

COVID-19

and Youth Justice in Wisconsin: What Are We Learning?



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Executive Summary

"I have youth in secure detention ... who have never seen the uncovered faces of the people that are caring for them day in and day out."

- Secure Facilities Manager

A year ago, we raced to capture observations from the pandemic, share what might be the significant lessons learned for youth justice, and urge action to convert these lessons into policy before the crisis ended.¹ While the urgency of this mission aligns with a core belief behind the Youth Justice Wisconsin initiative, and the Wisconsin Model of Youth Justice the duration of this pandemic has extended far beyond an immediate crisis. (Appendix A)

At the same time, it is clear that the pandemic, and its de-stabilizing effects, is more relevant to youth health, safety, and well-being than ever. COVID-19 variants pose a bigger risk of virus spread in congregate care settings. Increase in the number of referrals for serious offenses, limited alternatives, and backlogs on court proceedings are increasing admissions to detention facilities. And, all of these factors are contributing to higher racial disparities among youth in secure custody.²

In the year since we published "The Impact of COVID-19 on Youth Justice in Wisconsin: What Does It Tell Us About the Future?," a variety of articles and reports have been released affirming the findings and recommendations presented in that 2021 report. The publications frame the pandemic as a way to examine factors related to racial disparities,³ strategies to reduce youth incarceration,⁴ opportunities to transform youth justice,⁵ and recommendations for system partners to convert lessons learned into formal policy and practice.⁶ They also highlight the negative impact of COVID-19 lockdowns on youth and families who are involved in the justice system. These writings present a sense of readiness that needs to be operationalized in order to create better outcomes for youth in the future.

The 2022 report before you contains findings that reinforce this readiness and creates a pressing need for investing in services that prevent, reduce, and heal the underlying factors of which youth incarceration is but a symptom. There is a lot on the line here. With or without a pandemic, the cost to incarcerate a young person in Wisconsin will soon exceed \$1,000 per day.⁸ Recent headlines cite statistics about the number of children who have lost a parent or caregiver to COVID-19.⁹

¹ <http://racetoequity.net/the-impact-of-covid-19-on-youth-justice-in-wisconsin-what-does-it-tell-us-about-the-future/>

² <https://www.aecf.org/blog/juvenile-justice-is-smaller-but-more-unequal-after-first-year-of-COVID-19>

³ <https://www.themarshallproject.org/2021/03/08/many-juvenile-jails-are-now-almost-entirely-filled-with-young-people-of-color>

⁴ <https://backend.nokidsinprison.org/wp-content/uploads/2021/03/NKIP-2021-Covid-Report-4P.pdf>

⁵ <https://onlinelibrary.wiley.com/doi/10.1111/jfcj.12196>

⁶ <https://www.nga.org/center/publications/covid-19-impacts-on-justice-involved-kids-lessons-learned-from-states/>

⁸ <https://www.wuwm.com/2021-10-20/youth-prisons-still-open-mental-health-challenges-continue>

⁹ <https://www.nga.org/center/publications/covid-19-impacts-on-justice-involved-kids-lessons-learned-from-states/>

Statistics indicate record numbers in the areas of homicides,¹⁰ opioid related deaths,¹¹ and alcohol poisonings¹² in 2020. Another disturbing trend is the sharp increase in suicides among youth of color.¹³ To the extent that Wisconsin is reflected in these statistics, the trauma caused by these trends will directly impact children - disrupting their basic needs as well as their social and emotional well being. We can't arrest and detain our way out of the impact of these circumstances.

While the pandemic is generating its own set of adverse circumstances, it is also highlighting the benefits of inter-agency collaboration, school-based prevention, mobile crisis services, and 24-hour crisis support in order to prevent harm and divert youth away from the justice system. We must ensure that Wisconsin supports all communities in working across silos to mobilize and sustain a robust, trauma informed, and culturally competent community-based system of care that addresses emotional and behavioral health for all youth.

Thanks to the Governor's Juvenile Justice Commission for their support, to Silver Lynx Consulting, LLC for data analysis support, and Terrence Adeyanju for graphic design services. Thank you to everyone that has participated since the start of this project. We are especially grateful for our partnership with Youth Justice Milwaukee, through which we envision a statewide voice called Youth Justice Wisconsin.

**– Erica Nelson, Advocacy Director
Kids Forward**

Introduction

"I hope that we all realized that we do not need to lock up so many kids to maintain public safety. The world continued to spin without the "normal rate" of incarceration."

- Advocacy Counsel

This report, "COVID-19 and Youth Justice in Wisconsin: What Are We Learning?," is a follow up on the impact of pandemic related prevention protocols in secure facilities for youth.¹⁴ Implementation of these protocols led to a rapid and significant nationwide decline in the number of youth in secure custody in 2020.¹⁵ The Youth Justice Wisconsin initiative launched an impact study during that time to determine if Wisconsin was seeing the same trend. "The Impact of COVID-19 on Youth Justice in Wisconsin: What Does It Tell Us About the Future?" (2021) was the culmination of that scope of work. It presents findings indicating that the pandemic prevention protocols did precipitate a similar reduction in the use of secure custody in Wisconsin.¹⁶

¹⁰ <https://www.npr.org/2021/09/27/1040904770/fbi-data-murder-increase-2020>

¹¹ <https://www.ama-assn.org/system/files/issue-brief-increases-in-opioid-related-overdose.pdf>

¹² <https://twitter.com/CharlesFLehman/status/1469384036346961932>

¹³ <https://jjie.org/2021/12/17/half-of-suicides-were-by-gun-suicides-by-all-methods-rose-sharply-among-minority-youth/>

¹⁴ <https://yclj.org/COVID-19statement>

¹⁵ <https://www.aecf.org/blog/survey-amid-pandemic-youth-detention-population-fell-24-in-one-month-matchi/>

¹⁶ https://captimes.com/news/local/govt-and-politics/report-covid-19-protocols-reduced-number-of-wisconsin-youth-in-detention/article_27d4e258-c3d2-52dc-b9d3-37eff22fe691.html

The project data reflected a wide variety of individual perspectives from over 30 counties and Tribal communities, and six state level entities. It offered the following recommendations:

1. **Sustain the highest degree of collaboration and innovation** across underserved groups, government agencies, professional disciplines, and levels of government.
2. **Use more informal support and technology** to keep youth connected and supported.
3. **Ensure equitable funding and service coordination** to support all youth, in every community.
4. **Eliminate detention as a sanction** by engaging county level initiatives until the state statutes can be rewritten.

The most significant finding in the 2021 study was an unexpected drop in referrals to youth justice intake across the state: a 65% drop, in fact. (Fig. A) This quantitative finding correlated with the qualitative data received. While some diversion from detention was occurring due to COVID-19 safety protocols (i.e. denying admission for youth who did not meet the criteria for posing a serious public safety risk), there were far fewer referrals overall. This trend was something that no one anticipated or had been tracking prior to the Youth Justice Wisconsin COVID-19 impact project.

Referrals to youth justice intake come from several sources: schools, law enforcement, and families. Schools being closed would account for the decline in referrals for truancy. The rest of the decrease reflects a change in the law enforcement and family referrals. What changed? And why? This second report, “.....What Are We Learning?,” presents findings from a subsequent phase of study designed to explore the answer to those questions.

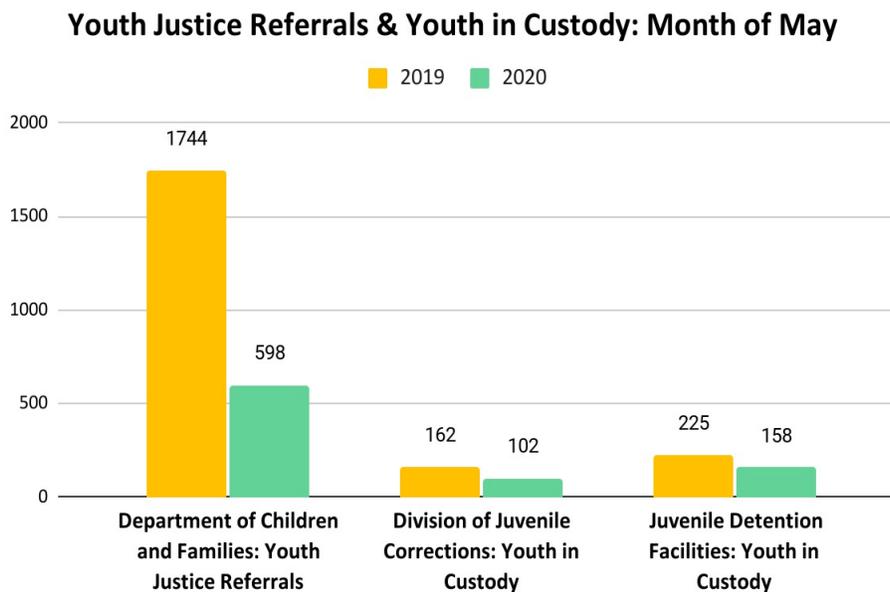


Figure A. Source: Department of Children and Families, Department of Corrections

Networking with national groups, such as The Sentencing Project and Annie E. Casey Foundation, informed the initial study in 2021.¹⁸ The findings of the initial phase of work informed the data collection and literature review for this 2022 companion report.

This second phase of work is based on the following questions:

1. What are the factors contributing to the significant drop in referrals to youth justice intake?
2. Has the decline in referrals and confinement continued in 2021?
3. Does this set of circumstances offer guidance for reducing racial disparities?
4. Are we ready to convert lessons learned into policy and practice and move forward as a state?

A brief qualitative survey was used to collect data regarding continued use of COVID-19 safety protocols, the trends in reasons for admission to secure custody, and perceptions related to the decrease in referrals to youth justice since the pandemic began (see Appendix B). The project survey was distributed through an interdisciplinary group of networks (noted on p. 2), and participation was voluntary. Specific findings from the qualitative data are incorporated into this report as de-identified quotes, to reflect a variety of themes and perspectives.

Quantitative data sets presented in this report include a 3-year comparison of the number of referrals to youth justice intake, youth detained in county facilities, and data on the number of youth serving a Juvenile court order at state correctional facilities during the month of May in 2019, 2020, and 2021. A two-year comparison of annual youth arrest and youth justice referral data is presented as well.¹⁹

Significant Findings

"I believe there was a collaborative effort by law enforcement, social workers, judges, and detention facilities, to only use secure detention when community safety was at risk."

- Detention Supervisor

Qualitative Data Highlights

The qualitative data reflects a county-level commitment to ensuring that more responsive and proactive strategies are in place to support youth with complex needs in order to reduce reliance on secure custody to manage difficult behavior. For example:

- Many counties are using positive youth development models to provide more intensive support and Milwaukee County was able to launch a Credible Messenger program during these extreme circumstances.²⁰

¹⁸ [Rovner, Josh. 2020. "Youth Justice Under the Coronavirus: Linking Public Health Protections with the Movement for Youth Decarceration." The Sentencing Project](#)

¹⁹ A youth may be referred more than once in a reporting period. The number of referrals to youth justice is typically higher than the actual number of youth referred.

²⁰ See <https://www.wuwm.com/2021-05-06/milwaukee-county-announces-new-mentorship-program-for-at-risk-youth> and <https://cmjcenter.org/approach/> for more information on the Credible Messenger Program

- Overall, respondents are seeing a more restricted use of secure custody, reserving it for situations where a serious public safety risk exists.
- Perceptions about the overall decrease in referrals include: more parental presence due to lockdown, closure of school and community settings, law enforcement changing response to youth, and increased collaboration among system stakeholders.
- Rising concerns include: a reported increase in referrals for serious offenses, domestic incidents and drug use, growing out of worsening socioeconomic conditions; delays in court processing; children experiencing social and emotional isolation due to the pandemic; and observable increase in hopelessness among the young people.

Quantitative Data Highlights

This study adds a third year of data from May 2021 to form a comparison: pre-pandemic (2019), height of lockdown (2020), post-vaccination with community spread continuing (2021). (Fig. B)

Youth Justice Referrals

A referral to youth justice intake reflects two broad areas of jurisdiction under Wisconsin statute: delinquency and juvenile in need of protection or services (JIPS). Within JIPS, there are two categories including JIPS Non-Truancy (a youth whose behavior creates a need for assistance) and JIPS-Truancy (non-compliant with school attendance by statute).²¹ Figure B shows the total number of referrals to youth justice for all areas of jurisdiction. The number of referrals rose in 2021 for the same time period, but did not reach pre-pandemic levels.

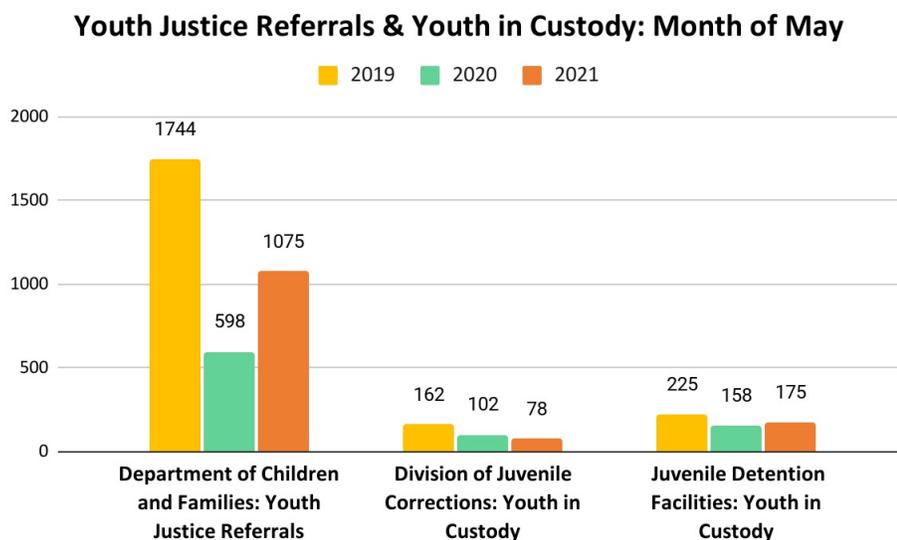
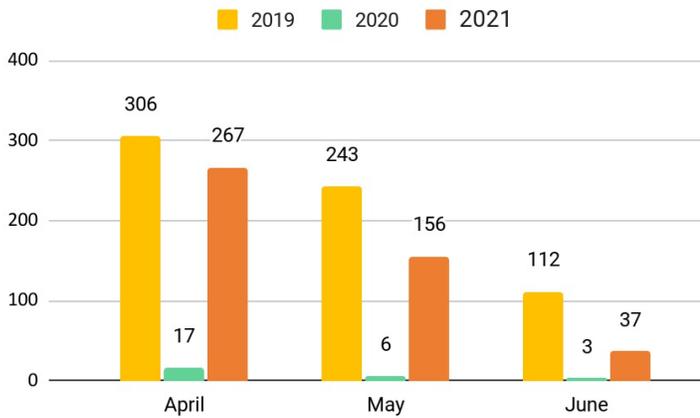


Figure B. Source: Department of Children and Families, Department of Corrections

²¹ For more information, please see: 2019 Wisconsin Youth Justice Referrals and Intake Report: <https://dcf.wisconsin.gov/files/cwportal/yj/pdf/yj-referrals-intake-rpt.pdf>

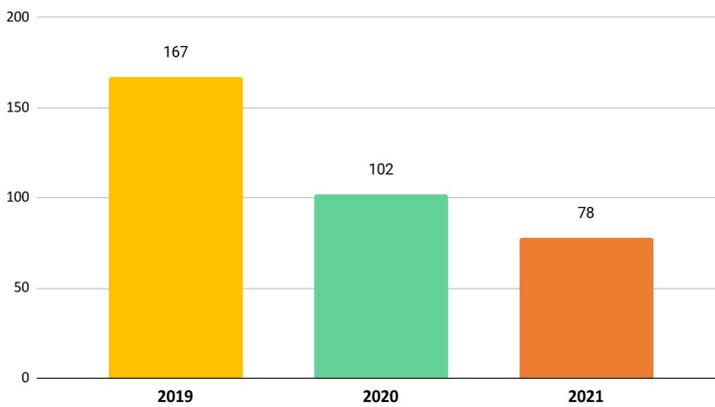
Truancy Referrals: 3 Year Comparison State Totals



Change in JIPS-Truancy Referrals

With schools and community settings closed in spring of 2020, there were virtually no truancy referrals from April-June. Truancy referrals increased in 2021, but not to pre-pandemic levels. A closer look at the referral data shows that referrals dropped substantially across the three month period in each year. This could reflect fewer days of school in June, as well as a drop in student engagement.

Youth in State Facilities: Month of May

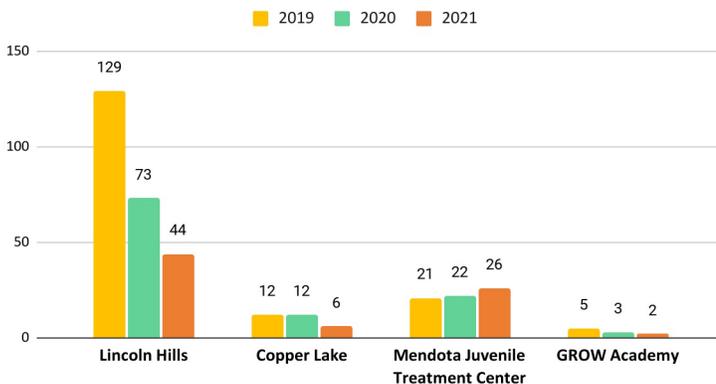


Youth in State Custody

The only data set in Figure B that continued to decline in 2021 is the number of youth in custody at state facilities. The other two data sets show an increase in 2021. Figure D shows the change in total number of youth serving a correctional order during the month of May in 2019, 2020, and 2021. The data set reflects the combined total of populations at Lincoln Hills, Copper Lake, GROW Academy and Mendota Juvenile Treatment Center.

Figure D. Source: Department of Corrections

Population Per State Facility: Month of May



Breaking down the data by facility shows that the most substantial decrease is in the number of boys at Lincoln Hills, and of girls at Copper Lake. (Fig. E) Possible factors related to this decline are explored in the “Key Insights” section of this report.

Figure E. Source: Department of Corrections

“In my opinion, the referral rates have been reduced because of the change in regards to in-person attendance in schools.”

- Youth Justice Supervisor

“There seems to be a trend toward different handling of situations by the police in the area, with more situations with youth being handled without referral to [Youth Justice]. Mental health needs are being factored in, and the mobile crisis is utilized as a resource more now than ever. ”
- Youth Justice Supervisor

Change in Number of Youth Arrests vs Youth Justice Referrals

Arrest data from the Wisconsin Department of Justice for the years of 2019 and 2020 are presented alongside the annual number of referrals to youth justice intake.²² (Fig. E) Annual arrest totals 2019-2020 declined 36%, while referrals to county youth justice intake declined 48%. This can suggest that a decrease in youth arrests accounts for some of the decrease in referrals that was observed. A review of 2019 referrals and data indicates that 87% of referrals came from law enforcement.²³

A decrease in the number of arrests could relate to actual change in what rises to the level of arrest, or it could reflect a lower number of calls for service involving youth. To determine if there was a different rate of arrest, per number of calls, we would need to compare the number of arrests with the number of calls for service involving youth ages 12-16. And that data collection would occur at the local level, rather than county or state level. This particular analysis was outside the scope of this phase of study, but remains an important question.

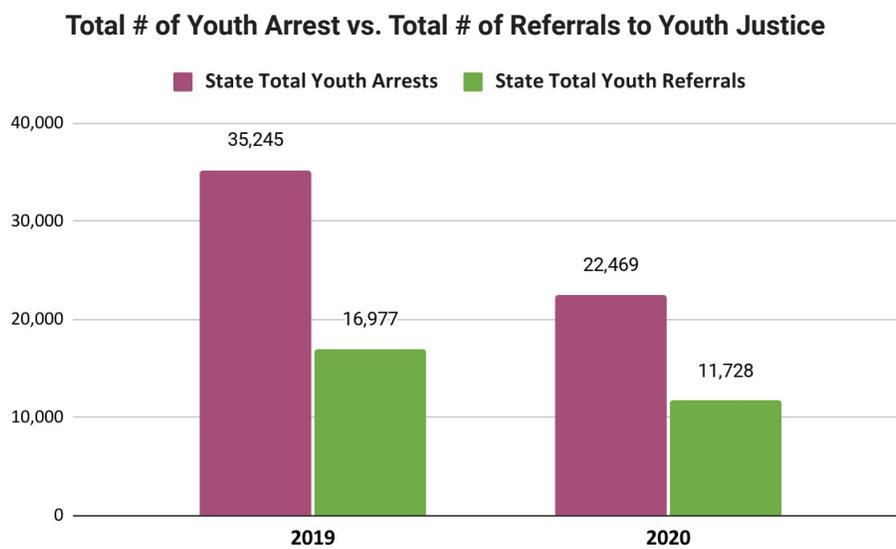


Figure F. Source: Wisconsin Department of Justice, Department of Children and Families

²² 2021 arrest was not available at the time of publication. These data do not represent the number of individual youth who were arrested. Not all law enforcement agencies participate in data collection for the arrest datasets shown, and arrest counts may be incomplete in other ways, thus these data may reflect an undercount of youth arrests. Also, these data include arrests of 17yo's, based on FBI definitions and categories. Wisconsin statute considers 17 yo's as adults. Please see further details at: <https://www.doj.state.wi.us/dles/bjia/ucr-arrest-data>.

²³ <https://dcf.wisconsin.gov/files/cwportal/yj/pdf/yj-referrals-intake-rpt.pdf>

“Though the changes were overall minor, the main change is that white youth have been placed less frequently and Hispanic youth have been placed more frequently. Juveniles of other races have remained for the most part unchanged.”

- Detention Supervisor

Racial Disparity Rates

Despite the decline in the overall number of arrests and referrals to county youth justice intake, the pandemic did not decrease racial disparities within those data sets.²⁴ Black, Indigenous and Asian American youth experienced disproportionate impacts in both areas in 2019 and 2020, compared to their white peers.²⁵ This means that while the number of arrests and referrals decreased, the gap between arrests of white youth and youth of color remained. The unfortunate reality is that pre-existing disparities in arrest and referral rates have persisted through the impact of the pandemic.²⁶

The racial disparities analysis for this report relies on data obtained from the Office of Juvenile Justice and Delinquency Prevention which does not disaggregate data based on Latina and Latino ethnicity. Data on the Latina and Latino ethnicity for youth experiencing a referral was available, but a high proportion of missing data limited the potential accuracy of analyses. As a result, disparity rate analyses in this section include four racial groups: white, Black, Indigenous, and Asian American. All four groups may include youth with Latina or Latino ethnicity.²⁷ Disparity rates based on other groups of youth who are marginalized by gender and identity were not able to be studied within the scope of this project.

While current data collection practices make it difficult to calculate disparities according to ethnicity within the scope of this project, it is essential to acknowledge that Latino and Latina youth do experience disparities related to the youth justice system. Based on 2019 incarceration data, Latino and Latina youth in Wisconsin were 1.2 times more likely to be incarcerated than their white peers.²⁸ In relation to this study, referral data from the Wisconsin Department of Children and Families indicates that the proportion of Latino and Latina youth referred for youth justice intake did not change with the start of the pandemic. It is noteworthy that this outcome is consistent with what is seen across the other racial groups studied: racial disparities in this data set stayed steady even though the number of arrests and referrals decreased for all racial groups.

²⁴ [Calculations for racial disparities prepared by Silver Lynx Consulting, LLC, 2021, based on rates of arrests per 1,000 youth ages 12-17, using population data from <https://www.ojjdp.gov/ojstatbb/ezapop/default.asp>. See Appendices C and D.](#)

²⁵ Each racial group may include Latina and Latino youth due to current data collection practice. Data on total arrests (All) includes arrests of youth whose race was unknown (611 in 2019 and 486 in 2020, about 2% of youth). Data on total youth justice referrals (All) includes referrals of youth whose race was unknown (479 in 2019, 193 in 2020, and 353 in 2021, about 10% - 11% of youth), as well as 5 Native Hawaiian and Pacific Islander youth in 2021).

²⁶ Statewide data on youth referrals for the months of April – June 2019, 2020, and 2021 and on youth arrests for all months in 2019 and 2020 were analyzed. Referral rates and arrest rates were calculated for comparison, using the closest available data match for the population: 2019 estimates of youth ages 12 - 17, from: <https://www.ojjdp.gov/ojstatbb/ezapop/>. These datasets are not directly comparable and Appendices C and D offer more information.

²⁷ This data is not disaggregated by gender.

²⁸ <https://www.sentencingproject.org/publications/latino-disparities-youth-incarceration/>

With regards to arrest rates, disparity analysis showed the following:

- Black youth were experiencing higher rates of arrest (per 1,000 youth) than other youth in both 2019 and 2020.
- Arrest rates (per 1,000 youth) were nearly 3 times higher among black youth compared to white youth, and at least 2 times higher among Indigenous youth compared to white youth in both 2019 and 2020.
- Arrest rates for White and Asian American youth were below the rate of arrest for the general population of Wisconsin youth (per 1,000 youth).

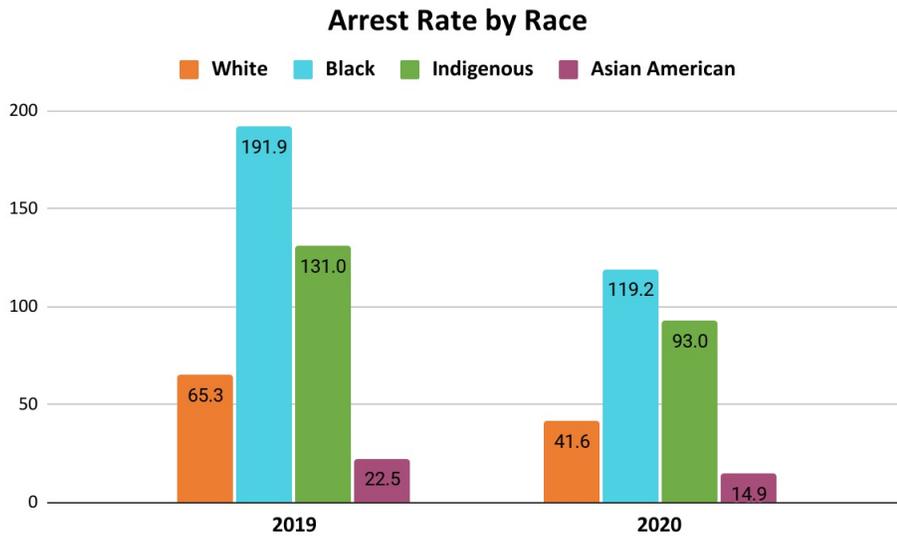


Figure G. Source: Wisconsin Department of Justice³⁰

These disparities correlate with the pervasive and inter-related nature of historical disinvestment of communities, lack of access to social services, and racial bias associated with harsher responses in the justice system for youth of color.²⁹

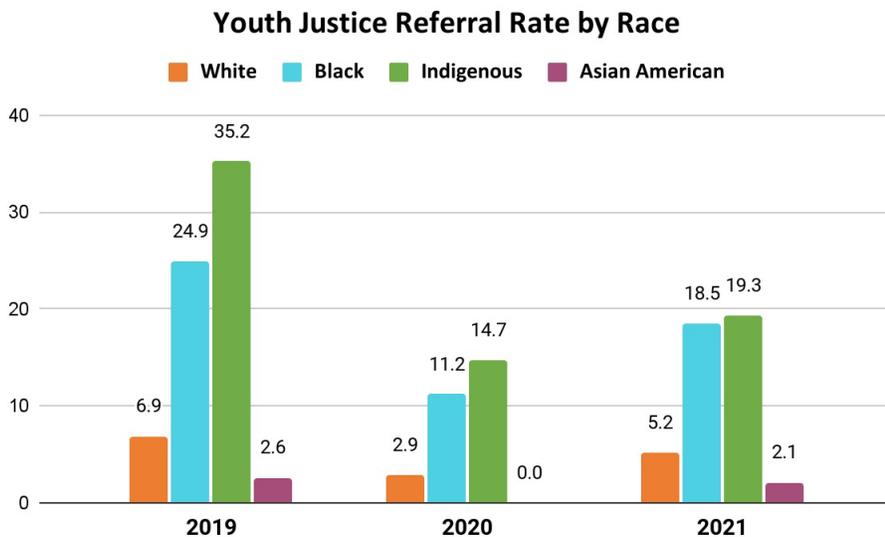


Figure H. Source: Wisconsin Department of Children and Families

The three-year comparison of referrals to youth justice intake for the months of April-June in 2019, 2020, and 2021 showed that referrals dropped substantially for this three month period in 2020 compared to 2019, rising again in 2021 (but not yet returning to the levels of 2019).

²⁹ <https://kidsforward.org/assets/The-Complex-Maze-of-the-Juvenile-Justice-System.pdf>

³⁰ Silver Lynx Consulting analysis of data from the Wisconsin Department of Justice UCR Arrest Demographics. Not all law enforcement agencies participate in data collection for the arrest datasets shown, and arrest counts may be incomplete in other ways, thus these data may reflect an undercount of youth arrests.

Within this data, the following racial disparities were observed:

- Each of these years, Indigenous youth were experiencing higher rates of referral (per 1,000 youth) than other youth during this three month period.
- The rate of referrals (per 1,000 youth) was over 3 times higher among both Indigenous youth and Black youth, compared to white youth during this three month period in each of these years. Referral rates were over 5 times higher among Indigenous youth compared to white youth during this three month period in 2019 and 2020.
- While arrest rates for white and Asian American youth appear similar, the rate of referral to youth justice for Asian American youth was lower than the rate for white youth, and was the lowest rate among all racial groups during this three month period, in each of these years.

Black and Indigenous youth were overrepresented among youth experiencing a referral in this three month period. For example, Black youth were only about a tenth of the population of youth ages 12-17 in Wisconsin, but they were about a quarter of the youth experiencing a referral.

Key Insights

“During the pandemic many businesses, clubs and organizations were closed to the public. Not allowing normal congregations of interactions. [We saw] reduced levels of group crimes and community-based assaults. We saw more domestic complaints and person crimes as a result that did not rise to community safety threat when law enforcement agencies responded. A crisis line was able to assist in many of these domestic disturbances.”
- Youth Justice Services Supervisor

Support for Diversion

The previous quote suggests that some counties have been able to reallocate, or make better use of, resources that provide crisis response— via phone, video or mobile units, to decrease the use of detention during the pandemic. In both years, there were more arrests than referrals to youth justice intake which suggests diversion from detention by law enforcement with and without a pandemic protocol in place. Specifically, there were 48% more arrests than referrals in 2019, and 52% more arrests than referrals in 2020.

This differential begs a question: if that many arrests do not result in referral to county youth justice intake, are these arrests necessary at all? Do they provide a benefit to public safety, youth, and families? Perhaps, these data show that calling law enforcement to respond to escalating behavior is still the default, and that what is really needed is a shift to youth-centered prevention and intervention services at the local level.³¹ This approach would support youth and families more effectively, and relieve a burden on law enforcement agencies.

Crisis responders can be trained to address all kinds of needs across the lifespan in rural areas where demand is not as high, or very specific needs of youth at the city level where there is more need. A very targeted approach to placing such services could include analyzing the areas of need statewide and assigning resources accordingly. Some counties have made crisis response more available during the pandemic to reduce the use of detention.

³¹ <https://www.americanprogress.org/issues/criminal-justice/reports/2020/10/15/491545/beyond-policing-investing-offices-neighborhood-safety/>

Based on survey responses, it was because these counties already had some type of service in place. For counties that do not, state support could be necessary to meet the needs and make access to diversion more equitable across the state.

“Mental health issues for youth who do not meet the criteria for Ch 51³² [of the mental health code] are brought into the youth justice system and sit in detention, while ineligible for mental health help.”

- Youth Justice Supervisor ³³

Mental Health Needs

According to literature and survey responses, there are a variety of barriers to accessing services in both urban and rural areas. In urban areas, barriers can include waiting lists, lack of culturally competent providers, and access to transportation. In rural areas, it can be these barriers, plus geographical isolation which creates regional service gaps. Finally, youth with high emotional and behavioral needs don't always have a mental health diagnosis that meets the criteria for inpatient and outpatient mental health services. For these youth, detention is the only “service” that cannot reject a young person who is having a behavioral crisis.

For youth who do have a serious mental health diagnosis, Wisconsin has very limited options which leads to more out-of-state placements-- especially for girls. The expansion of Mendota Juvenile Treatment Center is severely delayed at this point.³⁴ Increasing access to intensive community-based support can potentially be accomplished more quickly and efficiently than building a new facility that is geared toward longer term treatment.

“Our admission numbers remain low. There remains a racial disparity issue with youth of color being detained ... We have a workgroup that involves Youth Justice stakeholders who are reviewing the data and discussing next steps.”

- Youth Justice Supervisor

Pervasive Racial Disparity Rates

The racial disparities data analysis reinforces what youth and families of color experience and what youth justice leaders observe in their communities. Qualitative data indicates that youth of color are being referred at higher rates and seem to be detained longer due to lack of access to alternatives and a backlog of court processing.

A recent national report indicates that Wisconsin schools call police twice as often than the national rate, and for Indigenous youth, the rate is even higher (the highest statewide rate in the nation, in fact).³⁵ Both the Department of Children and Families and Department of Public Instruction have briefs on truancy best practice that offer guidance to decrease truancy referrals while increasing school engagement.³⁶ The Department of Public Instruction has training resources to help school districts build the support needed to reduce referrals to law enforcement.³⁷ We must ensure that these resources are well-utilized, continually funded, and evaluate the outcomes.

³² Chapter 51 is the state mental health code which defines the criteria for admission to inpatient facilities based mental health diagnoses. <https://docs.legis.wisconsin.gov/statutes/statutes/51>

³³ https://lafollette.wisc.edu/images/publications/workshops/2021_Youth_Justice_Wisconsin_Report.pdf

³⁴ https://madison.com/ct/news/local/govt-and-politics/transformation-delayed-local-officials-push-forward-on-youth-prison-replacements-as-state-facilities-remain-open/article_9c405259-ffdb-50e5-bf21-21d70d00e9ea.html

³⁵ <https://www.wpr.org/wisconsin-schools-called-police-students-twice-national-rate-native-students-it-was-highest>

³⁶ https://dpi.wi.gov/sites/default/files/imce/sspw/pdf/Best_Practice_Approaches_to_Truancy_Reduction.pdf

³⁷ <https://dpi.wi.gov/families-students/health-safety/discipline-behavior>

Bottom line: Youth justice administrators see the results of circumstances that drive disparities and they are concerned. While these drivers operate outside of their control, the administrators can pinpoint specific practices and procedures that contribute to pervasive disparities. We can use data to identify what resources are needed to make diversion away from law enforcement and the justice system more equitable across racial groups and regions. In addition, more attention and statewide support to reduce system involvement for Indigenous youth is critical to the overall health of each Nation. As noted, more information about the specific factors related to confinement of Latino and Latina youth is needed as well.

“I’m worried about the length of time juvenile court systems are taking to process youth. I’m also worried about youth in the youth justice system getting sent out of state to get their treatment needs met. These out of state facilities are secure facilities and many stakeholders do not recognize the impact this has on youth and their families.”

- Administrator

Decline in Number of Youth in Lincoln Hills

A decline in the number of youth at Lincoln Hills may reflect fewer young people in secure custody overall. (Fig. D) On the other hand, it may reflect other factors at play such as court processing delays (previously noted) and capacity limits due to pandemic protocol (also noted). Finally, a lower number of youth at Lincoln Hills and Copper Lake facilities could also indicate that youth are being placed elsewhere due to Wisconsin reaching the statutory closure date for these facilities³⁸ and system partners giving more consideration to mental health needs.

One concern related to the decline in number of youth at Lincoln Hills and Copper Lake facilities is the possibility that more youth are being placed in out-of-state private residential care centers (RCC’s) that have locked units.³⁹ While there can be benefits to placement in out-of-state facilities, i.e., trauma informed care and proximity to a relative, the practice raises the following concerns:

1. Locked units within private treatment centers are as potentially harmful and re-traumatizing as secure correctional facilities because the environments share similar protocols and thus, likely have the same physical or emotional impact. Moreover, solitary or administrative confinement has the same negative impact in a secure facility operated by the Department of Corrections as a private company.
2. Out-of-state facilities can be even further away, preventing regular contact with family and positive support people.
3. These facilities are private, and not required to comply with the same regulations as publicly-operated facilities. There is no oversight to ensure that youth are not subject to practices like pepper spray and solitary confinement, which have been banned in Wisconsin.

The Department of Children and Families tracks all out of home placements, including out-of-state RCC’s.⁴⁰ Although data analysis on this level was out of scope for this report, further collaboration with DCF could offer more insight.

“We had a youth over the summer last year that needed to go to Lincoln Hills. He was on a court order, in domestic violence altercations numerous times and we couldn’t do anything to get him held.”

³⁸Act 185 mandated a closure by July 1, 2021. This did not happen because a replacement facility has not been built.

³⁹ https://captimes.com/news/local/health-med-fit/why-is-wisconsin-sending-hundreds-of-children-out-of-state-for-mental-health-care_article_19b95b0e-784d-57fa-ab42-3adf3bdf68ab.html

⁴⁰ <https://dcf.wisconsin.gov/dashboard/ohc>

It was very frustrating and law enforcement stopped contacting us, as they knew we couldn't do anything. The parents also stopped calling law enforcement or us for help because we couldn't do anything to stop his behaviors. Very frustrating for us, for law enforcement and the family. The youth finally turned 18 and continues to be a nuisance in the community (using meth, domestic violence and aggression toward others). I feel this youth was failed by the system during COVID-19."

- Children and Families Program Manager

Serious Needs Require Responsive Systems of Care

The previous survey response describes a young person struggling with issues that don't go away due to pandemic circumstances, arrest, confinement, or turning 18. ⁴¹ Nevertheless, the pre-existing lack of appropriate community-based services and alternative placements has become painfully obvious during the pandemic due to the restricted use of secure custody. Young people require access to responsive services and interventions that truly have the capacity to address interpersonal violence and substance use. Incarceration does not offer that and is too often used as a substitute.

In any event, we must not imply serious needs have gone away just because secure custody is "closed." The underlying issues that often result in arrest and referral continue to exist during the pandemic. However, the stay at home orders and prevention protocols have made some of these issues improve (removing school and community triggers) and some escalate (more reports of conflict at home and drug use). Both of these outcomes offer the opportunity to assess ways to restructure our system of care across the state so that it better addresses the needs of older adolescents ⁴² and integrates anti-poverty and violence prevention initiatives. ⁴³

Recommendations

"Fewer youth committing law violations as a result of parents being at home and fewer opportunities for youth to be in the community/school and then get together for law violations. Law enforcement appears to also not be arresting at the same rate."

- Department Head

In many counties, COVID-19 protocols validate the reform efforts of the previous decade that center a reduced use of confinement. For some where there has been more resistance to change, COVID-19 protocols provided a needed incentive to meet this objective. Importantly, nothing within the qualitative research and current literature conveys a request for more law enforcement, more consequences, or more incarceration. Rather these sources of data and research urge more investment in community-based prevention, intervention and healing.

This is achievable using a well-resourced, multi-agency strategy that addresses the underlying factors of arrest and referral of youth to the justice system. In this vein, the following recommendations are offered to inspire continued reform

⁴¹ <https://docs.legis.wisconsin.gov/statutes/statutes/938/i/02>

⁴² <https://raisetheagewi.org/>

⁴³ <https://www.aecf.org/blog/new-child-poverty-data-illustrates-the-powerful-impact-of-americas-safety-net-programs>

that moves into transformative action, based on lessons learned, best practice with high needs youth, and current data regarding racial disparities.

Ensure that diversion is more equitable. Diversion resources need to be in place across the state and open to youth of all races and ethnicities, need levels, and communities in order to reduce unnecessary arrest, court involvement and detention.⁴⁴ We must work collaboratively to recover the grant programs that were eliminated in the most recent state budget—some of them were developed to decrease over-referral of youth with high needs.⁴⁵ Leveraging available funding related to COVID-19 recovery,⁴⁶ Office of Juvenile Justice and Delinquency Prevention programs,⁴⁷ the Family First Preservation Act,⁴⁸ the Wisconsin Department of Public Instruction grants,⁴⁹ and the newly announced State Prevention Fund⁵⁰ are possible sources to combine for overall benefit.

Expand what is working. Identify resources to sustain the increased use of mobile and 24-hour crisis support services after the pandemic is over. Elevate strategies that are designed to equitably reduce youth confinement and make them accessible to all communities. Examples include, the La Crosse System of Care Agreement⁵¹, Credible Messenger programs,⁵² teen court,⁵³ restorative justice programs in the Red Cliff Nation, and Waushara, Manitowoc, and Dane counties.⁵⁴ Family engagement programs in Outagamie and Jefferson Counties offer additional examples of strategies that decrease reliance on youth confinement and improve public safety.

Support community-based leadership to prevent harm. When it comes to prevention, local communities know what the underlying factors are, and they know what is needed.⁵⁵ Whether it is a local office of violence prevention or a group of mothers, state and county officials need to support local leaders with resources and policy to break the cycle of violence.⁵⁶ While the approaches may take different shapes depending on whether the community is rural, urban, or Indigenous, the goals and outcomes are shared.

Keep up 2020 COVID-19 impact report recommendations. Sustain the highest degree of collaboration and innovation across under-served groups, government agencies, professional disciplines, and levels of government. Use more informal support and technology to connect and stabilize youth in need. Secure equitable funding and service coordination to support all youth, in every community. Eliminate detention as a sanction by engaging county level initiatives until the state statutes can be rewritten.

⁴⁴ <https://jjie.org/2019/05/20/diversion-positive-youth-development-restorative-practices-connecting-the-dots/>

⁴⁵ <https://www.wispolitics.com/2021/evers-budget-would-revamp-plans-to-close-states-youth-prisons-as-part-of-juvenile-justice-system-overhaul/>

⁴⁶ <https://www.sentencingproject.org/news/meeting-the-back-to-school-challenge-get-involved/>

⁴⁷ https://ojjdp.ojp.gov/sites/g/files/xyckuh176/files/media/document/WI-FY18-State-Plan_508.pdf

⁴⁸ <https://dcf.wisconsin.gov/family-first>

⁴⁹ <https://dpi.wi.gov/sspw/mental-health/school-based-mental-health-professionals-federal-grant-program>

⁵⁰ <https://content.govdelivery.com/accounts/WIGOV/bulletins/2f728a1>

⁵¹ <https://www.lacrosseschools.org/system-of-care-school-justice-partnership/>

⁵² <https://ymcaracine.org/strong-communities-agenda#:~:text=The%20Credible%20Messenger%20Program%20team,involvement%20in%20the%20justice%20system>

⁵³ <https://www.waukeshacounty.gov/HealthAndHumanServices/adolescent-and-family-services/TeenCourt/>

⁵⁴ <https://www.danerestorativejustice.org/>

⁵⁵ [Community leaders call for more investment in prevention as prison costs rise](#)

⁵⁶ [Mothers of teens lost to gun violence come together to say 'This is our city and we have to take it back'](#)

Conclusion

“Some grace has been given, vs. criminalizing everything youth may do. Less school issues arise when they aren’t in school.”

- Youth Justice Social Worker

The pandemic is not over, and variants continue to pose a risk for virus spread in congregate care. However, we must acknowledge what can be learned from this crisis. The quantitative data presented in this report shows that diversion from the justice system is happening. This data reflects a “commitment to a Youth Justice system that does not bring youth further into the system unnecessarily”.⁵⁷

- In all three years, the number of referrals to youth justice intake were much higher than the number of youth in detention.
- The number of youth arrests were higher than the number of referrals to county youth justice.
- The number of youth serving correctional orders in state secure facilities is the lowest number of youth out of all three categories.

Wisconsin has willing partners and useful data to move ahead with action that expands diversion and community-based solutions. This action would improve public safety, address regional service gaps, and racial disparities. It would also reduce the fiscal and social burdens of youth incarceration. Investments in such initiatives would save the state and counties millions of tax dollars by decreasing youth incarceration and preventing harm that leads to incarceration.⁵⁸

More importantly, our state must act on what we are learning because the socio-economic conditions for many children and youth are worsening due to the pandemic. We must develop funding and policy that supports trauma-informed, racially equitable, and geographically-specific solutions. Intergovernmental cooperation, continued stakeholder collaboration, and information sharing will help make those solutions available to all communities and regions. Wisconsin cannot afford the cost of hopelessness.

“Youth were impacted in many ways by this pandemic. The absence of human contact and the presence of isolation and quarantining led to hopelessness and increased level of internal behaviors within the facility.”

- Youth Justice Services Supervisor

⁵⁷ <https://dcf.wisconsin.gov/files/cwportal/yj/pdf/yj-vision.pdf>

⁵⁸ National Juvenile Justice Network. 2021. “Community-Based Supervision: Increased Public Safety, Decreased Expenditures.” <http://www.njjn.org/our-work/community-based-supervision-tip-sheet>

APPENDIX A

Considerations for a Wisconsin Model of Juvenile Justice

2017 WI Act 185, Section 110(4)(e) *"The juvenile corrections grant committee shall develop a statewide plan that recommends which grant applications to approve, based on an overall view toward a Wisconsin model of juvenile justice."*

This Wisconsin model should:

1. Be developed in an inclusive manner that incorporates input from youth and families, community stakeholders, mental health and physical health practitioners, experts in juvenile justice and trauma-informed care, and all others who wish to come to contribute to the goal of juvenile justice in Wisconsin.
2. Focus on prevention and diversion, and provide accountability and services to youth and families in the system that prepares them to thrive ("DCF Youth Justice Vision and Strategic Plan").
3. Recognize that the post-dispositional secure custody of youth (Type 1, MJTC, SRCCCYs) is one component of the broader youth justice system and should only serve youth who require correctional placement.
4. Promote a collaborative system where the state agencies, county, and local providers work together to enhance program effectiveness and minimize duplication of services.
5. Prioritize evidence-based practices that have proven outcomes that serve youth in smaller, regional facilities closer to their communities, and that foster engagement with their families to promote a successful transition home.
6. Promote youth and family voice and involvement with a strengths-based, culturally responsive approach that builds toward self-sufficiency through wraparound services.
7. Value community engagement and community safety, both in the short-term and in the long-term.
8. Ensure healthy, safe, and fair environments for the youth in secure custody and the staff who serve them, including the elimination of racial and ethnic disparities.
9. Require that all youth in secure custody receive evidence-based, trauma-informed, and developmentally appropriate programming and services designed to meet their assessed risks and needs.
10. Integrate best practices to collect, maintain, and analyze data to assess performance and improve outcomes for youth and families.
11. Prioritize successful and sustained transition as youth exit the system immediately upon their reentry, to prevent and reduce recidivism, based on objective data.
12. Promote community supervision that is evidence-based, trauma-informed and considers the needs of the youth and their families.
13. Enable those in care and their families to provide feedback as they exit the system, to ensure future data-based decision making.

⁵⁹ <https://doc.wi.gov/Documents/AboutDOC/Act185/190506-GrantCommittee/190513WIModelUpdated.pdf>

APPENDIX B

Current Survey and Qualitative Results

1. Which county or entity are you representing for this survey?
2. Which best describes your role?
3. Is your county still restricting the use of secure custody to only those youth who pose a significant public safety risk?
4. Are youth still going through quarantine upon admission? What effect does that have on them, based on your observations?
5. Is your county denying admission to detention for status offenses or mental health crises?
6. Of the number of youth in DT from your county or in your local facility, what portion do you think are admitted due to these issues? If this format doesn't accommodate your answer, please see the long answer format below.
 - A serious offense and threat to public safety
 - Lack of alternative non-secure placement or community-based services
 - Mental health disregulation
 - Status offense/ probation rule violation
 - Awaiting courtdate
7. Of the number of youth in DT from your county or in your local facility, what portion do you think are admitted due to the following issues: a serious offense/public safety risk; lack of alternative placement; mental health crisis; status offense; awaiting court?
8. Is this breakdown a change from pre-pandemic trends or similar? How so?
9. What are the vaccination rates in your area and do the rates impact the youth and staff in your area? How?
10. Our first COVID-19 impact report included data that reflected a significant decrease in youth justice intake referrals and number of youth in secure custody in WI. For example, in May 2019, there were 1744 referrals to youth justice intake. In May 2020, there were 598. What are your thoughts on why the referrals dropped so significantly across the state?
11. The Annie E. Casey Foundation released data in May 2021 that reflects an upward trend in the number of youth detained and an increase in racial disparities. Are you observing the same change in your community?
12. Based on a significant decrease in referrals to Youth Justice- we looked at arrest data in 5 counties across the state. The total number of youth arrests in those counties between April - June 2019 was 3213. The number between April-June 2020 was 1487. What are your thoughts about that decline in arrests? What do you think they mean?
13. What else would you like to share about the impact of COVID-19 on youth in secure custody?

Qualitative Survey Results

Participation in this survey was lower than in the first phase of the project. There were 17 responses to the survey, representing 11 different counties and two state agencies. Participants included detention and youth justice supervisors as well as an attorney and two state agency administrators. Counties represented included: Adams, Bayfield, Brown, Chippewa, Dane, La Crosse, Milwaukee, Ozaukee, Racine, Rock, and Taylor.

Highlights from Qualitative Findings

- Most facilities are still limiting admission to serious public safety risk circumstances, with some receiving placements from Judges as a sanction for rule violation.
- Facilities report that 50-100% of the number of youth in custody are there due to a serious offense or awaiting court for a serious offense. For most facilities this is not a change from pre-pandemic conditions.
- No change in racial disparities for the most part - still very high disparity between youth of color and white peers.
- Reason for decrease in referrals: more parental presence due to lockdown, school and community closures, law enforcement changing response, more collaboration.
- Increase in serious offenses is very worrisome. Delay in court processing is a concern. Children not being able to see the faces of people caring for them due to masking is a concern. Hopelessness is a concern.
- Increase in domestic complaints and drug related work.

APPENDIX C

Youth Arrests by Race

Data on total arrests (All) includes arrests of youth whose race was unknown (611 in 2019 and 486 in 2020, about 2% of youth). Ethnicity data was not provided, so each racial category may include Latina and Latino youth.

- Arrests decreased from 2019 to 2020 among all racial groups.
- Black youth were experiencing higher rates of arrest than other youth.
- Arrest rates were nearly 3 times higher among Black youth compared to white youth, and at least 2 times higher among Indigenous youth compared to white youth.

Wisconsin Juvenile Arrests January - December							
Arrest Year	# Arrests	% Arrests	# Population 12-17	% Population 12-17	Arrest Rate per 1000 Population 12-17	Arrest Rate Disparity with whites	Disproportionality with Population
Black							
2019	8,897	25.2%	46,361	10.4%	191.9	2.9	2.4
2020	5,524	24.6%			119.2	2.9	2.4
Indigenous							
2019	1,034	2.9%	7,893	1.8%	131.0	2.0	1.7
2020	734	3.3%			93.0	2.2	1.8
Asian American							
2019	399	1.1%	17,699	4.0%	22.5	0.3	0.3
2020	264	1.2%			14.9	0.4	0.3
White							
2019	24,304	69.0%	372,002	83.8%	65.3		0.8
2020	15,461	68.8%			41.6		0.8
All							
2019	35,245	100.0%	443,955	100.0%	79.4		
2020	22,469	100.0%			50.6		

APPENDIX D

Youth Justice Referrals by Race

Please note that these data are only for a quarter of the year and do not reflect annual referral counts or rates. Each racial group may include Latina and Latino youth. Data on total youth justice referrals (All) includes referrals of youth whose race was unknown (479 in 2019, 193 in 2020, and 353 in 2021, about 10% - 11% of youth), as well as 5 Native Hawaiian and Pacific Islander youth in 2021). Data on the Latina and Latino ethnicity of youth experiencing a referral was also available, but a high proportion of missing data limited the potential accuracy of analyses. These included 91 referrals of Latina and Latino youth in 2019, 85 in 2020, and 84 in 2021.

- Referrals dropped substantially in these months in 2020 compared to 2019, rising again in 2021 (but not yet returning to the levels of 2019).
- Indigenous youth were experiencing higher rates of referral than other youth during these months.
- The rate of referrals was over 3 times higher among Indigenous and Black youth compared to white youth (and over 5 times higher among Indigenous youth compared to white youth in 2019 and 2020) in these months.
- Black and Indigenous youth were overrepresented among youth experiencing a referral. For example, Black youth were only about a tenth of the population of youth ages 12-17 in Wisconsin, but about a quarter of the youth experiencing a referral during these months each year were Black.

Wisconsin Youth Justice Referrals April, May, & June							
Referral Year	# Referrals	% Referrals	# Population 12-17	% Population 12-17	Referral Rate per 1000 Population 12-17	Referral Rate Disparity with whites	Disproportionality with Population
Black							
2019	1,156	25.5%	46,361	10.4%	24.9	3.6	2.4
2020	520	27.4%			11.2	3.9	2.6
2021	857	25.7%			18.5	3.6	2.5
Indigenous							
2019	278	6.1%	7,893	1.8%	35.2	5.1	3.4
2020	116	6.1%			14.7	5.1	3.4
2021	152	4.6%			19.3	3.7	2.6
Asian American							
2019	46	1.0%	17,699	4.0%	2.6	0.4	0.3
2020	0	0.0%			0.0	0.0	0.0
2021	37	1.1%			19.3	0.4	0.3
White							
2019	2,581	56.9%	372,002	83.8%	6.9		0.7
2020	1,069	56.3%			2.9		0.7
2021	1,935	58.0%			5.2		0.7
All							
2019	4,540	100.0%	443,955	100.0%	10.2		
2020	1,898	100.0%			4.3		
2021	3,339	100.0%			7.5		



Youth Justice Wisconsin is a solution-focused initiative designed for youth, families, community partners, advocates, service providers, and system stakeholders to collaborate in order to comprehensively transform the youth justice system, increase community safety, and improve well-being for young people, ages 12-24.

To learn more go to www.youthjusticewi.org