

**CHANGING INVOLVEMENT OF COUNSEL  
BY JUVENILES IN FIVE STATES,  
1980-1989: A LONGITUDINAL ANALYSIS**

by

**Dean J. Champion**

**California State University, Long Beach**

*1992 Visiting Scholar  
National Center for Juvenile Justice  
Pittsburgh, PA*

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## EXECUTIVE SUMMARY

### The Descriptive Study

This descriptive study examined attorney involvement by juvenile offenders and whether attorneys seem to make a difference in how juvenile cases are concluded. The research literature is sparse concerning the frequency with which juveniles involve defense counsel at various stages in the juvenile justice process. Existing studies of this phenomenon suggest that approximately 50 percent of all official juvenile court adjudications involve defense counsels, at least in those jurisdictions where such investigations have been conducted (Feld, 1988).

### Private vs. Publicly Appointed Counsel

Additionally, some researchers have noted that case outcomes are affected by whether juveniles involve privately acquired counsel compared with public defenders or court-appointed attorneys. Interestingly, public defenders seem more successful at obtaining more favorable and lenient adjudications and sanctions compared with private counsels, at least in those jurisdictions where such comparisons have been made (Osburn and Rode, 1984). One possible explanation is that public defenders are perceived by different actors in the juvenile justice process as less sophisticated and experienced, and consequently "less threatening", compared with privately hired attorneys. However, whether public defenders and private attorneys actually possess different levels of legal competency and are perceived as less threatening by various juvenile justice system actors is a lesser issue compared with the matter of potentially inequitable sanctions imposed on those juveniles who involve different types of counsel or who use no counsel at all.

### Issues Raised

At least two issues are raised here. First, are there case processing disparities in adjudications and dispositions which are traceable to defense counsel involvement or non-involvement? Second, if there are significant differences in how cases are handled by juvenile court judges, can these differences be attributed in whole or in part to whether juveniles involve publicly appointed defense counsel or privately acquired counsel? If evidence exists to support either one or both of these scenarios, then these issues are sufficiently serious to warrant further examination of case processing trends in those jurisdictions where disparities in case processing are found.

### Selection of Data Sets

On the basis of a preliminary survey of annual juvenile court data sets and case records compiled and maintained by the National Center for Juvenile Justice (NCJJ), a specific time interval was chosen for examining juvenile case processing and case trends. The period, 1980-1989, was subsequently targeted. Second, an inspection of all state data sets within this time frame disclosed that only a limited number of jurisdictions furnish information to the NCJJ about

whether cases disposed involve defense counsel. An inspection of the latest NCJJ data sets showed that California, the District of Columbia, Hawaii, Minnesota, Montana, Nebraska, New York, North Dakota, and Pennsylvania include such information in their juvenile justice materials and data reports.

Because of the fact that state juvenile court data sets were commenced in different years, some states did not furnish data about juveniles for the entire targeted period, 1980-1989. For example, California furnished information beginning with the year, 1980, to the NCJJ, while Nebraska and North Dakota furnished information commencing with 1975 and 1978 data sets respectively. Another state containing relevant information for the present study, Minnesota, furnished the NCJJ with its first juvenile court data set in 1984. Some states are only beginning to furnish complete data sets for their juvenile referrals. Thus, only five states provided a complete data picture from 1980 through 1989. These states and their respective juvenile case files were examined. Included were California, Montana, Nebraska, North Dakota, and Pennsylvania. It is unknown whether these states were representative of the entire United States population of cases for this same time interval. Initially, all petitioned cases for the ten-year period totalled 2,005,344. Of these, 895,395 cases were formally petitioned and some type of action was taken. Because of certain case outcomes were unclassifiable or missing, the final data set of case records used in this research across the five states ranged from 650,000 to nearly 800,000. This fluctuation varied according to particular variables examined, and whether case information for those variables was available.

## **Two Phases of the Research Described**

1. The first phase showed aggregate trends and described attorney involvement/non-involvement for all juveniles, across all years and for all five states combined. This description included an overall view of the proportionate distribution of case outcomes among the five states, as well as other salient characteristics, including but not limited to gender, race/ethnicity, source of referral, frequencies of certain offense categories, age distributions, and case processing decision points (e.g., probation, release, adjudication).
2. The second phase involved a state-by-state analysis of the same information. Quite simply, those states with higher population density, such as California and Pennsylvania, likely mask or obscure different trends and petitioned case patterns among juveniles and/or attorney involvement/non-involvement in those states with lower population density, such as Montana, Nebraska, and North Dakota. Therefore, the inordinate influence of large numbers of California (and Pennsylvania) petitioned cases was controlled, and different variable changes in other states over time were observed more clearly.

## **Research Objectives Described**

1. Is there any distinguishable pattern relating to the involvement of attorneys among petitioned cases over time and across all state jurisdictions?
2. If a pattern of attorney involvement exists, is it uniform among the states?
3. If nonuniformity of attorney involvement exists among the states, what is the nature of this nonuniformity? What are its significance and implications for petitioned case outcomes?
3. Are there serious differences in petitioned case outcomes that appear linked to the

- involvement or non-involvement of defense counsel by juveniles across all state jurisdictions?
4. Can specific social and demographic characteristics be associated with the involvement or non-involvement of attorneys across all states and/or on a state-by-state basis?
  5. Are there serious differences in case outcomes that appear associated with the involvement of publicly appointed counsel/public defenders compared with the involvement of private counsel?
  6. Will the trends regarding attorney involvement in petitioned cases in the present study reflect previously reported patterns or trends from other research of the same or similar phenomena?

### **Summary of Major Aggregate and State-by-State Findings**

- The proportion of person offending as disclosed in the petitioned cases has increased over the ten-year period, although the degree of increase varies among the states examined.
- Property offenses alleged in the petitioned cases in most jurisdictions has decreased from 1980-1989.
- The proportion of drug offenses alleged among the petitioned cases has increased slightly in most jurisdictions.
- The proportion of public order and status offenses cited in the petitioned cases have varied greatly among the states examined.
- The largest referral source for all jurisdictions among the petitioned cases is law enforcement, although less urban regions have larger proportions of referrals from public agencies, families, and neighbors. Proportionately, the smallest referral source is schools. School referrals were the smallest proportionately in 1980 and remained the smallest through 1989.
- About one sixth of all attorney involvement in those petitioned cases where attorneys were used and could be identified involves private counsel. The proportionate use of private counsel over time has either remained constant in most states or has decreased slightly.
- The states vary in their use of probation in cases disposed over time. For most states, probation use has increased proportionately between 1980-1989. California and North Dakota showed a proportionate decrease in the use of probation for cases disposed over time, however.
- The numbers of releasees (i.e., those cases which are dismissed or are adjudicated "not delinquent") have either declined or remained about the same over time, depending upon the state examined.
- The proportion of cases disposed involving whites has declined in all states over time. Those states with the greatest proportionate declines include California (a 1980-1989 decline of 20 percent) and Pennsylvania (a ten-year decline of 15 percent). Montana, Nebraska, and North Dakota have small proportions of cases disposed involving minorities, likely attributable to proportionately smaller 10-17 minority populations. Slight declines in the proportionate distribution of cases disposed involving whites were reported between 1980-1989 although the

proportion of whites in these jurisdictions ranged from 80 percent to 92 percent across time.

- The proportion of cases disposed involving blacks increased significantly in Pennsylvania during 1980-1989, from 10 percent in 1980 to over 30 percent in 1989. In California and Nebraska, the proportion of cases disposed involving blacks remained fairly constant over time (About 20 percent of California's cases disposed involved blacks, while about 10 percent of Nebraska's cases involved blacks).

- For California and Pennsylvania, the proportion of Hispanic cases disposed increased from 22 percent in 1980 to 31 percent in 1989. The other three states had low, non-fluctuating proportions of Hispanic cases disposed (less than 5 percent).

- The proportion of "other" juvenile cases disposed, mostly Asians in California and American Indians in Montana, showed modest increases over time.

- The age profile of juvenile court cases disposed did not change significantly between 1980-1989. The smallest age aggregate consisted of those age 12 or under (about 7 percent of all dispositions), while those 13-15 and 16 and older were next highest (44 percent) and highest (49 percent) across all states.

- Using attorneys *does* make a difference compared with not using attorneys. The difference attorneys make in case outcomes seems more a function of the seriousness of the offense rather than the simple fact that attorneys were or were not used, however. Additionally, whether the attorneys were public or private seemed affect dispositional decisions. Specifically, private counsel, compared with publicly appointed counsel, had proportionately (1) lower placements, (2) greater use probation, and (3) a slightly higher proportion of release for their juvenile clients.

### **Factors Influencing the Use of Probation**

1. Higher proportions of cases disposed involving whites;
2. Lower attorney involvement;
3. Higher rate of cases disposed involving property offenses; and
4. Lower proportion of cases disposed person offenses.

### **Factors Influencing the Use of Placement**

1. Higher proportions of nonwhite cases disposed;
2. Higher attorney involvement;
3. Higher proportion of cases disposed involving person offenses; and
4. Lower proportion of cases disposed property offenses.

# THE CHANGING USE OF COUNSEL BY JUVENILES IN FIVE STATES, 1980-1989: A LONGITUDINAL ANALYSIS†

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Dean J. Champion  
California State University, Long Beach

## INTRODUCTION

Juvenile court proceedings are civil, and adjudications of delinquency are not the equivalent of criminal records. Generally, the nature of juvenile offending is comparatively less serious than the pattern or nature of adult offending. In most jurisdictions, when juveniles reach the age of their majority, their juvenile records are expunged or sealed. Thus, they begin their adult lives and careers with a clean slate, regardless of the extensiveness of their delinquent past (i.e., no prior record of criminal conduct) (Dunn, 1986). Before the era of juvenile justice reform (pre-1966), juvenile court proceedings were characterized as informal and greatly influenced by the doctrine of *parens patriae*, where decisions about a juvenile's fate were made by juvenile court judges and other juvenile justice system actors largely on the basis of *the juvenile's best interests*.

The *parens patriae* doctrine stems from 16th century England where the King, through his chancellors, oversaw the affairs of children and was symbolically, at least, the "father of the country." In this socio-legal context, juvenile court judges have acted paternalistically toward juveniles appearing before them. Judicial actions were justified on a case-by-case basis, depending upon individual circumstances, and the overriding concern was that whatever action was taken should be interpreted as ameliorative and rehabilitative. Juveniles and their parents were discouraged from appealing juvenile court judicial adjudications, since the *parens patriae* concept was so deeply ingrained and accepted by most U.S. families. The inherently subjective qualities of the *parens patriae* doctrine and the decisions justified by it are quite apparent and have been frequent targets of criticism by juvenile justice scholars (Springer, 1987; Watkins, 1987). One direct consequence of the widespread application of *parens patriae* was extensive disparities in juvenile case processing in all jurisdictions. Over time, such disparities in juvenile case processing have been closely examined by criminologists and criminal justice scholars and have been found to be highly correlated with nonlegal factors, including gender, race, ethnicity, and socioeconomic status. Today, professionals who study either the criminal justice system or the juvenile justice system equate case processing disparities with discrimination, and discrimination is both unacceptable and unconstitutional.

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†The author acknowledges and is grateful for the important assistance of Howard N. Synder, Ellen H. Nimick, Terrence Finnegan, and the other staff members at the National Center for Juvenile Justice, Pittsburgh, PA. Both the scope and direction of analysis of the present research were influenced significantly by these resource persons and research investigators.

Since the mid-1960s, the juvenile justice system has undergone an extensive transformation. However, critics of this transformation indicate that presently, no consensus exists about the nature, direction, or purposes of it or its implications for affected juveniles (Feld, 1988; Forst and Blomquist, 1992). Other critics believe that the original concept of juvenile courts (individualized, personalized, rehabilitation-oriented, case-by-case treatments and dispositions of juvenile offenders) should be preserved and improved (Dwyer and McNalley, 1987). There is agreement that every facet of this system has been subject to at least one or more major changes in response to state and federal legislative policy decisions and actions (Blackmore, Brown, and Krisberg, 1988; Farnworth, Frazier, and Neuberger, 1988). The landmark cases of *Ken v. United States* (1966), *In re Gault* (1967), and *In re Winship* (1970), and *McKeiver v. Pennsylvania* (1971) have done much to change juvenile court procedures and case processing at several critical points.

Some of these changes have involved (1) how law enforcement officers should process certain juveniles when they are taken into custody (Carlson, 1987; Corrado and Markwart, 1988; Dannefer, 1984); (2) separating more serious offenders from less serious ones through divestiture of jurisdiction over status offenders and the deinstitutionalization of them (Miller, 1986; Schneider, 1984a, 1984b; Schneider, McKelvey, and Schram, 1983; Schneider and Schram, 1986); (3) separating youths from adults while in custody for brief periods in jails or lockups, despite a general *jail removal initiative* in effect nationwide since the mid-1980s (Dale, 1988; Huskey, 1990; Salerno, 1991; Sweet, 1990); (4) more formalized intake processing and prosecutorial discretion (characterized by some scholars as increasing the "criminalization" of juvenile courts) (Feld, 1984; 1988; Dougherty, 1988; Miller, 1985); (5) greater accountability measures taken by juvenile court prosecutors and judges, such as transferring youths or waiving jurisdiction over them to criminal courts for processing as adult offenders (Barnes and Franz, 1989; Champion and Mays, 1991) and imposing more stringent punishments (Bishop, Frazier, and Henretta, 1989); (6) making juvenile court proceedings more adversarial and formal (Green, 1984; Rubin, 1983, 1985, 1989; Thomas and Bilchik, 1985); (7) diversifying and intensifying punishments meted out to juveniles adjudicated as delinquent (Altschuler and Armstrong, 1990a, 1990b; Arthur, 1983; Ashford and LeCroy, 1988; Bell and Lang, 1985); and (8) significantly altering the nature and dimensions of juvenile post-adjudicative aftercare (Ervin and Schneider, 1990; Goldberg, 1984; Gottschalk et al., 1987; Jones, 1990; Steinhart, 1988).

Several investigators have suggested that an eventual consolidation of criminal and juvenile courts will occur through general court unification (Henderson, 1984), although the precise ways and means of accomplishing such unification have not, as yet, been investigated thoroughly. In the meantime, juvenile offenders, both status and delinquent, face an increasingly legalistic juvenile justice system which recognizes and emphasizes an extensive array of constitutional rights conveyed by the U.S. Supreme Court. Feld (1989) and others acknowledge this and assert that in all state jurisdictions, juveniles are entitled to and should be represented by counsel, especially in any juvenile court proceeding where their liberty may be affected (Feld, 1988a). However, despite the fact that all juveniles in the United States are entitled to counsel in juvenile court proceedings and at other critical stages, including arrest, detention, interrogation, and intake, surveys in some jurisdictions, such as Minnesota, indicate that fewer than 50 percent of all juveniles who are adjudicated delinquent are represented by counsel (Feeney, 1987; Feld, 1989).

There is some question about whether *not* being represented by counsel during an adjudication proceeding is (1) the result of deliberate choices by parents in these jurisdictions *not* to have their children represented, is (2) the result of a general ignorance about juveniles using attorneys for juvenile court matters, or is (3) a combination of both. Feld himself acknowledges that higher proportions of legal representation are associated with more serious offending behaviors. Thus, one explanation for not using defense counsels in some adjudication proceedings might be that some parents do not consider their children's conduct sufficiently serious to merit such legal representation. Further, over half of these adjudicated youths are originally charged with minor offenses, where probation is the likely punishment anyway. Snyder (1988) shows that for a majority of juvenile recidivists, probation is the most frequently used sanction. Furthermore, if probation was originally imposed as punishment for a particular juvenile offender, the same judge is likely to impose probation again, if that juvenile reappears in a subsequent adjudication proceeding on new charges. In some jurisdictions, it may take as many as five or six delinquency adjudications before a juvenile is placed in short- or long-term residential facility.

### THE PRESENT STUDY

This descriptive study examines attorney involvement for juvenile offenders and whether attorneys seem to make a difference in cases disposed. Does it make a difference for juveniles to have legal representation in juvenile court proceedings? As we have already seen, the research literature is sparse concerning the frequency with which juveniles use defense counsel at various stages in the juvenile justice process. Available data indicate that approximately 50 percent of all official juvenile court adjudications involve defense counsels, at least in those jurisdictions where such investigations have been conducted (Feld, 1988). Feld's analysis focused upon six states for the year, 1984: California, Minnesota, New York, Nebraska, North Dakota, and Pennsylvania. He reported that about half of all juvenile offenders in three of these states did not have lawyers.

Logically, we might expect that the involvement of defense counsels would tend to increase the likelihood that juvenile offenders would receive more equitable and impartial treatment from juvenile court judges and other actors in the juvenile justice system. We might expect that adjudications of juveniles with similar delinquency histories or prior offending patterns would be of equivalent leniency or severity. Further, we might expect that at other stages of juvenile processing, including the intake stage, similar equivalency of treatment would be observed, provided that defense counsels are present to safeguard a juvenile's rights. Indeed, the American Bar Association (1986) has promulgated juvenile court rules of procedure and policies with the clear intent to objectify and standardize judicial decision making. However, some research suggests that the presence of defense counsels and greater concern for "due process" rights of juveniles formalizes these proceedings to the extent that intake officers, prosecutors, and juvenile court judges select and impose more severe sanctions compared with those otherwise informal proceedings where defense counsels are not used (Ito, 1984).<sup>1</sup>

Additionally, some researchers have noted that significant case outcomes occur whether juveniles are represented by private counsel, public defenders or court-appointed attorneys. Interestingly, public defenders seem more successful at obtaining more favorable and lenient adjudications and sanctions compared with private counsels, at least in those jurisdictions where such comparisons have been made (Osbin and Rode, 1984). One possible explanation is that public defenders are perceived by different actors in the juvenile justice process as less sophisticated and experienced, and consequently "less threatening", compared with privately hired attorneys. However, whether public defenders and private attorneys actually possess different levels of legal competency and are perceived as less threatening by various juvenile justice system actors is a lesser issue compared with the matter of potentially inequitable sanctions imposed on those juveniles who involve different types of counsel or who do not involve counsel.

At least two issues are raised here. First, are there case processing disparities in adjudications and dispositions which are traceable to defense counsel involvement or non-involvement? Second, if there are significant differences in case outcomes, can these differences be attributed in whole or in part to whether juveniles involve publicly appointed defense counsel or private counsel? If evidence exists to support either one or both of these scenarios, then these issues are sufficiently serious to warrant further examination of case processing trends in those jurisdictions where disparities in case processing are found.

## MAJOR RESEARCH OBJECTIVES

Assuming that pertinent data may be obtained from a reasonable number of state jurisdictions over an appropriate time interval to disclose trends, the following research questions and objectives are outlined:

1. Is there any distinguishable pattern relating to the involvement of attorneys by juveniles over time and across all state jurisdictions?

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<sup>1</sup> It should be noted that the presence of defense counsel in intake proceedings, for instance, does not necessarily *cause* intake officers to deal more harshly with juveniles appearing before them. Rather, it is implicit that a defense counsel's presence, ostensibly for the purpose of preserving and ensuring fundamental fairness in the treatment of the juvenile client, will likely create a more formal atmosphere in an otherwise informal proceeding. Therefore, intake officers must perform their roles *formally*, possibly making *more formal* decisions in compliance with "the formal rules" where "the rules" might otherwise be overlooked if such a proceeding were conducted *more informally*. Deciding what to do with specific juvenile offenders at the point of intake, then, may be less personalized, more objectified, more "due process" oriented and formally proper, and hence, *less lenient* in more formal proceedings compared with less formal ones. It follows that if intake officers are influenced by the presence or absence of defense counsel when conducting intake proceedings, then the decision making of juvenile court prosecutors and judges would be also affected to an equivalent degree. This is speculation, however. No direct empirical evidence exists presently to show the formalizing effects of defense counsel at different stages of juvenile case processing. It is ironic that exercising one's right to counsel may actually encourage harsher, less favorable dispositions and punishments for affected juveniles rather than lead to more favorable, lenient outcomes.

2. If a pattern of attorney involvement exists, is it uniform among the states?
3. If nonuniformity of attorney involvement exists among the states, what is the nature of this nonuniformity? What are its significance and implications for affected juveniles?
3. Are there serious differences in case outcomes that appear linked to the involvement or non-involvement of defense counsel by juveniles across all state jurisdictions?
4. Can specific social and demographic characteristics be associated with the use or nonuse of attorneys across all states and/or on a state-by-state basis?
5. Are there serious differences in case outcomes that appear associated with the involvement of publicly appointed counsel/public defenders compared with privately acquired counsel?
6. Are there significant differences among those involving private counsel compared with those who involve court-appointed counsel or public defenders?
7. Will the trends regarding attorney involvement by juveniles in the present study reflect previously reported patterns or trends from other research of the same or similar phenomena?

It is apparent from the above objectives and questions that several are closely intertwined and more or less dependent upon certain answers to other objectives and questions. This interdependency and overlapping of objectives and research questions has necessitated dividing the descriptive and analytical information to follow into two major phases which are outlined in a subsequent section. Each of these phases will be described and a rationale will be furnished to justify the two-phase nature of this research.

#### **DATA AVAILABILITY, CASE SELECTION, AND LIMITATIONS**

First, on the basis of a preliminary survey of annual juvenile court data sets and case records compiled and maintained by the National Center for Juvenile Justice (NCJJ), a specific time interval was chosen for examining juvenile case processing, outcomes, and trends. It should be noted that case outcomes or cases disposed are limited to the most serious offense, in those instances where youths are charged with two or more offenses. The period, 1980-1989, was subsequently targeted. Second, an inspection of all state data sets within this time frame disclosed that only a limited number of jurisdictions furnish information to the NCJJ about whether juveniles are represented by defense counsel. An inspection of the latest NCJJ data sets showed that California, the District of Columbia, Hawaii, Minnesota, Montana, Nebraska, New York, North Dakota, and Pennsylvania include such information in their juvenile justice materials and data reports.

Because of the fact that state juvenile court data sets were commenced in different years, some states did not furnish data about juvenile cases for the entire targeted period, 1980-1989. For example, California furnished information beginning with the year, 1980, to the NCJJ, while Nebraska and North Dakota furnished information commencing with 1975 and 1978 data sets respectively. Another state containing relevant information for the present study, Minnesota, furnished the NCJJ with its first juvenile court data set in 1984. Some states are only beginning to furnish complete data sets for their juvenile cases. Thus, only five states provided a complete data picture from 1980 through 1989. These states and their respective juvenile case files were examined. Included were California, Montana, Nebraska, North Dakota, and Pennsylvania.

A preliminary examination of all cases, including those formally and informally handled, yielded a population of 2,005,344 cases for the ten-year period. Of these, 895,395 cases were formally processed by petitions and court hearings. These are known as "cases disposed" in the present study. Because of certain unclassifiable responses and/or missing data for a small percentage of these nearly 900,000 youths, final aggregate case records across the five states as reported in different figures and tables in this report range from 650,000 to nearly 800,000.

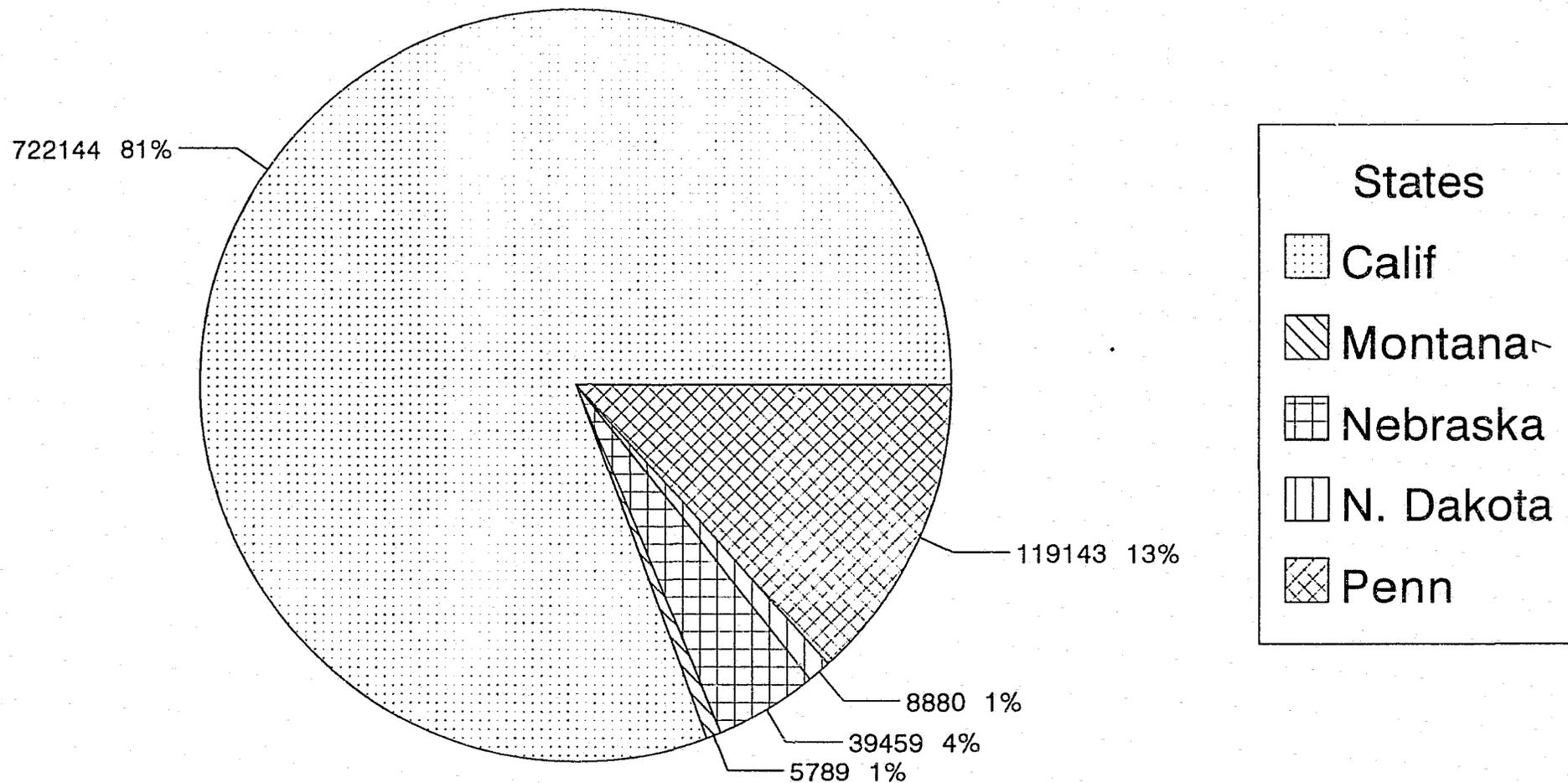
Because of different population densities among the states examined here, considerable variation was observed regarding the proportionate distribution of petitioned cases. The number of California cases disposed was 722,144, or about 81 percent of the total sample of cases across all states and years, while Montana, with 5,789 cases disposed between 1980-1989, accounted for only about 1 percent. Figure 1 shows a pie chart of the distribution of cases disposed across years for the five states. Because of the greatly disproportionate contribution of the California cases disposed in relation to the entire population of cases disposed in the other states, it was believed that a state-by-state analysis should be conducted in addition to the general analysis of cases disposed.

Since this study is largely descriptive and does not purport to be generalizable to all U.S. delinquency and status cases, certain limitations should nevertheless be noted. First, the magnitude of the California sample tends to overshadow or obscure important differences that might otherwise exist in states with much smaller samples. This has already been observed from the information in Figure 1.

A second limitation is that only aggregate data are presented. Thus, we know generally that certain proportions of offenders are black, white, Hispanic, or are in particular offense categories. We know that different proportions of petitioned cases select their own counsel or have counsel appointed for them by the court. We also know different case outcomes. This information is available for all states examined here. It is beyond the scope of the present research, therefore, to provide a case-specific analysis which might lead us to develop a predictive model of those most likely to choose private counsel and the reasons for such choices. Such a study would, of necessity, include more intensive data-gathering tools, such as in-depth interviewing with and questionnaire administration to specific juveniles and their parents. However, available data will permit us to describe in detail the general types of offenders who tend to use or not use different kinds of defense counsel. Crosstabulations of relevant variables can provide us with general indicators of such choices.

On the positive side, a ten-year presentation of selected variables, such as incidence of attorney use in juvenile courts, sociodemographic changes, and changing petitioned offense profiles on a state-by-state, county-by-county basis can disclose much of a descriptive nature about what has happened as well as what might be anticipated for future trends. Changing racial and ethnic compositions of the 10-17 year-old population over time, as well as the nature of offending among states, will furnish us with much valuable information about how juveniles are processed currently and whether major changes of any kind have occurred among the states about juvenile case processing generally.

Figure 1. Percent Distribution of Cases Disposed by State, 1980-1989



N = 895,395

## THE DATA ANALYSIS AND PRESENTATION PLAN

It was decided to implement this research in two phases. These phases are outlined below:

1. The first phase contemplates showing aggregate trends and a description of attorney involvement/non-involvement for all juvenile cases, across all years and for all five states combined. This includes an overall view of the proportionate distribution of case outcomes among the five states, as well as other salient characteristics, including but not limited to gender, race/ethnicity, source of referral, frequencies of certain offense categories, age distributions, and final outcome. Readers are cautioned that such an analysis and description will be influenced greatly by the predominant number of California cases in relation to the proportionate contributions of dispositions from the other four states. Nevertheless, general trends of cases from one tenth of the nation's states for a ten-year period are potentially valuable as crude indicators of change.
2. The second phase involves a state-by-state analysis of the same information. Quite simply, those states with higher population density, such as California and Pennsylvania, likely mask or obscure different trends and offense patterns among juveniles and/or attorney use/nonuse in those states with lower population density, such as Montana, Nebraska, and North Dakota. Therefore, the large numbers of California (and Pennsylvania) cases will be controlled, and different variable changes in other states over time will be observed more clearly. This is important, since large portions of three of these states might be designated as rural. Less densely populated jurisdictions often lack the array of facilities, such as community-based services and agencies, that might be available to juveniles in more densely populated jurisdictions. Thus, juvenile court judges in more rural areas might, of necessity, process *all* juvenile offenders in their jurisdictions, regardless of the seriousness of the alleged offense (i.e., delinquent or status).<sup>2</sup>

### DATA PRESENTATION: THE FIRST PHASE

The first phase of this research describes several aggregate characteristics of the investigated states for the years, 1980-1989. Several of the more salient characteristics, including gender, race/ethnicity, referral sources, type of offenses committed or alleged, use of detention, disposition outcomes, and type of attorney used, are summarized in Table 1. These aggregate characteristics for the combined and individual state samples are presented in appropriate pie charts and bar graphs in Figures 2-9 on the following pages.

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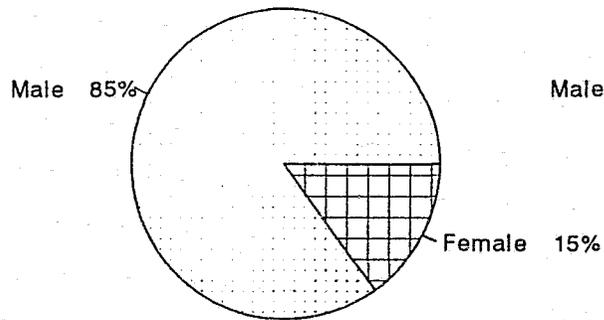
<sup>2</sup> The deinstitutionalization of status offenders (DSO) has resulted in large numbers of status offenders being diverted from detention and formal juvenile court processing toward treatment from community-based agencies and services. The Juvenile Justice Act of 1974 and its subsequent revisions has not obligated individual state juvenile courts to divest themselves of their jurisdiction over juvenile offenders. One intent of this Act was to decrease or even eliminate the potential for exposing certain low-risk status offenders to the criminalizing influence and trappings of formal juvenile courts. But diverting youths to community services and agencies for specialized treatment, such as individual or group therapy, receiving medical assistance for drug or alcohol dependencies, or psychological counseling, presumes the existence of such agencies in all jurisdictions. This is not the case, however, since many rural and less densely populated areas lack the financing and sufficient support personnel of high caliber to operate and provide such services. Also, some jurisdictions have so few juvenile offenders that there is simply no need for elaborate and diverse kinds of treatment programs. Again, juvenile court judges must become general practitioners, in a sense, and deal with a broad class of juveniles, include both serious and nonserious offenders.

**Gender.** The influence of the large numbers of California cases disposed is apparent from this tabular material and illustrations. Figure 2 shows that overall, approximately 85 percent of the total cases is male. Both California and Pennsylvania have similar gender distribution patterns. In the other states, however, females account for approximately 25 percent of all cases disposed. This fact may have significance for some of the findings disclosed in subsequent analyses.

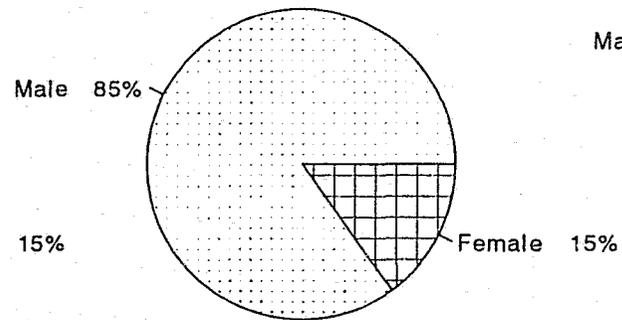
Table 1. A Distribution of Selected Characteristics for Juvenile Cases Disposed in Five States, 1980-1989.

CHARACTERISTIC	COMBINED STATES	CALIF	MONT (Percentages)	NEB	N. DAK	PENN
<b>GENDER</b>						
Male.....	84.7	85.4	77.7	74.7	73.3	85.3
Female.....	14.9	14.6	22.3	25.3	26.7	11.8
<b>RACE/ETHNICITY</b>						
White.....	51.9	46.5	85.5	81.1	82.4	71.7
Black.....	19.8	19.9	0.5	9.2	0.4	20.4
Hispanic.....	22.4	27.1	2.1	3.8	0.9	2.6
Other.....	5.9	6.6	11.8	5.9	6.8	1.3
<b>AGE AT DISPOSITION</b>						
10 or younger....	0.6	0.4	1.4	3.4	1.6	0.9
11-12.....	3.2	2.8	4.4	6.9	3.8	4.5
13-14.....	18.9	18.3	23.6	25.6	21.1	19.4
15.....	19.4	19.2	21.6	22.5	21.6	19.5
16.....	24.7	24.8	24.9	22.6	23.1	24.7
17 or older.....	33.2	34.5	24.1	18.9	28.8	31.0
<b>SOURCE OF REFERRALS</b>						
Law Enforcement..	78.3	78.8	85.6	46.5	67.2	86.5
School.....	0.7	0.5	1.7	1.8	4.4	0.6
Other.....	21.1	20.7	12.7	51.7	28.4	12.8
<b>OFFENSE DISTRIBUTION</b>						
Person.....	16.6	15.9	11.8	7.0	6.7	24.4
Property.....	46.7	44.5	58.1	51.7	44.4	57.8
Drugs.....	7.5	8.5	2.7	1.9	2.7	4.0
Public Order.....	25.4	28.7	15.3	8.7	8.7	12.6
Status.....	3.9	2.3	12.1	30.7	37.5	1.2
<b>DISPOSITION OUTCOME</b>						
Probation.....	48.6	48.5	25.2	53.2	29.9	50.1
Placement, Secure and Nonsecure....	29.8	31.4	42.8	21.2	41.5	22.5
Transfer.....	0.7	0.6	0.5	0.1	0.0	1.5
Release.....	19.7	19.4	13.9	21.5	15.8	22.3
Other.....	1.2	0.1	17.6	4.0	12.8	3.6
<b>DETENTION STATUS</b>						
Detention.....	43.7	49.4	29.6	12.0	16.7	22.2
No Detention.....	56.3	50.6	70.4	88.0	83.3	77.7
<b>TYPE OF ATTORNEY</b>						
None.....	14.7	13.0	23.3	35.9	53.4	14.9
Private.....	8.9	7.9	4.8	11.1	12.3	13.9
Assigned or PD....	73.9	78.5	64.9	32.1	34.4	62.8
Unknown, missing.	2.6	0.6	7.0	20.9		8.4

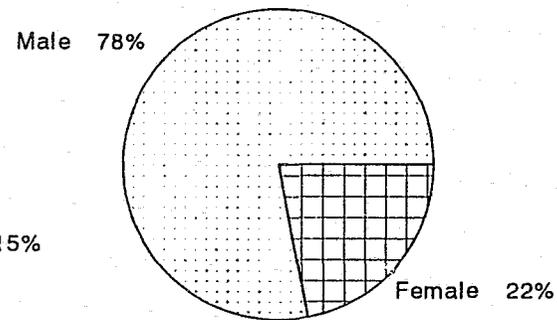
# Figure 2. Gender Characteristics for Five-State Sample of Cases Disposed, 1980-1989.



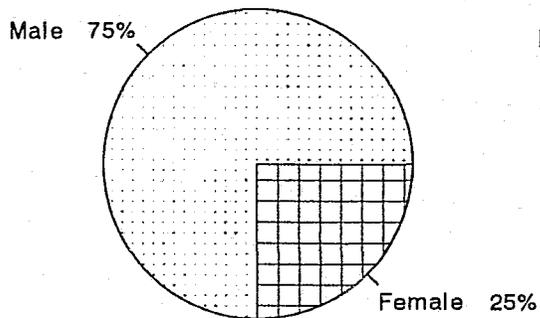
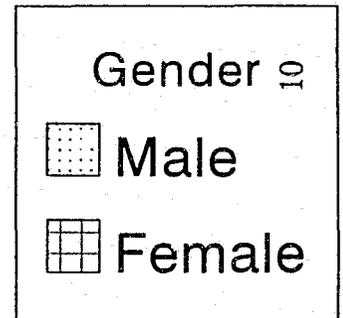
Combined States (895,395)



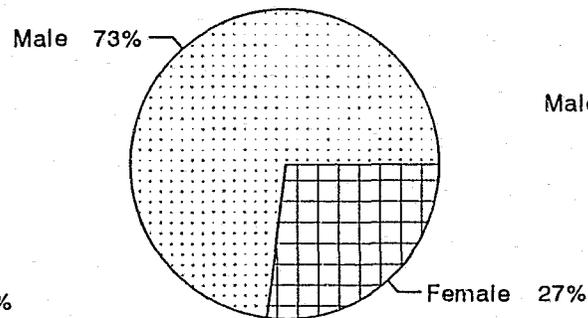
California (722,124)



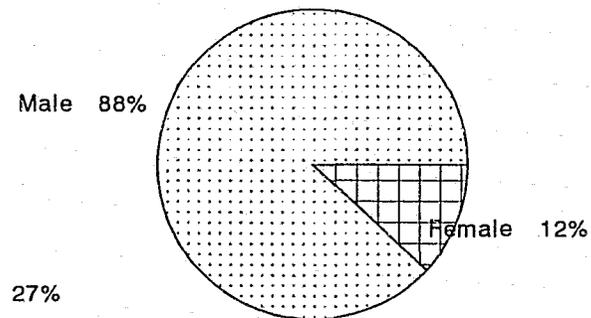
Montana (5,789)



Nebraska (39,459)

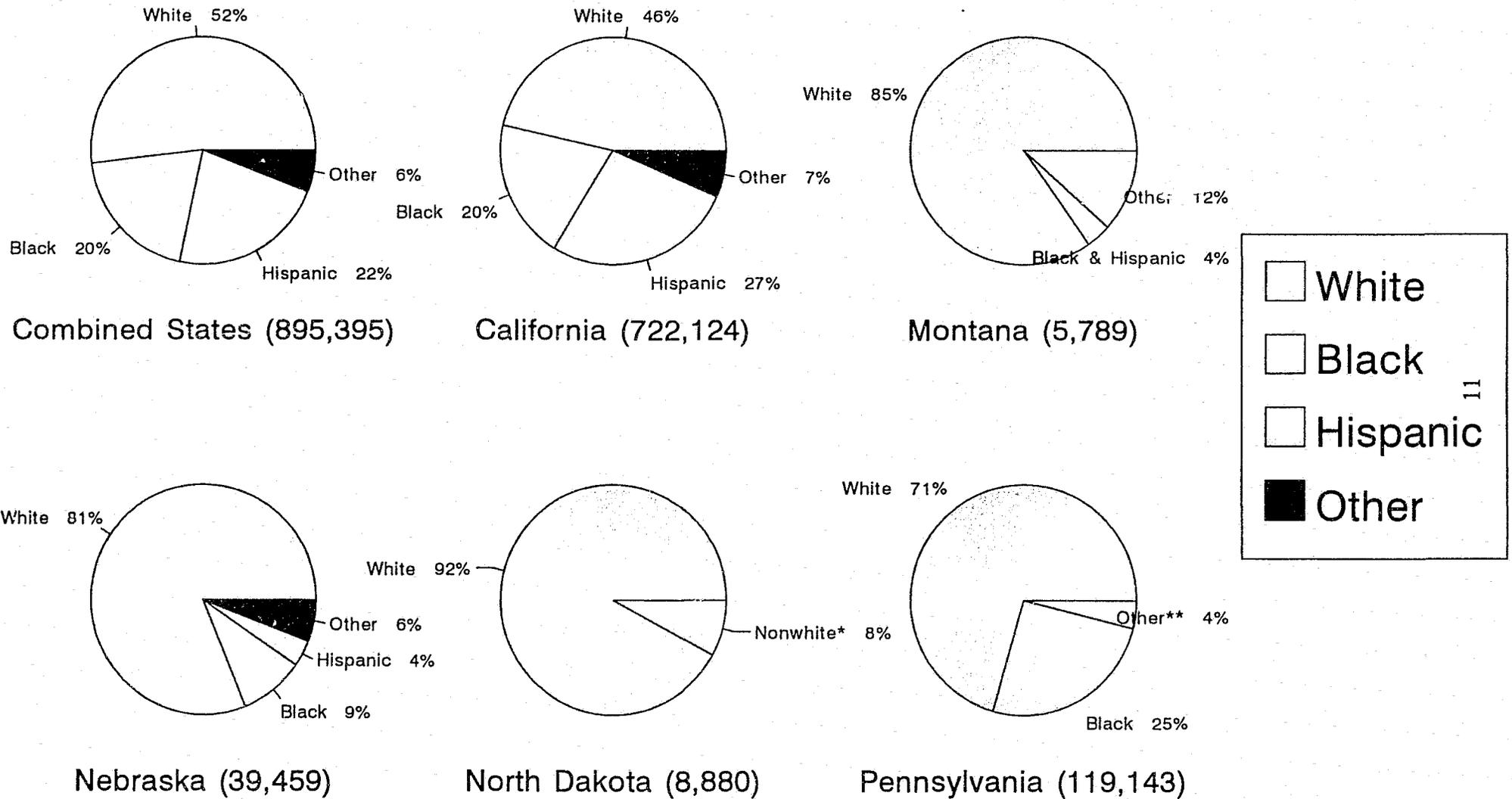


North Dakota (8,880)



Pennsylvania (119,143)

# Figure 3. Racial Ethnic Characteristics for Five-State Sample of Cases Disposed, 1980-1989.



Other = Am. Indian, Asian, Pac. Islander, Alaskan  
 Race/ethnicity combined where less than 3 percent  
 \*Includes blacks, Hispanics, other; \*\*Includes Hispanics

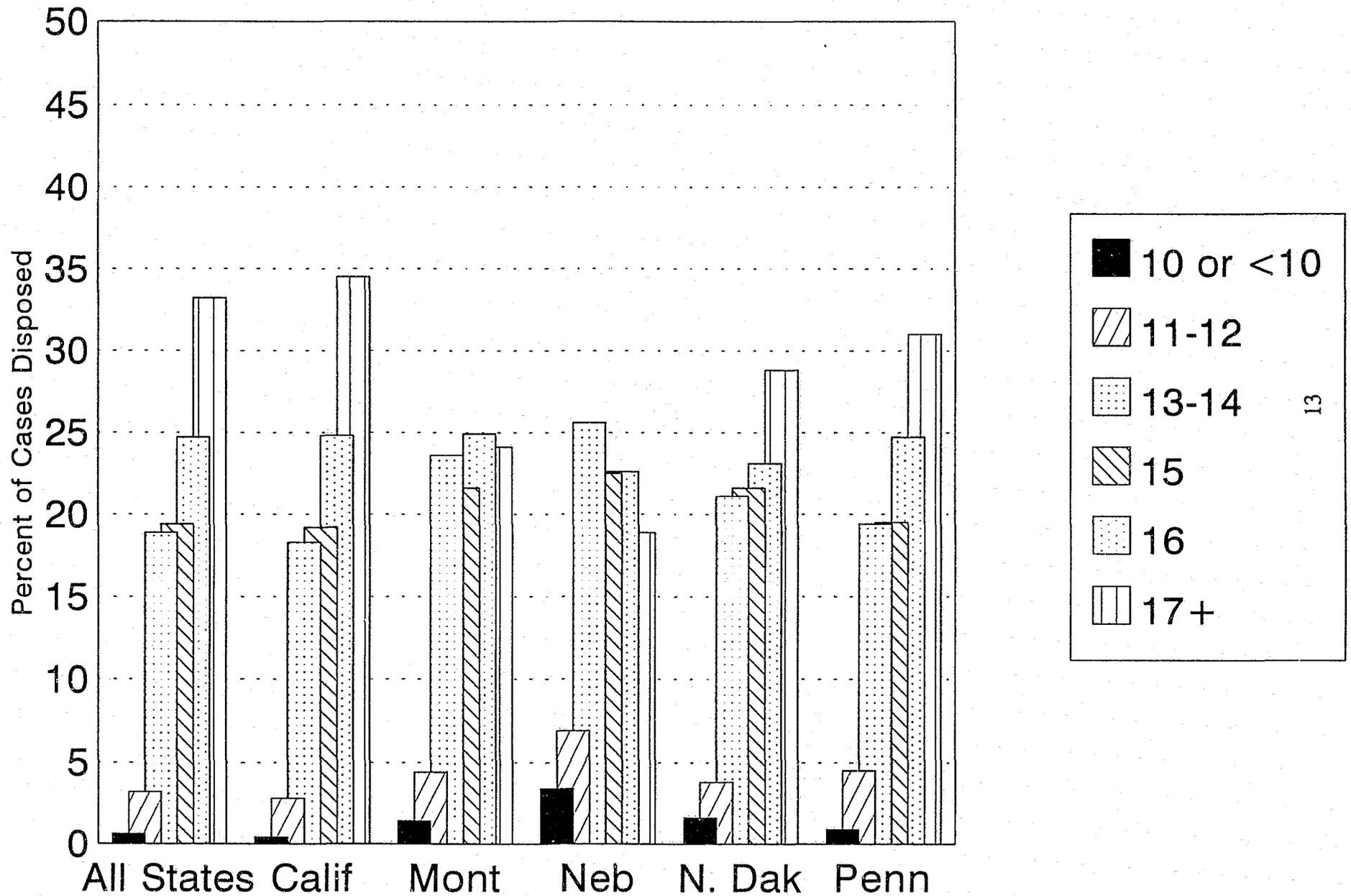
**Race/Ethnicity.** Overall figures pertaining to race/ethnicity shown in Figure 3 indicate that about 52 percent of all cases disposed are white juveniles, while 20 percent are black, 22 percent are Hispanic, and 6 percent are "other" (e.g., American Indians, Alaskan natives, Asians, and Pacific Islanders). Regarding race/ethnicity, California is the most racially and ethnically diverse of the five states examined. About 46 percent of the California cases disposed are white, while 20 percent and 27 percent are black and Hispanic, respectively. The "other" category is modestly represented from between 6 to 12 percent in all states, with the exception of Pennsylvania, which has about 1 percent "other."

**Age at Time of Referral.** Overall age figures, indicated in Figure 4, showed that according to their age at referral, the least represented category was those 10 years of age or under (less than 1 percent). The category, 11-12, accounted for 3 percent of these referrals. Gradual proportionate increases were observed for the 13-14 year-olds (19 percent), 15-year-olds (19 percent), 16-year-olds (25 percent), and 17-year-olds or older (33 percent). The ages of juveniles at referral generated several overall differences among states. Youths age 10 or younger were proportionately represented less than 2 percent of the time in all states, with the exception of Nebraska, where 3.4 percent of the cases referred involved children age 10 or younger. Interestingly, about 7 percent of Nebraska's cases referred consisted of 11-12 year-olds, whereas this age range accounted for less than 5 percent of the cases referred in all other states. Nebraska also had the largest proportionate number of 13-14 year-old cases referred, with 25.6 percent. The other states ranged from 18.3 percent to 23.6 percent. Little variation existed among states for the proportion of cases referred where offenders were ages 15 and 16. However, California and Pennsylvania had the largest proportionate representation for juveniles age 17 or older, with 34.5 and 31.0 percent respectively. Accordingly, Nebraska had the smallest proportionate number of cases referred for those age 17 and older, with 18.9 percent. Montana and North Dakota ranged between 24 and 28 percent for those age 17 or older.

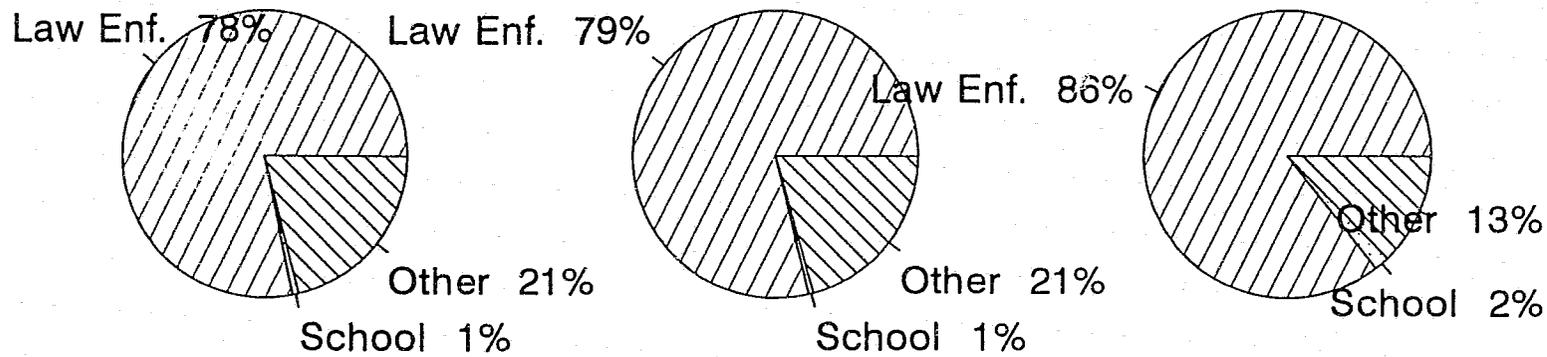
**Sources of Referrals.** Figure 5 shows that among the states, law enforcement is the chief source of referrals, ranging from 67 percent in North Dakota to about 86 percent in Pennsylvania. Less than half of all Nebraska cases disposed, or 46.5 percent, originated from law enforcement referrals. The majority of referrals in Nebraska for these years was largely from families, community agencies, neighbors, or other interested persons.

**General Offending Patterns.** Figure 6 shows a percent distribution of five general offense categories overall and for the five states individually for all cases disposed. These offense categories include person offenses (e.g., assault, robbery, rape, homicide), property (e.g., larceny, burglary, vehicular theft), drugs, public order (e.g., liquor law violations, disorderly conduct), and status offenses (e.g., truancy, curfew violations, runaway behavior). For all states combined, property offenses accounted for 47 percent of all cases disposed. Public order accounted for a further 25 percent, while person offenses made up another 17 percent. On a state-by-state basis, however, there were some interesting variations. For instance, Pennsylvania and Montana both exhibited property offense levels of 58 percent among these cases disposed. Person offenses in Pennsylvania accounted for a fourth of all cases disposed.

Figure 4. Age at Referral for Five States.



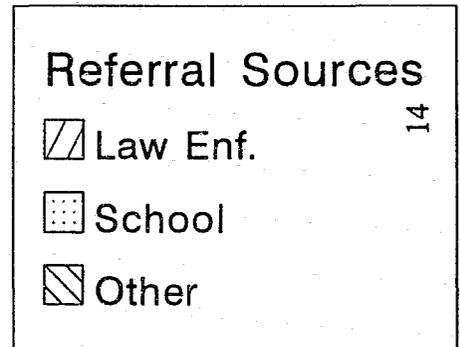
# Figure 5. Sources of Referrals for the Five-State Sample of Cases Disposed, 1980-1989



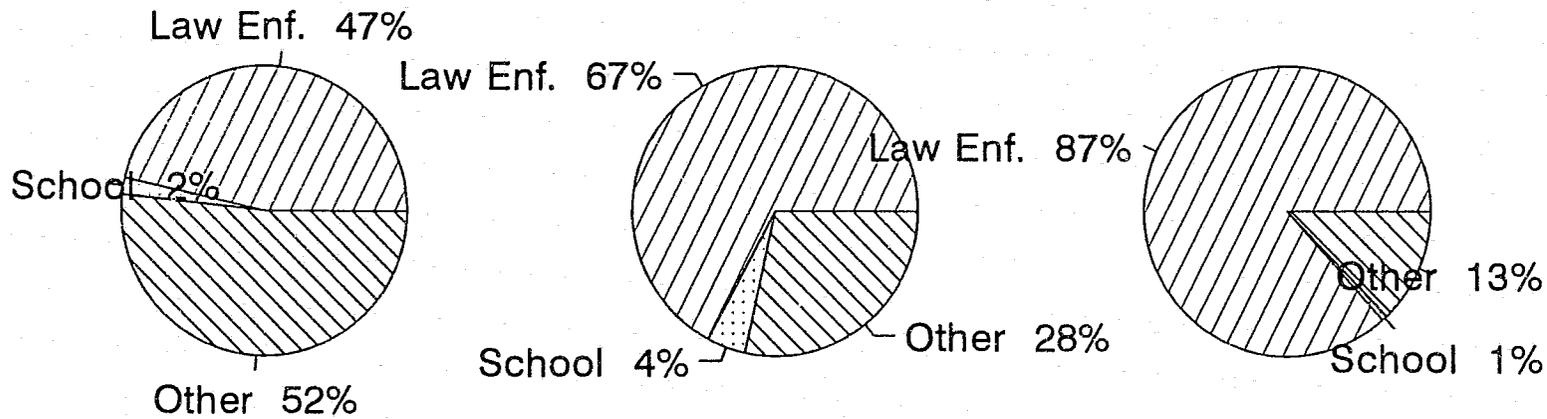
Combined States (895,395)

California (722,124)

Montana (5,789)



14



Nebraska (39,459)

North Dakota (8,880)

Pennsylvania (119,143)

Other = Families, community agencies, friends, neighbors

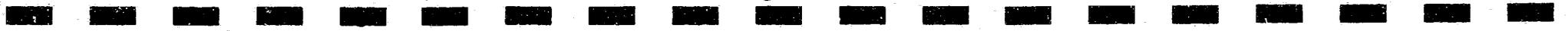
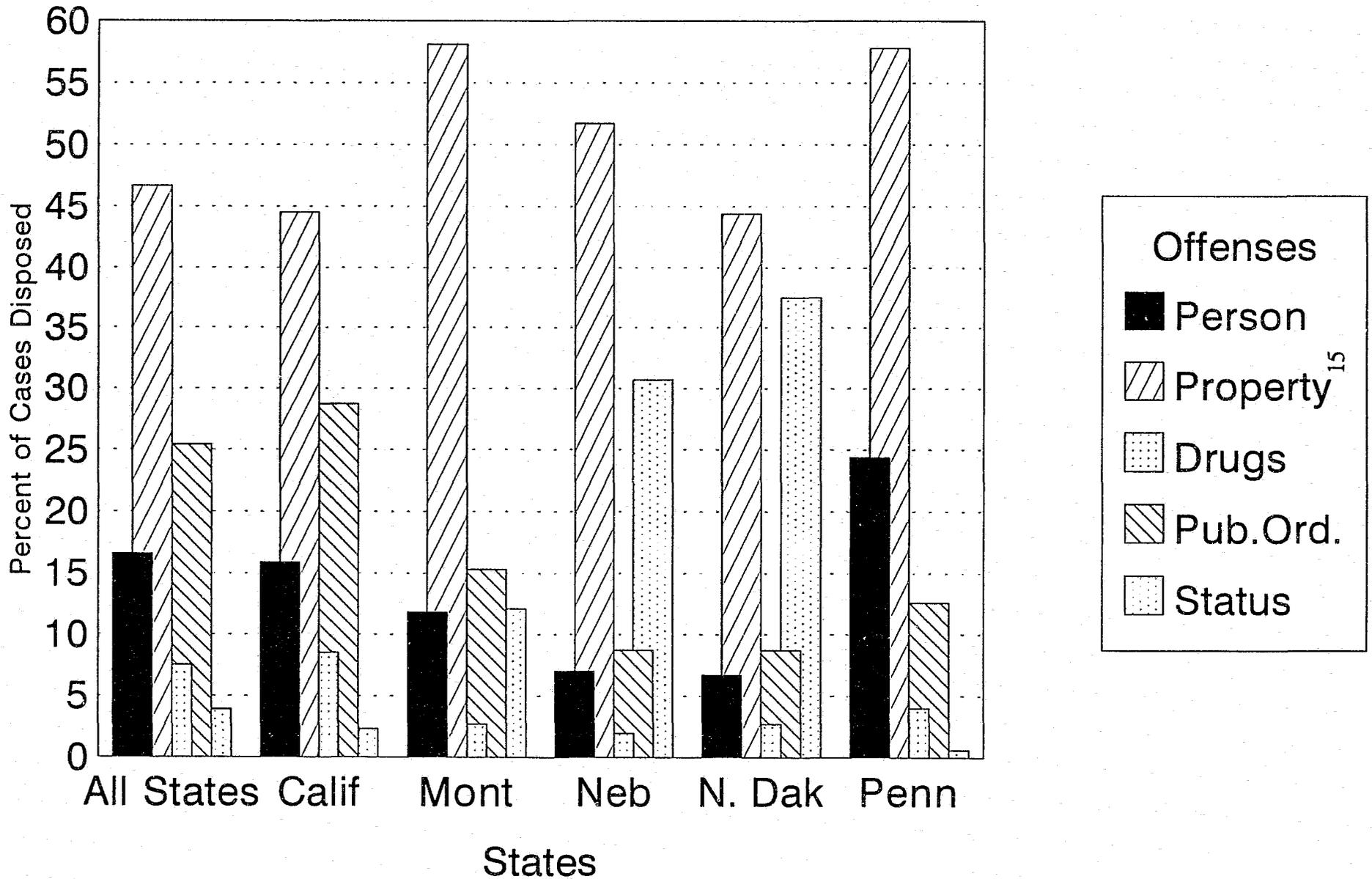


Figure 6. Percent Distribution of Offenses for Cases Disposed in Five States.



Nebraska and North Dakota had larger proportions of status offense cases disposed, with 31 percent and 38 percent respectively. In contrast, California and Pennsylvania had fewer than 3 percent of their cases disposed classified as status offenders. California had the largest proportionate number of drug offense cases disposed, with 8.5 percent, while the other states ranged from one fourth to one half of that proportion of drug offending. California also had the highest amount of public order offending, with about 29 percent.

Table 2. Juvenile Offense Characteristics for All Cases Disposed, 1980-1989.†

OFFENSE TYPE	N	%	% MALE	% FEMALE
Public order.....	188078††	21.1%	82.3%	17.7%
Burglary.....	178132	20.0%	92.5%	7.5%
Larceny.....	148515	16.7%	82.4%	17.6%
Assault.....	91047	10.2%	82.2%	17.8%
Drugs.....	66806	7.5%	85.1%	14.9%
Auto theft.....	45790	5.1%	89.3%	10.7%
Traffic offenses.....	38739	4.3%	86.3%	13.7%
Robbery.....	37089	4.2%	91.7%	8.3%
Status offenses.....	33804	3.8%	59.9%	40.1%
Vandalism.....	28373	3.2%	91.0%	9.0%
Fraud, other.....	1074‡	1.2%	68.1%	31.9%
Sex offenses.....	9359	1.2%	97.9%	2.1%
Other person offenses	6288‡‡	0.7%	91.4%	8.6%
Arson.....	5037	0.6%	90.3%	9.7%
Homicide.....	3578	0.4%	90.6%	9.4%
MALE AND FEMALE N'S.....			758173	133211
MALE AND FEMALE %'S.....			85.0%	15.0%
TOTALS, ALL CASES DISPOSED.....	892045	100.0%		

† 3395 missing or otherwise unclassifiable cases or 0.4% of total.

†† Includes liquor law violations, disorderly conduct.

‡ Includes misrepresentation, deceit, depriving persons of their property or legal rights.

‡‡ Includes ethnic intimidation, harassment, coercion, attempted suicide.

passive. The principal female offense for these juveniles is public order, which includes liquor law violations and disorderly conduct. Females also exhibit a relatively high proportion of status offending (10.2 percent) compared with their male counterparts (2.7 percent). A clearer graphic perspective of male-female offending differences is disclosed in Figure 7.

**Detailed Offending Patterns.** A more complete breakdown of the nature of offending in the sample of cases for 1980-1989 is shown in Table 2. Public order and burglary account for over 41 percent of all offenses, while larceny, assault, and drug offenses account for an additional 37 percent. Percentages are shown indicating the proportionate distributions of offenses for both male and female juveniles. Table 3 is a rank-ordering of offenses for males and females separately. In each case, the equivalent rank for the opposite gender is provided for direct comparison. The five most prevalent offenses for male juveniles are burglary, public order, larceny, assault, and drugs, while female juveniles are large proportionate distributions of

offenses, including public order, larceny, assault, status offenses, and burglary. Offense differences between genders reported here are not particularly inconsistent with the findings of other investigators about male-female juvenile offending. With the exception of assault, the primary female offending categories are property-crime related and passive. The principal female offense is public order, which includes liquor law violations and disorderly conduct. Females also exhibit a relatively high proportion of status offending (10.2 percent) compared with their male counterparts (2.7 percent). A clearer graphic perspective of male-female offending differences is disclosed in Figure 7.

Table 3. Ranked Male and Female Juvenile Offense Patterns for All Cases Disposed, 1980-1989.

MALE RANK	OFFENSE	N	%	EQUIVALENT FEMALE RANK
1.....	Burglary.....	164759.....	21.7%.....	5
2.....	Public order†.....	154818.....	20.4%.....	1
3.....	Larceny.....	122391.....	16.1%.....	2
4.....	Assault.....	74855.....	9.8%.....	3
5.....	Drugs.....	56864.....	7.5%.....	6
6.....	Auto theft.....	40900.....	5.4%.....	8
7.....	Robbery.....	34017.....	4.5%.....	10
8.....	Traffic.....	33447.....	4.4%.....	7
9.....	Vandalism.....	25841.....	3.4%.....	11
10.....	Status offenses.....	20248.....	2.7%.....	9
11.....	Sex offenses.....	9169.....	1.2%.....	15
12.....	Fraud, other††.....	7316.....	1.0%.....	9
13.....	Other person‡.....	5721.....	0.8%.....	12
14.....	Arson.....	4550.....	0.6%.....	13
15.....	Homicide.....	3241.....	0.4%.....	14
TOTAL.....		758173.....	100.0%	

FEMALE RANK	OFFENSE	N	%	EQUIVALENT MALE RANK
1.....	Public order.....	33260.....	25.0%.....	2
2.....	Larceny.....	26124.....	19.6%.....	3
3.....	Assault.....	16192.....	12.2%.....	4
4.....	Status offenses.....	13556.....	10.2%.....	10
5.....	Burglary.....	13337.....	10.0%.....	1
6.....	Drugs.....	9942.....	7.5%.....	5
7.....	Traffic.....	5292.....	4.0%.....	8
8.....	Auto theft.....	4890.....	3.7%.....	6
9.....	Fraud, other.....	3433.....	2.6%.....	12
10.....	Robbery.....	3072.....	2.3%.....	7
11.....	Vandalism.....	2532.....	1.9%.....	9
12.....	Other person.....	567.....	0.4%.....	13
13.....	Arson.....	487.....	0.4%.....	14
14.....	Homicide.....	337.....	0.2%.....	15
15.....	Sex offenses.....	190.....	0.1%.....	11
TOTAL.....		133211.....	100.0%	

† Includes liquor law violations, disorderly conduct.

†† Includes misrepresentation, deceit, depriving persons of their property or legal rights.

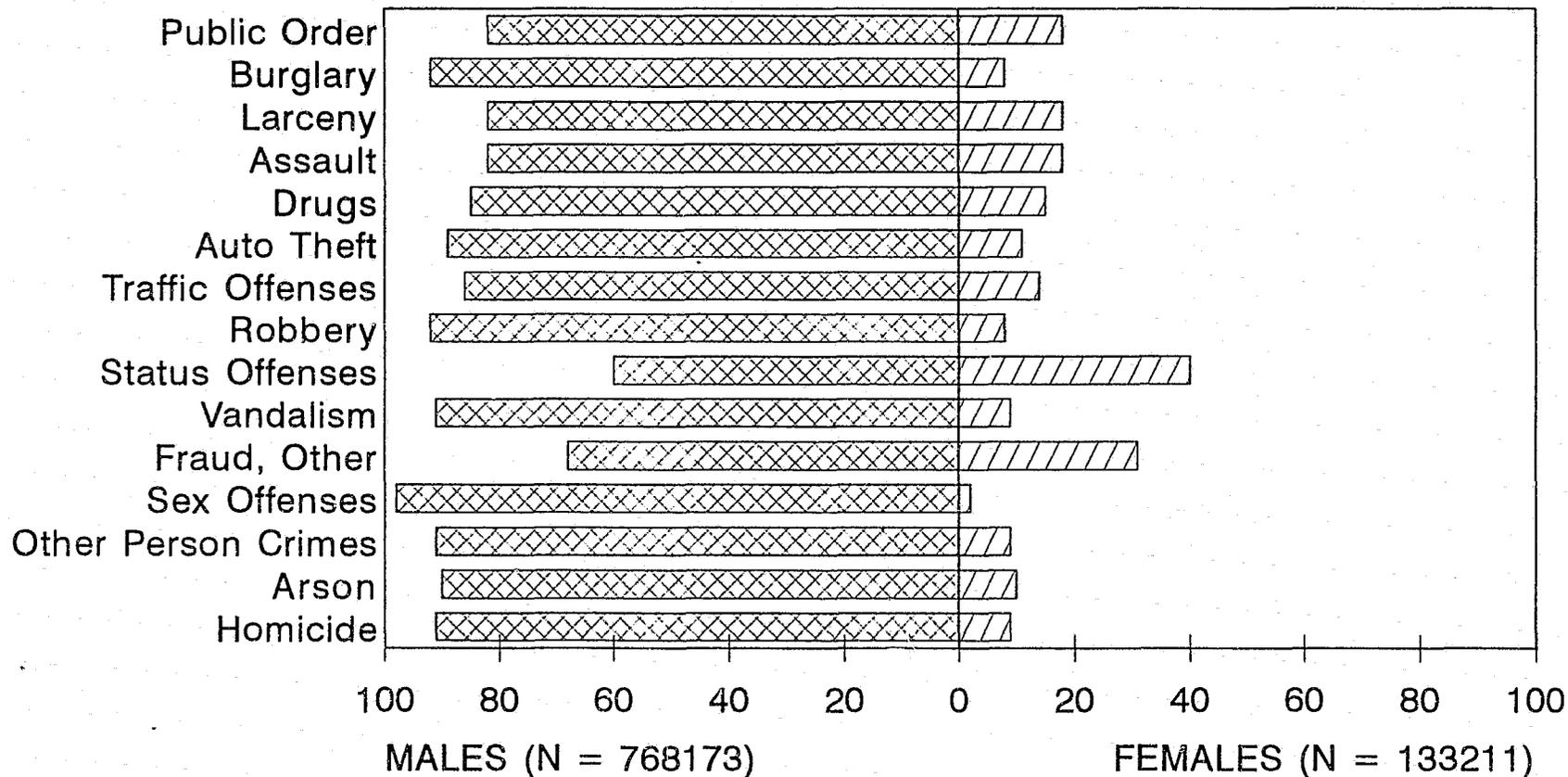
‡ Includes ethnic intimidation, harassment, coercion, attempted

# Figure 7. Percent Distribution of Offense Patterns for Cases Disposed, Males/Females, 1980-1989

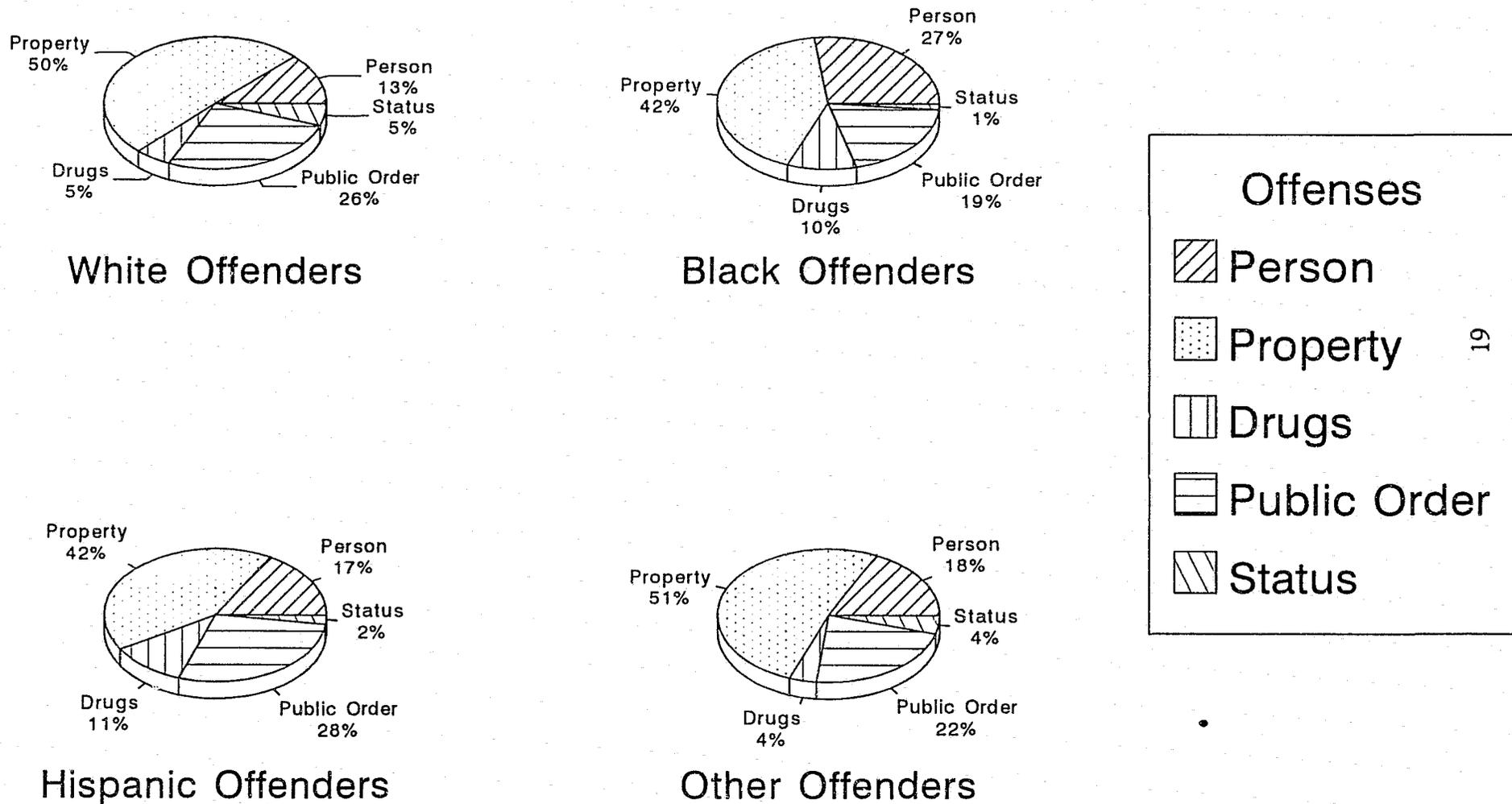
Gender

Males
  Females

**TYPES OF OFFENSES**

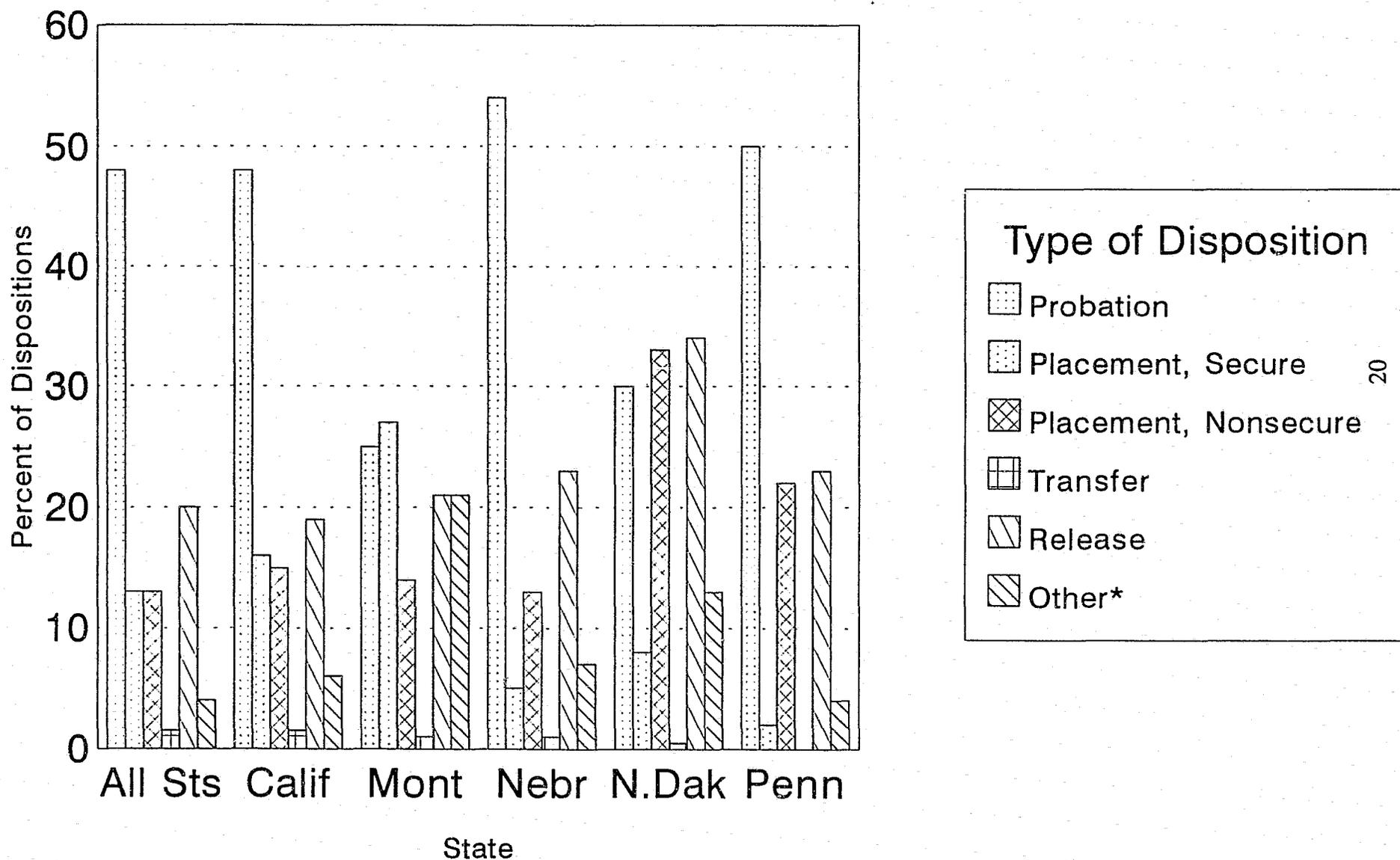


# Figure 8. Types of Offenses by Race/Ethnicity for Cases Disposed in Five States, 1980-1989.



N = 876,841 (18,599 unclassifiable values)

# Figure 9. Outcomes for Cases Disposed in Five States, 1980-1989.



"Other" includes unspecified, unknown, or missing values.

Offense patterns across all states for cases disposed during the 1980-1989 period were also broken down by race/ethnicity. Where race/ethnicity could be determined, offense patterns were determined for whites, blacks, Hispanics, and "other." Again, "other" refers to American Indians, Alaskan natives, Pacific Islanders, and Asians. Figure 8 shows four pie charts for this racial/ethnic breakdown and types of offenses. White and other cases disposed show relatively higher proportions of property offenses compared with Hispanic or black cases disposed. In fifty percent or more of the white and "other" cases disposed, the most serious charge is a property offense. Whites have the lowest proportion of person offenses, with 13 percent. In contrast, blacks have the highest proportion of person offenses, with 27 percent. Hispanics and others exhibit moderate amounts of person offenses, with about 17 percent and 18 percent respectively. Black and Hispanic cases display a low percentage of status offenses, with less than 2 percent each. White cases disposed have over twice the proportion of status offense cases. Another important difference is that white and "other" cases disposed have proportionately half of the drug offenses (about 5 percent) compared to black and Hispanic cases disposed (about 11 percent).

**Dispositions.** Overall cases disposed indicated in Figure 9 show that probation was used about 49 percent of the time, followed by secure/nonsecure placement (30 percent), and release (20 percent). However, cases disposed exhibited a few interesting variations among states. Probation was used about half the time in California, Nebraska, and Pennsylvania, while Montana and North Dakota used probation about a fourth of the time. Five percent or fewer of the juvenile offenders in Nebraska and Pennsylvania were placed in secure or nonsecure facilities, whereas a fifth to a quarter of all offenders in Montana and North Dakota were similarly confined. California placed about 16 percent of its adjudicated offenders in secure or nonsecure facilities. The use of transfers, certifications, or waivers of juveniles to criminal courts was not particularly significant as a dispositional option. All states except Pennsylvania transferred less than 1 percent of their cases to criminal court. Pennsylvania transferred only 1.5 percent of its cases. Unremarkable as well were release proportions among the different states. Proportionate numbers of releases were lowest in Montana, with 13.9 percent of its offenders being dismissed from the juvenile justice system, while Pennsylvania had the highest proportionate release incidence of 22.3 percent.

**Detention Status of Petitioned Cases.** Detention indicates whether juveniles were placed in secure or otherwise restrictive facilities between intake and their case disposition. This includes temporary detention, prior to adjudication, in juvenile detention centers, adult jails, or lockups (National Center for Juvenile Justice, 1991:28). Overall figures show that about 44 percent of all cases in this study were detained prior to adjudication. On a state-by-state basis, California used detention the most, with about 49 percent of the cases across years detained between intake and disposition. Nebraska used detention the least, detaining only 12 percent of its cases. Similarly, North Dakota used detention sparingly, detaining only 17 percent of its cases across years. Montana and Pennsylvania used detention for 30 percent and 22 percent of their cases respectively. This information is shown in Figure 10.

Figure 10. Percent Distribution of Detention Use for Cases Disposed in Five States, 1980-1989.

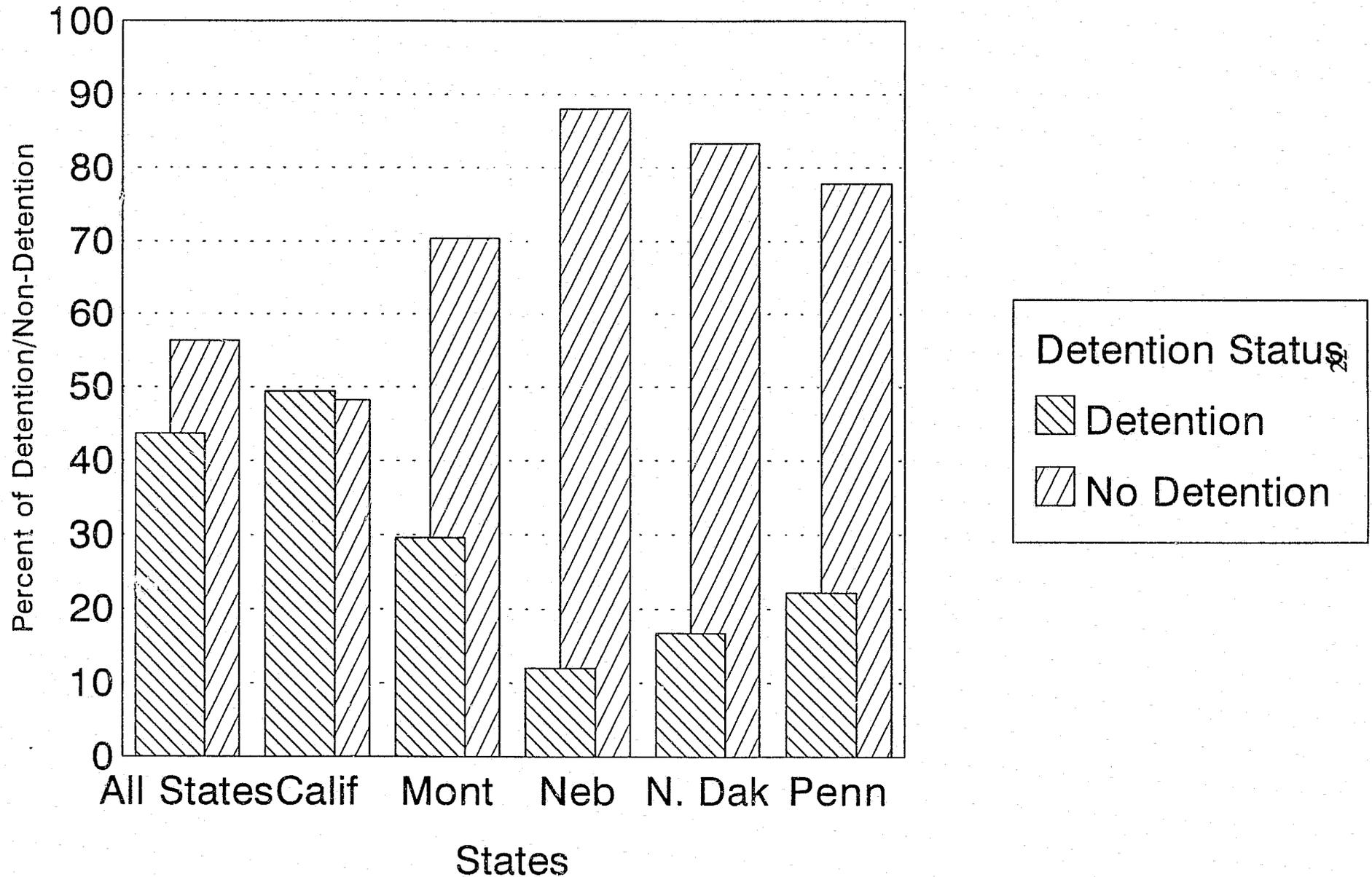
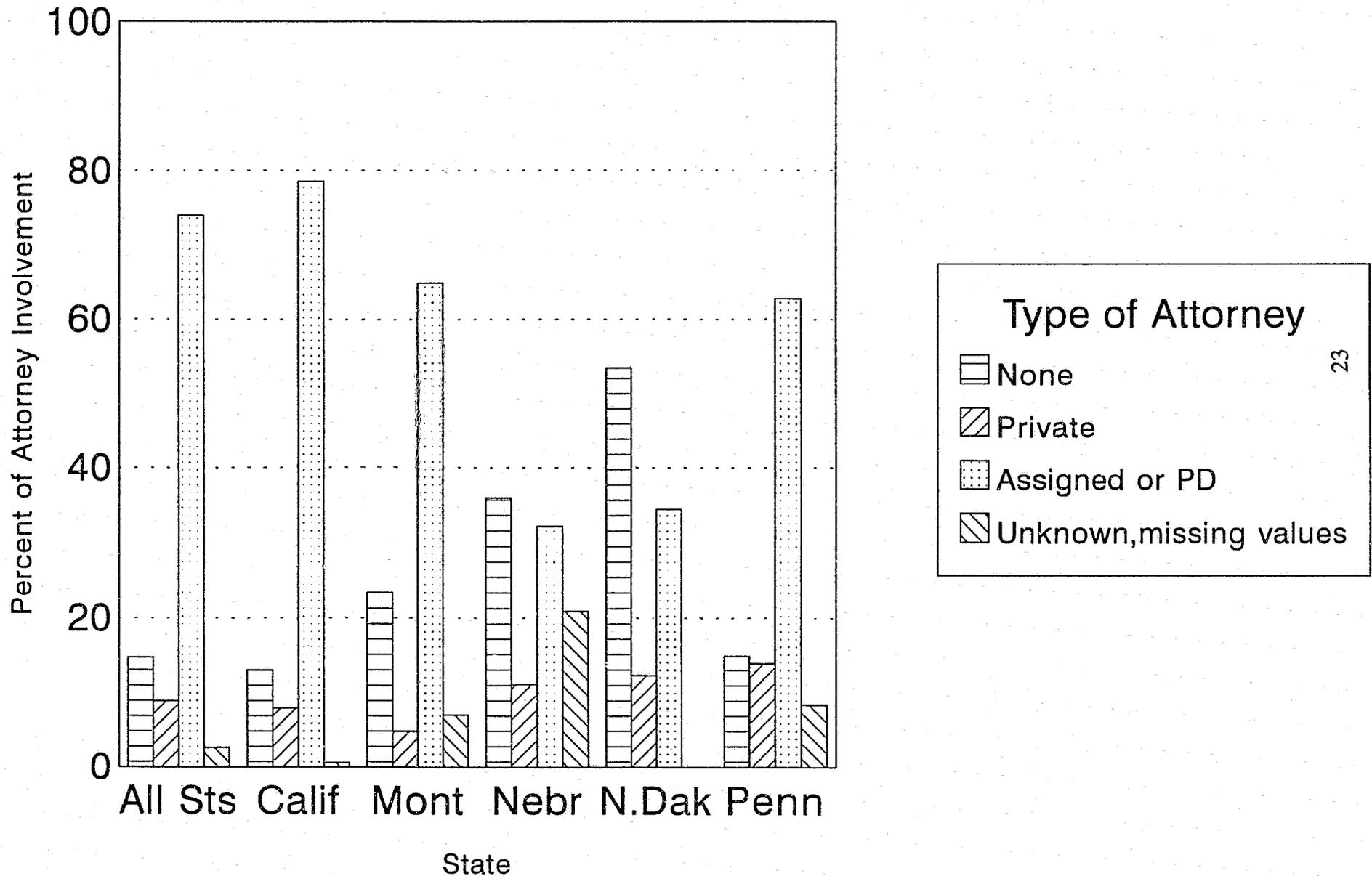


Figure 11. Attorney Involvement in Cases Disposed in Five States, 1980-1989.

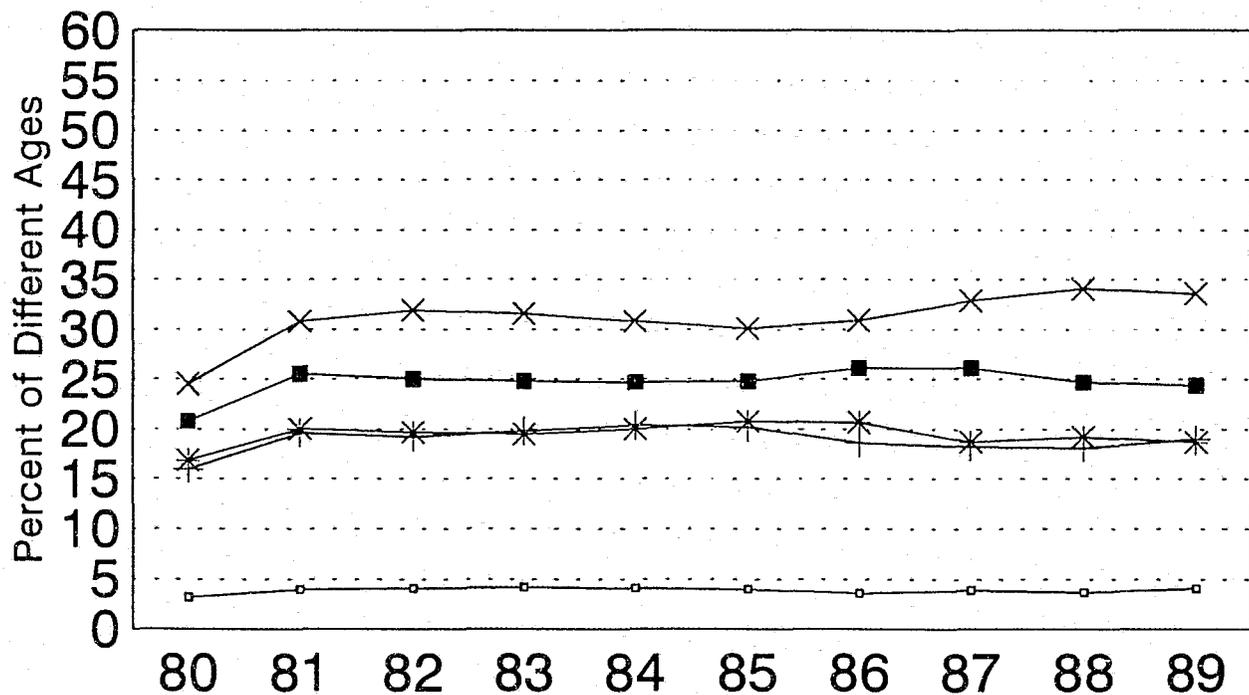


**Type of Counsel Used.** Finally, Figure 11 shows that about 15 percent of all cases disposed in the sample did not involve attorneys, while about 9 percent involved private counsel. Three-fourths involved court-appointed counsel or public defenders. There was considerable variation among states relating to the frequency of attorney involvement, however. For instance, the least amount of attorney involvement was in North Dakota, where about 53 percent of all cases disposed were concluded without attorneys. The greatest amount of public attorney involvement was in California, where nearly 80 percent of all cases disposed involved these types of defender services. The cases disposed in Montana and Pennsylvania involved publicly appointed attorneys about 60 percent of the time, while the least amount of public attorney involvement occurred in Nebraska and North Dakota, where about a third of the cases involved publicly appointed counsel. The involvement of private counsel varied among states as well. The lowest amount of private attorney involvement was in Montana, where less than 5 percent of the cases disposed involved private counsel. California followed with about 8 percent involvement of private counsel. For Nebraska, North Dakota, and Pennsylvania, however, private counsel used ranged between 11 and 13 percent. About a fifth of all Nebraska dispositions could not be classified as to type of attorney involvement, and therefore, the proportionate distribution of attorney use/nonuse in this state should be regarded with caution.

**Aggregate Trends.** During the 1980-1989 period, several important trends were apparent and are worth noting here. The first general trend pertains to the frequency of attorney involvement in these cases over time. As the juvenile courts have become more "due process" oriented, it would be anticipated that such courts would become increasingly adversarial. This would be evident by observing greater defense attorney involvement during adjudicatory proceedings. Appendix C underscores this fact by articulating various state provisions for attorney representation at various stages of juvenile offender processing (Szymanski, 1991:3-5, 15-16, 22). All states investigated here (with the exception of North Dakota) have articulated provisions for court-appointed counsel if juveniles desire to be represented by an attorney and cannot afford one. Parent or guardian financial circumstances and interests determine who should pay for a counsel's services. Whether North Dakota has committed these and other juvenile rights to writing is irrelevant, since all juveniles in all jurisdictions in the United States are entitled to be represented by counsel, especially in juvenile adjudicatory proceedings. Of course, in most instances, juveniles or their parents/guardians may intelligently waive representation by counsel. However, Montana provides that defense counsel must be present in any adjudication where a juvenile's liberty is in jeopardy and the juvenile can be placed in an out-of-home facility for six months or longer. But even in this situation, the juvenile or the parents may refuse an attorney's services.

**Changing Ages and Race/Ethnicity.** Respectively, Figures 12 and 13 show the changing profile of ages of juveniles in the present sample as well as racial/ethnic changes over the ten-year period. Figure 12 indicates that those making up the greatest proportion of offenders in each of the years examined are youths 17 and older. Sixteen-year-olds make up the next largest age category. Both of these age categories have increased proportionately over time. Those age 13-14 exhibit moderate representation proportionately, making up about 20 percent of the sample each year. There is little change in their proportionate representation over time, however. Those 12 years of age or younger are represented the least, or less than 5 percent per year. There is little change annually in their proportionate representation.

# Figure 12. Changing Age Profile of Cases Disposed in Five States, 1980-1989.



**Age Distribution**

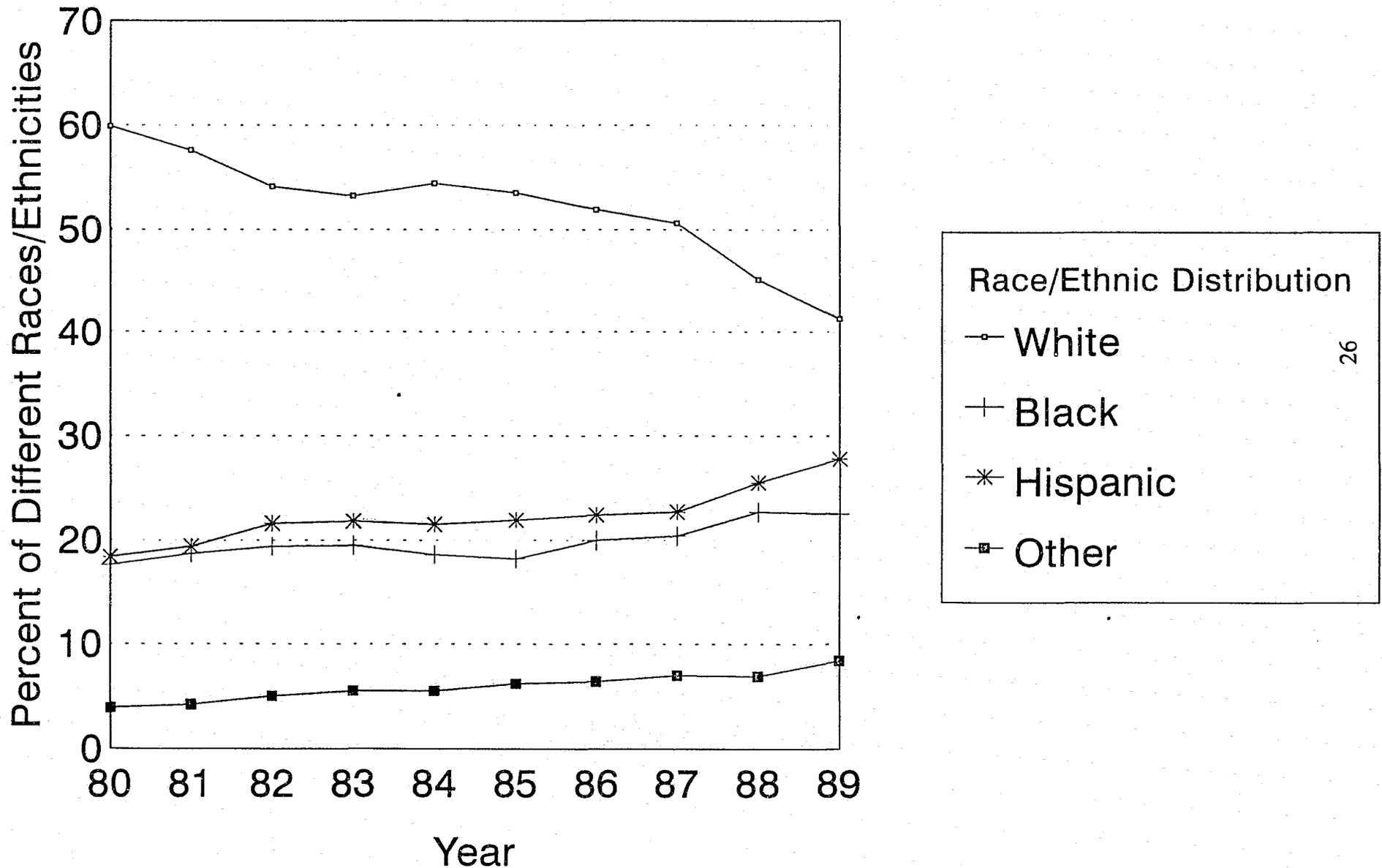
- 12 or <
- + 13-14
- \* 15
- 16
- × 17 +

25

12 or <	3.2	4	4.1	4.2	4.1	4	3.6	3.9	3.7	4.1
13-14	15.9	19.6	19.2	19.8	20.4	20.2	18.6	18.2	18.1	19
15	16.8	20	19.7	19.5	20	20.8	20.7	18.7	19.2	18.7
16	20.8	25.5	25	24.8	24.7	24.8	26.1	26.1	24.7	24.4
17 +	24.5	30.8	31.9	31.6	30.8	30.1	30.9	32.9	34.1	33.6

Year

Figure 13. Changing Race/Ethnic Profile of Cases Disposed in Five States, 1980-1989.



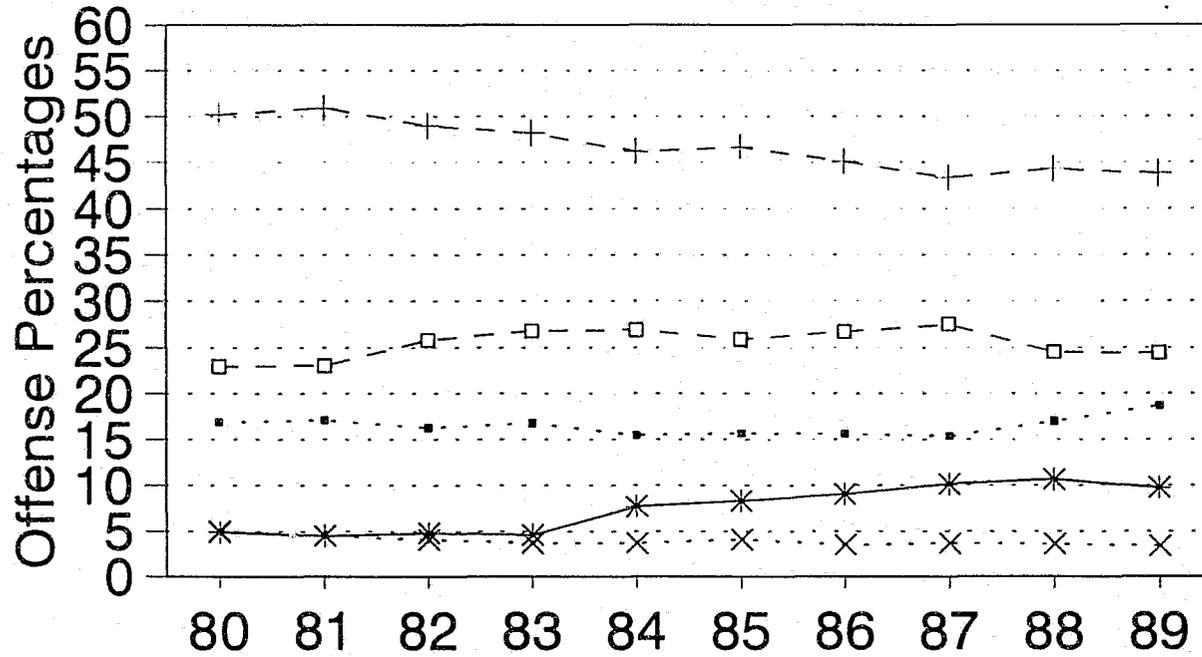
The race/ethnicity changes for cases disposed during the 1980-1989 period are substantial. First, the proportion of white cases disposed declined drastically, from about 60 percent in 1980 to about 41 percent in 1989 as shown in Figure 13. At the same time, black, and particularly Hispanic, cases disposed increased proportionately from about 18 percent for each in 1980 to 23 percent for blacks and 28 percent for Hispanics by 1989. Asians, Pacific Islanders, American Indians, and other minorities increased systematically also, although their proportionate representation is relatively small for all years. The "other" category increased proportionately from about 4 percent in 1980 to 9 percent by 1989. Again, when state-by-state figures are examined in the next section, it will be noted that these changes are not uniform among the states.

It is difficult to draw any cause-effect conclusions about age and race/ethnicity changes over time and whether these changes are more a function of changing 10-17 year-old populations in these jurisdictions or of some systemic differential treatment of offenders and how they are processed because of their different ages, races, or ethnicities. An independent inspection of the entire 10-17 youth populations of random counties in these particular states tend to show frequent declining white proportionate representation over time anyway, which is accompanied by increasing proportionate representation of blacks and especially Hispanics and "others." Thus, what might appear to be escalations of offending among specific minority youth may be attributable to simple population increase.

Changing Juvenile Offending Patterns. Figure 14 shows the changing pattern of offending for the entire sample of cases disposed for 1980-1989. Property offenses dropped from about 50 percent of all cases in 1980 to less than 45 percent of them in 1989. A modest increase in person offending occurred, from about 16 percent of all offenses in 1980 to nearly 20 percent in 1989. An interesting pattern was observed concerning the proportionate distribution of drug offenses across these years. Drug offenses in these cases rose proportionately during this same period, rising from about 5 percent of all cases in 1980 to about 10 percent of them in 1989. Although state and federal laws have changed toward a greater "get tough" stance relative to drug offenses generally, the proportion of drug offense cases consistently increased. Public order cases seemed to sporadically rise and fall slightly during the same time period. A consistent decline in the proportion of status offense cases was observed over this ten-year period, however, dropping slightly from about 5 percent of all cases in 1980 to about 3 percent of all cases in 1989.

Changing Attorney Involvement. Figure 15 shows the frequency of attorney involvement for all cases disposed for the years 1980-1989. This figure describes not only the frequency of attorney involvement, but it breaks attorney involvement down into "public" and "private" counsel as well as non-involvement, if youths are not represented by counsel. The first significant trend is a general increase in attorney involvement from about 76 percent in 1980 to 87 percent in 1989. This increase is largely the result of greater involvement of public defenders or court-appointed counsel. Figure 15 shows that private attorney involvement either remains fairly constant over this time period. In fact, it decreases slightly from 9.8 percent in 1980 to 7.5 percent in 1989. Accordingly, the percentage of cases disposed where no attorneys are involved decreases from about 17 percent in 1980 to 9.8 percent in 1989. However, as we will see in a subsequent section of this report, the five states examined here are not at all uniform in their attorney involvement trends for the same time period.

Figure 14. Changing Nature of Offenses for Cases Disposed in Five States, 1980-1989



Person	16.9	17.1	16.3	16.8	15.5	15.7	15.6	15.4	17	18.7
Prop	50.2	50.9	49	48.2	46.2	46.7	45.1	43.3	44.3	43.8
Drugs	4.9	4.5	4.8	4.6	7.7	8.3	9	10.1	10.6	9.7
Pub.Or.	22.9	23	25.8	26.8	26.9	25.9	26.7	27.5	24.5	24.4
Status	5	4.5	4.1	3.7	3.7	4.1	3.5	3.7	3.6	3.4

Year

Types of Offenses

•• Person

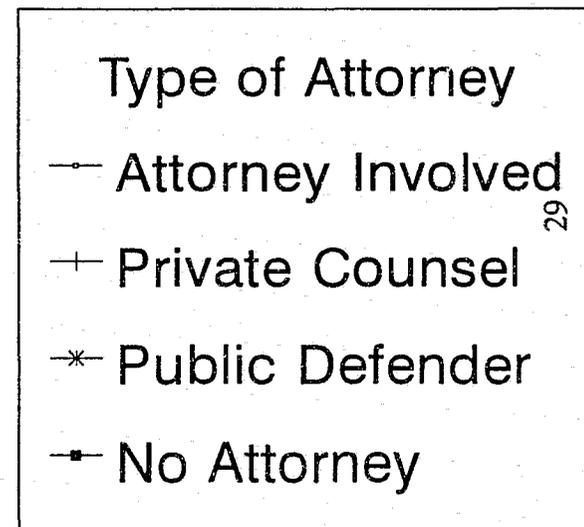
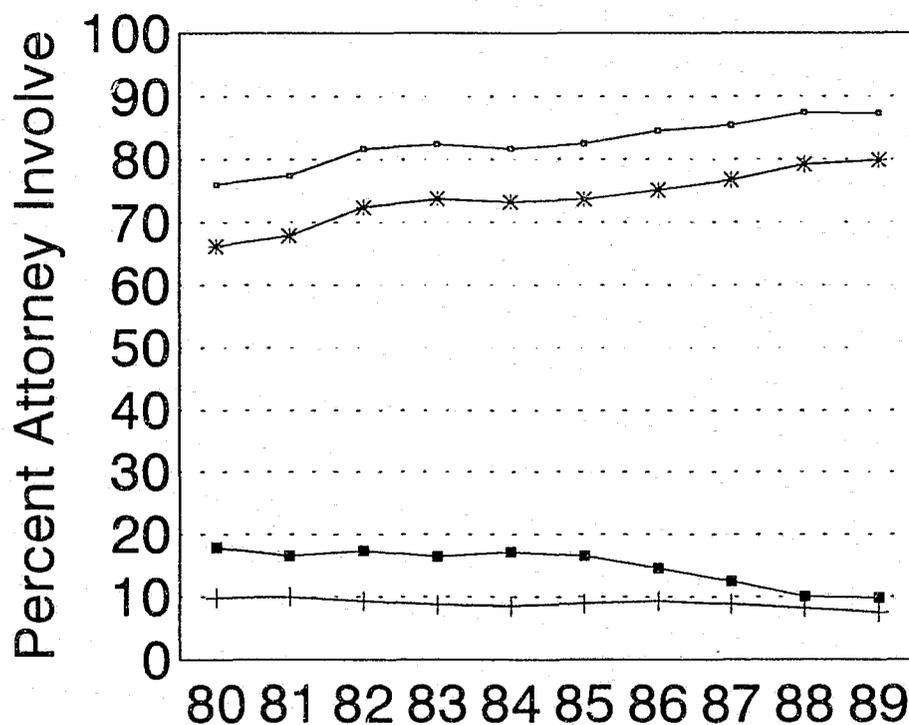
+ Prop

\* Drugs

-□- Pub.Or.

·×· Status

Figure 15. Attorney Involvement for Cases Disposed by Type of Attorney, 1980-1989.



Attorney Involved	76	77	81	82	81	82	84	85	87	87
Private Counsel	9.8	9.9	9.3	8.7	8.5	8.9	9.3	8.8	8.2	7.5
Public Defender	66	67	72	73	73	73	75	76	79	79
No Attorney	17	16	17	16	17	16	14	12	10	9.8

Year

Graph shows attorney involvement generally, with breakdowns according to public/private counsel.

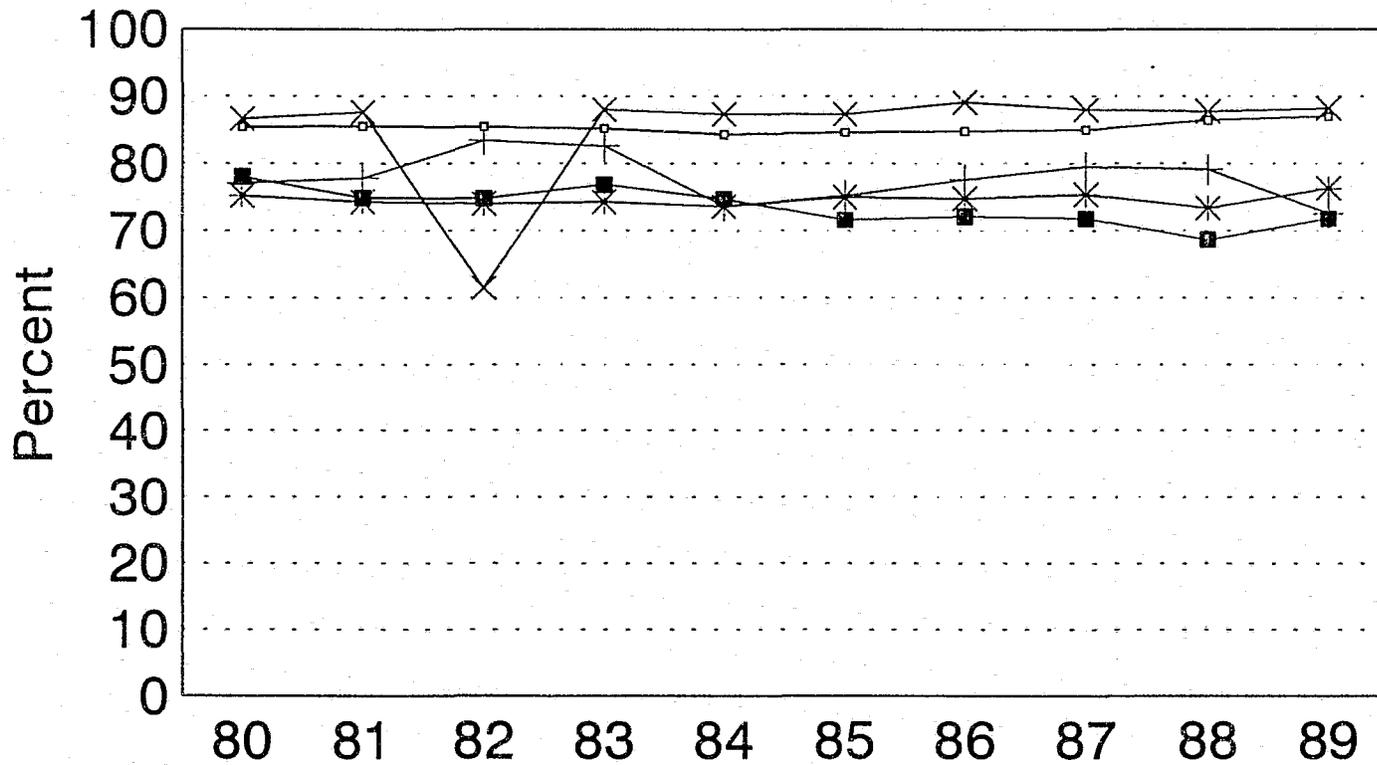
## DATA PRESENTATION: THE SECOND PHASE

The second phase of this research depicts state-by-state trends on several salient variables during the 1980-1989 period. Because of their incidental utility and interest, many of the figures used in this trend analysis have been illustrated in Appendix B for reference. Several key variables will be shown in figures in the present discussion, however, because of their heuristic or explanatory value. These variables include gender, out-of-home placements, and attorney use for each state across the ten-year interval.

**Gender.** Figure 16 shows a state-by-state distribution of male cases disposed (and by inference, female cases) for the period, 1980-1989. With the exception of a glaring dip between 1982 and 1983, Pennsylvania has the largest proportionate number of male cases disposed, remaining at a fairly high level of 88 percent. California follows closely and is the most consistent of all states regarding its distribution of male cases disposed across years. About 86 percent of all California cases disposed involved males for this ten-year interval. These figures are most likely attributable to the small numbers of status offense cases in California and Pennsylvania juvenile courts during this period, however. In contrast, Montana's proportion of male cases disposed rose to near Pennsylvania and California levels during the period, 1982-1984, but it dropped sharply and tapered off gradually across the remaining years, indicating a proportionate male disposition distribution of about 72 percent. Nebraska and North Dakota, states with relatively small numbers of cases disposed compared with California and Pennsylvania, indicate a fairly steady proportion of male cases disposed, hovering around 72 percent each. These state differences in the proportion of male cases disposed might help to account for any outcome differences which might become apparent in subsequent analyses. Certainly, those states with larger proportions of female cases disposed will probably have a greater proportion of less serious offending and greater use of probation or out-of-home placements compared with those states having proportionately fewer female cases disposed. Lower proportions of out-of-home placements might also be expected in those states with larger female cases disposed. Actually, several figures in Appendix B support each of these suppositions. Figure B.12 in Appendix B shows that by 1989, Nebraska led all states using probation for its cases disposed. North Dakota had the lowest use of probation, although it had the highest use of out-of-home placements for its cases disposed, averaging about 20 percent compared with out-of-home placement figures of 10 percent or less reported by the other states. Nebraska also had one of the highest proportionate distributions of releasees as well as the second lowest proportion of out-of-home placement (about 5 percent). While North Dakota did not have large proportionate numbers of releasees compared with Nebraska, it did have equivalent low proportions of out-of-home placements of about 5 percent (see Figure 17).

**Out-of-Home Placement Proportions.** The relative use of out-of-home placements for these juveniles among states across years was interesting. Figure 17 shows that California had by far the largest proportionate distribution of out-of-home placements, averaging nearly 50 percent of the cases disposed for each year. From about the mid-1980s, the use of out-of-home placements in California and in all other states appeared to decline. Some states exhibited more rapid declines in out-of-home placements of cases disposed than others. Montana out-of-home placements dropped from about 36 percent in 1980 to about 22 percent in 1989. Pennsylvania showed an abrupt increase in out-of-home placements between 1981 and 1983, although it also

Figure 16. Percent Male Cases Disposed by State and Year for 1980-1989.

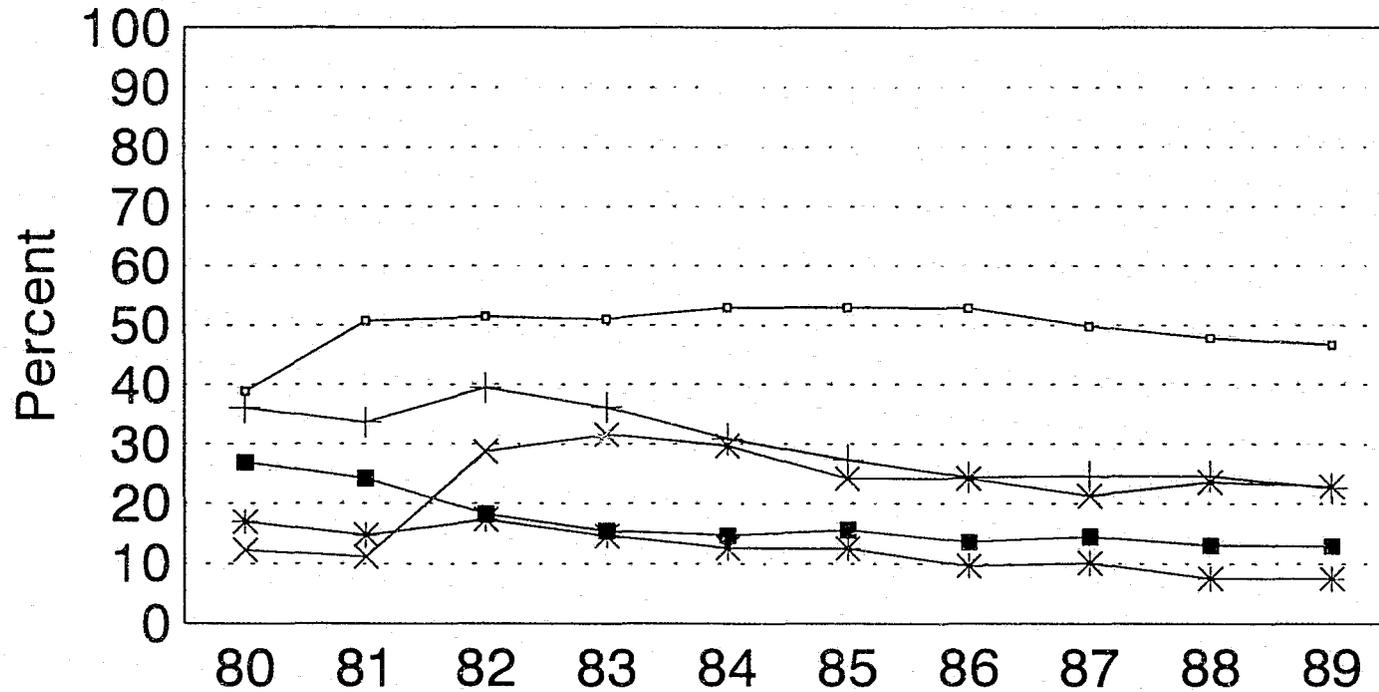


State	
□	Calif
+	Mont <sup>31</sup>
*	Nebr
■	N.Dak.
×	Penn

Calif	85.4	85.5	85.4	85.2	84.3	84.6	84.8	85	86.4	87
Mont	77.1	77.8	83.4	82.6	73.7	75.2	77.6	79.5	79.1	72.6
Nebr	75.2	74.3	74	74.3	73.6	75	74.8	75.4	73.4	76.3
N.Dak.	78	74.9	74.8	76.9	74.7	71.6	72.1	71.8	68.6	71.8
Penn	86.6	87.6	61.4	88	87.3	87.3	89.1	88	87.7	88.2

Year

Figure 17. Percent Use of Out-of-Home Placements by State and Year, 1980-1989.



State	
□	Calif
+	Mont
*	Nebr
■	N.Dak.
*	Penn

Calif	38.9	50.7	51.4	51	52.9	52.9	52.8	49.8	47.8	46.7
Mont	36.1	33.7	39.5	36.2	30.9	27.3	24.4	24.6	24.6	22.6
Nebr	16.9	14.7	17.3	14.6	12.6	12.5	9.6	10.1	7.5	7.5
N.Dak.	26.9	24.2	18.2	15.4	14.7	15.6	13.6	14.5	13	12.9
Penn	12.2	11.1	28.7	31.6	29.7	24.2	24.2	21.3	23.6	22.9

Year

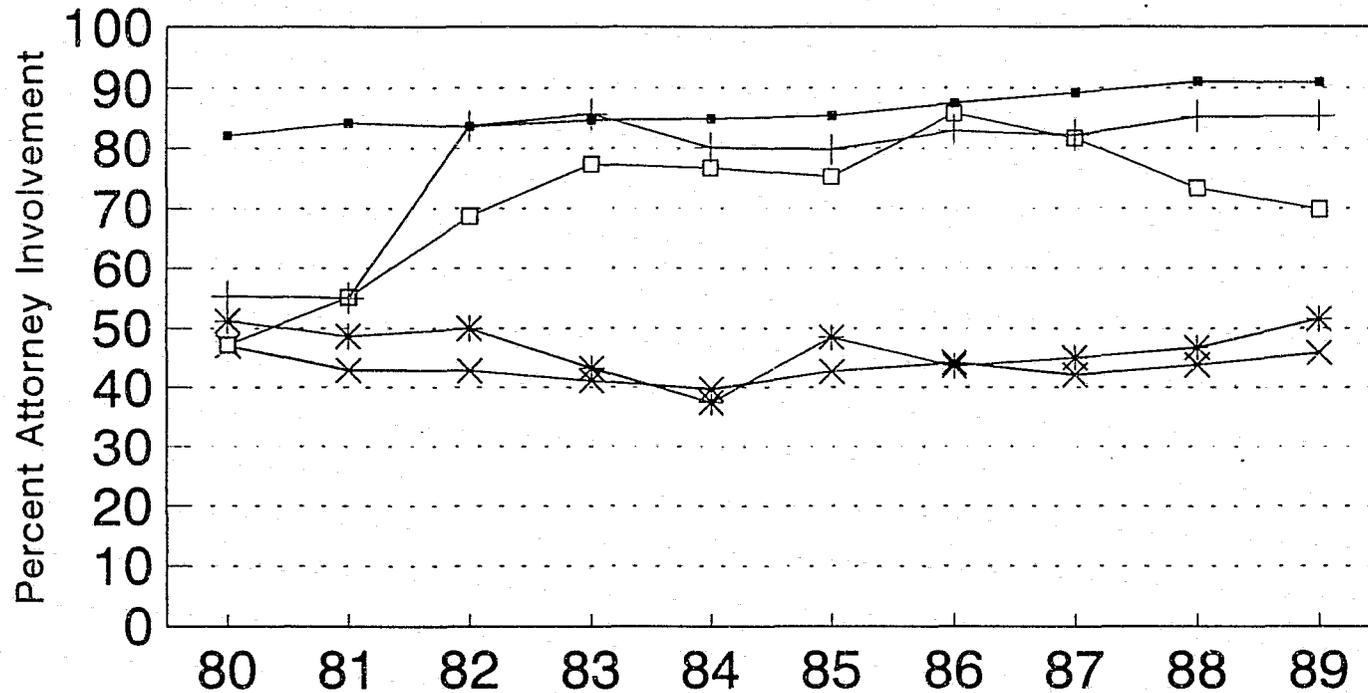
tapered downward for the remaining years, leveling off at about 22 percent. The lowest proportions of out-of-home placements were found in North Dakota and Nebraska, as previously reported. These were about 8 percent and 13 percent respectively. One possible explanation for the widely disparate and higher use of out-of-home placements in California compared with the other states is that California has in place an elaborate Youth Authority, with jurisdiction over youthful offenders up to age 25. Thus, the facilities exist to accommodate large numbers of juveniles for out-of-home placements, if needed. Another reason might be that California youths had higher proportions of violent or person offenses across the ten-year period compared with all other states except Pennsylvania.

**Attorney Involvement by State.** Figure 18 shows substantial differences among states regarding attorney involvement in general. California had the highest and most consistent attorney involvement between 1980-1989, gradually increasing from 82 percent to over 90 percent. Although Pennsylvania juvenile attorney involvement was somewhat low in 1980, it accelerated rapidly upward to reach and remain close to the reported California figures. By 1989 public and private attorneys were involved in Pennsylvania about 85 percent of the time. Attorney involvement in Montana was sporadic across these years, rising from about 48 percent in 1980, equalling California attorney involvement levels by 1986, and then dropping in 1989 to about 70 percent attorney involvement. North Dakota and Nebraska had lowest attorney involvement levels across the ten-year period, fluctuating between 40-50 percent. In 1989, Nebraska's attorney involvement was about 45 percent (the lowest), while North Dakota had an attorney involvement level of 51 percent. Although erratic patterns of attorney involvement were observed for one or more states between 1980-1989, *all states* indicated a general increase in attorney involvement during this same period. Therefore, if support is needed for the idea that juvenile courts are becoming more formalized, adversarial, and legalistic, Figure 18 demonstrates this fact conclusively with the consistently upward trend in attorney involvement between 1980 and 1989.

It should be apparent by now that the information disclosed above suggests that two general state groupings exist, where each grouping shares more than a few important characteristics. California and Pennsylvania are closely related concerning various racial/ethnic trends and male-female proportionate distributions. Similar proportionate distributions and patterns of offending also characterize them. At the same time, Montana, Nebraska, and North Dakota share many of the same characteristics, although this particularly grouping is basically different from the California-Pennsylvania pairing. An urban-rural dichotomy seems possible as one important distinguishing feature separating both groupings. This holds despite the fact that California and Pennsylvania have some largely rural counties, while the other three states have several areas which would qualify as "urban." Looking at each of these states generally, we would probably adopt this rural-urban distinction as one way of differentiating between these pairings or groupings.

It might be anticipated that in those states designated as largely "rural," a different, perhaps less serious, offending pattern would exist among the affected juveniles. In contrast, largely urban states might reflect a more serious offense pattern. Again, this may be attributable to the fact that both California and Pennsylvania have divested most, if not all, status offenders from the jurisdiction of juvenile courts. We might anticipate greater proportions of drug offenses in California or Pennsylvania, for example, compared with the proportion of drug offenses in

Figure 18. Involvement of Attorneys by State and Year, 1980-1989



State	
—■—	Calif
—+—	Penn
—*—	N. Dak.
—□—	Mont
—x—	Nebr

Calif	82.1	84.2	83.6	84.7	84.9	85.4	87.5	89.2	91	90.9
Penn	55.3	55	83.7	85.7	80.1	79.8	82.9	82.2	85.2	85.3
N. Dak.	51.2	48.6	49.9	43.2	37.5	48.4	43.6	45	46.7	51.5
Mont	47.2	55.1	68.7	77.3	76.7	75.2	85.8	81.7	73.3	69.8
Nebr	47	42.9	42.8	41.1	39.7	42.7	44.2	42.1	43.8	45.8

Year

Montana, Nebraska, and North Dakota. No state in this research is without cases disposed involving drug use.

**Other Variable Changes.** Regarding other variables examined on an aggregate basis over time, the use of out-of-home placements, from the time of being taken into custody through adjudication, has increased somewhat, especially during the mid-1980s, but has subsequently declined slightly. The use of out-of-home placement fluctuates in the 40-45 percent range across years. The source of referrals has remained fairly constant across years as well. The original figures presented in Table 1 tend to hold across years. The only other variable to change substantially over time is the use of out-of-home placement as a sanction by juvenile court judges. For offenders adjudicated delinquent in 1980, out-of-home placement was used about 10 percent of the time. By 1989, however, out-of-home placements had risen to almost 18 percent. It will be seen, however, that California figures are largely responsible for this apparent aggregate trend.

**Attorney Influence on Case Dispositions and Selected Crosstabulations.** We have already seen that the involvement of attorneys by juveniles in the present research has increased, and that this increase, although different among the states, is both steady and significant over time. We also know that males and females, as well as those of different races and ethnicities, have basically different types of offending patterns, and that these offending patterns tend to hold across the 1980-1989 period. In order to better understand the impact of attorney use on cases, it will be helpful to review some of the characteristics of the entire sample of cases disposed over the 1980-1989 period. Some of these are highlighted below, with references to appropriate figure or table numbers in Appendix B.

- The proportion of cases disposed involving person offenses has increased over the ten-year period, although the degree of increase varies among the states examined (see Figure B.1).
- The proportion of cases disposed involving property offenses has decreased from 1980-1989 in most jurisdictions (see Figure B.2).
- The proportion of cases disposed involving drug offenses has increased slightly in most jurisdictions (see Figure B.3).
- The proportion of cases disposed involving public order and status offenses has varied greatly among the states examined, but across time, the different patterns of these offenses have remained fairly constant.
- The largest referral source for these cases disposed is law enforcement for all jurisdictions, although less urban areas have larger proportions of referrals from public agencies, families, and neighbors. Only school referrals, which are consistently low overall, remain about the same for all jurisdictions.
- About one sixth of all attorney involvements in these cases disposed involves privately acquired counsel. The proportionate use of private counsel over time has either remained at a fairly steady level for most states or has decreased slightly (see specifically California and North

Dakota figures shown in Figure B.11).

- The states vary in their application of probation for cases disposed over time. For most states, probation use has increased proportionately between 1980-1989. California and North Dakota have exhibited a decrease in the use of probation for adjudicated offenders over time, however (see Figure B.12).

- The proportionate numbers of releasees (i.e., those whose cases are dismissed or are adjudicated "not delinquent") has either declined or remained about the same over time (see Figure B.14).

- Most jurisdictions have reported less use of out-of-home placement over time. Montana has the highest proportion of out-of-home placement, and the proportion of such placements has increased substantially during the ten-year period. California's proportion of out-of-home placements declined in the early part of the decade, but it rose from about 12 percent in 1981 to about 22 percent in 1989 (see Figure B.13).

- The proportion of whites in the juvenile court caseloads across states has declined over time. Those states with the greatest declines include California (a 1980-1989 decline of 20 percent) and Pennsylvania (a ten-year decline of 15 percent). Montana, Nebraska, and North Dakota have low proportions of minority cases disposed, attributable in large part to low 10-17 minority populations. Nevertheless, slight declines in the proportionate distribution of white cases disposed were reported between 1980-1989, although the population of whites age 10-17 in these jurisdictions ranged from 80 percent to 92 percent across time (see Figure B.15).

- The proportion of black cases disposed increased significantly in Pennsylvania during 1980-1989, from 10 percent in 1980 to over 30 percent in 1989. In California and Nebraska, the proportion of black cases disposed was different but remained fairly constant over time (about 20 percent of California's cases disposed involved blacks, while about 10 percent of Nebraska's cases disposed involved blacks) (see Figure B.16).

- For California and Pennsylvania, the Hispanic cases disposed proportionately increased and was greatest between 1980 (22 percent) and 1989 (31 percent). The other three states had low, non-fluctuating proportions of Hispanic cases disposed (less than 5 percent) (see Figure B.17).

- Cases disposed involving "other" juveniles, mostly Asians in California and American Indians in Montana, showed modest increases over time.

- Proportionate distributions of cases disposed by age were substantially different across time, although no particular age category changed significantly between 1980-1989. The smallest age aggregate consisted of those age 12 or under (about 7 percent of all dispositions), while those 13-15 and 16 and older were next highest (44 percent) and highest (49 percent) across all states (see Figures B.19, B.20, and B.21).

Given these general findings and trends, we are now in a position to ask and possibly answer the most important questions guiding this research.

1. Who chooses which types of counsel for defense purposes, if attorneys are chosen initially? Is there any particular profile that characterizes those selecting particular kinds of attorneys, in terms of sociodemographic characteristics or types of offenses alleged?

2. Do attorneys make a difference in influencing case outcomes?

3. Do private attorneys seem to accomplish more for juveniles than public defenders or publicly appointed counsel? Specifically, do private attorneys influence more lenient judicial decision making and more favorable treatment for affected juveniles compared with publicly appointed counsel?

Gender, Race/Ethnicity, and Attorney Choices. No significant differences were observed between male and female juvenile cases disposed and attorney choices. In short, gender could not be used in any predictive sense as a means of determining whether (1) an attorney would be chosen or not chosen, and (2) if an attorney were chosen, whether the attorney would be court-appointed or privately acquired. Race/ethnicity was a different matter, however. Table 4 below shows the distribution of attorneys used by whites, blacks, Hispanics, and others.

Table 4. Attorney Involvement in Cases Disposed by Race/Ethnicity Across All Years, 1980-1989.

TYPE OF COUNSEL INVOLVED	RACE/ETHNICITY (%)			
	WHITE	BLACK	HISPANIC	OTHER
None.....	18.4	10.8	11.0	14.4
Private.....	11.6	5.2	6.8	10.3
Public.....	69.8	84.1	81.8	75.4

Table 4 shows some interesting differences between race/ethnicity concerning the type of counsel involved. First, 18.4 percent of the cases disposed did not involve attorneys. Nonwhite, non-attorney use was substantially lower across the board. Black cases disposed indicate non-attorney involvement of about 10.8 percent, followed by Hispanic dispositions (11.0 percent), and "other" (14.4 percent). Whites and others, mostly Asians, had private attorneys twice as often as black and Hispanic youths. Private attorney involvement in white cases disposed was 11.6 percent, while "other" had private attorney involvement of 10.3 percent. In contrast, black and Hispanic cases disposed had about half this proportion of private attorney involvement, with 5.2 percent for black youths and 6.8 percent for Hispanic youths. Finally, about 70 percent of the white youths involved public defenders or court-appointed counsel, compared with much larger publicly appointed counsel involvement by the other race/ethnic categories. Blacks had the highest public attorney involvement, with 84.1 percent, followed by Hispanics (81.8 percent) and others (75.4 percent). Thus, (1) whites involve attorneys less frequently than the other races/ethnicities; (2) whites involve private counsel about twice as often as blacks and Hispanics; and (3) whites involve publicly appointed counsel less frequently than the other races/ethnicities.

Type of Offense and Attorney. Table 5 indicates that for those *not* involving attorneys,

the least serious offense categories are represented the most. In short, status cases disposed do not involve attorneys in 33.1 percent of these dispositions, followed by public order attorney non-involvement of 17.4 percent. About 15 percent of the property dispositions do not involve attorneys. Person offense dispositions have the lowest non-involvement of attorneys. Wording this positively, those dispositions involving person offenses utilize attorney services the most, while the least serious offense categories attorney services the least. This observation makes sense and was anticipated. A closer inspection of this table shows that private attorney involvement is greatest for those cases disposed involving person offenses or the most serious offense category, with 12.1 percent of these cases disposed involving private counsel.

Table 5. Type of Offense and Attorney Involvement.

TYPE OF ATTORNEY INVOLVED	TYPE OF OFFENSE				
	PERSON	PROPERTY	DRUGS (Percent)	PUBLIC ORDER	STATUS
None.....	10.1	14.9	11.9	17.4	33.1
Private.....	12.1	9.6	8.7	6.7	6.4
Public.....	77.7	75.4	79.4	75.7	60.3
Both Private and Public.	89.8	85.0	88.1	82.4	66.7

Private counsels are involved less frequently for property cases disposed (9.6 percent), drug cases disposed (8.7 percent), public order cases disposed (6.7 percent), and status offense cases disposed (6.4 percent). Publicly appointed counsel was involved the most for all offense categories, although its involvement was more prevalent within certain categories than others. Drug offense cases disposed exhibited the greatest involvement of publicly appointed counsel with 79.4 percent. Person offense cases disposed had the next greatest amount of public counsel involvement, or 77.7 percent. The least amount of public counsel involvement was found for status cases disposed, which involved publicly appointed counsel in 60 percent of these cases. It should be noted that the actual distributional breakdown of offense categories, from largest to smallest, is as shown in Table 6.

Table 6. A Percentage Distribution of Offense Categories and Cases Disposed.

Property offenses.....	407,048	(46.7%)
Public order offenses.....	224,343	(25.7%)
Person offenses.....	144,477	(16.6%)
Drug offenses.....	65,681	(7.5%)
Status offenses.....	30,279	(3.4%)
Total.....	871,828	(100%)

Therefore, when we are discussing drug and status offense cases disposed, we are actually looking at less than 11 percent of all cases disposed. Overwhelmingly, property offense cases disposed make up the greatest proportionate number of cases disposed here. Person offenses account for about 17 percent of these as well. If we were to combine *both* private attorneys with publicly appointed counsel for these different dispositional categories, a clearer picture would emerge concerning attorney and offense seriousness. Thus, Table 5 also shows a combination of private and publicly appointed counsel for each of the categories of offenses. This particular

combination means that attorney involvement, from most frequently involved to least frequently involved, by offense category, is as illustrated in Table 7.

These figures greatly clarify our understanding of those offense categories which have the great attorney involvement. Cases disposed involving person offenses involved attorneys the most in the present 1980-1989 cases. Drug offense cases, treated as increasingly serious offending by law enforcement agencies at local, state, and federal levels, reflect the next highest amount of attorney involvement, or 88.1 percent. Property offense cases disposed involved attorneys about 85 percent of the time. Status cases disposed involved attorneys about 68 percent of the time. Again, we must keep in mind the actual numerical distributions of these offending categories. Only slightly more than 3 percent of our cases disposed consists of status offenses.

Table 7. Type of Offense and Attorney Involvement.

TYPE OF OFFENSE	ATTORNEY (%)
Person offenses.....	89.8%
Drug offenses.....	88.1%
Property offenses.....	85.0%
Public order offenses.....	82.4%
Status offenses.....	66.7%

Attorneys and Their Influence on Case outcomes. Does it benefit a juvenile, in terms of judicial leniency and/or ultimate disposition resulting from an adjudication action, whether to have an attorney or not have one? And if attorneys seem beneficial from the standpoint of greater leniency in treatment, are there differences according to whether publicly appointed counsel or private counsel are involved? Table 8 shows four major categories of outcomes, ranging from least to most lenient: (1) transfer to criminal court; (2) out-of-home placement; (3) probation; and (4) release.

Table 8. Case Outcomes and Attorney Involvement.

CASE OUTCOME	TYPE OF ATTORNEY INVOLVED			
	NONE	ATTORNEY	PUBLIC ATT.	PRIVATE ATT.
	(Percentages)			
Transfer.....	0.3%	0.7%	0.7%	0.9%
Placement.....	16.0%	31.2%	32.2%	22.5%
Probation.....	55.7%	49.2%	48.2%	57.5%
Release.....	27.7%	18.7%	18.7%	19.0%

First, Table 8 shows that transfers to criminal courts are involved infrequently as a sanction for these juvenile cases disposed. Even on a state-by-state basis, transfers to criminal courts where youths could be treated as adults (and, theoretically, exposed to harsher punishments beyond the jurisdictional sanctions of juvenile court) were involved only sparingly, accounting for less than 1 percent of all cases disposed. Private counsel had an imperceptibly higher

association with transferred juveniles (0.9 percent) than publicly appointed counsel or cases where no counsel were involved (0.7 percent and 0.3 percent respectively). One immediate explanation is that private attorneys seem to represent more serious juvenile cases. At the very least, public attorney involvement or the non-involvement of an attorney is associated with less serious cases. Thus, private counsel figures might be biased slightly in favor of more serious cases where there is a greater chance of being transferred to criminal courts and processed as adults.

More significant differences are observed for other case outcomes, however. For instance, placement figures associated with the type of attorney involvement are such that those not using attorneys receive placement in 16 percent of these cases disposed compared with a 31.2 percent placement percentage for those using attorneys. But when we break down attorney into publicly appointed and privately acquired counsel, it is apparent that significant differences in the proportion of placements emerge. Cases disposed involving privately hired counsel receive out-of-home placement in 22.5 percent of these cases disposed compared with 32.2 percent out-of-home placements involving publicly appointed counsel.

Probation as the punishment imposed revealed some interesting differences as well. An initial impression is that about 56 percent of those cases not involving attorneys received probation, while 49.2 percent of those involving attorneys received the same sentence. Again, these differences are perhaps more reflective of less serious cases disposed where defense counsel are not involved compared with more serious cases disposed that involved attorneys. Furthermore, 57.5 percent of the cases disposed where private counsel were involved resulted in probation, while 48.2 percent of those involving publicly appointed counsel resulted in the same sanction. Finally, release figures are important, in both a general and a specific sense. In a general sense, almost 28 percent of those not using attorneys were released, while about 19 percent of those using attorneys were also released from the system. But when the type of attorney was controlled for, a slight difference in the percentage distribution of releasees was noted. Namely, 18.7 percent of the releasees involved publicly appointed counsel, while 19 percent involved private counsel.

We might tentatively conclude from Table 8 that involving attorneys *does* make a difference compared with not involving attorneys. The difference made by attorney involvement in case outcomes seems more a function of the seriousness of the offense rather than the fact of attorney involvement. Additionally, whether the attorney involvement was public or private seemed to matter regarding out-of-home placements, probation, and release. Specifically, private counsel, compared with publicly appointed counsel, had proportionately (1) lower out-of-home placements, (2) greater use of probation, and (3) a slightly higher proportion of release for their juvenile clients.

## GENERAL SUMMARY

A descriptive study was conducted of juvenile court cases disposed in five states across the years, 1980-1989. States included in this analysis were California, Montana, Nebraska, North Dakota, and Pennsylvania. These states were selected primarily because they contained complete or nearly complete information sets involving the study variables for the years specified. The guiding objectives of this research were to determine: (1) whether there are any

patterns of attorney involvement for juveniles in the different states across years; (2) the nature and relation of attorney involvement with final outcomes or cases disposed for affected juvenile cases disposed; (3) targeting particular social and demographic factors which might account for differential attorney involvement or patterning across years; (4) whether publicly appointed counsel differ from private counsel in terms of affecting case outcomes; and (5) whether any differences and patterns discovered here are actual trends which might be expected to continue into future years.

The National Center for Juvenile Justice (NCJJ) provided data sets and juvenile records for the years, 1980-1989, for the targeted states. Formally and informally handled cases in these five states were in excess of 2 million, although limiting the analysis of data to formally processed cases (i.e., formal petition filings and final cases disposed) yielded a smaller sample of 895,395 cases disposed. California cases disposed made up over 80 percent of the sample across years. The study was implemented in two phases: (1) aggregate figures of cases disposed were analyzed; (2) state-by-state figures of cases disposed were analyzed.

Aggregate data analysis revealed that the sample of cases disposed consisted of 85 percent males. About 52 percent of all cases disposed involved whites, while blacks and Hispanics accounted for 20 percent and 22 percent respectively. A majority of cases were age 15 or older, and the chief source of referrals to juvenile court was law enforcement (78 percent). The principal offense among the cases disposed involved property (47 percent), followed by public order (25 percent), person offenses (17 percent), and drug offenses (8 percent). Status offending accounted for the smallest proportionate numbers of cases disposed or less than 4 percent of all cases. Probation was most frequently imposed (49 percent), while out-of-home placement was imposed about 14 percent of the time. About 20 percent of all cases disposed resulted in release. Fewer than 1 percent of all cases disposed were transferred to criminal court. About 44 percent of all cases disposed resulted in out-of-home placement, although this figure was influenced substantially by large numbers of California cases. About 82 percent of all cases disposed involved either publicly appointed counsel (i.e., public defenders or court-appointed counsel) or privately acquired counsel (private counsel were involved in about 9 percent of all cases).

Aggregate figures also showed that male and female offense patterns differed, although the differences were not as dramatic as one might expect. The most frequent offense among cases disposed for males was burglary, whereas public order offenses headed the list for female cases disposed. Both males and females exhibited high proportions of larceny and assault offenses. One primary difference was that female cases disposed had a much higher proportion of status offending compared with male cases disposed. White and nonwhite cases disposed exhibited more pronounced differences in offense patterns, with white cases disposed involved in a higher proportion of property, public order, and status offenses. Nonwhite juveniles exhibited higher proportions of drug and person offending.

Aggregate trends disclosed that race/ethnicity profiles of juvenile cases disposed in these jurisdictions changed during the 10-year period examined. The proportion of white cases disposed declined from 60 percent in 1980 to about 41 percent in 1989. Asians, Hispanics, and blacks increased in proportionate representation over time to 9 percent, 28 percent, and 23 percent respectively. Offending patterns changed across time as well. Overall property offense

cases disposed declined from 50 percent to 45 percent, while person offense proportions increased from 16 percent to 20 percent. Drug offense cases doubled proportionately during this period, from 5 percent to 10 percent, while status offense cases declined slightly from 5 percent to 3 percent.

Attorney involvement changes were fairly dramatic during this period. A general increase in attorney involvement was noted, from 76 percent in 1980 to 87 percent in 1989. Private attorney involvement was relatively low across time, although private attorney involvement dropped slightly from 9.8 percent in 1980 to 7.5 percent in 1989.

On a state-by-state basis, a majority of states with the exception of Montana and North Dakota had high probation usage. The greatest use of out-of-home placement occurred in Montana, followed by California and North Dakota. Out-of-home placements were greatest in North Dakota, followed by Pennsylvania, California, Montana, and Nebraska. North Dakota, Nebraska and Pennsylvania had the highest release proportions, followed by Montana and California. Private attorney involvement was highest in Pennsylvania and lowest in Montana, although the overall of private attorneys was low.

Out-of-home placement proportions on a state-by-state basis varied considerably, with California using out-of-home placement the most (50 percent). North Dakota and Nebraska involved out-of-home placement the least, or 8 percent and 13 percent respectively. Montana out-of-home placement proportions declined over time from 36 percent in 1980 to 22 percent in 1989. Pennsylvania's proportion of out-of-home placements, although erratic across years, averaged about 22 percent.

All states revealed increasing attorney involvement in juvenile court during the 1980-1989 period. Attorney involvement was greatest in California, which increased from 82 percent in 1980 to 92 percent in 1989. By 1989, Pennsylvania attorney involvement had reached about 85 percent. By 1989, Montana attorney involvement had increased to 70 percent, while Nebraska and North Dakota attorney involvement fluctuated between 40 and 50 percent across time.

The principal findings relating to attorney involvement and the influence of attorney involvement on case outcomes are as follows. First, no significant differences were apparent between male and female cases disposed and whether attorneys were involved. Racial/ethnic factors seemed influential on attorney choices, however. White cases involved private counsel twice as frequently as black or Hispanic cases, although Asian cases appeared equally likely as white cases to involved private counsel as well. Publicly appointed counsel involvement differences also varied according to race/ethnicity. White cases involved publicly appointed counsel less frequently than nonwhite cases. Black cases had the highest public attorney involvement (84 percent), with Hispanic youths second (82 percent). Examining these race/ethnic differences from another perspective, the non-involvement of attorneys was significant. White cases involved attorneys the least compared with blacks, Hispanics, and others.

Generally, private counsel were involved more often in more serious offense cases, whereas publicly appointed counsel seemed to be dispersed evenly throughout both serious and nonserious offense cases disposed. Thus, private counsel involvement was greatest for cases involving

person offenses and least for public order and status offending. Publicly appointed counsel involvement appeared to vary little among cases involving property and public order offenses, although they were involved slightly more frequently in person and drug offense cases.

Private attorneys appeared to influence case outcomes in the following ways. First, private attorneys had a lower proportion of out-of-home placements compared with publicly appointed counsel. Second, private attorneys had better records than publicly appointed counsel concerning securing probation for their offender-clients. Third, private attorneys had slightly higher release proportions for their clients compared with publicly appointed counsel. These findings are significant, inasmuch as it was earlier determined that privately acquired counsel are more frequently involved in more serious offense cases compared with less serious ones. Thus, the type of attorney selected does make a difference in influencing case outcomes in juvenile courts, at least in the sample of jurisdictions examined here.

It is not known whether these states are typical or representative of all states concerning cases disposed and attorney involvement. Comparisons of these findings with the findings of other researchers suggest both support for previous research about attorney involvement and some important emerging differences and trends. For most of the jurisdictions examined here, attorney involvement is considerably higher than in previously reported research. Other research has disclosed attorney involvement figures of 50 percent, although these figures were descriptive of only a few Midwestern states during the mid-1980s. Although two states in the present analysis were consistent with this attorney involvement figure, it was quite clear that three of the states had markedly higher proportions of attorney involvement. Furthermore, a trend analysis disclosed that attorney involvement among cases disposed is increasing. If this phenomenon continues into the 1990s, we can expect that almost all juveniles will have attorneys in juvenile actions by the year, 2000.

At least for the present analysis and for a majority of the states examined here, high proportions of attorney already exist and appear to be increasing. This means that there is greater attorney representation or at different stages of juvenile justice processing. This also means that juvenile courts are becoming even more adversarial than they were in previous years. Thus, proposals for court unification are at least tacitly supported by these findings, and this support is growing, at least among the states studied here. There are many logistical problems associated with court unification, however. The growing proportion of attorney will likely prompt greater concern among legislators to consider court unification, but territoriality rights, differential offense patterning among states and counties, and political considerations will weigh heavily in any subsequent policy decision of this type.

One difficulty reconciling the involvement or non-involvement of attorneys at any stage of the juvenile justice process is that subjective judgments of different system actors are inherently discriminatory. That is, they may suggest one course of action for one juvenile and another course of action for another juvenile, where both juveniles have seemingly identical delinquency histories and backgrounds. While discrimination in treatment is generally abhorred, it is not always necessarily unfavorable for affected juveniles. Sometimes it is favorable, since certain juveniles may be diverted from the juvenile justice system who should be diverted from it. At other times, however, it may be unfavorable, since some youths, for whatever reason, may be pushed further into the system by intake officers and others on the basis of nonlegal factors, such

as race/ethnicity, socioeconomic status, or gender. Defense counsel for juveniles are in place for a purpose. It is assumed that their primary purpose is to ensure equitable treatment for their clients and that the full range of their constitutional rights will be understood and applied. But their presence may also trigger greater formality which may overpenalize certain youths and underpenalize others.

This study has shown that for the five state jurisdictions examined over the ten-year period, 1980-1989, attorney involvement has increased. In some states, this increased involvement has been substantial. It has also been shown that attorneys do seem to make a difference influencing cases disposed. There are also subtle differences among private and public attorneys concerning their impact on cases disposed according to different races/ethnicities. Whatever the merits of increasing attorney involvement for the juvenile justice system, there are noticeable and significant trends in these particular jurisdictions which might be expected or anticipated in other jurisdictions which are similar to them. Subsequent research of similar phenomena in other jurisdictions across time is recommended. In the meantime, the findings yielded here only pertain to the jurisdictions involved and do not mean that similar trends in other states are occurring.

**Appendix A**

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**Appendix B**

**SUPPLEMENTARY FIGURES AND TABLES**

Figure B.1. Percent Person Offenses by State and Year, 1980-1989.

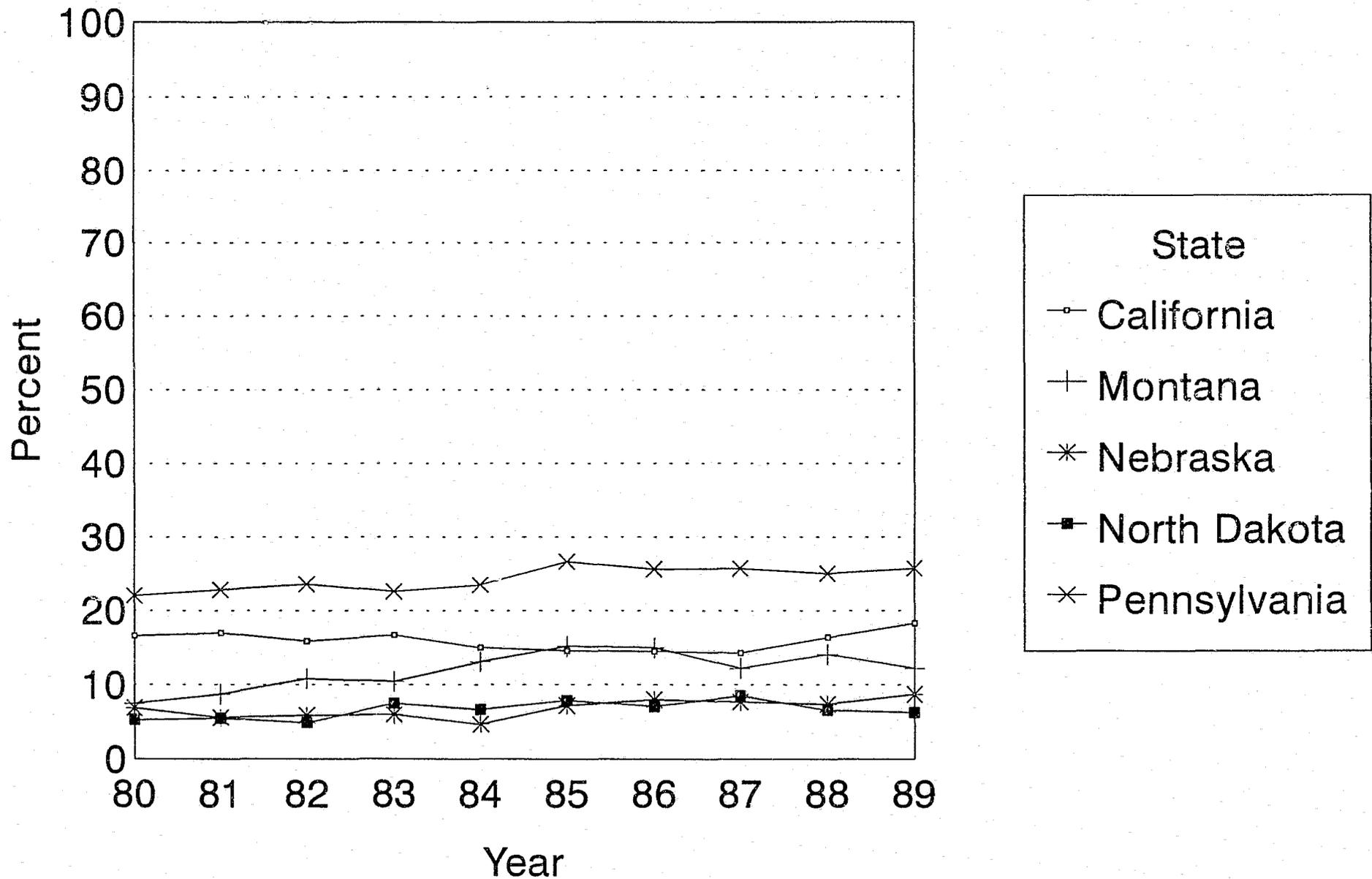


Figure B.2. Percent Property Offenses by State and Year, 1980-1989.

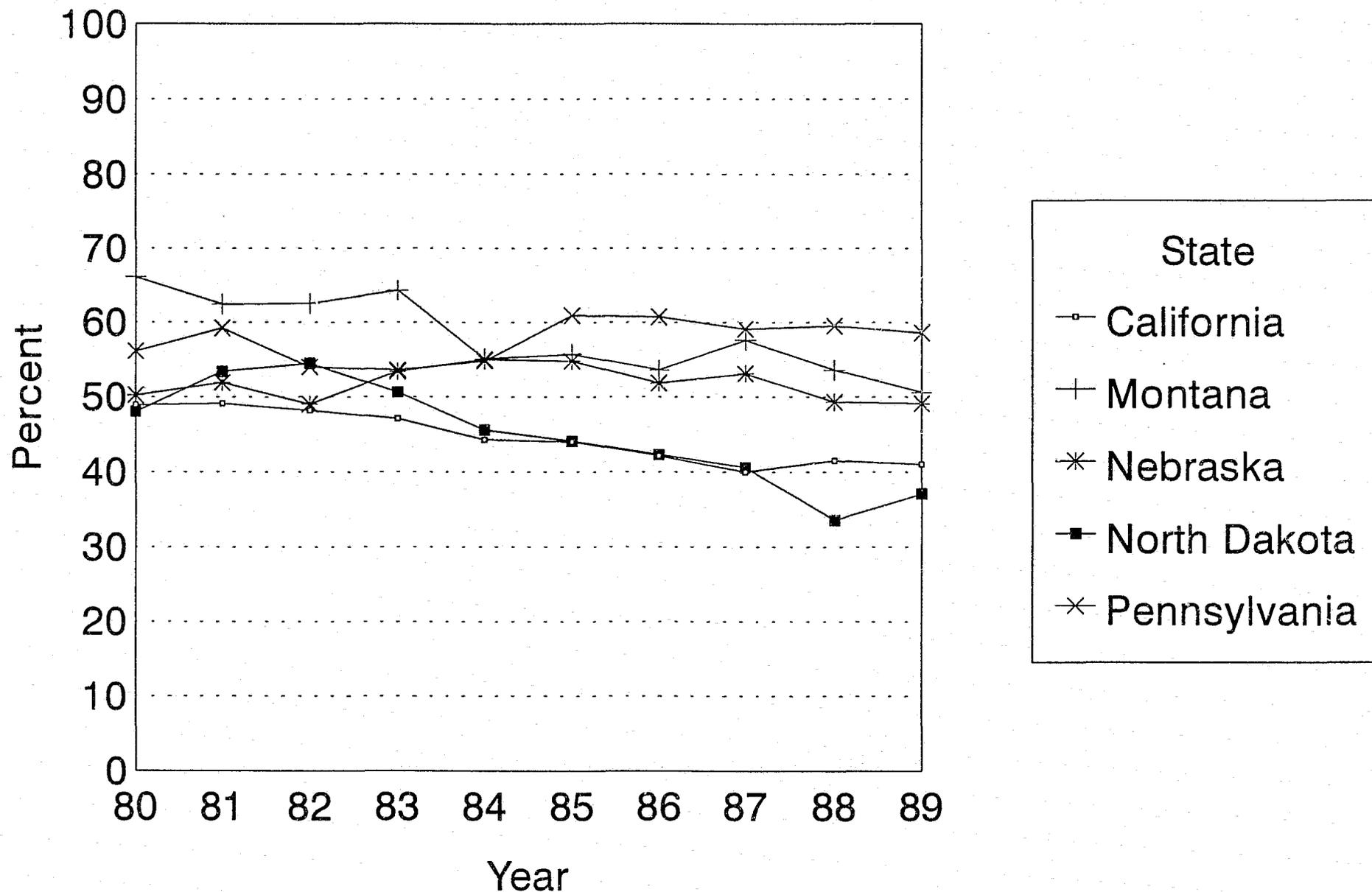


Figure B.3 Percent Drug Offenses by State and Year, 1980-1989.

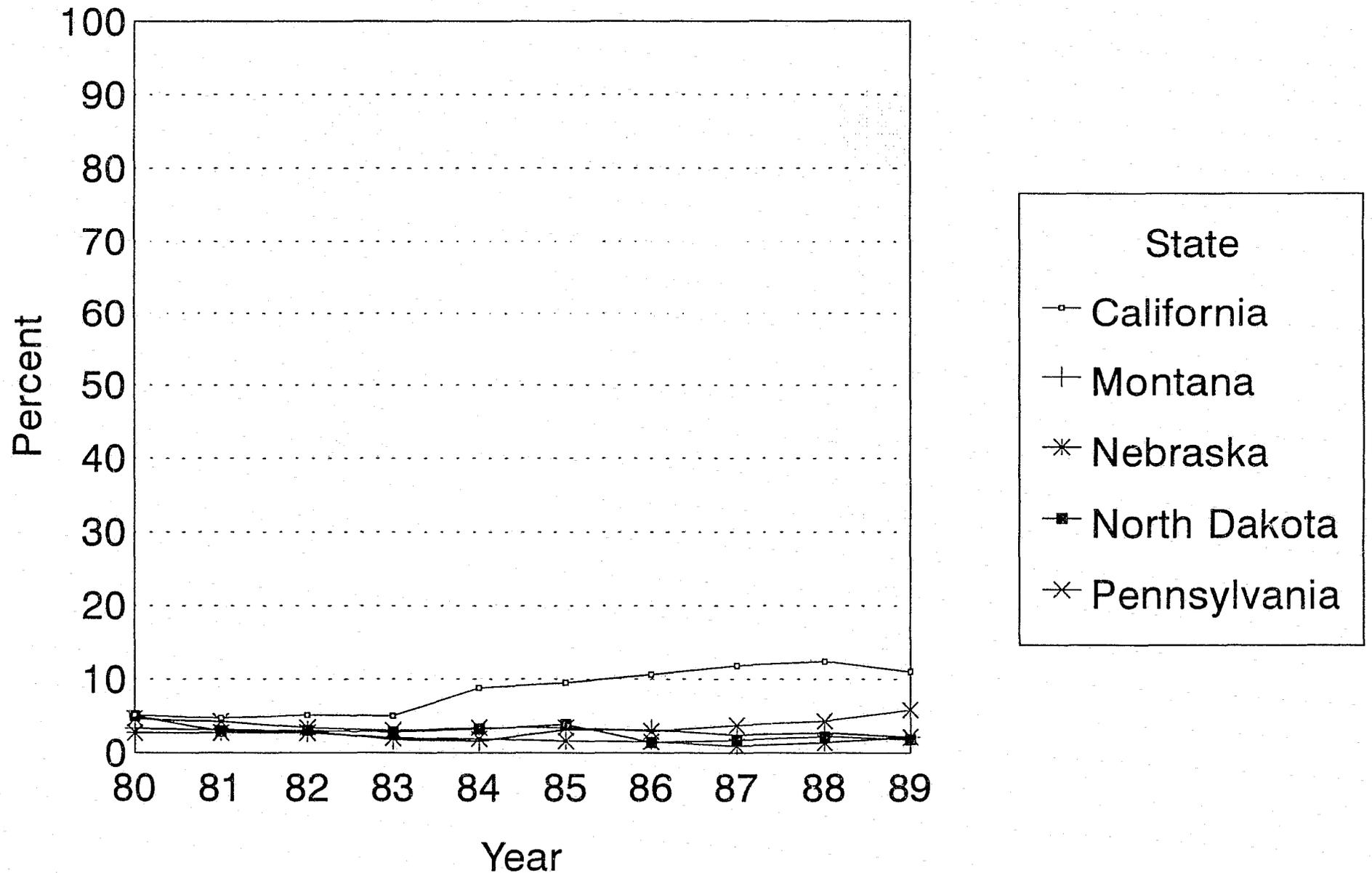


Figure B.4. Percent Public Order Offenses by State and Year, 1980-1989.

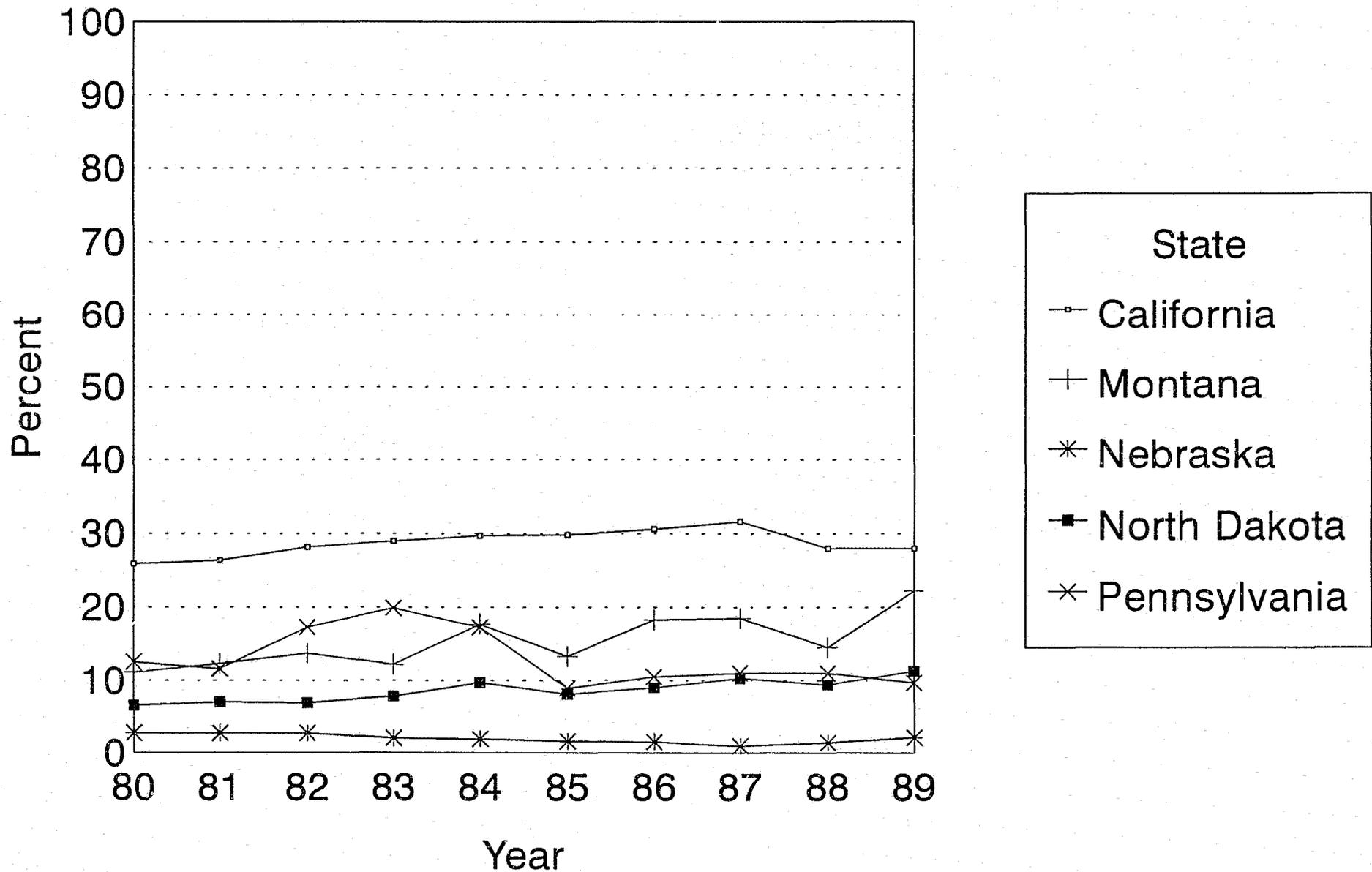


Figure B.5. Percent Status Offenses by State and Year, 1980-1989.

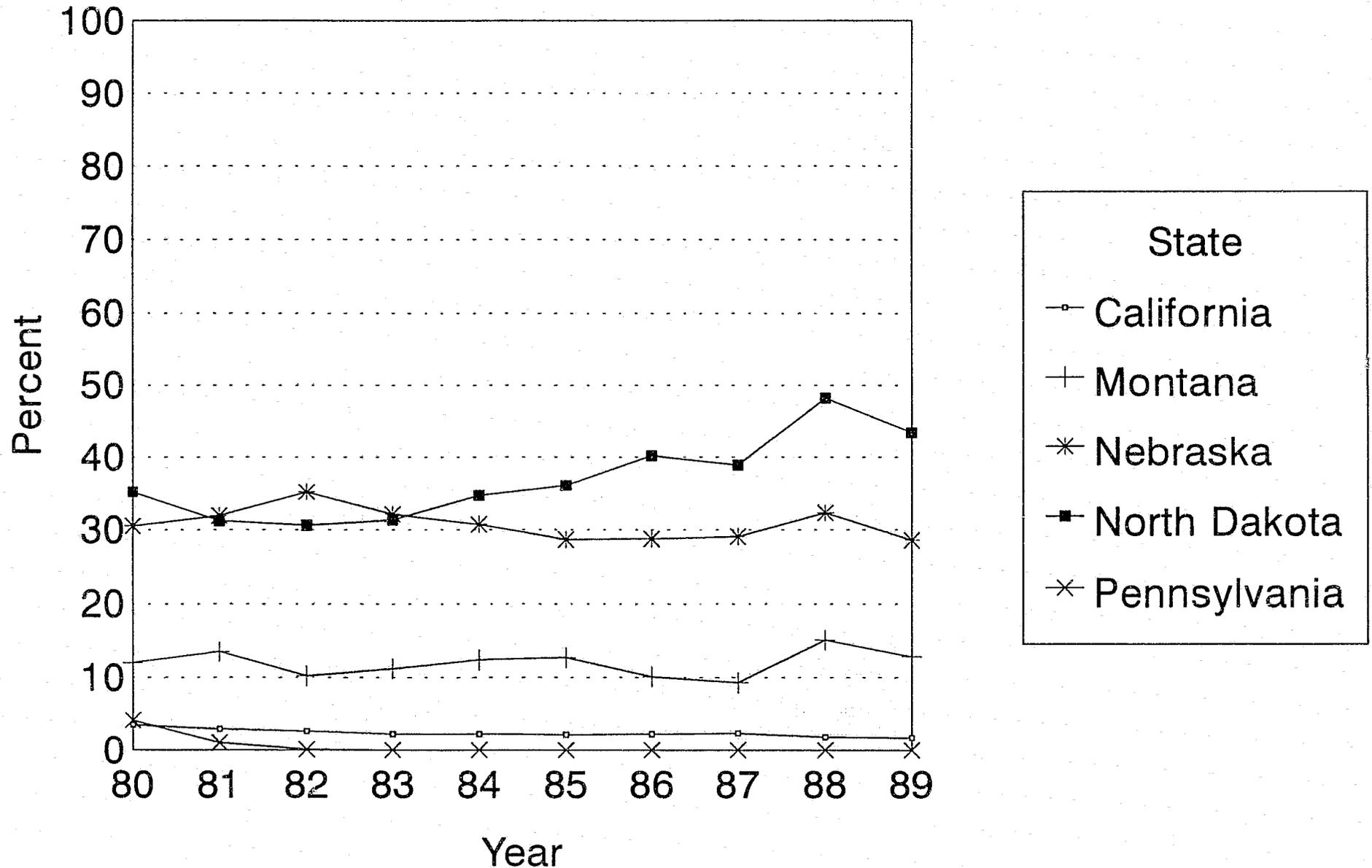


Figure B.6 Percent Law Enforcement Referrals by State and Year, 1980-1989.

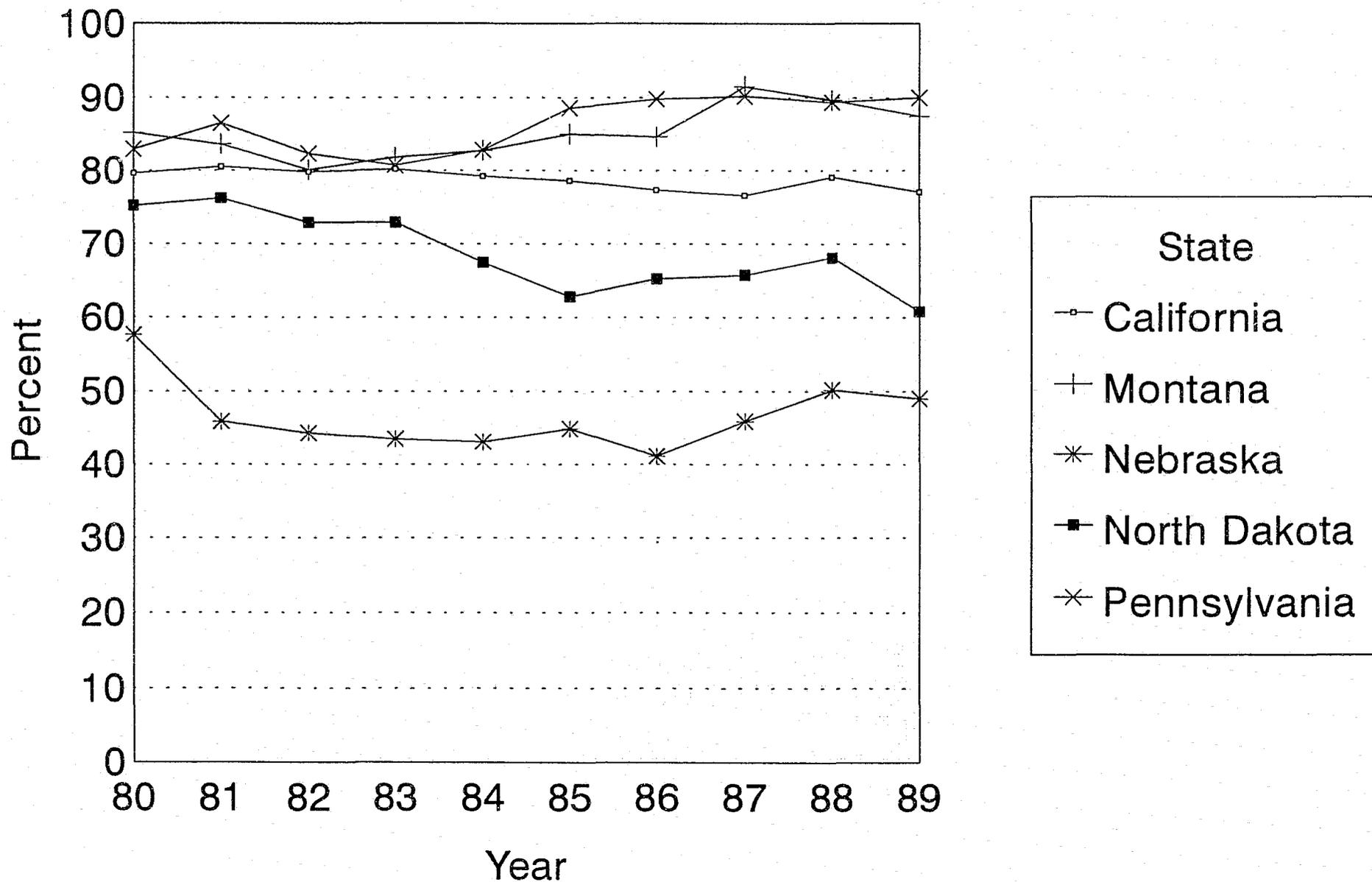


Figure B.7. Percent School Referrals by State and Year, 1980-1989.

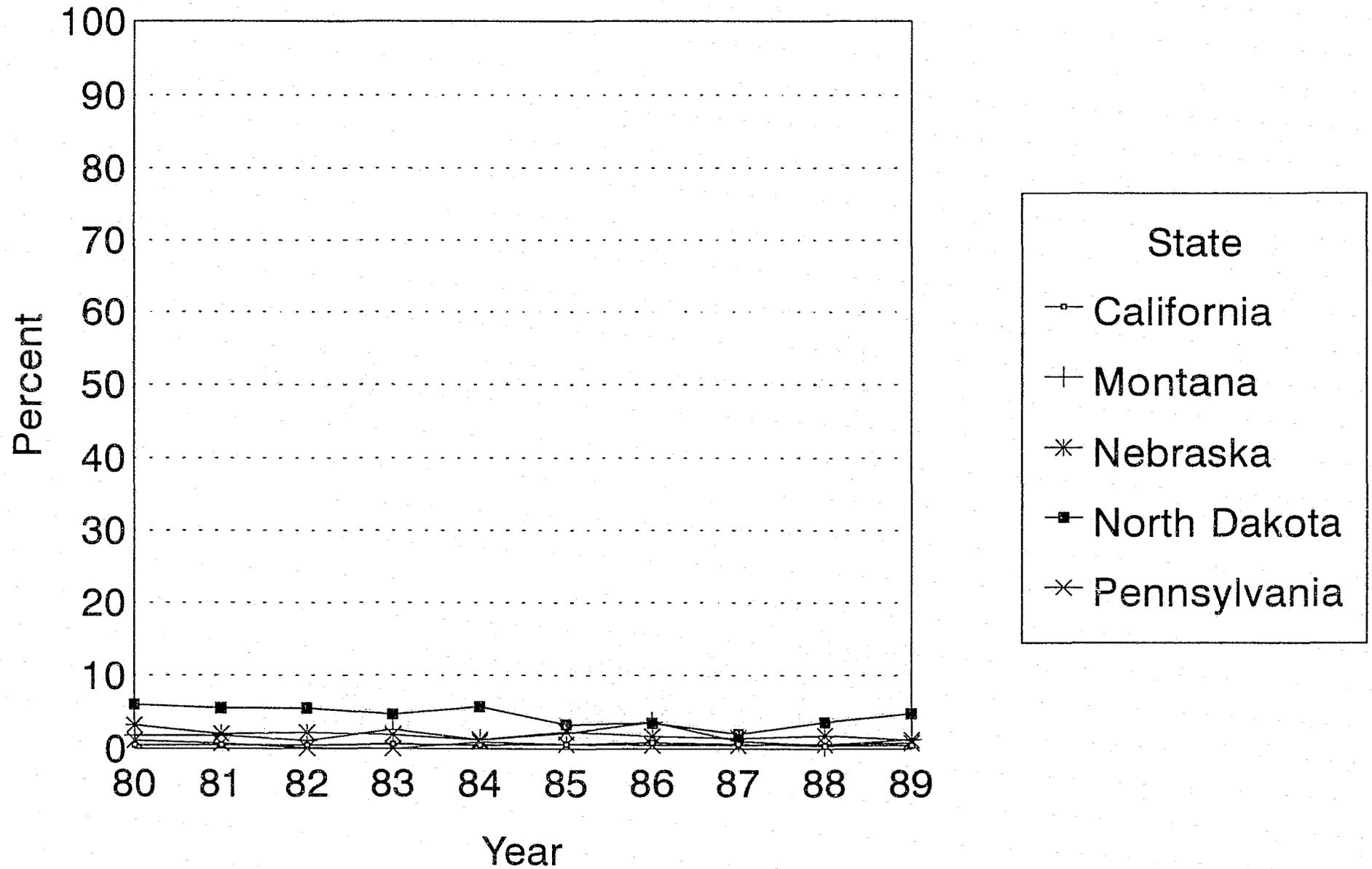


Figure B.8. Percent "Other" Referrals by State and Year, 1980-1989.

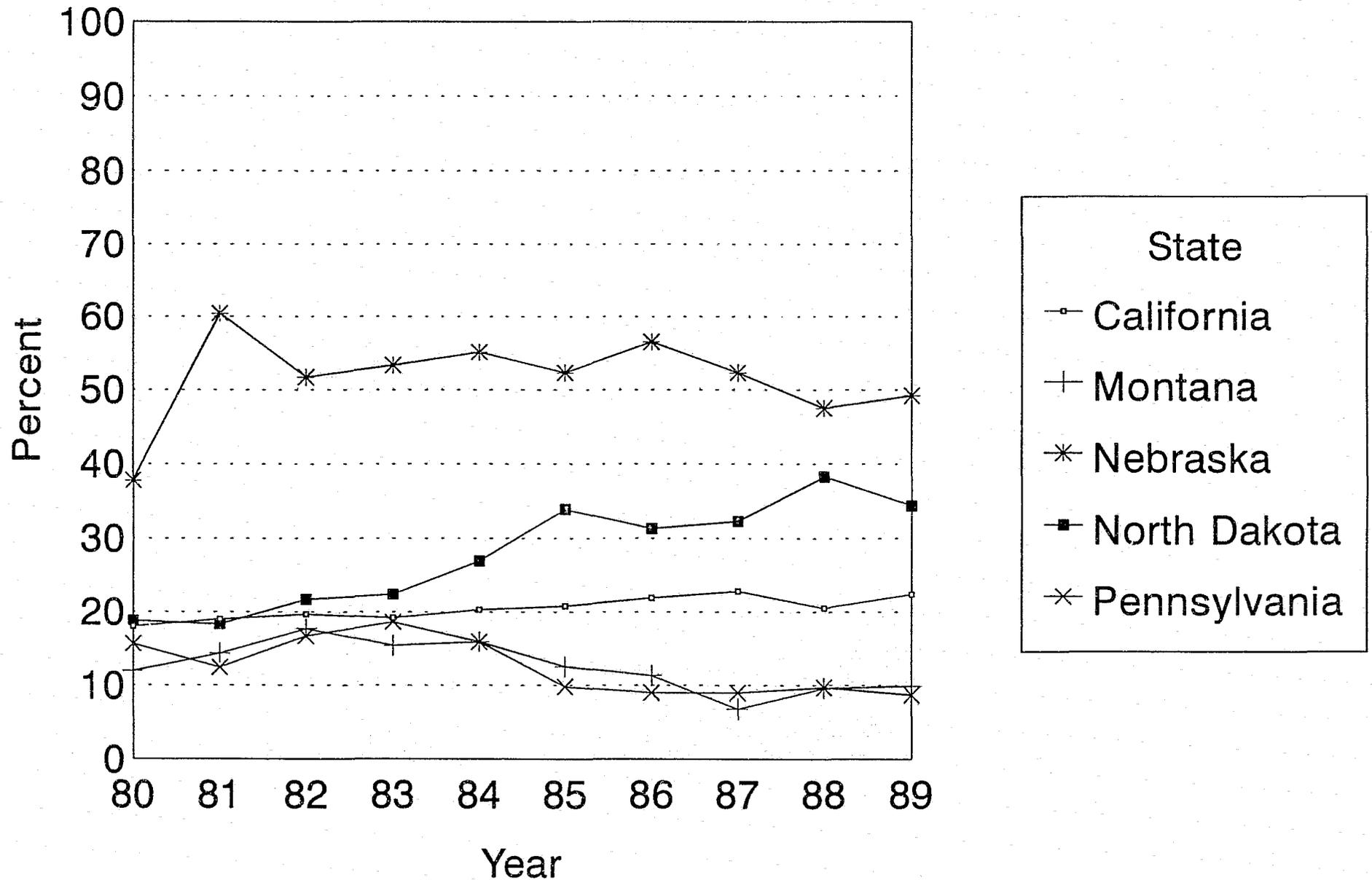


Figure B.9. Non-Attorney Use by State and Year, 1980-1989.

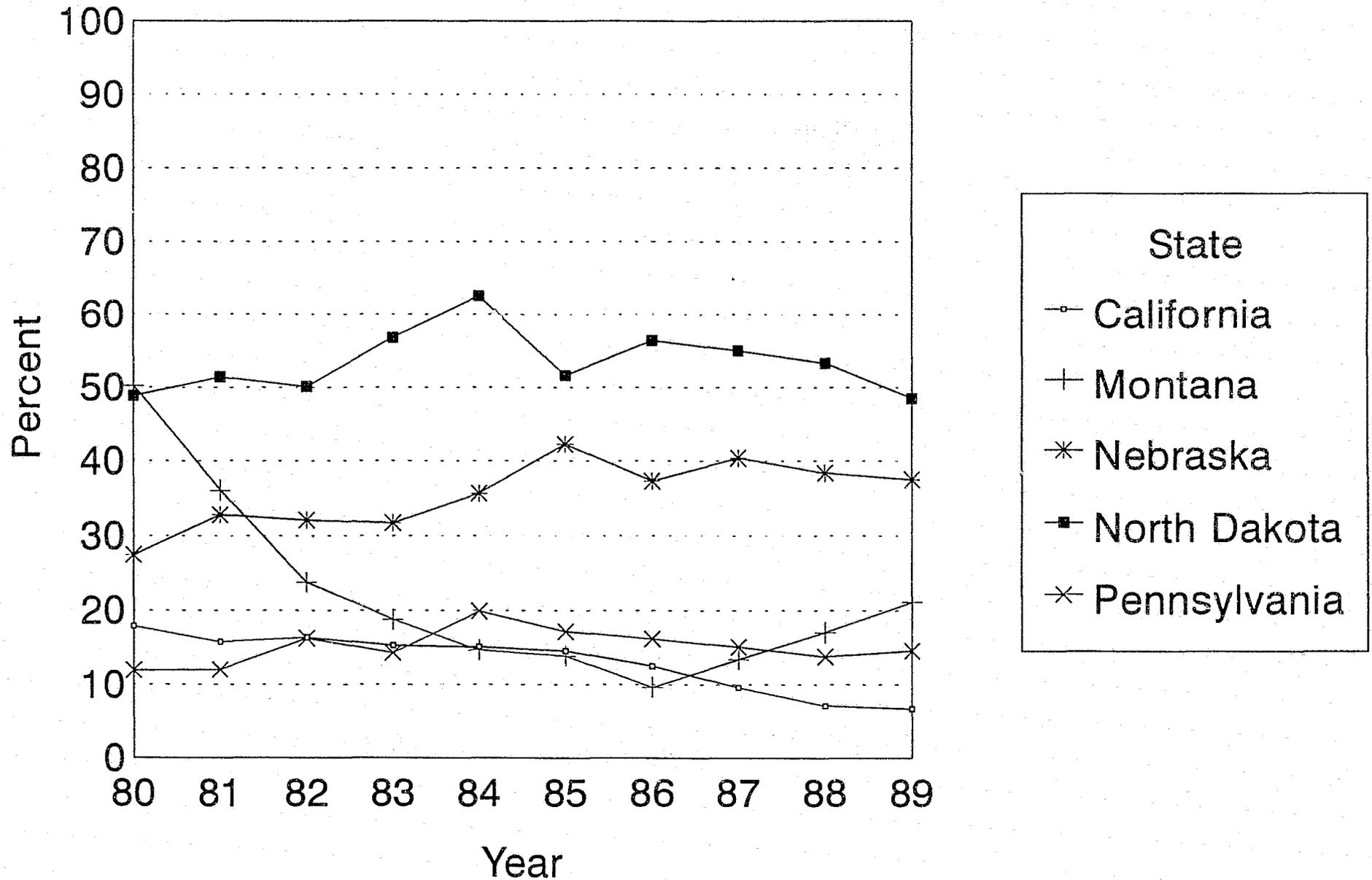


Figure B.10. Public Attorney Use by State and Year, 1980-1989.

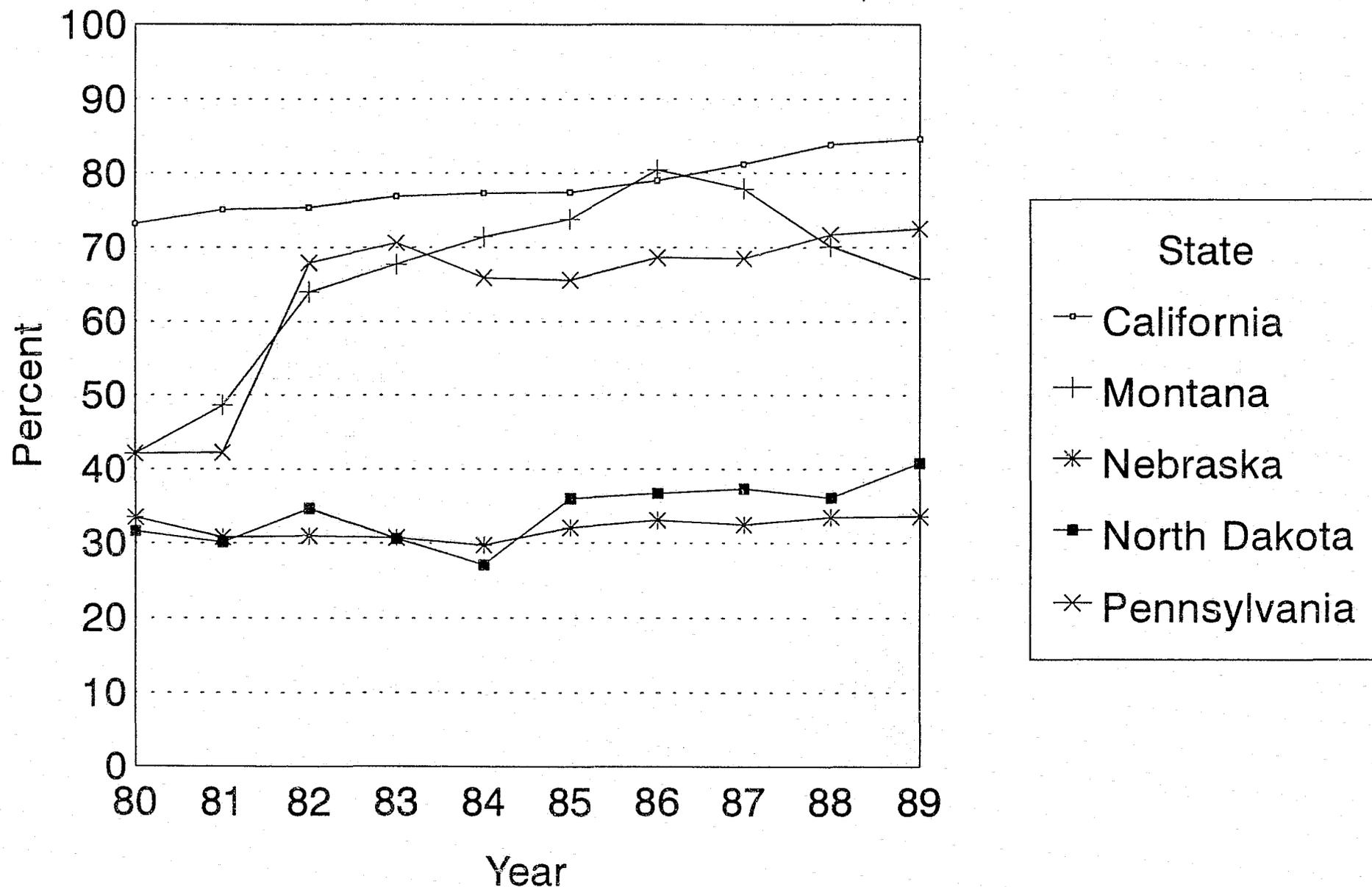


Figure B.11. Private Attorney Use by State and Year, 1980-1989.

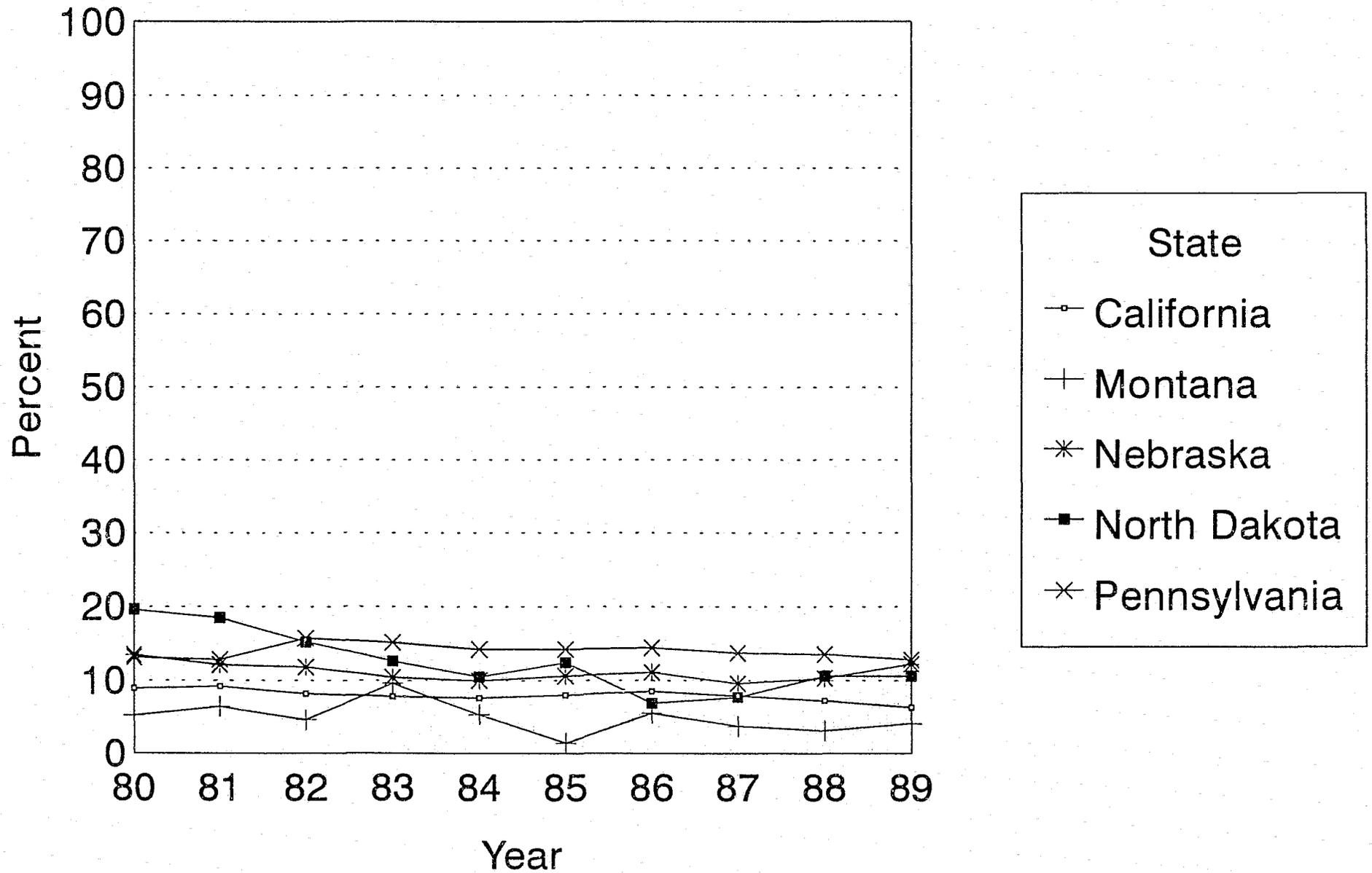


Figure B.12. Probation Use by State and Year, 1980-1989.

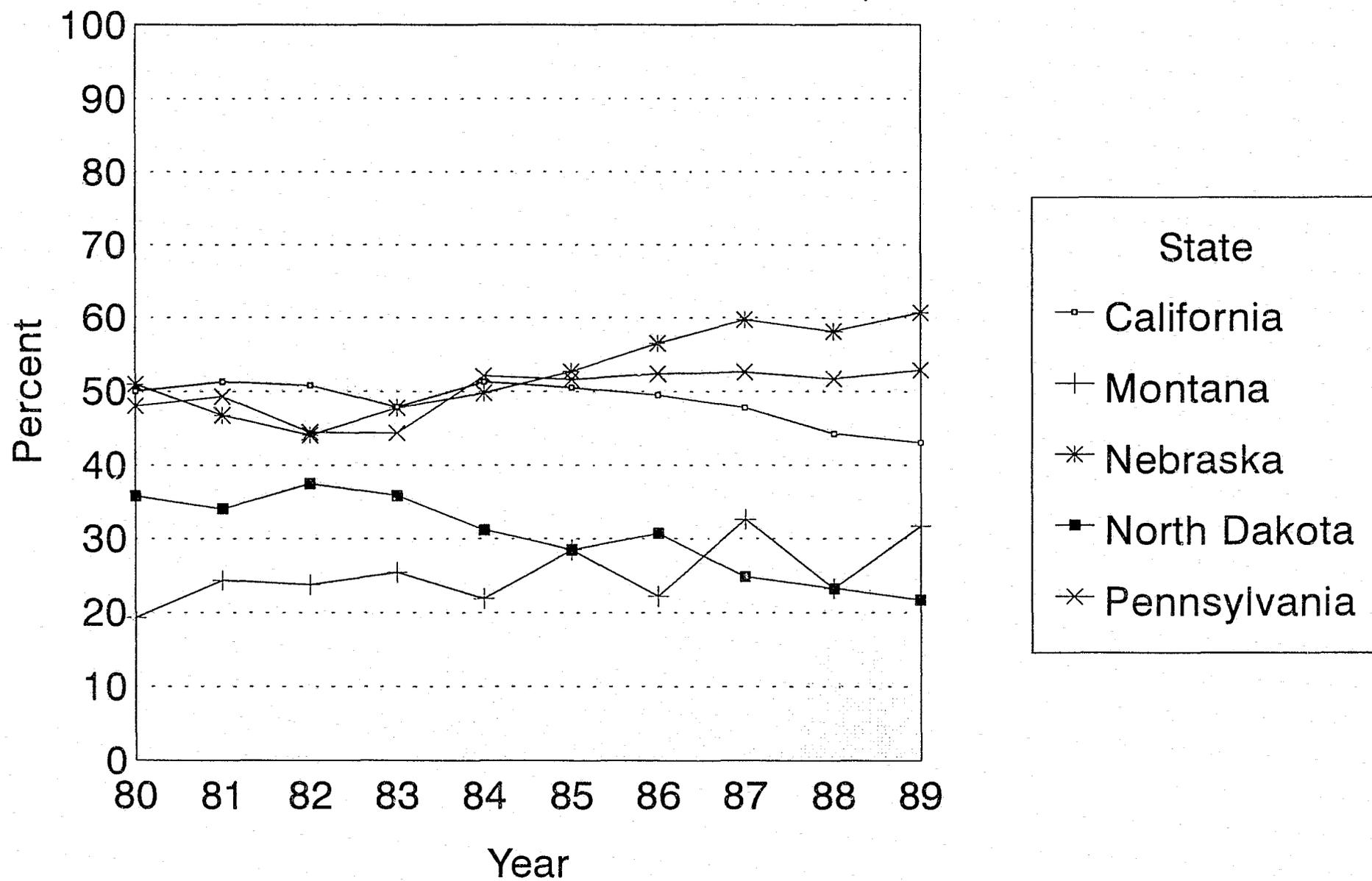


Figure B.13. Out-of-Home Placements by State and Year, 1980-1989.

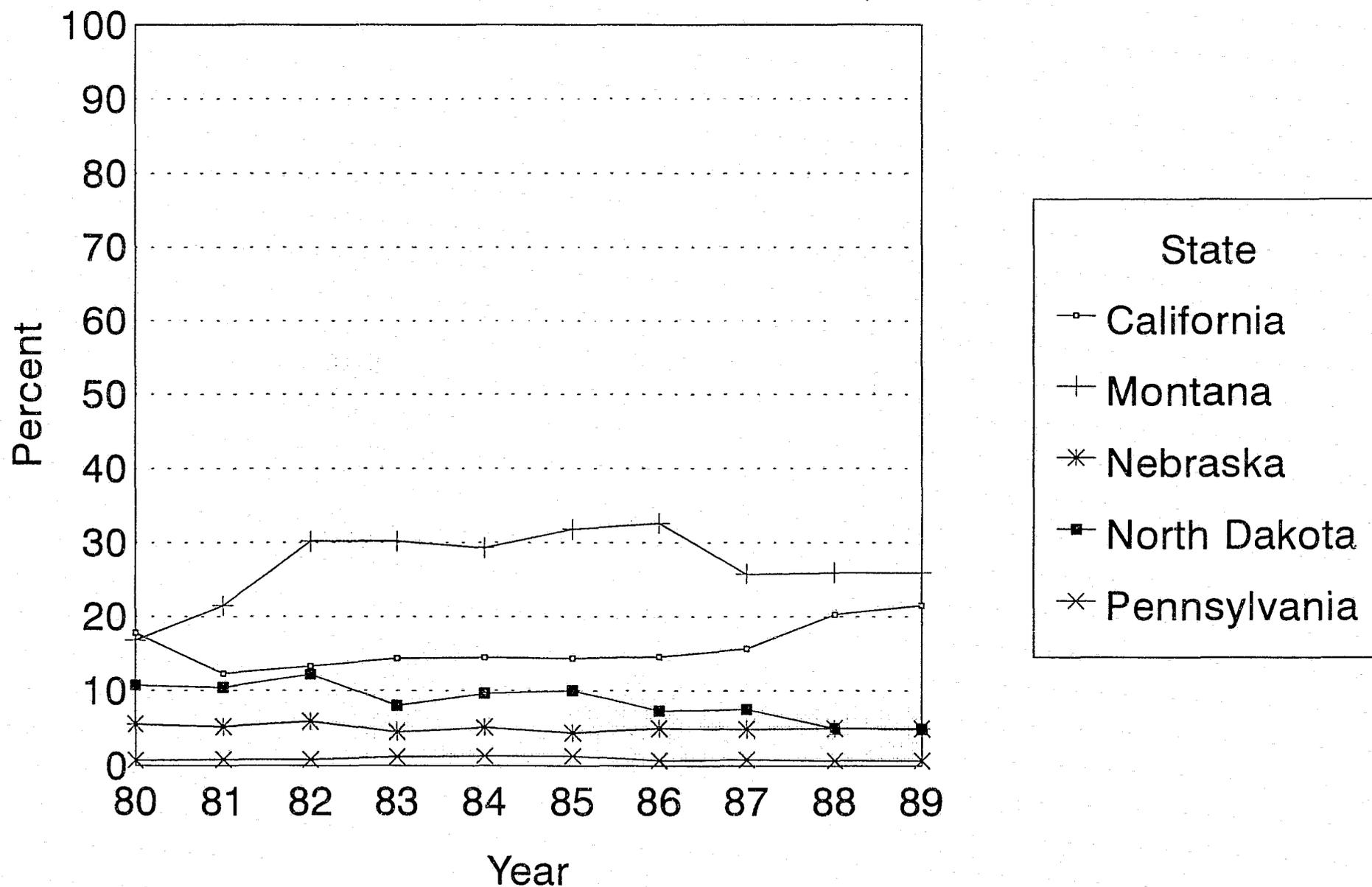


Figure B.14. Releasees by State and Year, 1980-1989.

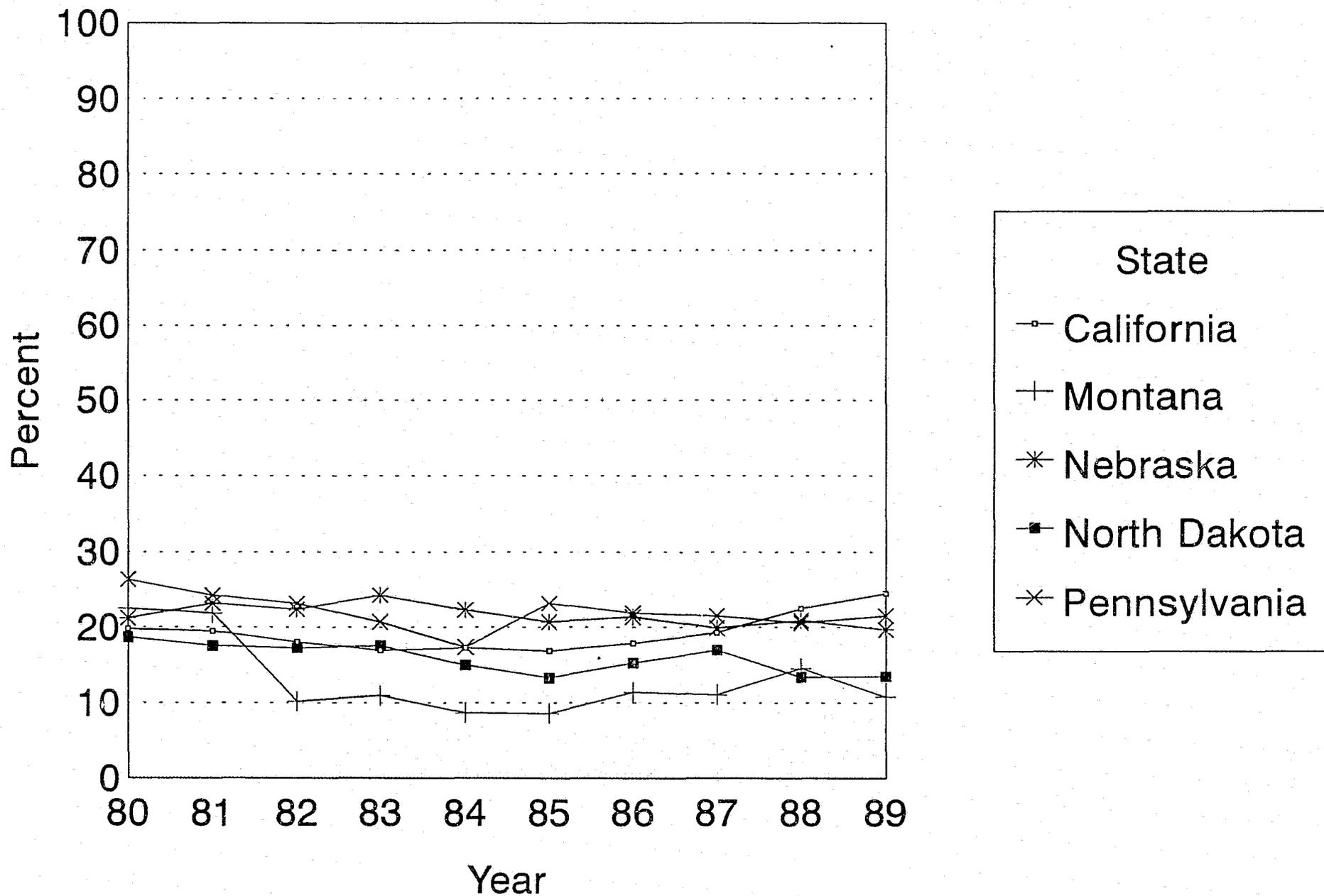


Figure B.15. White Juveniles by State and Year, 1980-1989.

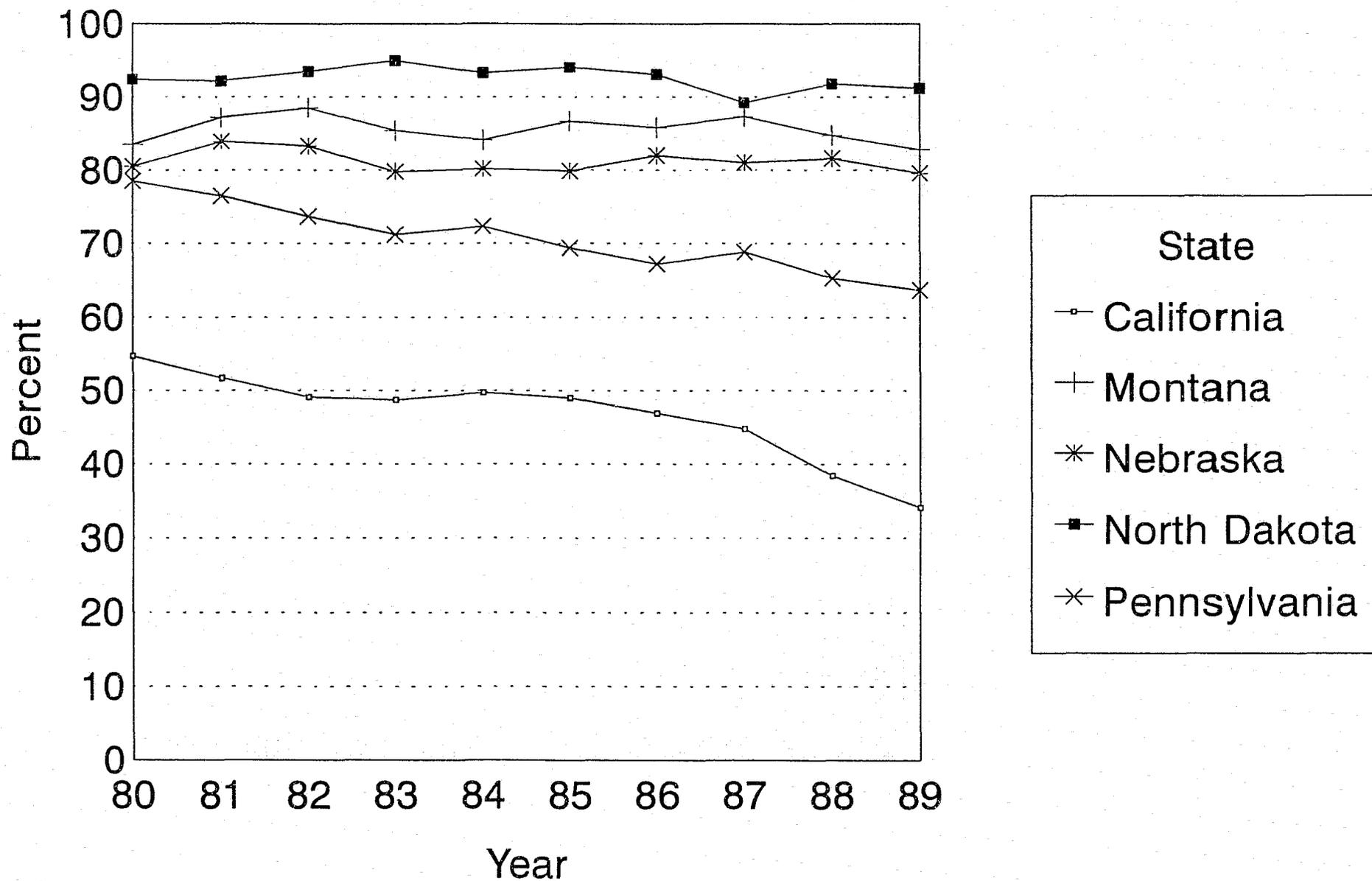


Figure B.16. Black Juveniles by State and Year, 1980-1989.

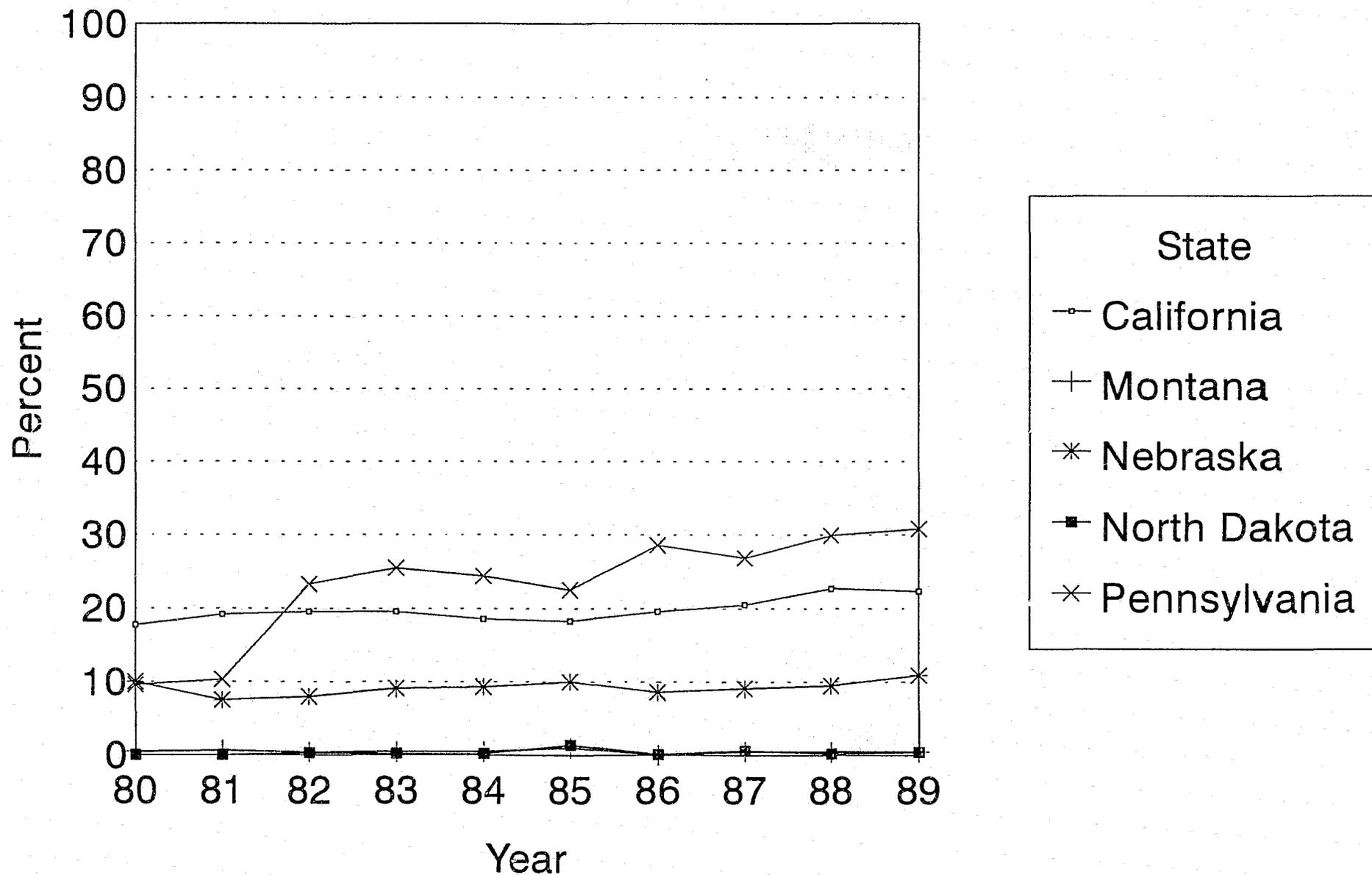


Figure B.17. Hispanic Juveniles by State and Year, 1980-1989.

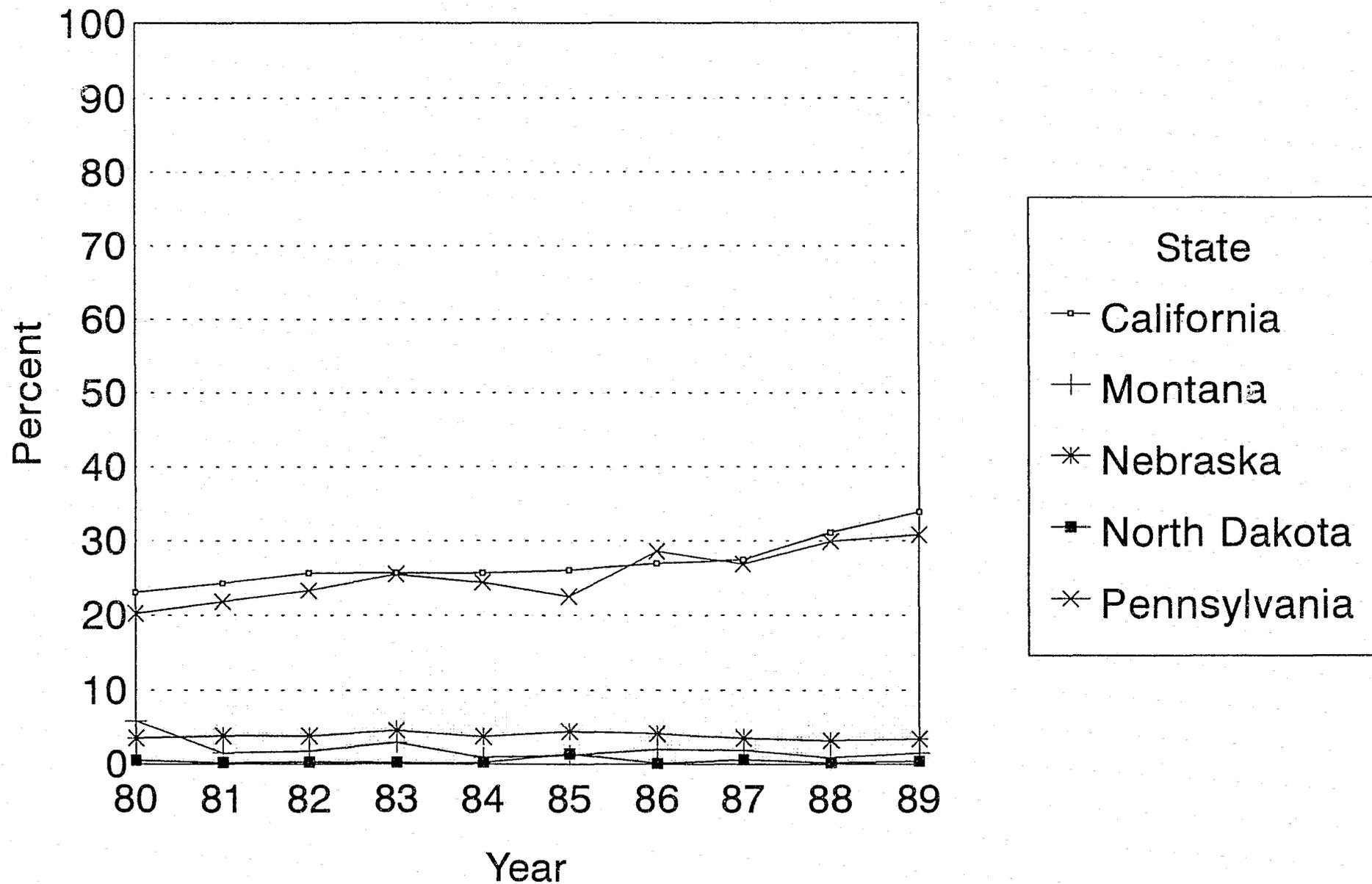
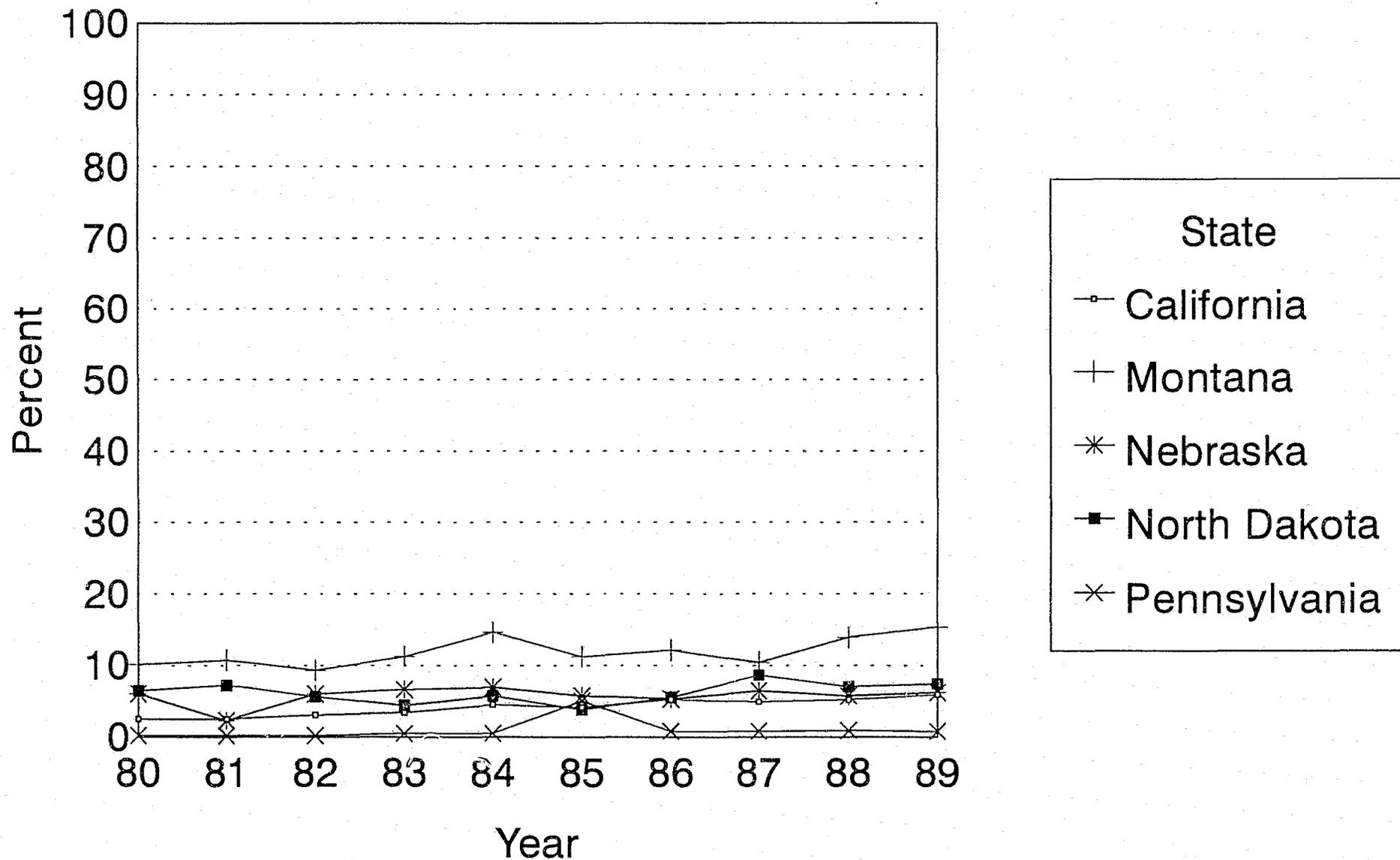


Figure B.18. "Other" Juveniles by State and Year, 1980-1989.



"Other" includes American Indians, Asians, Pacific Islanders, and Alaska Natives.

Figure B.19. Cases Disposed, Age 12 or Under, by State and Year, 1980-1989.

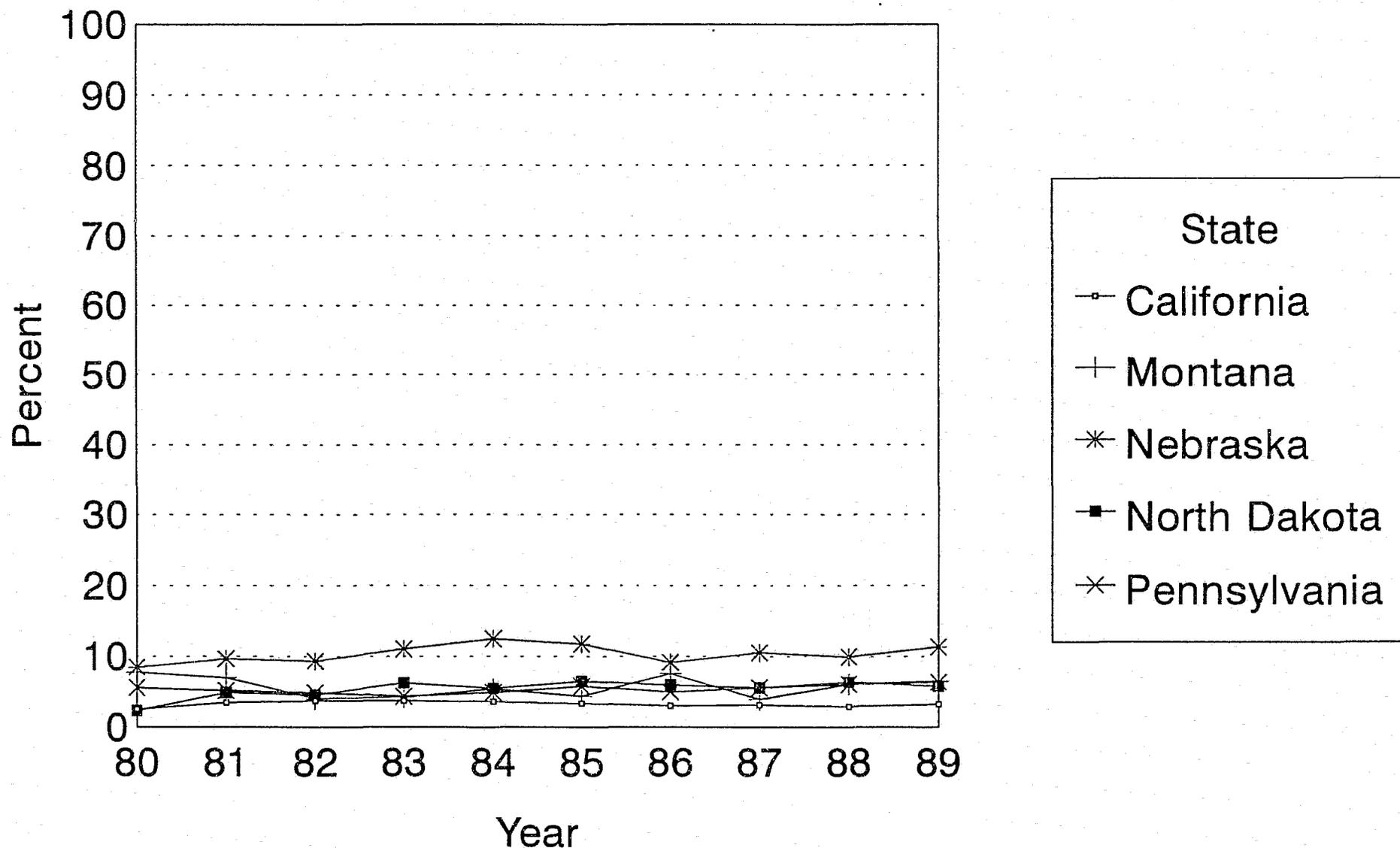


Figure B.20. Cases Disposed, Age 13-15, by State and Year, 1980-1989.

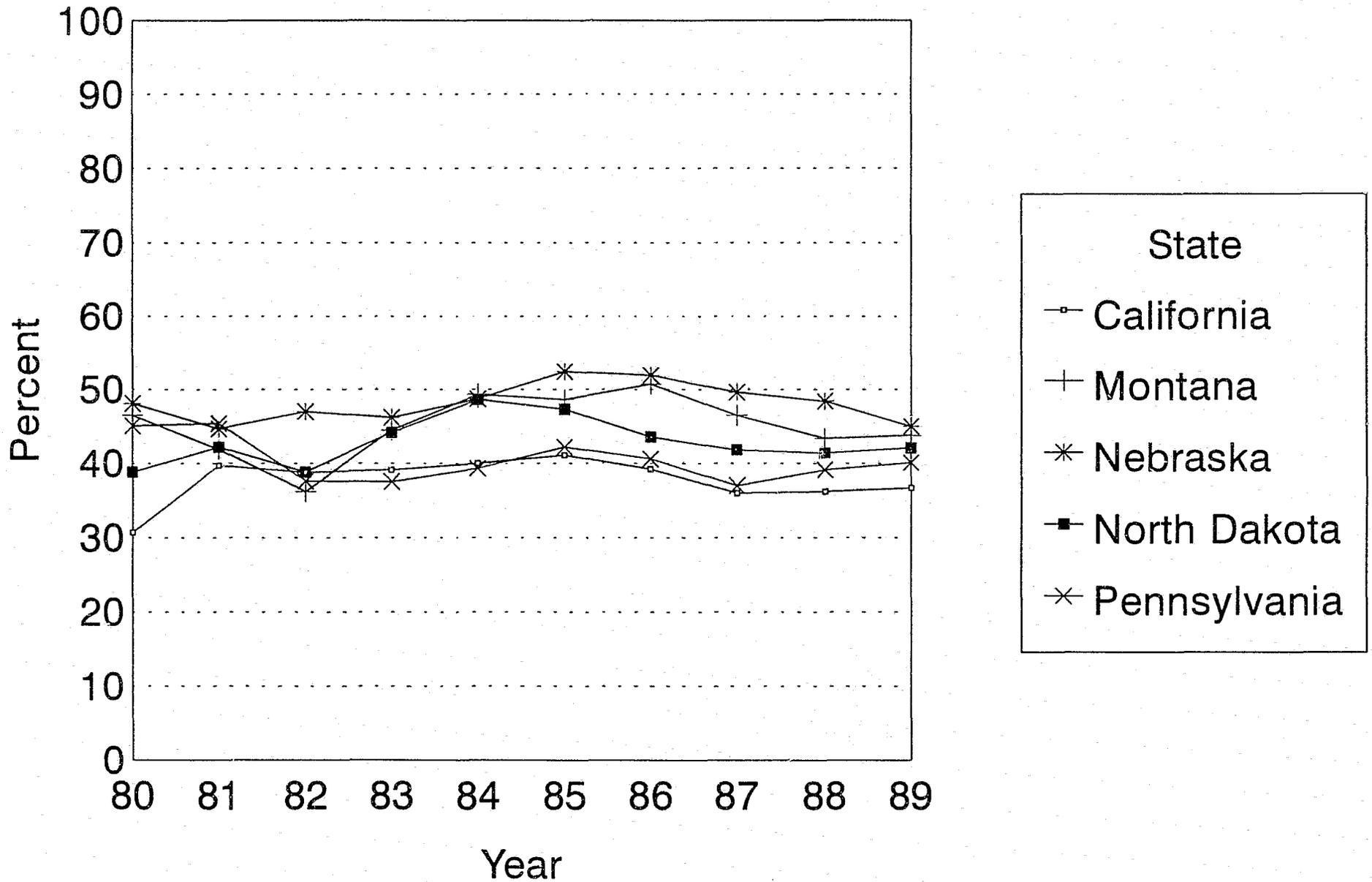
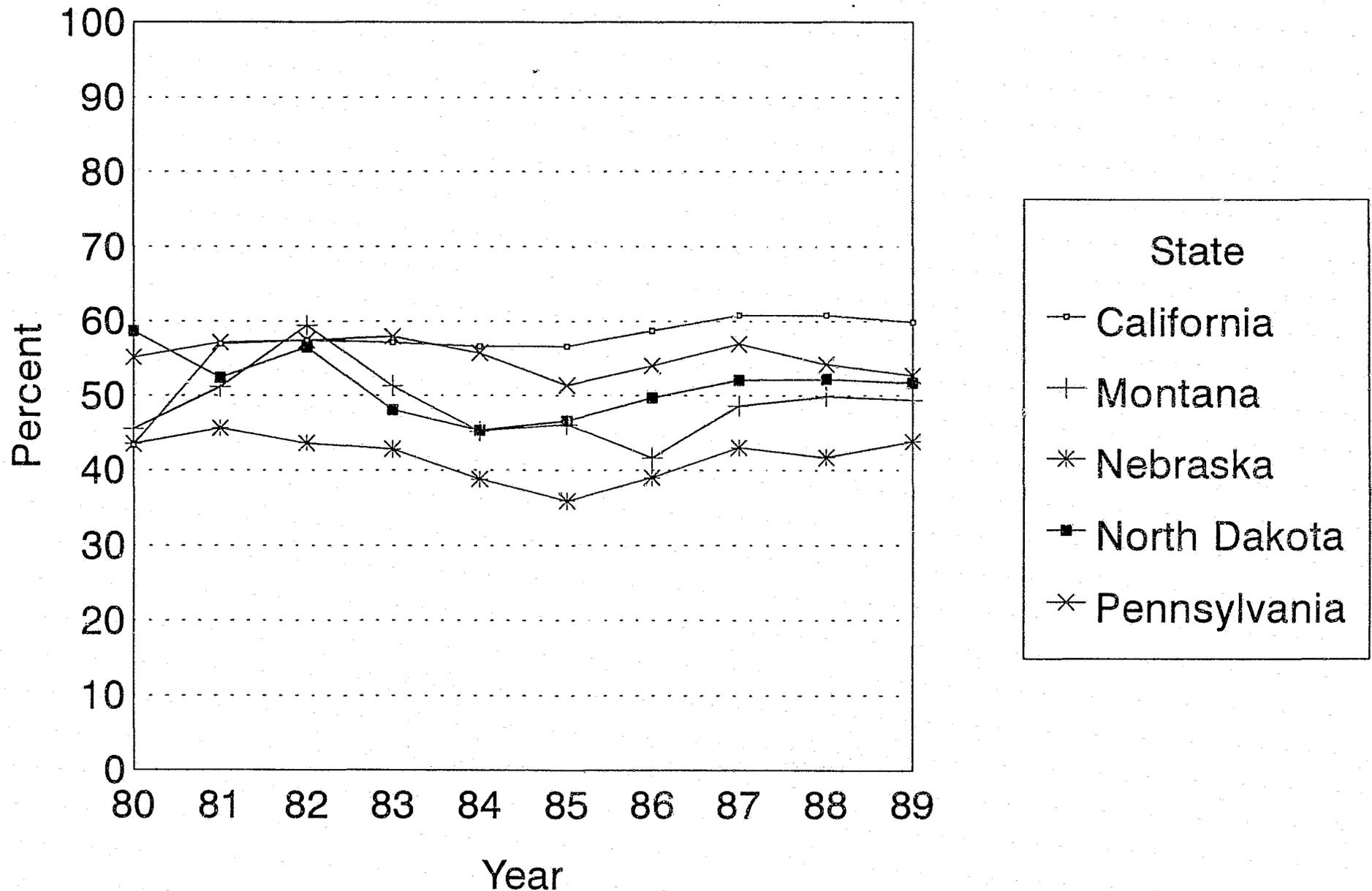


Figure B.21. Cases Disposed, Age 16 and Older, by State and Year, 1980-1989.



**Appendix C\***

**RELEVANT STATE STATUTES RELATIVE  
TO JUVENILE CASES DISPOSED**

## CALIFORNIA

### California WI.218

#### Payment of court-appointed counsel

In any case which, pursuant to this chapter, the court appoints counsel to represent any person who desires but is unable to employ counsel, counsel shall receive a reasonable sum for compensation and for necessary expenses, the amount of which shall be determined by the court, to be paid out of the general fund of the county.

### California WI.353

#### Rights of minor--appointment of counsel

The judge shall ascertain whether the parent, guardian or adult relative and, when required by Section 317, the minor have been informed of their right to be represented by counsel, and if not, the judge shall advise those persons if present, of the right to have counsel present and where applicable, of the right to appointed counsel. If such a person is unable to afford counsel and desires to be represented by counsel, the court shall appoint counsel in accordance with Section 317.

### California WI.625

#### Temporary custody and detention

In any case where a minor is taken into temporary custody on the ground that there is a reasonable cause for believing that such minor is a person described in Section 601 or 602, or that he has violated an order of the juvenile court or escaped from any commitment ordered by the juvenile court, the officer shall advise such minor that anything he says can be used against him and shall advise him of his constitutional rights, including his right to remain silent, his right to have counsel present during any interrogation, and his right to have counsel appointed if he is unable to afford counsel.

### California WI.627.5

#### Rights of minor

In any case where a minor is taken before a probation officer pursuant to the provisions of Section 626 and it is alleged that such minor is a person described in Section 601 or 602, the probation officer shall immediately advise the minor and his parent or guardian that anything the minor says can be used against him and shall advise them of the minor's constitutional rights, including his right to remain silent, his right to have counsel present during any interrogation, and his right to have counsel appointed if he is unable to afford counsel. If the minor or his parent or guardian requests counsel, the probation officer shall notify the judge of the juvenile court of such request and counsel for the minor shall be appointed pursuant to Section 634.

California WI.634  
Appointment of counsel

When it appears to the court that the minor or his parent or guardian desires counsel but is unable to afford and cannot for that reason employ counsel, the court shall appoint counsel for the minor if he appears at the hearing without counsel, whether he is unable to afford counsel or not, unless there is an intelligent waiver of the right of counsel by the minor; and, in the absence of such waiver, if the parent or guardian does not furnish counsel and the court determines that the parent or guardian has the ability to pay for counsel, the court shall appoint counsel at the expense of the parent or guardian. In any case in which it appears to the court that there is such a conflict of interest between a parent or guardian and child that one attorney could not properly represent both, the court shall appoint counsel, in addition to counsel already employed by a parent or guardian or appointed by the court to represent the minor or parent or guardian. In a county where there is no public defender the court may fix the compensation to be paid by the county for service of such appointed counsel.

California WI.700  
Rights of minor--appointment of counsel

At the beginning of the hearing on a petition filed pursuant to Article 16 (commencing with Section 650) of this chapter, the judge or clerk shall first read the petition to those present and upon request of the minor upon whose behalf the petition has been brought or upon the request of any parent, relative or guardian, the judge shall explain any term of allegation contained therein and the nature of the hearings, its procedures, and possible consequences. The judge shall ascertain whether the minor and his parent or guardian or adult relative, as the case may be, has been informed of the right of the minor to be represented by counsel, and if not, the judge shall advise the minor if he appears at the hearing without counsel, whether he is unable to afford counsel or not, unless there is an intelligent waiver of the right to counsel by the minor; and in the absence of such waiver, if the parent or guardian does not furnish counsel and the court determines that the parent or guardian has the ability to pay for counsel, the court shall appoint counsel at the expense of the parent or guardian. The court shall continue the hearing for not to exceed seven days, as necessary to make an appointment of counsel, or to enable counsel to acquaint himself with the case, or to determine whether the parent or guardian or adult relative is unable to afford counsel at his own expense, and shall continue the hearing as necessary to provide reasonable opportunity for the minor and the parent or guardian or adult relative to prepare for the hearing.

**MONTANA**

Montana 41.5.511  
Right to counsel

In all proceedings following the filing of a petition alleging a delinquent youth or youth in need of supervision, the youth and the parents or guardian of the youth shall be advised by the court or, in the absence of the court, by its representative that the youth may be represented by counsel at all stages of the proceedings. If counsel is not retained or if it appears that counsel

will not be retained, counsel shall be appointed for the youth if the parents and the youth are unable to provide counsel unless the right to appointed counsel is waived by the youth and the parents or guardian. Neither the youth nor his parent or guardian may waive counsel after a petition has been filed if commitment to the department for a period of more than 6 months may result from adjudication.

## NEBRASKA

### Nebraska 43.272

Right to counsel; appointment; payment; guardian ad litem; appointment, when; duties

(1) When any juvenile shall be brought without counsel before a juvenile court, the court shall advise such juvenile and his or her parent or guardian of their right to retain counsel and shall inquire of such juvenile and his or her parent or guardian as to whether they desire to retain counsel. The court shall inform such juvenile and his or her parent or guardian of such juvenile's right to counsel at county expense if none of them is able to afford counsel. If the juvenile or his or her parent or guardian desires to have counsel appointed for such juvenile, or the parent or guardian of such juvenile cannot be located, and the court ascertains that none of such persons are able to afford an attorney, the court shall forthwith appoint an attorney to represent such juvenile for all proceedings before the juvenile court, except that if an attorney is appointed to represent such juvenile and the court later determines that a parent of such juvenile is able to afford an attorney, the court shall order such parent or juvenile to pay for services of the attorney to be collected in the same manner as provided by section 43.290. If the parent willfully refuses to pay any such sum, the court may commit him or her for contempt, and execution may issue at the request of the appointed attorney or the county attorney or by the court without a request.

### Nebraska 43.273

Appointed counsel and guardians ad litem; fees; allowance

Counsel and guardians ad litem appointed as provided in section 43.272 shall apply to the court before which the proceedings were had for fees for services performed. The court upon hearing the application shall fix reasonable fees. The county board of the county wherein the proceedings were had shall allow the account, bill, or claim, presented by any attorney or guardian ad litem for services performed under section 43.272 in the amount determined by the court. No such account, bill, or claim shall be allowed by the county board until the amount thereof shall have been determined by the court.

## NORTH DAKOTA

No information about appointment of counsel available at time of this writing.

## PENNSYLVANIA

Pennsylvania 42.6337

Right to counsel

Except as otherwise provided under this chapter a party is entitled to representation by legal counsel at all stages of any proceedings under this chapter and if he is without financial resources or otherwise unable to employ counsel, to have the court provide counsel for him. If a party appears without counsel the court shall ascertain whether he knows of his right thereto and to be provided with counsel by the court if applicable. The court may continue the proceeding to enable a party to obtain counsel. Counsel must be provided for a child unless his parent, guardian, or custodian is present in court and affirmatively waive it. However, the parent, guardian, or custodian may not waive counsel for a child when their interest may be in conflict with the interests of the child. If the interests of two or more parties may conflict, separate counsel shall be provided for each of them.

\*Statutes adapted from Linda A. Szymanski, *Juvenile Delinquent's Right to Counsel*. Pittsburgh, PA: National Center for Juvenile Justice, 1991, pps. 3-5, pps. 15-16, and p. 22.