

Resource Guide for Mental Health Professionals Working with Youth Involved in the Juvenile Justice System

MODULE 1

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Module 1

OVERVIEW OF THE JUVENILE JUSTICE SYSTEM

This module and its contents are intended for educational purposes.

“Don't get me wrong, everybody knows the consequences of stealing a car or going and smoking or taking pills or whatever, but nobody thinks about it because it's that fight or flight response. And that's what I don't think any of our probation officers or judges understand. We're still juveniles. We're developing life, and our traumas are a big thing that they don't understand.”

–Youth in Detention

The goal of this module is to provide a history of the juvenile legal system and an overall “snapshot” of the current system.

History of the Juvenile Justice System



The American juvenile justice system as it is known today, a system separate from the adult criminal justice system and focused primarily on the rehabilitation of youth, is only about 100 years old. Prior to the establishment of a separate juvenile court system, youth in the United States were charged, prosecuted and sentenced as adults.

This began to change in 1825 when the first House of Refuge, or youth reformatory, was established in New York. Rooted in the growing recognition of childhood as a distinct developmental period, the expressed purpose of these Houses of Refuge was to “rehabilitate” youth who have offended in reformatory schools designed specifically for children and separate from adults. However, Black youth were initially excluded from this reform option, continuing to be charged and sentenced in adult courts. Even after Houses of Refuge became available to youth of color, they were more likely to suffer abuse and endure longer stays than white youth.

By the late 1800’s, documented abuse and exploitation of youth in Houses of Refuge led to a push for further reform. Separate trials for children were first held on a statewide basis in Massachusetts in 1872¹. Under the doctrine of *parens patriae*, which gives the state the

authority to remove youth from “unsuitable” parents and assume supervision, the first separate juvenile court was established in 1899 in Chicago, Illinois (Cook County).

Rehabilitation and treatment were the purported focus of the early courts.² Early juvenile court legislation advocated for keeping children separate from adults in criminal cases, with a focus on balancing the need to “rescue” children while also focusing on punishment.³ Over the next decade, 31 additional states established juvenile courts or probation services and by 1925, all but two states had done so.



Rather than “asking merely whether a boy or a girl has committed a specific offense,” the early courts would “find out what he is, physically, mentally, morally, and then if it learns that he is treading the path that leads to criminality, to take him in charge, not so much to punish as to reform, not to degrade but to uplift, not to crush but to develop, not to make him a criminal but a worthy citizen”⁴. The goal was to provide “guidance and friendly interest” while keeping youth with their families or placing them in a home-like setting: “Locks and bars and other indicia of prisons must be avoided; human love, supplemented by human interest and vigilance, must replace them. In such schools there must be opportunity for agricultural and industrial training, so that when the boys and girls come out, they will be fitted to do a man's or woman's work in the world, and not be merely a helpless lot ...”⁵.



While the paradigm shift from treating youth as adults to establishing separate and distinct processes for youth was progressive for its time, it is important to understand the context in which it occurred. Children were just beginning to be valued as more than an expendable resource and childhood was only starting to be regarded as a precious stage of life. At that time, child advocates’ ardent campaign to dismantle the Puritan belief that children were born in sin and “needed intense discipline and obedience to please God”⁶ was only in its preliminary stages, making this conception more of a flimsy talking point than a firmly held belief. These shifting views are reflected in the American juvenile justice system, where the long stated mission has been to rehabilitate youth, while in practice the system has shifted sharply between that progressive aim and punishment.

By the 1960s, however, the pendulum swung away from rescue and rehabilitation and toward confinement and punishment. Courtrooms, probation offices, and detention facilities or “training schools” became adversarial with “delinquent” youth viewed and treated as “criminals-in-the-making” who should be removed from society to protect public safety. The U.S. Supreme Court established a number of procedural protections designed to provide for reliable legal representation and fairness in legal dispositions (e.g., due process, right to counsel, right to notice of charges, right against self-incrimination)⁷. However, with the

increasing social and economic upheavals of the 1970s and 1980s, youths who violated the law became stigmatized as irreparably dangerous (e.g., super-predators).

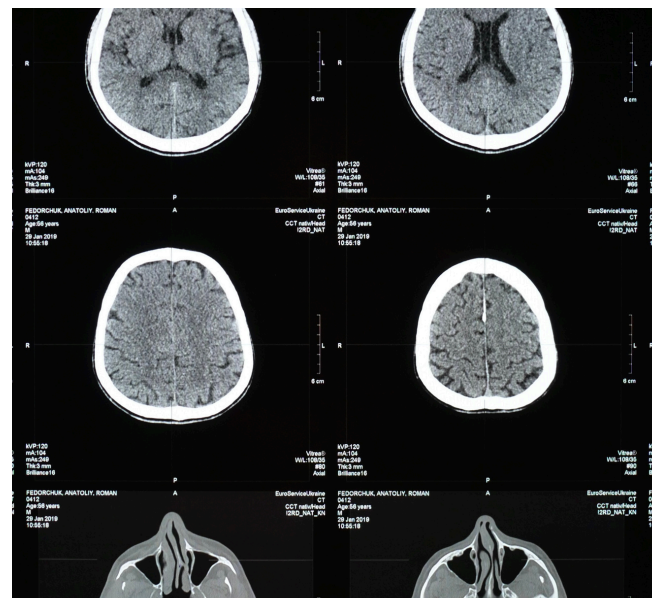
Arrests of juveniles increased dramatically into the mid 1990s with almost **3 million arrests** and **1.5 million juvenile delinquency court cases** in 1996, compared to 434,000 arrests and 500,000 juvenile delinquency court cases in 2020.^{8,9}



In the mid-1990's, laws in 45 states were enacted to permit the “transfer” of juvenile cases into the adult courts and to lower the upper age for youths to be tried in juvenile court. As a result, juvenile justice agencies were flooded with cases while many youths, including but not limited to those aged 16 and 17, were subjected to trial and incarceration in the adult criminal justice system.

In the early 2000's, with a heightened focus on adolescent development and a responsiveness to both psychological and neuroscience research, the pendulum began to swing back toward rehabilitation. In 2005, the United States Supreme Court struck down the death penalty as applied to minors, noting key distinctions between youth and adults¹⁰. According to the Court, juveniles are less culpable than adults because they lack maturity and responsibility – as evidenced by their “impetuous and ill-considered actions and decisions.” They are also more “vulnerable or susceptible to negative influences and outside pressures, including peer pressure” than adults, and their character is less well-formed and more transitory than that of adults¹¹.

In establishing these distinctions, the Court relied not only on common sense but also referred to psychological research submitted in amicus briefs (i.e., briefs submitted by “friends of the court”). In subsequent cases, the emphasis on psychology, and increasingly neuroscience, was even more solidly established. The Court used this research to strike down as unconstitutional life without parole for juveniles convicted of non-homicide offenses¹² or through mandatory sentencing schemes¹³, and to establish that police must give Miranda warnings if a “reasonable child” would have perceived that he or she was not free to leave¹⁴.



The Supreme Court's recognition that psychological research and neuroscience play a role in defining how the law should be applied to teenagers has led to a shift from the punitive laws of the 1990s to a new, evidence-based response to juvenile offending, both in the juvenile and criminal justice systems¹⁵.

RESOURCES



[The History of the Juvenile Justice System](#)¹⁶ explores the origin and evolution of the Juvenile Justice System in the United States.



[America's Juvenile Injustice System](#)¹⁷. Marsha Levick, Co-Founder of the Juvenile Law Center discusses the history of juvenile law, describing both the gradual advances and the many major injustices which mark the system, and advocates for a shift in public thinking around children and youth.



[Youth First Initiative](#)¹⁸ provides a historical perspective on the juvenile justice system.

Brief Overview of the Current Juvenile Justice System

“We were saying how we wish that they would appoint probation officers or judges with a background like us.”

–Youth in Detention

“At the end of the day we’re about public safety, but when it comes to kids public safety and rehabilitation are inextricably linked and that also involves working with their families.”

–Andy Block, Director Virginia DJJ

Contemporary juvenile courts reflect the history detailed in the previous section. Each state retains elements of the original juvenile court separate from the adult criminal justice system, with ongoing attention to rehabilitation (although often alongside other penological goals). To this end, today’s juvenile courts are tasked with balancing the best interests of the youth and the safety of the public, as well as the due process rights that all youth are entitled to when charged with a delinquent act. For example, like adults, youth in all states are

entitled to due process rights such as the right to counsel, the right to confront and cross-examine witnesses, and the right to remain silent¹⁹.

While many states still have adult sentencing and other harsh dispositions for juveniles, the past two decades have turned the focus to the need for evidence-based and developmentally appropriate interventions, including trauma-informed services for youths and their families in juvenile justice facilities (detention, training schools) and community (e.g., probation) programs as well as in community-based prevention and diversion programs²⁰.



Please see Module 2 for more specific information about the juvenile court process in today's system. Detailed information about the flow of juvenile court cases can also be found here: https://ojjdp.ojp.gov/statistical-briefing-book/structure_process/case

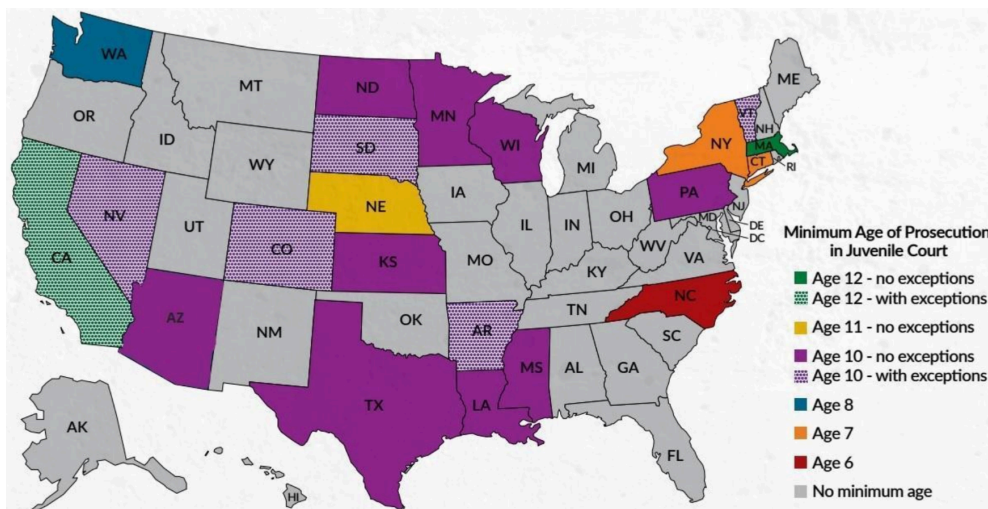
Types of Juvenile Court Cases

Delinquency Cases

In a juvenile delinquency case, a youth is charged with a delinquent act, which is defined as an act that would be a crime if committed by an adult. These cases are typically heard in a juvenile or family court.

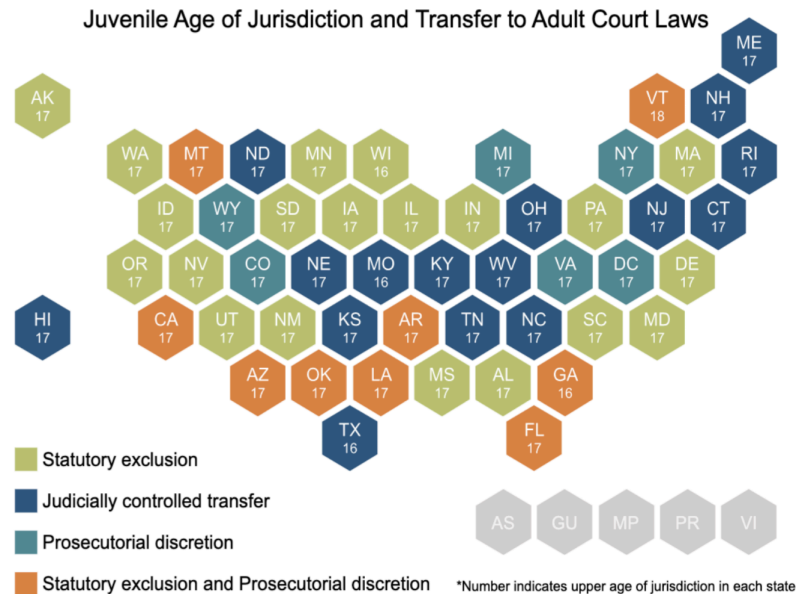
Minimum age of juvenile court jurisdiction

The minimum age for prosecution in juvenile court varies widely by state. Some jurisdictions have no specified age while others set the minimum age as young as 6 (North Carolina). This graphic by the National Juvenile Defender Center shows the minimum age set by each state:



Maximum age of juvenile court jurisdiction

Until recently, youth in some states were automatically prosecuted as adults starting at age 16, regardless of the alleged offense. As a result of recent reform efforts, the age of criminal responsibility was increased in many states. At the time this resource was published, age 17 was the maximum age of juvenile court jurisdiction in 47 states. For further information on state-to-state ages of juvenile court jurisdiction, please see this graphic created by the National Conference of State Legislatures:



Retrieved from: (<https://www.ncsl.org/civil-and-criminal-justice/juvenile-age-of-jurisdiction-and-transfer-to-adult-court-laws>)

Specialty Courts

Specialty courts are courts that focus on problem-solving, collaboration, and individualized treatment for young people. Judges preside over cases in specialty courts, but these courts typically include a multidisciplinary team that works directly with the youth and their family. Specialty courts have a specific emphasis on rehabilitation and treatment versus punishment. Examples of specialty courts are included below:

- Juvenile Drug Treatment Court (JDTC): Specialty court for youth with a substance abuse disorder who intersect with the juvenile justice system. JDTCs use an evidence-based treatment approach to handling cases²¹
- Youth Courts: In Youth Courts, also known as Teen Court, youth charged with low-level offenses have their cases heard by a jury of their peers using restorative justice practices as an alternative to formal court processing²².
- Girls Courts: Courts that provide gender-responsive services to court-involved female identifying youth, typically after an adjudication on a delinquency case.

Status Offenses



A status offense is a noncriminal act considered a violation of the law only because the person accused of committing it is of juvenile status²³. Examples of status offenses include truancy, running away from home, underage use of alcohol and “incurability.” In some jurisdictions, status offense cases are also known as PINS (Persons in Need of Supervision) or CHINS (Child In Need of Supervision) cases and in some states, a status offense can result in a youth being detained and further penetrating into the juvenile justice system. In 2021, juvenile courts handled approximately 97,800 status offense cases.²⁴

“You never get your story heard; you know the judge didn’t know that I did not want to be at school because sometimes I didn’t feel safe . . . you don’t get those options. Your case is read and you’re truant. You broke a law. You didn’t pay the fine and so now you’ve violated the law and you go through more court systems.”

–Malika Musa, Americore Youth Fellow at YOUTH Rise, who was adjudicated as truant throughout high school

“The root causes were not being addressed, and that was the reason to why I was truant and truant and continuing to be truant.”

–Malika Musa, Americore Youth Fellow at YOUTH Rise, who was adjudicated as truant throughout high school

RESOURCES

- [First Hand Experience – Status Offenses](#)²⁵
- [Skipping School Can Get Kids Locked Up?](#)²⁶

“My parents, to add, were very illiterate in these processes. They were not – they did not understand the systems that I were [sic] going through. Me, myself didn’t know that I could get in trouble for not going to school”

–Malika Musa, Americore Youth Fellow at YOUTH Rise, who was adjudicated as truant throughout high school

Youth Tried as Adults



Despite recent reforms, all states in the country still have mechanisms in place for prosecuting juveniles in adult criminal court. In some states, the law requires that youth be automatically prosecuted in adult court for certain serious offenses committed at certain ages. In other states, youth who meet certain criteria may be transferred to adult court at the unreviewable discretion of a prosecutor or by a judge who reviews various factors in favor or against transfer at a “waiver” or “transfer” hearing.” Youth tried in adult court are treated as adults for purposes of the criminal legal system.

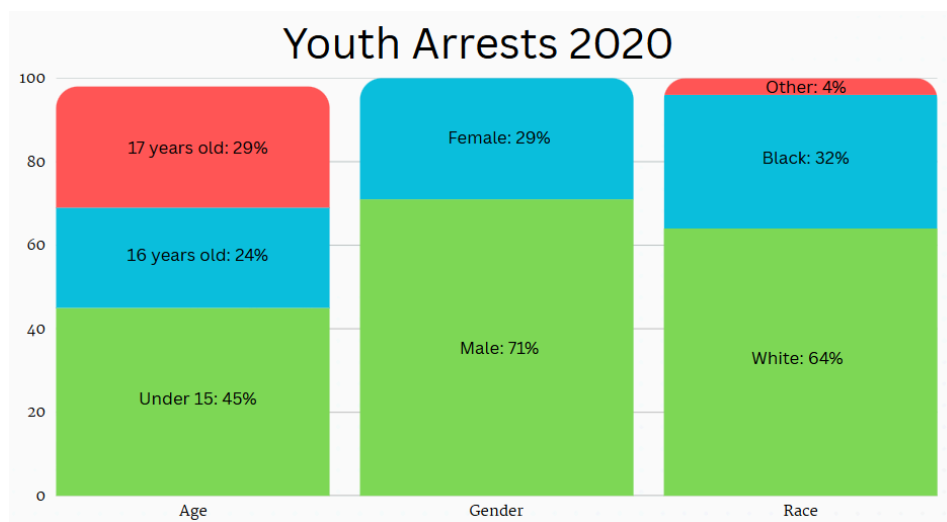
Youth Impacted by the Juvenile Justice System

This section provides the demographic characteristics of youth across the continuum of the juvenile justice system in the United States, including arrests, petitioned cases, and youth who are detained or incarcerated²⁷. For comparison, demographic information for youth in the general US population is also provided.

Youth Arrests

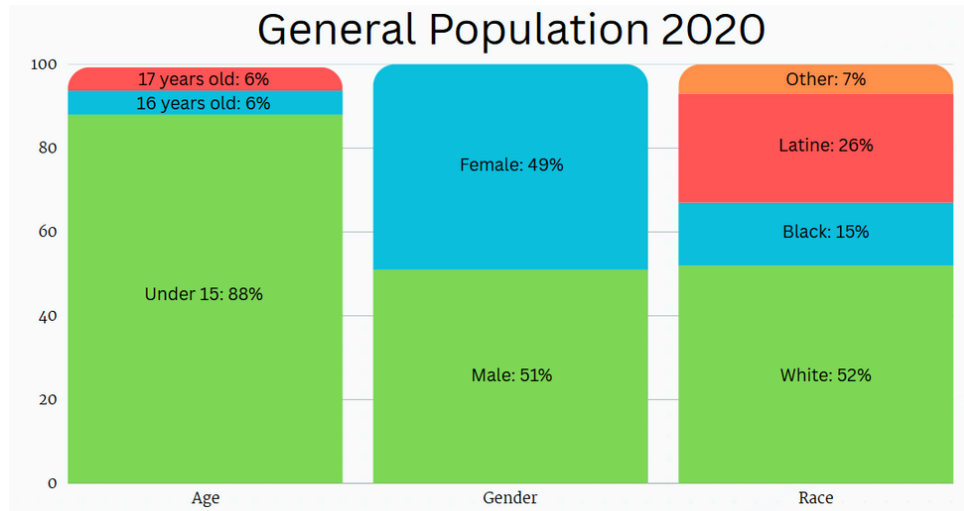
In 2020, the most recent publicly available arrest data, law enforcement agencies in the United States made 434,000 arrests of persons younger than 18²⁸. Black youth made up 15% of the US population in that year, and 32% of all juvenile arrests.

More detailed information about the demographic breakdown of youth arrests in 2020 is included below:



Adapted from: https://ojjdp.ojp.gov/statistics/DataSnapshot_UCR2020_o.pdf

The figure below provides the demographic breakdown of the general population of youth in the United States in the same year.

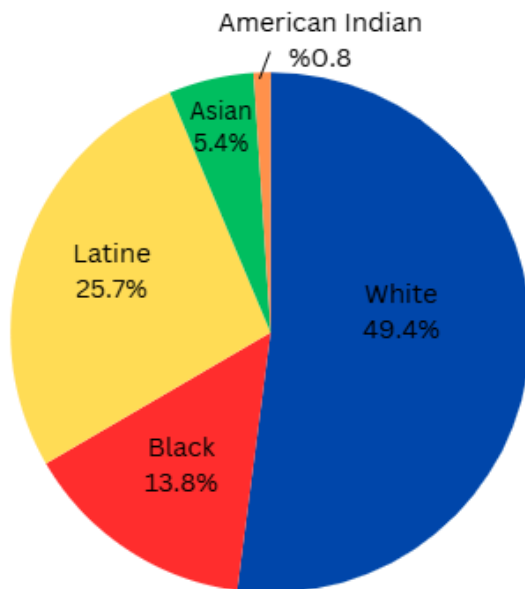


Adapted from: <https://www.census.gov/quickfacts/fact/table/US/PST045224>.

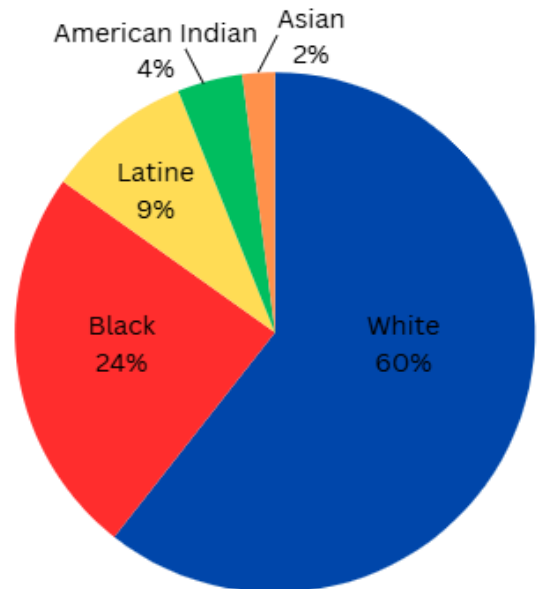
Youth Formally Processed in Juvenile Court

In 2021, more than 430,000 delinquency cases were processed by a juvenile court. The demographic breakdown of those cases as compared to the general population can be found below:

General Population by Race 2021

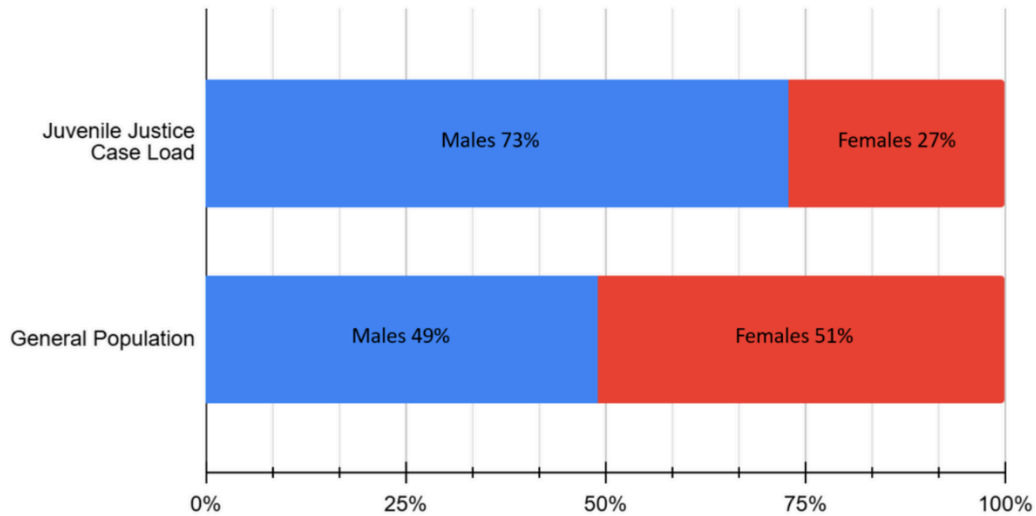


Petitioned Cases by Race 2021



Created from: https://www.ncjj.org/pdf/jcsreports/jcs2021_508Final.pdf

Sex Distribution in Juvenile Justice System Compared to General Population in 2021

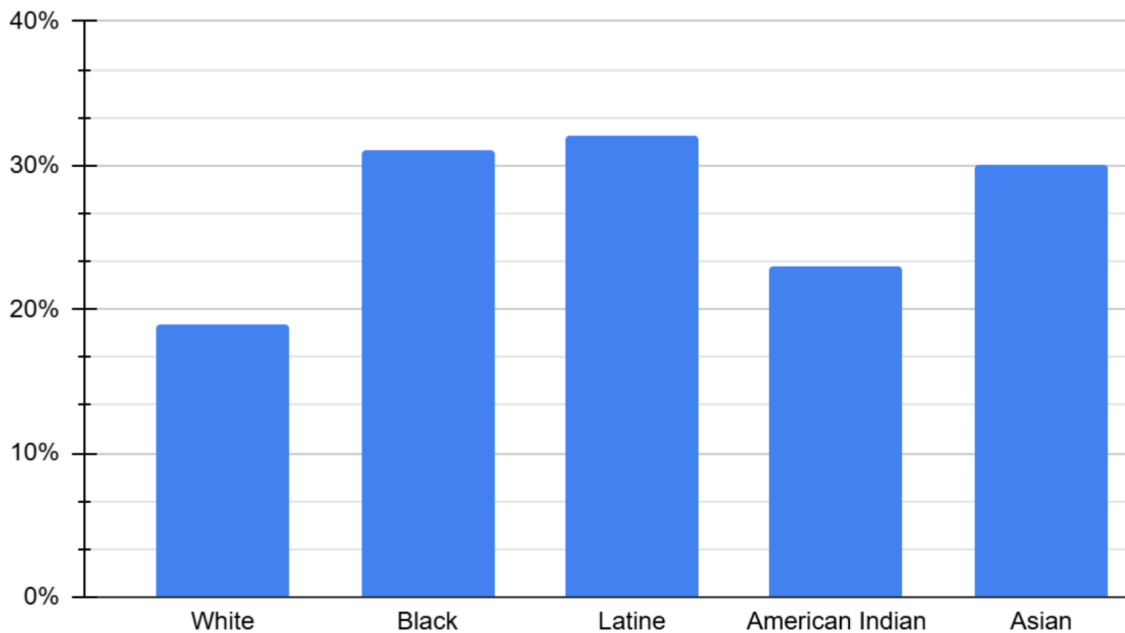


Created from: https://www.ncjj.org/pdf/jcsreports/jcs2021_508Final.pdf

Youth in Confinement

Every day, more than 48,000 youth are held in out of home placements pursuant to a juvenile or criminal court case. Youth of color are more likely than their White counterparts to be detained and incarcerated.

Detention by Race



Created from: https://www.ncjj.org/pdf/jcsreports/jcs2021_508Final.pdf

NOTE: Children under the age of 10 years of age not included due to minimum age guidelines in the Juvenile Justice System. In some jurisdictions 17-year olds are referred to the adult criminal court and are not counted as part of the juvenile system.

Juvenile Justice Specific Initiatives

There have been many efforts to reform the juvenile justice system, including some of the important initiatives highlighted below:

Organization	Initiative	Initiative Link
MacArthur Foundation	Safety and Justice Challenge Network	http://www.safetyandjusticechallenge.org/
Vera Institute of Justice	Reshaping Prosecution Project	https://www.vera.org/projects/reshaping-prosecution-program
	Prosecutor's Guide	https://www.vera.org/unlocking-the-black-box-of-prosecution
	Restoring Promise Project	https://www.vera.org/ending-mass-incarceration/dignity-behind-bars/living-conditions-in-prison/restoring-promise-initiative
	Status Offense Toolkit	https://www.vera.org/publications/status-offense-toolkit
Juvenile Law Center	Juvenile Life without Parole	https://jlc.org/issues/juvenile-life-without-parole
Juvenile Law Center Youth Advocacy Program	Empowering Youth in Court	https://jlc.org/youth-advocacy
	Expunging Juvenile Records	https://jlc.org/youth-advocacy

National Center for Youth Law (NCYL)	Ending the Practice of Trying and Incarcerating Youth in the Adult Criminal System Initiative	https://youthlaw.org/policy/ending-practice-trying-incarcerating-youth-adult-criminal-system/
	Reforming the Juvenile Justice System to Treat Children in a Developmentally Appropriate Manner Initiative	https://youthlaw.org/initiatives/create-youth-justice-system-supports-development-and-opportunity

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