Continuing Trends in Juvenile Justice in Wisconsin

An update from January 2014 Report

October 2015

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The State of Juvenile Justice in Wisconsin

SUMMARY

This report is an update of an earlier report published in January of 2014 and includes data through 2014. Fortunately, many of the trends noted in the earlier report have continued, as juvenile arrests have continued to decline, and we have seen a growth in support for successful community-based programs.

As noted in the earlier report, juvenile crime in Wisconsin has undergone significant changes over the last decade—but in a direction that belies the common perception that things have gotten worse. Youth crime has declined, and in state after state, juvenile facilities that were full or overcrowded are seeing dramatic reductions in the numbers of youth placed. States and counties are facing unanticipated and unprecedented decisions about closing or consolidating facilities.

One serious juvenile crime is one crime too many. One victim is one victim too many. But policy decisions regarding youthful offenders need to be made within the context of what we know works and what the data shows is really happening in the juvenile justice system. Lest we forget, it was not that long ago (circa 1995) that fears of "a coming generation of superpredators" drove policy decisions. Some of those decisions improved the system. For example, the Juvenile Code, adopted in 1996, employed a "balanced approach" for goals (balancing community safety, youth accountability, and competency development) and increased victims' rights.

But the fears and rhetoric of the early 1990s also led to lowering the age of adult court jurisdiction to 17, unnecessarily capturing non-violent and first-time 17 year old offenders in the adult system.

Since that change in 1996, approximately 300,000 Wisconsin 17-year-olds have been arrested for nonviolent offenses, resulting in an estimated 80,000 of them spending at least some time in an adult jail, and thousands more ending up with an adult record that too often has unintended consequences related to employment, housing, and education.[12]

Over the past several years, Wisconsin's juvenile justice system has:

- turned dramatically toward reducing the level of youth confined in both short- and long-term secure facilities;
- moved systematically toward implementing research-driven practices that work; and
- reinvested some resources formerly spent on high-cost placements into community-based alternatives.

Over the past decade, Wisconsin has experienced a decrease in the numbers of juveniles arrested, juveniles committing violent crimes, juveniles sent to correctional facilities and detention facilities, and juveniles waived into adult court.

Mixed in with this mostly good news, the following challenges remain:

- The racial disproportionality of minority youth who have contact with our justice system remains among the highest in the nation.
- Each year thousands of 17-year-olds are arrested and subject to involvement in the adult justice system, whether at the local or state level.
- Although progress has been made, Wisconsin statutes still permit youth who do not commit crimes (status offenders) to be confined with youth who do.
- Too little of the savings accrued from fewer youth arrested, fewer out-of-home placements, and declines in confinement at both the state and local level has been reinvested in proven prevention strategies.

This report summarizes the current status of key decision points in the juvenile justice system, utilizing data from the Department of Justice, the Division of Juvenile Corrections, and the Consolidated Court Automation Programs (CCAP) case management database. This data is only part of the story of the hard work done throughout the system to better assess which youth need our attention, to reconfigure resources to build effective local responses to youth crime, and to improve juvenile justice practices to be more consistent with the growing body of research about what works.

Begin at the Beginning–Juvenile Arrests

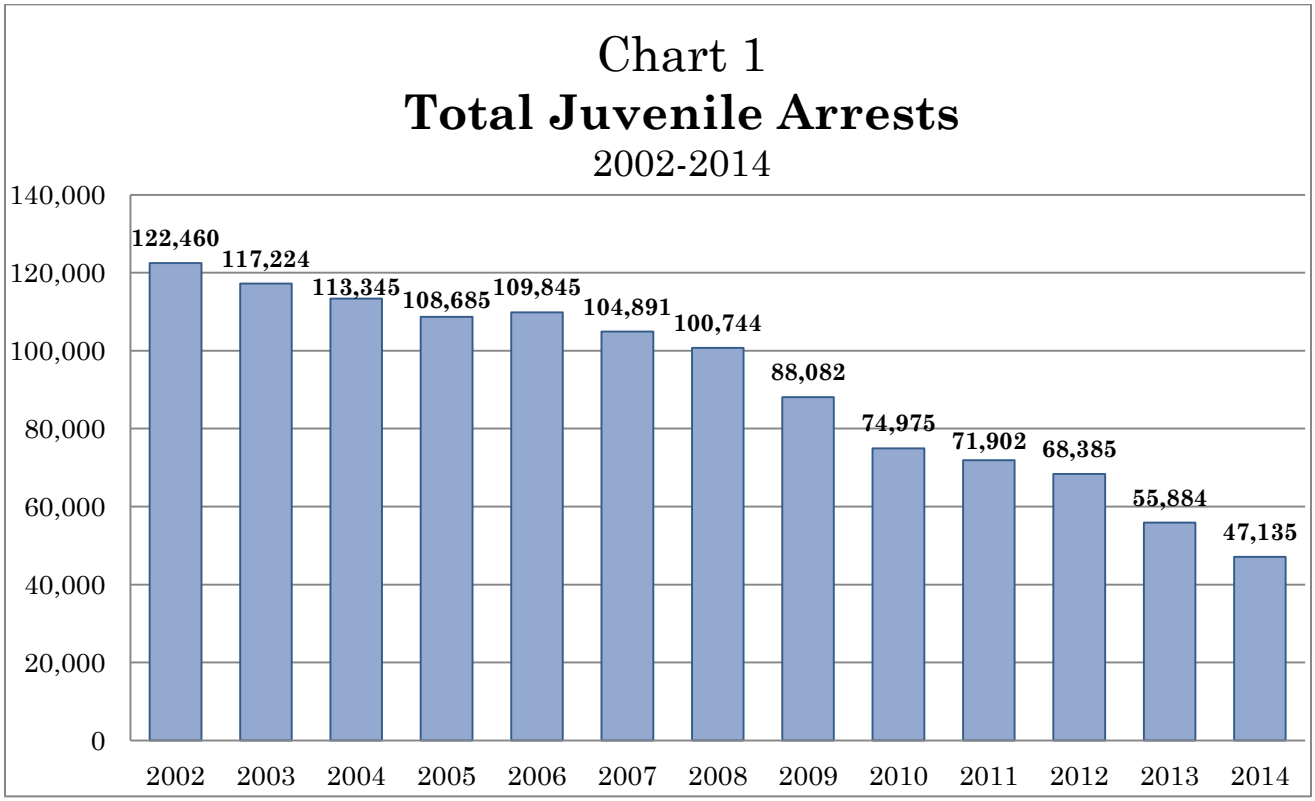
There are two measures of arrests typically reported:[3]

The **number of juvenile arrests** is simply the number of juvenile arrests reported by law enforcement.

The **rate of juvenile arrests** is a calculation that takes into account the number of juvenile arrests compared to the number of delinquency-age youth in the population, thereby accounting for changes in demographics over time.

Number:[4]

The number of juveniles arrested has declined dramatically for over a decade, as illustrated by Chart 1. Since 2002 the number of juveniles arrested has **declined 62 percent**.



Rate:[5]

Likewise, the rate of youth arrests has also declined steadily (with the exception of an increase from 2005 to 2006) and significantly over the last decade, as illustrated in Chart 2.

These rates are reported as the number of juvenile arrests per 1,000 youth. The rate of juvenile arrests has **declined by 53 percent since 2005.**

Chart 2

Juvenile Arrest Rate

(per 1,000 youth)

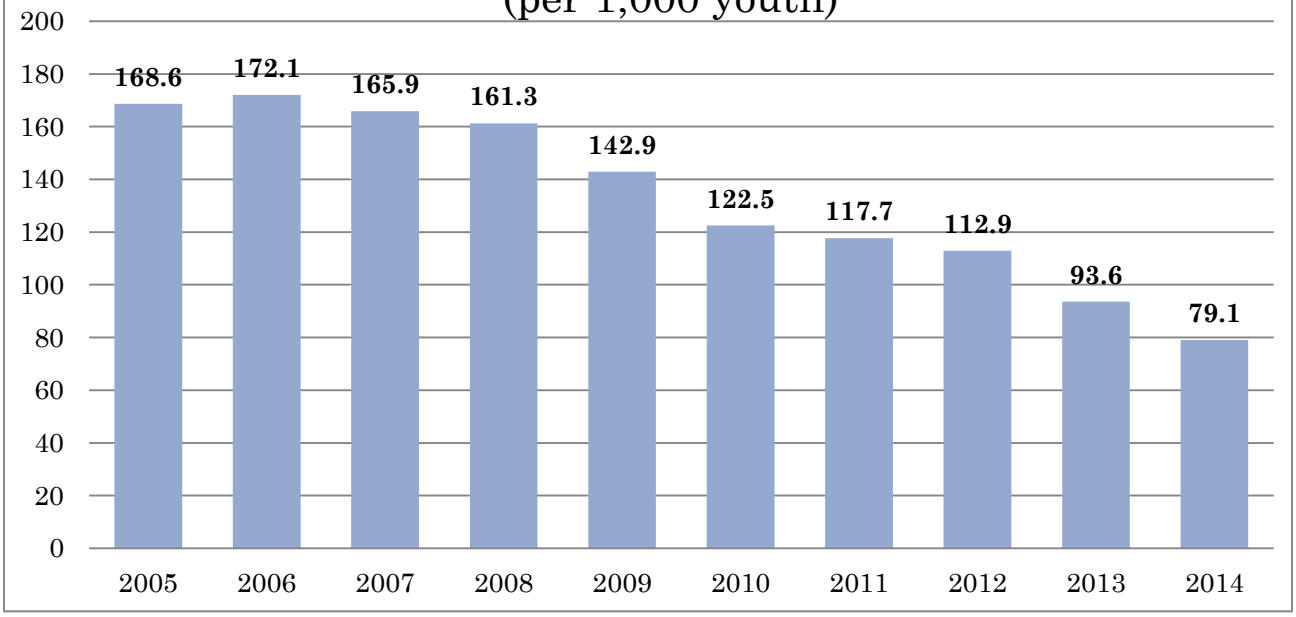
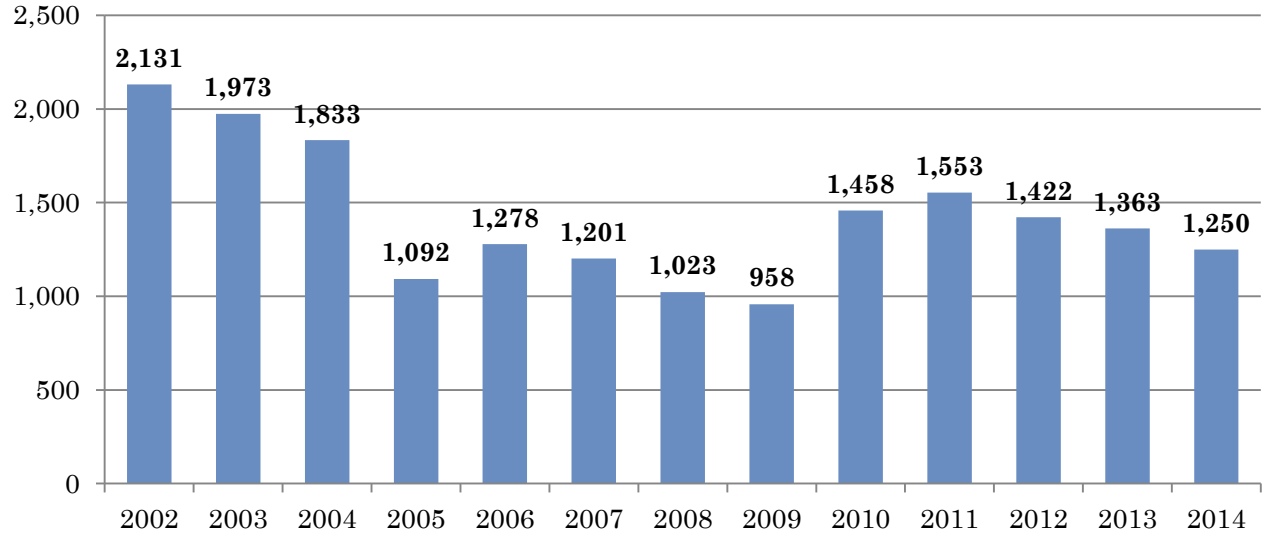


Chart 3 illustrates the arrests of youth for violent crimes over the last thirteen years. Although not as steady a decline as in overall arrest rates and numbers, the number of violent crimes has decreased fourteen percent in the past five years, and is **down by 41 percent since 2002.**

Chart 3

Number of Arrests of Juvenile for Violent Crimes

2002-2014



Juvenile Population:[6]

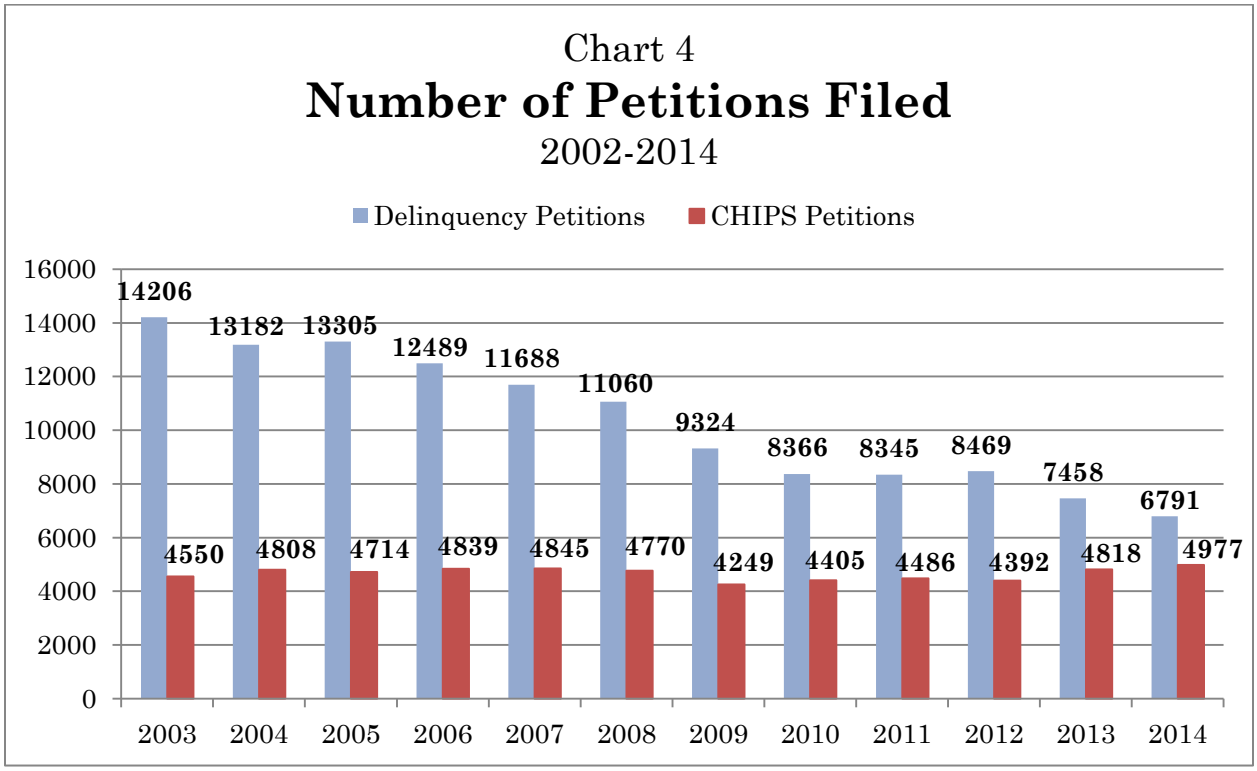
Since 2002, the number of youth ages 10 to 17 in Wisconsin has declined by approximately 7 percent. A simple way to think about the relationship between all of these measures is that if everything else remained the same over the last decade, one could expect the number of youth arrested to have declined about 7 percent – equal to the decline in the population cohort. That is clearly not what has happened. Instead, the decline has been much greater than that, even for the most serious offenses.

Formal Petitions Filed

In Wisconsin, as in other states, once an arrest is made by law enforcement there is considerable discretion in how the case is handled (as well as whether the arrested youth is taken into some form of physical custody) based on the nature of the offense. In simple terms, they can choose to essentially "warn" the youth, refer the youth - generally working with the parent(s) - to various community programs for services, issue a citation (ticket), or refer the case to the court for assessment and formal processing.

Within each county there are established procedures and guidelines for assessing those cases, with a goal of determining whether there is a need to file a formal petition (charge) or whether there are other informal means to accomplish the overall goals of the juvenile justice system—holding youth accountable, ensuring safety for the community, and improving the competencies/skills of youth. A petition may include one or more "counts," or charges, of the same type or different types. Multiple counts are often linked to a single incident. Generally, the more serious the offense, the more likely it is that it will result in a formal petition being filed.

The number of juvenile delinquency petitions filed across the state can be viewed as a rough approximation of the caseload of the courts dealing with youth delinquency. Chart 4 shows the number of juvenile delinquency petitions filed in Wisconsin over the last twelve years[9].



The number of delinquency petitions filed since 2003 has **declined by 52 percent**—no doubt in large part a reflection of the declines in the numbers/rates of youth arrested as well as the development of other alternative solutions to respond to delinquent behaviors—e.g. deferred prosecution agreements, restorative justice programs, teen/peer courts, and restitution programs. Most often these programs are equally, if not more, effective, timelier, and less costly.

CHIPS Petitions:

Chart 4 also shows the numbers of CHIPS (Child in Need of Protection and/or Services) Petitions that have been filed since 2003.[8] CHIPS Petitions are filed for children who have been maltreated or neglected by their parent and who need protection or services from the Child Welfare System to keep them safe.

In comparison to the steady decline in delinquency petitions, CHIPS petitions have remained fairly stable, although there has been a small but steady rise in CHIPS petitions since 2009.

Child Abuse and Neglect

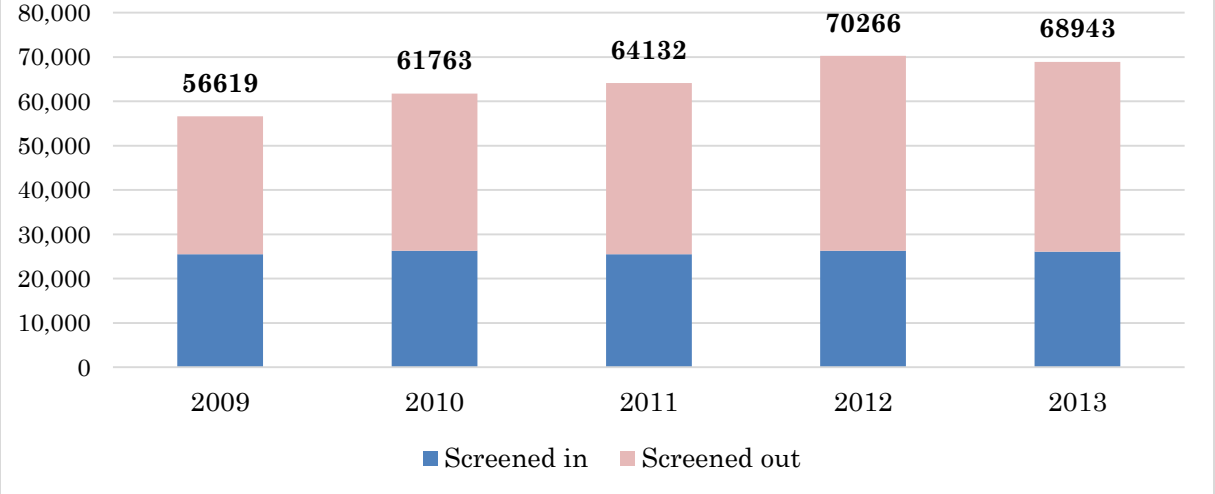
Youth who have or have had involvement in both the child welfare system and the juvenile justice system are called "dual-status youth" and have unique needs and experiences. Because of the relationship between child maltreatment and delinquency, it is important to consider child abuse and neglect trends in addition to juvenile justice data.

Cases of child abuse and neglect are identified based on referrals that individuals make to Child Protective Services (CPS) about alleged child maltreatment. Once a referral has been made, CPS employees use a screener to determine if the case meets criteria for suspected maltreatment. Cases that do not meet standards for suspected maltreatment are "screened out" and CPS does not require additional interaction with the family at that time. In contrast, cases that meet the criteria for suspected maltreatment are "screened in" for CPS to pursue an investigation to determine whether maltreatment occurred. Chart 5 shows the total number of reports that were made to CPS regarding child maltreatment in the last five years, as well as the percentages of those reports that were screened in and screened out.[7]

Chart 5

CPS Reports and Screening Decisions

2009-2014



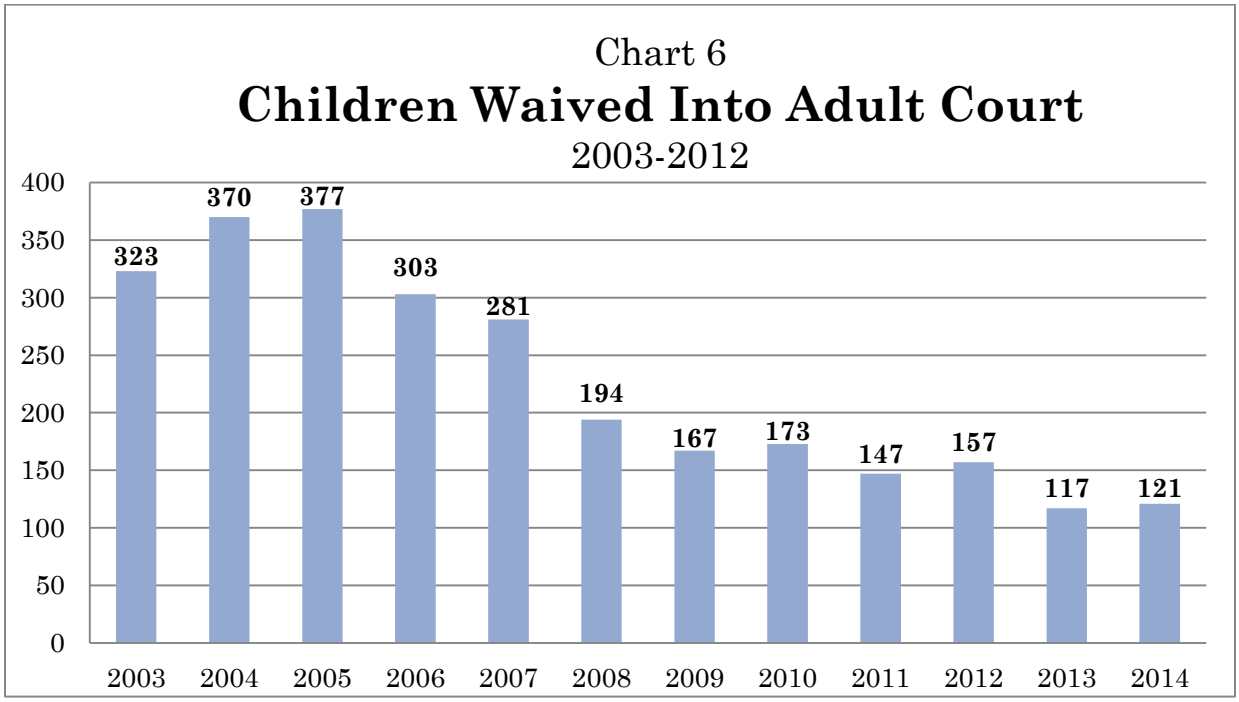
Over the last five years, referrals to CPS have increased by 21%. However, the number of those referrals that are screened in has remained relatively stable around 26,000 cases. It is unclear what has caused this rise in referrals, but it will be interesting to see if this trend continues.

Sending Youth to Adult Court—What We Know Now

In Wisconsin, youth ages 15 and 16 can be waived into adult court for any delinquent offense, and for a few serious offenses youth as young as 14 may be waived. This waiver process is different than the "original jurisdiction" that applies to youth ages 10[8] to 16 who commit one of a limited number of the most serious offenses. In order to waive a youth to adult court, the district attorney must file a waiver petition prior to the first plea hearing. The judge may then, after a hearing at which parties have the opportunity to provide information to the court, make the necessary findings and order the youth's case transferred to the adult system.

The data in Chart 6 represent the number of youth actually waived into adult court between 2003 and 2014.[9] Note that after an increase in 2004 and 2005, the number of youth waived dropped steadily through 2013, with only a slight rise from 2009 to 2010. The number of youth waived in 2014 represents a 68 percent drop from the peak in 2005, and a 47 percent reduction from the average over the past twelve years.

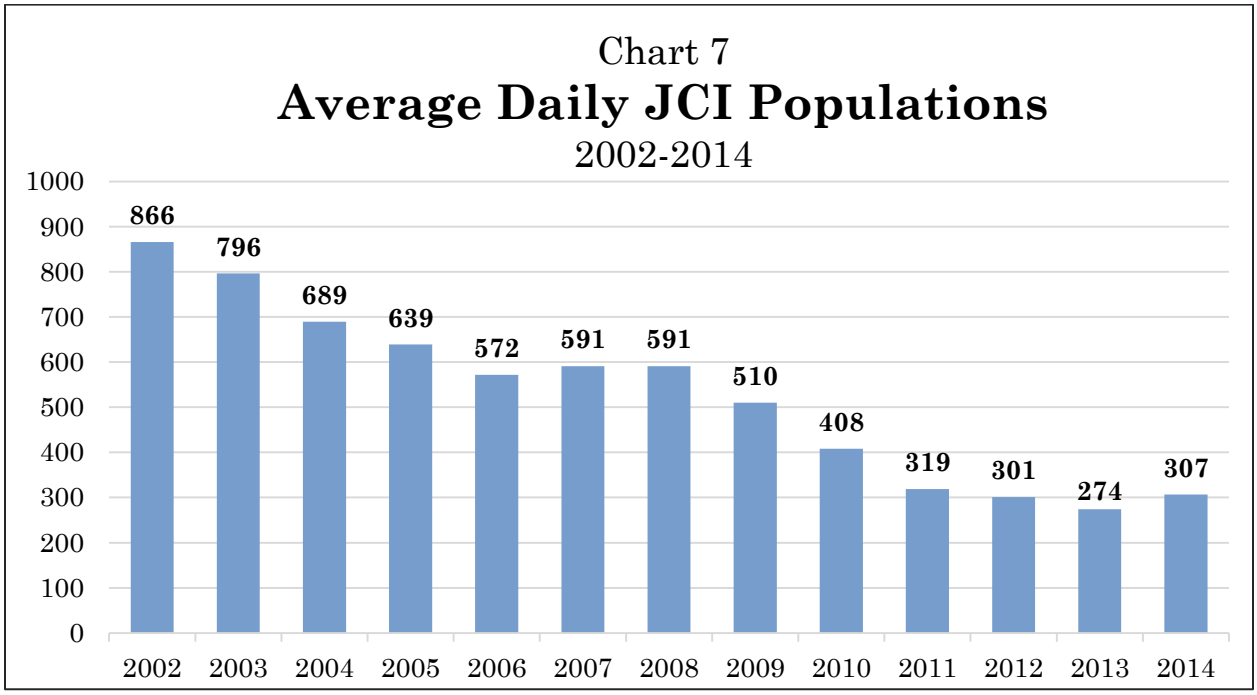
We may not know exactly what accounts for this decline. Have perceptions changed regarding the need for incarcerating youth for longer periods of time? Is there a growing awareness that the adult system is ill-equipped to deal with all but the most serious youthful offenders? What we do know is that the best research available suggests that if the primary goal of the system is to reduce reoffending behavior(s), waiver to the adult system has not been successful, and has in fact been counterproductive.[10]



Finding Other Ways to Hold Youth Accountable and Protect the Community

One of the most dramatic declines has been in the number of youth housed in Wisconsin's most secure Juvenile Correctional Institutions (JCIs), which are operated by the Department of Corrections, Division of Juvenile Corrections (DJC). From 2000-2010 three separate JCIs operated in Wisconsin, but in 2011 they were consolidated into two facilities: Lincoln Hills School and Copper Lake School.

Youth are placed in a JCI pursuant to a court finding that (1) the youth has committed an offense which, if committed by an adult, would subject them to at least six months incarceration; and (2) a restrictive setting is needed to ensure community safety. The following chart shows the average daily population (ADP) as a total for all of the JCIs operating through the last decade.[11]



The average daily population is essentially a function of two variables: (1) the number of youth admitted to facilities; and (2) the length of stay for youth placed in the facilities. The decline of about 65 percent in the ADP over the past thirteen years reflects declines in both of these variables, as fewer and fewer youth have been placed by the court in JCIs and as county human service departments and DJC have worked collaboratively to return youth safely and successfully to their communities.

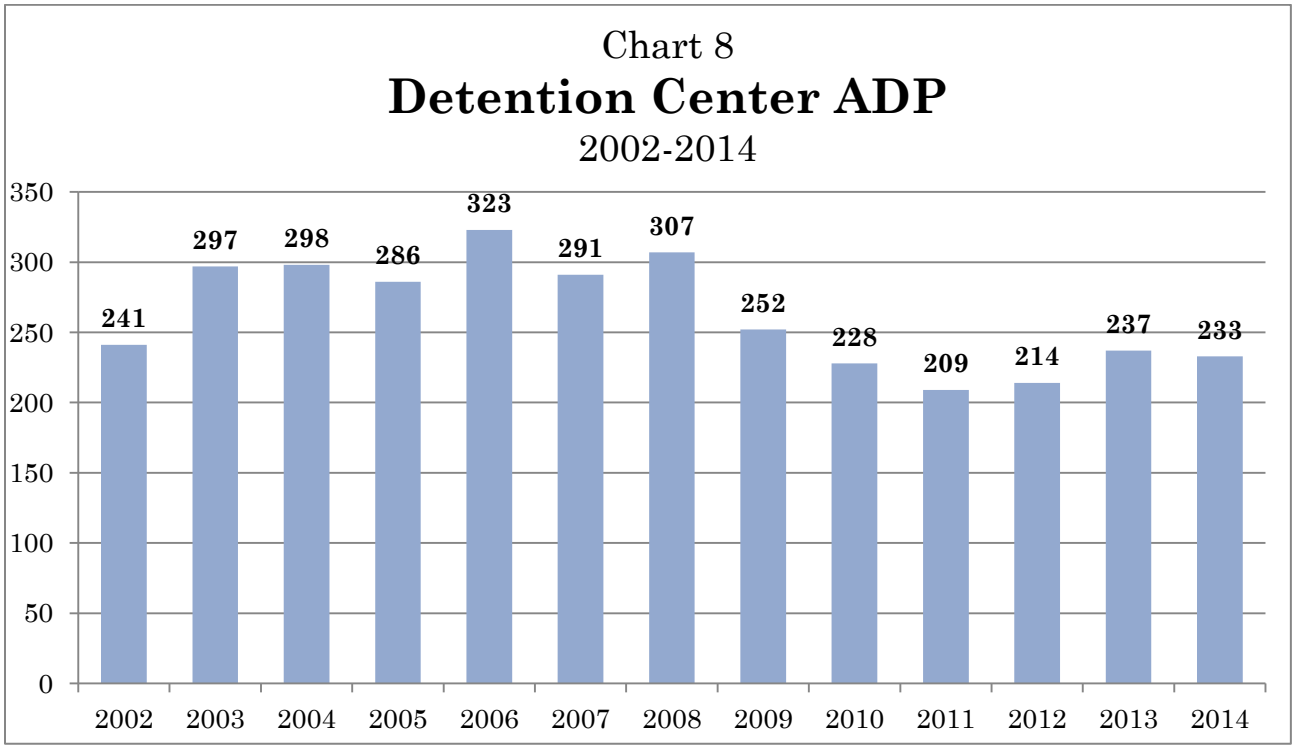
For the majority of youth placed in JCIs and for services provided by DJC following placement, the county making the placement is responsible for paying a daily rate to DJC. This process was developed in 1980 as part of the Youth Aids system. As that daily rate has increased at a much faster rate than aid provided to counties by the state, counties have created additional alternatives to successfully deal with youthful offenders in their own community whenever possible. Legislation in 2011 and in 2013 has led to the creation of a number of local correctional alternative programs in which a youth may be placed in secure confinement for up to a full year.

Additionally, counties have continued to focus their investments at the local level, which is consistent with an increasing body of research suggesting that for many serious youthful offenders, well-designed community-based services can be effective in reducing reoffending behaviors and increasing youth's positive engagement in the community.[12]

Using Juvenile Detention Strategically

Unlike Juvenile Correctional Insitutions, which are meant for long-term care, juvenile detention facilities hold youth for short-term stays. The intent and best purpose of juvenile detention facilities is to hold alleged delinquent youth who pose a substantial risk of physical harm to another person or are likely to run away so as to be unavailable for court. Juveniles can also be held in detention facilities while they are awaiting placement in a JCI.

As the number and rate of youth crimes have declined, there has been a corresponding decline in the number of youth held in the seventeen temporary county-operated juvenile detention facilities authorized to hold youth in Wisconsin. Chart 8 illustrates the trend over the past decade in the number of youth held in juvenile detention centers on an average day in Wisconsin.



Following an increase in the first part of the 2000s, the population began to decline, with 2011 being lower than the peak in 2006 by 35 percent. However, after the low point in 2011, population numbers have again begun to rise.

The decline would likely have been greater without some changes in practices at the local level in some counties, including: (1) an increase in the use of secure detention for status offenders—those youth who have not committed an offense that would be

considered a crime if committed by an adult but have violated a court order (e.g. truancy, repeated running away); and (2) an increase in holding youth for failing to comply with court ordered rules of supervision through either the 72-hour hold provision or the sanctions provision of the Juvenile Code.

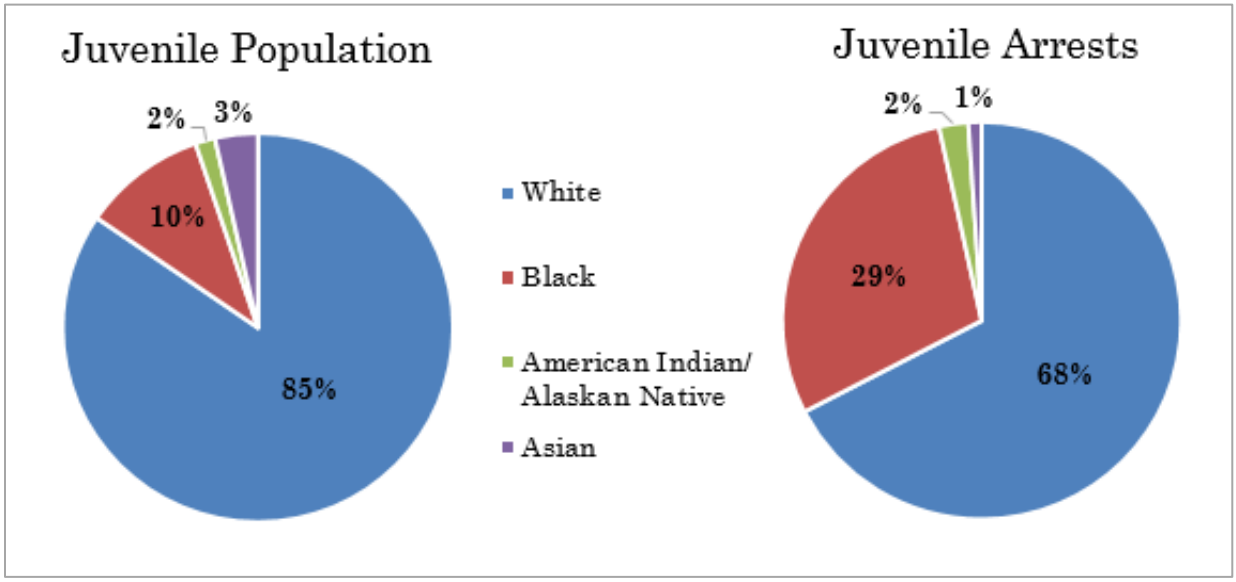
Wisconsin's Greatest Challenge—Promoting Equity for All

Perhaps Wisconsin's greatest challenge is the high rates of disproportionality for minority youth at all points of contact with the juvenile justice system—generally referred to as Disproportionate Minority Contact (DMC). Across the United States, children and youth of color have been overrepresented at every stage of the juvenile justice system, from arrest through incarceration. **Wisconsin's DMC rates remain among the worst in the nation**. But under the leadership of the Department of Justice and with support of the Governor's Juvenile Justice Commission, Wisconsin jurisdictions are working hard to reduce these disparities.

In 2002, the Wisconsin State Advisory Group (SAG) via the Governor's Juvenile Justice Commission (GJJC) awarded funds to six counties with significant minority populations, with a mandate to devise strategies to address DMC. More recently, DOJ staff have led efforts to promote system reforms that can reduce DMC through law enforcement training and coordination of the Juvenile Detention Alternative Initiative through the Annie E. Casey Foundation.

Despite these efforts, racial disparities in the juvenile justice system persist. An evaluation of DMC related work[13] done in 2014 by the UW Population Health Institute shows mixed progress on this issue.

The following chart illustrates disproportionality in juvenile arrests in 2014.



Disparities in poverty, child welfare issues, school performance, drop-out rates, teen pregnancy, AODA, and a host of other indicators are all consistent with what we have seen in juvenile justice and present us today with the task of ensuring that we do not lose this next generation of young people to these high-risk behaviors and their harmful consequences.

Being Smart About Promoting Community Safety

We can have high expectations for youthful offenders. We can hold them accountable for the harm they have caused others. We can help teach them new skills and competencies that will help them become contributing members of our communities. When absolutely necessary to ensure community safety, we can confine them securely for a period of time. The purpose of the Wisconsin Juvenile Code mirrors the goals of the Balanced Approach developed in the late 1980s: (1) promoting community safety; (2) holding youth accountable; and (3) developing pro-social competencies in youth.

With the increase in the use of strategic, research-supported practices, counties and the State Division of Juvenile Corrections are working together with a host of successful community-based programs to meet these goals.

The data included in this report should dispel the notion that in order to promote community safety, large numbers of youth need to be locked up. If that were true, one would expect the arrest numbers and rates to have gone up as the number of youth confined has decreased over the years. That has not happened.

What About the Future?

No one can reliably predict what the future holds in terms of youthful offending behaviors. Trends over time suggest that youth crime tends to follow or mirror what happens with adult crime, which ebbs and flows over generations.[14] We may be at the "bottom" of the recent decline, or we may be on our way to continued decreases in the numbers and rates of youth getting involved in the delinquency system and youth held in confinement facilities.

In so many ways, youth model what they see around them in adults on a whole range of risk behaviors. As adult crime has declined, youth arrests have done so at even a faster pace. But as has happened in the past, it is too easy to become complacent about youths' behaviors and forget about the investments we have made to support positive changes—investments in quality early learning and development, quality 4K-12 education, access to health care, and access to meaningful opportunities for youth to join the "world of work."

The economic recession has not been kind to children in Wisconsin, especially children of color. As a whole, the poverty rate for Wisconsin's children rose more than twice as fast over the last decade as the overall national rate. That is not a good sign given the historic link between poverty and crime.

Recommendations Going Forward

This document contains a part of the story about what is happening with youthful offenders in Wisconsin. We know more than ever about how to promote positive youth development and successfully redirect young people who get "off track." We need to ensure that our public policy decisions are guided by what we know rather than by our fears, and we need to share the success stories as well as the challenges.

In summary, we need to:

1. ***Return** 17-year-olds to the **juvenile justice system***. The overreaction to rising youth crime of the 1980s and early 1990s led to a decision that has unnecessarily pushed too many youth into the adult system or left them with an adult record. A small percentage of the most serious youthful offenders may need the longer-term confinement provided in the adult system, but the growing body of research and public policy consensus around the country is that the juvenile system is more effective than the adult system in promoting long-term community safety.
2. ***Reaffirm*** **that we know what works with youthful offenders**. More and more, the research about what works supports cost-effective intervention practices and programs that promote community safety, restore the harm caused to communities and victims, and provides youth and their families with the skills needed to become contributing members of our community. To learn more about these strategies, one can start with the What Works Wisconsin[15] project, and additional information comes out every month.
3. ***Reinvest*** **what we save** through reduced incarceration costs into local, community-based, proven prevention; early intervention; and supervision strategies that work. The capacity at the local level to deal effectively with youthful offenders has grown but needs continued support to reinforce the gains that have been made.

If we understand the whole story, we can make good decisions about the future of juvenile justice in Wisconsin. Decisions we are making now will impact this generation of children, and will ultimately affect all of us. Let us make those decisions wisely.

[1] See *Risking Their Futures. Why trying nonviolent 17 year olds as adults is bad public policy*. Available at http://www.wccf.org/pdf/risking_their_futures.pdf

[2] Nellis, Ashley. July/August 2011. The Sentencing Project. *Addressing the Collateral Consequences of Convictions for Young Offenders* at http://sentencingproject.org/doc/publications/Collateral%20Consequences%20NACDL%202011.pdf

[3] Note: Arrests are reported by law enforcement through the Uniform Crime Report (UCR) system and/or the National Incident Crime Reporting System (NICRS) to the Wisconsin Office of Justice Assistance. That system includes 17-year-olds as juveniles, and the percentage of juvenile arrests accounted for by 17-year-olds varies depending on the type of crime, but is generally within the range of 18-24%.

[4] Source: Wisconsin Office of Justice Assistance Crime and Arrest Reports

[5] Source: The Annie E. Casey Kids Count Data Center. Note: Data not available for all years.

[6] Source: Puzzanchera, C., Sladky, A. and Kang, W. (2010). "Easy Access to Juvenile Populations: 1990-2009." Available: http://www.ojjdp.gov/ojstatbb/ezapop/

[7] Source: Wisconsin Department of Children and Families: Child Abuse and Neglect Annual Reports. Available at http://dcf.wisconsin.gov/cwreview/reports/CAN-Y.htm

[8] Wisconsin's lowest age of automatic adult court jurisdiction (age 10) is the lowest in the nation – Source: Griffin, Patrick, Sean Addie, Benjamin Adams, and Kathy Firestine. *Trying Juveniles as Adults: An Analysis of State Transfer Laws and Reporting.* September 2011. US Department of Justice.

[9] Source: Wisconsin Circuit Court Automation Project (CCAP) reports available at http://www.wicourts.gov/publications/statistics/circuit/circuitstats.htm

[10] Department of Health and Human Services Center for Disease Control. November 2007. *Effects on Violence of Laws and Policies Facilitating the Transfer of Youth from the Juvenile to the Adult Justice System. A Report on Recommendations of the Task Force on Community Preventive Services.* Available at: http://www.cdc.gov/mmwr/pdf/rr/rr5609.pdf

[11] Division of Juvenile Corrections Annual Reports. Available at http://doc.wi.gov/families-visitors/juvenile-services/djc-annual-reports

[12] See *Pathways to Desistance: A study of serious juvenile offenders as they transition to adulthood and out of crime*, available at http://www.pathwaysstudy.pitt.edu/index.html

[13] https://uwphi.pophealth.wisc.edu/publications/other/uw-phi-dmc-final-evaluation-report-september-2014.pdf#search=%22dmc%22

[14] Males, Michael. 1996. *The Scapegoat Generation: America's War on Adolescents*. Common Courage Press.

[15] University of Wisconsin-Extension. *What Works Wisconsin: Effective Prevention Programs for Children, Youth, and Families.* Available at: http://whatworks.uwex.edu/ or materials available through the Wisconsin Office of Justice Assistance at http://www.oja.wi.gov/section_detail.asp?linkcatid=1319&linkid=708&locid=97&sname=Programs%20&%20Projects