

Since the state Juvenile Justice Act of 1977, prosecuting attorneys have wielded the bulk of discretion when dealing with juvenile offenders. Washington’s juvenile justice system is designed to constrain judicial discretion by requiring standard dispositions based on static factors such as offense charged and criminal history. With a series of decisions in the past decade, however, the Washington Supreme Court has made clear that judges are not bound by statutory dispositions when compelling factors associated with youth affect culpability and sentencing in a specific case.¹⁴⁰ It is too early to tell the effect this emerging precedent will have on the disposition of offenders. Gender-based data on filing decisions, disposition recommendations, and dispositions across the state would be valuable to determine how discretionary decisions affect youth and gender equity in Washington’s juvenile justice system.

There are several areas where incomplete data collection or analysis (such as not separately tracking data by both gender and race) prevents us from seeing highly relevant distinctions among the youth served. Agencies must collect accurate race, ethnicity, disability, gender, and sexual orientation data to understand the experiences of these youth. More explicit demographic information, as well as system entry, charge, and disposition, will help us identify whether decisions impacting youth are affected by bias and gender stereotypes. Equipped with this information, we may better devise solutions to comprehensively address systematic inequities.

X. Recommendations

- To reduce disparities in arrest, detention, and resolution of juvenile cases, and to reduce the number of girls detained for status and misdemeanor offenses, stakeholders should:
 - Identify and develop, throughout the state, community-based resources that address the needs of youth involved in the juvenile justice system for status offenses so they may be safely served in the community.

¹⁴⁰ See, e.g., *State v. Houston-Sconiers*, 188 Wn.2d 1, 391 P.3d 409 (2017); *State v. O’Dell*, 183 Wn.2d 680, 358 P.3d 359 (2015).

- Identify and develop, throughout the state, culturally-competent community mentoring programs upon which schools, law enforcement, prosecutors, and courts can draw instead of referring low-risk criminal behavior for prosecution.
- To assess and develop gender-responsive and culturally-competent resources for status and juvenile offenders that respond to individualized needs derived from individualized assessment, stakeholders should:
 - Follow the status of the Kitsap County girls' court, including WSCCR's current evaluation, and consider new recommendations based on this data.
 - Maintain an inventory of gender- and LGBTQ+-specific programming and services offered at Echo Glen Children's Center and Ridgeview Group Home and track their progress. Based on tracking of these programs (and any others), identify gaps in gender-responsive programming and build programs to address the gaps.
 - Maintain an inventory of the gender- and LGBTQ+-specific programming and services offered through Washington's juvenile courts. Track program effectiveness, identify program gaps and deficiencies, develop solutions to deficiencies, and fund effective program development.
- WSCCR and juvenile justice stakeholders should develop standards to collect and report demographic data by entities operating in all phases of the juvenile justice system (initial referral, diversion/prosecution, detention, adjudication, disposition, use of manifest injustice/decline, and outcome). Data should include self-identified sexual orientation, gender identity, gender expression, race, and ethnicity; age; developmental challenges; and status as a parent.
- WSCCR should maintain and publish uniform data on the rate of youth arrests in each Washington county by subpopulations, including gender, race, ethnicity, age, and referral charge.
- WSCCR should expand the annual juvenile detention report to examine county detention admissions by gender, race, ethnicity, age, admission reason, and length of stay.
- WSCCR and juvenile justice stakeholders should develop uniform standards to collect and report demographic data for school-based referrals. Data should include self-identified

sexual orientation, gender identity, gender expression, race, and ethnicity; age; developmental challenges; and status as a parent. Use this data to (1) identify student populations and geographic locations with the greatest need, (2) develop restorative programs tailored to specific needs at the local level, and (3) reduce criminal referrals.