

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

**FY2022 Title II Grant Application**

**I. Introduction**

This report documents the Wisconsin Department of Justice’s (WI DOJ) 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.”<sup>1</sup> The report was developed through a collaboration between WI DOJ, the Designated State Agency (DSA), The Governor’s Juvenile Justice Commission (GJJC) which is the State Advisory Group (SAG), and the Ethnic and Racial Disparities (ERD) Subcommittee, which serves as the designated coordinating body and is composed of juvenile justice stakeholders, including educational system representatives, state, local, and tribal representatives, and advises state, local, and tribal governments on strategies to reduce racial and ethnic disparities (R/ED).<sup>2</sup>

Section II of this report will identify and analyze percent of population data on race and ethnicity at four of five key points of contact—arrest, diversion, secure confinement, and transfers to adult court<sup>3</sup>—to identify racial and ethnic disparities among youth who come into contact with the juvenile justice system.<sup>4</sup> Section III will develop a work plan that includes measurable objectives for policy, practice, or other system changes, based on the needs identified in Section II.<sup>5</sup> Section IV will describe the progress made on the goals established in the 2021 R/ED Plan,

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<sup>1</sup> JJDPA, Section 11133. State Plans, (a)(15).

<sup>2</sup> JJDPA, Section 11133. State Plans, (a)(15)(A).

<sup>3</sup> Statewide pretrial attention data is not yet available. The data analysis section contains a description of the progress made in filling this data gap as well as a description of the use of secure detention provided to the ERD Subcommittee by stakeholders.

<sup>4</sup> JJDPA, Section 11133. State Plans, (a)(15)(B).

<sup>5</sup> JJDPA, Section 11133. State Plans, (a)(15)(C).

reiterate the goals for 2022 identified in Section III, and establish an outcome-based evaluation to measure the efficacy of our established work plan next year.

## **II. Identify the Problem: Juvenile Justice Contact Points Statewide Percent of Population Data Analysis**

### *A. Summary and Data Source*

The data for this report is located in and collected through various sources. General population data is drawn from the 2020 U.S. Census data.<sup>6</sup> Detailed youth population data, including demographic data, is drawn from the postcensal estimates of the resident population of the United States prepared collaboratively between the U.S. Census Bureau and the National Center for Health Statistics.<sup>7</sup>

Data for the five juvenile justice points of contact are maintained by several agencies. 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.<sup>8</sup> Though UCR data provides detailed information regarding race,<sup>9</sup> the system does not disaggregate the data by ethnicity (Hispanic/Not Hispanic). Additionally, UCR arrest data includes youth ages 0-9 and 17, which are not under the jurisdiction of the juvenile justice system in Wisconsin. This limitation will be referenced and accounted for throughout the arrest data analysis section.

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<sup>6</sup> U.S. Census Bureau, QuickFacts, Wisconsin; United States. Available: <https://www.census.gov/quickfacts/WI>.

<sup>7</sup> 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](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/>. [Retrieved 4/19/2022].

<sup>8</sup> 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>.

<sup>9</sup> 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>.

Data representing the use of diversion and pretrial detention is located in the electronic Wisconsin Statewide Automated Child Welfare Information System (eWiSACWIS). This database is managed by the Wisconsin Department of Children and Families (WI DCF) and includes data collected by county human/social services agencies. The eWiSACWIS component collecting pretrial detention data is not yet universally used by all local agencies. As such, statewide quantitative data is not available for this contact point. This report does provide qualitative data drawn from stakeholder reports to the ERD Subcommittee.

Data regarding the state's secure correctional confinement is maintained by the Wisconsin Department of Corrections. Data regarding juvenile transfers to adult court is maintained by the Wisconsin State Courts. 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 12 months in a calendar year.

### *B. Population Summary*

As of April 1, 2020, Wisconsin had a total of 5,893,718 residents.<sup>10</sup> Of those residents, 513,770 (8.7%) of them are youth ages 10-16. With 17-year-olds added to that number, Wisconsin has a total of 587,741 (10%) youth ages 10-17. Wisconsin remains one of three states that considers 17-year-olds adults for purposes of criminal prosecution.<sup>11</sup> For the purposes of this report, the analysis of the arrest contact point will include 17-year-olds due to FBI UCR data limitations. The remaining contact points for which statewide data is available (diversion, secure confinement, and

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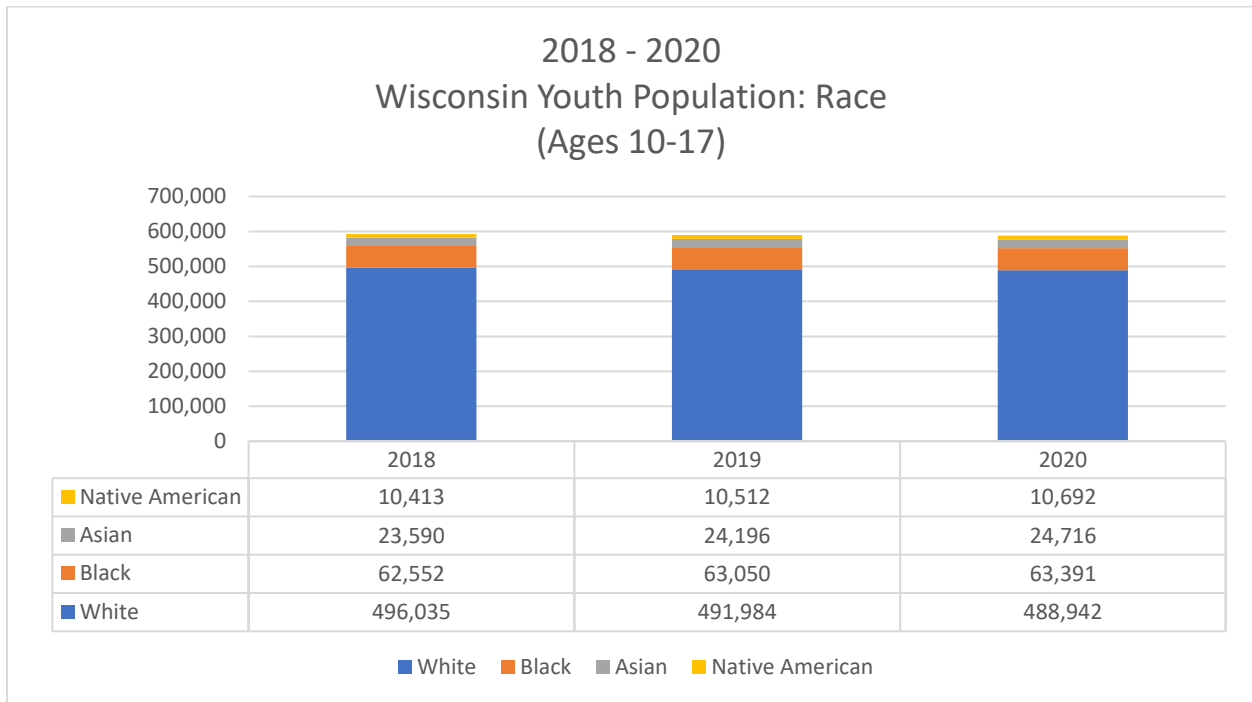
<sup>10</sup> U.S. Census Bureau.

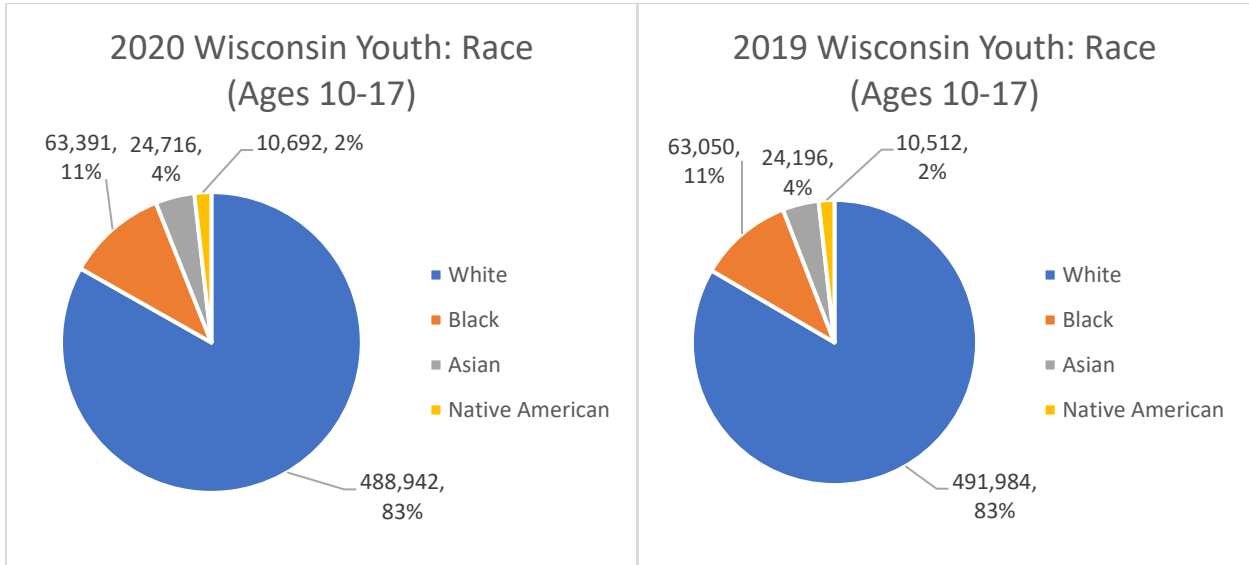
<sup>11</sup> [Wisconsin Statute Chapter 938.02\(1\)](#) "Adult' means a person who is 18 years of age or older, except that for purposes of investigating or prosecuting a person who is alleged to have violated any state or federal criminal law or any civil law or municipal ordinance, 'adult' means a person who has attained 17 years of age."

transfers to adult court) will only include youth ages 10-16, as that is the age of juvenile jurisdiction in Wisconsin.

Wisconsin’s demographic make-up has changed slightly over the past three years. In 2018, white youth made up 83.7% of Wisconsin’s youth population. In 2019, that decreased to 83.4 % and again in 2020 to 83.2%. At the same time, the proportion of Black, Asian, and Native American youth together has increased over the same period from 16.3% in 2018 to 16.6% in 2019, and 16.8% in 2020.

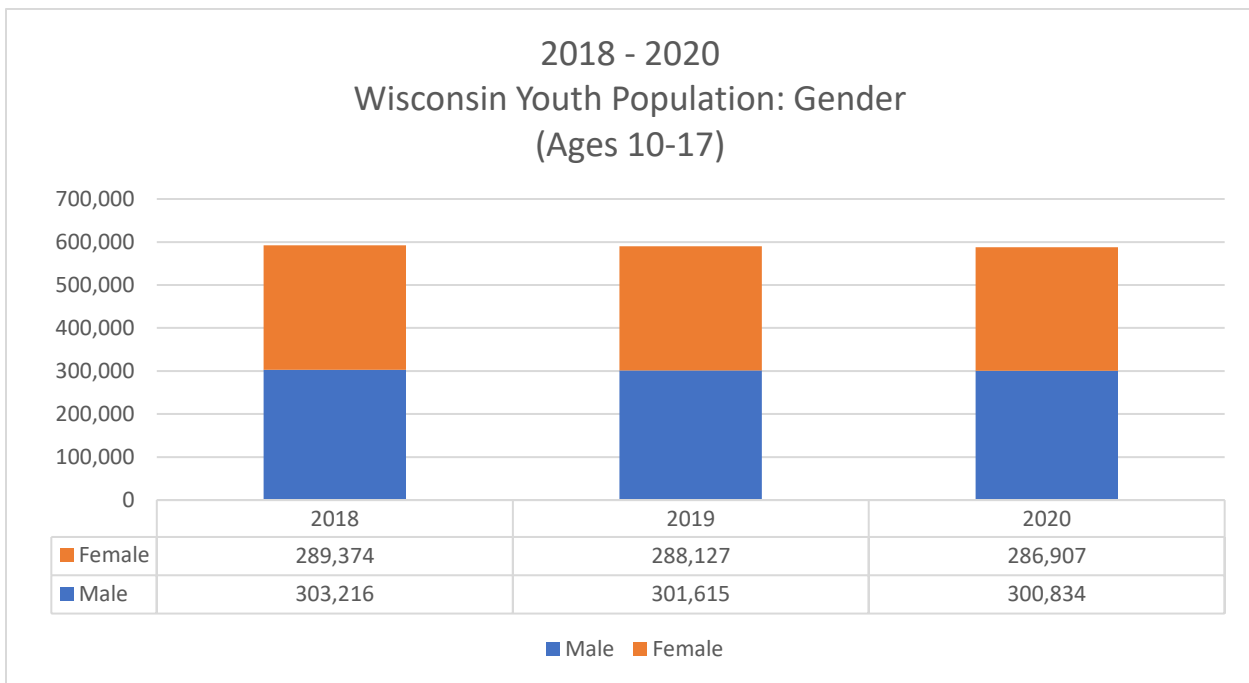
WI Youth Aged 10-17: Race		White	Black	Native American	Asian	Total
<b>2018</b>	Total Population	496,035	62,552	10,413	23,590	591,870
	Percentage	83.7%	10.6%	1.8%	4.0%	100.0%
<b>2019</b>	Total Population	491,984	63,050	10,512	24,196	589,742
	Percentage	83.4%	10.7%	1.8%	4.1%	100.0%
<b>2020</b>	Total Population	488,942	63,391	10,692	24,716	587,741
	Percentage	83.2%	10.8%	1.8%	4.2%	100.0%

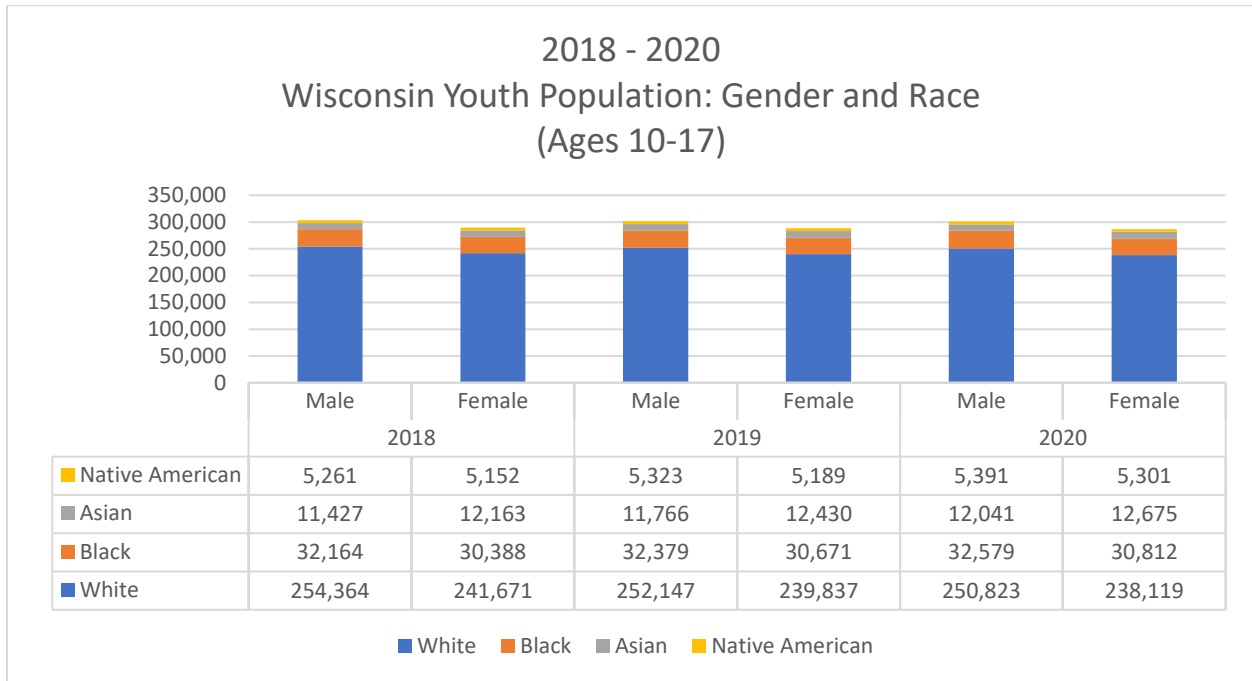




Total Population age 10-17 in 2019: 589,742      Total Population age 10-17 in 2020: 587,741

Though the racial make-up of Wisconsin has changed slightly, the gendered distribution remains stable with female youth making up 49% of youth and males making up 51% in 2018, 2019, and 2020.



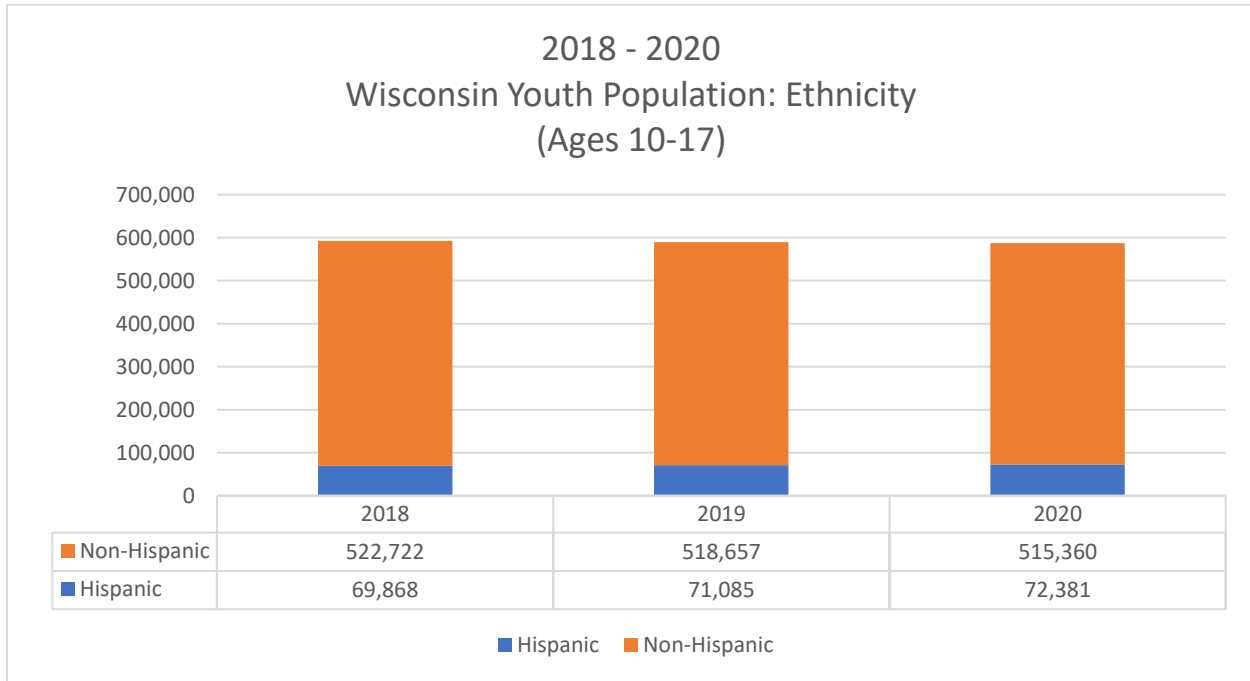


Over the past three years, there has been an increase in the Hispanic youth population in Wisconsin. Hispanic ethnicity is an important demographic in Wisconsin as Hispanic youth make up 12% of the youth population. Due to the data collection methods of our agency partners Hispanic ethnicity is considered orthogonal to racial identity for the purposes of the data analysis in this report.<sup>12</sup> Please note that for diversion, secure confinement, and transfers to adult court, youth are categorized both by race (white, Black, Asian, or Native American) and ethnicity (Hispanic or non-Hispanic) and will be counted in each category.

WI Youth Aged 10-17: Ethnicity		Non-Hispanic	Hispanic	Total
<b>2018</b>	Total Population	522,722	69,868	592,590
	Percentage	88.2%	11.8%	100.0%
<b>2019</b>	Total Population	518,657	71,085	589,742
	Percentage	87.9%	12.1%	100.0%
<b>2020</b>	Total Population	515,360	72,381	587,741
	Percentage	87.9%	12.3%	100.0%

<sup>12</sup> Data regarding ethnicity at point of arrest is unavailable due to the constraints of the UCR system.

WI Youth Aged 10-16: Ethnicity		Non-Hispanic	Hispanic	Total
<b>2018</b>	Total Population	455,614	61,732	517,346
<b>2019</b>	Total Population	453,076	62,790	515,866
<b>2020</b>	Total Population	449,712	64,058	513,770



*C. Arrest*

Wisconsin sources juvenile arrest data through the Federal Bureau of Investigation (FBI) Uniform Crime Reporting (UCR) program. This data is reported by Wisconsin law enforcement agencies and collected and maintained by the Wisconsin Department of Justice Bureau of Justice Information and Analysis (BJIA). UCR data does not capture ethnicity (Hispanic/non-Hispanic).<sup>13</sup> UCR data also includes arrests of youth ages 0-17, which includes some youth outside of juvenile jurisdiction.

<sup>13</sup> Due to the Uniform Crime Reporting data collection limitations, data for youth arrests broken down by ethnicity is not available for analysis. The Wisconsin Department of Justice and Department of Children and Families have begun the process of collaborating to expand data collection in this area to improve the quality and accuracy of Wisconsin’s data.

Arrest has two relevant definitions for the purpose of this report. The federal definition:<sup>14</sup>

*Youth are considered arrested when law enforcement agencies apprehend, stop, or otherwise contact them and suspect them of having committed a delinquent act.*

And the Uniform Crime Reporting system definition:

*All persons processed by arrest (booking), citation, or summons (when served by an officer) for committing an offense in its jurisdiction. Juvenile arrests include all youth under 18 years of age, regardless of state definition who are detained, advised along with a parent of the charge and arrest, and released to the parent.*

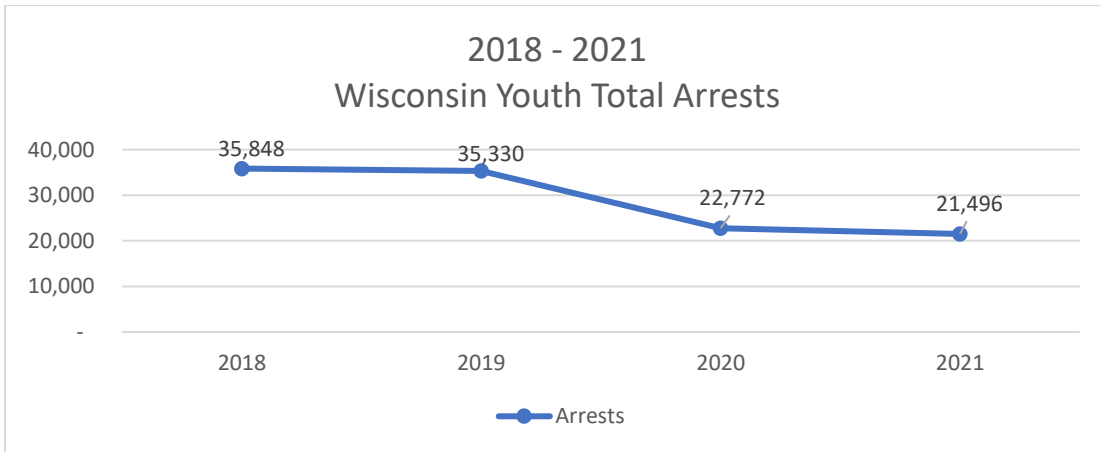
The definitions are substantively similar. The difference is that the OJJDP definition uses common language such as “stop...and suspect the [a juvenile] of having committed a delinquent act” while the UCR definition uses more law enforcement specific language including “citation, or summons...for committing an offense in its jurisdiction”. Additionally, the UCR definition language of “an offense” versus the OJJDP use of the specific “delinquent act” implies that youth arrested, detained, or confined for status offenders may be counted under this data. The data below includes all youth arrested under the UCR definition.

The number of youth arrests has declined significantly since 2019. This decline is part of an ongoing trend downwards since 2016. However, the decline in 2020 and 2021 is likely partially due to changes in crime rates during the COVID-19 pandemic.<sup>15</sup>

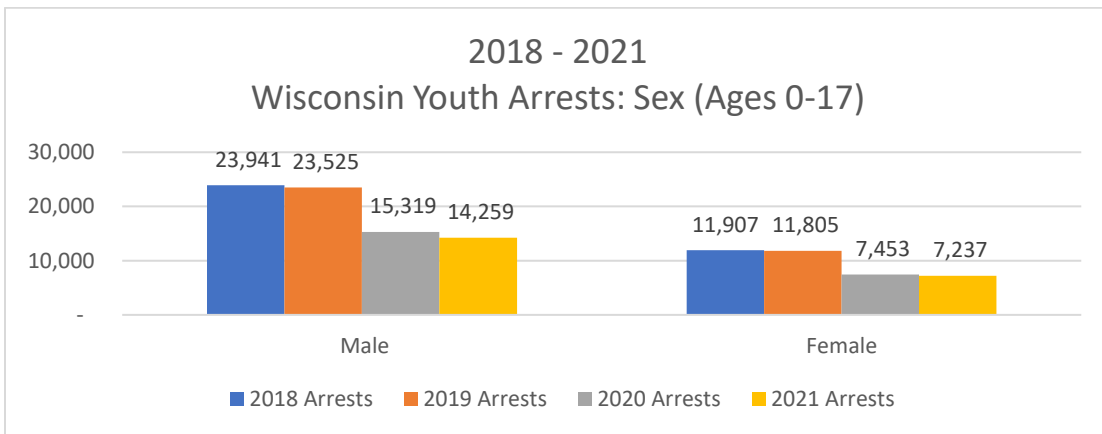
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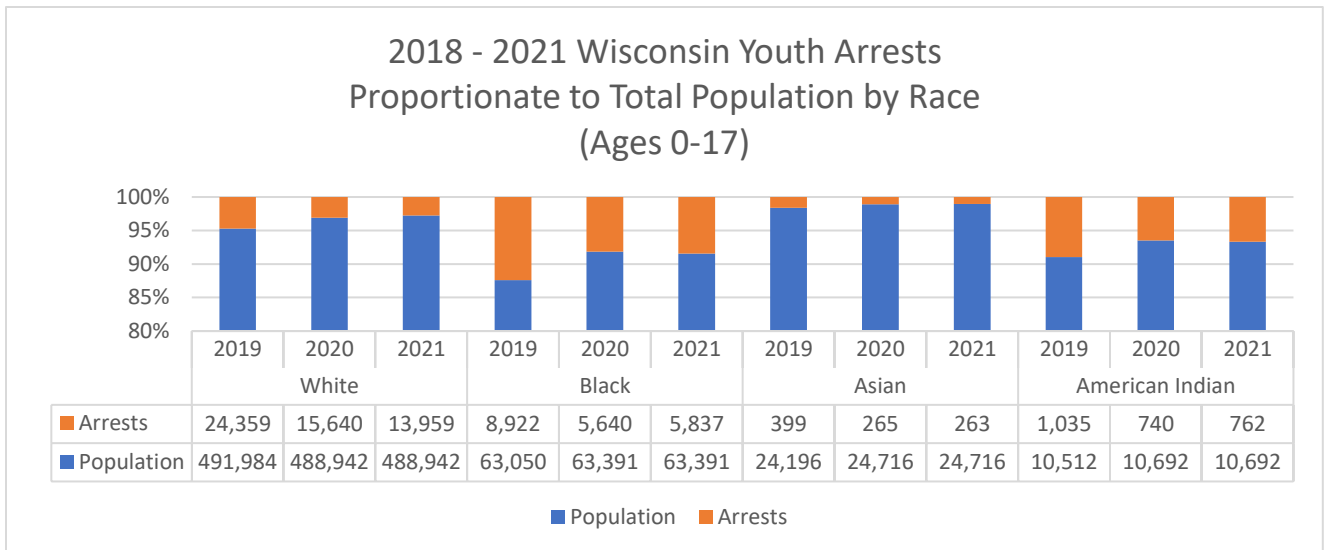
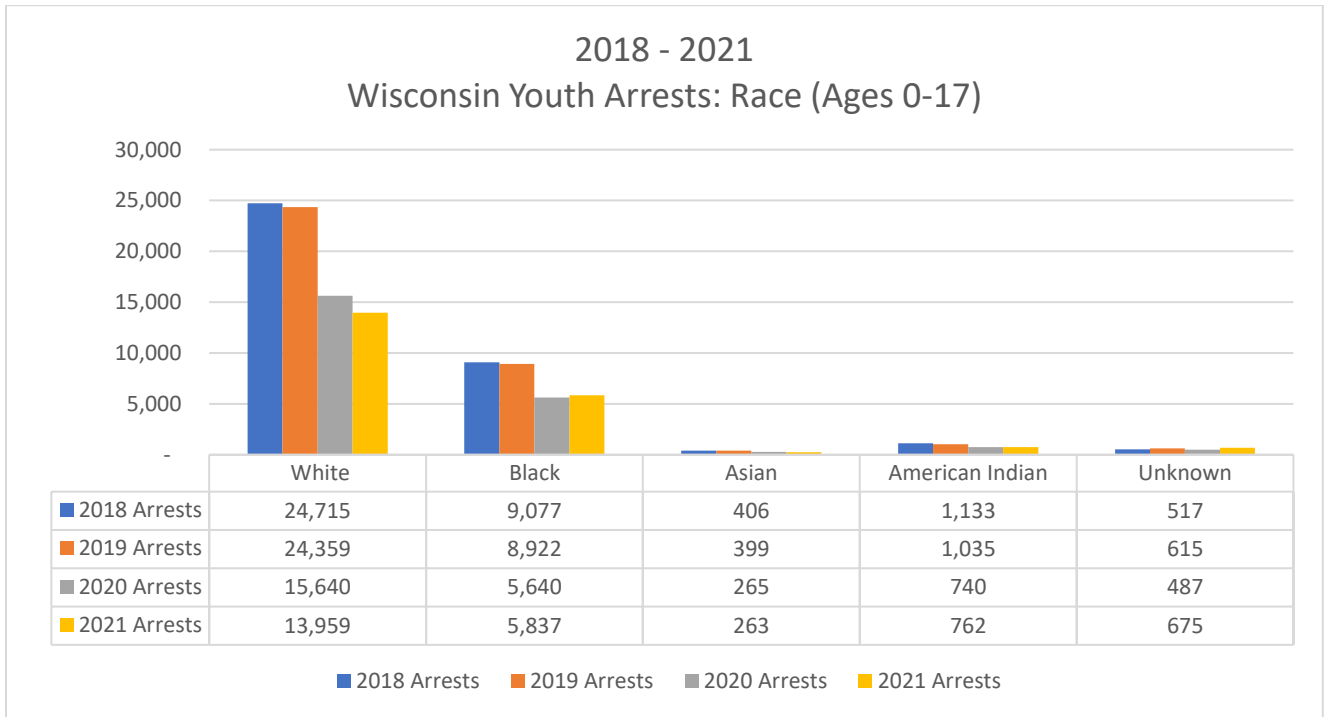
<sup>14</sup> All recommended federal definitions of contact points are taken from the “Documenting Differences in Federal & Jurisdictional Definitions When Identifying Racial and Ethnic Disparities” CCAS resource, <https://ccastates.org/system/files/event/2022/05/Doc-Definition-Differences-508.pdf>. For a full analysis of the definitions and differences between the CCAS definitions and Wisconsin’s definitions, see Appendix A.

<sup>15</sup> A full discussion on how the pandemic has changed crime and arrest levels is beyond the scope of this report.



Though arrests declined, the gender distribution of Wisconsin youth arrests remained relatively stable from 2018-2021. During these years, 33% of all youth arrests were females, while 67% of all youth arrests were males.





Arrests as a proportion of youth population by race have also declined in recent years. However, 2021 saw a slight increase in arrests of Black and Native American youth, while the number of white and Asian youth arrested continued to decline.

## 2018 Juvenile Arrest

	White	Black	Asian	Native American	Unknown	Total
<b>Total Population (Ages 10-17)</b>	496,035	62,552	23,590	10,413		591,870
<b>Total Arrests</b>	24,715	9,077	406	1,133	517	35,848
<b>Arrest Percentage of Population</b>	4.98%	14.51%	1.72%	10.88%		6.06%
<b>Likelihood of being arrested compared to white youth</b>	1.00	2.91 times as likely	0.35 times as likely	2.18 times as likely		
<b>2019 Juvenile Arrest</b>						
	White	Black	Asian	Native American	Unknown	Total
<b>Total Population (Ages 10-17)</b>	491,984	63,050	24,196	10,512		589,742
<b>Total Arrests</b>	24,359	8,922	399	1,035	615	35,330
<b>Arrest Percentage of Population</b>	4.95%	14.15%	1.65%	9.85%		5.99%
<b>Likelihood of being arrested compared to white youth</b>	1.00	2.86 times as likely	0.33 times as likely	1.99 times as likely		
<b>2020 Juvenile Arrest</b>						
	White	Black	Asian	Native American	Unknown	Total
<b>Total Population (Ages 10-17)</b>	488,942	63,391	24,716	10,692		587,741
<b>Total Arrests</b>	15,640	5,640	265	740	487	22,772
<b>Arrest Percentage of Population</b>	3.20%	8.90%	1.07%	6.92%		3.87%
<b>Likelihood of being arrested compared to white youth</b>	1.00	2.78 times as likely	0.34 times as likely	2.16 times as likely		
<b>2021 Juvenile Arrest</b>						
	White	Black	Asian	Native American	Unknown	Total
<b>2020 Total Population (Ages 10-17)</b>	488,942	63,391	24,716	10,692		587,741
<b>Total Arrests</b>	13,959	5,837	263	762	675	21,496
<b>Arrest Percentage of Population</b>	2.85%	9.21%	1.06%	7.13%		3.66%

<b>Likelihood of being arrested compared to white youth</b>	1.00	3.23 times as likely	0.37 times as likely	2.50 times as likely		
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These numbers indicate that disparities between white youth and Black, Asian, and Native American youth have increased since 2018 with some fluctuation despite the decrease in number of arrests overall. The disparities are smallest for Asian youth and largest for Black youth.

*D. Diversion:*

Youth referred to youth justice services for delinquent acts are screened by a juvenile court intake worker (typically a youth justice worker with the county human services agency, or more rarely attached to the court). The intake worker may recommend closing the case, whether for lack of legal sufficiency or because the case does not warrant further system involvement, though they may offer informal counseling or other services. As an intermediate option, the intake worker may enter into a deferred prosecution agreement (DPA) with the youth and family, under which no charges are filed provided the youth adheres to the terms of the agreement. Finally, the worker may recommend filing charges on a formal petition. In all cases, the worker must notify the prosecutor of their recommendation, and the prosecutor may select any course of action notwithstanding that recommendation. The recommended federal definition of diversion includes all youth referred for legal processing but handled without the filing of formal charges.<sup>16</sup>

In previous years Wisconsin diversion data included pre-referral diversions, i.e. youth who were arrested but who did not receive a youth justice referral, and post-referral diversions, i.e. youth who received a youth justice referral but whose cases were not recommended for formal

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<sup>16</sup> See Appendix A for a full analysis of definitions.

petition to the court.<sup>17</sup> However, that definition of diversion is broader than the federal definition and also leaves disparities' locations and causes ambiguous. Analyzing diversion data that includes both arrested youth who do not receive a youth justice referral and youth who receive a referral but are not recommended for petition complicates the process of identifying whether disparities in diversion are the result of law enforcement decision-making or intake department discretion.

To simplify interpretation, this year's analysis focuses on post-referral diversion (youth who received a youth justice referral but were not recommended for petition) to follow the federal definition more closely as well as to more clearly identify whether disparities occur due to intake worker decisions. Additionally, this simplification allows Wisconsin to provide and analyze the presence of disparities in diversion for Hispanic youth as it avoids the UCR ethnicity limitation previously mentioned.

The following data tables include data from several sources. Population data is drawn from the U.S. Census population and youth referral and diversion data is from eWiSACWIS.<sup>18</sup> In the tables, diverted youth are youth referred to the juvenile justice system 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. Per OJJDP requirements, the tables provide the percentage of population data. This data indicates youth who are referred for legal processing and subsequently diverted. The fact that Black and Native American youth have higher percentage of population diversions is an unqualified negative. The

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<sup>17</sup> This reflects the recommendation made by an intake worker and does not reflect the ultimate disposition of a case as the prosecutor retains discretion as to whether a petition is filed. It includes youth identified as suitable for diversion, those recommended for a Deferred Prosecution Agreement (DPA), and those whose cases are transferred to the Child Welfare System.

<sup>18</sup> Wisconsin's statewide child welfare and juvenile justice data system, managed by the Wisconsin Department of Children and Families.

underlying data indicates not that Black youth 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. The higher combined figure can be therefore misleading. Instead, it indicates that Black and Native American youth may be more likely to be referred to youth justice and then diverted.

Diversion can include a variety of intake worker recommendations and decisions including: youth Entered into a Deferred Prosecution Agreement (DPA) 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 recall that diversion data is based on intake worker recommendation, not ultimate disposition of a case. After an intake worker makes their recommendation—to close the case, enter into a Deferred Prosecution Agreement (one form of diversion), or request a petition, the prosecutor retains discretion to file a petition regardless of the intake worker recommendation.<sup>19</sup>

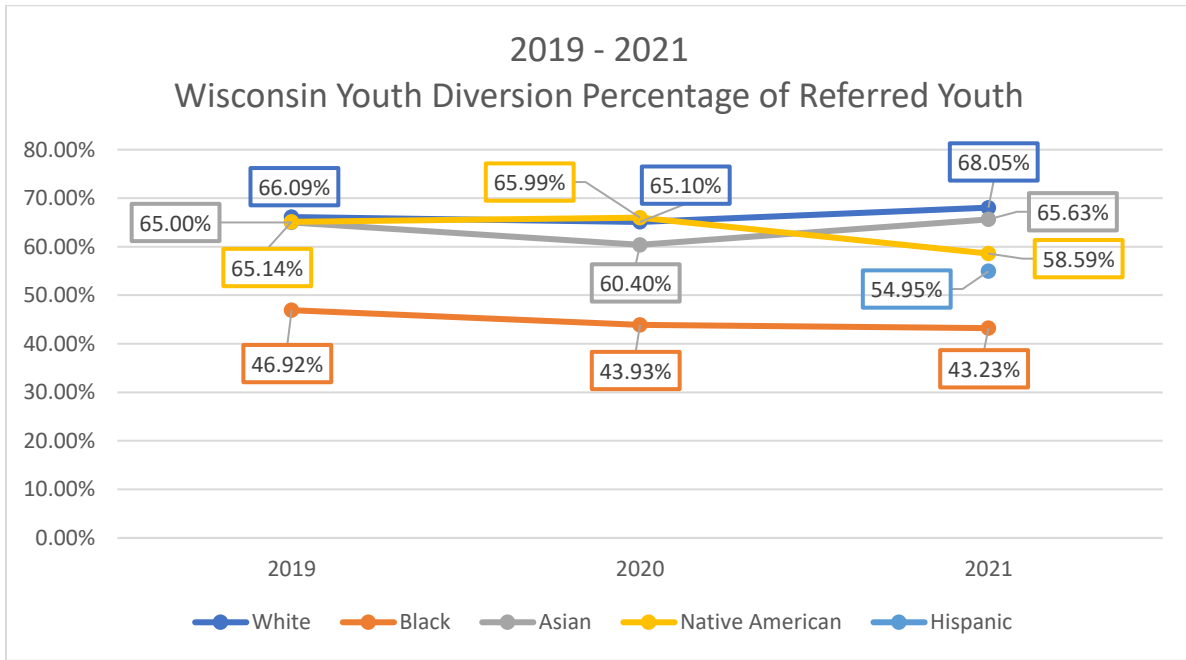
2019 Juvenile Diversion					
	White	Black	Asian	Native American	Total
<b>2019 Youth Population (Ages 10-16)</b>	429,854	55,539	21,231	9,242	515,866
<b>Total Referrals</b>	9,127	4,169	160	872	14,328

<sup>19</sup> We do not currently have access to data regarding the final disposition of cases.

<b>Referrals Recommended for Petition</b>	3,095	2,213	56	304	5,668
<b>Post-Referral Diversions</b>	6,032	1,956	104	568	8,660
<b>Post-Referral Diversion Percentage of Population</b>	1.40%	3.52%	0.49%	6.15%	1.68%
<b>Likelihood of Diversion Post-Referral Compared to General White Youth Population<sup>20</sup></b>	1.00 times as likely	2.51 times as likely	0.35 times as likely	4.38 times as likely	
<b>Post-Referral Diversion Percentage of Referred Youth</b>	66.09%	46.92%	65.00%	65.14%	60.44%
<b>Likelihood of Diversion Post-Referral Compared to Referred White Youth</b>	1.00 times as likely	0.71 times as likely	0.98 times as likely	0.99 times as likely	
<b>2020 Juvenile Diversion</b>					
	<b>White</b>	<b>Black</b>	<b>Asian</b>	<b>Native American</b>	<b>Total</b>
<b>2020 Youth Population (Ages 10-16)</b>	426,615	56,066	21,700	9,389	513,770
<b>Total Referrals</b>	6,307	2,923	101	639	9,969
<b>Referrals Recommended for Petition</b>	2,201	1,639	40	217	4,097
<b>Post-Referral Diversion</b>	4,106	1,284	61	421	5,872
<b>Post-Referral Diversion Percentage of Population</b>	0.96%	2.29%	0.28%	4.48%	1.14%
<b>Likelihood of Diversion Post-Referral Compared to General White Youth Population</b>	1.00 times as likely	2.38 times as likely	0.29 times as likely	4.66 times as likely	

<sup>20</sup> Likelihood of youth being both referred and diverted.

<b>Post-Referral Diversion Percentage of Referred Youth</b>	65.10%	43.93%	60.40%	65.99%		58.90%
<b>Likelihood of Diversion Post-Referral Compared to Referred White Youth</b>	1.00 times as likely	0.67 times as likely	0.93 times as likely	1.01 times as likely		
<b>2021 Juvenile Diversion</b>						
	<b>White</b>	<b>Black</b>	<b>Asian</b>	<b>Native American</b>	<b>Hispanic</b>	<b>Total</b>
<b>2020 Youth Population (Ages 10-16)</b>	426,615	56,066	21,700	9,389	64,058	513,770
<b>Total Referrals</b>	6,996	3,391	128	582	1,090	11,097
<b>Referrals Recommended for Petition</b>	2,235	1,925	44	241	491	4,445
<b>Post-Referral Diversion</b>	4,761	1,466	84	341	599	7,251
<b>Post-Referral Diversion Percentage of Population</b>	1.12%	2.61%	0.39%	3.63%	0.94%	1.41%
<b>Likelihood of Diversion Post-Referral Compared to General White Youth</b>	1.00	2.34 times as likely	0.35 times as likely	3.25 times as likely	0.84 times as likely	
<b>Post-Referral Diversion Percentage of Referred Youth</b>	68.05%	43.23%	65.63%	58.59%	54.95%	65.34%
<b>Likelihood of Diversion Post-Referral Compared to Referred White Youth</b>	1.00	0.64 times as likely	0.96 times as likely	0.86 times as likely	0.81 times as likely	



The chart above shows diversion as a percentage of referred youth and makes the disparities easier to compare. Of youth that are referred to youth intake, Black youth are significantly less likely to be diverted—have their cases closed, be recommended for diversion programming, or enter into a DPA—and correspondingly more likely to be recommended for petition (court processing). Moreover, disparities for diversion have increased: while the diversion percentage for Black and Native American youth has decreased, diversion percentages for white and Asian youth have increased. Hispanic data is new and only available for 2021 and not previous years so it is not possible to analyze the trend over time. For diversion, Hispanic ethnicity data is orthogonal to racial identity data. Youth in the data set are sorted by race and ethnicity and are counted under both analyses. However, referred Hispanic youth (of any race) were more likely to be diverted than Black youth (of any ethnicity) in 2021 but less likely than white youth (of any ethnicity). Additionally, the diversion percentages for non-Black youth hover around 55-65% while Black youth diversion percentages lag at under 45% in 2020 and 2021.

While this data is not presented in the above tables and figures, diversion rates for arrested youth that include pre- and post-referral diversions indicate similar disparities. Black and Native American youth are both less likely to be diverted post-arrest than white youth. The disparity for Asian youth is particularly small—only 0.99 times as likely to be diverted as arrested white youth.

Altogether, whether diversion is measured pre- or post-referral, racial disparities exist and are worst for Black and Native American youth. While the above tables and figures do not consider pre-referral diversion (i.e. diversion by law enforcement), comparing pre-referral and post-referral diversion rates (i.e. by intake workers) reveals that Black and Native American youth both experience significant disparities unevenly in the process. Arrested Black youth appear more likely than white youth both to be referred and then be recommended for petition, while arrested Native American youth appear to be referred at an even more disparate rate, but no more likely than white youth to be subsequently petitioned. These trends may be explored in future projects.

#### *E. Pre-Trial Detention*

The recommended federal definition of Pre-Trial 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.<sup>21</sup> Wisconsin's definition matches the OJJDP recommended definition.

The Wisconsin Department of Children and Families (WI DCF) implemented a new Youth Justice Referral page in eWiSACWIS in 2018. WI DCF implemented the Juvenile Secure

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<sup>21</sup> See Appendix A for a full analysis of definitions.

Detention Registry (JSDR) in eWiSACWIS in 2019. Once fully integrated into the system, the JSDR will significantly improve data collection abilities for future R/ED reduction projects.

At this time, the statewide pre-trial detention numbers for 2019 through 2021 are not complete as there are two counties who have not yet integrated the system into their data collection process. WI DCF continues to work on on-boarding the two remaining counties to the eWiSACWIS JSDR system. Once these are brought onboard, DCF will develop data standards for using the system and perform a data validation process. Finally, DCF is working to improve data export and reporting products. After these steps are completed, the data will be ready for analysis.

Despite the lack of quantitative data, the Ethnic and Racial Disparities (ERD) Subcommittee has received several reports from county human services and detention center personnel indicating that use of county detention centers has increased. Furthermore, these reports indicate that county detention centers and even correctional facilities may have been used as temporary placements for youth that would otherwise be eligible for alternative programming due to long wait lists for alternatives and concerns of overcrowding at detention centers.<sup>22</sup> Stakeholder reports and ongoing discussions regarding the use of and disparities in secure confinement have been central to the ERD Subcommittee's priorities for this year.

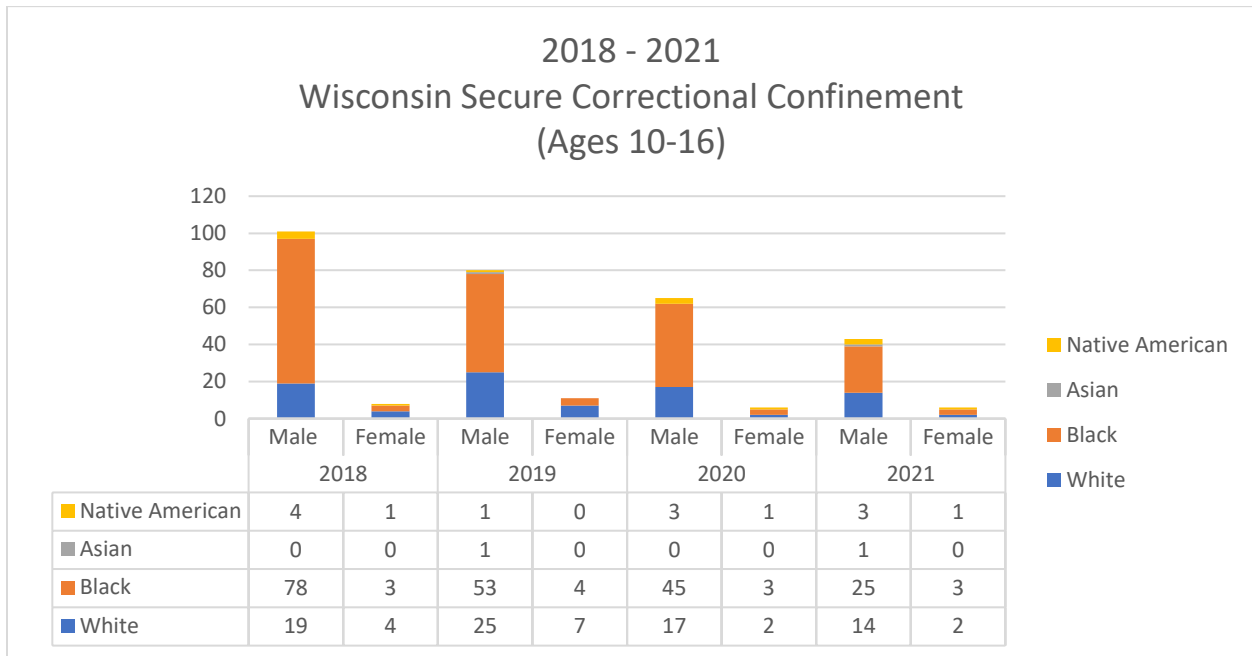
#### *F. Secure Confinement*

According to the recommended federal definition, secure confinement are cases in which, following a court disposition, youth are placed in secure residential or correctional facilities for delinquent offenses. The confinement population does not include all youth placed in any form of

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<sup>22</sup> Sarah Volpenhein and Alison Dirr, *Milwaukee Journal Sentinel*, March 20, 2022, <https://www.jsonline.com/in-depth/news/2022/03/30/failure-close-lincoln-hills-prison-strains-youth-detention-services-milwaukee-wisconsin/9347202002/>.

out-of-home placement.<sup>23</sup> Wisconsin has two juvenile correctional facilities operated by the Wisconsin Department of Corrections (DOC). Lincoln Hills School (LHS) serves males, while Copper Lake School (CLS) serves females. Both facilities are in Lincoln County Wisconsin. This data does not include long-term post-dispositional secure confinement in county-run detention facilities.



For the past four years, the population at both LHS and CLS declined significantly from 109 in 2018 to 41 in 2021.

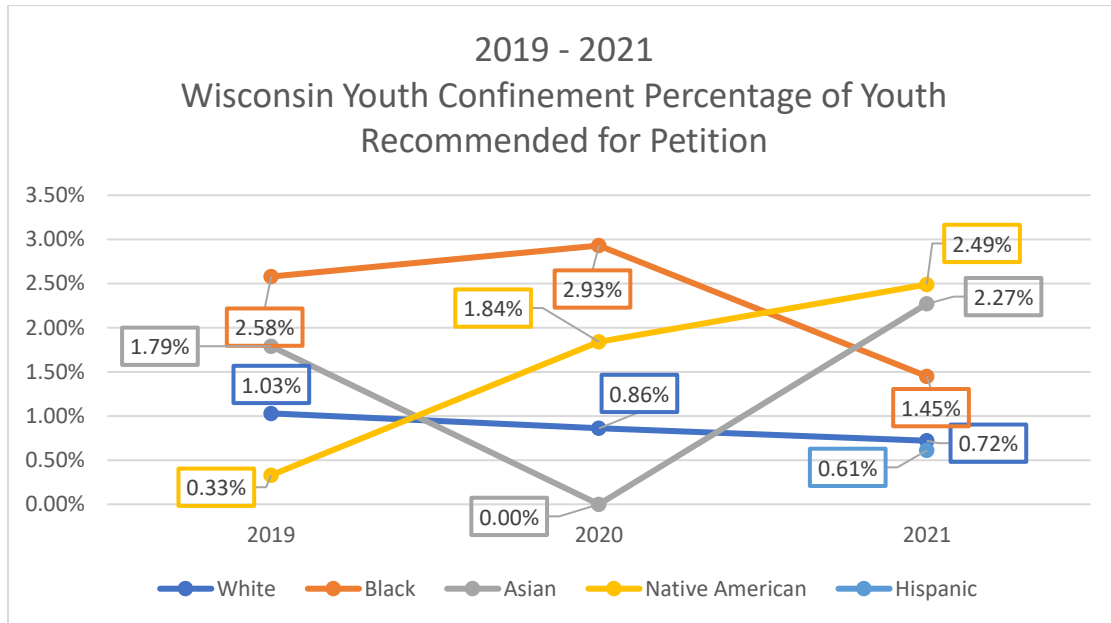
<b>2018 Juvenile Secure Confinement: Race</b>					
	<b>White</b>	<b>Black</b>	<b>Asian</b>	<b>Native American</b>	<b>Total</b>
<b>2018 Youth Population (Ages 10-16)</b>	432,513	55,053	20,583	9,197	517,346
<b>Male Secure Confinements</b>	19	78	0	4	101
<b>Female Secure Confinements</b>	4	3	0	1	8
<b>Total Secure Confinements</b>	23	81	0	5	109
<b>Secure Confinement Percentage of Population</b>	0.005%	0.15%	0.00%	0.05%	0.02%

<sup>23</sup> See Appendix A for a full analysis of definitions.

<b>Likelihood of Confinement Compared to White Youth</b>	1.00	27.67 times as likely	0.00 times as likely	10.22 times as likely	
<b>2019 Juvenile Secure Confinement: Race</b>					
	<b>White</b>	<b>Black</b>	<b>Asian</b>	<b>Native American</b>	<b>Total</b>
<b>2019 Youth Population (Ages 10-16)</b>	429,854	55,539	21,231	9,242	515,866
<b>Total Youth Recommended for Petition</b>	3,095	2,213	56	304	5,668
<b>Male Secure Confinements</b>	25	53	1	1	80
<b>Female Secure Confinements</b>	7	4	0	0	11
<b>Total Secure Confinements</b>	32	57	1	1	91
<b>Secure Confinement Percentage of Population</b>	0.007%	0.103%	0.005%	0.011%	0.0002%
<b>Likelihood of Confinement Compared to White Youth</b>	1.00 times as likely	13.79 times as likely	0.63 times as likely	1.45 times as likely	
<b>Secure Confinement Percentage of Youth Recommended for Petition</b>	1.03%	2.58%	1.79%	0.33%	0.02%
<b>Likelihood of Confinement Compared to White Youth Recommended for Petition</b>	1.00	2.49 times as likely	1.73 times as likely	0.32 times as likely	
<b>2020 Juvenile Secure Confinement: Race</b>					
	<b>White</b>	<b>Black</b>	<b>Asian</b>	<b>Native American</b>	<b>Total</b>
<b>2020 Youth Population (age 10-16)</b>	426,615	56,066	21,700	9,389	513,770
<b>Total Youth Recommended for Petition</b>	2,201	1,639	40	217	4,097
<b>Male Secure Confinements</b>	17	45	0	3	65
<b>Female Secure Confinements</b>	2	3	0	1	6
<b>Total Secure Confinements</b>	19	48	0	4	71
<b>Secure Confinement Percentage of Population</b>	0.004%	0.09%	0.00%	0.04%	0.01%
<b>Likelihood of Confinement Compared to White Youth</b>	1.00	19.49 times as likely	0.00 times as likely	9.63 times as likely	
<b>Secure Confinement Percentage of Youth Recommended for Petition</b>	0.86%	2.93%	0.00%	1.84%	1.73%
<b>Likelihood of Confinement Compared to White Youth Recommended for Petition</b>	1.00	3.39 times as likely	0.00 times as likely	2.14 times as likely	

2021 Juvenile Secure Confinement: Race					
	White	Black	Asian	Native American	Total
<b>2020 Youth Population (age 10-16)</b>	426,615	56,066	21,700	9,389	513,770
<b>Total Youth Recommended for Petition</b>	2,235	1,925	44	241	4,445
<b>Male Secure Confinements</b>	14	25	1	3	43
<b>Female Secure Confinements</b>	2	3	0	3	6
<b>Total Secure Confinements</b>	16	28	1	6	49
<b>Secure Confinement Percentage of Population</b>	0.004%	0.05%	0.005%	0.06%	0.01%
<b>Likelihood of Confinement Compared to White Youth</b>	1.00	13.32 times as likely	1.23 times as likely	17.04 times as likely	
<b>Secure Confinement Percentage of Youth Recommended for Petition</b>	0.72%	1.45%	2.27%	2.49%	1.10%
<b>Likelihood of Confinement Compared to White Youth Recommended for Petition</b>	1.00	2.03 times as likely	3.17 times as likely	3.48 times as likely	

2021 Juvenile Secure Confinement: Ethnicity				
	Hispanic or Latino	Not Hispanic or Latino	Ethnicity Unknown	Total
<b>2020 Youth Population (Ages 10-16)</b>	64,058	449,712		513,770
<b>Total Youth Recommended for Petition</b>	491	3,954		4,445
<b>Male Secure Confinements</b>	3	33	7	43
<b>Female Secure Confinements</b>	0	5	1	6
<b>Total Secure Confinements</b>	3	38	8	49
<b>Secure Confinement Percentage of Population</b>	0.005%	0.01%		0.01%
<b>Likelihood of Confinement Compared to White Youth</b>	1.25 times as likely	2.25 times as likely		
<b>Secure Confinement Percentage of Youth Recommended for Petition</b>	0.61%	0.96%		1.10%
<b>Likelihood of Confinement Compared to White Youth Recommended for Petition</b>	0.85 times as likely	1.34 times as likely		



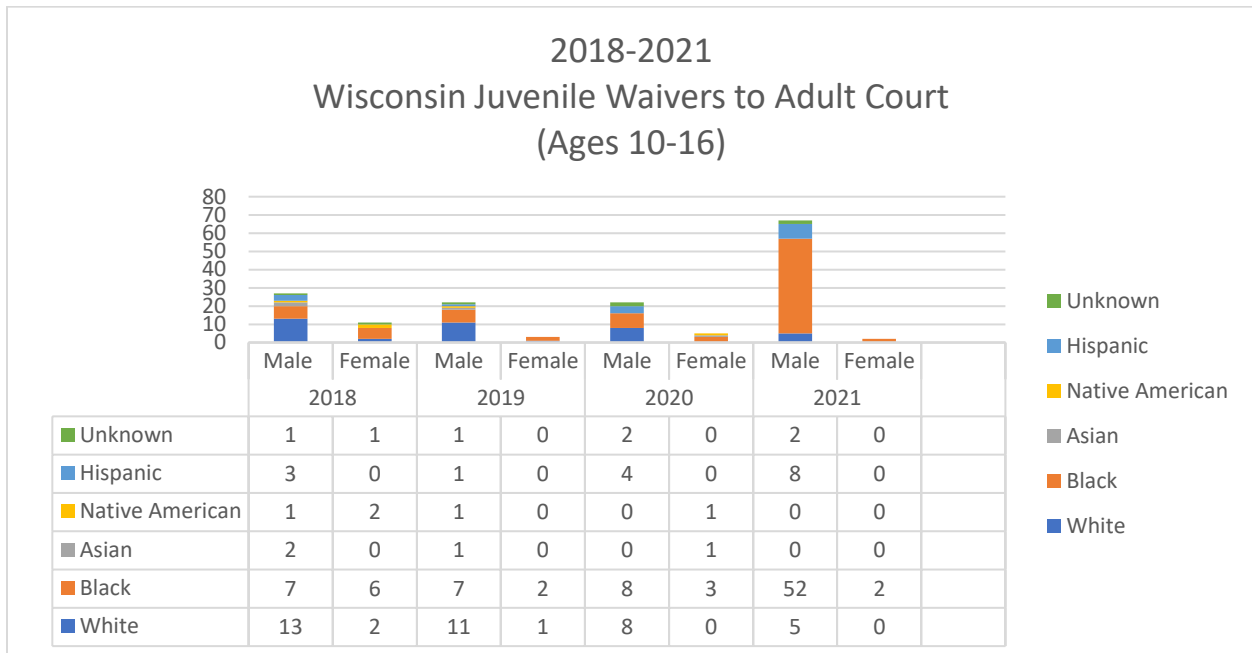
Confinement for white youth has declined slightly over the past three years, while confinement for Native American youth has grown significantly. It is important to note that while these numbers fluctuate greatly over the years, the number of youth that are confined make up a very small portion of the youth population. This is true both for confinement as a percentage of the general population and as a percentage youth recommended for petition. The large fluctuations are due in part to the small number of youth such that an increase of one youth (as in the case of Asian youth) makes a large difference from year to year.

Despite these mitigating factors, disparities at this point of contact are still significant, especially for Black and Native American youth. These two groups of youth are frequently more than 10 times as likely as white youth to be confined.<sup>24</sup> This disparity is particularly pronounced for Black youth, to the point where there is a larger number of Black youth confined than white youth, despite them making up a smaller share of the youth population.

<sup>24</sup> As a percentage of population.

*G. Waivers to Adult Court*

The Wisconsin Circuit Courts collect and maintain data on youth whose cases' juvenile court jurisdiction is waived, also referred to as waivers to adult or criminal court.<sup>25</sup> These cases meet the federal definition of Waiver 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.”<sup>26</sup> This data does not include youth whose cases are under adult court jurisdiction due to meeting the criteria for original adult court jurisdiction for criminal proceedings under Wisconsin Statute Chapter 938.183.<sup>27</sup> These cases are not transferred as a result of a judicial finding, but rather originate in adult court due to statutes.



<sup>25</sup> 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>.

<sup>26</sup> See Appendix A for a full analysis of definitions.

<sup>27</sup> 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>.

The number of waivers to adult court in Wisconsin increased dramatically in 2021 after two years of small decreases in 2019 and 2020. The 38 waivers in 2018 fell to 26 in 2019 and 24 in 2020. The 69 waivers in 2021 nearly triple that of 2020. Additionally, the disparities at this point of contact have worsened significantly in 2021. Though the percentage of population tables offer some insight into disparities, it is important to note that the number of youth waived to adult court remain small, especially when measured against the total population. Where feasible, I have rounded up to the nearest hundredth. Where this shows no data, I have rounded to the nearest thousandth.<sup>28</sup>

2018 Juvenile Waivers to Adult Court							
	White	Black	Asian	Native American	Hispanic	Unknown	Total
<b>2018 Youth Population (age 10-16)</b>	432,513	55,053	20,583	9,197	61,732		517,346
<b>Total Waivers</b>	15	13	2	3	3	2	38
<b>Waiver Percentage of Population</b>	0.003%	0.02%	0.01%	0.03%	0.003%		0.01%
<b>Likelihood of being waived to adult court compared to white youth</b>	1.00	6.81 times as likely	2.80 times as likely	9.41 times as likely	0.93 times as likely		
<b>Referrals Recommended for Petition</b>	DATA UNAVAILABLE						
<b>Waiver Percentage of Youth Recommended for Petition</b>							
<b>Likelihood of Waiver Compared to</b>							

<sup>28</sup> This was done specifically for the percentage of population of white youth.

Referred White Youth							
2019 Juvenile Waivers to Adult Court							
	White	Black	Asian	Native American	Hispanic	Unknown	Total
<b>2019 Youth Population (age 10-16)</b>	429,854	55,539	21,231	9,242	62,790		515,866
<b>Total Waivers</b>	12	9	1	1	1	2	26
<b>Waiver Percentage of Population</b>	0.003%	0.02%	0.005%	0.01%	0.002%		0.01%
<b>Likelihood of being waived to adult court compared to white youth</b>	1.00	5.80 times as likely	1.69 times as likely	3.88 times as likely	0.57 times as likely		
<b>Referrals Recommended for Petition</b>	3,095	2,213	56	304			5,668
<b>Waiver Percentage of Youth Recommended for Petition</b>	0.39%	0.41%	1.79%	0.33%			0.46%
<b>Likelihood of Waiver Compared to Referred White Youth</b>	1.00	1.05 times as likely	4.61 times as likely	0.85 times as likely			
2020 Juvenile Waivers to Adult Court							
	White	Black	Asian	Native American	Hispanic	Unknown	Total
<b>2020 Youth Population (age 10-16)</b>	426,615	56,066	21,700	9,389	64,058		513,770
<b>Total Waivers</b>	8	11	1	1	4	2	24
<b>Waiver Percentage of Population</b>	0.002%	0.02%	0.005%	0.01%	0.01%		0.005%
<b>Likelihood of being waived to adult court compared to white youth</b>	1.00	10.46 times as likely	2.46 times as likely	5.68 times as likely	3.33 times as likely		

<b>Referrals Recommended for Petition</b>	2,201	1,639	40	217			4,097
<b>Waiver Percentage of Youth Recommended for Petition</b>	0.36%	0.67%	2.50%	0.46%			0.59%
<b>Likelihood of Waiver Compared to Referred White Youth</b>	1.00	1.85 times as likely	6.88 times as likely	1.27 times as likely			
<b>2021 Juvenile Waivers to Adult Court</b>							
	<b>White</b>	<b>Black</b>	<b>Asian</b>	<b>Native American</b>	<b>Hispanic</b>	<b>Unknown</b>	<b>Total</b>
<b>2020 Youth Population (age 10-16)</b>	426,615	56,066	21,700	9,389	64,058		513,770
<b>Total Waivers</b>	5	54	0	0	8	2	69
<b>Waiver Percentage of Population</b>	0.001%	0.10%	-	-	0.01%		0.01%
<b>Likelihood of being waived to adult court compared to white youth</b>	1.00	82.18 times as likely	0 times as likely	0 times as likely	10.66 times as likely		
<b>Referrals Recommended for Petition</b>	2,235	1,925	44	241	491		4,445
<b>Waiver Percentage of Youth Recommended for Petition</b>	0.22%	2.81%	0.00%	0.00%	1.63%		1.55%
<b>Likelihood of Waiver Compared to Referred White Youth</b>	1.00	12.54 times as likely	0 times as likely	0 times as likely	7.28 times as likely		

The growth in disparities is almost entirely due to the increase in waivers for Black and Hispanic youth. Though disparities existed for Native American and Asian youth in previous years, they disappeared in 2021 as no youth in those demographics were waived.

The disparities for Black, Native American, and Asian youth waived to adult court varies significantly when evaluated as a percentage of youth recommended for petition—those likeliest to be sent to court. Specifically, the disparities for Black and Native American youth decrease significantly when analyzed this way, indicating that perhaps the disparity at this point of contact is due to disparities early on in the system, rather than disparities due to judge decision making. However, the 2021 numbers for Black youth are such a significant change as to defy such trend analysis without more detailed data than is currently available. Note that disparities for Asian youth when compared to referrals are much higher than when compared to general population. This is likely due to the extremely low numbers of both referred Asian youth and Asian youth waived to adult court. It is important to note that it is challenging to predict consistent trends at this contact point of the system due to the small number of youth waived to adult court. Despite the small population impacted by this contact point, disparities are evident. It is also concerning how the population of Black youth waived to adult court expanded so quickly in 2021.

### **III. Action Plan**

*A. Contact Point Disparities Comparison/Analysis: What do your R/ED numbers tell you about your jurisdiction? Reflect an analysis of the data.*

The percentage of population calculations indicate that there are disparities at every contact point Wisconsin has sufficient data for. These disparities are present for almost every race and ethnicity. There is a consistent trend that disparities at correctional confinement and transfers to adult court are larger than disparities at arrest and diversion. However, disparities later in the

system affect far fewer youth than disparities early in the system—tens of thousands of youth are arrested and referred to youth justice intake each year, while fewer than a hundred youth are confined or transferred to adult court in recent years. Disparities are consistently worst for Black and Native American youth and smaller for Hispanic and Asian youth.

The numbers have changed over time, though disparities remain present at every contact point.

- Arrest: Disparities increased in 2021. The disparities were worst for Black youth.
- Diversion: Disparities increased in 2021 for Black and Native American youth. Disparities were significantly worse for Black youth.
- Corrections: Disparities increased in 2021 for Native American youth. Disparities fluctuated for Black and Asian youth. Disparities for Black youth affect more individuals than disparities for Asian youth (28 Black youth compared to 1 Asian youth). Hispanic youth of any race were slightly less likely to be confined than white youth of any ethnicity.
- Waivers to adult court: Disparities decreased in 2018 and 2019 but increased generally in 2020 and specifically for Black and Hispanic youth in 2021.

Due to the ongoing challenges and changes of COVID-19 and its continued impact on crime and juvenile justice policy, it is not possible to identify with certainty what factors contribute to the changes in disparities. As disparities exist at every contact point and consistently disadvantage Black and Native American youth, 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.<sup>29</sup>

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<sup>29</sup> 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>.

*B. Strategy, Vision, and Measurement: What would success in R/ED reduction look like for your state? A strategy, vision, plan, goals or outcomes that reflect success for your state and a discussion of how you will measure the impact of your strategies.*

Since disparities exist at every contact point in Wisconsin’s juvenile justice system, action could be directed at any contact point and be justified by data. Disparities have increased somewhat, especially for Black youth, at multiple contact points. Additionally, the disparities later in the juvenile justice system are consistently greater than those at earlier contact points though they impact fewer youth. Pretrial detention stands out as a pivotal contact point through which to address disparities and prevent youth from going deeper into the justice system. It is a point at which youth can be diverted from further involvement in the juvenile justice system and the point after which disparities increase significantly.

In addition to these broader trends, stakeholders familiar with the conditions at county detention centers have raised concerns with the long waitlists for rehabilitative and community-based programming for youth both pre- and post-disposition. This has contributed to high population levels in detention centers and increased the number of youth sent to Wisconsin’s correctional facilities.<sup>30</sup> As such, the ERD Subcommittee is concerned about over-crowding, lack of supportive services in communities, and lack of alternatives to detention for youth.

Wisconsin’s ERD Subcommittee has decided to focus on three specific goals that will support the overall vision of eliminating disparities. The goals are below as included in the 3-Year 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.**

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<sup>30</sup> This increase is not represented by the data provided in the data analysis as it is preliminary data for 2022 provided by DOC to the ERD subcommittee on a quarterly basis.

<p><b>Goal 3.1:</b> The GJC 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.</p>
<p><b>Objectives:</b></p> <p>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 GJC 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 GJC will provide input on areas for improvement and expansion.</p>
<p><b>Goal 3.2:</b> The GJC will direct Title II funding opportunities to address disparities at specific contact points as identified in the Racial and Ethnic Disparities Reduction Plan.</p>
<p><b>Objectives:</b></p> <p>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.</p> <p>3.2.2 The ERD Subcommittee will identify model programs and strategic interventions that are effective at reducing disparities.</p> <p>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.</p> <p>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.</p>
<p><b>Goal 3.3:</b> The GJC 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.</p>
<p><b>Objectives:</b></p> <p>3.3.1 The GJC will host collaborative meetings with community partners to identify contributing factors for disparities.</p> <p>3.3.2 The GJC 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.</p> <p>3.3.3 The GJC will research tools and methods to improve racial equity at each point of contact. The GJC will focus on education about prevention efforts that could occur prior to the arrest contact point.</p>

Wisconsin’s R/ED Coordinating Body (ERD Subcommittee) and stakeholder partners have identified challenges experienced by local human and social services agencies with locating appropriate placements for youth while they wait for trial as well as post-disposition alternatives

to detention and correctional programs such as treatment placements, and community-based rehabilitative programs and services. Stakeholders have identified overcrowding issues at county detention centers due to the few alternative options and long waitlists, staffing issues, and limited community-based supportive services available to youth before, during, and after court proceedings.<sup>31</sup>

Though statewide data on pretrial detention populations are not yet available, reports from detention facility personnel and Department of Corrections staff members indicate that these facilities are overburdened and that judges face significant challenges with identifying suitable placements and programming for youth post-disposition and as such are resorting to detention and correctional confinement. According to these reports, there are more youth eligible for programming than there are program slots available. Disparities at the point of arrest and diversion are small, while disparities in correctional confinement and waivers to adult court are significantly higher. Pretrial detention is the intermediary point of contact where a youth can be diverted away from further involvement in the juvenile justice system and receive services outside of correctional facilities.

As such, the ERD Subcommittee has decided to prioritize reducing disparities in the use of pretrial detention and correctional confinement for youth. Specifically, the ERD subcommittee aims to reduce racial and ethnic disparities in youth placed in correctional facilities, reduce wait times for youth to receive community-based rehabilitative programming, and provide alternatives to secure detention for youth pre- and post-disposition.

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<sup>31</sup> These topics are regularly discussed and ERD Subcommittee meetings and recorded in meeting minutes.

The ERD Subcommittee and WI DOJ will direct Title II Funding allocated to R/ED reduction to organizations to develop or expand community-based rehabilitative programs that provide viable alternatives to detention and correctional placement. As discussed, there are more youth eligible for alternative programming than there are program slots. More youth of color, especially Black youth are sent to correctional facilities. Increasing the number of available programs for youth will increase the number of youth who receive supportive services outside of secure settings, reduce the length of stay in secure detention, decrease wait times for programming, and reduce disparities in secure detention and correctional placements. This will be achieved by providing grant opportunities for local organizations to start or expand existing community-based programs for justice-involved youth.

Additionally, the ERD Subcommittee intends to partner with the Department of Children and Families to increase county agency use of objective detention admissions screening instruments like the Detention Risk Assessment Instrument (DRAI) as implemented by Milwaukee County. By increasing the number of program slots available for rehabilitative programming and increasing county use of objective decision-making tools, Wisconsin aims to reduce disparities in secure detention and correctional confinement.

Prevention remains a priority for the ERD Subcommittee. As such, where feasible, WI DOJ will request applicants for Title II subgrant opportunities provide a Racial and Ethnic Disparities Reduction Plan indicating whether and where disparities exist in their community, and whether and how their proposed program will contribute to addressing the disparities.

Goals 3.1 and 3.3 relate to improving and developing community and agency level partnerships that will bring Wisconsin closer to closing data gaps and increase community awareness of disparities and willingness to take action to reduce them. These goals complement

the concrete action plan regarding allocating funding and supporting local agencies in reducing disparities.

*C. How much do you want to reduce R/ED next year? Include a desire to reduce R/ED at a contact point or points for a specific racial group. No numerical target is required.*

Wisconsin aims to reduce R/ED at two specific contact points: secure or correctional confinement and early-system contact for Black and Native American youth. Wisconsin will aim to decrease the number of youth placed in correctional facilities by 10 by adding at least 10 new pre- and post-disposition community-based programming slots or treatment placements for youth involved in the juvenile justice system. These additions will be accomplished through funding to local organizations and will be measured by regular program reports provided by subgrant recipients.

Wisconsin will aim to decrease disparities at early-system contact (arrest and referral) for Black and Native American youth. Specifically, Wisconsin will increase awareness of disparities at early contact points by requesting Title II Subgrant applicants include an analysis of local disparities and a description of how their program will reduce disparities. Additionally, the ERD Subcommittee will aim to engage one or more new stakeholders and produce one new educational material regarding disparities to distribute to juvenile justice stakeholders and decision makers. Lastly, the ERD Subcommittee will connect with the Department of Children and Families to begin partnership to fill in the pretrial detention data gap.

*D. Is the reduction reasonable? If yes, why? Provide a justification (specific examples are preferred) as to why the intervention is reasonable.*

The reduction proposed is reasonable due to several factors. First, the reduction is modest—the number of youth placed in correctional facilities is already quite small as of 2021

(though according to preliminary data for 2022, the population is increasing) and so decreasing it by 10 youth, though a small reduction numerically, would decrease the proportion of youth placed in correctional facilities significantly. Second, the reduction is based on a concrete and achievable action step to address a contributing factor—the lack of alternative programming contributes to the number of youth placed in correctional facilities. Increasing available programming will decrease the number of youth placed in correctional facilities. Lastly, Wisconsin has strong partnerships with human and social services departments and the Department of Corrections that will facilitate making this change. Human services departments will be able to direct WI DOJ staff towards the programming already available as alternatives to detention and indicate what sorts of programming is most in need.

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

With the focus on addressing disparities in secure confinement and detention, WI DOJ will utilize model alternative to detention programs and practices listed in the Model Programs Guide. There are several models rated effective or promising at reducing recidivism. However, in the rating system, it is unclear whether any programs are evaluated on their ability to reduce racial and ethnic disparities by incorporating methods that address the causes or contributing factors of disparities such as implicit bias in decision-making or limited economic and community-level resources. Additional resources from OJJDP either on methods for identifying promising or effective disparity reduction programs or adding that quality to the rating system would be valuable.

*F. 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 target goals established in the action plan lay out strategies to reduce disparities in ways that support youth to succeed outside of the juvenile justice system. The focus on alternatives to secure confinement will provide youth with the programming and services to help them succeed after a youth justice referral. Additionally, we will support youth to live productive lives by supporting youth before being arrested or referred to youth justice. A significant part of this is to provide resources and programming to organizations that promote protective factors for youth including positive youth development, mentoring, and school support. These protective factors help equip youth to live productive lives and avoid the collateral impacts of juvenile justice system involvement.

Additionally, secure confinement generally has impacts on youth's employment, education, and general success that is greater than arrest or youth justice referral. By focusing efforts on providing alternative services to youth who would otherwise be placed in correctional facilities, we will increase their odds of living productive and successful lives.

#### **IV. Outcome-Based Evaluation**

##### *A. 2021 Goals*

In 2021, Wisconsin DOJ, the GJJC, and ERD Subcommittee prioritized reducing R/ED at the point of arrest through a prevention-based strategy as it represents the first formal entryway into the juvenile justice system. Funding from the Title II award was designated to fund local programs that would make progress towards these goals. The specific goals established were to

- Assist in building and strengthening state agency partnerships to promote and improve information sharing and analysis relating to the five contact points in the juvenile justice system as determined by OJJDP.
- Focus on preventing contact with the justice system through arrest and reduce youth's progression towards correctional placement.
- Research tools and methods to improve racial equity at each point of contact, focusing on education about prevention efforts to promote pre-arrest diversion.
- The Wisconsin Department of Justice, Wisconsin Department of Children and Families (DCF), Wisconsin Department of Public Instructions (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. The GJJC will provide input on areas for improvement and expansion.

*B. What are your new numbers? Discuss whether new numbers reflect a change.*

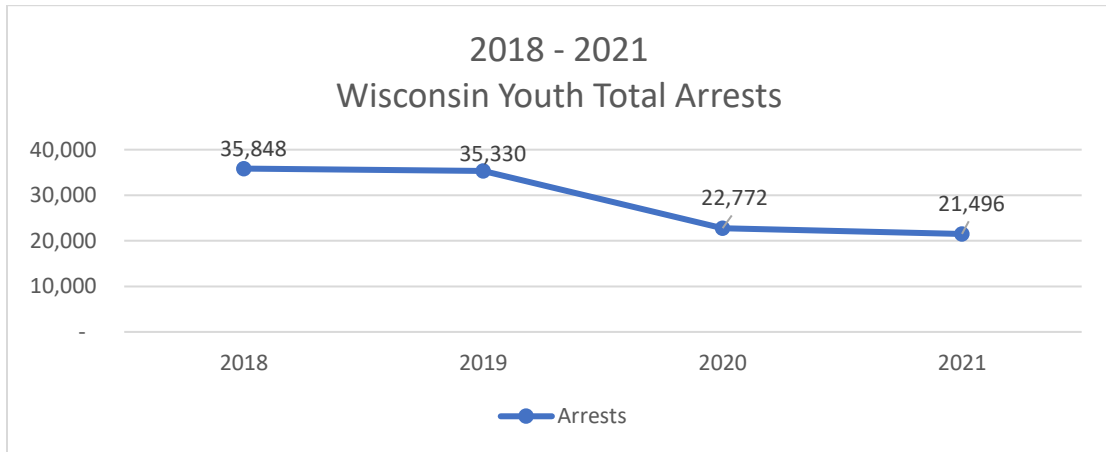
The Wisconsin DOJ, GJJC, and ERD Subcommittee each acted towards achieving the goals. In 2021, WI DOJ offered subgrants to law enforcement agencies to offer trainings for law enforcement officers to address and reduce the impact of implicit bias in policing including [Fair and Impartial Policing](#) and [Strategies for Youth: Policing the Teen Brain](#). The Wisconsin DOJ and other partner agencies have begun discussions regarding how to approach improving the state's data collection methods for juvenile justice, including how to collaborate so that the data collected is usable and understandable throughout the system from community, arrest, diversion, detention, court, and corrections. The trainings, combined with the pre-arrest diversion interventions and family engagement initiatives, listed in the 2021-2023 Three Year Plan (located in the FY2021

Title II Proposal Narrative), were intended to aid Wisconsin DOJ and the GJJC to reduce disparities at the contact point of arrest.

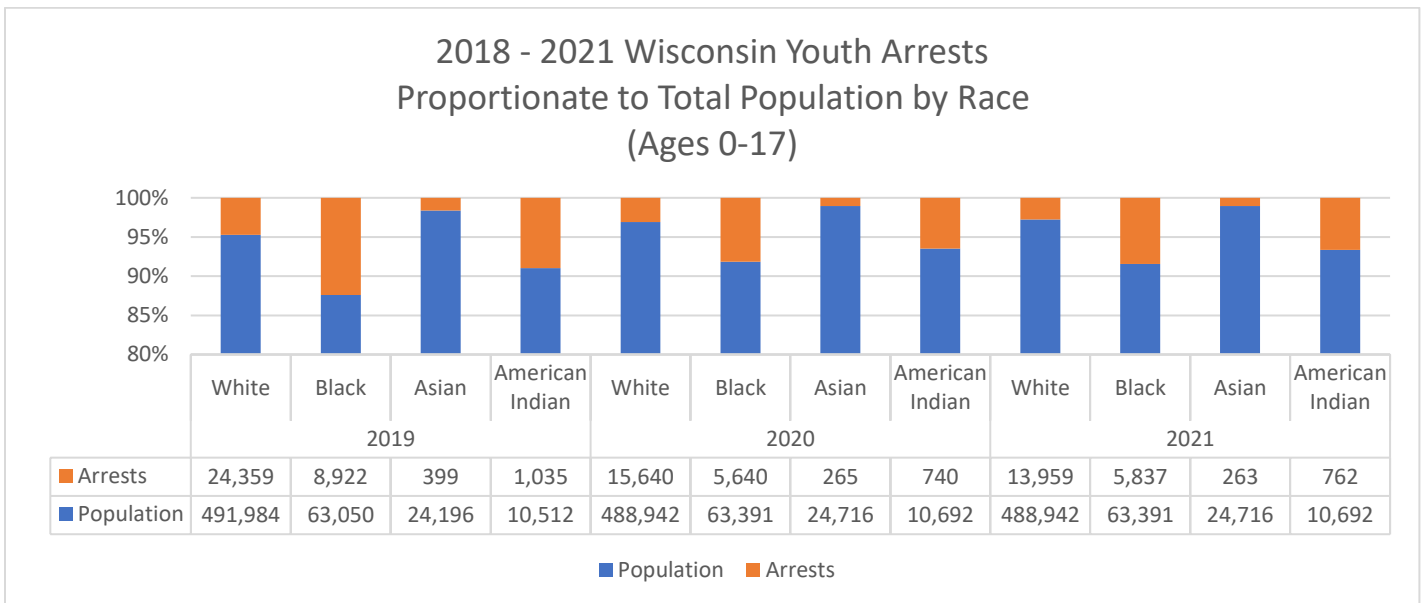
The ERD Subcommittee monitored and advocated for improvements in youth secure confinement in detention and correctional facilities. The GJJC and ERD Subcommittee advocated for state funding to support the closure of Wisconsin's two Type 1 juvenile correctional facilities, Lincoln Hills and Copper Lake Schools. The goal was to close the schools and establish a system of localized Secure Residential Care Centers for Children and Youth (SRCCYs) to replace them. The goal intended to reduce disparities for youth at the deep-end of the juvenile justice system.

The GJJC and ERD Subcommittee collaborated to support and advocate for changes to Wisconsin's juvenile corrections system. They wrote letters of support for state budget priorities to close Lincoln Hills/Copper Lake Schools and establish SRCCYs as alternatives. However, these budget priorities were not included in the final budget passed by the legislature and signed into law by the governor. Instead, the legislature voted to fund the building of a new Type 1 correctional facility for male juveniles in Milwaukee County. Though this is an improvement as it will keep youth closer to their county of origin and provide them with greater opportunity for continuing contact with their family, construction and opening will not proceed for four or more years, nor will a similar facility be constructed to serve females. This leaves a significant gap in services for girls until alternatives are identified, or a facility approved. In the meantime, LHS/CLS remain the only secure confinement options within the state, aside from county-run detention centers.

Returning to the data analyzed at the beginning of this plan, total youth arrests in Wisconsin did decline over the past four years.



Despite the decline in arrests overall, disparities remain. Disparities in percentage of population arrested decreased significantly in 2020 but increased again in 2021. However, the disparities in 2021 remain smaller than the disparities in 2018 and 2019.



Though the ERD Subcommittee and DOJ did take some action towards progress on the goal of reducing disparities in arrests, due to the data limitations, it is not possible to identify with any certainty that the law enforcement trainings implemented in 2019 and 2021 were the cause of the decrease. This is especially true due to the impact of the COVID-19 pandemic.

For the goal of decreasing youth's progression towards correctional confinement, some progress was made between 2018 and 2021. Though disparities fluctuated and remained quite large for Black and Native American youth, the total number of youth confined in correctional facilities decreased significantly from 109 in 2018 to 41 in 2021. This indicates significant progress towards reducing the use of correctional confinement as a juvenile behavioral intervention.

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

Though significant action was taken towards achieving the goals established in both the Three-Year Plan and R/ED Plan to reduce R/ED at the point of arrest and correctional placement, minimal success was achieved. Some progress was made in reducing disparities at the point of arrest, though it is unclear if the reduction will remain post-pandemic. Additionally, due to limitations on data collection, WI DOJ and the ERD Subcommittee are unable to target specifically what caused the decrease in disparities in recent years. Disparities at the point of correctional confinement remain large, though the number of youth impacted by these disparities has decreased significantly. The decrease in use of correctional confinement is likely due, at least in part, to the legislative closure of Lincoln Hills and Copper Lake Schools (Wisconsin's two juvenile correctional facilities). However, these facilities remain open as there remain few residential or community-based alternatives to correctional confinement.<sup>32</sup>

*D. If you met your goals, what worked? What drove success? If you did not, what were the barriers? How might you overcome them next year? What partners do you need? Include what worked to achieve success. Discuss what prevented the state from meeting its goals.*

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<sup>32</sup> Shelbourne, Talis. Milwaukee Journal Sentinel, "Longer Wait Times and Fewer Options for Girls Plague Wisconsin Juvenile Justice System Already in Disarray," June 9, 2022. <https://www.jsonline.com/story/news/special-reports/2022/06/01/fewer-options-girls-plague-wisconsin-juvenile-justice-system/9408603002/>.

The law enforcement trainings were implemented in Madison (Dane County), Superior (Douglas County), and La Crosse (La Crosse County), Wisconsin. From 2018-2020, Dane County and La Crosse County both experienced decreases in arrests.<sup>33</sup> However, Douglas County's arrest numbers fluctuated significantly between 2018 and 2020—increasing to 501 in 2019 from 301 in 2018 and decreasing again to 290 in 2020.<sup>34</sup> It is possible that the law enforcement training in Madison and La Crosse had some impact at reducing disparities at the point of arrest. However, it is not possible to solidly connect the decline in disparities and arrests overall to the trainings considering the larger impact of the COVID-19 pandemic on crime and juvenile justice case handling.

Aside from the progress made through grant programs, Wisconsin faces significant barriers to making changes through legislation. The GJJC and ERD Subcommittee have strongly advocated for legislative changes that would reduce the use of correctional facilities by providing viable supportive residential alternatives. However, despite regular advocacy, the state legislature did not approve the proposed funding to establish a system of SRCCYs. In order to address these barriers and advance the GJJC's legislative recommendations, strategic partnerships with legislators are necessary.

*E. 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.*

The process of implementing the 2021 plan and planning for the 2022 plan has raised challenges regarding consensus building with key stakeholders and decision makers as well as

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<sup>33</sup> WI DOJ, BJIA UCR Arrest Data Dashboard. <https://www.doj.state.wi.us/dles/bjia/ucr-arrest-data>. Accessed 4/21/2022.

<sup>34</sup> WI DOJ, BJIA UCR Arrest Data Dashboard. <https://www.doj.state.wi.us/dles/bjia/ucr-arrest-data>. Accessed 4/21/2022.

studying the context around disparities in Wisconsin. The Racial and Ethnic Disparities Coordinators Certificate Program has been a valuable training experience and has provided excellent information and help with preparing the R/ED reduction plan. Tools, including training or educational resources, that assist with identifying contributing factors of disparities in the state would be helpful in improving Wisconsin's efforts to reduce disparities. Such tools would improve our ability to effectively target funding and interventions where they would be most successful and help improve partner relationships. Lastly, resources that provide strategies for building productive stakeholder relationships, engagement, and agreement would be valuable to address current challenges with reaching consensus.

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

Wisconsin's 2021 goals focused on reducing disparities early in the system, especially reducing arrests and disparities at point of arrest. It is well known that youth involvement in the juvenile justice system can have negative collateral impacts on their lives, including negative impacts on their educational attainment and employment status. By preventing youth from ever becoming involved in the justice system, these adverse outcomes are prevented as well. Furthermore, the programs funded with the Title II award have gone towards providing services to youth at-risk of engaging in delinquent behavior and becoming involved in the juvenile justice system. These programs, including restorative justice training for school staff and expanding mentoring programs for at risk youth, help develop protective factors for youth, reduce their likelihood of engaging in delinquent acts, and offer positive alternative activities and behavior thus enabling them to live crime-free.

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

WI DOJ and the ERD Subcommittee developed a robust strategic plan with three general goals and corresponding objectives. The goals establish a strategy and vision for filling in data gaps to better identify disparities in the state, develop working relationships with key partners to understand the context around disparities and educate decision makers, and fund programs that support youth at-risk and involved in the juvenile justice system. These goals and objectives, as well as measurable objectives, are fully detailed in Section III: Action Plan, Subsection B: Strategy, Vision, and Measurement: What would success in R/ED reduction look like for your state?

Altogether, Wisconsin aims to reduce disparities at point of arrest through a prevention-based strategy as well as reduce disparities in secure confinement and detention through supporting programs and services that are viable and effective alternatives to detention. These goals aim to both reduce disparities at these points of contact and reduce overall youth involvement deeper in the system.

**Appendix A: Definitions<sup>35</sup>**

<b>Point of Contact</b>	<b>OJJDP Definition</b>	<b>Wisconsin Definition</b>	<b>Notes</b>
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 for both adult and juvenile offenders and so lacks 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	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 of the case—only the recommendation made	Wisconsin Department of Children and Families, Bureau of Youth Services.  Wisconsin’s definition is largely identical 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

<sup>35</sup> 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>.

	youth referred for legal processing but handled without the filing of formal charges.	by the youth justice intake worker.	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.	Wisconsin uses the federal definition.	
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.	Wisconsin Department of Corrections.
Transfer to Adult Court	Waived cases are those in which a youth is transferred to	Wisconsin's definition is the same as the federal definition.	Wisconsin State Statute, Chapter 938.18 Jurisdiction for criminal proceedings for juveniles

	criminal court as a result of a judicial finding in juvenile court.		14 or older; waiver hearing. Accessible: <a href="https://docs.legis.wisconsin.gov/document/statutes/938.18">https://docs.legis.wisconsin.gov/document/statutes/938.18</a> .
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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

- Stakeholder reports at Ethnic and Racial Disparities Subcommittee Meetings as recorded in meeting minutes

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 938.18 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.  
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