

# Nebraska State DMC Assessment



## UNO Juvenile Justice Institute

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## Executive Summary

The Juvenile Justice Delinquency Prevention Act charges states to institute multipronged strategies not only to prevent delinquency but to improve the juvenile justice system and assure equal treatment of all youth. To successfully address Disproportionate Minority Contact (DMC), the Office of Juvenile Justice and Delinquency Prevention recommends a five-phase process, whereby jurisdictions: 1) **identify** whether disproportionality exists and the extent to which it exists; 2) **assess** the contributing factors, examine minority overrepresentation and explain differences at all contact stages of the juvenile justice system; 3) provide an **intervention** plan; 4) **evaluate** the efficacy of efforts to reduce DMC; and 5) **monitor** and track DMC trends over time to identify emerging critical issues and to determine whether there has been progress.

The goal of this assessment is to identify the factors that contribute to DMC so that Nebraska's juvenile justice system stakeholders can design appropriate intervention strategies. Like many assessments of this type, we were limited by the availability and quality of data. However, the report and recommendations that follow identify ways in which Nebraska can: 1) improve its capacity to develop data-driven approaches to addressing DMC; 2) examine subjective discretion points for the purpose of removing the potential for implicit bias to impact decision making; and 3) implement best practices to improve the juvenile justice system.

### Law Enforcement Contact

Compared to their composition among juveniles in Nebraska, Black, Hispanic and Native American youth were overrepresented in the population of youth with law enforcement contact. These groups were also significantly more likely to be taken into temporary custody/arrested (as opposed to cited/summoned). Data indicated significant differences in dispositions for youth with law enforcement contact. Specifically, Black and Native American youth were significantly more likely to be charged (the most severe disposition).

### Diversions

The Statewide Juvenile Diversion Case Management System has a very high percentage of missing data, inhibiting a thorough examination of this point in the system. We were unable to determine whether minority youth were *offered* diversion at a different rate than White youth because data is not collected (statewide) on the number of youth that were eligible for diversion.

Available data did indicate that more than 90% of youth referred to diversion participated at least *minimally* in diversion, by setting up the first appointment.

The most common offenses referred to diversion included alcohol-related violations, shoplifting and minor theft. Only half of youth referred to diversion were successful, which indicates that many were pushed back into the court system. White youth were significantly overrepresented in successful outcomes, while Native American youth were significantly underrepresented.

### **Detention: All Detention and Secure Juvenile Detention**

Detention includes a wide range of restrictions to personal liberty. We started with a broad approach and examined all restrictions to liberty, including house arrest, detention facilities, electronic monitor, etc., and then looked more closely at youth in secure juvenile detention facilities.

White youth accounted for the majority of youth in secure juvenile detention facilities, but minority youth were statistically overrepresented. Nearly one quarter of all youth detained in FY2011 were Black. The length of time a youth spends in detention is related to the type of offense for which a youth was detained. But being both male and a minority were significant predictors of the length of time a youth spends in all forms of detention. An ANOVA revealed that Black youth spent an average of five days longer in secure juvenile detention facilities than other minority youth, and nine days longer than white youth. However, when a variety of control variables were introduced in a subsequent regression analysis, race no longer significantly predicted length of stay in secure facilities. Young offenders appear to be the most difficult to move out of secure detention, due to a lack of suitable placements.

We examined recidivism (measured as an additional booking to detention in FY2011). Age, gender and race were all correlated with additional bookings in to detention. Male, minority youth were more frequently booked back to detention. Age was also correlated with recidivism; older youth have more instances of recidivism.<sup>1</sup>

### **Juvenile Court**

The Juvenile Court system has a very high percentage of missing race/ethnicity data, inhibiting a thorough examination of DMC at this system point. Available data did indicate that Black youth were significantly more likely than the juvenile court population at large to face multiple charges, but that Black youth were subsequently

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<sup>1</sup> An additional booking does not necessarily indicate that a new crime was committed. Frequently, new bookings are the result of technical violations)

more likely to have charges amended (what is sometimes referred to as a correction effect). Hispanic youth were significantly less likely to have their charges amended and none of the variables available were able to account for why Hispanic youth would be less likely to have their charges amended. Data indicated that there were not significant disparities in access to legal counsel or case processing times for youth in the juvenile court system.

### **Adult Court**

When compared to the racial and ethnic distribution of youth in Nebraska, Black and Hispanic youth were significantly overrepresented in adult court. Data indicated that Black youth were significantly more likely to face multiple charges, though Black youth were subsequently more likely to have charges amended.

Data indicated that Black youth were significantly overrepresented in the population of youth transferred to juvenile court, while Hispanic youth were significantly underrepresented. While the overrepresentation of Black youth being transferred was in part explained by geography and likelihood of having legal representation, none of the available variables were able to provide an explanation for why Hispanic youth were significantly less likely to be transferred to juvenile court.

Black and Native American youth were significantly overrepresented in the population of youth receiving jail time. Of youth who served time in a jail or a correctional facility, the differences in length of stay were not significantly different.

Data indicated that there were not significant disparities in access to legal counsel or case processing times for youth in the adult court system, with one exception: Black youth were significantly more likely to have legal representation (data indicated that this was because they were charged with more serious offenses).

### **Probation Supervision**

When compared to the racial and ethnic distribution of youth on probation, Black and Native American youth were significantly less likely to successfully complete juvenile probation. There are a variety of ways that a case can close. Revocation of probation generally occurs only after repeated violations of the court's mandates. The only group that was significantly overrepresented in revocations was Native American youth.

### **Post-Adjudication and Commitment to the State of Nebraska**

In Nebraska, a youth may come within the jurisdiction of OJS through a juvenile dependency petition, a delinquency petition, or both. A number of factors may

influence whether a youth is dual adjudicated. These contributing factors may also influence the level and length of placement.

When compared to the racial and ethnic distribution of the general youth population in Nebraska, Black, Indian and Hispanic youth were significantly overrepresented in the number of youth committed to OJS. Detention was the most frequent placement for youth who were OJS wards, but this was not true for all racial groups. Asian youth were most likely to remain with a parent or family member, representing almost one third of youth who were not removed from their home. Black youth (OJS wards) were the most likely to be placed in a juvenile detention facility. Of the 700 detention placements, almost half involved a Black youth; while almost one third were Native American. White youth were significantly underrepresented.

### DMC Patterns

Over-representation is not always an indication that youth are being pushed deeper into the system. Diversion, for example, is a point where over-representation offers the opportunity out of the formal system. The table below demonstrates critical processing points where youth were drawn deeper into the system rather than being handled informally or being diverted out entirely. Our findings demonstrate a striking pattern for minority youth – that is, one of being drawn deeper into the juvenile and criminal justice system. White youth do not appear to experience the same undercurrents that influence case processing for minority youth.

**Table 1: DMC Patterns**

Description of System Point	White	Black	Hispanic	Indian	Asian
Contact with Law Enforcement	Under	Over	---	Over	Under
Youth taken into Temporarily Custody	Under	Over	Over	Over	---
Youth Issued Citation	Over	Under	---	---	---
Youth Referred to Diversion	---	Under		Under	Under
Youth Enrolled in Diversion	---	---	Under	---	---
Youth Successful in Diversion	Over	Under	---	---	---
Youth Charged in Adult Court	Under	Over	Over	---	Under
Multiple Charges	---	Over	---	---	---
Transferred to Juvenile Court	---	Over	Under	---	---
Youth Success on Juvenile Probation	---	Under	---	Under	---
Revocation of Probation	---	---	---	Over	---
Youth in OJS Custody	Under	Over	Over	Over	---
OJS Custody: Placed in Detention	Under	Over	---	Over	---
Youth Booked into Detention	Under	Over	---	Over	Over
Youth Booked into Detention More than Once	Under	Over	---	---	---

## General System Findings

- Although statutorily required, there were a few law enforcement agencies that failed to submit data to the Nebraska Crime Commission.
- There is a high percentage of missing data regarding diversion. Although statutorily required to submit data, diversion providers are generally run under the full jurisdiction, discretion and authority of the local county attorney. Due to prosecutorial discretion, the state is limited in how much it can direct a County Attorney in this regard.
- The success rate for diversion (statewide) was only 53% of all youth referred.
- Age was a significant predictor of length of stay in secure detention. Qualitative interviews revealed that this related directly to the lack of placement options for juveniles and especially high need, young offenders.
- Data indicated that the mean number of days from filing to disposition was much greater for juvenile court youth (90.97) than for youth in adult court (35.30).
- Twenty point two percent of youth in adult court were transferred to juvenile court (n=477).
- Following transfers to juvenile court, it is estimated that 55.3% of youth in Nebraska are prosecuted in the juvenile court system and 44.7% are prosecuted in the adult court system.
- Of the cases that remained in adult court, the youth pleaded guilty in 95.4% of the cases.
- Data indicated that only 26% of youth in adult court were represented by counsel compared to 50.1% in juvenile court.
- Relatively few youth had their probation status revoked. Many had an “unsatisfactory closure.” The number of placements for a youth in the custody of OJS ranged from 0 to 33, with an average of 3.6 placements per youth for the 12 months examined.

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# Chapter 1: Disproportionate Minority Contact in Nebraska's Juvenile Justice System

## Introduction

In 1988, in response to overwhelming evidence that minority youth were disproportionately confined in the nation's secure facilities, Congress amended the Juvenile Justice and Delinquency Prevention (JJDP) Act of 1974 (Public Law 93-415, 42 U.S.C. 5601 *et seq.*) to address the problem. The amendment mandated that the Office of Juvenile Justice and Delinquency Prevention (OJJDP) require all states participating in the Formula Grants Program (Title II, Part B, of the Act) to address disproportionate minority confinement (DMC) in their state plans. Specifically, the amendment required the state, if the proportion of a given group of minority youth detained or confined in its secure detention facilities, secure correctional facilities, jails, and lockups exceeded the proportion that group represented in the general population, to develop and implement plans to reduce the disproportionate representation (Section 223(a)(23)). In its 1992 amendments to the JJDP Act, Congress elevated DMC to a core requirement, tying 25 percent of each state's Formula Grant allocation for that year to compliance. Ten years later, Congress modified the DMC requirement of the JJDP Act of 2002 to require all states that participate in the Formula Grants Program to address "juvenile delinquency prevention efforts and system improvement efforts designed to reduce, without establishing or requiring numerical standards or quotas, the disproportionate number of juvenile members of minority groups who come into contact with the juvenile justice system." This change broadens the DMC core requirement from examining disproportionate minority "confinement" to disproportionate minority "contact," and it further requires the states to institute multipronged intervention strategies including not only juvenile delinquency prevention efforts but also system improvements to assure equal treatment of all youth. Despite the expansion of the DMC core requirement over the years, the purpose of the DMC core requirement remains the same: **to ensure equal and fair treatment for every youth in the juvenile justice system, regardless of race and ethnicity** (OJJDP, 2009).

To successfully address DMC, OJJDP recommends a five phase process, whereby jurisdictions: 1) **identify** whether disproportionality exists and the extent to which it exists; 2) **assess** the contributing factors, examine minority overrepresentation and explain differences at all contact stages of the juvenile justice system; 3) provide an **intervention** plan; 4) **evaluate** the efficacy of efforts to reduce DMC; and 5) **monitor** and track DMC trends over time to identify emerging critical issues and to determine whether there has been progress (see Figure 1).

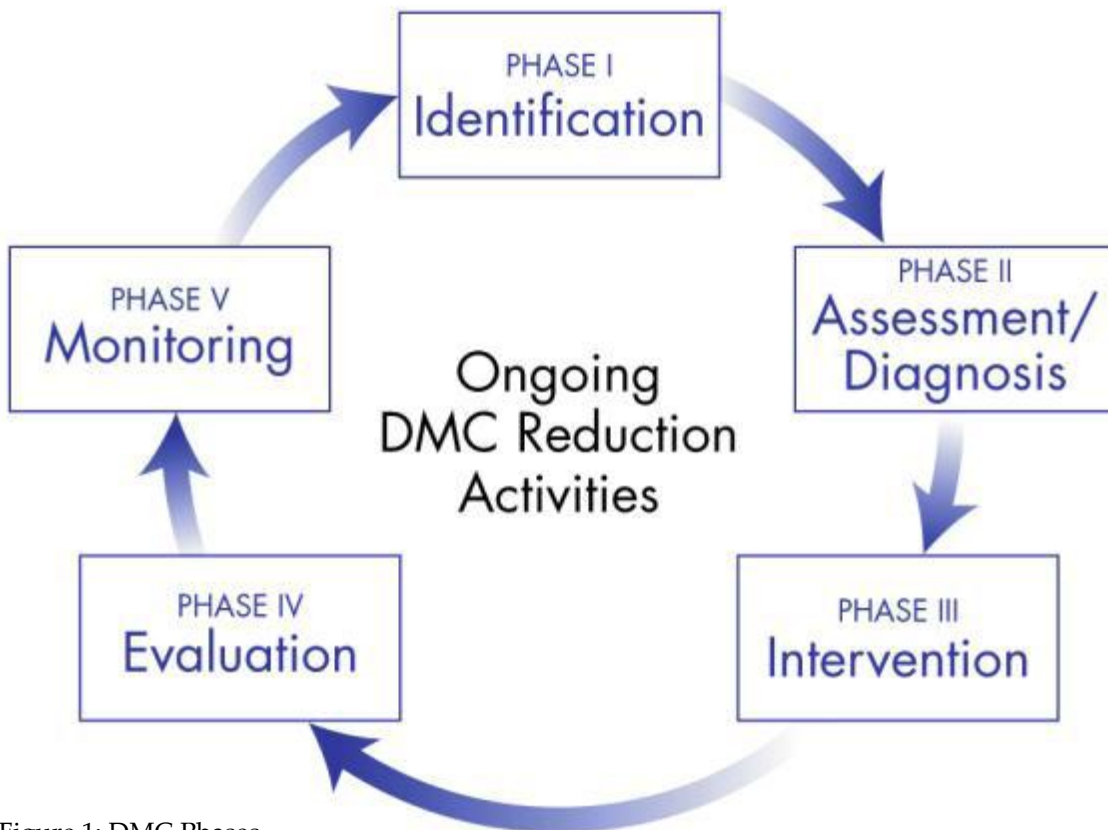


Figure 1: DMC Phases

OJJDP promotes the use of a Relative Rate Index (RRI) during the *identification* phase. The RRI compares the relative volume (rate) of activity for each major state [decision point] of the juvenile justice system for minority youth with the volume of that activity for White (majority) youth [and] provides a single index number that indicates the extent to which the volume of that form of contact or activity differs for minority youth and White youth.

Under ideal circumstances, a jurisdiction would use RRI data to “flag” points within the juvenile justice system which merit further assessment in Phase 2 of the DMC Reduction Process. While Nebraska has collected RRI data on a statewide basis and for a number of counties (see Appendix A), Nebraska’s juvenile justice system stakeholders lack confidence in RRI data for two primary reasons: 1) the lack of common definitions being employed across counties submitting data; and 2) the fact that some data sources fail to disaggregate data on Hispanic youth (thereby inflating the representation of White youth at some system points and skewing the calculation of RRIs at subsequent decision points). Thus, the authors of this assessment have chosen not to limit the Phase 2 Assessment to Nebraska’s RRI data, but rather provide a comprehensive assessment designed to explore contributing factors/mechanisms at a variety of decision points.

This report represents the Assessment Phase of the DMC Reduction Process (Phase 2). It is the hope of the authors that the information contained therein will inform future DMC interventions (Phase 3), evaluations (Phase 4), and monitoring activities (Phase 5).

## **Nebraska's Assessment**

The goal of this assessment is to identify the factors that contribute to DMC, so that Nebraska's juvenile justice system stakeholders can design appropriate intervention strategies. As states have undertaken efforts to reduce disproportionate minority confinement for youth, they have found evidence that disproportionality occurs at every contact point within the juvenile justice system. Moreover, what happens to youthful offenders during their initial contacts with the juvenile justice system influences their outcomes at the later stages, leading to a commonly observed amplification phenomenon (i.e., the extent of minority overrepresentation amplifies as minority youth penetrate deeper into the juvenile justice system). Therefore, to both understand the factors/mechanisms that contribute to DMC and design appropriate intervention strategies to address these specific contributing mechanisms, one must first examine all contact points throughout the juvenile justice system from arrest through disposition and then target interventions at the relevant and selected priority contact points (OJJDP, 2009).

Like many assessments of this type, we were limited by the availability and quality of data. Ultimately, given the available data we were able to examine the following system points and research questions:

### **Law Enforcement Contact**

- Are minority youth as likely to have negative law enforcement contact as White youth?
- Are minority youth as likely to be cited/summoned as White youth?
- Are minority youth as likely to be temporarily detained/arrested as White youth?
- Are minority youth as likely to be charged with an offense as White youth?
- Are minority youth as likely to be referred to other authorities as White youth?
- Are minority youth as likely to have their situation handled within the department as White youth?
- Are minority youth as likely to be released with no further action as White youth?

### **Diversion**

- Are minority youth as likely to be *offered* diversion as White youth with comparable offenses and prior history?
- Are minority youth as likely to *participate* in diversion as White youth?
- Are minority youth as likely to *successfully complete* diversion as White youth?

### **Detention: All Detention and Secure Juvenile Detention**

- Are minority youth as likely to be booked into detention as White youth?
- Is length of stay in a form of juvenile detention equitable across racial/ethnic groups? If not, what are the factors that contribute to the pattern?
- Are recidivism rates (as measured by re-admission into a form of detention) equitable across racial/ethnic groups?
- Are minority youth as likely to be booked into secure juvenile detention facilities as White youth?
- Is length of stay at a secure juvenile detention facility equitable across racial/ethnic groups?
- Are the recidivism rates for youth in secure juvenile detention facilities (as measured by re-admission into a secure juvenile detention facility) equitable across racial/ethnic groups?

### **Juvenile Court**

- Do minority youth face as many charges as White youth?
- Are minority youth as likely to have their charges amended as White youth?
- Are minority youth as likely to be represented by legal counsel as White youth in adult court?
- Are case processing times (from filing to disposition) equitable across racial/ethnic groups?

### **Adult Court**

- Are minority youth overrepresented in the adult court system?
- Do minority youth face as many charges as White youth?
- Are minority youth as likely to have their charges amended as White youth?
- Are minority youth as likely to be transferred to juvenile court as White youth?
- Following transfers to juvenile court, are minority youth overrepresented in the adult court system?
- Are minority youth charged in adult court as likely to plead guilty as White youth?
- Are minority youth overrepresented in the population receiving jail time?
- Are minority youth as likely to be represented by legal counsel as White youth in adult court?

- Are case processing times (from filing to disposition) equitable across racial/ethnic groups?

### **Probation Supervision**

- Are minority youth as likely to *successfully complete* juvenile probation as White youth?
- Are minority youth as likely to have their probation *revoked* as White youth?

### **Post-Adjudication and Commitment to the State of Nebraska**

- Are minority youth as likely to be committed to the Office of Juvenile Services as White youth?
- Are minority youth as likely to be dual adjudicated as White youth?
- Are minority youth as likely to have as many OJS placements as White youth?
- Are minority youth as likely to have as restrictive of OJS placements as White youth?
- Are lengths of stay equitable across racial groups?

## Methods

### Secondary Data Analysis

The primary research method for this assessment was statistical analysis of data captured by several of the state’s case management systems. The table below presents each system point and the source that provided data for the assessment.

**Table 1: System Points and Data Sources**

System Point	Data Sources
Law Enforcement	Nebraska Crime Commission (NIBRS, UCR, Summary Sheets) and Omaha Police Department
Diversion	Juvenile Diversion Case Management System and Douglas, Lancaster and Sarpy County’s Diversion Case Management Systems
Detention	Nebraska Crime Commission
Juvenile Court	JUSTICE
Youth in Adult Court	JUSTICE
Probation Supervision	Probation Administration
Post-Adjudication/ State Commitment	Department of Health and Human Services

Data were imported into Predictive Analytics Software System (PASW), often referred to as SPSS (Statistical Package for the Social Sciences). Prior to conducting our analysis, we examined each of the variables for accuracy, missing values, and that the variables met the assumptions for multivariate analysis. When combining data from multiple sources, many of the variables were recoded to allow for meaningful analysis.<sup>2</sup>

Data analyses included frequency distributions, cross tabs and regression analyses. Definitions and examples of how to interpret these data are provided below:

- **Frequency Distribution:** The number of times the various attributes of a variable are observed. For example, 50% of the sample was male, and 50% of the sample was female.
- **Cross Tabs:** Presents the relationship between two variables. For example, comparing the high school graduation rates of males vs. females.
- **Regression Analysis:** Explores the relationship between a dependent variable and one or more independent variables. Regression analysis allows us to identify which factors/variables are significant in predicting outcomes.

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<sup>2</sup> For example, some agencies collect information about ethnicity (Hispanic/Latino) separately from information regarding race, while others collect information regarding race/ethnicity as one variable. Recoding the variables allows us to accurately merge these different ways of tracking race/ethnicity data into a common variable.



Throughout the report there are references to whether or not differences are statistically significant. Below are explanations of the significance tests referenced throughout the report:

- Chi-square: A Chi-square test allows you to determine if the proportional difference between groups is statistically significant. A Chi-square test takes an expected proportion and compares it to an observed proportion. When the standardized residual is over 2.0, it indicates that the disparity contributes to the significant Chi-square value; the greater the standardized residual, the greater the disparity.
- ANOVA (analysis of variance): Provides a statistical test of whether or not the means of several groups are equal.
- Significance Levels: A significance level indicates how likely a result is due to chance. The indication that an analysis is significant at  $p < .05$  indicates that the finding is true within a 95% confidence interval. The indication that an analysis is significant at  $p < .01$  indicates that the finding is true within a 99% confidence interval. The indication that an analysis is  $p < .001$  indicates that the finding is true within a 99.9% confidence interval.

The variables used for these analyses are presented in the tables below.

**Table 2: Dependent Variables**

Stage	Dependent Variables	Coding
Law Enforcement		
	Whether youth was cited/summoned	Arrested = 0, Cited/Summoned = 1
	Whether youth was arrested/temporarily detained	Cited/Summoned = 0, Arrested = 1
	Arrest disposition	Released = 1, Handled within the Department = 2, Referred to other Authorities = 3, and Charged = 4
	Whether youth was charged	Other = 0, Charged = 1
	Whether youth was handled within the department	Other = 0, Handled within Department = 1
	Whether youth was referred to other authorities	Other = 0, Referred to other Authorities = 1
	Whether youth was released	Other = 0, Released = 1
Diversion		
	Whether youth participated in diversion	0=No participation, 1=Participation
	Whether youth was successful in diversion	0=Unsuccessful, 1=Successful Completion
	Type of law violation	Assault, Alcohol, Drug, Theft, Traffic,
	Successful case outcome	0=Not Successful, 1=Successful
	Number of days in program	Number of Days

Detention	Type of offense	Dichotomous indicators of: Person, Property, Alcohol, Drug, Weapon, Traffic, and Other crimes
	Referral Agency Location – County Population	Dichotomous indicators of: Rural, Micropolitan, Metropolitan, and State
	Facility Location – County Population	Dichotomous indicators of: Rural, Micropolitan, and Metropolitan
Juvenile Court		
	Whether youth had multiple charges	1= One offense, 2= More than one offense
	Whether charges were amended	1=Not Amended, 2=Amended
	Whether youth had legal representation	0=No Attorney, 1=Attorney
	Days from filing to disposition	Number of Days
Adult Court		
	Whether youth had multiple charges	1= One offense, 2= More than one offense
	Whether charges were amended	1=Not Amended, 2=Amended
	Whether case was transferred to juvenile court	0=Not Transferred, 1=Transferred
	Whether youth pleaded guilty by admission	0=Did not Plead Guilty, 1= Plead guilty
	Whether youth pleaded guilty by waiver	0=Did not Plead Guilty, 1= Plead guilty
	Whether youth received jail time	0=No Jail time, 1=Jail time
	Length of time in jail	Number of days
	Amount of fine	Amount of fine
	Whether youth had legal representation	0=No Attorney, 1=Attorney
	Days from filing to disposition	Number of Days
Probation		
	Overall YLS Score	1=Low, 2=Moderate Low, 3=Moderate, 4=Moderate High, 5=High
	Age of first arrest	0 to 18 years of age
	Length of time on probation	Number of Days
	Discharge type	Completion, Revoked, Unsatisfactory, Other
	Probation revocation	0=Not Revoked, 1=Revoked
	Successful completion	0=Not Successful, 1=Successful
OJS		
	Whether youth was dual adjudicated	0=Not Dual, 1=Dually Adjudicated
	Number of placements	Number of Placements
	Level of placements	0 to 7 (0=remained in home, 7=jail)
	Length of placement	Number of Days

**Table 3: Independent/Control Variables**

<b>Level</b>	<b>Independent/Control Variables</b>	<b>Coding</b>
Individual Level		
	Gender	1=Female, 2= Male
	Age	Number of years
	Binary Race	1= Non-White, 2=White
	Whether the Youth Had Legal Representation	0=No Attorney, 1=Attorney
	Number of Charges	1= One Offense, 2= More than One Offense
	Whether Charges were Amended	1=Not amended, 2=Amended
	Level of Offense (Juvenile and Adult Court)	1=Games and park, 2=Misdemeanor, 3=Felony
	Level of Offense (Diversion/ Detention)	1=Traffic, 2=Status, 3=Infraction, 4= Misdemeanor, 5=Felony
	Guilty Plea by Admission	0=Did not Plead Guilty, 1= Plead Guilty
	Guilty Plea by Waiver	0=Did not Plead Guilty, 1= Plead Guilty
Community Level		
	Community Size	Rural =1, Micropolitan=2, Metropolitan =3
	Poverty Level	Percentage of County Population Below the Poverty Level
	Language Other than English	Percentage of County Population Speaking a Language Other than English

## **Interviews/Focus Groups**

Qualitative analyses were used to supplement the results of statistical analysis. The specific methods are described below.

### Focus Group Input into Research Questions

Focus group discussions took place with the Lancaster County DMC Committee, Douglas County DMC Committee, the Nebraska DMC Committee and the Nebraska Minority Justice Committee (MJC).<sup>3</sup> The purpose of these focus group discussions was to: obtain input into the research questions for this assessment, identify variables deemed important for analysis, and to identify data sources for the assessment.

### Interviews

Interviews were conducted with stakeholders representing: prosecuting attorneys, public defenders, juvenile diversion providers, detention centers and Youth Rehabilitation Treatment Centers (YRTC) ( $n=12$ ). The structured interview format included broad, over-arching questions about DMC (“How do you think minority overrepresentation relates to your work?”) as well as targeted questions related directly to research findings (“In FY2011 Hispanic youth were overrepresented in referrals to diversion, why do you think that is?”) (see Appendix B). Interviews lasted approximately 45-60 minutes and were conducted via phone as well as in person. Following Gall, Gall, and Borg (2003), we utilized two interview styles: (a) informal conversational interview and (b) standardized open-ended interview, but the same groups of questions were asked regardless of interview style.

### Focus Group Input into Interpretation of Findings

As research findings became available, focus group discussions were again held with members of the MJC and the Statewide DMC Committee to: obtain practitioner feedback into the interpretation of findings, identify additional variables to be examined (variables which should be controlled for), and develop recommendations.

## **Stakeholder Surveys**

Survey questions were adapted (with permission) from a study conducted by the Justice Research and Statistics Association. Questions were primarily open-ended in

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<sup>3</sup>The MJC is a joint effort of the Nebraska Bar Association and the Nebraska Supreme Court, established to examine and address issues of racial and ethnic fairness in court system. The membership represents communities from across the state and includes professionals from across areas of the legal profession and justice system. Over the past ten years, MJC has led numerous justice reform in Nebraska, related to: ensuring equal access to justice, addressing disparity, and increasing diversity in Nebraska’s legal profession and judicial workforce.

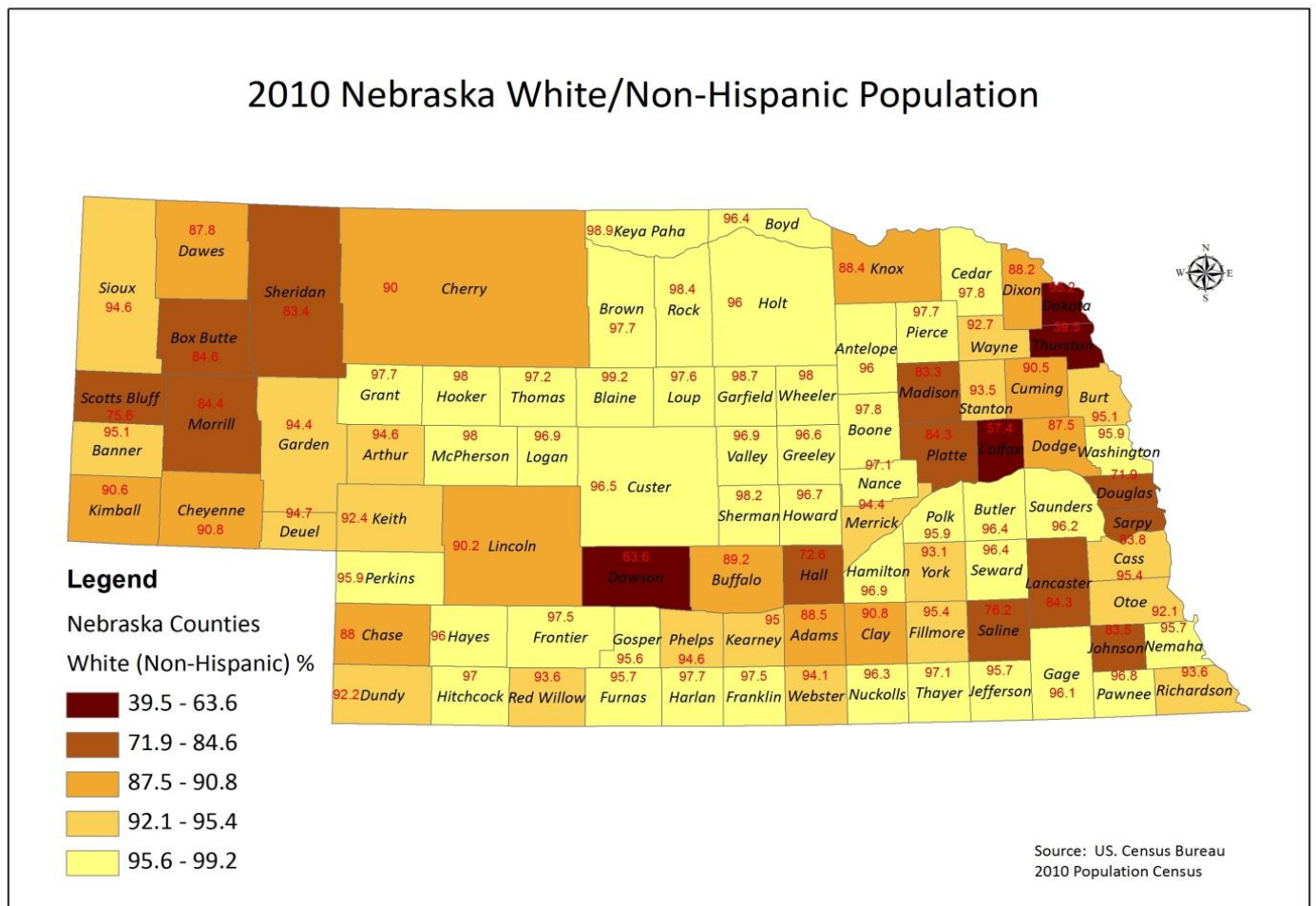
format and focused on: perceptions of minority overrepresentation in the juvenile justice system; whether particular minority groups are especially overrepresented in the juvenile justice system; possible reasons why minority youth might be overrepresented in the juvenile justice system; and potential solutions.

Surveys were distributed to each of Nebraska's DMC Committees (in the major metropolitan areas) as well as to the statewide DMC Committee. Committees were encouraged to further distribute the survey via email. Findings are presented in the following chapter.

## Chapter 2: Nebraska's Current DMC Capacity and Activities

### Nebraska's Demographics

According to the 2010 U.S. Census, Nebraska has a total population of 1,826,341. The figure below presents the diversity of Nebraska's population by indicating the percentage of White residents per county (the legend indicates that darker shaded counties are those that are more diverse, the lighter shaded counties are less diverse).



Roughly 25% of Nebraska's population consists of persons younger than the age of 18 (census.gov). For the comparison statistics in this report we used the population aged 10-17 (Puzzanchera, Sladky and Kang 2011). This is typically considered the juvenile population "at-risk" for involvement in the juvenile justice system. The racial composition of Nebraska's at-risk youth population is 76.6% White, 6.9% Black, 13.3%, Hispanic, 2.0% Asian, 1.3% Native American (see Table 1).

**Table 1: Racial Composition of Nebraska’s Population Ages 10-17**

Race/Ethnicity	Youth Aged 10-17	Percentage
Asian	4,012	2.0%
Black	13,636	6.9%
Hispanic	26,312	13.3%
Native American	2,531	1.3%
White	151,894	76.6%
Total	198,385	100.0%

### Nebraska DMC Committees and Data Collection Efforts

The Nebraska Crime Commission currently collects RRI data for fourteen counties: Cherry, Colfax, Dakota, Dawes, Dawson, Douglas, Hall, Lancaster, Madison, Platte, Sarpy, Saunders, Scotts Bluff, and Thurston. The table below presents the eighteen most diverse counties in Nebraska and indicates whether DMC data is collected for that county and whether the county has an active DMC Committee.

Interestingly, there are several counties that are more diverse than those for which data are collected, namely: Saline, Sheridan, Johnson, Box Butte, Morrill and Dodge. In fact, it is not apparent why Saunders County, which has a non-White population of only 3.8%, is a county which has been targeted for DMC data collection/efforts. Only four counties currently have active DMC Committees. The State DMC Committee should reassess the counties for which it collects RRI data and focus their efforts to establish DMC Committees in the most diverse counties (particularly Thurston, Dakota, Colfax and Dawson, Hall, Scotts Bluff and Saline).

**Table 2: Eighteen Most Diverse Counties in Nebraska**

Most Diverse	County	Percentage Non-White	DMC Data Collected	Active DMC Committee
1	Thurston	60.5%	Yes	--
2	Dakota	44.8%	Yes	--
3	Colfax	42.6%	Yes	--
4	Dawson	36.4%	Yes	--
5	Douglas	29.0%	Yes	Yes
6	Hall	27.4%	Yes	--
7	Scotts Bluff	24.4%	Yes	--
8	Saline	23.8%	<b>No</b>	--
9	Madison	16.7%	Yes	--
10	Sheridan	16.6%	<b>No</b>	--
11	Johnson	16.5%	<b>No</b>	--
12	Sarpy	16.2%	Yes	Yes

13	Lancaster	15.7%	Yes	Yes
14	Platte	15.7%	Yes	Yes
15	Box Butte	15.4%	No	--
16	Morrill	15.4%	No	--
17	Dodge	12.5%	No	--
18	Dawes	12.2%	Yes	--

## Relative Rate Indexes: Need for Improved Definition

As discussed in Chapter 1, OJJDP promotes the use of a Relative Rate Index (RRI) to identify DMC issues within a community. The RRI compares the relative volume (rate) of activity for each major state [decision point] of the juvenile justice system for minority youth with the volume of that activity for White (majority) youth [and] provides a single index number that indicates the extent to which the volume of that form of contact or activity differs for minority youth and White youth (Nebraska’s 2010 RRI data is presented in Appendix A).

As discussed in the introductory chapter, Nebraska’s justice system stakeholders have historically lacked confidence in RRI data because of the lack of common definitions being employed across counties submitting data. The RRI tool is only as good as the data entered. Inaccurate numbers at one system point, may impact the accuracy of calculations for other system points. While this assessment did not rely on any data collected through the RRI process, our increased familiarity with the sources of data has allowed us to identify areas where clarifications may improve the accuracy of future RRI data collection efforts:

- **Juvenile Arrests:** Does the DMC Committee want their RRI data to indicate the size and composition of the youth population that has contact with law enforcement, or does it want to show actual juvenile arrests? It appears that currently the RRI data is reporting “law enforcement contact” with the youth population rather than “formal arrests” (i.e., it likely includes youth who were also cited/summoned). Given the multiple reporting systems used by law enforcement, it is also possible that different agencies are interpreting and reporting this system point differently.
- **Refer to Juvenile Court:** It is not entirely clear what is meant/currently being captured by this data point. Based on RRI literature, one would assume that referrals to juvenile court are the number of law enforcement contacts that result



in referrals (as well as referrals from schools, etc.) to the county attorney's office. However, the source list for Nebraska's RRI indicates that data is provided by JUSTICE (which would not have information regarding referrals to prosecutors). The accuracy of this system point is also questionable because it is not clear how/why a state would have more cases filed for prosecution (5,492) than the number of cases referred (4,572). The extent to which prosecutors' case management systems collect race/ethnicity data also needs to be determined.

- **Cases Diverted:** Does the DMC Committee want their RRI data to indicate the size and composition of youth *offered* diversion, youth who *participated* in diversion, or youth who were *successful* in diversion?
- **Secure Detention:** Each secure/staff secure detention facility in Nebraska counts bookings or admissions differently. A common definition across facilities would be beneficial for RRI purposes. Does the DMC Committee want information about youth held in secure detention if the youth is charged as an adult? Are data currently tracked for youth with multiple bookings?
- **Case Petitioned (Charges Filed):** Given the large amount of missing data on cases filed in juvenile court (discussed in Chapter 6), particularly by Lancaster County, this data field is inaccurate not only for Lancaster County but also for the state.
- **Cases Involving Transfers to Juvenile Court:** As discussed in Chapter 7, the transfer process in Nebraska is actually from the adult court to the juvenile court, rather than from the juvenile court to adult court. 2010 RRI data reported 578 cases involving transfers. Data for this assessment indicated that 2,619 youth were directly filed in the adult court and 477 of those cases were subsequently transferred from adult court to juvenile court (leaving 2,142 youth prosecuted in the adult court system). If the DMC Committee wants to know how many youth were prosecuted in adult court, then they need to request the number of youth directly filed on in adult court and then subtract those who are subsequently transferred to juvenile court.

It is recommended that the State DMC Committee come together to establish common definitions on each system point and effectively communicate these definitions to data providers.

## **Stakeholder Feedback on DMC Issues and Activities**

We used three methods to collect stakeholder feedback. These included focus groups, interviews and paper surveys (methodology is discussed in Chapter 1). Fifteen paper surveys were returned, which represents roughly a 50% response rate from the paper copies distributed. (We could not estimate a response rate for surveys forwarded via email). Respondents' ages ranged from 23 to 66 years of age, with an average age of 45.8. Respondents were primarily White (67%) and female (67%). Feedback from both interviews and surveys are presented below.

### **Understanding of DMC**

Almost every person interviewed had a basic understanding of the term disproportionate minority contact; some groups referred to it as "confinement."<sup>4</sup> Interestingly, those that referred to confinement also tended to place the onus of DMC on another part of the justice system. As one individual stated, "Well, we have no control of who is brought in here," indicating that the speaker had little control over DMC.

One individual, who clearly stated that she was not familiar with the term DMC, indicated that DMC is a matter of youth motivation. The stakeholder was unambiguous with regard to her feelings on DMC, even after it had been defined and stated: "I don't believe we have disproportionate minority contact."

### **Impacted Groups**

When asked about which groups are particularly overrepresented, the majority of respondents felt that African Americans were particularly overrepresented, followed by Nebraska's growing Hispanic population. Several respondents indicated that Sudanese and other refugee youth were also overrepresented in the juvenile justice system.<sup>5</sup>

### **Reasons for DMC**

When asked to identify what they believed were the root causes of DMC in Nebraska, almost all of the respondents cited institutional and systematic issues, including education, single-parent households, poverty, institutional racism and unconscious bias. Some questioned whether certain stakeholders truly wanted to solve the problem of DMC.

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<sup>4</sup> The JJDP Act of 2002 broadened the DMC core requirement from disproportionate minority "confinement" (which focused more on detention) to disproportionate minority "contact" (the focus of which is systematic disproportionality).

<sup>5</sup> One of the most cited reasons that refugees encounter the legal system is because of the tension between their cultural norms and corporal punishment laws (Tudor and Haqq, 2010). Nebraska has been a critical relocation cite for Sudanese refugees (Willis and Fernald, 2004).

When asked to identify significant factors that might contribute to DMC in their jurisdiction, respondents indicated the following reasons: 1) that distrust of the justice system negatively impacts interactions between minority communities and justice system players; 2) stereotypes about criminal behavior held by law enforcement; 3) implicit biases held by all justice system players; 4) the reality/perception held by minority youth about limited educational/career opportunities for success; and 5) institutionalized racism.

The table below presents the mean score (on a scale of 1=weak, 5=strong) for how respondents rated common explanations for DMC. Participants rated legislative and administrative policies disproportionately impact youth of color (4.2) and the indirect effects of residential segregation (4.2) as the strongest explanations. Implicit bias (3.8) followed by differential opportunity (3.4) were rated the next strongest explanations. The argument that minority youth commit more serious crimes was rated as the weakest explanation (1.6).

**Table 1: Average Response to Common Explanations for DMC**

There are indirect effects in high-minority neighborhoods—such as reduced educational opportunities, low income, high unemployment, and drug-infested neighborhoods—that place minority youth at a higher risk of involvement in crime than in other areas.	4.2
Legislative and administrative policies such as “zero tolerance policies” can end up affecting minority youth differently than nonminority youth.	4.2
Minority youth aren’t treated the same as nonminority youth by police, judges, and other juvenile justice system actors.	3.8
Minority youth do not have the same opportunities to participate in delinquency prevention and early intervention programs as nonminority youth.	3.4
Minority youth commit more serious crimes.	1.6

### **Promising Strategies or Approaches**

When asked which strategies or programs stakeholders were aware of, if any, to reduce disparate minority involvement in the juvenile justice system, the following were offered:

- The Annie E. Casey Foundation’s Juvenile Detention Alternatives Initiative;<sup>6</sup>

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<sup>6</sup> JDAI in a nationally renowned detention reform process which has effectively: lowered detention populations, enhanced public safety, saved tax payer money, reduced the overrepresentation of minority youth, and introduced other overall juvenile justice system improvements in more than 130 jurisdictions across the United States. In 2010, Douglas County was named a JDAI site and in 2011 Sarpy County was named a JDAI Site. One of the primary tenets of the JDAI model is a deliberate commitment to reducing racial disparities by eliminating biases and ensuring a level playing field. The data that have become available through the JDAI process for Douglas County has provided an exceptional level of detail. The

- Technical assistance that has been provided by the Burns Institute;
- Updating contact information of offenders at each hearing to reduce failure to appear;
- Clearly defining sources of data in the county for RRI data;
- Providing Cultural Ambassadors from the refugee populations to engage youth/families in participating in diversion;
- Mediation as a tool to reduce conflicts and school referrals;
- Providers and programs such as the Center for Holistic Development, Talented Tenth Heartland, Nebraska Children Home, and Teen Chat;
- The adoption of the new detention screening instrument and the use of graduated sanctions by Probation.

Additionally, stakeholder interviews with YRTC staff identified an additional area for improvement—a more diverse juvenile justice workforce. For example, one of the concerns identified was the lack of counselors “who look like the kids they serve.” Despite attempts to recruit more diverse counselors and treatment staff, a lack of diverse counselors was clearly identified as a priority. When asked about how this might impact treatment, interviewees indicated that youth might feel “more connected” or feel that the staff member was “more authentic” if they were more representative of the youth they served. Second, although all youth residing at a YRTC spoke English fluently, interviews revealed that families may be in need of interpreters and that bilingual staff may improve the facilities’ ability to communicate with families.<sup>7</sup> Third, culturally-based therapists and counselors were also identified as a need for the re-entry process.

In the upcoming chapters, we look closely at specific points in the juvenile justice system, beginning with a juvenile’s contact with law enforcement and detention in Nebraska. We then examine the youth who were diverted out of the formal system. Subsequent chapters look at those who remain in the formal juvenile justice system and are prosecuted in either the juvenile or adult courts. Our final chapters examine youth who are involved in the system through the Office of Juvenile Services or Juvenile Probation in Nebraska.

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statewide expansion of JDAI, is in the authors opinion, the most promising and data-driven approach that counties and the state can take in effectively addressing DMC.

<sup>7</sup> In 2011, the Douglas County juvenile justice system was audited by the Department of Justice Office of Civil Rights on the extent to which meaningful access to interpreter services was provided to those with Limited English Proficiency. This assessment identified numerous ways in which the juvenile justice system could improve the provision of services to the limited English proficient.

## Chapter 3: Juvenile Interactions with Law Enforcement

### Introduction

Youth may be in contact with law enforcement for a number of reasons. Although there are numerous positive interactions between law enforcement and the community, these are almost never documented. For the purpose of this study, we examined “negative contacts” related to delinquent offenses or status offenses committed by a juvenile. Delinquency refers to offenses that would be considered a crime if committed by an adult. If the juvenile is charged as an adult, then the arrest is for the purpose of charging the individual with a criminal offense (OJJDP, 2009). In Nebraska, when a juvenile is taken into custody for the purpose of charging the youth with a delinquent act, the youth may be taken into temporarily custody rather than “arrested” (Neb. Rev. Stat. §43-248). However, since the majority of stakeholders use the term arrest, we also use that term.

Research suggests that several factors contribute to a youth’s likelihood of having negative contact with law enforcement. These factors include individual characteristics (the juvenile’s age, gender, family status, attitude towards officials, offenses, use of a weapon, eyewitnesses, etc.), community factors (such as level of poverty, diversity of the population, size of the community) as well as victim characteristics (age, gender, race), officer characteristics (gender, age, racial background, years of service), and agency policies regarding arrests (OJJDP, 2009). Prior research consistently finds that minority youth have a higher probability of having negative contact with law enforcement than White youth, which means that minority juveniles are at a higher risk of being processed through the juvenile justice system (Kirk, 2008; OJJDP, 2009; Tapia, 2010).

The research questions examined as part of the Nebraska Statewide Assessment include:

#### Law Enforcement Contact

- Are minority youth as likely to have negative contact with law enforcement as White youth?

#### Type of Arrest

- Are minority youth as likely to be cited/summoned as White youth?
- Are minority youth as likely to be temporarily detained/arrested as White youth?

### Disposition

- Are minority youth as likely to be charged with an offense as White youth?
- Are minority youth as likely to be referred to other authorities as White youth?
- Are minority youth as likely to have the situation handled within the department as White youth?
- Are minority youth as likely to be released with no further action as White youth?

## **Data**

Data were requested from the Nebraska Crime Commission on negative contacts made by law enforcement involving juveniles in Nebraska during calendar year 2010.

Individual law enforcement agencies use different data systems to report negative contact with law enforcement. These include: 1) the Uniform Crime Reporting System (UCR), 2) the Nebraska Incident-Based Reporting System (NIBRS), and 3) summary sheets. There are 64 agencies that report contacts by law enforcement using the UCR. There are 63 agencies that report contacts using NIBRS. There are 5 agencies that report contacts using summary sheets.

The UCR and NIBRS datasets were combined with data from the Omaha Police Department. In the combined dataset, there were a total of 15,338 contacts by law enforcement in 2010: Omaha Police Department comprised 35% of the cases, jurisdictions using the UCR comprised another 35% of the cases and jurisdictions using the NIBRS comprised 30% of the cases. Two law enforcement agencies were excluded from the analysis because they did not submit data to the Nebraska Crime Commission: the Wayne Police Department, and the Grand Island Police Department. At the request of law enforcement officials who were concerned that including negative contacts reported by the Omaha Police Department would skew the results of the report (because the Omaha Police Department comprises such a large percent of the overall cases and is also one of the most diverse counties) we also ran the analysis with Omaha Police Department data removed from the dataset (see Appendix for these select tables).

Variables requested included: law enforcement agency identification number, type of arrest, disposition, offense, whether the youth had multiple arrests, prior law enforcement contact, and basic demographics (race, ethnicity, gender, age). Of those variables, we received law enforcement agency identification numbers, arrest/case numbers, arrest date, arrest year, arrest month, type of arrest, type of offense, disposition, whether the youth had multiple arrests, and basic demographics (race, ethnicity, gender, age). Although the databases recorded information differently, we were successful in matching and recoding these variables.

## **Characteristics of the Population**

The number of contacts by law enforcement involving juveniles in Nebraska for calendar year 2010 was 15,338. There are 93 counties in Nebraska. More than half of the negative contacts by law enforcement involving juveniles were from metropolitan communities (64.9%). Omaha Police Department accounts for 17.6 % of the metropolitan response.

Males comprised 68.1% of all contacts by law enforcement involving juveniles in 2010 (females comprised 31.8%). The age range was 7 to 17 years old with a mean age of 15.3.

**Table 1: Age of Youth Contacted by Law Enforcement**

Age	Number of Youth	Percentage of Youth
7	14	0.1%
8	53	0.3%
9	71	0.5%
10	193	1.3%
11	304	2.0%
12	665	4.3%
13	1,136	7.4%
14	1,790	11.7%
15	2,569	16.9%
16	3,846	25.1%
17	4,651	30.3%
Unknown	19	0.1%
Total	15,338	100%

The racial/ethnic composition of youth with law enforcement contact was 63.2% White, 20.6% Black, 13.2% Hispanic, 2.4% Native American, 0.3% Asian, 0.2% Unknown, and 0.1% Other.

**Table 2: Race/Ethnicity Composition of Youth Contacted by Law Enforcement**

Race/Ethnicity	Number of Youth	Percentage of Youth
Asian	45	0.3%
Black	3,162	20.6%
Hispanic	2,020	13.2%
Native American	366	2.4%
Other	15	0.1%
Unknown	34	0.2%
White	9,696	63.2%
Total	15,338	100%

Traffic stops were not included in this analysis because our research questions involve juvenile contacts with law enforcement for law violations and or status offenses. Slightly more than half (61.0%) of the offenses were misdemeanors, while the remaining



offenses were felonies (10.1%), infractions<sup>8</sup> (3.9%), status offenses (3.2%), and 21.8% could not be coded.

**Table 3: Offenses Committed by Youth Contacted by Law Enforcement**

<b>Offenses</b>	<b>Number of Youth</b>	<b>Percentage of Youth</b>
Felony	1,544	10.1%
Infraction	602	3.9%
Misdemeanor	9,362	61.0%
Status	489	3.2%
Unknown	3,341	21.8%
<b>Total</b>	<b>15,338</b>	<b>100%</b>

Of youth with law enforcement contact, 66.4% were cited/summoned, 18.2% were taken into custody, and the type of contact for the remaining 15.4% was unknown.

**Table 4: Type of Contact With Law Enforcement**

<b>Type of Arrest</b>	<b>Number of Youth</b>	<b>Percentage of Youth</b>
Cited / Summoned	10,182	66.4%
Taken into Custody	2,794	18.2%
Unknown	2,362	15.4%
<b>Total</b>	<b>15,338</b>	<b>100%</b>

Juveniles contacted by law enforcement were either referred to other authorities (43.3%), charged (43.2%), released (11.1%), handled within the department (1.7%), or unknown (0.7%).

**Table 5: Disposition by Youth Contacted by Law Enforcement**

<b>Disposition</b>	<b>Number of Youth</b>	<b>Percentage of Youth</b>
Charged	6,628	43.2%
Handled within department	258	1.7%
Referred to other authorities	6,640	43.3%
Released, no further action	1,710	11.1%
Unknown	102	0.7%
<b>Total</b>	<b>15,338</b>	<b>100%</b>

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<sup>8</sup> Only the Omaha Police Department reported infractions. Data collection through NIBRS and UCR does not include infractions.

## Findings

### Are minority youth more likely to have negative contact with law enforcement?

Chi-square analyses were conducted to determine whether there were significant differences between the racial composition of youth in Nebraska and youth with negative law enforcement contact. A Chi-square test takes an expected proportion (in this case, the proportion of each racial and ethnic group) and compares it to an observed proportion (in this case, the observed racial and ethnic proportions of those with law enforcement contact). The Chi-square test indicates whether the proportional difference between the groups is statistically significant. When the standardized residual is over 2.0, it indicates that the disparity contributes to the significant Chi-square value; the greater the standardized residual, the greater the disparity. Based on their composition in the youth population, Whites and Asians were significantly underrepresented in the population of youth contacted by law enforcement, while Blacks, and Native Americans were significantly overrepresented ( $p < .001$ ).

**Table 6: Law Enforcement Contact vs. Youth Population**

	<b>White</b>	<b>Blacks</b>	<b>Asians</b>	<b>Native Americans</b>	<b>Hispanic</b>
NE Juvenile Population (10-17)	76.6%	6.9%	2.0%	1.3%	13.3%
Law Enforcement Contact	63.4%	20.7%	0.3%	2.4%	13.2%
Standardized Residual	-18.62	64.87	-14.91	11.86	0.29
	<b>Under</b>	<b>Over</b>	<b>Under</b>	<b>Over</b>	

Bold Numbers:  $p < .001$

### Type of Law Enforcement Response

Although the law clearly dictates that a juvenile must be taken into custody for certain types of delinquency, the majority of offenses in this dataset include misdemeanor violations. In many instances, law enforcement has the discretion to either cite/summon the juvenile, or take the youth into custody. The population of youth who were cited/summoned was 68.4% White, 16.1% Black, 13.0% Hispanic, 2.2% Native American, and 0.3% Asian. The population of youth who were taken into custody was 54.9% White, 25.7% Black, 15.7% Hispanic, 3.4% Native American, and 0.4% Asian.

**Table 7: Racial Composition of Youth Cited/Summoned vs. Taken into Custody**

	Cited/Summoned	Std Res	Taken into Custody	Std Res
White	68.4%	<b>3.6</b>	54.9%	<b>-6.9</b>
Blacks	16.1%	<b>-4.9</b>	25.7%	<b>9.4</b>
Hispanics	13.0%	-1.6	15.7%	<b>3.0</b>
Native American	2.2%	-1.6	3.4%	<b>3.1</b>
Asian	0.3%	-0.3	0.4%	0.6
Total	100%		100%	

Bold Numbers:  $p < .001$

Blacks were significantly underrepresented in the population of youth cited/summoned, while Whites were significantly overrepresented ( $p < .001$ ). There were no significant differences for Asians, Native Americans, and Hispanics.

**Table 8: Youth Cited / Summoned by Contacted by Law Enforcement**

	White	Blacks	Asians	Native Americans	Hispanic
Youth Contact with Law Enforcement	63.4%	20.7%	0.3%	2.4%	13.2%
Youth Cited / Summoned	68.4%	16.1%	0.3%	2.2%	13.0%
Standardized Residual	<b>3.6</b>	<b>-4.9</b>	-0.3	-1.6	-1.6
	<b>Over</b>	<b>Under</b>			

Bold Numbers:  $p < .001$

Whites were significantly underrepresented in the population of youth taken into custody, while Blacks, Native Americans, and Hispanics were significantly overrepresented ( $p < .001$ ).

**Table 9: Youth Taken into Custody/Arrested by Law Enforcement**

	White	Blacks	Asians	Native Americans	Hispanic
Youth Contact with Law Enforcement	63.4%	20.7%	0.3%	2.4%	13.2%
Youth Taken into Custody	54.9%	25.7%	0.4%	3.4%	15.7%
Standardized Residual	<b>-6.9</b>	<b>9.4</b>	0.6	<b>3.1</b>	<b>3.0</b>
	<b>Under</b>	<b>Over</b>		<b>Over</b>	<b>Over</b>

Bold Numbers:  $p < .001$

To further explore these differences, regression analysis was used to examine the factors that predict whether a youth will be taken into custody/arrested. Results indicated that male youth were more likely to be taken into custody than female youth ( $p < .001$ ). Older youth were more likely to be taken into custody than younger youth ( $p < .001$ ). Minority youth were more likely to be taken into custody than White youth ( $p < .001$ ).

**Table 10: Standardized Coefficients of Logistic Regression on Youth Taken into Custody/Arrested**

	B	S EB	Odds Ratio	Sig
Gender	.499	.061	1.647	***
Age at Time of Offense	.098	.015	1.103	***
Size of Community	-.067	.048	.935	
Level of Offense	.053	.044	1.054	
Percent Below Poverty	-.014	.009	.986	
Race (non-White, White)	-.778	.053	.459	***

\* $p < .05$ , \*\* $p < .01$ , \*\*\* $p < .001$

When analyzed separately by racial/ethnic group (see Table 11), regression analysis indicated an interesting finding. Level of offense was a significant predictor for Black and Hispanic youth (the more serious the offense the more likely the youth will be taken into custody) ( $p < .01$ ) and White youth (the less serious the offense the more likely the youth will be taken into custody) ( $p < .001$ ). Level of offense was not a significant predictor, however, for Native American and Asian youth. Additionally, gender was a significant predictor for White, Black, Hispanic, and Native American youth. For White, Black, and Hispanic youth, males were more likely to be taken into custody than females ( $p < .01$ ). For Native American youth, females were more likely to be taken into custody than males ( $p < .01$ ) (see full analysis in Table 11).

**Table 11: Standardized Coefficients of Logistic Regression on Taken into Custody by Race/Ethnicity**

	Whites				Blacks				Hispanics				Native Americans				Asians			
	B	SE B	Odds Ratio	Sig	B	SE B	Odds Ratio	Sig	B	SE B	Odds Ratio	Sig	B	SE B	Odds Ratio	Sig	B	SE B	Odds Ratio	Sig
Gender	.609	.085	1.839	***	.519	.118	1.680	***	.488	.163	1.629	**	-.952	.329	.386	**	.510	1.213	1.665	
Age at Time of Offense	.021	.020	1.021		.214	.030	1.238	***	.120	.038	1.128	**	.556	.119	1.744	***	-.425	.294	.653	
Size of Community	-.107	.061	.899		-.414	.168	.661	*	-.063	.127	.939		.384	.247	1.468		-2.899	1.584	.055	
Level of Offense	-.163	.056	.849	**	.358	.092	1.430	***	.405	.117	1.500	**	-.124	.242	.884		.731	.596	2.077	
Percent Below Poverty	-.034	.011	.967	**	-.050	.019	.951	**	.082	.024	1.085	**	-.039	.069	.962		-.133	.195	.876	

\*p<.05, \*\*p<.01, \*\*\*p<.001

## Dispositions

Following negative contact with law enforcement there are four potential outcomes (dispositions): the youth is charged (by the prosecutor) with an offense, the youth is referred to other authorities,<sup>9</sup> the youth is handled within the department,<sup>10</sup> or the youth is released. For the youth who had negative law enforcement contact, 43.6% were charged, 43.5% were referred to other authorities, 11.2% were released, and 1.7% were handled within the department. Chi-square analysis indicated significant differences between dispositions of White and minority youth (see Table below) ( $p < .001$ ).

**Table 12: Dispositions by Race**

	Released	Std Res.	Handled within Department	Std Res.	Referred to Other Authorities	Std Res.	Charged	Std Res.	Total
Minority Youth	16.4%	11.5	0.9%	-4.5	35.6%	-8.9	47.1%	4.0	100%
White Youth	8.2%	-8.8	2.1%	3.4	48.1%	6.8	41.5%	-3.0	100%
Total	11.2%		1.7%		43.5%		43.6%		100%

However, to determine whether White or minority youth were disproportionately charged, referred to other authorities, handled within the department or released, we need to examine the racial breakdown across dispositions in comparison to their composition of the population having law enforcement contact.

### *Charged*

Based on their composition in the population of youth contacted by law enforcement, Whites and Hispanics were significantly underrepresented in the population of youth charged, but Blacks and Native Americans were significantly overrepresented ( $p < .001$ ).

**Table 13: Youth Charged Compared to Youth Contacted by Law Enforcement Population**

	White	Blacks	Asians	Native American	Hispanic
Youth Population With Negative Law Enforcement Contact	63.4%	20.7%	0.3%	2.4%	13.2%
Charged	60.4%	23.1%	0.2%	4.3%	11.9%
Standardized Residual	<b>-3.0</b>	<b>4.3</b>	-1.9	<b>10.2</b>	<b>-2.9</b>
	<b>Under</b>	<b>Over</b>		<b>Over</b>	<b>Under</b>

Bold Numbers:  $p < .001$

<sup>9</sup> Turned over to juvenile court, probation department, welfare agency, other police agency, criminal or adult court (Nebraska Commission on Law Enforcement and Criminal Justice, 2000, pg. 21).

<sup>10</sup> The Omaha Police Department does not use the category, "Handled within the Department."

To further explore these differences, logistic regression was used to examine the factors that predict whether a youth will be charged. Results indicated that male youth were more likely to be charged than female youth ( $p < .001$ ). Younger youth were more likely to be charged than older youth ( $p < .001$ ). Youth from larger communities were more likely to be charged than youth from smaller communities ( $p < .001$ ). Youth with more serious offenses were more likely to be charged than youth with less serious offenses ( $p < .001$ ). Youth from communities with higher poverty rates were more likely to be charged ( $p < .001$ ). Minority youth were more likely to be charged than White youth ( $p < .001$ ).

**Table 14: Standardized Coefficients of Logistic Regression on Youth Charged**

	B	SEB	Odds Ratio	Sig
Gender	.334	.054	1.396	***
Age at Time of Offense	-.083	.014	.920	***
Size of Community	.769	.053	2.158	***
Level of Offense	2.194	.076	8.967	***
Percent Below Poverty	.623	.017	1.864	***
Race (non-White, White)	-.318	.051	.728	***

\* $p < .05$ , \*\* $p < .01$ , \*\*\* $p < .001$

When analyzed separately by racial/ethnic group (see Table 15), regression analysis indicated an interesting finding. While age was a significant predictor for Black, Hispanic, and White youth, age was not a significant predictor for Native American and Asian youth. For Black youth, older youth were more likely to be charged than younger youth ( $p < .001$ ). For Hispanic and White youth, younger youth were more likely to be charged than older youth ( $p < .01$ ). Additionally, gender was a significant predictor for Black, White, and Hispanic youth. For Black and White youth, males were more likely to be charged than females ( $p < .001$ ). For Hispanic youth, females were more likely to be charged than males ( $p < .001$ ) (see full analysis in Table 15).

**Table 15: Standardized Coefficients of Logistic Regression on Charged by Race/Ethnicity**

	Whites				Blacks				Hispanics				Native Americans				Asians			
	B	SEB	Odds Ratio	Sig	B	SEB	Odds Ratio	Sig	B	SEB	Odds Ratio	Sig	B	SEB	Odds Ratio	Sig	B	SEB	Odds Ratio	Sig
Gender	.367	.073	1.443	***	.827	.117	2.288	***	-.591	.143	.554	***	.090	.334	1.095		-1.623	2.416	.197	
Age at Time of Offense	-.139	.019	.871	***	.105	.030	1.111	***	-.096	.035	.909	**	-.002	.092	.998		-.294	.422	.745	
Size of Community	.900	.066	2.459	***	-.176	.268	.839		.484	.130	1.623	***	1.397	.268	4.045	***	-20.183	7285.16	.000	
Level of Offense	2.128	.099	8.396	***	3.697	.282	40.325	***	1.481	.149	4.397	***	1.164	.288	3.203	***	.719	.744	2.053	
Percent Below Poverty	.583	.021	1.791	***	1.231	.063	3.424	***	.574	.045	1.775	***	.069	.067	1.071		1.254	.838	3.506	

\*p<.05, \*\*p<.01, \*\*\*p<.001



*Handled within the Department*

In relation to their composition in the population of youth with law enforcement contact, Blacks were significantly underrepresented in the population of youth handled within the department, while Whites were overrepresented ( $p < .001$ ).<sup>11</sup>

**Table 16: Youth Handled within Department Compared to Youth Contacted by Law Enforcement**

	White	Blacks	Asians	Indian	Hispanic
Youth Population Contacted by Law Enforcement	63.4%	20.7%	0.3%	2.4%	13.2%
Handled within Department	80.2%	4.3%	0.4%	1.9%	13.2%
Standardized Residual	<b>3.4</b>	<b>-5.8</b>	0.3	-0.5	0.0
	<b>Over</b>	<b>Under</b>			

Bold Numbers:  $p < .001$

*Referred to Other Authorities*

Based on their composition in the population of youth contacted by law enforcement, Blacks and Native Americans were significantly underrepresented in the population of youth referred to other authorities, while Whites and Hispanics were significantly overrepresented ( $p < .001$ ).

**Table 17: Youth Referred to Other Authorities Compared to Youth Population Contacted by Law Enforcement**

	White	Blacks	Asians	Indian	Hispanic
Youth Population Contacted by Law Enforcement	63.4%	20.7%	0.3%	2.4%	13.2%
Actually Referred to Other Authorities	69.9%	13.9%	0.4%	0.9%	14.9%
Standardized Residual	<b>6.7</b>	<b>-12.2</b>	1.2	<b>-7.8</b>	<b>3.7</b>
	<b>Over</b>	<b>Under</b>		<b>Under</b>	<b>Over</b>

Bold Numbers:  $p < .001$

*Released*

Based on their composition in the population of youth contacted by law enforcement, Whites and Native Americans were significantly underrepresented in the population of youth who were released, while Blacks were significantly overrepresented ( $p < .001$ ).

**Table 18: Youth Released Compared to Population Contacted by Law Enforcement**

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<sup>11</sup> The underrepresentation of Blacks at this decision point, may be in large part due to the fact that the Omaha Police Department does not use the category, "Handled within the Department".

	White	Blacks	Asians	Indian	Hispanic
Youth Population Contacted by Law Enforcement	63.4%	20.7%	0.3%	2.4%	13.2%
Actually Released	46.4%	40.4%	0.5%	0.8%	11.9%
Standardized Residual	<b>-8.8</b>	<b>17.8</b>	1.3	<b>-4.4</b>	-1.5
	<b>Under</b>	<b>Over</b>		<b>Under</b>	

Bold Numbers:  $p < .001$

To further explore these differences, logistic regression was used to examine the factors that predict whether a youth will be released. Results indicate that female youth were more likely to be released than male youth ( $p < .001$ ). Younger youth were more likely to be released than older youth ( $p < .001$ ). Youth from larger communities were more likely to be released than youth from smaller communities ( $p < .001$ ). Youth with less serious offenses were more likely to be released than youth with more serious offenses ( $p < .001$ ). Youth with higher poverty rates were more likely to be released than youth with lower poverty rates ( $p < .001$ ). Minority youth were more likely to be released than were White youth ( $p < .001$ ).

**Table 19: Standardized Coefficients of Logistic Regression on Released**

	B	SEB	Odds Ratio	Sig
Gender	-.667	.063	.513	***
Age at Time of Offense	-.526	.017	.591	***
Size of Community	3.234	.131	25.377	***
Level of Offense	-1.618	.059	.198	***
Percent Below Poverty	.047	.011	1.048	***
Race (non-White, White)	-.468	.061	.626	***

\* $p < .05$ , \*\* $p < .01$ , \*\*\* $p < .001$

When analyzed separately by racial/ethnic group, regression analysis indicated an interesting finding. While gender was a significant predictor for Black youth and White youth (females were more likely to be released than males) ( $p < .001$ ), gender was not a significant predictor for Hispanic, Native American, or Asian youth. Additionally, percent below poverty was a significant predictor for Black, Hispanic, Native American, and White youth. For Hispanic and White youth, youth from communities with higher poverty rates were more likely to be released than youth from communities with lower poverty rates ( $p < .001$ ). For Black and Native American youth, youth from lower poverty rates were more likely to be released than youth from communities with higher poverty rates ( $p < .05$ ) (see full analysis in the Table below).

**Table 20: Standardized Coefficients of Logistic Regression on Released by Race/Ethnicity**

	Whites				Blacks				Hispanics				Native Americans				Asians			
	B	SEB	Odds Ratio	Sig	B	SEB	Odds Ratio	Sig	B	SEB	Odds Ratio	Sig	B	SEB	Odds Ratio	Sig	B	SEB	Odds Ratio	Sig
Gender	-.531	.089	.588	***	-1.069	.107	.343	***	-.129	.204	.879		-.617	.749	.540		1.688	1.425	5.406	
Age at Time of Offense	-.548	.024	.578	***	-.525	.029	.592	***	-.551	.054	.576	***	-.667	.193	.513	**	-2.498	1.174	.082	*
Size of Community	2.774	.150	16.021	***	3.112	.347	22.461	***	7.238	1.063	1391.08	***	7.241	2.360	1395.62	**	12.72	5.887	332555.4	*
Level of Offense	-1.566	.074	.209	***	-1.753	.125	.173	***	-1.830	.198	.160	***	-1.910	.960	.148	*	-3.339	1.553	.035	*
Percent Below Poverty	.069	.015	1.071	***	-.055	.023	.946	*	.185	.036	1.203	***	-.892	.341	.410	**	.199	.238	1.221	

\*p<.05, \*\*p<.01, \*\*\*p<.001

To further explore differences related to disposition, linear regression was used to examine the factors that predict whether a youth will have a more severe disposition (1=released, 2=handled within the department, 3= referred to other authorities, or 4=charged). Results indicated that male youth were more likely to have a more severe disposition than female youth ( $p<.001$ ). Older youth were more likely to have a more severe disposition than younger youth ( $p<.001$ ). Youth from smaller communities were more likely to have a more severe disposition than youth from large communities ( $p<.001$ ). Youth with more serious offenses were more likely to have a more severe disposition than youth with less serious offenses ( $p<.001$ ). Youth from communities with higher poverty rates were more likely to have a more severe disposition than youth from communities with lower poverty rates ( $p<.001$ ). Finally, White youth were more likely to have a more severe disposition than minority youth ( $p<.01$ ).

**Table 21: Standardized Coefficients of Linear Regression on Disposition**

	B	SE B	Beta	Sig
Gender	.164	.017	.080	***
Age at Time of Offense	.088	.004	.172	***
Size of Community	-.126	.015	-.072	***
Level of Offense	.478	.014	.294	***
Percent Below Poverty	.048	.003	.147	***
Race (non-White, White)	.051	.017	.026	**

\* $p<.05$ , \*\* $p<.01$ , \*\*\* $p<.001$

When analyzed separately by racial/ethnic group (see Table 22), linear regression analysis indicated an interesting finding. While gender was a significant predictor for Black and White youth ( $p<.001$ ), gender was not a significant predictor for Native American, Asian, or Hispanic youth. For Black and White youth, males were more likely to have a severe disposition than females ( $p<.001$ ). Additionally, the poverty rate was a significant predictor for Black, Hispanic and White youth (youth from communities with higher poverty rates were more likely to have a more severe disposition than youth from communities with lower poverty rates) ( $p<.01$ ), but the poverty rate was not a significant predictor for Native American and Asian youth (see full analysis in the Table below).

**Table 22: Standardized Coefficients of Linear Regression on Disposition by Race/Ethnicity**

	Whites				Blacks				Hispanics				Native Americans				Asians			
	B	SE B	Beta	Sig	B	SE B	Beta	Sig	B	SE B	Beta	Sig	B	SE B	Beta	Sig	B	SE B	Beta	Sig
Gender	.115	.020	.064	***	.477	.043	.185	***	-.089	.047	-.044		.037	.100	.022		-.339	.322	-.175	
Age at Time of Offense	.069	.005	.145	***	.157	.010	.263	***	.065	.011	.135	***	.049	.027	.115		.188	.094	.325	
Size of Community	-.040	.016	-.027	*	-.514	.077	-.114	***	-.347	.041	-.202	***	.175	.075	.147	*	-1.193	.370	-.597	**
Level of Offense	.432	.016	.300	***	.742	.039	.331	***	.387	.034	.266	***	.288	.072	.247	***	.407	.198	.312	*
Percent Below Poverty	.043	.003	.153	***	.096	.009	.186	***	.024	.007	.081	**	.010	.021	.029		-.001	.054	-.003	

\*p<.05, \*\*p<.01, \*\*\*p<.001

## Key Findings Regarding Youth Contact with Law Enforcement

### Law Enforcement Contact

1. Compared to their composition in the youth population, Black, Native American youth were significantly overrepresented in the population of youth with law enforcement contact. Overrepresentation was particularly disparate for Black youth. White and Asian youth were significantly underrepresented.

### Type of Arrest

2. Data indicated that there were significant differences in whether a youth was cited/summoned or taken into temporary custody/arrested by race ( $p < .001$ ).
  - a. Based on their composition in the population of youth contacted by law enforcement, Blacks were significantly underrepresented in the population of youth cited/summoned, while Whites were significantly overrepresented ( $p < .001$ ). There were no significant differences for Asians, Native Americans, and Hispanics.
  - b. Based on their composition in the population of youth contacted by law enforcement, Whites were significantly underrepresented in the population of youth taken into custody/arrested, while Blacks, Native Americans, and Hispanics were significantly overrepresented ( $p < .001$ ).
3. Regression analysis (cited/summoned=0, arrested=1) confirms that minority youth were more likely to be taken into temporary custody/arrested than White youth. Results indicated that male youth were more likely to be taken into custody than female youth ( $p < .001$ ). Older youth were more likely to be taken into custody than younger youth ( $p < .001$ ). Minority youth were more likely to be taken into custody than White youth ( $p < .001$ ).
4. When analyzed separately by racial/ethnic group, regression analysis indicated an interesting finding. Level of offense was a significant predictor for Black and Hispanic youth (the more serious the offense the more likely the youth will be taken into custody) ( $p < .01$ ) and White youth (the less serious the offense the more likely the youth will be taken into custody) ( $p < .001$ ). Level of offense was not a significant predictor, however, for Native American and Asian youth. Additionally, gender was a significant predictor

for White, Black, Hispanic, and Native American youth. For White, Black, and Hispanic youth, males were more likely to be taken into custody than females ( $p < .01$ ). For Native American youth, females were more likely to be taken into custody than males ( $p < .01$ ).

## Disposition

5. Based on their composition in the population of youth contacted by law enforcement, Whites and Hispanics were significantly underrepresented in the population of youth charged, but Blacks and Native Americans were significantly overrepresented ( $p < .001$ ).
6. Based on their composition in the population of youth contacted by law enforcement, Blacks and Native Americans were significantly underrepresented in the population of youth referred to other authorities, while Whites and Hispanics were significantly overrepresented ( $p < .001$ ).
7. In relation to their composition in the population of youth contacted by law enforcement, Blacks were significantly underrepresented in the population of youth handled within the department, while Whites were overrepresented ( $p < .001$ ).
8. Based on their composition in the population of youth contacted by law enforcement, Whites and Native Americans were significantly underrepresented in the population of youth who were released, while Blacks were significantly overrepresented ( $p < .001$ ).
9. Regression analysis (1=released, 2=handled within the department, 3=referred to other authorities, and 4=charged) indicated male youth were more likely to have a more severe disposition than female youth ( $p < .001$ ). Older youth were more likely to have a more severe disposition than younger youth ( $p < .001$ ). Youth from smaller communities were more likely to have a more severe disposition than youth from large communities ( $p < .001$ ). Youth with more serious offenses were more likely to have a more severe disposition than youth with less serious offenses ( $p < .001$ ). Youth from communities with higher poverty rates were more likely to have a more severe disposition than youth from communities with lower poverty rates ( $p < .001$ ). Finally, White youth were more likely to have a more severe disposition than minority youth ( $p < .01$ ).

10. When analyzed separately by racial/ethnic group, linear regression analysis indicated an interesting finding. While gender was a significant predictor for Black and White youth ( $p < .001$ ), gender was not a significant predictor for Native American, Asian, or Hispanic youth. For Black and White youth, males were more likely to have a severe disposition than females ( $p < .001$ ). Additionally, the poverty rate was a significant predictor for Black, Hispanic and White youth (youth from communities with higher poverty rates were more likely to have a more severe disposition than youth from communities with lower poverty rates) ( $p < .01$ ), but the poverty rate was not a significant predictor for Native American and Asian youth.



## Chapter 4: Juveniles Offered Diversion

### Introduction

A critical point in the juvenile justice system is the decision of whether to offer diversion in lieu of charging a case. This is a point in the system where prosecutors exercise discretion in deciding whether to formally charge a young person with a law violation. Often this decision is informed by objective factors like the level of detail in the police report, the amount of evidence, the victim, the type of offense, and the youth's prior involvement in the system (OJJDP, 2009). A prosecutor may elect to send a youth through diversion and then dismiss the case. In other instances, a prosecutor may file the case in court and dismiss only upon successful completion of the diversion program. Although there are many different variations of programs, the core concept of diversion is that a juvenile is required to complete educational programming in lieu of formal processing. Diversion programs are typically for juveniles who have committed a minor, often first-offense. Some jurisdictions allow youth with prior offenses, depending upon the facts and circumstances (MIPS, 2010).

While participating in a diversion program a youth is generally required to attend educational classes and complete tasks designed to help them learn from their mistake and/or to repay society; often these are programs built upon principles of restorative justice (U.S. Department of Justice and OJJDP, 2009). In Nebraska, a county attorney has discretion to file a juvenile's case in court, or refer the case to other services like diversion or mediation under Neb. Rev. Stat § 43-247. If the youth successfully completes diversion, his or her record is sealed pursuant to Neb. Rev. Stat §43-2.108.03.

An important element of success may relate to diversion programming. OJJDP (2009) has found that staff attitudes and demeanor may have an effect on success in diversion. Nebraska has a number of culturally specific diversion programs. In addition, for those youth who do not speak English, the lack of materials and interpretive services in their own language may create barriers to participation. These and other factors may affect a program's capacity to retain minority youth participation over time, which is important to achieving the intended prevention or intervention outcomes.

Nebraska has a number of diversion programs specifically targeted at addressing DMC: the Minority Diversion Program, Talented Tenth, Cultural Ambassadors, Sudanese Advocates and Golden Warriors. Each of these programs were designed to divert youth by employing culturally specific strategies. Minority Outreach Diversion examines reasons why particular groups fail to respond to the opportunity to enroll in diversion in lieu of going to court. The Talented Tenth Scholar's Program is a year-long program

that connects young people with African American role models. The program targets Black youth ages 13-18 who are under-achieving academically and/or have had minor law violations. Cultural Ambassadors is a program implemented through the Douglas County Juvenile Assessment Center and Heartland Family Services, which provides Cultural Ambassadors from refugee populations to engage youth/families in participating in diversion. Sudanese Advocates are individuals who work with Sudanese families in an effort to increase understanding of how American systems work; they focus specifically on the juvenile justice system with the goal of reducing delinquent and violent behavior. The Golden Warriors Program is a 12 week program that meets once a week for two hours. The three core elements of the program are Latino empowerment, positive role models, and parental involvement through family support groups. This program targets Latino male youth ages 14-18 years old. It is currently being used in 3 schools and at El Centro de las Americas.

Diversion is an important processing point when studying DMC for several reasons. First, as a matter of equity, juveniles should be offered the opportunity to informally divert out of the system based upon objective factors like the type of offense or number of prior offenses. Because diversion is a discretionary point within the juvenile justice system, subjective factors, like bias, may operate in conjunction with objective factors (OJJDP, 2009). Another reason for studying this entry point is that diversion has been shown to be an effective deterrent to future legal involvement (Dembo et al., 2008; Rodriguez, 2007).

We included the following research questions as part of the Nebraska Statewide Assessment:

- Are minority youth as likely to be *offered* diversion as White youth with comparable offenses and prior history?
- Are minority youth as likely to *participate* in diversion as White youth?
- Are minority youth as are likely to *successfully complete* diversion as White youth?

## Literature

Factors that a prosecutor may consider in offering a juvenile the opportunity to participate in a diversion program generally include: 1) prior offenses, 2) the severity of the offense, and 3) the amount of evidence available (OJJDP, 2009). Recent studies have found that additional, less objective factors, may also impact the decision to formally handle juveniles' offenses in court; these may include race/ethnicity, gender, age, and family status (Bishop & Frazier, 1996; Leiber, Brubaker, & Fox, 2009; Leiber et al., 2007; Leiber et al., October, 2007; Leiber & Johnson, 2008; Leiber & Mack, 2003). Prior DMC research has demonstrated the varying effect of race and ethnicity across multiple

processing points and how early points in the system may significantly impact court outcomes and stages of processing (Rodriguez 2010). Therefore, it is critical to determine whether minority youth are as likely to be *offered* diversion as White youth.

The U.S. Department of Justice, OJJDP (2009) and scores of other researchers have found that minority juveniles have a higher probability of their offenses being handled formally in court than Whites (Bishop & Frazier, 1996; Leiber Brubaker, Fox, 2009; Leiber et al., 2007; Leiber & Johnson, 2008; Leiber & Mack, 2003). In addition, previous research indicates that minority juveniles have a lower probability of being offered diversion than Whites (Poulin, Iwama, & Orchowsky, 2008; McCarter, 2009). For example, McCarter (2009) found that African Americans had a lower probability of being offered diversion (15.3%) than Whites (22.5%), but this was directly related to the seriousness of the offense.

Individual states are required to annually report data on youth diverted out of the system (OJJDP, 2009). Findings from previous research conducted on DMC Relative Rate Indexes indicate that minority youth may not be diverted as often. These findings are sometimes mixed, however. For example in 2009, Virginia reported that minority juveniles had a lower probability of being offered diversion than Whites (0.71 RRI) in regards to felonies, but they fared better when being offered diversion regarding misdemeanors and parole/probation violations (DMC, 2010).

### **Factors that Influence Participation in Diversion**

Factors such as gender, age, and family status (e.g. living with only one parent) may interact with race to result in different outcomes for minorities than Whites; however, the findings have been mixed (Bishop & Frazier, 1996; Leiber Brubaker, Fox, 2009; Leiber et al., 2007; Leiber & Johnson, 2008; Leiber & Mack, 2003). For example, Leiber and Mack (2003) found that both males and females who were African American had a higher probability of their offenses being handled formally in court than Whites. The reasons for disparity are varied including minorities having fewer options for participating in alternative programs, legal policies, and “indirect effects in high-minority neighborhoods... place minority youth at a higher risk” (Poulin, Iwama, & Orchowsky, 2008, pg. 22). In regards to age, Leiber and Johnson (2008) found that as juveniles get older, they have a lower probability of being offered diversion, but this had less of an impact on African Americans. Finally, Bishop and Frazier (1996) found that minority juveniles often lived with one parent and this impacted the probability of their offenses being handled formally in court. The authors surmised that officials did not think they would be as willing to work with the system, which could be from less flexible work schedules and transportation issues.

Economic factors also influence how likely certain groups are to participate in diversion. The OJJDP (2009) found that some juveniles may not be able to access or qualify for programs due to a lack of medical insurance, the availability of which is usually determined by financial resources. Other jurisdictions have found that they can only provide diversion if the juvenile can pay. Differential participation may also relate to living in urban, suburban, or rural locations. For example, fewer diversion programs may be offered in rural locations than urban locations (Bridges and Steen, 1998; Feld, 1991, as cited in OJJDP, 2009). This is particularly relevant to Nebraska, where only 49 (53%), of the 93 counties offer formal pretrial diversion programs.

### **Factors that Influence Success in Diversion**

OJJDP (2009) has found that minority juveniles often do not have success in diversion programs because programs are not specifically modeled for different cultures. Instead diversion is modeled after expectations of mainstream White juveniles. Previous studies have examined the factors that predict whether an individual will be successful in a diversion program and showed that African Americans and Hispanics had a lower probability of being successful in fulfilling diversion programs' requirements than Whites (Dembo et al., 2005). Additional factors also impact whether individuals will be successful in diversion programs (e.g. education, committing offenses during the program, prior records, and whether the offense was a violent or property crime) (Dembo et al., 2008; Dembo et al., 2005).

### **Data and Methodology**

Pursuant to Neb. Rev Stat. §43-260.07 any city or county attorney who has a juvenile pretrial diversion program in Nebraska must report information to the Nebraska Crime Commission (NCC). The NCC maintains a Juvenile Diversion Case Management System (JCMS) to assist counties in meeting this reporting requirement. The three largest counties (Douglas, Lancaster, and Sarpy) each maintain their own data systems. Eventually this data will be uploaded daily through a secure portal maintained by the NCC. At the time we compiled data for this report, the larger counties had not yet begun to upload their data, so we imported and combined data from four sources (NCC and each of the larger counties) for any youth referred to juvenile diversion between July 1, 2010 and June 30, 2011 (n=5,390).

To control for contributing factors that would explain why a youth is offered, participates, or is successful in diversion, we sought a number of control variables

including: the type and number of offenses referred to diversion, population size, age, race/ethnicity, and gender of the youth.

The quality of data was poor. While only 7.6% of cases lacked data on race/ ethnicity, the remaining variables were more problematic. Twenty point one percent of the cases lacked data on gender, 10.6% lacked the juvenile's age or date of birth, 38.9% of the cases lacked a referral source, 28.6% did not contain the offense that the youth was referred on and 18.4% of the cases lacked a valid discharge code for how the case closed (i.e. successfully completed, new law violation, youth refused to participate, etc.). Some files lacked disposition because the case was still open.

### **Characteristics of the Population**

Prior to conducting our analysis, we examined each of the variables above for accuracy, missing values, and ensured we met the assumptions for multivariate analysis.

Unfortunately, missing data made it impossible to analyze how certain factors such as gender, prior referral to diversion and prior law contacts influenced enrollment or participation in diversion.

A total of 5,390 youth were referred to a diversion program in Nebraska between July 1, 2010 and June 30, 2011. The ages of youth referred to diversion ranged from 7 to 23 years old, with 55% between the 15-17 years of age (Table 1). Individuals over the age of 19 do not appear to be errors; rather, it appears that some counties are utilizing the case management system for older individuals (often college age youth) participating in diversion.<sup>12</sup> The mean age of youth referred to diversion was 15.7 years old.

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<sup>12</sup> Some county attorneys permit young people ages 19-23 to participate in the juvenile diversion programming. Although the individual is not a juvenile, there may not be an adult diversion program.

**Table 1: Youth Referred to Juvenile Diversion**

<b>Age Referred to Diversion</b>	<b>Number of youth</b>	<b>Percent of Youth Referred in 2010-2011</b>
9 or younger	13	.2%
10	43	.8%
11	95	1.8%
12	162	3.0%
13	320	5.9%
14	524	9.7%
15	822	15.3%
16	1,054	19.6%
17	1,083	20.1%
18	446	8.3%
19	156	2.9%
20 or older	100	.1%
Missing data	572	10.6%
Total	5,390	100.0%

*Race*

White youth were referred to diversion at a higher rate than any other group, accounting for 62.8% of referrals statewide. Native American youth had the lowest rate of referrals, accounting for less than 1% (Table 2). The diversity of youth referred to diversion fluctuated by county, with Buffalo and Sarpy County accounting for the highest percent of White youth referred (Figure 1). Dakota, Douglas, Platte and Scottsbluff Counties reflected the greatest percent of diversity in referrals. Hispanic youth accounted for more than 35% of the youth referred to diversion programs in Dakota, Platte and Scotts Bluff Counties.

**Table 2: Race, Ethnicity of Youth Referred to Diversion in Nebraska**

	<b>Youth Referred</b>	
	<b>Number</b>	<b>Percent</b>
Asian	34	0.6%
Black	724	13.4%
Hispanic	796	14.8%
Indian	28	0.5%
White	3,373	62.6%
Missing Data	435	7.9%
Total	5,390	100%

**Table 3: Percent of Referrals by Race and County**

County	Black	Hispanic	Indian	White	Total Cases
Buffalo	0.5%	13.7%	0.5%	84.8%	211
Dakota	2.5%	47.5%	5.0%	42.5%	40
Douglas	37.8%	16.3%	0.4%	43.7%	1,238
Hall	2.8%	8.7%	0.4%	56.7%	668
Lancaster	17.9%	6.6%	0.3%	73.3%	877
Madison	1.3%	23.4%	2.0%	73.2%	299
Platte	0.0%	39.9%	0.0%	60.1%	153
Sarpy	9.4%	0.2%	0.2%	90.0%	649
Scotts Bluff	0.0%	35.4%	2.5%	60.8%	79

*Availability of Diversion*

Thirty-four of Nebraska’s 49 counties that have diversion reported referring at least one youth in FY2011. The four largest counties (Douglas, Lancaster, Sarpy and Hall Counties) accounted for the majority (63.7%) of statewide referrals to diversion.

Youth were generally referred to juvenile diversion by the local prosecuting attorney. Of the 5,390 cases referred, 48% were from a county attorney and 12.5% were referred from the city attorney. Law enforcement, school and other sources accounted for less than half a percent of referrals (Table 4). Missing data was a substantial issue with this data set. Thirty-eight point nine percent of the cases were missing data on referral source, precluding us from using this variable in our analysis.

**Table 4: Source of Referral**

Referral Name	Number of Cases	Percent of Cases
County Attorney	2,588	48.0%
City Attorney	674	12.5%
Other (school, law enforcement)	30	0.6%
Missing Data	2,098	38.9%
Total	5,390	100.0%

*Offenses Referred*

The majority of offenses referred to juvenile diversion (68.3%), involved a misdemeanor offense. The most common offenses referred to diversion in FY2011 involved alcohol. The majority of the cases included Minor in Possession of Alcohol (1,090) and Driving under the Influence (22) for a total of 1,112. Alcohol accounted for 20.6% of cases where the offenses were known (Table 5).

**Table 5: Offenses Referred to Diversion in FY2011**

Type of Offense	Number of Cases	Percent of Cases
Alcohol Related Offenses	1,112	20.6%
Shoplifting	548	10.2%
Theft / Theft of Services	428	7.9%
Assault (includes various degrees)	338	6.3%
Marijuana Related Offenses	279	5.2%
Criminal Mischief/ Vandalism	272	5.1%
Disturbing the Peace	255	4.7%
Status Offenses: Truancy and Curfew	97	1.8%
Trespass	91	1.7%
Drug (Controlled Substance) Offenses	82	1.5%
Tobacco Possession	53	1.0%
Other	160	3.0%
Missing Data	1,535	28.5%
Total	5,390	100%

Because almost one third of the cases were missing a referral offense, it was impossible to reliably assess whether referral offenses were different for minority youth.

#### *Length of Time in Program*

Similar to the problems encountered above, 2,131 cases (39%) lacked a discharge date (or a referral/ enrollment date) so length of time on diversion could not be calculated. The number of days a youth was enrolled in a diversion program ranged from 0 (returned the same day) to 450 days, with a mean number of 134 days. In 40 cases, data indicated that the youth had been in diversion more than 450 days. These cases were coded as missing and assumed to be a data error – although it is possible the youth remained enrolled this long.

## **Findings**

### **Referral to Juvenile Diversion**

When a case is referred to a prosecutor, it may be dismissed for lack of evidence, filed in court, or referred to juvenile diversion. Some counties only allow youth one opportunity to divert a law violation. Other counties allow youth to divert more than one law violation. These programs also allow youth to do diversion more than one time. An informal survey of diversion programs revealed that roughly 80% of programs in Nebraska allow a youth to complete diversion more than once, but this depends on a number of factors (type of offense, age of the juvenile, time between violations, etc.).



Some counties offer a “pre” diversion process. The County Attorney may send a “warning letter” advising the youth that the present case was dismissed, but advising that any future violation will be prosecuted. In other jurisdictions such as Lancaster County, a staff member conducts a brief assessment to determine the best course of action for a youth (diversion, court, or dismissal). Interviews regarding the Douglas County referral process indicated their intent to increase the use of warning letters in 2012.

The majority of County and City Attorneys do not maintain a record of the number of juvenile cases or police reports that come to their office that are informally closed. Consequently, there is no record of the number of youth (statewide) who *might* have been eligible for diversion. Nor is this data tracked in the case management system maintained by the state. The two largest counties (Lancaster and Douglas) collect data on youth the prosecutor considers for diversion, but on a statewide basis, there is no mechanism for answering whether minority youth are as likely to be *offered* diversion as White youth with comparable offenses and prior history.

Using a Chi-square analysis we were able to compare the percent of minority youth who were referred to diversion compared to the youth who were stopped by law enforcement for committing a law violation (Table 6). When compared to law enforcement contacts, Black and Native American youth were significantly underrepresented in referrals to diversion, while Asian and Hispanic youth were significantly overrepresented. White youth were referred to diversion at roughly the same rate at which they had contact with law enforcement.

**Table 6: Population of Youth Referred to Diversion vs. Stopped by Police**

	White	Black	Asian	Indian	Hispanic
Contact with Police	62.6%	21.1%	0.03%	2.3%	13.6%
Population Referred to Diversion	62.8%	13.4%	.6%	0.5%	14.8%
Standardized Residual	.02	<b>-12.3</b>	<b>25.5</b>	<b>-8.6</b>	<b>2.3</b>
	--	<b>Under</b>	<b>Over</b>	<b>Under</b>	<b>Over</b>

Bold Numbers: p<.001

### Participation in Diversion

When a case is referred to diversion, the youth, parent and/or guardian must contact the program, make an appointment and enroll. We defined participation in diversion minimally as any contact made with the program, including intake appointments (even if the youth failed to keep the appointment) and enrollment in the program. In 5.8% of the cases, (287 referrals) the youth or family had *no contact* with the diversion program,

and the youth never participated in diversion. In the remaining 4,668 (94.2%) cases, the youth, family or guardian started the process by scheduling the first appointment with the diversion program.

To analyze whether participation was statistically different across racial groups, we compared participation rates for each racial group and found that youth participate at statistically different rates by race (Table 7). The data indicate that Hispanic youth was the only group statistically underrepresented in participation ( $p < .001$ ).

**Table 7: Youth Who Do Not Participate in Diversion vs. Those that Make at Least One Appointment**

	White	Black	Asian	Indian	Hispanic	Total
Did Not Participate	6.6%	4.8%	.0%	3.4%	14.3%	5.8%
Participated (at least 1 appt.)	93.4%	95.2%	100.0%	96.6%	85.7%	94.2%
Standardized Residual	1.8	-1.1	-1.4	1.9	<b>-2.8</b>	
	---	--	---	---	<b>Under</b>	

Bold Numbers:  $p < .001$

Failure to contact the diversion program generally leads to the case being returned to the County or City Attorney for prosecution, but a failure to set up an intake may also indicate that the youth or family prefer to pay the fine (on a waivable offense like a tobacco violation) or to get an attorney and contest the charges. We examined this by looking at lower participation rates by offense. Truancy violations and Possession of Tobacco had the lowest participation rates: with 70.4% and 75.5% participation rates, respectively. Curfew violations had the next lowest rate, with only 80% of youth setting the first appointment. Youth participated 85-90% for all other offenses referred.

### Success in Diversion

Youth who are successful in diversion are able to avoid the juvenile or criminal justice system. Using a simple crosstab comparison, we started by examining the reasons cases got sent back to the prosecuting attorney. In 22.9% of the cases the diversion program did not provide details as to why a case was returned. In 2.0% of the cases, the system requested the case be returned (prosecutor learned of new violations or the program determined the youth was ineligible). In 22.0% of cases, the youth or family did not follow through on appointments or diversion requirements. A mere 53% of cases sent to diversion had a “successful completion.” This completion rate is likely due to factors outside individual diversion programs.

White youth were statistically more likely to be successful in diversion than minority youth – when overall referrals were examined. However, when we compared only

cases that had closed in FY2011, Black youth were the only group statistically less likely to be successful in diversion (Table 8).

**Table 8: Population of Youth With Closed Cases vs. Youth Successful in Diversion by Race**

	White	Black	Asian	Indian	Hispanic
Juveniles Whose Cases Closed FY2011	67.8%	16.9%	0.7%	0.3%	14.4%
Population Successful in Diversion	70.1%	14.1%	0.7%	0.2%	14.9%
Standardized Residual	1.4	<b>-3.5</b>	0.8	0.7	0.7
	---	<b>Under</b>	---	---	---

Bold Numbers:  $p < .001$

To further explore the racial differences in successful outcomes, we employed binary logistic regression (0= not successful, 1= successful) to determine factors that influence success. For White youth, characteristics of the community were the only factors that significantly predicted whether the youth was successful in diversion. Community factors included size of the community ( $p < .001$ ); percent non-White ( $p < .001$ ); percent within the community who speak a language other than English ( $p < .001$ ), and percent below poverty ( $p < .001$ )

For Black, Asian, Native American and Hispanic youth, none of the variables in this model predicted whether the youth would be successful in diversion (age, level of offense, or community characteristics).

## Key Findings Regarding Juvenile Diversion

### Data Quality and Availability

1. The dataset had a very high percentage of missing data for youth referred to diversion. In addition, merging data from the three larger counties led to inconsistent variables that were not comparable.
2. The lack of consistent data hindered our ability to control for factors that may influence participation and success (variables like prior law violations, family income, single parent household, etc.). Much of this data can be collected using the Nebraska Juvenile Diversion Case Management System, but programs have not had incentives to collect the data and enter it in this system.

### Offered Diversion

3. We were unable to determine whether minority youth were *offered* diversion at a different rate than White youth because data is not collected (statewide) on the number of youth that were eligible for diversion. We are aware of only two jurisdictions that maintain data on cases the prosecutor reviews for filing and how those cases are processed (i.e. dismissed for lack of evidence, filed on in court, or offered juvenile diversion). Data should be collected regarding youth who are eligible for diversion.
4. When compared to law enforcement contacts, Black and Native American youth were significantly underrepresented in referrals to diversion, while Asian and Hispanic youth were significantly overrepresented. White youth were referred to diversion at roughly the same rate at which they had contact with law enforcement.

### Participation

5. Overall, 94.2% of youth referred to diversion, or 4,668 youth, participated at least *minimally* in diversion. Minimal participation is defined as arranging the first intake appointment with the program. In 287 cases, (5.8% of referrals) the youth or family had no contact with the diversion program, and the youth never participated in diversion. Hispanic youth were the least likely to make it to this first appointment. *Additional* data should be collected on youth who are eligible

for diversion, in order to assess whether the rates at which minority youth are offered and enroll in diversion.

### **Offenses Diverted**

6. We were unable to determine if significant racial differences exist because the referral offense was missing in 29% of the cases.
7. Of the known offenses, alcohol-related violations were referred to diversion at twice the rate that other offenses (accounting for 20.6% of referrals). Minor in Possession of Alcohol accounts for 98% of alcohol-related referrals.
8. Other common offenses referred to diversion include: Shoplifting (10.2%), Theft (7.9%), Assault (6.3%), Marijuana-related offenses (5.2%) and Criminal Mischief (5.0%).

### **Success on Diversion**

9. Only 53% of all youth referred to diversion were successful. When we examine just the cases that closed, the success rate increased only slightly to 62% of the total closures. When compared to youth referred to diversion, only White youth were significantly overrepresented in successful outcomes. Black youth were significantly underrepresented in successful completion of diversion.
10. Further research should be conducted to determine whether diversion programs are available to all populations equally (rural vs. metropolitan).

## Chapter 5: Juvenile Detention in Nebraska

### Introduction

Detention reform and alternatives to detention have been emerging topics and areas of community concern since the late 1990s. Ideally, detention is not one locked facility but a continuum of restrictions and supervision that matches the needs of both youth and the community. It may range from a secure detention facility for the high-risk or dangerous offender to house arrest for an offender who is less likely to reoffend. Secure detention is generally used to hold youth pre-adjudication (sometime called pre-trial), predisposition, and awaiting placement. It is also sometimes used as a sanction for violation of a valid court order. Secure detention facilities are generally operated by county-run facilities in Nebraska.

Pursuant with the goals of Juvenile Court, juvenile detention should never be used as disposition or a sentence for a juvenile. This does not mean that juveniles are not sitting out sentences, as many youth tried in the adult court system may serve time. Reformers have long advocated for an enhanced continuum of supervision options with less reliance on secure detention (e.g., the Annie E. Casey Foundation's Juvenile Detention Alternatives Initiative). Alternatives to detention include electronic monitoring, trackers, mediation, day and evening reporting centers, and drug and alcohol testing.

Minority overrepresentation has been well documented in detention nationwide and in Nebraska using Relative Rate Indexes. However, the data reported on the RRI only includes secure juvenile detention facilities. While that is certainly an important point to examine, very different patterns emerge when we examine "detention" with a wider lens. In an attempt to broaden our identification of DMC and to ascertain how DMC operates through the use of detention, our analysis includes two groups of youth: 1) those detained in any way (4,021 individuals under 19) during FY2011 and, 2) those who were admitted to one of Nebraska's four juvenile detention facilities during FY2011 (2,240 individuals under 18).

Our research questions related to detention were:

- Are minority youth as likely to be booked into (any form of) detention as White youth?
- Is the length of stay in detention equitable across racial/ethnic groups?
- If not, what are the factors that contribute to disproportionality in length of stay?
- Are recidivism rates (as measured by re-admission into a form of detention) equitable across racial/ethnic groups?
- If not, what are the factors that contribute to disproportionality?

- Are minority youth as likely to be booked into secure juvenile detention facilities as White youth?
- Is the length of stay at a secure juvenile detention facility equitable across racial/ethnic groups?
- Is the length of stay at a secure juvenile detention facility disproportionately longer for minority youth compared to White youth?
- Are the recidivism rates for youth in secure juvenile detention facilities (as measured by re-admission into a secure juvenile detention facility) equitable across racial/ethnic groups?

## **Literature**

Over the past 20 years, researchers have examined efforts to reduce Disproportionate Minority Contact (DMC) at a number of stages in juvenile justice proceedings, many studies have been conducted that specifically address the overrepresentation of minority youth in detention. For example, Mukoro (2005) determined that, relative to their numbers in the general population, minority youth in Mississippi were significantly more likely than their White counterparts to be held in juvenile detention facilities. As a further example, Rodriguez (2010), found that minority youth were more likely to be detained pre-adjudication (Rodriguez, 2010). Preadjudication detention was also related to harsher penalties at later stages in court proceedings (Rodriguez, 2010). Related, Kurtz, Linnemann and Spohn (2008) found that extra-legal factors influence the decision to detain youth, and because these factors varied by race, detention decisions were indirectly influenced by a youth's race (Kurtz, et al., 2008).

Despite on-going examination at both a state and national level, DMC remains a problem at the point of detention. For example, Kempf-Leonard (2007) reported that while efforts have been made to reduce DMC at all stages of the juvenile justice system, DMC, including the overrepresentation of minorities among detained youth, remains problematic. Similarly, Leiber & Rodriguez (2011) acknowledge that while improvements have been made in the past two decades, DMC remains problematic and minority youth are still overrepresented at all levels of the juvenile justice system, including secure detention.

## **Data and Methodology**

In our analysis, we began by examining all juvenile detentions in FY2011 (any form of restriction to liberty). Approximately 4,000 youth were booked into detention 6,282 times. Non-secure detention includes placements like staff secure, house arrest, electronic monitoring. We then examined youth under the age of 18 who were detained (pre-adjudication) in any facility. Finally, we investigated any booking into a secure

juvenile detention facility (Douglas County Youth Center, Lancaster County Youth Service Center, Northeast Nebraska Juvenile Services and Scotts Bluff County Detention Facility (n=2,240 youth, 3,171 bookings). We were unable to separate out youth booked into staff secure facilities, so the data reflects youth in both secure and staff secure facilities. We report first on total detentions for youth (up to age 19) in Nebraska, and then report only on youth identified as booked into one of the four secure juvenile detention facilities in Nebraska.

Two main dependent variables were examined in the following analyses: length of stay and recidivism. Length of stay was measured in days from admission to release. Recidivism was measured as the number of times an individual youth was re-booked into detention after the first booking in FY2011. In addition to basic demographic data (race, age, gender) several important control variables were included in the analyses, including offense type. A description of how variables were coded can be found in the introductory chapter. All other crimes (ungovernable juvenile, contempt of court, etc.,) were coded as "Other."<sup>13</sup>

### **Characteristics of the Population**

A total of 4,021 youth were detained in a Nebraska (in the broader definition) at some point between July 1, 2010 and June 30, 2011. Over half of all youth booked into detention were 18 years old (Table 1). The mean age of detained youth was 16.9 years old.

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<sup>13</sup> All "Other" offenses include: ungovernable juvenile, contempt of court, public order crimes, truancy, disturbing the peace, curfew violation, parole violation, probation violation, conditional release violation, criminal simulation, interfere with a public service company, trespassing, drug tax, revenue tax, moral decency crimes, runaway, fail to register as a sex offender, fail to report or release information, failure to report a crime, failure to disperse, failure to obey a lawful order, fireworks violation, riot, unlawful assembly, false fire alarm, operating a motor vehicle to avoid arrest, distribution of obscene material, obstructing a criminal investigation, obstructing justice, obstructing a court order, unauthorized communication with a prisoner, threats, criminal mischief, contributing to a delinquent minor, immigration, making a false report, compounding a crime, obstructing police, flight/escape, flight to avoid prosecution, aiding a prisoner to escape, fugitive from justice, bail/secure bond, perjury, failure to appear, disorderly conduct, material witness, outside county warrant, temporary hold, safekeeping – juvenile, restraining order violation, jury tampering, miscellaneous holds and undefined offense codes.



**Table 1: Age when booked in to Detention**

Age at most recent booking	Number of Youth	Percentage of Youth
7	1	0.0%
11	10	0.2%
12	41	1.0%
13	89	2.2%
14	206	5.1%
15	324	8.0%
16	565	14.0%
17	750	18.7%
18	2029	50.5%
Missing	6	0.1%
Total	4021	100%

Most youth (57.4%) were White (Table 2). Nearly one quarter of all detained youth were Black (24.9%), and an additional 12.7% were Hispanic. Indian youth accounted for 3.7% of detained youth, while Asian youth comprised less than 1% of detained youth. Approximately one quarter of detained youth were female.

**Table 2: Race, Ethnicity and Gender of Detained Youth**

	Detained Youth		Gender			
	Number	Percent	Male		Female	
White	2,310	57.4%	1,701	57.0%	609	58.9%
Black	1,003	24.9%	736	24.7%	267	25.8%
Asian	28	0.7%	21	0.7%	7	0.7%
Hispanic	509	12.7%	415	13.9%	94	9.1%
Indian	147	3.7%	93	3.1%	54	5.2%
Other	24	0.6%	19	0.6%	3	0.3%
Total	4,021	100.0%	2,985	100.0%	1,034	100.0%

The number of individual bookings included in the data was 6,283. Most (29.6%) of the bookings for which data were available were referred from a metropolitan county while an additional 24% were referred by an agency in a micropolitan county (Table 3). Just

346 (5.5%) of all individual bookings were from a rural referral agency. An additional 5.4% of bookings were referred by a state agency.<sup>14</sup>

The population of the county where youth were ultimately detained was also examined. Almost two thirds of all bookings resulted in youth being detained at a facility in a metropolitan area. Almost 2,000 bookings were in a facility in a micropolitan county, with rural facilities accounting for only 5.5% of individual bookings.

**Table 3: County Populations**

	Referral agency		Detention Facility	
	Number of bookings	Percentage	Number of bookings	Percentage
Rural	346	5.51%	346	5.51%
Micropoilitan	1,518	24.16%	1,928	30.69%
Metropolitan	1,859	29.59%	4,004	63.73%
State	341	5.43%	-	-

Youth were booked into detention for a number of crimes (Table 4). One tenth of all bookings were for person related offenses (10.2%) and 15.9% were for various property crimes. Many bookings were for drug (6.3%) and alcohol (8.2%) related offenses. A small percentage of bookings were for traffic related (5.3%) or weapons (2.6%) offenses. Finally, one third of individual bookings were for offenses that fell into the “Other” category. Unfortunately, data were missing or unavailable for 18% of total bookings.

**Table 4: Offense Type**

Offense Type	Number of Bookings	Percentage of Bookings
Drug	396	6.3%
Person	642	10.2%
Property	999	15.9%
Alcohol	518	8.2%
Other	2082	33.1%
Weapons	165	2.6%
Traffic	333	5.3%
Missing	1148	18.3%
Total	6283	100%

<sup>14</sup> The agencies coded as State agencies were Immigration (Lincoln and Omaha), State Patrol (where no county was specified), FBI, and BIA division law enforcement.

## Findings

### Youth Booked into Detention

The first part of our analyses focused on all youth booked into some type of detention. Youth held in secure detention will be discussed separately, in a later series of analyses.

Pursuant to Nebraska law, probation is responsible for intake assessment. According to Neb. Rev. Stat. §43-253 “the probation officer's decision to release the juvenile from custody or place the juvenile in secure or non-secure detention shall be based upon the results of the standardized juvenile detention screening instrument.” In 2010, juvenile probation created and implemented a standardized intake assessment modeled after a Juvenile Detention Alternative Initiative (JDAI) site. Despite the objective nature of this tool, a probation officer may override the instrument. The intake assessment tool will be evaluated in 2012 through the Juvenile Detention Alternatives Initiative and should be assessed to determine the extent to which the instrument treats groups equitably.

In order to examine whether minority youth are disproportionately booked into detention compared to White youth, a Chi-square analysis was used to compare the percentage of various racial groups in the general population to corresponding groups of detained youth.

Data indicated that there were significant racial/ethnic differences in whether youth were booked into detention ( $p < .001$ ). White and Asian youth were significantly less likely to be booked into detention than would be expected from their numbers in the general population. In contrast, Black and Indian youth were significantly overrepresented in bookings to detention.

**Table 5: Population in State vs. Booked into Detention**

	White	Black	Asian	Indian	Hispanic
Percentage of state population	76.6%	6.9%	2.0%	1.3%	13.3%
Percentage of youth booked into detention	55.6%	26.5%	0.6%	3.8%	13.0%
Standardized Residual	<b>-19</b>	<b>59.3</b>	<b>-7.9</b>	<b>17.1</b>	0.7
	Under	Over	Under	Over	--

Bold Numbers:  $p < .001$

A second Chi-square analysis was conducted to compare the percentage of various racial groups stopped by law enforcement to corresponding groups of detained youth. The results indicated that there were significant racial/ethnic differences in whether arrested youth were booked into detention ( $p < .001$ ). White youth were significantly less likely to be booked into detention than would be expected, based on their contact with law enforcement. In contrast, Black, Asian, and Indian youth were significantly overrepresented in detention facilities.

**Table 6: Population of Youth Stopped by Police vs. Booked into Detention**

	White	Black	Asian	Indian	Hispanic
Percentage of arrested youth	62.6%	21.1%	0.3%	2.3%	13.6%
Percentage of youth booked into detention	55.6%	26.5%	0.6%	3.8%	13.0%
Standardized Residual	<b>-7.0</b>	<b>9.4</b>	<b>4.2</b>	<b>7.6</b>	1.31
	Under	Over	Over	Over	---

Bold Numbers:  $p < .001$

### Length of Stay in Detention

There was a significant difference ( $p < .001$ ) in the mean length of time youth of different racial groups spent in detention. The average mean number of days spent in detention was 20.25 days. The average length of stay for Black youth (28.83), Indian youth (20.93), and Asian youth (19.95) were greater than for White youth (17.14).

**Table 7: Mean days spent in Detention by Race**

Race/Ethnicity	Mean # of Days in Detention
White	17.1
Black	28.8
Asian	19.9
Hispanic	16.5
Indian	20.9
Average	20.3

To further explore these differences, regression analyses were used to determine what factors predict length of stay in a detention (Table 8).

**Table 8: Standardized Coefficients of Regression on Length of Stay**

	<b>B</b>	<b>SE B</b>	<b>Beta</b>	<b>Sig.</b>
Age	-1.886	0.450	-0.084	***
White or Non-White	-3.167	1.125	-0.052	**
Referral Agency County Rural Population	-8.328	3.088	-0.087	**
Facility County Rural Population	3.565	3.125	0.037	
Referral Agency County Metro Population	8.896	4.488	0.135	*
Facility County Metro Population	-11.246	4.504	-0.169	**
Referral Agency State	-2.235	1.990	-0.023	
Gender	2.687	1.298	0.038	*
Drug Crime	0.417	2.309	0.003	
Person Crime	4.181	1.863	0.044	*
Property Crime	2.836	1.602	0.036	
Alcohol Related Crime	-8.383	1.715	-0.099	***
Weapon Crime	8.027	4.981	0.029	
Traffic Crime	-8.429	2.349	-0.068	***

\*=p<.05, \*\*=p<.01, \*\*\*=p<.001

Being male and non-White were both significant predictors of the length of time a youth spent in detention. Age was also a significant predictor of length of stay; specifically, older youth spent less time in detention. Statewide, the most consistent theme from detention centers was the lack of alternative placements for youth. The lack of options did not relate to any one particular population, but was associated with length of stay. For instance, when we inquired about why younger juveniles had longer stays in detention than their older counterparts; professionals responded that there simply “aren’t facilities that can accommodate younger children with severe needs.” Another interview revealed that the “youth who are toughest to place may end up in an out of state placement which requires inter-state compact agreements.” Because this is a longer process, the youth will likely wait in detention longer. The lack of placement options was a theme that came up in every interview with detention centers. In western Nebraska, detention staff explained that the only viable alternative placement (to detention) was a group home 192 miles away (3 hour drive).

Both population variables were also significantly related to length of stay in detention. Youth referred to detention by a rural agency spent significantly less time in detention while those referred by a metropolitan agency spent significantly more time in detention. In addition, youth booked in a facility in a metropolitan county spent significantly more time in detention.

The type of offense for which a youth was detained was also related to the length of his or her stay in detention (Table 8). Specifically, relative to the reference group (“Other” crime categories) youth who committed crimes against persons spent a significantly longer time in detention. In contrast, youth who were detained for a traffic or alcohol related offense spent significantly less time in detention, relative to the reference group.

Because minor alcohol-related offenses and traffic-related violations are generally not detainable offenses, we conducted interviews to clarify our findings. Detention center intake personnel explained that when alcohol is listed as the offense at booking, this is indicative of a technical violation or a violation of a court order (for a youth on probation). Alcohol-related offenses are generally not the actual offense the juvenile is admitted to detention on; rather, it is the underlying law violation that brought the youth into the juvenile system or before the court and the juvenile subsequently failed to adhere to system directives. An examination of the daily detention population for one of the state’s larger facilities (Lancaster County Youth Services Center) revealed that more youth were admitted for an outstanding warrant (33%) than for a new law violation (26%) (Population examined on January 27, 2012). Data from Douglas County’s JDAI Detention Utilization Study indicated that more than half of youth in secure detention were in detention for some type of technical violation.

Similarly, traffic violations are generally not detainable offenses, yet they accounted for 3% of the bookings in the sample. Again, interviews revealed that individuals booked on a traffic offense are likely to have failed to pay the traffic ticket and subsequently had a warrant issued for their arrest. Traffic violations may also be a proxy for lower socioeconomic status. A youth who is unable to pay the traffic violation can “sit out” the traffic fine in detention and earn \$95 a day toward the traffic or court costs.

Because data indicated that race significantly predicts the length of time youth spend in detention, each racial/ethnic group was analyzed separately to determine if certain groups were impacted differently. For White youth ( $p < .01$ ) and Black youth ( $p < .05$ ), age was significantly negatively correlated with length of stay. In other words, younger youth spent more time in detention, as did minority youth. The type of offense a youth was detained for was associated with length of stay for White and Hispanic youth. Specifically, relative to youth who fell into the “Other” crimes category, Hispanic youth ( $p < .001$ ) who committed a weapon offense spent more days in detention. White ( $p < .001$ ) youth detained for an alcohol related offense or a traffic ( $p < .01$ ) related offense spent less time in detention than those who committed “Other” offenses. In addition, White youth who committed person related crimes ( $p < .001$ ) spent more time in detention relative to the reference group.

Population related variables were significant for both Black and White youth. Relative to the reference group, micropolitan populations, Black youth ( $p < .01$ ) booked into a rurally located facility spent more time in detention. White youth ( $p < .05$ ) who were booked into detention in a metropolitan county spent significantly less time in detention relative to youth booked in micropolitan counties. In addition, White youth ( $p < .05$ ) referred by a rural agency spent less time in detention, relative to the reference group. Finally, among both Asian and Indian youth, neither gender, offense type, age, or either population measure significantly predicted youths' length of stay in a detention facility.

### Recidivism

Data for this assessment indicated that 34.2% of youth who were booked into detention recidivated, or were booked at least twice in one year. There was a significant ( $p < .001$ ) difference in the length of time youth of different racial groups spent in detention. Specifically, Black youth spent were overrepresented in recidivism rates and White youth were underrepresented.

**Table 9: Recidivism by Race**

	White	Black	Asian	Hispanic	Indian	Total
No Recidivism	68.7%	60.0%	78.6%	63.3%	63.3%	65.8%
Recidivism	31.3%	40.0%	21.4%	36.7%	36.7%	34.2%
Standardized Residual	<b>-2.4</b>	<b>3.1</b>	-1.2	1.0	0.5	
	<b>Under</b>	<b>Over</b>				

Bold Numbers:  $p < .001$

In order to explore these differences, regression analyses were used to determine what factors predict recidivism, as measured by re-admission to detention (Table 10).

**Table 10: Standardized Coefficients of Regression on Recidivism**

	<b>B</b>	<b>SE B</b>	<b>Beta</b>	<b>Sig.</b>
Age	0.059	0.028	0.053	*
White or Non-White	-0.188	0.071	-0.060	**
Referral Agency County Rural Population	-0.038	0.186	-0.008	
Facility County Rural Population	0.003	0.195	0.001	
Referral Agency County Metro Population	0.100	0.307	0.030	
Facility County Metro Population	-0.057	0.307	-0.017	
Referral Agency State	0.215	0.127	0.044	
Gender	0.169	0.080	0.048	**
Drug Crime	-0.194	0.144	-0.032	
Person Crime	0.198	0.117	0.042	
Property Crime	0.003	0.100	0.001	
Alcohol Related Crime	-0.305	0.105	-0.074	**
Weapon Crime	-0.359	0.295	-0.028	
Traffic Crime	-0.116	0.152	-0.018	

Being male and non-White were both significant predictors of recidivism. Further, age was correlated with recidivism; being older was correlated with more instances of recidivism. In addition, youth who were booked on alcohol related crimes, relative to those who commit “Other” offenses, were less likely to have recidivated.

Because minority status significantly predicts recidivism, each racial/ethnic group was analyzed separately to determine if certain groups were impacted differently. Among Indian youth, being male was associated with more frequent recidivism ( $p < .05$ ). However, the regression analysis as a whole for Indian youth was non-significant, so these results must be interpreted with caution. For Black youth ( $p < .05$ ), older youth had more instances of recidivism. In addition, the population of the county from which Black youth were referred to detention significantly predicted recidivism; youth referred by a State agency, relative to one located in a micropolitan county, had more instances of recidivism. The type of offense committed was important for both White and Black youth. Black youth who were detained for offenses against persons had significantly more instances of recidivism, relative to youth who were detained for “Other” crimes ( $p < .05$ ). White youth who were detained for an alcohol related offense had, relative to the reference group, significantly fewer instances of recidivism ( $p < .01$ ). The total number of youthful Asian recidivists (six Asian youth were held in detention more than once) was too small to conduct a regression analysis. Finally, the analysis of Hispanic youth did not produce any significant results.



**Table 11: Regression Results for Recidivism by Racial Group**

	Whites				Blacks				Hispanics				Native Americans			
	B	SE B	Beta	Sig.	B	SE B	Beta	Sig.	B	SE B	Beta	Sig.	B	SE B	Beta	Sig.
Age	.013	.036	.012		.212	.089	.179	*	.103	.062	.088		-.085	.123	-.097	
Referral Agency County Rural Population	-.049	.229	-.012		-	-	-		-.314	.479	-.044		-.277	.461	-.093	
Facility County Rural Population	.075	.239	.018		2.397	1.961	.085		-.269	.442	-.041		.638	.561	.166	
Referral Agency County Metro Population	.562	.387	.181		-.298	.811	-.069		-.080	.926	-.017		-	-	-	
Facility County Metro Population	-.509	.387	-.163		.381	.764	.091		.079	.947	.016		-.179	.473	-.045	
Referral Agency State	.086	.162	.017		1.562	.609	.225	*	.233	.263	.052		-.274	.438	-.085	
Gender	.119	.094	.037		.317	.349	.064		.125	.198	.031		.630	.298	.229	*
Drug Crime	-.155	.163	-.029		.014	.654	.001		-.248	.342	-.038		-1.446	1.412	-.107	
Person Crime	.040	.147	.008		.984	.388	.200	*	.368	.271	.074		-.311	.417	-.081	
Property Crime	-.111	.119	-.030		.373	.366	.082		.340	.257	.073		.374	.445	.094	
Alcohol Related Crime	-.401	.122	-.108	*	-.255	.668	-.028		-.158	.233	-.039		.193	.400	.057	
Weapon Crime	-.517	.385	-.039		-.110	1.390	-.006		-.106	.573	-.009		-.286	.812	-.036	
Traffic Crime	-.101	.186	-.016		.025	.578	.003		-.072	.325	-.012		-.376	.617	-.067	

\*p<.05, \*\*p<.01, \*\*\*p<.001

## Length in Secure Juvenile Detention Facilities

The second part of our analyses focused only on youth in secure juvenile detention facilities. An ANOVA test revealed a significant difference in the mean length of time youth of different racial groups spent in secure detention facilities. The total mean number of days spent in detention was 23.29 days. Black youth (29.87), Indian youth (20.99), and Asian youth (24.00) spent a longer average time in detention than White youth (20.27).

**Table 12: Mean days spent in Detention Facility by Race**

Race/Ethnicity	Mean # of Days in Detention
White	20.3
Black	29.9
Asian	24.0
Hispanic	18.6
Indian	21.0
Average	23.3

To confirm our findings, regression analyses were used to determine what factors predict length of stay in a detention (Table 12).

**Table 13: Standardized Coefficients of Regression on Length of Stay**

	B	SE B	Beta	Sig.
Age	-0.439	0.599	-0.023	
White or Non-White	-1.463	1.786	-0.025	
Referral Agency County Rural Population	-8.373	4.373	-0.063	
Referral Agency County Metro Population	3.780	11.821	0.065	
Facility County Metro Population	-3.672	11.812	-0.063	
Referral Agency - State	-4.1318	2.650209	-0.06152	
Gender	4.419	2.025	0.067	*
Drug Crime	1.615	4.141	0.013	
Person Crime	2.495	2.796	0.030	
Property Crime	5.097	2.717	0.065	
Alcohol Related Crime	-8.697	3.972	-0.072	*
Weapon Crime	24.670	9.684	0.079	*
Traffic Crime	-5.194	6.038	-0.027	

\*=p<.05, \*\*=p<.01, \*\*\*=p<.001

When various control variables were introduced to the analysis, race remained uncorrelated with length of stay in a secure detention facility. However, several control variables were predictive of length of stay. Specifically, being male was associated with

a longer stay in secure detention. Offense type was also significantly related to length of stay. Relative to the reference group, “Other” crimes, youth who committed weapons offenses spent significantly longer in detention, while youth who committed alcohol related offenses spent significantly less time in detention.

### Recidivism among Youth Detained in Secure Juvenile Detention Facilities

Data for this assessment indicated that 27.3% of youth who were booked into a secure juvenile detention facility recidivated, or were booked into detention at least twice in one year. There were no significant differences in the rate of recidivism by race.

**Table 14: Recidivism by Race for youth in Secure Facilities**

	White	Black	Asian	Hispanic	Indian	Total
No Recidivism	62.3%	55.5%	66.7%	60.1%	62.7%	72.7%
Recidivism	37.7%	44.5%	33.3%	39.9%	37.3%	27.3%
Standardized Residual	-1.2	1.9	-0.4	0.0	-0.4	

Bold Numbers:  $p < .001$

A final regression analysis was conducted in order to confirm our results and examine what factors might influence recidivism among youth booked into a secure detention facility (Table 14).

**Table 15: Standardized Coefficients of Regression on Recidivism**

	B	SE B	Beta	Sig.
Age	0.056	0.030	0.068	
White or Non-White	0.019	0.092	0.007	
Referral Agency County Rural Population	-0.347	0.200	-0.066	
Referral Agency County Metro Population	0.037	0.574	0.014	
Facility County Metro Population	-0.039	0.574	-0.015	
Referral Agency - State	0.433	0.132	0.148	*
Gender	0.139	0.103	0.048	
Drug Crime	0.028	0.221	0.005	
Person Crime	-0.079	0.145	-0.021	
Property Crime	0.159	0.141	0.046	
Alcohol Related Crime	-0.167	0.197	-0.032	
Weapon Crime	-0.262	0.455	-0.021	
Traffic Crime	-0.334	0.308	-0.039	

\*= $p < .05$ , \*\*= $p < .01$ , \*\*\*= $p < .001$

While race remained non-significant, one control variable did significantly predict recidivism. Specifically, relative to the reference group “micropolitan” counties, youth who were referred to detention by a state agency had significantly more instances of recidivism.

## Key Findings for Youth in Detention

### Detention

1. A total of 4,021 youth were booked into some form of detention in Nebraska at some point between July 1, 2010 and June 30, 2011. Over half of all youth booked into some form of detention were 18 years old or older.
2. Nearly one quarter (24.9%) of all youth booked into any form of detention in FY2011 were Black. An additional 12.7% were Hispanic. Indian youth accounted for 3.7%. White youth accounted for the majority of youth in secure detention facilities (57%), but minority youth were statistically overrepresented.

### Length of Stay

3. The type of offense a youth was detained for was related to the length of his or her stay in all types of detention including secure detention facilities.
4. Being male and non-White are both significant predictors of the length of time a youth spends in all forms of detention.
5. Age was also a significant predictor of length of stay; specifically, older youth spend less time in all forms of detention.
6. There was a significant difference in the mean length of time youth of different racial groups spent in secure detention facilities: Black youth (29.87), Indian youth (20.99), and Asian youth (24.00) spend a longer average time in detention than White youth (20.27). However, once a variety of control variables were introduced in a regression model, race became non-significant.

### Recidivism

7. Being male and non-White were both significant predictors of recidivism among detained youth in general, but not for those specifically housed in secure facilities. Further, age was correlated with recidivism; being older was correlated with more instances of recidivism.
8. Black youth ( $p < .05$ ) and older youth in all forms of detention had more instances of recidivism. In addition, the population of the county from which Black youth were referred to detention significantly predicted recidivism; more specifically, youth brought in by a State agency, relative to one located in a micropolitan county, had more instances of recidivism.

## Chapter 6: Juvenile Court

### Introduction

Studies of the juvenile justice system have identified the complex ways in which race and ethnicity relate to court outcomes, sometimes with mixed results across court processing points. For example, Bishop and Frazier's (1988, 1996) work found that Black youth were more likely to be recommended for formal processing, referred to court, found delinquent, and given harsher dispositions than White youth. Similarly, Pope and Feyerherm (1990) found that Black youth received more severe court outcomes than White youth and that racial disparity occurred at various stages of juvenile court processing. Conversely, Leiber and Jamieson (1995) found that racial disparities exist at diversion, petition, and initial appearance, yet do not exist in subsequent decisions such as adjudication or disposition. Also, Guevara, Herz, and Spohn (2006) found that although non-White males were more likely than other offenders (non-White females, White males) to be detained prior to adjudication, non-White males were less likely than other offenders to be ordered to an out-of-home placement.

Over the past several decades, prior research has established a number of key findings regarding racial biases in juvenile court outcomes: 1) race directly and indirectly influences court outcomes (through gender, age, and community context); 2) racial biases are more common in front-end court processes than back-end processes; and 3) racial disparities accumulate as youth are processed further into the system (Engen, Steen, and Bridges 2002; Frazier and Cochran 1986; Leiber and Johnson 2008; Rodriquez, 2010).

This assessment endeavored to examine several points within the juvenile court process: charging, case processing, adjudication, and disposition. Unfortunately, several data limitations inhibited our ability to fully examine these system points.

### Data Limitations

In assessing the overrepresentation of minority youth in juvenile court, we were faced with two severe data limitations which prevented a complete analysis. First, we were unable to obtain juvenile court data from Douglas County. In November of 2011, Douglas County converted to the JUSTICE System (the Judicial Branch's case management system). While some information from Douglas County's former case management system were converted over to JUSTICE, the majority of variables were unavailable for the time period in question.

Second, 47.8% of the race/ethnicity data at the juvenile court level was unknown. More specifically, of the 1,015 juvenile cases captured by JUSTICE (for counties except Douglas), race was unknown in 485 cases (See Table 1). Additionally, since there were only 6 cases involving Asian youth, there was not enough statistical power to include them as a comparison category in the majority of analyses.

**Table 1: Racial Composition of Youth in Juvenile Court (including Lancaster County)**

Race/Ethnicity	Number of Youth	Percentage of Youth
Asian	6	.6%
Black	49	4.8%
Hispanic	118	11.6%
Indian	22	2.2%
Other	2	.2%
Unknown	485	47.8%
White	321	31.6%
Total	1,015	100%

The table below indicates the eight counties for which juvenile court race/ethnicity data were missing. Of the 485 cases where race/ethnicity data were missing, 408 cases or 84.1% were from Lancaster County.<sup>15</sup>

**Table 2: Missing Race/Ethnicity Data by County**

County	Number of Cases with Missing Data	Percentage of Missing Data
Lancaster	408	84.1%
Madison	1	0.2%
Hall	41	8.5%
Scotts Bluff	12	2.5%
Saline	2	0.4%
Kearney	2	0.4%
Thurston	1	0.2%
Sarpy	18	3.7%
Total	485	100%

Given the high percentage of missing data from Lancaster County, data from Lancaster County were excluded from analysis. The fact that data from Nebraska’s two largest

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<sup>15</sup> This is after additional data on race/ethnicity was provided by the Lancaster County Attorney’s Office and added to the database.

counties (Douglas and Lancaster) could not be used, limited our dataset to 430 usable cases, and limited our analysis to the following questions.

Charging

- Do minority youth face as many charges as White youth?
- Are minority youth as likely to have their charges amended as White youth?

Case Processing

- Are minority youth as likely to be represented by legal counsel as White youth in adult court?
- Are case processing times (from filing to disposition) equitable across racial/ethnic groups?

**Characteristics of the Population**

In FY 2011, 430 youth were prosecuted in the juvenile court system (excluding Douglas and Lancaster Counties) (Table 3). The age range of youth in juvenile court was 10 to 17 with a mean age of 15.1. Males comprised 67.7% of all youth in juvenile court, females comprised 30.5%, and the gender for 1.9% was unknown.

**Table 3: Age of Youth in Adult Court**

Age	Number of Youth	Percentage of Youth
10	4	0.9%
11	7	1.6%
12	16	3.7%
13	44	10.2%
14	66	15.3
15	82	19.1%
16	124	28.8%
17	87	20.2%
Total	430	100%

Because of the data limitations discussed above, analyses were limited to the following 24 counties:

**Table 4: Number of Juvenile Cases by County**

County	Number of Cases	Percentage of Cases
Adams	8	1.9%
Buffalo	1	.2%
Cheyenne	2	.5%
Colfax	18	4.2%
Dawson	58	13.5%
Franklin	4	.9%
Hall	77	17.9%

Harlan	1	.2%
Holt	2	.5%
Kearney	7	1.6%
Lincoln	10	2.3%
Madison	1	.2%
Nemaha	1	.2%
Pawnee	2	.5%
Phelps	3	.7%
Platte	2	.5%
Red Willow	9	2.1%
Saline	4	.9%
Sarpy	76	17.7%
Scotts Bluff	133	3.9%
Sherman	1	.2%
Stanton	4	.9%
Thurston	1	.2%
Washington	5	1.2%
Total	430	100%

The racial composition of youth in juvenile court was 51.6% White, 23.0% Hispanic, 2.6% Black, 18.4% Unknown, 3.5% Indian, and 0.9% Asian (Table 5).

**Table 5: Racial Composition of Youth in Juvenile Court (Excluding Douglas and Lancaster)**

Race/Ethnicity	Number of Youth	Percentage of Youth
Asian	4	.9%
Black	11	2.6%
Hispanic	99	23.0%
Indian	15	3.5%
Other	0	0.0%
Unknown	79	18.4%
White	222	51.6%
Total	430	100%

## Findings

### Number of Charges

Of youth charged in juvenile court, 67.5% had one charge against them and 32.5% had more than one charge against them. Chi-square analyses were conducted to determine whether there were significant differences between the racial composition of youth with one charge and youth with multiple charges. A Chi-square test takes an expected proportion (in this case, the proportion of each racial and ethnic group) and compares it



to an observed proportion (in this case, the observed racial and ethnic proportions of those in juvenile court). The Chi-square test indicates whether the difference between the groups is statistically significant. When the standardized residual is over 2.0, it indicates that the disparity contributes to the significant Chi-square value; the greater the standardized residual, the greater the disparity. At Table 6 shows, Chi-square analysis indicated that Black youth were significantly overrepresented in the population of youth facing multiple charges ( $p < .01$ ).

**Table 6: Multiple Charges by Race**

	White	Black	Asian	Indian	Hispanic	Total
One Charge	67.5%	27.3%	--	86.7%	73.7%	67.5%
Multiple Charges	34.2%	72.7%	--	13.3%	26.3%	32.5%
Standardized Residual	.5	<b>2.3</b>	--	-1.3	-1.1	
		<b>Over</b>				

Bold Numbers:  $p < .01$ ,  
 -- Not enough cases

Regression analysis was used to examine the factors that predict whether a youth faces multiple charges. None of the available variables were significant predictors of whether a youth faced multiple charges.

**Table 7: Standardized Coefficients of Logistic Regression on Number of Charges**

	B	SE B	Odds Ratio	Sig.	Sig.
Gender	.466	.453	4.59	.304	
Age at Time of Offense	.169	.121	1.18	.165	
Size of Community	-.005	.571	.995	.992	
Level of Offense	-.800	.660	.449	.226	
Non-White or White	-.257	.391	.773	.511	
Legal Representation	-.045	.386	.956	.908	

\* $p < .05$ , \*\* $p < .01$ , \*\*\* $p < .001$

## Charges Amended

Twenty-six point five percent of youth charged in juvenile court, subsequently had their charges amended. While Black youth were significantly more likely to face multiple charges, they were also significantly more likely to have those charges amended ( $p < .001$ ).<sup>16</sup> Hispanic youth were significantly less likely to have their charges amended ( $p < .001$ ).

<sup>16</sup> Several studies of juvenile court decision-making processes have proposed a possible “correction” process in back-end stages of processing (Fagan, Slaughter, and Hartstone 1987; Kurtz, Giddings, and Sutphen 1993). According to this explanation, court officials attempt to correct the high rate of minority youth overrepresentation at intake and referral stages by treating minority youth more leniently in later

**Table 8: Charges Amended by Race**

	White	Black	Asian	Indian	Hispanic	Total
Charges not Amended	69.8%	36.4%	--	80.0%	85.9%	73.5%
Charges Amended	30.2%	63.6%	--	20.0%	14.1%	26.5%
Standardized Residual	.9	<b>2.4</b>	--	<b>-.5</b>	-2.4	
		<b>Over</b>			<b>Under</b>	

Bold Numbers:  $p < .001$ ,

-- Not enough cases

Regression analysis was used to examine the factors that predict whether a youth's charges were amended. Of the variables examined, whether the youth had legal representation was the only significant factor in predicting whether charges would be amended.

**Table 9: Standardized Coefficients of Logistic Regression on Whether Charges were Amended**

	B	SE B	Odds Ratio	Sig.	Sig.
Gender	-.015	.580	.985	.980	
Age at Time of Offense	.162	.163	1.17	.323	
Size of Community	.948	.698	2.58	.175	
Level of Offense	-.193	.747	.824	.796	
Non-White or White	.999	.548	2.71	.068	
Legal Representation	1.20	.578	3.34	.037	*
Number of Offenses	-.204	.689	.816	.767	

\* $p < .05$ , \*\* $p < .01$ , \*\*\* $p < .001$

## Dispositions

The table below presents the types of dispositions for youth in juvenile court. Among cases that remained in juvenile court, youth pleaded guilty 57.4% of the time. Youth received Juvenile Review Hearing/Out of Home Placement in 8.1% of the cases. In 21.2% of the cases the disposition was unknown. Given the large amount of missing data, and the small number of cases for which there was a disposition other than guilty by admission to the court, additional analyses were not possible.

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stages of processing. For example, Dannefer and Schutt (1982) found that minority youth were more likely than white youth to be referred by police yet Black youth were treated more leniently than white youth at the disposition stage. They describe this self-correction process as one where court officials make efforts to address the aggressive law enforcement strategies that result in the high referral of (weak) cases involving minority youth.

**Table 10: Dispositions in Juvenile Court**

	<b>Number</b>	<b>Percent</b>
Juvenile Rev. Hearing/Out-Of-Home Placement	35	8.1%
Dismissed by Prosecutor	1	0.2%
Guilty Admission to Court	247	57.4%
Miscellaneous	34	7.9%
Revoke	11	2.6%
Supplemental	0	0.0%
Transfer	4	0.9%
Tried	7	1.6%
Unknown	91	21.2%
Total	430	100%

## **Judgments**

Judgments for youth in juvenile court ranged from educational classes and probation to commitments to the Office of Juvenile Services. Because of the large number of potential judgments (35) (many of which had too few cases to analyze with sufficient statistical power) and the difficulty that comes with ranking different judgments by level of severity, combined with our aforementioned missing data issues, we were unable to analyze the data further than presenting the list of judgments below:

**Table 11: Juvenile Court Judgments**

<b>Judgment</b>	<b>Frequency</b>	<b>Percentage</b>
Alcohol/Drug Education Class	8	1.9%
Anger Control Class	1	.2%
Apology	6	1.4%
CAR	3	.7%
Care and Custody of HHS	19	4.4%
Community Service	83	19.3%
Counseling	19	4.4%
Reimburse County	7	1.6%
Costs- Only Judgment	5	1.2%
Care and Custody of OJS	15	3.5%
Community Service Fee	12	2.8%
Committed Juvenile	33	7.7%
Curfew	12	2.8%
Decision Making Class	4	.9%
Defensive Driving Class	6	1.4%
Revoked License	4	.9%
Electronic Monitoring/No Fee	1	.2%
Impound License	3	.7%
Indef. Probation	26	6.0%

Lab Tests	1	.2%
HSS Supervision	2	.5%
No Contact Ordered	1	.2%
Out of Home Placement	6	1.4%
Probation-Court	39	9.1%
Probation Revoked	5	1.2%
Probation	39	9.1%
Restitution	18	4.2%
Reimburse Attorney Fees- County.	4	.9%
Reimburse City	2	.5%
School/GED	35	8.1%
Offender Assessment Screening	2	.5%
Term Court Jurisdiction	3	.7%
Term HHS Custody	1	.2%
Unsatisfactory Release from Probation	4	.9%
Vacated Sentence	1	.2%
Total	430	100%

## Case Processing

### *Legal Representation*

Prior research has cautioned about the high percentage of youth navigating the justice system alone, after having waived their right to counsel (National Juvenile Defender Center, 2009). Data for this assessment indicated that only 50.1% of youth in juvenile court were represented by counsel. The differences across racial groups in whether or not a youth had legal representation were not significant.

**Table 12: Legal Representation by Race**

	<b>White</b>	<b>Black</b>	<b>Asian</b>	<b>Indian</b>	<b>Hispanic</b>	<b>Total</b>
No Legal Representation	49.9%	18.2%	75.0%	46.7%	53.5%	49.9%
Legal Representation	50.5%	81.8%	25.0%	53.3%	46.5%	50.1%
Standardized Residual	.1	1.5	-.7	.2	-.5	

Bold Numbers:  $p < .001$ ,

-- Not enough cases

### *Time from Filing to Disposition*

The mean number of days from the date filed to the disposition date was 90.97 days.<sup>17</sup> Native American youth on average were involved in the court system for longer

<sup>17</sup> More than double the length of time from filing to disposition for youth in adult court which was 35.5 days.

periods of time (104.67) while Black youth were involved for substantially shorter periods of time (73.43 days). ANOVA tests indicated that the differences between racial/ethnic groups were not statistically significant. A factor that may play an important role in the length of days from filing to disposition may be whether the youth was dually adjudicated. As discussed in Chapter 9, Native American youth were significantly more likely to be dually adjudicated. Unfortunately, the juvenile court dataset requested for this assessment did not include this variable, so we were unable to assess to what extent this factor explained these differences.

**Table 13: Mean Number of Days from Filing to Disposition by Race**

<b>Race/Ethnicity</b>	<b>Mean # of Days from Filing to Disposition</b>
Asian	--
Black	73.43
Hispanic	93.28
Indian	104.67
White	90.26
Average	90.97

## **Key Findings Regarding Youth in Juvenile Court**

### **Data Quality and Availability**

1. JUSTICE has a very high percentage of missing race/ethnicity data for youth in juvenile court, particularly in Lancaster County.

### **Charging**

2. Based on annual caseload statistics and the information presented in the following chapter, it is estimated that 55.3% of youth in Nebraska are prosecuted in the juvenile court system and 44.7% are prosecuted in the adult court system.
3. Of youth charged in juvenile court 67.5% had one charge against them and 32.5% had more than one charge against them. Black youth were statistically more likely to face multiple charges.
4. While Black youth were more likely to face multiple charges, they were also significantly more likely to have those charges amended. Hispanic youth were significantly less likely to have their charges amended.

### **Disposition**

5. In 57.4% of the cases, youth pleaded guilty.

### **Judgment**

6. Of the 35 different types of juvenile court judgments, the most common were community service and probation.

### **Case Processing**

7. Data indicated that only 50.1% of youth in juvenile court were represented by legal counsel. The differences across racial groups in whether or not a youth had legal representation were not significant.
8. Data indicated that the mean number of days from filing to disposition was much greater for Native American youth (104.67) compared to the average number of days across all categories (90.97). However, a comparison of means

test indicated that these differences were not statistically significant. Stakeholders suggested that whether the youth was dually adjudicated may explain the higher mean days for Native American youth (unfortunately, this variable was not available for analysis).

9. Data indicated that the mean number of days from filing to disposition was much greater for juvenile court youth (90.97) than for youth in adult court (35.30).

## Chapter 7: Juveniles in Adult Court

### Introduction

Prior research has documented that minority youth are often overrepresented in the adult court system (Juszkiewitz, 2000; Males & Macallair, 2000; Myers, 2007). For example, a review by Myers (2007), noted that virtually all studies that measure the race of transferred youth find that non-Whites, especially African-Americans, are highly overrepresented and constitute 50% to 95% of all transferred youth. African-American youth age 10-17 comprise about 15% of their age group nationally, yet they represent close to 60% of waivers to adult criminal court.

Why is it important to examine youth in the adult court system? Research has also demonstrated that youth transferred to adult court are more likely to: receive harsher sentences (Kupchik, 2006; Podkopacz and Feld, 1996; Krance, 2004) and are more likely to re-offend than those sent to the juvenile justice system for the same type of offense and with similar prior records (Bishop, Frazier, Lanza-Kaduce, and White, 1996; Fagan, 1995; Mason and Chang, 2001).

While in the great majority of states, juvenile cases start in juvenile court and are transferred to adult court, juvenile cases in Nebraska start at the adult court level and are transferred to juvenile court. This anomaly makes youth in the adult court system a particular area of interest with regard to DMC in Nebraska.

Data from the adult court system allows us to examine the following research questions:

### Charging

- Are minority youth overrepresented in the adult court system?
- Do minority youth face as many charges as White youth?
- Are minority youth as likely to have their charges amended as White youth?

### Transfers to Juvenile Court

- Are minority youth as likely to be transferred to juvenile court as White youth?
- Following transfers to juvenile court, are minority youth overrepresented in the adult court system?

### Dispositions

- Are minority youth as likely to plead guilty as White youth charged in adult court?



## Judgment

- Are minority youth overrepresented in the population receiving jail time?

## Case Processing

- Are minority youth as likely to be represented by legal counsel as White youth in adult court?
- Are case processing times (from filing to disposition) equitable across racial/ethnic groups?

## Nebraska's Statutory Framework

There is no minimum age for prosecution as an adult in Nebraska. The process by which a juvenile can be tried in adult criminal court is prescribed by statute, with the initial decision of whether to file a charge resting at the discretion of the county attorney. Any juvenile aged 16-17 who is charged with a misdemeanor violation or who is under the age of 16 charged with a felony offense under the Juvenile Code is subject to adult criminal charges.

Pursuant to Neb. Rev. Stat. § 43-276 a county attorney must consider the following factors when determining whether to file a juvenile court petition or whether a juvenile is a candidate for pretrial diversion or mediation:

- The type of treatment such juvenile would most likely be amenable to;
- Whether there is evidence that the alleged offense included violence or was committed in an aggressive and premeditated manner;
- The motivation for the commission of the offense;
- The age of the juvenile and the ages and circumstances of any others involved in the offense;
- The previous history of the juvenile, including whether he or she had been convicted of any previous offenses or adjudicated in juvenile court, and, if so, whether such offenses were crimes against the person or relating to property, and other previous history of antisocial behavior, if any, including any patterns of physical violence;
- The sophistication and maturity of the juvenile as determined by consideration of his or her home, school activities, emotional attitude and desire to be treated as an adult, pattern of living, and whether he or she has had previous contact with law enforcement agencies and courts and the nature thereof;
- Whether there are facilities particularly available to the juvenile court for treatment and rehabilitation of the juvenile;
- Whether the best interests of the juvenile and the security of the public may require that the juvenile continue in secure detention or under supervision for a

period extending beyond his or her minority, and, if so, the available alternatives best suited to this purpose;

- Whether the victim agrees to participate in mediation;
- Whether there is a juvenile pretrial diversion program established pursuant to the Juvenile Code;
- Whether the juvenile has been convicted of or has acknowledged unauthorized use or possession of a firearm;
- Whether a juvenile court order has been issued for the juvenile pursuant to the Juvenile Code; and,
- Such other matters as the county attorneys deems relevant to his or her decision.

The court must convey to the juvenile that he/she can make a motion to transfer the case to juvenile court (Neb. Rev. Stat. §29-1816). A motion must be made within thirty days after arraignment, and upon receipt of the motion, the court must schedule a hearing within fifteen days. When considering a motion to transfer a case to juvenile court, the court shall consider, among other matters, the criteria set forth in Neb. Rev. Stat. § 43-276 (the same criteria used by the county attorney or city attorney listed above when determining the type of case to file).

### **Characteristics of the Population**

In FY 2011, 2,600 youth were prosecuted in the adult court system (Table 1). The age range of youth in the adult court system was 11 to 17 with a mean age of 16.5. Males comprised 69.8% of all youth in adult court (females comprised 30.2%).

**Table 1: Age of Youth in Adult Court**

<b>Age</b>	<b>Number of Youth</b>	<b>Percentage of Youth</b>
11	2	0.1%
12	3	0.1%
13	16	0.6%
14	51	1.9%
15	119	4.5%
16	723	27.6%
17	1,685	64.3%
<b>Total</b>	<b>2,600</b>	<b>100%</b>

The racial composition of youth in adult court was 59.5% White, 16.2% Hispanic, 10.5%, Black, 8.3% Unknown, 1.4% Indian, 1.0% Asian, and 0.3% other.

**Table 2: Racial Composition of Youth in Adult Court**

Race/Ethnicity	Number of Youth	Percentage of Youth
Asian	26	1.0%
Black	351	13.4%
Hispanic	424	16.2%
Indian	37	1.4%
Other	7	0.3%
Unknown	217	8.3%
White	1,557	59.5%
Total	2,619	100%

## Findings

### Are Minority Youth Overrepresented in Adult Court?

Chi-square analyses were conducted to determine whether there were significant differences between the racial composition of youth in Nebraska and youth charged in the adult court system. A Chi-square test takes an expected proportion (in this case, the proportion of each racial and ethnic group) and compares it to an observed proportion (in this case, the observed racial and ethnic proportions of those charged in adult court). The Chi-square test indicates whether the difference between the groups is significant. When the standardized residual is over 2.0, it indicates that the disparity contributes to the significant Chi-square value; the greater the standardized residual, the greater the disparity. As Table 3 shows, when compared to the racial and ethnic distribution of the general population of youth in Nebraska, Black and Hispanic youth were significantly overrepresented in adult court, while White and Asian youth were significantly underrepresented in adult court ( $p < .001$ ).

**Table 3: Population of Youth Charged in Adult Court**

	White	Black	Asian	Indian	Hispanic
Youth Population	76.6%	6.9%	2.0%	1.3%	13.3%
Population of Youth Charged in Adult Court	65.0%	14.7%	1.1%	1.5%	17.7%
Standardized Residual	-6.5	14.4	-3.1	1.1	5.9
	<b>Under</b>	<b>Over</b>	<b>Under</b>		<b>Over</b>

Bold Numbers:  $p < .001$

### Number of Charges in Adult Court

Of youth charged in adult court, 55.2% had one charge against them, and 44.8% had more than one charge against them. Chi-square analyses were conducted to determine whether there were significant differences between the racial composition of youth that

faced multiple charges in adult court. Data indicated that Black youth were significantly overrepresented in the population of youth with multiple charges ( $p < .05$ ).

**Table 4: Population of Youth in Adult Court vs. Population with Multiple Counts**

	White	Black	Asian	Indian	Hispanic	Total
One Count	57.0%	46.7%	61.5%	51.4%	55.4%	55.2%
Multiple Counts	43.0%	53.3%	38.5%	48.6%	44.6%	44.8%
Standardized Residual	-1.1	<b>2.4</b>	-.5	.3	-.1	
		<b>Over</b>				

Bold Numbers:  $p < .05$

Regression analysis was used to examine the factors that predict whether a youth faces multiple charges. Regression analysis (Table 5) indicated that youth with multiple charges were significantly more likely to be male ( $p < .05$ ), come from larger communities ( $p < .001$ ) and were more likely to have legal representation ( $p < .001$ ). Notably, when combined into one category, non-Whites were no more likely than Whites to have multiple charges.

**Table 5: Standardized Coefficients of Logistic Regression on Number of Charges**

	B	SE B	Odds Ratio	Sig.
Gender	.540	.022	.050	*
Age at Time of Offense	-.033	.014	-.005	
Size of Community	.112	.015	.151	***
Level of Offense	.064	.063	.021	-
Non-White or White	-.025	.021	-.024	-
Legal Representation	.113	.023	.099	***

### Charges Amended

While Black youth were more likely to face multiple charges, they were also more likely to have those charges amended. Of youth charged in adult court, 29% had charges that were amended. Chi-square analyses were conducted to determine whether there were significant differences between the racial composition of youth that had their charges amended. Data indicated that Black youth were significantly overrepresented in the population of youth with amended charges ( $p < .05$ ).

**Table 6: Charges Amended by Race**

	White	Black	Asian	Indian	Hispanic	Total
Charges not Amended	71.1%	64.7%	80.8%	75.7%	75.0%	71.0%
Charges Amended	28.9%	35.3%	19.2%	24.3%	25.0%	29.0%
Standardized Residual	-1	<b>2.2</b>	-.9	-.5	-1.5	
		<b>Over</b>				

Bold Numbers:  $p < .05$

Regression analysis was used to examine the factors that predict whether a youth's charges were amended. Regression analysis indicated that White youth ( $p < .01$ ) and male youth ( $p < .05$ ) were more likely to have amended charges. Youth from larger communities ( $p < .001$ ), youth with legal representation ( $p < .001$ ), and youth with more than one initial charge ( $p < .001$ ) were more likely to have their charges amended.

**Table 7: Standardized Coefficients of Logistic Regression on Whether Charges were Amended**

	B	SE B	Odds Ratio	Sig.	Sig.
Gender	.039	.018	.040	.030	*
Age at Time of Offense	.016	.012	.026	.169	-
Size of Community	.112	.013	.164	.000	***
Level of Offense	.051	.052	.18	.332	--
Non-White or White	.050	.018	.053	.005	**
Legal Representation	.255	.019	.245	.000	***
Number of Offenses	.243	.017	.266	.000	***

\* $p < .05$ , \*\* $p < .01$ , \*\*\* $p < .001$

### Transfer to Juvenile Court

Just over one fifth (20.2%) of youth in adult court were transferred to juvenile court ( $n=477$ ). Chi-square analyses were conducted to determine whether there were significant differences between the racial composition of youth transferred to juvenile court. Data indicated that Black youth were significantly overrepresented in the population of youth transferred to juvenile court, while Hispanic youth were significantly underrepresented ( $p < .001$ ).

**Table 8: Transfers to Juvenile Court by Race**

	White	Black	Asian	Indian	Hispanic	Total
Not Transferred	81.1%	67.1%	73.1%	91.9%	85.1%	79.8%
Transferred to Juvenile Court	18.9%	32.9%	26.9%	8.1%	14.9%	20.2%
Standardized Residual	-1.1	<b>5.3</b>	.8	-1.6	<b>-2.4</b>	
		<b>Over</b>			<b>Under</b>	

Bold Numbers:  $p < .001$

As discussed above, Neb. Rev. Stat. § 29-1816 indicates that when considering a motion to transfer a case to juvenile court, the court shall consider, among other matters, the criteria set forth in Neb. Rev. Stat. § 43-276 (the same criteria used by the county attorney or city attorney when determining the type of case to file). Unfortunately, with the exception of age, the majority of these criteria are factors that are subjective in nature (e.g., motivation for the offense, sophistication and maturity of the juvenile, the child’s best interests, etc.), and not captured by JUSTICE, the source of data for this inquiry.

To further explore these racial differences, regression analysis was used (with available variables) to determine which factors predict transfer to juvenile court. Analyses were conducted to determine the impact of demographic factors (gender and age), community factors (size of community), and offense characteristics (whether the offense was a games and parks violation, misdemeanor, or felony level offense), and whether or not the youth was represented by counsel, upon determining the likelihood of transfer.

Data indicated that race (non-White vs. White) was not a significant predictor of whether a case would be transferred. The significant factors were: age at time of offense (the younger the youth, the more likely their case would be transferred,  $p < .01$ ), size of community (the larger the community, the more likely the case would be transferred,  $p < .001$ ), and whether or not the youth had legal representation (if the youth had counsel they were significantly more likely to have their case transferred to juvenile court ( $p < .01$ )).

**Table 9: Standardized Coefficients of Logistic Regression on Transfer Status**

	<b>B</b>	<b>SE B</b>	<b>Odds Ratio</b>	<b>Sig.</b>	<b>Sig.</b>
Gender	-.035	.018	.040	.051	-
Age at Time of Offense	-.033	.012	-.060	.004	**
Size of Community	.436	.091	.100	.000	***
Level of Offense	.100	.052	.040	.054	-
Non-White or White	-.025	.017	-.029	.155	-
Legal Representation	.056	.019	.061	.003	**

\* $p < .05$ , \*\* $p < .01$ , \*\*\* $p < .001$

To assess why Black youth might be significantly more likely to have their cases transferred to juvenile court and Hispanic youth significantly less likely, the data were analyzed separately by racial/ethnic group. The results indicated that community size was a significant predictor for Black youth of whether or not the case will be transferred to juvenile court. Since 95% of Black youth in the sample reside in a metropolitan area,

the fact that larger communities were more likely to transfer cases to juvenile court plays a significant part in explaining why Black youth had a greater likelihood of being transferred to juvenile court.

None of the factors examined significantly predicted whether or not a Hispanic youth’s case was transferred to juvenile court (not even whether or not the youth had legal representation). When presented with this finding, juvenile justice system stakeholders suggested that perhaps language barriers or fear or distrust of the system keeps Hispanic youth from requesting a transfer to juvenile court. Juvenile justice stakeholders also pointed out that these data only present the number of youth whose cases were ultimately transferred to juvenile court. It does not present data on how many youth *requested* that their case be transferred to juvenile court. It is possible that success rates of the requests to transfer a case to juvenile court may differ by race. Future research should examine requests for transfer and continue to explore reasons why Hispanic youth were significantly less likely to be transferred to juvenile court.

### The Adult Court Population Following Transfers

Following transfers of youth to juvenile court, is the remaining youth population in adult court representative of the racial composition of the state? In comparison to their representation in the population, White and Asian youth remained significantly underrepresented in the adult court system (although the extent to which white youth were underrepresented decreased from a standardized residual of -6.5 to -5.2). In comparison to their representation in the general youth population, Black and Hispanic youth remained overrepresented in the adult court system. While the extent to which black youth were underrepresented decreased for Black youth—the standardized residual was reduced from 14.4 to 9.2), it increased for Hispanic youth (5.9 and 6.2).<sup>18</sup>

**Table 10: Population of Youth Charged in Adult Court after Transfer Hearings**

	White	Black	Asian	Indian	Hispanic
Youth Population	76.6%	6.9%	2.0%	1.3%	13.3%
Population in Adult Court after Transfers have been made to Juvenile Court	66.2%	12.5%	1.0%	1.8%	18.5%
Standardized Residual	<b>-5.2</b>	<b>9.2</b>	<b>-3.0</b>	1.9	<b>6.2</b>
	<b>Under</b>	<b>Over</b>	<b>Under</b>	--	<b>Over</b>

Bold Numbers: p<.001

<sup>18</sup> Based on comparisons of Table 10 and Table 3.

## Dispositions

The table below presents the types of dispositions for youth in adult court. Among cases that remained in adult court, youth pleaded guilty 95.4% of the time either by an admission to the court (65.6%), or by waiver (29.8%).

**Table 11: Dispositions in Adult Court**

Disposition	Number	Percent
Unknown	34	1.6%
Dismissed by Prosecutor/Party	4	0.2%
Guilty Plea Admission in Court	1,377	65.6%
Guilty Plea by Waiver	625	29.8%
Misc.	44	2.1%
Tried. Adjudicated by Court	14	0.7%
Total	2,098	100.00%

### *Guilty Plea by Admission in Court*

Chi-square analyses were conducted to determine whether there were significant differences between the racial composition of youth who pleaded guilty by admission to the court. Data indicated that there were no significant differences.

**Table 12: Guilty Pleas by Admission by Race**

	White	Black	Asian	Indian	Hispanic	Total
No Guilty Plea by Admission	47.9%	40.0%	42.3%	37.8%	44.1%	45.9%
Guilty Plea by Admission	52.1%	60.0%	57.7%	62.2%	55.9%	54.1%
Standardized Residual	-1.1	1.5	.2	.7	.5	

### *Guilty Plea by Waiver*

Chi-square analyses were conducted to determine whether there were significant differences between the racial composition of youth who pleaded guilty by waiver. Data indicated that White youth were more likely to plead guilty by waiver and that Black youth were significantly less likely to plead guilty by waiver ( $p < .001$ ).

**Table 13: Guilty Pleas by Waiver by Race**

	White	Black	Asian	Indian	Hispanic	Total
No Guilty Plea by Waiver	73.5	94.3	84.6	70.3	73.4	76.6
Guilty Plea by Waiver	26.5	5.7	15.4	29.7	26.6	23.4
Standardized Residual	<b>2.5</b>	<b>-6.8</b>	-.8	.8	1.3	
	<b>Over</b>	<b>Under</b>				

Bold Numbers:  $p < .001$



To further understand these findings, regression analysis was conducted to examine the factors that predict whether a youth will plead guilty by waiver. Younger youth ( $p < .001$ ), youth from smaller communities ( $p < .001$ ) and White youth were more likely to plead guilty by waiver. Youth without legal representation were significantly more likely to plead guilty by waiver, ( $p < .001$ ), and youth with less severe offenses were more likely to plead guilty by waiver ( $p < .05$ ). Since youth are typically appointed counsel for more serious offenses it is not surprising that youth who pleaded guilty by waiver were not represented by counsel, as waiverable offenses tend to be less serious in nature. Together, these findings suggest that White youth may be more likely to be charged with less serious/waiverable offenses.

**Table 14: Standardized Coefficients of Logistic Regression on Guilty Plea by Waiver**

	<b>B</b>	<b>SE B</b>	<b>Odds Ratio</b>	<b>Sig.</b>	<b>Sig.</b>
Gender	.003	.018	.004	.846	
Age at Time of Offense	-.063	.011	-.108	.000	***
Size of Community	-.144	.013	-.179	.000	***
Level of Offense	-.343	.051	-.130	.000	***
Non-White or White	.042	.017	.047	.014	*
Legal Representation	-.214	.019	-.221	.000	***

\* $p < .05$ , \*\* $p < .01$ , \*\*\* $p < .001$

## Judgments

### *Jail/Correctional Time*

Judgments for youth in adult court varied widely from educational classes and fines to jail time. Because of the large number of potential judgments (46) (many of which had too few cases to analyze with sufficient statistical power) and the difficulty that comes with ranking different judgments by level of severity, we chose to examine whether there were racial/ethnic differences in the number of youth receiving the most severe offense, jail time ( $n=294$ ).

Chi-square analyses were conducted to determine whether there were significant differences between the racial composition of youth who received jail time. Data indicated that Black and Native American youth are significantly overrepresented in the population of youth receiving jail time ( $p < .001$ ).

**Table 15: Population of Youth in Adult Court vs. Population Receiving Jail Time**

	White	Black	Asian	Indian	Hispanic	Total
No Jail Time	89.3%	82.3%	88.5%	73.0%	87.5%	87.7%
Jail Time	10.7%	17.7%	11.5%	27.0%	12.5%	12.3%
Standardized Residual	-1.8	<b>2.9</b>	-.1	<b>2.6</b>	.1	
		<b>Over</b>		<b>Over</b>		

Bold Numbers:  $p < .001$

Results from regression analysis indicated that youth from smaller communities were more likely to receive jail time ( $p < .001$ ), youth with more serious offenses were more likely to receive jail time ( $p < .001$ ), youth of color were more likely to serve jail time ( $p < .01$ ), and youth who pleaded guilty by admission to the court were more likely to receive jail time ( $p < .001$ ). Youth with legal representation were more likely to serve jail time ( $p < .001$ ), (which is likely explained by the fact that youth with more serious charges are more likely to have legal representation). Youth with more than one charge were also more likely to serve jail time ( $p < .05$ ).

**Table 16: Standardized Coefficients of Linear Regression on Jail Time**

	<b>B</b>	<b>SE B</b>	<b>Beta</b>	<b>Sig.</b>	<b>Sig.</b>
Gender	.006	.014	.008	.678	-
Age at Time of Offense	-.001	.009	-.002	.904	-
Size of Community	-.060	.010	-.122	.000	***
Level of Offense	.183	.041	.089	.000	***
Non-White or White	-.037	.014	-.054	.006	**
Guilty Plea by Admission	.194	.018	.294	.000	***
Guilty Plea by Waiver	.007	.021	.008	.750	--
Legal Representation	.077	.016	.102	.000	***
Number of Charges	.034	.014	.054	.014	*

\* $p < .05$ , \*\* $p < .01$ , \*\*\* $p < .001$

### *Length of Time in Jail/Corrections*

The table below reports the mean length of time served among youth who served time in a jail or a correctional facility ( $n=294$ ). The average length of stay was 69.1 days, with an average range of 16 days for Asian youth and 101.3 days for Indian youth. Despite the large range, ANOVA tests did not indicate significant differences.

**Table 17: Average Length of Time in Jail by Race**

Race	Mean	Number	Std. Deviation
Asian	16.00	3	14.0
Black	36.15	62	59.36
Hispanic	70.19	53	114.48
Indian	101.30	10	142.68
White	69.10	166	103.18
Total	62.90	294	99.68

*Fine Amounts*

Of youth who received a city or state fine (n=1,400), mean judgment amounts were significantly different by race. The table below reports the mean judgment amount by racial and ethnic group (ANOVA significant at the  $p<.001$  level).

**Table 18: Mean Judgment Amounts by Race**

Race	Mean Fine	Number	Std. Deviation
Asian	\$101.67	15	101.97
Black	\$82.34	148	72.35
Hispanic	\$110.62	276	96.52
Indian	\$170.26	19	139.78
White	\$88.68	942	82.22
Total	\$93.58	1,400	86.32

Unfortunately we did not gain access to information regarding all of the factors that would influence fine amounts. However, using variables that were available, regression analysis was used to examine the factors that predict the amount of a fine. Data indicated that older youth ( $p<.001$ ), youth from smaller communities ( $p<.001$ ), and non-White youth ( $p<.01$ ) were more likely to have larger fine amounts. Youth facing only one charge ( $p<.01$ ) were more likely to have larger fine amounts and youth with legal counsel were more likely to have higher fine amounts ( $p<.001$ )

**Table 19: Standardized Coefficients of Linear Regression on Fine Amount**

	B	SE B	Beta	Sig.	Sig.
Gender	4.98	4.88	0.26	.308	--
Age at Time of Offense	11.00	2.99	.097	.000	***
Size of Community	-28.73	3.69	-.220	.000	***
Level of Offense	7.19	13.62	.014	.598	--
Non-White or White	-13.58	4.73	-.074	.004	**
Guilty Plea by Admission	-13.99	23.06	-.080	.544	--
Guilty Plea by Waiver	-44.75	23.25	-.256	.054	--
Legal Representation	29.67	6.49	.127	.000	***
Number of Charges	-15.59	4.83	-.090	.001	**
Charges Amended	7.81	5.58	.043	.161	--

\* $p<.05$ , \*\* $p<.01$ , \*\*\* $p<.001$

## Case Processing

### *Legal Representation*

Prior research has cautioned about the high percentage of youth navigating the justice system alone, after having waived their right to counsel (National Juvenile Defender Center, 2009). Data for this assessment indicated that only 26% of youth in adult court were represented by counsel. When compared to the racial and ethnic distribution of youth in adult court, Black youth were significantly more likely to have legal representation.

**Table 20: Legal Representation by Race**

	White	Black	Asian	Indian	Hispanic	Total
No Legal Representation	76.4%	64.4%	61.5%	67.6%	75.7%	74.2%
Legal Representation	23.6%	35.6%	38.5%	32.4%	24.3%	25.8%
Standardized Residual	-1.7	<b>3.6</b>	1.3	.8	-.6	
		<b>Over</b>				

Bold Numbers:  $p < .001$

Regression analysis indicated that in addition to race, age at time of offense, size of community and level of offense were significant predictors of whether or not a youth had legal representation. (In adult court counsel is only appointed if the offense carries the possibility of jail time).

**Table 21: Standardized Coefficients of Logistic Regression on Legal Representation**

	B	SE B	Odds Ratio	Sig.	Sig
Gender	.020	.019	.022	.285	--
Age at Time of Offense	.034	.012	.057	.006	**
Size of Community	.042	.014	.063	.002	**
Level of Offense	.399	.055	.147	.000	***
Non-White or White	-.042	.019	-.046	.025	**

\* $p < .05$ , \*\* $p < .01$ , \*\*\* $p < .001$

### *Time from Filing to Disposition*

The mean number of days from the date the case was filed to the disposition date was 35.3 days. Asian (49.3 days) and Hispanic youth (39.3 days) are on average, involved in the justice system for longer periods of time than are White youth (33.0 days). ANOVA

tests indicated that the differences were not statistically significant. Juvenile justice stakeholders suggested that language barriers (access to interpreters) may be one factor explaining longer case processing times for Asian and Hispanic youth.

**Table 22: Mean Number of Days from Filing to Disposition by Race**

Race/Ethnicity	Mean # of Days from Filing to Disposition
Asian	49.27
Black	37.69
Hispanic	39.33
Indian	35.11
White	33.01
Average	35.30

## Key Findings Regarding Youth in Adult Court

### Data Quality and Availability

1. JUSTICE has a very high percentage of available race/ethnicity data for youth in adult court. In only 8.3% of cases (n=217) were race/ethnicity data for youth in adult court unknown/missing.

### Charging

2. When compared to the racial and ethnic distribution of youth in Nebraska, Black and Hispanic youth were significantly overrepresented in adult court, while White and Asian youth were significantly underrepresented in adult court.
3. Forty-four point eight percent of youth in adult court were facing more than one charge. When compared to the racial/ethnic distribution of youth in adult court, Black youth were significantly more likely to face multiple charges.
4. While Black youth were more likely to face multiple charges, they were also significantly more likely to have charges amended.

### Transfers to Juvenile Court

5. Twenty point two percent of youth in adult court were transferred to juvenile court (n=477). Data indicated that Black youth were significantly overrepresented in the population of youth transferred to juvenile court, while Hispanic youth were significantly underrepresented.
  - a. Regression analysis indicated that factors significant in predicting whether a case would be transferred to juvenile court were: age at time of offense (the younger the youth, the more likely their case would be transferred,  $p < .01$ ), size of community (the larger the community, the more likely the case would be transferred,  $p < .001$ ), and whether or not the youth had legal representation (if the youth had counsel they were significantly more likely to have their case transferred to juvenile court ( $p < .01$ )).
    - i. The fact that 95% of Black youth in the sample reside in a metropolitan area, and the fact that Black youth were more likely to have legal representation (discussed below) played a significant

part in explaining why Black youth had a greater likelihood of being transferred to juvenile court.

- ii. None of the variables examined (age, gender, community size, legal representation, seriousness of charge) were significant in explaining why Hispanic youth in Nebraska were less likely to be transferred to juvenile court.

## Disposition

6. Of the cases that remained in adult court, in 95.4% of these cases the youth pleaded guilty, either by an admission to the court (65.6%), or by waiver (29.8%).
7. There were no significant racial differences in the rates by which youth pleaded guilty by admission to the court.
8. White youth were significantly overrepresented in the population of youth who pleaded guilty by waiver, whereas Black youth were significantly underrepresented, suggesting that White youth may be more likely to commit offenses which were waivable.

## Judgment

9. Blacks and Native American youth were significantly overrepresented in the population of youth receiving jail time.
10. Of youth who served time in a jail or a correctional facility, there was not a significant difference in the length of stay across racial/ethnic groups.
11. Of youth who received a city or state fine, mean judgment amounts were significantly different by race. Asian, Hispanic and Native American youth had significantly higher average fines than Whites or Blacks.
  - a. Regression analysis indicated that factors significant in predicting fine amounts were: age at time of offense (the older the youth, the higher the fine amount ( $p < .001$ )), youth from smaller communities ( $p < .001$ ), and non-White youth ( $p < .01$ ) were more likely to have larger fine amounts. Youth facing only one charge ( $p < .01$ ) were more likely to have larger fine amounts and youth with legal counsel were more likely to have higher fine amounts ( $p < .001$ ).

## Case Processing

12. Data indicated that only 26% of youth in adult court were represented by counsel. While this percentage is alarmingly low, the proportion of youth with legal representation across racial/ethnic groups was proportionate to their population in adult court, with one exception: Black youth were significantly more likely to have legal representation. Regression analysis indicated that the



most predictive factor for determining whether or not a youth had counsel was the severity of the offense (the more severe the offense the more likely the youth was represented by counsel). This, coupled with the fact that legal representation was more likely to be provided in metropolitan areas (where 95% of the Black youth in the sample reside), likely explained why Black youth in the adult court system were more likely to have legal representation.

13. Data indicated that the mean number of days from filing to disposition was much greater for Asian (49.27 days) and Hispanic youth (39.33) than for White youth (33.01). However, a means test indicated that these differences were not statistically significant. Juvenile justice stakeholders suggested that language barriers (access to interpreters) may be one factor explaining longer case processing times for Asian and Hispanic youth. Stakeholders also indicated that parental involvement may be a factor. If parents are not in attendance at the court hearing, it may be continued, leading to longer case processing times.

## Chapter 8: Juveniles Placed on Probation

A critical point in the juvenile justice system is the process by which youth are placed on probation and whether they successfully complete the terms of their probation or violate those terms and receive sanctions.

Nebraska Probation Administration is housed within the State Judicial Branch. The Administrative Office houses a Juvenile Justice Program Specialist within the Community Based Supervision and Programs Division. This person is responsible for coordinating policy and procedures, implementation of evidence based practices and programs and ongoing quality assurance. Local offices operate through 12 district offices which align with the 12 judicial districts. Douglas, Lancaster, and Sarpy have separate juvenile specific offices and officers as part of their district. In all other districts, officers may have adults and juveniles on their caseloads.

A critical discretionary point includes the recommendations that probation makes to the court while the juvenile is under their supervision. When a youth is first placed on probation, the court must place conditions on this release. The probation officer develops a case plan outlining the youth's restrictions or "conditions of liberty", as well as programs and/or services the youth will be connected with while on probation. Probation officers run a variety of evidence-based cognitive groups such as MRT, EQUIP, and Why Try.<sup>19</sup> Officers also make referrals for treatment and other needed services. Statute allows probation officers to implement graduated sanctions as part of supervision in lieu of an automatic violation. Youth are discharged from probation when they have successfully completed their case plan or have been revoked by the court. A youth's successful progression through juvenile probation may be contingent on the probation officer.

To examine this discretionary point, we included the following research questions as part of the Nebraska Statewide Assessment:

- Are minority youth as likely to *successfully complete* juvenile probation as White youth?
- Are minority youth as likely to have their probation *revoked* as White youth?

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<sup>19</sup> MRT is a cognitive-behavioral substance counseling program that combines education, group and individual counseling, and structured exercises designed to foster moral development in treatment-resistant clients. The EQUIP Program is a three-part intervention method for working with antisocial or behavior disordered adolescents. WhyTry© is a social skills program designed to address student motivation and maladaptive patterns of dealing with failure. The curriculum has a solution-focused therapy rooted in emotional intelligence and multiple intelligence theories.

## Literature

Bridges and Steen (1998) examined how probation officers assess youth behavior. They illustrated how probation officers used different causal attributions to assess the delinquent behavior of Black vs. White youth. Bridges and Steen (1998) demonstrated how Black youth involvement in delinquency was “viewed as related to internal or dispositional attributions (i.e., lack of individual responsibility), whereas delinquency among White youth was attributed to external causes (i.e., impoverished conditions)” (Lieber, Fox and Lacks, 2007). These researchers report that decision makers viewed Black juvenile probationers differently than White youth. Specifically, Black families were “seen by the decision-makers in Black Hawk (County) as dysfunctional, most often headed by a teen-age single female and distrustful though not necessarily less cooperative with representatives of the court” (pg. 25).

Clearly, decision making is a subtle and multi-faceted element of disproportionate minority contact. If decision-makers perceive that minority groups have internal attributions that are pro-criminal, this may result in a perceptions that the juvenile poses a higher risk for re-offending. Lieber et. al. (2007) found that a consequence of these underlying attitudes was that decision makers recommended longer sentences for Black youth than Whites. In short “values and beliefs of decision makers created a legally recognizable but racially stereotypic image of an offender that affected the decision making process” (pg. 19).

Other researchers argue that court personnel are simply “doing their job” by acting in the “best interests of the child” (e.g., Feld, 1999). Lieber et al (2007) cite decision makers who articulate the justification for increased supervision:

“youth from single-parent homes may be responded to differently because of perceived notions that this family situation may not adequately meet the needs of children, provide the necessary supervision to prevent further delinquent behavior, and/or ensure abidance to stipulated conditions of probation . . . ” pg. 111.

Often the increased supervision and differential treatment relate back to specific minority groups who may share different values, customs or traditions than mainstream society. An example of this emerged during an interview with a family crimes detective in a major metropolitan area of Nebraska. When asked about why some groups seem to have higher contact with law enforcement, the officer stated that some groups let “their children run wild and do not provide supervision.” Interestingly

about a week later, in a separate interview, a Sudanese mother who had migrated to Nebraska as a political refugee remarked on how Americans do not share the responsibility of parenting. "Raising a child is everybody's job. So it's everybody's job. It doesn't fall only onto the parents. It falls to the community."

## Data and Methodology

We received data from the Nebraska Probation Administration for all juveniles filed on as juveniles and placed on probation in FY2011. A total of 4,549 juveniles were on probation in Nebraska between July 1, 2010 and June 30, 2011.

In addition to basic demographic data (race, age,) several important control variables were included in the analyses. A description of how these variables were coded can be found in the introductory chapter.

## Characteristics of the Population

The majority of youth on probation through Juvenile Court are male (66.7%, 3,034 youth), while only 33.3% (1,15 youth) are female. The ages of youth on probation ranged from 8 to 19 years old. The mean age of youth referred was 15.6 years old.

**Table 1: Age of Youth on Juvenile Probation**

Age When Placed on Probation	Number of youth	Percent of Youth Referred in 2010-2011
10 or younger	15	0.0%
11	36	0.8%
12	118	2.6%
13	290	6.4%
14	524	11.5%
15	886	19.5%
16	1,158	25.5%
17	1,205	26.5%
18	313	6.9%
19	1	0.0%
Missing data	3	0.0%
Total	4,549	100.0%

### *Race and Ethnicity*

The composition of youth on probation was primarily White (59.4%) youth, followed by Hispanic youth (19.7%), Black youth (15.5%), Native American youth (2.8%) and Asian youth (1.0) %. Race/ethnicity was only missing in 1.6% of the cases.

**Table 2: Race, Ethnicity of Youth Placed on Probation in Nebraska**

	Youth Supervised on Probation	
	Number	Percent
Asian	46	1.0%
Black	704	15.5%
Hispanic	895	19.7%
Indian	128	2.8%
White	2,701	59.4%
Missing Data	75	1.6%
Total	4,549	100%

### *Case Closure and Outcome*

Roughly 87.2% of all juvenile probation cases closed in FY2011 (n=3,968). The remaining 581 cases remained open because the juvenile was still under the supervision of the court. Of those that closed, 57.3% closed successfully, meaning that the juvenile completed the requirements established by the probation officer in the case plan.

The remaining 42.7% of case closures were not deemed “satisfactory.” The highest percent of “unsuccessful” case closures were at the request of OJS because the juvenile had become a ward of the state (dual adjudicated). The different type of case closures are included in the table below with definitions that follow.

- **District Override:** Occurs when the case goes back to court and receives a different disposition per the request of the client. A juvenile may select this when they realize what they will be required to do while on Probation. Often a juvenile would prefer to sit out a fine (example a week in jail) in lieu of 6 months of probation.
- **Office of Juvenile Services requested Closure:** Occurs when a juvenile becomes a ward of the state and OJS has assumed responsibility for the youth.
- **Probation Revoked:** Probation may be revoked if the juvenile is found by the court to have violated the terms of his or her probation or supervision or an order of the court.
- **Terminated Jurisdiction:** Generally occurs when the jurisdiction if juvenile court is transferred to adult court. It could also mean that the juvenile court

case is closed in one county, while another juvenile court case has been filed in another county.

- Tran Adjudication: A transfer of adjudication to another court.
- Unsatisfactory Closure: Courts have regular review hearings on juveniles and can decide to release the youth at any time. These are classified as satisfactory or unsatisfactory. A revocation is not needed.
- YRTC: when a youth is sent to a Nebraska Youth Rehabilitation Treatment Center, the youth is taken off of probation.

**Table 3: Types and Percent of Juvenile Probation Closures in FY2011**

	Number of Closures	Percent of Closures
Completion of Probation	2,607	57.3%
Completion of Problem Solving Court	1	0.0%
District Override	15	0.3%
Office of Juvenile Services requested Closure	327	7.2%
Probation Revoked	367	8.1%
Terminated Jurisdiction	12	0.3%
Trans Adjudication	13	0.3%
Unsatisfactory Closure	621	13.7%
YRTC	5	0.1%
Total	4,549	100.0%

## Findings

### Successful Completion by Race

Of the 4,549 youth supervised by probation during this time frame, Native American and Black youth were significantly under-represented of those successfully completing probation. White youth had the highest overall rate of success comprising 64.1% (1,672 youth) of youth successfully completing probation (Table 4).

**Table 4: Percent of Closed Cases vs. Successful Closures**

	White	Blacks	Asian	Native Americans	Hispanic
Percent of Youth Whose Cases Closed	59.5%	16.0%	0.9%	2.5%	19.4%
Percent who Complete Probation Successfully	64.1%	12.4%	0.9%	1.7%	20.4%
Standardized Residual	3.1	-4.6	-0.1	-2.5	0.3
	Over	Under	----	Under	----

Clearly overrepresentation may be related to factors other than race. It may reflect family history or educational problems or mental health issues.

To further explore these differences, regression analysis was used to examine if particular factors predict whether a youth will be successful on probation (Table 5). With the available data, the juvenile’s age and gender were the only two variables we could control for. Results indicated that male youth were more likely to be successful than were female youth ( $p < .001$ ). Older youth were more likely to be successful than younger youth ( $p < .001$ ). Minority youth were less likely to be successful than White youth ( $p < .001$ ).

**Table 5: Standardized Coefficients of Logistic Regression on Probation Success**

	B	S EB	Sig
Race (non-White, White)	.107	.015	***
Gender	-.104	.015	***
Age at Time of Offense	.020	.005	***

\* $p < .05$ , \*\* $p < .01$ , \*\*\* $p < .001$

Because minority status significantly predicts success on probation, each racial/ethnic group was analyzed separately to determine if certain groups were impacted differently. Hispanic ( $p < .001$ ), White ( $p < .001$ ), and Black ( $p < .01$ ) girls were more likely to be successful on probation. Among White ( $p < .001$ ) and Black ( $p < .05$ ) youth, older youth were significantly more likely to be successful on probation. Hispanic girls were more likely to be successful ( $p < .001$ ); however, age was not significant. The regressions for Asian and Native American youth were not significant as a whole and neither age nor gender was related to success on parole.

### Revocation of Probation

Revocation of probation general occurs only after repeated violations of the court’s mandates. The variety of violations that youth were cited for in this sample can be found in Table 6.

**Table 6: Reasons Cited as Probation Violations**

	# of Cases	Percent
No Violation	3,039	66.8%
Computer violation	1	0.0%

Continued violation of home rules	7	0.2%
Electronic monitoring/curfew violations	63	1.4%
Failure to attend probation programs	6	0.1%
Failure to attend school	73	1.6%
Failure to attend school/work	50	1.1%
Failure to attend/complete mental health evaluation or treatment	9	0.2%
Failure to avoid contact with victims or location	3	0.1%
Failure to complete community service	8	0.2%
Failure to comply with school rules	36	0.8%
Failure to maintain school/work	31	0.7%
Failure to obtain work	1	0.0%
Failure to pay restitution, fines, costs or program fees	13	0.3%
Failure to report address change	1	0.0%
Failure to report community service	11	0.2%
Failure to report employment change	2	0.0%
Failure to report for alcohol/drug testing	108	2.4%
Failure to report for office visits	99	2.2%
Failure to report for polygraph testing	1	0.0%
Failure to report for substance abuse evaluation or treatment	8	0.2%
Failure to report to pro-social activity	5	0.1%
Frequenting places or associating with persons engaged in illegal activity	108	2.4%
Leaving home without permission	27	0.6%
Leaving jurisdiction	9	0.2%
Positive alcohol test	18	0.4%
Positive drug test	199	4.4%
Positive drug/alcohol test/admission	550	12.1%
Tampering with drug test	9	0.2%
Traffic infractions	45	1.0%
Total	4,549	100.0%

Only 3.7% of all youth on probation had their probation revoked (367 cases). In the majority of cases where the youth was violating the terms of probation, the Probation Officer applied administrative sanctions. The only group that was significantly overrepresented in revocations were Native American youth ( $p < .001$ ) (Table 7).



**Table 7 : Probation Revocation by Race**

	White	Black	Asian	Hispanic	Indian	Total
Not Revoked	92.5%	90.3%	100.0%	91.7%	85.2%	91.9%
Revoked	7.5%	9.7%	0.0%	8.3%	14.8%	3.7%
Standardized Residual	-1.1	1.2	-1.8	0.3	<b>3.2</b>	
	--	---	---	---	<b>Over</b>	

Bold Numbers:  $p < .001$

When compared to youth whose cases closed in FY2011, the 367 revocations accounted for 8.1% of all closures. Again, the only group significantly overrepresented was Native American youth ( $p < .001$  (Table 7).

## Key Findings Regarding Youth on Probation

### Data Quality and Availability

1. We received data from the Nebraska Probation Administration for all juveniles (in juvenile court) who were placed on probation in FY2011. Ideally, additional control variables would have been available for a more in-depth analysis.

### Success

2. Roughly 87.2% of all juvenile probation cases closed in FY2011 (n=3,968). The remaining 581 cases remained open because the juvenile was still under the supervision of the court. Of those that closed, 57.3% closed successfully, meaning that the juvenile completed the requirements established by the probation officer in the case plan.
3. Both Black youth and Native American youth were significantly underrepresented in youth who successfully complete juvenile probation. White youth were significantly over represented in successful outcomes. All other groups did not yield significantly different results.
4. Minority youth (not including Asian youth) are less likely to be successful on probation. Additional research should be conducted to examine the reasons that this is occurring.

### Revocation

5. Only 8.1% of all case closures were revocations (367 cases). In the majority of cases where the youth was violating the terms of probation, the Probation Officer applied administrative sanctions. The only group that was significantly overrepresented in revocations was Native American youth.

## Chapter 9: Juveniles Committed to the Office of Juvenile Services

When a judge determines that a youth has committed a delinquent act they are adjudicated “delinquent.” At this point, a youth may be committed to the Nebraska Office of Juvenile Services and made a state ward. Often a judge will formally adjudicate the youth as an initial step before imposing a disposition or seeking help for a youth with a long history before the court. This point in the system is referred to as “post-adjudication,” and is clearly a critical point in the juvenile justice system.

In Nebraska, if a youth becomes a state ward under both processes, the youth is dual-adjudicated. A youth may come within the jurisdiction of OJS through a juvenile dependency petition, a delinquency petition, or both. Young people who move between dependency and delinquency are sometimes referred to as “crossover youth,”<sup>20</sup> and often appear in both systems concurrently. A number of factors may influence whether a youth is dual adjudicated. These contributing factors may also influence the level and length of placement.

With the exception of secure detention, which is operated by county-run facilities in Nebraska, the state operates most of the services for post-adjudicated youth. The Department of Health and Human Services administers the state's institutions for delinquent offenders and aftercare services through the Office of Juvenile Services. Often a youth is made a state ward prior to being committed to a state run facility. If we are to understand post-adjudication and DMC, it is critical to examine commitments to the Office of Juvenile Services.

Minority overrepresentation has been documented at this point in Nebraska using relative rate indexes (RRIs; see Appendix A). However, the data reported on the RRIs for calendar year 2010 included only youth committed to Youth Rehabilitation Treatment Centers (YRTCs) (n=429). Although this captures some of the post-adjudicated youth, it does not provide a full picture of all youth who are made wards of the state. In an attempt to broaden our identification of DMC and its impact on post-adjudicated youth, our analysis includes all youth committed to the Nebraska Office of Juvenile Services for FY2011 (n=967).

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<sup>20</sup> Research has demonstrated that juveniles who experience abuse and neglect often cross over into delinquent behavior. The Center for Juvenile Justice Reform (CJJR) has developed a practice model that recommends particular principles to reduce the number of youth who crossover between the child welfare and juvenile justice systems.

Our research questions related to post-adjudication and commitments to the Office of Juvenile Services included:

- Are minority youth as likely to be committed to the Office of Juvenile Services as White youth?
- Are minority youth as likely to be dual adjudicated as White youth?
- Are minority youth as likely to have more OJS placements as White youth?
- Are minority youth as likely to have as restrictive of OJS placements as White youth?
- Are lengths of stay equitable across racial groups?

## **Literature**

Research has shown that a youth's experience of maltreatment has been shown to increase the likely of delinquency by 47-55% (Ryan & Test 2005, Wiig, Wisdom & Tuell 2003). Prior research has also shown that a disproportionate number of dually adjudicated youth are youth of color and girls (Ryan, Herz, Hernandez & Marshall 2007, Saeturn & Swain, 2009.)

As part of our analysis, we examined delinquency (as measured by a documented misdemeanor or felony) in addition to the Youth Level of Services/ Case Management Inventory (hereinafter YLS). Rennie and Dolan (2010) found that the juveniles that scored high on the YLS were ten times more likely to recidivate, and that 94% of the high-scoring youth re-offended within the first year of release. Several other studies also showed some predictive validity and usefulness of identifying offenders' needs but the level of predictive validity was relatively moderate compared to the aforementioned studies (Onifade, Davidson, Livsey, Turke, Horton & Malinowsk et al., 2008; Onifade, Davidson & Campbell, 2009). We examined YLS scores as a means of explaining more restrictive placements.

## **Data and Methodology**

We requested data from the Nebraska Department of Health and Human Services for any youth committed to the state of Nebraska between July 1, 2010 and June 30, 2011 (n=967). In addition to basic demographic variables (race, age, gender), we also requested the age the youth was made a state ward, the county where the youth resided, the type of facility where the youth was placed, the number of placements the youth experienced, and length of stay. To control for contributing factors that would explain a higher number of placements, more restrictive placements or longer stays in

out of home placement, we sought a number of control variables including: YLS scores, whether the youth had been a state ward prior to FY2011, and whether adjudication involved a felony or misdemeanor violation (a description of how variables were coded is included in Chapter 1). We also requested data on the reasons a youth was discharged from OJS custody. Ideally, we would have included prior law violations, but this variable was not available. We used a variety of multivariate analyses to answer our research questions.

### Characteristics of the Population

A total of 967 youth were committed to OJS between July 1, 2010 and June 30, 2011. The average age of youth committed to OJS was 15.6 years old. A relatively high number of youth were made state wards in their 18<sup>th</sup> year; accounting for 8% of the youth in this sample (Table 1).

**Table 1: Age Made a State Ward**

Age Made a ward of the State	Number of youth	Percent of Youth Committed in 2010-2011
9	1	.1%
10	4	.4%
11	10	1.0%
12	24	2.5%
13	64	6.6%
14	110	11.4%
15	176	18.2%
16	249	25.7%
17	251	26.0%
18	78	8.1%
Total	967	100.0%

As Table 2 shows, male youth were more likely to be made a state ward than female youth. Roughly 72% of the youth committed in FY 2011 were male, while 28% were female. For every group, except Asian youth, the percent changed only slightly when gender was examined by race and ethnicity. Fifty-two point eight percent of youth committed to OJS were White, followed by 23.2% Black, 17% Hispanic, 3.9% Native American, 2.0% Other, and 1.3% Asian.

**Table 2: Race, Ethnicity and Gender of Youth Committed to OJS**

	State Ward		Gender of State Wards			
	Number	Percent	Male	Percent	Female	Percent
Asian	13	1.3%	12	92.3%	1	7.7%
Black	224	23.2%	153	68.3%	70	31.3%
Hispanic	162	17%	121	74.7%	41	25.3%
Indian	38	3.9%	23	60.5%	15	39.5%
White	511	52.8%	373	73.0%	138	27.0%
Other	19	2.0%	13	68.4%	6	31.6%
Total	967	100%	695	72.0%	271	28.0%

Sixty-three of Nebraska's 93 counties reported committing at least one youth to state custody in FY2011. Youth who were made state wards were more likely to come from the larger, eastern Nebraska counties, with almost 60% (557) of the 967 youth committed to OJS coming from Douglas (26.7%), Lancaster (25.4%), or Sarpy Counties (9.3%). As Table 3 shows, 81% of all of the commitments statewide came from only eleven counties.

**Table 3: Number and Percent of Commitments by County**

County Name	Number of Youth	Percent of Youth
Douglas	259	26.8%
Lancaster	246	24.5%
Sarpy	52	5.4%
Hall	52	5.4%
Lincoln	37	3.7%
Madison	36	3.6%
Dakota	23	2.4%
Dodge	22	2.3%
Buffalo	22	2.3%
Platte	22	2.3%
Scottsbluff	19	2.0%
49 remaining counties	<20 youth	19.3%
Total	967	100 %

### YLS Risk Scores

As noted previously, juveniles brought into state custody in Nebraska are often assessed the using the YLS. The YLS measures a juvenile's risk across eight domains, with a score ranging from 0-42. The eight domains include: law violations, family circumstances, education/employment, peer relations, substance abuse, leisure

activities, personality and behavior and attitudes and orientations. The YLS is a validated instrument that is used by a number of juvenile justice agencies in Nebraska to distinguish low-risk youth from high-risk youth.

A recent statewide sampling of youth YLS scores revealed that the average score for youth on probation was 13.5 (Nebraska Three Year Plan). Youth committed to OJS custody have YLS scores that average six points higher than youth on probation. Asian and Black youth had the lowest average risk scores (19), while Native American, Hispanic and White youth had the highest average scores (20-22).

**Table 4: Mean YLS Score By Race/Ethnicity**

	Total YLS Risk Score	
	Combined YLS Score (Mean)	Number of Youth with YLS Scores
Asian	19	12
Black	19	181
Hispanic	20	149
Native American	22	48
White	20	522
Other	19	107

## Findings

### Commitment to the Office of Juvenile Services (OJS)

We were unable to predict the likelihood of whether or not a youth would be made a state ward because the data we received included all youth who were committed to OJS in FY2011. However, we were able to analyze the percent of minority youth who were made state wards as compared to the general population of youth ages 10-17 in the state of Nebraska.

Using a Chi-square analysis, we were able to compare the population of youth committed to OJS to the racial and ethnic makeup of the general youth population in Nebraska. As Table 5 illustrates, Black, Indian and Hispanic youth were significantly overrepresented in the number of youth committed to OJS. White youth were significantly underrepresented in the number of youth committed to OJS (Table 5).

**Table 5: Population of Youth in OJS Custody vs. Nebraska Population (10-17)**

	White	Black	Asian	Indian	Hispanic
State Population	76.6%	6.9%	2.0%	1.3%	13.3%
Population in OJS (967)	52.8%	23.2%	1.3%	3.9%	16.8%
Standardized Residual	<b>-8.4</b>	<b>19.3</b>	1.9	<b>7.1</b>	<b>2.9</b>
	<b>Under</b>	<b>Over</b>		<b>Over</b>	<b>Over</b>

Bold Numbers: p<.001

### Dually Adjudicated Youth

A youth may come within the jurisdiction of OJS through a juvenile dependency petition, a delinquency petition, or both. Qualitative interviews with key stakeholders revealed that judges may dually adjudicate youth to ensure that they have access to services. Thirty percent (30%) of the 967 youth included in this sample were dually adjudicated. Minority youth represented 43% of the youth who were dual commitments.

According to key stakeholders, the law in Nebraska is currently in a state of flux: “juvenile courts may order two separate government agencies to simultaneously expend public money and resources on the same child.” Nebraska courts currently have the authority to order concurrent dispositions with two separate agencies: state Probation and the Department of Health and Human Services. This has been a contentious issue in the state, as some argue that “allowing concurrent dispositions will result in more children being placed in the custody of DHHS, for no other reason than to provide a funding source for services that DHHS has little or no role in administering.”

Our initial analysis revealed that a large percent of minority youth were dually adjudicated. Despite this, there was no significant difference in youth who were dually adjudicated (Table 6).

**Table 6: Dual Adjudication by Race / Ethnicity**

	Not Dually Adjudicated			Dually Adjudicated		
	Number	Percent	Std Res	Number	Percent	Std Res
Asian	6	46.2%	-1.0	7	53.8%	1.6
Black	168	75.0%	0.9	56	25.0%	-1.4
Hispanic	119	73.5%	0.5	43	26.5%	-0.8
Native American	22	57.9%	-0.9	16	42.1%	1.4
White	347	67.9%	-0.6	164	32.1%	0.9
Other	16	84.2%	0.7	3	15.8%	-1.1
Total	678	70.0%		289	30.0%	



The only significant factor in predicting dual adjudication, however, was the youth's YLS score, suggesting that race may not be a significant factor in the decision. We analyzed each group separately to determine the effect of YLS scores on each group.

### Number of Placements

The 967 youth committed to state custody accounted for 3,572 separate placements during FY2011 alone. Youth placements ranged from never having been removed from the parent's home (despite being made a state ward) to detention and jail. The number of placements per juvenile ranged from 0 to 33, with an average of 3.6 placements per youth for the 12 months examined. A complete list of placements are shown in the table below.

**Table 7: Placements Utilized in FY2011**

Description of Placement	Number of Occurrences	Percent
Child Specific Foster Home (Approved)	32	.9%
Detention Facilities	700	19.6%
Emergency Shelter Center	209	5.9%
Emergency Shelter Foster Home	2	.1%
Enhanced Treatment Group Home (GHII)	61	1.7%
Foster Home – Traditional	15	.4%
Foster Home-Agency-Based	179	5.0%
Group Home	225	6.3%
Group Home A	194	5.4%
Group Home-Treatment	63	1.8%
Independent Living	16	.4%
Jail	25	.7%
Medical Hospital	6	.2%
Mental Health Facility	16	.4%
Never Placed Out of Home	267	7.5%
Non-Custodial Parent	4	.1%
Psych Residential Treatment Facility	51	1.4%
Psychiatric Hospital	33	.9%
Relative Foster Home (Approved)	75	2.1%
Residential Treatment Facility	154	4.3%
Runaway-whereabouts Unknown	269	7.5%
Therapeutic Group Home	10	.3%
With Parent-Abducted	1	.0%
With Parent/Caretaker	513	14.4%
Youth Rehabilitation Treatment Center	452	12.7%
Total	3,572	100.0%

To analyze whether the number of placements were equitable across racial groups, we used ANOVA to compare the number of placements (n=3,572) across racial groups. The mean number of placements was 3.6. Native Americans had the highest mean number of placements ( $m=4.45$ ), and Asians had the lowest mean number of placements ( $m=3.46$ ). The difference between racial or ethnic groups was not significant.

**Table 8: Mean Number of Placements**

Race/Ethnicity	Mean Number of Placements	Number of Youth
Asian	3.46	13
Black	3.87	223
Hispanic	3.73	162
Indian	4.45	38
White	3.44	511
Overall Average	3.60	947

Regression analysis was used to assess whether a youth’s race influences the number of placements experienced. Our findings indicated that two factors were significant predictors for the number of placements a youth experiences. For Black and Hispanic youth, higher YLS scores influenced the number of placements ( $p<.05$ ). For White youth, two factors were significant: higher YLS scores ( $p<.05$ ) as well as the age the youth was first made a state ward.

**Level of Placement**

We next sought to examine the level or severity of placement. As Table 9 details, we recoded placements on a 0 to 7 scale according to the level of restriction: 0 = never removed from the home (least restrictive placement) to 7= jail (most restrictive placement). Almost one third (28%) of all placements involved moving a youth to some form of congregate care setting, including Group Homes, Treatment Group Home and Enhancement Treatment Group Home. Roughly 20% of placements (700 of the 3,296 placements) involved moving a youth to a county-run detention facility. The third most common placement was return to parent or independent living, accounting for 15% of the placements in FY2011.

With the exception of jail, mental health treatment options were one of the least likely placements for youth who were state wards in FY2011. Psychiatric treatment options included placement in a residential program, or at the DHHS Youth Rehabilitation Treatment Center.

**Table 9: Placements by Level of Restriction**

Level of Placement	Description	Number of Placements	Percent
0	Never Removed from Home	267	7.5%
1	Placed with Parent/ Independent Living	533	14.9%
2	Any Foster Home (incl. Tx & Agency Based)	301	8.4%
3	Emergency Shelter	211	5.9%
4	Group Home (incl. Tx Group Home & Enhanced )	1005	28.1%
5	Treatment and Residential Care (psychiatric)	254	7.1%
6	Detention Facility	700	19.6%
7	Jail	25	.7%
	Number of Placements	3296	92.3%
	Placements that could not be ranked (i.e. youth on run)	276	7.7%
	Total Placements	3572	100.0%

Race and ethnicity significantly influenced level of placement and what factors contribute to placement outside the home. Relatively few youth were placed in independent living or with a parent once they have been made a state ward (roughly 7-8% of any race/ethnic group), but Native American youth were the least likely to be returned to a parent or allowed to live independently (2.7% compared to 8% of White youth).

Asian youth were most likely to remain with a parent or family member, representing 31% of youth who were not removed compared to 23% of White, and 23% of Hispanic youth. Native American youth were most likely to be removed from their home (only 8% were allowed to remain in home), and 2.7% place in foster care, the remaining 90% were placed in some form of out of home congregate care.

Black youth (OJS wards) were the most likely to be placed in a juvenile detention facility. Of the 700 placements in a juvenile detention facility: 44.9% were Black, 27.0% were Indian, 23.1% were White, 21.6% were Hispanic, and 23.1% were Asian.

**Table 10: Level of Restriction by Race**

Least Restrictive to Most Restrictive	Indian	Asian	Black	White	Hispanic	Total
Remained in Home	8.1%	30.8%	18.2%	23.0%	23.5%	21.5%
Placed with Parent/ Independent Living	2.7%	7.7%	7.0%	6.5%	8.0%	6.7%
Any Foster Home	2.7%	0.0%	4.2%	7.3%	5.6%	6.0%
Emergency Shelter	10.8%	0.0%	4.2%	7.3%	8.0%	6.7%

Group Home	43.2%	38.5%	19.6%	26.4%	32.1%	26.7%
Mental Health TX	5.4%	0.0%	1.4%	6.5%	1.2%	4.2%
Juvenile Detention	27.0%	23.1%	44.9%	23.0%	21.6%	28.0%
Jail	0.0%	0.0%	0.5%	0.2%	0.0%	0.2%
Percent	100%	100%	100%	100%	100%	100%
Total	37	13	214	496	162	922

Data indicated that given the racial composition of youth in OJS custody, Black and Native American youth were significantly overrepresented in OJS youth placed in detention, while White youth were significantly underrepresented ( $p < .05$ ).

To better understand factors that influence more restrictive placement, we conducted a variety of multivariate statistical tests. Examining all racial groups at once, regression analysis demonstrated key factors that were significant in predicting a youth's level of placement. These included: gender ( $p < .05$ ), YLS score ( $p < .001$ ), level of offense (felony vs. non-felony,  $p < .001$ ) and size of community (the larger the community, the more restrictive the placement,  $p < .001$ ) (Table 11).

**Table 11: Standardized Coefficients for Level of Placement**

	Beta	SE B	B	Sig.
Gender	.073	.167	.366	*
Level of Offense	.116	.200	.696	**
YLS Score	.207	.013	.081	***
Size of Community	.203	.118	.718	***

\* $p < .05$ , \*\* $p < .01$ , \*\*\* $p < .001$

A critical finding, however, is that these predictive factors did not operate the same for all racial and ethnic groups. To make this determination, we developed predictive models for each racial category separately.

Gender ( $p < .05$ ), felony level offense ( $p < .01$ ) and the size of the community ( $p < .01$ ) all significantly increased the level of placement for Black youth. However, the YLS score was not a significant predictor, while the age the youth became a state ward was significant for Black youth ( $p < .01$ ). Gender, and age the youth became a ward were not significant for White youth ( $p < .05$ ). Only the level of offense ( $p < .05$ ), YLS Score ( $p < .000$ ) and size of the community ( $p < .000$ ) were significant predictor of restrictive placement for White youth. Size of the community was the only factor that predicted level of placement for Hispanic youth ( $p < .01$ ) (Table 12.)

**Table 12: Standardized Coefficients of Logistic Regression on Level of Placement by Race/Ethnicity**

	Whites				Blacks				Hispanics				Native Americans				Asians			
	B	SE	Beta	Sig	B	SEB	Beta	Sig	B	SEB	Beta	Sig	B	SEB	Beta	Sig	B	SEB	Beta	Sig
Gender	.209	.212	.042		.906	.368	.177	*	-.012	.386	-.003		.1008	.518	.034		2.502	2.850	.304	
Felony level offense	.530	.254	.090	**	1.483	.442	.239	***	.200	.440	.037		.604	.624	.166		Insufficient cases			
Size of Community	.592	.144	.178	***	1.604	.574	.200	**	.910	.354	.231	**	.031	.416	.013		1.793	3.525	.218	
YLS Score	.089	.017	.227	***	.037	.030	.089		.052	.031	.146		.041	.050	.150		.230	.178	.505	
Age made a State ward	-.074	.062	-.052		.283	.105	.194	**	-.053	.121	-.037		.102	.138	.116		.133	1.010	.061	

\*p<.05, \*\*p<.01, \*\*\*p<.001

## Length of Placement

To analyze length of stay, we averaged the length of stay for the total placements (n=3,572). The length of stay was not available in 990 placements because in those cases the youth was either: 1) never placed outside the home, or 2) had not yet been placed outside the home. As a result, the total number of placements used for analysis was 2,582. The number of days that an OJS ward was in a placement ranged from 0 to 399, and averaged 64 days. Using regression analysis, we were able to determine a significant difference in length of stay for youth of different races/ ethnicities, with Asian and Hispanic youth having the longest mean length of stay.

**Table 13: Average Days in Placement by Race**

Race/Ethnicity	Mean Number of Days in Placement	Total Number of Placements	Percent of Placements in FY2011
Asian	70.8	38	1.4%
Black	60.3	224	23.5%
Hispanic	69.1	162	17.1%
Indian	63.0	38	4.0%
White	64.7	511	54.0%
Total	64	973	100%

To further explore these differences, regression analysis was used to determine what factors predict length of time a youth spends in a placement. Individual demographic (gender, race/ethnicity, age) were not significant predictors of length of stay. The youth's YLS score was also not predictive of the amount of time a youth spent in a placement (non-significant findings were not included in the table below.)

The only significant predictors of length of stay were the number of placements and the size of the community (see Table 14). Youth with fewer placements have significantly higher lengths of stay in those placements ( $p < .001$ ). Also, the smaller the community, the longer the time in placement ( $p < .01$ ).

**Table 14: Standardized Coefficients of Regression on Time in Placement**

	B	SE B	Beta	Sig.
Number of Placements	-2.228	.197	.230	***
Size of Community	-6.773	2.436	-.058	**

\* $p < .05$ , \*\* $p < .01$ , \*\*\* $p < .001$

## Key Findings Regarding Juveniles Committed to the Office of Juvenile Services

1. The average age of youth that were made state wards was 15.6 years old. A relatively high number of youth were made state wards in their 18<sup>th</sup> year (8% of the youth committed in FY2011). (There were no significant differences in age by race/ethnicity.)
2. Male youth were more likely to be made a state ward than female youth. Six hundred ninety-five of commitments were male (72%), 271 (28%) were female.
3. When compared to the racial and ethnic distribution of the general youth population in Nebraska, Black, Indian and Hispanic youth were significantly overrepresented in the number of youth committed to OJS.
4. White youth were significantly underrepresented in the number of youth committed to OJS.
5. Asian youth were most likely to remain with a parent or family member, representing 31% of youth who were not removed compared to 23% of White, and 23% of Hispanic youth. Indian youth were most likely to be removed from their home (only 8% were allowed to remain in home), and 2.7% place in foster care, the remaining 90% were placed in some form of out of home congregate care.
6. Black youth (OJS wards) were the most likely to be placed in a juvenile detention facility. Of the 700 placements: 45% were Black, 27% were Native American, 23% were White, 21.6% were Hispanic, and 23% were Asian. Data indicated that given the racial composition of youth in OJS custody, Blacks and Indian youth were significantly overrepresented in OJS youth placed in detention, while White youth were significantly underrepresented.
7. The size of the community often reflects the options or variety of placements available.

## Summary of Findings

### Law Enforcement

1. Compared to their composition in the youth population, Black, Hispanic and Native American youth were significantly overrepresented in the population of youth stopped by law enforcement. Overrepresentation was particularly disparate for Black youth. White and Asian youth were significantly underrepresented.
  - a. Data indicated that there were significant differences in whether a youth was cited/summoned or arrested by race ( $p < .001$ ). White youth were significantly underrepresented in the population of youth arrested, while Blacks, Native Americans, and Hispanic youth were significantly overrepresented ( $p < .001$ ).
  - b. Gender was a significant predictor for White, Black, and Hispanic youth (males were more likely to be arrested than females), while Native American females were more likely to be arrested than males ( $p < .01$ ).

### Diversion

2. When compared to law enforcement contacts, Black and Native American youth were significantly underrepresented in referrals to diversion, while Asian and Hispanic youth were significantly overrepresented. White youth were referred to diversion at roughly the same rate at which they had contact with law enforcement.
  - a. Overall, 94.2% of youth referred to diversion, or 4,668 youth, participated at least *minimally* in diversion. Minimal participation is defined as arranging the first intake appointment with the program. In 287 cases, (5.8% of referrals) the youth or family had no contact with the diversion program, and the youth never participated in diversion. Native American youth were the least likely to make it to this first appointment.
  - b. Only 62% of the cases that closed in FY2011 were successful. When compared to youth referred to diversion, only White youth were significantly overrepresented in successful outcomes. Native



Americans were significantly underrepresented in successful completions.

## **Detention**

3. A total of 4,021 youth were booked into some form of detention in Nebraska at some point between July 1, 2010 and June 30, 2011. Over half of all youth booked into some form of detention were 18 years old or older.
  - a. White youth accounted for the majority of youth in secure detention facilities (57%), but minority youth were statistically overrepresented. Nearly one quarter (24.9%) of all youth detained in FY2011 were Black. An additional 12.7% were Hispanic. Indian youth accounted for 3.7%.
  - b. Being male and non-White are both significant predictors of the length of time a youth spends in any form of detention.
  - c. Age was also a significant predictor of length of stay; specifically, older youth spend less time in all forms of detention. An ANOVA revealed a significant difference in the mean length of time youth of different racial groups spent in secure detention facilities: Black youth were in detention the longest (29.87) when compared to other youth. However, once a variety of control variables were introduced in a regression model, race became non-significant.
  - d. Black youth and older youth in all forms of detention had more instances of recidivism. The population of the county from which Black youth were referred to detention significantly predicted recidivism.

## **Juvenile Court**

4. Based on data collected from JUSTICE, it is estimated that only 55.3% of youth in Nebraska are prosecuted in the juvenile court system while 44.7% are prosecuted in the adult court system.

- a. While Black youth were more likely to face multiple charges, they were also significantly more likely to have those charges amended. Hispanic youth were significantly less likely to have their charges amended.
- b. In 57.4% of the cases, youth pled guilty. Data indicated that only 50.1% of youth in juvenile court were represented by legal counsel. The differences across racial groups in whether or not a youth had legal representation were not significant.
- c. Data indicated that the mean number of days from filing to disposition was much greater for juvenile court youth (90.97) than for youth in adult court (35.30).

## **Adult Court**

5. When compared to the racial and ethnic distribution of youth in Nebraska, Black and Hispanic youth were significantly overrepresented in adult court, while White and Asian youth were significantly underrepresented in adult court.
  - a. Data indicated that Black youth were significantly overrepresented in the population of youth transferred to juvenile court, while Hispanic youth were significantly underrepresented.
  - b. A number of factors were significant in predicting whether a case would be transferred to juvenile court were. These include: age at time of offense (the younger the youth, the more likely their case would be transferred, size of community (the larger the community, the more likely the case would be transferred, and whether or not the youth had legal representation (if the youth had counsel they were significantly more likely to have their case transferred to juvenile court).
  - c. Of the cases that remained in adult court, in 95.4% of these cases the youth pleaded guilty, either by an admission to the court (65.6%), or by waiver (29.8%).
  - d. Blacks and Native American youth were significantly overrepresented in the population of youth receiving jail time.

- e. Of youth who received a city or state fine, mean judgment amounts were significantly different by race. Asian, Hispanic and Native American youth had significantly higher average fines than Whites or Blacks.
- f. Data indicated that only 26% of youth in adult court were represented by counsel. While this percentage is alarmingly low, the proportion of youth with legal representation across racial/ethnic groups was proportionate to their population in adult court, with one exception: Black youth were significantly more likely to have legal representation.

### **Juvenile Probation**

- 6. Of the juveniles on probation in FY2011, 2,592 cases remained open and the juvenile was still under the supervision of the court. Of those that closed, 69.5% closed successfully, meaning that the juvenile completed the requirements established by the probation officer in the case plan.
- 7. Both Black youth and Native American youth were still significantly underrepresented in youth who successfully complete juvenile probation. All other groups did not yield significantly different results.
  - a. Probation was revoked in only 12.5 % of all active probation cases. In the majority of cases where the youth was violating the terms of probation, the Probation Officer applied administrative sanctions. The only group that was significantly overrepresented in revocations is Native American youth.

### **Office of Juvenile Services**

- 8. Race and ethnicity significantly influenced level of placement and the factors contribute to placement outside the home. White youth were significantly underrepresented in the number of youth committed to OJS.
  - a. Asian youth were most likely to remain with a parent or family member, representing 31% of youth who were not removed compared to 23% of White, and 23% of Hispanic youth. Indian youth were most likely to be removed from their home (only 8% were allowed to remain

in home), and 2.7% place in foster care, the remaining 90% were placed in some form of out of home congregate care.

- b. Black youth (OJS wards) were the most likely to be placed in a juvenile detention facility. Of the 700 placements: 45% were Black, 27% were Indian, 23% were White, 21.6% were Hispanic, and 23% were Asian. Data indicated that given the racial composition of youth in OJS custody, Blacks and Indian youth were significantly overrepresented in OJS youth placed in detention, while White youth were significantly underrepresented.

## Recommendations

The JJDP Act charges states to institute multipronged strategies not only to prevent delinquency but to improve the juvenile justice system and assure equal treatment of all youth. The recommendations that follow identify ways in which Nebraska can: 1) improve its capacity to develop data-driven approaches to addressing DMC; 2) examine subjective discretion points for the purpose of removing the potential for implicit bias to impact decision making; and 3) implement best practices to improve the juvenile justice system.

### General Recommendations

1. Discretion points characterized by subjective criteria/processes can lend themselves to implicit bias. Discretion points should be evaluated for the purpose of appropriately replacing subjective processes with race neutral, objective decision making criteria. Training can assist justice system stakeholders with reviewing this process (see the Annie E. Casey Foundation's Juvenile Detention Alternatives Initiative Pathways Series on Effective Admissions Policies and Practices and/or the American Bar Association's (2010) Model Curriculum on "Improving Cross-Cultural Communication in the Criminal Justice System").
2. Attitudes toward the justice system can affect the way individuals perceive their role in the justice system: their willingness to comply with laws, report crimes, etc. In short, a positive public perception of the justice system is critical to its maintenance and operation. A juvenile justice system that is reflective of the population it serves can promote trust and confidence in the system. Moreover, a basic principle of cultural competence is that cultural integration can only be achieved when the decision-making circles reflect the cultural composition of society. If the justice system does not reflect this diversity, it will never be free of accusations, unfounded or not, of bias and discrimination. Improving the diversity of the juvenile justice system's workforce requires a concerted and long term commitment by all stakeholders. It is recommended that all juvenile justice system stakeholders participate in the development and implementation of a plan to improve diversity of the juvenile justice workforce.
3. In 2012, the Administrative Office of the Courts will be developing a Language Access Plan to ensure meaningful access to court services for those with Limited English Proficiency. It is recommended that all juvenile justice system

stakeholders participate in the development and implementation of the state's Language Access Plan.

4. JDAI in a nationally renowned detention reform process which has effectively: lowered detention populations, enhanced public safety, saved tax payer money, reduced the overrepresentation of minority youth, and introduced other overall juvenile justice system improvements in more than 130 jurisdictions across the United States. One of the primary tenets of the JDAI model is a deliberate commitment to reducing racial disparities by eliminating biases and ensuring a level playing field. In 2010, Douglas County was named a JDAI site and in 2011 Sarpy County was named a JDAI Site. In 2012, a Statewide Coordinator will be hired to assist with the statewide expansion of JDAI. JDAI is, in the authors' opinion, the most promising and data-driven approach that counties and the state can take in effectively addressing DMC and its statewide expansion should be strongly supported.
5. The DMC Committee and Coordinator should develop an education plan to expand knowledge among juvenile justice system stakeholders about DMC and should coordinate the provision of cross-agency training opportunities to improve cultural competence.

## **Data**

1. The State DMC Committee should reassess the counties for which it collects RRI data, based on 2010 U.S. Census data.
2. The State DMC Committee should convene system stakeholders to discuss and adopt uniform definitions for each system point in the RRI.
3. Given the high incidence of missing race/ethnicity data for Lancaster County Juvenile Court, it is recommended that the State DMC Coordinator determine where in the process (in comparison to other counties) the breakdown of the transmission of race/ethnicity data is occurring and how it can be addressed.
4. Data collected from law enforcement would be greatly enhanced if all Nebraska agencies submitted under one unified system, with common definitions.

## **Law Enforcement**

1. Given the fact that there were significant racial disparities in whether a youth is cited/summoned or temporarily detained/arrested and the fact that level of offense did not significantly predict whether Asian or Native American youth would be arrested, it is recommended that law enforcement re-evaluate the criteria by which the decision to either cite/summon or arrest are made.
2. Given the fact that there were significant racial disparities in dispositions for youth (charged, referred to other authorities, handled within the department, or released), it is recommend that law enforcement re-evaluate the criteria by which dispositions are made.

## **Diversion**

1. The Juvenile Diversion Case Management System has a very high percentage of missing data for youth referred to diversion programs across the state. Diversion programs are statutorily required to report this data. The Nebraska Crime Commission should remind diversion programs of their statutory obligation to accurately report this data and provide any necessary training to ensure providers are informed about utilizing the Juvenile Diversion Case Management System.
2. Diversion has been shown to be an effective deterrent to future legal involvement and the ability to participate in diversion should be based on objective factors. Counties like Douglas and Lancaster have provided objectivity and structure to this process by establishing an assessment process, a practice that should be replicated.
3. The fact that diversion is only offered in 49 of 93 counties creates a geographic bias, whereby youth receive differential opportunities or outcomes based on their county of residence. Expansion of diversion is in the best interest of youth and communities. Developing programs should be rooted in evidence-based practices, that are clearly designed for early deterrence. As diversion programs are established or expanded, the state should evaluate which programs are most effective culturally as well as from a criminal justice perspective.
4. The success rate of diversion programs (on a statewide basis) is only 62%. Additional research should examine why so few youth are successful in

diversion. Efforts then need to be taken to identify the reasons why youth are unsuccessful on diversion (particularly in communities where minority youth are less likely to complete diversion successfully) and develop strategies to increase the likelihood of success.

5. Because of due process implications, objective criteria for terminating a youth from diversion should be outlined, discussed and adopted statewide.

### **Secure Detention**

1. Secure detention facilities in Nebraska count bookings and/or admissions differently. A common definition across facilities would improve the accuracy of RRI data and other detention reform efforts.
2. Given the fact that there were significant racial disparities in bookings to detention facilities, it is recommended that law enforcement re-evaluate the criteria by which the decision to book youth is made.
3. Although this assessment did not specifically look at the Risk Assessment Instrument used to guide Probation's decision of whether to detain a youth, it is important that the Risk Assessment Instrument currently being used by Nebraska be validated. Validation of the instrument should include an assessment of the extent to which the instrument treats groups equitably and should assess the extent to which probation officers' override the instrument. In the spring of 2012 the Annie E. Casey Foundation will be assisting state stakeholders in assessing the current Risk Assessment Instrument.
4. Given research indicating that detaining low risk youth has little to no deterrent effect, and in some instances increases recidivism, it is important to support the development of alternatives to detention that provide appropriate levels of supervision for low-risk offenders in the community.
5. Given the significant difference in the mean length of time youth of different racial groups spent in secure detention facilities, a thorough review of case processing should be undertaken to determine why minority youth experience longer detention stays (the JDAI process provides jurisdictions with guidance with this process).



## **Juvenile Court**

1. Given the high incidence of missing race/ethnicity data for Lancaster County Juvenile Court, it is recommended that the State DMC Coordinator determine where in the process (in comparison to other counties) the breakdown of the transmission of race/ethnicity data is occurring and how it can be addressed.

## **Adult Court Transfers**

1. Given racial disparities in the decision to charge youth in adult court, it is recommend that prosecutors review the statutory criteria on which the decision of whether to charge a youth as an adult is made and determine whether these criteria can be measured in objective ways.
2. To determine whether *requests* for transfers to juvenile court are granted on equitable basis, it would require a request to the Nebraska Administrative Office of the Courts to capture this data field within JUSTICE. If the DMC Committee wishes to examine this in the future, then they should make a request to this effect.

## **Juvenile Probation**

1. Efforts need to be taken to identify the reasons for unsuccessful probation (particularly in communities where minority youth are less likely to successfully complete probation) and develop strategies to increase the likelihood of success.

## **Office of Juvenile Services**

1. Efforts need to be taken to identify and reduce the number of youth who crossover between the child welfare and juvenile justice systems. Nebraska should establish a process for identifying crossover youth, ensuring that workers in both systems exchange information in a timely manner, and including families in all decision-making aspects of a case. (The Center for Juvenile Justice Reform (CJJR) provides jurisdictions with guidance with this process).

## References

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## Appendix A Nebraska Relative Rate Index

### Number of Cases by Race / Ethnicity and Stage

	Total Youth	White	Black or African-American	Hispanic or Latino	Asian	Hawaiian or other Pacific	American Indian or Alaskan	Other/ Mixed	All Minorities
2. Juvenile Arrests	14,237	8,574	3,147	2,194	51	0	260	11	5,663
3. Refer to Juvenile Court	4,072	2,329	762	818	34	2	103	24	1,743
4. Cases Diverted	3,896	2,304	761	708	39	4	62	18	1,592
5. Cases Involving Secure Detention	1,953	735	845	279	16	0	65	13	1,218
6. Cases Petitioned (Charge Filed)	5,492	2,796	1,410	1,098	37	1	119	31	2,696
7. Cases Resulting in Delinquent Findings	3,366	1,827	529	679	19	0	91	221	1,539
8. Cases resulting in Probation Placement	2,024	1,007	413	490	23	0	49	42	1,017
9. Cases Resulting in Confinement in Secure Juvenile Correctional Facilities	429	158	109	116	2	2	29	13	271
10. Cases Transferred to Adult Court	578	322	158	84	3	0	11	0	256

### Changes Needed to reach Statistical Parity with Reference Group Rates of Contact

**Note** - All calculated values are shown, including those with non-significant RRI scores.

	White	Black or African-American	Hispanic or Latino	Asian	Hawaiian or other Pacific	American Indian or Alaskan	Other/ Mixed	All Minorities
2. Juvenile Arrests	0	-2111	-876	208	0	-88	9	-2858
3. Refer to Juvenile Court	0	93	-222	-20	-2	-32	-21	-205
4. Cases Diverted	0	-7	101	-5	-2	40	6	132
5. Cases Involving Secure Detention	0	-604	-21	-5	1	-32	-5	-668
6. Cases Petitioned	0	-495	-116	4	1	5	-2	-603
7. Cases Resulting in Delinquent Findings	0	392	39	5	1	-13	-201	223
8. Cases resulting in Probation Placement	0	-121	-116	-12	0	1	80	-169
9. Cases Resulting in Secure Confinement	0	-63	-57	0	-2	-21	6	-138
10. Cases Transferred to Adult Court	0	4	43	1	0	3	4	55



## Appendix B

### Interview Guide

#### Phone Interview Script for County Attorneys and Public Defenders

Hello I am calling from the Juvenile Justice Institute with the University of Nebraska- Omaha. We are working with the Nebraska Crime Commission. This project is required by the Office of Juvenile Justice and Delinquency Prevention as the state's efforts to address disproportionate minority confinement.

This research is meant to lead to development and implementation of plans to reduce the disproportionate representation.

At this stage of the research, I am conducting interviews with prosecutors and public defenders in various counties of Nebraska to determine factors that play into the discretion of whether to charge a youth as an adult or a juvenile. The interview will take roughly 10 minutes. Would you have a moment to speak to me about how juveniles are charged –or would you prefer I call back another time?

Questions:

Are you familiar with the term disproportionate minority confinement?

1. Do you think racial and ethnic concerns impact youth in your county? Youth in the juvenile justice system? What is the impact?
2. It appears that your county has/does not have a diversion program . . . in your opinion, are minority youth as likely to be *offered* diversion? Why do you think this is?
3. Do you think that minority youth as likely to be *successful* in diversion? What factors do you think contribute to a youth's success or lack thereof?
4. In your opinion, do you believe minority youth are more likely to have their case filed in adult or county court?
5. Do you have any particular juvenile justice concerns in your area? (For instance, if state tournaments come to your area every March –these might cause a spike in MIPs, etc.)

**Examining Disproportionate Minority Contact in Nebraska (On Site Format)**

Site: \_\_\_\_\_

Managerial

Staff

1. Can you tell me how you define "disproportionate minority confinement" (If they don't know what DMC is - I give them the OJJDP definition)

2. How do you think DMC relates to your work in this facility?

3. From your perspective, what programming elements could be added to impact the over representation of minority youth at this point in the system (your agency/ your facility).

## Examining Disproportionate Minority Contact in Nebraska (Survey)

### Section 1: Background Information

1. What is your current title? \_\_\_\_\_
2. How long (years, months) have you worked in this position? \_\_\_\_\_
3. How long (years, months) have you worked in the field of juvenile justice? \_\_\_\_\_
4. Demographic information?  M  F  Age \_\_\_\_\_ Race / ethnic background \_\_\_\_\_

### Section 2. Knowledge about DMC

We are conducting a study of "DMC," for the State of Nebraska. Your responses will help us gather perceptions from across the state. Please take a moment to answer the following questions.

5. What do you personally believe is the root cause of disproportionate minority confinement in the State of Nebraska? (If you do not believe "DMC" is a genuine issue in this State –please also feel free to state that.)

6. Using a scale of 1 to 5, how serious do you think the issue of minority over-involvement in the juvenile justice system is in your city?

1                      2                      3                      4                      5

7. Are there particular minority groups who are especially over-represented in the juvenile justice system?

a. Yes

- i. African-Americans
- ii. Asian-Americans
- iii. Hispanics
- iv. Others: \_\_\_\_\_

b. No

8. There are many possible reasons why minority youth might be over-represented in the juvenile justice system. Below please find a list of commonly cited reasons. Please rank them from 1 to 5 where 1 means that it is a weak explanation for DMC in your area and 5 means that it is a strong explanation for DMC in your area.

a. Minority youth commit more crime

1                      2                      3                      4                      5

b. Minority youth do not have the same opportunities to participate in delinquency prevention and early intervention programs as nonminority youth.

1                      2                      3                      4                      5

c. Minority youth aren't treated the same as nonminority youth by police, judges, and other juvenile justice system actors.

1                      2                      3                      4                      5

d. There are indirect effects in high-minority neighborhoods—such as reduced educational opportunities, low income, high unemployment, and drug-infested neighborhoods—that place minority youth at a higher risk of involvement in crime than in other areas.

1                      2                      3                      4                      5

e. Legislative and administrative policies such as “zero tolerance policies” can end up affecting minority youth differently than nonminority youth.

1                      2                      3                      4                      5

9. What other factors do you think contribute to a differential minority presence in the juvenile justice system in comparison to whites?

10. Have there been any significant changes (i.e., changes to local or state laws, administrative procedures, political changes, or shifts in the population) that you think might contribute to DMC in your jurisdiction?

11. When data are collected in your jurisdiction that indicates a disproportionate presence in part of this system, how reliable do you believe this data is? (1 indicates not reliable at all, 5 indicate extremely reliable.)

1                      2                      3                      4                      5

### **Section 3: Perception of DMC Efforts**

12. What strategies or programs are you aware of, if any, to reduce disparate minority involvement in the juvenile justice system in your city? (Please list any current *and/or* past efforts that you know of.)

