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*Racial and Ethnic  
Disparities in the US  
Criminal Justice System*



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## EXECUTIVE SUMMARY

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African Americans make up 13% of the general US population, yet they constitute 28% of all arrests, 40% of all inmates held in prisons and jails, and 42% of the population on death row. In contrast, Whites make up 67% of the total US population and 70% of all arrests, yet only 40% of all inmates held in state prisons or local jails and 56% of the population on death row. Hispanics and Native Americans are also alarmingly overrepresented in the criminal justice system.<sup>1</sup> This overrepresentation of people of color in the nation's criminal justice system, also referred to as disproportionate minority contact (DMC), is a serious issue in our society.

DMC has been the subject of concern in the juvenile justice system since 1988, when a federal mandate required states to address the issue for system-involved youth. This mandate led to an increase in the information on racial disparities in the juvenile system and efforts to reduce these numbers. However, no such efforts have been made in the adult system.

This report documents DMC in the adult criminal justice system by tabulating the most reliable data available. It does not seek to thoroughly describe the causes of DMC nor does it perform an advanced statistical analysis of how various factors impact disparity. Disproportionate representation most likely stems from a combination of many different circumstances and decisions. It is difficult to ascertain definitive causes; the nature of offenses, differential policing policies and practices, sentencing laws, or racial bias are just some of the possible contributors to disparities in the system. Some studies have begun to explore these issues and are so cited, but the purpose of this report is to describe the nature and extent of the problem.

DMC is problematic not only because persons of color are incarcerated in greater numbers, but because they face harsher penalties for given crimes and that the discrepancies accumulate through the stages of the system. This report presents the data on DMC in arrests, court processing and sentencing, new admissions and ongoing populations in prison and jails, probation and parole, capital punishment, and recidi-

visms. At each of these stages, persons of color, particularly African Americans, are more likely to receive less favorable results than their White counterparts. The data reveal that, overall, Hispanics are also overrepresented, though to a lesser extent than African Americans, and that Asian Pacific Islanders as a whole are generally underrepresented.

Correcting DMC in the adult system will require improvements in state and federal data collection. In contrast to juvenile DMC data, much of which can be found from a single source and can often be compared across the stages of the juvenile system, data for the adult system are only available through several independent federal and state data collection programs. Each dataset uses different sampling methods, in effect, obscuring how DMC accumulates in the system.

All data in this report reflect national figures; when possible, data by state are also presented. All data reported are categorized by race and, when possible, by ethnicity. The latest available data are usually from 2003 to 2006. Most data are reported as a Relative Rate Index, a ratio of the rates at which people of color and Whites are represented in the system relative to their representation in the general population.

Failing to separate ethnicity from race hides the true disparity among races, as Hispanics—a growing proportion of the system's population—are often combined with Whites, which has the effect of inflating White rates and deflating African American rates in comparison. Asian American system populations, while small in comparison to the other groups, also need to be disaggregated. Disaggregation of "Asian," for instance, allows researchers to assess subgroups such as Vietnamese, Chinese, Indian, Japanese, etc., some of which may have disproportion even when the overall group does not. Despite the shortcomings of the data, this report shows clearly that people of color are overrepresented throughout the adult system and that the system often responds more harshly to people of color than to Whites for similar offenses.

A summary of findings at each stage of the system follows.

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<sup>1</sup> US Census, 2008; Harrison & Beck, 2006; Snell, 2007.

## Arrests

- Overall, the rates at which African Americans were arrested were 2.5 times higher than the arrest rates for Whites.
- Rates were even higher for certain categories of offenses: the rates at which African Americans were arrested for violent offenses and for drug offenses were each approximately 3.5 times the rate that Whites were arrested for those categories of offenses.
- African Americans were arrested at over 6 times the rate for Whites for murder, robbery, and gambling and were overrepresented in all specific offenses except alcohol-related crimes.
- Native Americans were arrested at 1.5 times the rate for Whites, with higher disparity for certain violent and public order offenses.
- Asian Pacific Islanders were the only racial group to be underrepresented compared to Whites.
- The FBI, the primary source of offense and arrest data, does not disaggregate data by ethnicity.

## Court Processing

- African Americans were more likely to be sentenced to prison and less likely to be sentenced to probation than Whites.
- The average prison sentence for violent crime was approximately one year longer for African Americans than for Whites.
- African Americans were convicted for drug charges at substantially higher rates than those for Whites.

## New Admissions to Prison

- African Americans were admitted to prison at a rate almost 6 times higher than that for Whites.
- Hispanics were admitted at 2 times the rate for Whites.
- Native Americans were admitted at over 4 times the rate for Whites.
- Native American females were admitted at over 6 times and African American females at 4 times the rate for White females.
- Rates of new admissions due to probation or parole revocations were much higher for people of color than for Whites.

## Incarcerated in Prisons and Jails

- Nationwide, African Americans were incarcerated in state prison at 6 times the rate for Whites and in local jails at almost 5 times the rate for Whites.
- Hispanics were incarcerated at over 1.5 times the rate for Whites.
- Native Americans were incarcerated at over 2 times the rate for Whites.
- All individual states reported overrepresentation of African Americans among prison and jail inmates.
- The majority of states also reported that Hispanics and Native Americans were disproportionately confined.

## Probation and Parole

- African Americans were on probation at almost 3 times and on parole at over 5 times the rate for Whites.
- Hispanics and Native Americans were each on parole at 2 times the rate for Whites.

## Death Penalty

- The rate at which African Americans were on death row was almost 5 times the rate for Whites.

## Recidivism

- African Americans were generally more likely to recidivate than Whites or Hispanics.
- When ethnicity was reported, Hispanics were generally less likely to recidivate than non-Hispanics.

## Juveniles

- African American rates of residential placement were over 4 times, Hispanic rates 2 times, and Native Americans 3 times those for Whites.
- Rates of youth admitted to adult prisons were 7 times higher for African Americans and over 2 times as high for Native Americans as for White youth.
- Disparity in the juvenile justice system is the worst at the deepest levels of the system.

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## INTRODUCTION

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**D**isproportionate minority contact (DMC) refers to the differential representation of racial and ethnic groups in the criminal justice system. The study of this issue has broadened over the years, from an initial sole focus on confinement to assessing disparities at each stage of the system. Incarceration is still an important issue, but in the criminal justice field and in this report, DMC refers to disproportion at all stages of the system. This report explores the relative proportions of racial and ethnic groups at arrest, pretrial detention and court processing, prosecution, sentencing, incarceration, capital punishment, probation, and parole. DMC among youth in the juvenile justice system is also assessed, as well as differential rates of recidivism by race and ethnicity.

Generally, the “criminal justice system” refers to adults in the adult system, but in certain cases may include all ages. The “juvenile justice system” refers to the separate system that addresses juvenile delinquency. The following terms are often used when examining DMC and are key to understanding its occurrence:

- *Overrepresentation* refers to a larger proportion of a particular group at a given stage within the system than that group’s proportion in the general population.
- *Disparity* means that the probability of receiving a particular outcome differs for different groups. Disparity may in turn lead to overrepresentation.

### PURPOSE AND STRUCTURE OF THIS REPORT

The purpose of this report is not to analyze why disparities exist, but to tabulate and describe the most reliable comparative data available. Data reported here can provide a basis for additional analysis and discussion of possible solutions. Certain studies that have applied advanced analysis to similar data, and which consider other statistical factors that may account for disparities in the raw data reported here, are mentioned at several points in this report as a way to further illuminate the issues. Each report section addresses a successive stage of the system. Two additional sections address recidivism and juveniles.

### GROWING CONCERN ABOUT DMC

Despite some efforts to explore and reduce DMC in the juvenile justice system, there is little such effort in the adult system at either the state or federal level. Since 1988, the Juvenile Justice and Delinquency Prevention Act has tied federal juvenile justice funding to state efforts to explore and reduce DMC among its juvenile justice system-involved youth (OJJDP, 2004). This increased focus on DMC in the juvenile system has no similar federal counterpart concerning adults.

### WHERE DMC OCCURS

DMC can arise at any stage of the criminal justice system, from pre-arrest through arrest, pre-trial decisions (the decisions to release the defendant on bail and the amount of bail required, to prosecute, and to seek the death penalty), conviction, sentencing, incarceration, probation, parole, reentry into the community, and return to custody.

Racial and ethnic representation at each stage of the system is impacted by decisions, circumstances, and outcomes at preceding stages. Disparities tend to widen rather than narrow at successive stages of both the adult and juvenile systems; that is, the degree of disparity at the point of arrest does not remain static through successive stages of the system. Disproportion accumulates as one moves deeper into the system.

### POSSIBLE CAUSES AND EXISTING RESEARCH

A brief summary of existing research shows there are no simple explanations for DMC. Factors contributing to DMC can include the nature and location of crimes, reaction of the victim and crime reporting, offender characteristics, law enforcement and court policies and practices, sentencing laws, community and societal factors, and socioeconomic and racial bias. It can be, but is not always, a decision by an agent of law enforcement or the court that leads to disproportion. Disparities in criminal processing could be the result of “race-based criminal laws, differential offending, differential policing, differential arrest, or a combination of all four.” (Schlesinger, 2005, p. 177)

Mandated sentencing, law enforcement tactics, allocation of system resources, and politically motivated “get tough on crime” policies and laws can lead to an inordinate focus on certain geographic areas, socioeconomic classes, or racial or ethnic groups. As an example, crack cocaine is chemically identical to powder cocaine. Because it is marketed in smaller and cheaper doses, crack cocaine is more prevalent in poorer (and typically minority) communities. Powder cocaine is more often sold and used by wealthier populations. A local jurisdiction may decide to focus law enforcement surveillance and arrests on crack cocaine and related crime, perhaps with drug sweeps in certain neighborhoods. Regardless of legitimate community concerns with drug use and related crime, this tactic can lead to arrest disparities, since those neighborhoods are likely to have high proportions of people of color. King (2008, p. 2) reports that “extreme variation in city-level drug arrests suggests that policy and practice decisions, and not overall rates of drug use, are responsible for much of [the] disparity.” In the crack cocaine example, disparities increase when, once arrested, sentencing laws require stricter penalties for offenses related to crack cocaine than for powder cocaine (Coyle, 2002). Also, Beatty, Petteruti, and Ziedenberg (2007) found several county-level factors—*not* including rates of using or selling drugs—that predict disparity in prison rates, such as spending on law enforcement and the judicial system, poverty rates, unemployment rates, and racial composition. Sorensen, Hope, and Stemen (2003) found that regional variation in disparity was related to racial differences in offense severity and the concentration of African Americans in urban areas.

Non-legal offender characteristics such as socioeconomic status and community ties also impact DMC. For instance, disproportion among those detained awaiting trial can arise from not only the decision to grant or deny pretrial release for a particular charge but also from other legal factors, such as probation violations or other pending charges, or from non-legal, socioeconomic factors, such as the ability to pay bail. In fact, Schlesinger (2005, p. 83) reports

“Hispanics and Blacks have odds of making bail that are approximately half of those of Whites with the same bail amounts and legal characteristics.” Their relative lack of “economic resources and networks” contributes to Hispanics being twice (100%) as likely and African Americans 87% more likely to be subject to pretrial incarceration. Demuth and Steffensmeier (2006) found that regardless of race or ethnicity, female defendants receive less harsh sanctions than male defendants.

Noting that sentencing guidelines, mandatory minimums, and three-strike laws have given prosecutors (*vis-à-vis* judges) increased control over pretrial processing decisions, Free (2002) reviewed 68 studies of criminal processing. He found that the most methodologically rigorous studies found evidence of racial bias in particular areas including the amount of bail and in decisions to seek the death penalty. He adds that there are many other factors that contribute to these decisions, including socioeconomic status, appearance, and social ties of the defendant, characteristics of the courts and judges, and characteristics of the victim.

Overrepresentation of people of color in the system most likely stems from a combination of many different circumstances and decisions, including the interaction of race and ethnicity with other factors. “Racial disparity is most notable during the decision to deny bail and for defendants charged with violent crimes; ethnic disparity is most notable during the decision to grant a non-financial release and for defendants charged with drug crimes; and when there is disparity in the treatment of Black and Hispanic defendants with similar legal characteristics, Hispanics always receive the less beneficial solutions.” (Schlesinger, 2005, p. 186)

Steffensmeier and Demuth (2000) found that, along with severity of offense and prior record, age and education level influence incarceration and sentence length outcomes. They found these factors impact sentencing decisions about equally for Whites, African Americans, and Hispanics, but that race/ethnicity



disparities persist, with Hispanics receiving harsher sentences than African Americans, and African Americans receiving harsher sentences than Whites. While further analysis showed at least some of the disparity was due to judicial discretion in sentence reductions, the authors caution that available data were insufficient to assess if these decisions were warranted or discriminatory.

Zatz's (2000) review of research on court decision making reports that studies of determinate sentencing, sentencing guidelines, and mandatory sentencing systems often remove the direct effect of race and ethnicity on court processing decisions, as is one of their intended impacts. However, indirect effects, that is, the interaction of race with other factors, remain very important: "The effects of race become *contingent* on the interaction of race with other legally legitimate (e.g., prior record, bail status, offense type) and illegitimate (e.g., gender, type of attorney, employment status) factors." (p. 506)

Emphasizing that "sentencing is the result of a long series of decisions that impact on one another," Zatz (2000, p. 507) suggests some of the factors influencing court processing decisions, including where police choose to focus their surveillance and in which cases they decide to make a formal arrest, which cases prosecutors choose to pursue and under which charges, when judges allow pretrial release and under what conditions, what agreements prosecutors and defense attorneys reach regarding pleas, and, finally, the judge and jury's decisions on guilt or innocence and sentencing.

## IMPACT

Regardless of causes, disproportionate representation for people of color in the criminal justice system is a serious issue. Many studies show the negative consequences of system involvement and imprisonment, including reduced job prospects and earnings potential, reduced likelihood of marrying, disenfranchisement, poorer physical and mental health outcomes, broad negative impacts on families, children, and communities. (see JFA Institute, 2007)

Some differences, and their impacts, are somewhat subtle, such as the difference between being sentenced to jail rather than prison. Mauer and King (2007) noted that Whites make up a greater percentage of jail inmates while African Americans make up a greater percentage of prison inmates. "Since jail stays are relatively short compared to prison terms, the collateral consequences of incarceration—separation from family, reduced employment prospects—are generally less severe than for persons spending a year or more in state prison." (p. 15)

Pettit and Western (2004) found that 30% of non-Hispanic African American men who had not attended college had spent time in prison by their mid-thirties. For non-Hispanic African American men who had not graduated high school, 60% had spent time in prison by their mid-thirties. "For [non-college] black men in their mid-thirties at the end of the 1990s, prison records were nearly twice as common as bachelor's degrees...and were more than twice as common as military service." (p. 164)

Racial disparities in the justice system "undermine faith among all races and ethnic groups in the fairness and efficacy of the US criminal justice system. They are particularly intolerable because incarceration has such grave implications for the offenders' lives and those of their families and communities." (Human Rights Watch, 2008, p. 59)

## METHODOLOGY

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### NATIONAL AND STATE CRIMINAL JUSTICE DATA

This report includes national and, when appropriate and available, state data. The many factors that contribute to crime and the response to crime and to DMC make comparisons among states difficult, but state data do show the wide variation in representation and identify those states with particularly high and low disproportion. Individuals are categorized by the most serious offense for which a person is arrested or sentenced. Unless noted, all ages are included in the data reported.

### RACE AND ETHNICITY

Data reporting includes race (White, African American, and when available, Asian Pacific Islander, and American Indian) and, when available, ethnicity (Hispanic or non-Hispanic). When information on ethnicity is available, the report groups Hispanics as a distinct group, and the racial groups do not include any Hispanics. There is variability in the method and reliability with which reporting agencies distinguish ethnicity from race. This report contains the most reliable figures available and notes major data issues where appropriate, including missing data when ethnicity is not reported or numbers are too low to have meaning in the calculations of rates.

Where ethnicity is not listed as a separate group, each racial category may include both Hispanics and non-Hispanics. Native Americans include American Indians and Alaskan Natives (AIAN). They are referred to as Native Americans in text and AIAN in tables. Asians and Pacific Islanders are grouped as Asian Pacific Islanders (API).

### RELATIVE RATE INDICES

Most tables and discussion use the Relative Rate Index (RRI). The RRI measures the rate of one group compared to a baseline group, in this case Whites, expressed as an RRI of 1.0. Simply put, an RRI is a ratio of rates for people of color to rates of Whites. The Relative Rate Index is the method used by the Office of Juvenile Justice and Delinquency Prevention (OJJDP) for assessing the degree of over or underrep-

resentation experienced by system-involved youth of color in comparison to White youth. We have adopted this method to highlight the over or underrepresentation of adults of color in comparison to Whites.

#### *Calculating and interpreting Relative Rate Indices.*

In this two-step method, rates for each racial group are calculated as the number of individuals at a particular point in the system per 100,000 of the same race in the general population. Then, the rates for other groups are divided by the rate for the White population. This produces a value that can easily be interpreted. Values over 1 indicate that group is overrepresented compared to Whites. Values less than 1 indicate that group is underrepresented. For example, if a group has an RRI of 2.0 compared to the standardized RRI of 1.0 for Whites, that group is represented at 2 times the rate for Whites. An RRI of 1.5 indicates the rate for the group is 50% higher than the rate for Whites. An RRI of 0.5 would indicate the group is underrepresented at a rate 50% lower than the rate for Whites.

Rates and RRIs in this report were calculated by the National Council on Crime and Delinquency (NCCD) except for some of those related specifically to the juvenile justice system. OJJDP calculates rates per 100,000 youth as part of their online *Census of Juveniles in Residential Placement Databook*. OJJDP calculates both rates and RRIs as part of their *National Disproportionate Minority Contact Databook*. Rates of incarceration in prison and jail reported by the Bureau of Justice Statistics (BJS) (Harrison & Beck, 2006) were used to calculate total control.

### DATA SOURCES

This report uses the most recent federal and state data available. Tables are derived from published reports, federal online data sources, or from raw data from the US Department of Justice archived in the National Archive of Criminal Justice Data.

Rates were calculated using population estimates for adults from the Population Division of the US Census Bureau, obtained through *Annual Estimates of the Population by Race and Ethnicity* (US Census, 2008) and through *Easy Access to Juvenile Populations* (Puzzanchera, Finnegan, & Kang, 2007). National estimates of arrest data were derived from

the FBI's *Crime in the United States 2006* (US Dept of Justice, 2007e). Analysis of court processing data, including convictions, type of sentence, and mean length of sentences imposed, was performed using the 2004 National Judicial Reporting Program (US Dept of Justice, 2007c) and 2004 State Court Processing Statistics (US Dept of Justice, 2007d). Analysis of new commitments to prison and jail, including type of offense and type of admission, was completed using the 2003 National Corrections Reporting Program (US Dept of Justice, 2007c) and the 2006 Annual Survey of Jails (US Dept of Justice, 2007a). Further information and data were obtained from the Bureau of Justice Statistics publications, including the annual reports *Prisoners* (see Sabol, Couture, & Harrison, 2007), *Prison and Jail Inmates at Midyear* (see Harrison & Beck, 2006) and *Capital Punishment* (see Snell, 2007). Some more current or complete (including race and ethnicity) draft data were provided by the authors of these reports upon specific request by NCCD.

Juvenile population figures were obtained from the National Center for Health Statistics through *Easy Access to Juvenile Populations* (Puzzanchera, Finnegan, & Kang, 2007). Arrest data for juveniles were found using the FBI's *Crime in the United States 2006* (US DOJ, 2007e). For other juvenile-specific information, data were found through OJJDP's Census of Juveniles in Residential Placement Databook (Sickmund, Sladky, & Kang, 2008) and OJJDP's National Disproportionate Minority Contact Databook (Puzzanchera & Adams, 2008). The recidivism data presented here were compiled by NCCD from data made available by individual states.

#### **DATA SHORTCOMINGS**

Although the reports and databases the federal government make available have increased in number and quality in recent decades, there are still shortcomings, especially in providing a complete and up-to-date picture of racial and ethnic representation in the system. A thorough assessment of how DMC accumulates through the system requires, at the very least, racial and ethnic data at each of the stages for national, state, and, as often as possible, county, or local jurisdictions.

Reliable estimates of DMC depend on the availability of relevant data at each stage with comparable population parameters. This type of data is more readily available for youth in the juvenile system than for adults. The federal government does some sampling at the county level for court processing statistics that can be used to generalize to the national level, but this does not facilitate reliable comparisons across the full range of system stages, from pre-arrest through reentry.

Further, federal studies should include a broader range of variables, including offender characteristics such as income, employment, education level, community factors, and relevant characteristics of victims, law enforcement, prosecutors, and the courts. "Some studies find that Black and Hispanic offenders generally receive more punitive sentences than White offenders, but that the combination of race/ethnicity and gender, age, and/or employment status results in even larger racial disparities." (King, 2008)

Changing laws, policies, and practices of law enforcement and the courts are best assessed in an ongoing and timely manner, yet there is significant lag between the date of data collection and the release of that data to the public. Data reports are typically released by the Bureau of Justice Statistics a year or more after data collection and, as thorough as these reports are, they do not include sufficient information about race and ethnicity to facilitate discussion of DMC or secondary analysis. The latest admissions data currently available for download are from 2003. Analysis of this important topic tends, therefore, to be of an historical nature.

Counts, rates, and relative rate indices can fluctuate widely over time (e.g., year to year), especially with small case counts. Very large RRIs should be interpreted with this caution. Trend data or averages over time are not reported here, but calculations involving case counts too low to produce reliable results are indicated as missing. Zatz (2000) and Free (2002) describe further methodological issues in studies of race and ethnicity and the criminal justice system, including those related to definitions, data sources, government data, and statistical analysis.

## THE NEED FOR FURTHER DISAGGREGATION OF FEDERAL DATA

A key shortcoming of existing data sources is the lack of data on ethnicity. The federal government's source of data for arrests, the key early stage of the system, is the FBI's Uniform Crime Reporting Program, which does not collect data by ethnicity. Similarly, few data sources for court processing and sentencing provide ethnic identification. Hispanics represent an important segment of system-involved adults; their overall proportion in the system is rising while White and African American proportions are fairly static (Sabol, Couture, & Harrison, 2007). Though the majority of Hispanics identify as Whites rather than African American or another race, many studies have suggested that failing to separate ethnicity from race—in particular, failing to separate Hispanics from non-Hispanic Whites—not only limits understanding of ethnic disproportion but hides the true disparity between Whites and African Americans. Rates that blend Hispanic origin across race inflate White rates and deflate African American rates, making the disparity between the two seem less extreme than when ethnicity is considered (Demuth & Steffensmeier, 2004).

Additionally, existing categories could be more differentiated. Disaggregation of "Asian," for instance, allows researchers to more accurately assess groups such as Vietnamese, Chinese, Indian, Japanese, etc., some of which may have disproportion even when the overall group does not (Arifuku, Peacock, & Glesmann, 2006; Le & Arifuku, 2005). Middle Eastern ethnicities also need to be distinguished in criminal justice data.

Appropriate analysis of the impact of immigration policies and enforcement practices, and of policies and practices related to terrorism, require further aggregation of data by racial, ethnic, and cultural characteristics of not just those arrested and prosecuted in the criminal justice system but those subject to system contact at points prior to arrests, including surveillance, stops, and searches.

## ARRESTS

The FBI collects regular arrest data from most jurisdictions around the country and tabulates the totals according to the most serious offense. Arrests are reported by race but not by ethnicity.

Whites accounted for most of the 10.5 million arrests (of all ages) reported in 2006, but, relative to their proportion of the general populations, people of color were overrepresented among those arrested. Rates of arrest for African Americans were 2.5 times higher than those for Whites; Native Americans rates were 1.5 times those for Whites. Only Asian Pacific Islanders were arrested at lower rates than those for Whites. (Table 1)

The disparities between African Americans and Whites were widest for violent crimes and drug crimes. The widest disparities in the most serious crimes were found for murder and nonnegligent manslaughter, robbery, drug crimes, and motor vehicle theft. Native American rates of arrest for alcohol-related offenses were about 2 times those of Whites.

"A majority of the studies reviewed...found that blacks and Hispanics were more likely than whites to be sentenced to prison, even after taking crime seriousness and prior criminal record into account." (Spohn, 2000, p. 475)

### ARREST BY ETHNICITY

Because Hispanic origin is not a variable in most federal data collection programs, including the FBI's *Crime in the United States* series, ad hoc inquiries were made to individual states regarding 2006 arrest data. Out of 13 states contacted, 5 were found to collect and report arrest data that addressed ethnic origin. It could not be determined definitively whether the other 8 states collected arrest or other court processing data by ethnicity.

Arizona, Pennsylvania, and Texas collected data for race and ethnicity separately. In Arizona and Pennsylvania, Hispanics were slightly overrepresented among arrestees. Hispanics represented 4% of

**Table 1: RRI of National Arrests, 2006**

	White	African American	AIAN	API
<b>Total Arrests</b>	<b>7,270,214</b>	<b>2,924,724</b>	<b>130,589</b>	<b>112,093</b>
<b>National RRI</b>	<b>1.0</b>	<b>2.5</b>	<b>1.5</b>	<b>0.3</b>
<b>Violent Crime</b>	<b>1.0</b>	<b>3.4</b>	<b>1.7</b>	<b>0.3</b>
Murder and nonnegligent manslaughter	1.0	6.8	2.0	0.4
Forcible rape	1.0	3.1	1.4	0.3
Robbery	1.0	8.3	1.3	0.4
Aggravated assault	1.0	3.4	1.6	0.3
Sex offenses (except forcible rape, prostitution)	1.0	2.1	1.1	0.3
Other assaults	1.0	3.1	1.7	0.3
<b>Property Crime</b>	<b>1.0</b>	<b>2.6</b>	<b>1.2</b>	<b>0.3</b>
Burglary	1.0	2.6	1.1	0.2
Larceny-theft	1.0	2.6	1.4	0.3
Motor vehicle theft	1.0	3.5	1.3	0.4
Arson	1.0	1.8	1.1	0.3
Forgery and counterfeiting	1.0	2.5	0.6	0.3
Fraud	1.0	2.7	0.7	0.2
Embezzlement	1.0	3.1	0.7	0.4
Stolen property; buying, receiving, possessing	1.0	3.3	1.0	0.3
Vandalism	1.0	1.8	1.5	0.3
<b>Drug</b> (Includes production, distribution, or use)	<b>1.0</b>	<b>3.5</b>	<b>0.8</b>	<b>0.2</b>
<b>Public Order</b>	<b>1.0</b>	<b>1.4</b>	<b>1.7</b>	<b>0.2</b>
Weapons; carrying, possessing, etc.	1.0	4.4	1.1	0.3
Prostitution and commercialized vice	1.0	4.4	1.4	0.8
Gambling	1.0	17.1	0.4	1.2
Driving under the influence	1.0	0.7	1.2	0.2
Liquor laws	1.0	0.8	2.7	0.2
Drunkenness	1.0	1.0	1.9	0.1
Disorderly conduct	1.0	3.4	1.9	0.2
Vagrancy	1.0	4.6	1.8	0.2

Source: Crime in the United States, FBI, 2006.

Pennsylvania's general population and 7% of people arrested (Pennsylvania Uniform Crime Reporting System, 2007). Hispanics represented 29% of Arizona's general population and 32% of arrests (Arizona Dept of Public Safety, 2007). In Texas, Hispanics represented 36% of the general population and 34% of arrests.

Two states—California and Oregon—disaggregated ethnicity from race. In California, Hispanics (of any race) were slightly overrepresented among those arrested and non-Hispanic African Americans were highly overrepresented. Hispanics represented 36% of California's general population and 40% of those

arrested. Non-Hispanic African Americans represented 6% of California's population and 17% of those arrested. Non-Hispanic Whites represented 43% of California's population and 37% of arrests (California Dept of Justice, 2008).

In Oregon, African Americans were overrepresented, while both Whites and Hispanics had no disproportion in arrests. Non-Hispanic African Americans represented 2% of Oregon's general population and 7% of arrests. Hispanics (of any race) represented 10% of Oregon's general population and 9% of arrests. Non-Hispanic Whites represented 81% of the general population and 81% of arrests (Oregon State Police, 2007).

## COURT PROCESSING— PRETRIAL DECISIONS, CONVICTIONS, AND SENTENCING

There are two main federal sources of data on criminal court processing, both focusing on felony defendants.

### FELONY CONVICTIONS

The National Judicial Reporting Program (NJRP) collects felony conviction data from a 300-county sample that represents the nation as a whole.<sup>2</sup> The NJRP database includes ethnicity, but due to data inconsistencies only conviction information for Whites and African Americans (each of which may include Hispanics) are reported here.

Nearly 1.1 million adults were convicted of a felony in state courts in 2004. About the same percentage of Whites (17%) and African Americans (18%) were convicted of violent crimes. A somewhat higher percentage of Whites (31%) than African Americans (26%) were convicted of property crimes, while a higher percentage of African Americans (41%) than Whites (30%) were convicted of drug offenses. (Figure 1)

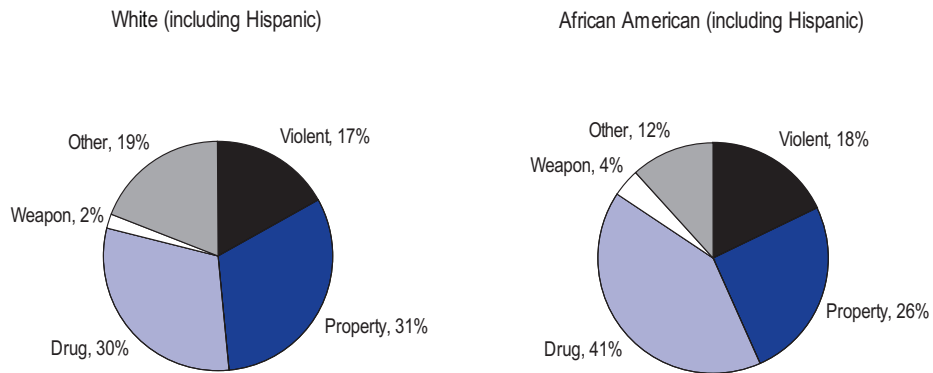
*Sentence Type and Length.* Among those convicted of a felony, African Americans were more often sentenced to prison and had longer sentence lengths than Whites.<sup>3</sup> Overall, 66% of Whites versus 71% of African Americans were sentenced to incarceration. For those convicted of violent offenses, 80% of African Americans versus 75% of Whites were sentenced to incarceration; for drug offenses, 70% of African Americans versus 63% of Whites were sentenced to incarceration. Overall and for each offense type except weapons, African Americans were sentenced to probation, the more lenient disposition, less often than Whites. (Table 2)

<sup>2</sup> The percentages reported here are from Bureau of Justice Statistics calculations of NJRP data (Durose, 2007).

<sup>3</sup> Typically, prison sentences are for over one year, while jail sentences are for a year or less.



**Figure 1: Most Serious Offense for Felony Convictions, 2004**



Source: National Judicial Reporting Program, 2004.

**Table 2: Type of Sentence after Felony Conviction in State Court, 2004**

	Prison	Jail	Probation	Other	Total
<b>Most Serious Conviction Offense</b>					
<b>Percent of felons sentenced in each racial category</b>					
<b>White</b>					
All offenses	37%	29%	30%	3%	100%
Violent offenses	52%	23%	23%	2%	100%
Property offenses	37%	29%	31%	3%	100%
Drug offenses	33%	30%	34%	4%	100%
Weapon offenses	44%	29%	25%	2%	100%
<b>African American</b>					
All offenses	42%	29%	26%	2%	100%
Violent offenses	60%	20%	19%	1%	100%
Property offenses	38%	30%	30%	2%	100%
Drug offenses	40%	30%	26%	3%	100%
Weapon offenses	45%	25%	29%	1%	100%

Note: Rows may not add to 100% due to missing sentencing data. For persons receiving a combination of sentences, the sentence designation came from the most severe penalty imposed -- prison being the most severe, followed by jail, then probation.

Source: National Judicial Reporting Program, 2004.

**Table 3: Average Length of Felony Sentence Imposed in State Court by Offense, 2004**

	Prison	Jail	Probation	Total
<b>Most Serious Conviction Offense</b>	<b>Average Sentence Length in Months</b>			
<b>White</b>				
All offenses	58	7	38	37
Violent offenses	95	8	44	71
Property offenses	45	7	37	29
Drug offenses	52	6	37	31
Weapon offenses	47	6	36	32
<b>African American</b>				
All offenses	63	7	36	40
Violent offenses	108	9	43	84
Property offenses	47	7	36	30
Drug offenses	50	6	36	31
Weapon offenses	47	8	28	34

Note: Sentence length based on maximum sentence imposed. Probation signifies probation only.

Source: National Judicial Reporting Program, 2004.

Whether incarcerated or placed on probation, Whites had an average sentence length of 37 months compared to 40 months for African Americans. The differences were most pronounced with regard to state prison sentences for violent crimes, where African American sentences averaged over a year longer than Whites—108 months versus 95 months. (Table 3)

### COURT PROCESSING RATE COMPARISONS

The State Court Processing Statistics (SCPS) annual series reports felony cases filed during one month in large, predominantly urban counties. Unlike the NJRP data reported above, which survey only felony convictions and resulting sentences, SCPS data give a broader picture of movement through the system, from the decision to prosecute through sentencing. However, SCPS figures represent the 75 largest US counties, not the US as a whole. In May, 2004, these 75 counties accounted for 38% of the total US population and over 50% of serious crime. The racial and ethnic proportions in these counties were 52% non-Hispanic

White, 16% non-Hispanic African American, and 23% Hispanic of any race (Kyckelhahn & Cohen, 2007a and 2007b).

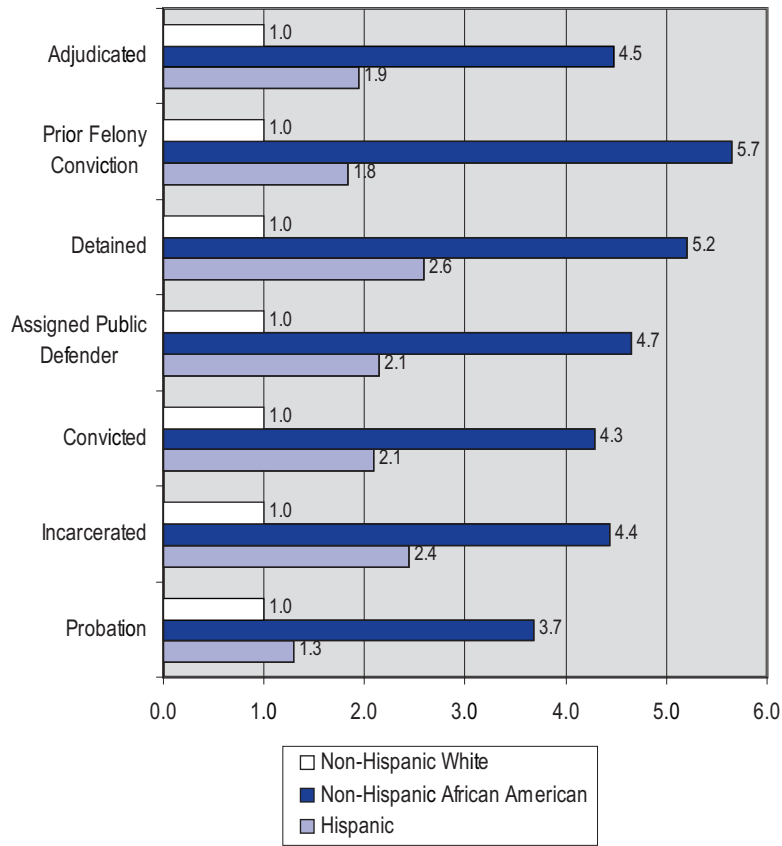
Figure 2 shows that the rate at which African Americans were represented among these felony defendants was 4.5 times the rate for Whites.<sup>4</sup> Hispanics were represented here at 1.9 times the rate for Whites. African Americans were detained pre-trial at 5.2 times the rate for White defendants and were 4.7 times as likely to have a public defender. Hispanics were detained at 2.6 times the rate for Whites and were 2.1 times as likely to have a public defender.

African Americans were convicted at 4.3 times and sentenced to incarceration in jail or prison at 4.4 times the rate for Whites. Hispanics were convicted at 2.1 times and sentenced to prison or jail at 2.4 times the rate for Whites. The more lenient sentence of probation had slightly lower disparity, with African Americans receiving this sentence at 3.7 times and Hispanics at 1.3 times the rate for Whites.

<sup>4</sup> Rates were calculated by NCCD using US Census counts of the adult population of the sampled counties (as defined by the lowest age of adult criminal court jurisdiction for each state) multiplied by the county weight from the 2004 SCPS database (State Court Processing Statistics, 2004).



**Figure 2: RRI of Felony Defendants in Large Urban Counties, 2004**



Source: State Court Processing Statistics, 2004.

“At both the adult and juvenile levels, poor people and people of color are most likely to be detained pending trial, and pretrial detention results in harsher sentencing outcomes.” (Zatz, 2000, p. 507)

## NEW ADMISSIONS TO PRISON

Measures of new admissions to prison, as opposed to measures of ongoing incarcerated populations, provide insight into current sentencing practices without regard to sentence length and releases. Both types of data—new admissions and daily counts—are important indicators of DMC. Both, for instance, are impacted by “tough on crime” sentencing laws and policies; such mechanisms typically mandate incarceration, which can directly increase new admissions, and extended sentences, which will increase standing counts for certain types of offenses or offenders. Ongoing prison populations as estimated by one-day snapshots of incarcerated populations are described in the next section. New admissions data are presented here.

BJS’ National Corrections Reporting Program (NCRP) gathers annual state and federal prison admission and release data. State participation is voluntary; not all states contribute data. This section describes new admissions in 2003 for participating states.<sup>5</sup>

### NEW ADMISSIONS NATIONALLY AND BY STATE

Although African Americans made up just over 13% of the US population in 2003, they made up 42% of the 554,892 new admissions to state or federal prison. Nationally, African Americans were newly admitted to custody at a rate 5.7 times the rate for Whites. Hispanics were admitted 1.9 times and Native Americans 4.3 times the rate for Whites. Asian Pacific

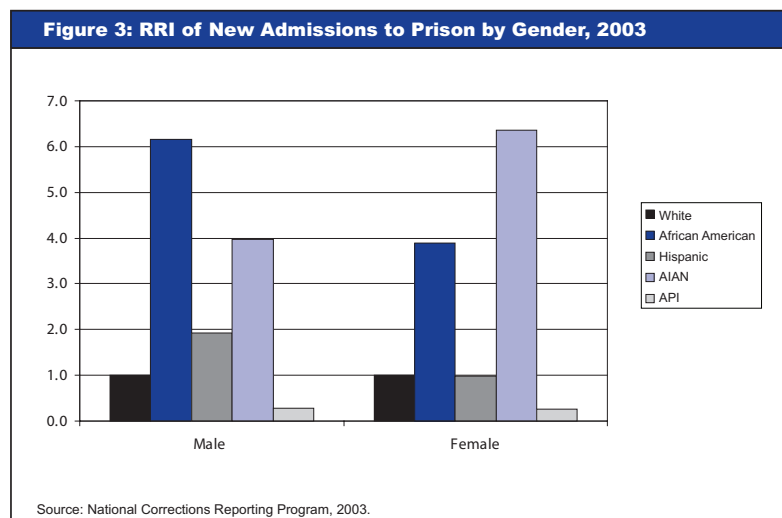
Islanders were admitted proportionally less often than Whites, with a relative rate index of 0.3. (Table 4)

Individual states consistently having the widest disparities across race and ethnicity included Colorado, Illinois, Iowa, Minnesota, Nebraska, New Jersey, New York, Pennsylvania, and Wisconsin. African Americans were admitted to prison at higher rates than Whites in every state reporting data, with a range of relative rate indices of 2.2 in Hawaii to 16.7 in Wisconsin.

Hispanics had higher rates of new admissions than Whites in 16 states, with relative rate indices ranging from 1.1 in Texas, North Carolina, and Oklahoma to 8.2 in Pennsylvania. Native Americans had higher rates of new admissions than Whites in 22 states, with relative rate indices ranging from 1.3 in Oklahoma to 12.3 in Minnesota. Asian Pacific Islanders were underrepresented in all reporting states except Hawaii.

### NEW ADMISSIONS BY GENDER

The disparity in new admissions was more pronounced for men than for women. (Figure 3) The national rate of new admissions for African American men was 6.1 times that for White men, while the rate for African American women was 3.9 times that for White women. This pattern was not true for Native Americans, however. The national rate of new admissions for Native American men was 4.2 times that for White men, while the rate for Native American women was 6.7 times that for White women.



<sup>5</sup> BJS reports NCRP data in a series of reports which provide limited information concerning race and ethnicity. BJS also makes NCRP data available for download. For this section, NCCD performed its own analysis of the latest available data, 2003, for which 35 states submitted complete data. The “Other” racial category is not reported.

**Table 4: RRI of New Admissions to Prison (State and Federal) in Certain States, 2003**

	White	African American	Hispanic	AIAN	API
<b>Total Number</b>	<b>222,388</b>	<b>232,639</b>	<b>84,348</b>	<b>11,559</b>	<b>3,956</b>
<b>Total RRI</b>	<b>1.0</b>	<b>5.7</b>	<b>1.9</b>	<b>4.3</b>	<b>0.3</b>
Alabama	1.0	3.1	-	0.0	0.0
Alaska	1.0	2.6	0.7	2.8	0.6
California	1.0	6.1	1.4	2.1	0.1
Colorado	1.0	7.7	2.6	3.6	0.5
Florida	1.0	5.0	0.8	0.3	0.0
Georgia	1.0	3.8	0.7	0.3	0.0
Hawaii	1.0	2.2	-	2.0	1.2
Illinois	1.0	9.7	1.5	1.9	0.1
Iowa	1.0	9.7	-	4.7	0.3
Kentucky	1.0	5.1	0.9	0.3	0.1
Louisiana	1.0	4.1	-	0.2	0.0
Maryland	1.0	6.8	-	0.4	0.0
Michigan	1.0	5.5	0.3	1.9	0.2
Minnesota	1.0	12.5	3.3	12.3	0.9
Mississippi	1.0	2.7	0.8	0.5	0.6
Missouri	1.0	3.6	0.7	0.9	0.1
Nebraska	1.0	7.4	2.8	8.3	0.5
Nevada	1.0	4.1	0.8	1.4	0.3
New Hampshire	1.0	6.1	4.9	1.8	0.4
New Jersey	1.0	13.8	3.5	0.1	0.1
New York	1.0	10.5	5.7	4.6	0.2
North Carolina	1.0	4.9	1.1	2.7	0.2
North Dakota	1.0	6.8	3.9	4.4	0.3
Oklahoma	1.0	3.8	1.1	1.3	0.4
Oregon	1.0	4.2	0.4	1.4	0.2
Pennsylvania	1.0	10.7	8.2	2.1	0.2
South Carolina	1.0	4.4	0.5	1.0	0.1
South Dakota	1.0	6.2	0.1	4.5	0.0
Tennessee	1.0	4.5	0.8	0.4	0.0
Texas	1.0	4.4	1.1	0.0	0.0
Utah	1.0	8.1	1.4	1.4	0.9
Virginia	1.0	5.1	0.6	0.1	0.1
Washington	1.0	5.8	1.2	3.1	0.3
West Virginia	1.0	5.1	1.0	3.4	0.0
Wisconsin	1.0	16.7	3.7	6.6	0.8

"-" Unknown

Note: Participation by states is voluntary; totals are for the 35 states that submitted complete data for 2003.

Source: National Corrections Reporting Program, 2003.

## NEW ADMISSIONS FOR PAROLE OR PROBATION REVOCATIONS

New admissions to state or federal prisons can include those newly committed by the court or those returned to custody due to a parole or probation revocation. In 2003, 58% of new admissions were new court commitments, 28% parole revocations, and 8% probation revocations. (The remainder was for other reasons or not reported.)

The rates of each type of admission are substantially higher for people of color compared to Whites, especially for African Americans. African Americans were newly admitted at 6.1 times the rate for Whites, admitted for parole revocations at 7.0 times, and admitted for probation revocations at 4.3 times.

Both Hispanics and Native Americans were reincarcerated for parole revocation at almost 3 times the rate for Whites. (Table 5)

## NEW ADMISSIONS BY OFFENSE TYPE

Similar patterns were present when grouping new admissions (of any kind) by offense type. Compared to Whites, rates of new admission for African Americans were 6.4 times higher for violent offenses, 4.4 times higher for property offenses, and 9.4 times higher for drug offenses. Rates for Hispanics were 2.6 times higher than those for Whites for violent offenses and 2.5 times higher for drug offenses. Rates for Native Americans were 6 times those for Whites for violent offenses and over 10 times those for Whites for public order offenses. (Table 6)

**Table 5: RRI of New Admissions to Prison (State and Federal) by Admission Type, 2003**

Admission Type	Total Number	White	African American	Hispanic	AIAN	API
Court commitment	322,897	1.0	6.1	1.8	2.1	0.2
Parole revocation	153,523	1.0	7.0	2.9	2.5	0.3
Probation revocation	44,604	1.0	4.3	1.1	1.6	0.4

Note: 35 states submitted complete data for 2003.

Source: National Corrections Reporting Program, 2003.

**Table 6: RRI of New Admissions to Prison (State and Federal) by Offense Type, 2003**

Offense Type	Total Offenses	White	African American	Hispanic	AIAN	API
Violent	135,476	1.0	6.4	2.6	6.0	0.4
Property	164,067	1.0	4.4	1.4	2.7	0.3
Drug	167,627	1.0	9.4	2.5	1.8	0.2
Public order	77,529	1.0	3.6	1.3	10.8	0.3
Other	4,256	1.0	3.7	1.1	7.5	0.4
<b>Total</b>	<b>548,955</b>	<b>1.0</b>	<b>5.9</b>	<b>1.9</b>	<b>4.7</b>	<b>0.3</b>

Note: Totals are not equal to totals in Table 3 due to missing ethnicity/race data in some cases; 35 states submitted complete data for 2003.

Source: National Corrections Reporting Program, 2003.

## INCARCERATION IN PRISONS (FEDERAL OR STATE) AND LOCAL JAILS

Standing counts of inmates in prison or jail are collected as one-day snapshots of the total population of inmates. Unlike the new admissions reported in the previous section, these daily incarceration counts are to some extent a function of sentence length and release policies. For instance, the ongoing population has a somewhat higher proportion of more serious offenders, given that they are more likely to be serving longer sentences.

### FEDERAL AND STATE PRISONS

Inmates “under state or federal jurisdiction” are those convicted in state or federal court and held in a variety of facilities, usually state or federal prisons, but sometimes local jails, private institutions, residential mental health facilities, and other facilities. These are generally persons convicted of felonies and sentenced to more than a year. The one-day snapshots provided here are derived from the National Prisoners Statistics program, which provides the basis of a series of BJS annual reports.<sup>6</sup>

There were over 1.5 million persons incarcerated in state and federal prison systems in 2005. As with new admissions to prisons, only Asian Pacific Islanders were under state or federal jurisdiction at a lower overall rate than that for Whites. Nationwide in 2003, African Americans were held in the federal sys-

tem at 4.5 times the rate for Whites and Native Americans at 2.6 times the rate for Whites. The federal system does not report ethnicity data. (Table 7)

African Americans were held under state jurisdiction at 6 times the rate for Whites, Hispanics at 1.7 times, and Native Americans at 2.6 times. The individual states that consistently had the widest prison disparities across race and ethnicity—with African Americans in custody at least 10 times the rates for Whites—were Connecticut, Iowa, Minnesota, New Jersey, New Mexico, New York, Pennsylvania, Utah, Vermont, and Wisconsin.

Every state reported overrepresentation of African Americans, ranging from 2.2 times the rate for Whites in Hawaii to 14.9 times the rate for Whites in New Jersey. Half of the states reported overrepresentation of Hispanics, ranging from 1.1 times the rate for Whites in Indiana and 1.3 in Texas to 6.2 in Nevada and Connecticut. Seventeen states had equal or underrepresentation of Hispanics compared to Whites. Eight states either did not report incarceration figures by ethnicity or had too few Hispanics to calculate rates.

Thirty-six states had overrepresentation of Native Americans in prisons, ranging from 1.2 times the rate for Whites in Missouri and Tennessee to 14.5 times the rate for Whites in Nevada. Asian Pacific Islanders were overrepresented in 5 states.

Mauer and King (2007) describe some of the subtleties evident in racial/ethnic comparisons of DMC rates. They compare White and African American incarceration rates within each state to national averages and point out that the wide state-by-state variation in the magnitude of the relative risk index can be due to several scenarios: relatively high rates for African Americans and average rates for Whites; average rates for African Americans and relatively low rates for Whites; or relatively low rates for African Americans and relatively high average rates for Whites. These combinations do not impact the overall finding of overrepresentation of people of color, but they can impact the magnitude of the relative rate index.

<sup>6</sup> Data for the actual population of state and federal prison facilities, as opposed to the data reported here, inmates “under state and federal jurisdiction,” were not available for all races. However, the data presented here correlate highly with the daily custody rate, and it is expected that rates by race/ethnicity are very similar. Because a certain number of inmates under state or federal jurisdiction may be held in local jails, there will be a slight redundancy in the data reported here and in the following section.

	White	African American	Hispanic	AIAN	API
<b>Total Number</b>	<b>636,055</b>	<b>649,519</b>	<b>197,712</b>	<b>18,878</b>	<b>12,986</b>
<b>Federal RRI</b>	<b>1.0</b>	<b>4.5</b>	<b>-</b>	<b>2.6</b>	<b>0.5</b>
<b>State</b>	<b>1.0</b>	<b>6.0</b>	<b>1.7</b>	<b>2.6</b>	<b>0.3</b>
Alabama	1.0	3.8	-	0.0	0.0
Alaska	1.0	4.1	0.7	3.1	0.7
Arizona	1.0	5.7	1.8	1.5	0.1
Arkansas	1.0	4.0	0.4	0.2	0.2
California	1.0	7.2	1.7	2.8	0.1
Colorado	1.0	8.1	2.4	4.2	0.6
Connecticut	1.0	11.7	6.2	2.1	0.3
Delaware	1.0	6.1	1.6	0.1	0.0
Florida	1.0	4.5	0.2	0.8	0.0
Georgia	1.0	3.2	0.6	0.8	0.1
Hawaii	1.0	2.2	0.4	2.1	1.4
Idaho	1.0	5.1	1.9	3.2	0.5
Illinois	1.0	9.5	1.8	2.5	0.2
Indiana	1.0	6.4	1.1	1.5	0.2
Iowa	1.0	13.8	2.2	4.4	1.4
Kansas	1.0	8.5	1.6	2.8	0.6
Kentucky	1.0	5.1	0.8	0.5	0.1
Louisiana	1.0	4.5	0.1	0.1	0.1
Maine	1.0	8.8	-	4.6	0.7
Maryland	1.0	6.6	-	0.5	0.1
Massachusetts	1.0	8.2	5.7	4.7	0.4
Michigan	1.0	6.4	0.8	2.4	0.2
Minnesota	1.0	12.7	3.2	11.8	1.1
Mississippi	1.0	3.7	0.7	0.6	0.5
Missouri	1.0	5.2	0.8	1.2	0.0
Montana	1.0	7.4	1.7	3.5	0.7
Nebraska	1.0	8.5	2.3	7.8	0.5
Nevada	1.0	3.0	6.2	14.5	0.1
New Hampshire	1.0	7.3	-	2.5	0.4
New Jersey	1.0	14.9	3.7	0.4	0.2
New Mexico	1.0	11.8	0.3	0.1	1.4
New York	1.0	10.3	5.1	5.1	0.2
North Carolina	1.0	5.3	-	3.4	0.3
North Dakota	1.0	8.6	3.8	5.1	0.4
Ohio	1.0	6.8	1.6	0.9	0.1
Oklahoma	1.0	4.7	1.0	1.4	0.2
Oregon	1.0	6.4	1.0	2.0	0.3
Pennsylvania	1.0	11.1	6.0	2.9	0.4
Rhode Island	1.0	9.0	2.9	1.8	0.7
South Carolina	1.0	4.5	0.6	1.3	0.1
South Dakota	1.0	8.8	-	3.6	-
Tennessee	1.0	4.4	0.8	1.2	0.2
Texas	1.0	5.1	1.3	-	-
Utah	1.0	11.2	2.0	4.4	1.3
Vermont	1.0	14.8	-	2.8	0.5
Virginia	1.0	6.1	0.5	0.3	0.2
Washington	1.0	7.3	1.4	3.3	0.5
West Virginia	1.0	4.6	0.4	2.5	0.0
Wisconsin	1.0	12.9	-	5.6	0.7
Wyoming	1.0	6.9	2.1	2.8	0.7

**Table 7: RRI of Incarceration under State and Federal Jurisdiction, 2005**

Notes: Federal race categories include Hispanics as the federal system does not disaggregate by ethnicity.  
 " - " No Hispanic or API prisoners reported.  
 Alaska, Connecticut, Delaware, Hawaii, Rhode Island, and Vermont have combined prison and jail systems; RRIs for those states include jail inmates. District of Columbia is excluded as it only operates a jail system.

Source: Harrison & Beck, 2006 (draft tables).

**Table 8: RRI of Incarceration in Jails, 2006**

	White	African American	Hispanic	AIAN	API
<b>Total Number</b>	<b>323,474</b>	<b>284,412</b>	<b>114,654</b>	<b>8,052</b>	<b>4,940</b>
<b>National RRI</b>	<b>1.0</b>	<b>4.7</b>	<b>1.6</b>	<b>2.0</b>	<b>0.2</b>
Alabama	1.0	3.4	2.9	0.5	0.0
Arizona	1.0	4.5	1.6	1.7	0.2
Arkansas	1.0	3.1	1.4	0.1	0.4
California	1.0	4.9	1.6	2.2	0.2
Colorado	1.0	5.2	1.6	1.1	0.3
District of Columbia	1.0	22.1	8.5	0.0	0.1
Florida	1.0	3.0	0.4	0.1	0.1
Georgia	1.0	3.2	1.4	0.1	0.1
Idaho	1.0	3.0	1.1	0.7	0.3
Illinois	1.0	6.5	1.6	0.4	0.1
Indiana	1.0	4.7	1.6	0.0	0.0
Iowa	1.0	13.0	10.3	6.5	0.6
Kansas	1.0	5.8	1.9	0.5	0.3
Kentucky	1.0	4.3	1.4	0.0	0.1
Louisiana	1.0	3.7	0.7	0.4	0.1
Maine	1.0	6.1	4.3	0.2	1.0
Maryland	1.0	4.2	1.5	0.2	0.2
Massachusetts	1.0	6.8	4.3	1.0	0.4
Michigan	1.0	3.9	1.2	0.4	0.1
Minnesota	1.0	4.7	1.9	12.8	0.5
Mississippi	1.0	3.9	2.6	0.3	0.5
Missouri	1.0	5.8	2.8	0.2	0.5
Montana	1.0	6.8	6.4	5.9	0.0
Nebraska	1.0	7.5	1.3	9.2	0.2
Nevada	1.0	4.5	1.1	2.0	0.3
New Hampshire	1.0	12.1	5.9	4.6	0.5
New Jersey	1.0	10.2	3.3	1.3	0.2
New Mexico	1.0	6.2	2.0	1.2	0.2
New York	1.0	7.9	3.6	2.1	0.2
North Carolina	1.0	4.9	2.5	5.5	0.2
North Dakota	1.0	9.1	4.6	10.7	1.1
Ohio	1.0	6.3	2.0	0.5	0.3
Oklahoma	1.0	5.2	1.9	1.1	0.7
Oregon	1.0	4.3	0.9	0.7	0.2
Pennsylvania	1.0	6.6	5.0	1.0	0.9
South Carolina	1.0	4.6	2.3	1.0	0.3
South Dakota	1.0	9.1	5.7	8.1	0.9
Tennessee	1.0	3.8	1.5	0.1	0.2
Texas	1.0	3.9	1.3	0.2	0.1
Utah	1.0	6.2	2.0	3.1	0.7
Virginia	1.0	5.4	1.8	0.9	0.3
Washington	1.0	4.4	1.1	2.7	0.3
West Virginia	1.0	4.2	1.2	0.1	0.0
Wisconsin	1.0	7.7	2.0	4.4	0.5
Wyoming	1.0	6.4	3.0	1.7	0.4

Note: Alaska, Connecticut, Delaware, Hawaii, Rhode Island, and Vermont have combined prison and jail systems and thus are not included in this table.

Source: Annual Survey of Jails, 2006.

## JAILS

Local jails generally hold those sentenced to a year or less, but can include a variety of inmates such as those awaiting trial, sentencing, or transfer to prison. The Annual Survey of Jails provides a one-day snapshot of jail populations nationwide.

Over half of the estimated 766,010 jail inmates at midyear 2006 had not been convicted of a crime, but were awaiting disposition. National rates of incarceration in jails in 2006 were similar to the rates in state and federal prisons. African Americans were held in jails at 4.7 times the rate for Whites, Hispanics at 1.6 times, and Native Americans at 2.0 times. (Table 8)

Individual states that consistently had the widest disparities for African Americans—at over 7 times the rates for Whites—were Iowa, Nebraska, New Hampshire, New Jersey, New York, North Dakota, South Dakota, Wisconsin, and the District of Columbia. The states with the least overrepresentation of African Americans—still 3 or more times the rates of Whites—were Arkansas, Florida, and Idaho.

All states but Florida, Louisiana, and Oregon reported overrepresentation of Hispanics in jail compared to Whites; Montana, Iowa, and the District of Columbia reported the highest rates for Hispanics compared to those for Whites (RRIs over 6.0). Twenty states reported greater rates of jail custody for Native Americans, with the highest disparity (RRIs over 6.0) in Iowa, Minnesota, Nebraska, North Dakota, and South Dakota. Only North Dakota reported disparity for Asian Pacific Islanders.

## PROBATION AND PAROLE

**B**JS' Annual Probation Survey and Annual Parole Survey give standing populations as well as entries and exits from probation and parole supervision nationwide. Data reported here are based on one-day snapshots at the end of 2006.

### PROBATION

Compared to incarceration, probation is the more lenient outcome after conviction. Individuals may be sentenced to probation only, or to a term of incarceration followed by probation. People of color are overrepresented among those on probation, though the differences between probation rates for Whites and for people of color are somewhat smaller than those at other points in the system. Nationwide in 2006, probation rates for African Americans were 2.9 times and Native Americans 1.4 times those for Whites. The probation rates for Whites and Hispanics were almost equal, and Asian Pacific Islanders were again underrepresented in this area.

States with the highest overrepresentation of African Americans on probation—each with rates approximately 5 or more times higher than those for Whites—were Iowa, New Jersey, North Dakota, Rhode Island, Utah, Vermont, Wisconsin, and the District of Columbia. Hispanics had higher probation rates than Whites in 25 states and were particularly overrepresented in Kentucky (over 5 times the rate for Whites) and New Hampshire (almost 14 times the rate for Whites). Native Americans had higher probation rates than Whites in 24 states, particularly in Wisconsin (almost 5 times the rate for Whites) and in Illinois (almost 8 times the rate for Whites). Asian Pacific Islanders were underrepresented in all states reporting data except Tennessee. (Table 9)



**Table 9: RRI of Adults on Probation, 2006**

	White	African American	Hispanic	AIAN	API
<b>Total Number</b>	<b>1,523,625</b>	<b>809,512</b>	<b>361,840</b>	<b>23,658</b>	<b>26,173</b>
<b>National RRI</b>	<b>1.0</b>	<b>2.9</b>	<b>1.1</b>	<b>1.4</b>	<b>0.3</b>
Alabama	1.0	2.5	0.6	0.4	0.2
Alaska	-	-	-	-	-
Arizona	1.0	3.2	1.5	1.4	0.2
Arkansas	1.0	2.3	0.9	0.5	0.2
California	-	-	-	-	-
Colorado	1.0	2.5	0.8	1.4	0.4
Connecticut	1.0	4.6	2.9	1.2	0.3
Delaware	1.0	2.8	1.3	0.2	0.1
District of Columbia	1.0	8.9	3.6	0.7	0.7
Florida	1.0	2.0	0.6	0.5	0.2
Georgia	1.0	2.4	0.5	1.1	0.1
Hawaii	-	-	-	-	-
Idaho	1.0	3.4	1.6	1.9	0.5
Illinois	1.0	3.0	1.2	7.9	0.3
Indiana	-	-	-	-	-
Iowa	1.0	5.3	1.6	4.0	0.6
Kansas	-	-	-	-	-
Kentucky	1.0	2.8	5.7	0.3	0.2
Louisiana	1.0	2.1	0.0	0.1	0.2
Maine	1.0	3.4	-	2.3	0.4
Maryland	1.0	2.9	-	0.5	0.1
Massachusetts	-	-	-	-	-
Michigan	1.0	1.8	1.5	1.2	0.4
Minnesota	1.0	3.8	-	4.0	0.7
Mississippi	1.0	2.2	0.6	0.5	0.5
Missouri	1.0	2.7	0.5	0.0	0.2
Montana	1.0	3.7	1.3	2.2	0.5
Nebraska	1.0	3.3	2.2	3.4	0.4
Nevada	-	-	-	-	-
New Hampshire	1.0	4.6	13.8	3.2	0.0
New Jersey	1.0	5.2	1.3	0.0	0.2
New Mexico	-	-	-	-	-
New York	1.0	2.7	1.5	1.8	0.1
North Carolina	1.0	3.2	1.4	2.2	0.3
North Dakota	1.0	5.8	2.7	3.2	0.6
Ohio	1.0	3.0	1.3	0.2	0.1
Oklahoma	1.0	2.9	1.1	1.2	0.3
Oregon	1.0	3.3	1.1	1.2	0.3
Pennsylvania	1.0	4.3	2.1	0.8	0.2
Rhode Island	1.0	5.4	2.4	1.5	0.5
South Carolina	1.0	2.6	0.7	0.5	0.2
South Dakota	-	-	-	-	-
Tennessee	1.0	2.9	1.7	0.6	1.1
Texas	1.0	1.5	1.1	-	-
Utah	1.0	5.6	0.9	2.7	0.8
Vermont	1.0	4.9	-	1.5	0.5
Virginia	1.0	3.5	0.0	0.3	0.0
Washington	1.0	4.3	1.0	1.9	0.4
West Virginia	-	-	-	-	-
Wisconsin	1.0	4.9	1.7	4.8	0.8
Wyoming	1.0	3.5	1.4	2.1	0.6

"-" Unknown

Source: Glaze & Bonczar, 2007.

**Table 10: RRI of Adults on Parole, 2006**

	White	African American	Hispanic	AIAN	API
<b>Total Number</b>	<b>319,421</b>	<b>304,684</b>	<b>142,782</b>	<b>6,990</b>	<b>5,403</b>
<b>National RRI</b>	<b>1.0</b>	<b>5.2</b>	<b>2.0</b>	<b>1.9</b>	<b>0.3</b>
Alabama	1.0	5.6	0.4	0.0	0.3
Alaska	-	-	-	-	-
Arizona	1.0	4.6	1.2	1.7	0.1
Arkansas	1.0	3.5	0.5	0.2	0.1
California	1.0	5.5	1.6	2.2	0.1
Colorado	1.0	6.4	2.5	3.5	0.5
Connecticut	1.0	15.5	8.1	1.5	0.5
Delaware	1.0	4.8	0.8	0.0	0.1
District of Columbia	1.0	62.5	5.2	2.6	0.8
Florida	1.0	6.2	0.7	0.5	0.2
Georgia	1.0	3.3	0.0	1.1	0.1
Hawaii	-	-	-	-	-
Idaho	1.0	3.0	2.5	1.6	0.6
Illinois	-	-	-	-	-
Indiana	1.0	6.3	1.0	1.2	0.1
Iowa	1.0	6.9	1.0	5.0	0.5
Kansas	1.0	6.8	1.5	3.0	0.4
Kentucky	1.0	4.4	0.1	0.4	0.1
Louisiana	1.0	4.3	0.1	0.0	0.2
Maine	1.0	0.0	0.0	0.0	0.0
Maryland	1.0	6.0	-	0.7	0.1
Massachusetts	1.0	6.1	3.3	1.2	0.3
Michigan	1.0	6.6	0.3	0.6	0.0
Minnesota	1.0	7.6	3.0	7.2	0.8
Mississippi	1.0	2.1	0.4	0.6	0.3
Missouri	1.0	3.3	0.8	0.8	0.2
Montana	1.0	3.2	0.9	2.5	1.2
Nebraska	1.0	6.7	2.5	5.6	0.8
Nevada	-	-	-	-	-
New Hampshire	1.0	8.6	13.7	1.9	0.3
New Jersey	1.0	10.6	3.5	1.4	0.2
New Mexico	-	-	-	-	-
New York	1.0	10.7	7.4	5.3	0.3
North Carolina	1.0	5.3	1.3	3.2	0.5
North Dakota	1.0	3.5	2.7	2.8	0.0
Ohio	1.0	6.6	0.6	1.6	0.1
Oklahoma	1.0	5.3	1.4	0.9	0.1
Oregon	1.0	5.2	1.0	1.8	0.2
Pennsylvania	1.0	5.6	2.9	0.9	0.3
Rhode Island	1.0	5.9	1.9	0.0	0.5
South Carolina	1.0	4.6	0.4	0.9	0.1
South Dakota	1.0	6.1	0.5	2.9	0.0
Tennessee	1.0	4.6	1.1	0.5	0.3
Texas	1.0	4.8	1.1	0.2	0.1
Utah	1.0	6.0	2.2	4.1	1.1
Vermont	1.0	5.3	-	1.8	0.2
Virginia	1.0	3.5	0.0	0.3	0.0
Washington	1.0	7.5	1.6	3.5	0.5
West Virginia	1.0	3.3	0.5	0.0	0.0
Wisconsin	1.0	13.7	3.3	6.3	0.7
Wyoming	1.0	5.2	1.6	1.9	0.2

"-" Unknown

Source: Glaze & Bonczar, 2007.

## PAROLE

Most prisoners will eventually be released to parole (conditional supervised release while finishing their sentence), usually according to mandatory parole guidelines or by the discretion of a parole board. Nationwide in 2006, African Americans were on parole at 5.2 times the rate for Whites. Hispanics and Native Americans were on parole at about 2 times the rate for Whites.

In 29 states, African American parole rates were over 5 times those for Whites, and in Connecticut, New Jersey, New York, Wisconsin, and the District of Columbia, African American parole rates were over 10 times those for Whites. Only Maine reported no parole disparities.

Hispanics had higher parole rates than those for Whites in 23 states including over 5 times the rates for Whites in Connecticut, New Hampshire, New York, and the District of Columbia. Native Americans had higher parole rates than those for Whites in the District of Columbia and 26 states; over 5 times the rates for Whites in Iowa, Minnesota, Nebraska, New York, and Wisconsin. Asian Pacific Islanders were underrepresented in the District of Columbia and all states reporting data except Montana and Utah. (Table 10)

## DEATH PENALTY

Although they made up just 13% of the US population, African Americans were 42% of inmates on death row nationwide in 2006, which translates to a rate of 4.7 times the rate for Whites. For states with at least 20 inmates on death row, those with particularly high disproportionality for African Americans include Arkansas, Louisiana, Mississippi, North Carolina, Ohio, Pennsylvania, South Carolina, and Virginia. (Table 11)

Federal data do not consistently identify the ethnic origin of inmates under sentence of death. Of the 3,228 death row inmates of various races reported for 2006, 358 were reported to be of Hispanic origin, including 140 in California, 107 in Texas, 31 in Florida, 21 in Pennsylvania, and several states with fewer than 10. Two of the 42 inmates on death row in the federal system were reported to be of Hispanic origin.

Free (2002, p. 226) reports that decisions to seek the death penalty show some of the most statistically strong racial disparity, especially when the victim is White and the defendant is African American. "Studies of prosecutorial discretion in capital charging provide consistent evidence of unwarranted racial disparity." This racial disparity regarding capital cases was manifested in two ways: the death penalty was more likely to be sought in murder cases when the victim was White and was still more likely when the victim was White and the defendant was African American.

**Table 11: Number of Adults under Sentence of Death, 2006**

	Total	White	African American	Other
<b>Total Number</b>	<b>3,228</b>	<b>1,802</b>	<b>1,352</b>	<b>74</b>
Alabama	193	100	93	0
Arizona	110	94	13	3
Arkansas	36	13	23	0
California	656	389	237	30
Colorado	2	1	1	0
Connecticut	7	4	3	0
Delaware	16	10	6	0
Florida	374	244	130	0
Georgia	105	55	49	1
Idaho	18	18	0	0
Illinois	10	7	3	0
Indiana	17	14	3	0
Kansas	2	0	2	0
Kentucky	40	31	9	0
Louisiana	86	31	54	1
Maryland	6	2	4	0
Mississippi	69	32	36	1
Missouri	47	26	21	0
Montana	2	2	0	0
Nebraska	9	8	1	0
Nevada	82	51	30	1
New Hampshire	0	0	0	0
New Jersey	9	3	6	0
New Mexico	2	2	0	0
New York	1	0	1	0
North Carolina	166	69	88	9
Ohio	187	91	93	3
Oklahoma	84	47	32	5
Oregon	32	28	3	1
Pennsylvania	219	74	134	11
South Carolina	62	25	37	0
South Dakota	4	4	0	0
Tennessee	102	60	40	2
Texas	391	228	159	4
Utah	9	7	1	1
Virginia	20	8	12	0
Washington	9	5	4	0
Wyoming	2	2	0	0

Note: The District of Columbia is included in federal data.  
 The following states do not have the death penalty: Alaska, Hawaii, Iowa, Maine, Massachusetts, Michigan, Minnesota, North Dakota, New York, Rhode Island, Vermont, West Virginia, and Wisconsin.  
 New Jersey abolished the death penalty in 2007.  
 Racial categories may include Hispanics.

Source: Snell, 2007.

**Table 12: RRI of Total Control, 2005-2006**

	White	African American	Hispanic
<b>Total Number</b>	<b>2,810,101</b>	<b>2,054,215</b>	<b>814,234</b>
<b>National RRI</b>	<b>1.0</b>	<b>4.0</b>	<b>1.4</b>
Alabama	1.0	3.0	0.4
Alaska	1.0	4.3	0.8
Arizona	1.0	4.1	1.6
Arkansas	1.0	3.0	0.7
California	1.0	6.2	1.7
Colorado	1.0	4.0	1.3
Connecticut	1.0	6.1	3.7
Delaware	1.0	3.6	1.4
District of Columbia	1.0	15.6	4.0
Florida	1.0	2.8	0.6
Georgia	1.0	2.8	0.6
Hawaii	1.0	7.4	0.4
Idaho	1.0	3.7	2.0
Illinois	1.0	4.3	1.4
Indiana	1.0	5.6	1.2
Iowa	1.0	7.8	1.8
Kansas	1.0	6.9	0.3
Kentucky	1.0	3.8	3.3
Louisiana	1.0	3.4	0.2
Maine	1.0	4.7	-
Maryland	1.0	3.7	-
Massachusetts	1.0	7.8	5.7
Michigan	1.0	4.1	1.1
Minnesota	1.0	4.4	0.1
Mississippi	1.0	2.8	0.9
Missouri	1.0	3.6	0.8
Montana	1.0	5.2	1.5
Nebraska	1.0	4.6	2.3
Nevada	1.0	4.7	1.0
New Hampshire	1.0	7.3	9.1
New Jersey	1.0	6.7	1.8
New Mexico	-	-	-
New York	1.0	5.1	2.8
North Carolina	1.0	3.8	1.0
North Dakota	1.0	6.9	2.9
Ohio	1.0	4.3	1.4
Oklahoma	1.0	3.8	1.1
Oregon	1.0	4.3	1.1
Pennsylvania	1.0	5.5	2.9
Rhode Island	1.0	5.9	2.4
South Carolina	1.0	3.4	0.8
South Dakota	1.0	8.5	0.2
Tennessee	1.0	3.5	1.4
Texas	1.0	2.7	1.1
Utah	1.0	7.2	1.6
Vermont	1.0	6.4	-
Virginia	1.0	4.6	0.6
Washington	1.0	5.4	1.2
West Virginia	1.0	5.2	0.5
Wisconsin	1.0	7.7	1.4
Wyoming	1.0	3.7	1.4
"-" Unknown			

Note: Incarcerated in state prison or local jail, 2005; on probation or parole, 2006.  
Sources: Harrison & Beck, 2006; Glaze & Bonczar, 2007.

## TOTAL CONTROL

A sense of racial and ethnic proportions across the corrections system for each state and the US overall can be gleaned by comparing combined rates of incarceration in prison or jail, rates of parole, and rates of probation. These overall rates of persons under corrections supervision, or “total control,” vary by state. Each state uses incarceration and probation to different degrees as a response to crime, and each state has variation in parole policies and practices. Each state also has variation in data collection methods and reliability.<sup>7</sup>

The rates at which African Americans were under corrections supervision were 4 times the rates for Whites; Hispanic rates were 1.4 times those for Whites.

The states with the highest overrepresentation of African Americans under corrections supervision compared to Whites were Hawaii, Iowa, Massachusetts, New Hampshire, South Dakota, Utah, Wisconsin, and the District of Columbia, each with rates of total control for African Americans over 7 times those for Whites.

The states with the highest overrepresentation of Hispanics under total control—each with Hispanic rates over 3 times the rates for Whites—were Connecticut, Kentucky, Massachusetts, New Hampshire, and the District of Columbia. (Table 12)

<sup>7</sup> Because some inmates under the jurisdiction of state or federal authorities may be held in local jails, it is difficult to estimate nonredundant prison and jail populations. Estimates reported by the Bureau of Justice Statistics (Harrison & Beck, 2006) are the most reliable and were used here. The latest BJS estimates available were for 2005 and were only for Whites, African Americans, and Hispanics.

<sup>8</sup> The states contacted regarding recidivism data represented an informal sample based on region, population size, and incarceration rates. For each state, inquiries were made with the Attorney General and the Department of Corrections.

## RECIDIVISM

Racial and ethnic rates of recidivism are a function not only of rates of involvement in the justice system but also of factors that can impact the likelihood of probation and parole failures and new offenses, including reentry programming and family, community, and cultural support structures (Laub & Sampson, 2001).

The most recent US DOJ recidivism study (US Dept of Justice, 2002) tracked prisoners from 15 states for 3 years following their release from custody in 1994. Race and ethnicity were measured separately. Of all 272,111 released prisoners, 67.5% were rearrested and 51.8% returned to prison within 3 years. African Americans were more likely to be arrested than Whites (72.9% vs. 62.7%) and reincarcerated (54.2% vs. 49.9%). Fewer Hispanics than non-Hispanics were rearrested (64.6% vs. 71.4%) and reincarcerated (51.9% vs. 57.3%).

Because no central source of more recent recidivism rates by race and ethnicity was available, NCCD contacted 13 states to assess what recidivism data they collected.<sup>8</sup> The reliability of the data presented here could not be assessed; the findings are meant as estimates of recidivism patterns in the states contacted.

Four states did not collect recidivism data by race or ethnicity: Arizona, California, Michigan, and New York. Texas provided the percentage of recidivists of each race/ethnicity, but rates of recidivism could not be calculated.

In the 8 states that provided race data, African Americans had higher rates of recidivism than the other races except in Alabama, where African American and White males had the same recidivism rates (29%) and African American women had a lower rate than White women (24% vs. 20%).

In 5 of 7 states that addressed ethnicity, Hispanics had less recidivism than the other racial or ethnic groups. In the 2 remaining states, the recidivism rates for Hispanics were equal to or slightly higher than those for Whites. (Table 13)

**Table 13: Recidivism in Selected States**

State	Year	Type	Percent Recidivated	Notes
Alabama	2006	Reincarceration	<p><b>Males:</b> White = 29% African American = 29%</p> <p><b>Females:</b> White = 24% African American = 20%</p>	<p>Tracked 2003 releases for 3 years. Races may include Hispanics.</p> <p>Source: Alabama Department of Corrections, 2008.</p>
Florida	2006	Reincarceration	<p><b>Males:</b> African American = 45%; Non-African American = 28% Hispanic = 32%; Non-Hispanic = 38%</p> <p><b>Females:</b> African American = 25%; Non-African American = 23% Hispanic = 20%; Non-Hispanic = 25%</p>	<p>Tracked 2001 releases (not due to technical violations) for 5 years. Races may include Hispanics.</p> <p>Source: Florida Department of Corrections, 2003.</p>
Georgia	2007	Reconviction	<p>White = 26% African American = 28% American Indian = 11%</p> <p>Hispanic = 11%; Non-Hispanic = 28%</p>	<p>Tracked 2004 releases for 3 years. Races may include Hispanics.</p> <p>Source: Georgia Department of Corrections, 2008.</p>
Illinois	2001	Reincarceration	<p>White = 38% African American = 48% Hispanic = 30%</p>	<p>Data reported reflect recidivism rates of inmates in 1998 after 3 years. Tracked releases in 1998 for 3 years. Includes technical violations.</p> <p>Source: Illinois Department of Corrections, 2002.</p>
Massachusetts	2002	<p>Reconviction</p> <p>Reincarceration</p>	<p>White = 44% African American = 45% Hispanic = 44% Asian = 29% American Indian = 29%</p> <p>White = 37% African American = 41% Hispanic = 39% Asian = 29% American Indian = 14%</p>	<p>Tracked 1999 releases for 3 years. Includes technical violations.</p> <p>Source: Massachusetts Department of Corrections, 2005.</p>
Oregon	2006	Reconviction	<p>White = 32% African American = 34% Hispanic = 19%</p>	<p>Tracked 2004 releases for 3 years.</p> <p>Source: Oregon Department of Corrections, 2007.</p>
Pennsylvania	2005	Reincarceration	<p>White = 43% African American = 49% Hispanic = 44%</p>	<p>Tracked 2002 releases for 3 years.</p> <p>Source: Pennsylvania Department of Corrections, 2006.</p>
Washington	2004	Reconviction	<p>White = 61% African American = 72% Hispanic = 49% Native American = 65% API = 51%</p>	<p>Recidivism defined as the percentage of inmates (of each race/ethnicity) convicted in 2004 who had a prior conviction.</p> <p>Source: State of Washington, 2005.</p>

Racial or ethnic disproportion tends to accumulate as youth are processed through the stages or decision points of the juvenile justice system. The stages of the system can include arrest, diversion or referral to court, detention, formal processing, disposition (which may include residential placement, probation, or release) and, in certain cases, transfer to adult court. Each of these steps involves a decision as police, prosecutors, public defenders, judges, and probation officers apply laws and policies to the circumstances of the case.

Youth are considered juvenile, and thus subject to the juvenile rather than the adult criminal system, based on a state's "age of jurisdiction"—the threshold age at which arrested youth are automatically processed as adults, ranging from 16 to 18 years. Youth under the age of jurisdiction can still be transferred (or waived) to adult court in certain cases, usually based on the seriousness of the offense and the youth's prior record. The "juvenile justice system" includes only those youth under the threshold age in each state and not otherwise transferred to the adult system. The Juvenile Justice Delinquency Prevention Act, which mandates states to explore the DMC issue and has certain protections for youth in the system, applies only to youth as defined by a particular state—therefore some youth under 18 are not covered by the Act. However, the US Supreme Court ruling forbidding the death penalty for youth applies to all youth under 18, regardless of a state's definition of juvenile.

### YOUTH ARRESTS

Among the almost 1.6 million arrests of youth under age 18 in 2006, only African American youth were arrested at a greater rate than White youth. (As with adults, the FBI does not report ethnicity with arrest data.) African American youth were arrested at 2.1 times the rate for White youth, Native Americans were arrested at an equal rate as that for White

youth, and Asian Pacific Islanders were arrested at a lower rate than that for White youth. The widest disparities between African Americans and Whites were for violent crimes, for which African American youth were arrested at 3.5 times the rate for White youth. For property, drug, and public order offenses, African American youth were arrested at about 2 times the rate for White youth. African American youth were arrested for murder or nonnegligent manslaughter at 7 times and for robbery at 10 times the rates for White youth. (Table 14)

### YOUTH IN DETENTION

Detention awaiting adjudication or placement (typically in a "juvenile hall" setting) is meant for the most serious or violent offenders, but in fact most youth in detention in the US are there for nonviolent, minor offenses such as property, public disorder or status offenses, or technical probation violations. Although some youth do need to be held in such settings, detaining youth unnecessarily costs taxpayers more without increasing community safety, and harms the youth. Table 15 shows that, in 2006, detention rates for African Americans were over 5 times, Hispanics over 2 times, and Native Americans over 3 times those for Whites. The disparities are highest for violent, drug, and public order offenses.

Even after controlling for severity of offense and other factors, detained youth of color versus those held in community settings or returned home are more likely than Whites to have their mental health, education, and employment adversely affected, more likely to be formally charged and receive harsher dispositions, and are more likely to recidivate after release. (Holman & Ziedenberg, 2006)



**Table 14: RRI of National Juvenile Arrests, 2006**

	White	African American	AIAN	API
<b>Total Juvenile Arrests</b>	<b>1,088,376</b>	<b>490,838</b>	<b>18,592</b>	<b>23,361</b>
<b>National RRI</b>	<b>1.0</b>	<b>2.1</b>	<b>0.9</b>	<b>0.4</b>
<b>Violent Crime</b>	<b>1.0</b>	<b>3.5</b>	<b>1.0</b>	<b>0.3</b>
Murder and nonnegligent manslaughter	1.0	7.1	0.9	0.5
Forcible rape	1.0	2.5	1.0	0.2
Robbery	1.0	10.2	0.8	0.6
Aggravated assault	1.0	3.5	1.0	0.4
Sex offenses (except forcible rape and prostitution)	1.0	1.8	0.5	0.2
Other assaults	1.0	3.1	1.0	0.3
<b>Property Crime</b>	<b>1.0</b>	<b>2.0</b>	<b>0.8</b>	<b>0.4</b>
Burglary	1.0	2.2	0.9	0.3
Larceny-theft	1.0	2.0	0.9	0.5
Motor vehicle theft	1.0	3.8	1.1	0.6
Arson	1.0	1.1	0.6	0.4
Forgery and counterfeiting	1.0	1.5	0.6	0.3
Fraud	1.0	2.5	0.5	0.3
Embezzlement	1.0	2.9	0.5	0.4
Stolen property; buying, receiving, possessing	1.0	3.5	0.8	0.4
Vandalism	1.0	1.1	0.7	0.3
<b>Drug</b>	<b>1.0</b>	<b>2.1</b>	<b>0.6</b>	<b>0.2</b>
<b>Public Order</b>	<b>1.0</b>	<b>1.7</b>	<b>1.2</b>	<b>0.2</b>
<b>Other</b>	<b>1.0</b>	<b>1.9</b>	<b>0.9</b>	<b>0.5</b>

Source: Crime in the United States, FBI, 2006.

**Table 15: RRI of Detained Juveniles by Offense Type, 2006**

	White	African American	Hispanic	AIAN	API
<b>Total Number Detained</b>	<b>8,167</b>	<b>11,089</b>	<b>5,993</b>	<b>513</b>	<b>367</b>
<b>National RRI</b>	<b>1.0</b>	<b>5.3</b>	<b>2.4</b>	<b>3.5</b>	<b>0.6</b>
Person	1.0	7.3	2.8	3.3	0.8
Property	1.0	4.7	2.2	3.4	0.7
Drug	1.0	6.7	3.0	3.0	0.7
Public order	1.0	6.5	2.8	3.0	0.5
Technical violation	1.0	4.1	2.4	3.8	0.4
Status offense	1.0	3.0	0.5	7.0	0.5

Note: Detained include those held awaiting a court hearing, adjudication, disposition, or placement.

Source: Sickmund, Sladky, & Kang, 2008.

## YOUTH IN RESIDENTIAL PLACEMENT

Residential placement is the most serious and, to the life of a youth, disruptive disposition the juvenile court imposes for delinquency. Among the 93,000 youth in residential placement nationwide in 2006, only Asian Pacific Islanders were represented at a lower rate than that for Whites. For youth in residential placement, rates for African American youth were 4.5 times those for Whites, rates for Hispanic youth 1.9 times those for Whites, and rates for Native American youth 3.2 times those for Whites. (Table 16)

Every state and the District of Columbia had higher rates of residential placement for African American youth than those for White youth. The states with the widest disparities between White and African American youth (with African American rates at least 9 times those for Whites) were Connecticut, Minnesota, New Hampshire, New Jersey, Pennsylvania, Rhode Island, Utah, and Wyoming.

Forty states and the District of Columbia had higher rates of residential placement for Hispanic youth than for White youth. The states with the widest disparities between White and Hispanic youth (with Hispanic rates at least 4 times those for Whites) were Connecticut, Hawaii, Massachusetts, Pennsylvania, and Vermont.

Thirty-three states had higher rates of residential placement for Native American youth than for White youth. The states with the widest disparities between White and Native American youth (with Native American rates at least 9 times those for Whites) were Illinois, Minnesota, New Jersey, and Rhode Island.

Eight states and the District of Columbia had higher rates of residential placement for Asian Pacific Islander youth than for White youth. Hawaii, Rhode Island, and South Dakota had residential placement rates for Asian Pacific Islanders over 2 times those for Whites.

**Table 16: RRI of Youth in Residential Placement, 2006**

	White	African American	Hispanic	AIAN	API
<b>Total Number</b>	<b>32,495</b>	<b>37,337</b>	<b>19,027</b>	<b>1,828</b>	<b>1,155</b>
<b>National RRI</b>	<b>1.0</b>	<b>4.5</b>	<b>1.9</b>	<b>3.2</b>	<b>0.5</b>
Alabama	1.0	2.9	0.9	0.5	0.0
Alaska	1.0	3.5	0.7	3.3	1.2
Arizona	1.0	3.6	1.5	1.6	0.2
Arkansas	1.0	3.5	1.1	0.0	1.0
California	1.0	7.8	2.4	2.5	0.7
Colorado	1.0	4.3	1.9	2.0	0.5
Connecticut	1.0	11.0	6.0	6.1	0.0
Delaware	1.0	8.7	2.8	0.0	0.0
District of Columbia	1.0	4.0	1.4	0.0	1.9
Florida	1.0	3.4	0.5	0.7	0.2
Georgia	1.0	4.4	1.4	0.0	0.1
Hawaii	1.0	3.6	6.0	0.0	2.4
Idaho	1.0	1.3	1.1	3.0	0.6
Illinois	1.0	4.4	1.7	11.8	0.6
Indiana	1.0	3.4	1.3	0.6	0.1
Iowa	1.0	6.0	1.4	5.1	0.9
Kansas	1.0	5.9	2.7	2.1	0.9
Kentucky	1.0	4.2	1.0	0.0	0.3
Louisiana	1.0	4.0	0.6	1.6	0.4
Maine	1.0	3.1	0.0	1.8	1.4
Maryland	1.0	4.9	1.6	0.0	0.3
Massachusetts	1.0	7.4	5.0	2.0	1.4
Michigan	1.0	4.0	1.3	2.6	0.2
Minnesota	1.0	9.0	1.8	13.8	1.8
Mississippi	1.0	3.5	0.0	0.0	0.0
Missouri	1.0	5.2	1.5	0.7	0.6
Montana	1.0	5.6	1.8	2.8	0.0
Nebraska	1.0	6.2	2.4	7.6	0.4
Nevada	1.0	3.7	1.1	2.1	0.4
New Hampshire	1.0	10.0	3.2	6.5	0.0
New Jersey	1.0	15.3	3.8	9.6	0.2
New Mexico	1.0	6.6	3.4	1.7	0.0
New York	1.0	6.4	2.5	1.4	0.3
North Carolina	1.0	4.3	1.6	2.0	0.6
North Dakota	1.0	1.3	1.6	5.8	0.0
Ohio	1.0	5.3	1.3	0.0	0.2
Oklahoma	1.0	5.1	1.4	1.6	0.9
Oregon	1.0	3.9	1.1	3.7	0.2
Pennsylvania	1.0	9.0	4.1	1.9	0.7
Rhode Island	1.0	9.4	2.0	10.3	2.2
South Carolina	1.0	3.8	0.6	0.0	0.0
South Dakota	1.0	8.2	3.1	5.1	2.2
Tennessee	1.0	3.5	1.1	1.2	0.0
Texas	1.0	4.3	1.7	0.7	0.1
Utah	1.0	10.1	2.6	2.2	1.0
Vermont	1.0	5.4	8.6	0.0	0.0
Virginia	1.0	5.8	2.2	1.0	0.6
Washington	1.0	4.3	1.5	3.3	0.5
West Virginia	1.0	4.4	1.0	0.0	0.0
Wisconsin	1.0	8.6	1.0	5.6	1.2
Wyoming	1.0	9.9	2.3	3.8	0.0

Note: Includes detained, committed, and diverted youth in residential placement.

Source: Sickmund, Sladky, & Kang, 2008.

## CUMULATIVE DMC IN THE JUVENILE SYSTEM

Data available from federal sources facilitate reliable tracking of the changing racial proportions through progressively deeper stages of the juvenile system. (Unfortunately, data collected for the various stages of the adult system come from different sources, making similar tracking more difficult.) This section explores the cumulative disproportion, showing that disparities at early stages become more pronounced as youth become more deeply involved in the system. The next section explores the independent disparity at each stage of the juvenile system.

Figure 4 shows that White youth represent 78% of the total US population, whereas youth of color represent just over 22%. If there were no disproportionate representation in the juvenile justice system, the proportions of White youth and youth of color at each stage of the juvenile justice system would remain about 78% and 22%, respectively. However, disparities are immediately evident at the earliest stages of the system, as representation among arrested youth drops to 68% for Whites but rises to 32% for African Americans. The disparities then progressively increase as youth move deeper into the system. The most punitive responses to delinquency include detention awaiting adjudication, a sentence of residential placement, or transfer to the adult system. As the figure shows, at these deepest stages of the system, the proportion of Whites and youth of color begin to converge. The proportion of White youth waived to the adult system is just 75% of their proportion in the general population, while the proportion of African American youth waived is 200% of their proportion in the general population.

## CHANGE AT EACH STAGE OF THE SYSTEM

A second way of looking at these data provides more information about where disparity arises. By assessing the change in the relative rate index from one stage of the system to the next—using the number of youth at the previous stage as the denominator in the calculation—one can see which stages of the system are more or less problematic. Some decision points in the system introduce more disproportion, while other decision points reduce or do not change the overall differences in representation.

Table 17 shows the relative rate of representation for the racial groups. African Americans have the most consistent and largest disparity compared to Whites. The Asian Pacific Islander group has the least overrepresentation at most stages of the system compared to Whites.

African American youth were arrested at over 2 times the arrest rate for Whites and were held in detention at a 40% higher rate than that for Whites. Rates were 30% and 10% *lower* than rates for Whites with regard to receiving the comparatively lighter or youth-friendly measures of diversion and probation. However, African American youth had only slightly higher rates than White youth for sentencing to residential placement or waiver to the adult system.

Native American youth, relative to White youth, are represented fairly equally at most stages of the system, but there is a pattern of disparity. At the points of arrest and formal processing, there is no disproportion, meaning Native Americans and Whites were equally likely to be arrested and, once referred, to be petitioned (which is similar to indictment in the adult system). But Native American youth had rates 50% higher than those for Whites for receiving the most punitive measures, namely, to be placed out of home after adjudication or waived to the adult criminal justice system.

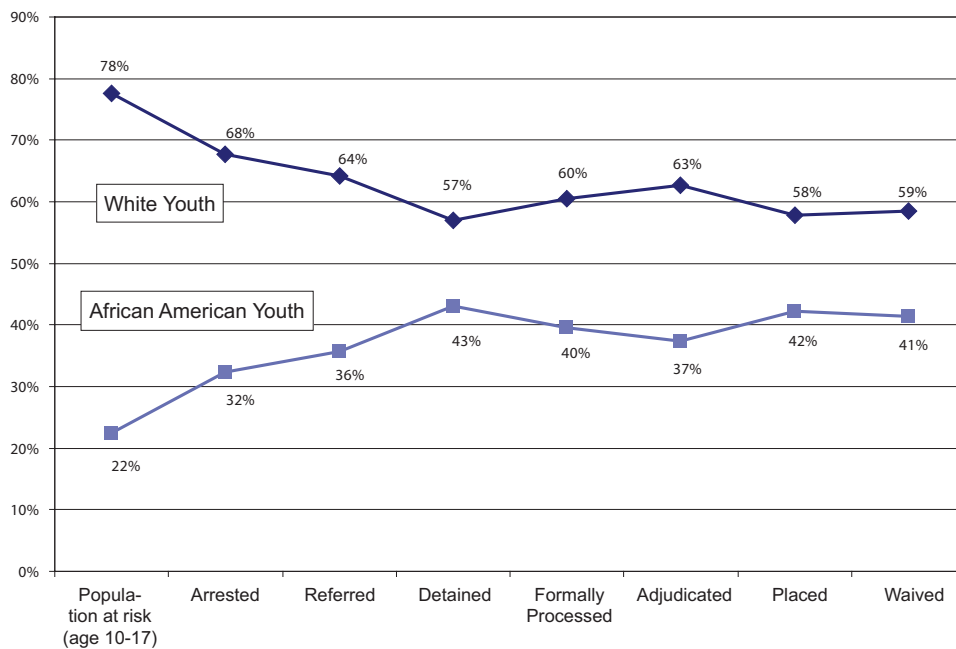
The table does not show offense categories, but similar patterns of disproportionate representation of youth of color remain when separately assessing each type of offense—violent, property, drug, or public disorder. Disparities exist at each stage of the system, regardless of the type of offense for which the youth is arrested, referred, or adjudicated.

**Table 17: RRI at Each Stage of the System, 2005**

	White	African American	AIAN	API
Arrests per youth in population	1.0	2.1	1.1	0.3
Referrals per arrest	1.0	1.2	1.1	1.2
Diversions per referral	1.0	0.7	0.9	0.8
Detentions per referral	1.0	1.4	1.1	1.1
Petitions (formal processing) per referral	1.0	1.2	1.0	1.1
Adjudications per petition	1.0	0.9	1.1	1.0
Probation per adjudication	1.0	0.9	1.0	1.1
Placement per adjudication	1.0	1.2	1.2	1.0
Waiver per petition	1.0	1.1	1.9	0.6

Source: Puzzanchera & Adams, 2008.

**Figure 4: Proportions of Youth at Key System Stages, 2005**



Source: Puzzanchera & Adams, 2008.

## YOUTH IN ADULT PRISON

The most punitive response to juvenile crime is processing in the adult system and incarceration in adult prison.<sup>9</sup> Among the states reporting data in 2003, the rate of African American youth admitted to adult prison was over 7 times higher than that for White youth. Hispanic youth were admitted to adult prison at 1.4 times the rate for White youth, and Native American youth were admitted at 2.5 times the rate for White youth. Asian Pacific Islander youth were admitted to adult prison at rates lower than the rates for White youth, except for Minnesota, Mississippi, and Washington. (Table 18)

For states reporting any new admissions of African American youth into adult state prison, the range of relative rate indices was 1.7 in Alaska to 28.4 in California. Other states with very high rates for African American youth compared to White youth in adult prison (RRIs over 10.0) were Colorado, Iowa, Maryland, Minnesota, New Jersey, New York, Pennsylvania, and Wisconsin. Three states reported no African American youth admitted to adult prison.

Of the 31 states reporting data, 18 reported higher rates of admission to adult prison for Hispanic versus White youth. States with the highest disparity for Hispanic youth (RRIs above 5.0) were California, Minnesota, North Dakota, Pennsylvania, and Wisconsin. Five states reported rates of admission for Hispanic youth equal to or lower than rates for White youth. Eight states reported no Hispanic youth admitted to adult prison in 2003.

Most participating states reported no Native American youth and no Asian Pacific Islander youth admitted to adult prisons. California, Michigan, Minnesota, Missouri, North Carolina, Oklahoma, Washington, and Wisconsin had Native American youth admission rates of at least 2 times those for White youth. Minnesota, Mississippi, and Wisconsin had API youth admission rates of over 3 times those for White youth.

### **The Juvenile Justice and Delinquency Prevention Act**

The Juvenile Justice and Delinquency Prevention Act, originally passed in 1974, prevents youth under age 18 from being held in adult facilities unless the state defines “adult” as younger than 18 or if the youth is awaiting trial for or was convicted of a felony. In certain circumstances for which the Act makes exceptions, such as for short periods in rural areas or while awaiting a court appearance, juvenile inmates are to be kept completely separate from adults. (Snyder & Sickmund, 2006)

<sup>9</sup> Some youth convicted in adult court serve their sentence in juvenile facilities.

**Table 18: RRI of New Admissions of Youth to Adult Prison in Certain States, 2003**

	White	African American	Hispanic	AIAN	API
<b>Total Number</b>	<b>972</b>	<b>2,046</b>	<b>469</b>	<b>36</b>	<b>29</b>
<b>Total RRI</b>	<b>1.0</b>	<b>7.2</b>	<b>1.4</b>	<b>2.5</b>	<b>0.4</b>
Alabama	1.0	3.9	0.0	0.0	0.0
Alaska	1.0	1.7	0.7	0.2	0.0
California	1.0	28.4	5.6	7.6	0.7
Colorado	1.0	12.8	4.8	0.0	0.0
Florida	1.0	7.4	0.8	0.0	0.0
Georgia	1.0	6.9	2.0	0.0	0.0
Illinois	1.0	7.0	1.4	0.0	0.0
Iowa	1.0	22.5	0.0	0.0	0.0
Louisiana	1.0	6.1	0.0	0.0	0.0
Maryland	1.0	15.8	0.0	0.0	0.0
Michigan	1.0	5.0	0.6	2.8	0.9
Minnesota	1.0	12.1	7.4	79.8	7.3
Mississippi	1.0	4.9	0.0	0.0	11.1
Missouri	1.0	1.9	2.0	2.5	0.0
Nebraska	1.0	3.4	1.1	0.0	0.0
Nevada	1.0	9.5	1.4	0.0	0.0
New Hampshire	1.0	0.0	0.0	0.0	0.0
New Jersey	1.0	12.9	2.5	0.0	0.0
New York	1.0	11.1	4.2	0.0	0.4
North Carolina	1.0	4.5	1.2	2.4	0.5
North Dakota	1.0	0.0	18.9	0.0	0.0
Oklahoma	1.0	6.9	1.8	2.0	0.0
Oregon	1.0	4.9	0.1	0.6	0.3
Pennsylvania	1.0	19.9	8.1	0.0	0.0
South Carolina	1.0	4.6	0.0	0.0	0.0
Tennessee	1.0	9.5	2.4	0.0	0.0
Texas	1.0	7.2	2.1	0.0	0.0
Utah	1.0	0.0	0.0	0.0	0.0
Virginia	1.0	6.1	1.0	0.0	0.0
Washington	1.0	3.2	1.8	4.6	1.0
Wisconsin	1.0	21.2	7.4	5.3	3.2

Note: Totals are for the 35 states that submitted complete data for 2003; Kentucky, Hawaii, South Dakota, and West Virginia reported no youth in adult prisons.

Source: National Corrections Reporting Program, 2003.

## CONCLUSION

People of color are overrepresented in both the adult criminal justice and juvenile justice systems. They are more likely to be arrested and prosecuted, and are more likely to be subject to harsher penalties once convicted. Although the data reported here are alarming in themselves, shortcomings in the data collection efforts of states and especially the federal government most likely obscure the true extent of DMC. Some of the measures that are necessary to provide a more complete description of DMC—an essential step toward understanding and addressing the problem—include tracking system-involved persons from first contact with law enforcement through each stage of the system including court processing, sentencing, and release, sampling not only felony but less serious offenders, and linking legal variables such as offense history with extralegal variables including socioeconomic and community factors. It is also essential that all data be disaggregated by both race and ethnicity. Asian Pacific Islander groups (Chinese American, Cambodian American, Filipino American, etc.) should also be disaggregated. Race, ethnicity, and other culturally relevant variables related to representation among those involved in the system due to immigration or terrorism policies and procedures should also be consistently collected and made available for analysis.

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