

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 plan 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, pretrial detention, disposition commitments, and transfers to adult court—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

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 two-three calendar years (where available).

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 population estimates for 2021-2023. For those years, 2020 population demographics are used as the baseline for each point of contact percentage of population analysis.⁸

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.

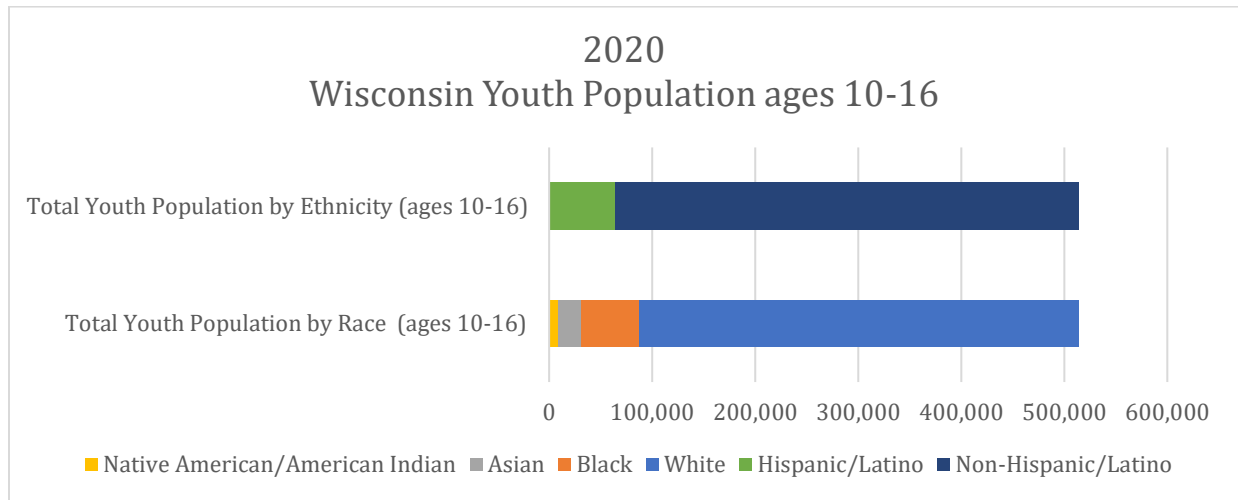
⁵ JJDP, Section 11133. State Plans, (a)(15)(B).

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>.

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



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 dispositional commitments, 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
	Percentage	12.5%	87.5%	100.0%

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

The total number of youth arrests declined in 2020 and increased in 2023 as COVID-19 restrictions eased, though they remained 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

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>.

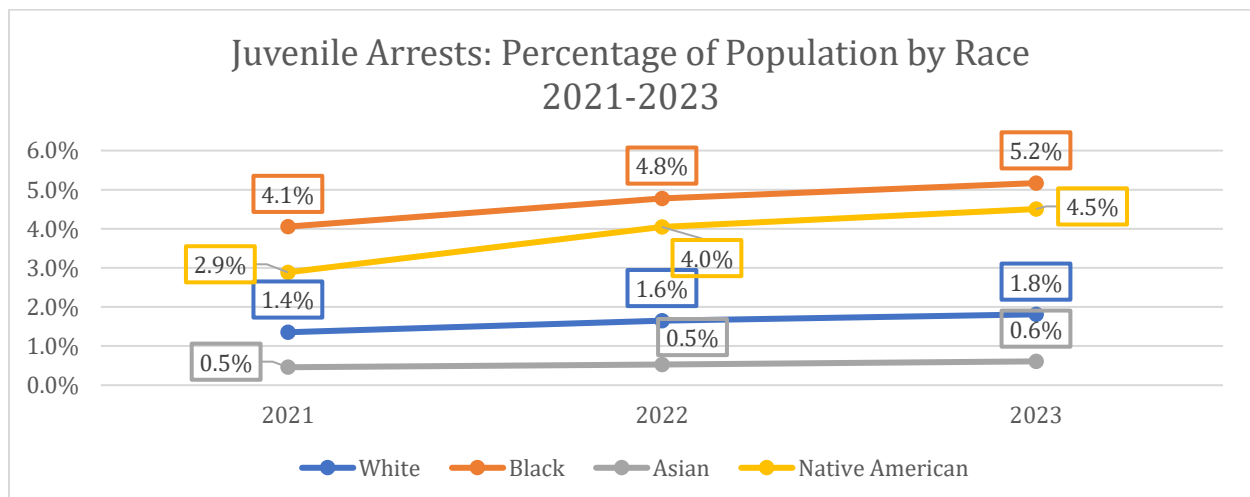
¹⁰ Wisconsin Department of Justice, Bureau of Justice Information and Analysis (BJIA), UCR Arrest Demographics. Available: <https://www.doj.state.wi.us/dles/bjia/ucr-arrest-demographics>.

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.

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

2021 Juvenile Arrests				
	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 Arrests				
	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
2023 Juvenile Arrests				
	White	Black	Asian	Native American
2020 Total Population (Ages 0-17)	1,030,895	143,939	57,295	26,395
Total Arrests	18,671	7,439	349	1,189
Arrest Percentage of Population	1.8%	5.2%	0.6%	4.5%
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 after 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.

Wisconsin diversion data is similar to 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 *recommended* for diversion 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. This format also avoids underestimating the likelihood of system involvement.

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 cases that have been documented in error.¹⁶

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 does not adequately illustrate the disparities. 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

¹⁴ Case closures are counted as diversions when they are recommended for the following reasons: appropriate for diversion, counseled and closed, existing child welfare case open, no action taken, referred to proceedings under Ch. 51, and sent to Child Protective Services. Case closures that are the result of jurisdictional issues or record errors do not count as diversions.

¹⁵ Under a DPA, no charges are filed provided the youth adheres to the terms of the agreement.

¹⁶ The following reasons for case closure have been excluded from the count of recommended diversions: could not meet with client; duplicate referral received; existing YJ case open – delinquency or JIPS; no jurisdiction – 17 or older, facts do not establish prima facie jurisdiction, under 10; referred back to law enforcement – citation or incomplete referral; sent to another county.

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.

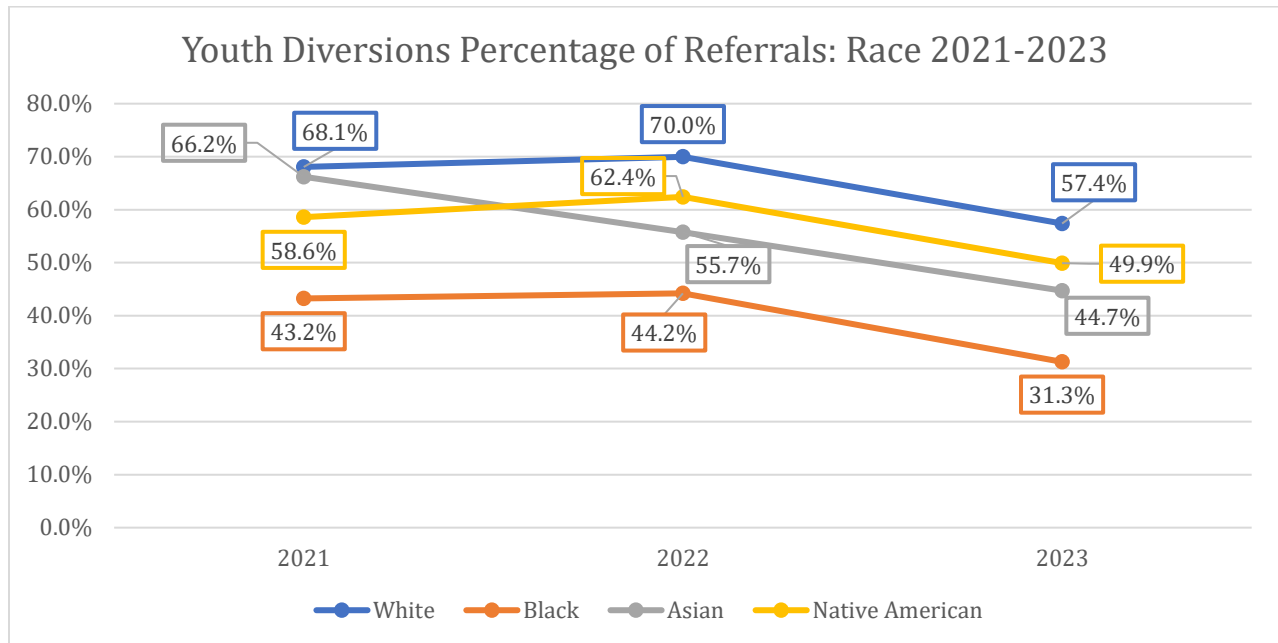
2021 Juvenile Diversion: Race				
	White	Black	Asian and Native Hawaiian	Native American/American Indian
2020 Youth Population (Ages 10-16)	426,615	56,066	21,700	9,389
Total Referrals	6,996	3,391	145	582
Referrals Recommended for Petition	2,235	1,925	49	241
Recommended Diversions	4,761	1,466	96	341
Recommended 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 Referrals	68.1%	43.2%	66.2%	58.6%
Likelihood of Diversion Compared to Referrals of White Youth	1.0	0.6 times as likely	1.0 times as likely	0.9 times as likely

¹⁷ Likelihood of youth being both referred and diverted.

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
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 Referrals	70.0%	44.2%	55.7%	62.4%
Likelihood of Diversion Compared to Referrals of White Youth	1.0	0.6 times as likely	0.8 times as likely	0.9 times as likely
2023 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	7,160	3,581	123	563
Referrals Recommended for Petition	2,227	2,103	62	210
Recommended Diversions	4,108	1,120	55	281
Recommended Diversion Percentage of Population	1.0%	2.0%	0.3%	3.0%
Likelihood of Diversion Compared to General White Youth Population¹⁹	1.0	2.1	0.3	3.1
Recommended Diversion Percentage of Referrals	57.4%	31.3%	44.7%	49.9%
Likelihood of Diversion Compared to Referrals of White Youth	1.0	0.5	0.8	0.9

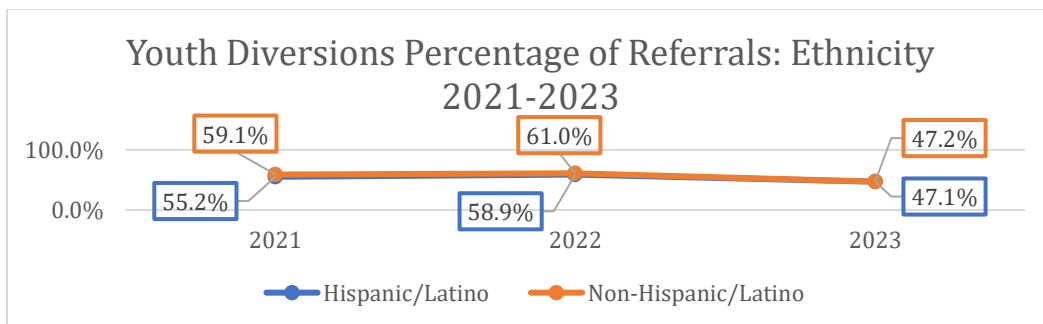
¹⁸ Likelihood of youth being both referred and diverted.

¹⁹ Likelihood of youth being both referred and diverted.



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
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 Referrals	59.4%	61.4%
Likelihood of Diversion Compared to Referrals of 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
2023 Juvenile Diversion: Ethnicity		
	Hispanic/Latino	Non-Hispanic/Latino
2020 Youth Population (Ages 10-16)	64,058	449,712
Total Referrals	1,156	9,201
Referrals Recommended for Petition	500	3,752
Recommended Diversions	545	4,342
Recommended Diversion Percentage of Population	0.9%	1.0%
Likelihood of Diversion Compared to General Non-Hispanic Youth	0.9	1.0
Recommended Diversion Percentage of Referred Youth	47.1%	47.2%
Likelihood of Diversion Compared to Referred Non-Hispanic Youth	1.0	1.0



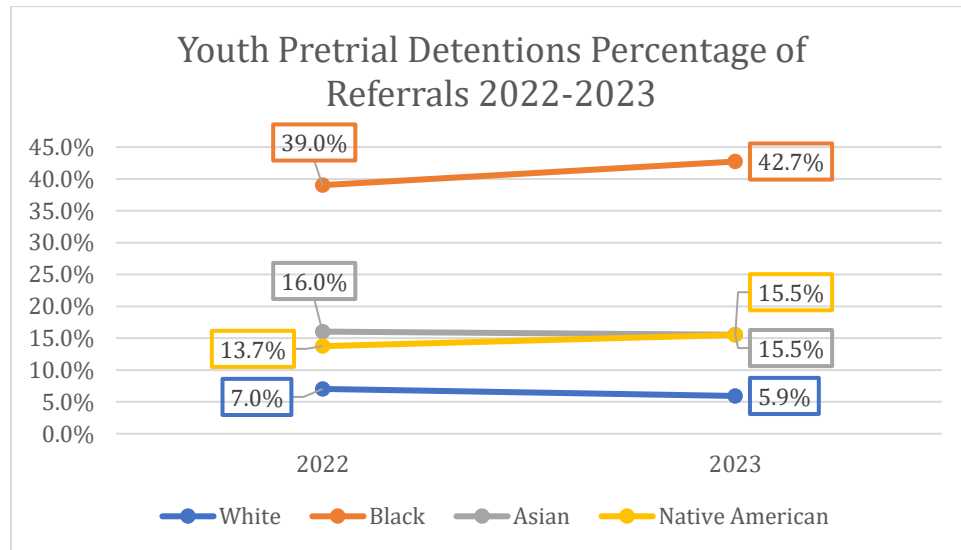
Pretrial Detention

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 that calendar year. Full state-wide pre-trial detention data first came available in 2022, so only two years of data is provided. Our data partners did not provide ethnicity data (Hispanic/Latino and Non-Hispanic/Latino) so only racial data is provided.

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

2023 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	7,691	3,442	148	709
Total Pretrial Detentions	456	1,471	23	110
Pretrial Detentions Percentage of Population	0.1%	2.6%	0.1%	1.2%
Likelihood of Pretrial Detention Compared to General White Youth Population	1.0	24.5	1.0	11.0
Pretrial Detention Percentage of Referred Youth	5.9%	42.7%	15.5%	15.5%
Likelihood of Pretrial Detention Compared to Referrals of White Youth	1.0	7.2	2.6	2.6

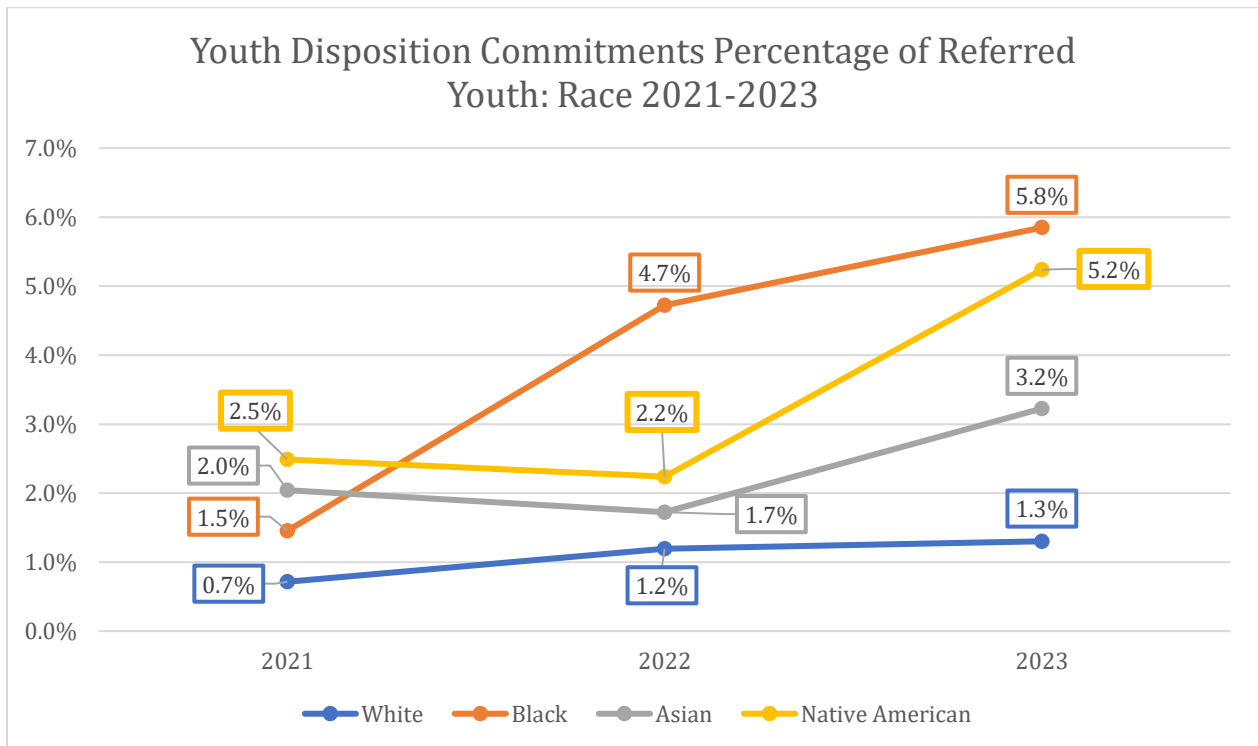


Disposition Commitments

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

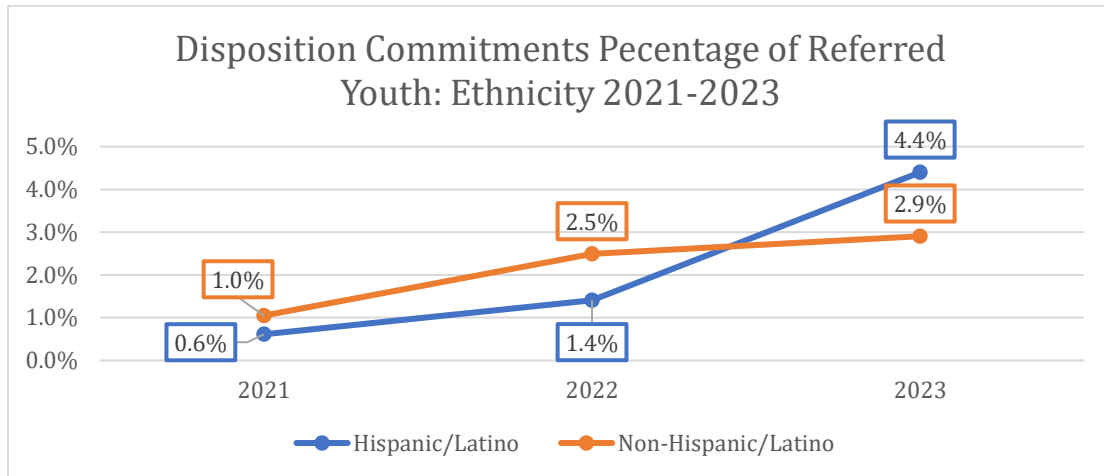
2021 Juvenile Disposition Commitments: Race				
	White	Black	Asian	Native American
2020 Youth Population (age 10-16)	426,615	56,066	21,700	9,389
Total Referrals Recommended for Petition	2,235	1,925	44	241
Total Youth Committed	16	28	1	6
Youth Committed Percentage of Population	0.004%	0.05%	0.005%	0.06%
Likelihood of Commitment Compared to White Youth	1.0	13.3 times as likely	1.2 times as likely	17.0 times as likely
Youth Committed Percentage of Referrals Recommended for Petition	0.7%	1.5%	2.0%	2.5%
Likelihood of Commitment Compared to Referrals of White Youth Recommended for Petition	1.0	2.0 times as likely	2.9 times as likely	3.5 times as likely
2022 Juvenile Disposition Commitments: Race				
	White	Black	Asian	Native American
2020 Youth Population (age 10-16)	426,615	56,066	21,700	9,389
Total Referrals Recommended for Petition	2,260	1,927	58	268
Total Youth Committed	27	91	1	6
Youth Committed Percentage of Population	0.01%	0.2%	0.005%	0.06%
Likelihood of Commitment Compared to White Youth	1.0	25.6 times as likely	0.7 times as likely	10.1 times as likely
Youth Committed Percentage of Referrals Recommended for Petition	1.2%	4.7%	1.7%	2.2%
Likelihood of Commitment Compared to Referrals of White Youth Recommended for Petition	1.0	4.0 times as likely	1.4 times as likely	1.9 times as likely

2023 Juvenile Disposition Commitments: Race				
	White	Black	Asian	Native American
2020 Youth Population (age 10-16)	426,615	56,066	21,700	9,389
Total Referrals Recommended for Petition	2,227	2,103	62	210
Total Youth Committed	29	123	2	11
Youth Committed Percentage of Population	0.01%	0.2%	0.009%	0.12%
Likelihood of Commitment Compared to White Youth	1.0	32.3	1.4	17.2
Youth Committed Percentage of Referrals Recommended for Petition	1.3%	5.8%	3.2%	5.2%
Likelihood of Commitment Compared to Referrals of White Youth Recommended for Petition	1.0	4.5	2.5	4.0



2021 Juvenile Disposition Commitments: Ethnicity		
	Hispanic/Latino	Non-Hispanic/Latino
2020 Youth Population (Ages 10-16)	64,058	449,712
Total Referrals Recommended for Petition	491	3,621
Total Youth Committed	3	38
Youth Committed Percentage of Population	0.005%	0.01%
Likelihood of Commitment Compared to White Youth	0.6 times as likely	1.0
Youth Committed Percentage of Referrals Recommended for Petition	0.6%	1.0%
Likelihood of Committed Compared to Referrals of Non-Hispanic/Latino Youth Recommended for Petition	0.6 times as likely	1.0
2022 Juvenile Disposition Commitments: Ethnicity		
	Hispanic/Latino	Non-Hispanic/Latino
2020 Youth Population (Ages 10-16)	64,058	449,712
Total Referrals Recommended for Petition	497	3,654
Total Youth Committed	7	91
Youth Committed Percentage of Population	0.01%	0.02%
Likelihood of Commitment Compared to Non-Hispanic/Latino Youth	0.54 times as likely	1.00
Youth Committed Percentage of Referrals Recommended for Petition	1.4%	2.5%
Likelihood of Committed Compared to Referrals of Non-Hispanic/Latino Youth Recommended for Petition	0.6 times as likely	1.0
2023 Juvenile Disposition Commitments: Ethnicity		
	Hispanic/Latino	Non-Hispanic/Latino
2020 Youth Population (Ages 10-16)	64,058	449,712
Total Referrals Recommended for Petition	500	3,752
Total Youth Committed	22	109
Youth Committed Percentage of Population	0.03%	0.02%
Likelihood of Commitment Compared to Non-Hispanic/Latino Youth	1.4	1.0
Youth Committed Percentage of Referrals Recommended for Petition	4.4%	2.9%

Likelihood of Committed Compared to Referrals of Non-Hispanic/Latino Youth Recommended for Petition	1.5	1.0
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Waivers to Adult Court

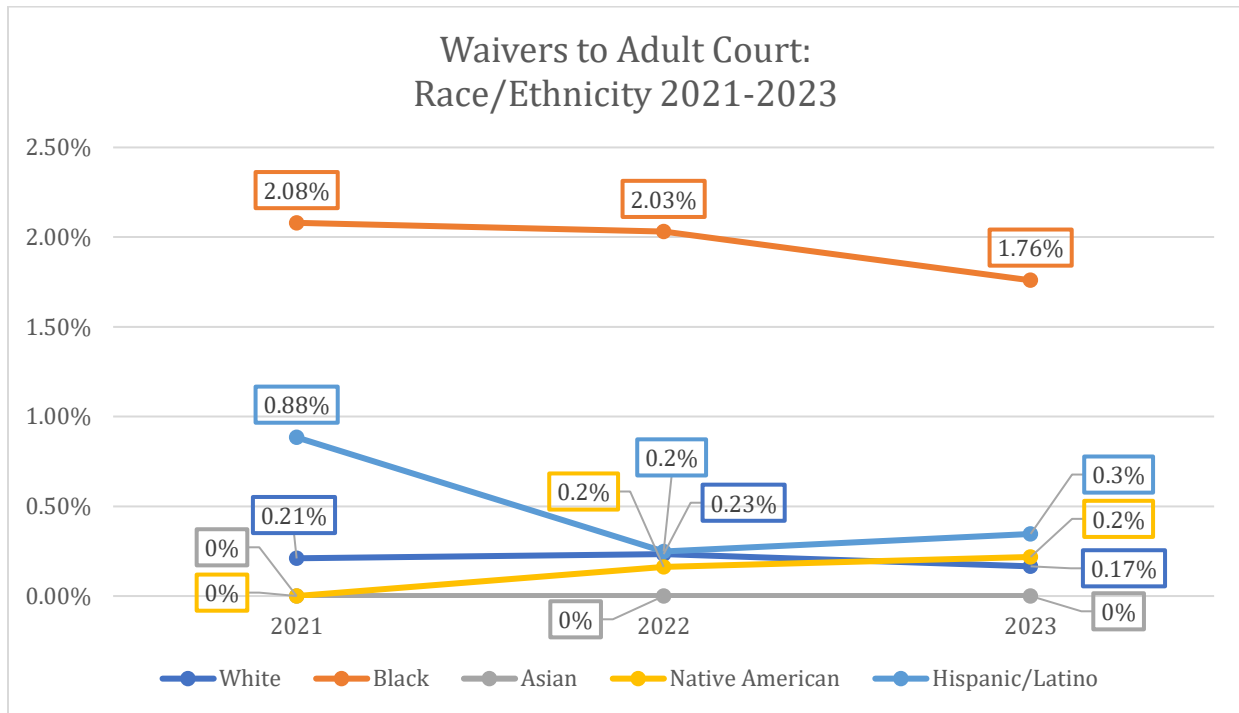
The Wisconsin Circuit Courts collect and maintain data on youth whose cases are waived to adult court.²⁰ These cases meet the federal definition of waivers to adult court: “waived cases are those in which a youth is transferred to criminal court as a result of a judicial finding in juvenile court.” This data does not include youth whose cases are automatically filed under original adult court jurisdiction via Wis. Stat. §938.183.²¹ These cases are not transferred because of a judicial finding, but rather originate in adult court per applicable statute.

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

²⁰ 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>.

²¹ 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>.

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
2023 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	5,442	3,126	99	459	1,156
Waivers	9	55	0	1	4
Waivers %/Total Population	0.002%	0.106%	0%	0.0002	0.006%
Likelihood of Waiver compared to White youth general population	1.0	43.7	0	6.4	2.6
Waivers %/Referrals	0.17%	1.76%	0%	0.2%	0.3%
Likelihood of Waiver compared to referrals of White youth	1.0	10.6	0	1.3	2.1



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

The total number of arrests decreased in 2020-2021 during the pandemic and increased again in 2022-2023. Despite the increase, total arrests remain below pre-pandemic levels for White, Black, and Asian youth. Total arrests of Native American youth are greater than pre-pandemic levels (1,189 in 2023 vs. 1,035 in 2019). Disparities fluctuated between 2021-2023 increasing for Native American youth and decreasing slightly for Black youth. Despite the fluctuation, 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.

Diversion

In previous years, more than two-thirds of White youth were recommended for diversion (70% in 2022) while less than half of Black youth who were referred to court intake were diverted (44.2% in 2022). Approximately two-thirds of Native American (62.4% in 2022) and half of Asian (55.7% in 2022) youth who were referred were recommended for diversion. In 2023 the percentage of referrals diverted declined significantly for youth of all races (57% in 2023 of referrals of White youth, 31% for Black youth, 44% for Asian youth, and 49% for Native American youth).

Diversions for Black youth have persistently lagged behind those of other races. Of those referred to youth justice intake, Black youth were 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. Moreover, disparities for diversion have increased slightly for Black youth and remained the same for Native American and Asian youth. Diversions for youth of all ethnicities (Hispanic/Latino and Non-Hispanic/Latino) decreased and converged. In 2023 Hispanic/Latino youth were as likely as Non-Hispanic/Latino youth to be diverted.

Pretrial Detention

Disparities in pretrial detention are significant for all youth of color, especially for Black youth. Black youth who were referred 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 were detained pretrial, while only 7% of White youth were detained. 16% of referred Asian youth and 13.7% of Native American youth were detained.

In 2023, disparities increased significantly for Black youth as a greater percentage of referred Black youth were placed in pretrial detention (42% in 2023 compared to 39% in 2022) while a smaller percentage of White youth were detained (6% in 2023 compared to 7% in 2022). Disparities increased slightly for Asian and Native American youth as well. Both Asian and Native American youth were more than twice as likely to be detained pretrial as White youth.

Disposition Commitments

The total number of disposition commitments continued to rise in 2023 from pandemic lows. Disparities in disposition commitments 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 committed post-disposition than White youth. Native American youth and Asian youth are more likely to be confined post-disposition than White youth, and disparities increased in 2023, especially for Native American youth. Disparities are present for youth based on ethnicity as well. Hispanic/Latino youth are slightly more likely to be committed than Non-Hispanic/Latino youth.

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 8 times as likely as White youth to be waived to adult court in 2022 to 10 times as likely in 2023. Notably, disparities for Native American youth have increased in 2023 from being less likely than referred White youth to be waived in 2022 to more likely to be waived. 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, waived at the same rate as White youth in 2022, and waived more in 2023. Again, these trends are difficult to

draw longstanding conclusions based on the small numbers of youth waived to adult court overall, only 69 waivers were made in 2023.

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 (disposition commitments 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.²² 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. Lastly, service availability may play a part in contributing to disparities as youth are pushed into the system initially and deeper into the system in hopes of getting youth the resources and programming they need.

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:

²² 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>.

ETHNIC AND RACIAL DISPARITIES REDUCTION GOALS AND OBJECTIVES	
Priority 1	All juvenile justice stakeholders and 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 and effective disparity reduction strategies.
Goal 1: RESEARCH	Research and learn through collaboration
	Objective 1.1 The ERD Subcommittee will solicit input from experts and individuals with lived experience in the juvenile justice system about what factors create disparities in Wisconsin and effective solutions for reducing disparities.
Goal 2: EDUCATION	Educate stakeholders
	Objective 2.1 The ERD subcommittee will bring stakeholders together to review evidence-based and promising interventions to reduce disparities. The 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.
	Objective 2.2 WI DOJ will ensure racial and ethnic disparity data is publicly available and accessible to a variety of audiences.
	Objective 2.3 ERD Subcommittee members and WI DOJ staff will partner to present R/ED data and reduction best practice information to juvenile justice stakeholders and decision makers.
Goal 3: FUNDING	Fund disparity reduction projects
	Objective 3.1 WI DOJ will fund agencies' efforts to collect data, identify local disparities, and identify root causes of disparities.
	Objective 3.2 WI DOJ will fund trainings, programs, and strategic interventions that reduce disparities.
	Objective 3.3 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 4: DATA ANALYSIS	The Title II Racial and Ethnic Disparities Reduction Plan will include a data analysis from each of the five OJJDP contact points.
	Objective 3.1 WI DOJ will collect and improve data quality and analysis accuracy by 1) identifying data gaps in the R/ED Reduction Plan, 2) collaborating with local and state agencies to collect their data at each contact point, and 3) collaborating with local and state agencies to analyze and contextualize data.

Reduction Goals and Objectives

How 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, about what a fair system would look like and what interventions were impactful in their lives.

WI DOJ will collaborate with local jurisdictions to collect and analyze data to determine why diversion disparities exist. WI DOJ will gather data on diversion decisions based on offense type and youth race with a focus on White youth compared to Black and Native American youth. Together with the local jurisdictions, WI DOJ will identify the risk, mitigating, and aggravating factors that key decision makers consider when determining who is, and who is not, appropriate for diversion services.

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. More information about local decision-making strategies and considerations, localized disparities (or lack thereof), and program availability will be essential to targeting educational efforts. 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 how to address disparities at diversion and remove barriers for deflecting and diverting 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. WI DOJ and the ERD Subcommittee collaborated to develop and distribute two data factsheets and present a training to stakeholders. Additional data analysis and educational activities are planned. Resources will be developed and distributed as local data analysis and outreach is completed.

There is currently interest in implementing new deflection and diversion practices in certain communities in Wisconsin. This interest is supplemented by deflection practices implemented for adults in the criminal justice system, indicating that some 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.²³ By avoiding these collateral consequences and receiving services that address their underlying needs through diversion programming, youth will be equipped to live productive lives.

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	Diverted youth are those that have received a formal Youth Justice Referral but were not recommended for petition. This includes	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

²³ "Collateral Consequences of Juvenile Delinquency Proceedings: A Guide for Juvenile Court Professionals." By Wisconsin State Public Defenders. Available: <https://www.wispsd.gov/juvenile-collateral-consequences/>.

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>.

	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 without the filing of formal charges.	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 of the case—only the recommendation made by the youth justice intake worker.	<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.
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.
Disposition Commitments	Commitments are those in which, following a court disposition, youth are placed in secure residential or correctional facilities for delinquent offenders. The committed population should not include any youth placed	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	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

	in any form of out-of-home placement. Group homes, shelters, and mental health treatment facilities, for example, would usually not be considered confinement.	long term post-dispositional detention in county detention facilities.	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 .

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

Appendix C: Bibliography

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- Wisconsin State Statute Chapter 938.02 (1) Definitions “Adult.” [https://docs.legis.wisconsin.gov/document/statutes/938.02\(1\)](https://docs.legis.wisconsin.gov/document/statutes/938.02(1))
- Wisconsin State Statute, Chapter 938.18 Jurisdiction for criminal proceedings for juveniles 14 or older; waiver hearing. <https://docs.legis.wisconsin.gov/document/statutes/938.18>.
- 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>.

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