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## **Disproportionate Minority Contact in the Land of Enchantment: Juvenile Justice Disparities as a Reflection of White-Over-Color Ascendancy**

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*This article provides an overview of disproportionate minority contact in the state of New Mexico by focusing on the Office of Juvenile Justice and Delinquency Prevention's identification phase. Statewide Relative Rate Index data of 9 decision points in the juvenile justice system were used to explore patterns of disparity for 7 years (2002–2008). New Mexico is 1 of 4 states considered to have a proportion of racial and ethnic minorities that surpasses the non-Hispanic White majority. Resident identities have been shaped by more than 400 years of history with several countries, presenting an opportunity to explore critical race theory's tenet of White-over-color ascendancy. Similar to in other states, Blacks and Hispanics were overrepresented in the juvenile justice system. Native Americans encountered mixed levels of over- and underrepresentation, whereas Whites were underrepresented in all but 1 decision point. According to these data, the numerically smaller White population continues to benefit from both psychic and material advantage in the Land of Enchantment.*

**KEYTERMS** *Disproportionate minority contact, juvenile justice, revisionist history, minority delinquentization, White diversion, majority minority*

The rapidly increasing number of studies focusing on disproportionate minority contact (DMC) in the juvenile justice system have concentrated primarily on disparities between Blacks and Whites, whereas comparative insight

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into other racial and ethnic groups has been less available to draw conclusions (Piquero, 2008; Pope, Lovell, & Hsia, 2002). New Mexico, the Land of Enchantment, is a unique state for inclusion in the DMC literature because of its long history of different cultures and its higher proportion of Hispanic and Native American populations.<sup>1</sup> According to the 2010 U.S. Census, non-Hispanic Whites were less than 50% of the population, making New Mexico a majority minority state.<sup>2</sup> This demographic characteristic was shared with only three other states in the country: California, Hawaii, and Texas. New Mexico offers an opportunity to explore critical race theory's tenet of White-over-color ascendancy. According to Delgado and Stefancic (2001), the tenet of White-over-color ascendancy argues that racism is difficult to cure or address because it provides both psychic and material benefits. Whites in New Mexico are a numerical minority; however, this article explores whether they receive preferential treatment within the juvenile justice system. In order to explore issues of minority and majority we provide a revisionist history of the state to help set the context for contemporary disparities.

We ask whether DMC exists in New Mexico and then explore how it has changed for Hispanics, Native Americans, and Blacks during a 7-year period.<sup>3</sup> This exploratory analysis is then utilized to add to the theoretical discussion of White-over-color ascendancy and how numerical population differences are not enough to destabilize the institution of racism within society.

## DMC

The Office of Juvenile Justice and Delinquency Prevention (OJJDP) DMC website states that in 1988, disproportionate minority confinement was brought to the attention of Congress in an annual report by the Coalition for Juvenile Justice. Congress made an amendment to the Juvenile Justice and Delinquency Prevention Act of 1974 requiring states to address DMC. In 1991, five states (Arizona, Florida, Iowa, North Carolina, and Oregon) initiated studies. In 2002, DMC was conceptually broadened beyond "confinement" to include an expansive discussion of "contact" that included nine decision points (ranging from initial referral and continuing to referrals to adult court). In order to reduce DMC at each level, the OJJDP began providing research funding, training, technical assistance, support catalogues, and a website to share data for all states willing to participate. Funded grants required researchers to follow the DMC reduction cycle, which involved five phases: (a) identification, (b) assessment and diagnosis, (c) intervention, (d) evaluation, and (e) monitoring.

According to the OJJDP DMC Technical Assistance Manual (2009: 1–1), there were three reasons for focusing on identification: (a) to describe the extent to which minority youth were overrepresented, (b) to begin to

describe the nature of that overrepresentation by evaluating decision points, and (c) to create a foundation for the ongoing measurement of DMC. The method used for the identification phase was the Relative Rate Index (RRI), which compares the relative volume activity at each stage and compares it to White youth (Benekos, Merlo, & Puzanchera, 2011). White youth were primarily chosen as the reference group or majority group based on their greater numerical proportion of the population, and thus minorities were more often categorized as the following groups: Black, Asian American, Native Hawaiian and Pacific Islanders, Native Alaskan, and American Indian. The reference group can be changed in situations in which the racial minority may be the statistical majority (DMC Technical Assistance Manual, 2009). The RRI was considered a direct measure of disproportionality and has been used nationwide by state juvenile justice systems to identify DMC and take steps to reduce it (Benekos et al., 2011).

Pope and colleagues (Pope & Feyerherm, 1990; Pope et al., 2002) have extensively outlined the research literature in two different articles. In the first article, Pope and Feyerherm (1990) reviewed 46 research articles published from January 1969 to February of 1989. Two thirds of these studies found that youth racial status made a difference in treatment beyond legal characteristics. In the second article, Pope et al. (2002) analyzed 34 research articles published from 1989 through 2001, finding empirical support for race effects, either direct or indirect, and most often mixed. The racial disparities were considered to result from one of two mechanisms: (a) differential treatment/processing/discrimination or (b) differential offending. Piquero (2008) argued for abandoning this empirical quest and instead focusing on understanding the processes within each of these explanations. The National Council on Crime and Delinquency (2007) found that youth of color were disproportionately found at every stage of the juvenile justice system, from arrest to sentencing, with Black youth being especially overrepresented. Kempf-Leonard (2007) and Piquero both addressed the complexity of addressing DMC despite an increasing number of studies devoted to the topic. Many scholars have emphasized the cumulative effect that begins during the early stages of decision making and then continues to build like a downhill snowball toward later decision points. These patterns led Bishop and Frazier (1996) to argue the systematic impact of institutional racism in maintaining racial discrimination and inequality in the juvenile justice system, a theoretical view often described as the differential treatment/processing/discrimination thesis.

Despite the focus of DMC researchers on issues of race and ethnicity, most of these studies provide little historical context or attempts to merge the discussion in the ethnic studies and sociological literature of these group experiences. We emphasize the inclusion of a revisionist history in order to understand contemporary DMC disparities in the juvenile justice system. The state of New Mexico is used to elaborate on the importance of this notion.

## THE BACKGROUND OF NEW MEXICO: A REVISIONIST HISTORY

Critical race theory has argued on behalf of research that allows events to be described from a minority experience. The tenet of White-over-color ascendancy is important in this effort because it attempts to understand the reasons why racism is so difficult to eradicate. We were left with a theoretical gap in knowledge after analyzing Family Automated Client Tracking System (FACTS) data because the data set did not explore the social conditions that established race relations within the state. Thus, combining both contemporary and historical data offers topics for future study in order to move toward not only identifying DMC but also developing solutions.

Race relations in New Mexico have been shaped by double colonization (Gómez, 2007). The socially constructed landscape of race was first created from Spanish colonization and then from U.S. westward expansion. Several authors have outlined the historical complexity of the state (Gómez, 2007; Gonzales, 2001; Gutiérrez, 1991; Montgomery, 2002; Nieto-Phillips, 2004; Rosenbaum, 1981/1998; White, 1991). For the Spanish, conquest primarily entailed spreading Catholicism and attaining precious resources from the area. Gutiérrez (1991) described how the primarily male Spanish conquistadors encountered a variety of pueblo and nomadic Indians. Miscegenation produced a mixture of ancestral backgrounds, with individuals claiming Spanish identity at the top of this hierarchy. The early entrance of Spanish explorers resulted in the formation of the first town, San Gabriel de los Españoles, in 1598, 12 years before Jamestown in 1610. In other parts of the state, the Spanish encountered the residents of the Acoma pueblo, which is the longest inhabited town in the United States. The early Christianization of the Native Americans brought conflict, and more than 800 Acoma men, women, and children were murdered in 1599. Despite the Spaniards' use of violence in order to seize control of the colony, the indigenous populations resisted domination. Montgomery (2002) argued that during the Spanish colonial era, Hispano society remained weak and precarious. White (1991) agreed, explaining how nomadic Native Americans produced fear and threatened the ability of the Spaniards to safely occupy or control the land.

Gómez (2007) described how the colonial experience from Spain brought about a five-tier racial hierarchy. At the top of the hierarchy were a very small number of residents descending from Spain. This small population intermarried to maintain land and economic control. The second group was known as *mulato* or *mestizo* (mixed Spanish and Indian ancestry). This was the majority of the population, but most of these Spanish-surnamed families attempted to claim more Spanish than Indian blood. The third group in this form of stratification consisted of Native Americans who were kept as servants within elite Spanish homes. Fourth were pueblo Indians. Their culture, civilization, and community had been the most stable and long-lasting before the arrival of the Spanish (Acoma and Taos pueblos are included in this

category). Fifth were other nomadic tribes, including the Apaches, Comanches, Navajos, and Utes.

The Hispano lifestyle in New Mexico was a culture largely described as *ricos* and *peones* with no middle class during the early colonization by the United States. The agrarian and Catholic ways of life quickly changed with the railroad to commercial, technological, and industrial emphases. Residents of New Mexico quickly encountered a new group of foreigners claiming superiority and racial purity: Anglos—English-speaking Protestants of primarily northern European ancestry. The small number of Hispano families and the slowly increasing Anglos came to dominate the state. The original small number of Anglos attempted to coexist with the Spanish elite by living, marrying, and working together. This produced a society in which racial power sharing was evident. The numerical minority of Anglos existed in a social world in which the Spanish language, jury involvement, and police representation of Hispanics was fully evident. This standard quickly evaporated as a new group of Anglos settled in the area and lived separately. They saw both Mexicans and those proclaiming Spanish identity as the same: non-White (Gómez, 2007; Montgomery, 2002; Nieto-Phillips, 2004). When the United States acquired the entire Southwest through war and money, the Treaty of Guadalupe Hidalgo granted the mestizo population a White identity, but this did not result in equal treatment (Gómez, 2007; Montgomery, 2002; Nieto-Phillips, 2004). Nativist fears of Mexican inferiority prevented the state of New Mexico from joining the union as a state until 1912. Many Anglos feared that non-Whites would dominate the state numerically and culturally. Most authors argue that since 1900 Anglos have been in control of the state of New Mexico despite being a numerical minority. As tourism became identified as New Mexico's industry of the future, the title of "Land of Enchantment" was adopted in 1937 (Montgomery, 2002). For well over 400 years, a tricultural relationship developed between Spanish, indigenous Native American, and Anglo identities. These racialized histories existed in a state that at all costs did not want to discuss racial inequality for fear that the majority population (Hispanics and Native Americans) would no longer tolerate White Anglo domination (Montgomery, 2002).

In the 100 years since New Mexico became a state, the remnants of the past have played a role in shaping local conceptions of race and ethnicity. Contemporary juvenile justice shares its context and structural history with this foundation. In order to correct these patterns, some individuals in New Mexico began expressing interest in DMC in 1994 when a report from New Mexico Highlands University was submitted to the Governor's Office Commission on Civil Rights. There were several concerns of overrepresentation in confinement at the time. In 1998 there was encouragement to create a uniform collection of data or a structured decision tool. The data revealing disparity for the state of New Mexico led to the creation of the Blue Ribbon Panel, which had its first meeting in November 2001. This panel found

similar patterns of overrepresentation. A review of the RRI in 2005 and the creation of the Technical Assistance and Resource Center occurred in 2008. This article is the first publication using these data, and future studies will build off this article by using both qualitative and quantitative methodologies to analyze more extensively issues of inequality.

As stated earlier, this study began with the following research question: Does DMC exist in the state of New Mexico, and how does it vary for Hispanics, Native Americans, and Blacks compared to Whites during a 7-year period? The article focuses on the identification phase of DMC by using a statewide database that includes complete data for the entire state and each county from 2002 through 2008. These data cover 7 years, for a total of 509,574 cases separated into nine decision points. The longer time period reviewed and the complete number of decision points offers increased insight compared to other studies.

We begin this article by discussing the methods used in analyzing the data, the RRI, and demographic information. We then describe the RRI for all minorities—Hispanics, Native Americans, and Blacks—along with a short history of each racial and ethnic group. We conclude this study by offering additional theoretical analyses of population size and whether the White-over-color ascendancy tenet helps to explain DMC patterns. As non-Hispanic Whites are expected to become a numerical minority group after 2050, New Mexico serves as a possible model for what may occur in other states.

## RESEARCH METHODOLOGY

This study uses official statistics obtained through the FACTS for the years 2002 to 2008. The data were collected and housed in the state of New Mexico by the state agency Children Youth and Families Department (CYFD). The annual sets include data on 509,574 cases separated over nine decision points. Using the RRI formula, we compared White, Hispanic, Native American, and Black youth. Data were made available for each of the 33 counties in New Mexico, for the 13 judicial districts, as well as for the state as a whole. We conducted a state-level analysis of the FACTS data in an effort to identify geographical areas and decision points in which minority youth experience DMC.

The nine decision points for which data were available included arrest, referral to juvenile court, cases diverted, cases involving secure detention, cases petitioned, delinquent findings, probation, cases resulting in secure confinement in juvenile corrections, and cases transferred to adult court. The data focused on the juvenile population aged 10 to 17 years old. In the state of New Mexico, this population represented an average of 235,118 residents over the 7 years reviewed. The proportion of racial and ethnic minority youth

increased from 65% in 2002 to 67% in 2008. Approximately 50% of all youth were Hispanic, followed by 34% White, 13% Native American, and 2% Black.

The RRI in regard to DMC is a measure intended to determine significant differences in how youth of different racial and ethnic backgrounds experience the juvenile justice system at nine major decision points. The decision points were chosen by state officials because these data were collected on a consistent basis in the FACTS system—they also aligned with the recommended decision points determined by the OJJDP. The process started by identifying the youth population in a particular county, district, state, or any other geographical area. Local census data were the most commonly used measure for determining a base rate of the population. Rates were then calculated with the same formula for conformity in comparing across groups.<sup>4</sup> The minority youth rates were then divided by the White youth rate to arrive at the RRI.

The National Center for Juvenile Justice (2012) and the OJJDP provide several guidelines for calculating the RRI. In order for rates to be calculated, the various minority youth groups being studied must meet the 1% threshold, meaning they consist of at least 1% of the youth population at risk (in our case, starting with those youth aged 10 to 17 in the state population). An RRI greater than 1 on the scale means that minority youth experience that specific decision point at a higher rate than White youth (Benekos et al., 2011). For the nine decision points, a rate higher than 1 involves a more unfortunate experience with the juvenile justice system, with the exception of diversion. Diversion from the system is often viewed as a positive step to keep youth from experiencing tougher sanctions of the system and to enable them to utilize alternative community resources. It is important to note that after the first decision point, with the exception of Decision Point 4 (case diverted), RRI rates of or near 1 simply indicate that DMC was not exacerbated—DMC still exists. Statistical significance can be found in RRI rates above 1 that have a large enough population (1% threshold). Finally, it is important to note that the data used for the state of New Mexico consist of incidents as the unit of analysis, not individual youth.

## RESULTS

We studied four racial and ethnic groups: Whites, Latinos, Native Americans, and Blacks.<sup>5</sup> A total of 509,574 incidents were separated into nine decision points over a period of 7 years. Arrests accounted for the greatest 7-year average of 26,087 per year, whereas cases transferred to adult court had the lowest mean (average of 22 incidents per year). The RRI remained relatively consistent with the exception of cases resulting in secure confinement and cases transferred to adult court, which were more impacted by the smaller number of youths who received that sanction (see Table 1).



**TABLE 1** Seven-Year Averages (2002–2008)

Decision Point	White	Hispanic	Native American	Black	All Minorities
Population at risk (age 10–17)	80,319	117,165	29,000	4,860	154,799
Juvenile arrests	6,300	16,301	1,799	791	19,402
Referrals to juvenile court	2,522	7,483	648	446	8,827
Cases diverted	3,768	8,796	1,158	346	10,543
Cases involving secure detention	807	2,309	446	182	3,044
Cases petitioned	1,585	4,829	413	297	5,675
Cases resulting in delinquent findings	1,017	3,160	305	172	3,727
Cases resulting in probation	922	2,781	257	145	3,263
Cases resulting in confinement	54	224	21.86	15.43	267
Cases transferred to adult court	4	15.86	.43	1.29	17.71

Source. Family Automated Client Tracking System.

The 33 counties in New Mexico vary in terms of demographics, density, history, and population. Some counties had higher concentrations of Blacks, Hispanics, Native Americans, and Whites. Most counties in New Mexico were rural, and a small number were urban. Bernalillo was the largest county, with 65,000 youth between the ages of 10 to 17; this county includes the city of Albuquerque. Harding was the smallest county, with only 76 youth. A previous study of juvenile justice in New Mexico found that rural communities experienced an overrepresentation of poor, Hispanic youth who lived in nonhomogenous towns and experienced high levels of social control (Bond-Maupin & Maupin, 1998). These findings directly contrasted with much of the literature that has focused on the ideal version of rural communities and how problems were primarily perceived to occur in urban locations.

### White Diversion Versus Minority Delinquentization

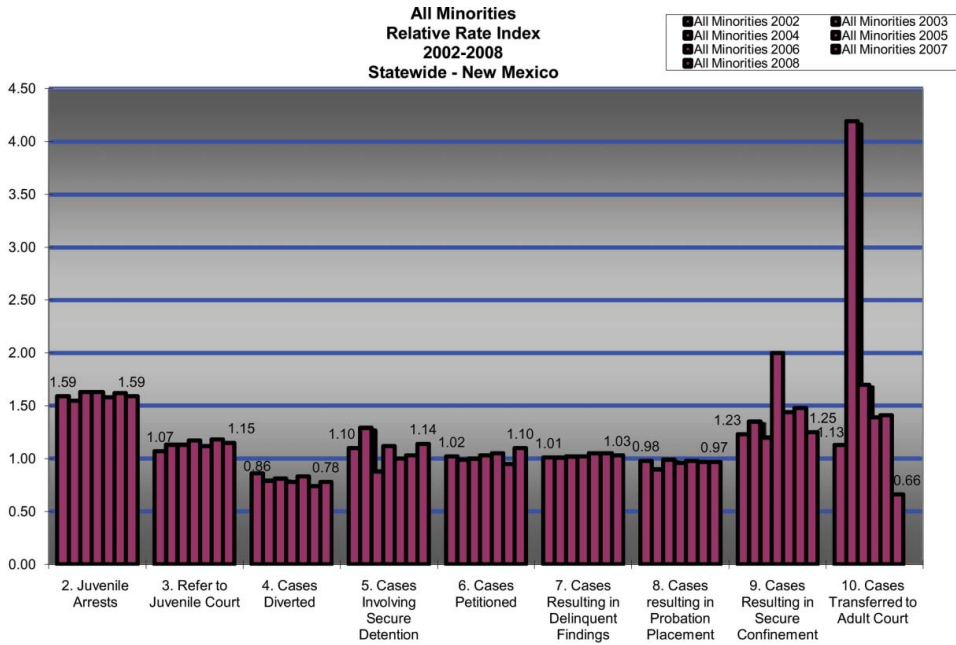
For the 7 years reviewed in this article (2002–2008), non-Hispanic White youth in New Mexico were underrepresented in all areas of the juvenile justice system compared to their proportion of the population within the state. During this time period, 34% of the population between the ages of 10 to 17 was non-Hispanic White, yet only 23% of all cases were ( $n = 118,854$ ). On average, White youth accounted for 24% of all arrests ( $n = 6,300$ ), 22% of referrals to juvenile court, 26% of cases diverted (26%), 20% of cases involving secure detention, 22% of cases in which charges were filed, 21% of delinquent findings, and 22% of probation cases. This underrepresentation in the juvenile justice system was sharpened at the most serious points of cases resulting in secure confinement (17%) and transfers to adult court (18%), which included 28 cases over the 7-year period. White youth were consistently underrepresented at all points with the exception of diversion, where they were overrepresented; diversion is a decision point that keeps youth from entering further into the system.

According to the U.S. Census Bureau, non-Hispanic Whites live in each of the 33 counties in New Mexico and represent proportions of the population ranging from 7% to 70%. The three counties with the greatest proportion of non-Hispanic Whites were Los Alamos (81%), Catron (70%), and Lincoln (61%). Los Alamos had some of the highest median household incomes and lowest levels of poverty in the state, whereas Catron and Lincoln counties were worse off than state averages. Catron and Lincoln counties had the greatest levels of RRI overrepresentation at the point of arrest for Hispanics and Native Americans.

Minority youth in New Mexico made up the majority of individuals between the ages of 10 and 17 (average of 66%). There were a total of 383,366 cases or 75% of incidents handled during the 7-year period. Minority youth were consistently arrested at disproportionate rates over the 7 years studied (an average of 19,402 incidents per year). According to the RRI rate, they were 1.6 times more likely to be arrested and 1.14 times more likely to appear before a juvenile court judge than White youth. Minority youth were consistently underrepresented in cases diverted away from the juvenile justice system, with an RRI rate ranging from a high of 0.86 to a low of 0.74. They were less likely to have their cases diverted from the juvenile justice system. Moreover, 82% of cases that resulted in secure confinement were minority youth: an RRI rate of 1.4. A total of 124 minority youth had their cases transferred to adult court during this time frame (see Figure 1). The minority youth category lumps all non-Hispanic White youth together into one category, but looking at racial and ethnic differences resulted in more detailed insight and understanding.

Over the 7-year period analyzed (2002–2008), Hispanic youth averaged 50% of the population but 63% of all incidents handled within the juvenile justice system ( $n = 321,284$  cases). Hispanic youth were arrested at a 77% greater volume than White youth (1.77). Cases involving juvenile court referrals demonstrated that Hispanic youth experienced a slightly higher rate, ranging from 1.09 in 2002 to 1.19 in 2005. Hispanic youth were less likely than White youth to have their cases diverted. This ensured that Hispanic youth encountered greater sanctions and advanced further into the system. Decision Points 9 and 10 demonstrated higher rates of secure confinement (69% of all cases) and cases transferred to adult court (72% of all cases). The RRI rate for Decision Point 10 peaked at 3.85 in 2004 and dropped dramatically to 0.68 in 2007—there were not enough cases to calculate an RRI for 2008 (see Table 2).

The Hispanic population in each county in New Mexico ranges from 12% to 88%. According to census data, only 10% of New Mexico residents are foreign born, of which 78% are from Latin America. The CYFD data cannot explain what proportion of youth who enter the juvenile justice system are Mexican nationals or are from other Latin American countries. The three counties with the greatest proportion of Hispanic residents were



**FIGURE 1** Relative Rate Index trends for all minority youth, 2002–2008. *Source:* Family Automated Client Tracking System (color figure available online).

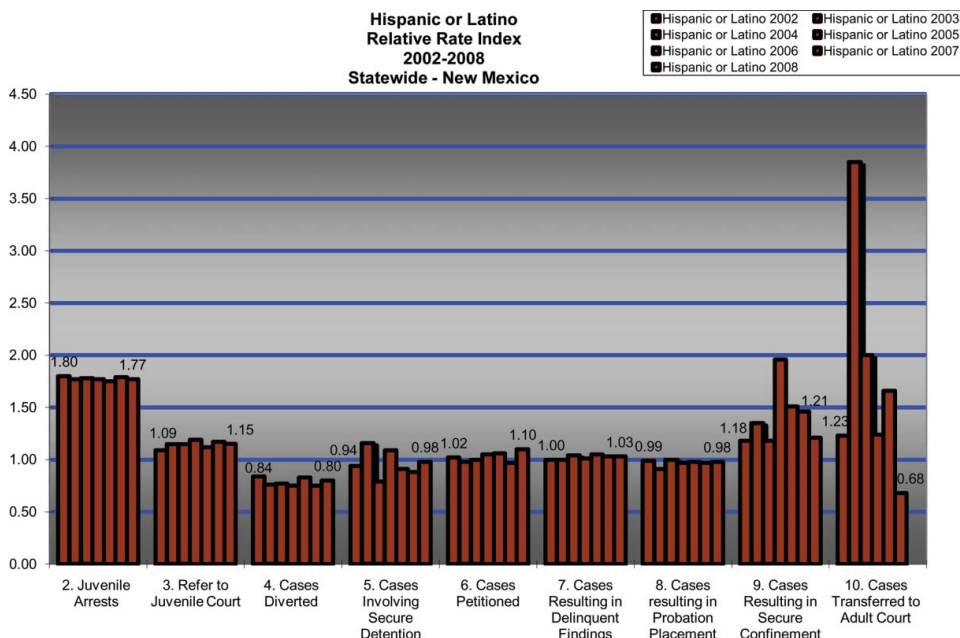
Guadalupe (88%), Mora (86%), and San Miguel (85%). According to the U.S. census, all three of these counties had lower median incomes and higher levels of poverty than the state average. These counties are located within the Upper Rio Grande Valley, which has been a central position for Hispanic control and history (Montgomery, 2002). Hispanics, especially those in northern New Mexico, have often attempted to distance themselves from possessing Mexican or Native American blood. Figure 2 shows the RRI trends for Hispanic youth for the years 2002 to 2008.

**TABLE 2** Seven-Year Averages for Hispanic Youth (2002–2008)

Decision Point	White	Hispanic	RRI
Juvenile arrests per 1,000 persons in population	78.44	139.13	1.77
Cases referred per 100 arrests	40.03	45.91	1.15
Cases diverted per 100 referrals	149.41	117.55	0.79
Cases involving detention per 100 referrals	32.00	30.86	0.96
Cases petitioned per 100 referrals	62.85	64.53	1.03
Cases resulting in delinquency per 100 petitions	64.16	65.44	1.02
Cases in probation per 100 delinquent findings	90.66	88.01	0.97
Cases resulting in confinement per 100 delinquent findings	5.31	7.09	1.34
Cases transferred to adult court per 100 petitions	0.25	0.33	1.32

*Note.* RRI = Relative Rate Index.

*Source.* Family Automated Client Tracking System.



**FIGURE 2** Relative Rate Index trends for Hispanic youth, 2002–2008. *Source:* Family Automated Client Tracking System (color figure available online).

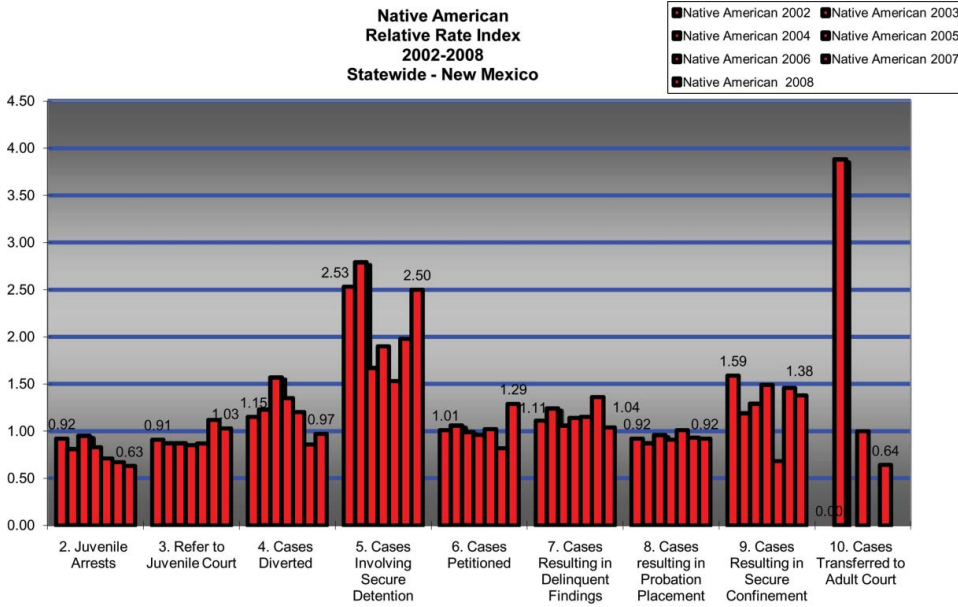
Native American youth accounted for 12% of all youth in New Mexico aged 10 to 17. New Mexico has the second highest proportion of Native Americans in the United States after Alaska. In terms of juvenile justice involvement, they account for 14% of all incidents. The RRI arrest rates for 2002 to 2008 show that cases involving Native American youth compared to White youth declined steadily from their peak in 2004 (0.95) to a low of 0.63 in 2008 (see Table 3). It is important to consider the role of tribal police and courts presiding over 22 reservations that exist within the state.

**TABLE 3** Seven-Year Averages for Native American Youth (2002–2008)

Decision Point	White	Native American	RRI
Juvenile arrests per 1,000 persons in population	78.44	62.04	0.79
Cases referred per 100 arrests	40.03	36.02	0.90
Cases diverted per 100 referrals	149.41	178.70	1.20
Cases involving detention per 100 referrals	32.00	68.83	2.15
Cases petitioned per 100 referrals	62.85	63.74	1.01
Cases resulting in delinquency per 100 petitions	64.16	73.85	1.15
Cases in probation per 100 delinquent findings	90.66	84.26	0.93
Cases resulting in confinement per 100 delinquent findings	5.31	7.17	1.35
Cases transferred to adult court per 100 petitions	0.25	0.10	0.40

*Note.* RRI = Relative Rate Index.

*Source.* Family Automated Client Tracking System.



**FIGURE 3** Relative Rate Index trends for Native American youth, 2002–2008. *Source:* Family Automated Client Tracking System (color figure available online).

FACTS data included primarily the bulk of referrals in New Mexico that occurred outside of the reservation and were reported to CYFD. Although the CYFD data indicated less contact with the juvenile justice system involving Native American youth in the early stages of contact, there are some areas of concern. Figure 3 shows that DMC existed for Decision Points 5 (cases involving secure detention) and 9 (cases resulting in secure confinement). Native American cases involving secure detention occurred at a rate of about twice as many as cases involving White youth or, in other words, a 115% greater volume. This may explain the slightly higher rates for cases resulting in confinement in secure juvenile correctional facilities. Although there was a high RRI rate for Decision Point 10, the numbers were actually small. Over the 7-year period under review, 3 cases (out of 152 total cases transferred) involved Native Americans transferred to adult court. In summary, Native American youth were less likely than White youth to be arrested, to be referred to juvenile court, and to have cases resulting in probation placement. They were more likely to have cases involving secure detention and receive secure confinement. Thus, removal from the home is a substantial life-altering circumstance for many youth. Hartney (2008) found that Native American youth were more likely to receive out-of-home placement than White youth, and this finding was replicated in New Mexico.

New Mexico has 19 pueblo and two apache tribes along with parts the Navajo Nation. The Acoma and Taos pueblos are the longest inhabited

**TABLE 4** Seven-Year Averages for Black Youth (2002–2008)

Decision Point	White	Black	RRI
Juvenile arrests per 1,000 persons in population	78.44	162.76	2.08
Cases referred per 100 arrests	40.03	56.38	1.41
Cases diverted per 100 referrals	149.41	77.58	0.52
Cases involving detention per 100 referrals	32.00	40.81	1.28
Cases petitioned per 100 referrals	62.85	66.59	1.04
Cases resulting in delinquency per 100 petitions	64.16	57.91	0.90
Cases in probation per 100 delinquent findings	90.66	84.30	0.93
Cases resulting in confinement per 100 delinquent findings	5.31	8.97	1.69
Cases transferred to adult court per 100 petitions	0.25	0.31	1.24

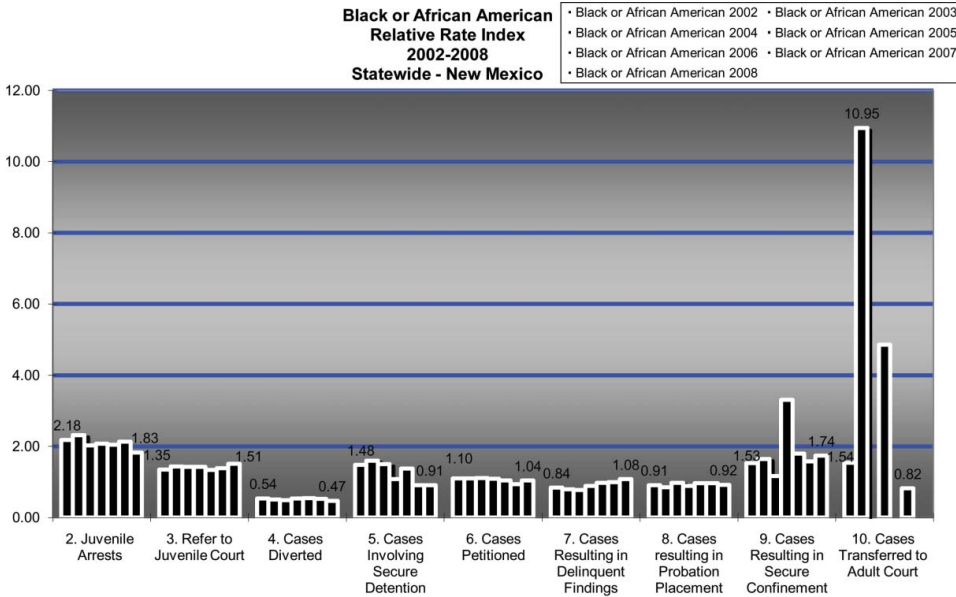
*Note.* RRI = Relative Rate Index.

*Source.* Family Automated Client Tracking System.

towns in the country. Nevertheless, equal rights have never entirely existed under either the Spanish or U.S. governments, which have often sought to reduce the influence of these populations (Gómez, 2005; Gutiérrez, 1991; Montgomery, 2002). Native American populations ranged from 0% to 80% depending on the county. The three most concentrated Native American counties were McKinley (80%), Cibola (49%), and San Juan (47%). San Juan was found to have higher median household incomes and lower levels of poverty than the state average; this was not found for McKinley or Cibola.

Over the 7-year period under review, Blacks made up 2% of the youth population aged 10 to 17 and 3% of the total incidents in the juvenile justice system in New Mexico. Black youth were one of the smallest minority groups yet had higher rates of overrepresentation than even Hispanics. Cases involving Black youth indicated an RRI rate of arrests more than double that of White youth. This DMC continued further into the system, as diversion rates were only half those of White youth. This was the lowest rate for any racial or ethnic minority group. Another decision point worth noting is confinement in secure juvenile correctional facilities, with 69% greater variation of cases involving Black youth than White youth (see Table 4). Whereas other decision points have shown DMC, we found that low population numbers kept them from being statistically significant, especially for the data for the last 3 years. For example, Black youth in Santa Fe had an RRI rate of 40.29 for cases transferred to adult court, but a closer inspection only included one individual. Of cases transferred to adult court over the 7 years reviewed, 9 of the 152 cases involved Black youth (5.92%, overrepresented in comparison to their percentage of the population).

The population of Blacks in New Mexico has historically been small. Nevertheless, Blacks were some of the state's pioneer residents (Richardson, 1976). Both local and national leaders debated whether New Mexico should be a free or slave state. Because Texas was a despised neighbor, New Mexico



**FIGURE 4** Relative Rate Index trends for Black or African American youth, 2002–2008. *Source:* Family Automated Client Tracking System (color figure available online).

leaders argued on behalf of entering the union as a free state despite the fact that many Native Americans continued to be held in slavery. Despite opposing the enslavement of Africans, New Mexico passed several legislative acts that discouraged Blacks from entering the state and pursued the idea of allowing slavery if it would help New Mexico achieve statehood. The National Association for the Advancement of Colored People established itself in the city of Albuquerque in 1914 to confront segregated schooling and unequal treatment. Blacks experienced prejudice from both Whites and Hispanics. Blacks living within the state often intermarried with Native Americans and Hispanics. Most counties within New Mexico lacked a substantial population of Blacks, but population proportions ranged from 0% to 4%. The three most concentrated Black counties were Otero (4%), Roosevelt (3%), and Sandoval (2%). Figure 4 shows the trends for cases involving Black youth.

### CONCLUSION

In 2008, we began analyzing data to determine whether DMC existed within the state of New Mexico. A total of 7 years of data involving 509,574 points of decision making showed that minority youth were overrepresented in the juvenile justice system compared to White youth. The racial and ethnic groups most impacted were Black and Hispanic youth; Native Americans were

particularly impacted by cases involving and resulting in secure confinement. Non-Hispanic Whites were underrepresented at each decision point with the exception of the most beneficial stage: diversion. For this reason, we emphasize the structural outcome of White diversion and minority group delinquentization.

The RRI data do not say whether the reasons for these racial and ethnic disparities are due to differential treatment/processing/discrimination or differential offending (Piquero, 2008; Pope et al., 2002). Although Piquero (2008) argued that such an empirical debate no longer seems helpful, such questions often present an opportunity to attribute accountability and begin initiating reform efforts. Given the history of race relations within the state of New Mexico, most likely components of both were at work. There were data to suggest that decision makers delinquentize minority youth, and the ongoing collection of data has highlighted the different structural opportunities that impact youth's life chances. Anglos have primarily attained economic and political power within the state. However, a small number of Hispanics have competed and held onto resources, which is different from in most locations in the country. Native Americans resisted levels of overrepresentation with White society on the reservation but outside of these areas have often encountered overrepresentation (e.g., Lincoln County). Blacks and Hispanics have not completely attained this success in the juvenile justice system. The levels of overrepresentation may be reduced by greater proportional representation in the numerical population and county leadership, but the data analyzed in this article do not entirely answer this question.

When New Mexico, one of the poorest states in the country, adopted the slogan "Land of Enchantment," it attempted to disguise a history of conflict and racism. New Mexico, a territory that was seen as too non-White to achieve statehood until 1912, shifted itself toward Anglo control. Nieto-Phillips (2004) captured this struggle succinctly:

It remains perhaps one of the greatest ironies of New Mexico's history that despite Anglo Americans' professions of love for "all things Spanish," their adoration and tourist dollars did not translate into civic, racial, or political equality for "Spanish Americans." For beneath the surface of Hispanophilia lurked its alter ego: contempt. Contempt for those who presumed to assert some degree of control over their own land, history, language, and destiny, and to attempt to shift the parameters of "American" citizenship. (p. 204)

Thus, by intertwining history and contemporary data, we have attempted to explain how a numerical majority can continue to encounter higher levels of delinquentization. Such explanations may involve a different definition of "minority" from one that is numerically based and may instead use the sociological definition (Schaefer, 2004). Critical race theory's argument of



White-over-color ascendancy theoretically explains that numerical population alone does not uproot racism. For the state as a whole, majority minority status for Hispanics has not prevented overrepresentation. The data for Native Americans were mixed. Blacks were overrepresented in New Mexico regardless of whether Hispanics or non-Hispanic Whites were in control (as demonstrated by county data). The primary beneficiaries in New Mexico's juvenile justice system were non-Hispanic Whites, as they maintained the lowest rates for all racial and ethnic groups. The minority group should be non-Hispanic Whites, as they lack historical connections with the land and culture, yet they have been able to achieve preferential treatment in the juvenile justice system.

Counties in New Mexico ranged from having high concentrations of Hispanic, Native American, and White residents, with Black populations being very small. Most counties were rural; the largest city, Albuquerque (Bernalillo County), had 508,000 people. The racialized identities of residents have been shaped by a long history of different cultures coexisting and working to prevent open conflict. New Mexico was primarily the home of pueblo and nomadic Native Americans who later encountered Spanish explorers. The miscegenation that occurred produced a new mestizo resident who identified as *Hispano*. Later encounters with Anglos challenged whether this population was White or non-White. The historical accounts describe most Hispanics being discriminated against and losing large portions of land, wealth, and political power to this small Anglo population. Nevertheless, both Hispanics and Native Americans struggled to preserve their culture, identity, and influence through various forms of resistance (Gómez, 2007; Gonzales, 2001; Gutiérrez, 1991; Montgomery, 2002; Nieto-Phillips, 2004). These efforts have most likely improved race relations and reduced DMC, but a complete comparison requires exploring other states acquired from Mexico, including Arizona, California, Colorado, Nevada, Texas, and Utah.

Future studies on New Mexico should continue to explore the role of DMC by using more statistically advanced analyses of the total number of cases with variables beyond the identification phase. Moreover, additional research should analyze specific counties, distinct decision points, and separate racial and ethnic groups in order to go more in depth in finding reasons for overrepresentation and possible ways to reduce DMC.

## NOTES

1. Deciding which term to use to identify the mixed Spanish and indigenous population in New Mexico is difficult task. Gómez (2007) used the term *Mexican*, Gonzales (2001) *Hispano*, Montgomery (2002) *Spanish American* or *Hispano-Americano*, and Nieto-Phillips (2004) *nuevomexicanos*. The negative history of the word *Hispanic* made the first author reluctant to use it, but the term is closer to *Hispano*, which matches the preferred identity for many residents in the state. Contemporary language favors *Latino* over *Hispanic*, but this label does not match the historical identity. *Hispanos* identified

more with their Spanish blood for power and for attempting to claim a White identity rather than with their Native American bloodlines to prevent being considered non-White.

2. In this article, *White* and *non-Hispanic White* are often used interchangeably. As is demonstrated in the history, despite being given a White racial classification, Hispanics were not given equal treatment or seen as White by Anglos who moved into the area. See Haney-López's *White by Law* and *Racism on Trial* in addition to Gómez's (2007) *Manifest Destinies*.

3. Order determined by population size in New Mexico.

4. The rates of juvenile arrests were calculated per 1,000 population. The referral to court rate was calculated per 100 juvenile arrests. Rates of cases diverted, cases involving secure detention, and cases petitioned were calculated per 100 referrals. Rates of cases resulting in delinquent findings and cases transferred to adult court were calculated per 100 petitions. Rates of cases resulting in probation placement and in confinement in secure juvenile correctional facilities were calculated per 100 youth found delinquent.

5. Three racial categories (Asian, Native Hawaiian and Pacific Islander, and racially mixed) were such a small proportion of the population in New Mexico over the 7-year period analyzed (2002–2008) that a detailed analysis of each of these groups is not provided in this article. The RRI tool encourages evaluation for populations greater than 1% of the population. The Asian youth population in New Mexico has grown, although they still make up a very small part of the population, from 0.77% of the population of youth aged 10 to 17 to 1.13%. The trend for Asian youth shows that they have not experienced DMC. The small numbers in the population led to an even smaller number of referrals. They have lower arrest rates than other minority youth in the state. The other decision points indicate underrepresentation or no DMC. Native Hawaiian and Pacific Islander youth have consistently been less than 1% of the youth population aged 10 to 17. They have very small numbers and there were no signs of DMC affecting these youth. A few census reports based on the CYFD data did not list Native Hawaiian or Pacific Islanders, yet a smaller number were found in the arrest category. Self- or practitioner-defined racially mixed youth account for a very small number of the population (less than 1%), and there were no significant RRI rates consistently available for this population.

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