

# **Annual Report to the Legislature**

## **Reducing Racial and Ethnic Disparity in the Juvenile Justice System**

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## TABLE OF CONTENTS

Executive Summary .....	2
Introduction.....	3
Previous Reports .....	4
Current Measures of Racial Disparity in Washington State .....	4
Indicators of Racial Disparity, 2013 .....	5
Juvenile Arrests.....	6
Referral to Juvenile Court.....	7
Diversion from Court System .....	8
Detention Admissions .....	9
Petitions Filed / Charged Offense .....	10
Delinquent (Guilty) Finding .....	11
Secure Confinement / Sentence to Juvenile Rehabilitation .....	12
Transfer to Adult Court.....	13
Current Efforts to Address RED in Washington.....	14
Future Direction .....	15
References.....	17

## **Reducing Racial and Ethnic Disparity in the Juvenile Justice System**

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### **Executive Summary**

This report, Reducing Racial and Ethnic Disparity in the Juvenile Justice System, is provided pursuant to RCW 13.06.050(3) which requires an annual report on the effectiveness of programs intended to reduce racial disparities in the juvenile justice system in the state of Washington. This report is combined to meet the reporting requirements for 2013 and 2014.

Racial and ethnic disparity (RED) refers to the unequal treatment of youth of color in the juvenile justice system. Racial and ethnic disparities result in disparate outcomes for similarly situated youth. Unwarranted racial and ethnic disparate outcomes in the juvenile justice system are a nationwide problem, with many grave consequences. Over the past decade Washington has been successful in reducing the total number of youth in all points of the juvenile justice system, from arrest to detention. As a result, the total number of youth of color in the juvenile justice system has decreased. Unfortunately, the declining rates of contact with the juvenile justice system have not been proportionate to those of White youth, resulting in youth of color having proportionally higher rates of contact with the juvenile justice system in Washington State.

This report provides information on eight of the nine key decision points identified by the Office of Juvenile Justice and Delinquency Prevention to measure RED. Future reporting on disparity will detour from this current format and will focus on specific measures to track identified target areas: equity in access to evidence based programs, transparency and public accessibility to RED information, and development of recidivism reporting standards.

## Introduction

Racial and ethnic disparity (RED) refers to the unequal treatment of youth of color in the juvenile justice system. Racial and ethnic disparity exists in all youth-serving agencies and is the result of implicit bias, racial stereotyping, and laws, policies, and procedures that can have an unequal impact<sup>i</sup>. As a result, racial and ethnic disparities can occur throughout youth-serving (and adult-serving) systems, not just the justice system. The interconnectedness of all these systems, and the effect that disparities in one have on the other, is an important consideration. For brevity, and to meet the RCW intent, this report will focus on the juvenile justice system, but future consideration of the broader picture may prove to be fruitful.

In previous versions of this report the issue of racial disparity has been referred to as Disproportionate Minority Contact (DMC). In recent years there has been a shift away from this term and the issue is now referred to as Racial and Ethnic Disparity (RED). This change in terminology is intended to better reflect the communities we serve – people of color are no longer minorities in some parts of Washington State – and to highlight that while it is possible to have proportionate numbers of youth of color in the general and justice populations, disparities in decision making can still occur.

While the ability to determine on a case by case basis the cause of disparities in the juvenile justice system remains a challenge, disparity in the system has been well established. In the National Academy of Sciences (NAS) 2012 report, *Reforming Juvenile Justice: A Developmental Approach*,<sup>ii</sup> it was reported that even after controlling for seriousness of the current offense, offending history and a host of other factors, “data consistently show that race and ethnicity are associated with court outcomes, and that racial and ethnic differences increase and become more pronounced with further penetration into the system through the various decision points.” Nationally, African-American youth are arrested more than twice as often as non-Hispanic White youth and are less likely to be diverted from the juvenile justice system. Similarly, Native American/Alaska Native youth are diverted less often and are transferred to adult court more than 1.5 times the rate of White youth.<sup>iii</sup>

Unwarranted racial and ethnic disparate outcomes in the juvenile justice system are a nationwide problem, with many grave consequences. According to The Sentencing Project to the United Nations Human Rights Committee-Regarding Racial Disparities in the United States Criminal Justice System (2013),<sup>iv</sup> “racial and ethnic disparity fosters public mistrust of the justice system and this impedes our ability to promote public safety.” Furthermore, involvement in the juvenile justice system causes collateral consequences, including limited job and housing opportunities as a result of publicly accessible juvenile records, incomplete educational opportunities, and reduced skill attainment that restricts employability.

### *Previous Reports*

Early compliance with this reporting requirement (RCW 13.06.050) was contracted to the University of Washington through allocated funding in the 1993-1995 legislative biennial budget. Since then reports have been developed, without additional resources, by Juvenile Rehabilitation. Historic reports from 2002-2012 can be found on the Department of Social and Health Services website at [www.dshs.wa.gov/node/6268](http://www.dshs.wa.gov/node/6268).

Previous annual reports have included data points measured at different years within a single report. For example, the 2011 legislative report reported the racial breakdown of Washington youth for 2008 and the juvenile rehabilitation population for 2011. While this reporting design is the product of unpredictable data releases, in order to be more consistent in reporting this report will focus on 2013. Historical data is included for context when appropriate. Although this reporting standard results in a delay in “real time” data, it provides a more consistent and comprehensive annual view. While there is some data available for 2014, it is not available across all decision points so 2014 data has been omitted. The subsequent report (2015), will include data for 2014.

As outlined in the recommendations section, future reporting on disparity will detour from this current format and will focus on identifying areas for targeted improvement and specific measures tracking these areas. General reporting of indicators of disparities will remain but will not be the sole focus of this report. Efforts are also underway to develop timelier interactive data reporting tools.

### **Current Measures of Racial Disparity in Washington State**

The United States Department of Justice’s Office of Juvenile Justice and Delinquency Prevention<sup>v</sup> recommends measuring, reporting and tracking nine indicators, also referred to as “decision points,” of racial disparity (Figure 1).

**Figure 1: OJJDP Recommended RED Decision Points**

1. Juvenile Arrests
2. Referral to Juvenile Court
3. Diversion from System
4. Detention Admissions
5. Petition Filed (Charged Offense)
6. Delinquent (Guilty) Finding
7. Probation
8. Secure Confinement/Juvenile Rehabilitation
9. Transfer to Adult Court

These indicators are used throughout the country as a baseline indicator of disparity. Additionally, these decision points are used to target areas to reduce racial disparity in the juvenile justice system.

It is important to note that none of this reporting accounts for juvenile criminal history or offense severity. National research indicates that even when controlling for these factors youth of color receive harsher outcomes than White youth<sup>vi</sup>. This report does not address this issue.

Because data is not available on all nine decision points, this report is limited to the eight which data is accessible for (Figure 2). The Washington State Partnership Council on Juvenile Justice annually collects and reports this data and provided it for this report. Arrest data comes from the Washington Association of Sherriff and Police Chiefs (WASPC). Data for all other decision points come from the Administrative Office of the Courts (AOC).

**Figure 2: RED Decision Points Included  
in this Report**

- 1. Juvenile Arrests**
- 2. Referral to Juvenile Court**
- 3. Diversion from System**
- 4. Detention Admissions**
- 5. Petition Filed (Charged Offense)**
- 6. Delinquent (Guilty) Finding**
7. Probation
- 8. Secure Confinement/Juvenile Rehabilitation**
- 9. Transfer to Adult Court**

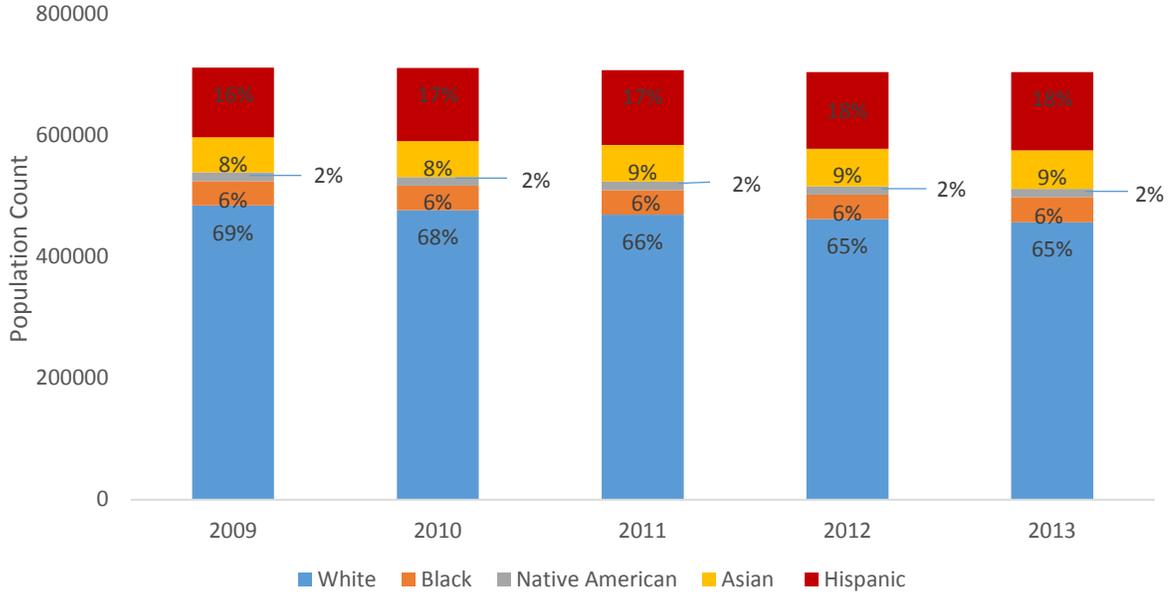
Many RED papers report these decision points using a Relative Rate Index (RRI). The RRI is useful because it 1) accounts for population size, 2) makes comparisons to a base group, and 3) reports decision points relative to the immediately previous juvenile justice event (e.g. reporting findings of guilt among all youth charged with a crime, rather than among all youth arrested for a crime). Because Washington State RED RRIs are published elsewhere,<sup>vii</sup> this report has taken a different approach and reports raw numbers and percentages. This is not an indication that RRIs are not a valuable tool for measuring and tracking disparity, it is simply an attempt to avoid replicating work already completed.

### **Indicators of Racial Disparity, 2013**

In 2013 youth of color made up (36%) of the Washington State juvenile population, up from 31% in 2009 (Figure 3). After White youth, Hispanic/Latino

youth make up the second largest portion of the Washington population of 10 to 17 year olds (18%).<sup>viii</sup>

**Figure 3: Washington Population age 10-17 (2009-2013)**

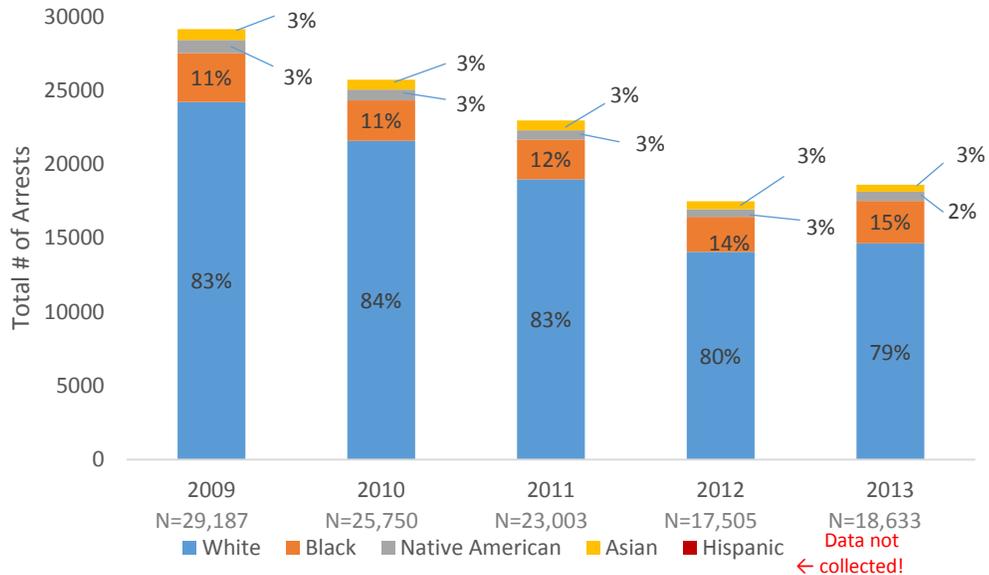


Over the past decade Washington has been successful in reducing the total number of youth in all points of the juvenile justice system, from arrest to detention. As a result, the total number of youth of color in the juvenile justice system has decreased. Unfortunately, the declining rates of contact with the juvenile justice system have not been proportionate to those of White youth, resulting in youth of color having proportionally higher rates of contact with the juvenile justice system in Washington State.

*Juvenile Arrests*

The number of juvenile arrests has steadily declined from 2009 to 2012 (the last year data is available for). In 2009 there were 29,187 juvenile arrests or 4,097 arrests per 100,000 youth in Washington age 10-17 (Figure 4). This number has declined to 17,505 in 2012 (2,461 arrests per 100,000 youth in Washington age 10-17). Although it is difficult to calculate arrest rates by race because of the omission of data on Hispanic/Latino ethnicity in arrest reporting, it is still clear that arrest rates have been disproportionately higher for youth of color throughout this timeframe. In 2012 the arrest rate for Black youth was 5,840 arrests per 100,000 youth compared to the rate for Whites (which, likely includes Hispanic/Latinos since they are not counted elsewhere) of 3,046 arrests per 100,000 youth.

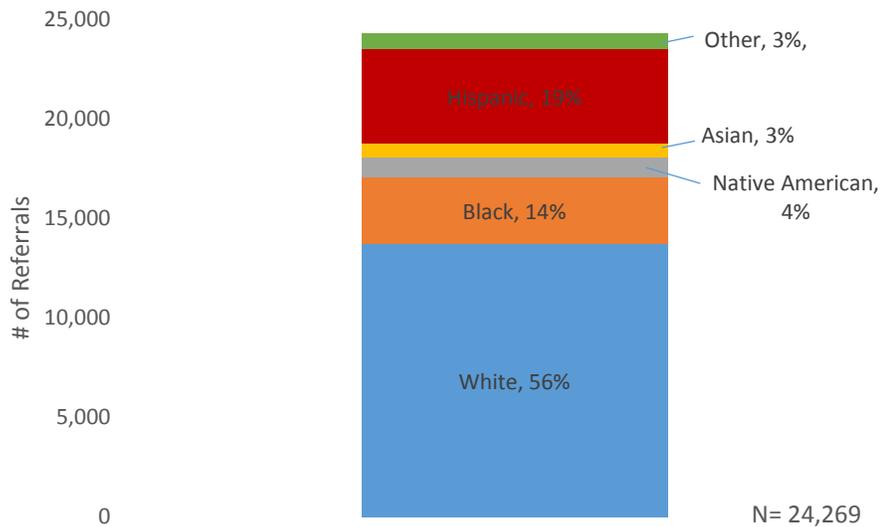
**Figure 4: Juvenile Arrests (2009 - 2013)**



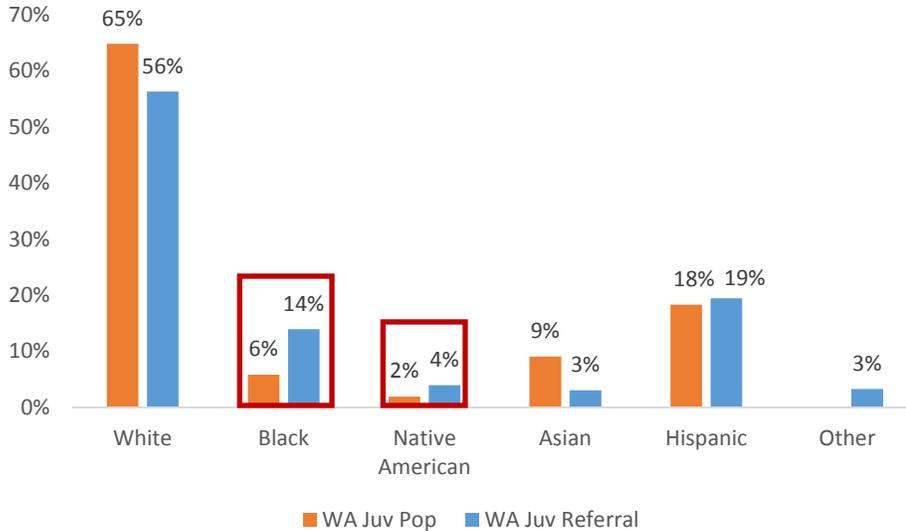
*Referral to Juvenile Court*

In 2013 there were 24,269 referrals of juveniles to court. Of these, a little over half (56%) were White youth (Figure 5). White youth make up 65% of the state population, indicating that they are underrepresented in the juvenile referral population (Figure 6). Inversely, Black and Native American youth are disproportionately overrepresented in juvenile referrals.

**Figure 5: Referrals to Juvenile Court by Race (2013)**



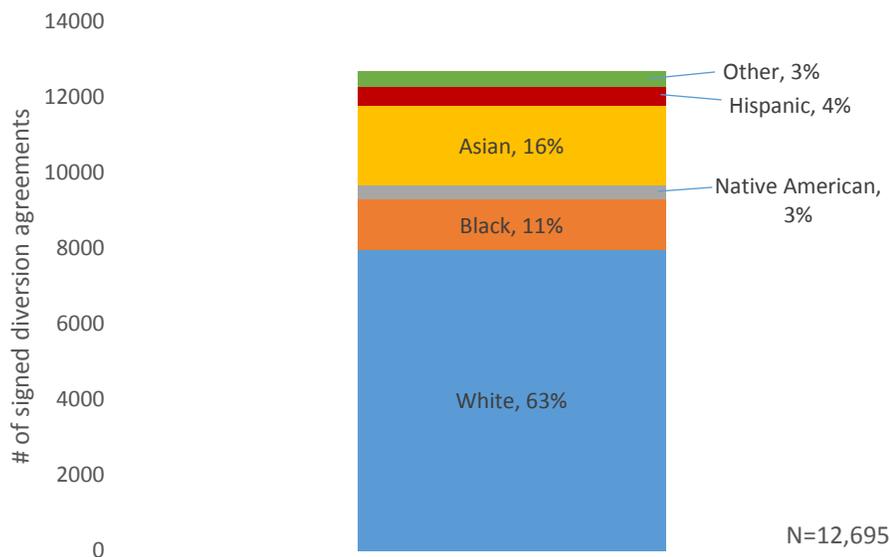
**Figure 6: State Juvenile Population Compared to Referrals, by Race (2013)**



*Diversion from Court System*

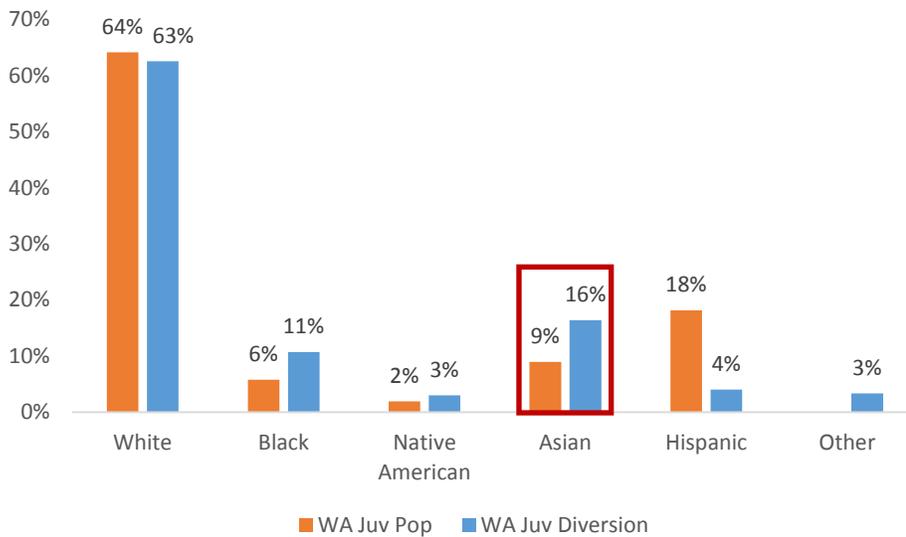
Diversion allows offenders to avoid criminal charges by requiring them to complete specified tasks such as community service, attending counseling, or making financial restitution. Diversions are discretionary and are offered based on offense severity, criminal history, and local practice. Diversions are viewed as a positive opportunity that allow youth to avoid a criminal record.

**Figure 7: Racial breakdown of Signed Diversion Agreements (2013)**



In 2013 there were 12,695 juvenile diversion agreements signed. About a third of all diversion agreements were signed by youth of color (37%) (Figure 7). Although Asian youth make up 9% of the juvenile population and 3% of juvenile court referrals, they make up 16% of all signed diversions (Figure 8). Conversely, Hispanic / Latino youth only make up 4% of all youth who are diverted. For a diversion agreement to be finalized it must be offered by the court and accepted by the youth. These numbers do not specify if the demographic differences in the signing of diversion agreements is the result of disparities in offering or in acceptance of agreements, and likely is a combination of both.

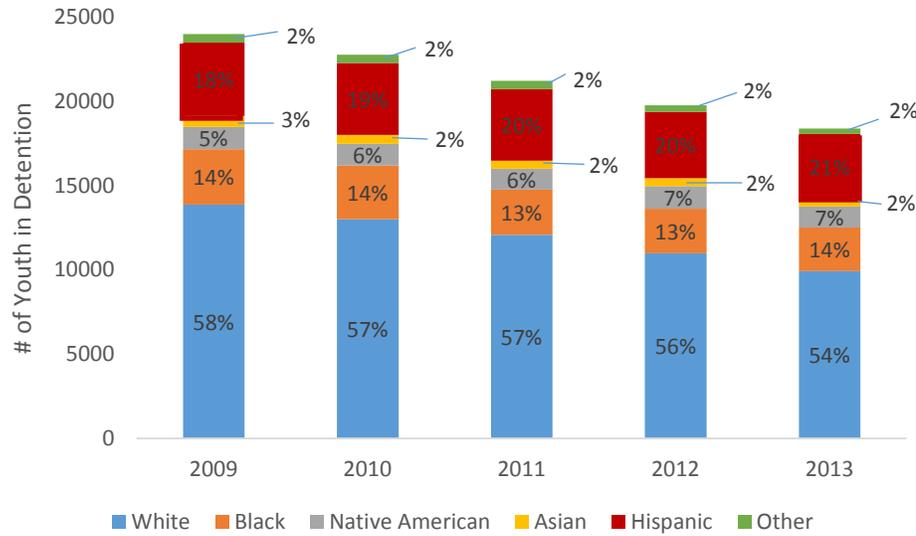
**Figure 8: State Juvenile Population Compared to Diversions, by Race (2013)**



### *Detention Admissions*

The number of youth held in local detention has decreased by 23% between 2009 and 2013, to 18,393 youth. While fewer youth are being admitted to detention, a larger proportion are youth of color (Figure 9). In 2013 Hispanic/Latino youth made up 21% of detention admissions, compared to 18% in 2009. Although population changes during this five year period explain some of this change, the growth in the proportion of the Hispanic/Latino detention population is not fully explained by demographic shifts; the Hispanic/Latino detention rate in 2013 was 30 per 1,000 Hispanic/Latino youth compared to White youth at 22 per 1,000 (results not shown).

**Figure 9: Admission to Juvenile Court Detention (2009-2013)**



While the number of detained youth has decreased for all demographic populations during this five year period, the percent decrease is much smaller for Hispanic/Latino and Native American youth than for the rest of the juvenile population (Table 1). The number of White youth in detention has decreased by nearly 29% in the last five years, while the decrease for Hispanic/Latino youth has only been 11%. This means that 758 fewer Hispanic/Latino youth would have to be detained in 2013 for their reduction to match that of White youth. It is important to note that this reduction still would not result in racial parity, simply equity in improvements in reducing the detention population.

**Table 1: Percent Change in Detention Admissions to Juvenile Court (2009-2013)**

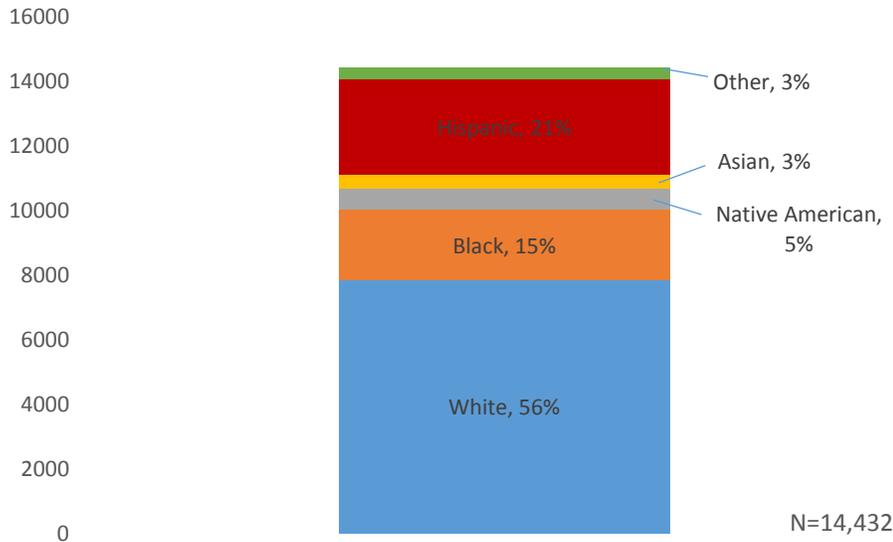
	2009	2013	Percent Change 2009-2013	Change in # Necessary to match White % Change (- 20.5%)
	#	#	%	# Change
White	13,873	9,922	-29%	N/A
Black	3,289	2,588	-21%	-236
Native American	1,311	1,255	-4%	-318
Asian	671	444	-34%	+36
Hispanic/Latino	4,331	3,855	-11%	-758
Other	522	329	-37%	+44
All	23,997	18,393	-23%	N/A

*Petitions Filed (Charged Offense)*

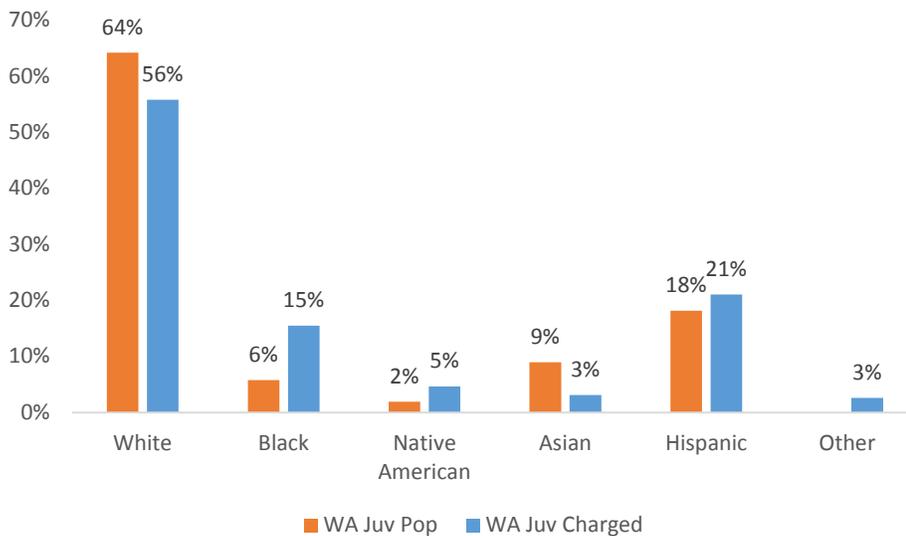
In 2013 there were 14,432 petitions filed on juvenile offenses. A little less than half of these (44%) were filed on youth of color (Figure 10). While Black youth make up only 6% of the Washington juvenile population, 15% of all petitions filed were on Black youth (Figure 11). In 2013 a Black youth in Washington was

3 times as likely to have a petition filed as a White youth and a Native American youth was 2.8 times as likely.

**Figure 10: Racial breakdown of Petitions Filed / Charged Offense (2013)**



**Figure 11: State Juvenile Population Compared to Petitions Filed, by Race (2013)**

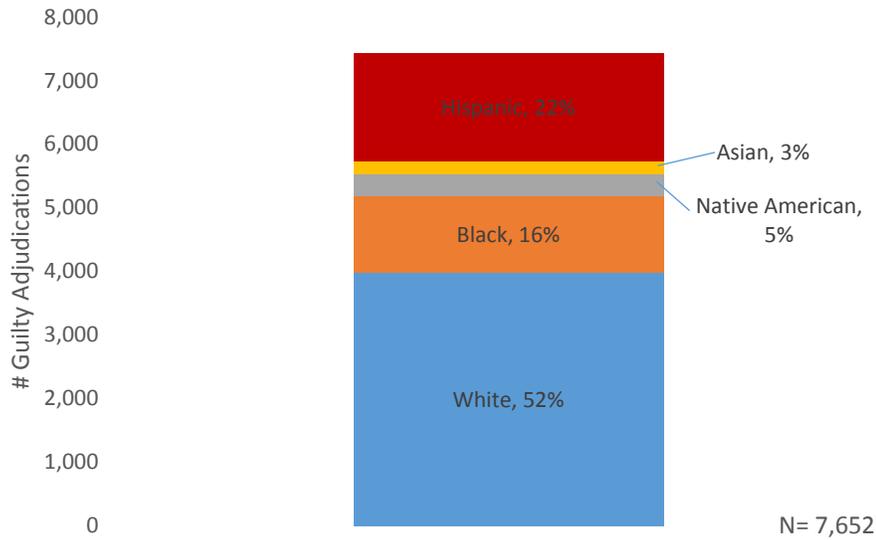


*Delinquent (Guilty) Finding*

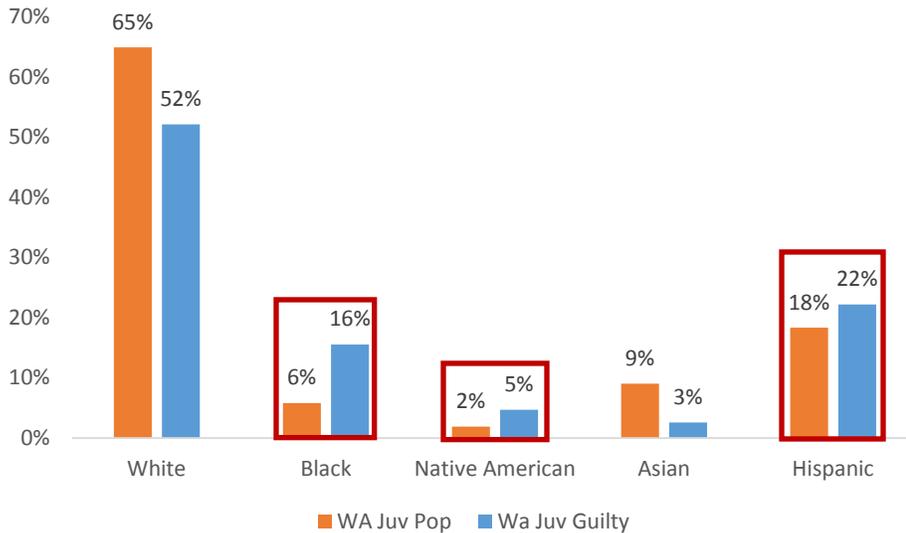
Of the 14,432 petitions filed on juvenile offenses in 2013 (Figure 10), 7,652 resulted in a finding of guilt. Half of these guilty findings (52%) were White youth, 22% were Hispanic/Latino, 16% were Black, 5% were Native American, and 3% were Asian (Figure 12). Rates of adjudication ranged from 46% for Asian

youth to 57% among Hispanic/Latino youth. Compared to the general population, Black, Hispanic/Latino, and Native American youth are overrepresented in findings of delinquency (Figure 13). Overall, a little over half of all filed charges resulted in a guilty finding (52%).

**Figure 12: Racial breakdown of Delinquent / Guilty Findings (2013)**



**Figure 13: State Juvenile Population Compared to Delinquent / Guilty Findings, by Race (2013)**

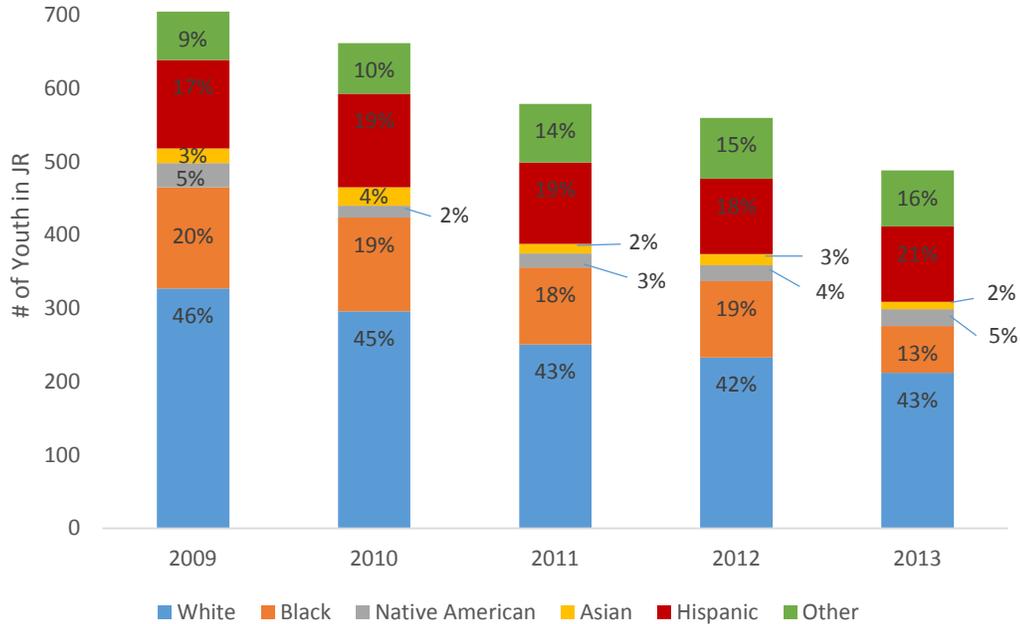


*Secure Confinement / Sentence to Juvenile Rehabilitation*

The number of youth sentenced to juvenile rehabilitation decreased by 31% between 2009 and 2013. The percentage change was most significant for Black youth. In 2009 there were 128 Black youth in JR. This number decreased by 54%

to 64 youth in 2013. While this decrease is important, it's still important to note that in 2013 Black youth made up 13% of the JR population, while they only made up 6% of the state juvenile population.

**Figure 14: Youth Sentenced to Juvenile Rehabilitation (2009-2013)**



Another important consideration is the increase in the number of youth identified as “Other” during the five year timeframe. If the “other” group contains primarily Black youth then the apparent decrease may be a result of differential classification rather than changes in JR sentencing. When “other” is omitted from the calculations, Hispanic/Latino youth make up 25% of all youth sentenced to JR in 2013 and Black youth make up 15%.

### *Transfer to Adult Court*

Youth with more serious charges, defined in statute, will have their criminal jurisdiction transferred to adult court (referred to as an auto decline) where they can be tried as an adult. Judicial officers can refer the juvenile to the adult system (referred to as a discretionary decline). Juvenile facilities in Washington State have made a concerted effort to fund and offer interventions in the juvenile justice system that have been scientifically shown to reduce re-offense. While similar programming is available in the adult facilities, it is more limited, less accessible, and not targeted at juvenile risk and needs. Limited access to recidivism reducing interventions has been acknowledged nationally as a negative consequence of serving adolescents in adult facilities and a reason why youth should be served in juvenile facilities as much as possible.<sup>ix</sup>

While the number of youth transferred to adult court has declined by 25% over the past five years to 113 youth in 2013, this reduction has not been equitable

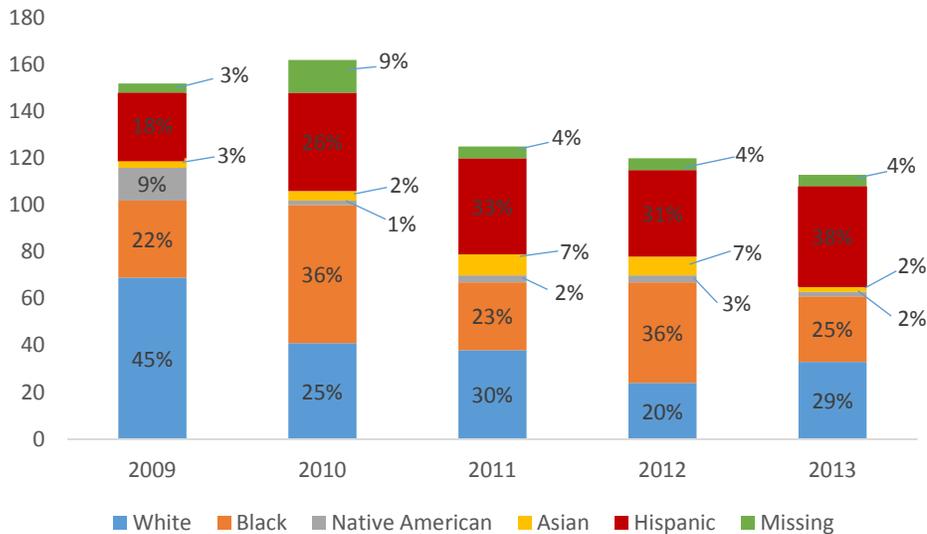
across all racial and ethnic groups. The number of youth transferred to adult court decreased for all racial and ethnic groups except Hispanic/Latinos who saw a 53% increase in adult transfers during this five year period from 28 youth to 43.

**Table 2: Percent Change in Youth Transferred to Adult Court (2009-2013)**

	2009	2013	Percent Change 2009-2013
	#	#	%
White	69	33	-52%
Black	33	28	-51%
Native American	14	2	-86%
Asian	4	2	-50%
Hispanic/Latino	28	43	+53%
Other	4	5	+25%
All	152	113	-25%

In 2009 Hispanic/Latino youth accounted for 18% of all juveniles transferred to adult court. Within five years they had increased to accounting for 38% of all transfers (Figure 15).

**Figure 15: Youth Transferred to Adult Court (2009-2013)**



### Current Efforts to Address RED in Washington

Recent publications have detailed the progress made since 2012 by the initiatives designed to address disparity in juvenile justice in Washington. Specific programs are detailed in the 2013 Washington State Partnership Council on

Juvenile Justice commissioned report, “Washington State Disproportionate Minority Assessment,” by Michael Pullman, PhD et al.<sup>x</sup> and the 2014 report by Bateman-Iino and Herrero to the Washington State Supreme Court.<sup>xi</sup> Because these documents provide a thorough overview of efforts in Washington, readers are advised to refer to them for information on efforts in Washington to address RED.

## **Future Direction**

While Washington has been recognized for being a national leader in enacting policies to address the overrepresentation of youth of color in the juvenile justice system, the implementation of these policies have yet to see their intended impact. The urgency to achieve measurable change has been championed at the highest levels with Governor Inslee adopting a Results Washington measure to reduce the percent of youth of color in detention (county and state) from 45% to 42% by 2016. Partners across the juvenile justice continuum are working to achieve this goal as well as to reduce RED throughout the system.

Juvenile Rehabilitation, along with its juvenile justice partners, has made the decision to spend the next biennium focusing on targeted areas of disparity with the hope of realizing true, quantifiable change within the two year timeframe. Juvenile Rehabilitation intends to:

- 1) Reduce disparities in juvenile offender’s access to and completion of evidence based interventions that have been scientifically shown to reduce recidivism. The following will be done to accomplish this:
  - Partner with the Washington Association of Juvenile Court Administrators (WAJCA) to design a strategy for tracking and addressing RED in interventions.
  - Measure and report disparities in access and completion of Evidence Based Programs (EBP).
  - Partner with WAJCA to identify barriers to equitable access to EBPs.
  - Assist key stakeholders in identifying ways to target youth of color to increase access to EBPs.
  - Policy review and, if necessary, modification to increase youth of color’s access to services.
  - Ongoing measurement and reporting to track changes in access and program completion.
  
- 2) Make data on racial and ethnic disparities more accessible to the public and develop data reporting interfaces that are appropriate for non-experts. The following will be done to accomplish this:
  - Partner with the Washington State Partnership Council on Juvenile Justice, WAJCA, the Administrative Office of the Courts, and other key stakeholders to align and collaborate on RED data reports.

- Develop standards for frequency and release of updated data.
  - Develop interactive online platforms for RED reporting.
- 3) Increase capacity in recidivism reporting. In coordination with the Pew Research Center, a national nonpartisan fact tank, and in collaboration with the Administrative Office of the Courts, the following will be done to accomplish this:
- Develop recidivism reporting standards.
  - Develop cross-system data sharing agreements with key stakeholders.
  - Produce and publicly release juvenile recidivism rates.
  - Develop a structure for ongoing production and release of recidivism data.

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