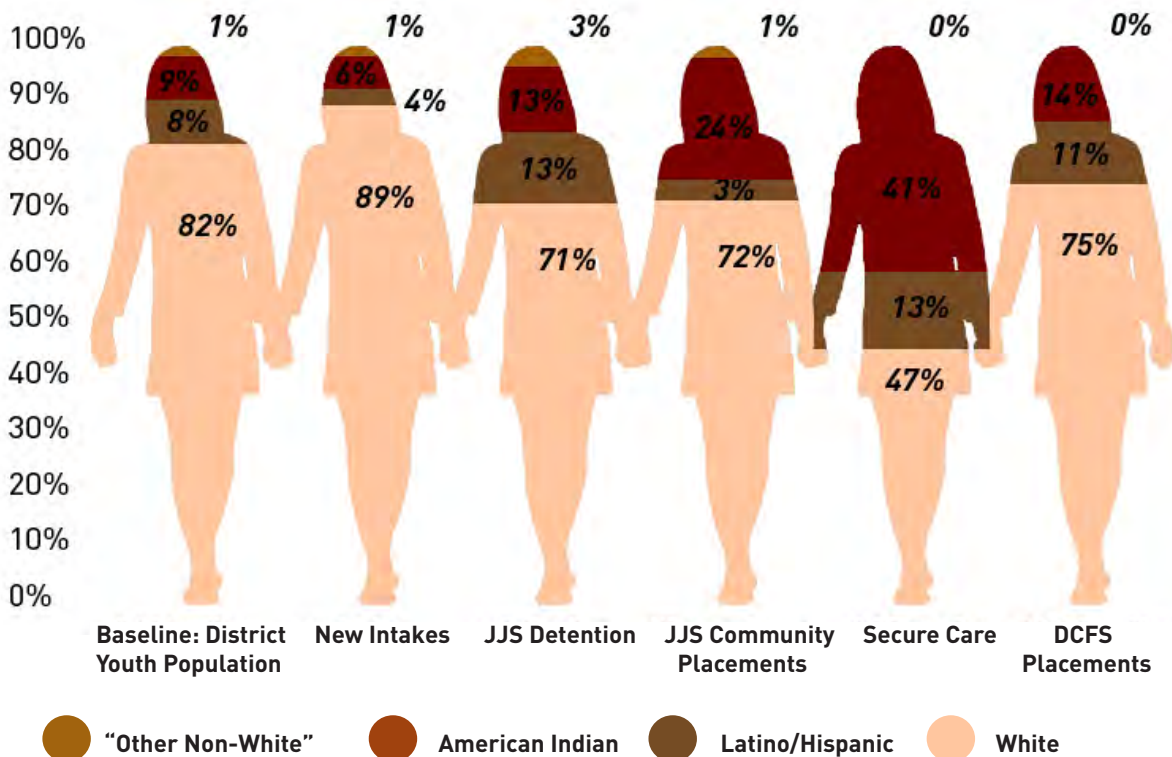


Figure 7.8 Juvenile Dispositions in Eighth Judicial District
Daggett, Duchesne and Uintah Counties)



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).

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)*

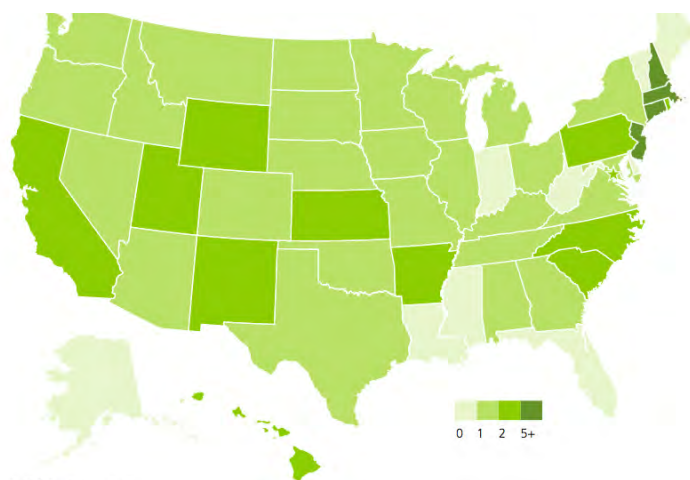


Figure 8.1 Black/White Racial Disparity in Commitment Rates per 100,000 Youth (2013)*

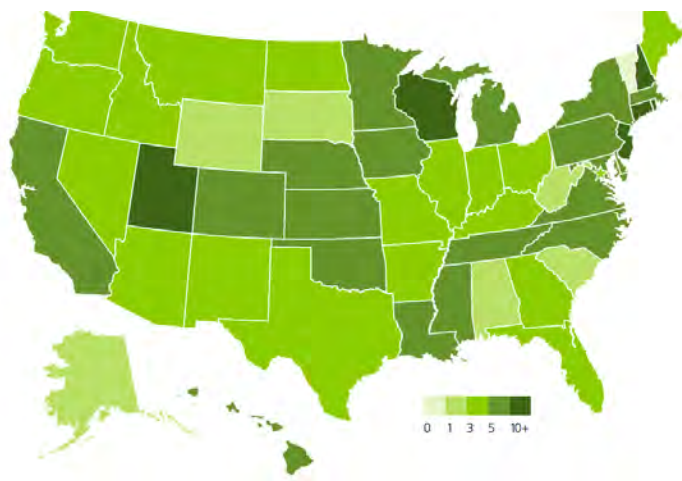
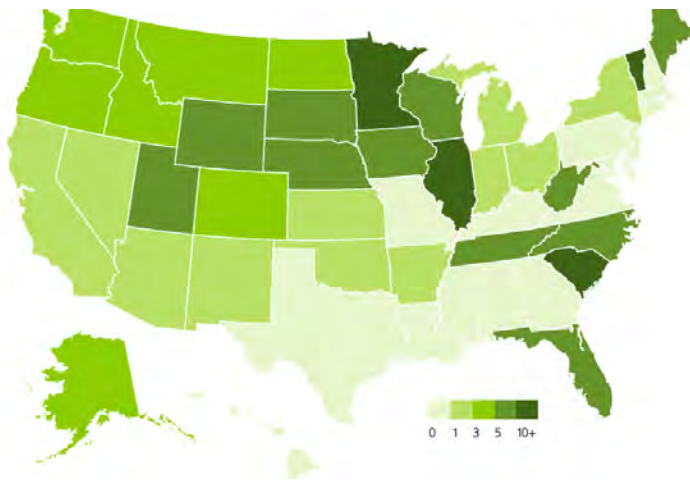


Figure 8.3 American Indian/White Racial Disparity in Commitment Rates per 100,000 Youth (2013)*



* 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 cataloguing 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)

FOR QUESTIONS, ADDITIONAL INFORMATION & COMMENT, CONTACT:

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



Informational Brochure: “New Laws in Utah for Juvenile Justice”

At the start of the 2017-2018 school year, our information coalition of community stakeholder organizations released an informational brochure that outlines several of the positive statutory changes that were enacted during the 2017 Utah Legislative Session. This brochure presents an opportunity for parents, guardians, friends and counselors to be informed and knowledgeable about the new ways in which new laws require youth to be treated in Utah’s juvenile justice system.

After a year of data collection, analysis and collaboration, the official State Juvenile Justice Working Group produced legislative recommendations to improve Utah’s juvenile justice system (as referenced on pages 40 to 45 of this report). The Working Group’s recommendations were captured, with relative integrity, in HB239, “Juvenile Justice Amendments,” a fairly sweeping legislative proposal sponsored by Representative Lowry Snow (R-Saint George) and Senator Todd Weiler (R-Woods Cross). HB239 included legislative direction for:

- New caps on fines and community service hours for youth sentenced for various offenses;
- New limits on the amount of time youth can be kept in juvenile detention or secure confinement; and
- More alternatives to court appearances and out-of-home placements.

Our goal in producing and sharing this brochure was to inform Utah’s youth – and those who care for and about them – about these changes, so that the benefits of the improvements could be realized in all communities across the state.

We believe that arming young people and their allies with information about the new laws will help to empower them to advocate for their proper treatment within the system. We also believe that empowered and informed community members will play a critical role in helping the state implement these laws with fidelity and equality, by driving a feedback loop between folks on the ground and policymakers at the Capitol.

The brochure is now available to the general public for use and distribution. Thanks to support from the Salt Lake City School District, translated versions of the brochure are available in: Spanish, Somali, Samoan and Tongan.

All versions of the brochure can be downloaded at the websites of Voices for Utah Children (www.utahchildren.org), the YWCA Utah (www.ywcautah.org), Utahns Against Hunger (www.uah.org) and the ACLU of Utah (www.acluutah.org).

Free print copies may be obtained by contacting Voices for Utah Children or the ACLU of Utah.

New laws were adopted in Utah this year (2017) about how children under the age of 19 must be treated in the juvenile justice system.

These new laws will help reduce overly harsh sentences and make sure that options besides detention are available to young people. If you suspect that the state is not following these new laws in your child's case, please contact us!

This brochure is a joint project of several local organizations:



misdemeanor (unless it involves a weapon or your child has been convicted several times before), an infraction, or a status offense.

- If ordered to serve time in a juvenile detention center, your child cannot serve more than 30 total days for one sentence.

Any time spent in detention before sentencing should be subtracted from that total 30-day maximum.

- Your child can only be ordered to complete a treatment program or education series if the results of a needs assessment say they need to.

For example, your child cannot be sent to a substance abuse treatment program simply for being caught with marijuana; your child can only be sent to that treatment program if an assessment shows that your child has a problem with abuse of marijuana.

- There are new limits for the number of service hours that your child can be ordered to complete as part of a sentence.

The new limits are: up to 24 hours for kids younger than 16, and up to 36 hours for kids 16 and older.

- There are new limits for the fines your child can be ordered to pay as part of a sentence.

The new limits are: up to \$180 for kids younger than 16, and up to \$270 for kids 16 and older.

- Your child cannot be placed in a residential "service work" program to complete community service hours or restitution.

- The court cannot send your child's unpaid fines, fees and restitution to State Debt Collection.

These charges will not be transferred to a parent or guardian. The state will NOT try to collect the charges after the child turns 18.

- "Observation and Assessment" programs – known as "O&A" – must be non-residential.

Your child cannot be sent to an out-of-home placement for observation and assessment.

- If your child is sent to secure confinement, the Youth Parole Authority (YPA) must review the case within 45 days.

The YPA must release your child from secure confinement after 3 to 6 months, unless special circumstances apply. After release, your child cannot be placed on parole for longer than 3 to 4 months, except under special circumstances.

- After release from secure confinement, your child can request aftercare services, such as therapy and job training.

Juvenile Justice Services (JJS) must provide services for youth on parole, free of charge.

NEW LAWS IN UTAH ABOUT JUVENILE JUSTICE



Is **YOUR** child being treated lawfully?

If you have questions or need additional information, contact the Utah Board of Juvenile Justice at (801) 538-1031.

BEFORE YOUR CHILD GOES TO COURT

- In most cases, your child must be given a chance to resolve the matter informally, without charges being filed.

This alternative to filing charges is called a “non-judicial adjustment.” If your child is charged with a misdemeanor, infraction or status offense, your child should be offered this “non-judicial adjustment.”

- Your child does NOT need to admit to being guilty in order to get a “non-judicial adjustment.”

- Any fine or fee or restitution that is ordered by the probation officer as part of a “non-judicial adjustment” must be based on a sliding scale.

IF YOUR CHILD GETS IN TROUBLE AT SCHOOL

- The school cannot send your child to the police or to court for:

Truancy (missing school), Class C misdemeanors (such as disorderly conduct or possession of tobacco), infractions, status offenses, or “habitual disruptiveness.”

- If your child engages in school-based misconduct that is a Class C misdemeanor, status offense or infraction, the school may use a non-court option, such as Peer Court, Youth Services or a Mobile Crisis Outreach Team.

IF YOUR CHILD HAS BEEN CHARGED BUT NOT YET SENTENCED

- The judge cannot order your child to be locked up (put in a juvenile detention center) while awaiting court decision, except in the case of certain extreme circumstances.

- Your child should be given a “risk assessment” and, in some cases, a “needs assessment,” by a court worker before being sentenced.

These assessments will help the judge understand if your child has any special problems that need treatment, and whether your child is a risk to public safety.

WHEN YOUR CHILD IS SENTENCED

(GIVEN A DISPOSITION BY THE COURT)

- After being sentenced, your child cannot be locked up for more than 72 hours while a decision is made about which program or placement is appropriate for your child.

In some special circumstances, the judge can order your child held for an additional week.

- Your child cannot be placed on probation for more than four to six months, unless there are special circumstances.

[For example, if your child needs to

HELPFUL DEFINITIONS

SO, WHAT EXACTLY IS...

1) A NON-JUDICIAL ADJUSTMENT?

An alternative to court that does not involve filing official charges with the court. A non-judicial adjustment does not appear on the child’s juvenile criminal record. As part of this process, your child may be ordered to do community service, go to counseling or pay a fine, but your child will not be made to appear in court for the alleged misconduct.

2) A STATUS OFFENSE?

An offense that would not be a problem if the offender were an adult instead of a child, such as possessing tobacco, running away from home, or violating curfew.

3) RESTITUTION?

This is money that the court may order your child to pay to someone who was hurt, or whose property was damaged, by what your child did.

4) A JUVENILE DETENTION CENTER?

This is a locked facility, like a jail for juveniles where youth may be held for short stays (a few days or a week) while awaiting court hearings, after being picked up by the police, or if they break the rules of probation.

5) A COMMUNITY PLACEMENT?

This is a place where a youth may be ordered to go, such as a group home or a special program for drug treatment. The youth are not locked in and may be able to leave for school and other activities, but there are rules and expectations for them while they are there.

6) SECURE CONFINEMENT?

This is a locked facility, like a prison for juveniles, where youth are held for longer stays (such as three or six months).

complete a treatment program or has been unable to complete assigned service hours).

- Your child cannot be sent to a juvenile detention center for more than 72 hours on a contempt charge from the court.

“Contempt” is the official charge for when youth don’t do all the things the judge orders them to do.

- Your child cannot be put in community placement or secure confinement for any of the following reasons:

Contempt, probation violation, failure to pay a fine or restitution, unfinished community service hours, a

(Continued on other side)

