

Wisconsin Racial and Ethnic Disparities (R/ED) Reduction Plan

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I. Introduction

The Racial and Ethnic Disparities Reduction Plan documents the Wisconsin Department of Justice’s (WI DOJ) ¹ blueprint to “implement policy, practice, and system improvement strategies at the state, local, and tribal levels to identify and reduce racial and ethnic disparities among youth who come into contact with the juvenile justice system.”² The report was developed in collaboration with the Governor’s Juvenile Justice Commission (GJJC),³ the Ethnic and Racial Disparities (ERD) Subcommittee, which serves as the designated coordinating body for racial and ethnic disparities,⁴ and Youth Voice Commission (YVC).

Section II of this report identifies and analyzes statewide data on race and ethnicity at five key points of contact—arrest, diversion, secure confinement, transfers to adult court, and (for the first time) pretrial detention—to identify racial and ethnic disparities among youth who come into contact with the juvenile justice system.⁵ Section III describes a work plan that includes measurable objectives for policy, practice, or system changes, based on the needs identified in Section II.⁶ Section IV describes the progress made on the goals established in the 2022 R/ED Plan, reiterates the goals for 2023 identified in Section III, and establishes an outcome-based evaluation to assess efficacy.

II. Identify the Problem: Juvenile Justice Statewide Data Analysis

Summary and Data Sources

Data for statewide youth population and the five juvenile justice points of contact are obtained through partnerships with several agencies. Citations for each data set are included in the relevant footnotes. All data is gathered and incorporated into this report through a collaborative process with assistance from professionals at each contributing agency and encompasses at least one calendar year.

As of April 1, 2020, Wisconsin had a total of 5,893,718 residents.⁷ Of those residents, 513,770 (8.7%) of them were youth ages 10-16. The National Center for Juvenile Justice and Office of Juvenile Justice and Delinquency Prevention have not yet updated the EzaPop resource with

¹ The Designated State Agency (DSA).

² JJDP, Section 11133. State Plans, (a)(15).

³ The State Advisory Group (SAG).

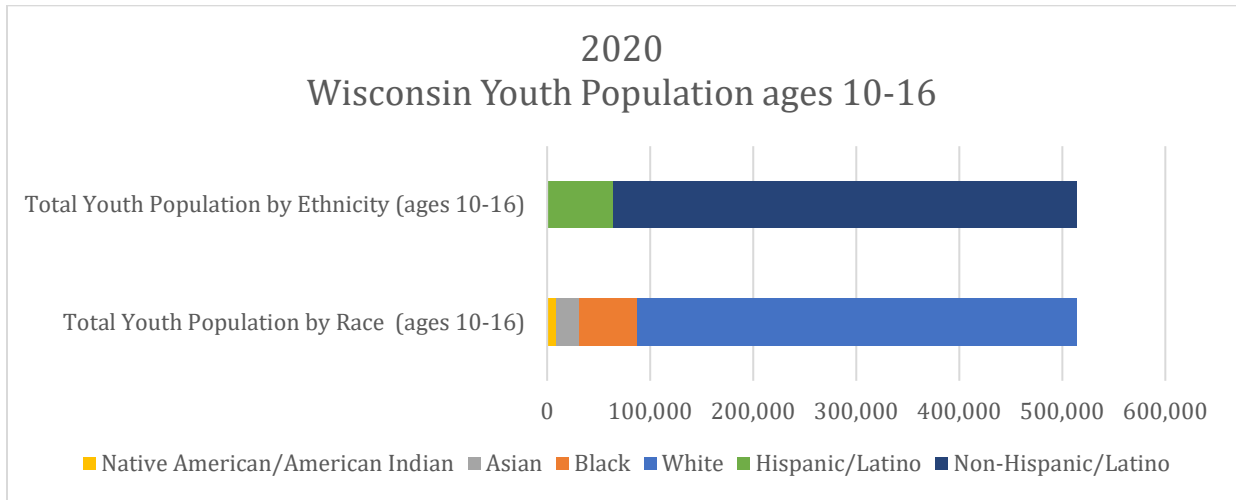
⁴ The Subcommittee is composed of juvenile justice stakeholders, including educational system representatives, state, local, and tribal representatives.

⁵ JJDP, Section 11133. State Plans, (a)(15)(B).

⁶ JJDP, Section 11133. State Plans, (a)(15)(C).

⁷ U.S. Census Bureau, QuickFacts, Wisconsin; United States. Available: <https://www.census.gov/quickfacts/WI.U.S.CensusBureau>.

population estimates for 2021 and 2022. For those years, 2020 population demographics are used as the baseline for each point of contact percentage of population analysis.⁸



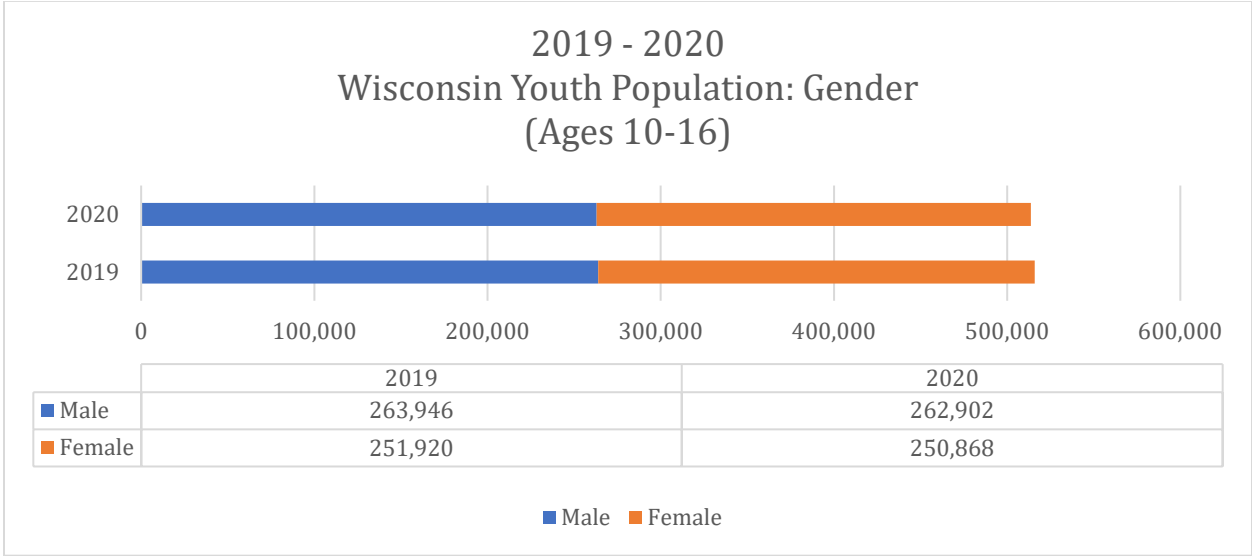
WI Youth Aged 10-16: Race		White	Black	Asian	Native American	Total
2020	Total Population	426,615	56,066	21,700	9,389	513,770
	Percentage	83.0%	10.9%	4.2%	1.8%	100.0%

Due to the data collection methods of our agency partners, Hispanic/Latino ethnicity is generally considered orthogonal to racial identify. For arrest, diversion, pretrial detention, and secure confinements, the racial categories (White, Black, Asian, and Native American) include youth of any ethnicity (both Hispanic/Latino and Non-Hispanic/Latino); and the ethnicity categories (Hispanic/Latino and Non-Hispanic/Latino) include youth of any race. For waivers to adult court, the racial categories only include Non-Hispanic/Latino youth of that specific race; the Hispanic/Latino category includes youth of any race that identified as Hispanic/Latino. For each point of contact, there are a number of youth whose race or ethnicity is not documented, unable to be determined, or the youth declines to self-identify. These youth are not included in the data tables for percent of population by race/ethnicity.

WI Youth Aged 10-16: Ethnicity		Hispanic/Latino	Non-Hispanic/Latino	Total
2020	Total Population	64,058	449,712	513,770

⁸ National Center for Health Statistics (2021). Vintage 2020 postcensal estimates of the resident population of the United States (April 1, 2010, July 1, 2010-July 1, 2020), by year, county, single-year of age (0, 1, 2, ..., 85 years and over), bridged race, Hispanic origin, and sex. Prepared under a collaborative arrangement with the U.S. Census Bureau. Available online from https://www.cdc.gov/nchs/nvss/bridged_race.htm as of September 22, 2021, following release by the U.S. Census Bureau of the unbridged Vintage 2020 postcensal estimates by 5-year age groups on June 17, 2021. <http://www.ojjdp.gov/ojstatbb/ezapop/>.

	Percentage	12.5%	87.5%	100.0%
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Arrest

Arrest data is collected by the Wisconsin Department of Justice, Bureau of Justice Information and Analysis (BJIA) through the FBI Uniform Crime Reporting (UCR) system.⁹ This data is reported by Wisconsin law enforcement agencies. Though UCR data provides detailed information about race,¹⁰ the system does not disaggregate the data by ethnicity (Hispanic/Latino or Non-Hispanic/Latino). Additionally, UCR arrest data includes youth ages 0-9 and age 17, which are not under the jurisdiction of the juvenile justice system in Wisconsin.¹¹ Due to this limitation, the population numbers provided for this contact point will include all youth ages 0-17.

Arrest is defined by the UCR as

“All persons processed by arrest (booking), citation, or summons (when served by an officer) for committing an offense in its jurisdiction.”¹²

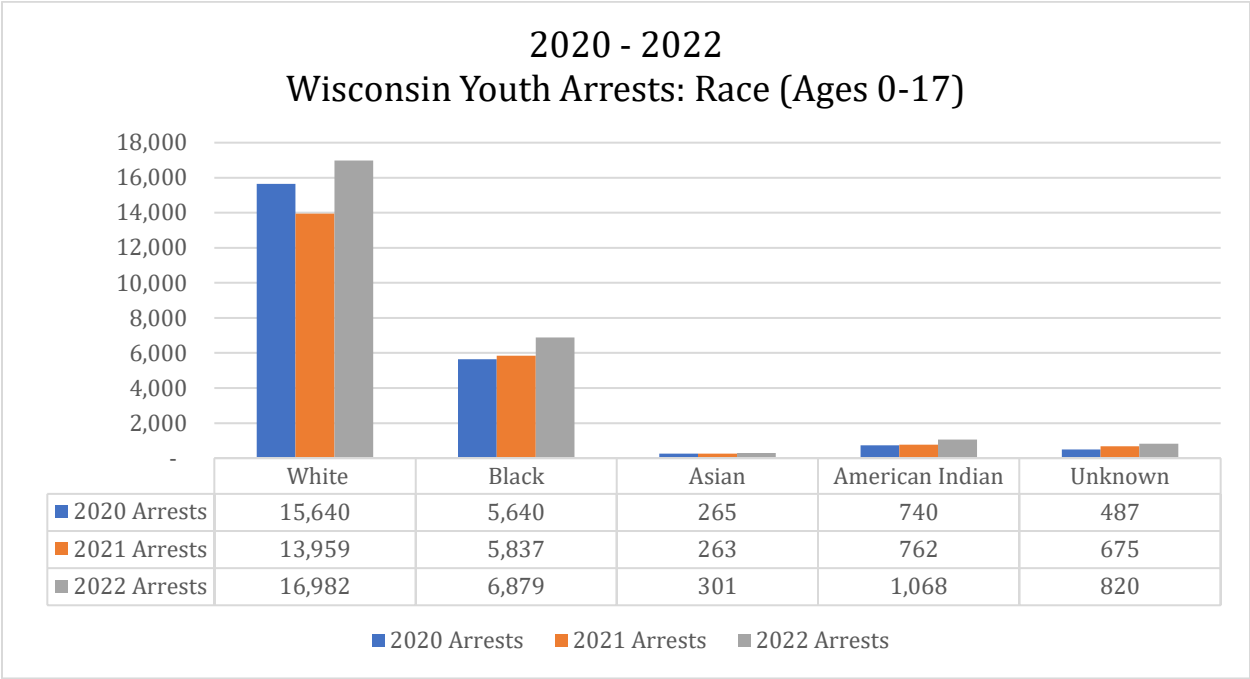
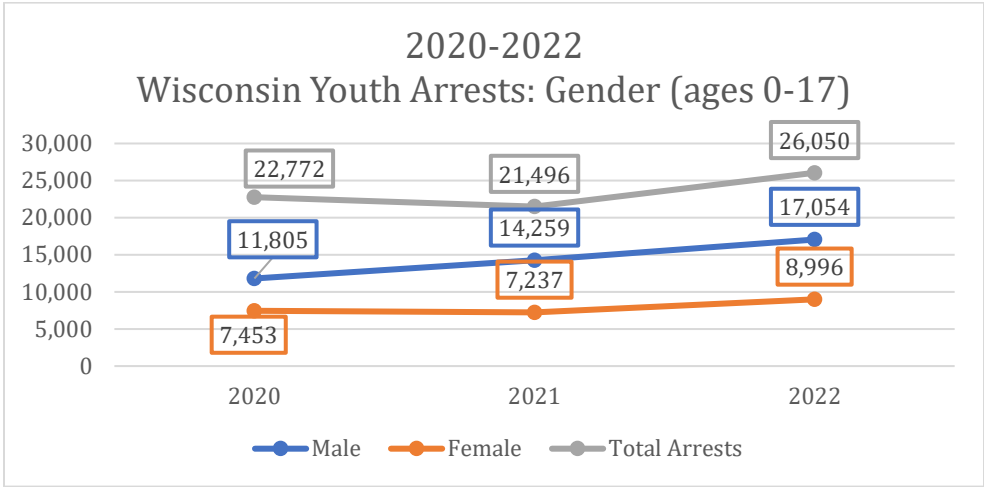
⁹ Wisconsin Department of Justice, Bureau of Justice Information and Analysis (BJIA), UCR Arrest Data Dashboard Center. Available: <https://www.doj.state.wi.us/dles/bjia/ucr-arrest-data>.

¹⁰ Wisconsin Department of Justice, Bureau of Justice Information and Analysis (BJIA), UCR Arrest Demographics. Available: <https://www.doj.state.wi.us/dles/bjia/ucr-arrest-demographics>.

¹¹ Youth ages 0-9 in court would be under the jurisdiction of the child welfare system. Youth ages 10-16 are under juvenile justice system jurisdiction. Youth aged 17 are considered adults for the purposes of criminal justice and are under the jurisdiction of the adult criminal justice system. [Wisconsin Statute Chapter 938.02\(1\)](#) “Adult’ means a person who is 18 years of age or older, except that for purposes of investigating or prosecuting a person who is alleged to have violated any state or federal criminal law or any civil law or municipal ordinance, ‘adult’ means a person who has attained 17 years of age.”

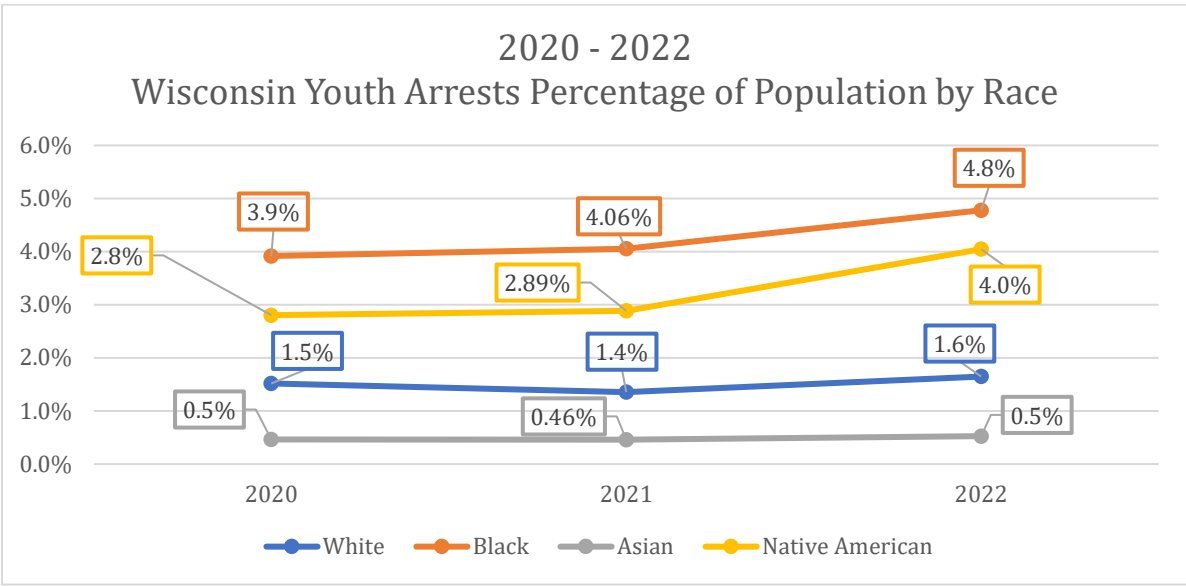
¹² Wisconsin Department of Justice, Bureau of Justice Information and Analysis (BJIA), UCR Arrest Data. Available: <https://www.doj.state.wi.us/dles/bjia/ucr-arrest-data>. For a full analysis of the definitions and differences between the CCAS definitions and Wisconsin’s definitions, see Appendix A.

The total number of youth arrests declined in 2020 and increased in 2022 as COVID-19 restrictions eased, though they remain below pre-pandemic levels. The decline in arrests is part of an ongoing trend downwards since 2016. However, the decline in 2020 and 2021 is likely partially due to changes in crime patterns during the pandemic.¹³ Though arrests declined, the gender distribution of Wisconsin arrests remained relatively stable from 2020-2021. From 2021-2021, 33% of all youth arrests were of females, while 67% of all youth arrests were of males. In 2022, the gender distribution changed slightly with females accounting for an increased proportion of 35% of arrests and males 65%.



¹³ A full discussion on how the pandemic has changed crime and arrest levels is beyond the scope of this report.

2020 Juvenile Arrest				
	White	Black	Asian	Native American
Total Population (Ages 0-17)	1,030,895	143,939	57,295	26,395
Total Arrests	15,640	5,640	265	740
Arrest Percentage of Population	1.5%	3.9%	0.5%	2.8%
Likelihood of being arrested compared to White youth	1.0	2.6 times as likely	0.3 times as likely	1.8 times as likely
2021 Juvenile Arrest				
	White	Black	Asian	Native American
2020 Total Population (Ages 0-17)	1,030,895	143,939	57,295	26,395
Total Arrests	13,959	5,837	263	762
Arrest Percentage of Population	1.4%	4.1%	0.5%	2.9%
Likelihood of being arrested compared to White youth	1.0	3.0 times as likely	0.3 times as likely	2.1 times as likely
2022 Juvenile Arrest				
	White	Black	Asian	Native American
2020 Total Population (Ages 0-17)	1,030,895	143,939	57,295	26,395
Total Arrests	16,982	6,879	301	1,068
Arrest Percentage of Population	1.6%	4.8%	0.5%	4.0%
Likelihood of being arrested compared to White youth	1.0	2.9 times as likely	0.3 times as likely	2.5 times as likely



Diversion

Youth can be referred to youth justice intake through multiple pathways including arrest by law enforcement, referral by school staff for truancy, or by parents or community members. Youth referred to youth justice intake are screened by a juvenile court intake worker, typically a social worker with a county human/social services agency. The intake worker can make several recommendations for the youth’s case including closing the case,¹⁴ entering into a Deferred Prosecution Agreement (DPA) with the youth and family,¹⁵ or recommend filing charges on a formal petition. In all cases, the worker must notify the prosecutor or District Attorney of their recommendation. The prosecutor may select any course of action regardless of the social worker recommendation.

With some additional context, Wisconsin diversion data closely follows the federal definition: diversion includes youth referred for legal processing but handled without the filing of charges. The main difference between Wisconsin’s definition and the federal definition is due to data limitations. Wisconsin’s definition of diversion includes all referrals that were not *recommended* for petition and may not reflect the final disposition of a case. We count referrals rather than individual youth because youth may be referred and diverted multiple times.

Data on the use of diversion is collected by the Wisconsin Department of Children and Families (WI DCF) in the electronic Wisconsin Statewide Automated Child Welfare Information System (eWISACWIS). This database includes youth justice referral data (youth referred to court intake) collected by county human and social services agencies. In the tables, diversions include youth referred to youth justice intake that are not recommended for petition by intake workers. The data does not include youth whose cases are still pending or have not been closed, nor does it include

¹⁴ Youth justice staff may recommend closing the case either for lack of legal sufficiency or because the case does not warrant further system involvement.
¹⁵ Under a DPA, no charges are filed provided the youth adheres to the terms of the agreement.

cases that have been documented in error. Per OJJDP requirements, the tables provide the percentage of total population data. However, percent of population data for diversion collapses a necessary complexity—that diversions are only possible for youth who enter the juvenile justice system through referral and court intake. The fact that Black and Native American youth have higher likelihood of diversion as a percentage of their total population is a negative fact. The underlying data indicates not that Black and Native American youth are diverted at high rates, but rather that they are both referred at a higher rate and diverted at a lower rate. We include the data for diversions as a percentage of referrals to provide a more accurate rate of diversion for those that touch the youth justice referral point of contact. We chose to compare diversions to referrals instead of arrest to ensure that we can provide ethnicity data.

Diversion can include a variety of intake worker recommendations and decisions including that the youth entered into a Deferred Prosecution Agreement, or the intake worker recommended case closure due to one of the following reasons:

- Appropriate for diversion.
- Counseled and closed.
- Diverted to child welfare system.
- No action taken.
- Referred to proceedings under Ch. 51: involuntary commitment to secure mental health facility.

It is important to remember that diversion data is based on intake worker recommendation and may not reflect the ultimate disposition of a case. After an intake worker makes their recommendations—to close the case, enter into a Deferred Prosecution Agreement (both forms of diversion), or request a petition, the prosecutor retains discretion to file a petition regardless of the intake worker recommendation.

2020 Juvenile Diversion: Race				
	White	Black	Asian and Native Hawaiian	Native American/ American Indian
2020 Youth Population (Ages 10-16)	426,615	56,066	21,700	9,389
Total Referrals	6,307	2,923	114	638
Referrals Recommended for Petition	2,201	1,639	43	217
Recommended Diversions	4,106	1,284	71	421
Recommended Diversion Percentage of Population	1.0%	2.4%	0.3%	4.5%

Likelihood of Diversion Compared to General White Youth Population¹⁶	1.0	2.4 times as likely	0.3 times as likely	4.7 times as likely
Recommended Diversion Percentage of Referred Youth	65.1%	43.9%	60.3%	66.0%
Likelihood of Diversion Compared to Referred White Youth	1.0	0.7 times as likely	1.0 times as likely	1.0 times as likely
2021 Juvenile Diversion: Race				
	White	Black	Asian and Native Hawaiian	Native American/American Indian
2020 Youth Population (Ages 10-16)	426,615	56,066	21,700	9,389
Total Referrals	6,996	3,391	145	582
Referrals Recommended for Petition	2,235	1,925	49	241
Recommended Diversions	4,761	1,466	96	341
Recommended Diversion Percentage of Population	1.1%	2.6%	0.4%	3.6%
Likelihood of Diversion Compared to General White Youth Population¹⁷	1.0	2.3 times as likely	0.4 times as likely	3.3 times as likely
Recommended Diversion Percentage of Referred Youth	68.1%	43.2%	66.2%	58.6%
Likelihood of Diversion Compared to Referred White Youth	1.0	0.6 times as likely	1.0 times as likely	0.9 times as likely
2022 Juvenile Diversion: Race				
	White	Black	Asian and Native Hawaiian	Native American/American Indian
2020 Youth Population (Ages 10-16)	426,615	56,066	21,700	9,389
Total Referrals	7,525	3,454	131	713
Referrals Recommended for Petition	2,260	1,927	58	268

¹⁶ Likelihood of youth being both referred and diverted.

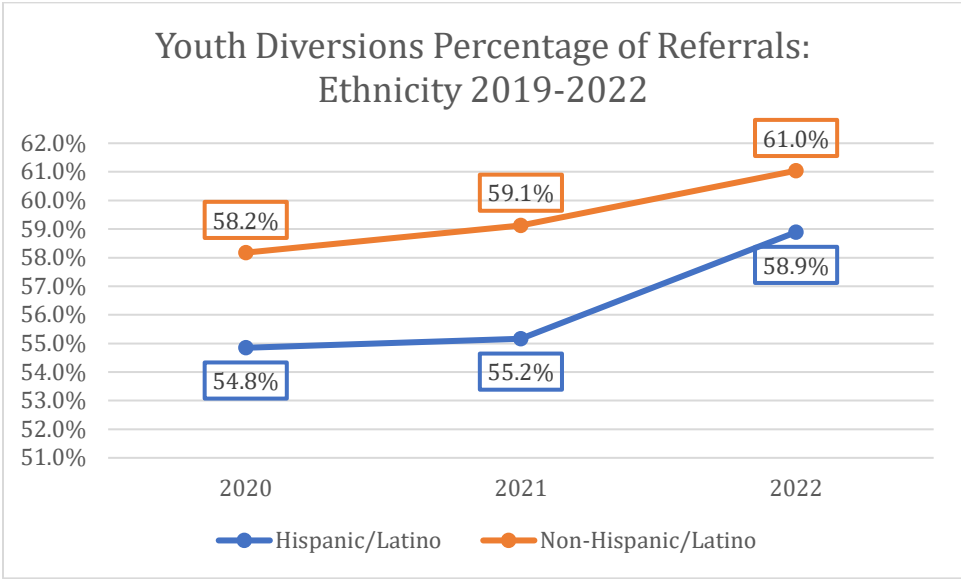
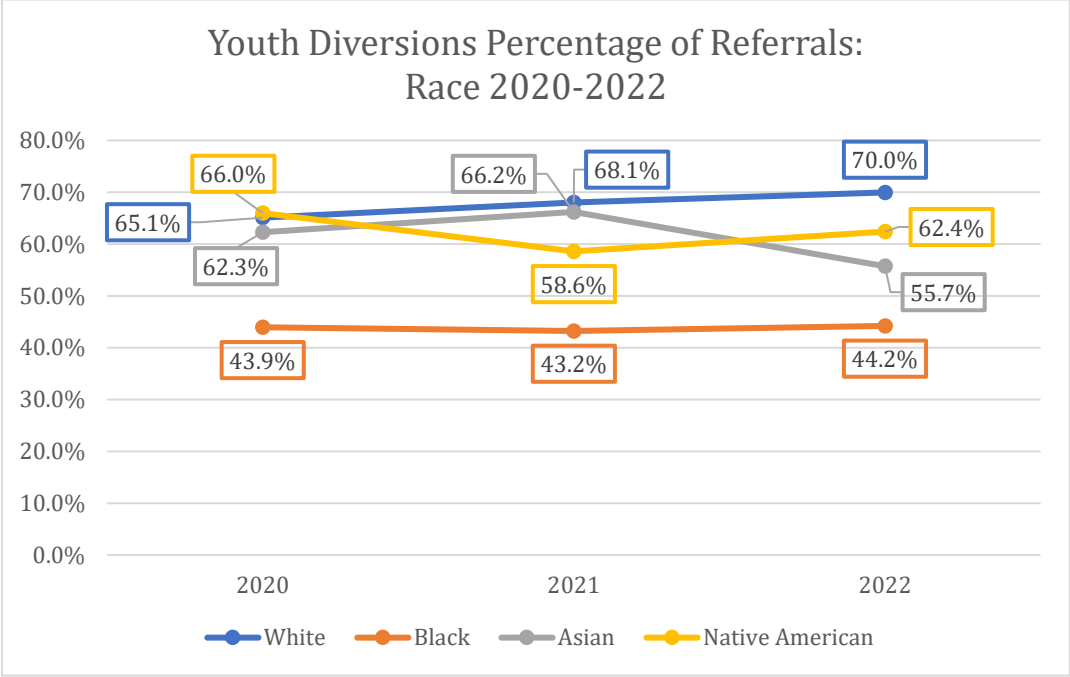
¹⁷ Likelihood of youth being both referred and diverted.

Recommended Diversions	5,265	1,527	73	445
Recommended Diversion Percentage of Population	1.2%	2.7%	0.3%	4.7%
Likelihood of Diversion Compared to General White Youth Population¹⁸	1.0	2.2 times as likely	0.3 times as likely	3.8 times as likely
Recommended Diversion Percentage of Referred Youth	70.0%	44.2%	55.7%	62.4%
Likelihood of Diversion Compared to Referred White Youth	1.0	0.6 times as likely	0.8 times as likely	0.9 times as likely

2020 Juvenile Diversion: Ethnicity		
	Hispanic/Latino	Non-Hispanic/Latino
2020 Youth Population (Ages 10-16)	64,058	449,712
Total Referrals	959	7,816
Referrals Recommended for Petition	433	3,269
Recommended Diversions	526	4,547
Recommended Diversion Percentage of Population	0.8%	1.0%
Likelihood of Diversion Compared to General Non-Hispanic Youth	0.8 times as likely	1.0 times as likely
Recommended Diversion Percentage of Referred Youth	54.8%	58.2%
Likelihood of Diversion Compared to Referred Non-Hispanic Youth	0.9 times as likely	1.0 times as likely
2021 Juvenile Diversion: Ethnicity		
	Hispanic/Latino	Non-Hispanic/Latino
2020 Youth Population (Ages 10-16)	64,058	449,712
Total Referrals	1,208	9,379
Referrals Recommended for Petition	491	3,621

¹⁸ Likelihood of youth being both referred and diverted.

Recommended Diversions	717	5,758
Recommended Diversion Percentage of Population	1.1%	1.3%
Likelihood of Diversion Compared to General Non-Hispanic Youth	0.8 times as likely	1.0 times as likely
Recommended Diversion Percentage of Referred Youth	59.4%	61.4%
Likelihood of Diversion Compared to Referred Non-Hispanic Youth	0.9 times as likely	1.0 times as likely
2022 Juvenile Diversion: Ethnicity		
	Hispanic/Latino	Non-Hispanic/Latino
2020 Youth Population (Ages 10-16)	64,058	449,712
Total Referrals	1,208	9,379
Referrals Recommended for Petition	497	3,654
Recommended Diversions	711	5,725
Recommended Diversion Percentage of Population	1.1%	1.3%
Likelihood of Diversion Compared to General Non-Hispanic Youth	0.9 times as likely	1.0 times as likely
Recommended Diversion Percentage of Referred Youth	58.9%	61.0%
Likelihood of Diversion Compared to Referred Non-Hispanic Youth	1.0 times as likely	1.0 times as likely



Pretrial Detention

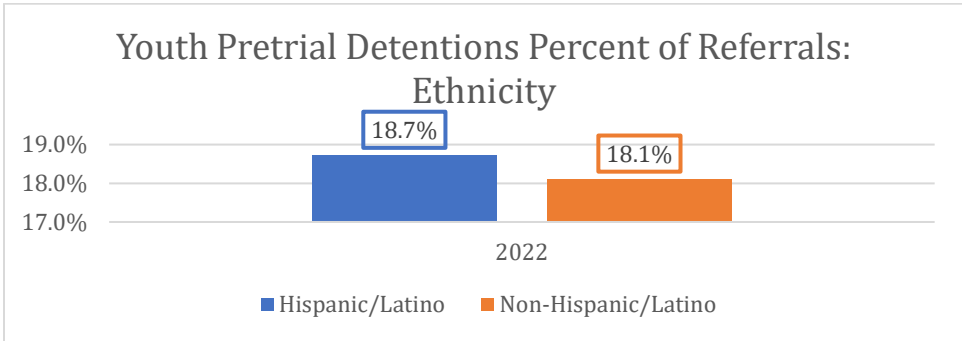
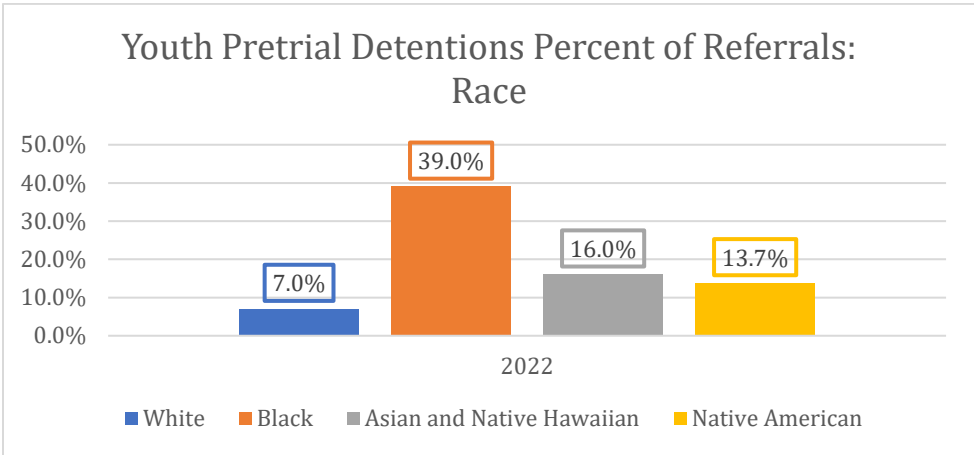
The recommended federal definition of pretrial detention refers to youth held in secure detention facilities at some point during court processing of delinquency cases (i.e., prior to disposition). Wisconsin’s definition includes youth held in secure detention facilities due to a capias/warrant for delinquency, held for court, held waiting for transport to a correctional facility, and Temporary Physical Custody (TPC). It does not include youth held for sanctions or for long-term post-dispositional stays.

Data on the use of pretrial detention by all secure juvenile detention facilities except Milwaukee County is collected by the WI DCF in eWISACWIS, Juvenile Secure Detention Registry (JSDR) component. Data on the use of pretrial detention in the Milwaukee County secure juvenile detention facility is maintained by the Milwaukee County Department of Health and Human Services, Children, Youth, and Family Services (CYFS). Data counts are by the number of holds and not by distinct youth. Some youth may be counted more than once if they were held in pretrial detention multiple times during 2022.

2022 Pretrial Detention: Race				
	White	Black	Asian and Native Hawaiian	Native American/American Indian
2020 Youth Population (Ages 10-16)	426,615	56,066	21,700	9,389
Total Referrals	7,525	3,454	131	713
Total Pretrial Detentions	529	1,348	21	98
Pretrial Detention Percentage of Population	0.1%	2.4%	0.1%	1.0%
Likelihood of Pretrial Detention Compared to General White Youth Population	1.0	19.4	0.8	8.4
Pretrial Detention Percentage of Referred Youth	7.0%	39.0%	16.0%	13.7%
Likelihood of Pretrial Detention Compared to Referred White Youth	1.0	5.6	2.3	2.0

2022 Pretrial Detention: Ethnicity		
	Hispanic/Latino	Non-Hispanic/Latino
2020 Youth Population (Ages 10-16)	64,058	449,712
Total Referrals	1,208	9,379
Total Pretrial Detentions	226	1,697
Pretrial Detention Percentage of Population	0.4%	0.4%
Likelihood of Pretrial Detention Compared to General White Youth Population	0.9	1.0

Pretrial Detention Percentage of Referred Youth	18.7%	18.1%
Likelihood of Pretrial Detention Compared to Referred White Youth	1.0	1.0



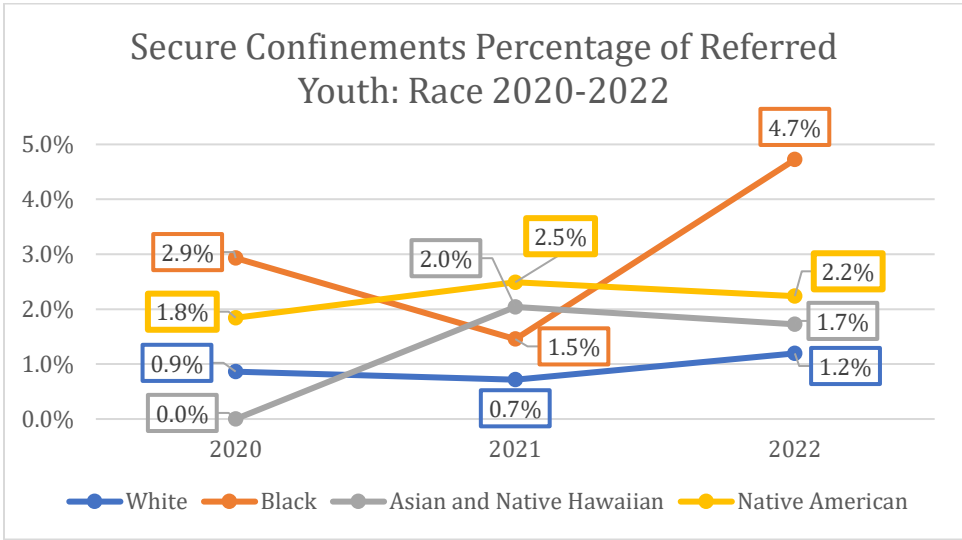
Secure Confinement

Secure confinement in Wisconsin includes youth placed in secure correctional facilities for delinquent offenses. This data does not include data on youth placed in secure detention facilities for long-term post-dispositional placements in county-run detention facilities. Data on placements at Wisconsin’s juvenile correctional facilities, Lincoln Hills and Copper Lake Schools, is maintained by the Wisconsin Department of Corrections.

2020 Juvenile Secure Confinement: Race				
	White	Black	Asian	Native American
2020 Youth Population (age 10-16)	426,615	56,066	21,700	9,389

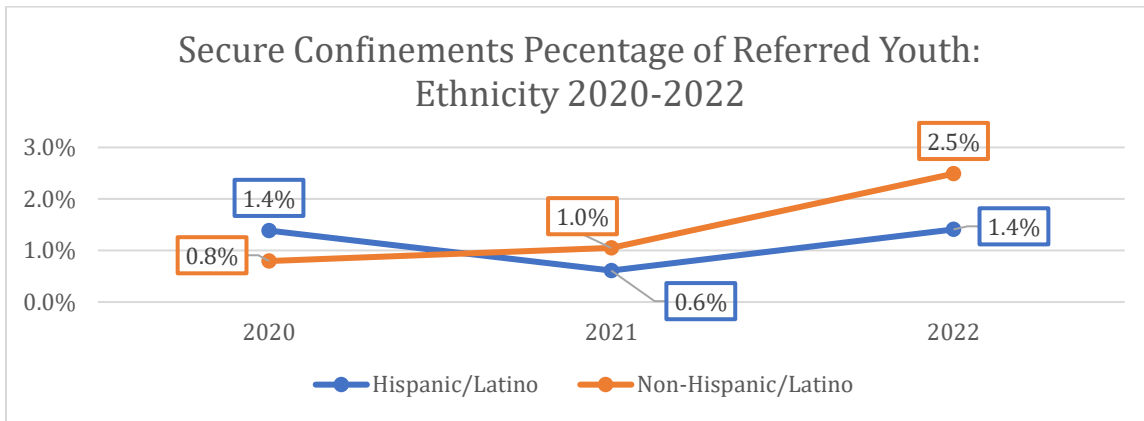
Total Youth Recommended for Petition	2,201	1,639	40	217
Total Secure Confinements	19	48	0	4
Secure Confinement Percentage of Population	0.004%	0.09%	0.0%	0.04%
Likelihood of Confinement Compared to White Youth	1.00	19.2 times as likely	0.0 times as likely	9.6 times as likely
Secure Confinement Percentage of Youth Recommended for Petition	0.9%	2.9%	0.0%	1.8%
Likelihood of Confinement Compared to White Youth Recommended for Petition	1.0	3.4 times as likely	0.0 times as likely	2.1 times as likely
2021 Juvenile Secure Confinement: Race				
	White	Black	Asian	Native American
2020 Youth Population (age 10-16)	426,615	56,066	21,700	9,389
Total Youth Recommended for Petition	2,235	1,925	44	241
Total Secure Confinements	16	28	1	6
Secure Confinement Percentage of Population	0.004%	0.05%	0.005%	0.06%
Likelihood of Confinement Compared to White Youth	1.0	13.3 times as likely	1.2 times as likely	17.0 times as likely
Secure Confinement Percentage of Youth Recommended for Petition	0.7%	1.5%	2.0%	2.5%
Likelihood of Confinement Compared to White Youth Recommended for Petition	1.0	2.0 times as likely	2.9 times as likely	3.5 times as likely
2022 Juvenile Secure Confinement: Race				
	White	Black	Asian	Native American
2020 Youth Population (age 10-16)	426,615	56,066	21,700	9,389
Total Youth Recommended for Petition	2,260	1,927	58	268

Total Secure Confinements	27	91	1	6
Secure Confinement Percentage of Population	0.01%	0.2%	0.005%	0.06%
Likelihood of Confinement Compared to White Youth	1.0	25.6 times as likely	0.7 times as likely	10.1 times as likely
Secure Confinement Percentage of Youth Recommended for Petition	1.2%	4.7%	1.7%	2.2%
Likelihood of Confinement Compared to White Youth Recommended for Petition	1.0	4.0 times as likely	1.4 times as likely	1.9 times as likely



2020 Juvenile Secure Confinement: Ethnicity		
	Hispanic/Latino	Non-Hispanic/Latino
2020 Youth Population (Ages 10-16)	64,058	449,712
Referrals Recommended for Petition	433	3,269
Total Secure Confinements	6	26
Secure Confinement Percentage of Total Population	0.01%	0.01%
Likelihood of Secure Confinement Compared to General Non-Hispanic Youth	1.6 times as likely	1.0
Secure Confinement Percentage of Referred Youth	1.4%	0.8%

Likelihood of Secure Confinement Compared to Referred Non-Hispanic Youth	1.7 times as likely	1.0
2021 Juvenile Secure Confinement: Ethnicity		
	Hispanic/Latino	Non-Hispanic/Latino
2020 Youth Population (Ages 10-16)	64,058	449,712
Referrals Recommended for Petition	491	3,621
Total Secure Confinements	3	38
Secure Confinement Percentage of Total Population	0.005%	0.01%
Likelihood of Secure Confinement Compared to General Non-Hispanic Youth	0.6 times as likely	1.0
Secure Confinement Percentage of Referred Youth	0.6%	1.0%
Likelihood of Secure Confinement Compared to Referred Non-Hispanic Youth	0.6 times as likely	1.0
2022 Juvenile Secure Confinement: Ethnicity		
	Hispanic/Latino	Non-Hispanic/Latino
2020 Youth Population (Ages 10-16)	64,058	449,712
Referrals Recommended for Petition	497	3,654
Total Secure Confinements	7	91
Secure Confinement Percentage of Total Population	0.01%	0.02%
Likelihood of Secure Confinement Compared to General Non-Hispanic Youth	0.54 times as likely	1.00
Secure Confinement Percentage of Referred Youth	1.4%	2.5%
Likelihood of Secure Confinement Compared to Referred Non-Hispanic Youth	0.57 times as likely	1.00



Waivers to Adult Court

The Wisconsin Circuit Courts collect and maintain data on youth whose cases are waived to adult court.¹⁹ These cases meet the federal definition of waivers to adult court: “waived cases are those in which a youth is transferred to criminal court as a result of a judicial finding in juvenile court.” This data does not include youth whose cases are automatically filed under original adult court jurisdiction via Wis. Stat. §938.183.²⁰ These cases are not transferred because of a judicial finding, but rather originate in adult court per applicable statute.

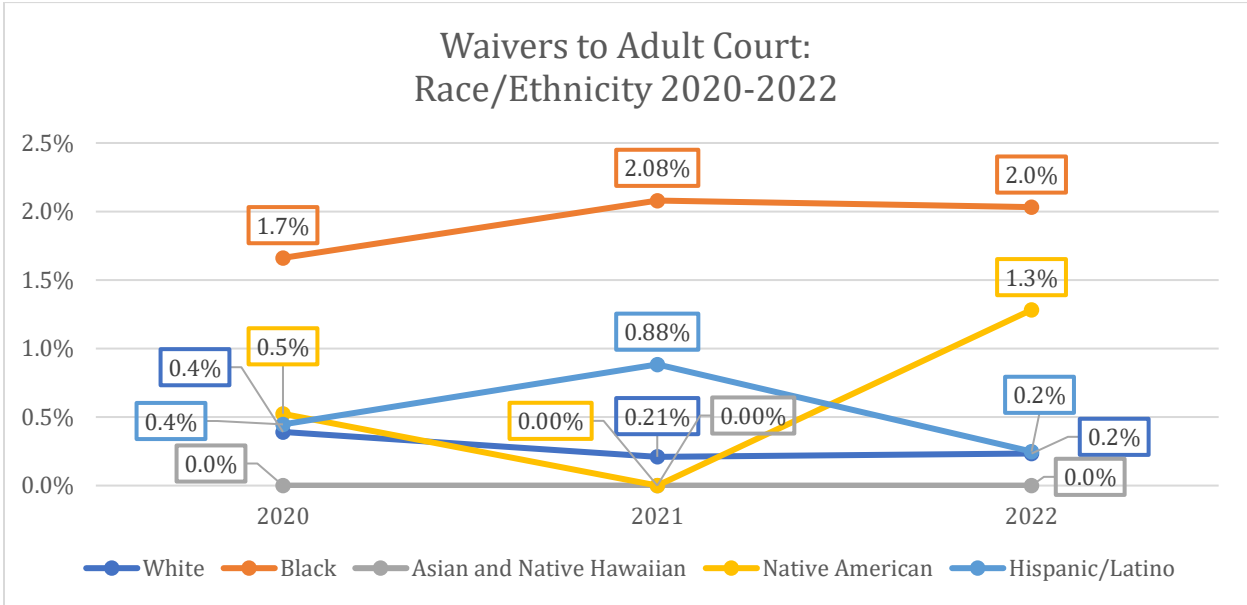
2020 Juvenile Waivers to Adult Court					
	Non-Hispanic White	Non-Hispanic Black	Non-Hispanic Asian	Non-Hispanic Native American	Hispanic/Latino
Total Youth Population 10-16 (2020)	370,643	51,805	20,871	6,393	64,058
Referrals	4,599	2,528	71	572	896
Waivers	18	42	0	3	4
Waivers %/Total Population	0.005%	0.1%	0.00%	0.0%	0.01%
Likelihood of Waiver compared to White youth general population	1.0	16.7 times as likely	0.0 times as likely	9.7 times as likely	1 times as likely
Waivers %/Referred Youth	0.4%	1.7%	0.0%	0.5%	0.4%

¹⁹ Wisconsin State Statute, Chapter 938.18 Jurisdiction for criminal proceedings for juveniles 14 or older; waiver hearing. Accessible: <https://docs.legis.wisconsin.gov/document/statutes/938.18>.

²⁰ Wisconsin State Statute, Chapter 938.183 (1) Original adult court jurisdiction for criminal proceedings; juveniles under adult court jurisdiction. <https://docs.legis.wisconsin.gov/document/statutes/938.183>.

Likelihood of Waiver compared to referred White youth	1.0	4.2 times as likely	0.0 times as likely	1.3 times as likely	1.1 times as likely
2021 Juvenile Waivers to Adult Court					
	Non-Hispanic White	Non-Hispanic Black	Non-Hispanic Asian	Non-Hispanic Native American	Hispanic/Latino
Total Youth Population 10-16 (2020)	370,643	51,805	20,871	6,393	64,058
Referrals	5,249	2,933	522	77	1,018
Waivers	11	61	0	0	9
Waivers %/Total Population	0.003%	0.1%	0.0%	0.0%	0.01%
Likelihood of Waiver compared to White youth general population	1.0	39.7 times as likely	0.0 times as likely	0.0 times as likely	4.7 times as likely
Waivers %/Referred Youth	0.002	0.02	0.0	0.0	0.01
Likelihood of Waiver compared to referred White youth	1.0	9.9 times as likely	0.0 times as likely	0.0 times as likely	4.2 times as likely
2022 Juvenile Waivers to Adult Court					
	Non-Hispanic White	Non-Hispanic Black	Non-Hispanic Asian	Non-Hispanic Native American	Hispanic/Latino
Total Youth Population 10-16 (2020)	370,643	51,805	20,871	6,393	64,058
Referrals	5,565	3,053	616	78	1,208
Waivers	13	62	0	1	3
Waivers %/Total Population	0.00004	0.001	0.00000	0.0	0.00005
Likelihood of Waiver compared to White youth general population	1.0	34.1 times as likely	0.0 times as likely	4.5 times as likely	1.3 times as likely
Waivers %/Referred Youth	0.002	0.02	0.000	0.0	0.002

Likelihood of Waiver compared to referred White youth	1.0	8.7 times as likely	0.0 times as likely	5.5 times as likely	1.1 times as likely
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III. Action Plan

Disparities Comparison

What do your R/ED numbers tell you about your jurisdiction? Reflect an analysis of the state’s data.

Arrest

Though disparities between White youth and Black, Asian, and Native American youth decreased in 2020, they increased slightly again in 2021-2022. The disparities are largest for Black and Native American youth. Both Black and Native American youth are consistently 2-3 times as likely as White youth to be arrested. Asian youth, unlike other youth of color, are less likely to be arrested than White youth.

Diversions

The charts above show diversions as a percentage of referred youth. Of those referred to youth justice intake, Black youth are nearly half as likely to be diverted—have their cases closed, be recommended for diversion programming, or enter a DPA—and correspondingly more likely to be recommended for petition and court processing than their White peers. Diversions for Black youth have persistently lagged behind those of other races. Moreover, disparities for diversion have increased: while the diversion percentage for Black and Native American youth has increased slightly, diversion percentages for White youth increased more. Consistently, less than half of Black youth who are referred to court intake are diverted (44.2% in 2022), approximately two-thirds of

Native American (62.4% in 2022) and half to two-thirds of Asian (66.2% in 2021 and 55.7% in 2022) youth who are referred are recommended for diversion, while more than two-thirds of White youth are recommended for diversion (70% in 2022). In 2022, Asian youth were less likely to be diverted than White youth after many years of being diverted at roughly the same rate as White youth in 2020-2021. One positive outcome is that diversions for youth of all ethnicities (Hispanic/Latino and Non-Hispanic/Latino) have increased and nearly converged. Hispanic/Latino youth are only slightly less likely than Non-Hispanic/Latino youth of being diverted.

Pretrial Detention

Disparities in pretrial detention are significant for all youth of color, especially for Black youth. Black youth were more than five times more likely to be detained pretrial than their White peers in 2022, while Native American and Asian youth were twice as likely to be detained. 39% of Black youth referred to youth justice are detained pretrial, while only 7% of White youth are detained. 16% of referred Asian youth and 13.7% of Native American youth were detained. Disparities between Hispanic/Latino youth and Non-Hispanic/Latino youth exist as well, though they are much smaller (less than a percentage difference), with Hispanic/Latino youth (18.7% of referred youth) being slightly more likely to be detained pretrial than non-Hispanic youth (18.1% of referred youth).

Secure Confinement

Disparities in secure confinement vary significantly between years, in part because so few youth are placed in secure correctional facilities. However, Black youth are consistently 2-4 times as likely to be placed in secure confinement than White youth. Native American youth and Asian youth are more likely to be placed in secure confinement than White youth, though in 2022, those disparities were reduced, and they were less likely to be placed in secure confinement than Black youth.

Disparities are present for youth based on ethnicity as well. However, in 2021 and 2022, the disparities reversed from what would otherwise be expected: Hispanic/Latino youth are less likely than non-Hispanic/Latino youth to be placed in secure confinement. However, this change could be attributed to the significant increase in confinements of Black youth, the majority of whom are non-Hispanic/Latino.

Waivers to Adult Court

Disparities are present at waivers to adult court and, like the other points of contact, affect Black youth the most. Disparities between Black youth waived to adult court grew from 3 times as likely as White youth to be waived to adult court in 2020 to 8-9 times as likely in 2021 and 2022. Notably, disparities for Native American youth have increased in 2022 from 1.3 times as likely as White youth in 2020 to 5 times as likely in 2022. At the same time, the percentage of referred White youth waived to adult court has steadily decreased since 2020 and no Asian youth were waived to adult court at all in that period. Disparities for Hispanic/Latino youth are somewhat erratic—Hispanic/Latino youth were more likely to be waived than White youth in 2021, and in 2022 were waived at the same rate as White youth. Again, these trends are difficult to draw longstanding conclusions based on the small numbers of youth waived to adult court overall, fewer than 100 youth were waived in 2022.

Summary

The available data indicates that there are disparities at every point of contact in the Wisconsin juvenile justice system. The disparities consistently affect Black and Native American youth most. Disparities early in the system are persistent (arrest and diversion) and affect a greater number of youth than the disparities later in the system (secure confinement and waivers to adult court).

Factors such as historical discrimination in public policy in a variety of sectors from housing and education to employment and wealth, likely play a part in causing the persistent disparities in Wisconsin’s juvenile justice system.²¹ Additionally, the decision making process at each point of contact is greatly influenced by local policies and system professionals including law enforcement officers, school staff, social workers, district attorneys/prosecutors, judges, probation officers, and many others. At each point of contact, the level of discretion available to each of these professionals varies between communities, makes identifying specific causes of disparities challenging. Because of the significant influence of individual decision makers’ discretion on juvenile justice outcomes, it is likely that implicit bias is one factor in perpetuating or increasing racial disparities in addition to broader social, economic, and educational disparities.

Strategy, Vision, and Measurement

What would success in R/ED reduction look like for your state? Set forth a strategy, vision, plan, goals, or outcomes that reflect what success looks like.

Wisconsin’s ERD Subcommittee decided to continue working towards the achievement of three goals that will support the overall vision of eliminating disparities. The goals below are included in the Three-Year Strategic Plan:

Priority 3: Reduce Racial and Ethnic Disparities in the Juvenile Justice System at Specific Contact Points as determined in the Title II Racial and Ethnic Disparities Plan.
Goal 3.1: The GJJC will assist in building and strengthening state agency partnerships to promote and improve information sharing and analysis relating to the five contact points of the juvenile justice system as outlined by OJJDP.
Objectives:
3.1.1
The Wisconsin Department of Justice (DOJ), Wisconsin Department of Children and Families (DCF), Wisconsin Department of Public Instruction (DPI), and the Director of State Courts Office will report to the GJJC on efforts to collect and analyze data relating to the five contact points of the juvenile justice system (Arrest, Diversion, Pre-trial Detention, Secure Confinement, and Transfers to Adult Court). The GJJC will provide input on areas for improvement and expansion.

²¹ Colin Gordon, “Race in the Heartland: Equity, Opportunity, and Public Policy in the Midwest.” *University of Iowa and Iowa Policy Project*, October 2019, <https://files.epi.org/uploads/Race-in-the-Midwest-FINAL-Interactive-1.pdf>.

Goal 3.2: The GJJC will direct Title II funding opportunities to address disparities at specific contact points as identified in the Racial and Ethnic Disparities Reduction Plan.

Objectives and Action Steps:

3.2.1

The ERD Subcommittee will collaborate with WI DOJ to identify specific contact points at which to direct funding interventions that reflect needs identified by disparity data.

3.2.2

The ERD Subcommittee will identify model programs and strategic interventions that are effective at reducing disparities.

3.2.3

Wisconsin DOJ will develop grant opportunities in accordance with identified contact points and interventions, to support local organizations' efforts to prevent delinquency and support youth.

3.2.4

Where feasible, WI DOJ will request applicants for Title II Subgrant funding provide a description of how their program will contribute to reducing disparities.

Goal 3.3: The GJJC will collaborate with community partners to identify contributing factors for disparities at a specific point of contact and improve awareness of disparities in the juvenile justice system.

Objectives:

3.3.1

The GJJC will host collaborative meetings with community partners to identify contributing factors for disparities.

3.3.2

The GJJC will collaborate with WI DOJ, subject matter experts, and other states to develop and distribute education materials and host events for stakeholders and community partners to increase awareness of disparities in the juvenile justice system.

3.3.3

The GJJC will research tools and methods to improve racial equity at each point of contact. The GJJC will focus on education about prevention efforts that could occur prior to the arrest contact point.

ERD Subcommittee set these goals to pursue the outcome that juvenile justice advocates, District Attorneys, Public Defenders, Judges, Court Commissioners, Court Intake Social Workers, Police Officers, Sheriffs and Deputies, and other juvenile justice system decision makers acknowledge the

presence of racial and ethnic disparities, show an understanding of their influence over decisions that produce disparities, and have access to available disparity reduction strategies.

To achieve this, the ERD Subcommittee seeks to do the following:

1. Research and Learn
 - a. Bring stakeholders together to review evidence-based programs and interventions effective at reducing disparities.
 - b. Solicit and gather input from experts and individuals with lived experience in the juvenile justice system about what is effective.
2. Educate
 - a. Ensure racial and ethnic disparity data is publicly available and accessible to a variety of audiences.
 - b. Provide trainings on disparity data and reduction strategies to decision makers.
3. Fund
 - a. Provide grant opportunities to communities to identify local disparities and root causes and implement processes and programs that reduce the disparities.

Reduction Goals and Objectives

How much do you want to reduce R/ED next year? Include a desire to reduce R/ED at the contact point(s) for a specific racial group. No numerical target is required.

Wisconsin aims to reduce R/ED at two contact points: arrest and diversion for Black and Native American youth. To achieve this, WI DOJ and the ERD Subcommittee will invite stakeholders to present their programs and interventions that reduce disparities to the Subcommittee. WI DOJ will collaborate with the Youth Voice Commission to solicit input from individuals with lived experience in the juvenile justice system, especially youth of color and those placed in secure detention, about what a fair system would look like and what interventions were impactful in their lives.

WI DOJ will ensure the racial and ethnic disparity data analyzed in this report is publicly available and accessible to a variety of audiences. WI DOJ will collaborate with the ERD Subcommittee members to distribute educational materials about the presence of disparities in Wisconsin and available reduction strategies to system decision-makers.

WI DOJ will provide grant opportunities to local organizations that identify local disparities, root causes, and implement processes and programs that reduce disparities. These programs may include implementing and expanding pre-referral diversion (deflection) and post-referral diversions for Black and Native American youth. WI DOJ will invite all Title II subgrant applicants to consider the presence of disparities in their local justice system and evaluate whether and how their proposed program will contribute to disparity reduction.

Justify Reduction and Intervention

Is the reduction reasonable? If yes, why? Include a justification (examples, specifics) as to why the intervention is reasonable.

Black and Native American youth are more than twice as likely as White youth to be arrested and Black youth are half as likely to be diverted as White youth. These disparities are both large and affect a larger group of youth than disparities later in the system. Additionally, these contact points are decision points controlled by juvenile justice professionals with significant discretion over their choices. As such, the disparities at these contact points are high priority.

The goals set out by the ERD Subcommittee focus first on learning more about the disparities. WI DOJ staff have identified deflection (pre-arrest/pre-referral diversion) programs and diversion (post-referral) programs as promising strategies used by Wisconsin communities that may impact disparities. WI DOJ and the ERD Subcommittee will research these programs to identify whether they effectively increase the use of deflection and diversion for Black and Native American youth.

WI DOJ has identified action steps towards the R/ED reduction goals that begin with the data currently available. Already, WI DOJ has made efforts to expand the R/ED data to offer a more comprehensive picture of disparities in the state's juvenile justice system. While pursuing local data would be valuable, it would delay any educational activities considerably. Instead, we have decided to focus our efforts on creating educational documents condensing the statewide disparity data into a more accessible format for broader distribution and educational purposes.

There is currently interest in implementing new deflection and diversion practices in certain communities in Wisconsin. This interest is supplemented by the actual deflection practices implemented for adults in the criminal justice system, indicating that these local agencies are poised to expand their programs to cover youth in the juvenile justice system. Because of this interest, and the available funding through the Title II Formula Grant, WI DOJ is confident that grant opportunities that aim to help communities address disparities at arrest and diversion through improving and expanding their deflection and diversion programs will be impactful. Most importantly, through a grant program, communities can be educated and required to incorporate the best practices that ensure diversion programs serve youth of color equitably by reducing the impact of implicit bias, discretion, and improving programs' abilities to support youth to successfully complete their diversion programming.

OJJDP Assistance

What do you need from OJJDP to be successful with your plan? Identify any support needed from OJJDP or that no support is needed from OJJDP.

The ERD Subcommittee is exploring the emerging practice of deflection, also known as pre-arrest or pre-referral diversion. Because this practice is utilized by law enforcement officers, school staff, or community members to informally handle youth (without filing charges or petition), there is limited research about which jurisdictions currently implement deflection. Furthermore, because it is an emerging practice, there is limited research on its efficacy at reducing recidivism. What research exists focuses largely on adults. Research, model programs, or other resources from OJJDP that identify effective programs and addresses how such programs can be structured to *reduce* disparities and not just serve more youth at current disparate levels, would be valued.

Youth Accountability

What safeguards will you put in place to ensure that as you work to reduce R/ED, you are equipping youth to live productive lives? Discuss how the mission goals are connected in some way to R/ED.

The goals in the action plan set out strategies to reduce disparities in ways that support youth to succeed outside of the juvenile justice system. The focus on reducing disparities at arrest and diversion will increase the number of youth, especially youth of color, who avoid court processing and the collateral consequences that result from an adjudication. Youth who are deflected (are not arrested or don't receive a youth justice referral) avoid the harmful consequences of law enforcement custody or being securely detained for any amount of time. Youth who are diverted (receive a youth justice referral but do not receive a court petition) avoid delinquency adjudications and the potential negative impact on their ability to maintain stable housing, get hired or licensed in their preferred occupation, and finish their schooling uninterrupted.²² By avoiding these collateral consequences and receiving services that address their underlying needs through diversion programming, youth will be equipped to live productive lives.

IV. Outcome Evaluation

New Numbers

What are your new numbers? Discuss whether new state numbers reflect a change in R/ED within the state.

Based on the data provided in Section II and analyzed in greater detail in Section III, disparities stayed somewhat stable at point of arrest for all youth between 2021-2022. Disparities at diversion increased in 2022 for Black and Native American youth. Disparities at secure confinement increased for Black and Hispanic/Latino youth and decreased for Asian and Native American youth. Disparities at waivers to adult court decreased for Black and Native American youth and increased for Asian youth. Disparities continue at most contact points and negatively impact Black and Native American youth and provide better outcomes for White and Asian youth.

2022 Goal Achievements

Did you meet your goals? Discuss whether desired goals from previous years were met.

Goal 1: Reduce R/ED at secure confinement and arrest for Black and Native American youth. This goal was not achieved.

Goal 2: Increase awareness of disparities at arrest through subgrant DMC/R/ED reduction plans. This goal was partially achieved.

Goal 3: Engage and educate stakeholders on disparities. This goal was partially achieved.

²² "Collateral Consequences of Juvenile Delinquency Proceedings: A Guide for Juvenile Court Professionals." By Wisconsin State Public Defenders. Available: <https://www.wisspd.gov/juvenile-collateral-consequences/>.

Goal 4: Partner with WI DCF and other agencies to fill the gap in pretrial detention data. This goal was achieved.

Successful Strategies and Barriers

If yes, what worked? What drove the success? If no, what were the barriers? How might you overcome them next year? What partners do you need? Include what worked to achieve success and a discussion of what prevented the state from meeting its goals.

Goal 1

In 2022, Wisconsin aimed to reduce R/ED at two contact points: secure confinement and arrest for Black and Native American youth. Wisconsin aimed to decrease the number of Black and Native American youth placed in correctional facilities by 10, by adding at least 10 new community-based programming slots or treatment level placements for youth involved in the juvenile justice system. Wisconsin planned to increase programming available by funding local organizations to expand program options and slots and success would have been measured by program reports provided by subrecipients. Wisconsin was not able to achieve this goal in 2022. In fact, the number of secure confinements for Black youth increased significantly in 2022 to 91 from 28 in 2021.

The number of secure confinements increased overall from 51 in 2021 to 125 in 2022. While this increase in placements is quite large, it is important to note that many secure and non-secure placements significantly reduced or froze admissions during the COVID-19 pandemic to reduce viral transmission among residents. In 2022, as the COVID-19 threat has lessened, placements have begun taking more admissions. The large disparity between 2021 and 2022 admissions may be due largely to COVID-19 related practice change than other decision-making trends. WI DOJ planned to offer funding to organizations to support local needs-based system supports.

However, WI DOJ struggled to solicit sufficient applicants for such programs and instead pivoted funding opportunities to smaller projects that focused on the early-system intervention priority. These grants funded programs that aimed to reduce the impact of implicit bias in law enforcement, facilitate positive law enforcement-community relationships, and evaluate the efficacy of youth-serving programs on reducing recidivism for Black participants. These programs are on-going, and their outcomes have not yet been measured. We anticipate having program and evaluation results in the coming year.

Goal 2

Wisconsin aimed to decrease disparities at arrest for Black and Native American youth by increasing awareness of disparities. To increase awareness and prompt local organizations to consider their impact, Wisconsin requested that all subgrant applicants include an analysis of local disparities and a description of how their program would reduce disparities. Out of eight grant announcements, three were funded through the DMC/R/ED purpose area. Applications to these programs were solely devoted to identifying disparities and proposing activities aimed at reducing them. The other five grant announcements were funded from a variety of purpose areas including positive youth development, delinquency prevention, and Indian Tribes. Four out of the five included an optional section for applicants to describe whether there are racial and ethnic

disparities in their jurisdiction, whether they have a plan to reduce the disparities, and how the program proposed in their application will assist in disparity reduction. There were twelve applicants to the four grants requesting R/ED reduction plans and eight of these applicants provided responses to the section. Though the depth of analysis varied, each description acknowledged the presence of disparities in their community and indicated a good-faith effort to prioritize equity in their practices.

Goal 3

The ERD Subcommittee aimed to engage one or more new stakeholders and produce an educational resource regarding disparities to distribute to juvenile justice stakeholders and decision makers. During fall 2022 to spring 2023, the ERD Subcommittee engaged in several education efforts around deflection and diversion. They invited WI DOJ staff to present on the promising practice of deflection (also known as pre-arrest diversion) that is currently implemented in several Wisconsin communities for adults with substance use disorders and other challenges. Through that presentation, the ERD Subcommittee learned of a deflection program for juveniles in Door County, WI and invited the project director of that program to educate Subcommittee members on the program design, implementation, and ongoing outcomes. The Subcommittee is on hiatus during the summer and aims to explore options for producing an educational material, such as a webinar, toolkit, or factsheet about deflection programming, in the fall when they return to meetings.

Goal 4

The Wisconsin Department of Justice aimed to connect with the Wisconsin Department of Children and Families (DCF) to begin a partnership to fill in the gap of pretrial detention data. WI DOJ achieved this goal in 2023. This year, WI DOJ scheduled on-going partnership meetings with staff at WI DCF to discuss data sharing needs and capacities, share resources and information, and coordinate grant and youth engagement efforts. Through that partnership, WI DOJ and WI DCF were able to access data regarding the number of admissions to county secure juvenile detention facilities (except Milwaukee). WI DCF assisted WI DOJ in connecting with data staff at the Milwaukee County Department of Human Services, Children Youth and Family Services (CYFS). The new connection enabled WI DOJ to request the remaining detention data for the Milwaukee juvenile detention facility and CYFS provided the data. With the combined data from Milwaukee and the balance of the state, WI DOJ was able to include an analysis of racial and ethnic disparities at pretrial detention as a percentage of population and referrals to youth justice in 2022 in the 2023 R/ED Reduction Plan (see data analysis at the beginning of this report). This data fills a critical data gap and provides valuable insight into an area of concern that may lead to future investigation in the future. The dual partnerships with Milwaukee CYFS and WI DCF ensures that while Milwaukee's data transitions slowly into the statewide JS DR, WI DOJ will be able to monitor the disparities over time.

OJJDP Assistance

How can OJJDP help you next year? What do you need from us? Identify any support needed from OJJDP or that no support is needed from OJJDP.

As described in Sec. III, the ERD Subcommittee is exploring the emerging practice of deflection, also known as pre-arrest or pre-referral diversion. Because this practice is utilized by law enforcement officers, school staff, or community members to informally process youth, there is limited research about what jurisdictions currently implement deflection. Furthermore, because it is an emerging practice, there is limited research on its efficacy at reducing recidivism. What research exists focuses largely on adults. Research, model programs, or other resources from OJJDP that identify effective programs and addresses how such programs can be structured to reduce disparities and not just serve more youth at the current racially disparate rates, would be valued.

Youth Accountability

How did you equip juvenile offenders to live crime-free? Discuss how the mission goals are connected in some way to R/ED activities.

As described in Sec. III, the target goals established in the action plan set out strategies to reduce disparities in ways that support youth to succeed outside of the juvenile justice system. The focus on reducing disparities at arrest and diversion will increase the number of youth, especially youth of color, who avoid court processing and the collateral consequences that result from an adjudication. Youth who are deflected (are not arrested or don't receive a youth justice referral) avoid the harmful consequences of law enforcement custody or being placed in a secure hold for any amount of time. Youth who are diverted (receive a youth justice referral but do not receive a court petition) avoid delinquency adjudications and the potential negative impact on their ability to maintain stable housing, get hired or licensed in their preferred occupation, and finish their schooling uninterrupted. Research indicates that youth who are diverted from court processing are less likely than their petitioned peers to reoffend in the future.²³ By avoiding the collateral consequences of court processing and receiving services that address their underlying needs through diversion programming, youth will be equipped to live productive, crime-free lives.

Goals for 2023-2024

What are your goals for next year? Set forth a strategy, a vision, plan, or outcomes that reflect what success looks like.

The goals for 2023, as described in detail in Sec. III, closely follow the structure established in 2022. WI DOJ and the ERD Subcommittee will collaborate to maintain existing and build new data sharing partnerships. Funding allocated to R/ED reduction will be offered as grant opportunities to locals. The grants would aim to improve equity at arrest and diversion. The funding will be supplemented by the request for R/ED Reduction Plans from all Title II applicants. Lastly, WI DOJ and the ERD Subcommittee will collaborate to educate themselves about current deflection and diversion practices and capacity in Wisconsin. WI DOJ and the ERD Subcommittee will investigate evidence-based practices that reduce bias and disparities at deflection and diversion.

²³ Mendel, Richard. "Diversion: A Hidden Key to Combating Racial and Ethnic Disparities in Juvenile Justice." The Sentencing Project, August 30, 2022. <https://www.sentencingproject.org/reports/diversion-a-hidden-key-to-combating-racial-and-ethnic-disparities-in-juvenile-justice/>.

Feedback from the ERD Subcommittee and Youth Voice Commission (YVC) paint a picture of what successful achievement of goals and greater equity in the juvenile justice system would look like. The ERD Subcommittee addressed what successful education of stakeholders on racial and ethnic disparities and reduction solutions would look like. For the members, success would include comprehensive collaboration between all impacted and influencing parties. This collaboration would include individuals who work to implement best practices, those who make decisions about youth's cases, community members, and youth with lived experience in the juvenile justice system. Success would include the ERD Subcommittee receiving information from each of these stakeholders to better understand the factors pushing youth into the system and the possible solutions. Additionally, success would involve those same stakeholders knowing, acknowledging, and having an understanding that disparities exist and that Black and brown youth enter and proceed through the system differently than White youth. This understanding would be grounded in an understanding of the available data.

The Youth Voice Commission, made up of youth ages 14-28 with and without lived experience in the juvenile justice system, as well as youth placed in county secure juvenile detention facilities provided feedback both on improvement of diversion and deflection programs and reduction in disparities. The Youth Voice Commission coalesced around a vision for diversion that considered each youth holistically. Their vision for diversion decisions would include considerations about a youth's home life, educational struggles, and connection to the community. Ultimately, the Youth Voice Commission wants each child to be viewed as a person with human needs and capacities.

The Commissioners agreed that locking youth up should only be considered if everything is going wrong and there are no alternatives. Youth who are diverted should be provided with services, especially those that address foundational needs for safety at home (housing, parenting). Those youth who are diverted should be included in the development of their diversion plan—what behavioral goals or rules they are agreeing to—to ensure that they have bought into their plan and are successfully diverted rather than reverting to petition. Lastly, youth Commissioners identified teachers, mentors, and even athletic coaches as having the ability to identify youth who are struggling and connect them with services. The youth especially focused on coaches' ability to get youth involved in something they can be excited about, a positive opportunity that gives kids a reason not to progress down the wrong path.

The Youth Voice Commission had an opportunity to review the statewide R/ED data and provide feedback. Even before seeing the data, the existence of unfair outcomes for youth of color was well known to the youth participants. The youth provided some hypotheses about what might be producing these disparities: they noted that social disparities impact juvenile justice disparities—some community programs don't reach neighborhoods where residents are majority people of color, some diversion programs require parental involvement and this may disproportionately impact youth of color who live in single-parent, grandparent, kinship, or fictive kin homes, and youth of color may be expelled from school more often, increasing the amount of time they are unsupervised and not participating in positive activities. Disparities could be further influenced by decision-maker bias or procedures. For example, one youth explained that law enforcement may

describe youth differently in their reports based on bias or stereotypes that then are used to inform diversion decisions. Additionally, Black youth are criminalized early and more frequently, so past involvement can affect a youth's future diversion opportunities.

After viewing the data, the young people were prompted to reflect on what a fair system would look like. They responded that a fair system would ensure that people with similar circumstances (the same offense and history) have the same outcomes in the justice system. The youth prioritized early system intervention, arguing that reducing disparities at arrest through prevention/early intervention could reduce disparities deeper in the system.

The priorities set by the youth and the ERD subcommittee coalesce around a focus on reducing disparities at arrest and diversion. These priorities are reflected in the goals and objectives in the action plan and will be implemented in the coming year.

Appendix A: Definitions²⁴

Point of Contact	OJJDP Definition	Wisconsin Definition	Notes
Arrest	Youth are considered to be arrested when law enforcement agencies apprehend, stop, or otherwise contact them and suspect them of having committed a delinquent act. Delinquent acts are those that, if an adult commits them, would be criminal, including crimes against persons, crimes against property, drug offenses, and crimes against public order.	Arrests in the UCR program are defined as: all persons processed by arrest (booking) citation, or summons (when served by an officer) for committing an offense in its jurisdiction. Arrest counts are based on the most serious charge reported to the UCR program, rather than the number of charges.	Source: Uniform Crime Reporting (UCR) System. Analysis: the UCR definition is more specific than the OJJDP definition in that it only includes people who undergo formal processing by a law enforcement officer. The definition serves both adult and juvenile offenders, lacking a definition of delinquent. Wisconsin’s definition of delinquent is similar to OJJDP’s.
Diversion	Youth referred to juvenile court for delinquent acts are often screened by an intake department (either within or outside the court). The intake department may decide to dismiss the case for lack of legal sufficiency, or to resolve the matter informally (without the filing of charges) or formally (with the filing of charges). The diversion population includes all youth referred for legal processing but handled	Diverted youth are those that have received a formal Youth Justice Referral but were not recommended for petition. This includes youth deemed suitable for diversion, recommended for a Deferred Prosecution Agreement, or transferred to the Child Welfare system. Wisconsin diversion data does not reflect the actual disposition	Wisconsin’s definition is largely similar to OJJDP’s. The diversion population includes youth referred for legal processing. The difference is that the data is limited to youth <i>recommended</i> to be handled without the filing of formal charges. The data does not allow analysis on whether the youth <i>were</i> handled without filing formal charges.

²⁴ OJJDP Definitions: “Documenting Differences in Federal & Jurisdictional Definitions When Identifying Racial and Ethnic Disparities,” CCAS Resource, <https://ccastates.org/system/files/event/2022/05/Doc-Definition-Differences-508.pdf>.

	without the filing of formal charges.	of the case—only the recommendation made by the youth justice intake worker.	
Pretrial detention	Detention refers to youth held in secure detention facilities at some point during court processing of delinquency cases (i.e., prior to disposition). In some jurisdictions, the detention population may also include youth held in secure detention to await placement following a court disposition. Detention should not include youth held in shelters, group homes, or other nonsecure facilities.	Pretrial detention includes youth held in secure detention facilities due to a capias/warrant for delinquency, held for court, held waiting for transport to a correctional facility, and Temporary Physical Custody (TPC). It does not include youth held for sanctions or for long-term post-dispositional stays.	Definitions are substantively the same. The individual data points are only those that would be considered pre-disposition.
Secure Confinement	Confined cases are those in which, following a court disposition, youth are placed in secure residential or correctional facilities for delinquent offenders. The confinement population should not include any youth placed in any form of out-of-home placement. Group homes, shelters, and mental health treatment facilities, for example, would usually not be considered confinement.	Wisconsin’s definition includes youth who are placed in secure correctional facilities for delinquent offenders. It does not include youth placed in group homes, shelters, mental health treatment facilities, or long term post-dispositional detention in county detention facilities.	The definitions are similar in that Wisconsin only includes youth who are placed in a secure correctional facility for delinquency offenders following a court disposition. Wisconsin’s definition differs from OJJDP’s by its exclusion of other secure residential, post-dispositional placements such as long-term detention stays.

Transfer to Adult Court	Waived cases are those in which a youth is transferred to criminal court as a result of a judicial finding in juvenile court.	Wisconsin’s definition is the same as the federal definition.	Wisconsin State Statute, Chapter 938.18 Jurisdiction for criminal proceedings for juveniles 14 or older; waiver hearing. Accessible: https://docs.legis.wisconsin.gov/document/statutes/938.18 .
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Appendix B: Data Sources

Population:

- United States Census Bureau
- Easy Access to Juvenile Populations: 1990-2020 (EZAPOP) Database

Arrest

- Wisconsin Department of Justice, Bureau of Justice Information and Analysis (BJIA), Uniform Crime Reporting (UCR) System

Diversion

- Wisconsin Department of Children and Families, Bureau of Youth Services (BYS), statewide automated child welfare information system (eWiSACWIS)

Pretrial Detention

- Wisconsin Department of Children and Families, Bureau of Youth Services (BYS), statewide automated child welfare information system (eWiSACWIS)
- Milwaukee County Department of Health and Human Services, Children Youth and Family Services (CYFS)

Secure Correctional Confinement

- Wisconsin Department of Corrections, Division of Juvenile Corrections (DJC)

Transfer to Adult Court

- Wisconsin State Circuit Courts, Office of Court Operations

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