The background of the entire page is an abstract composition of overlapping human silhouettes in profile, facing right. The silhouettes are rendered in a variety of colors including shades of grey, teal, purple, pink, and blue, creating a sense of diversity and community. The silhouettes are layered, with some appearing more prominent than others.

Overview of the Criminal Legal System in Michigan: Adults and Youth

Center for Behavioral Health and Justice at Wayne State University
School of Social Work in Partnership with the University of
Michigan Child and Adolescent Data Lab

*This report was commissioned and funded by Public Welfare Foundation.
Additional support was provided by the Michigan Justice Fund.*

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The **Michigan Justice Fund** is a collaborative fund committed to promoting and advancing the prosperity and dignity of Michigan residents by stemming the flow of individuals into the youth and criminal justice systems, supporting the investment of public dollars to community-driven alternatives to incarceration and detention, and by ensuring those who are returning home after incarceration or detention receive the support they need to flourish.

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The **Child and Adolescent Data Lab** of the University of Michigan’s School of Social Work is an applied research center focused on using a data driven approach to inform policy and practice decisions in child welfare and juvenile justice.

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Any opinions, findings, and conclusions or recommendations expressed in this material are those of the authors.

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Executive Summary

In the past year, Michigan, like much of the nation, experienced unprecedented crises, from the COVID-19 pandemic to the civil rights protests against racial injustice. As a result, many issues were brought to the forefront of national attention—especially within the criminal/legal system—including inadequate health and preventative care for people who are incarcerated, the large budgets of law enforcement agencies, and the incarceration of children. Calls from the field to bring about changes to the criminal/legal system intensified as the moment necessitated the urgency for reform and transformation.

Leading up to 2020, efforts to reform Michigan’s criminal/legal systems were under way, from the work of the Task Force on Jails and Pretrial Incarceration to Raise the Age. Like the rest of the nation, however, the pandemic exposed the need to bring about structural changes to the criminal/legal system. Fortunately, local and national advocates, funders, practitioners, and researchers

were coalescing to develop strategies to bring about meaningful changes to the way Michigan responds to crime and promotes public safety.

This report sought to illustrate a comprehensive and objective snapshot of Michigan’s adult and youth criminal/legal systems using data to provide a roadmap and baseline to assist stakeholders interested in advancing change within Michigan’s adult and youth justice systems. When the authors started this project, they were aware that the lack of data would result in an incomplete picture of systems in the State. The culmination of this research and analysis confirmed just how much information is missing, and how much is unknown to the public and practitioners about Michigan’s justice systems.

Despite these limitations, the data and research surfaced emerging issue areas within Michigan’s adult and youth criminal/legal systems and opportunities to bring about change, including:



Data accountability, integration, and transparency: The need to integrate different data systems is evident, as there are numerous systems that capture information across the criminal/legal continuum at the county, municipal, and state levels. These data need to be accessible to the public. The current status of data has public policy implications, as policies are being crafted and informed by incomplete datasets. The authors produced an addendum to this report, “Issues with Data in the Criminal/Legal System for Adults and Youths,” that focuses solely on data.

Behavioral health and the criminal legal system: Improving system and service integration is necessary to increase diversion, deflection, and treatment continuity for individuals with mental health and/or substance use diagnoses. Recognition and identification of these issues is the first step. Alternatives to confinement that lead to better and more sustained outcomes for the individual and the system should be a priority in every community.

Future involvement with the adult and youth justice systems: The child welfare system serves as the entry point to the youth justice system for some children, particularly for children of color and for females. While the risk of adult criminal justice involvement is high for all youth with delinquency petitions, the rates are particularly concerning for young people with a history of child abuse and neglect.

Geographic and demographic shifts in incarceration: Despite crime decreasing, jail incarceration rates have been increasing in the state. Rural jail incarceration rates have increased in recent years. Incarceration rates of women are increasing.

Lengthy sentences: Michigan’s prison population decreases are offset by the growth in average minimum sentences. This issue is exacerbated by the fact that Michigan requires that people incarcerated in state prisons serve 100 percent of their minimum sentence.

Prison expenditures: The budget of the Michigan Department of Corrections increased 14 percent between 2005 and 2019, despite decreases in the prison population and the closure of 15 prisons between 2009 and 2021.

Racial disparities in youth justice: While overall arrests are declining among all youth, Black youth are arrested at over twice the rate of White youth. Black youth accounted for 16 percent of the general population and 35.3 percent of the population with delinquency petitions.

Youth in the justice system: The total number of youth involved in the youth justice system is unknown because court caseload counts do not include youth who have been deflected from system involvement or diverted from court processing.

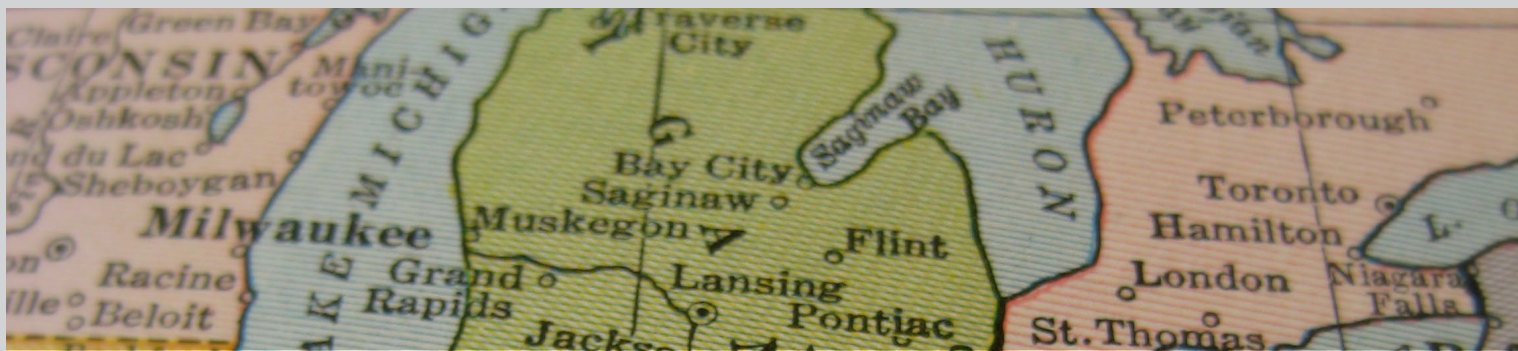
The information and data within this report was collected from many primary and secondary sources. It should be noted that, as with all data, the reliability and integrity of this data depends on the information in the data systems. However, those of us working with these administrative data sets continue to say, “if this is the only data available, then this is where we have to start.” Administrative data is often used for policy-making purposes, without examination of limitations and flaws. Here, we highlight limitations within the current administrative data sets and offer recommendations on how to create stronger, consistent, and reliable data across counties and the varying legal/judicial intercepts.



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Overview of Michigan



Michigan is the 10th most populous state in the United States¹ with nearly 10 million residents living in 83 counties. Most of the population lives in the southern half of the Lower Peninsula. The city of Detroit, located in Wayne County, is the largest city in the state, followed by Grand Rapids, in the western part of the lower peninsula.

The population of Michigan is mostly White (81 percent), with 15.3 percent of the population identifying as Black or African American. The average age of Michigan's citizens is 39.8 years old, reflecting an aging population compared to other states, with only

24 percent of the population between 0 years and 19 years old.²

Income disparities are stark between and within Michigan's 83 counties. The poverty rate in Michigan in 2019 was 14 percent, with 10 percent of Whites and 26 percent of Black people living in poverty. Childhood poverty statewide is 20 percent;³ however, in some counties over 30 percent of youth live in poverty.⁴ At the onset of the COVID-19 pandemic, the unemployment rate in Michigan rose from 3.7 percent (March 2020) to 23.6 percent (April 2020). By the end of 2020, the unemployment rate had decreased to 8.2 percent,⁵ reaching 10.1 percent in the Detroit area.⁶

Figure 2.1: Michigan Population

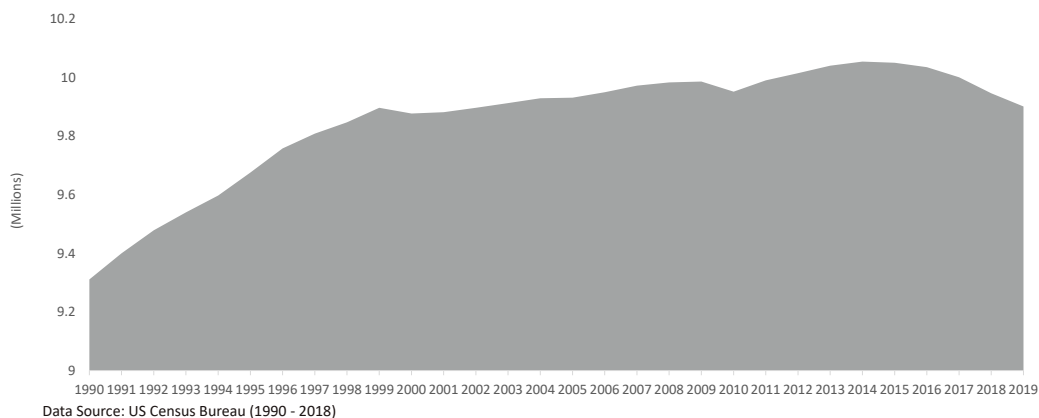
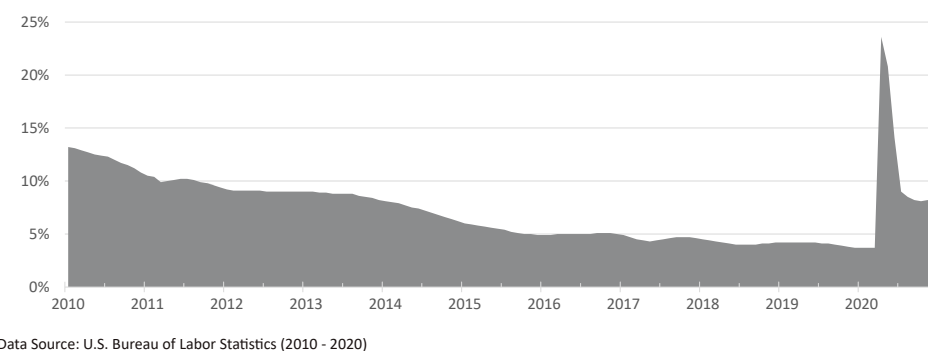


Figure 2.2: Michigan Unemployment Rate



¹ A.C.S. (2015-2019): [Narrative Profile - Michigan](#)

² A.C.S. (2019): [Age and Sex](#)

³ A.C.S. (2019): [Poverty status in the past 12 months - Michigan](#)

⁴ A.C.S. (2019): [Poverty status in the past 12 months - Michigan Counties](#)

⁵ B.L.S. (2021): [Unemployment rate: Michigan](#)

⁶ B.L.S. (2021): [Detroit Area Economic Summary](#)

Criminal Justice System Overview



Arrest and Law Enforcement

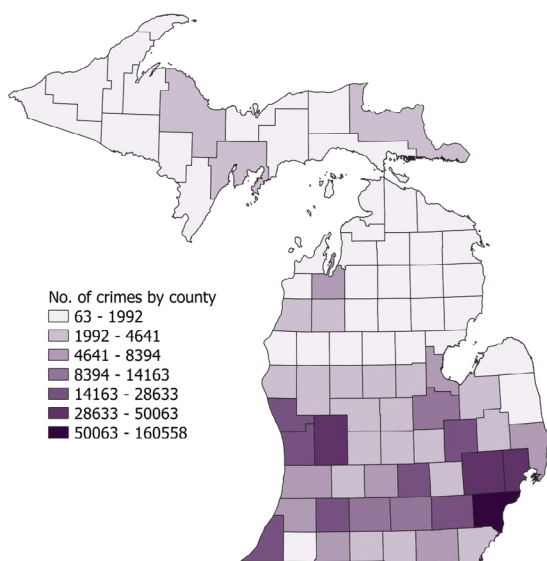
Law enforcement in the state consists of Michigan State Police (MSP), county sheriffs, and municipal police departments. Approximately 3,000 MSP officers provide daily patrol out of 30 posts across the state. Many of Michigan's smaller (often rural) municipalities have little or no local police, with enforcement activities performed by the county or state. Alternatively, many urban areas may have additional law enforcement agencies present, including federal officers.

Arrest, as a measure of crime, is a flawed proxy as not all crime is reported, and arrests may not lead to charges. Approximately 59 percent of people do not report violent crime to the police and arrests do not occur for most incidents.⁷ Moreover, studies have shown that some groups (i.e., Black, or other Persons of Color) receive disproportionate attention from law enforcement,⁸ which may inflate these arrest numbers. With these limitations in mind, we explore crime and arrest rates across the state.

Crimes and Arrests

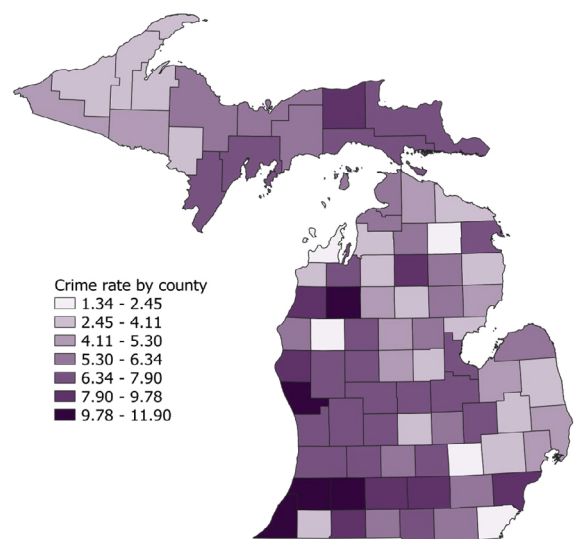
In the adult system, the overall clearance rate⁹ for criminal incidents was 37 percent in 2019. There were 211,196 arrests reported in Michigan; five persons arrested for every 100,000 residents of the state.^{10,11} There are approximately 17,000 arresting officers in the state employed by 590 law enforcement agencies booking into 80 county jails.

Figure 3.1: Total crimes by county



Data Source: Michigan Incident Crime Reporting, Michigan State Police (2019)

Figure 3.2: Crime rate by county



Data Source: Michigan Incident Crime Reporting, Michigan State Police (2019)

⁷ B.J.S. (2019): [Criminal Victimization, 2019](#)

⁸ Vera Institute of Justice (2018): [An Unjust Burden: The Disparate Treatment of Black Americans in the Criminal Justice System](#)

⁹ The Michigan State Police define 'clearance' as the solving of a particular crime, either by the arrest of the person or through an exceptional clearance.

¹⁰ These arrests include 7924 arrests of persons under the age of 18.

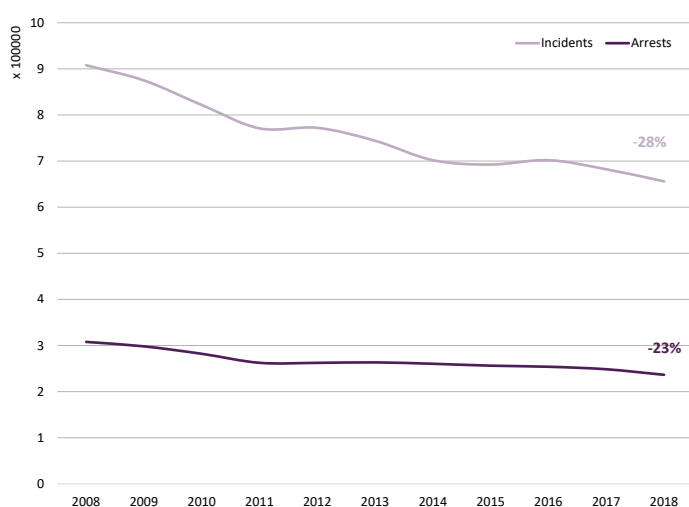
¹¹ MICR (2019): [Statewide Incidents, Offenses, and Arrests by Crime Type Report](#)

The number of arrests decreased 23 percent over the past 10 years¹² (2008 – 2018), reflecting a decrease in reported incidents¹³ and national trends. However, this decline was not realized in every county, with arrest rates increasing in a quarter of Michigan’s counties.

Although younger individuals make up a higher proportion of those arrested, arrests rates declined 46 percent for individuals 25 and younger, but increased 38 percent for those over 50. Arrests increased for Black females by 2 percent but decreased for all other groups.

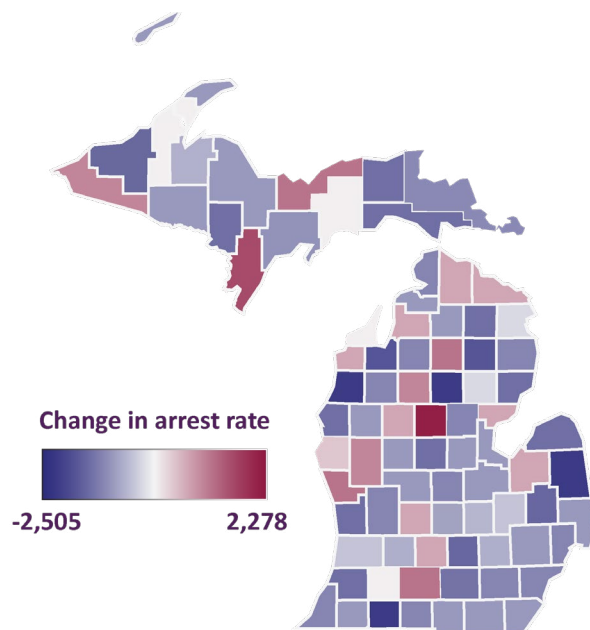
Failure to appear made up the largest number of arrests (29,295) statewide. While five of the top ten arrest offenses in 2018 were eligible for citations, a very small proportion of individuals who were arrested for a citation-eligible offense received a citation. For example, of the 28,264 simple assault/assault and battery offenses, only 5 percent (or 1,413) received a citation. Of those arrested for disorderly conduct, 25 percent received a citation – the highest proportion of any of the citation-eligible offenses. Overall, citations were issued in 10 percent of arrest events in 2018.

Figure 3.3: Arrests and incidents over time



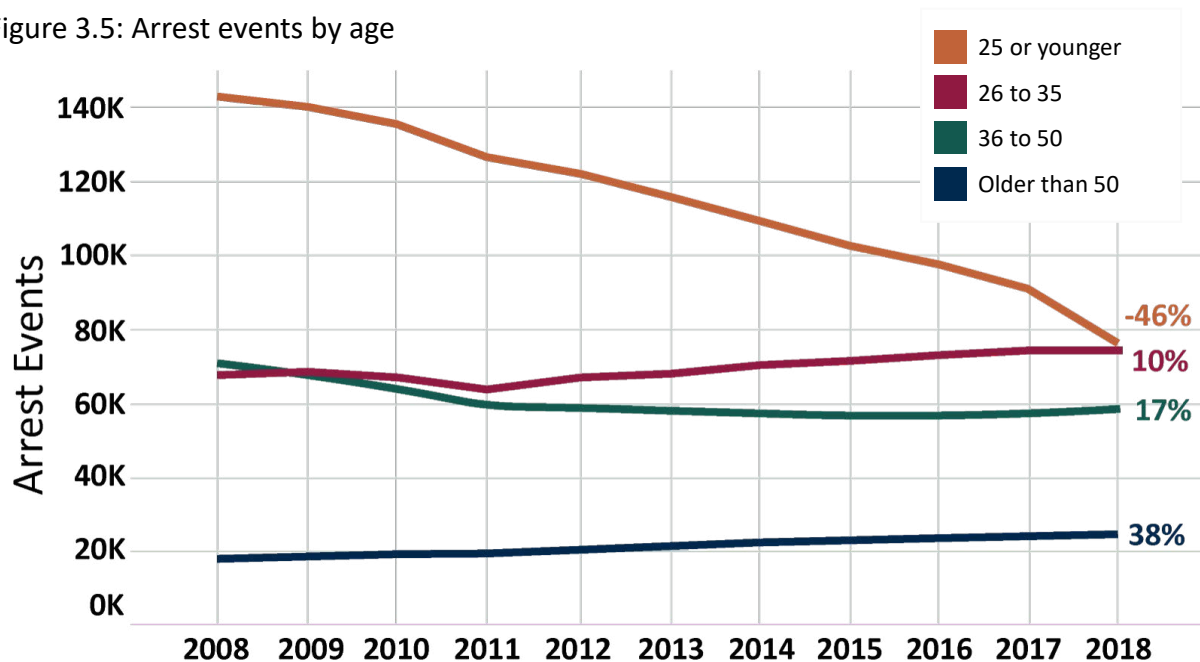
Data Source: Michigan Incident Crime Reporting, Michigan State Police (2008 - 2018)

Figure 3.4: Change in arrest rate by county



Data Source: Michigan State Police (2008 to 2018) via [Pew Charitable Trusts](#)

Figure 3.5: Arrest events by age

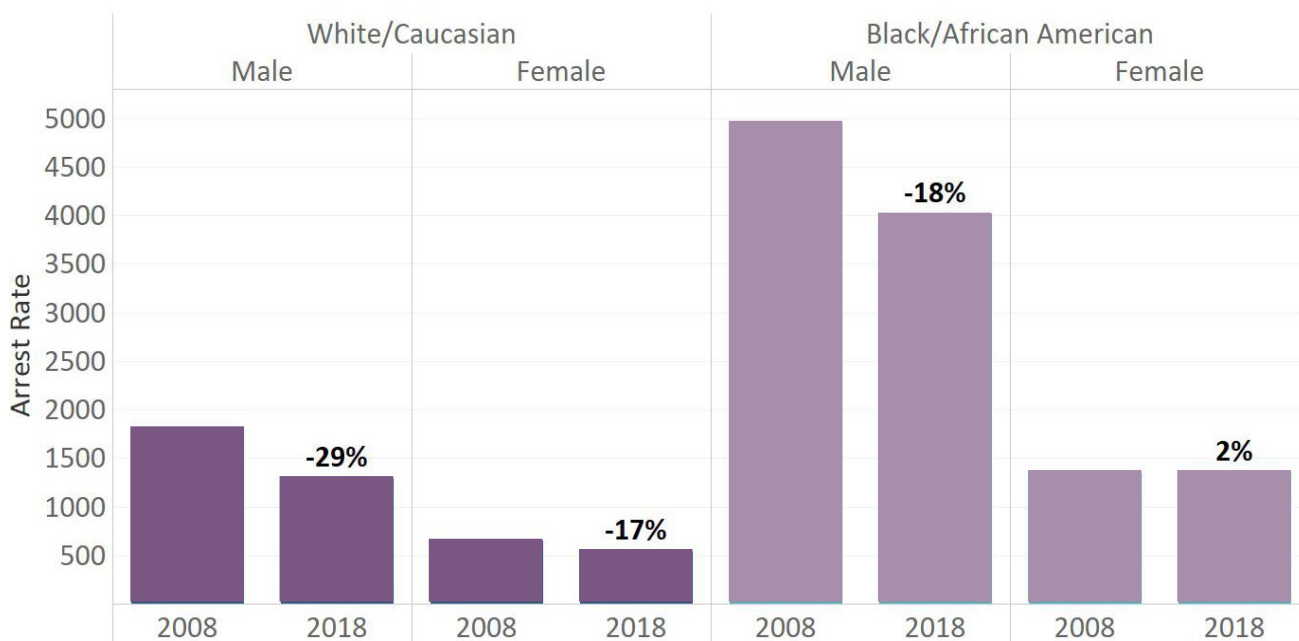


Data Source: Michigan State Police (2008 to 2018) via [Pew Charitable Trusts](#)

¹² Figures show all arrest and incident rates (including juveniles) from 2008-2018. The decline continued into 2019, with an 11 percent decline in arrests between 2018 and 2019.

¹³ Based on data available through the Michigan Incident Crime Reporting (MICR) data reported by the Michigan State Police (MSP).

Figure 3.6: Arrest rates by race and gender



Data Source: Michigan State Police (2008 to 2018) via [Pew Charitable Trusts](#)

Figure 3.7: Top ten crimes for which an arrest is made

Failure to appear	29,295
Assault & battery/simple assault	28,264
Operating under the influence of alcohol	21,410
Marijuana – possess	14,419
Retail fraud theft 3rd degree	9,096
Probation violation	8,472
Contempt of court	6,803
Obstructing justice	5,443
Disorderly conduct	4,036
Retrain fraud theft 2nd degree	3,706

Data Source: Michigan State Police (2008 to 2018) via [Pew Charitable Trusts](#)



Legal Processing

Courts

Michigan’s constitution organizes the judicial branch into “One Court of Justice” with several divisions, including: The Supreme Court; Court of Appeals; trial courts (i.e., circuit and probate courts); and any courts of limited jurisdiction created by the legislature (i.e., district courts and municipal courts). The Michigan Supreme Court has superintending control over the Court of Appeals and the trial courts. Michigan currently has 242 trial courts, which include 57 circuit courts, 78 probate courts, 103 district courts, and 4 municipal courts. Each circuit court also has a specialized Family Division that requires participation and coordination between the circuit and probate courts. Criminal cases are confined to the district and circuit courts. Youth cases are heard in the Family Division of the circuit courts.

Michigan utilizes judges and quasi-judicial officers (including magistrates, referees, and probate registers) to conduct the court’s business. Judges are elected (or appointed when a seat is vacated), while quasi-judicial officers are hired and employed by the court. As of 2019, Michigan had 559 judges, not including quasi-judicial officers.

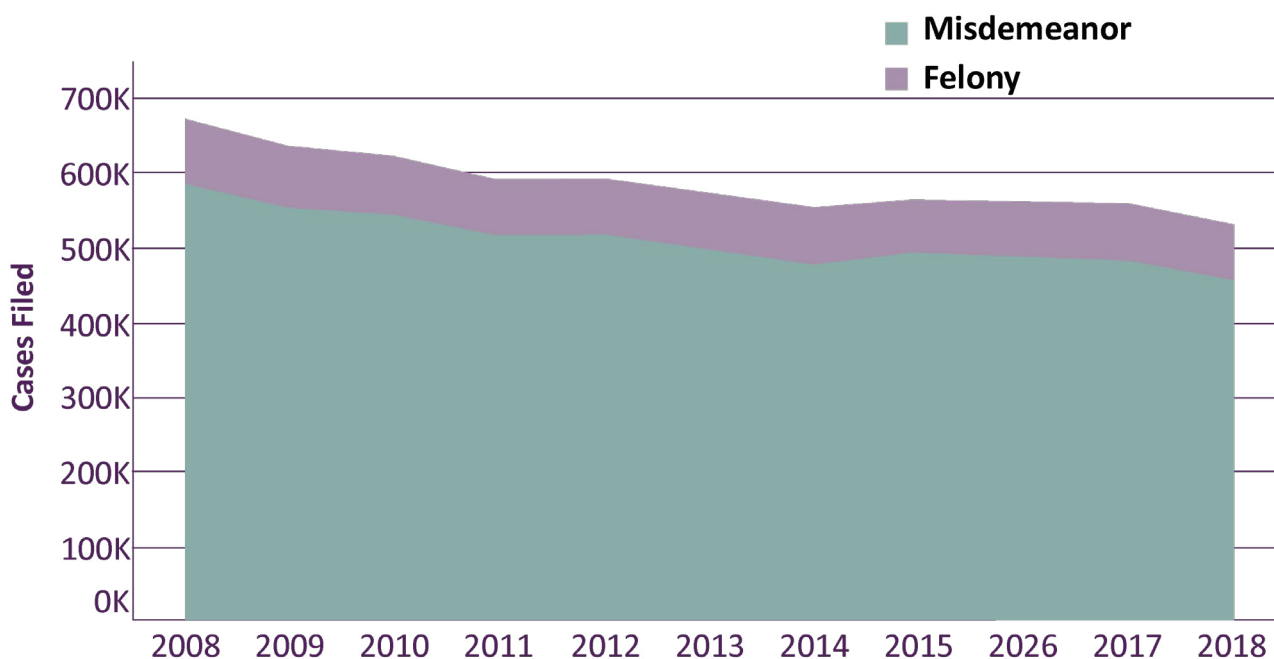
Funding responsibility for Michigan’s trial courts is distributed among state, county, and municipal governments, with federal funding adding a critical component of many court-administered services. While localized funding of courts has enabled laboratories of innovation in various locations, it has also created challenges in implementing collective and consistent change statewide. Because of this, the financial realities and priorities of local units of government make it difficult to implement changes that requires funding.

Filings

Across the state, many criminal court cases filed in 2018 involved misdemeanor charges, with traffic violations accounting for half of criminal cases filed. One third of individuals accused in criminal cases were female, and the median age of defendants was just over 30.

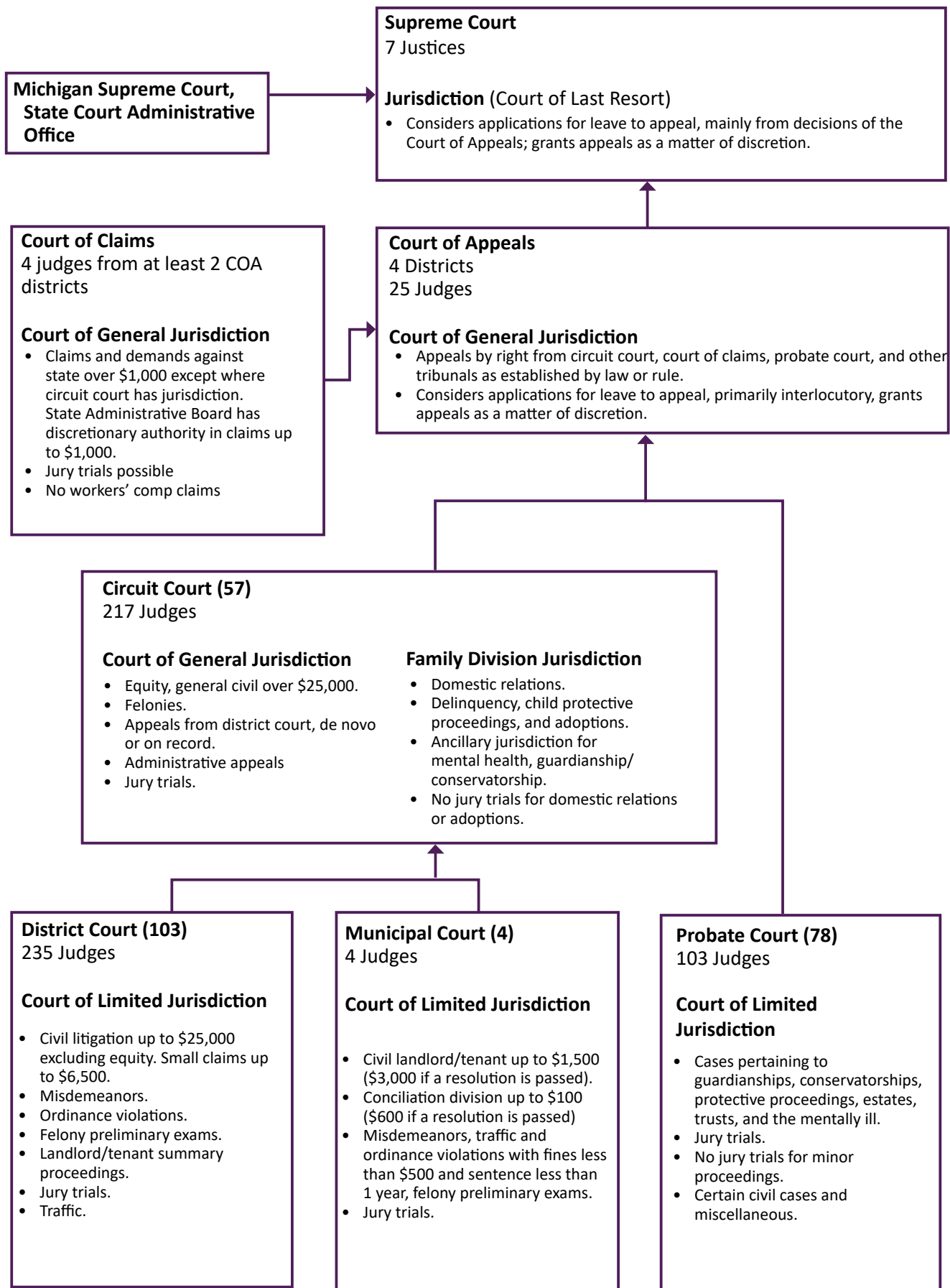
More than 100,000 individuals were convicted and sentenced statewide in 2018. Less than three percent of cases were resolved through court verdicts, 56 to 87 percent of cases resolved via guilty plea, and 10 to 44 percent of cases were dismissed.

Figure 3.8: Cases filed by type



Data Source: Michigan Supreme Court, State Court Administrative Office (2008-2018) via [Pew Charitable Trusts](#)

Figure 3.9: Michigan Judicial Branch

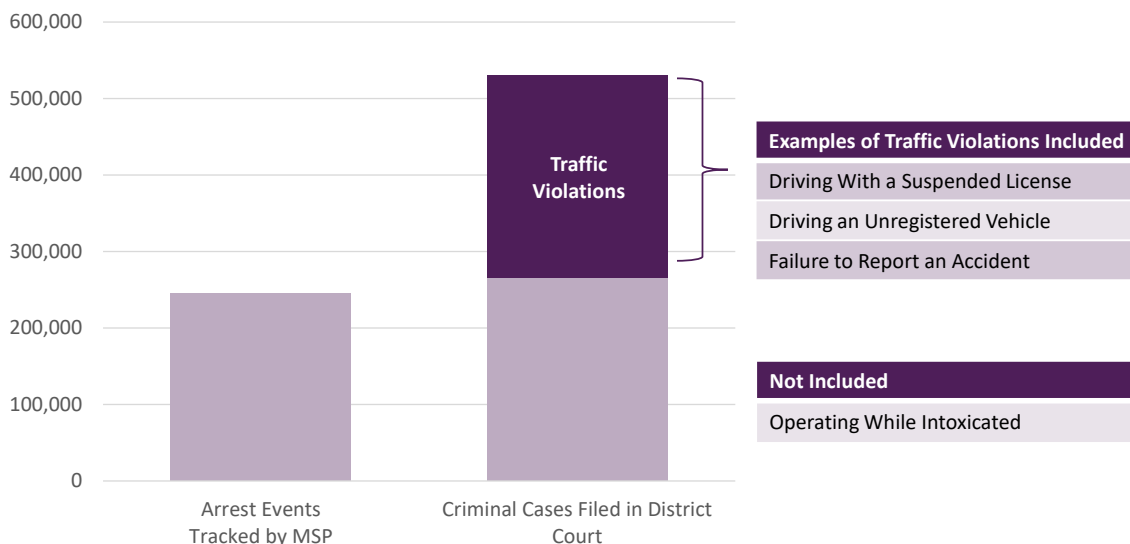


(#) - Indicates number of courts ↑ - Indicates route of appeal.

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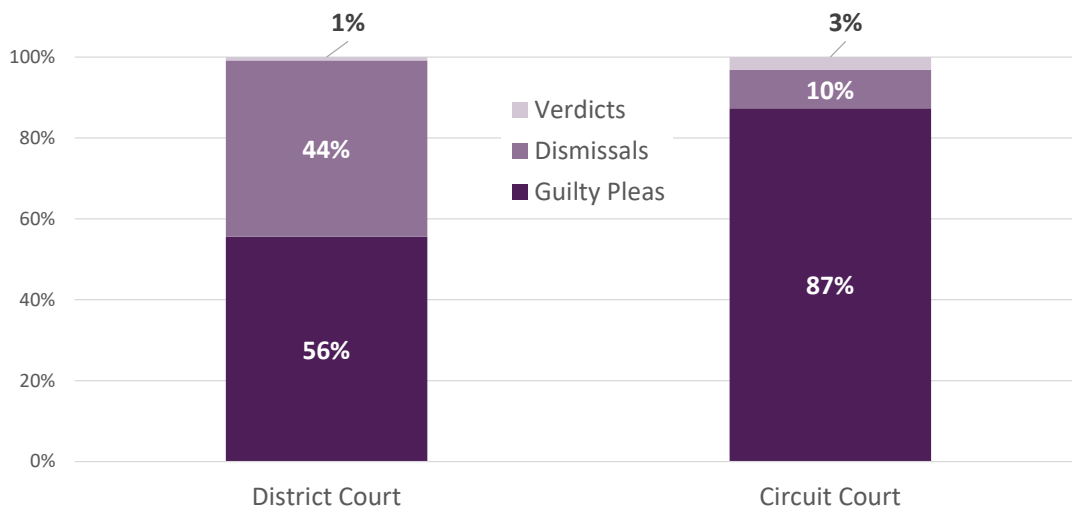
Data Source: Michigan Supreme Court, Michigan State Court Administrative Office (2021)

Figure 3.10: Traffic violations



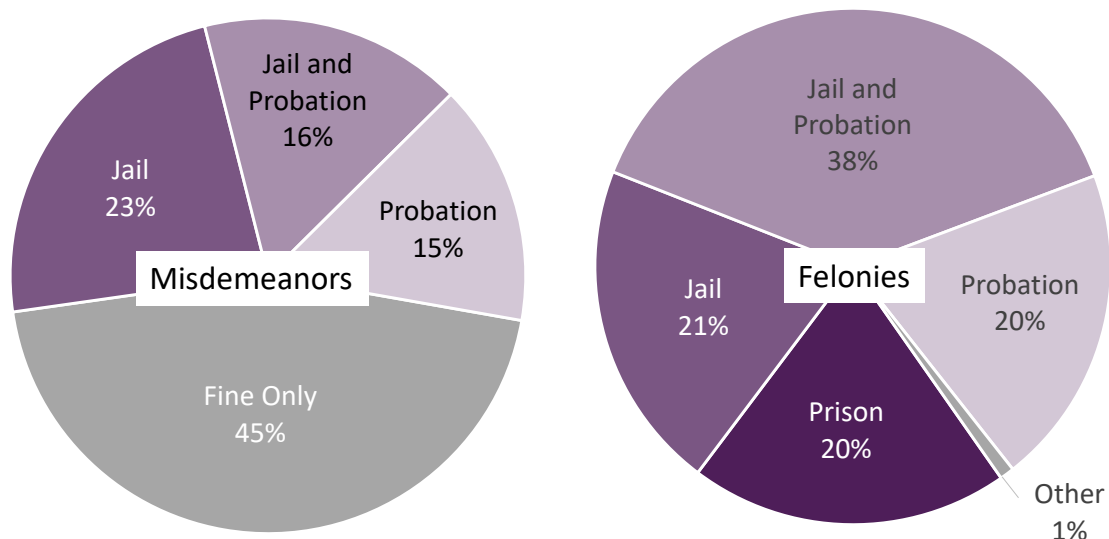
Note: Arrest data does not include most traffic violations. Offense information was identified for 84% of cases filed in district court.
 Data Source: Michigan State Police, Michigan Supreme Court, State Court Administrative Office (2018) via [Pew Charitable Trusts](#)

Figure 3.11: Case resolution by court type sentences



Note: Totals exclude cases that were bound over, were on inactive status, were remanded/transferred, or changed case type.
 Data Source: Michigan Supreme Court, State Court Administrative (2018) via [Pew Charitable Trusts](#)

Figure 3.12: Sentences by conviction classification



Note: Sentence Information was available for 90% of misdemeanors. Felonies do not include convictions statutorily sealed from public record.
 Data Source: Judicial Data Warehouse, Michigan Supreme Court, State Court Administrative, Michigan Department of Corrections (2018) via [Pew Charitable Trusts](#)

Sentencing guidelines and straddle cells

In 1998, the Michigan legislature enacted sentencing guidelines to provide judges with recommendations for the minimum term of a sentence for individuals convicted of felonies.¹⁴ The guidelines included a scoring system to determine the recommended minimum sentence range, with three elements required to determine a sentence for felonies: crime class, offense variables (OV), which seeks to quantify specific circumstances around the offense, and prior record variables (PRV), which seeks to quantify criminal history. After applying the guidelines, one of three sentencing groups is determined: prison, straddle cell, or intermediate sanction (see Figure A).

Michigan's Sentencing Guidelines are complex—there are nine offense classes resulting in nine different grids, with 33 scoring choices across PRV and 76 scoring choices across OV. Prison sentences (minimum/maximum) are straightforward. State statute sets the maximum sentence for each offense, and it is the parole board's decision whether the person will be released at, or near, the minimum sentence length set by the court. Intermediate sentences can involve several non-prison scenarios (e.g., jail, probation, treatment, fines/fees, or combinations of two or more). However, if someone falls into a 'straddle' cell, the judge can determine if the individual is sent to prison or will receive some type of intermediate sentence.



Straddle cell sentencing determination provides the most judicial discretion and potentially the highest cost savings for the State. If someone in a straddle cell is sentenced to probation rather than prison, savings would result primarily from reducing the number of persons sent to state prison. As such, straddle cell sentencing became a focus of the Criminal Justice Policy Commission (CJPC) from 2018 to 2019. The CJPC found individuals were more likely to be sentenced to prison based on several factors:¹⁵ the location of the circuit court where the sentence was imposed; the type of crime;¹⁶ attorney status (retained or appointed); conviction method (found guilty at trial or pled guilty); the individual's history of alcohol abuse; and the individual's race, gender, age, and employment status (see Figure B).

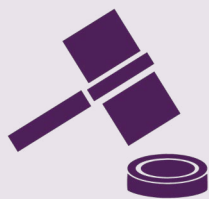


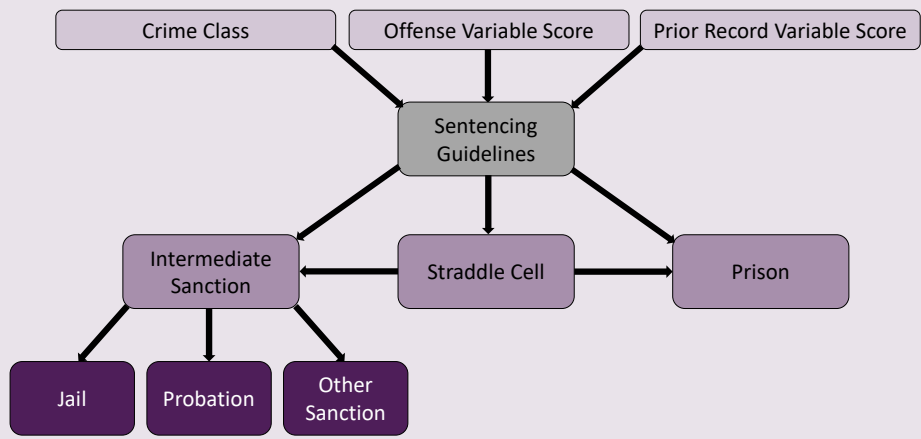
Figure C portrays which courts were over or below the state average on the number of individuals scoring within a straddle cell received a prison sentence. The court districts shaded in blue were the courts that were above average in terms of sending individuals to prison when their sentencing guidelines were in the straddle cell range; those in the brown hues were below the state average; and those that were White were at the state average.

¹⁴ The guidelines were developed by a Sentencing Commission, which was formed in 1994 by the legislature with the charge to "develop sentencing guidelines which provide protection for the public, are proportionate to the seriousness of the offense and the person's prior record, and which reduce disparity in sentencing throughout the state." The guidelines created by the Commission were based on judicial guidelines that were developed by the Supreme Court of Michigan in 1984, which in turn were based on a 1979 analysis of Michigan sentencing. The Sentencing Commission intended to provide ongoing monitoring and recommendations regarding the guidelines, and to define specific terms for probation revocations and guide the supervision violations process. The last formal meeting of the Sentencing Commission, however, was in 1997, and the Commission subsequently dissolved when the terms of the members expired. The Commission was officially disbanded by the legislature in 2002.

¹⁵ The CJPC study examined Class B through E felonies placed in the same straddle cell (same grid, PRV and OV cell).

¹⁶ Felony offenses are classified into six groups: 1) Crimes against a person, 2) Crimes against property, 3) Crimes involving a controlled substance, 4) Crimes against public order, 5) Crimes against public safety, and 6) Crimes against public trust.

Figure A: Michigan sentencing guidelines



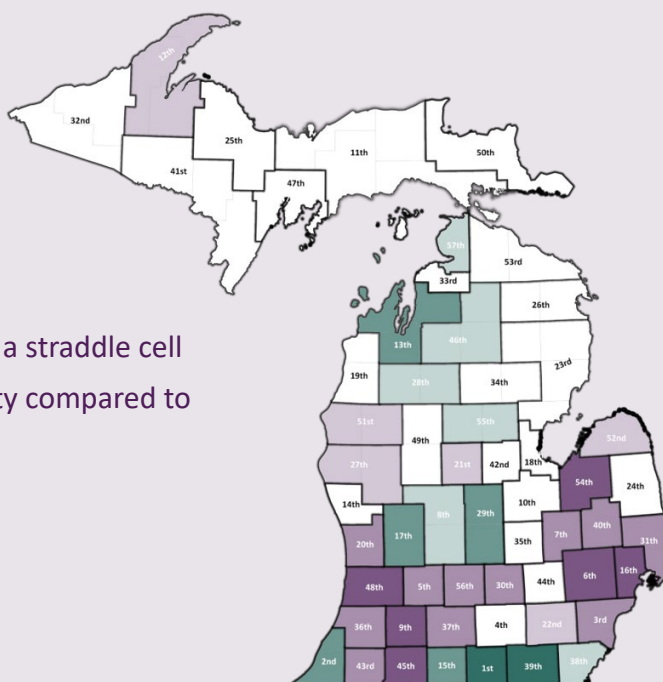
Data Source: [Pew Charitable Trusts](#) (2018)

Figure B: Factors contributing to sentencing disparities by felony class

	Felony Classes		
	B & C	D	E
Race (Black or African American vs. White)	✓		✓
Age	✓	✓	✓
Gender (Female vs. Male)	✓	✓	✓
Attorney Status (Retained vs. Appointed)	✓	✓	✓
Conviction Method (Found Guilty vs. Pled Guilty)	✓	✓	✓
Crime Group (e.g. Crimes Against a Person)	✓	✓	✓
Circuit Court	✓	✓	✓
Number of Convictions Received Prison Sentence (%)	2,960 (25.7%)	4,823 (30.3)	11,058 (24.9%)

Data Source: Michigan Department of Corrections (2012-2017) via [Criminal Justice Policy Commission](#)

Figure C: Individuals scoring within a straddle cell sentenced to prison by prison county compared to state average



Data Source: Michigan Department of Corrections (2012-2017) via [Criminal Justice Policy Commission](#)

Prosecution

The Prosecuting Attorney is a county-level official elected to serve a four-year term. There are no term limits for prosecutors. The Prosecuting Attorney is independent of the Michigan Attorney General, and acts as the chief law enforcement official within the county. The Prosecutor reviews and authorizes prosecution of felonies, misdemeanors, and offenses within the county and represents the county in criminal matters before the district and circuit courts. The prosecutor also handles dependency cases (child abuse and neglect) in the Family Division of the circuit courts and appellate cases in the Court of Appeals and the Michigan Supreme Court.

Public Defense and the Michigan Indigent Defense Commission

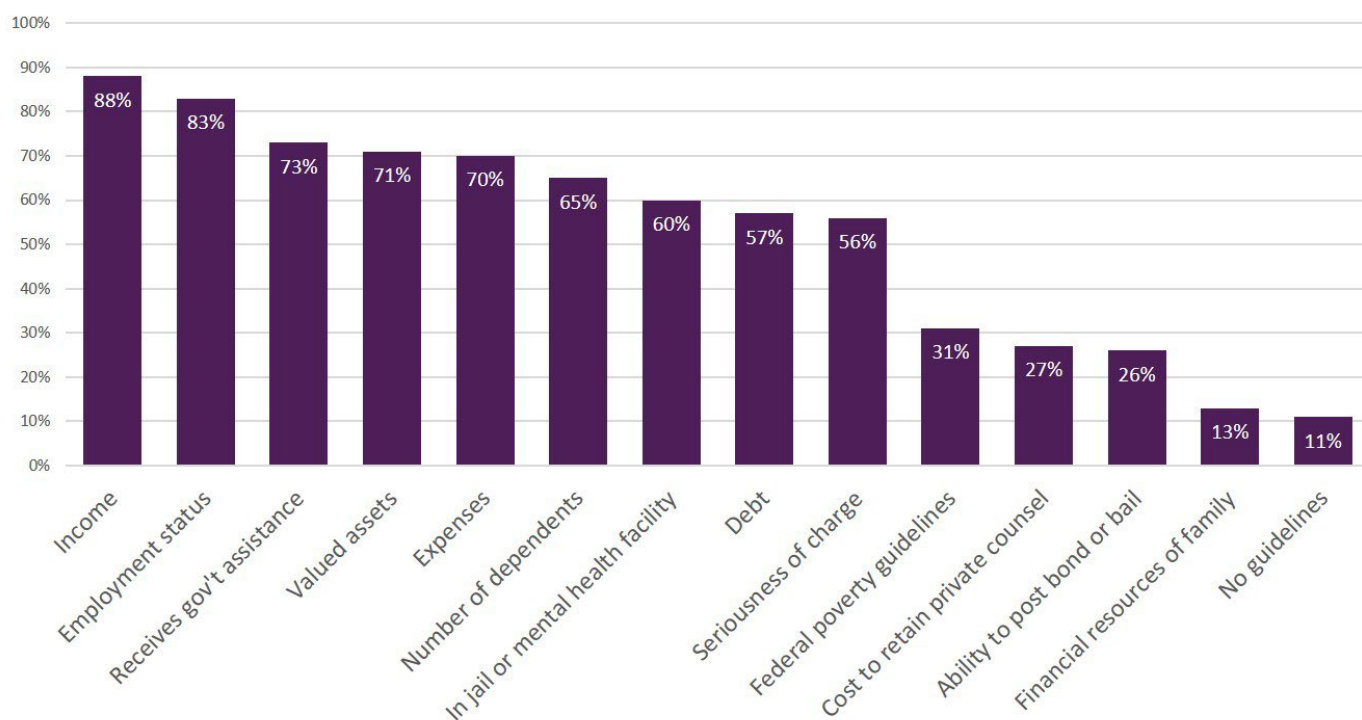
In 2008, the National Legal Aid and Defender Association (NLADA) evaluated trial-level indigent defense systems in Michigan and found that Michigan failed to provide competent indigent defense representation in criminal courts. This report sparked the creation of the Michigan Indigent Defense

Commission (MIDC), which reviews indigent defense data, proposes minimum standards to ensure indigent defense meet constitutional obligations, and works with counties to develop and enhance indigent defense systems.

The MIDC is working to increase the number of defense offices across the state. At the start of 2021, 45 percent of Michigan counties have dedicated public defense through county public defender offices or nonprofit contracts. Prior to the creation of the MIDC, only 10 percent of counties had dedicated public defender offices.¹⁷ The MIDC is also implementing a holistic defense model. Holistic defense—also referred to as community orientated or comprehensive defense—is a term used to illustrate a specific method of legal representation.¹⁸

Still, there are challenges to overcome in the State regarding indigent defense. There are no state (or national) mandates defining eligibility for representation, resulting in wide variation in the guidelines used to determine eligibility for public defense: 24 percent of courts having suggestive (rather than mandatory) guidelines and 11 percent of courts having no formal eligibility guidelines. Only 24 percent of assigned counsel systems function independent of the judiciary.

Figure 3.13: Factors used to determine eligibility for public defense



Data Source: Survey of 164 Michigan district and circuit courts (2015) via the [Michigan Indigent Defense Commission](#)

¹⁷ Source: Personal communication with MIDC regional manager.

¹⁸ Established in New York in 1997 by the Bronx Defender's Office, holistic defense employs an interdisciplinary team that considers both the individual and community needs when working with a person charged with a criminal offense.

Prosecutorial reform and citizen-led evaluation in Washtenaw County

Reform prosecutor: In November 2020, voters in Washtenaw County elected Eli Savit as Prosecutor. Mr. Savit has moved to reform prosecutorial powers in his county on a range of issues. For instance, the Washtenaw County Prosecutor's office will no longer seek cash bail in criminal cases, the first policy of its kind in the state. Washtenaw County will also no longer prosecute use, possession, nor small-scale distribution of cannabis and psychedelic drugs while also expunging prior criminal convictions related to these drugs.

In January 2021, Prosecutor Savit partnered with the ACLU of Michigan and the University of Michigan Law School to launch¹⁹ the [Prosecutor Transparency Project](#) to uncover potential racial inequities through the collection and analysis of data regarding decisions made by the prosecutor's office. The results of the project will be shared with the public through an online dashboard, and while this project is the first of its kind in Michigan, the Prosecutor Transparency Project aims to expand to additional communities in the state.



Citizens for Racial Equity in

Washtenaw: In August 2020, an independent group of Washtenaw County citizens formed the Citizens for Racial Equity in Washtenaw (CREW) to examine publicly available criminal case data from the Washtenaw County Circuit Court, primarily through the circuit court's website. CREW collected and examined certain categories of non-capital felony cases (FH cases)

filed between 2017-2019 in Washtenaw County along with a review of all specified capital felony cases (FC cases) filed in Washtenaw County between 2013-2019. In total, CREW studied 11 case categories. Their data and analysis show troubling racial differences in a variety of areas such as charging decisions, the use of the habitual offender designation, average convictions per case and sentencing. Learn more about their methods and findings by reading their [report](#).

¹⁹ U.M. Poverty Solutions News (2021): [U-M Partners with Washtenaw County Prosecutor Eli Savit on 'Prosecutor Transparency Project'](#)

Confinement

The Prison Policy Initiative (PPI) calculated that the incarceration rate for Michigan was 641/100,000 in 2015 – well above the Bureau of Justice Statistics (BJS) calculation of 381/100,000 for state prisons. In their calculation, PPI considers the full picture of confinement in the state, including jails, federal and state prisons, immigration detention, youth holding and tribal nations. Although there are important issues related to immigration detention (i.e., lack of services during confinement), this discussion of confinement is limited to county jails and state prisons, acknowledging that there are other forms of detention and correctional supervision (See sections below for discussion of community supervision and youth detention).

Persons involved in the criminal/legal system are likely to pass through county jails – whether the charges are dismissed or the person is convicted. Information on the number of people experiencing jail incarceration is incomplete. There is no accessibility to aggregate jail data within the state, and federal estimates of Michigan are based on a one-day count of a sample of jails. The decentralization of our county-level governance, and the inability of the state to mandate data collection practices without funding, requires analyzable data to be collected directly from the county jails. This has led to a gulf in information. In this report, federal level BJS Annual Survey of Jails is relied upon, as well as data derived from reliable samples of multiple jails within the state. Attention is drawn to areas where data are incomplete and recommendations as to best available data sources are made throughout.

Jail

Jails in Michigan are operated at a county level and come under the jurisdiction of the elected sheriff. Although there are 83 counties, there are 80 county jails as small counties in the upper-peninsula share jail space. There are nearly 20,000 jail beds across the state per the Michigan Sheriff's Association. Most jails in the state hold people pre- and post-arraignment, but there are notable exceptions. For example, the Detroit Detention Center, a holding facility for the City of Detroit Police Department (DPD), is a former prison where individuals are held pre-arraignment. Once an individual is arraigned, they would be transferred to

the Wayne County Jail (see section below). In addition, space in many Michigan Jails is contracted out to U.S. Citizenship and Immigration Services.

Figure 3.16 depicts the booking and pre-arraignment phase that occurs post arrest. (Note: there may be subjectivity on the part of law enforcement regarding who is brought in for detention).

Population-level Data from Federal and State Sources

Since 1975, the national jail population has climbed 377 percent despite a declining overall crime rate beginning in 1990 and continuing through the present. Correspondingly, Michigan's jail population has grown over the same period, rising from 5700 people in 1975 to 16,600 people in 2015.²⁰ Figure 3.15 depicts the relationship between crime and jail population using the BJS Annual Survey of Jails, demonstrating that as total crime declined after 1987, the jail population increased.

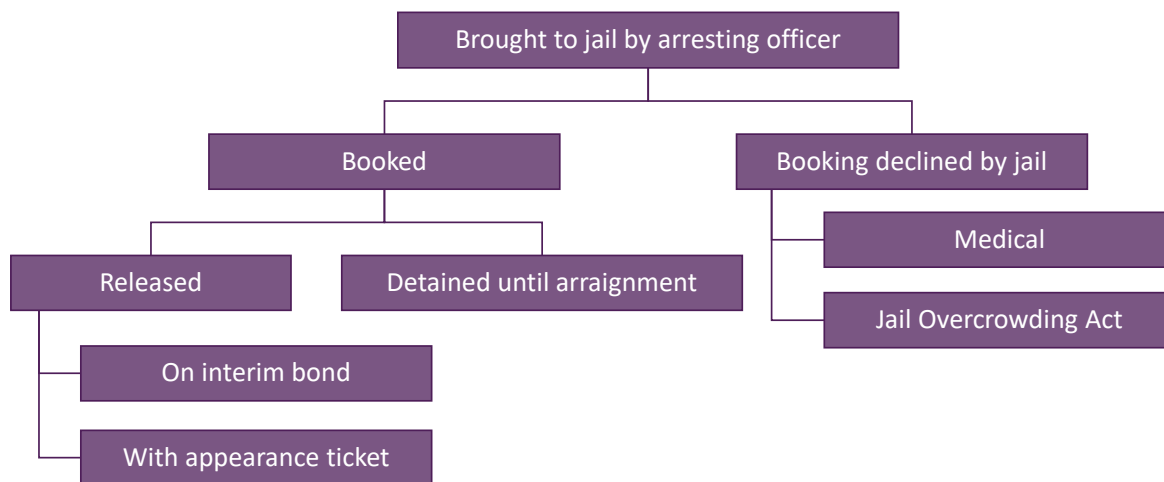
Although the national BJS data provides a benchmark for one day counts of the jail population statewide, it does not capture the number of individuals who are booked into jails across the state annually. It is difficult to find this number in Michigan as jail population data are not aggregated statewide. The best attempt to assess aggregate jail data comes from the Jail Population Information System (JPIS) that originates from the Michigan Department of Corrections (MDOC) Office of Community Corrections. However, this monthly reporting system attempts counts by charge at each jail and only accounts for 87 percent of the nearly 20,000 jail beds in the state because only 59 of the existing 80 county jails report into the JPIS system.

As Figure 3.16 illustrates, the change in jail population varied by county between 2005 and 2015. While some counties grew over 20 percent, others dropped by over 16 percent.

In 1978, nearly 15 percent of the state's jail population came from rural counties, growing to 24 percent in 2013. Alternatively, 34 percent of the state's jail population came from urban areas in 1978, as compared to 19 percent in 2013. Like other jails across the country, nearly half of the people (48.6 percent) in Michigan jails have not been convicted of any crime.

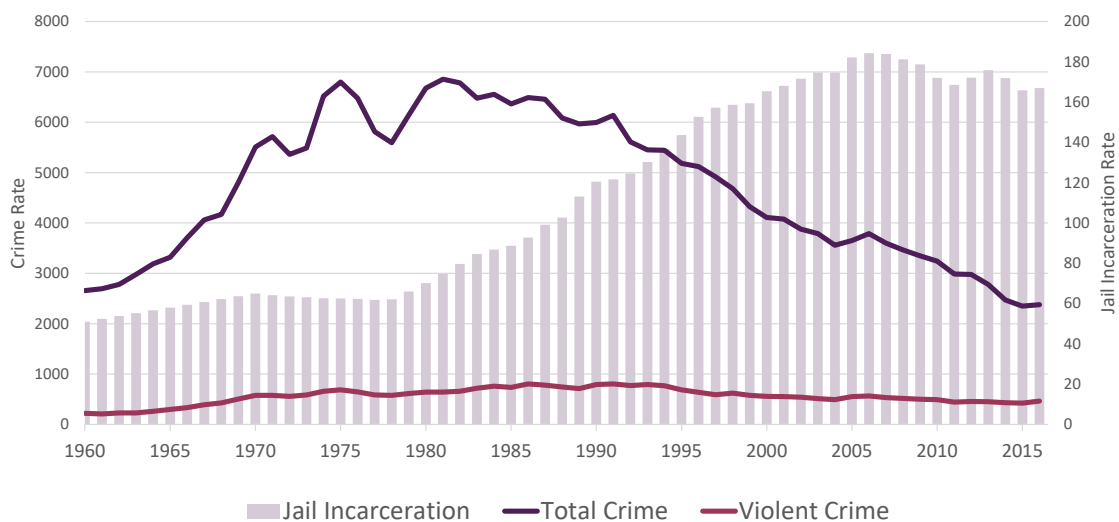
²⁰ Pew Charitable Trusts (2019): [Michigan Task Force on Jail and Pretrial Incarceration Meeting #1](#)

Figure 3.14: Booking and pre-arraignment post-arrest flow chart



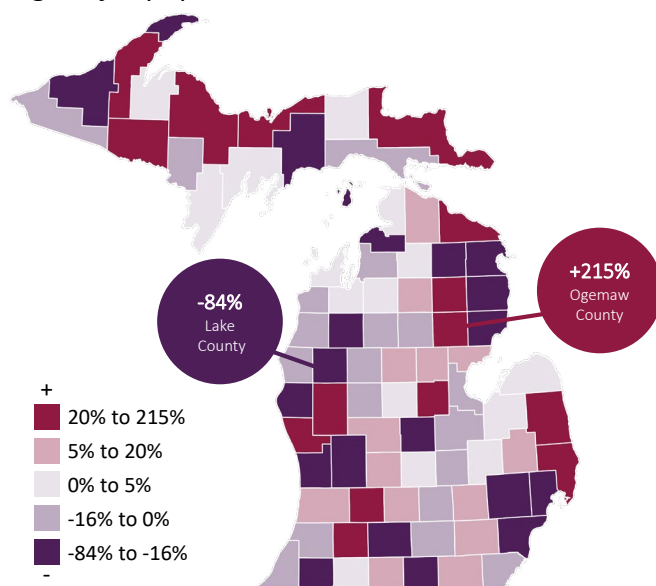
Data Source: [Pew Charitable Trusts \(2018\)](#)

Figure 3.15: Total crime, violent crime, and jail incarceration in Michigan



Data Source: Bureau of Justice Statistics, U.S. Census Bureau, Federal Bureau of Investigation (1960 -2016) via [Pew Charitable Trusts](#)

Figure 3.16: Percent change in jail population from 2005-2015



Data Source: Bureau of Justice Statistics (2005-2015) via [Vera Institute of Justice](#)

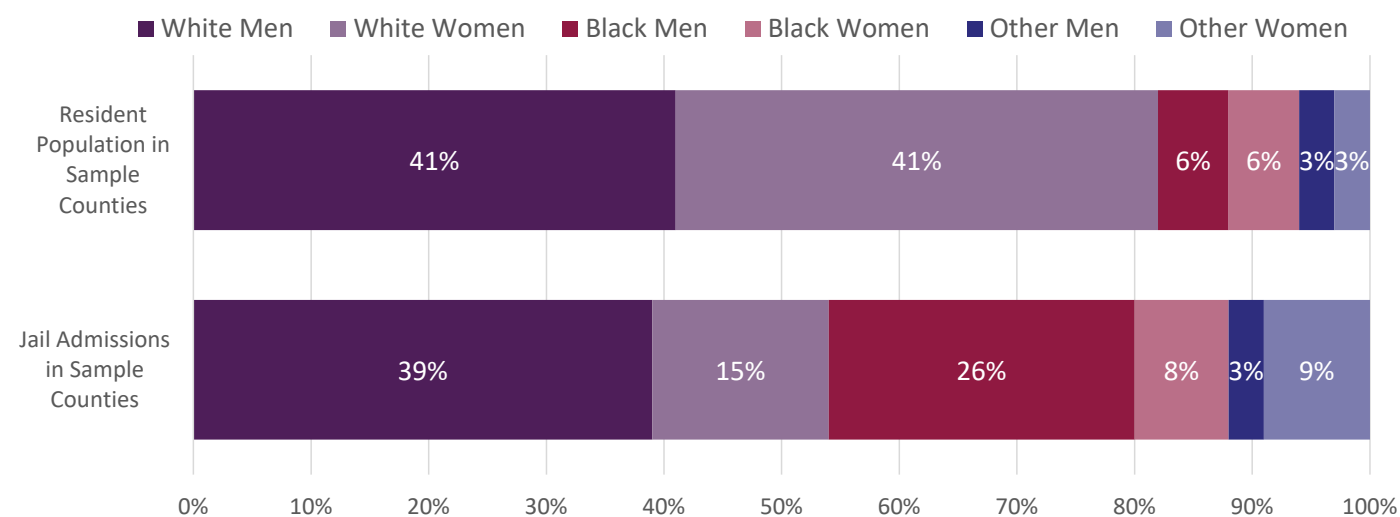
Creating a sample of jail data to approximate state-level data

In February 2019, Michigan formed the **Task Force on Jail and Pretrial Incarceration**. The Task Force invited technical assistance from the Pew Charitable Trusts. In the absence of state-level data on jails, Pew drew a sample from 20 jails across rural, urban, and suburban areas to assess 328,046 jail admissions over three years. The 20-jail sample represents approximately 40 percent of Michigan’s jail population. The data in this section reflects Pew’s analyses of that data for the Task Force.

was 26 years old. Men outnumbered women nearly six to one in jails across the state, but the female population grew at a much faster rate over the three-year period. Black men were overrepresented in jail admissions, while White women were the most underrepresented, as compared to the county demographics. Figure 3.17 illustrates that while Black males comprise 6 percent of the population of the counties sampled, they represented 26 percent of those admitted to jail. In contrast, White women comprise 41 percent of the sampled county population, but only 15 percent of those admitted to jail.

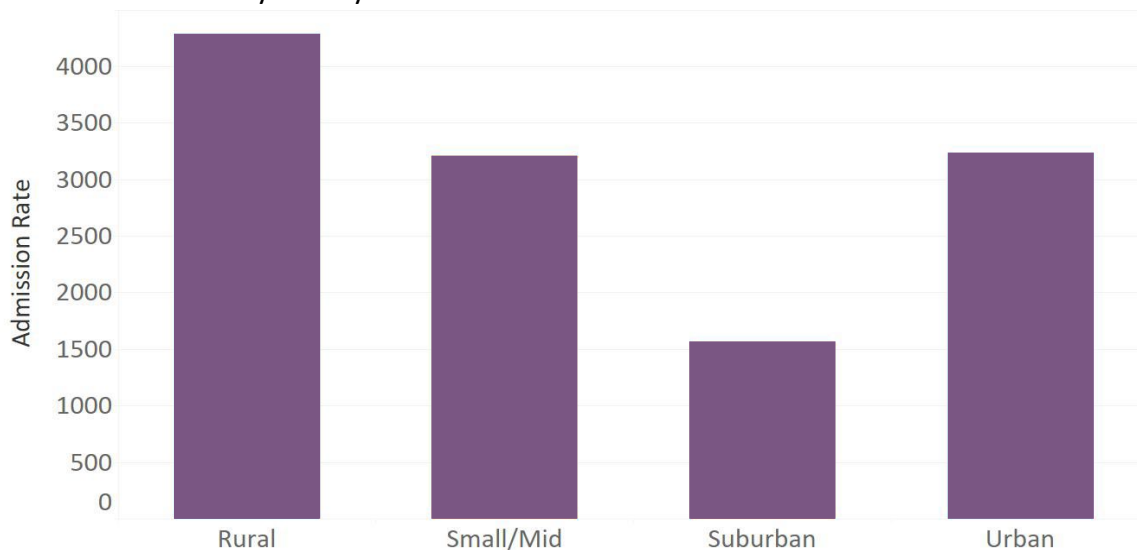
Characteristics of those in jail within these 20 counties demonstrated that the most common age at admission

Figure 3.17: Population and jail admissions by race



Data Source: Sample of jail data (2016 - 2018) via [Pew Charitable Trusts](#)

Figure 3.18: Jail admissions by county size



Data Source: Sample of jail data (2016 - 2018) via [Pew Charitable Trusts](#)

The rate of jail admission, per 100,000 people within the county, was highest in rural counties and lowest in suburban counties (Figure 3.18).

Two-thirds of people admitted to jail were released within one week; in fact, nearly half (45 percent) stayed one day or less. The average length of stay was 22 days.

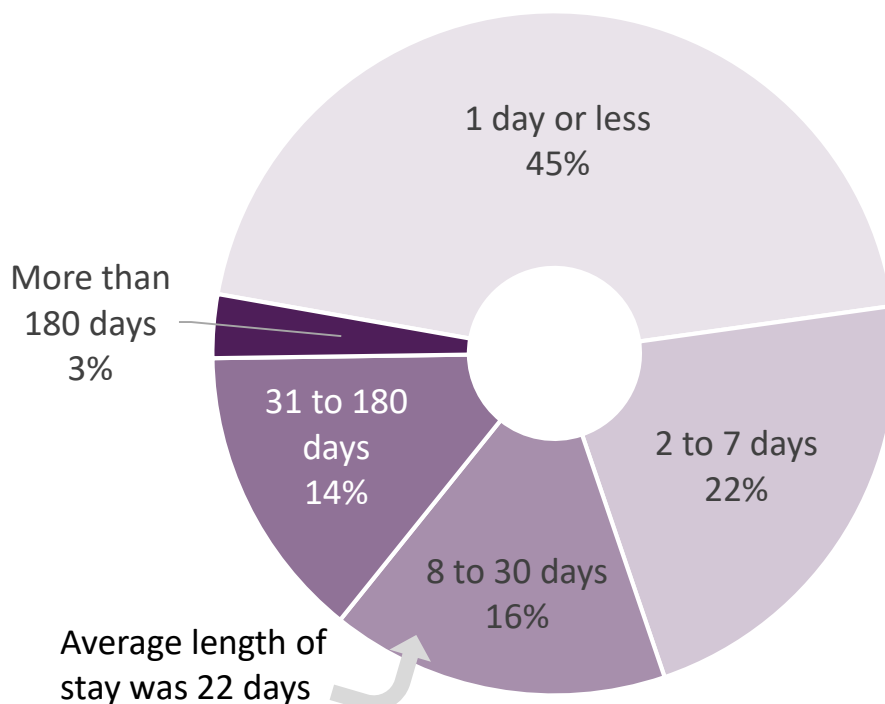
In this sample, the average length of stay differed by crime class. The average jail stay for those with felony offenses was 45 days as compared to 11 days for misdemeanor offenses. Figure 3.21 demonstrates the length of stay for the five top offenses in which people were admitted to jail. For the five offenses, over 40 percent of those admitted were released within one day.

Figure 3.19: Top ten most serious crimes charged at jail admission

Charge	Percent of Admissions
Operating Under the Influence (OUI)	14%
Assault	11%
Driving Without Valid License	9%
Probation/Parole Violation	8%
Theft	8%
Possession or Use of Controlled Substance	8%
Obstruction of Justice	7%
Other Person Offense	6%
Domestic Violence	5%
Delivery or Manufacture of Controlled Substance	4%

Data Source: Sample of jail data (2016 - 2018) via [Pew Charitable Trusts](#)

Figure 3.20: Length of stay for jail admissions

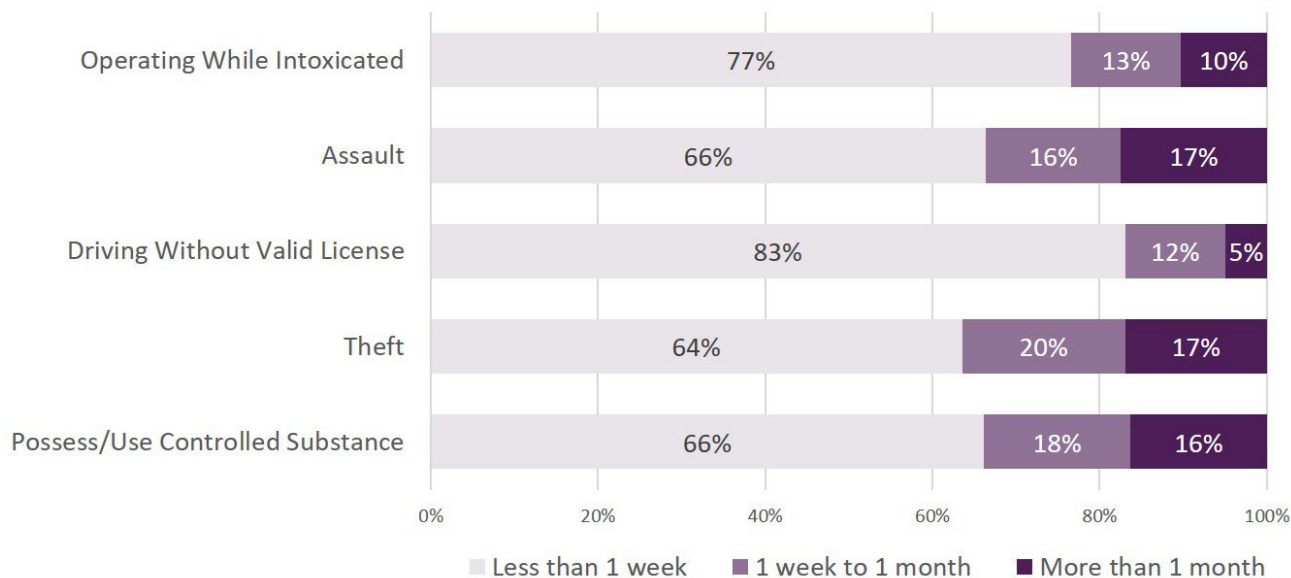


Data Source: Sample of jail data (2016 - 2018) via [Pew Charitable Trusts](#)

More than half of the people released from jail bonded out, while a third were released after 'time served'. Thirteen percent were transferred to other agencies such as other county jails or the MDOC.

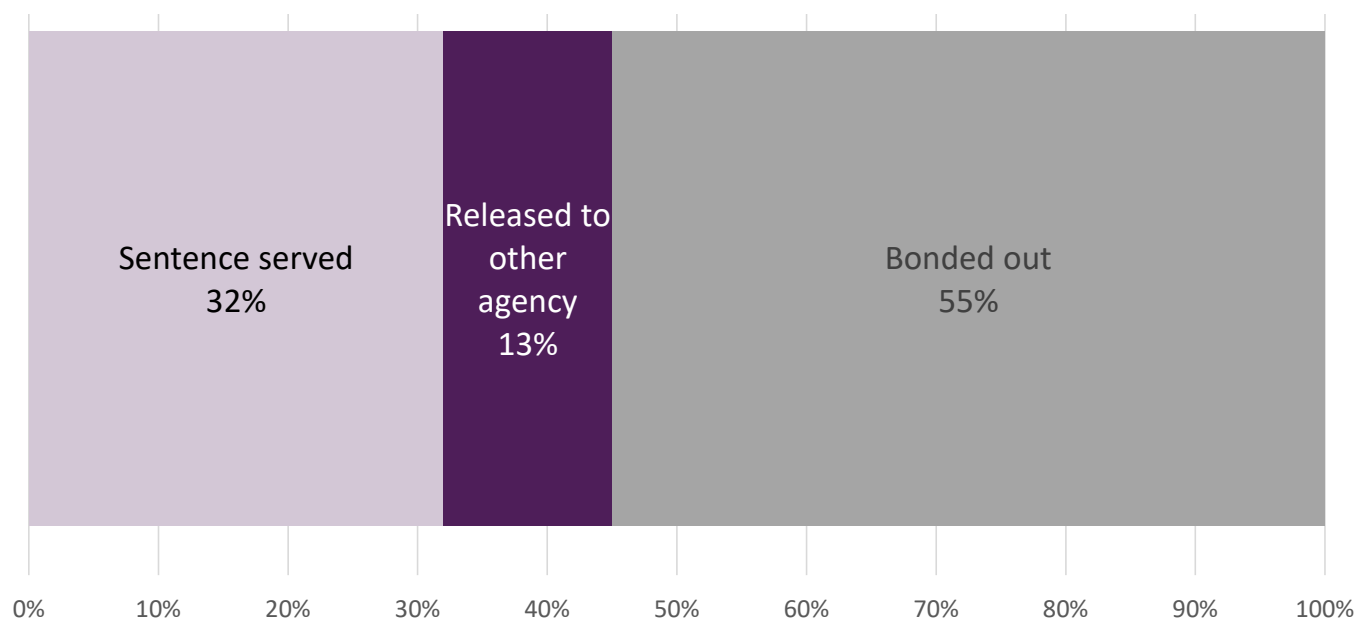
The rapid release of most of the jail population results in the remaining population in the jail looking much different than those who were admitted. Figure 3.23 illustrates that although 61 percent were admitted for misdemeanor offenses, only 27 percent of the jail population is charged with a misdemeanor. In fact, 71 percent of the jail population has a felony charge.

Figure 3.21: Length of jail stay for top five charges



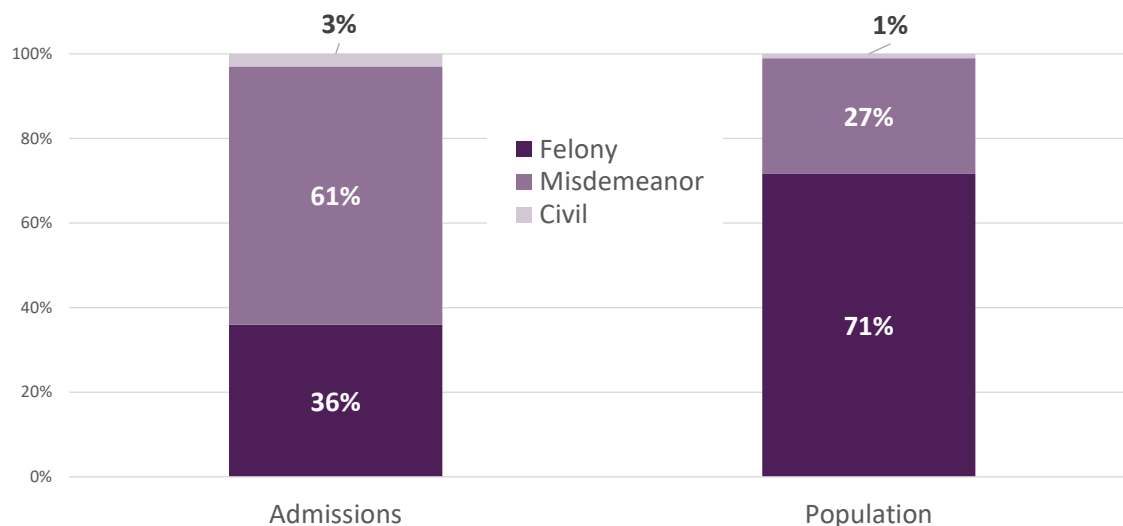
Data Source: Sample of jail data (2016 - 2018) via [Pew Charitable Trusts](#)

Figure 3.22: Reason for jail release



Data Source: Sample of jail data (2016 - 2018) via [Pew Charitable Trusts](#)

Figure 3.23: Charge type for jail admissions and population



Data Source: Sample of jail data (2016 - 2018) via [Pew Charitable Trusts](#)

Figure 3.24: Top ten most serious charges for individuals

Charge	Percent of population
Other person offense	14%
Assault	13%
Probation/parole violation	10%
Operating under the influence	8%
Theft	8%
Possession or Use of Controlled Substance	8%
Delivery or manufacture of controlled substance	6%
Obstruction of justice	6%
Domestic violence	5%
Other property offense	4%

Data Source: Sample of jail data (2018) via [Pew Charitable Trusts](#)

Wayne County and Detroit Jail Data

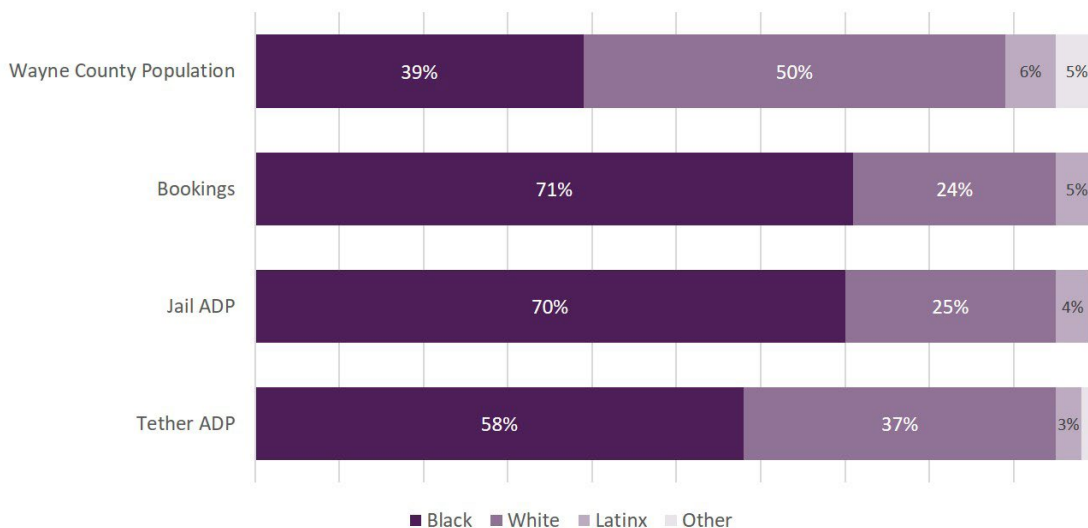
Wayne County – the most populous county in Michigan – was not included within the 20-county sample examined by the Task Force. However, a similar and simultaneous review of the Wayne County Jail data was undertaken by the Vera Institute in 2019.

Wayne County encompasses Detroit – the most populous city within the state. The city of Detroit is about 79 percent Black; 39 percent of Wayne County’s overall population is Black. However, Black men and women are disproportionately represented in jail booking, average daily jail population, and individuals on electronic monitoring in Wayne County. Admission offenses, by most frequent charge, are

listed in Figure 3.26. The most common charge group (14 percent of all booking charges) is driving-related misdemeanor offenses.

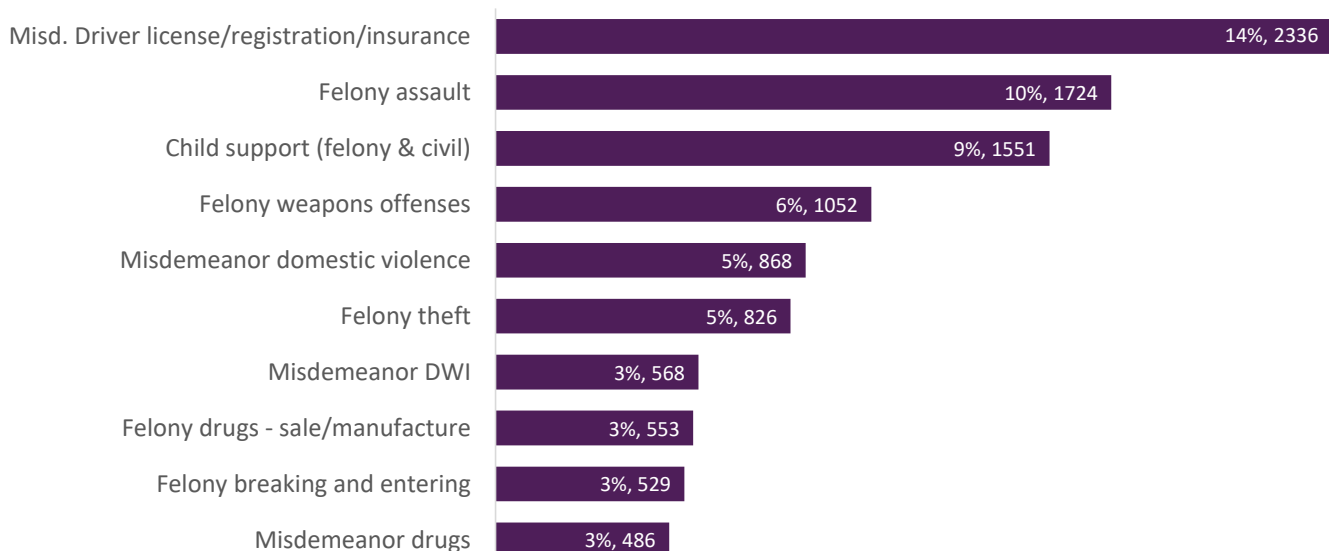
Figure 3.27 illustrates the average daily population (ADP) for the Wayne County Jail. Like the state and sample data, over half (51 percent) are in jail awaiting trial and have not been convicted. Over one third (34 percent) are serving sentences post-conviction, while 8 percent are housed for violations of state parole or probation and 7 percent are being held pending release to another jurisdiction. It should be noted that because the Wayne County Jail is a post-arraignment facility, people who are released quickly from jail have often spent one to three days in the Detroit Detention Center before admission to the Wayne County Jail.

Figure 3.25: Wayne County population, jail, and tether by race



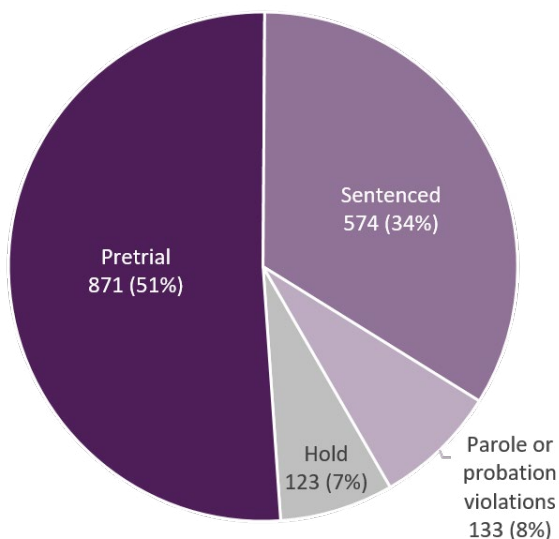
Data Source: Wayne County Sheriff's Office (2014 - 2019) via [Vera Institute of Justice](#)

Figure 3.26: Top charge groups in Wayne County



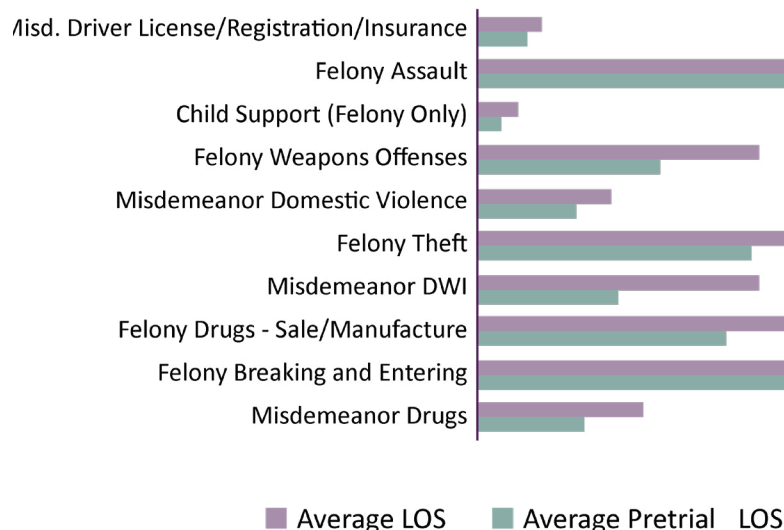
Data Source: Wayne County Sheriff's Office (2014 - 2019) via [Vera Institute of Justice](#)

Figure 3.27: Wayne County jail average daily population by status



Data Source: Wayne County Sheriff's Office (2014 - 2019) via [Vera Institute of Justice](#)

Figure 3.28: Wayne County Jail length of stay by offense type



Data Source: Wayne County Sheriff's Office (2014 - 2019) via Vera Institute of Justice

Issues Across Michigan Jails

Behavioral health and jail confinement

Decreasing community supports, such as mental health facilities and crisis beds, have increased the proportion of persons with serious and persistent mental illness housed in jails. Although many advocates state that our jails are now operating as the new mental health hospitals by default, jail administrators have few resources to identify, treat, or oversee persons with mental health issues. During the Michigan Joint Task Force on Jail and Pretrial Incarceration public hearings, nearly 50 percent of all inquiries regarded mental health among those who were incarcerated, which illustrated the gravity of public interest on this subject matter. Similarly, treatment of substance use disorders – particularly in the age of accelerating opioid use disorders – is limited within the jail. Medications for opioid use disorder (MOUD), the gold standard of evidence-based care, have been implemented in only a handful of Michigan jails.

Substance misuse and opioid use disorder

Across multiple jails²¹, approximately 55 percent of those entering had symptoms of a current substance use disorder (range from 35 percent – 67 percent).²² Among those scoring positive for serious mental illness (SMI), 66 percent had a co-occurring substance issue (26 percent used both alcohol and other drugs), as compared to 51 percent of those without a mental health issue.

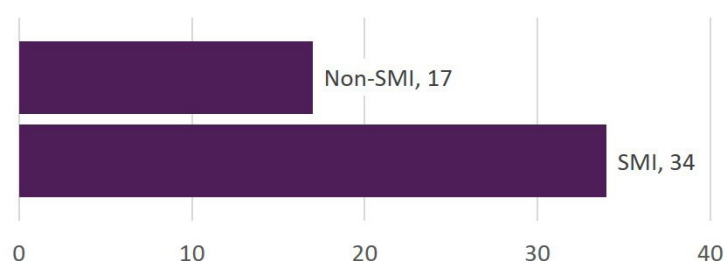
Length of stay for persons with serious mental illness

A random sample of 1160 individuals from the 10 jails involved in the Diversion Pilot Program were assessed for length of stay, by SMI status. It was found that those with SMI were likely to stay in the jail twice as long as those without. People without SMI stayed an average of 17 days, compared to people with SMI, who stayed 34 days (see Figure 3.29).

Suicidal ideation and attempts

Risk of suicide in jails is a concern, yet there is no mechanism to systematically assess suicidal ideation or attempts across jails in Michigan. A 2020 report by the Bureau of Justice Statistics of the U.S. Department of Justice²³ found the suicide rate for persons in local jails has steadily increased since 2000, accounting for approximately one-third (31 percent) of jail deaths, and indeed, has been the leading cause of death in jails from 2006-2016.

Figure 3.29: Length of jail stay by mental health identification type



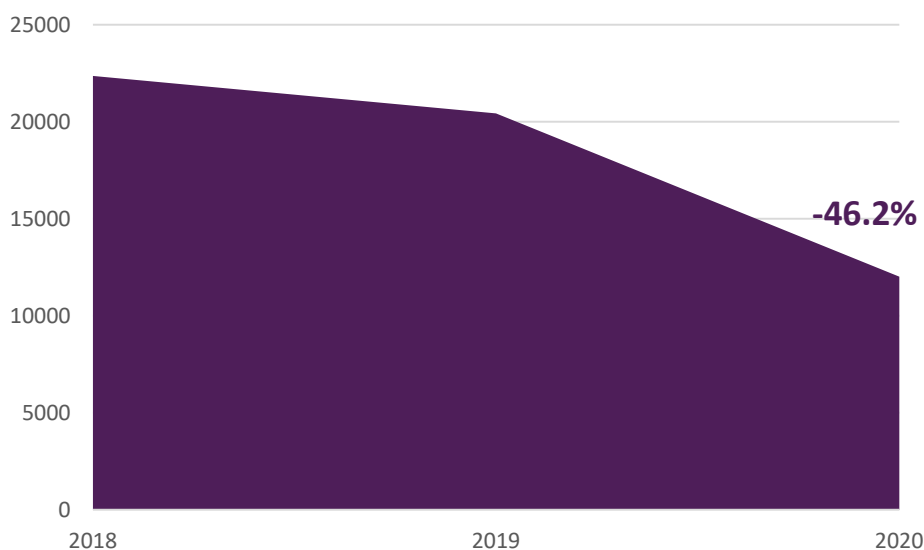
Data Source: Jail Data Sample (2017) via the Center for Behavioral Health and Justice

²¹ The counties include Barry, Berrien, Kalamazoo, Kent, Marquette, Monroe Oakland, St. Joseph, and Wayne, all counties engaged with Wayne State University's Center for Behavioral Health and Justice in efforts toward evaluation and system improvement.

²² Center for Behavioral Health and Justice (2020): [Stepping Up Technical Assistance Data Outcomes and Technical Assistance Processes Across Five Stepping Up Counties](#)

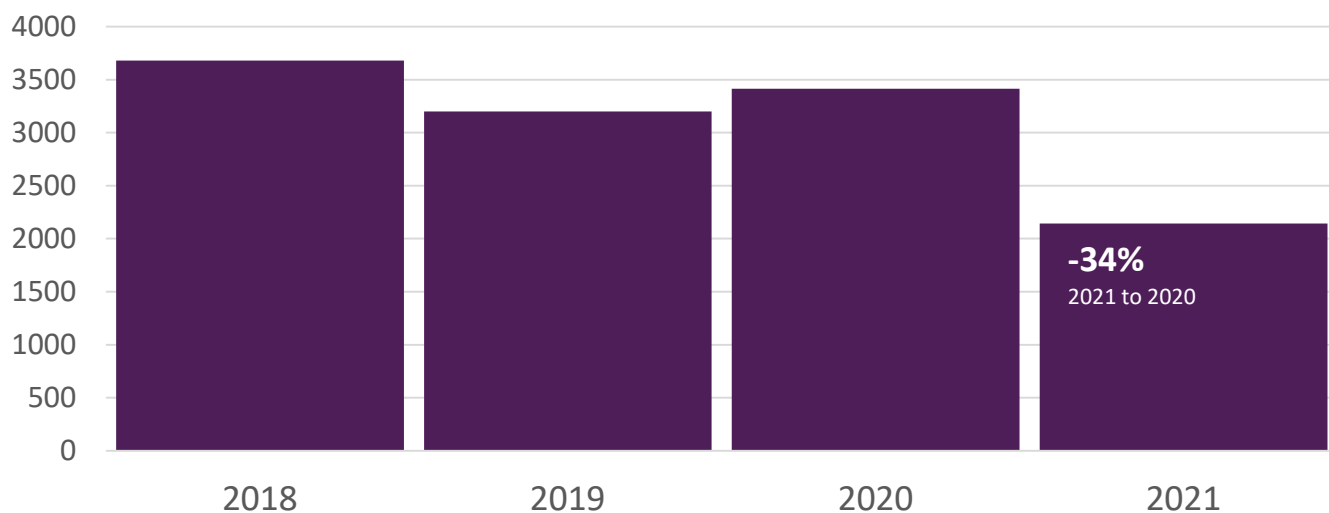
²³ Carson EA, Cowhig MP (2020): [Mortality in Local Jails, 2000-2016 - Statistical Tables](#).

Figure 3.30: Jail bookings in Kent County



Data Source: Personal Communication via Kent County Community Corrections

Figure 3.31 Jail bookings in January and February in Kent County

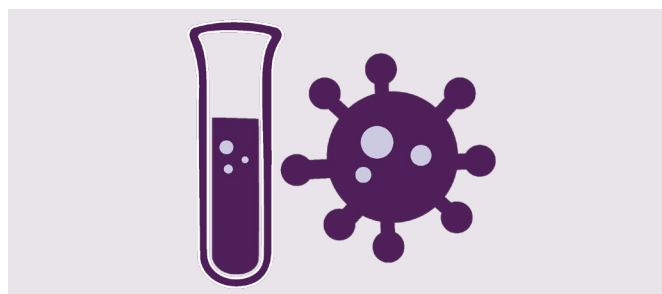


Data Source: Personal Communication via Kent County Community Corrections

COVID-19 and Communicable Diseases

COVID-19

At the onset of the COVID-19 pandemic, many jails started to release people, as shown in Figure 3.30 and Figure 3.31.²⁴ COVID-19 exposes the heightened vulnerability of incarcerated populations to disease, and carceral settings have accounted for some of the largest COVID-19 outbreaks nationally. Many of these outbreaks have been traced to community transmission, and efforts to prevent transmission in jails are the linchpin to any strategy. Early and



frequent assessment of COVID-19 prevention and intervention efforts in Michigan’s jails found that many jails employed only verbal screens and that biological sample testing was rare, even though community prevalence and jail conditions were of concern.²⁵

²⁴ Source: JPIS data via personal communication with Kent County Community Corrections.

²⁵ Detroit Justice Center (2020): [Civil Rights Organizations Sue Wayne County Jail for Immediate Release of Vulnerable People Ahead of Deadly COVID-19 Spread](#)

Demographic Shifts

Women in jail

Although women are far less likely than men to be admitted to jails across the state, they still comprise 15.3 percent of the jail population.²⁶ Because men are the predominate population within jails, men are the ‘default’ population and there is less attention paid to the unique needs of women. This is particularly problematic in thinking about the needs of women who may be pregnant or in the post-partum phase, have dependent children and as it pertains to behavioral health issues. Upon jail admission, 29 percent of women and 19 percent of men enter

jail with symptoms of SMI, but women were less likely to receive treatment services (58 percent of women, compared to 66 percent of men), even when controlling for length of stay.²⁷

Prison

Unlike county administered jails, Michigan’s 29 state prisons are operated by the MDOC. Prisons are categorized by security levels; Level I is the lowest-level and Level V is considered maximum-security. Most prisons are identified as Level II (38.4 percent) and Level I (34.5 percent). Level IV comprises 11.9 percent of facilities and only 2.3 percent are Level V (Level III is not used).

Figure 3.32 Michigan Department of Corrections facilities map



Data Source: Michigan Department of Corrections (January 11, 2021)

²⁶ Pew Charitable Trusts (2019): Michigan Task Force on Jail and Pretrial Incarceration Meeting #3

²⁷ CBHJ (2020): Women in Michigan Jails

Prison demographics and declining prison population

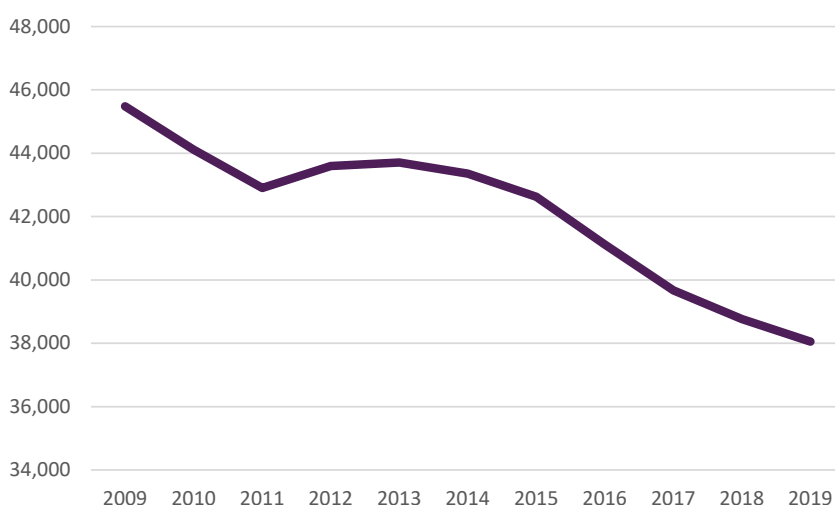
As of 2019, Michigan’s overall prisoner population was 38,053, down from 51,554 in 2007. After a brief plateau between 2012 to 2013, the prison population continued to decline through 2019. According to the Michigan Senate Fiscal Agency, reasons for the declining population from 2015 to 2018 include lower recidivism rates, fewer felony court dispositions, and declining incarceration of persons with probation and parole violations.²⁸ Correspondingly, there have been decreases in the number of full-time employees in

Michigan’s prison system. Currently, there are 12,025 full-time employees, compared to 17,182 in 2006.

Identification by race and ethnicity

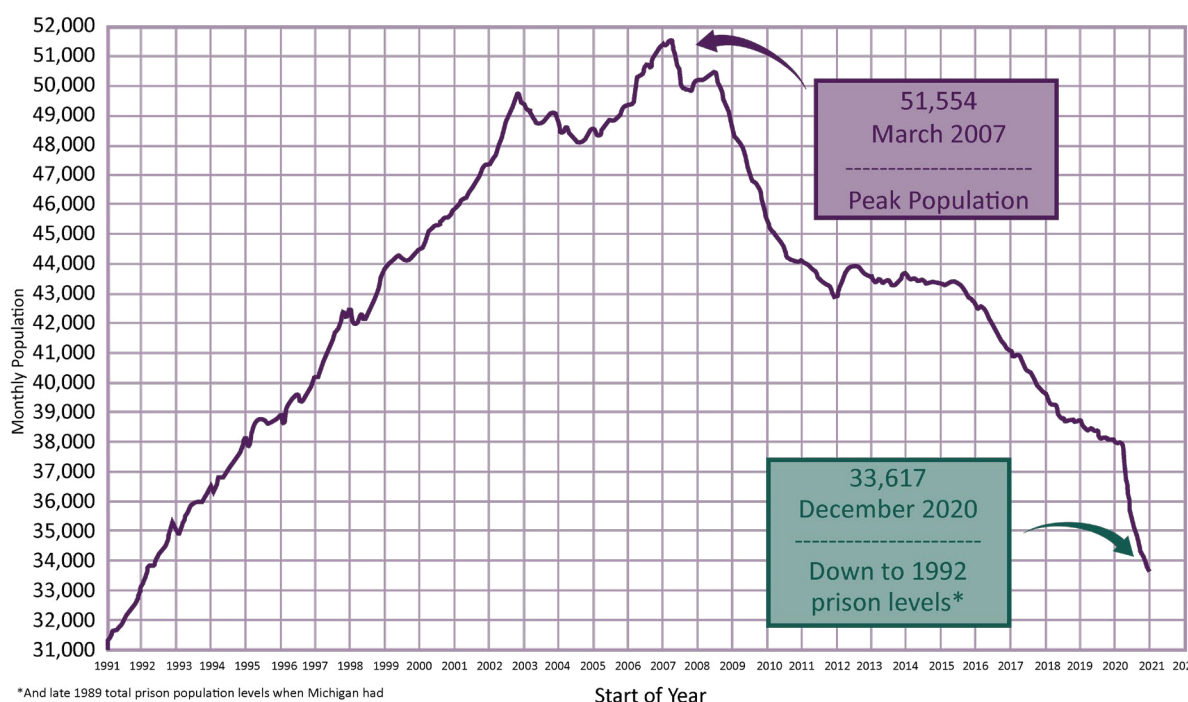
The state is inconsistent in how individuals are categorized by their race or ethnic background. One MDOC data source (Corrections Management Information System (CMIS)) described individuals as “White” or “not White,” while the Michigan Offender Tracking and Information System (OTIS) uses multiple categories, including Black, Hispanic, Asian, and other groups. It is important to note that these are

Figure 3.33: Year-end prison population



Data Source: Michigan Department of Corrections (2009-2019)

Figure 3.34: Actual prison population



*And late 1989 total prison population levels when Michigan had halfway houses (CRP)

Data Source: Michigan Department of Corrections (1991 - 2021)

²⁸ Michigan Senate Fiscal Agency (2019): [Michigan Prison Closures and Prison Population Trends](#)

not self-reports of race or ethnicity, but subjective interpretations by MDOC employees.

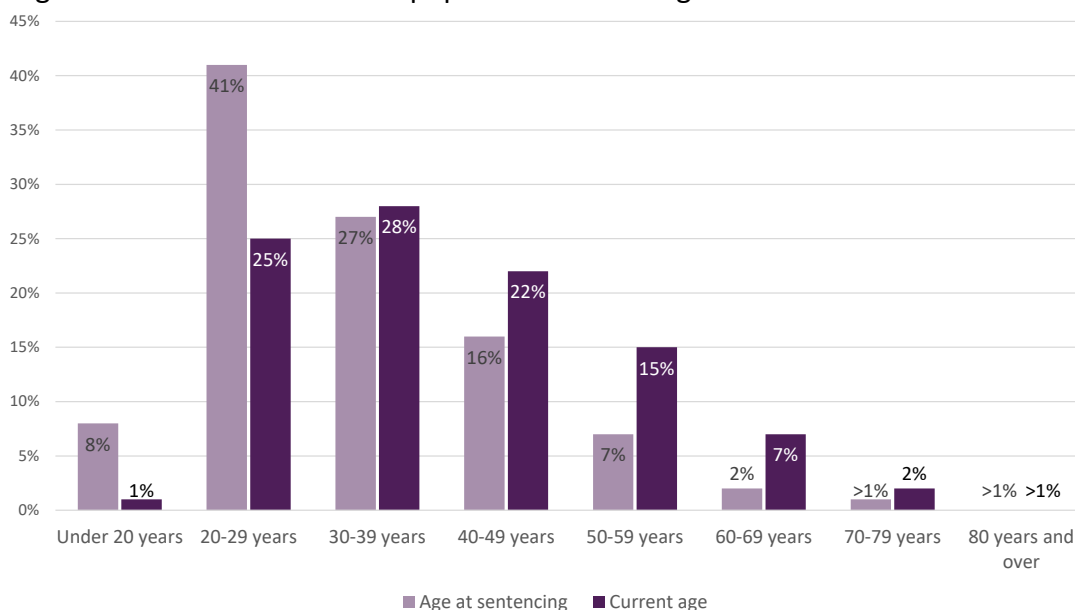
Over half (53 percent) of those confined in the state prison’s system are Black, a disproportionate representation of the state’s 15 percent of people who identify as Black or African American. Those who identify as White constitute 45 percent of the prison population with small proportions (under 1 percent) of Native Americans, Asian, and Hawaiian/ Pacific Islander. Almost 6 percent of the prison population are female. Notably, the female prison population has

increased by greater than threefold from 621 in 1978 to 2,151 in 2017.²⁹

Aging Population

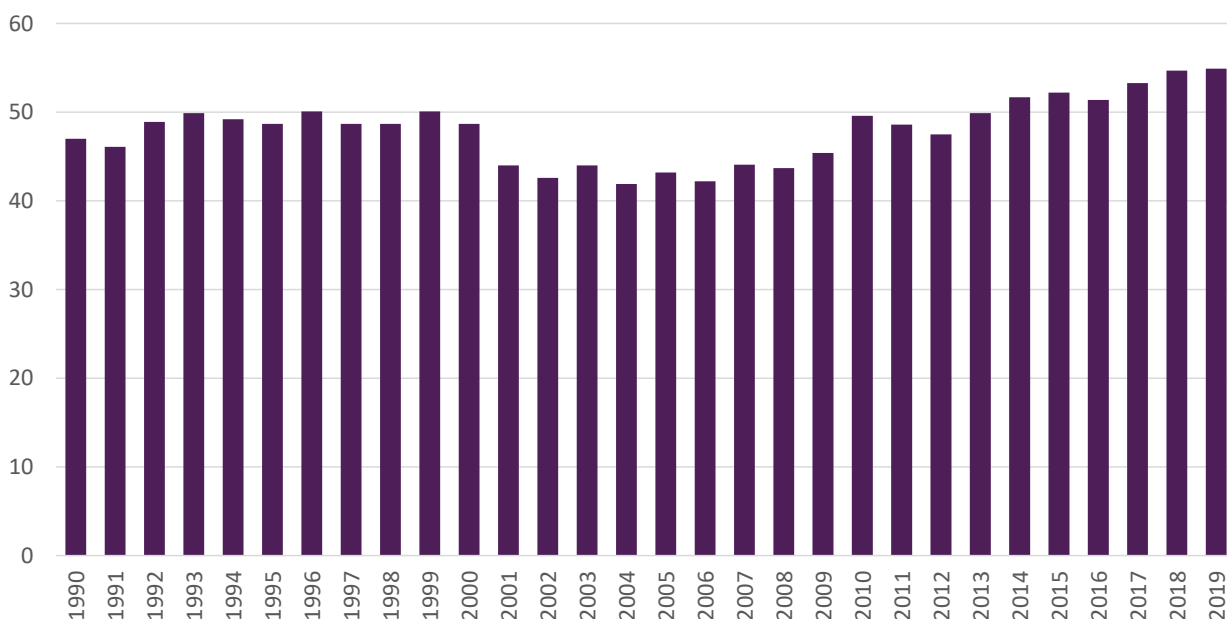
Another demographic issue of concern is the aging population of currently incarcerated persons. As a result of Michigan’s indeterminate sentencing and the Truth in Sentencing Legislation that prohibits ‘good time’ reductions, the population of persons within MDOC facilities is aging. Safe & Just Michigan²⁹ compared the age of individuals when they entered

Figure 3.35: Age at incarceration of MDOC population current age



Data Source: Michigan Department of Corrections (October 30, 2018) via [Safe and Just Michigan](#)

Figure 3.36: Prison intake by average cumulative minimum term



Data Source: [Michigan Department of Corrections](#) (1990 - 2018)

²⁹ Safe & Just Michigan (2019): [A Snapshot of Michigan’s Prison Population](#)

MDOC versus their current age (see Figure 3.35). They found that the average age of a person admitted to prison is 32.5 (with a range in age of 13 – 82 years in 2018) and the current average age is 40 (range of 16 – 91 years). Of those admitted, 76 percent are under the age of 40; however, of those currently in jail, nearly half (46 percent) are over 40.

Length of sentence

While Michigan’s prison population has decreased by 36 percent since 2006, decreases are offset by growth in the average minimum sentence term (see Figure 3.36).

Life in prison without the possibility of parole:

Sentencing options for judges in Michigan follow an indeterminate sentencing structure, which means that during a sentencing hearing, a defendant will only be informed of their minimum sentence – the maximum sentence is determined by law. This has resulted in a system where judicial discretion for the same offense can result in very different release outcomes when these sentences are interpreted and implemented by the MDOC Parole Board.

Parole eligibility among persons serving life sentences varies considerably compared to other persons in the state carceral system. Safe & Just Michigan reported that approximately 70 percent of those serving life sentences are doing so without parole eligibility. Among those that are eligible, they may be eligible for parole after serving either 10 or 15 years of their sentences depending on the offense date. In 2013, individuals that were “parolable lifers” as a group had, on average, served 29 years.³⁰

In October 1992, the minimum amount of time an individual sentenced to life in prison must serve to be eligible for their first parole board review increased to 15 years from 10 years. This and other policy changes

in the last several decades have left more than half of the individuals sentenced to life in prison with the possibility of parole currently eligible for release, leaving a backlog of about 850 individuals eligible for parole. Despite this, the parole board has released no more than 65 individuals sentenced to life with the possibility of parole in a single year from 1992 to 2014. Releasing persons sentenced to Life with possibility of parole presents one of the greatest prospects for cutting incarceration costs in the state.³¹

Truth-in-Sentencing: In 1998, Michigan passed the ‘Truth in Sentencing’ law³² that requires that people convicted and incarcerated in Michigan prisons serve 100 percent of their minimum sentence. Even after serving their minimum, it is up to the Parole Board to grant release. Michigan is one of only six states that does not have a sentencing credit system that allows imprisoned individuals to reduce their sentences through ‘good behavior’ or by participating in rehabilitative programming.

Commitments

Commitments to state prison vary by county. When assessing state prison commitment as a rate of the county population, the top ten counties by rate look very different from the counties that send the greatest number. For example, Wayne County admitted over two thousand individuals in 2019, far more than any other county, but it is not in the top 10 by rate due to the large population of Wayne County. Only two counties, Muskegon and Berrien, were on both top ten lists (See Figure 3.37).

In 2019, 8,167 individuals were committed to prison – the majority of which were male (7,453), White (4,141), and between the ages of 30 to 39 (2,601)³³ (OMNI Report). Commitments by crime type were primarily classified as assaultive³⁴ (45.9 percent), followed by non-assaultive³⁵ (38.2 percent), and drug offenses (15.9 percent).

Figure 3.37: Top ten county admissions to state prison by rate and count

County	Rate (per 100k)	County	Annual Admission Count
Chippewa	371	Wayne	2,017
Branch	345	Oakland	998
Alger	317	Kent	832
Gratiot	309	Macomb	717
Muskegon	301	Genesee	425
Berrien	276	Ingham	341
Luce	258	Muskegon	339
Emmet	256	Saginaw	279
Cheboygan	255	Berrien	273
Roscommon	247	Kalamazoo	241

Data Source: Bureau of Justice Statistics (2005-2015) via Vera Institute of Justice

³⁰ Safe & Just Michigan (2019): [Life and Long Sentences](#)

³¹ Citizens Alliance on Prisons and Public Spending (2015): [10,000 fewer Michigan prisoners: Strategies to reach the goal](#)

³² [MCL § 791.233](#)

³³ Michigan Department of Corrections (2019): [2019 Statistical Report](#)

³⁴ Offenses that are typically assaultive in nature, such as Homicide, Robbery, CSC, Assault, Arson, Other Sex Offense, Assaultive Other, Burglary, and Weapons Possession

³⁵ Offenses that are typically non-assaultive in nature, such as Larceny, Fraud, Forgery/Embezzle, Motor Vehicle, Malicious Destruction, Drugs, OUIL-3rd, and other non-assaultive offenses

Trends in commitments from 2000 to 2019 are illustrated in Figure 3.38.

The types of commitments were predominately new court commitments (53.2 percent), followed by probation violations (23.7 percent), imposition of additional sentencing (12.6 percent), and parole violations (10.6 percent). Trends of state prison commitments by type are displayed in Figure 3.39.

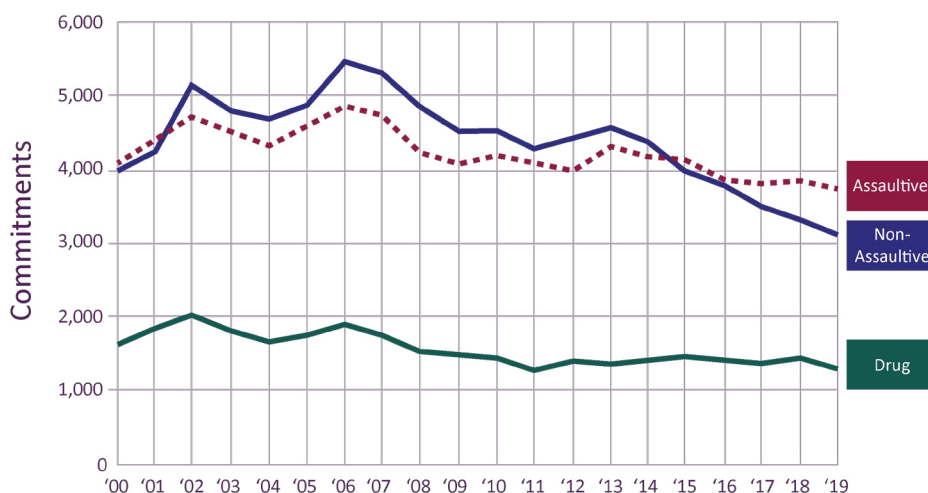
Commitments of Emerging Adults

The Holmes Youthful Trainee Act (HYTA) sets forth legal provisions to provide young people with an opportunity to avoid criminal conviction. Youth sentenced under HYTA are still sent to prison; however, if they serve their sentence successfully, their record may be

suppressed upon release. As of 2015, the definition of “youth” under HYTA was increased to 24 years-of-age, and in 2019, the state legislature raised the age of juvenile justice jurisdiction to 18 years-of-age. Since 2018, there has been an overall decrease in all youth that were committed to Michigan’s adult prison system, and a much smaller share of these commitments were HYTA youth (Figure 3.40).

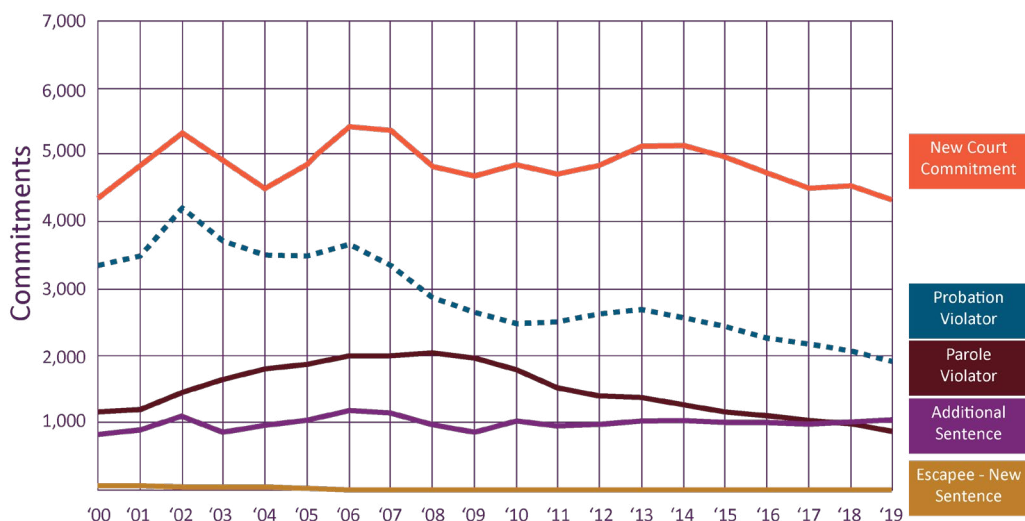
Despite these declines, the issue of overrepresentation of emerging adults in Michigan’s adult prison population persists. The Juvenile Law Center reported that in 2018, 18-24-year-olds accounted for 22.7 percent of all arrests, despite making up only 9.6 percent of the state population. Comparatively, in 2010, emerging adults accounted for 32.3 percent of all arrests, and 9.8 percent of the state population.³⁶

Figure 3.38: Trends of commitments by offense type



Data Source: Offender Management Network Information (2000-2019) via Michigan Department of Corrections

Figure 3.39: Trends of commitments



Data Source: Offender Management Network Information (2000-2019) via Michigan Department of Corrections

³⁶ Juvenile Law Center (2020): *Rethinking Justice for Emerging Adults*

Prison Expenditures

At its peak, the MDOC operated 43 prisons and camps. As a result of the declining population, the MDOC consolidated or closed 15 facilities between 2009 and 2021. These trends are projected to continue, according to the MDOC, although at slower rates than previously observed. For instance, the MDOC’s estimate is that by December 2022, their prison system will be at a total population of 36,776 – levels comparable to those observed in 1992. With prison expenses decreasing due to prison closures and decreased staff, there have been considerable budget savings for prison operations.

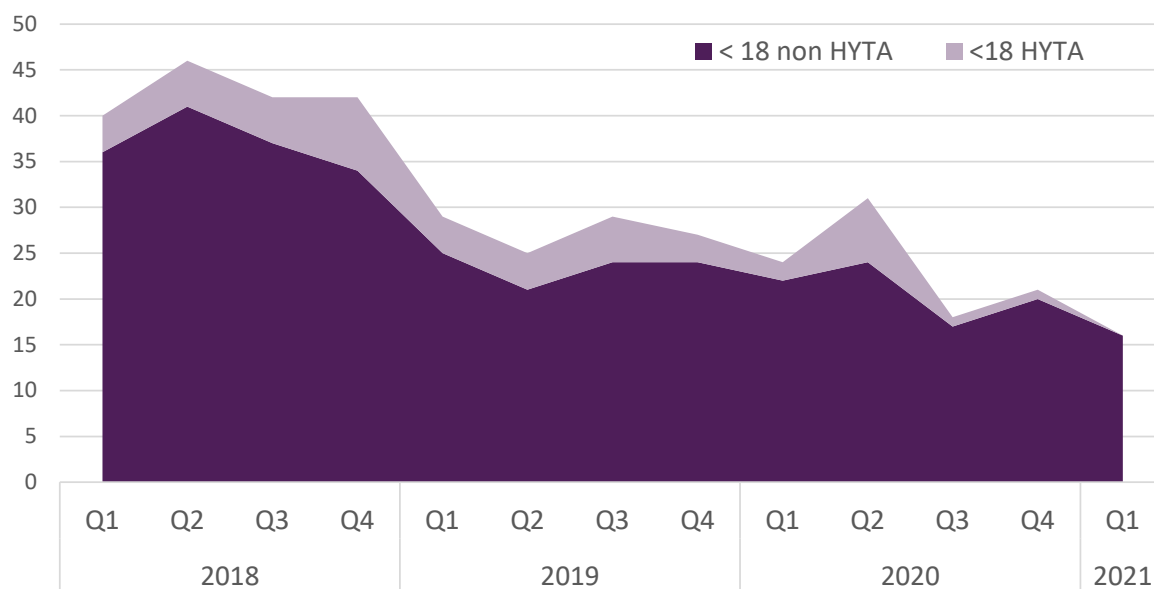
Though spending on prison facilities declined, it should

be noted that the overall budget increased 14 percent between 2005 and 2019. General fund allocations for the MDOC remained fairly constant (around 18-19 percent of state general funds) and decreased spending on facilities was offset by higher medical costs for an aging prison population, staff retirement and overtime.³⁷ It is also important to note that these budget numbers are not inflation-adjusted values. Therefore, interpretation of these fiscal trends over time should be tempered with this limitation in mind.

Issues in Michigan Prisons

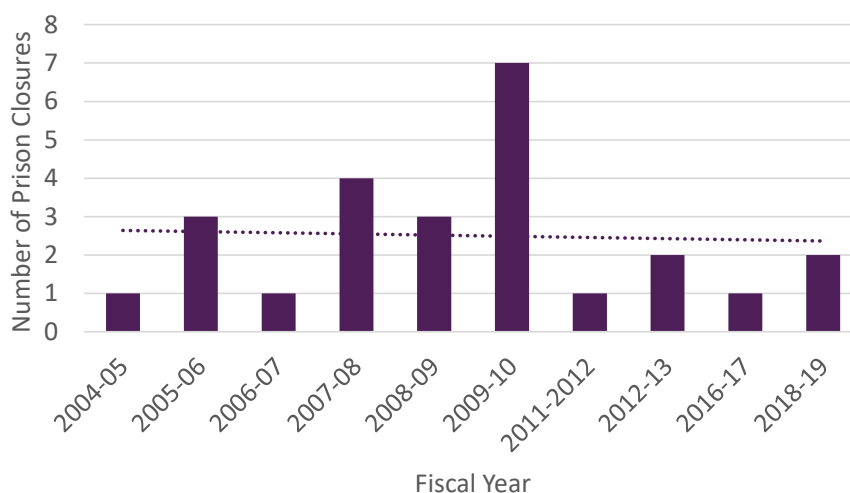
General and behavioral health: Health services are contracted to a private for-profit medical services provider (Corizon Health in 2021) and supervised by the MDOC Bureau of Health Care Services. In 2019, the

Figure 3.40: Youth committed to MDOC Facilities



Data Source: Michigan Department of Corrections (2018-2021)

Figure 3.41: Michigan prison closures



Data Source: Michigan Department of Corrections (2004 - 2018) via [Michigan Senate Fiscal Agency](#)

³⁷ SFA (2019) [Michigan Prison Closures and Prison Population Trends](#)

average cost per each person who is incarcerated for medical, dental, and mental health services was \$9,009 annually. A depiction of changes over time in health care expenditures can be found in Figure 3.42.

Opioid Use Disorders: The state has recognized the urgent need to provide MOUD to people who are incarcerated with opioid use disorder; although nationally, only about 1 percent of all prisons offer medication-assisted treatment (MAT) to detainees. That said, the State hopes to scale this MAT pilot study to all its prisons by 2023. Four prison sites have implemented MAT programs that offer the three Food and Drug Administration (FDA) approved MATs for opioid use disorder (i.e., buprenorphine, methadone, and naltrexone). Michigan and other states may be further motivated to change their approach to opioid use disorder due to a recent federal court decision which ruled that denying justice-involved individuals' access to MAT was in violation of the 8th Amendment. Future MAT policy priorities in Michigan will likely be identified by those appointed to the Michigan Opioids Task Force which includes the Director of the Department of Corrections.³⁸

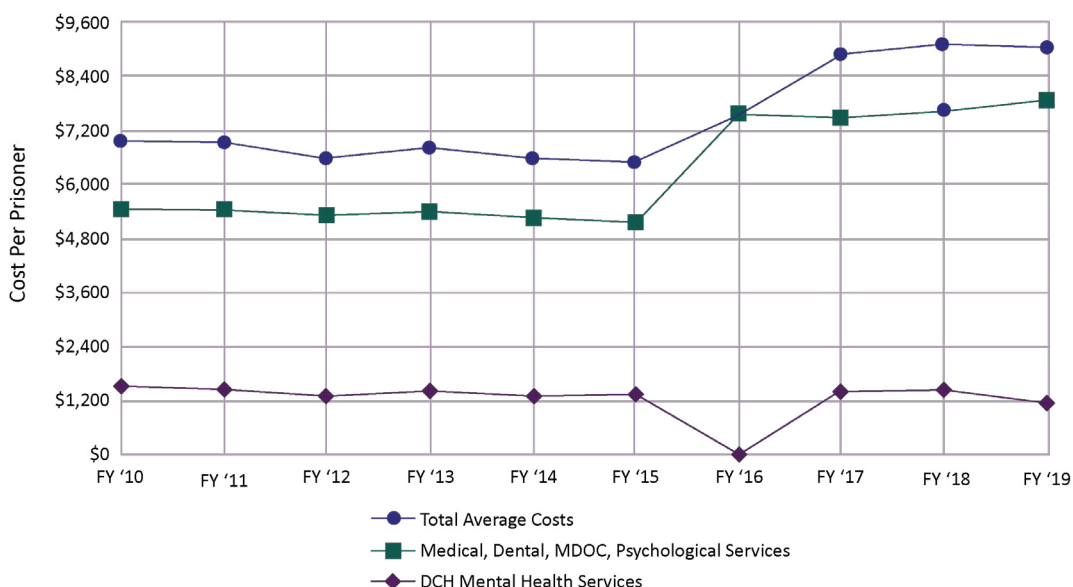
Young people in prison: Michigan's criminal legal/system currently considers those who are 17 years old to be adults. Additionally, Michigan still allows the incarceration of youth within adult facilities when they are waived from the youth system and prosecuted as adults in the courts. In 2020, there were 74 youth who were 17 and younger incarcerated in Michigan's adult prisons. Michigan did not finalize efforts to separate youth from the 'sight and sound' of adults until 2013, after federal guidelines called for the separation. Unfortunately, many youths were victimized by adults

during their confinement. In February 2020, the MDOC paid \$80 Million in the settlement of a class action lawsuit on behalf of youth physically and sexually victimized by adults while held in MDOC prisons.³⁹

“Raise the Age” legislation, passed in 2019, will change the age at which jurisdiction shifts from juvenile court to the adult criminal/legal system from 17 to 18 years old. Changes from the legislation go into effect October 1, 2021.⁴⁰

COVID-19: As of July 2021, 142 people died of COVID-19 while incarcerated in state prisons.⁴¹ It is estimated that number may be a conservative count due to deaths of those who had been transferred to hospitals. The MDOC has provided over 700,000 tests to staff and confined persons and over 25,000 incarcerated individuals and 15,000 staff have tested positive for the virus since April 2020. It is unclear how community transmission rates map onto prevalence rates at facilities by county. Many advocacy organizations have reported the absence of hygienic supplies such as soap and protective equipment such as masks and gloves for use by incarcerated people. The MDOC uses segregation cells to separate those who have been exposed, compounding psychological isolation that is a result of restricted movement and no visitation. As an unintended consequence of this policy, the MDOC may have contributed to greater transmission when incarcerated individuals hid symptoms to avoid the solitary confinement of

Figure 3.42: Average cost per incarcerated person over time



Data Source: Correctional Facilities Administration, Bureau of Healthcare Services (2010-2019) via [Michigan Department of Corrections](#)

³⁸ Michigan Free Press (2019): [Michigan to offer opioid addiction treatment in prison, increase syringe exchange programs](#)

³⁹ Bridge Michigan (2020): [Michigan agrees to pay \\$80 million in juvenile prison suit, enact reforms](#)

⁴⁰ Michigan.gov (2019): [Governor Whitmer Signs Bipartisan Bills to Raise the Age for Juvenile Offenders](#)

⁴¹ Michigan Department of Corrections (2021): [Remembering Prisoners who have Passed](#)

a segregation cell. Michigan’s robust system of testing includes the use of PCR nasal swabs to detect current infection and blood draws for detection of antibodies. MDOC hosts a [website](#)⁴³ devoted to COVID-19 and shares data on testing and positive cases by facility. UCLA also catalogues state and federal prison data.⁴⁴

Unfortunately, Michigan is among several states that have no specific plan for vaccinating individuals who are incarcerated, nor for vaccinating corrections staff, and COVID-19 rates have remained high throughout the pandemic. A forthcoming report conducted by a University Research Lab will illustrate these findings.

Community Corrections

In 2019, there were people under some form of criminal/legal supervision⁴⁴ per every 100,000 in the state. This inflated rate is largely the result of individuals on probation (rate of 1,737 per 100,000) and parole (rate 173 per 100,000) in Michigan. Compared to national figures, Michigan has a lower rate of persons on parole (201 per 100,000 compared to 247 per 100,000 nationally)⁴⁵ and a higher rate of individuals on probation (2,016 per 100,000 compared to 1,323 per 100,000 nationally).

Parole

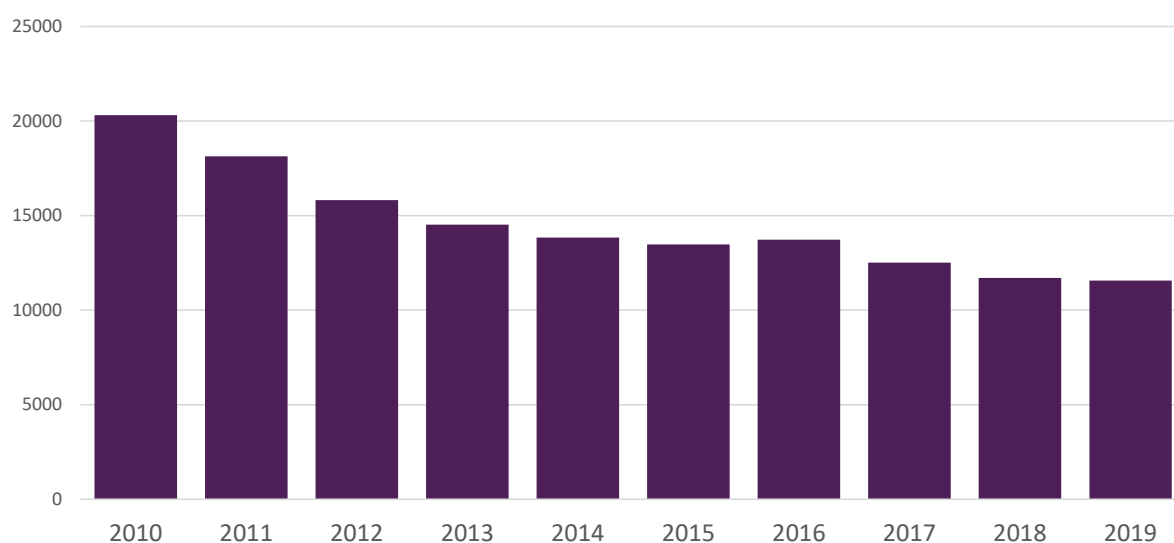
People with felony convictions are supervised on both probation and parole by the MDOC. Parole is generally assigned for two years post-incarceration. The average number of individuals on parole that are under supervision has steadily declined over the past decade. MDOC data show that in 2010, there were 20,312 persons under parole supervision compared to 11,572 in 2019 (Figure 3.43). The MDOC now invests approximately four times more per individual to provide programming and reentry services for those on parole than the state spends on rehabilitative services

for those on probation (\$596 for probation vs \$2,328 for parole).⁴⁶

The system of parole and pardons within Michigan is controlled by the MDOC. The state’s Parole Board is comprised of 10 non-civil service members appointed by the Director of the MDOC⁴⁷ and has the full and exclusive authority to grant parole release for an individual sentenced to state prison. MDOC data indicates that the number of interviews conducted from 1999 to 2019 have been inconsistent, with a low of 13,655 interviews in 1999 to a high of 26,514 interviews in 2009). When examining the number of interviews to the number of parole denials, a consistent trend of parole approval emerges. In 2019, only 16 percent were denied. In 2020, there were 16,899 interviews and 21 percent were denied.

In a 2019 and 2020, Michigan’s parole ‘grant rate’ was the highest in history: 72 percent in 2019 and 71 percent in 2020, a consistent rate of approval over the past five years.⁴⁸

Figure 3.43: Average number of people supervised on parole



Data Source: Field Operations Administration (2010 - 2019) via the [Michigan Department of Corrections](#)

⁴² Michigan Department of Corrections (2021): [MDOC Response and Information on coronavirus \(COVID-19\)](#)

⁴³ Sharon Dolovich (2021): [UCLA Law Covid-19 Behind Bars Data Project](#) (archived 6/28/21)

⁴⁴ Prison Policy Initiative (2021): [Michigan profile](#)

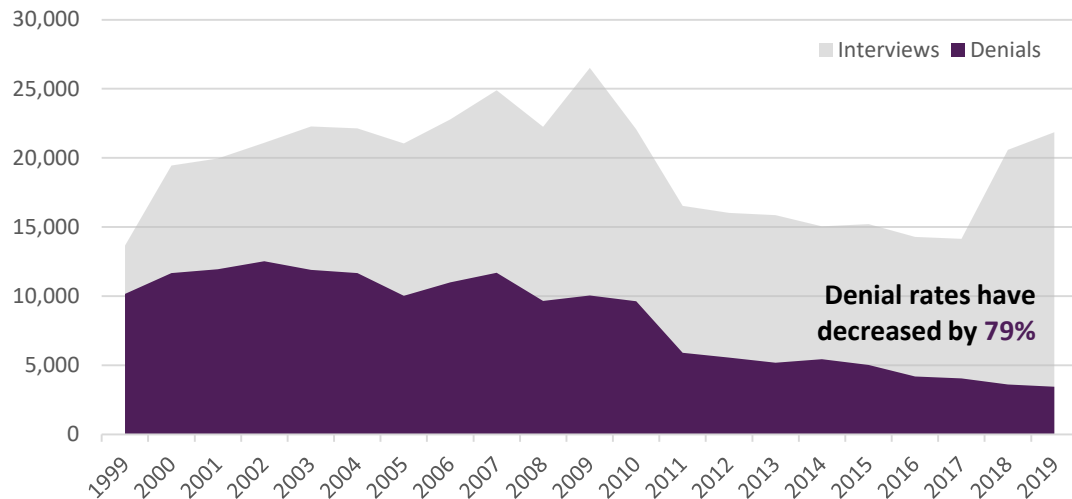
⁴⁵ NIC (2018): [Michigan 2018](#)

⁴⁶ Michigan Department of Corrections (2019): [2019 Statistical Report](#)

⁴⁷ MDOC (2021): [Parole from Past to Present](#)

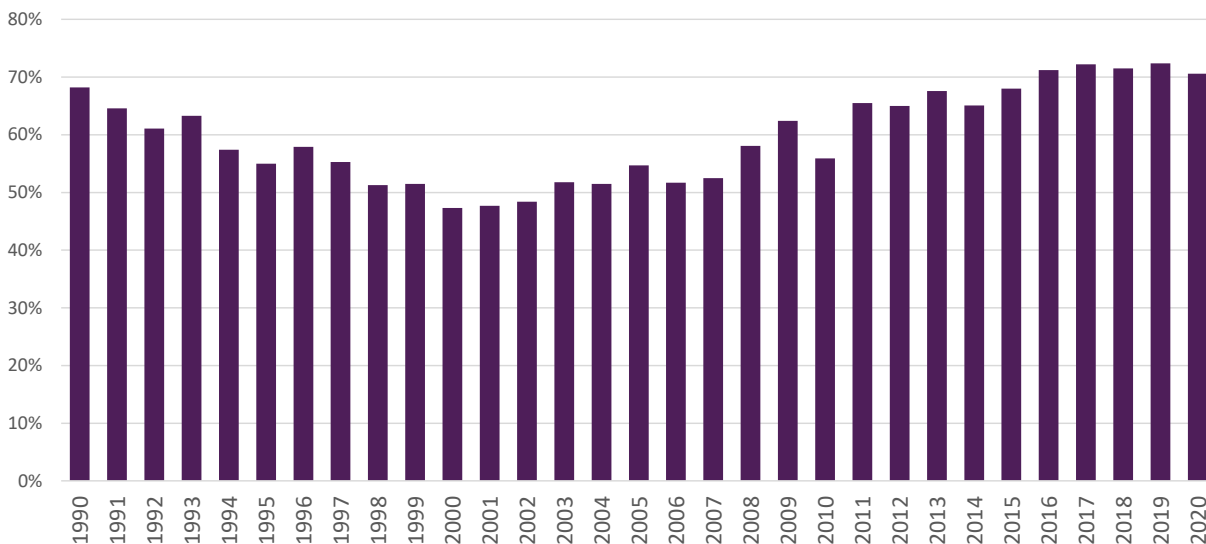
⁴⁸ Prison Policy Initiative (2018): [Correctional Control 2018: Incarceration and supervision by state](#)

Figure 3.44: Michigan Parole Board activities



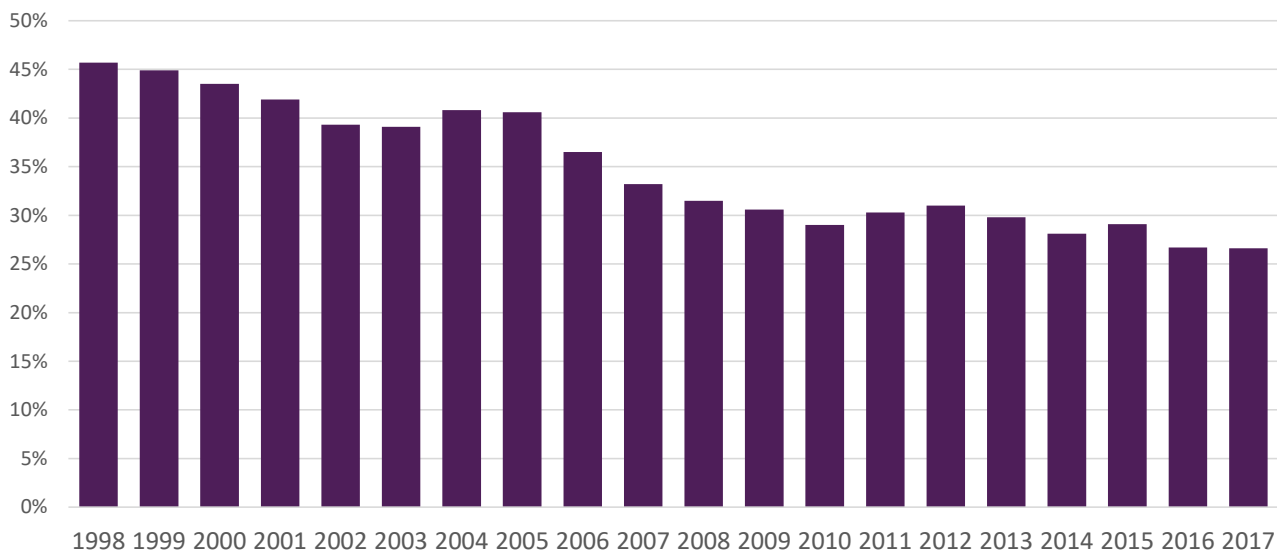
Data Source: Offender Management System (2019) via Michigan Department of Corrections

Figure 3.45: Parole approval rate



Data source: Michigan Department of Corrections (1990-2020)

Figure 3.46: Three-year return to prison rate⁴⁹



Data source: Michigan Department of Corrections (1998-2017)

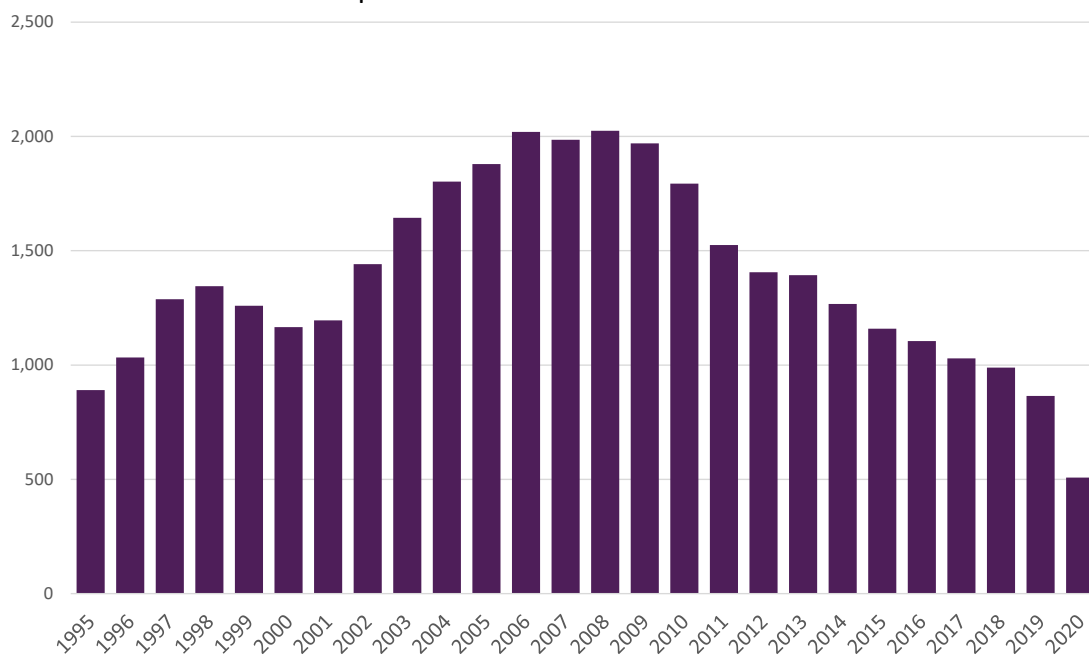
⁴⁹ Includes cases that were returned on Parole Technical Violations or for a new sentence within three years of release.

Parole Outcomes

Success on parole is measured in a three-year time cycle. Within that three-year cycle, an individual may have experienced a violation (i.e., technical rule violation for not upholding the stipulations of parole), but then go on to complete successfully. Since the three-year period of review was implemented in a legislative mandate in 1998, the MDOC has kept data on success and failures on parole. Trends related to the three-year prison return rate and new sentences related to parole violations are presented in Figure 3.46 and Figure 3.47.

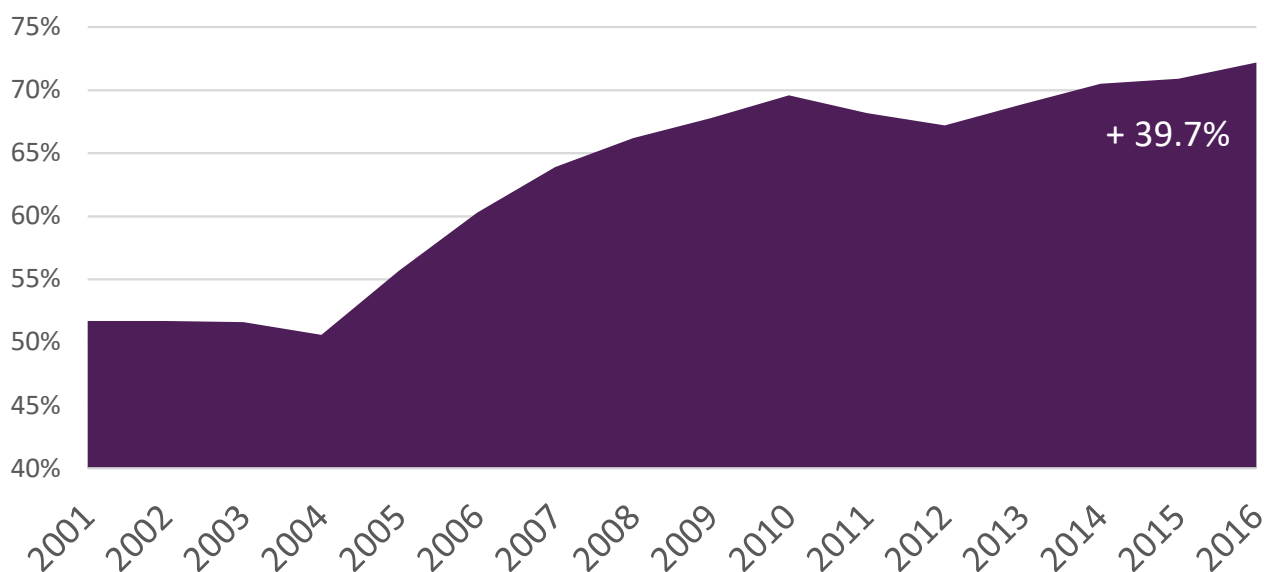
Ultimate success on parole does not negate some failure during the parole term. Failure to comply with stipulations of parole, or committing a new offense while on parole, can result in a technical rule violation, revocation of parole and/or return to prison. Figure 3.49 shows the number of individuals who returned to prison due to technical violations or new charges and the number of parole revocation hearings held from 2010 to 2019. (Of note, it is unclear if these totals represent mutually exclusive counts.)

Figure 3.47: Individuals who violate parole who have a new sentence



Data source: Michigan Department of Corrections (1995-2020)

Figure 3.48: Success on parole



Data source: Offender Management Network Information (2001-2005) via the Michigan Department of Corrections

Probation

Probation sentences can be imposed at the district court level for misdemeanor offenses, but data on that is not available. Probation for felony offenses is under the jurisdiction of the MDOC. State sentencing guidelines deny an individual the opportunity for a probation sentence if the conviction is for murder, treason, armed robbery, criminal sexual conduct in the first or third degree, certain controlled-substance offenses, or felonies in which a firearm was used.

Judges determine the length and conditions for probation. The general statutory maximum term of probation is five years for felonies and two years for misdemeanors. Lifetime probation is authorized for some drug offenses (within statutory maximum - determined by the judge at sentencing).

Trends in the average number of people supervised on probation in Michigan is displayed in Figure 3.50. Michigan’s decreasing probation rates have followed national trends. There was an average of 59,472 individuals supervised on probation under the MDOC Field Operations Administration (FOA) supervision in 2010 and an estimated average of 41,526 in 2019. In late 2020, Michigan passed reformative legislation regarding probation and parole supervision, which included individualized supervision plans to increase success and deter incarceration. Despite decreasing the number of individuals on probation, Michigan’s rate is still well above the national average.

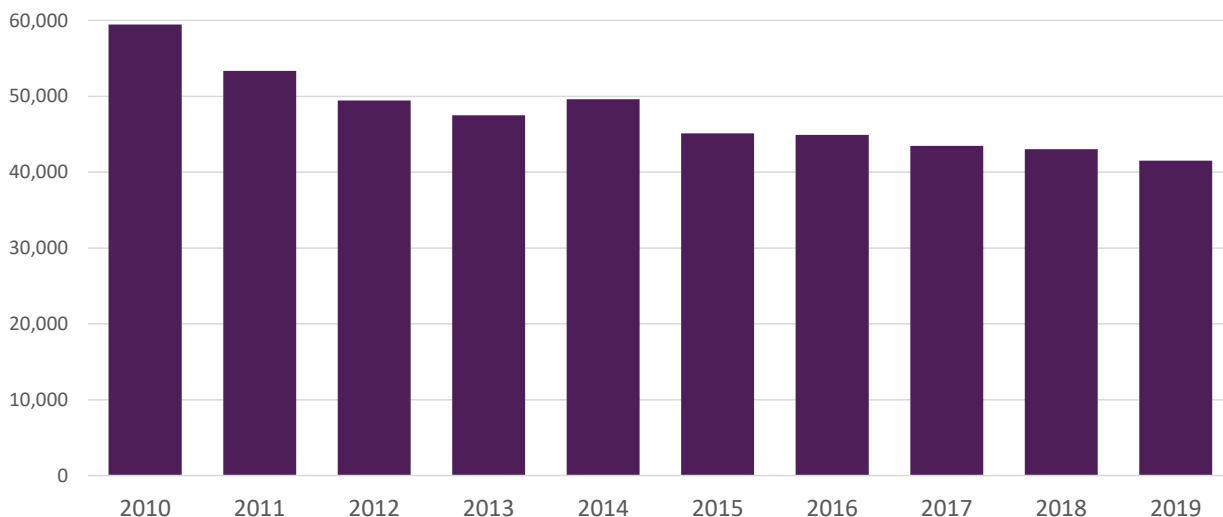
According to the MDOC Statistical Manual (2021), in 2019, over 7,000 individuals were under some form of electronic monitoring by the state.⁵⁰ These systems range from GPS tracking device to curfew monitoring, to devices aimed at preventing impaired driving.

Figure 3.49: Trends in parole violations

Technical Violator Returns <small>(Includes returns from out-of-state)</small>				New sentence returns				Parole revocation hearings	
Year	Male	Female	Total	Year	Male	Female	Total	Year	Total
2010	2,312	79	2,391	2010	1,703	90	1,793	2010	1,952
2011	1,825	70	1,895	2011	1,470	53	1,523	2011	1,881
2012	2,578	116	2,694	2012	1,345	61	1,406	2012	1,240
2013	1,914	115	2,029	2013	1,335	52	1,387	2013	1,383
2014	1,600	82	1,682	2014	1,208	58	1,266	2014	1,146
2015	1,755	99	1,854	2015	1,088	71	1,159	2015	1,642
2016	1,845	111	1,956	2016	1,039	66	1,105	2016	1,512
2017	1,620	72	1,692	2017	973	57	1,030	2017	1,533
2018	1,542	54	1,596	2018	935	53	988	2018	1,306
2019	1,499	47	1,546	2019	831	34	865	2019	1,536

Data Source: Offender Management Network Information, Field Operations Administration (2010 - 2019) via [Michigan Department of Corrections](#)

Figure 3.50: Average number of supervised people on parole



Data Source: Field Operations Administration (2010 - 2019) via [Michigan Department of Corrections](#)

⁵⁰ Many localities in the state (Wayne County, for example) may utilize electronic monitoring in lieu of pretrial incarceration for some individuals.

Probation Failure and Violation

Because comprehensive data on jail incarceration is lacking in Michigan, the scope of probation failure is not tracked. Data from the MDOC provides some evidence of those admitted into prison on probation violation, but the picture is incomplete because many are admitted into jails and released back into the community.

The Vera Institute found that 71 percent of all those admitted into the Wayne County Jail were for probation violations – with no new charges filed.⁵¹ Overall, more than half of people who came to jail on probation or parole violations stayed longer than a week, and a quarter stayed more than a month.

Community Supervision in Southeast Michigan

The following includes an illustrative case study of recent parole and probation data in Detroit and the surrounding Metro area by the [Center for Urban Studies](#) at Wayne State University. Figure D is a tabulation by city of residence for the top cities in Southeast Michigan – Macomb, Oakland, and Wayne counties—listing the numbers of individuals on parole and probation in 2019. Detroit is the main contributor of persons on parole in the Metro area and surpasses rates of the nearest city (i.e., Pontiac), accounting for about 22 percent of all persons on parole in the state of Michigan.

In terms of individuals on probation, Detroit again constitutes a considerable amount within the state at nearly one-third of all Michigan persons on probation. The collective churn of incarceration produced by probation and parole populations in Michigan that has been reported elsewhere is highlighted in Detroit – especially in respect to persons on probation. That is, approximately 56 percent of all people on probation in Detroit have a status of absconder/warrant, while 17 percent of persons on parole have a status of absconder/warrant.

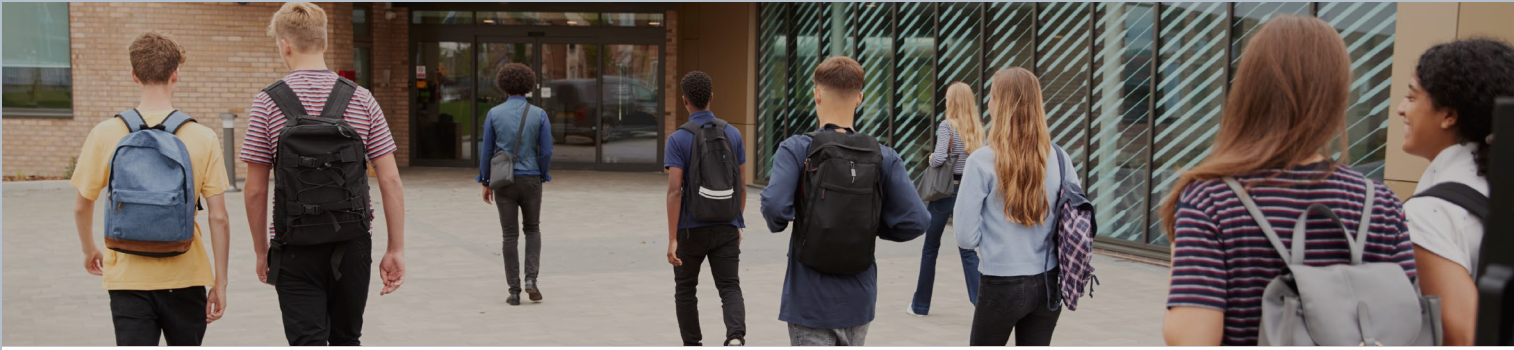
Figure D: Individuals on parole and probation by city of residence

City	Individuals on Parole	Individuals on Probation
Detroit	2553	13015
Westland	89	480
Taylor	83	473
Inkster	74	411
Redford	66	332
Highland Park	73	295
Lincoln Park	44	301
Romulus	45	259
Dearborn	39	266
Dearborn Heights	37	231
Ecorse	52	189
Belleville	43	187
Canton	29	200
Hamtramck	44	153
Livonia	32	157

Data Source: Offender Tracking Information System, Michigan Department of Corrections (2019) obtained via personal communication with WSU Center for Urban Studies

⁵¹ Vera Institute of Justice (2020): [Wayne County Jail - Report and Recommendations](#)

Youth Justice Overview



The Role of the State and the Courts

Decision-making in the Michigan youth justice system occurs in the Family Division of the 57 circuit courts throughout the state. In some jurisdictions, youth justice is overseen in the Probate Court. These courts maintain jurisdiction over all youth in the youth justice system and determine placements. Many circuit courts maintain a “juvenile division” to provide case management and a continuum of direct services to youth, ranging from diversion and probation to short-term detention and long-term residential treatment. Direct services are provided by the courts, through private providers, or by the county Department of Health and Human Services (DHHS) office.

At the state level, youth justice is embedded in the Children’s Services Agency within the State of Michigan Department of Health and Human Services (MDHHS). The youth justice department primarily serves in an administrative role by providing leadership on youth justice policy, maintaining contracts with private providers, referring youth to residential providers through the Juvenile Justice Assignment Unit, operating two secure residential facilities, and

managing out-of-state placements for youth pursuant to the Interstate Compact for the Placement of Juveniles (ICJ) rules.

The State has statutory responsibility for justice involved youth under Public Acts (PA) 150 and 220. Local courts can commit a youth to state supervision, enabling the state to assume responsibility for placement, care, and supervision; however, the local courts retain jurisdiction of the youth. PA 150 state supervision is rarely used today; it generally comes into play only when youth need out-of-home residential placements or when court supervision resources are limited.

While the local courts retain jurisdiction and many youths are served by private providers, the State must retain the ability to serve high-risk youth to fulfill the mandate of PA [150](#) and [280](#). The state operates two secure residential facilities, Shawano in northern lower Michigan and Bay Pines in the Upper Peninsula, to fulfill this mandate.

Michigan has engaged in several youth justice reforms over the past 50 years. Each of these reform efforts cited the problems of decentralized decision-making and service delivery; an overly complex and fragmented system; and inadequate, unreliable, or non-existent data, as impeding the ability to make significant improvements in youth justice.⁵²⁻⁵⁴ Many of these concerns remain.

Funding

Funding for the youth justice system is fragmented over several budget line items and decentralized in the state and county budgets. For example, Juvenile Justice Specialists (JJS) working in the county DHHS offices are included in the MDHHS personnel-related costs and are not accounted for in the youth justice budget. Likewise,

court/county expenditures for prevention or diversion and treatment programs that are ineligible for Child Care Fund (CCF) reimbursement are reflected in local county budgets. An attempt to compile and estimate the cost of the youth justice system was made but the total cost could not be captured.⁵⁵

⁵² John Howard Associates. (1973), Michigan Juvenile Justice Services 1973: A Study and Recommendations

⁵³ Juvenile Justice Task Force. (1989), Alternatives for Youth

⁵⁴ MCL § 803.301

⁵⁵ Hornby Zeller Associates, Inc. (2018): The Cost of Raising the Age of Juvenile Justice in Michigan



Federal Funding

A very small amount of youth justice funding comes from two federal funding sources: Title IV-E of the Social Security Act, and Title II of the Juvenile Justice Delinquency Prevention Act (JJDP). Few youths qualify for federal Title IV-E funding, due to limitations on individual eligibility and placement eligibility. The federal government provides nominal funding, a little over \$1 million dollars per year, to Michigan for youth justice programming through the Title II JJDP grants. Michigan has recently leveraged the federal Mental Health Block Grant allocation to provide programming designed to divert youth with serious emotional disturbance (SED) from justice system involvement. The mental health block grant is a federally funded program administered by the Center for Mental Health Services that provides funds to support Michigan's community mental health services.

State Funding

In fiscal year 2019, the House Fiscal Agency reported that the Human Services division of MDHHS budget represented 9 percent of the \$57.2 billion-dollar state budget. The youth justice portion of the Human Services budget was designated 0 percent;⁵⁶ \$9,811,900

of the youth justice budget was funded from state General Fund, General Purpose (GF/GP) funds (general state tax revenue).

The Child Care Fund

In Michigan, local funds allocated by the counties to the courts make up the majority of youth justice funding. The CCF is a cost sharing agreement between the counties and the state that provides for state reimbursement of 50 percent of eligible youth justice expenditures incurred by the courts. The CCF is also used to fund foster care and other eligible services for children in the child welfare system. The proportion of the total CCF spent on youth justice is unavailable at this time as there is no easy mechanism to sort youth justice costs from child welfare costs at the state level.

Raising the Age: When youth are sentenced to the adult prison system, the state assumes responsibility for payment of their care and custody. Youth prosecuted and sentenced in the youth justice system are paid for by both the county and the state pursuant to the 50/50 cost share under the CCF. As part of the Raise the Age package of bills, the state agreed to hold the counties harmless from the potential increased costs of treating 17-year-olds as youth rather than as adults for the first three years of implementation. Over the next three years, local courts/counties will be reimbursed 100 percent of the cost to ascertain the cost of serving the 17-year-olds and to allow courts and counties time to adjust their funds.⁵⁷

Delinquency Proceedings

Delinquency proceedings take place in the Family Division of the circuit courts. Some courts have dedicated juvenile courts within the Family Division. Delinquency proceedings involve youth under age 17 who have either been charged with violating a status offense, a criminal law, or an ordinance.⁵⁸ The highest age a child's conduct can be considered a status offense is 17.

Michigan recently raised the age of adult criminal jurisdiction from 17 years old to 18 years old. Effective October 2021, youth who are under 18 will be part of the youth justice system and may be adjudicated as youth.⁵⁹ Michigan does not have a statutorily

designated floor, or youngest age, for juvenile court process. Many courts use 10 years old as the minimum age, as specified in the juvenile competency act.⁶⁰ Youth in the justice system younger than age 10 may be declared not competent to stand trial by reason of their young age and inability to understand the process and the offense.

If a youth is charged with a felony and it is found to be in their best interest and the best interest of the public, the youth can be tried and sentenced as an adult pursuant to Michigan's waiver proceedings.⁶¹ The courts retain supervision of most youth in the justice system, supervising 7,432 youth in 2019.^{62,63}

⁵⁶ House Fiscal Agency (2018) [Budget Briefing: HHS - Human Services](#)

⁵⁷ Localities have three fiscal years to ascertain the cost of funding, from October 1, 2021 to September 30, 2024.

⁵⁸ Pursuant to new legislation, after October 1, 2021, 17-year-olds will become part of the juvenile justice system.

⁵⁹ Michigan.gov (2019): [Governor Whitmer Signs Bipartisan Bills to Raise the Age for Juvenile Offenders](#)

⁶⁰ MCL § 330.2062

⁶¹ Michigan Judicial Institute (2021): [Juvenile Justice Benchmark, Delinquency and Criminal Proceedings - Third Edition](#)

⁶² SCAO (2019): [2019 Court Caseload Report](#)

⁶³ This number does not include youth who were diverted or provided with services prior to formal court involvement, estimated to be over 50 percent of the caseload in

The MDHHS supervised 327 youth in 2019, a reduction of 52 percent since 2009. The Department of Community Justice in Wayne County supervised 2,010 youth in 2019.⁶⁴

The total number of youths in the youth justice system is unknown because the Michigan Supreme Court, State Court Administrative Office (SCAO) court caseload counts do not include youth who have been deflected from system involvement or diverted prior to court processing. The reports also do not include data from four counties who do not share their data with SCAO.

Law Enforcement

Complaints of a crime committed by a youth can be filed by any individual - a parent, school, police, or social agency. Law enforcement's response is dependent upon the crime that is alleged and the situation they find at the scene. For serious crimes, law enforcement may arrest the youth and take them to a secure detention placement. A youth may also be taken to secure detention if they are a threat to others or to themselves. Detention must be authorized by the court, and a preliminary hearing must take place within 48 hours of detainment. Data on prevention or deflection programs exists in local precincts and in local courts or service providers. It is not collected and aggregated anywhere for reporting.

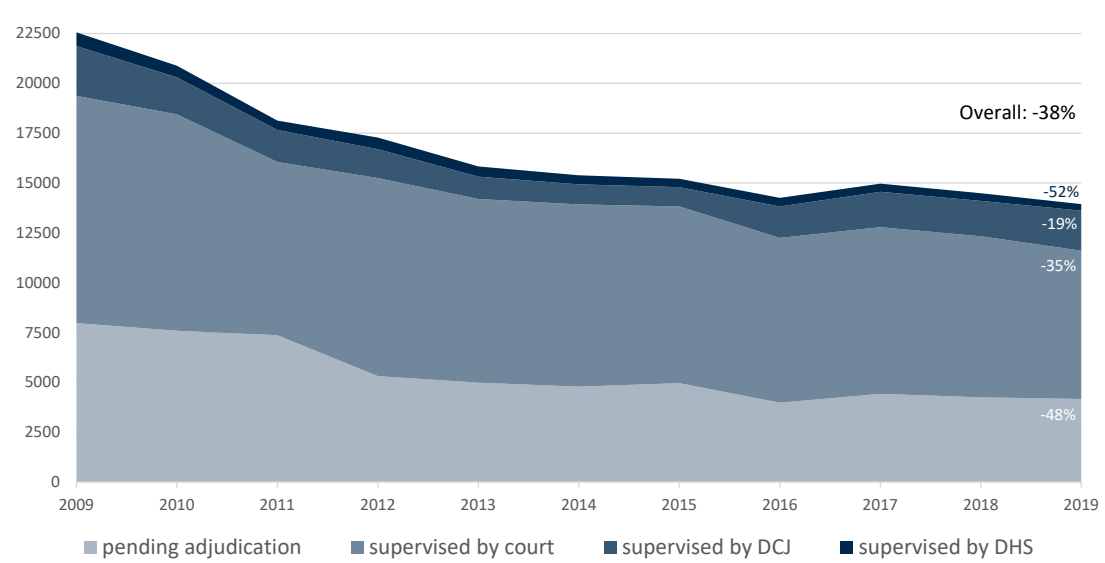
Arrests

Arrest data are imperfect as an indicator of crimes committed by youth and are impacted by differences in reporting across jurisdictions and the variation in what is counted as an "arrest" across the state. Variations in practice impact the arrest rate and may partially explain why youth arrests have decreased to the extent that they have in the past 10 years. Arrest data may provide insight into the frequency and prevalence of specific crimes or categories of crimes for which young people are arrested.

Figure 4.2 illustrates the steady decline in youth arrests. In 2019, the youth arrest rate was 818 per 100,000 young people, down from 2,544 per 100,000 young people in 2009. Youth arrests declined over this ten-year period from 2009 to 2019 by 64 percent for all racial groups. Arrests for White and Black youth both declined by 65 percent. However, in proportion to their number in the population, Black youth are arrested at over twice the rate of White youth.

As seen in Figure 4.3, young men continue to be arrested at over twice the rate of young females, constituting 68 percent of all arrests. Women arrests have not decreased to the extent that male arrests have decreased, reflecting a national trend in decreasing arrests, but an increasing proportion of female arrests. Although youth crime, as measured by arrests, has decreased by 63 percent (see Figure 4.4), crimes against persons rose to 35 percent of all arrests in 2019, followed by crimes against property.

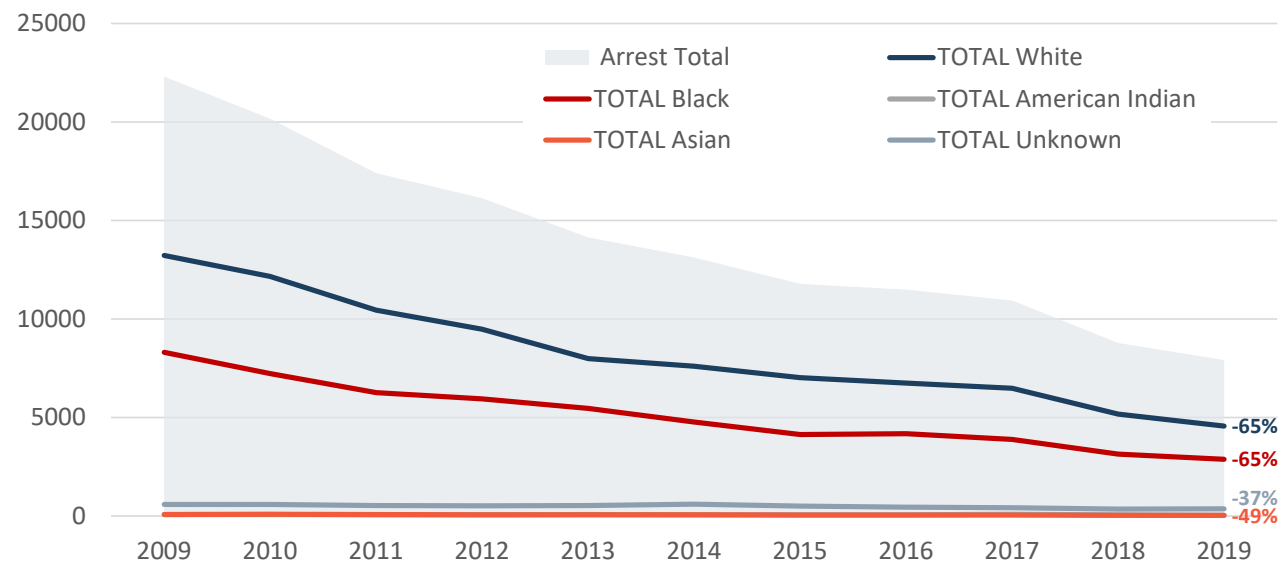
Figure 4.1: Youth in the justice system



Data Source: Michigan Supreme Court, State Court Administrative Office (2019)

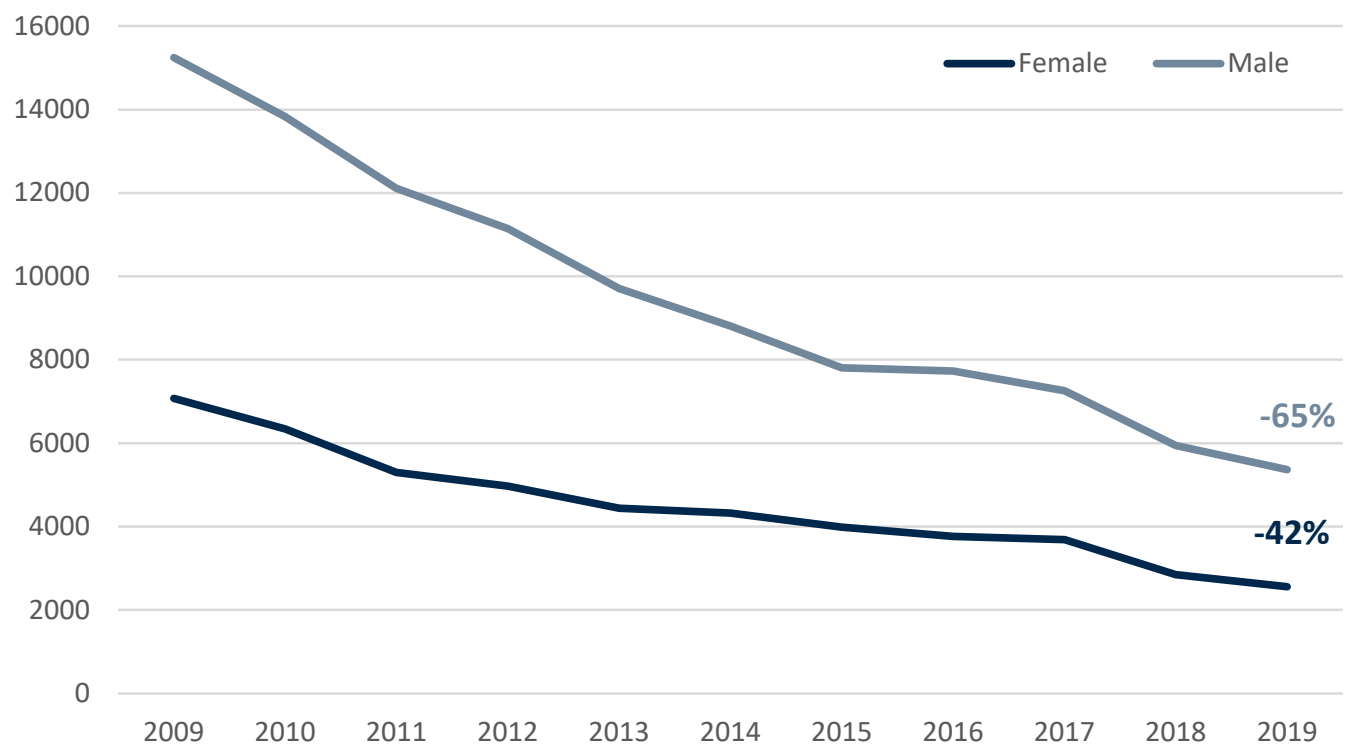
⁶⁴ SCAO (2019): [2019 Court Caseload Report](#)

Figure 4.2: Arrests by race



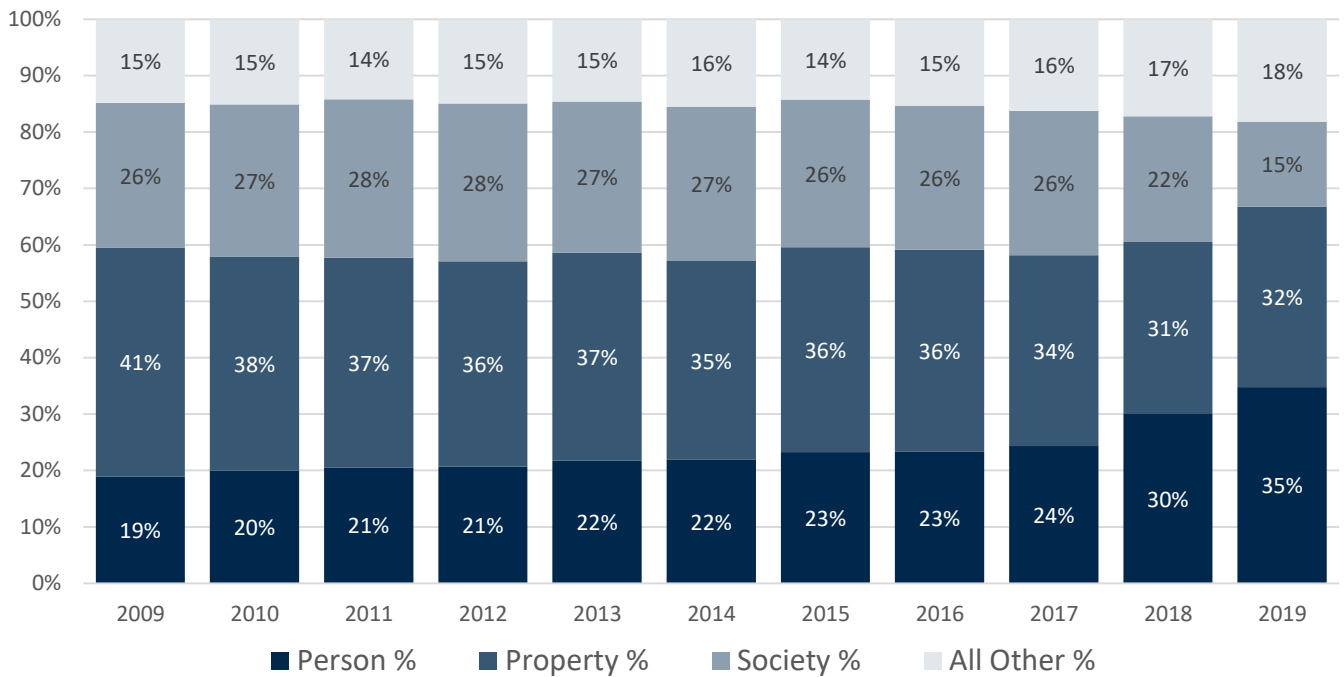
Data Source: Michigan Incident Crime Reporting, Michigan State Police (2009 - 2019)

Figure 4.3: Arrests by gender



Data Source: Michigan Incident Crime Reporting, Michigan State Police (2009 - 2019)

Figure 4.4: Youth arrests by type



Data Source: Michigan Incident Crime Reporting, Michigan State Police (2009 - 2019)

Defense

Michigan provides counsel to youth through a court-based system which includes public defenders, contracts with private attorneys, and assigned counsel. Unlike the adult criminal defense system, there are no statewide standards for indigent defense of youth. The youth defense system is funded entirely by local courts, and the courts choose how the attorneys are appointed and selected for the appointment roster as well as how they are compensated for services.

The National Juvenile Defender Center released a report in 2020 assessing the system of youth defense in Michigan.⁶⁵ This report “highlights the exclusion of juvenile defense from the current reforms taking place in Michigan’s criminal defense system and finds that the quality of defense counsel for justice involved youth is inadequate to ensure constitutional guarantees for children are upheld.” Further, the absence of state-level oversight and funding contributes to representation of youth by attorneys who do not have adequate training in youth defense or adequate resources to appropriately represent the case until termination.

Prosecution

When a complaint is filed by law enforcement, the prosecutor can decide to deny the complaint, thus deflecting the youth from formal justice system involvement. Alternatively, the prosecutor can accept

the complaint and file a petition with the court or divert the youth to community-based intervention programs at the point of petition. Prosecutorial diversion programs avoid formal justice system processing of the youth and provide services to the youth and family in hopes of preventing further delinquent behavior. Prosecutors have discretion as to how a case will be filed. Once a youth is tried as an adult, that youth cannot be tried in juvenile court again.⁶⁶ There are three pathways to the adult criminal justice system for youth.

Automatic Waivers

A youth who is between 14 and 17 years old⁶⁷ can be tried in the adult criminal justice system through waivers.^{68,69} An automatic waiver of juvenile court jurisdiction is applied when a young person is facing prosecution for any of 18 “specified juvenile violations” and the prosecutor charges the youth as an adult.⁷⁰ Should the case proceed to trial, the young person would be tried in the court of general criminal jurisdiction (the circuit court) as an adult. If a youth is convicted in an automatic waiver proceeding, the youth will be sentenced in the same manner as an adult if the conviction is for one of the 12 very serious violations,⁷¹ such as first-degree murder, first-degree criminal sexual assault, armed robbery, and other serious offenses. If the youth is convicted of one of the other six offenses, the court will determine whether to impose an adult sentence or a youth sentence.⁷²

⁶⁵ NJDC (2020): *Overdue for Justice*

⁶⁶ M.C.R. § 3.950(D)(2)

⁶⁷ Under the Raise the Age package of bills, this upper limit changes to under 18 years old on October 1, 2021.

⁶⁸ M.C.L. § 712A.4(1)

⁶⁹ M.C.L. § 764.1f

⁷⁰ M.C.L. § 600.606

⁷¹ M.C.L. § 769.1(1)(a) – (l)

⁷² Michigan Judicial Institute (2021): *Juvenile Justice Benchbook, Delinquency and Criminal Proceedings - Third Edition* 40

Traditional Waivers

The prosecuting attorney may request the juvenile court to waive its jurisdiction of a youth who has committed a felony and allow the young person to be tried as an adult. The juvenile court judge conducts a two-part hearing to determine if there is probable cause that the young person committed a felony and if the waiver is in the best interest of the public and the youth. A youth who is waived pursuant to a traditional waiver must receive an adult conviction and sentence⁷³ and is not required to be kept separate and apart from adult prisoners during incarceration.⁷⁴

Designated Waivers

The prosecuting attorney may request to designate a case to be tried as an adult case, irrespective of the youth's age. These cases are tried in the family division of the circuit court, but the youth is given an adult conviction if found guilty. The juvenile court judge decides whether to designate the case. Youth convicted pursuant to a designated case waiver may receive a blended sentence, allowing them to receive a youth disposition and/or an adult sentence. Youth convicted in designated cases may receive treatment and rehabilitation in the youth justice system as part of their sentence.

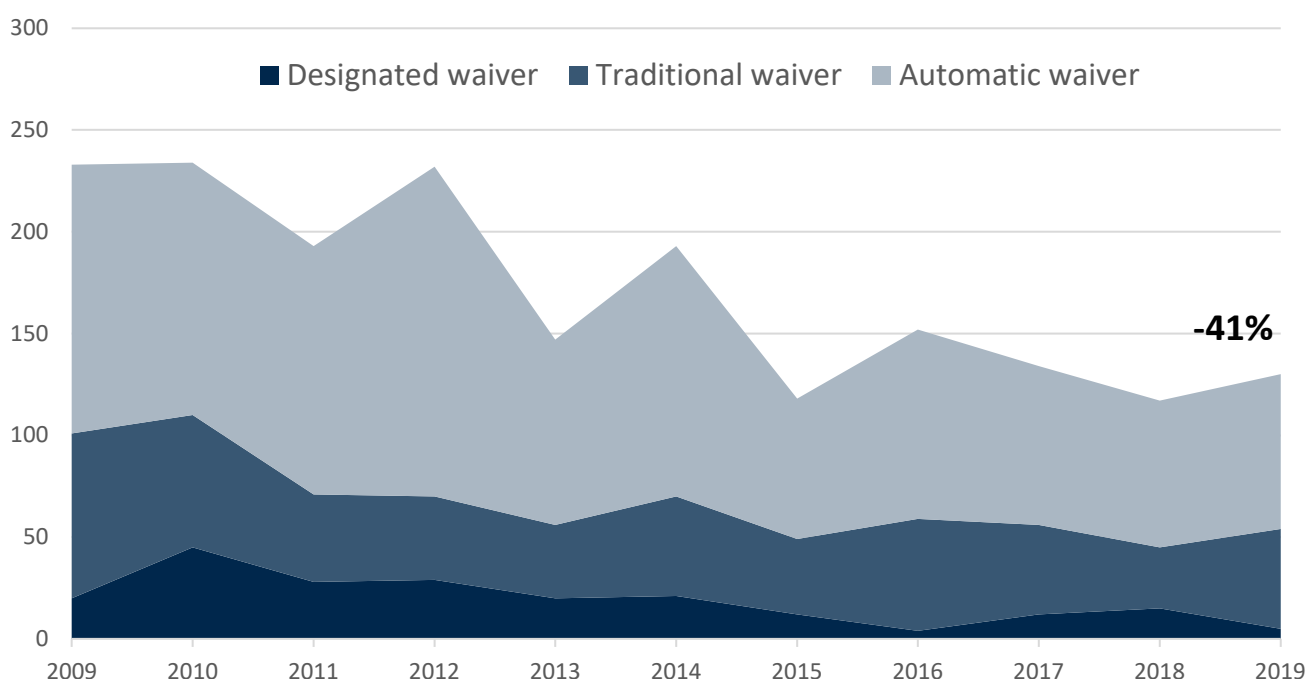
Overall, waivers to the adult system are down 41 percent since 2009, although some years have seen increases due to specific serious crimes committed that year. Since its collective peak in 2005, waivers

decreased overall through 2019. Transfers by traditional discretionary waiver remained the most common transfer disposition after automatic waivers, accounting for 49 of 54 waivers in 2019.⁷⁵ Automatic waivers constitute the largest number of waivers.

In the fourth quarter of 2019, 27 youth under the age of 18 years old were incarcerated in adult prisons in Michigan pursuant to waivers.⁷⁶ Three youth under the age of 18 were imprisoned pursuant to HYTA.⁷⁷



Figure 4.5: Waivers to the adult system by type



Data Source: Michigan Supreme Court, State Court Administrative Office (2009-2019)

⁷³ MCL § 712A.4(5)

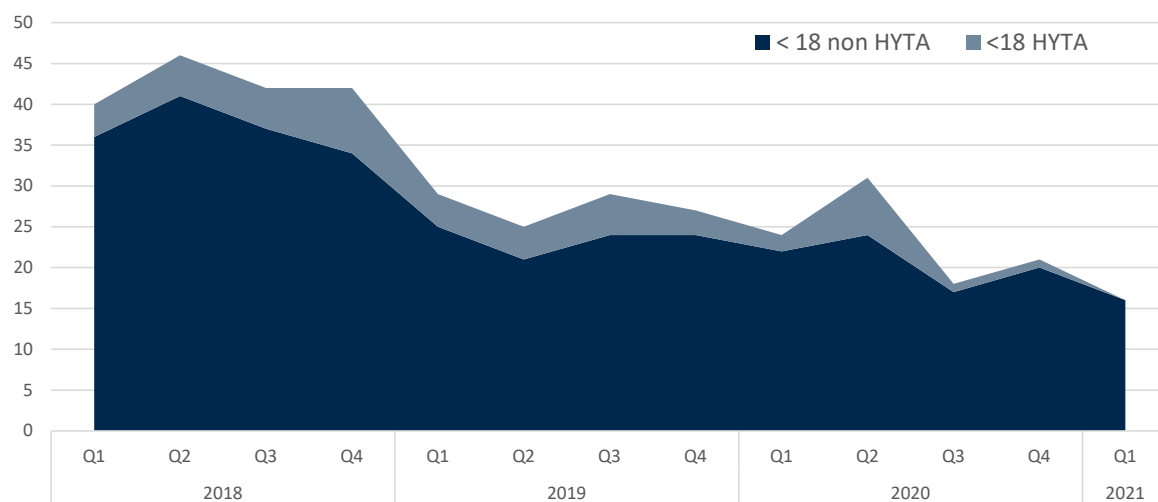
⁷⁴ MCR § 3.950(E)(2)

⁷⁵ JJGPS (2018): [Transfer Trends 2002-2015](#)

⁷⁶ MDOC (2019): [Youth in Prison, Report to the Legislature 2019 Q4](#)

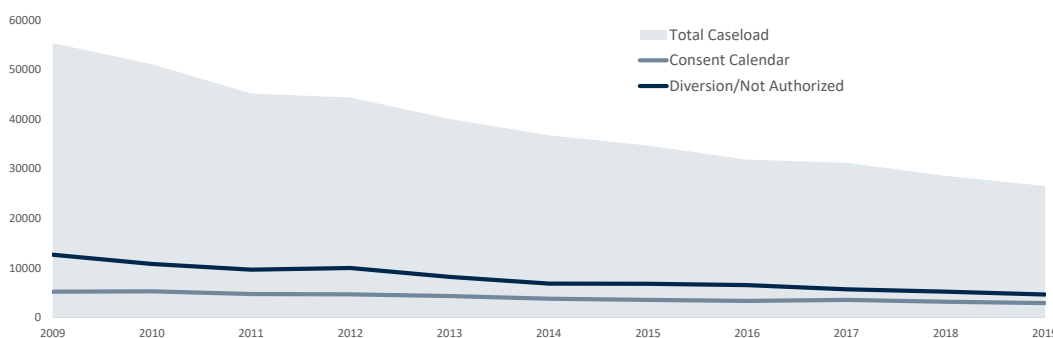
⁷⁷ M.C.L. § 762.11

Figure 4.6: Youth incarcerated in the Michigan Department of Corrections (adult system)



Data Source: Michigan Department of Corrections (2018-2021)

Figure 4.7: Case filings in Michigan



Data Source: Michigan Supreme Court, State Court Administrative Office (2009 - 2019)

Case Filing Trends

In parallel with the decrease in youth arrests, the number of cases filed in court have also decreased. Although the youth justice caseload has decreased by 38 percent over the past 10 years, it has not decreased to the extent that arrests have decreased (68%).⁷⁸

Figure 4.7 represents the number of unique case filings between 2009 and 2019. The shaded area represents all case filings, whereas the light blue line represents consent calendar cases, and the dark blue line represents the diversion/not authorized cases. Between 2009 and 2019, case files decreased approximately 52 percent, similar to the declines observed nationally.⁷⁹ Diversion cases account for approximately 30 percent of all case filings.

To better understand the steady decline in case filings, changes in the adjudicated charges associated with the petitions filed between 2009 and 2018 were investigated.⁸⁰ Figure 4.8 displays the county representation of all delinquency petitions and Figure 4.9 displays adjudicated petitions. Five counties account for 47 percent of all JDW petitions and 51 percent of all adjudicated petitions.

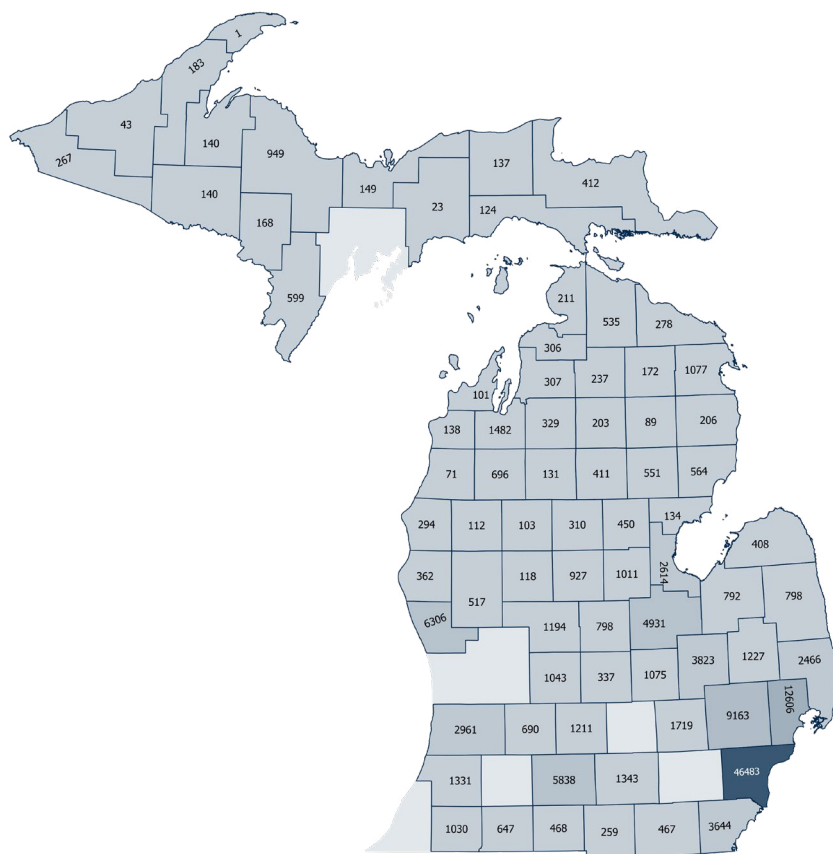
Figure 4.10 displays the number of charges by year and offense category. Person-related offenses and property-related offenses account for most of the charges regardless of the year reported. When grouped together, the proportion did not change much over time; person and property offenses accounted for 62.4 percent of all charges in 2009 and 62.8 percent of all charges in 2018.

⁷⁸ SCAO (2009-2019): [Caseload Report Archive](#)

⁷⁹ OJJDP (2020): [Statistical Briefing Book](#)

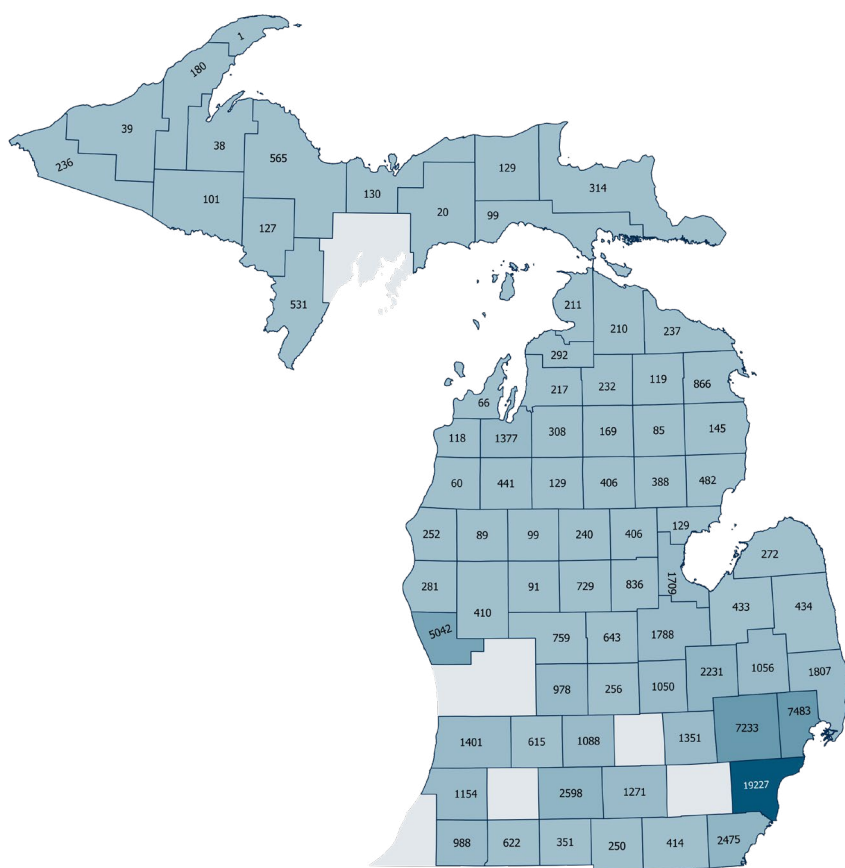
⁸⁰ These data originate with the JDW. We selected the years 2009 to 2018 because they represented complete calendar years of petitions filed. The figure represents only adjudicated petitions, again because those represent the most complete and comparable petitions between counties. It is important to note that the rate of decline by offense type was virtually identical for all charges (regardless of adjudication status). See Figure 4.8.

Figure 4.8: All authorized petitions by county



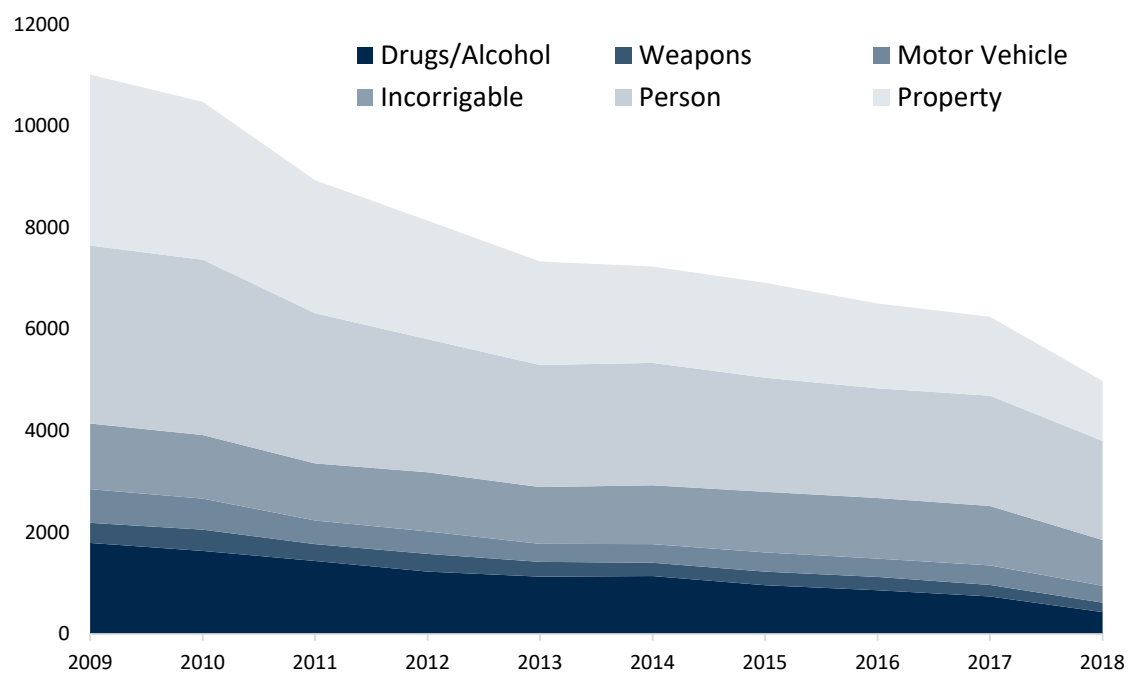
Data Source: Judicial Data Warehouse (2009-2019)

Figure 4.9: All authorized adjudicated petitions



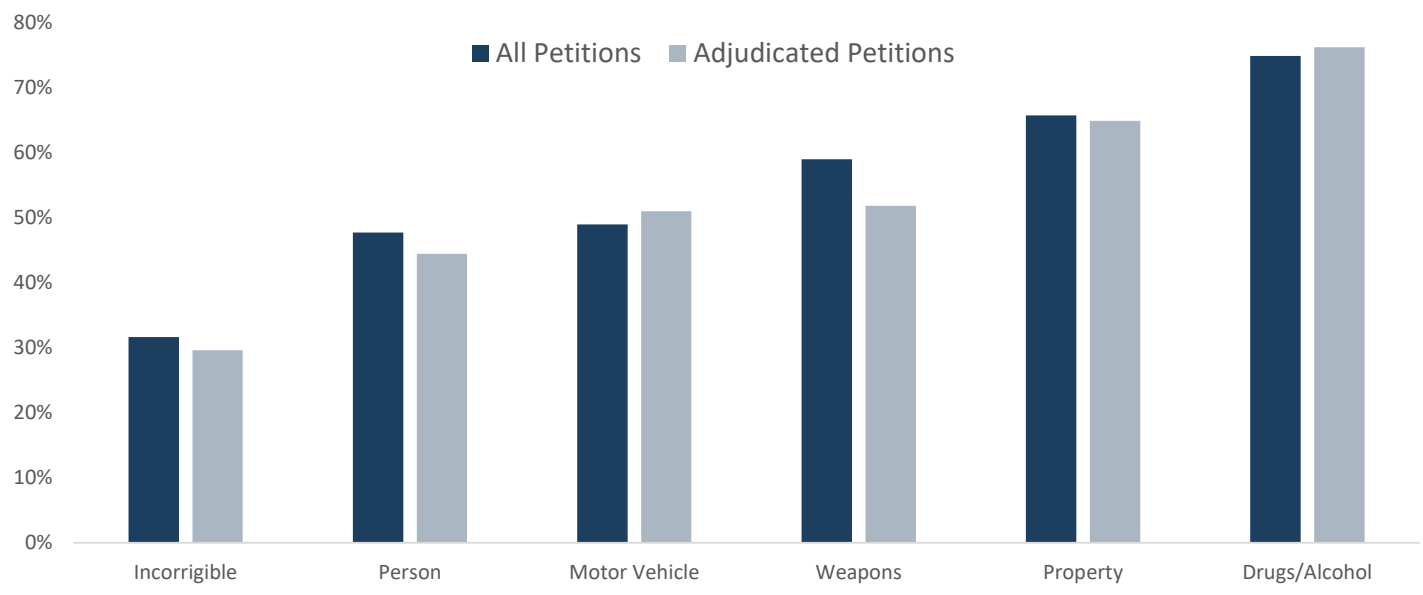
Data Source: Judicial Data Warehouse (2009-2019)

Figure 4.10: Petitioned offenses



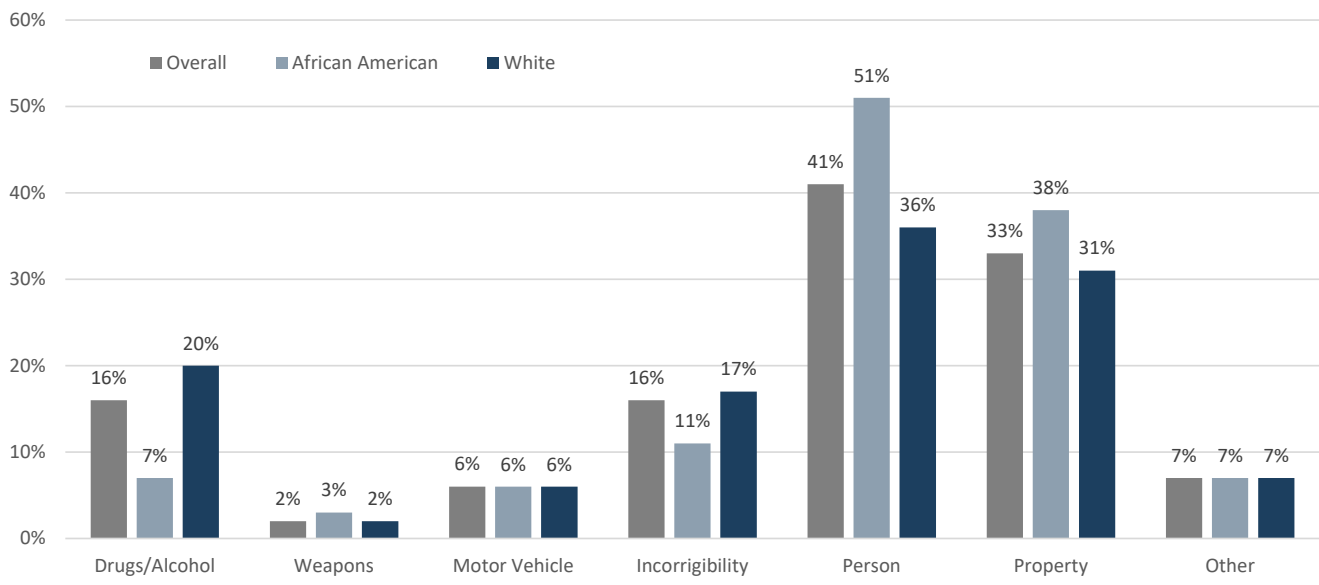
Data Source: Judicial Data Warehouse; Michigan Supreme Court, State Court Administrative Office (2009 - 2019)

Figure 4.11: Percent reduction in petitions and adjudicated petitions from 2009-2019



Data Source: Judicial Data Warehouse (2009 - 2019)

Figure 4.12: Adjudicated offense type: overall and race comparison



Data Source: Judicial Data Warehouse (2008 - 2019)

Offense Patterns and the Likelihood of Adjudication

To understand variations in the types of offenses committed, six categories of delinquency petitions were explored: drugs/alcohol, weapons, motor vehicle, incorrigibility, person-related, and property-related offenses. All other delinquency charges are combined into an “other” category. It is important to note that because of data limitations and the variations in individual counties’ contributions to the Judicial Data Warehouse (JDW), these analyses are limited to only adjudicated offenses. This limitation accurately captures all adjudication petitions reported by individual counties.

Figure 4.12 displays the overall distribution of adjudicated offenses and the adjudicated offenses for Black and White youth. Youth are most likely to be adjudicated for person-related offenses (41 percent), property-related offenses (33 percent), drug- and alcohol-related offenses (16 percent), and incorrigibility (16 percent). There are some clear differences by race. Black youth are more likely to be adjudicated for person- and property-related offenses, while White youth are more likely to be adjudicated for drug- and alcohol related offenses and incorrigibility.

The JDW data was then used to investigate if there are any racial disparities with regards to the risk of adjudication. As displayed in Figure 4.13. Black youth

are more likely to be adjudicated for drug/alcohol offenses (54 percent v. 47 percent), weapons offenses (66 percent v. 63 percent), motor vehicle offenses (66 percent v. 55 percent), and incorrigibility (56 percent v. 53 percent).



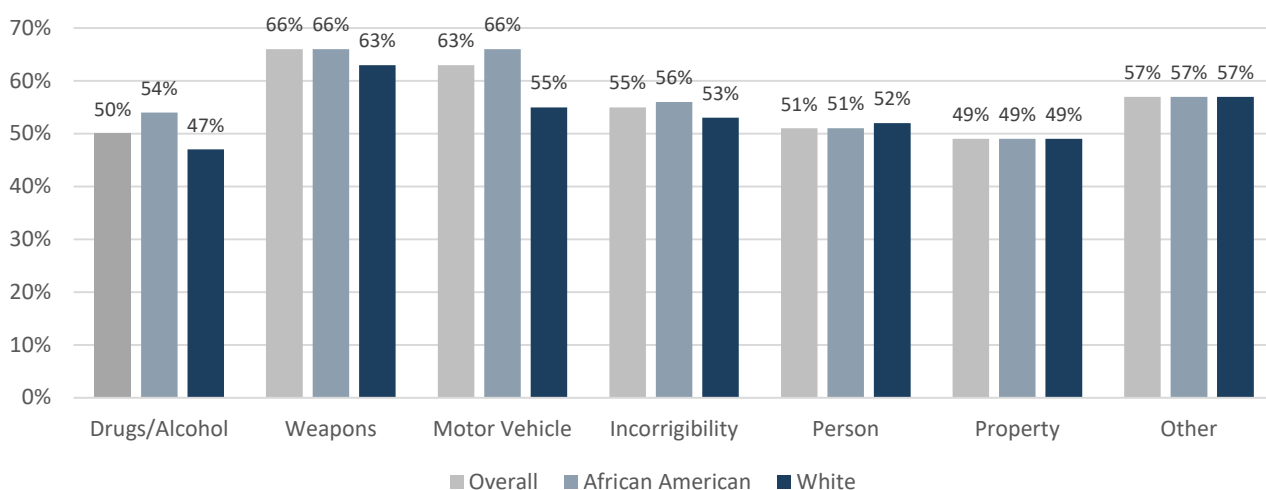
Demographic Trends

Although youth associated with delinquency petitions seem to be trending younger in age, the overall range is relatively consistent from 2009 to 2019 (between 15.1 and 15.5 years of age at case filing). Moreover, there is no significant difference between the age of male and female youth.

Males are overrepresented in the youth justice system, although their overall representation is decreasing over time (from 76.9 percent of all petitions in 2008 to 68.3 percent of petitions in 2019). This trend (see Figure 4.15) represents a decrease of approximately 12 percent in male representation – and an increase in female representation of approximately 37 percent. This trend is reflective of the national estimates of females who commit offenses.⁸¹

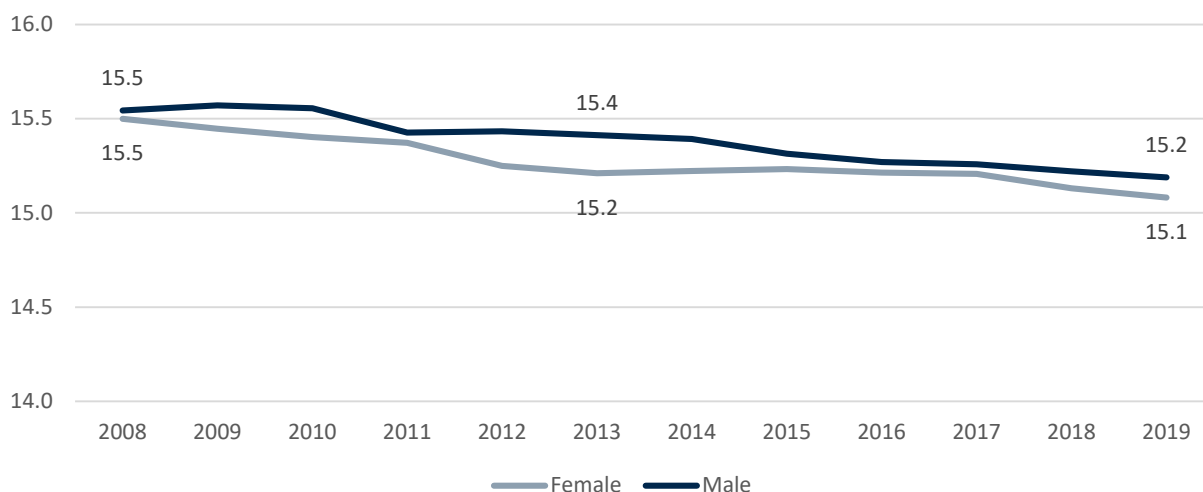
Figure 4.16 displays the race associated with delinquency petitions filed between 2008 and 2019.⁸² The general population estimates of the number and race of youth in Michigan (retrieved from the American Community Survey) are also displayed. Black youth are consistently overrepresented in the petitions filed. Of note is an increase in overrepresentation between 2017 and 2019. In 2017, Black youth accounted for 15 percent of the general population and 35.3 percent of the petitioned population. The share of petitions increased to 41.7 percent of delinquency petitions in the most recent year of observation (2019), while their numbers in the population increased only slightly. This represents an overall increase of petitions of more than 18 percent.

Figure 4.13: Likelihood of adjudication: overall and by race



Data Source: Judicial Data Warehouse (2008-2019)

Figure 4.14: Age at case file by year and sex



Data Source: Judicial Data Warehouse (2008 - 2019)

⁸¹ OJJDP (2019): *Girls in the Juvenile Justice System*

⁸² Race is poorly measured in Michigan. Thus, in the current report, we largely limit race analyses and race comparisons to African American and white youth.

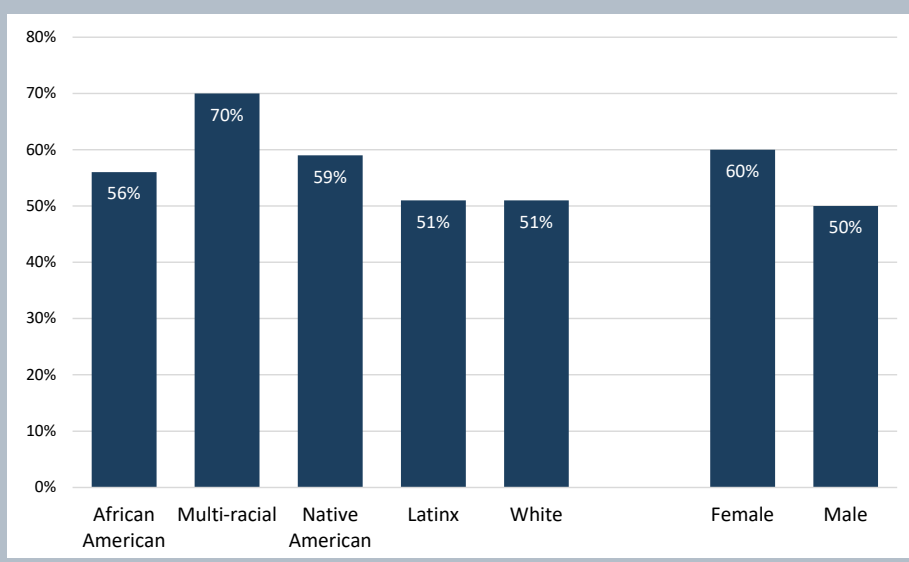


Regardless of race or sex, most adolescents involved with the youth justice system were involved with child protection. Black, multi-racial and Native American youth are disproportionately represented across both systems. Females are more likely to have had contact with child protection. In short, it appears that the child welfare system is a pathway to youth justice for children of color and females.

History of state involvement in the lives of justice-involved youth

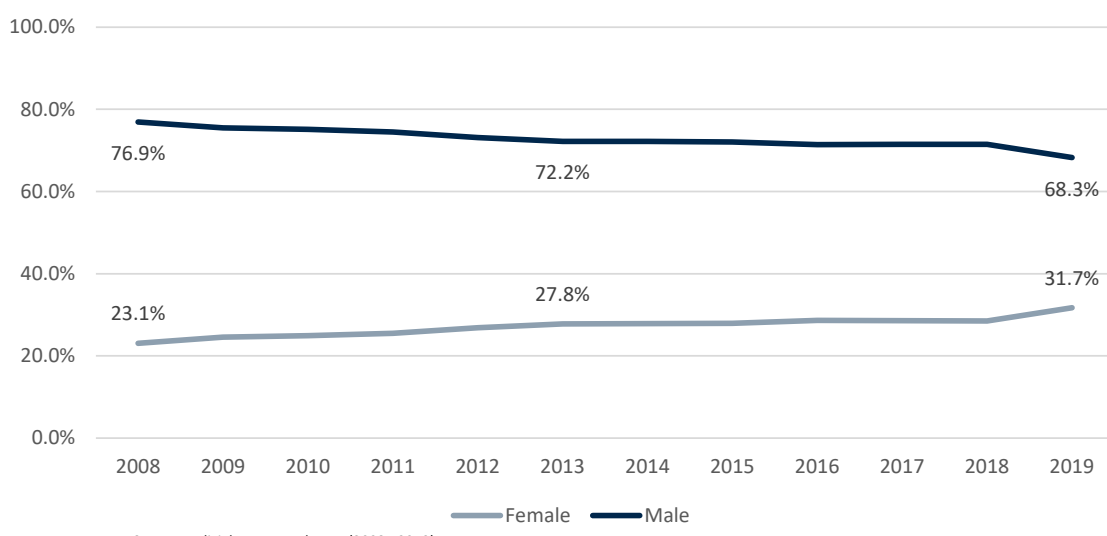
It is widely documented that many justice-involved youths have been previously involved with the State, specifically with child protection. The following figure displays the percent of youth, by race and sex, that have a history with the State's child protection system.

Figure E: Justice-involved youth with a child protection history: contributions to racial and gender disproportionality



Data Source: Judicial Data Warehouse, MISACWIS (2008 - 2019)

Figure 4.15: Sex by year of case file (2008-2019)



Data Source: Judicial Data Warehouse (2008 - 2019)

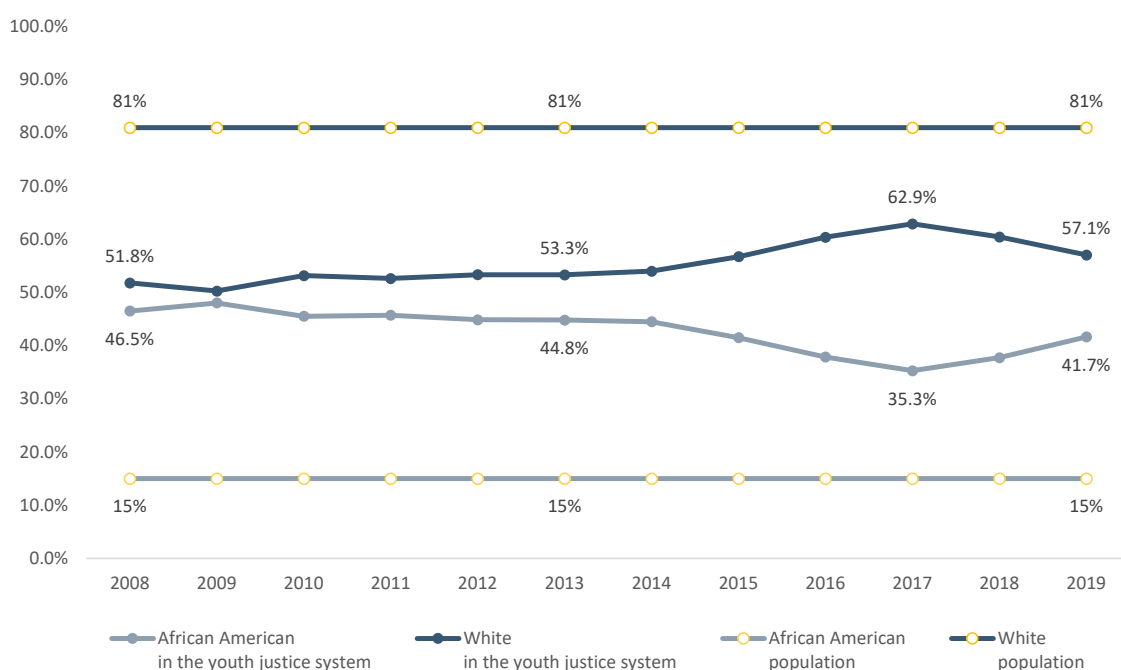


Recidivism and Involvement with the Adult Criminal Justice System

One important performance metric associated with the youth justice system is the rate at which adolescents and young adults return to court for new charges. Delinquency petition data was merged with adult arrest data in Michigan to estimate probability of youth involvement with the adult criminal justice system. The measure of adult involvement is any arrest after the individual's 17th birthday.

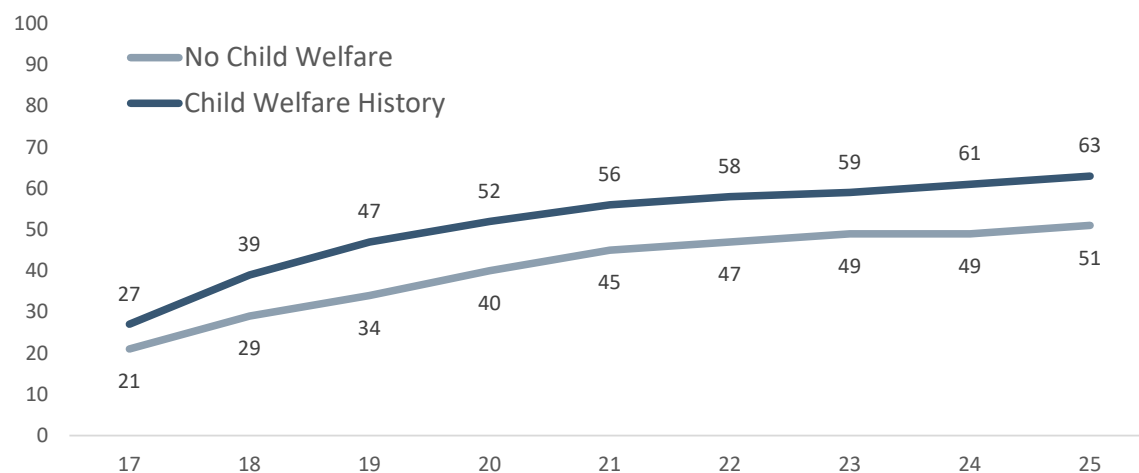
Overall, 55 percent of youth in the JDW files were subsequently arrested as adults. Figure 4.17 displays the relative risk of adult arrest for individuals with and without a history of child welfare involvement. Although the risk of adult criminal justice involvement is high for all youth in this analysis, the rates are particularly concerning for individuals with a history of child abuse and neglect (63 percent and 51 percent respectively).

Figure 4.16: Race by year of case file



Data Source: Judicial Data Warehouse (2008 - 2019)

Figure 4.17: Relative risk of adult criminal justice involvement by child welfare status



Data Source: Judicial Data Warehouse, MiSACWIS (2008 - 2019)

Interventions: The Youth Justice Service Array

Developing a complete continuum of care in each jurisdiction in Michigan has long been a concern of youth justice advocates and stakeholders. Interventions offered in each county vary greatly depending on population, identification of need, philosophical orientation to justice, and resources available to fund interventions. There is no statewide directory of what services or interventions are offered in each county, and the services change periodically within counties based on several factors, including funding, outcomes, and new evidence on effective interventions.

Diversion

Diversion programs redirect youth into services in the community prior to adjudication. Diversion programs have demonstrated reduced recidivism and lessen the disruptive and harmful impacts to the youth and family from formal court processing and placement. No statewide data have been collected that capture the total number of youths served in diversion programs, the effectiveness of the programs or the recidivism of youth who participated in the wide variety of programs offered throughout the state. The best data available, at present, exist in the SCAO annual caseload reports, which capture the number of youths diverted by the court for those counties that report their data to SCAO. In 2019, the courts diverted 4,638 youth from the youth justice system.



Specialty Court Interventions

In addition to the juvenile courts located in the Family Division of the circuit courts, Michigan has developed problem-solving courts focused specifically on youth.

Michigan's Family Drug and Mental Health Courts provide ancillary services (such as parent education, employment training, and life skills) to support the success of treatment interventions for the adult and young members of the family.

Michigan has a total of 18 youth specialty courts focused on drug treatment/sobriety and/or mental health. These courts served 303 participants in 2019. Youth made up 3.4 percent of all problem-solving court participants that year.

Community Supervision - Probation

Youth probation is administered primarily by the courts. MDHHS provides supervision for a limited number of youth who are wards of the state on probation as requested by the court. No publicly available data is collected or reported on the number of youths under probation supervision by the courts or by the state each year. Some courts collect and report data on youth in community supervision to their county, but those reports are not widely available to citizens outside of the county. The total number of youths on probation in each county and the cost of probation programming is included in the CCF budget and monthly reports, but that data is not broken out and aggregated for reporting purposes.

Detention

Many secure detention facilities are administered and funded at the county level by either regional boards, or by circuit courts. There are 25 detention facilities across the state, providing short-term, out-of-home placement for youth in the local area or from other counties through reciprocity agreements. All facilities provide the youth in their care with some form of education; other services vary depending on the specific detention center.

Detention is designed to be a short-term secure residential placement for youth who are a risk to public safety or are a flight risk while awaiting a court hearing or while awaiting transfer to a longer-term treatment facility after a court disposition. A young person may also be placed in detention for violating a court order or violating the terms of their probation (technical violations). PA 389 of 2020⁸³ aligns Michigan's laws with JJDA requirements, which limit the use of confinement for youth with status offenses.

⁸³ PA 389 of 2020

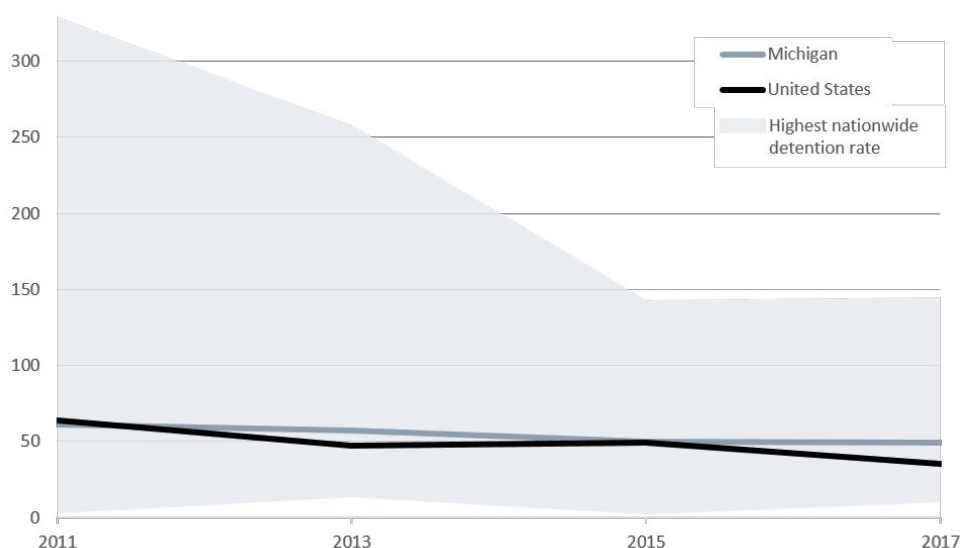
Valid Court Orders (VCOs) are orders given by the court to the youth that outline the conditions of their court supervision. A court order is a directive to the youth to do specific things, such as doing their homework or being home by curfew. A VCO exception allows the court to detain youth adjudicated of a status offense if the youth has violated the court's orders. Otherwise, a youth adjudicated of a status offense is not subject to detention.

The use of VCOs for a technical violation or a VCO to place a youth in secure confinement is a divisive issue in Michigan. Evidence points to the harmful impact of locking up youth for minor offenses, or from labeling the youth as a criminal for engaging in normal adolescent behavior. Courts report, however, that they can effectively use the VCO exception to provide intervention to a youth who has committed additional offenses without adjudicating them on a new offense, thus reducing their record of offenses.

Several reports cite Michigan for using the VCO exception much more frequently than other states. A 2020 report by the Coalition for Juvenile Justice (CJJ) lists Michigan among only eight states that used the VCO exception more than 100 times in 2017. Michigan used the VCO exception 630 times in 2017, second only to Arkansas (832) and Washington (1723). Thirty-two states and territories reported zero use of the VCO in 2017.⁸⁴

The Office of Juvenile Justice and Delinquency Prevention (OJJDP) Juvenile Residential Facility Report⁸⁶ lists Michigan in the lower middle of all states for the number of youths placed in detention. In 2011, the Michigan placement rate was 61 per 100,000 youth and in 2017 it was 49 per 100,000 youth, compared to the highest rate of all states in 2017 at 145 and the lowest rate of all states at 10 per 100,000 youth.

Figure 4.18: Youth detained (rate per 1,000)



Data Source: OJJDP's Census of Juveniles in Residential Placement (2011-2017)

Residential Placements

There is no compiled statewide data on the number of justice-involved youth in out-of-home placements, how many youths experience out-of-home placements each year, the length of time they are in out-of-home placement, or the reason for out-of-home placement. This data is provided to the MDHHS monthly as part of required CCF reporting and reimbursement, but it is not extracted and aggregated for state-wide reporting purposes. In December 2020, there were a total of 95 delinquent youth in residential placements that were under the care and supervision of MDHHS.

Of the total population of youth in placement in Michigan in 2017, Michigan's highest number of youths in placement are those who were committed (youth adjudicated and found responsible for an offense, and then committed by the court to a residential placement).

Michigan ranks as the seventh highest state for the total number of youths confined in detention and residential placements. However, this ranking is based on total number of youths confined and not on the **rate** of youth confined. When adjusted for proportion of youth in the population, Michigan ranks 20th in the United States.⁸⁵

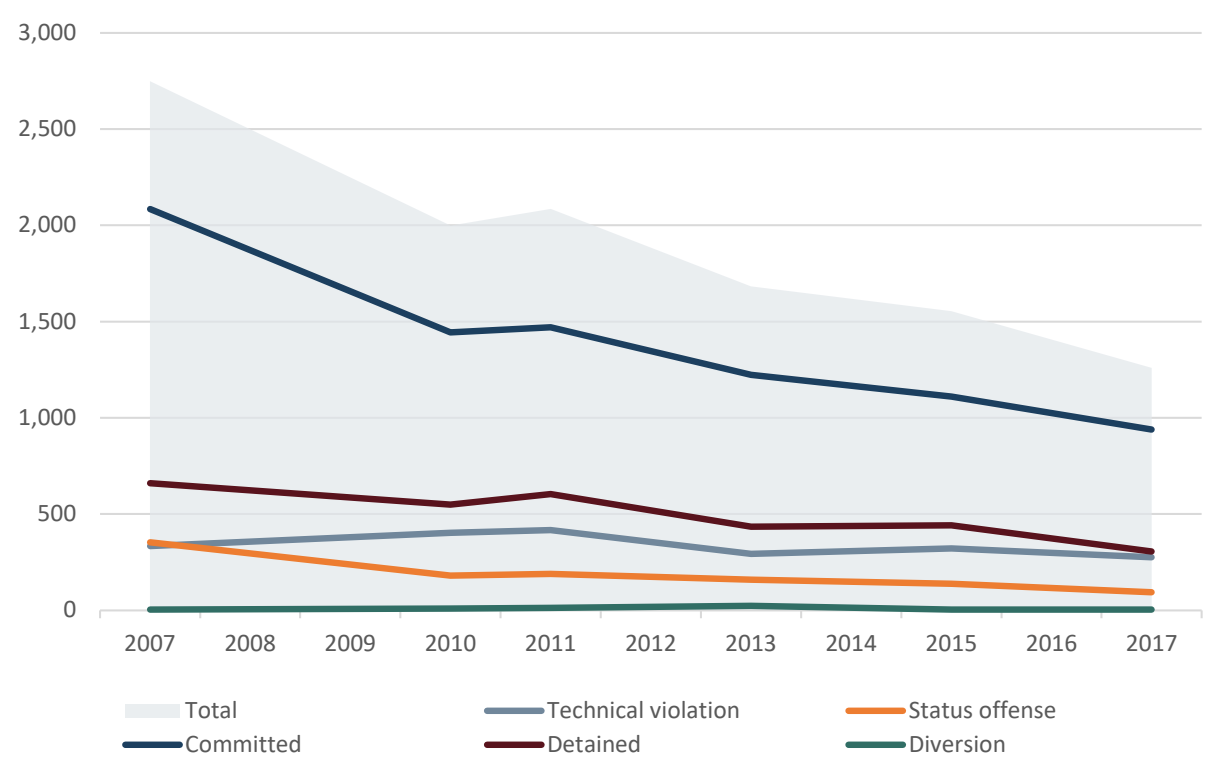
⁸⁴ Coalition for Juvenile Justice (2017): [Use of the Valid Court Order: State by State Comparisons](#)

⁸⁵ OJJDP (2018): [Juvenile Residential Facility Census 2018: Selected Findings](#)

As in several other areas of the youth justice system, males are over-represented in out-of-home placements, although Michigan places more females in residential placement than the United States average.

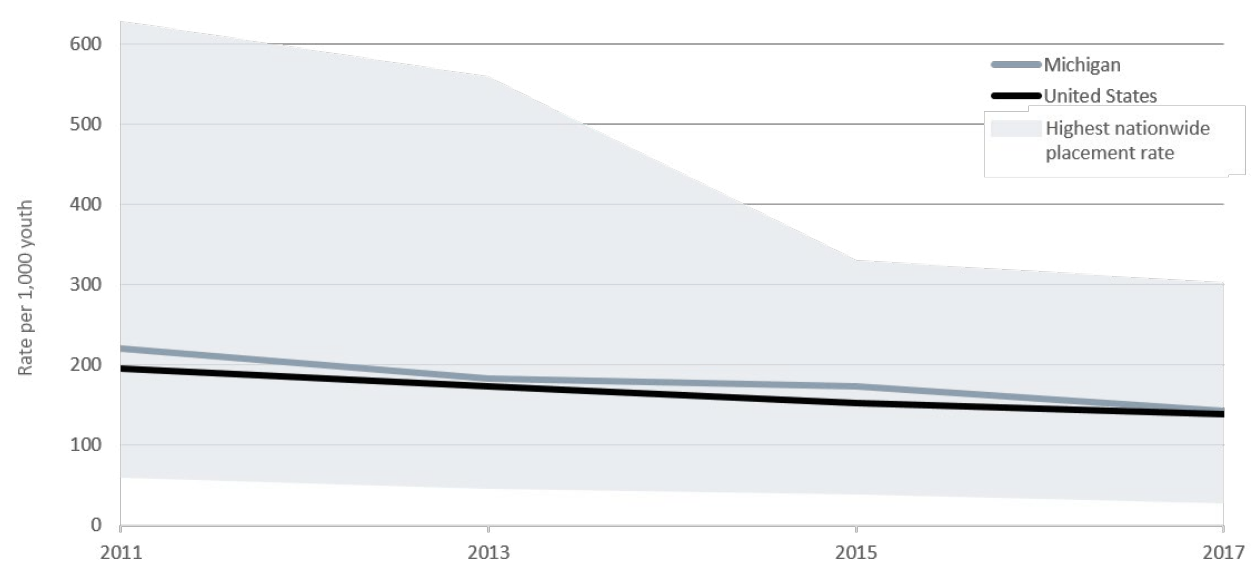
Males and Black youth of both genders are over-represented in these placements, followed by Native American youth.

Figure 4.19: Michigan youth in residential placement by type of offense



Data Source: OJJDP's Census of Juveniles in Residential Placement (2011-2017)

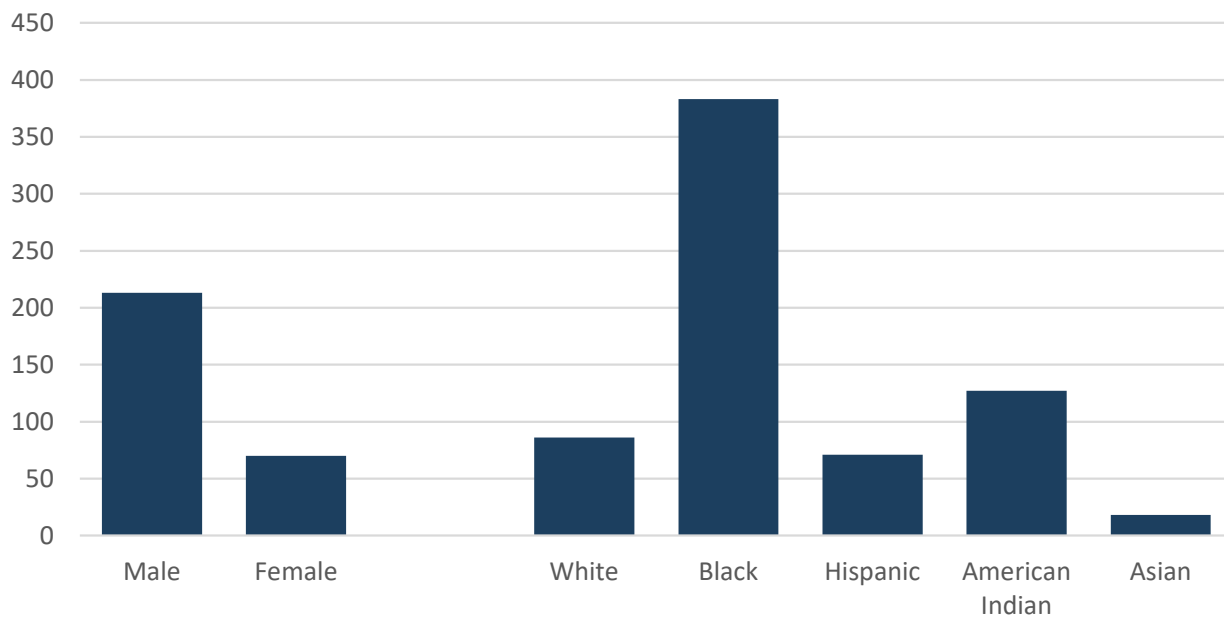
Figure 4.20: Youth in residential placement



Data Source: OJJDP's Census of Juveniles in Residential Placement (2011-2017)

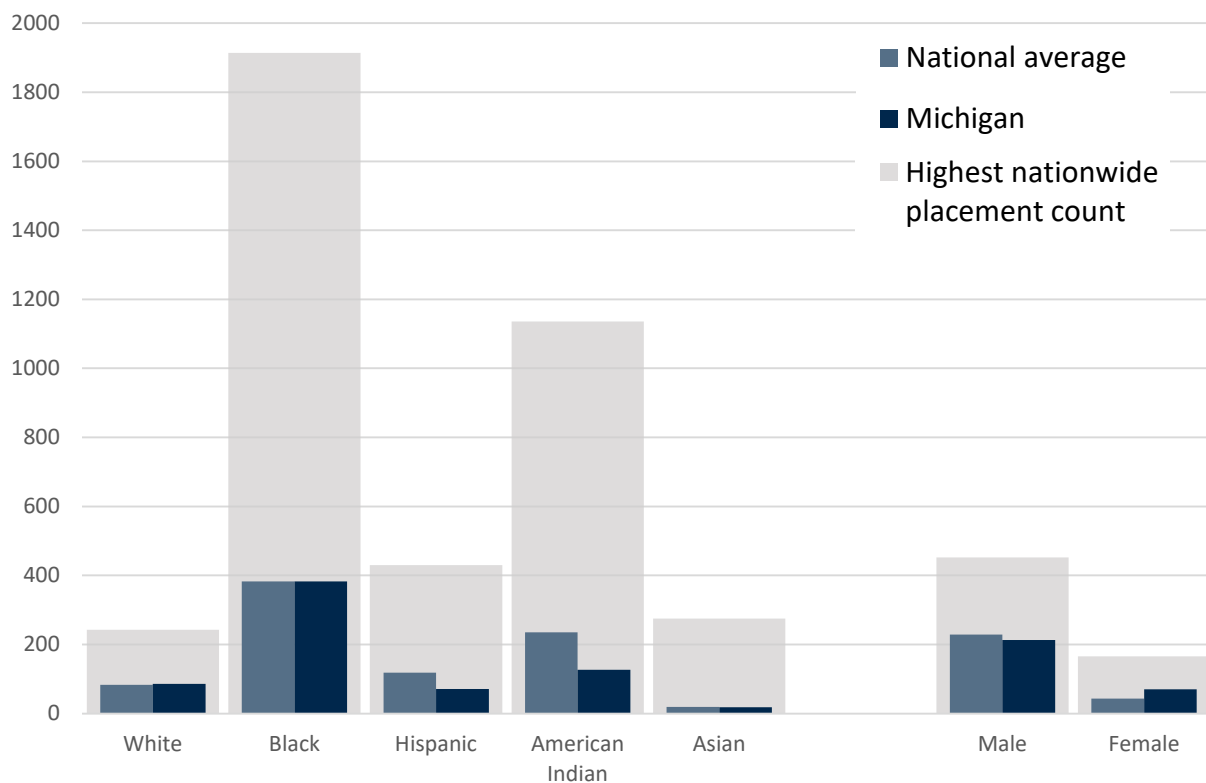


Figure 4.21: Youth placement by race and gender



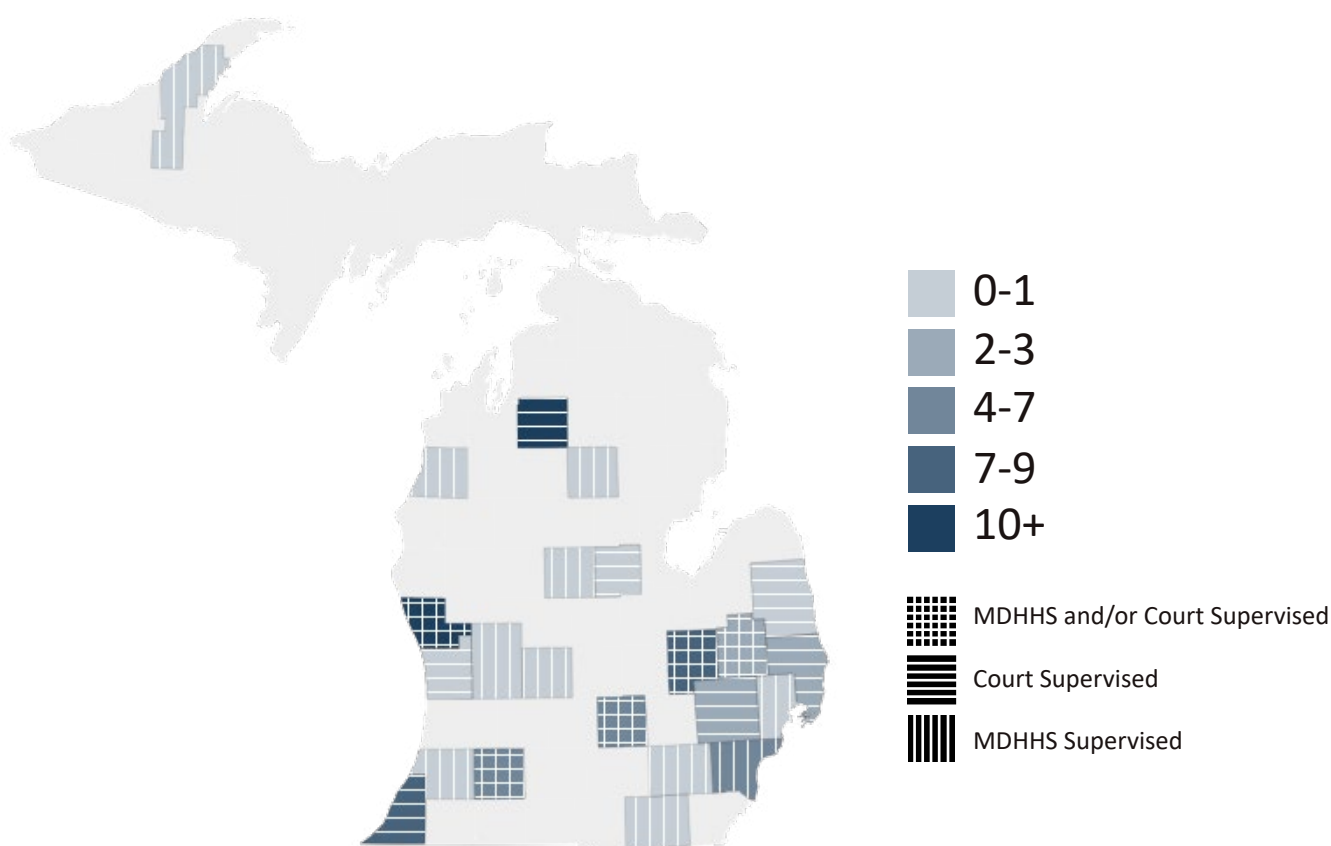
Data Source: OJJDP's Census of Juveniles in Residential Placement (2011-2017)

Figure 4.22: Youth in placement by race



Data Source: OJJDP's Census of Juveniles in Residential Placement (2011-2017)

Figure 4.23: Out-of-state placements by county



Data Source: Michigan Department of Health and Human Services (2020)

Out-of-State Placement

When youth cannot be served in a Michigan treatment facility, courts or the State may opt to place the youth under their supervision in a specialized placement out-of-state. MDHHS monitors out-of-state placements of youth and provides a report to the legislature on an annual basis.⁸⁶

Prison

Young people who are tried as adults in the criminal justice system may be placed in Michigan's prison system. Most young males are placed at the Thumb Regional Correctional Facility in Lapeer County. Young females are placed at the Huron Valley Women's Correctional Facility in Washtenaw County (Ypsilanti). The MDOC publishes quarterly data on how many youths are in the prison system, and the training provided to staff who work with those youth.⁸⁷ No data is available that tracks what offenses were committed by youth sent to prison, nor monitors the impact of probation, prison, and parole on public safety and individual outcomes.⁸⁸

There were 16 youth in Michigan prisons in the first quarter of 2021 as compared to over forty youth imprisoned in the second quarter of 2018. Because these data are reported quarterly, it is not known if the data are cumulative, nor exactly how many youths are imprisoned each year.

Community-Supervised Re-entry

Programs designed to support youth upon return from residential placements to the community are provided through the Michigan Public Health Institute, a private company contracted with the State to provide youth re-entry services. Additional re-entry programs exist in several counties or are provided by the residential facilities themselves to assist youth in making the transition back home.

No public data are available to report on the number of youth served by these programs each year, the interventions that were offered, the program outcomes or recidivism.

⁸⁶ MDHHS (2020): [Out-of-State Facilities Placements](#)

⁸⁷ MDOC (2011): [Report to the Legislature Pursuant to P.A. 188 of 2010, Training Report for Staff with Youthful Offenders](#)

⁸⁸ MCCC (2014): [Youth Behind Bars](#)



Figure 4.24: Youth less than 18 years old in Michigan prisons



Data Source: Michigan Department of Corrections (2018-2021)

Emerging Issues

The Governor’s Task Force on Juvenile Justice Reform

Governor Whitmer launched a bipartisan task force in June 2021 formed to analyze the juvenile justice system and recommend changes to the system that are supported by data, evidence, and fundamental constitutional principles. The Task Force is to complete their work by July 2022.

Mental Health Treatment and Diversion

The recent involvement of the Division for Mental Health Services for Children and Families in providing youth justice prevention and intervention programming in counties across the state illustrates the state’s expanded view of how children become involved in the justice system and how to prevent involvement of youth with mental health issues.



Families First Prevention and Services Act Funding

With the passage of the Families First Prevention Services Act, several states, including Michigan, are beginning to understand how this funding and the prevention services provided under the act may be available to provide services for youth at risk of justice involvement. This will allow counties to expand their prevention programming by leveraging federal funding.

Implementation of Raise the Age

Raise the Age, allowing 17-year-olds to become part of the youth justice system rather than the adult criminal justice system, will become effective in October 2021. This will provide broad insight into the number of 17-year-olds involved in the justice system and the severity of their offenses, something that was not easily ascertained when the legislation was pending. The influx of 17-year-olds into the youth justice system may challenge local courts to expand their existing interventions as well as their staffing.



Shackling of Youth in the Courtroom

Michigan Governor Gretchen Whitmer issued a proclamation in October 2020 proclaiming October 2020 as Youth Justice Action Month.⁸⁹ In this proclamation, Governor Whitmer stated that the U.S. Supreme Court ruled that shackling during sentencing was a painful, embarrassing and potentially traumatic event that violates the due process rights of adult defendants but that this ruling was not extended to justice-involved youth. Whitmer proclaimed that the state should end the indiscriminate shackling for youth appearing in court. After this proclamation, the Michigan Supreme Court heard public comment on limiting shackling of youth during court appearances to only those who have committed serious violent offenses and/or those who are a credible flight risk. A final ruling is pending.

Decriminalization of Status Offenses

Governor Whitmer, in a proclamation making October 2020 Youth Justice Action Month, recognized the importance of diversion programs for young people and stated an opposition to criminal process for referrals made from schools and other systems of care (e.g., child welfare, mental health). Washtenaw County Prosecutor Eli Savit, recognizing that a punishment approach to youth justice is “largely counter-productive” announced that he will not prosecute youth for low-level crimes and status offenses. Instead, he will seek to address the problems through referrals to community-based services.



Youth Defense

The National Juvenile Defender Center, in releasing their assessment on youth defense in Michigan, has concluded that Michigan’s county-based system of youth defense does not meet the state’s obligation to provide defense counsel to young people.⁹⁰ The report recommends several areas for improvement, including expanding the role of the State Appellate Defender Office (SADO), examining and adjusting the pay and caseloads for youth defense counsel, and requiring youth-specific training for lawyers serving as youth defense counsel. These suggestions have been reviewed by numerous stakeholder groups, including SADO, the Michigan Indigent Defense Commission, and the Michigan legislature for action this year.

Fines and Fees

Michigan courts can charge youth and their families’ fees for court services including representation by assigned counsel, detention stays, probation supervision, diversion programs and other services provided as part of their court ordered disposition. The court is required to determine the ability of the youth and the family to pay the fees, however, “ability to pay” assessments are completed differently across the court system.⁸⁷ While the court can waive some of the fines and fees or determine an alternative to payment, such as community service,⁹¹ some courts continue to charge fines and fees that are burdensome and damaging to many families caught up in the youth justice system. A few courts, faced with large unpaid assessments and the realization that the families simply could not pay the fines and fees, stopped assessing and collecting fees.

⁸⁹ Office of Governor Gretchen Whitmer (2020): [October 2020: Youth Justice Action Month](#)
⁹⁰ NJDC (2020): [Overdue for Justice](#)
⁹¹ SCAO (2021): [Circuit Court Fee and Assessment Table](#)

Conclusion



In recent years, the state of Michigan has made meaningful changes in criminal justice reform and observed considerable shifts related to crime, incarcerated populations, and expenditures, among other factors. However, in the coming years the state will face difficult decisions in how to sustain the progress made, mitigate emergent trends, and implement best practices for currently and formerly incarcerated people.

One marker of improvement has been the declining prison population in Michigan. The state's prison population is the lowest it has been in nearly three decades, and this population has seen a steady decline from year to year. However, there are concerns that these trends may plateau, or even reverse, in the years to come. Other issues remain, such that racial and ethnic disparities skew toward people of color (particularly Black), while newer issues have emerged, as women are an ever-increasing population in Michigan's carceral system. Data also suggest that the state's prison and jail populations are often re-populated by individuals on parole or probation, which indicates that further reform is needed to ensure that these individuals are granted just opportunities to contribute to society and regain personal agency. Jails have become de facto behavioral health treatment facilities due to decreasing community supports and barriers to treatment. This issue is compounded because jail administrators have few resources to identify, treat, or oversee persons with mental health or substance use issues.

With regards to Michigan's justice-involved youth, the juvenile justice system should be designed to provide services in the least restrictive environment possible that simultaneously protects public safety and supports developmental gains. The youth justice system in Michigan is decentralized and aggregate data reporting on key indicators is non-existent. Thus, Michigan relies

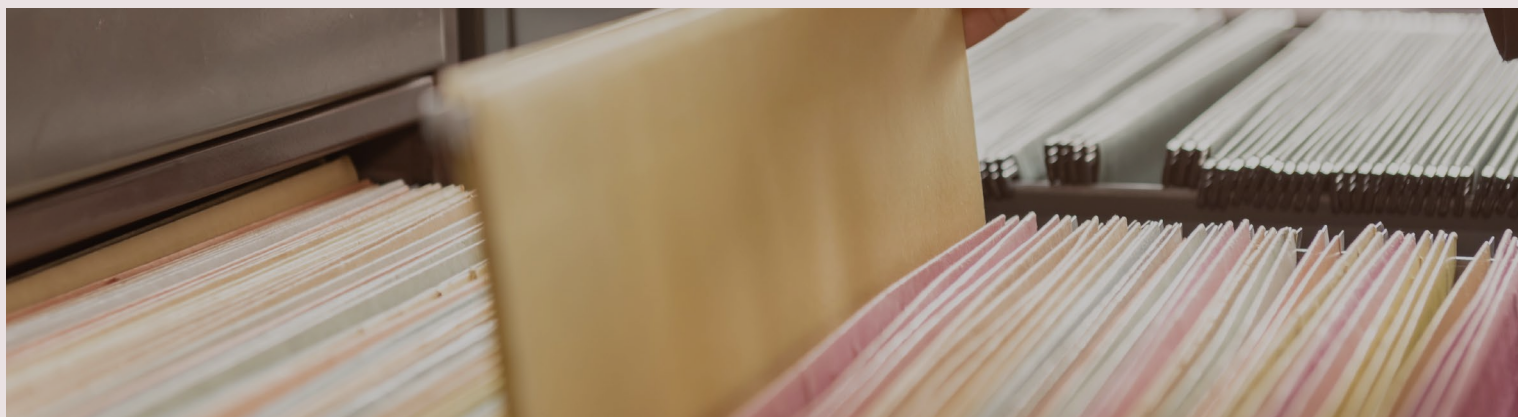
on self-reported and anecdotal evidence to determine whether the system and services offered are cost effective and evidence based. Critically, basic questions pertaining to the youth justice system in Michigan remain largely unanswered:

- How many youth were arrested last year?
- How many youth are on probation today?
- Is the juvenile justice system equitable and fair, or are disparities evident at key decision points?
- How many youth will return to the court for a new offense?
- Which programs are achieving desired outcomes?
- Where are these programs located, and can they be replicated successfully?

It is our hope that this report is the beginning of a longer conversation about adult and youth justice issues in Michigan, where it is today, and where stakeholders would like to see it evolve in the future. We encourage stakeholders across the system to ask questions and to embark on meaningful dialogue around the effectiveness of a system that touches the lives of numerous adults, youth, and their families.



Issues with Data in the Criminal/ Legal System for Adults and Youths



Across the criminal legal continuum in Michigan, there are hurdles in obtaining consistent, reliable, and accurate data and information. Data within a single system tends to be more accurate and reliable; however, cross-systems data analysis is particularly challenging. Assessing outcomes often has researchers, policy makers and advocates tasked with trying to find and manually link data across different systems to tell the story of system involvement or assess changes that occur within and between systems.

Ideally, reliable data (and a careful and thoughtful analysis of those data) would be readily available to inform policy and practice. Further, regular reports would be available to the public to increase understanding of system involvement and the outcomes attained by these systems. Before the state, counties and municipalities can move toward data driven decision-making, there exist significant barriers. These include:

1. Access to data.
2. Missing/incomplete data.
3. Inconsistent/varying data definitions.
4. Lack of data integration across systems.
5. Subjective decision-making.
6. Multi-layered systems.
7. Confidentiality.
8. Funding to develop local data solutions and staffing to support data collection and reporting.

The goal of this addendum is to elaborate on the barriers cited above and to illustrate some of the inadequacies inherent when attempting to assess benchmarks, trends, and intervention outcomes. To illustrate this, we use a common outcome of criminal/legal work - recidivism - to demonstrate the gaps in the state's current ability to measure this fundamental figure.

Measuring Recidivism in Adult and Youth Systems

In 2015, the state's Criminal Justice Policy Commission (CJPC) agreed upon a standard definition of recidivism for the adult justice system. Although this definition was adopted by state legislators (Section 8a 791.208a)¹, it was clear from the outset that the state was not able to measure recidivism as defined.

"Recidivism" means any rearrest, reconviction, or reincarceration in prison or jail for a felony or misdemeanor offense or a probation or parole violation of an individual as measured first after 3 years and again after 5 years from the date of his or her release from incarceration, placement on probation, or conviction, whichever is later.

- MCL § 791.208a

¹ MCL § 791.208a

To measure recidivism according to this definition, data analysts would need to follow every person convicted of a crime for five years. Using the example of a person sent to and released from prison, reporting on recidivism would include much more than simply a return to prison (the Michigan Department of Corrections (MDOC)'s prior definition of recidivism). MDOC tracks individuals until they are released from parole (generally for two years) but has not been set up to monitor new arrests or convictions for persons who are no longer under their supervision. Perhaps more salient in the discussion of data and recidivism tracking are those data points pertaining to persons convicted of a crime who are confined to jail (where recidivism is rarely tracked at all) or those who receive probation sentences (where probation violations are likely the only type of recidivism tracked).

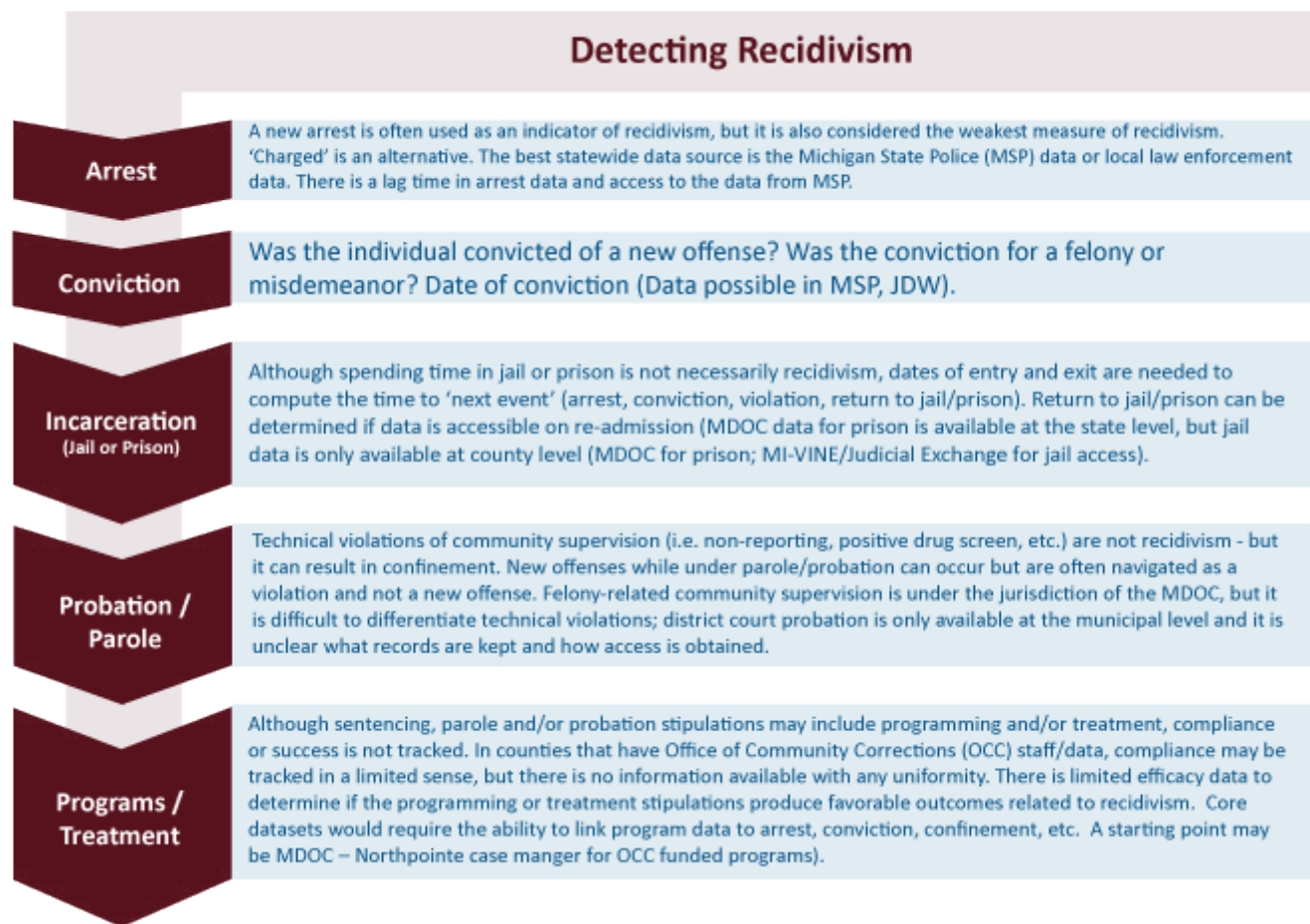
Recidivism has not been defined in the youth justice system. Local courts use different variations of the definition. In all cases, the data required for a definitive determination of recidivism, regardless of definition, is not completely available. For example, some courts define recidivism as re-arrest within their home county, while others define recidivism using only adjudicated (i.e., guilty) delinquency petitions. Unlike the adult definition which specifies observing all individuals for five years, the period of observation varies between courts. Moreover, there are problems and serious limitations with using youth arrest data. These problems and limitations are noted in the arrest section of the youth justice chapter.



Figure A.1 demonstrates the complexities of measuring recidivism in Michigan. Measuring recidivism requires tracking unique individuals across all 83 counties, 57 circuit courts, numerous district courts and sometimes (for youth in particular) between numerous agency and information systems. For example, youth justice data only capture events through 16 years of age. Measuring recidivism would require merging county youth arrest files with adult arrest files contained in state police data. Similarly, state police data do not capture details on probation and MDOC data do not capture individual arrests. Consequently, measuring adult recidivism also requires connecting more than one data source. In addition to the political barriers that often obstruct the sharing of criminal justice data, there are no common and unique identifiers (e.g., social security number) that easily permit tracking individuals as they move across counties and between systems.

Measuring recidivism according to the state definition is achievable for a sample of individuals in which data could be artificially linked (pulling data from several administrative databases and then linking them together in a separate database). This method would be helpful in determining an aggregate recidivism level at each intercept of the criminal/legal continuum. However, this could only be done retrospectively, and the state currently lacks the capacity to track each person receiving a sentence of probation or incarceration for five years.

Figure A.1: Data Required to Detect Recidivism Across the Criminal Justice Continuum



Data Source: Compiled by the Center for Behavioral Health and Justice (WSU) and Child and Adolescent Data Lab (UM)

Barriers in Assessing and Measuring Criminal Legal System Involvement

Access to Data

Most data involved in assessing the criminal/legal system in Michigan comes from management information systems. This means that the data are 'owned' by that system and permissions are needed for access from each separate system. Obtaining access may require the negotiation and execution of legal data use agreements (DUA), which requires specific information related to the requested data. There can be a cost for the data and, at times, specific entities refuse to share data, citing various privacy protections as prohibitive. When requests are fulfilled, the process can take months, or years, and generally involves legal counsel on both sides.

Another option is to file Freedom of Information Act (FOIA) requests (see [Freedom of Information Act Handbook](#), 2019, by Dana Nessel). Requesting public

records from the state, county or local public body has been a successful strategy for advocacy groups. However, FOIA requests can be limiting when trying to match and connect individuals across systems, particularly when some records are unattainable pertaining to law enforcement or court proceedings.

There are a few options for publicly accessible data, but the data that is accessible severely limits the ability to engage in large scale analysis. One example, the Offender Tracking Information System (OTIS), is managed by MDOC. In this system, a name or prisoner identification number is necessary to query an individual's whereabouts within the system. OTIS is also purged of historical records, making retrospective connections impossible.



Missing or Incomplete Data

Data can be missing for a variety of reasons; the information is unknown, a person refuses to give the information, the person collecting or inputting the data made an error, and/or the data is no longer needed. However, the proportion of missing data in any system can be problematic (e.g. more than 10 percent missing is considered problematic). When working with administrative data, there are often fields that are not completed or that have been filled out inconsistently. Likely there is some nomenclature within the system that those internal to it understand regarding the data completion – however, those external to the system may not. For example, the Judicial Data Warehouse (JDW) harmonizes data from court case management systems across Michigan. Variables differ in ‘completeness’ due in part to the attempts to harmonize data across multiple courts and in part to whether the field is required and how local courts interpret the data value for each field. Many variables have extensive missing data, and it is not clear if the information did not exist in the primary data or if it was lost in harmonization. Either way, the high proportion of missing data is problematic for analysis.

Inconsistent or Varying Data Definitions

When working within one system (i.e. MDOC) it is easy to create variable definitions and codes that are used universally. However, it is much more challenging to do this when collecting data across multiple systems and locations. As discussed previously, the JDW integrates data from hundreds of courts across the state. Each of these courts may use a different case management software system and vendor. Variables such as race and ethnicity may be operationalized differently across different courts with more or less specificity. When harmonizing data across these multiple courts, decisions may need to be made regarding whether race variables are ‘collapsed’ to a very basic categorization system (i.e. White/non-White) that results in potentially erroneous data when assessing disproportionality. Similarly, the sharing of JDW data for youth is limited to authorized petitions. There is no universal agreement between counties on which petitions should be authorized. Juvenile Justice 20/20 published a juvenile justice [data dictionary](#) for use across the youth justice continuum. The data dictionary was developed through a consensus process among court administrators and reflects definitions publicly established by statute, court rules and the Juvenile Justice Benchbook. The data dictionary is publicly available on the JJ 20/20 website, however, not everyone in the youth justice system is aware of its availability, therefore inconsistencies in data entered in each field remains.



Lacking Data Integration Across Systems

Perhaps nowhere is the lack of data integration more apparent in Michigan’s criminal/legal system than across the 81 jails in the state. This becomes particularly problematic in trying to determine recidivism when an individual might cross a county border. As county administered entities, jails are beholden to their county commissioners, along with an affiliation with MDOC as far as some administrative regulatory rules. Data and management information systems within jails across the state use a variety of software platforms. There is little integrated or harmonized data available that links all county-level jails together or integrates it with other systems such as MDOC. (NOTE: JPIS is an MDOC- related data gathering tool that assesses aggregate level jail capacity, but not all counties participate.)

A similar problem is observed for the 25 youth detention centers across the state and the private residential facilities that serve youth for longer-term placements. Detention centers are locally owned and operated, with no ties to state level systems beyond facility licensing. Residential facilities are owned by private, non-profit agencies. Detention and residential facilities use a variety of database programs to collect data and manage individual youth cases. Much of this data is not shared or integrated with other data systems to assess numbers served, length of stay, outcomes, or recidivism.

One network that does link data from most jails across the state is APRIS. APRIS’ Victim Identification Network (MI-VINE) uses data from most jails across the state, MDOC, and county level prosecutors to create a pool of information. The primary purpose of this data network is to alert crime victims of the status of their case and the whereabouts of the crime perpetrator. APRIS’ behind-the-scenes efforts at harmonizing jail data across the state is paid for through a contract with the Michigan Department of Health and Human Services (MDHHS) Office of Victim’s Services. MDHHS subsequently investigated who the APRIS collated data belonged to – since APRIS wanted to sell the data back to the state. The contention is that APRIS has applied their intellectual property to harmonize the data and therefore owns the rights to the collated data.



Subjective Decision-Making

There is little data on the subjective decisions that are made at either the law enforcement stage or the prosecution stage. Prosecutors have control over what charges are filed, who does or who doesn't go to trial, what offenses to charge people with, who gets a plea agreement, what their sentences are, and which youth are tried as adults. However, there is no information to assess this decision-making and thus the public is not able to assess outcomes associated with these decisions.

Multi-Layered Systems

State-level systems are often replicated at the county level – creating the need for an interface between county and state-level data. This is true of criminal/legal data (as well as human service data) and can be truly challenging when trying to assess outcomes for those with serious mental illness.

Perhaps there is no place that illustrates the issues associated with multi-layered systems than the youth system. A youth could be in the care of the child welfare system, receiving treatment in the mental health system, arrested for an offense in the youth justice system, and subsequently recorded as truant in the educational system, for example. Records of involvement in these systems are not shared and each system is often unaware of the other's involvement in the life of the youth and family (at least in the beginning). Outcomes for multi-system youth are difficult, if not impossible, to ascertain due to the numerous data systems which must be accessed to determine involvement within and among these systems.



Confidentiality Issues

Concern with confidentiality is often the reason access to data is restricted. For example, the Juvenile Diversion Act protects the identities of youth who are diverted from formal system involvement and specifies that release of the data to any entity not named in the Act is a misdemeanor offense. Recent legislation protects youth records from public availability, limiting those records to law enforcement, the court, and others with a "legitimate need to know". While protection from public disclosure is essential when dealing with minors, these laws create new and additional barriers to obtaining youth justice data. To be sure, privacy concerns should be of utmost importance in protecting involved youth, but often doors are closed before discussions around methods for protecting confidentiality in data analysis and publication of aggregate, non-identifiable reports can be conducted.

Illustrating Data Issues in Adult and Youth Justice

The Michigan Supreme Court, State Court Administrative Office (SCAO) is the administrative agency of the Michigan Supreme Court. The Judicial Data Warehouse (JDW) is housed within SCAO and harmonizes data across more than 200 courts (and other agencies) within the state, providing an electronic repository for court records in civil and criminal cases. While the JDW is the best example of integrated and harmonized data within the state, it is important to note some limitations with its records.

The objective of the JDW is to create a statewide and somewhat standardized data repository, but there are several missing courts. Specifically, adult criminal data is missing from two jurisdictions and juvenile data is missing from four counties. Further, the data collected varies between counties and sometimes between years. Thus, the JDW data represent an underestimate of the true number of cases and youth petitions filed with SCAO.

Figure A.2: Found in JDW by County

	Found in JDW		Not Found in JDW		Total	
	Number	Frequency	Number	Frequency	Number	Frequency
Barry	89	60.1%	59	39.9%	148	100.0%
Berrien	31	9.7%	289	90.3%	320	100.0%
Kalamazoo	311	78.7%	84	21.3%	395	100.0%
Kent	193	56.8%	147	43.2%	340	100.0%
Livingston	235	67.7%	112	32.3%	347	100.0%
Marquette	364	73.4%	132	26.6%	496	100.0%
Monroe	385	86.1%	62	13.9%	447	100.0%
Oakland	230	60.5%	150	39.5%	380	100.0%
St. Joe	239	84.5%	44	15.5%	283	100.0%
Wayne	245	69.0%	110	31.0%	355	100.0%
Total	2322	66.1%	1189	33.9%	3511	100.0%
Total Without Berrien	2291	71.8%	900	28.2%	3191	100.0%

Data source: Judicial Data Warehouse; Michigan Supreme Court, State Court Administrative Office (2009-2019)

Adult System: Linking Data Across Systems

In an ongoing study of jail diversion, data analysts from the Center for Behavioral Health and Justice routinely pull data from several state level administrative data sets to ‘follow’ individuals through criminal/legal systems as well as behavioral health service encounters. Individuals followed longitudinally originate from a sample of those incarcerated in county jails. To obtain information about their offense and sentence, data is retrieved from the JDW.

Figure A.2 describes, by county, the number and proportion of files found. Overall, 66 percent of cases were found. Even when omitting Berrien County – a county that does not feed data into the JDW – the hit rate only rises to 72 percent.

Relatedly, even when a case can be found, there are issues with understanding the variation in variable codes because each county is different, and a particular code may have different meanings for different counties. In some instances, analysts found conflicting data on the same case (i.e. guilty on one variable and not guilty on another for the same case). Perhaps most concerning is that there are no direct identifiers from jail data to the JDW. Assumptions need to be made about whether a JDW “case” is the same as a target offense for booking, and thus severity and offense type only matched a relatively small percentage of the time (e.g., 30 percent). A number of the variables in the JDW could not be used because they were so inconsistently coded (i.e., some only use Michigan Compiled Laws (MCL) codes, some only use Prosecuting Attorneys Coordinating Council (PACC) codes, and others only use local ordinance codes). Finally, variable responses are not entered the same way each time.

Delinquency Petitions and Adjudication Trends in the Youth System

Several data limitations were uncovered in measuring involvement in the youth justice system. Large segments of the youth justice system do not aggregate or report their data to a central repository; thus, these data are simply not available for use. To illustrate these limitations, youth delinquency petitions and adjudication trends are explored.

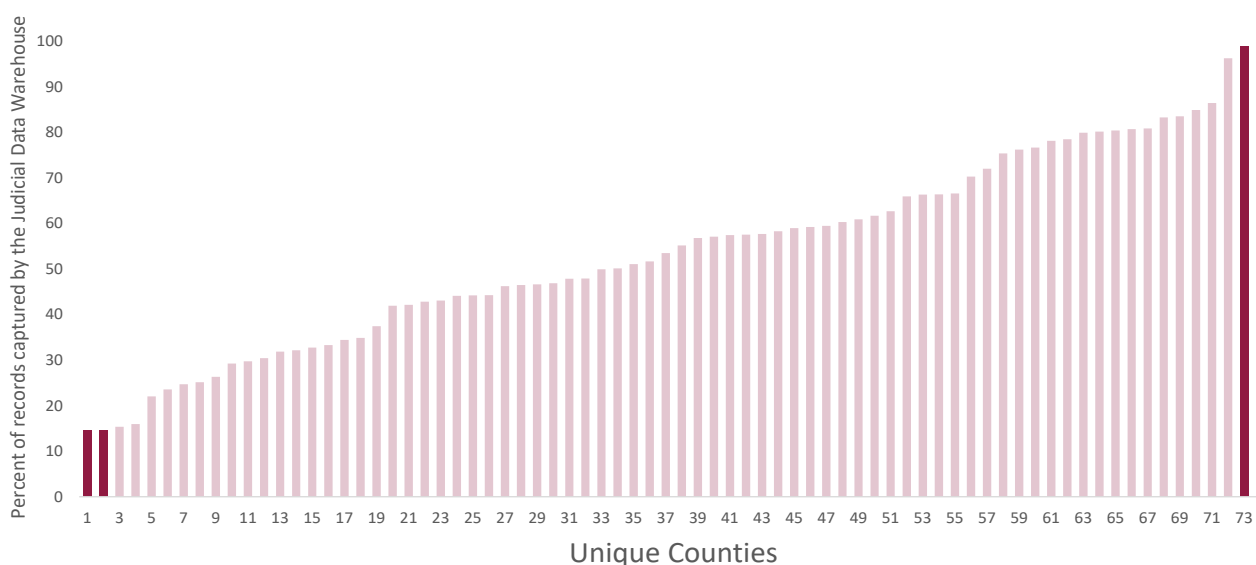
After a young person is arrested, the next decision point is whether they are diverted from formal processing or a delinquency petition is filed. Michigan currently has very little available data focused specifically on diversion. Thus, much of the discussion of data, evidence, and trends moving forward is limited to youth with formal delinquency petitions and, in many instances, youth with only adjudicated petitions (i.e., those in which the youth was found guilty).

Publicly available reports do not allow tracking youth across other allied systems of care (e.g. child welfare, adult corrections, education). For these reasons, the Child and Adolescent Data Lab and SCAO created a data sharing agreement that permits access to individual level ‘authorized’ records in the JDW. The JDW data are used to track individuals across time to estimate outcomes such as recidivism and to understand the involvement and experiences of youth in other systems of care (e.g., likelihood of graduating high school, involvement with child protection). The JDW includes delinquency petitions filed between 2009 and 2019.

First, we examine differences between the number of petitions reported in SCAO documents² and the petitions made available via the JDW. Figure A.3 displays the overlap between the JDW and SCAO records. The counties range from 15 percent overlap to 99 percent overlap. This measure indicates that at the extremes, a few counties authorize a relatively small percent (15 percent) of the delinquency petitions in that county and a few authorize essentially all (99 percent) of their delinquency petitions.

Second, the factors that might explain the undercount were investigated by reviewing the likelihood of an adjudication (i.e., individual youth found guilty) at the county level. At the extreme, some counties appear to share only adjudicated cases - that is, in 99 percent of the petitions that appear in the JDW file, the youth is found responsible.³ In contrast, several other counties appear to share all delinquency petition cases whether the youth was adjudicated or not. This is evidenced by the likelihood of adjudication closer to 46 percent in some counties. This is important to know because it will help guide analyses related to system performance. For example, if stakeholders in Michigan want to use JDW data to estimate the risk of adjudication by race (in hopes of uncovering and addressing disparities that exist) they will need to avoid counties where the overlap with SCAO is low or the inclusion of petitions is biased by the adjudication status.

Figure A.3: County Reports in JDW as a Percent of all SCAO Records



Data Source: Judicial Data Warehouse; Michigan Supreme Court, State Court Administrative Office (2009-2019)

² SCAO caseload reports

³ In the juvenile justice system, a juvenile is found “responsible” rather than “guilty”.

Aspirational Data and Data Transparency

Although policymakers, public servants, advocates, and researchers in Michigan have worked within the limitations of current data systems, the results are often labor intensive and likely do not tell the whole story due to missing information. There is an opportunity for the State to improve data access by integrating administrative data and innovating effective data systems. Criminal/legal policy reform will be most effective when it is data-driven. A data-driven policy-making process moves us past anecdotes, conjecture, and emotion. A data-driven system allows for assessment and evaluation of policy initiatives. Further, when adult and youth criminal/legal systems can effectively evaluate outcomes, program effectiveness and the experiences of persons moving within and between allied systems, the state will be safer and more just for all Michiganders.

State governments encounter four primary challenges when it comes to using data to improve public policy.⁴ The first challenge is staffing, a lack of human capital, and technical expertise. This can be resolved with strategic partnerships (many of which already exist) with universities and data scientists. The other three obstacles are data accessibility (e.g., individual courts collecting, but unable to retrieve data), data quality

(e.g., definitions vary between counties, information is not systematically collected, no mechanisms of quality assurance are in place) and data sharing (e.g., the basic requirement that counties share information with the State so that there exists some universal understanding of overall system performance). These challenges are not insurmountable, but overcoming them will require a commitment to transparency and collaboration.

There is much work to be done, but steps can be taken to move toward the goal of a consistent and reliable system. To generate ideas and ignite new pursuits across the state, Table seeks to outline a 'wish list' of data that the state could aspire to create. This aspirational list of variables would be part of an integrated system that would provide transparency and regulated access. Though this list is intended to be comprehensive, there are likely data that have been unintentionally left out.

The authors of this document are excited to step forward in the journey of data-driven criminal/legal and youth justice reform alongside our colleagues in research, leaders in public service and policy making, and the citizens of Michigan.



⁴ Pew Trusts (2018): [Using Data to Improve Policy Decisions](#)

Figure A.4: Aspirational System, Aggregate, and Individual Data⁴

System Data	Aggregate Level Data	Individual Level Data
Police: <ul style="list-style-type: none"> Number in each system. Demographics of officers. 	<ul style="list-style-type: none"> Number of arrests by: <ul style="list-style-type: none"> Statute. Location. Date. Demographics of officers. Demographics of individuals arrested. Diversions in lieu of arrest. 	<ul style="list-style-type: none"> Complaint number. Statutory cite. Offense date. Offense location. Arrest date. Arresting officer info. Arrestee info: <ul style="list-style-type: none"> Identifier. Demographics. Mental health. Substance abuse. Medical issues. Employment. Residence. Youth history. Prior arrests. Prior convictions. Arrest circumstances. Victim info. <ul style="list-style-type: none"> Demographics. Relationship to arrestee. Nature of injuries. Residence. Special vulnerabilities. Role in offense, e.g. provocation. Weapon. Co-defendant(s) [Identifier]. Arrestee's role in offense.
Prosecution: <ul style="list-style-type: none"> County. Elected prosecutor. Trial prosecutor – P-number, age, race/ethnicity, gender, year employed. 	<ul style="list-style-type: none"> Number of charges/case. Proportion of felony-firearm charges in eligible cases. Proportion of habitual offender charges (2nd, 3rd, 4th) in eligible cases Plea bargains offered and accepted. No. of juvenile waivers. <ul style="list-style-type: none"> Traditional. Automatic. Designation. <ul style="list-style-type: none"> Prosecutor. Court. 	<ul style="list-style-type: none"> Juvenile waiver, if applicable, by type. Charge(s) brought. Terms of plea bargain. This is documented on record of plea proceeding but record isn't transcribed unless there is an appeal. That single portion could be produced and placed in file/on database. Charges tried. Sentencing recommendation.
Defense (Trial): <ul style="list-style-type: none"> ID/P-number, age, race/ethnicity, gender, years in practice. Retained. Appointed Specialized training. Public Defender Private Assigned	<ul style="list-style-type: none"> Number of defense cases/year. Jury and bench trials. Demographic data on defendants. Win/loss/plea acceptance/appeals. Average length of discovery. Ave length of trial. Use of expert witnesses. Sentencing outcomes. 	<ul style="list-style-type: none"> Bail (amt/posted). Bond/personal bond. Pretrial. <ul style="list-style-type: none"> Release Conditions. Time between arrest and arraignment. Charges. Pretrial motions (type/date). Disposition. Plea. Trial (bench/jury) Conviction/adjudication. Sentencing/disposition. <ul style="list-style-type: none"> Name of Presentence investigator. Guidelines; score on offense variables and prior record variables. Score on pre-disposition assessments. Recommended Sentence. Sentence Imposed. Departure . Multiple Sentences (concurrent/ consecutive). Habitual. Felony Firearm.
Jail/Prison Detention/Residential Placement	<ul style="list-style-type: none"> Total number served per year by age, race, gender, offense. Average length of stay, plus lowest length of stay and highest length of stay. Fees assessed. Interventions/treatment received. Conditions of discharge. Re-entry services provided. 	<ul style="list-style-type: none"> Demographic data. Number of days served. Convicting offense. Facility where placed. First placement. Subsequent placements. Reason for placement and re-placements. Interventions/treatment/services received. Assessment results. Educational attainment while in placement.
Probation/Parole	<ul style="list-style-type: none"> Total number served each year by demographic categories. Offenses of those served. Length of time on probation, average, high, low. Type of parole (intensive, surveillance, etc.). Interventions/services provided. Conditions of parole. Number of violations and demographics of violators. Number successful and unsuccessful completions. 	<ul style="list-style-type: none"> Demographic data. Probation/parole reason. Offense. Prior placement(s). Interventions/treatment/services provided. Violation of parole/probation or technical violations. Completion date.

⁴ This table was compiled by the authors with contributions from Barbara Levine.



Figure A.5: Data Collection Issues Across Michigan’s Adult and Youth Criminal/Legal System

Point in the CJ Continuum	ADULT	YOUTH	Additional Notes
Deflection	Primarily collected as officer call disposition in municipal or local data— not available at state level.	Same as adult system.	Officers may not record these interactions unless there is a dispatch report.
Crime Reporting	Michigan State Police – Michigan Incident Crime Reporting (MICR).	Same as adult system.	Crime reporting is only as good as the data coming into it. Some municipalities do not provide data – or provide incomplete data.
Arrest	Michigan State Police – Law Enforcement Information Network can provide individual level data on arrest.	Same as adult system.	Limited access; needs identifiers; issue with obtaining and uploading all municipal data. There is local variation in what is reported as an arrest. New legislation provides privacy protections to youth records and shields them from availability through LEIN with the exception of law enforcement, prosecution, courts and others with a valid need to know
Arraignment	Michigan Supreme Court, State Court Administrative Office; Judicial Data Warehouse (JDW). County Prosecutor data.	Unavailable.	Prosecutor data is rarely accessible to outside agencies or researchers.
Diversion	Some information captured in SCAO specialty court dockets; not available in JDW. May also be kept at local level by prosecutor or program level.	May be captured in JDW data for cases diverted or not authorized by the court for adjudication, or cases placed on consent calendar in lieu of adjudication.	Diversion prior to court involvement, such as by law enforcement or prosecution, is not captured in any centralized data base. Consent calendar is reported to the JDW by some, but not all, counties.
Conviction	Michigan Supreme Court, State Court Administrative Office, Judicial Data Warehouse (JDW).	Same as adult system.	Four counties do not send their youth court data to SCAO. Some counties ONLY send their adjudicated cases, not all cases filed with the court.
Sentence	Michigan Supreme Court, State Court Administrative Office, Judicial Data Warehouse (JDW).	Unavailable.	Sentencing recommendations (listed on Presentence Investigation Report) not available; relationship between recommendation and actual sentence not captured.
Detention	State Prison data: MDOC. Aggregate Jail data statewide: None. Possible to do MVINE – but not available	Unavailable.	MDOC Annual Statistical Reports provide aggregate data; individual level accessible with permission and DUA. Jail data collected at individual jail level; access varies depending upon county. Some courts provide annual reports to their constituents that include detention data and information. No statewide census reporting is available.
Post-Release/ Reentry	Parole: MDOC. Felony Probation: MDOC.	Unavailable.	MDOC annual reports provided the most information on parole and probation. This includes the number of individuals under supervision and those released on parole each year. Community Corrections Boards may be involved in probation related services in some counties, but collective information is not available. MPHI holds the state contract for youth re-entry services. Public reports on the number of youths served and their outcomes has not been published. Some courts publish data in an annual report to their county constituents, but it is not combined with other county data to create a state-level report.



www.publicwelfare.org

www.cfsem.org/initiative/michigan-justice-fund

<https://behaviorhealthjustice.wayne.edu/>

<https://ssw-datalab.org/>