



## **OCFS Contract Policy Statements**

### **Request for Proposals – Bureau of Training and Development**

#### **Employment of Qualified Applicants/Recipients of Public Assistance**

It is the policy of OCFS to encourage the employment of qualified applicants/recipients of public assistance by both public organizations and private enterprises who are under contractual agreement to OCFS for the provision of goods and services. OCFS may require the contractor to demonstrate how the contractor has complied or will comply with the aforesaid policy.

#### **Minority and Women-Owned Business Enterprises (MWBE) – Equal Employment Opportunity (EEO) - Requirements & Procedures**

This section outlines contractor requirements and procedures for business participation opportunities for New York State certified Minority and Women-Owned Business Enterprises (MWBE), and Equal Employment Opportunities (EEO) for minority group members and women.

#### **New York State Executive Law (Article 15-A)**

Pursuant to New York State Executive Law Article 15-A, the New York State Office of Children and Family Services (OCFS) recognizes its obligation to promote opportunities for maximum feasible participation of certified Minority and Women-Owned Business Enterprises (M/WBEs) and the employment of minority group members and women in the performance of OCFS contracts.

In 2006, the State of New York commissioned a disparity study to evaluate whether M/WBEs had a full and fair opportunity to participate in state contracting. The findings of the study were published on April 29, 2010, under the title "The State of Minority and Women-Owned Business Enterprises: Evidence from New York" ("Disparity Study"). The report found evidence of statistically significant disparities between the level of participation of M/WBEs in state procurement contracting versus the number of M/WBEs that were ready, willing and able to participate in state procurements. As a result of these findings, the Disparity Study made recommendations concerning the implementation and operation of the statewide certified M/WBE Program. The recommendations from the Disparity Study culminated in the enactment and implementation of New York State Executive Law Article 15-A, (which requires, among other things, that OCFS establish goals for maximum feasible participation of New York State certified M/WBEs and the employment of minority group members and women in the performance of New York State contracts. In order to be recognized as a certified MWBE, a vendor must be for-profit and certified by the Empire State Development.

## **MWBE Business Participation Opportunities – OCFS-Established Goals**

For purposes of this solicitation, OCFS hereby establishes an overall goal of 30% for M/WBE participation. OCFS recommends that whenever practicable, Contractors attempt to equally utilize Minority-Owned Business Enterprises (“MBE”) (15%) and Women-Owned Business Enterprises (“WBE”) (15%) participation in the performance of the contract. It is expected that all Contractors make a good faith effort to utilize M/WBEs when there is an opportunity to subcontract or purchase supplies, goods and services in the performance of a contract with OCFS, however strict adherence to the suggested MBE and WBE utilization is not required as long as the overall goal of 30% is met.

A contractor must document good faith efforts to provide meaningful participation by M/WBEs as subcontractors or suppliers in the performance of the Contract, and agrees that OCFS may withhold payment pending receipt of the required M/WBE documentation. The directory of New York State Certified MWBEs can be viewed at: <https://ny.newnycontracts.com>. This website (known as New York State Contract System – NYSCS) was developed to facilitate New York State’s Minority - and Women-Owned Business Enterprise (M/WBE) initiatives as set forth in Article 15-A of Executive Law. NYSCS offers tools that can be used by businesses, as well as New York State Agencies, to expand the role of minorities and women-owned businesses in the economic activities of New York State. This website contains:

- A Directory of all Certified Minority and Women-Owned Businesses. This database is designed to allow end-users the capability to search for MWBE vendors in a variety of ways; for example, by region, product type, product category or name.
- A portal to be used by agencies and businesses at the prime and sub-prime level to record, monitor and report MWBE goal attainment in state funded contracting. (The NYSCS allows only the reporting of money spent with certified MWBEs.)
- Links to the latest bid and grant opportunities from state agencies, authorities and state universities.
- Information on the Empire State Development Corporation and the Governor’s MWBE program.

Vendors interested in doing business with New York State agencies are encouraged to familiarize themselves with this resource before the contracting process begins, since it contains the information needed to identify Certified MWBEs, which is required for compliance.

For guidance on how OCFS will determine a contractor’s “good faith efforts,” refer to 5 NYCRR §142.8 at the following website:

[http://www.esd.ny.gov/MWBE/Data/122210\\_MWBE15-ARegs.pdf](http://www.esd.ny.gov/MWBE/Data/122210_MWBE15-ARegs.pdf)

In accordance with 5 NYCRR §142.13 (Provisions in Contracts; Violations), The contractor acknowledges that if it is found to have willfully and intentionally failed to comply with the M/WBE participation goals set forth in the contract, such finding constitutes a breach of contract and OCFS may withhold or recover payment from the contractor as liquidated or other damages, as well as impose other such remedies as determined necessary. Such liquidated damages shall be calculated up to an amount equaling the difference between: (1) all sums identified for payment to M/WBEs had the contractor achieved the contractual M/WBE goals; and (2) all sums actually paid to M/WBEs for work performed or materials supplied under the Contract.

### **Notice of Deficiency (Issued to Contractor if warranted by OCFS)**

OCFS expects its contractors to demonstrate good faith efforts to provide meaningful participation by M/WBEs as subcontractors or suppliers in the establishment of M/WBE goals in accordance with agency standards and in the performance of the contract. This includes the contractor's requirement to properly document said efforts. OCFS will work collaboratively with contractors, whenever possible, to lend technical assistance to accomplish successful compliance with the requirements set forth in Article 15-A of the NYS Executive Law to minimize the need for punitive or other corrective actions.

However, when it is determined that no other recourse is possible, a Notice of Deficiency may be issued to the contractor. The issuance of a Notice of Deficiency may occur during contract development, prior to full execution of the contract, or at any point during the term of the contract. The determination of deficiency will be made by OCFS, following the review of information provided by the contractor.

If OCFS issues a Notice of Deficiency, the contractor must respond to the notice within seven (7) business days of receipt, by submitting a written remedy to (NYS Office of Children and Family Services, Equal Opportunities and Diversity Development Unit, Room 205 South Building, 52 Washington Street, Rensselaer, NY 12144 – Attn: Affirmative Action Administrator). If the written remedy submitted is not timely or is found by OCFS to be inadequate, OCFS may notify the contractor of any inadequacies in the response. As a result, the contractor may be directed by OCFS to submit an OCFS-4442 - M/WBE Request for Waiver Form within seven (7) business days, requesting either a partial or total waiver of MWBE participation goals. Failure to file the Request for Waiver Form in a timely manner may be grounds for disqualification of the proposal or contract. Completed Request for Waiver Form, along with required documentation, must be signed and emailed to: [mwbeinfo@ocfs.ny.gov](mailto:mwbeinfo@ocfs.ny.gov).

Please be advised that there are no automatic waivers. All requests for waivers will require both the approval of OCFS and the Governor's Office.

## **Equal Employment Opportunity (EEO) Requirements**

By submission of this proposal, the bidder/contractor agrees with all of the terms and conditions of the State of New York Master Contracts for Grants, including Section IV. Additional Contractor Obligations, Representations and Warranties, J. Equal Opportunities for Minorities and Women; Minority and Women Owned Business Enterprises and Appendix M/WBE. The contractor is required to ensure that any subcontractors awarded a subcontract over \$100,000 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the "work") except where the work is for the beneficial use of the contractor, shall undertake or continue programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed (religion), color, national origin, sex, age, disability or marital status. For these purposes, equal opportunity shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, termination, and rates of pay or other forms of compensation. This requirement does not apply to: (i) work, goods, or services unrelated to the Contract; or (ii) employment outside New York State.

Awardees of non-grant contracts that are 100% State funded must report, on a quarterly basis during the term of the contract, information relating to the actual workforce utilized in the performance of the contract by the specified categories listed in the OCFS-2171 Workforce Utilization Report (including ethnic background, gender, and Federal occupational categories). See next page for OCFS-2171.

Further, pursuant to Article 15-A of the NYS Executive Law (the "Human Rights Law"), all other State and Federal statutory and constitutional non-discrimination provisions, the contractor and sub-contractors will not discriminate against any employee or applicant for employment because of race, creed (religion), color, national origin, sex, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

## **Required Documentation**

By submitting this proposal, bidder/contractor agrees to complete and submit the following forms, documents and/or requested information, as required or applicable, as evidence of compliance with the foregoing. Once a contract is awarded, OCFS may disqualify a contractor as being non-responsive if the contractor fails to submit any of the below-noted five (5) forms/documents listed with an asterisk (\*), which are required during contract development; OR, if OCFS determines that the contractor has failed to document good faith efforts to comply with Article 15-A.

It is expected that all contractors make a good-faith effort to utilize Minority and/or Women Owned Business Enterprises (M/WBEs) when there is an opportunity to subcontract or purchase supplies, goods and services in the performance of a contract with OCFS.

### **Project Staffing Plan**

OCFS-4629 - Project Staffing Plan Form  
(\*Applies to Contract Awardees ONLY)

This form is required for contracts with a total value in excess of \$250,000. It is to be completed by the awardee and submitted prior to the state date of the contract. Completed Form: To be signed and emailed to: [mwbeinfo@ocfs.ny.gov](mailto:mwbeinfo@ocfs.ny.gov).

### **Equal Employment Opportunity Policy Statement**

OCFS-3460 – MWBE – Equal Employment Opportunity Policy Statement  
(\*Applies to Contract Awardees ONLY)

This document is to be completed by the contractor and submitted to OCFS, pursuant to Article 15-A of the NYS Executive Law. OCFS-3460 is provided to contractors/subcontractors as a model Policy Statement and may be used if the contractor/subcontractor lacks an M/WBE-EEO Policy Statement that is acceptable pursuant to Article 15-A. The contractor/subcontractor has the option to use this model statement or create an appropriate M/WBE–EEO Policy Statement to be submitted to OCFS for approval. More information on the M/WBE-EEO Policy Statement can be found in the MWBE Appendix. Completed Form: To be signed and emailed to: [mwbeinfo@ocfs.ny.gov](mailto:mwbeinfo@ocfs.ny.gov)

### **MWBE Utilization Plan**

OCFS-4631 – MWBE Utilization Plan Form  
(\*Applies to Contract Awardees ONLY)

During the contract development stage, the awardee must provide an MWBE Utilization Plan for the purpose of identifying anticipated M/WBE utilization and during the term of a contract to report actual M/WBE participation goals achieved. Contractors should attempt to utilize, in good faith, any MBE or WBE identified on the Subcontracting/Suppliers Utilization Form, during the performance of the Contract. OCFS requires that all entities awarded State funded contracts submit MWBE utilization plans via the website (known as New York State Contract System – NYSCS) located at <https://ny.newnycontracts.com>. Completed Form: To be signed and emailed to: [mwbeinfo@ocfs.ny.gov](mailto:mwbeinfo@ocfs.ny.gov)

### **MWBE Compliance Reporting**

OCFS-4441 - M/WBE Quarterly Report Form  
(\*Applies to Contract Awardees ONLY)

Information relating to the MWBE utilization in the performance of the contract must be reported periodically throughout the term of the contract. This form is to be completed and submitted by contractor within 30 days following the end of each applicable reporting quarter over the term of the contract, documenting the progress made toward achievement of the MWBE goals of the contract. Contracts containing state funds must report this information through the New York State Contract System (NYSCS) at <https://ny.newnycontracts.com>. Completed Form: To be signed and emailed to [mwbeinfo@ocfs.ny.gov](mailto:mwbeinfo@ocfs.ny.gov)

### **Workforce Utilization Reporting**

OCFS-2171 – Workforce Utilization Report Form

OCFS-2171a - Instructions

*(\*Applies to Contract Awardees ONLY)*

Information relating to the composition of the workforce and its use in the performance of this contract should be reported on the OCFS-2171 – Workforce Utilization Report Form. This form must be submitted to OCFS no later than 10 days following the end of the fiscal quarter. Completed Form: To be emailed to: [EEO@ocfs.ny.gov](mailto:EEO@ocfs.ny.gov)

### **Service-Disabled Veteran Owned Business (SDVOB)**

The Service-Disabled Veteran-Owned Business Act, signed into law by Governor Andrew M. Cuomo on May 12, 2014, allows eligible Veteran business owners to become certified as a New York State Service-Disabled Veteran-Owned Business (SDVOB) in order to increase the participation of such businesses in New York State's contracting opportunities. The SDVOB Act, which is codified under Article 17-B of the Executive Law, acknowledges that SDVOBs strongly contribute to the economies of the State and the nation. Therefore, and consistent with its Master Goal Plan, OCFS strongly encourages vendors who contract with OCFS to consider the utilization of certified SDVOBs, that are responsible and responsive, for at least six percent (6%) of discretionary non-personnel service spending in the fulfillment of the requirements of their contracts with OCFS. Such partnering may include utilizing certified SDVOBs as subcontractors, suppliers, protégés, or in other supporting roles to the maximum extent practical, and consistent with the legal requirements of the State Finance Law and the Executive Law. Certified SDVOBs may be readily identified through the directory of certified businesses at: [http://ogs.ny.gov/Core/docs/CertifiedNYS\\_SDVOB.pdf](http://ogs.ny.gov/Core/docs/CertifiedNYS_SDVOB.pdf).

For additional information relating to the use of certified SDVOBs in contract performance, and participation by SDVOBs with respect to State Contracts through Set Asides, please refer to the following:

- Use of Service-Disabled Veteran-Owned Business Enterprises in Contract Performance
- Participation by Service-Disabled Veterans with Respect to State Contracts Through Set Asides

<http://ogs.ny.gov/Core/SDVOBA.asp>

## **Omnibus Procurement Act**

It is the policy of New York State to maximize opportunities for the participation of New York State business enterprises, including minority and women-owned business enterprises as bidders, subcontractors and suppliers on its procurement contracts.

Information on the availability of New York State subcontractors and suppliers is available on the internet at [www.esd.ny.gov](http://www.esd.ny.gov). For additional information and assistance, contact:

NYS Department of Economic Development  
Division for Small Business  
Albany, New York 12245  
Telephone: 518-292-5100  
Fax: 518-292-5884  
Email: [opa@esd.ny.gov](mailto:opa@esd.ny.gov)

A directory of certified minority and women-owned business enterprises is available from:

NYS Department of Economic Development  
Division of Minority and Women's Business Development  
633 Third Avenue  
New York, New York 10017  
Telephone: 212-803-2414  
Email: [mwbecertification@esd.ny.gov](mailto:mwbecertification@esd.ny.gov)  
<https://ny.newnycontracts.com/frontend/vendorsearchpublic.asp>

NOTE: Companies requesting lists of potential subcontractors and suppliers are encouraged to identify the SIC code, size and location of vendors.

A directory of minority and women-owned business enterprises is available on the internet at [www.esd.ny.gov](http://www.esd.ny.gov). For additional information and assistance, contact either of the above listed offices.

The Omnibus Procurement Act of 1992 requires that by signing a bid proposal, contractors certify that whenever the total bid amount is greater than \$1 million:

1. The contractor has made reasonable efforts to encourage the participation of New York State Business Enterprises as suppliers and subcontractors on this project, and has retained the documentation of these efforts to be provided upon request to the state.
2. Document their efforts to encourage the participation of New York State business enterprises as suppliers and subcontractors by showing that they have:
  - Solicited bids, in a timely and adequate manner, from New York State Empire State Development business enterprises including certified minority/ women-owned businesses, or
  - Contacted the New York State Empire State Development to obtain listings of New York State business enterprises and MWBEs, or
  - Placed notices for subcontractors and suppliers in newspapers, journals or other trade publications distributed in New York State, or
  - Participated in bidder outreach conferences.
  - If the contractor determines that New York State business enterprises are not available to participate on the contract as subcontractors or suppliers, the contractor shall provide a statement indicating the method by which such determination was made.
  - If the contractor does not intend to use subcontractors, the contractor shall provide a statement verifying such.
3. The contractor has complied with the Federal Equal Opportunity Act of 1972 (P.L. 92-961), as amended.
4. The contractor will be required to notify New York State residents of employment opportunities through listing any such positions with Community Services Division of the New York State Department of Labor, providing for such notification in such manner as is consistent with existing collective bargaining contracts or agreements. The agency agrees to document these efforts and to provide said documentation to OCFS upon request.
5. Bidders located in a foreign country are notified that the state may assign or otherwise transfer offset credits to third parties located in New York State, and the bidders shall be obligated to cooperate with the state in any and all respects in making such assignment or transfer, including, but not limited to, executing any and all documents deemed by the state to be necessary or desirable to effectuate such assignment or transfer, and using their best efforts to obtain the recognition and accession to such assignment or transfer by any applicable foreign government.

6. Bidders are hereby notified that state agencies and authorities are prohibited from entering into contracts with businesses whose principle place of business is located in a discriminatory jurisdiction. "Discriminatory jurisdiction" is defined as a state or political subdivision which employs a preference or price distorting mechanism to the detriment of or otherwise discriminates against a New York State business enterprise in the procurement of commodities and services by the same or a non-governmental entity influenced by the same. A list of discriminatory jurisdiction is maintained by the Commissioner of the New York State Empire State Development.

## **CONFIDENTIALITY AND PROTECTION OF HUMAN SUBJECTS**

The Contractor agrees to safeguard the confidentiality of financial and/or client information relating to individuals and their families who may receive services in the course of this project. The Contractor shall maintain the confidentiality of all such financial and/or client information with regard to services provided under this AGREEMENT in conformity with the provisions of applicable State and Federal laws and regulations. Any breach of confidentiality by the Contractor, its agents or representatives shall be cause for immediate termination of this AGREEMENT.

Any contractor who will provide goods and/or services to a residential facility or program operated by OCFS agrees to require all of its employees and volunteers who will have the potential for regular and substantial contact with youth in the care or custody of OCFS to sign the Confidentiality Non-Disclosure Agreement (OCFS-4715) and Contractor Employee and Volunteer Background Certification (OCFS-4716) before any such employees and volunteers are permitted access to youth in the care or custody of OCFS and/or any financial and/or client identifiable information concerning such youth. Additionally, OCFS will require a database check of the Statewide Central Register of Child Abuse and Maltreatment (SCR) of each employee and volunteer of the contractor who has the potential for regular and substantial contact with children in the care or custody of OCFS. Any other contractor whose employees and volunteers will have access to financial and/or client identifiable information concerning youth in the care or custody of OCFS agrees to require all such employees and volunteers to sign the Confidentiality Non-Disclosure Agreement before any such employees and volunteers are permitted access to any financial and/or client identifiable information concerning such youth.

## **Executive Order Number 38 – Limits on State-Funded Admin Costs and Executive Compensation**

(applies to private educational institutions and for-profit and non-profit organizations)

On January 18, 2012 Governor Andrew M. Cuomo issued Executive Order Number 38 “Limits on State-Funded Administrative Costs and Executive Compensation,” which requires that state agencies establish limits on state reimbursement of administrative and executive compensation costs for contracts and programs that provide direct services to clients. Contracts, payment requests and reporting must comply with this Executive Order and the OCFS regulations promulgated pursuant to that order, unless notified to the contrary by OCFS. The Executive Order can be found at:

<http://executiveorder38.ny.gov/>

*LEGAL NOTICE: Based on the April 8, 2014 decision in Agencies for Children’s Therapy Services, Inc. v. New York State Department of Health, et al. (“ACTS”), covered providers conducting business in Nassau County are not required to file Executive Order 38 Disclosures. For purposes of this notice, “conducting business” means having a place of business within Nassau County, providing program services involving the use or receipt of State funds or State authorized payments within Nassau County, or otherwise conducting business within Nassau County in relation to which executive compensation is paid. Please note that the ACTS decision is under appeal. Those affected by the ACTS’ decision should potentially check the EO 38 website for updates regarding any changes to this notice.*

## **Procedure for Handling of Protests/Appeals of Bid Specifications and Proposed Awards - OCFS Procedure for Handling of Formal Protests and Appeals**

- Section 1: Applicability
- Section 2: Definitions
- Section 3: Informal Complaints
- Section 4: Formal Protest and Appeal Procedure
- Section 5: Appeal to Office of the State Comptroller

### **Section 1: Applicability**

The intent and purpose of these procedures is to set forth the steps that must be taken when an interested party challenges a contract award by OCFS. These procedures shall apply to all contract awards made by OCFS.

## **Section 2: Definitions**

1. "Interested party" shall mean a participant in the procurement process and those whose participation in the procurement process has been foreclosed by OCFS.
2. "Contract award" shall mean a written determination from OCFS to an offerer, indicating that OCFS has accepted the offerer's bid or offer.
3. "Formal Protest" shall mean a written challenge to a contract award by OCFS.
4. "Procurement" shall mean any method used to solicit or establish a contract (i.e., invitation for bid, request for proposal, single/sole source, etc.)
5. "Protesting party" is the party who is filing a protest to the bid, contract award, or other aspect of procurement.
6. "Formal protest determination" shall mean the determination of a formal protest by the Associate Commissioner for Financial Management of OCFS or his or her designee.
7. "Decision after appeal" shall mean the decision on the appeal of a formal protest by the Executive Deputy Commissioner of OCFS or his or her designee.

## **Section 3: Informal Complaints**

In order to reduce the administrative burden and to be responsive to interested parties, other than as provided below, OCFS staff will be receptive to and attempt to resolve issues, inquiries, questions and complaints on an informal basis, whenever possible. Information provided informally by any interested party will be fully reviewed by the OCFS Program Division responsible for the procurement. Matters that are identified by the interested party as containing, or that OCFS perceives to contain, potentially confidential or trade secret information, may be shared internally within OCFS as necessary. OCFS staff will document the subject matter and results of any informal complaints and inquiries. OCFS' response to the informal complaint or inquiry will indicate the existence of the Formal Protest and Appeal Procedure available to the interested party should the informal process fail to resolve the matter.

Final OCFS determinations or recommendations for award after any attempt to resolve the matter informally may be reconsidered only in the context of a formal protest.

## **Section 4: Formal Protest and Appeal Procedure**

Any interested party who believes that there are errors or omissions in the procurement process, who believes they have been aggrieved in the drafting or issuance of a bid solicitation or who believes they have been treated unfairly in the application, evaluation, bid award, or contract award phases of the procurement, may present a formal protest to OCFS and request administrative relief concerning such action.

### **A. Submission of Bid or Award Protests**

1. Deadline for Submission

- a. Concerning Alleged Errors, Omissions or Prejudice in the Bid Specifications or Documents: Formal protests that concern alleged errors in the drafting of bid specifications must be received by OCFS at least ten (10) calendar days before the date set in the solicitation for receipt of bids.
- b. Concerning Proposed Contract Award: Formal protests concerning a pending contract award must be received within five (5) business days after the protesting party knows or should have known of the facts that constitute the basis of the formal protest. Formal protests will not be accepted by OCFS concerning a contract award after the contract between OCFS and the offerer who received the contract award has been approved by the Office of the State Comptroller (OSC).

#### B. Review and Formal Protest Determination

1. Formal protests must be filed with the OCFS Associate Commissioner for Financial Management. Any protests filed with the OCFS Program Division responsible for the procurement will be forwarded to the Associate Commissioner for Financial Management. Copies of all formal protests will be provided by the Associate Commissioner for Financial Management to the OCFS Division of Legal Affairs and other necessary parties within OCFS, as determined by the Associate Commissioner for Financial Management.
2. Formal protests shall be resolved through written correspondence; however, either the protesting party or OCFS may request a meeting to discuss a formal protest. Where further formal resolution is required, the program division responsible for the procurement may designate a state employee not involved in the procurement ("designee") to determine and undertake the initial attempted resolution or settlement of any formal protest.
3. The OCFS program division responsible for the procurement will conduct a review of the records involved in the formal protest, and provide a memorandum to the Associate Commissioner for Financial Management or the Associate Commissioner's designee summarizing the facts, an analysis of the substance of the protest, and a preliminary recommendation including: (a) an evaluation of the findings and recommendations, (b) the materials presented by the protesting party and/or any materials required of or submitted by other bidders, (c) the results of any consultation with the OCFS Division of Legal Affairs, and (d) a draft response to the formal protest.
4. The OCFS Associate Commissioner for Financial Management or his or her designee shall hear and make a formal protest determination on all formal protests. A copy of the formal protest determination, stating the reason(s) upon which it is based and informing the protesting party of the right to appeal an unfavorable decision to the OCFS Executive Deputy Commissioner, shall be sent to the protesting party or its agent within thirty (30) business days of receipt of

the formal protest, except that upon notice to the protesting party such period may be extended by OCFS. The formal protest determination will be recorded and included in the procurement record, or otherwise forwarded to the OSC.

#### C. Appeal of Formal Protest Determination

1. If the protesting party is not satisfied with the formal protest determination, the protesting party must submit a written notice of appeal to the Executive Deputy Commissioner of OCFS no more than fifteen (15) business days after the date the formal protest determination is sent to the protesting party.
2. The Executive Deputy Commissioner or his or her designee shall hear and make a decision after appeal on all appeals.
3. An appeal may not introduce new facts unless responding to facts or issues unknown to the protesting party prior to the formal protest determination.

#### D. Reservation of Rights and Responsibilities of OCFS

1. OCFS reserves the right to waive or extend the time requirements for protest submissions, decisions and appeals herein prescribed when, in its sole judgment, circumstances so warrant to serve the best interests of the State.
2. If OCFS determines that there are compelling circumstances, including the need to proceed immediately with contract award and development of final contracts in the best interests of the state, then these protest procedures may be suspended and such determination shall be documented in the procurement record.
3. OCFS will consider all information relevant to the protest, and may, at its discretion, suspend, modify, or cancel the protested procurement action, including solicitation of bids, or withdraw the recommendation of contract award prior to issuance of a formal protest decision.
4. OCFS will continue procurement and contract award activity prior to the final protest determination. The receipt of a formal bid protest will not stop action on the procurement and award of the contract(s) or on development of final contracts.
  - a. The procurement record and awarded contract(s) will be forwarded to OSC, and a notice of the receipt of a formal protest and any appeal will be included in the procurement record. If a formal protest determination, or a decision after appeal, has been reached prior to transmittal of the procurement record and the contract(s) to OSC, a copy of the formal protest determination or decision after appeal will be included in the procurement record and with the contract(s).

- b. If a formal protest determination or decision after appeal is made after the transmittal of the procurement record and contract(s) to OSC, but prior to OSC approval, a copy of the formal protest determination or decision after appeal will be forwarded to OSC when issued, along with a letter either: a) confirming the original OCFS recommendation for award(s); b) modifying the proposed award recommendation; or c) withdrawing the original award recommendation.
5. All records related to formal protests and appeals shall be retained for at least one (1) year following resolution of the formal protest. All other records concerning the procurement shall be retained according to the applicable requirements for records retention.

### **Section 5: Appeal to the Office of the State Comptroller**

If the protesting party is still not satisfied with the result of its protest after conclusion of the formal protest and appeal procedure described above, the protesting party must file a written appeal with the OSC no more than fifteen (15) business days after the date a decision after appeal is sent to the protesting party. An appeal to the OSC, Bureau of Contracts, must be in writing and must contain the specific factual and/or legal allegations setting forth the basis upon which the protesting party challenges the contract award by OCFS. Such appeal must be filed with the Director of the Bureau of Contracts at the Office of the State Comptroller, 110 State Street, 11th Floor, Albany, NY 12236.

## **CONSULTANT DISCLOSURE REPORTING REQUIREMENTS**

Pursuant to New York State Finance Law Section 163(4)(g), state agencies must require all contractors, including subcontractors, that provide consulting services for State purposes pursuant to a contract to submit an annual employment report for each such contract, such report to include for each employment category within the contract: (i) the number of employees employed to provide services under the contract, (ii) the number of hours they work, and (iii) their total compensation under the contract. Consulting services are defined as analysis, evaluation, research, training, data processing, computer programming, engineering, environmental, health, and mental health services, accounting, auditing, paralegal, legal, or similar services.

Contractors selected for award on the basis of a procurement issued by OSC (Request for Proposals, Request for Quotations, Mini-Bid, or Invitation for Bids) must complete Form A, State Consultant Services – Contractor’s Planned Employment from Contract Start Date through the End of the Contract Term upon notification of award. The completed Form A must include information for all employees that will be providing services under the contract, whether employed by the contractor or by a subcontractor. Contractors selected for award are also required to complete Form B, State Consultant

Services Contractor's Annual Employment Report annually for each year of the contract term, on a State fiscal year basis. The first report is due May 15 for the period April 1 through March 31 of the most recently concluded State fiscal year or portion thereof.

Form A and Form B must be submitted to OCFS as the contracting agency to the Bureau of Contract Management.

**FORM A:**

Upon notification of contract award, use Form A, State Consultant Services Contractor's Planned Employment From Contract Start Date Through the End of the Contract Term, to report the necessary planned employment information prospectively from the start date through the end of the contract term. This is a one-time reporting requirement.

**FORM B:**

Use Form B, State Consultant Services Contractor's Annual Employment Report to report the annual employment information required by the statute. This form will capture historical information, detailing actual employment data for the most recently concluded State fiscal year (April 1 – March 31). Submit Form B to OCFS, as the contracting Agency. Bureau of Contract Management.

## **Disproportionate Minority Representation (DMR) in the Child Welfare and Juvenile Justice Systems<sup>1</sup>**

Disproportionate Minority Representation (DMR) or disproportionality occurs when a particular racial/ethnic minority group's involvement with a system is significantly higher or lower than that group's representation in the general population. This attachment considers DMR at various decision points in the child welfare and juvenile justice systems. In the case of child welfare, the decision points discussed include child protective services reports made to the Statewide Central Register of Child Abuse and Maltreatment (SCR), the indication of an SCR report for abuse or maltreatment, foster care placement of any children involved in the child welfare system, and length of time to discharge for any foster children. In the case of the juvenile justice system, decision points reviewed include arrest, detention, placement of juvenile delinquents (JDs) and juvenile offenders (JOs) in OCFS facilities or voluntary agencies, and length time to community release for JDs admitted to OCFS facilities. For both the child welfare and juvenile justice systems, a variety of measures are used to describe DMR at these decision points, including:

- the racial/ethnic distribution of children/youth at different decision points;
- the rate per 1,000 children in the population: a measure of how many children/youth have contact with various decision points in comparison with their representation in the overall population;
- the disparity index: a ratio that represents the likelihood that a particular non-white racial/ethnic group is represented at any decision point of the system as compared to whites;
- the relative rate index: a ratio that compares the rate of activity at a given decision point of the system with the activity of a previous stage; and
- a comparison of the cumulative time from placement to discharge or release across the different racial/ethnic groups.

Collectively, the data demonstrate that DMR occurs in both the child welfare and the juvenile justice systems. However, the degree of disproportionality differs by decision point, race/ethnicity (black vs. Hispanic), and location (New York City vs. Rest of State).

### **DMR in the Child Welfare System**

This section examines DMR at various decision points in the child welfare system using the above measures, separately for children living in New York City (NYC) and for children living in the Rest of New York State (ROS).

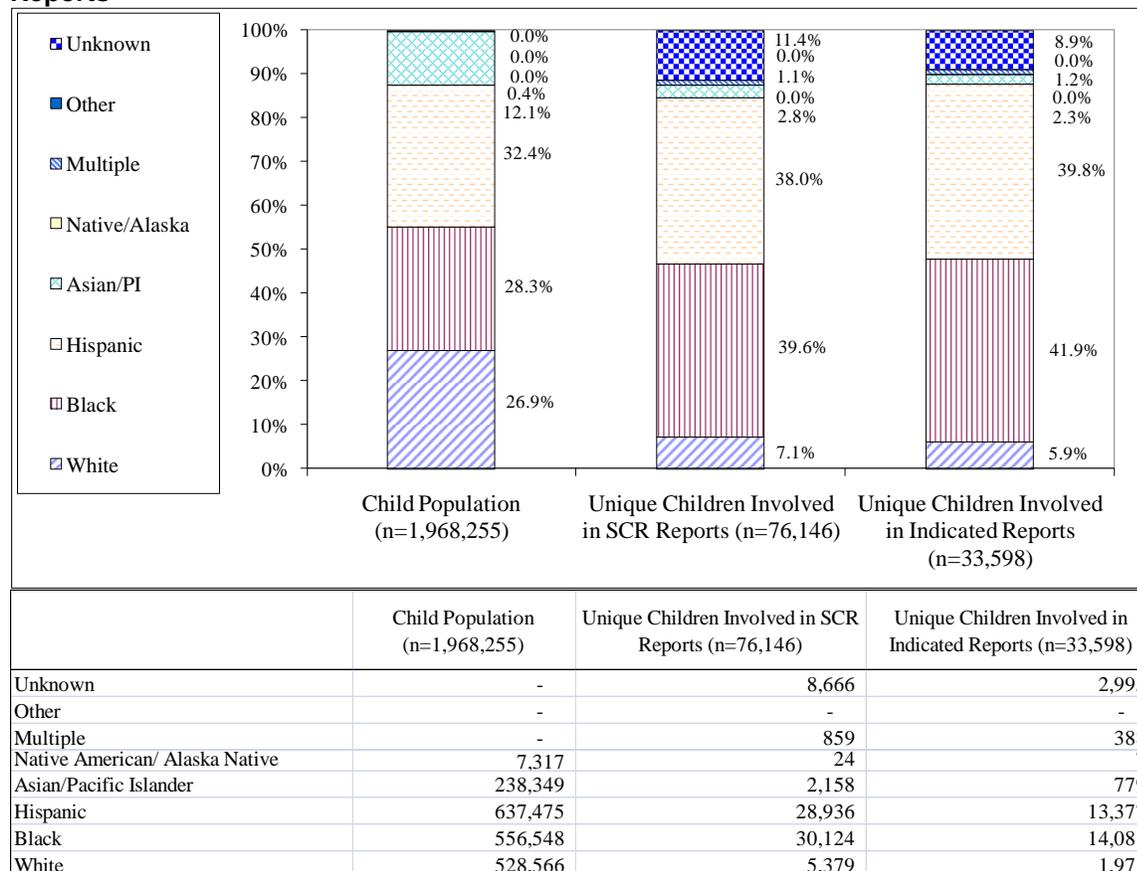
#### **Involvement at Various Decision Points in the Child Welfare System by Race/Ethnicity**

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<sup>1</sup> If you have any questions regarding this attachment, please contact Vajeera Dorabawila, Ph.D., Bureau of Evaluation and Research, New York State Office of Children and Family Services.

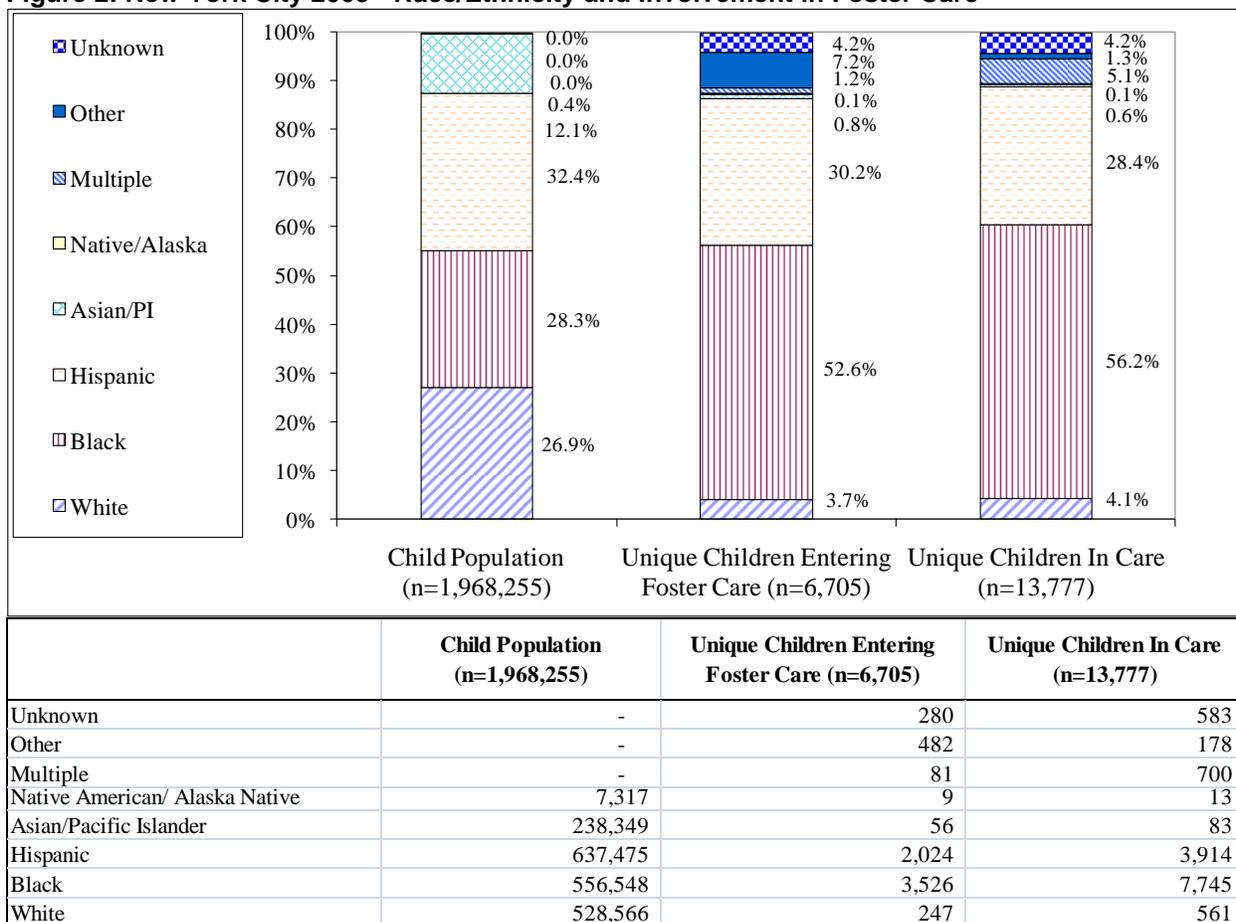
Figures 1 and 2 illustrate the racial/ethnic distribution of children at various decision points of the child welfare system in NYC. Figure 1 depicts the percent and number of unique children of a given race/ethnicity in the population, children involved in SCR reports and children involved in indicated SCR reports during the 2009 calendar year. Figure 2 shows the percent and number of unique children of a given race/ethnicity in the population, and the number and percent of children entering foster care for any reason and the number of children in foster care at the end of 2009. (Note: The statistics for children in foster care included in this section are not limited to children who entered foster care as a result of abuse or neglect. They include children who entered foster care through voluntary placements or surrenders, persons in need of supervision or JD petitions, termination of parental rights, or for any other reason). In both figures, the percentage of whites occupies the bottom segment of the graph; the percentage of black children is represented by the next segment from the bottom, and the percentage of Hispanic children is included in the third segment from the bottom. The remaining racial/ethnic groups are identified in the key on the left hand side of the figures and may or may not appear in the graph depending on their prevalence.

**Figure 1: New York City 2009 - Race/Ethnicity and Involvement in SCR Reports and Indicated Reports**



In NYC, black children make up an increasingly higher percentage of the population at each successive decision point in the child welfare system (Figures 1 and 2). As shown in Figure 1, black children represent 28.3% of the child population, but represent 39.6% of those involved in an SCR report and 41.9% of those involved in an indicated report. Figure 2 illustrates that black children represent 52.6% of all children entering foster care and 56.2% of children in care. The representation of Hispanic children at the various decision points examined indicates a different pattern. Hispanic children account for 32.4% of the total children below 18 years in the population. At the SCR report and indication stages (Figure 1), however, their percentages are 38.0% and 39.8% respectively. At the foster care entry stage (Figure 2), the proportion of Hispanic children is 30.2%, which is lower than their proportion in the population. It declines further at the in care stage, where their proportion is 28.4% of the children in care.

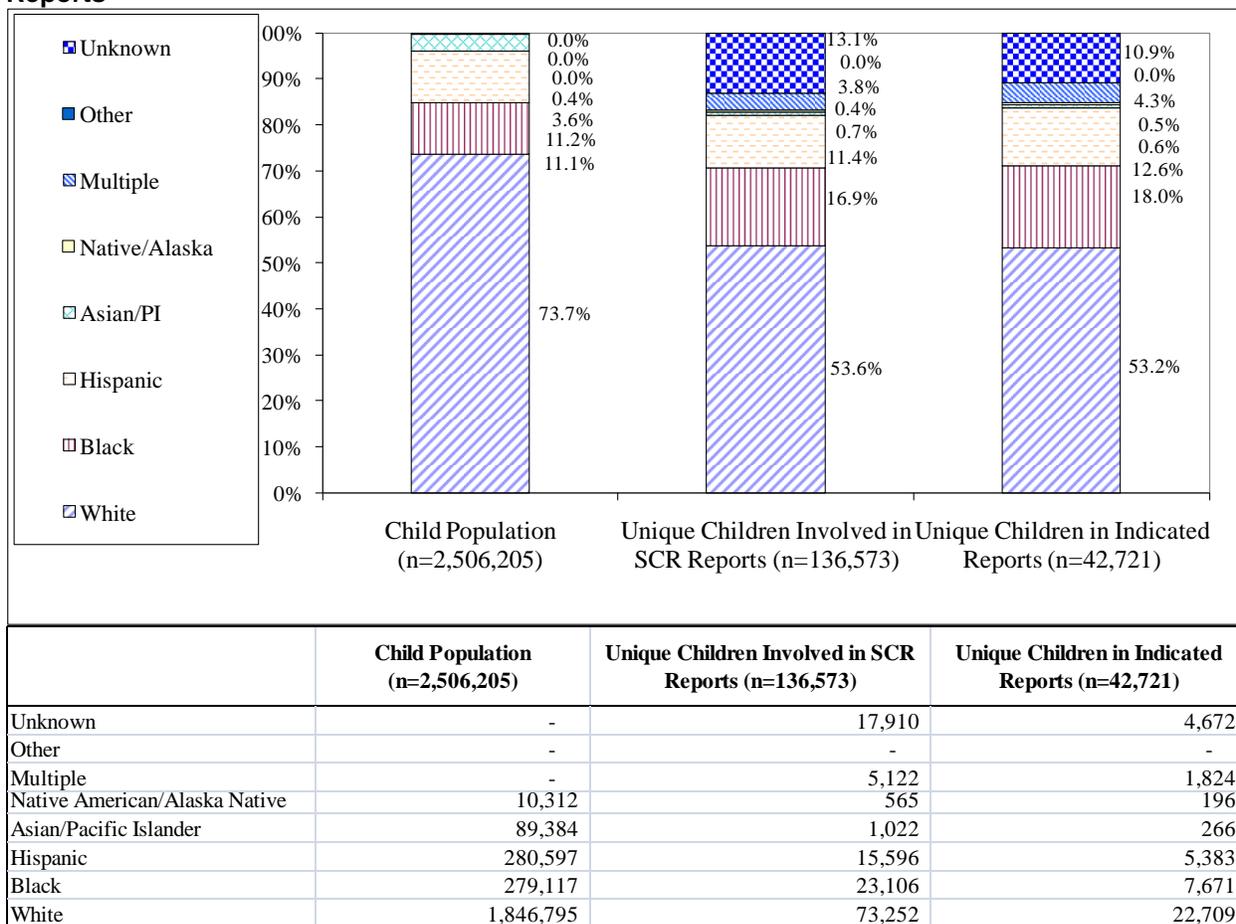
**Figure 2: New York City 2009 - Race/Ethnicity and Involvement in Foster Care**



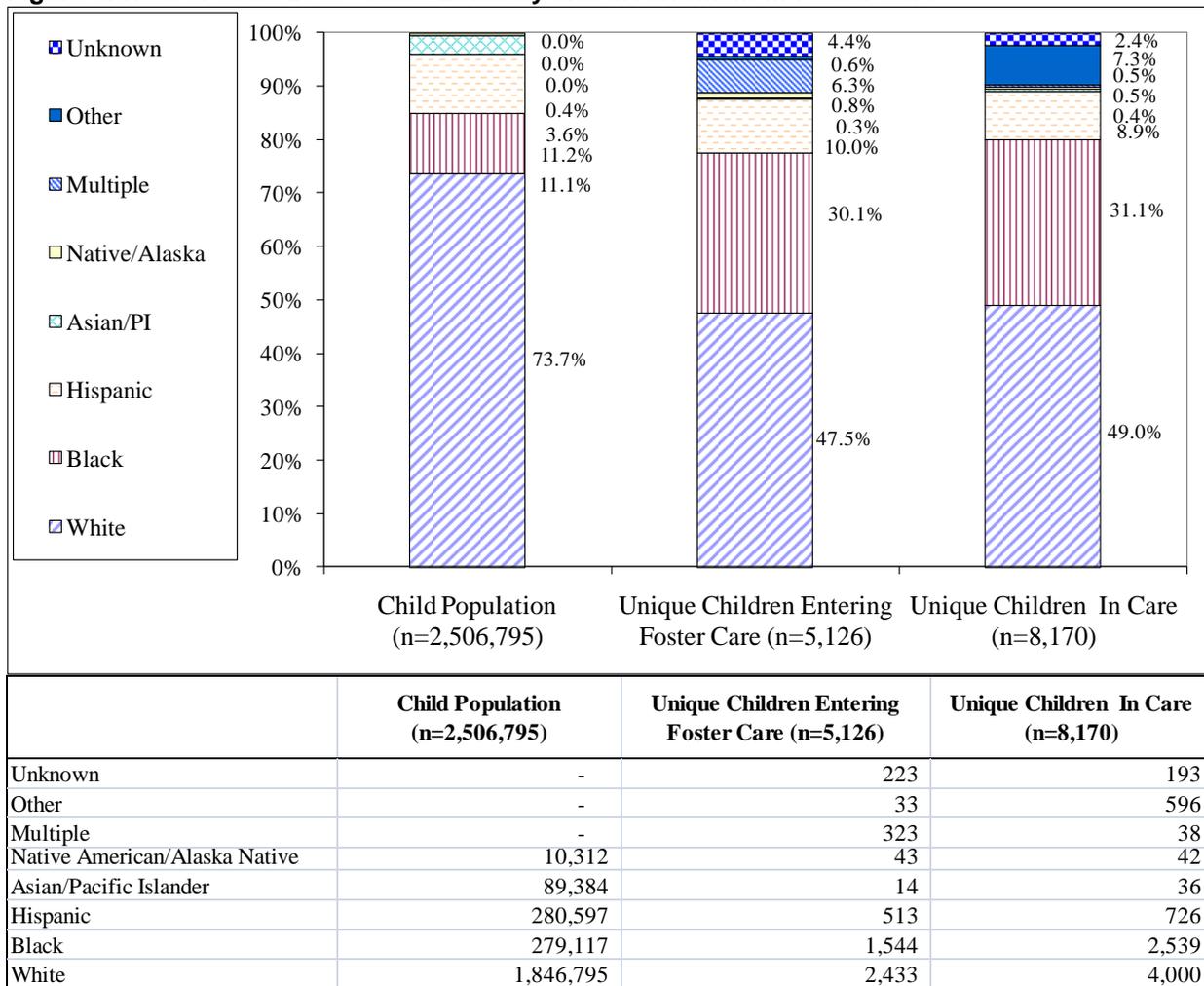
Similar to the first two figures, Figures 3 and 4 show the racial/ethnic distribution of children at various decision points in the child welfare system for ROS. The percentage of white children in the ROS population (73.7%) is much greater than in the NYC population (26.9%), and consequently, the representation of white children at various decision points of the child welfare system is considerably greater than what was

observed in NYC. The patterns of DMR for black and Hispanic children in ROS are quite similar to those observed in NYC, even though black and Hispanic children represent a much smaller percentage of the population in ROS. While black children comprise 11.1% of the ROS population, 16.9% of the children involved in SCR reports are black (Figure 3) and 18.0% of those involved in indicated reports are black. A little less than one-third (30.1%) of children entering foster care are black and a slightly higher percentage (31.1%) of the children in foster care at the end of the year are black (Figure 4). Consistent with NYC, Hispanic children in ROS represent a slightly higher proportion of children involved in SCR reports (11.4%) or involved in indicated reports (12.6%) than the proportion of Hispanic children in the population (11.1%) (Figure 3). However, as shown in Figure 4, Hispanic children represent a slightly lower proportion of children entering or in foster care, 10% and 8.9%, respectively.

**Figure 3: 2009 Rest of the State - Race/Ethnicity and Involvement in SCR Reports and Indicated Reports**



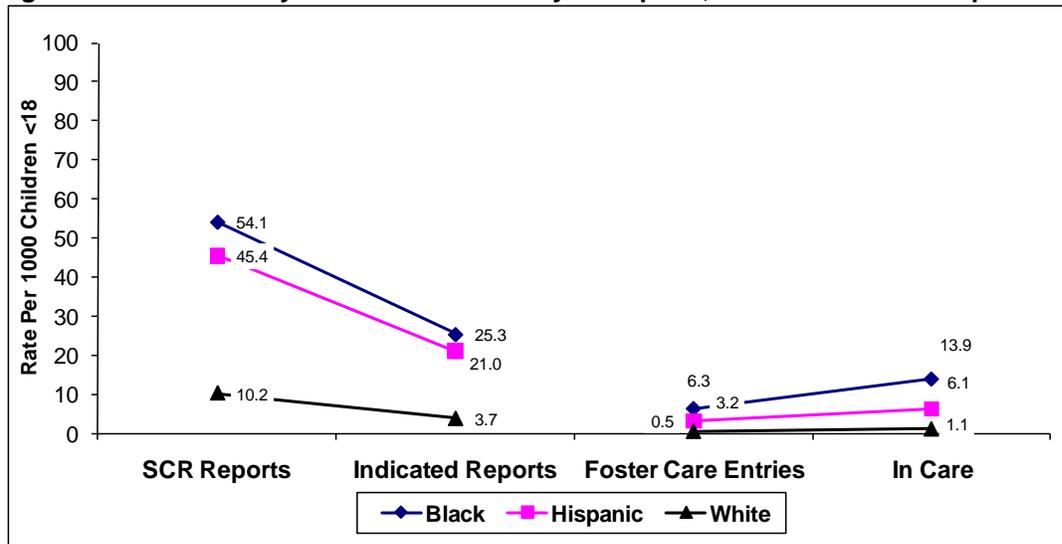
**Figure 4: Rest of State 2009 - Race/Ethnicity and Involvement in Foster Care**



**Rate per 1,000 Children in the Population**

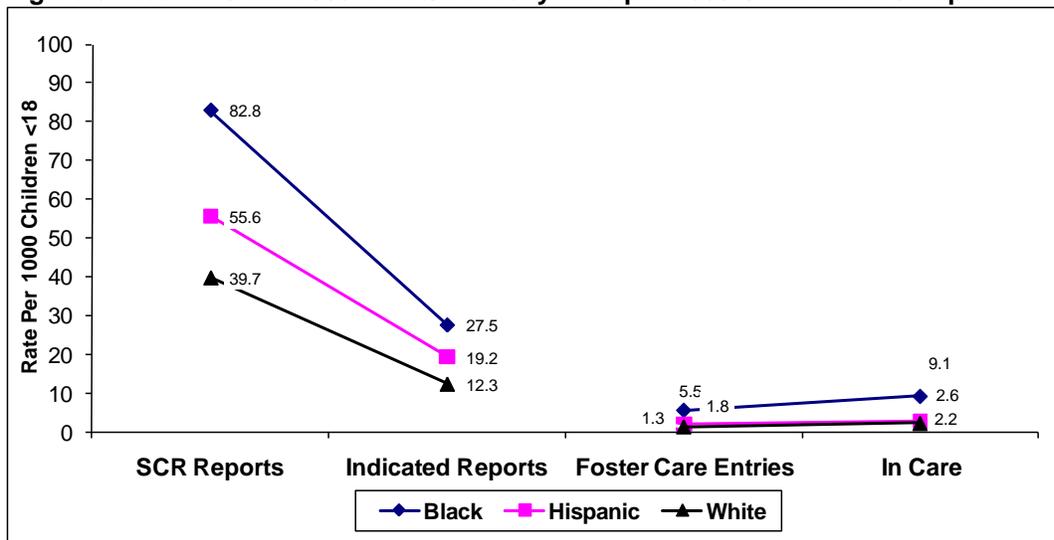
The rate per 1,000 is an indicator of how many children from each specific racial/ethnic group have contact with the child welfare system (at various decision points) compared to their representation in the general population. For example, the rate per 1,000 for children involved in SCR reports for a particular racial/ethnic group is calculated by dividing the number of children in the particular group involved in SCR reports by the number of children under age 18 in the particular group in the overall population and then multiplying that quotient by 1,000. The rate per 1,000 provides a standard metric for comparing the rates for different racial/ethnic groups. In the current case, we calculated and compared rates per 1,000 for three racial/ethnic groups: whites, blacks, and Hispanics. These rates were computed separately for children living in NYC and for children living in ROS. In general, as measured by the rate per 1,000 children in the particular population, black children are more likely than Hispanic children, and Hispanic children are more likely than white children to be involved in an SCR report or involved in an indicated report, as well as to be admitted to foster care or in care (Figure 5 and 6). However, the degree of racial/ethnic differences varied between NYC and ROS.

**Figure 5: New York City 2009 - Race/Ethnicity Rate per 1,000 Children < 18 Population**



In NYC, for every 1,000 black children in the population, 54.1 are involved in an SCR report, as compared to 45.4 for Hispanic children, and 10.2 for white children (Figure 5). Similar patterns exist for children involved in an indicated SCR report, entering foster care, and in care.

**Figure 6: Rest of State 2009- Race/Ethnicity Rate per 1000 Children < 18 Population**



Racial/ethnic differences in the rate per 1,000 for ROS again reveal that black children have the highest rates and Hispanic children have the second highest rates at each decision point (Figure 6). However, the gap in the rate per 1,000 between Hispanic and white children is lower in ROS as compared to NYC, with the rates for Hispanic and white children being very close for the two decision points involving foster care.

## Disparity Index

Disparity refers to lack of equality among racial/ethnic groups in the likelihood of being involved in an SCR report, involved in an indicated report, or admitted to or in foster care. The Disparity Index is the ratio of rate of involvement in a given stage of the child welfare system per 1,000 children in the general population for black children (or Hispanic children) relative to the rate for white children (see example below). A Disparity Index of 1 means no disparity exists, and the farther the Disparity Index moves above a value of 1, the greater the disparity. The estimates for NYC and ROS are presented separately.

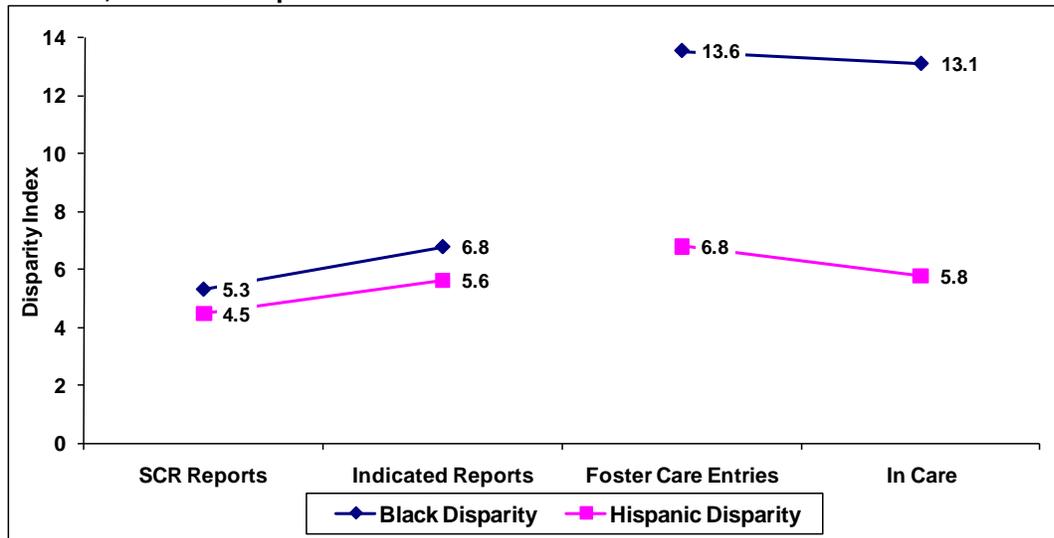
Race/Ethnicity	Foster Care Admission Rate per 1,000 Children in NYC
Black	6.335
White	0.467

Black Disparity Index

$$\frac{6.335}{0.467} = 13.6$$

In NYC, for each decision point examined, black children are more likely to be involved in the child welfare system than white children (Figure 7). For example, black children are 5.3 times more likely to be involved in an SCR report than white children, 6.8 times more likely to be involved in an indicated report, 13.6 times more likely to be admitted to foster care than white children, and 13.1 times more likely to be in foster care. The change in black Disparity Index is slight from involvement in an SCR report to involvement in an indicated report. However, the change from involvement in an indicated report to foster care entries is substantial. Then it remains stable and high from foster care entries to in care.

**Figure 7: New York City 2009 - Disparity Index for Black and Hispanic Children versus White Children, Total <18 Population**



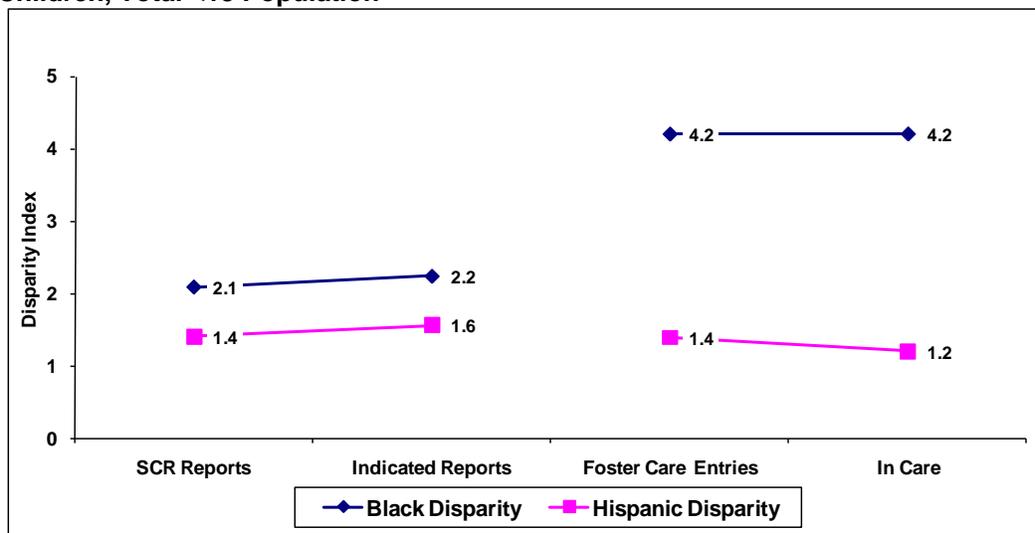
Similar to black children, Hispanic children in NYC are more likely to be involved in different points of the system (Figure 7). Although the Disparity Index for Hispanic children is high (4.5) and similar to that of black children at the decision point regarding involvement in SCR reports, the rate of disparity for Hispanic children is relatively

constant for the other decision points. For example, the Hispanic Disparity Index is 5.6, 6.8, and 5.8, respectively, for involvement in indicated reports, foster care entries, and in care.

Overall, the disparity indices are consistently lower for ROS than for NYC, for both black and Hispanic children (Figures 7 and 8). In ROS, black children are 2.1 times more likely to be involved in an SCR report than white children, 2.2 times more likely to be involved in an indicated report, 4.2 times more likely to be admitted to foster care than white children, and 4.2 times more likely to be in foster care.

The Disparity Index for Hispanic children in ROS is lower than that for black children (Figure 8). Hispanic children are 1.4 times more likely than white children to be involved in an SCR report, and 1.6 times more likely to be involved in an indicated report. They are only 1.2 times more likely to enter or be in foster care. For the foster care decision points, the Disparity Index is close to a value of one, which suggests that for Hispanic children disparity is very low.

**Figure 8: Rest of State 2009 - Disparity Index for Black and Hispanic Children versus White Children, Total <18 Population**



### Relative Rate Index

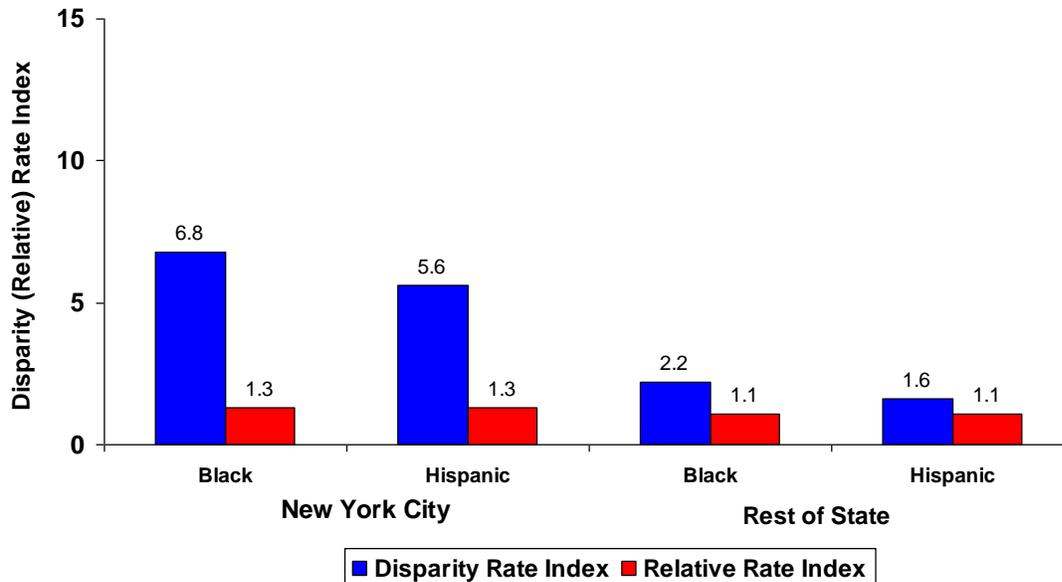
The Relative Rate Index (RRI) compares the rate of activity (number of events) for a particular decision point of the child welfare system to the rate of activity in a preceding point. This comparison allows us to examine when disparities intensify or diminish across different decision points. As with the Disparity Index, an RRI of 1 means no disparity exists, and the farther the RRI moves above a value of 1, the greater the disparity. Similar to the earlier sections, we focus on the RRI for black and Hispanic children relative to white children. Below is an example of how the RRI is calculated for black children in NYC involved in SCR reports.

Race/ Ethnicity	Children in NYC SCR Reports	Children in NYC Indicated Reports	Rate per 1,000 Children Reported
Black	30124	14081	467.435
White	5379	1971	366.425

<p>Black Relative Rate Index</p> $\frac{467.435}{366.425} = 1.3$
--

As is shown in Figure 9, the RRI is much lower than the Disparity Index for both black and Hispanic children in NYC. Although black children in NYC are 6.8 times as likely as white children to be indicated (Disparity Index), black children who are reported are only 1.3 times as likely as white children who are reported to be indicated (RRI). Similarly, while Hispanic children in NYC are 5.6 times as likely as white children to be indicated, Hispanic children who are reported are 1.3 times as likely as white children who are reported to be indicated. A similar pattern is observed in ROS, where the RRI for involvement in indicated reports is 1.1 for both black children and Hispanic children, compared to disparity rates of 2.2 for blacks and 1.6 for Hispanics. Thus, when the rate of involvement in SCR reports is taken into account, Hispanic and black children have about the same likelihood of being indicated relative to white children. In other words, black and Hispanic children are more likely than white children to be indicated primarily because they are more likely than white children to be reported.

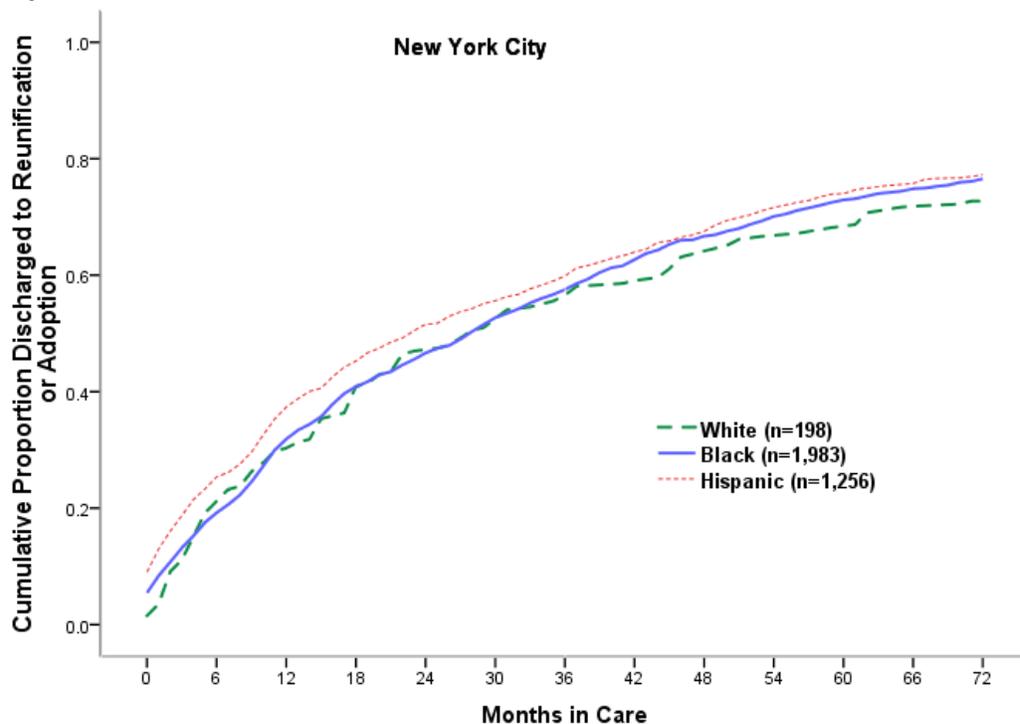
**Figure 9: Disparity Index Compared to Relative Rate Index for Involvement in Indicated SCR Reports in New York City and Rest of State**



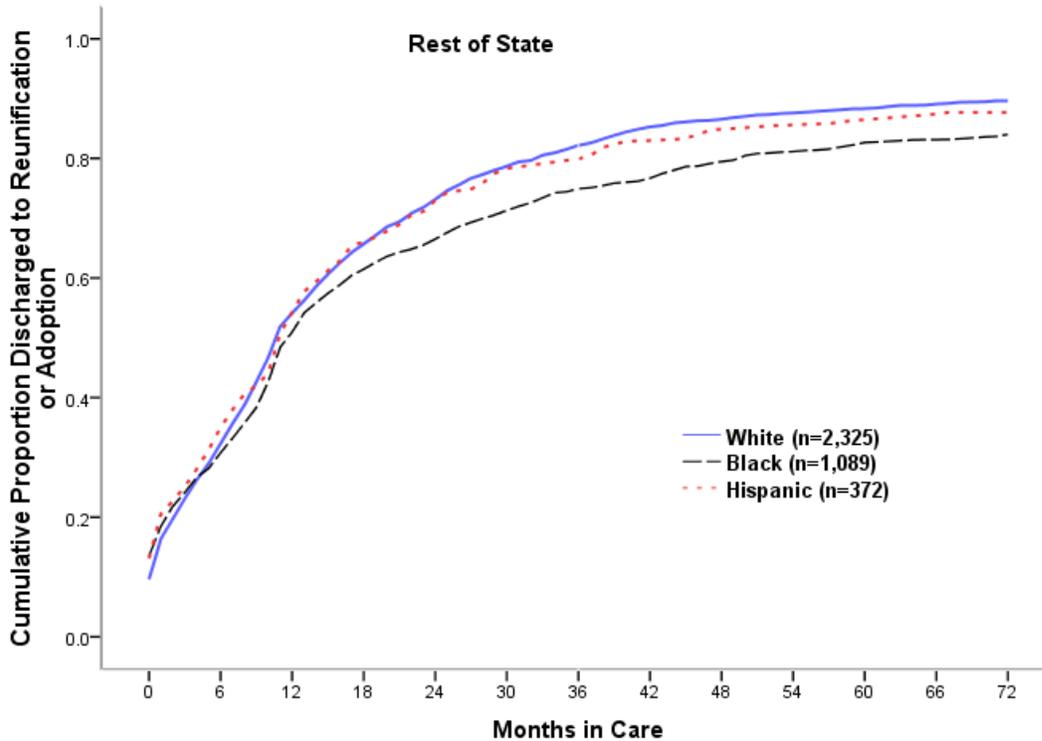
### **Cumulative Time to Discharge**

Figures 10 and 11 display the cumulative time to discharge, through reunification or adoption, for all children first admitted to foster care in 2004. The figures reveal distinct patterns for NYC and ROS. In NYC, there are no statistically significant racial/ethnic differences in the cumulative proportion discharged from foster care over time (Figure 10). In ROS, the cumulative proportion discharged from foster care over time is significantly higher for white children compared to black children (Figure 11). This indicates that white children in ROS were discharged earlier from foster care than black children in ROS. However, the difference between white and Hispanic children is not statistically significant. This means that black children in ROS tend to spend more time in foster care than both their white and Hispanic counterparts.

**Figure 10: New York City - Cumulative Proportion of Children Discharged to Reunification or Adoption over Time for Calendar Year 2004 First Admission Cohort**



**Figure 11: Rest of State - Cumulative Proportion of Children Discharged to Reunification or Adoption over Time for Calendar Year 2004 First Admission Cohort**



**Summary**

In both NYC and ROS, black children have higher rates of involvement in each stage of the child welfare system than white children, and disparity rates for black children are substantially higher at the foster care stage than at the investigation stage of the system. Disparity rates for black children at both the investigation and foster care stages are more pronounced in NYC than in ROS. However, black children admitted to foster care in ROS spend more time in care compared to white children, while there are no racial/ethnic differences in time to discharge for children in NYC. Hispanic children experience lower disparity rates at each stage of the system than black children, in both NYC and ROS. Disparity for Hispanic children is substantially higher in NYC than in ROS, where it is virtually non-existent. However, for time to discharge from foster care, there is no difference between Hispanic and white children in both NYC and ROS.

### **Child Welfare Data Definitions and Sources**

#### **Unique children**

A child who was named in more than one SCR report or indicated SCR report, who entered foster care more than once, or who was in foster care multiple times during a calendar year was counted only once for each decision point.

#### **Definition of Indicators**

**Reports:** These are unique children under 18 years of age who were named in an SCR report that was accepted during a given calendar year. Age utilized is the child's age at the time the report was made.

**Indications:** These are unique children under 18 years of age who were determined to be abused or maltreated in an SCR report that was indicated during a given calendar year. The information was based on whether the determination was made during the calendar year of interest, which may not be the same year the report was made to the SCR. Age utilized is the child's age at the time the report was made. Only children who were determined to be abused or maltreated in an indicated SCR report are included; children who are named in an indicated SCR report but who were not determined to have been abused or maltreated are excluded.

**Foster care entries:** These are unique children under 18 years of age who entered foster care during a given calendar year. Age utilized is the child's age at the time the child entered foster care. Admissions with length of stay less than 8 days are excluded. Children returning from trial discharges lasting more than 30 days are treated as new entries and are included.

**Children in care:** These are unique children under 18 years of age who were in foster care on the last day of a given calendar year. Age utilized is the child's age on December 31<sup>st</sup> of the given year. Children in care for less than 8 days are excluded. Children that have been on a trial discharge for more than 30 days are considered not in foster care.

#### **Race/Ethnicity Definition and Data Sources**

**Woods & Poole Economics Inc.** Race/ethnicity data for the population was obtained from Woods and Poole Economics Inc, which provides population estimates for 2009 in the following race/ethnicity categories in one data element (5 mutually exclusive categories): black, white, Hispanic, Native American/Alaska Native, and Asian/Pacific Islander.

**CONNECTIONS Database:** The information on children named in an SCR report and children named in an indicated SCR report was obtained from CONNECTIONS. In CONNECTIONS, race/ethnicity data was available as two separate data elements – a race element and a separate ethnicity element. Thus, unlike with the Woods and Poole source, these two data elements had to be combined to construct mutually exclusive race/ethnicity categories. Furthermore, CONNECTIONS includes two other options –multiple and unknown-- in the race element. If a child was identified as Hispanic in the ethnicity category, regardless of the race category, then the child was classified as Hispanic. Other race categories were classified as black, white, Native American/Alaska Native, Asian/Pacific Islander, multiple, or unknown.

**Child Care Review Service (CCRS):** Foster care entry and children in foster care data was obtained from CCRS. Similar to CONNECTIONS, CCRS race/ethnicity data was available as two separate data elements and, thus, had to be combined to construct mutually exclusive race and ethnicity categories. CCRS contains three additional race categories compared to Woods and Poole – multiple, other, and unknown. If a child was identified as Hispanic in the ethnicity category, regardless of the race category, then the child was classified as Hispanic. Other race categories were classified as black, white, Native American/Alaska Native, Asian/Pacific Islander, multiple, other, or unknown

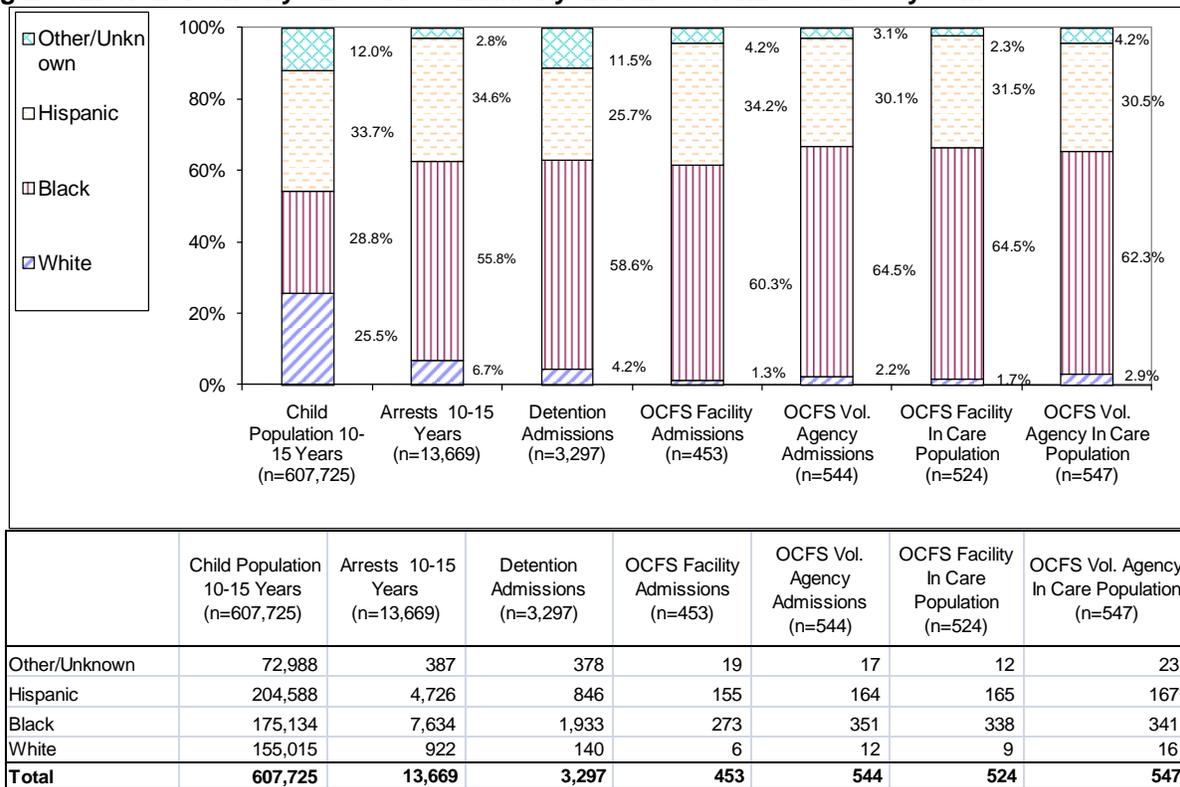
## **DMR in the Juvenile Justice System**

This section discusses racial/ethnic differences among youth under 16 years of age who were involved in the juvenile justice system. As a reminder, the decision points within the juvenile justice system that are examined here are arrest, detention, admission, in care, and time to release. Detention data include all youth in secure and non-secure detention in ROS and NYC. Admission and in care data include both youth adjudicated as juvenile delinquents (JDs) and juvenile offenders (JOs) placed with OCFS and admitted either to OCFS facilities or voluntary agencies. The data does not include JDs who are placed with a local social services department. The analysis of time to release is limited to youth adjudicated as JDs who were admitted to OCFS facilities. It does not include JDs placed with OCFS who were admitted to voluntary agencies. As with the child welfare system, DMR within the juvenile justice system is examined using the following measures: (a) racial/ethnic distribution of youth at different decision points in the juvenile justice system; (b) rate per 1,000 youth at various decision points; (c) Disparity Index; (d) Relative Rate Index; and (e) cumulative time to release for JDs that were admitted to an OCFS facility in a given year. The following sections provide an overview of racial/ethnic differences of youth in both NYC and ROS.

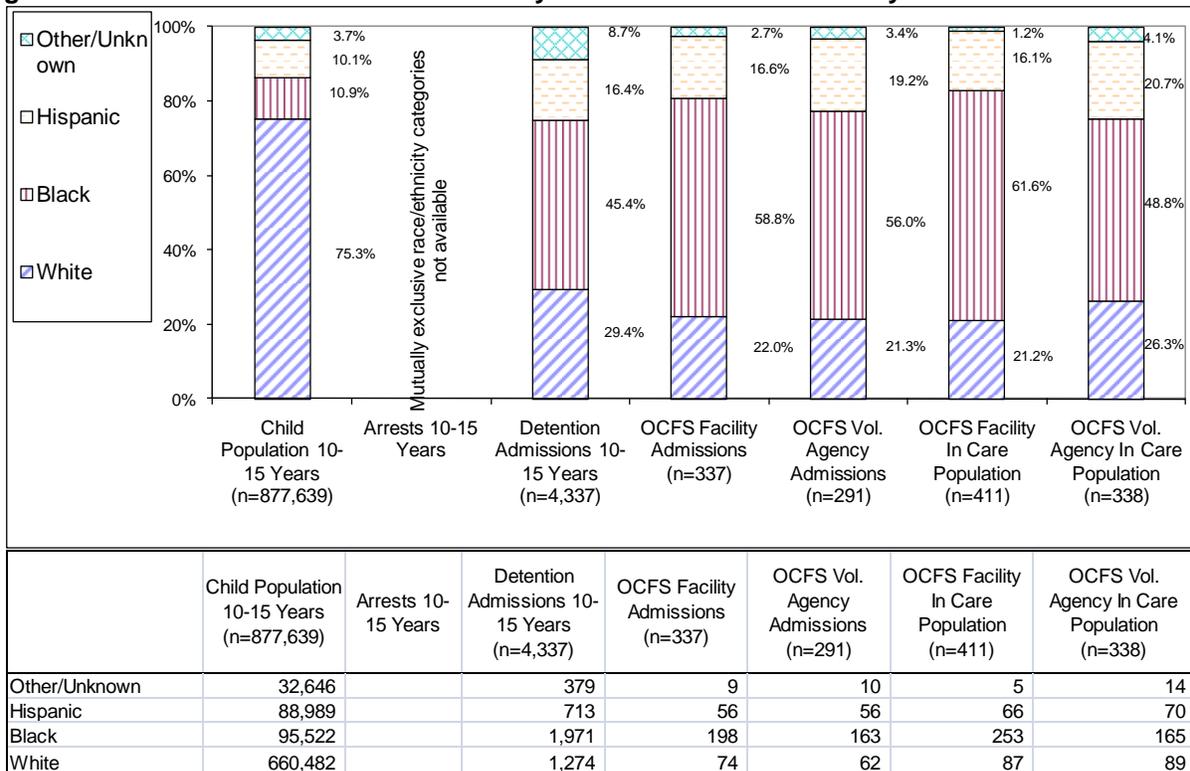
### **Involvement at Various Decision Points in the Juvenile Justice System by Race/Ethnicity**

There are differences in how black and Hispanic youth are represented in the juvenile justice system. Overall, black youth make up a substantially higher percentage of the juvenile justice population than their share of the general population of youth less than 16 years of age (Figures 12 and 13). This situation exists in both NYC and in ROS and is evident at various stages of the juvenile justice system. The pattern for Hispanic youth, however, differs considerably for NYC and ROS. In NYC, the percentage of Hispanic youth represented at each decision point examined is similar to that of the general population, perhaps with the exception of youth in detention (Figure 12). In contrast, the proportion of Hispanic youth in ROS is substantially higher at a number of decision points of the juvenile justice system than the percent they represent in the general population (Figure 13). For example, in ROS, Hispanic youth accounted for 10.1% of the population, while among those in OCFS custody, Hispanic youth accounted for 16.1% of youth in OCFS facilities and 20.7% of OCFS youth in voluntary agencies.

**Figure 12: New York City - 2008 Race/Ethnicity and the Juvenile Justice System**



**Figure 13: Rest of State - 2008 Race/Ethnicity and the Juvenile Justice System**



### Rate per 1,000 Youth in the Population

The rate per 1,000 youth under age 16 in the population also indicates that black youth in both NYC and ROS are disproportionately represented at various stages of the juvenile justice system (Figures 14 and 15). Black youth are more likely than Hispanic youth, and Hispanic youth are more likely than white youth, to be arrested, admitted to detention, admitted to OCFS facilities or voluntary agencies, and in care at OCFS facilities or voluntary agencies.

Figure 14: New York City - Rate of Youth Arrested, Admitted to Detention, Placed With OCFS, and In Care per 1,000 Youth < 16 in Population

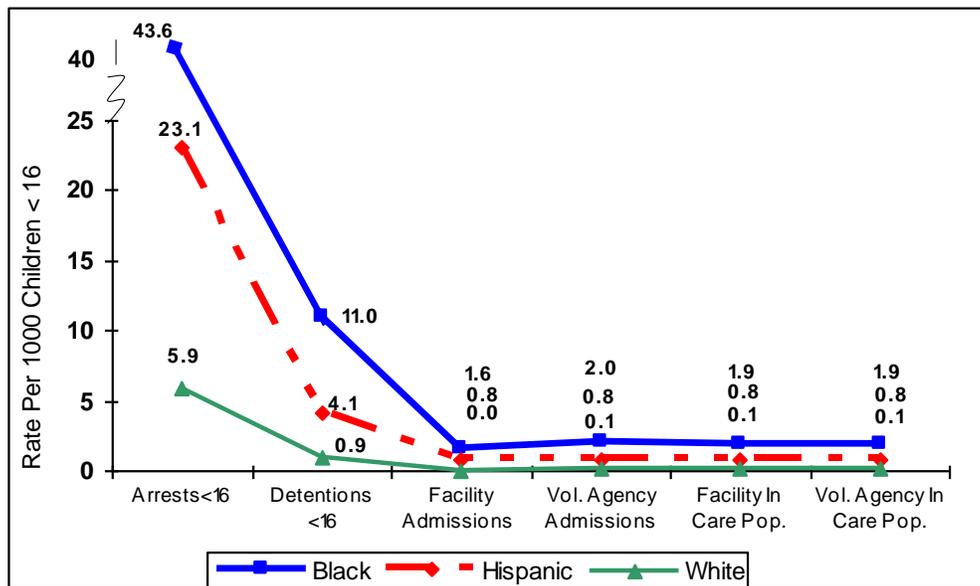
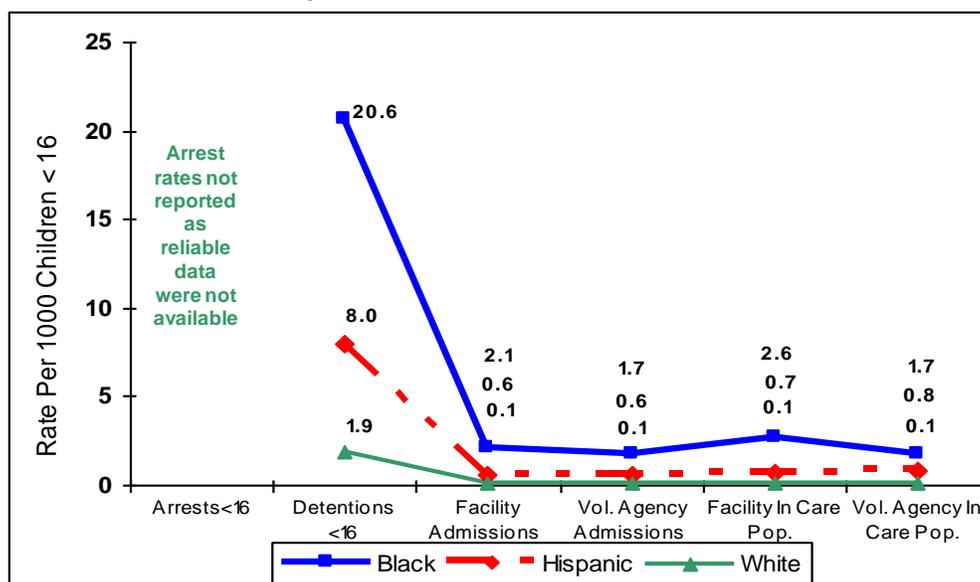


Figure 15: Rest of State - Rate of Youth Arrested, Admitted to Detention, Placed With OCFS, and In Care per 1,000 Youth < 16 in Population

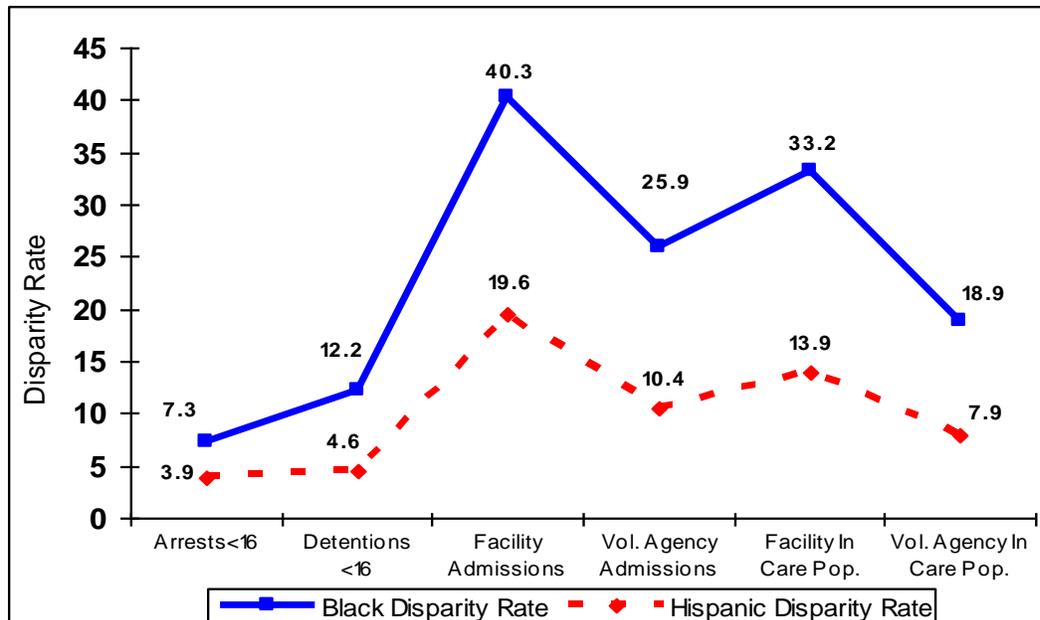


## Disparity Index

As was discussed in the section on child welfare, the Disparity Index represents the ratio of the rate per 1,000 for black or Hispanic youth within any given decision point of the system to the rate per 1,000 for white youth at that same decision point. Data in the following section are presented for black and Hispanic youth as compared to white youth, and for NYC and ROS.

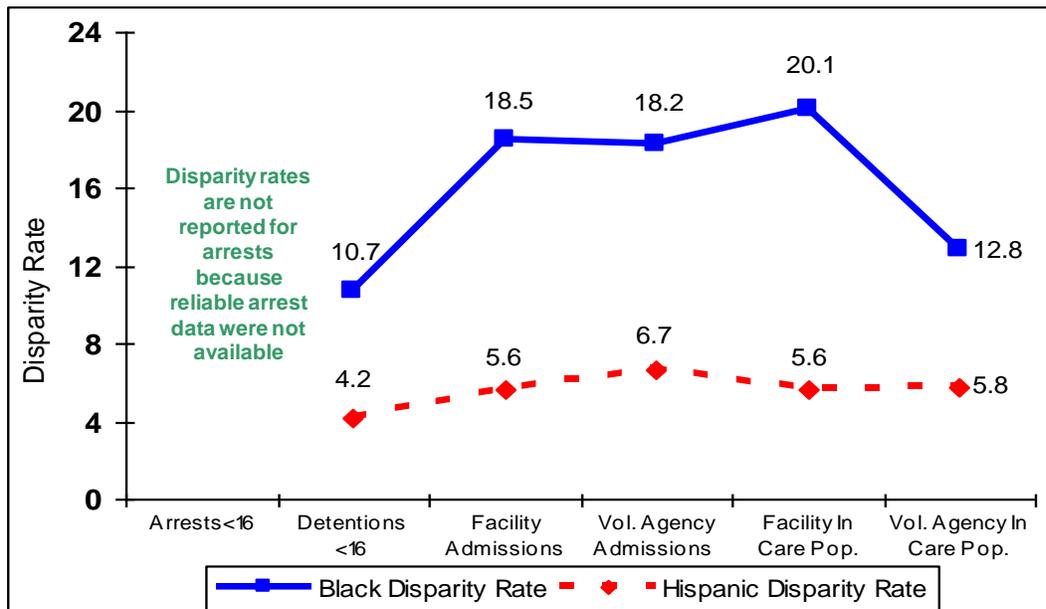
In NYC, disparity indices are very high for both black and Hispanic youth across all stages of the juvenile justice system, but are more pronounced for black youth (Figure 16). For black youth in NYC, disparity indices range from a low of 7.3 for arrests to a high of 40.3 for admissions to OCFS facilities. Disparity indices for Hispanic youth in NYC range from a low of 3.9 for arrests to a high of 19.6 for facility admissions.

**Figure 16: New York City - Disparity Indices for Black and Hispanic Youth (Versus White Youth) at Different Stages of the Juvenile Justice System, 2008**



The disparity indices for black and Hispanic youth in ROS follow a similar pattern to the ones observed for NYC youth, although the disparity indices for ROS are consistently lower (Figure 17). For example, in NYC, black youth are 40.3 times as likely and Hispanic youth are 19.6 times as likely as white youth to be admitted to an OCFS facility, while in ROS, black youth are 18.5 times as likely as and Hispanic youth are 5.6 times as likely as white youth to be admitted to OCFS facilities.

**Figure 17: Rest of State - Disparity Indices for Black and Hispanic Youth (Versus White Youth) at Different Stages of Juvenile Justice System, 2008**



**Relative Rate Index**

The Relative Rate Index (RRI) compares the rate of activity (number of events) in a given stage of the juvenile justice system to the rate of activity in a preceding stage for black and Hispanic youth relative to white youth. An example of how this is calculated was demonstrated previously in the child welfare discussion.

**Figure 18: New York City - Disparity Index Compared to Relative Rate Index for OCFS Admissions**

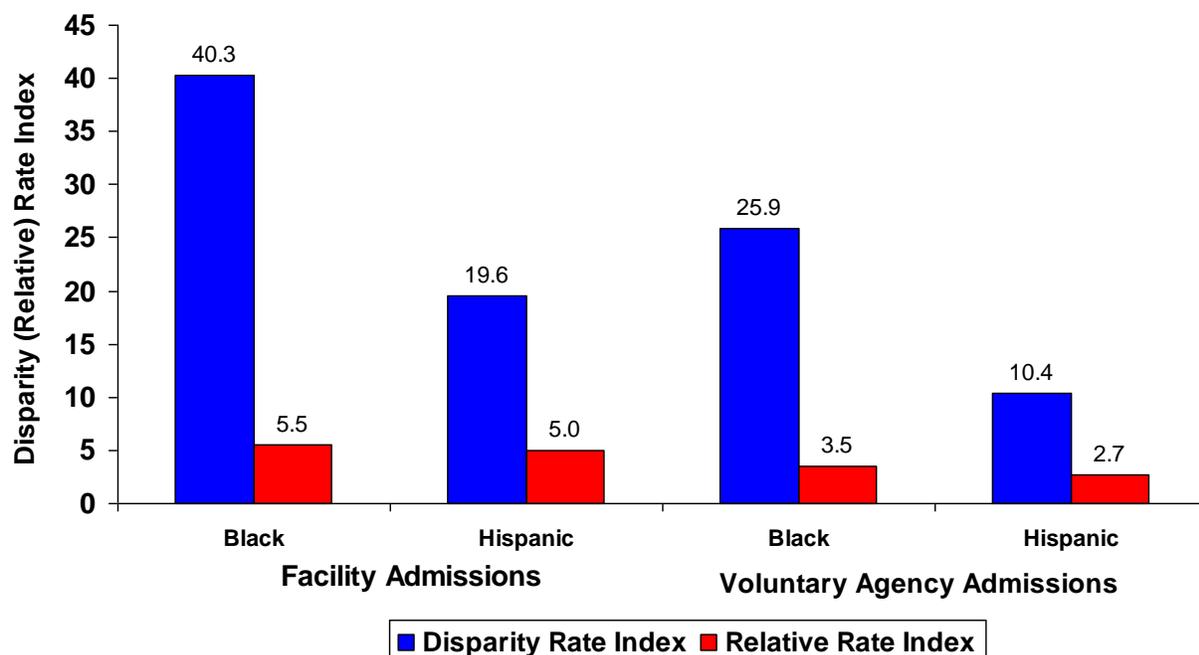


Figure 18 presents the RRI and disparity indices for NYC for youth admitted to OCFS facilities and voluntary agencies<sup>2</sup>. The relevant previous stage for the RRI is arrest<sup>3</sup>. The RRI is much lower than the Disparity Index for both black and Hispanic youth in NYC for both admission types. Although black youth in NYC are 40.3 times as likely as white youth to be admitted to OCFS facilities and 25.9 times as likely as to be admitted to OCFS voluntary agencies, black youth who are arrested are only 5.5 times as likely as white youth who are arrested to be admitted to OCFS facilities and 3.5 times as likely to be admitted to voluntary agencies.

While disparity indices are substantially lower for Hispanic youth than black youth, the Hispanic RRI is similar to the black RRI for both OCFS facility admissions (5.0) and voluntary agency admissions (2.7). That is, when the rate of arrest is taken into account, Hispanic youth have about the same likelihood as black youth of being placed with OCFS and admitted to either an OCFS facility or voluntary agency relative to white youth.

What does the RRI tell us? Compared to white youth, a large portion of the disparity in the rate at which black and Hispanic youth in custody are admitted to OCFS facilities and voluntary agencies is introduced at point of arrest. That is, black and Hispanic youth are far more likely than whites to be arrested, and therefore, more likely to be placed with OCFS. However, even when the higher arrest rates for black and Hispanic youth are considered, black and Hispanic youth still have a noticeably higher likelihood of being admitted to OCFS facilities and voluntary agencies than white youth. This indicates that some disparity continues to occur later in the process, such as at adjudication or sentencing.

### **Cumulative Time to Community Release**

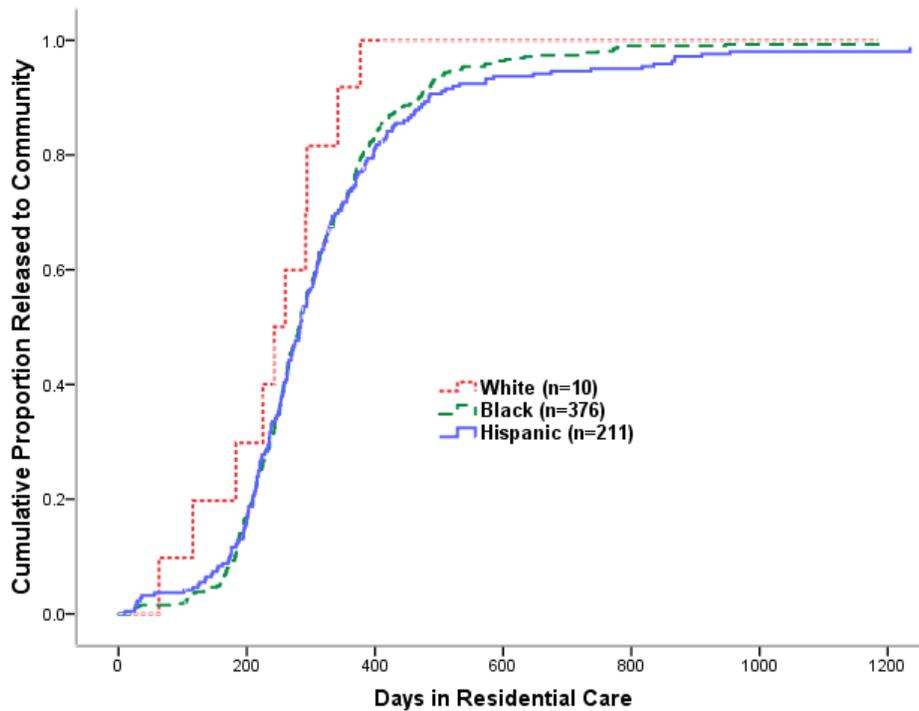
Figures 19 and 20 show the length of time from admission to an OCFS facility to release to the community for youth adjudicated as JDs and admitted to an OCFS facility in 2006. In both NYC and ROS, black and Hispanic JDs spent about the same amount of time in OCFS facilities as white JDs.

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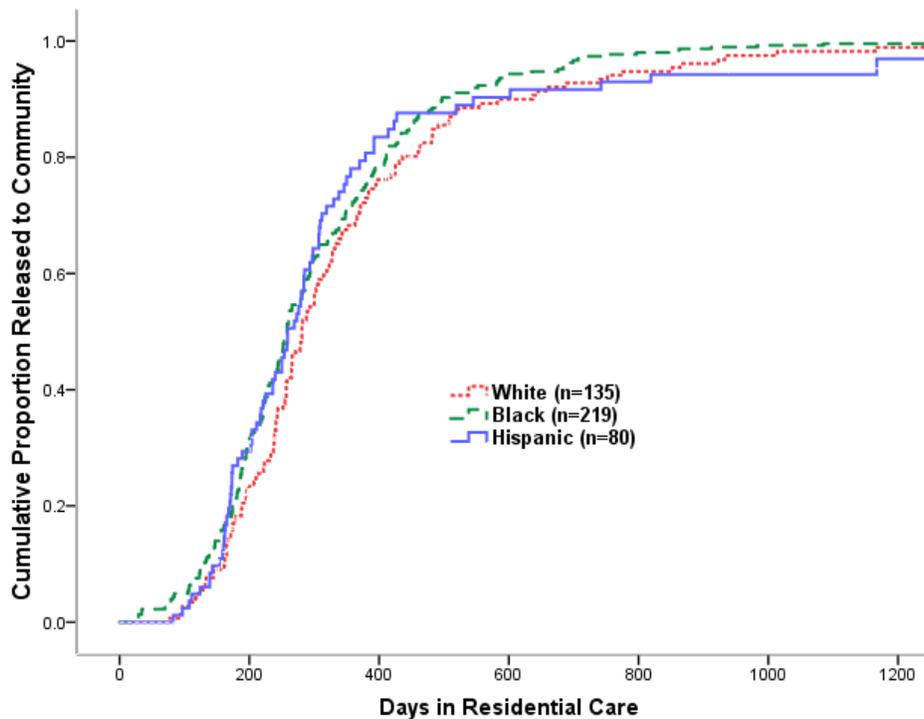
<sup>2</sup> Relative Rate Index is not estimated for ROS due to lack of arrest data for mutually exclusive racial/ethnic categories.

<sup>3</sup> Detention is not an appropriate previous stage given that some children in detention are not waiting adjudication/petitions such as those that have run away from a placement. In addition, some children who will eventually be placed in a residential facility do not spend time in detention.

**Figure 19: New York City - Juvenile Delinquents Admitted to OCFS Facilities in Calendar Year 2006: Cumulative Proportion Released to Community over Time**



**Figure 20: Rest of State - Juvenile Delinquents Admitted to OCFS Facilities in Calendar Year 2006: Cumulative Proportion Released to Community over Time**



## Summary

Both black youth and Hispanic youth experience high rates of disparity at every stage of the juvenile justice system with the exception of length of stay in residential care, in NYC as well as ROS. Disparity rates are more pronounced for black youth than for Hispanic youth, and for NYC than for ROS.

### Juvenile Justice Data Definitions and Sources

#### Unique youth

A youth who was admitted to detention, placed with OCFS or was admitted to an OCFS facility or voluntary agency multiple times during a calendar year was counted only once (unique youth). Arrests are an exception; if a youth was arrested multiple times, each arrest was counted.

#### Definition of Indicators

**Arrests:** Arrests are for youth below the age of 16 years for Rest of State and aged 10 to 15 years for New York City. Each arrest of a youth during calendar year 2008 was counted.

**Detentions:** These are detentions for all unique youth aged 10 to 15 years admitted to detention during calendar year 2008. Detention information includes youth held in secure and non-secure detention facilities prior to disposition, youth held in secure and non-secure detention awaiting placement following a court disposition, and youth that were picked up on an absent without leave (AWOL) warrant awaiting residential placement.

**OCFS placements (admitted to OCFS or voluntary agencies):** These are all unique youth adjudicated as juvenile delinquents (JDs) or juvenile offenders (JOs) placed with the New York State Office of Children and Family Services (OCFS) and admitted either to OCFS facilities or voluntary agencies during calendar year 2008.

**In OCFS Care (OCFS or voluntary agencies):** These are all unique youth adjudicated as JDs or JOs placed with OCFS and who were in care either at OCFS facilities or voluntary agencies on December 31, 2008.

#### Race/Ethnicity Definition and Data Sources

**Woods & Poole Economics Inc.** Race/ethnicity data for the population was obtained from Woods and Poole Economics Inc, which provides population estimates for 2008 in the following race/ethnicity categories in one data element (5 mutually exclusive categories): black, white, Hispanic, Native American/Alaska Native, and Asian/Pacific Islander.

**New York City Criminal Justice Agency (CJA):** Arrest data for New York City (NYC) was provided by the New York City Criminal Justice Agency (CJA). CJA provided NYC arrest data in mutually exclusive race/ethnicity categories, including Hispanic, black, white and other. CJA was not able to provide a unique count of youth arrested.

**New York State Department of Criminal Justice Services (DCJS):** Rest of State (ROS) arrest data was provided by the New York State Department of Criminal Justice Services (DCJS). ROS arrest data was not available in mutually exclusive race/ethnicity categories and as a result is included only in comparable analysis. DCJS was not able to provide a unique count of youth arrested.

**New York City Department of Juvenile Justice (DJJ):** Detention data for NYC was provided by the New York City Department of Juvenile Justice (DJJ). DJJ provided detention data in mutually exclusive race/ethnicity categories. DJJ was able to provide a unique count of youth in detention.

**New York State Juvenile Detention Admission System (JDAS):** Detention data for ROS was extracted from the New York State Juvenile Detention Admission System (JDAS) maintained by OCFS. In JDAS, race/ethnicity data was available as two separate data elements – a race element and a separate ethnicity element. Thus, these two data elements were combined to construct mutually exclusive race/ethnicity categories. If a youth was identified as Hispanic in the ethnicity category, regardless of the race category, then the youth was classified as Hispanic. Other race categories were classified as black, white and other. JDAS facilitated a unique count of youth in detention in ROS.

**New York State Juvenile Justice Information System (JJIS):** Data on youth placements with OCFS was extracted from New York State Juvenile Justice Information System (JJIS) maintained by OCFS. As with JDAS, race/ethnicity data was available as two separate data elements – a race element and a separate ethnicity element. Thus, these two data elements were combined to construct mutually exclusive race/ethnicity categories. If a youth was identified as Hispanic in the ethnicity category, regardless of the race category, then the youth was classified as Hispanic. Other race categories were classified as black, white and other. JJIS facilitated a unique count of youth in detention.