



The Adolescent & Young Adult Brain and Delinquency

FICTION

Adolescents and young adults should be treated the same as adults re: culpability and rehabilitation when they commit criminal offenses.

FACTS

It is settled constitutional law that children are less culpable than adults for the purpose of sentencing because of their developmental differences and heightened capacity for rehabilitation.

See e.g., *Roper v. Simmons*, 543 U.S. 551, 567 (2005)[1]

Adolescents' risk assessment, decision-making capacities, and future orientation differ from those of adults in ways that are particularly relevant to criminal conduct.[2]

RECENT NEUROSCIENCE RESEARCH

Maturation of brain structure, brain function, and brain connectivity continues throughout the early twenties. This ongoing brain development has profound implications for decision-making, self-control and emotional processing.[3]

- During emotionally charged situations, late adolescents (18–21) respond more like younger adolescents (13–17) than like young adults (22–25) due to differences in brain maturation.
- Compared to young adults above age 21, late adolescents (18–21) also take more risks and engage in more sensation-seeking behavior.
- Due to differences in brain development, late adolescents are more likely than young adults to respond to immediate outcomes and are less likely to delay gratification.

These developmental differences in behavior have direct implications for legal decision-making, including waiving Miranda rights, susceptibility to false confessions, and making ill-advised trial decisions (e.g., plea decisions).[4]

The Ceiling: Raising The Age Beyond 18

Several states are considering extending the upper age limits of juvenile court jurisdiction beyond age 18 to include emerging adults or young people through their early 20s.[5]

The Floor: Raising The Minimum Age of Juvenile Prosecution:

Twenty-three states have set a minimum age at which youth and young adults can be processed through juvenile courts.[6]



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(Both sides)

FOOTNOTES

[1] BRIEF OF *AMICI CURIAE* JUVENILE LAW CENTER; THE CENTER FOR LAW, BRAIN AND BEHAVIOR; THE SENTENCING PROJECT; AND THE CHILDREN'S POLICY AND LAW INITIATIVE OF INDIANA ON BEHALF OF APPELLANT, *Kedrowitz v. Indiana*, p. 7 (2023)

<https://www.sentencingproject.org/app/uploads/2023/03/2023.3.13-Amicus-Brief-STAMPED-RECEIVED.pdf>

[2] *Id.*, p.10

[3] *White Paper on the Science of Late Adolescence, A Guide for Judges, Attorneys and Policy Makers*, p.2 (2022)

<https://clbb.mgh.harvard.edu/wp-content/uploads/CLBB-White-Paper-on-the-Science-of-Late-Adolescence-3.pdf>

[4] *Id.*

[5] As of 2021, three states, Vermont, Michigan and New York, have raised the age of maximum juvenile court jurisdiction to 18, meaning that a young adult can remain under the purview of juvenile courts until they turn 19. Vermont's Act 201 of 2020 allows for further age expansions of juvenile court jurisdiction to include 19 year olds in 2022. See, *Age Boundaries in Juvenile Justice Systems* (2021)

<https://www.nga.org/publications/age-boundaries-in-juvenile-justice-systems/>

[6] *Id.*

ADDITIONAL RESOURCES

1. *Roper v. Simmons*, 543 U.S. 551 (2005)

<https://tile.loc.gov/storage-services/service/ll/usrep/usrep543/usrep543551/usrep543551.pdf>

2. *Understanding the Adolescent Brain and Legal Culpability*, (2015)

https://www.americanbar.org/groups/public_interest/child_law/resources/child_law_practiceonline/child_law_practice/vol-34/august-2015/understanding-the-adolescent-brain-and-legal-culpability/

3. *Adolescent Brain Development and Youth Justice*, (2023)

<https://www.ncsl.org/civil-and-criminal-justice/adolescent-brain-development-and-youth-justice>

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Adverse Childhood Experiences (ACEs)

FICTION

Punishment alone should be enough to deter delinquent behavior by youth.

FACTS

The behavior and actions of most youth in the juvenile justice system in New Mexico have been impacted by negative experiences outside of their control. Adverse Childhood Experiences (ACEs) are associated with elevated juvenile justice system contact. [1]

NEW MEXICO RESEARCH

A New Mexico study of juvenile offenders committed for incarceration in 2011 found that 86% of those juveniles had experienced 4 or more adverse childhood experiences (ACEs). Faculty from the University of New Mexico (UNM) School of Law and the UNM School of Medicine, and New Mexico's Children, Youth and Families Department (CYFD) initiated a joint project to look at the prevalence of Adverse Childhood Experiences (ACEs) nationally and in New Mexico. The study was intended to better establish the association between early childhood trauma and delinquency, as well as to explore the role that law and medicine can play in ensuring better health and juvenile justice outcomes for children who have experienced ACEs. [2]

Adverse childhood experiences were grouped into either childhood abuse or household dysfunction and were formulated as 10 childhood experiences identified as risk factors for chronic disease in adulthood: emotional abuse, physical abuse, sexual abuse, emotional neglect, physical neglect, violent treatment towards mother, household substance abuse, household mental illness, parental separation or divorce, and having an incarcerated household member. [3]

The 2016 study included all 220 juvenile offenders committed for incarceration in New Mexico during 2011 and used the results of comprehensive multi-disciplinary psychosocial assessments to examine juveniles' ACEs, psychological and family conditions, and exposure to other traumatic events. 86% of incarcerated New Mexico juveniles experienced 4+ ACEs. New Mexico juveniles experienced ACEs at a higher rate than juvenile offender populations in other studies. [4]

Social conditions in Bernalillo County

Social conditions in Bernalillo County, such as an increase in substance abuse disorders, a high rate of adverse childhood experiences (ACEs), poor education outcomes, and high rates of poverty can contribute to high rates of crime. In New Mexico, the percentage of the population with two or more ACEs is 27.30%, which is significantly higher than the percentage of the U.S. population, 17.40%. [5]

Efforts are needed to identify and prevent

Efforts are needed to identify and prevent early childhood trauma in New Mexico. Intervention goals include preventing additional ACEs in young children who have experienced them and trauma screening when children enter the juvenile justice system. Additionally, evidence-based, trauma-informed, family-engaged mental health and substance-abuse treatments should be available throughout the juvenile justice system and to youth subsequent to discharge from detention and incarceration. [6]



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FOOTNOTES

- [1] *Adverse Childhood Experiences and Justice System Contact: A Systemic Review*, (2021)
<https://publications.aap.org/pediatrics/article/147/1/e2020021030/77102/Adverse-Childhood-Experiences-and-Justice-System?autologincheck=redirected>
- [2] *Adverse Childhood Experiences in the New Mexico Juvenile Justice Population*, Yael Cannon, JD, George Davis, MD, Andrew Hsi, MD and MPH, Alexandra Bochte, JD, in Collaboration with the New Mexico Sentencing Commission, p.1 (2016)
<https://nmsc.unm.edu/reports/2016/adverse-childhood-experiences-in-the-new-mexico-juvenile-justice-population.pdf>
- [3] Id.
- [4] Id.
- [5] *Update on Crime in New Mexico and Bernalillo County*, New Mexico Legislative Finance Committee, p. 13 (July 15, 2024)
<https://www.nmlegis.gov/handouts/CCJ%20081224%20Item%204%20BernCo%20Crime%20Update.pdf>
- [6] *Adverse Childhood Experiences in the New Mexico Juvenile Justice Population*, Yael Cannon, JD, George Davis, MD, Andrew Hsi, MD and MPH, Alexandra Bochte, JD, in Collaboration with the New Mexico Sentencing Commission, p.1 (2016), See fn 1.

ADDITIONAL RESOURCES

1. *Disposable Children: The Prevalence of Child Abuse and Trauma Among Children Prosecuted and Incarcerated as Adults in Maryland*, Human Rights for Kids (2024)
https://assets.aecf.org/m/resourcedoc/Report_disposablechildren_2024.pdf
2. *Missing Pieces*, a 17-minute interview of Dr. George Davis, CYFD's former director of psychiatry, discussing what some describe as "a largely-ignored blueprint" in the effort to find the "Missing Pieces" of the juvenile justice system in NM (December 2024)
https://www.youtube.com/watch?v=K8grTcghqVs&ab_channel=KOB4
3. *At New Mexico's biggest jail for children, toilets and staff are lacking – but strip searches are common*, (2023)
<https://searchlightnm.org/at-new-mexicos-biggest-jail-for-children-toilets-and-staff-are-lacking-but-strip-searches-are-common/>

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Crossover Youth Fact Sheet*

The Children's Code Reform Task Force has drafted legislation enacting the "Crossover Youth Act" (COYA). The legislation creates a "Crossover Youth Program" within the Children, Youth and Families Department (CYFD), providing duties for the program, requiring training for the Judiciary, CYFD, the Law Offices of the Public Defender and the Administrative Office of the District Attorneys and requiring intra-agency and interagency collaboration. The COYA is borne from the desire to create better communication and collaboration that will assist high-risk, vulnerable crossover youth and prevent them from being overlooked or getting lost in complex systems.

Q: What is a "crossover youth"?

A: A "crossover youth" is a child who is simultaneously involved in both the child welfare and juvenile justice systems, whether or not the child has been adjudicated in those systems.

A child enters the child welfare system, typically, when CYFD receives a report of abuse and neglect and an investigation reveals the need for department involvement. A child enters the juvenile justice system as a result of an arrest or referral for either the commission of a criminal or delinquent act, or an offense related to being a child, such as truancy, underage drinking or drug use, or running away from home. Foster youth are at heightened risk of juvenile justice involvement due to inadequate responses to trauma.

A child is "adjudicated" when a legal process has been used to resolve a dispute or decide a case involving that child.

Q: Why is a "Crossover Youth Program" necessary and what will the program do?

A: The program will facilitate communication and cooperation between participants who serve crossover youth, who are some of the most vulnerable and at-risk youth in the state and who require the most intervention to keep them safe. While there are support systems for crossover youth currently in place, the systems and the people who work in them often don't talk to each other. The program is necessary to formalize processes that improve outcomes for these most vulnerable youth, who, without assistance and support, are at a higher risk of struggling, being incarcerated, institutionalized, marginalized and forgotten. Providing services for crossover youth now may also prevent the need for expensive state services such as incarceration and institutionalization to be extended to these youth later in life.

Q: How will the program assist a child who is a crossover youth?

A: Because crossover youth are involved in both the child welfare and juvenile justice systems, they are at a higher risk of being overlooked or getting lost. The program, through system communication and collaboration, will provide earlier and continuing identification and tracking of crossover youth, who are often without family support, at a time when they may be most vulnerable and most at risk.

*This fact sheet was prepared by the Children's Code Reform Task Force (<https://childlaw.unm.edu/childrens-code-reform-task-force/index.html>) and published in June 2024.



Futility of Severe Punishment

 **FICTION**

More severe punishment is an effective deterrent to juvenile crime in New Mexico.

 **FACTS**

Research shows clearly that the chance of being caught is a vastly more effective deterrent than even draconian punishment.

**NEW MEXICO
RESEARCH**

FY23 through FY25, the Legislature appropriated \$259 million toward initiatives to improve the swiftness and certainty of justice, including \$150 million for law enforcement recruitment and retention efforts and \$40 million for an improved criminal justice information system. [1]

Research shows the certainty and swiftness of being caught for criminal activity is a more powerful deterrent to crime than the severity of the criminal penalties in state law. LFC analysis finds the criminal justice system in Bernalillo County has an accountability gap where arrests, criminal convictions, and prison admissions do not keep pace with trends in criminal activity. [2]

New Mexico could reduce crime by treating its root causes, such as addiction, increasing the certainty offenders will be caught and held accountable, and decreasing the likelihood current inmates will reoffend upon release. [3]

History repeating

The history of juvenile justice in this country is one of pendulum swings between the goal of rehabilitation and the impulse to punish. Today, that pendulum is tipping back towards the punitive approach that led to a near-doubling of the number of youth behind bars during the 1990s. [4]

A path forward

We must keep moving forward. That means caring for system-involved youth in the same way we care for our own children, not giving up on them and putting them in cells. We've tried that route before and we know it doesn't work. Now is the time to build on the lessons of two decades of transformation, not abandon them and another generation of children. [5]



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FOOTNOTES

[1] *Update on Crime in New Mexico and Bernalillo County*, New Mexico Legislative Finance Committee, p.4 (July 15, 2024).

<https://www.nmlegis.gov/handouts/ALFC%20071524%20Item%202%20Policy%20Spotlight%20-%20Bernalillo%20County%20Criminal%20Justice%20System%20Update.pdf>

[2] Id.

[3] Id., p.5. See also, *Five Things About Deterrence*, National Institute of Justice, (May 2016)

<https://nij.ojp.gov/topics/articles/five-things-about-deterrence>

[4] *A Vision for Progress, Not Regression, on Youth Justice*, The Imprint, Gladys Carrion (November 19, 2024)

https://imprintnews.org/opinion/vision-progress-not-regression-youthjustice/256237utm_source=newsletter&utm_medium=email&utm_term=Wed+Nov+27+2024&utm_campaign=California+Study+Reveals+Characteristics+of+Suicideprone+Foster+Youth

[5] Id.

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Incarceration of Youth

FICTION

Incarceration of young people is an effective strategy for steering youth and young adults away from delinquent or criminal behavior and improves public safety

FACTS

Though the number of youth confined in juvenile justice facilities has declined significantly over the past two decades [1], our country incarcerates more youth than any other country in the world.[2] It does so despite overwhelming evidence showing that incarceration is an ineffective strategy for steering youth away from delinquent behavior and that high rates of youth incarceration do not improve public safety.[3]

Evidence reveals these key findings:

- Incarceration does not reduce delinquent behavior
- Incarceration impedes young people's success in education and employment
- Incarceration does lasting damage to young people's health and wellbeing
- Juvenile facilities are rife with maltreatment and abuse
- Racial and ethnic disparities in incarceration are vast and unjust[4]

Why incarceration fails:

- Brain immaturity fuels delinquency
- Increased maturity is tied to desistance[5] (or turning away) from delinquency
- Early childhood trauma often feeds delinquency in adolescence [6]
- Incarceration can retraumatize youth and make them less likely to succeed[7]

State legislatures are turning to statutes to address minimum transfer ages from juvenile to adult court systems. The specifics vary significantly across states and include which system actors have discretion over transfer decisions (e.g., judges or prosecutors) and which crimes are excluded from an age minimum (usually crimes of violence), as well as other factors beyond age that prosecutors are required to consider.[8]

COMMUNITY ALTERNATIVES TO CONFINEMENT

Examples of community alternatives to confinement with powerful evidence of effectiveness that achieve equal or better outcomes and cost a small fraction of the price associated with confinement in a youth corrections facility include:

- Youth Advocate Programs (YAP)
- Credible Messengers
- Intensive multi-pronged family-focused treatment models
- Wraparound programs
- Programs led by grassroots neighborhood, civic and faith-based organizations[9]

Policy and practice reforms also show substantial promise in reducing overreliance on youth incarceration by ensuring that youth justice systems make good decisions and provide appropriate responses to youth behavior, while improving youth and public safety outcomes. These include using fiscal incentives encouraging courts and corrections agencies to keep youth at home, and by prohibiting incarceration for lower-level offenses. [10]



FOOTNOTES

[1] Between 2000 and 2022, youth incarceration declined from 108,800 to 27,600. This one-day count combines figures for two sets of youth. First, it includes those held in detention facilities (those awaiting their court dates or pending placement to a longer-term facility after being found delinquent in court). Second, it includes committed youth held in youth prisons, residential treatment centers, group homes, or other placement facilities (as a court-ordered consequence after being adjudicated delinquent in juvenile court). In 2021, 44% of youth in the one-day count were in detention and 53% had been committed to a secure placement facility (the juvenile equivalent of imprisonment). These counts do not include people under 18 held in adult prisons and jails. *Youth Justice by the Numbers*, (2024)

<https://www.sentencingproject.org/policy-brief/youth-justice-by-the-numbers/>

[2] Despite the lowest youth crime rate in over 20 years, the youth incarceration rate in the USA remains approximately 7 times higher than in England and 8,000 times higher than in Japan. *Child incarceration and long-term adult health outcomes: a longitudinal study*, (2018)

<https://pmc.ncbi.nlm.nih.gov/articles/PMC6527101/#:~:text=The%20USA%20incarcerates%20more%20youth,held%20for%20non%2Dviolent%20charges>

According to Human Rights Watch, the U.S. has the highest number of children in juvenile detention facilities in the industrialized world. *Children Behind Bars: The Global Overuse of Detention of Children*, (2016)

<https://www.hrw.org/world-report/2016/country-chapters/africa-americas-asia-europe/central-asia-middle-east/north#:~:text=We%20know%20that%20the%20United,for%20meaningful%20education%20or%20rehabilitation>

Additionally, the U.S. sends more children to adult jails and prisons than other countries.

Placement of Children in Adult Jails and Prisons is Challenged, (2015)

<https://eji.org/news/placement-of-children-in-adult-jails-and-prisons-challenged/>

See also, *Children in Adult Prison: Children threatened by abuse, neglect, violence, racial bias, and poverty are usually ignored – unless they do something violent*, <https://eji.org/issues/children-in-prison/>. The type of facility where a child is confined can affect their health, safety, access to services, and outcomes upon reentry. Adult prisons and jails are unquestionably the worst places for youth. They are not designed to provide age-appropriate services for children and teens, and according to the Campaign for Youth Justice, youth in adult facilities may be placed in solitary confinement to comply with the PREA safety standard of “sight and sound” separation from incarcerated adults. Youth in adult facilities are also 5 times more likely to commit suicide than those in juvenile facilities. *Youth Confinement: The Whole Pie 2019*, (2019)

<https://www.prisonpolicy.org/reports/youth2019.html>

[3] <https://www.sentencingproject.org/reports/why-youth-incarceration-fails-an-updated-review-of-the-evidence/>

[4] Id.

[5] Defined, by some, as the process by which criminality declines over time.

<https://nij.ojp.gov/topics/articles/what-does-it-mean-defining-measuring-and-analyzing-desistance-crime-criminal#:~:text=Research%20on%20crime%20over%20the,course%2C%20generally%20after%20adolescence.%E2%80%9D>

[6] Elevated ACE scores were associated with increased risk of juvenile justice system contact. Estimates of the adjusted odds ratio of justice system contact per 1-point increase in ACE score ranged from 0.91 to 1.68. Results were consistent across multiple types of justice system contact and across geographic regions.

<https://publications.aap.org/pediatrics/article-abstract/147/1/e2020021030/77102/Adverse-Childhood-Experiences-and-Justice-System?redirectedFrom=fulltext>

[7] Id., fn. 3

[8] *Age Boundaries in Juvenile Justice Systems*, (2021)

<https://www.nga.org/publications/age-boundaries-in-juvenile-justice-systems/>

[9] Id., fn. 3

[10] Id.

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Juvenile Detention Alternatives Initiative (JDAI)

FICTION

Increasing reliance on detention and incarceration for juveniles is the most effective way to improve public safety.

FACTS

The Juvenile Detention Alternatives Initiative (JDAI) is an effective, data-driven, research-based, collaborative approach to youth justice. JDAI sites are committed to supporting healthy young people, strong families and safe communities. JDAI is grounded in decades of research showing that incarceration poses concrete dangers to young people, tends to threaten community safety and disproportionately affects Black, Indigenous and Hispanic youth.

RESEARCH

New Mexico's System Improvement approach is based on the Annie E. Casey Foundation's Juvenile Detention Alternatives Initiative (JDAI). It is designed to enable jurisdictions to safely reduce reliance on secure confinement through continuous juvenile justice system improvement. JDAI is intended to:

- Eliminate inappropriate or unnecessary use of secure detention
- Minimize failures to appear and incidence of delinquent behavior;
- Redirect public finances to successful reform strategies;
- Improve conditions in secure detention facilities; and
- Reduce racial and ethnic disparities. [1]

Detention is an ineffective response to crime (e.g., one peer-reviewed study concluded that pretrial juvenile detention increases the odds of felony recidivism by 33%).[2] Research shows that even a short stay in detention is associated with serious harm to young people's mental and physical well-being; to their education and employment prospects [3] and to their risk of further justice system involvement. Rigorous studies have consistently shown that Black, Indigenous and Hispanic youth referred to juvenile courts are more likely to be detained than similarly situated white youth, even when controlling for types of offending and other factors. National statistics show that nonwhite youth, and especially Black youth, are more likely to be detained than white youth across every category of offending.[4] Collaboration among system stakeholders and with community partners is at the heart of JDAI. No one agency or entity owns JDAI.[5]

JDAI IN NEW MEXICO COUNTIES

Each year Bernalillo County is awarded funds from the New Mexico State Government General Funds, through CYFD, to increase public safety through the support of data driven, evidence based juvenile justice practice and reform. The Continuum Statute requires the development of an advisory board that reflects all system and community stakeholders. This board creates strategic plans and makes data driven decisions to determine how the funding will be spent to serve the interests of community well-being. [6]

Bernalillo County joined the JDAI network in 1999. Over the next ten years, JDAI expanded to four additional counties: Doña Ana, Lea, Santa Fe and San Juan. [7]



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FOOTNOTES

- [1] *JDAI Core Strategies*, Annie E. Casey Foundation
<https://www.aecf.org/work/juvenile-justice/jdai/jdai-core-strategies>
- [2] *The Impact of Pretrial Detention on 12-Month Recidivism: A Matched Comparison Study* (June 4, 2020)
<https://journals.sagepub.com/doi/10.1177/0011128720926115>
- [3] *The Impact of Juvenile Conviction on Human Capital and Labor Market Outcomes* (January 14, 2022)
<https://www.stlouisfed.org/publications/review/2022/01/14/the-impact-of-juvenile-conviction-on-human-capital-and-labor-market-outcomes>
- [4] *Racial and Ethnic Disparity in Juvenile Justice Processing Literature Review: A product of the Model Programs Guide*
<https://ojjdp.ojp.gov/model-programs-guide/literature-reviews/racial-and-ethnic-disparity>
- [5] *Pathways to Juvenile Detention Reform, a Project of the Annie E. Casey Foundation – Collaboration and Leadership in juvenile justice reform.*
<https://assets.aecf.org/m/resourcedoc/AECF-CollaborationandLeadership-1999.pdf>
- [6] *Juvenile Detention Alternatives Initiative of Bernalillo County, (2023)*
<https://www.bernco.gov/health-and-public-safety/wp-content/uploads/sites/60/2023/09/JDAI-Pamphlet-2023.pdf> pg. 3
- [7] *Juvenile Detention Alternatives Initiative Scale-Up: Study of Four States* (February 28, 2019)
<https://wested2024.s3.us-west-1.amazonaws.com/wp-content/uploads/2019/03/29115458/Juvenile-Detention-Alternatives-Initiative-Scale-Up-Study-of-Four-States.pdf>

ADDITIONAL RESOURCES

1. Presentation to the Interim Courts, Corrections and Justice Committee, *Juvenile Detention Alternatives Initiatives (JDAI) in New Mexico*, Nick Costales, Craig Sparks, Judge Louis McDonald and Gerri Bachicha (2014)
<https://www.nmlegis.gov/handouts/CCJ%20092514%20Item%205%20Juvenile%20Detention%20Alternatives.pdf>
2. *Juvenile Court Statistics 2022, (2024)*
<http://www.ncji.org/Publication/Juvenile-Court-Statistics-2022.aspx>
(download required)

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Racial and Ethnic Disparities in the Juvenile Justice System

FICTION

Juvenile sentencing laws are applied fairly and impartially to different racial and ethnic groups.

FACTS

Youth of color are much more likely than white youth to be held in juvenile facilities.

RESEARCH

In the United States in 2021, the white placement rate in juvenile facilities was 49 per 100,000 youth under age 18. By comparison, the Black youth placement rate was 228 per 100,000, 4.7 times higher. Tribal youth were 3.7 times as likely to be placed in juvenile facilities (181 per 100,000) and Latino youth were 16% more likely (57 per 100,000). [1]

Racial disparities are also evident in decisions to transfer youth from juvenile to adult court. In 2017, Black youth made up 35% of delinquency cases, but over half (54%) of youth judicially transferred from juvenile court to adult court. Meanwhile, white youth accounted for 44% of all delinquency cases, but made up only 31% of judicial transfers to adult court. And although the total number of youth judicially transferred in 2017 was less than half what it was in 2005, the racial disproportionality among these transfers has actually increased over time. Reports also show that in California, prosecutors send Hispanic youth to adult court via "direct file" at 3.4 times the rate of white youth, and that American Indian youth are 1.8 times more likely than white youth to receive an adult prison sentence. [2]

Exacerbating the difficulty of addressing this issue is the fact that disparities exist well before contact with the juvenile justice system has occurred—in child welfare, the foster care system, school readiness, school performance, and school suspensions and expulsions (HHS, 2021; Knott and Giwa, 2012; Morris and Perry, 2016). Youths of color are more likely to live in single-parent families, in poverty, in disadvantaged communities with low performing schools, and in high-crime areas (Hirschfield, 2018; Moak et al., 2012; National Research Council, 2013). Given the problem's extent and complexity, this issue is difficult to address. [3]

In New Mexico, in 2019, the placement rate in a residential placement facility per 100,000 youth was 467 Black, 277 White, 62 American Indian, 58 Hispanic and 0 Asian, according to an analysis of the Office of Juvenile Justice and Delinquency Prevention's Census of Juveniles in Residential Placement for 2019.[4]



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FOOTNOTES

- [1] *Youth Justice by the Numbers*, Joshua Rovner, The Sentencing Project (August 14, 2024)
<https://www.sentencingproject.org/policy-brief/youth-justice-by-the-numbers/>
- [2] *Youth Confinement: The Whole Pie 2019*, Wendy Sawyer, Prison Policy Initiative (2019)
<https://www.prisonpolicy.org/reports/youth2019.html>
- [3] *Racial and Ethnic Disparity in Juvenile Justice Processing*, Office of Juvenile Justice and Delinquency Prevention, (2022)
<https://ojjdp.ojp.gov/model-programs-guide/literature-reviews/racial-and-ethnic-disparity#7-0>
- [4] *Youth and the Juvenile Justice System: 2022 National Report*, National Center for Juvenile Justice, (December 2022)
<https://ojjdp.ojp.gov/publications/2022-national-report.pdf>

ADDITIONAL RESOURCES

1. *Racial and Ethnic Disparities in the Youth Justice System*, Nora Leonard, Coalition for Juvenile Justice (March 2, 2023)
<https://www.juvjustice.org/blog/1436>

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"Upstream" Interventions, Prevention Efforts and Services

FICTION

The most effective way to deal with juvenile delinquency is to lock offenders up.

FACTS

Since the 1990s, the nation has shifted from an incarceration-heavy approach toward juvenile offenders to one that tries to keep them out of the criminal justice system and provide counseling, training and rehabilitation services instead. These innovative programs are yielding positive results in terms of public safety and fiscal policy. [1]

DIVERSION

Diversion is generally considered to be a formalized effort to divert someone who is already in the criminal justice system. It can also include pre-arrest diversion such as civil citations and co-responder or community programs that apply to juveniles. The goal is to find service-based alternatives to the traditional justice system. Pre-arrest diversion and pre-court diversion involve a decision to address delinquent conduct without involving a young person formally in the court system. [1]

Compared with youth who are diverted, youth who are arrested and formally petitioned in court have a far higher likelihood of subsequent arrests and school failure. [2]

Compelling research finds that formal involvement in the justice system tends to undermine rather than enhance public safety and to reduce young people's future success. Studies find that youth diverted from the justice system:

- Have far lower likelihood for subsequent arrests
- Are less likely to be incarcerated
- Commit less violence
- Have higher rates of school completion and college enrollment
- Earn higher incomes in adulthood [3]

Recent reform efforts have showcased promising strategies, including:

- Funding to support diversion programming and to create new diversion pathways.
- Efforts to contact and engage parents/guardians and other family members.
- Reducing imbalances in diversion opportunities in-state by requiring jurisdictions to develop diversion options, or by setting standard guidelines for diversion.
- Creating new mechanisms to assist and support youth who might otherwise fail diversion and have their cases formally petitioned in court.
- Creating ongoing oversight boards to review progress and recommend adjustments and further policy and practice reforms.[4]



Due to neuroplasticity (the ability of the brain to change), adolescents are susceptible to lasting neural alterations in response to environmental conditions, especially the harsh conditions of juvenile confinement; however, they may also be more amenable than adults toward redirection and rehabilitation. To capitalize on adolescents' unique rehabilitative potential, the primary objective of juvenile justice reform should be to strengthen and support redirection and rehabilitative efforts that are developmentally appropriate for youth and reinforce individual existing strengths and contributions.[5]



Children's Code Reform Task Force

Undertaking Thoughtful Reform

Legislative Resource

One-Page Info Sheet
(Both sides)

FOOTNOTES

[1] Pre-arrest diversion is called “deflection,” and can allow police interactions with youth to be treated as public health opportunities in which mental health interventions and/or substance abuse assistance are provided through deflection rather than a criminal record. This approach can provide a bevy of benefits without many downfalls. Deflection can also include myriad community-based services for juveniles. *How Juvenile Justice “Deflection” Programs Reduce Crime and Save Money, (2022)*
<https://www.rstreet.org/wp-content/uploads/2022/09/Final-Short-No.-116.pdf>

[2] *Diversion, A Hidden Key to Combating Racial and Ethnic Disparities in Juvenile Justice*, p. 1, (2022)
<https://www.sentencingproject.org/app/uploads/2022/10/Diversion-A-Hidden-Key-to-Combating-Racial-and-Ethnic-Disparities-in-Juvenile-Justice.pdf>

[3] Id.

[4] Id, p. 3

[5] *Juvenile confinement exacerbates adversity burden: A neurobiological impetus for decarceration, (2022)*
<https://www.frontiersin.org/journals/neuroscience/articles/10.3389/fnins.2022.1004335/full>

ADDITIONAL RESOURCES

1. *What the juvenile justice system can learn from child welfare reforms, (2024)*
<https://sanantonioreport.org/what-the-juvenile-justice-system-can-learn-from-child-welfare-reforms/>
2. *Arts-Based Programs and Arts Therapies for At-Risk, Justice-Involved, and Traumatized Youths (Literature Review: A product of the Model Programs Guide), 2021*
<https://ojjdp.ojp.gov/model-programs-guide/literature-reviews/arts-based-programs-and-arts-therapies-risk-justice-involved-and-traumatized#d5si57>
3. *Art As An Alternative: Adverse Childhood Experiences, Probation, and Informal Diversion in New Mexico's Juvenile System, 2022*
<https://www.nmvoices.org/wp-content/uploads/2022/07/Art-as-Alternative-Rpt-web.pdf>
4. *Performance Report Card: Fourth Quarter, FY24 (CYFD)*
https://www.nmlegis.gov/Entity/LFC/Documents/Agency_Report_Cards/690%20CYFD%20FY24_Q4_Report%20Card%20FINAL.pdf

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