



Legal Counsel for
Youth and Children

April 25, 2023

Chief Justice Steven Gonzalez
Washington State Supreme Court
Email: supreme@courts.wa.gov

Sent via email only (with attachment)

Dear Chief Justice Gonzalez and members of the Washington State Supreme Court,

Legal Counsel for Youth and Children (LCYC) remains in strong support of the adoption of JuCR 7.16 and have signed onto the April 13, 2023 letter, submitted by TeamChild on behalf of multiple stakeholders addressing the reasons why this rule should be adopted. We write this letter to provide additional information that substantiates our support of this rule.

There is a forthcoming report which is relevant to this discussion entitled "Juvenile Detention in Washington: 2021 Updates", Washington State Center for Court Research, Administrative Office of the Courts. Enclosed with this letter is a copy of a PowerPoint presentation regarding this report.

The PowerPoint shows that in Washington State in 2021 there was a 38% decrease in admissions from 2020.¹ Notably data for Washington Detention Admissions by Race/Ethnicity, 2017-2021 showed a 70-74% decrease for youth of color between 2019 and 2021.²

Various factors appear to be a part of how the detention admissions have been reduced during this time period such as recent legislation of Senate Bill 5290 (2020) (phase out of the valid court order exception to place youth in detention for noncriminal behavior) and House Bill 2277 (2020) (abolishing the use of solitary confinement and restricting use of room confinement and isolation).³

It was also acknowledged based on anecdotal information that detention admission is creeping up, though not to previous levels. Anecdotally relevant is that JuCR 7.16 is still in effect and SB 5290 will be fully implemented by July 1, 2023.⁴

Thank you for considering this additional information in support of JuCR 7.16,

Nicole K. McGrath
Attorney, Legal Counsel for Youth and Children
nicole@lcywa.org

¹ See "Juvenile Detention in Washington State: 2021 Updates", WSCCR, AOC, at slide no. 4.

² Id. at slide no. 8.

³ Id. at slide nos. 12 and 13.

⁴ Id. at slide no. 18.

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JUVENILE DETENTION IN WASHINGTON: 2021 UPDATES

Amanda B. Gilman, PhD

Principal Research Associate

Washington State Center for Court Research

Administrative Office of the Courts

WHAT DO WE ALL WANT
TO KNOW ABOUT
JUVENILE DETENTION?

- Detention admissions during the height of the pandemic (2021)
- Detention admissions coming out of the pandemic (2022) –available soon
- Primary reasons for detention use in 2021
- Demographics of the detention population in 2021
- New data elements being collected and reported

REMINDER: WHERE ARE OUR STATE'S DETENTION FACILITIES LOCATED?

- ▶ 20 county-operated facilities
- ▶ 1 privately-operated facility
- ▶ 2 out-of-state contracted facilities



Clallam and Chelan counties each have a Secure Crisis Residential Centers co-located with their detention facility (SCRC admission data not included in today's presentation)

IN WASHINGTON STATE IN 2021...

3,365
admissions
to detention

2,078 unique
youth admitted

38% decrease in
admissions from
2020

3,365
Admissions



2,078
Youth



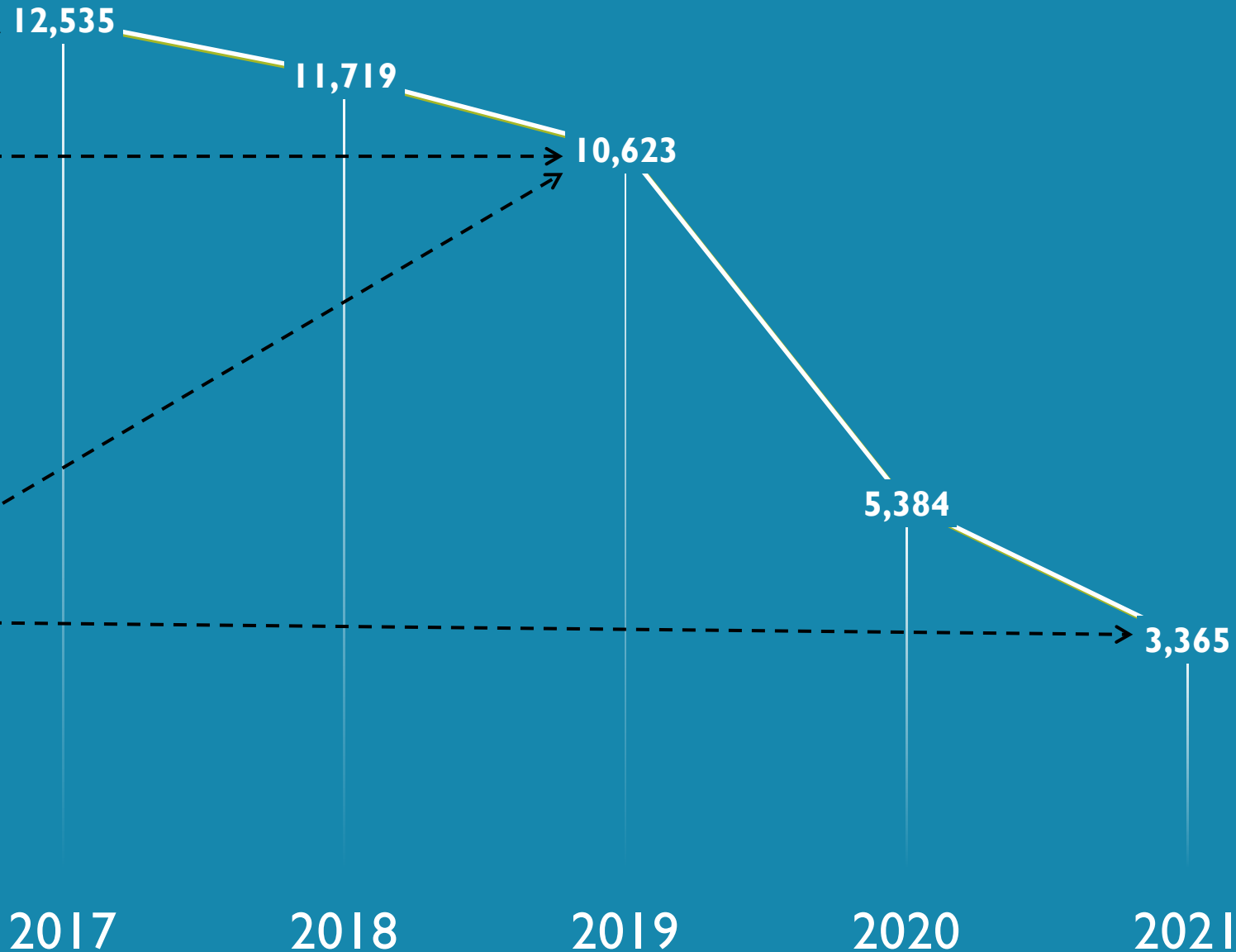
-38%
Admissions



STATEWIDE JUVENILE DETENTION ADMISSIONS, 2017-2021

15% DECREASE
BETWEEN 2017 AND
2019

68% DECREASE
BETWEEN 2019 AND
2021






JUVENILE JUSTICE STATISTICS

NATIONAL REPORT SERIES BULLETIN

Chyrl Jones, OJJDP Acting Administrator • Jennifer Scherer, NIJ Acting Director

April 2022

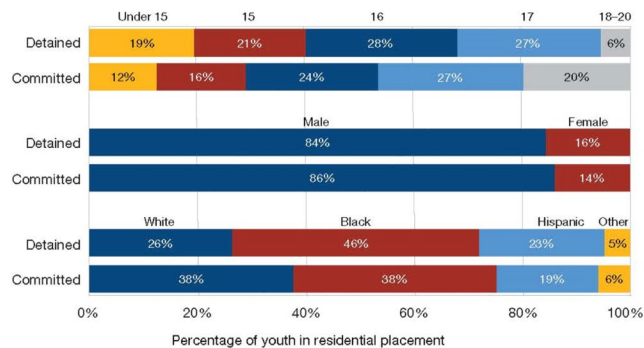
Juveniles in Residential Placement, 2019

Sarah Hockenberry

Highlights

The 2019 Census of Juveniles in Residential Placement (CJRP) shows that the number of youth in placement continues to decline. Between 1997 and 2019, the number of youth in residential placement decreased 65% to 36,479, its lowest level since the data collection began in 1997 when 105,055 youth were held in out-of-home placement. The decrease in the number of youth held for an offense in

In 2019, youth older than age 17, males, and white youth comprised a larger share of the committed population than the detained placement population



Notes: A court disposition may commit a youth to a facility, or a youth may be detained prior to or after adjudication while awaiting disposition or placement elsewhere. Other race includes American Indians/Alaska Natives, Asians/Pacific Islanders, and youth of two or more races.

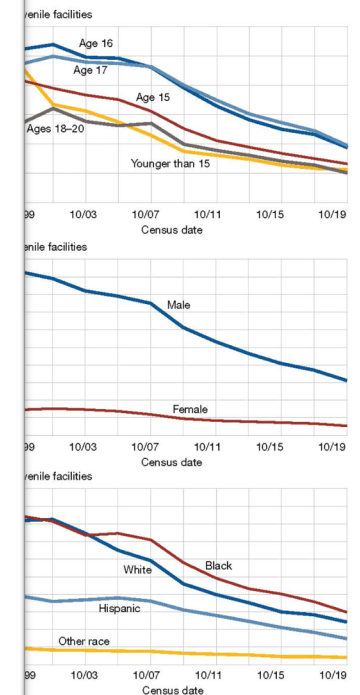
public facilities was slightly less than the decrease in the number held in private facilities during the same time period (down 64% and 68%, respectively). The number of public facilities decreased 18% between 1997 and 2019, compared with 65% for private facilities.

- Of youth held for an offense in residential placement in 2019, 96% were held for a delinquency offense and 4% were held for a status offense. Thirty-seven percent were held for a person offense.
- Females accounted for 15% of youth held for an offense, and they tended to be slightly younger than males.
- Black youth accounted for the largest share of youth in placement for an offense in 2019 (41%).
- In 2019, 26% of youth in placement for an offense were held in private facilities, which comprised 40% of facilities holding youth for an offense.
- In 2019, 58% of youth held for an offense in residential placement were committed to the facility as part of a court-ordered disposition; the remaining youth were detained pending adjudication, disposition, or placement elsewhere, or were in the facility as part of a diversion agreement.

REDUCTIONS IN
DETENTION
POPULATIONS HAVE
HISTORICALLY LEAD TO
INCREASES IN RACIAL
DISPROPORTIONALITY

Number of youth in placement by age, gender, and race

In 2019, the number of youth in placement declined most for younger, males, and white youth



In 2019, the number of youth in placement was at the lowest level since at least 1997 for all age groups.

American Indians/Alaska Natives, Asians/Pacific Islanders, and youth of two or more races.

Source: OJJDP's Census of Juveniles in Residential Placement for 2019 [machine-generated]

REDUCTIONS IN DETENTION POPULATIONS HAVE HISTORICALLY LEAD TO INCREASES IN RACIAL DISPROPORTIONALITY

Between 1997 and 2019, the number of youth in placement declined for all demographic groups

Youth ages 16 and 17 accounted for more than half of youth in placement in 2019

With the exception of 1999, the proportion of youth in placement ages 16 and 17 ranged from 50% to 56% between 1997 and 2019. During that period, the number of youth in placement declined 69% each for youth younger than age 15 and for youth age 15, 67% for youth age 16, and 60% each for youth ages 17 and 18-20.

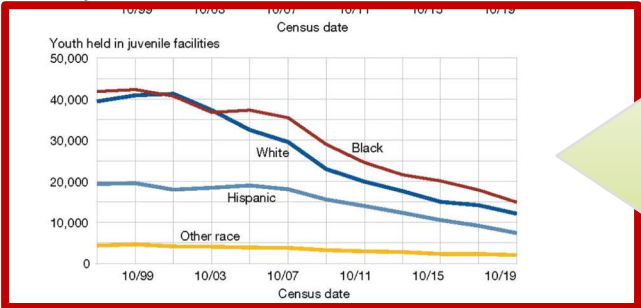
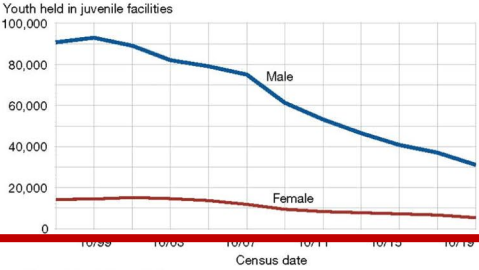
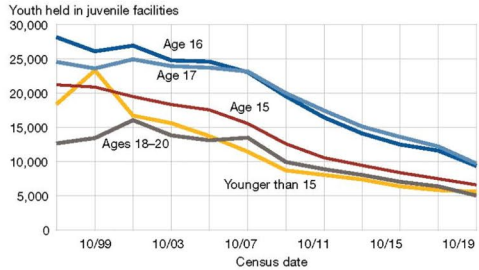
The number of male and female youth in placement decreased between 1997 and 2019

Male youth in placement outnumbered females for all years between 1997 and 2019. During that time, the decrease in the number of males outpaced the decline in females (down 66% and 62%, respectively). Despite the larger decrease for males, the proportion of males in placement remained level for all years, ranging between 85% and 87%.

Black youth accounted for at least 38% of youth in placement between 1997 and 2019

Black youth accounted for the largest proportion of youth in placement for most years between 1997 and 2019, ranging from 38% to 42% of the placement population. Across the data collection period, white youth accounted for approximately one-third of youth in placement and Hispanic youth accounted for approximately one-fifth. American Indian youth, Asian youth, and youth of two or more races comprised no more than 8% of youth in placement between 1997 and 2019. Since 1997, the number of white youth decreased 69%, followed by Black youth (64%), Hispanic youth (62%), and youth of other races (54%).

Between 1997 and 2019, the number of youth in placement declined most for youth age 15 and younger, males, and white youth



The number of youth in placement in 2019 was at the lowest level since at least 1997 for all age, gender, and race groups.

Note: Other race includes American Indians/Alaska Natives, Asians/Pacific Islanders, and youth of two or more races.

Data source: Author's analysis of OJJDP's *Census of Juveniles in Residential Placement* for 2019 [machine-readable data files].

U.S. Department of Justice
Office of Justice Programs



Cheryl Jones, OJJDP Act...

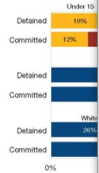
Juvenil

Sarah Hockenberry

Highlights

The 2019 Census of Juveniles in Residential Placement continues to show a decrease in the number of youth held in out-of-home placement. In 2019, 36,470 youth were held in out-of-home placement, a decrease of 65% from 103,800 in 1997.

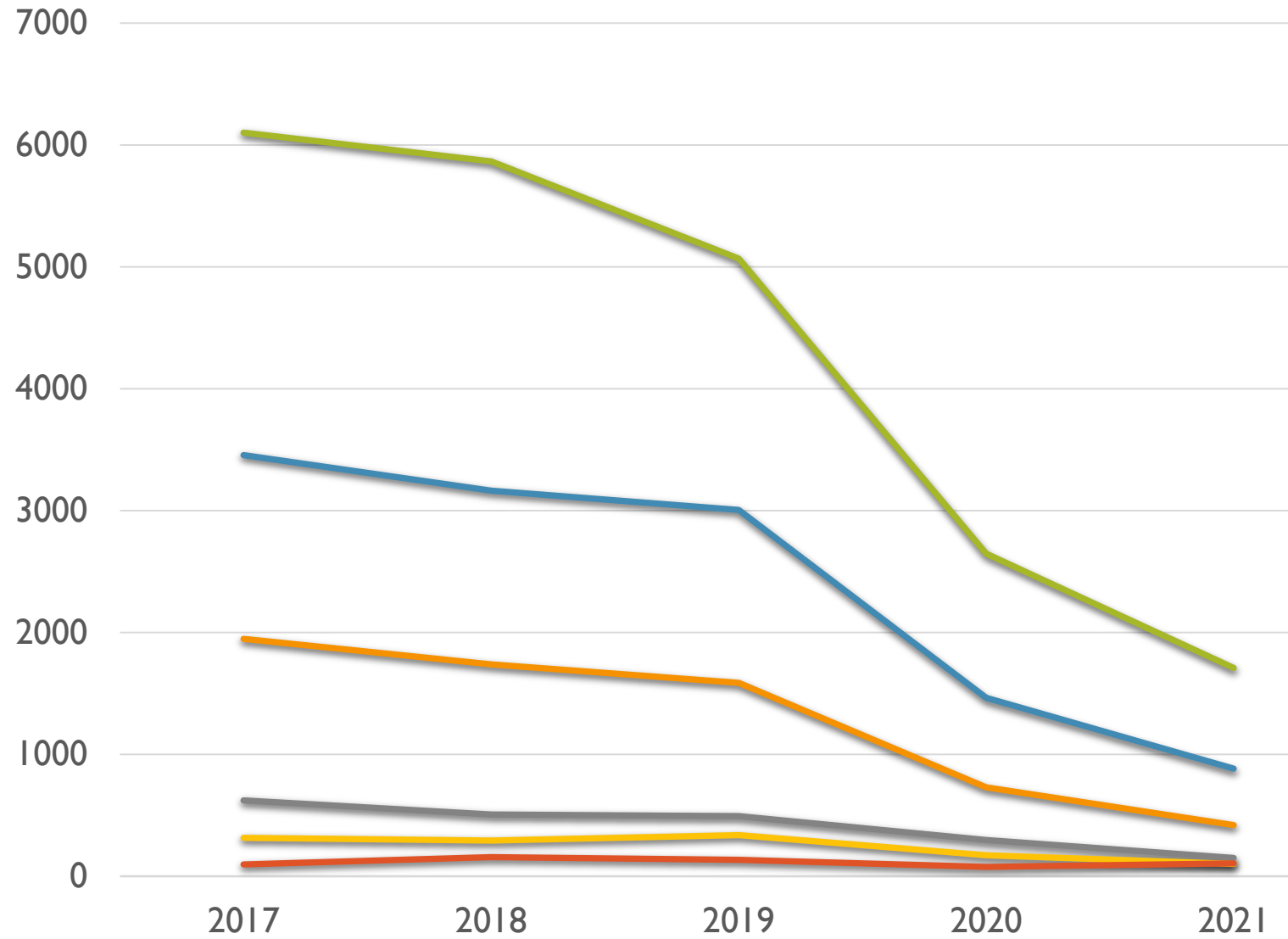
In 2019, youth older than 15 accounted for 85% of the commitment population.



Note: A court disposition may be a result of a court-ordered placement in residential placement or placement in out-of-home placement.

Nationally, between 1997 and 2019, white youth saw the greatest decline in residential placements

WA Detention Admissions by Race/Ethnicity, 2017-2021

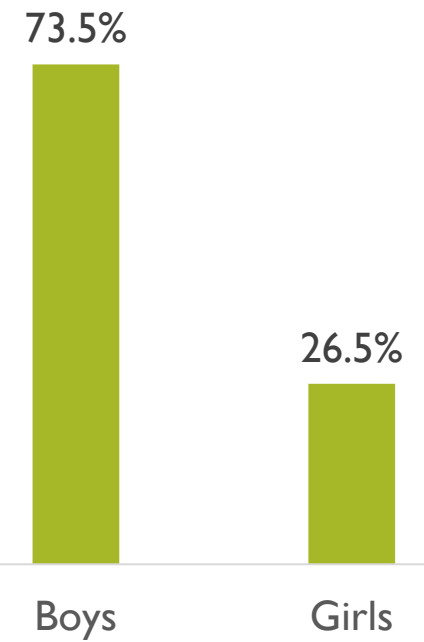
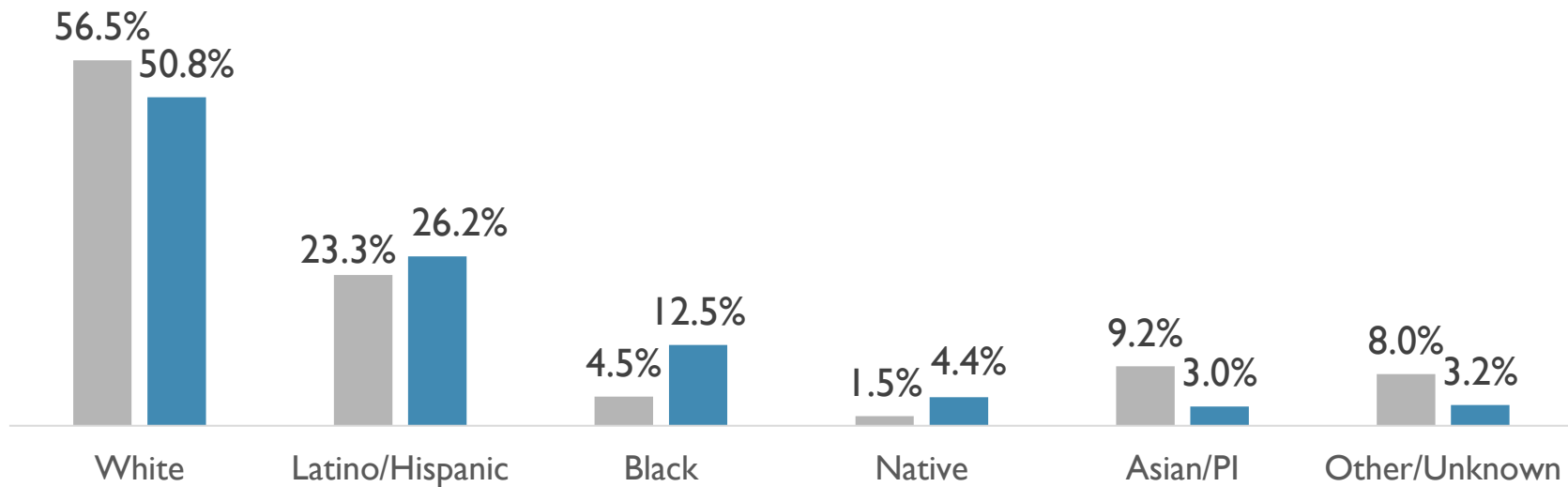


IN WASHINGTON,
66% DECREASE IN
ADMISSIONS OF
WHITE YOUTH
BETWEEN
2019 & 2021

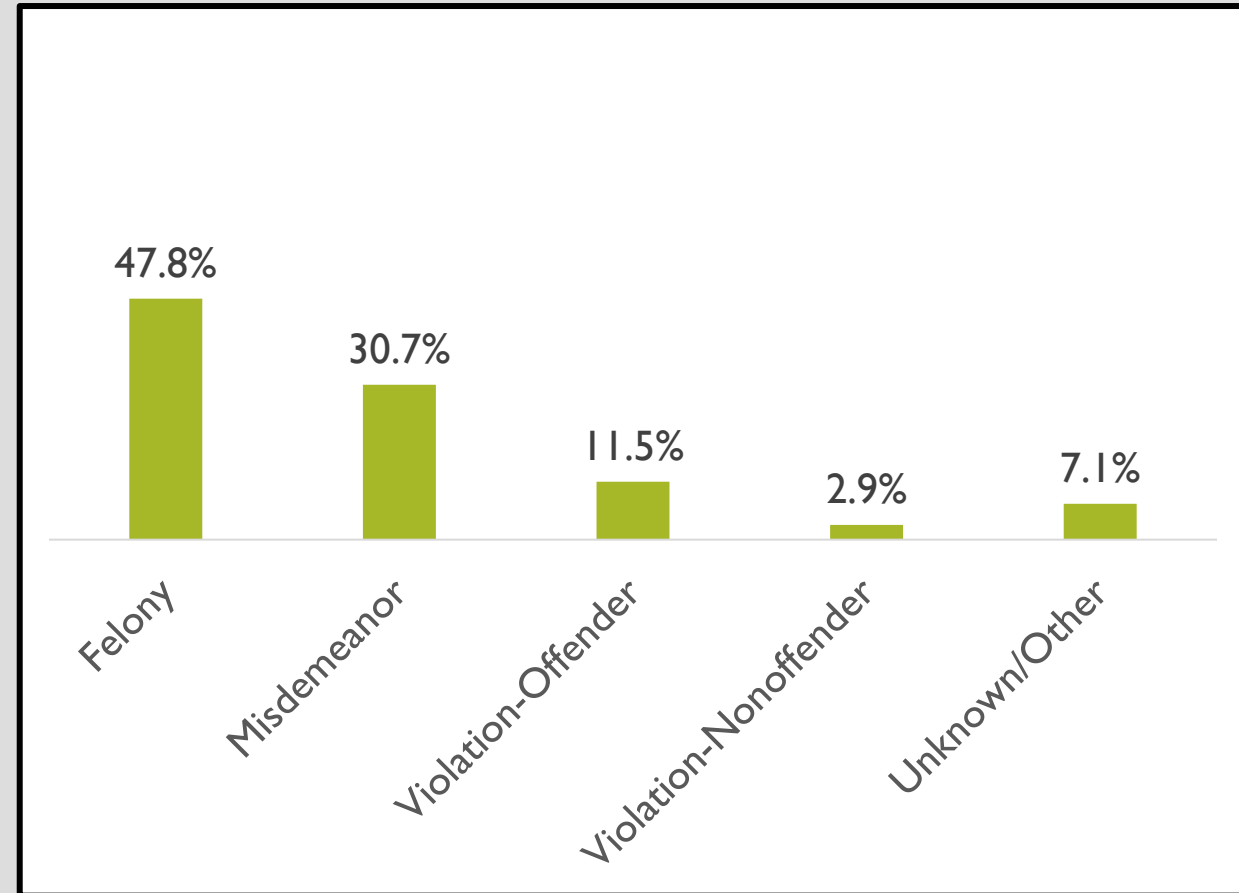
70-74% DECREASE
FOR YOUTH OF
COLOR BETWEEN
2019 & 2021

WHAT WERE THE DEMOGRAPHIC CHARACTERISTICS OF YOUTH IN DETENTION IN 2021?

■ Youth population ■ Detention admissions



WHAT WERE THE MOST COMMON ADMISSION REASONS IN 2021?



HOW IS RECENT LEGISLATION
AFFECTING DETENTION PRACTICES
AND DATA REPORTING?

SENATE BILL 5290 (2020)

ENGROSSED SECOND SUBSTITUTE SENATE BILL 5290

AS AMENDED BY THE HOUSE

Passed Legislature - 2019 Regular Session

State of Washington 66th Legislature 2019 Regular Session

By Senate Ways & Means (originally sponsored by Senators Darneille, Wellman, Kuderer, Randall, Palumbo, Das, Hasegawa, McCoy, Nguyen, Saldaña, and Wilson, C.)

READ FIRST TIME 03/01/19.

1 AN ACT Relating to eliminating the use of the valid court order
2 exception to place youth in detention for noncriminal behavior;
3 amending RCW 7.21.030, 7.21.030, 7.21.030, 71.21.030, 13.32A.250,
4 13.32A.250, 13.32A.250, 13.32A.150, 13.34.165, 13.34.165,
5 28A.225.090, 28A.225.090, 43.185C.260, 43.185C.265, and 2.56.032;
6 adding a new section to chapter 7.21 RCW; creating a new section;
7 repealing RCW 43.185C.270; repealing 1998 c 296 s 35 (uncodified);
8 providing effective dates; and declaring an emergency.

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

10 NEW SECTION. **Sec. 1.** (1) The legislature finds that it is a
11 goal of our state to divert juveniles who have committed status
12 offenses, behaviors that are prohibited under law only because of an
13 individual's status as a minor, away from the juvenile justice system
14 because a stay in detention is a predictive factor for future
15 criminal justice system involvement. The legislature finds that
16 Washington has been using the valid court order exception of the
17 juvenile justice and delinquency prevention act, a loophole in
18 federal law allowing judges to detain status offenders for disobeying
19 court orders, more than any other state in the country. The
20 legislature finds that use of the valid court order exception to
21 detain youth for acts like truancy, breaking curfew, or running away



Phases out the use of the valid court order exception to put youth in detention for noncriminal behavior



Requires aggregate reporting at the county level by demographics



Requires documentation and reporting of justification for each instance of detention

HOUSE BILL 2277 (2020)

SECOND SUBSTITUTE HOUSE BILL 2277

Passed Legislature - 2020 Regular Session

State of Washington 66th Legislature 2020 Regular Session

By House Appropriations (originally sponsored by Representatives Peterson, Ortiz-Self, Frame, Goodman, Kilduff, Callan, Senn, Lovick, Thai, Fitzgibbon, Leavitt, Ryu, Appleton, Valdez, Davis, Ormsby, Macri, Doglio, Gregerson, and Pollet; by request of Attorney General)

READ FIRST TIME 02/11/20.

1 AN ACT Relating to youth solitary confinement; amending RCW
2 13.04.116; and adding a new chapter to Title 13 RCW.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 NEW SECTION. Sec. 1. LEGISLATIVE FINDINGS. (1) The legislature
5 finds that prolonged isolation for juveniles may cause harm.
6 Prolonged solitary confinement has also been shown as ineffective at
7 reducing behavioral incidents and may increase anxiety and anger in
8 youth.

9 (2) Creating alternative solutions to solitary confinement for
10 juveniles will further protect the well-being of juveniles in all
11 detention facilities and institutions and enhance the rehabilitative
12 goals of Washington's juvenile justice system. This act seeks to end
13 the use of solitary confinement in juvenile facilities when used as a
14 form of punishment or retaliation. This act also seeks to limit
15 placement in isolation, except in the circumstances outlined in
16 section 3 of this act. Juvenile institutions and detention facilities
17 must implement a system of graduated interventions to avoid the use
18 of solitary confinement. Less restrictive forms of confinement should
19 be used to regulate the behavior of juveniles in institutions and
20 detention facilities.



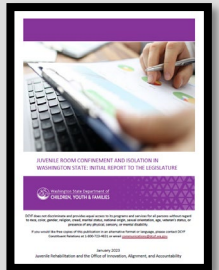
Outlaws solitary confinement and restricts use of room confinement and isolation



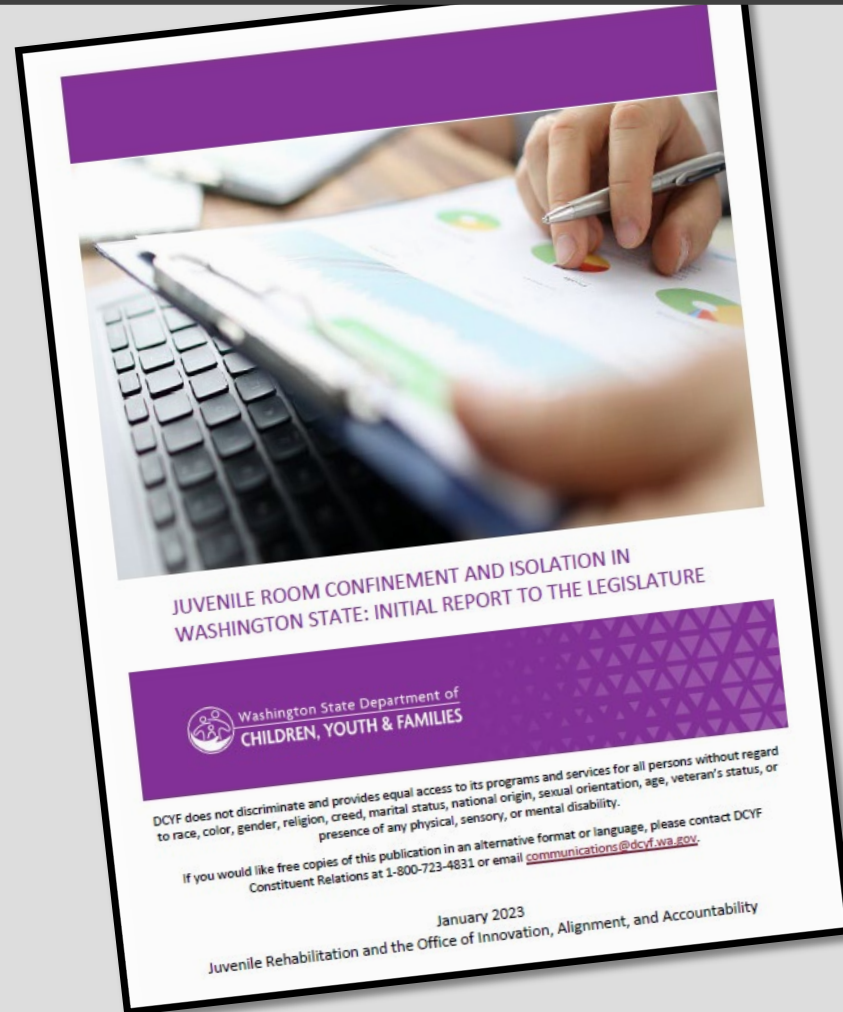
Requires DCYF to publish statewide report (including JR and local detention)



Requires courts to eventually take over reporting and post data on their websites



HOUSE BILL 2277 (2020)



SENATE BILL 5092 (2021)

ENGROSSED SUBSTITUTE SENATE BILL 5092

AS RECOMMENDED BY THE CONFERENCE COMMITTEE

Passed Legislature - 2021 Regular Session

State of Washington 67th Legislature 2021 Regular Session

By Senate Ways & Means (originally sponsored by Senators Rolfes, Wilson, L., and Wilson, C.; by request of Office of the Governor)

READ FIRST TIME 03/31/21.

1 AN ACT Relating to fiscal matters; amending RCW 10.99.800,
2 16.76.030, 28B.20.476, 38.52.105, 41.06.280, 41.26.450, 41.45.230,
3 41.60.050, 41.80.010, 43.08.190, 43.09.475, 43.79.195, 43.79.270,
4 43.79.280, 43.88.585, 43.88C.010, 43.99N.060, 43.101.200, 43.101.220,
5 43.185C.060, 43.185C.190, 43.320.110, 43.372.070, 43.380.020,
6 46.09.520, 70A.200.140, 70A.305.180, 71.24.580, 74.13.715, 74.46.485,
7 74.46.501, 74.46.561, 79.64.040, 79.105.150, 79A.25.210, 82.08.170,
8 82.14.310, 90.50A.090, 43.70.---, and 43.88.058; amending 2019 c 415
9 ss 729, 952, 508, and 727, 2020 c 127 s 14, 2020 c 357 ss 101, 102,
10 103, 104, 105, 106, 107, 108, 113, 115, 116, 117, 118, 119, 120, 121,
11 122, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136,
12 137, 139, 140, 141, 142, 143, 144, 145, 147, 148, 149, 150, 201, 202,
13 203, 204, 205, 206, 207, 208, 210, 211, 212, 213, 214, 215, 216, 217,
14 218, 219, 220, 221, 222, 223, 224, 225, 301, 302, 303, 304, 305, 306,
15 307, 308, 309, 310, 311, 401, 402, 501, 503, 505, 506, 507, 508, 509,
16 510, 511, 513, 514, 515, 516, 517, 518, 519, 520, 602, 603, 604, 605,
17 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 701, 702, 703,
18 704, 706, 707, 801, and 804, and 2021 c 3 s 3 (uncodified);
19 reenacting and amending RCW 28B.115.070, 43.155.050, 69.50.540, and
20 79.64.110; adding new sections to chapter 43.79 RCW; adding a new
21 section to chapter 70.48 RCW; adding a new section to chapter 28A.300
22 RCW; adding new sections to 2020 c 357 (uncodified); creating new



Funds a full-time researcher to examine the use of electronic home monitoring (EHM) statewide



Requires aggregate reporting at the county level by demographics



Plans to increase EHM data availability and quality



SENATE BILL 5092 (2021)

Washington State's Use of Electronic Home Monitoring in the Juvenile Justice System

March, 2023

Prepared by the Washington State Center for Court Research

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Other AOC staff contributors: Dr. Amanda B. Gilman and Dr. Carl McCurley

We would like to acknowledge the Juvenile Court Administrators, court personnel, and Juvenile Rehabilitation staff for their efforts to obtain data for this project.

Defining Juvenile Detention Alternatives

March, 2023

Prepared by the Washington State Center for Court Research

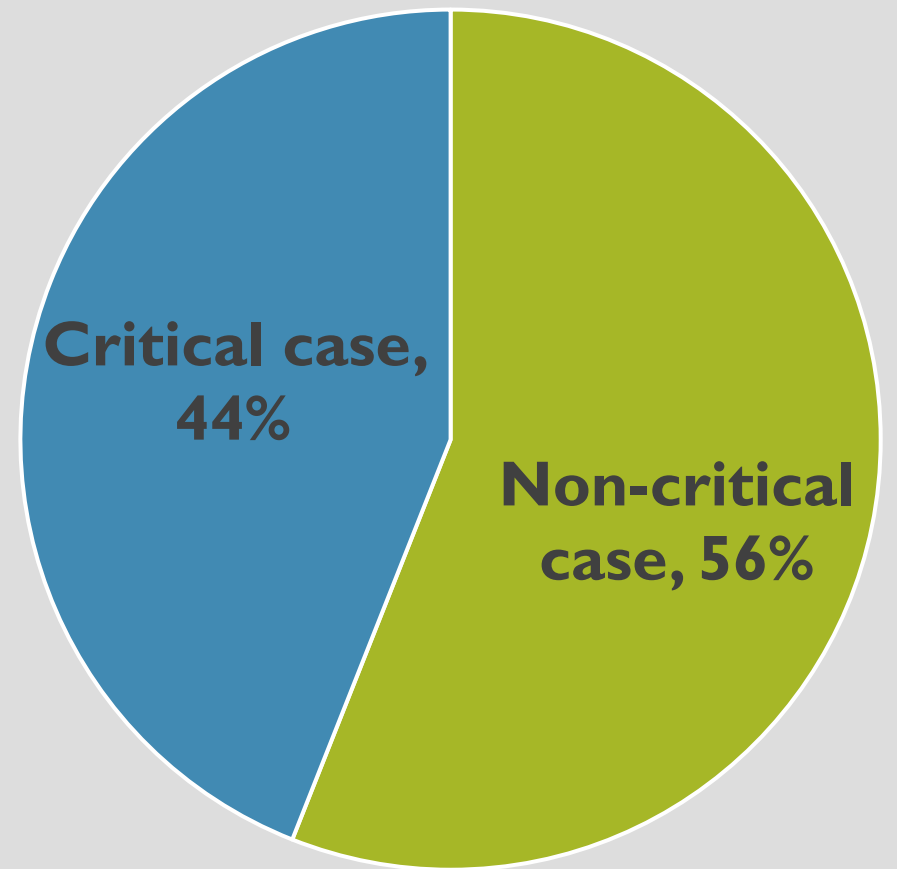
Megan Berry-Cohen, MLS, PhD
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Olympia, WA 98504-1170
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Other AOC staff contributors: Dr. Amanda B. Gilman and Dr. Carl McCurley

We would like to acknowledge the Juvenile Court Administrators, Juvenile Detention Managers, Juvenile Probation Managers/Supervisors, Juvenile Probation Counselors, Court Services Managers, and Alternatives/Community Program Staff for taking the time to complete the AOC/OCI/WSCCR survey providing data on detention alternatives.

NEW DATA COLLECTION: MENTAL HEALTH NEEDS OF YOUTH IN DETENTION

Mental health critical cases* among a sample of WA detention admissions, 2021



*most common reason for critical case designation was suicidality

LOOKING FORWARD

- 2021 report to be released soon
- Will begin working on 2022 report next
- Anecdotally, detention admissions have been creeping up, though not to previous levels
 - JuCR 7.16 still in effect
 - SB 5290 – fully implemented July 1, 2023

THANK YOU

amanda.gilman@courts.wa.gov

From: [OFFICE RECEPTIONIST, CLERK](#)
To: [Martinez, Jacquelynn](#)
Subject: FW: LCYC letter and attachment in support of JuCR 7.16 rule
Date: Tuesday, April 25, 2023 9:04:27 AM
Attachments: [2023.04.25 LCYC Ltr re JuCR 7.16.pdf](#)
[2023.04.25 LCYC Attchmt re JuCR 7.16 2021 Juvenile Detention overview.pdf](#)
[image004.png](#)

From: Nicole <Nicole@lcywa.org>
Sent: Tuesday, April 25, 2023 8:58 AM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Cc: Erin Shea McCann <esmccann@lcywa.org>; Alex <Alex@lcywa.org>
Subject: LCYC letter and attachment in support of JuCR 7.16 rule

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Good morning Justice Gonzalez and members of the Washington State Supreme Court,

On behalf of Legal Counsel for Youth and Children (LCYC), attached for your review is a letter of support of JuCR 7.16 rule and PowerPoint document entitled Juvenile Detention in Washington: 2021 Updates, Washington State Center for Court Research, Administrative Office of the Courts.

If you have any questions or difficulty opening the documents, please let us know.

Thank you,
Nicole McGrath

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LCYC protects the interests and safety of youth in Washington by advancing their legal rights. We accomplish our mission through direct legal representation, strong community partnerships, and systemic advocacy.

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