

# TURNING DATA INTO ACTION: RACIAL AND ETHNIC DISPARITY IN JUVENILE JUSTICE



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# BACKGROUND AND IMPERATIVE FOR ACTION

## Juvenile Justice Reform Act (Dec. 2018)

- Reauthorized and substantially amended the Juvenile Justice and Delinquency Prevention Act
- Revised requirements to address disproportionate minority contact
- States must now identify and reduce racial and ethnic disparities

Specifically, states must

“implement policy, practice, and system improvement strategies . . . to identify and reduce racial and ethnic disparities among youth who come into contact with the juvenile justice system”

- This includes “Identifying and analyzing data on race and ethnicity at decisions points . . . To determine which such points create racial and ethnic disparities”

# BACKGROUND AND IMPERATIVE FOR ACTION



THE ANNIE E. CASEY FOUNDATION

## JDAI Core Strategies

JDAI® is based on interconnected core strategies and approaches to promote smarter, more equitable, more efficient and more effective systems that help meet the needs of young people and their families. Sites core strategies include:

- promoting collaboration between juvenile court officials, probation agencies, prosecutors, defense attorneys, schools, community organizations and advocates;
- using rigorous data collection and analysis to guide decision making;
- utilizing objective admissions criteria and screening instruments to replace subjective decision-making processes;
- implementing new or expanded community-based alternatives to locked facilities — such as day and evening reporting centers, home confinement and shelter care;
- instituting case processing reforms to expedite the flow of cases through the system;
- reducing the number of youth detained for probation rule violations or failing to appear in court, and the number held in detention awaiting transfer to a residential facility;
- **improving racial and ethnic equity** by examining data to identify policies and practices that may disadvantage youth of color at various stages of the process, and pursuing strategies to ensure a more level playing field for youth regardless of race or ethnicity; and
- monitoring and improving conditions of confinement in facilities.

## JUSTICE FOR ALL

Finally, and most importantly, it's the right thing to do.

Nationally, Black youth were 5 times as likely as white youth to be detained or committed to juvenile facilities for a delinquent offense in 2015. This is an increase since 2001, when black youth were 4 times as likely to be incarcerated.

In Missouri, Black youth were 4.6 times as likely as white youth to be detained or committed to juvenile facilities. This is a slight improvement over this measure of disparity in 2001.

While “Equal Justice Under the Law” is the foundation of our legal system, and is carved on the front of the U.S. Supreme Court, the juvenile justice system is anything but equal for all. Throughout the system, youth of color—especially African American youth— receive different and harsher treatment. This is true even when White youth and youth of color are charged with similar offenses (National Council on Crime and Delinquency)

# WORDS MATTER

DMC – Disproportional Minority Contact

RED – Racial and Ethnic Disparities

ERD – Ethnic and Racial Disparities

# MEASURING DIFFERENCES

## Disproportionality

Under/overrepresentation of a group compared to its percentage of the total population

For example:

African-Americans make up 16% of the juvenile population but 40% of youth in juvenile facilities

Caucasians make up 56% of the juvenile population but 32% of youth in juvenile facilities

## Disparity

Unequal outcomes for one group when compared to outcomes for another group

For example:

African-American youth are five times as likely to be detained or committed to a juvenile facility as Caucasian youth

Incarceration rate for Black youth: 433/100,000

Incarceration rate for White youth: 86/100,000

Rate for Black youth compared to rate for White youth:  $0.00433/0.00086 = 5.03$

# MEASURING DISPARITY: RELATIVE RATE INDEX

A relative rate index (RRI) provides a rate of contact by dividing the number of cases for each decision point by the number of cases in the preceding decision point

Rate of referral for Black youth:

$$\frac{\text{\# of Black youth referred}}{\text{\# of Black youth in population}} = \frac{150}{500} = 0.30 \text{ (30\%)}$$

Rate of referral for White youth:

$$\frac{\text{\# of White youth referred}}{\text{\# of White youth in population}} = \frac{200}{2,000} = 0.10 \text{ (10\%)}$$

Relative Rate Index:

$$\frac{\text{Rate of referral for Black youth}}{\text{Rate of referral for White youth}} = \frac{0.3}{0.1} = 3.0$$

A RRI **greater than 1.0** signifies that minority youth are **overrepresented** at that stage in the judicial process.

An RRI **less than 1.0** means that minority youth have a **lower rate** of representation compared to Caucasian youth.

# MEASURING DISPARITY: RELATIVE RATE INDEX

Rate of detention for Hispanic youth:

$$\frac{\text{\# of Hispanic youth detained}}{\text{\# of Hispanic youth in population}} = \frac{10}{100} = 0.10 \text{ (10\%)}$$

Rate of detention for White youth:

$$\frac{\text{\# of White youth detained}}{\text{\# of White youth in population}} = \frac{400}{2,000} = 0.20 \text{ (20\%)}$$

Relative Rate Index:

$$\frac{\text{Rate of detention for Hispanic youth}}{\text{Rate of detention for White youth}} = \frac{0.1}{0.2} = 0.5$$

The relative rate index is typically calculated with the **minority group as the numerator** and **Caucasian youth as the denominator**



# OSCA'S RRI DATA

Some county data is available, but it's sparse:

<https://www.courts.mo.gov/file.jsp?id=272> (Appendix R, pp. 112-113)



Missouri Juvenile & Family Division  
Annual Report  
Calendar 2018



## Statewide RRI data (2016)

| Contact Point      | Black | Hispanic | Asian / Pacific Islander | Native American |
|--------------------|-------|----------|--------------------------|-----------------|
| Referral           | 1.98  | 0.49     | 0.24                     |                 |
| Diversion          | 0.94  |          |                          |                 |
| Secure Detention   | 1.71  | 1.49     |                          |                 |
| Petition           | 1.39  |          |                          |                 |
| Adjudication       | 0.88  |          |                          |                 |
| Supervision        |       |          |                          |                 |
| Secure Confinement |       |          |                          |                 |
| Certification      | 2.90  |          |                          |                 |

**Note:** Caution should be used when interpreting the Hispanic data, because race and ethnicity are not separated in JIS. Thus, Hispanic youth are under-counted.

# CRUNCHING YOUR NUMBERS



# STEP 1: DECIDE WHICH DECISION POINTS TO USE

## OJJDP

- Arrest
- Diversion
- Pre-trial detention (secure and non-secure)
- Disposition commitments (secure and non-secure)
- Transfer to adult court

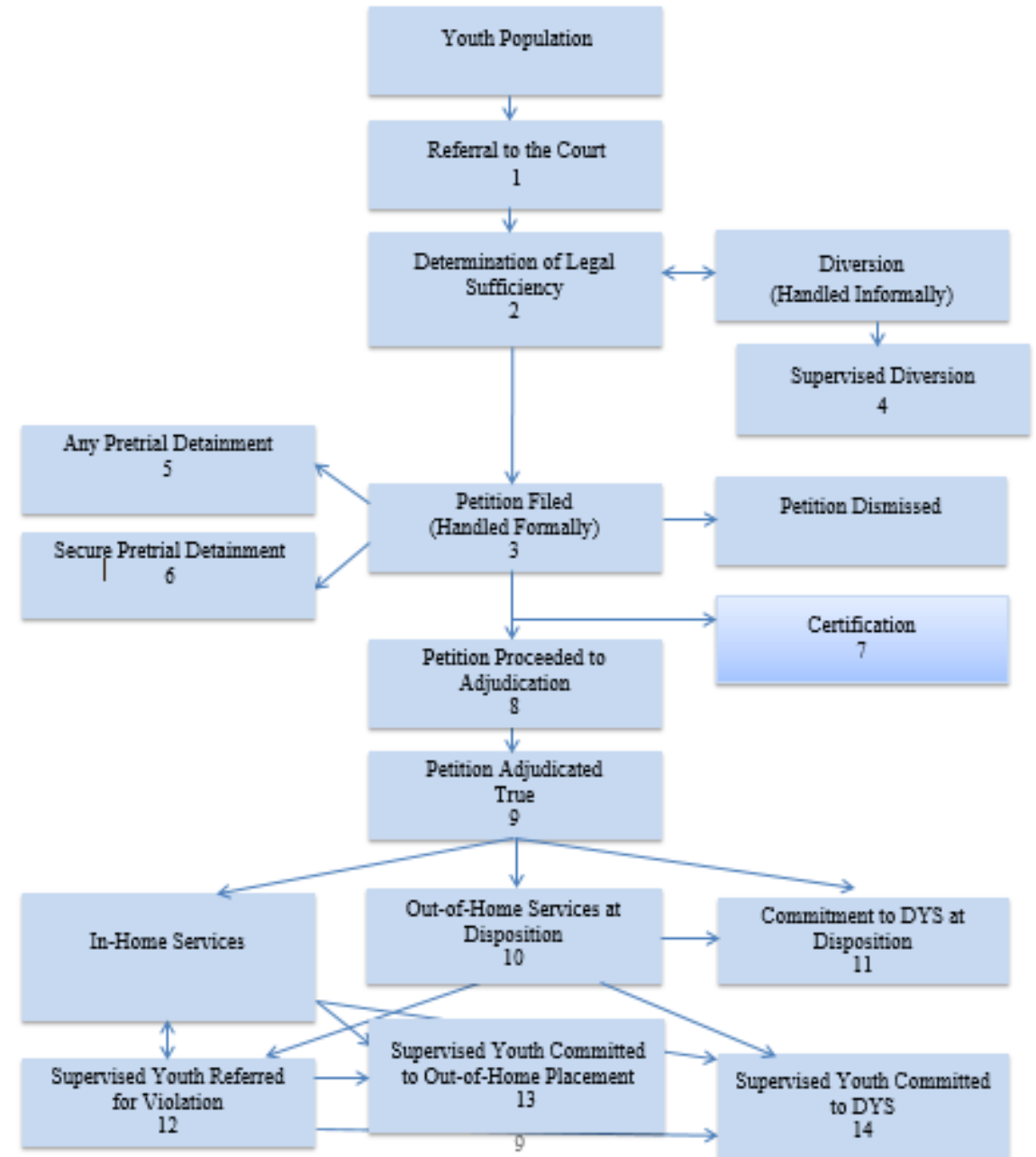
## OSCA

- Referral
- Diversion
- Secure Detention
- Petition
- Adjudication (delinquency findings)
- Supervision (probation placement)
- Secure confinement (post-adjudication)
- Transfer to adult court

# DECISION POINTS — JACKSON COUNTY

- Referral
- Determination of legal sufficiency
- Petition (vs. diversion)
- Supervised (vs. unsupervised) diversion
- Pre-trial detention (any form)
- Pre-trial detention (secure)
- Dismissal (vs. proceeding to adjudication)
- Adjudication (delinquency findings)
- Certification (transfer to adult court)
- Out-of-home placement at disposition
- Commitment to DYS at disposition
- Referral for probation violation
- Out-of-home placement while on probation
- Commitment to DYS while under Court supervision

Figure 1. Decision Points in Status and Delinquency Cases – 16th Circuit



# STEP 2: FIND THE TOTAL YOUTH POPULATION

<https://www.ojjdp.gov/ojstatbb/ezapop/>

**EZAPOPOP**  
Easy Access to Juvenile Populations: 1990-2019

Home **Population Profiles** State Comparisons County Comparisons Data Source Help

Back to selection page Download CSV file Printer-friendly

Display Options:  Count  Row %  Column %

Selecting:  
Year: 2019  
Age: 10, 11, 12, 13, 14, 15, 16

### Jackson County, Missouri: Race by Ethnicity Population Estimates

Search:

| Count           | Non Hispanic # | Hispanic #   | Total #       |
|-----------------|----------------|--------------|---------------|
| White           | 33,621         | 8,484        | 42,106        |
| Black           | 18,774         | 851          | 19,626        |
| American Indian | 304            | 295          | 619           |
| Asian           | 1,851          | 131          | 1,982         |
| <b>Total</b>    | <b>64,670</b>  | <b>8,781</b> | <b>84,331</b> |

Suggested Citation: Pizzanhera, C., Sladky, A. and Kang, W. (2020). "Easy Access to Juvenile Populations: 1990-2019." Online. Available: <https://www.ojjdp.gov/ojstatbb/ezapop/>

**EZAPOPOP**  
Easy Access to Juvenile Populations: 1990-2019

Home **Population Profiles** State Comparisons County Comparisons Data Source Help

Select a state: Missouri Select a county: Jackson County

Row Variable: Race Column Variable: Ethnicity

SHOW TABLE CLEAR SELECTIONS

### Selection criteria (Opens a pop-up window)

Note: Use the checkboxes below to limit your query to a specific year (or years). Unless specified, queries that do not use Year in the display, such as a table of Age by Sex, will default to the current data year.

**Year**

1990  1994  1998  2002  2006  2010  2014  2018  
 1991  1995  1999  2003  2007  2011  2015  2019  
 1992  1996  2000  2004  2008  2012  2016  
 1993  1997  2001  2005  2009  2013  2017

**Sex**  Male  Female

**Race**  White  Black  American Indian  Asian

**Ethnicity**  Non Hispanic  Hispanic

Check the age(s) of interest below, or use the pull down menus to the right to quickly select an age range

**Age**

0  3  6  9  12  15  18 to 20  
 1  4  7  10  13  16  21 to 24  
 2  5  8  11  14  17  25 & over

**Age range**

Lower Age: 0 Upper Age: 0

SET AGE

# STEP 3: CALCULATE YOUR RRI

Use MJJA's information sheet:

<https://mjja.org/images/resources/dmc/how-to-calculate-relative-rate-index.pdf>

and OJJDP's RRI

Calculation Template:

|  | Total Youth | White   | Black or African-American | Hispanic or Latino | Asian | Native Hawaiian or other Pacific Islanders | American Indian or Alaska Native | Other/ Mixed | All Minorities |
|--|-------------|---------|---------------------------|--------------------|-------|--|----------------------------------|--------------|----------------|
| 1. Population at risk (age 10 through 17)                                    | 196,890     | 155,513 | 5,055                     | 7,501              | 2,140 | 0  | 26,681                           | 0            | 41,377         |
| 2. Juvenile Arrests  | 10,602      | 5,840   | 384                       | 186                | 87    | 0  | 4,010                            | 95           | 4,762          |
| 3. Refer to Juvenile Court   | 9,018       | 5,172   | 361                       | 0                  | 94    | 0  | 2,113                            | 1,278        | 3,846          |
| 4. Cases Diverted  | 1,985       | 1,494   | 38                        | 28                 | 11    | 0  | 392                              | 22           | 491            |
| 5. Cases Involving Secure Detention  | 3,229       | 1,538   | 133                       | 63                 | 26    | 0  | 1,273                            | 196          | 1,691          |
| 6. Cases Petitioned (Charge Filed)   | 8,143       | 4,479   | 340                       | 0                  | 85    | 0  | 2,002                            | 1,237        | 3,664          |
| 7. Cases Resulting in Delinquent Findings                                    | 6,065       | 3,541   | 223                       | 0                  | 59    | 0  | 1,620                            | 622          | 2,524          |
| 8. Cases resulting in Probation Placement                                    | 3,885       | 2,410   | 141                       | 0                  | 33    | 0  | 1,187                            | 114          | 1,475          |
| 9. Cases Resulting in Confinement in Secure Juvenile Correctional Facilities | 325         | 105     | 16                        | 11                 | 1     | 0  | 183                              | 9            | 220            |
| 10. Cases Transferred to Adult Court   | 1           | 0       | 0                         | 0                  | 0     | 0  | 1                                | 0            | 1              |
| Meets 1% rule for group to be assessed?                                      |             | Yes     | Yes                       | Yes                | Yes   | No   | Yes                              | No           |                |

release 10/17/05

| Rate of Occurrence - White Youth | Rate of Occurrence - Minority Youth | Relative Rate Index |
|----------------------------------|-------------------------------------|---------------------|
|                                  |                                     |                     |
| 37.55                            | 75.96                               | 2.02                |
| 88.56                            | 94.01                               | 1.06                |
| 28.89                            | 10.53                               | 0.36                |
| 29.74                            | 36.84                               | 1.24                |
| 86.60                            | 94.18                               | 1.09                |
| 79.06                            | 65.59                               | 0.83                |
| 68.06                            | 63.23                               | 0.93                |
| 2.97                             | 7.17                                | 2.42                |
| 0.00                             | 0.00                                | --                  |

# MEASURING DATA: ODDS RATIO

An odds ratio provides a comparison between the odds of an outcome occurring for two populations.

This lets us compare the likelihood of an outcome occurring for two groups.

Odds of referral for Black youth:

$$\frac{\text{\# of Black youth referred}}{\text{\# of Black youth not referred}} = \frac{150}{350} = 0.43$$

Odds of referral for White youth:

$$\frac{\text{\# of White youth referred}}{\text{\# of White youth not referred}} = \frac{200}{1,800} = 0.11$$

Odds Ratio:

$$\frac{\text{Odds of referral for Black youth}}{\text{Odds of referral for White youth}} = \frac{0.43}{0.11} = 3.91$$



Black youth are nearly 4 times as likely as white youth to be referred

# MEASURING DATA: MULTIVARIATE ANALYSIS

Logistic regression allows us to test impact of race alone on each outcome by holding other factors constant.

In our analysis, we controlled for gender, age, risk level, and offense severity.

|                                     |     | Juvenile Race |                  | Total |
|-------------------------------------|-----|---------------|------------------|-------|
|                                     |     | Caucasian     | African American |       |
| Decision Point Outcome              | No  | 49            | 129              | 178   |
|                                     | Yes | 31            | 114              | 145   |
| Base Population for Decision Point  |     | 80            | 243              | 323   |
| Odds of "Yes"                       |     | 0.63          | 0.88             | 0.81  |
| Odds Ratio Before Control Variables |     | --            | 1.40             | --    |

While the odds of African-American youth experiencing this outcome were 1.4 times that of whites, when controlling for demographic and offense factors, the relationship between race and outcome was not significant.

| Variable                           | Wald  | Significance | Odds Ratio After Control |
|------------------------------------|-------|--------------|--------------------------|
| Race (African American)            | 0.31  | 0.578 (NS)   | --                       |
| Gender (Male)                      | 0.08  | 0.784 (NS)   | --                       |
| Age                                | 2.10  | 0.148 (NS)   | --                       |
| Risk Score                         | 58.87 | 0.000**      | 1.43                     |
| Severity of Allegation Class/ Type | 5.54  | 0.019*       | 1.14                     |

(\*p-value <0.05 is significant)



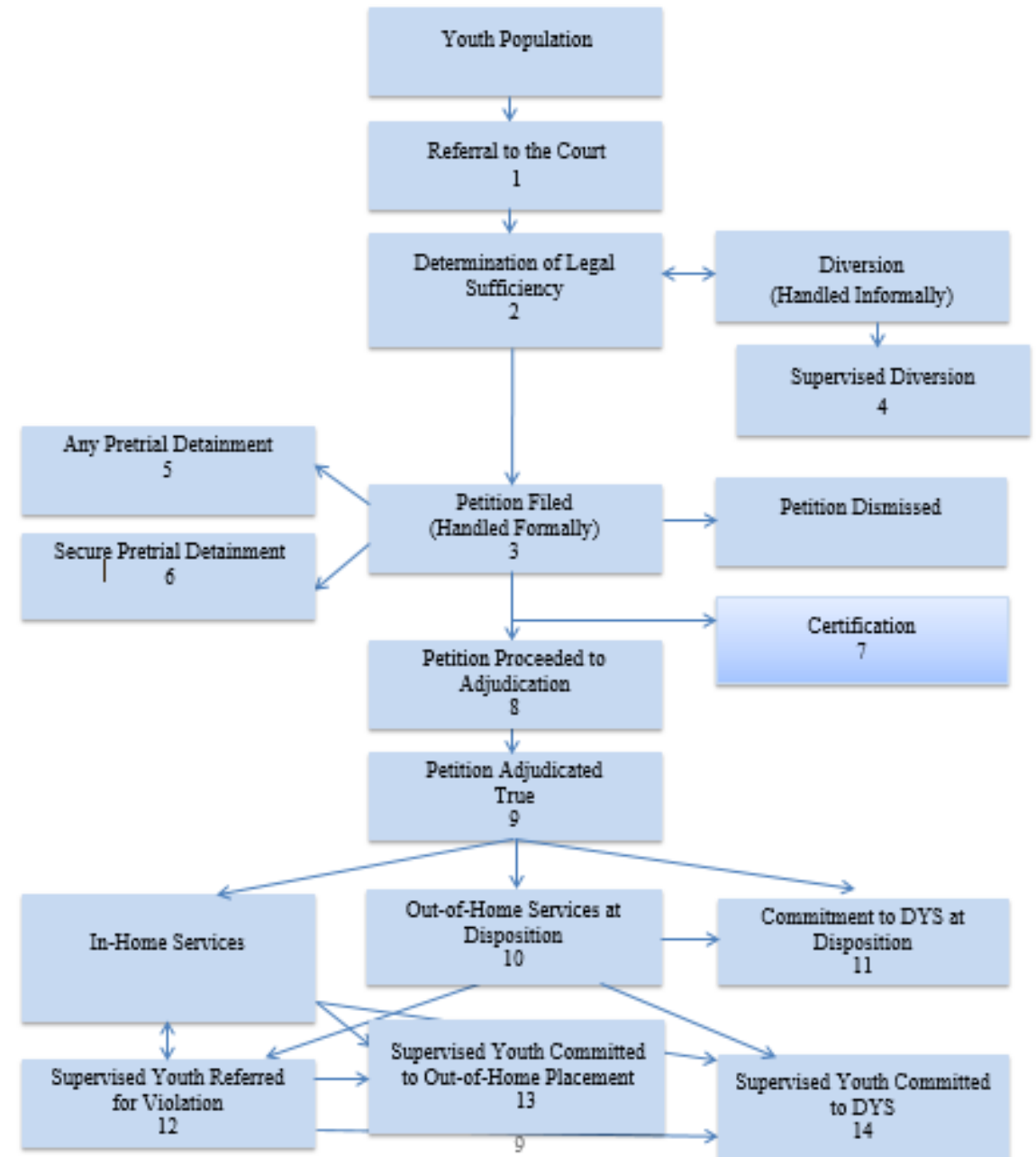
**TURNING DATA INTO ACTION**



# DECISION POINTS — JACKSON COUNTY

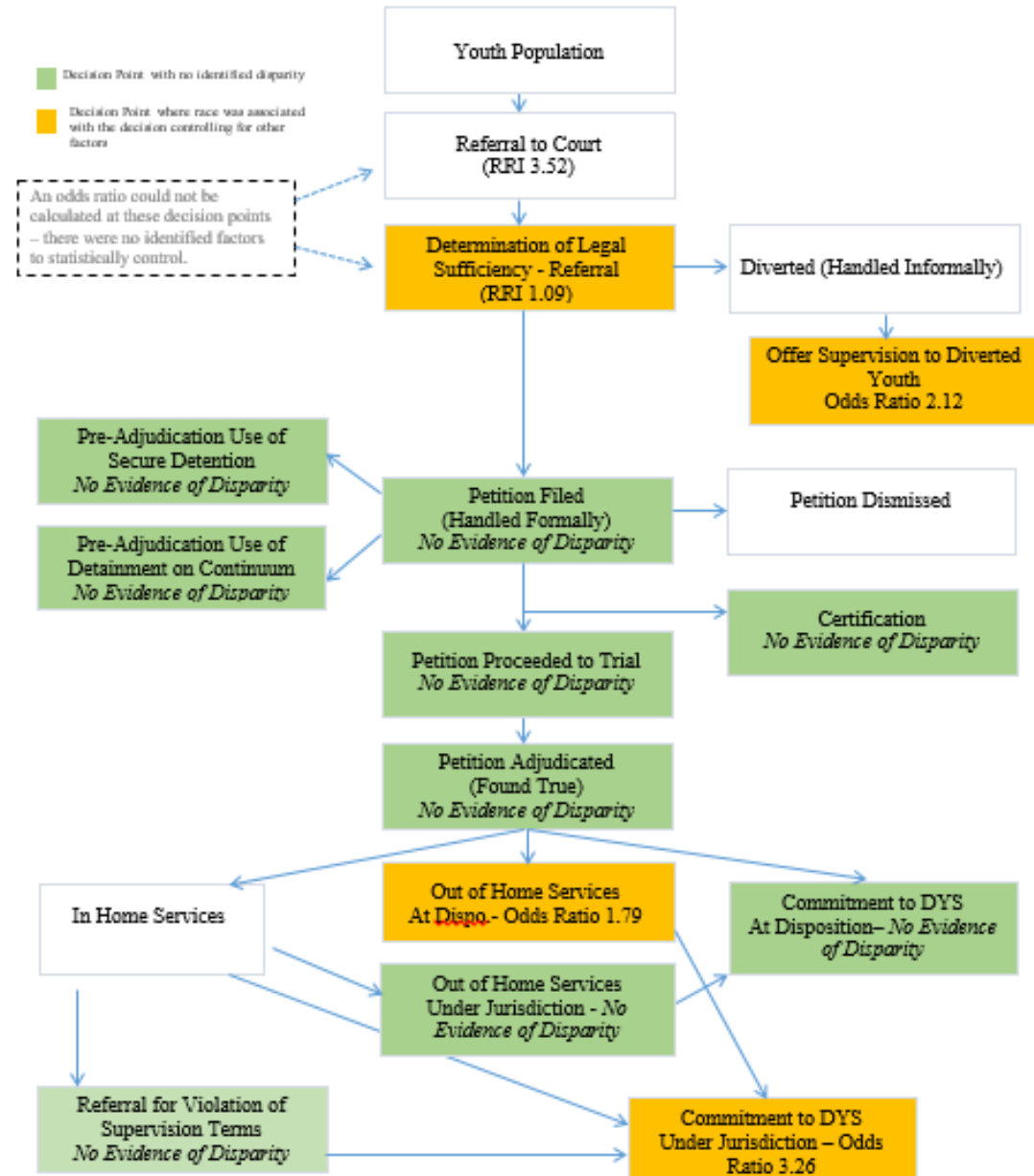
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Figure 1. Decision Points in Status and Delinquency Cases – 16th Circuit



Use the Decision Points figure to bring attention to areas with evidence of disparity.

Planning to conduct these analyses one or twice a year will allow you to address issues that arise in real time.



# ARREST/REFERRALS

- ❑ Have conversations with those sending referrals (law enforcement, schools, etc.)
  - Do local police departments have diversion programs or procedures?
  - Does the school have a Resource Officer?
  - Does the community have a youth court?
  - What can we do to keep kids from coming to court in the first place?  
Brainstorm ways to address behavior outside the justice system.
- ❑ Look at referrals by home address to see if disparity could be explained by different acceptance rates across police departments

# DETERMINING LEGAL SUFFICIENCY

- ❑ Address implicit bias among Juvenile Officers/prosecutors
  - Give attorneys Implicit Association Test; train attorneys on implicit bias and systemic racism
  - Encourage attorneys to become involved in the community—work with diverse groups of community members to tackle juvenile-justice issues
  
- ❑ Address culturally biased ideas about appropriate adolescent behavior
  - Train attorneys in adolescent development
    - Youth from different racial/ethnic groups experience adolescence similarly, but behavior is shaped by circumstances
  - Decline to prosecute less serious types of adolescent behavior
  
- ❑ Document filing decisions and review regularly

# DIVERSION

- ❑ Use written criteria or structured decision-making tool for decision to divert
- ❑ Ensure all youth are risk-assessed (to aid structured decision-making)
- ❑ Minimize overrides
- ❑ Document diversion decisions and review regularly

## Jackson County Diversion Guidelines

### Unsupervised Diversion

#### Status offenses

(unless youth is high risk AND has prior adjudicated offenses)

#### A-D Misdemeanors & C-D Felonies

(for youth deemed low-risk with no priors)

### Supervised Diversion

#### A-D Misdemeanors & C-D Felonies

(for youth deemed moderate-risk with no priors)

### Exceptions

Youth who have previously been offered diversion

Offense involves a gun

Sexual offenses

# USE OF DETENTION

## ☐ Ensure all youth are screened using the JDTA

- Track all youth screened and the detention decision
- Keep overrides at or below 15%
- Monitor overrides, including by race
- Track failures to appear and rates of re-offense

## ☐ Monitor decisions to detain at hearings and capias warrants indicating secure detention

- Are these outcomes more frequent for youth of color?

## Increase Trust in Decision-Making Tools

We've found that the more closely we adhere to decision-making tools (the lower our overrides rates), the less disparity there is.

Track rates of failure to appear and re-offense for youth released and sent to non-secure detention alternatives.

If rates of re-offense are low, present this data to show stakeholders that the tool is effective in predicting who can be safely released.

# DISPOSITIONAL DECISIONS

- Ensure that risk and needs assessments are conducted for all adjudicated offenses;
- Monitor and track dispositional recommendations
  - Limit recommendations for overriding the dispositional matrix.

MISSOURI RISK & OFFENSE CASE CLASSIFICATION MATRIX

| OFFENSE SEVERITY     | GROUP 1 OFFENSES   | GROUP 2 OFFENSES   | GROUP 3 OFFENSES   |
|----------------------|--|--|--|
| <b>Risk Level</b>    | Status Offenses<br>Municipal Ordinances/<br>Infractions  | Class A, B, & C<br>Misdemeanors/<br>Class C & D Felonies   | A* & B<br>Felonies   |
| <b>Low Risk</b>      | A) Warn & Counsel<br>B) Restitution<br>C) Community Service<br>D) Court Fees & Assessments<br>E) Supervision | A) Warn & Counsel<br>B) Restitution<br>C) Community Service<br>D+) Court Fees & Assessments<br>E) Supervision  | B+) Restitution<br>C+) Community Service<br>D+) Court Fees & Assessments<br>E) Supervision<br>F) Day Treatment<br>G) Intensive Supervision<br>H) Court Residential Placement<br>I) Commitment to DYS |
| <b>Moderate Risk</b> | A) Warn & Counsel<br>B) Restitution<br>C) Community Service<br>D) Court Fees & Assessments<br>E) Supervision | A) Warn & Counsel<br>B) Restitution<br>C+) Community Service<br>D+) Court Fees & Assessment<br>E) Supervision<br>F) Day Treatment  | B+) Restitution<br>C+) Community Service<br>D+) Court Fees & Assessments<br>E) Supervision<br>F) Day Treatment<br>G) Intensive Supervision<br>H) Court Residential Placement<br>I) Commitment to DYS |
| <b>High Risk</b>     | A) Warn & Counsel<br>B) Restitution<br>C) Community Service<br>D) Court Fees & Assessments<br>E) Supervision | B+) Restitution<br>C+) Community Service<br>D+) Court Fees & Assessments<br>E) Supervision<br>F) Day Treatment<br>G) Intensive Supervision<br>H) Court Residential Placement<br>I) Commitment to DYS | H) Court Residential Placement<br>I) Commitment to DYS   |



# PROBATION VIOLATIONS & SUBSEQUENT OUT-OF-HOME PLACEMENT

- ❑ Establish written criteria and process for when officer should file probation violation
- ❑ Address violations with incentives/sanctions grid
- ❑ Create team of probation staff to review violations and determine if referral back to Court can be avoided
- ❑ Track whether youth placed out of home while on probation are charged with a probation violation or a new offense
  - Ensure that new offenses are handled in accordance with the dispo matrix
  - Monitor overrides and rates

# GENERAL TIPS

- ❑ Increase use of structured decision-making tools
  - Reduce subjectivity in decisions
  - Monitor override rates
  - Use data to show reductions in disparity when tools are followed
- ❑ Train staff in implicit bias, systemic racism, and adolescent development
- ❑ Develop a culture of diverting youth from system involvement when possible

"Ours is not the struggle of one day, one week, or one year. Ours is not the struggle of one judicial appointment or presidential term. Ours is the struggle of a lifetime, or maybe even many lifetimes, and each one of us in every generation must do our part."

— the late John Lewis, American Statesman and Civil Rights Leader on movement building in *Across That Bridge: A Vision for Change and the Future of America*



# QUESTIONS?

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