

# On The Level

## Disproportionate Minority Contact in Minnesota's Juvenile Justice System

OCTOBER 2012

### EXECUTIVE SUMMARY



DEPARTMENT OF PUBLIC SAFETY  
OFFICE OF JUSTICE PROGRAMS

## Disproportionate Minority Contact<sup>a</sup>

Disproportionate Minority Contact (DMC) describes a national phenomenon whereby youth from communities of color have contact with the juvenile justice system at rates different from those of white youth. Over a decade of DMC data collection at the national level support that youth of color are often *overrepresented* at stages of the justice system focused on accountability and sanctions while *underrepresented* at stages intended to curtail deeper system involvement or provide community-based services.<sup>1</sup> Minnesota shares in this problem with rates of disparity for youth of color in the justice system which are both higher than national levels and more severe in magnitude than those of many comparable states.

A host of factors potentially contribute to disparate rates of justice system contact for youth of color. These include the inequitable distribution of resources in communities, bias within the policies and practices of juvenile justice agencies, and underlying social conditions of communities, particularly poverty.<sup>2</sup> DMC results from a complex interplay of these factors, rather than a single cause. Therefore, each unique state and jurisdiction must investigate which factors most contribute to disparate outcomes for youth of color and engineer an appropriate local response to reduce racial disparities.

DMC is an important issue because United States culture values a system of justice based on fundamental fairness. A core presumption is that the justice system will respond to the legal issue at hand and not be influenced by extrajudicial factors such as income, education, gender, religion, race or national origin. Furthermore, contact with the juvenile justice system is connected to myriad unintentional consequences for youth:

- Research findings support that youth who come into contact with the juvenile justice system are more likely to sustain or increase their level of delinquent behavior. Severe sanctions can result in increases in future delinquent or criminal involvement, rather than a decline.<sup>3</sup>
- Once youth are involved in the system, decisions made by justice system professions at early stages are shown to affect decisions made by professionals at later system stages.<sup>4</sup>
- The justice system is documented as a criminogenic environment whereby youth learn behaviors and attitudes from others who are more criminally sophisticated.<sup>5</sup>
- Contact with the juvenile justice system is known to interrupt positive social connections for youth. Detention and out-of-home placements specifically can disrupt family connections, schooling and involvement in positive activities.<sup>6</sup>
- Certain delinquent acts can affect employment opportunities; rental housing and federal food support; college admissions and loan eligibility; careers in law enforcement, human services, education and health care, and military service.<sup>7,8</sup>

## Requirement to Monitor DMC

The requirement for states to monitor the juvenile justice system for DMC is born of the *Juvenile Justice and Delinquency Prevention Act of 1974 (JJDP A)*.<sup>9</sup> Under the JJDP A, states receive federal funding for juvenile justice activities in exchange for implementing certain safeguards for youth involved in the juvenile justice system.<sup>10,11</sup> One such protection is the assessment of Disproportionate Minority Contact.<sup>12</sup> An amendment to the Act requires that states implement data collection to assess for racial disparities at the following nine key justice-system decision points:<sup>13,b</sup>

<sup>a</sup> The acronym “DMC” by definition requires the use of the term “minority” when describing non-white, non-Hispanic populations. When DMC data are presented in this report, the term minority will be used in accordance with federal data collection and reporting requirements. In non-data reporting contexts, the phrase “youth of color” will be used instead of minority terminology.

<sup>b</sup> For federal definitions of each decision point, please see the full report.

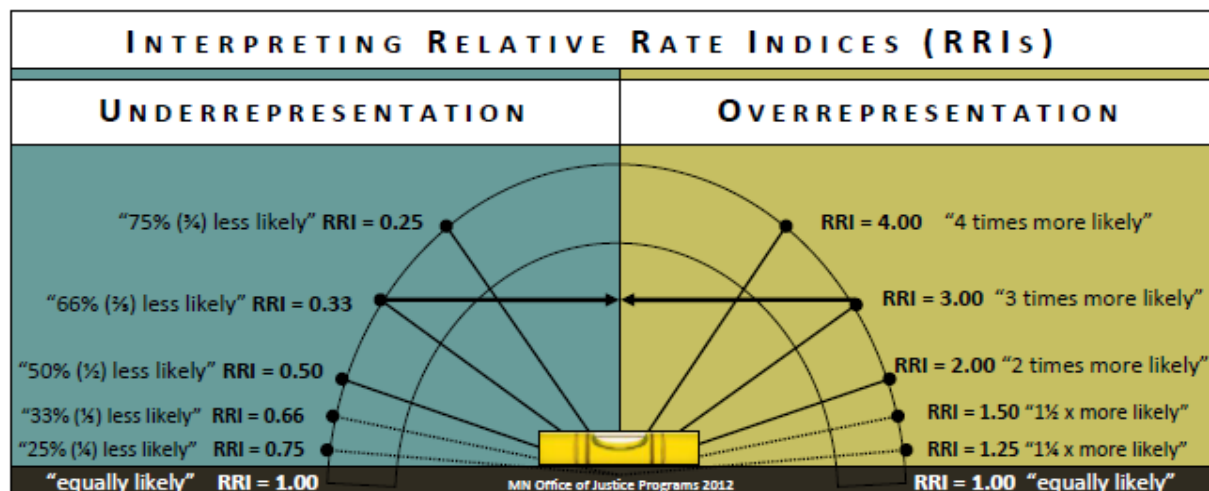
1. Juvenile Arrests
2. Referral to the County Attorney's Office
3. Cases Diverted by the County Attorney
4. Cases Involving Secure Detention
5. Cases Petitioned to Juvenile Court (Charges Filed)
6. Cases Resulting in Delinquent Findings (Adjudication)
7. Cases Resulting in Probation Placement
8. Cases Resulting in Confinement in Secure Juvenile Correctional Facilities
9. Cases Transferred to Adult Court (Adult Certification)

In Minnesota, data necessary to evaluate DMC are provided by many state agencies and local partners. Unfortunately, statewide data are presently unavailable at two decision points: *Referrals to the County Attorney* and cases *Diverted*. While Minnesota has centralized databases for law enforcement, courts and corrections, there is no such database to document decisions made by Minnesota's 87 county attorneys.

### The Relative Rate Index (RRI)

The method required for measuring DMC is termed the Relative Rate Index, or *RRI*. This method involves comparing the rate of delinquent activity for youth of color at each major stage of the juvenile justice system to the rate of delinquent activity for white youth.<sup>c</sup>

RRIs are used to measure the severity of disparities. **An RRI of 1.00 means no disproportionality exists** and the rate of system involvement is the same for youth of color as it is for white youth at that decision point. An RRI can be either above or below 1.00. An **RRI over 1.00 shows an overrepresentation** of youth of color, while an **RRI below 1.00 shows an underrepresentation** of youth of color. The accompanying figure illustrates how to interpret over- and underrepresentation.



Somewhat confusing is this fact: Underrepresentation, expressed in decimals, is as severe in magnitude as overrepresentation expressed in integers. In the figure above, an RRI of 0.33 and 3.00 are the same magnitude of disparity, only the directionality is different. Investigation into the reasons for underrepresentation is as important as investigation into the reasons for overrepresentation.

<sup>c</sup> For a comprehensive explanation of RRI calculation methodology, please see the full report.

## RRIs for Unique Racial Populations

Unique racial and ethnic populations can have different levels of contact with the justice system at different stages. Federal DMC reporting requires states and local jurisdictions to look for disparities within the following racial subpopulations, categorized by the federal Office of Management and Budget, whenever they account for at least one percent of the total youth population:<sup>14,15</sup>

- Black or African Americans
- American Indian/Alaska Natives
- Asians
- Native Hawaiian/Pacific Islanders
- Hispanic or Latinos

## Factors Contributing to DMC

The drivers of DMC are complex and involve many factors which may be working together to generate disparity. The federal Office of Juvenile Justice and Delinquency Prevention (OJJDP) identifies multiple contributing factors for jurisdictions to consider when diagnosing DMC. Honing in on the extent to which these factors contribute to DMC requires rigorous assessment of data, as well as assessment of justice system policies and practices, resource distribution, and the characteristics of the social environment.

OJJDP states that some contributing factors to DMC include: Different offending behavior by different populations of youth; disparate access to prevention and intervention services in communities; discretionary decisions made by professionals that are not based on objective criteria; legislative and administrative policies that target communities of color; and the effect of social conditions such as poverty upon delinquency.<sup>16</sup>

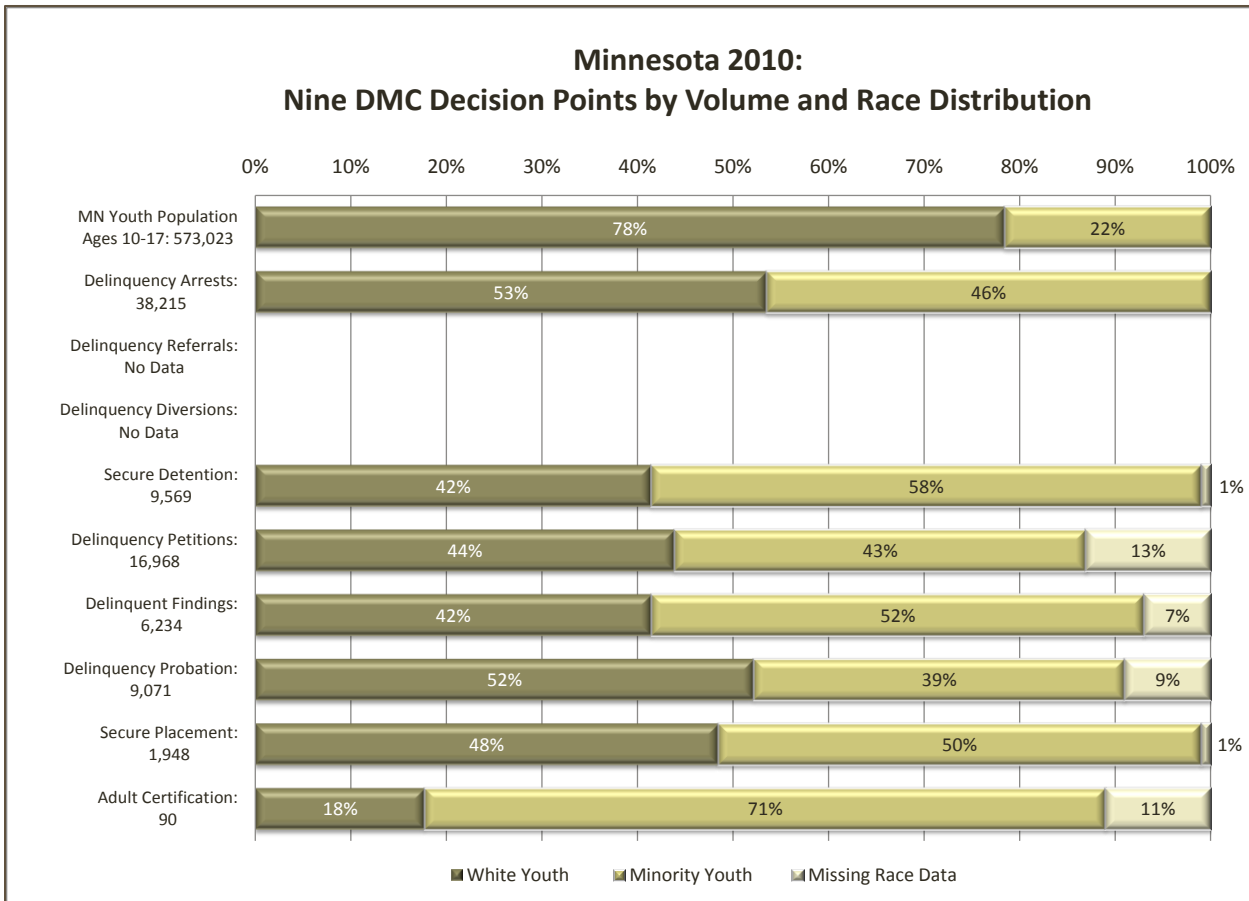
## Minnesota Youth Population Characteristics

The first step in assessing DMC in any state or jurisdiction is to understand the attributes of the youth population. DMC is specifically concerned with the number of youth who can be processed in the juvenile justice system. In Minnesota, statute dictates that only youth ages 10 to 17 may be charged with a delinquency offense.<sup>17</sup> According to 2010 data, 573,023 youth ages 10 to 17 reside in Minnesota.

Minnesota's youth population is more diverse than the adult population. According to 2010 U.S. Census Bureau figures, 27 percent of Minnesota youth under age 18 represent diverse racial or ethnic groups, which is true of just 14 percent of adults.<sup>18</sup> Of Minnesota youth ages 10 to 17, 78 percent are white, non-Hispanic. Black or African American youth account for 8 percent of this age cohort followed by Hispanic youth of any race (7%). Asian youth (5%) and American Indian youth (2%) are the two smallest minority populations in the 10 to 17 age group.<sup>19</sup>

## Volume of Delinquency Cases

For DMC analysis jurisdictions must count, by race, the number of youth moving through the juvenile justice system in a given year. The data presented in the graph to the right are those used for Minnesota’s 2010 DMC calculations. Data at the *Referral to County Attorney* and *Diversions* decision points are unavailable at the state level. Also depicted is Minnesota’s distribution of white and youth of color at each available justice system decision point. A graph such as this provides a first glimpse into potential disparities by visually comparing the racial distribution of youth between stages.



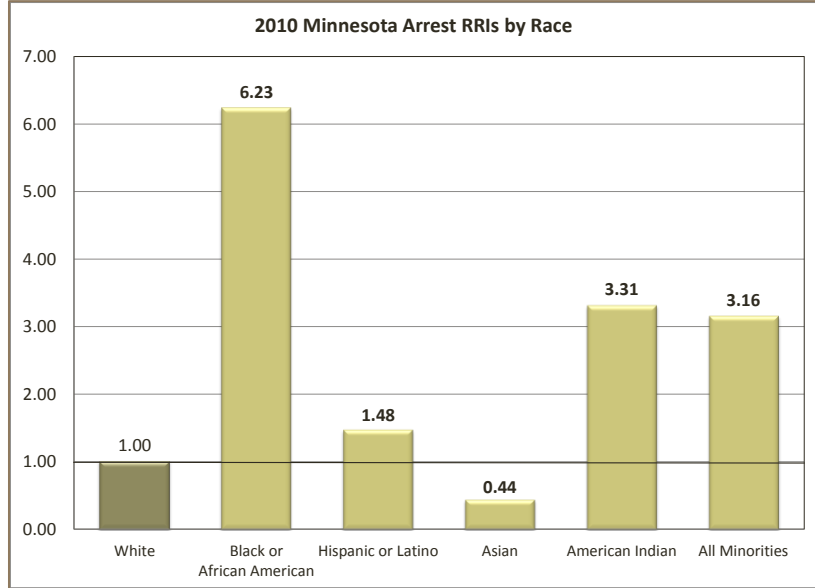
# Minnesota's DMC Data by Decision Point

## Delinquency Arrests

Arrest disproportionality is calculated by comparing the rate of minority youth arrests to white youth arrests.

The RRIs demonstrate that black or African American youth in Minnesota are arrested at a rate over *six times* that of white youth (6.23). Similarly, American Indian youth are arrested at a rate over *three times* that of white youth (3.31).

Conversely, the arrest rate for Asian youth is less than half of that of white youth (0.44). The Hispanic population has an RRI closest to parity (1.48) but data nevertheless indicate Hispanic youth are nearly *one and a half times more likely* to be arrested for delinquency than white youth in Minnesota.

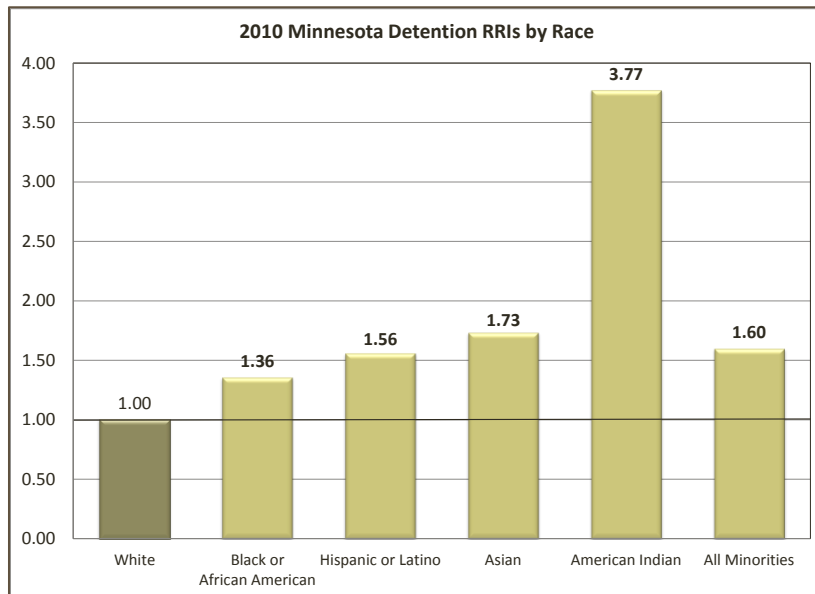


## Secure Detention Admissions

When calculating disproportionality related to the use of secure detention, the rate at which youth are detained is compared to the rate at which youth are referred to the county attorney for prosecution. Because *Referral to County Attorney* data are unavailable, the next-best base population for calculating DMC is *Arrests*.

The RRIs depict overrepresentation for all minority groups at the stage of secure detention. Specifically, the detention RRI for American Indian youth is approaching *four times* that of white youth. Black or African American youth presently have the secure detention rate closest to that of white youth (1.36).

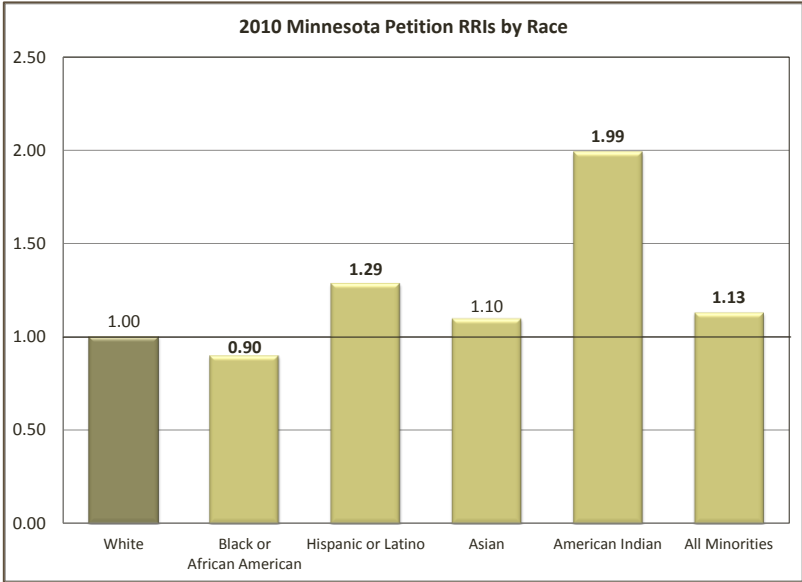
Asian youth, on the other hand, who are the least likely of any youth population to be arrested, have one of the highest detention rates when they are arrested.



### Delinquency Petitions

When calculating disproportionality related to the filing of delinquency petitions, the rate of petitioning is compared to the rate of referral to the county attorney. Because *Referral to the County Attorney* is a missing data point in Minnesota, the next-best base population for comparison is *Arrests*.

Available data regarding cases petitioned to delinquency court suggests that American Indian youth are *two times more likely* to have their cases petitioned to court than white youth (1.99). In addition, Hispanic youth are overrepresented with a relative rate of 1.29. Asian youth are the only population not petitioned to court at a rate statistically different from white youth. Conversely, black or African American youth are slightly *less likely* to be petitioned to juvenile court than white youth (0.90).

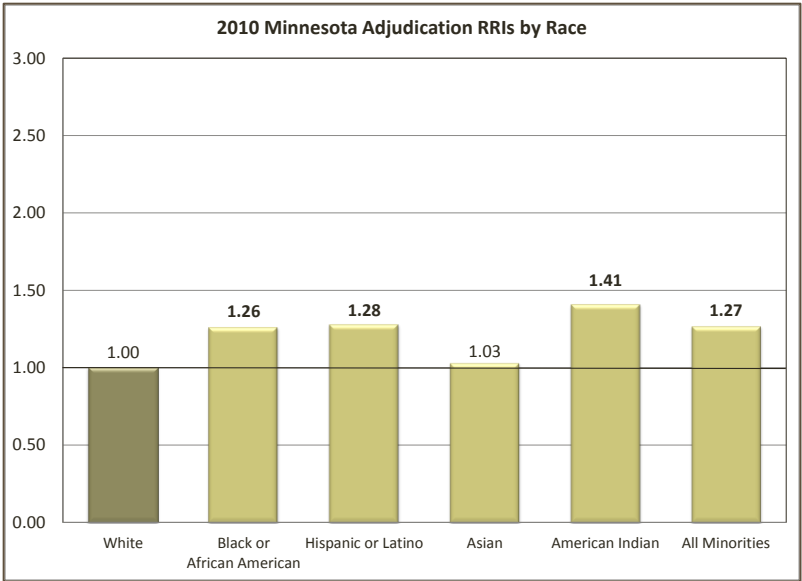


### Delinquent Adjudications

Cases resulting in adjudication are those in which the youth or the court enters an official finding of guilt. For DMC calculations, these are a subset of all cases petitioned to juvenile court on delinquency charges.

Generally, the *Adjudication* decision point is where disproportionality is at its lowest for all racial groups in Minnesota. Asian youth have an RRI very close to parity with the white population (1.03) and African American and Hispanic youth have a slight overrepresentation at 1.26 and 1.28, respectively.

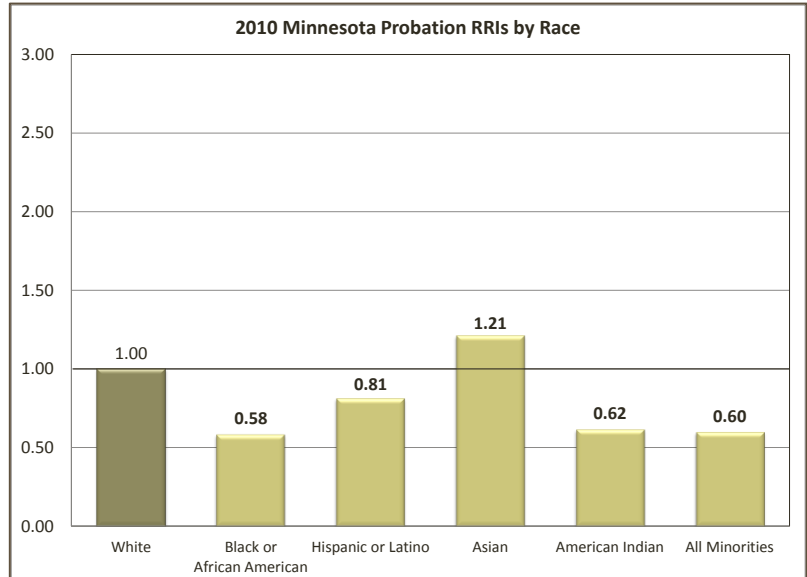
American Indian youth have the greatest disparity in delinquency level adjudications compared to white youth. An RRI of 1.44 suggests that American Indian youth are just under *one and a half times more likely* to have their case result in delinquent findings than white youth.



## Delinquency Probation

For DMC calculations, youth court-ordered to probation are to be a subset of youth adjudicated delinquent in court. Presently, Minnesota probation data reflect all youth court-ordered to probation for a delinquency matter, whether or not there is a formal adjudication. RRIs illustrate that, with the exception of Asian youth, who are *one and one-quarter times more likely* to receive probation, all minority populations are *less likely* than white youth to receive community probation for a delinquency matter.

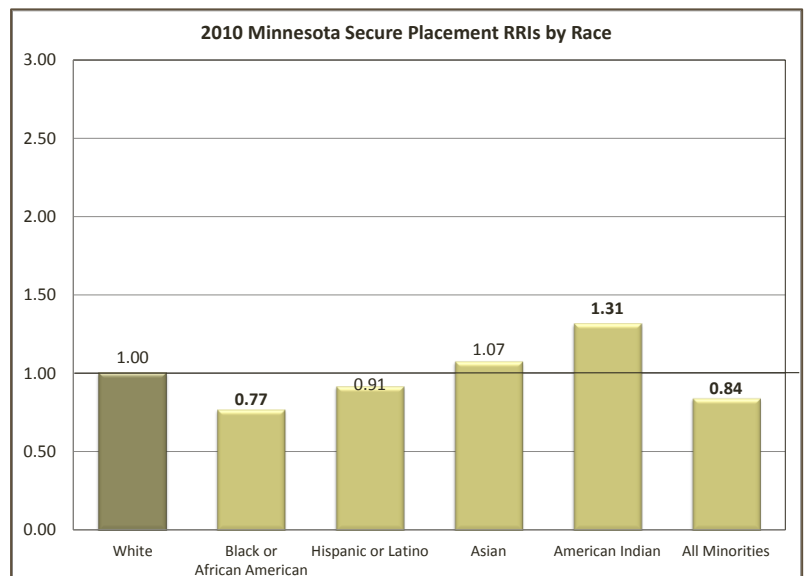
Hispanic youth have the probation rate closest to white youth (0.81) and both black or African American youth and American Indian youth are more than *one-third less likely* to receive probation than white youth. (0.58 and 0.62, respectively).



## Secure Placement Admissions

Youth court-ordered to secure placement in a juvenile facility are a subset of those adjudicated delinquent in court. The *Secure Placement* RRIs show the close proximity of Hispanic and Asian RRIs to the white youth rate of placement. Black or African American youth are nearly *one-quarter less likely* to receive secure placement (0.77) whereas American Indian youth are nearly *one-third more likely* (1.33).

The reasons youth populations experience secure placement at rates different from one another, as well as with different directionality, warrants further investigation. The length, nature and location of secure placements may provide additional information necessary to understand DMC at this decision point.



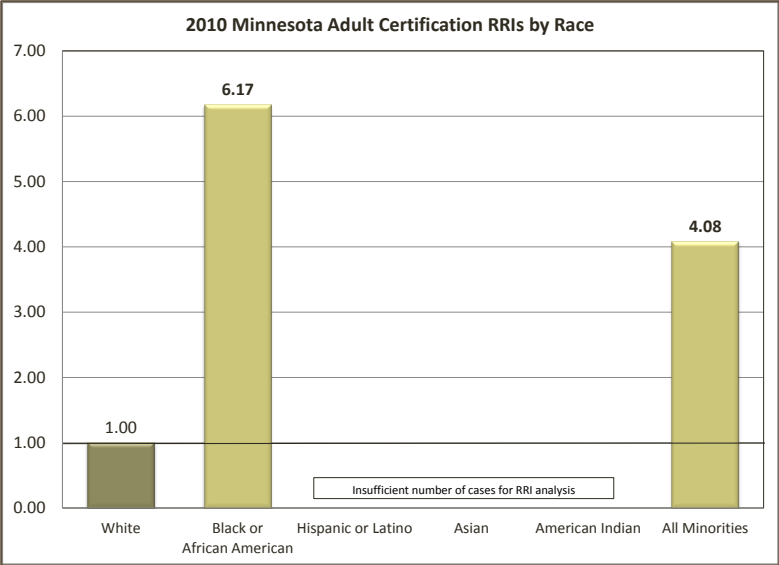


## Adult Certification

Juveniles certified to stand trial as adults are to be a subset of all youth petitioned to juvenile court. In order for RRI calculations to be accurate and meaningful, a minimum number of cases must exist. Asian, Hispanic and American Indian youth do not have a sufficient number of certification cases in 2010 for analysis and are therefore not graphed.

Black or African American youth are certified at a rate more than *six times* that of white youth. All minority youth combined have a certification rate more than *four times* greater than white youth (4.08).

Only one offense—murder in the first degree—requires automatic transfer of youth to adult court for trial and disposition. Youth charged with first degree murder are not captured among these data, as the petition is not filed in juvenile court. As such, the actual number of youth certified as adults in Minnesota may be higher (as might be the disproportionality) than is captured by juvenile court data alone.



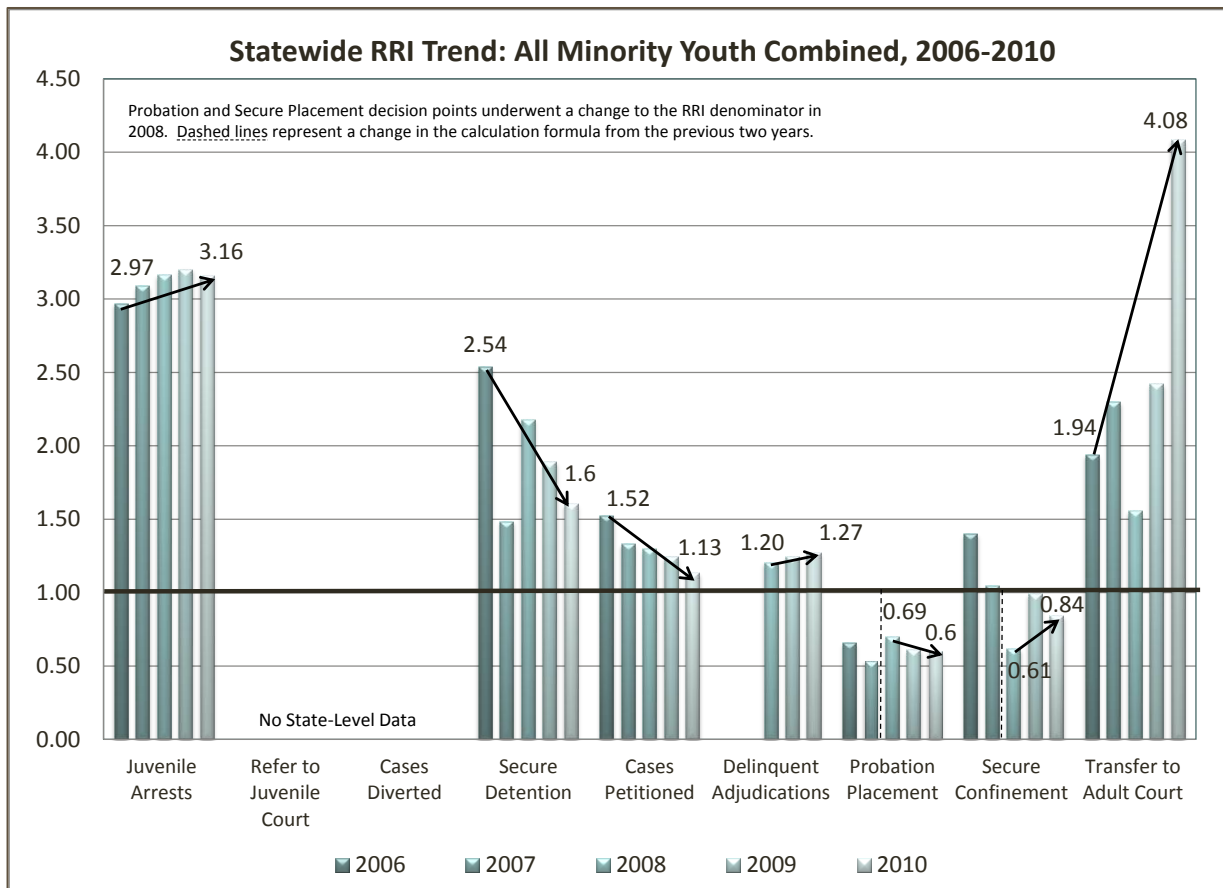
### Minnesota DMC Decision Points Summary

- Youth of color in Minnesota are more than three times more likely to be arrested for a delinquency offense than white youth (3.16).
- Youth of color in Minnesota are more than one-and-a-half times more likely to be securely detained than white youth (1.6).
- The lowest level of disparity in Minnesota occurs at petition to juvenile court (1.13). Nevertheless, youth of color are still statistically overrepresented.
- Youth of color are statistically more likely to be adjudicated delinquent than white youth in Minnesota (1.27).
- In Minnesota, youth of color are less likely than white youth to receive probation (0.60).
- Youth of color are statistically less likely to receive secure placement following adjudication than white youth (0.84).
- Youth of color are highly overrepresented among the population certified to adult court in Minnesota (4.08).

## DMC Trends

The following graph summarizes Minnesota RRIs for all minority youth combined at each available decision point between 2006 and 2010.<sup>20</sup> Trend analysis assists in determining where the greatest issues of disproportionality occur and whether disparities are increasing, decreasing or holding constant. Historically, the most significant disparities in Minnesota occur at the point of *Arrest*.

While the relative rate of *Detention* for minority youth has been declining, youth of color are still over *one-and-a-half times* more likely to be securely detained as white youth in Minnesota (1.60). Significant reductions in detention disparities over time are attributable largely to detention reform among several large Minnesota counties.<sup>d</sup>



Cases *Petitioned* to juvenile court and cases resulting in delinquent *Adjudication* are those where minority youth are closest to parity with white youth at 1.13 and 1.27, respectively. Following *Adjudication*, minority youth are less likely than white youth to receive court-ordered *Probation* or *Secure Placement*. While arguments can be made about the benefit of not receiving these sanctions, they are two dispositions whereby youth and families typically receive services and interventions that address the underlying drivers of delinquent behavior.

Finally, while a small number of youth are certified to adult court each year for delinquency offenses, Minnesota consistently documents the overrepresentation of youth from communities of color at this decision point.

<sup>d</sup> See the *Juvenile Detention Alternative Initiative (JDAI)* section, page 11

## National and State RRI Comparisons

As the national repository for DMC data, the federal Office of Juvenile Justice and Delinquency Prevention (OJJDP) makes both national and state-level data available.<sup>21</sup> National RRI data reveal the following:

- Minnesota collects DMC data at seven out of nine decision points collected nationally. Of the seven decision points available in Minnesota, racial disparities are more severe than the national average at four points: *Arrest*, *Secure Detention*, *Probation* and *Adult Certification*.
- At two decision points, *Adjudication* and *Secure Placement*, Minnesota's RRIs are the opposite direction than the national averages: Youth of color are more likely than white youth to be *Adjudicated* in Minnesota (compared to an underrepresentation nationally), and youth of color are less likely to receive *Secure Placement* in Minnesota than white youth (compared to an overrepresentation nationally).
- Minnesota has no state-level data at the *Referral to County Attorney* or *Diversion* decision points for national comparison.

## State RRI Comparisons

Comparing DMC data directly to other jurisdictions can be somewhat difficult. The best comparisons are those that have a similar-sized youth population, comparable racial and ethnic demographics, and represent a similar region or geographic size. Exploration of RRIs was completed on Minnesota's four neighboring states: North Dakota, South Dakota, Iowa and Wisconsin, as well as four additional states with geographic size and youth population attributes similar to Minnesota's: Kansas, Nebraska, Utah and Washington.<sup>22</sup> The RRI data reveal the following:

- Compared to neighboring states and states with similar attributes, Minnesota has the most severe RRIs at four of seven decision points: *Arrest*, *Adjudication*, *Probation* and *Adult Certification*.
- Data collected at Minnesota's county level suggest that Minnesota could also have the greatest disparities at the points of *Referral to the County Attorney* and *Diversion* as well.

## Disproportionate Minority Contact Reduction Strategies

According to the federal Office of Juvenile Justice and Delinquency Prevention (OJJDP), DMC results from many factors and is often present at more than one decision point. As such, states and jurisdictions must develop multiple strategies and implement them concurrently at multiple decision points. OJJDP identifies three primary strategies for addressing DMC: direct services, training and technical assistance, and system change.<sup>23</sup> In addition, OJJDP recommends that each state staff a DMC Coordinator position to educate stakeholders and implement state DMC reduction plans.<sup>24</sup>

## The Minnesota Juvenile Justice Advisory Committee

The JJDA requires each state to establish an advisory group to monitor compliance with the four Core Protections of the JJDA. In Minnesota, the body responsible for demonstrating compliance and allocating the accompanying federal funds in support of juvenile justice-related activities and initiatives is the Minnesota Juvenile Justice Advisory Committee (JJAC). State advisory groups must triennially develop a *Three-Year Plan* that articulates state-level goals related to juvenile justice system monitoring and improvement. Part of the *Three-Year Plan* must include goals and objectives specific to the DMC Core Protection.<sup>25</sup> The following are select stated DMC goals in Minnesota’s 2012-2014 DMC Plan:<sup>26</sup>

- Increase funding for community-based systems and programs that are focused on the diminution of DMC.
- Expand juvenile detention reform.
- Engage law enforcement and community partners to (a) address DMC by targeting overrepresented populations and (b) develop innovative solutions to take the place of detention.
- Meet with local professionals in each of Minnesota’s 10 Judicial Districts to explore individualized responses to DMC.
- Improve uniformity of data definitions and race and ethnicity codes across systems, and other data improvement strategies.
- Earmark funding for a DMC Coordinator.

## The Juvenile Detention Alternatives Initiative

To date, the Annie E. Casey Juvenile Detention Alternatives Initiative (JDAI) has been a cornerstone of Minnesota’s DMC reduction plan. Minnesota is one of 38 states participating in the Annie E. Casey Detention Alternatives Initiative and is considered a “state site” with multiple JDAI jurisdictions as well as a state JDAI coordinator.<sup>27</sup> Presently, Dakota, Hennepin, Ramsey and St. Louis Counties have implemented JDAI.

Activities connected with Minnesota JDAI include: development and use of Risk Assessment Instruments to objectify detention admission criteria; use of curfew and after-hours reporting centers; expansion of probation caseload availability; community liaisons to coordinate resources; expanded use of non-secure shelter beds;<sup>28</sup> and Juvenile Court Outreach Workers and Detention Review Specialists.<sup>29</sup>

JDAI has contributed to significant declines in overall detention admissions, and a decrease in youth of color as a percentage of the overall detention population. JDAI has also reduced average daily populations and average lengths of stay resulting in revisions to secure-bed expansion and closing of some secure units within facilities.<sup>30</sup>

## Strengthening Minnesota’s Response to DMC

In its latest edition of the *DMC Technical Assistance Manual for States*, OJJDP summarizes eight key lessons learned about the phenomenon of DMC.<sup>31</sup> These are helpful guides to determine what additional components are needed in a state’s DMC response. Core lessons include:

- DMC reduction requires a multi-pronged intervention strategy.
- DMC intervention strategies need to be data-based.
- DMC reduction needs to occur at the local level.
- DMC reduction requires strong partnerships.
- DMC reduction demands sustained efforts.

In light of significant decreases in state funding to support DMC<sup>32</sup>, it is all the more important that the interventions supported have the greatest potential benefit to youth and produce the outcomes intended. The following is a synopsis of strategies that can assist in developing Minnesota’s overall understanding of DMC; support the most effective interventions; and promote system-level change.

- Fund a dedicated DMC Coordinator to facilitate implementation of the State Plan and support DMC efforts at the local level.
- Involve community members and agencies representative of the populations in the justice system in discussions, planning and outcomes related to DMC.
- Improve data collection and establish uniform race data collection strategies among county attorneys. Collect data on race, ethnicity, gender, geography and offense at all system contact points.
- Expand DMC data collection to counties or regions in greater Minnesota with a focus on measuring DMC in the American Indian and Hispanic communities.
- Measure DMC in Minnesota using statistical analysis tools to identify, isolate and target underlying factors perpetuating DMC.
- Assess past and future juvenile legislation for the effects on youth populations of color.
- Evaluate the effectiveness of DMC reduction activities to support programs with demonstrated effectiveness.
- Expand juvenile diversion options for law enforcement and county attorneys. Develop consistent diversion criteria and resource availability around the state.
- Expand detention alternatives in the state to continue to reduce the use of secure detention following arrest.
- Implement assessment and decision-making tools to reduce practitioner bias and ensure objective responses to known risk-factors for delinquency and re-offense.

## Conclusion

DMC data collected over the past 10 years show disparate rates of contact with youth from communities of color at all major stages of Minnesota’s juvenile justice system. Minnesota’s racial disparities are greater than both the national average and those of similar comparison states.

Minnesota has opportunities to gain additional insights into DMC and focus on system change activities statewide. Through thoughtful, deliberate use of data; multimodal intervention strategies that include direct services, training, and system change; and on-going evaluation of effectiveness, Minnesota juvenile justice jurisdictions can make meaningful progress toward equitable outcomes for youth from communities of color.

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