GUIDELINES FOR COLLECTING AND RECORDING THE RACE AND ETHNICITY OF JUVENILES IN CONJUNCTION WITH JUVENILE DELINQUENCY DISPOSITION REPORTING TO THE JUVENILE COURT JUDGES' COMMISSION

NCJJ
CENTER FOR Children's Law and Policy

PREPARED FOR PENNSYLVANIA'S JUVENILE COURT JUDGES' COMMISSION

by

Patricia Torbet, Hunter Hurst, Jr., National Center for Juvenile Justice
Mark Soler, Center for Children's Law and Policy

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INSTRUCTIONS AND GUIDELINES FOR COLLECTING AND RECORDING RACE AND ETHNICITY

This booklet provides instruction and guidance to local juvenile courts and probation departments on racial coding of juveniles involved in Pennsylvania's juvenile justice system in conjunction with reporting juvenile delinquency dispositions to the Juvenile Court Judges' Commission.[1] There are compelling reasons for accurate coding, not the least of which is to ensure the fundamental fairness principle outlined in the mission of Pennsylvania's juvenile justice system. The mission states "...all of the services designed and implemented to achieve this mission and all hearings and decisions under the Juvenile Act—indeed all aspects of the juvenile justice system—*must be provided in a fair and unbiased manner.*"[2] Both the U.S. and Pennsylvania constitutions guarantee rights and privileges to all citizens, regardless of race, color, creed, gender or national origin.

BACKGROUND

The federal Juvenile Justice and Delinquency Prevention Act requires states to assess the extent of Disproportionate Minority Contact (DMC) of youth of color at all stages of the juvenile justice system and to take steps to address any disproportionality (or overrepresentation).[3] Pennsylvania is at the forefront nationally for its ability to track these indicators for youth at various stages of the juvenile justice system. The Juvenile Court Judges' Commission and its Center for Juvenile Justice Training and Research are to be commended for steps taken to improve the reporting of race and ethnicity in the juvenile court disposition data.

However, several obstacles existed in the spring of 2006 when JCJC and CJJT&R sought specific guidance from the National Center for Juvenile Justice and the Center for Children's Law and Policy to address them. It was decided that the goal—to enhance the accuracy of the racial data collected by juvenile courts in Pennsylvania consistent with Federal policy—could be achieved by resolving outstanding issues related to compliance with Federal standards. This could be accomplished by making changes to variables and codes for juvenile court disposition reporting, providing instructions to local juvenile court and probation department

staff who are responsible for collecting and reporting the data, and providing guidance on analyzing and using racial data to monitor practice and sharing the information with other stakeholders.

WHY IT ISN'T EASY

For many people, their identification with a particular race or ethnic group is a deeply personal and sensitive issue. For government officials, statisticians, and others concerned about it, race classification is a substantively complex issue. It is also an imprecise cultural construct that changes over time. For example, the Census 2000 questionnaire offered 15 choices for coding a respondent's race even though the 1997 Federal standards, promulgated by the White House Office of Budget and Management (OMB), set the minimum race categories at five.

CENSUS 2000 RACE CATEGORIES	FEDERAL MINIMUM RACE CATEGORIES
White	American Indian or Alaska Native
Black, African Am., or Negro	Asian
American Indian or Alaska Native, print tribe	Black or African American
Asian Indian	Native Hawaiian or Other Pacific Islander
Japanese	White
Native Hawaiian	
Chinese	
Korean	
Guamanian or Chamorro	
Filipino	
Vietnamese	
Samoan	
Other Pacific Islander	
Other Asian, print	
Some other race, print	

To add to the confusion, OMB placed special emphasis on identifying the Hispanic or Latino population group. Unlike "African American," which is a race, "Hispanic/Latino" is an ethnicity, not a race. Accordingly, Federal guidelines recommend asking two separate and distinct questions and the order in which they should be asked, the first asking respondents to indicate their Hispanic or Latino ethnicity and the second asking for respondents' race. (See the sidebar for definitions and more information on the Federal standards.)

Currently, the Federal government is only interested in distinguishing one "ethnic" group (or "origin," as it is sometimes labeled). This has created some confusion in states that added a separate variable, typically labeled "ethnicity," because just one ethnicity is of interest.[4] Particularly problematic for local data collectors is what questions to ask of youth in order to accomplish accurate racial coding.

WHY IT'S IMPORTANT TO DESCRIBE A JUVENILE'S RACE AND ETHNICITY ACCURATELY

Even if the mechanics of asking questions and coding are resolved, why is accurate recording of a juvenile's race important to local juvenile courts and probation departments? What's the point beyond statewide reporting or some distant compliance report to the Federal government? In the aggregate, there are several. Juvenile court and probation administrators need to:

- Know "who" the system is serving
- Know "what" services or resources are needed to respond to the youth and families the system is serving, such as the need for cultural competency training for juvenile court staff, culturally appropriate programs and services for youth and their families, translators and interpreters, Spanish-language documents and materials, and bi-lingual and bi-cultural staff
- Monitor and examine "how" the system responds to youth of color
- Share this information with stakeholders and in annual reports to the community.

The payoff for administrators following this guide is the ability to report information consistent with Federal policy while preserving the flexibility to describe local ethnic diversity of juveniles referred to the juvenile justice system.

Monitoring DMC in Pennsylvania

Since 1989 the DMC Subcommittee of Pennsylvania's Juvenile Justice and Delinquency Prevention Committee has used arrest, juvenile court, and detention admissions data compiled by NCJJ to monitor statewide trends in the handling of youth involved at various stages of the juvenile justice system, identify emerging problems at certain stages for some groups, and target finite resources for system reform. The data have also been used to track the extent to which members of minority groups are

beneficiaries of alternative processing options such as diversion from court or home detention.

Local juvenile justice stakeholders with access to these indicators at the county level can begin to "look for the story behind the numbers" and develop strategies to assure nondiscriminatory decision-making across population groups and identify areas that may need more in-depth examination. With guidance from the DMC Subcommittee, the Center for Children's Law and Policy, under Pennsylvania's partnership with the MacArthur Foundation's Models for Change initiative, is working in three Pennsylvania counties to help facilitate an examination of racial data at the county and neighborhood levels and to plan system improvements intended to reduce disparities.[5] JCJC's ability to report DMC data statewide was one of several reasons the MacArthur Foundation selected Pennsylvania as the first Models for Change state.

OBSTACLES RESOLVED

At a meeting convened by JCJC with representatives from NCJJ and CCLP, consensus was reached that resolved outstanding issues related to compliance with Federal standards and subsequently resulted in changes to the variables and codes for juvenile court disposition reporting.[6]

The collection and recording of racial data will be handled with three questions or variables, with the first two limited to fixed responses:

1. Hispanic/Latino? (Yes, No)
2. Race (5 categories)
   - American Indian or Alaska Native
   - Asian
   - Black or African-American
   - Native Hawaiian or Other Pacific Islander
   - White
3. National Origin, Ancestry or Tribal Affiliation (Optional)

First and foremost, it is hoped that these changes will make it easier for local staff to code racial data thereby reducing the instances of unknown or missing data and improving accuracy and consistency of the racial data collected by juvenile courts statewide. The question format, fixed order of the questions, and fixed coding structure for the first two questions comply

with Federal standards. The optional third question provides flexibility to counties that wish to accommodate local preferences for capturing a world of different affiliations with other population groups not included in the first two variables, while ensuring that the Federal government's standards for minimum race categories are met first.

JCJC asked NCJJ and CCLP to develop coding instructions and guidelines reflective of these changes. It is hoped that this advice reflects the reality of situations coders face when they are sitting across the desk from a youth or making decisions based on a paper review rather than an in-person interview.

RACIAL CODING INSTRUCTIONS

INFORMATION SOURCES:

There are three possible information sources for capturing racial data:

1. *self-identification* on the basis of an interview with the youth/parent/guardian,
2. *observer-identification* when the youth/parent/guardian fails to answer the question and the observer infers the answer, and
3. *some other source* on the basis of a report, face sheet or complaint filed with the court.

Self-identification is the preferred source of information for collecting racial data. The guidelines in the next section provide advice for coding racial data depending on the source of the information.

What changed? Coders are asked to indicate whether answers to the Hispanic/Latino and race questions were self-reported by the juvenile/parent/guardian, recording "yes" (Y) for self identification or "no" (N) for identification by the observer or some other source.

QUESTION ORDER, FORMAT AND ACCEPTABLE ANSWERS:

Order of Questions: Ask the questions in the order specified:

1. Hispanic/Latino question
2. Race question
3. Optional, open-ended, question about identification with other population groups not listed in the first two questions.

FYI: The first two questions force a rubric to accommodate current Federal policy on racial coding. The third question is open-ended and can accommodate any self-identity. The ordering helps to reduce confusion introduced by the multi-question format.

Prompt to Self-identify: Begin the series of questions with a prompt: "I am now going to ask you some questions about how you prefer to describe yourself." This prompt links the questions and encourages the juvenile to self-identify.

First question: "Are you Hispanic or Latino?"

Acceptable answers: ❑ Yes, Hispanic or Latino
❑ No, Not Hispanic or Latino
❑ Unknown (limited use)

What changed? The ordering of the questions now puts the "ethnicity" question before the race question. The variable label of "Ethnicity" has been eliminated in favor of the label: Hispanic/Latino? The question, "What is your ethnicity?" has been replaced with the new question, "Are you Hispanic/Latino?"

The biggest change, however, is that the new question/variable will have fixed "yes" or "no" answers. Previously, counties were permitted to add other ethnicities in this field, which were then recoded into Hispanic or Non Hispanic. The coding of other ethnicities will be accommodated by an optional third question. Identification with any of the other subgroups Federal policy characterizes as Hispanic or Latino (e.g., Cuban), can also be accommodated in the third question. "Unknown" should be limited to situations in which the youth is not seen and the information is not provided by the referral source.

FYI: The label "Hispanic or Latino" takes into consideration regional differences in the usage of the terms, supposedly between the eastern and western United States. "Spanish" was added to the label by Census 2000, but is not required by Federal policy.

Second question: "What is your race?" At this point in the questioning, hand youth a printed/laminated card with the 5 race categories. This will assist them in answering the question since reading the list out loud to them

would be very confusing. Prompt the youth by asking, "Please tell me which race you consider yourself to be. You may select more than one."

Acceptable answers:
- ❏ American Indian or Alaska Native
- ❏ Asian
- ❏ Black or African-American
- ❏ Native Hawaiian or Other Pacific Islander
- ❏ White
- ❏ Unknown (limited use)

What changed? The previous reporting of racial data permitted the coding of "other" race. This category has been eliminated and is not an acceptable answer. Identities outside the five minimum race categories will be accommodated in the next question.

The biggest change, however, is the application of a new rule. Because many youth are multiracial, youth may identify with more than one race. The prompt for them to choose more than one race will facilitate the application of this new rule. The interviewer should follow the "mark any that apply" rule based upon the youth's self-identification of multiple races or by the observer's identification. The use of "unknown" should be limited to situations in which the youth is not seen and the information is not provided by the referral source, or in situations in which a youth specifically requests that "unknown" be checked in addition to another race.[7]

Third question: (This question is optional. Counties are not required to have a third question.) "Do you identify primarily with a particular country of origin, ancestry or, if you are Native American, a particular tribe?"

What changed? A new question with the variable label "National Origin, Ancestry or Tribal Affiliation" has been added. Previously, counties were permitted to record other origins or ethnicities in the "Ethnicity" variable. Counties now have the option of asking a separate question that collects information on population subgroups not listed in the first two questions. Counties can configure their own code list. Youth may choose from a listing of county-specified selections or write-in response on a data collection form.

RACIAL CODING GUIDELINES

1. **Self-identification is the preferred method for collecting racial data, best accomplished by an in-person interview with the youth. In reality, however, racial data are often based upon an intake officer's review of a report submitted by the referral source, especially in cases involving minor offenses.** The point at which delinquency disposition data collection begins is at referral to intake based on a complaint received from an arresting or other justice officer, school official, or child welfare agency. Intake decision makers have a variety of options for resolving minor complaints, including warn and dismiss, referral to another agency, or hold in abeyance and data collection stops there.

   Although the preferred intake practice—even in minor cases—entails some investigation into the facts behind the complaint, time is limited, of course, and so are resources. The reality is that in minor cases, intake decisions are often made on the basis of a review of an arrest report or complaint rather than an interview with the youth.

   In situations when it is not feasible to interview the youth in person and the intake officer makes a decision based upon a review of the complaint, the officer should code Hispanic/Latino origin and race based upon what was reported by the referral source. The question that asks whether the answer was self-reported should be answered "no." If the referral source did not provide racial information, the intake officer/coder may use the "unknown" category for either question. If the case is accepted for any kind of service by the court, every attempt should be made to correct errors in racial coding that may have occurred when the record was created. JCJC has quality assurance reports that return to the counties for correction any petitioned cases with the unknown codes selected.

2. **Interviewers should rely on the youth's self-identification when coding racial data. However, in situations when the youth fails to respond to either of the first two questions, the interviewer should infer Hispanic/Latino origin and race.** This decision was reached because the goal for the coding activity is to be able to document as accurately as possible the racial characteristics of youth involved in the juvenile justice system. Not answering the questions erodes the reliability of the measure when it is used to describe race and limits its utility for research into the

overrepresentation of minority groups in the juvenile justice system. The risk of miscoding an individual juvenile is overshadowed by the desire to describe, monitor and report this information in the aggregate.

3. **If the youth does not answer the *Hispanic/Latino* question, the interviewer may repeat the question and response options. If the youth still fails to respond to the question, the interviewer must infer a response (based upon observation or information provided by another source).** In instances where the interviewer infers a response, the question asking the coder whether the answer was self-reported by the juvenile/parent/guardian should be marked "no" (N).

4. **If the youth has difficulty answering the race question, interviewers should encourage the youth to select a response that falls within one of the 5 race categories.** Interviewers may experience difficulty with youth who identify as Hispanic or Latino in the first question, but who are unable to answer the subsequent question regarding their race. In these instances, the interviewer should simply repeat the 5 race categories. Interviewers should not ask prompting questions such as *"In addition to being Hispanic, can you describe yourself as [repeat race categories]?"* or *"Hispanic or Latino is generally considered an ethnicity rather than a race. Hispanic or Latino persons can be of any race."* Such questions have been found to be offensive to some people and ineffective. If the question is confusing to youth or they refuse to answer the question, apply the next guideline.

   FYI: This problem was well documented in the testing of the 2-question format in the 2000 Census where many respondents who answered "yes" to the Hispanic/Latino question did not respond to the race question or indicated "other race."

5. **If the youth is unable or unwilling to select a race category, the interviewer must infer the youth's race (based upon observation or information provided by another source).** In instances where the interviewer infers a response, the question asking the coder whether the answer was self-reported by the juvenile/parent/guardian should be marked "no" (N).

6. **If the youth does not respond to the third question, interviewers should not infer an answer.**

CATEGORIES AND DEFINITIONS

(source: Federal Register Vol. 62, No. 210, Thursday, October 30, 1997.)

- **Hispanic or Latino:** A person of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin, regardless of race.

- **American Indian or Alaska Native:** A person having origins in any of the original peoples of North and South America (including Central America), and who maintains tribal affiliation or community attachment.

- **Asian:** A person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam.

- **Black or African American:** A person having origins in any of the black racial groups of Africa. Terms such as "Haitian" or "Negro" can be used in addition to "Black or African American."

- **Native Hawaiian or Other Pacific Islander:** A person having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands.

- **White:** A person having origins in any of the original peoples of Europe, the Middle East, or North Africa.

FEDERAL STANDARDS FOR THE CLASSIFICATION OF RACIAL DATA

The background of the 1997 revisions to the Federal OMB standards and the principles that governed the review process provide an important backdrop to the instructions and guidelines presented in this booklet.

Background: For more than 20 years, the standards provided a common language to promote uniformity and comparability for data on race and ethnicity for the specified population groups. They were developed in cooperation with Federal agencies to provide consistent data on race and ethnicity throughout the Federal Government. Development of the data standards stemmed in large measure from new responsibilities to enforce civil rights laws. Data were needed to monitor equal access in housing, education, employment, and other areas, for populations that historically had experienced discrimination and differential treatment because of their

race or ethnicity. The standards are used not only in the decennial census (which provides the data for the "denominator" for many measures), but also in household surveys, on administrative forms (e.g., school registration and mortgage lending applications), and in medical and other research. The categories represent a social-political construct designed for collecting data on the race and ethnicity of broad population groups in this country, and are not anthropologically or scientifically based.

Some of the more relevant principles that governed the review process include:

1. The racial and ethnic categories should not be interpreted as being primarily biological or genetic in reference. Race and ethnicity may be thought of in terms of social and cultural characteristics as well as ancestry.
2. Respect for individual dignity should guide the processes and methods for collecting data; ideally respondent self-identification should be facilitated to the greatest extent possible, recognizing that in some data collection systems observer identification is more practical.
3. To the extent practicable, the concepts and terminology should reflect clear and generally understood definitions that can achieve broad public acceptance....
4. The categories should be comprehensive in coverage and produce compatible, nonduplicative, exchangeable data across Federal agencies.
5. Foremost consideration should be given to data aggregations by race and ethnicity that are useful for statistical analysis and program administration and assessment....
6. The standards should be developed to meet, at a minimum, Federal legislative and programmatic requirements. Consideration should also be given to needs at the State and local government levels....as well as to general societal needs for these data.
7. The categories should set forth a minimum standard; additional categories should be permitted provided they can be aggregated to the standard categories. The number of standard categories should be kept to a manageable size, determined by statistical concerns and data needs.

The main objective of the review was "to enhance the accuracy of the demographic information collected by the Federal Government by having categories for data on race and ethnicity that will enable the capture of information about the increasing diversity of our Nation's population while at the same time respecting each individual's dignity."

Source: Federal Register (Thursday October 30, 1997 (page 58781) Part II Office of Management and Budget Revisions to the Standards for the Classification of Federal Data on Race and Ethnicity; Notices).

[1] PLEASE NOTE: "Racial coding" and "racial data" are used interchangeably throughout this booklet to refer to the set of questions aimed at distinguishing a juvenile's Hispanic/Latino origin, race, and identification with any other population group or subgroups.

[2] See "Juvenile Justice in Pennsylvania: Mission-Driven, Performance-Based, Outcome-Focused" available from JCJC at *http://www.jcjc.state.pa.us/jcjc/lib/jcjc/barj/monograph.pdf*.

[3] The original amendment referred to Disproportionate Minority Confinement but the mandate was subsequently expanded to any Contact from arrest through confinement.

[4] Beginning with the 1997 data, JCJC required probation departments to disaggregate data on race and "ethnicity" of youth.

[5] For more information about the DMC Subcommittee and its collaboration with Models for Change, please see the Juvenile Justice and Delinquency Prevention Committee's 2006 Plan Update at *http://www.ncjj.org/stateprofiles/profiles/PAfullreport.pdf*

[6] See Background Brief for April 25, 2006 Meeting to Address Issues Surrounding Application of Federal Minimum Race Categories to Juvenile Court Data, Hurst, Jr. H. and Torbet, P. NCJJ.

[7] For example, a youth may prefer to indicate "unknown" in conjunction with the selection of another race when the race of the biological parent is not known.

ModelsforChange

Systems Reform in Juvenile Justice

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