

**APPENDIX A
JUVENILE
JUSTICE
BACKGROUND**

JUVENILE JUSTICE 21



**A CLOSER LOOK AT
MINNESOTA'S JUVENILE
JUSTICE SYSTEM**

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Introduction

It comes as no surprise that juvenile crime affects every community in the United States. Historically, states have recognized that youth crime differs significantly from crime committed by adults, hence the establishment of a separate juvenile court system. More recently, public dialogue has shifted to the over-incarceration of adults while placing a lesser focus on youth. Although this can be attributed to the smaller composition of incarcerated youth than adults (in 2010, approximately 2.2 million adults were incarcerated in comparison to 70,000 youth),¹ it does not discount several issues that continue to plague the juvenile justice system.

In Minnesota, juvenile crime has steadily declined by 55% since the late 1990s and has reached a 30-year low.² Anecdotal evidence attributes this decline to changes in legislation, funding, programs and the economic climate over the last few years.³ While this is an outstanding achievement in Minnesota, it is important to acknowledge that there are still many issues within Minnesota's juvenile justice system that are in need of reform.

The purpose of this literature review is to contextualize the issues that currently exist within Minnesota's juvenile justice system. The review will begin by providing historical context of the juvenile justice system in the United States and Minnesota, followed by an international comparison of juvenile justice in other industrialized countries. The review will then highlight recent reform efforts in the United States and Minnesota and will shift focus onto the issues affecting juveniles in Minnesota's justice system. While it is recognized that numerous issues exist in the juvenile system, this review specifically discusses collateral consequences, sentencing, racial and ethnic disparities and diversion. The review will close with promising practices in the juvenile system.

The Transformation of the Juvenile Justice System in the U.S: The Past 30 Years

The juvenile justice system in the United States has gradually transformed since its inception in the middle ages. Prior to the 1960s, treatment of juvenile offenders focused on a *patriae* model where the State assumed a legal guardian role for juvenile offenders that needed protection from adult wrongdoers.⁴

During the 1960s and the early 1970s, a belief emerged that juvenile crime was becoming too prevalent. This belief was not substantiated by evidence until after the mid 1970s when juvenile crime did indeed rise. Juvenile delinquency continued to rise steadily throughout the 1980s and peaked in the mid 1990s, resulting in juvenile crime becoming the center of political and societal conversation.⁴ This period triggered a shift from the *parens patriae* model to a crime control model - a model focused on reducing crime levels through the use of increased law enforcement and prosecutorial power. Increasing rates of juvenile crime, particularly

homicides, led some politicians to argue that the juvenile justice system's goal to rehabilitate was a failure due to high rates of recidivism.⁵

Political and societal concerns over youth violence were influenced by a small percentage of heinous crimes that occurred during this time. Due to public outrage towards these crimes, advocates for crime control initiated a campaign against what was termed as the "super-predators". The super-predator was a label used to describe extremely violent, dangerous and remorseless juvenile offenders.^{4,5} In 1993, public fear led politicians to drift away from a rehabilitative model and position themselves towards "get tough" policies for juvenile offenders.⁴

Politicians began to introduce punitive policies and legislation shortly after youth violence peaked.⁵ Some states lowered the age for judicial transfer in order to permit the prosecution of youth in the adult system. Other states also identified additional crimes to add to the list of transferrable offenses. However, the most significant change was the implementation of automatic transfer statutes.^{4,5} The viewpoint behind automatic transfer statutes was to ensure that youth committing "adult crimes" would be required to serve "adult time".⁴ This meant that juvenile offenders would be treated as adults under specific circumstances. Depending on the state, age and type of crime served as criteria to determine automatic transfers. For example, some states had laws whereby all 13-year-olds who were charged with murder and all 16-year-old offenders were transferred to adult criminal court.⁵ Moreover, the transfer authority was now placed in the hands of prosecutors rather than at the discretion of juvenile court judges.⁴ It is estimated that approximately 250,000 youth were prosecuted in the adult criminal court each year as a result of this legislation.⁵

In the late 1990s, youth crime began to decline and by the end of the 20th century, political figures across the country began to evaluate the consequences of punitive policies.⁶ It was soon recognized that the fiscal and societal costs of punitive measures, particularly incarceration, were undesirable. During the same period, cutting-edge brain research reinforced the notion of developmental differences between youth and adults, thus providing strong evidence for separate treatment of youth and adults.⁶ This generated a movement to create a system that demands accountability from juvenile offenders by using developmentally appropriate intervention and simultaneously ensuring the public safety. Some of these reforms encompassed efforts to reduce incarceration, differentiating between youth and adult offenders and diverting youth away from the juvenile justice system.⁶

A Historical Snapshot of Minnesota's Juvenile Justice System: The Past 30 Years

The 1960s was an important period for juvenile justice in the United States. The U.S Supreme Court began hearing several cases that eventually led to the modification of proceedings in the juvenile court.^{7,8} As a result of these developments, Minnesota began to evaluate its juvenile court procedures across the state. This evaluation identified a need for standardized procedures for juvenile delinquency cases.⁸ The goal of implementing procedural

rules was to strike a balance between a child-centered juvenile court system (the *parens patriae* model) while maintaining constitutional rights and procedural due process requirements.⁸ In order for the rules to be comprehensive, it was deemed essential for judges to be well informed on sociological, psychological and child development issues.⁸ Since individual counties in Minnesota had the authority over the structure of the juvenile court between 1969 and 1983, procedural rules for juvenile cases varied across counties, metropolitan and rural areas.^{8,9}

It was not until 1983 that the Minnesota Legislature approved the development of uniform procedures that would be applicable to all juvenile proceedings within the entire state. Thereafter, the Minnesota Supreme Court adopted its first set of uniform rules to govern juvenile procedures in Minnesota.⁸ During this period, adult criminal procedure is said to have influenced juvenile justice courts. The Minnesota Supreme Court implemented policies that provided juvenile offenders with lesser safeguards than that for adult offenders.¹⁰ Although considerable evidence demonstrated that youth under the age of 16 do not exercise the same judgment of their legal rights as adults, juvenile offenders continued to be treated as adults under these rules. For instance, allowing juveniles to waive their *Miranda* rights and their right to counsel dismissed their inability to understand legal issues. Such policies characterized an unfair justice system.¹⁰ Several appeals to increase procedural safeguards for youth, such as allowing a parent to be present during interrogations, were denied by the Minnesota Supreme Court.¹⁰ On the contrary, the Court was in favor of implementing adult waivers.¹⁰ The punitive impact of the juvenile system was further reinforced in 1986 when the Minnesota Legislature granted the public access to juvenile hearings for youth over the age 16 and for youth charged with felonies, however, still withholding from them the right to a jury trial.¹⁰

When youth violence and homicide increased nationally in the early 1990s, Minnesota also experienced similar trends. In 1995, the Minnesota Legislature executed a series of “get tough” reforms to crack down on rising juvenile violence.¹¹ These reforms further merged the juvenile and criminal justice systems. Amendments included using offense criteria of adult sentencing guidelines to transfer juveniles to the adult criminal justice system, excluding 16-year-olds with murder charges from the juvenile court, etc.¹⁰ Perhaps the most dramatic reform was the blended sentencing law known as Extended Jurisdiction Juvenile Prosecution (EJJ).¹⁰ Under EJJ, youth were sentenced as juveniles but received adult procedural safeguards. Moreover, they were at the juvenile court’s disposition until the age of 21 with a stayed adult criminal sentence. This meant that if the youth offender violated their juvenile probation, the court would execute a stayed criminal sentence.^{10,11} Although the intention of EJJ was to encourage judges to utilize juvenile treatment alternatives, the outcomes were adverse. Judges were still waiving the same number of youth as they previously did and revoking probation of younger, first time juvenile offenders because of technical violations rather than re-offenses.¹⁰

In 2010, Minnesota’s juvenile crime dropped by almost half since 2001. Interestingly, unlike other states that experienced a decline in juvenile violence, Minnesota was not confronted with an impetus (class actions, lawsuits, etc.) that would have likely triggered any changes to the juvenile justice system.¹ Instead, juvenile justice professionals attribute the

decline to the lower number of youth arrests and the modifications of the juvenile statutes in the 1999 crime bill.¹ It is speculated that the lower number of arrests resulted from the altered manner in which youth were processed for certain offenses. Furthermore, the crime bill expanded the list of offenses categorized as petty misdemeanors. This is also thought to have contributed to the decline in the number of arrests because Minnesota's law forbids youth detention for petty misdemeanor offenses.¹

Juvenile Justice in Other Nations

Youth are a unique population because of differences in their mental, social and physical development.¹² The extent to which their developmental stage is considered when coming into contact with law varies across nations. Given that differing political structures, social factors and conceptualizations of juvenile justice exist across nations, cross-national comparisons of juvenile justice trends are challenging.¹³ Nonetheless, using alternative measures to examine general trends have revealed that United States holds 6 times as many youth in secure confinement than in Australia, Canada, United Kingdom, Germany and Finland.¹³ The age of a child held criminally responsible also varies across nations. When compared to these countries, the United States, depending on the state, holds children as young as 6 years old criminally responsible followed by Australia and England at 10, Canada at 12, Germany at 14 and Finland at 15.¹⁴ The young age at which children are held criminally responsible in the United States has contributed to higher incarcerations rates¹³.

Furthermore, Juvenile justice in other industrialized countries emphasizes a pro-social approach to curbing youth violence while placing lesser significance on incarceration. Focus is placed on determining why juvenile delinquencies keep occurring and providing youth with appropriate interventions that yield positive outcomes in their lives.¹³ In 2007, Finland had the lowest incarceration rate when compared to the United States, the United Kingdom and Australia - only three youth under the age of 18 were in custody¹⁵. Perhaps this results from the approach employed towards juvenile offenders. Finland has adopted a welfare approach to juvenile justice where "Care Orders" connect youth offenders to rehabilitation services.¹⁴ In Germany, the approach to juvenile justice is centered on education and disciplinary measures and providing youth with an economic and social support system. First time offenders usually receive a sentence of educative measure up to the age of 21.¹⁶ In countries such as Finland and Germany, crime is recognized as symptoms of larger issues within the society. For instance, drug related offenses are considered a public health problem; therefore, treatment of juvenile offenders is often rehabilitative rather than punitive.¹³

Although the United States relies heavily on incarceration, it is important to acknowledge the large number of alternative and rehabilitative programs and services that exist for juvenile offenders, however, such programs are limited and not readily available to youth that need them the most.¹³

Recent Juvenile Justice Reforms in the U.S: Rethinking the Role of Incarceration

Due to several developments in the early 2000s, juvenile justice in the United States began to take a significant turn via rethinking the role of incarceration.¹⁷ Firstly, youth arrests and the number of youth in residential facilities plummeted dramatically. Between 2001-2010, the number of juvenile incarcerations declined by 32% nationwide.¹⁷ Secondly, the availability of advanced research findings in neurology and developmental psychology further reinforced the 20th century perspective distinguishing youth from adults.¹⁷ Thirdly, incarceration placed a heavy financial burden on taxpayers and on state and county budgets. The cost of confining one youth for a year was approximately \$100,000. This undoubtedly high expense of youth confinement had a clear negative impact on state budgets raising concerns especially in circumstances where incarceration was deemed unnecessary.^{17,18} As a result, the efficacy and lower costs of community-based interventions for youth offenders became an appealing alternative. Research illustrates that such programs have proven to prevent the short-term and long-term negative outcomes of imprisonment and lessen the likelihood for youth to reoffend.^{17,19} Contrary to the super-predator era, public opinion during this period of time also favored the use of rehabilitative alternatives rather than punitive measures.¹⁷ A 2007 poll illustrated that 91% of the American public believed in rehabilitation and the lower costs associated with its approach.²⁰ The simultaneous occurrence of these forces lent a stronger case in favor of juvenile justice reform.

In response to these developments, some states implemented policies that would not only reduce reliance on incarceration but also satisfy public goals by lessening the strain on state and county budgets.¹⁷ Statewide policies included funding for evidence-based alternative interventions, introducing polices (such as risk assessments), preventing youth from unnecessarily being detained while awaiting hearings, downsizing secure juvenile facilities, phasing out school policies connecting youth to the juvenile justice system while transferring responsibility to parents and schools, eliminating the use of incarceration for minor offenses such as running away and lastly, re-evaluating how funding is used to address juvenile justice.¹⁷

More recently, between 2011-2013, almost half of the states enacted legislation to diminish the incarceration of youth under the age of 18.²¹ Eleven states (CO, ID, IN, NV, HI, VA, PA, TX, OR and OH) passed legislation limiting the state's authority to hold youth in adult jails. Eight states (CA, CO, GA, IN, TX, MO, OH and WA) altered their minimum sentencing laws to account for differences that exist between youth and adults and permitted post-sentence reviews for youth sentenced to juvenile life without parole. Eleven states (AZ, CO, CT, DE, IL, NV, UT, VA, WA, OH and MD) modified their transfer laws to ensure that youth will remain in the juvenile justice system and four states (CT, IL, MS and MA) expanded their juvenile court jurisdictions to prevent youth from being automatically tried in criminal court.²¹

Juvenile Justice Reforms in Minnesota: Current and Future Affairs

Juvenile crime has drastically declined in Minnesota and recent reform efforts to improve the juvenile justice system have been a step in the right direction. Nonetheless, there are several other aspects of Minnesota's juvenile justice system that remain unaddressed. The following section discusses recent reforms and issues that need further attention.

Collateral Consequences of Juvenile Records

Public Records

Many believe that delinquency records do not carry long-term repercussions for minors. Contrary to this belief, a juvenile arrest or conviction can in fact affect a minor's life into adulthood. Not only does a minor bear the burden of the stigma associated with a juvenile record but it influences the minor's ability to enroll in educational institutions, secure employment, rent apartments, etc.²² While Minnesota's Legislature and Supreme Court have indeed restrained state agencies, employers and the public from accessing juvenile records, this limitation is not applicable under all circumstances, thus enabling collateral consequences for minors.²²

Under Minnesota's law, records for juveniles under the age of 16 are not public, however, court proceedings and records are public for 16 and 17 year-olds who have been charged with felony level offenses or tried as adults.²³ The records remain public even if the charges against the juvenile are dismissed or reduced. Since prosecutors are initially inclined to charge juveniles with the highest offense possible prior to pleading down to lesser, appropriate charges, the privacy of court records for juveniles subsequently charged with non-violent crimes is compromised. This undoubtedly has negative consequences on the minor's future.²⁴

More recently, reform efforts to protect the privacy of some juveniles are underway. A new law that was to take effect on January 1, 2014 has been delayed as a result of opposition.²⁵ The law proposes to limit public access to electronic records of 16 and 17-year-olds charged with non-violent crimes and first time offenders in the same age category, however, the law stipulates that hardcopy records will still be accessible to the public at the courthouse.²⁵ The purpose of the law is to restrict "data miners" from selling juvenile records to employers, landlords, etc., therefore, preventing minors from collateral consequences that will hinder their future re-integration into the community. The Juvenile Delinquency Rules Committee has expressed its opposition to the law arguing that the logistics around its implementation is not practical given that additional staff oversight would be required to achieve desired outcome. Moreover, the opposition has also voiced concerns regarding victims' opinions on restricting records. In attempt to prevent collateral consequences, juvenile justice advocates are in favor of

giving courts the discretion to evaluate whether cases involving 16 and 17-year-olds should indeed be made public.²⁴ The Court is expected to make a decision in the near future.²⁵

Predatory Offender Registration

In 1994, Minnesota's Legislature expanded the Predatory Offender Registration Act to encompass juveniles adjudicated delinquent for sex offenses to be placed on the registry.^{22,26} Note that juveniles are not listed on public databases unless the offender is over the age of 16 and fails to register him or herself.^{22,26} Current laws requiring sex offender registration for juveniles do not account for differences in the types of offenses committed by youth and adults.²⁷ While some high-risk juvenile offenders certainly commit sex offenses that are extremely serious (such as raping very young children), low-risk youth perpetrating behaviors that do not necessarily pose a risk to the community (such as 'sexting', consensual sex, etc.) are also subject to sex offender laws.²⁸ According to child development experts, in most cases juvenile sexual misconduct occurs due to impulsiveness experienced by adolescents; however, such behavior outgrows with maturity.²⁸ Furthermore, the risk posed by juvenile sex offenders differs significantly from adult sex offenders particularly in cases where the charges are exclusively based on age provisions, that is, the age difference between the juvenile offender and the victim.²⁷

There are assumptions that juveniles who commit sex crimes are more likely to re-offend in the future, however, several studies illustrate low recidivism rates for youth convicted of sex crimes.^{29,30,31} A study that analyzed 63 data sets demonstrates that the average rate of recidivism for youth that commit sex crimes is 8% (much less than the recidivism rate of adults at 15%).³² The study also reveals that juvenile sex offenders are 4 times more likely to re-offend in the period following the initial offence rather than in adulthood.³² Furthermore, the study indicates that the majority of adult sex offenders had not committed sex crimes as minors, thus providing evidence that sex offenses committed by juveniles does not predict the likelihood of re-offending in adulthood.³² Due to the high risk of recidivism during teenage years, the study proposes that treatment interventions for juvenile sex offenders are most likely to be successful when implemented during this period.³²

Current sex offense laws conflict with the juvenile court's mission of rehabilitation by ignoring the long-term effects on juveniles required to register as sex offenders. Juvenile justice advocates have proposed recommendations on altering Minnesota's statutes to ensure public safety but also protecting juveniles from enduring lifelong stigma of a sex offender status.²⁷

Sentencing

Adult Certification

Adult transfers grew in popularity during the "super-predator" era when fear of juvenile crime peaked. Although juvenile crime has declined, the use of adult certification continues to be applied to juveniles.³³ Under Minnesota's law, there are three avenues by which a juvenile

can be transferred to adult criminal court: automatic transfers, discretionary transfers and transfers resulting from the violation of the Extended Juvenile Jurisdiction (EJJ) probation.²² Automatic transfers apply to all juveniles over the age of 16 that have committed murder or juveniles that have previously been transferred to criminal court. Discretionary transfer relies on the prosecution's discretion and is either presumptive or non-presumptive. EJJ applies to juveniles over the age of 14 who have committed felony offenses. In this case, the juvenile is transferred to adult criminal court if they violate their juvenile probation.²²

Research demonstrates that transfer policies have detrimental consequences on juveniles. In Minnesota, automatic transfer laws are particularly problematic and raise two main challenges.³⁴ The first is that juveniles are automatically subjected to severe sentences with no regard for their level of culpability and maturity. The second is that the automatic transfer laws are exclusively based on allegations rather than the true offense committed.³⁴ Automatic transfers are especially damaging in situations where juveniles are transferred to adult criminal court only to have the charges reduced, which would have prevented the transfer to begin with. This potentially leads to the juvenile receiving adult punishment and an adult conviction record.³⁴ While there is no contest regarding the gravity of first-degree murder charges, for purposes of fairness, the process of determining adult certification should be evaluated on an individual basis. In many cases the court may deem it necessary for a juvenile to be transferred to adult criminal court due to past and present behaviors; however, there are always exceptions. Individual evaluation ensures that that transfer laws are applied appropriately.³⁴

Research highlights additional negative outcomes of transfer laws. Some studies have found that conviction rates for youth transferred to adult criminal court tend to be higher than that of youth who remain in the juvenile justice system. A study conducted in Minnesota examined outcomes of 330 juvenile offender cases. The findings revealed that of the 215 juveniles that were transferred to adult criminal court, 97% were convicted.³⁵ The same study indicated the conviction rate for juvenile offenders that remained under the jurisdiction of the juvenile court was 86%.³⁵ Moreover, transfer laws have not proven to deter future crime either.³³ Research findings in Minnesota show that youth tried as adults were 16% more likely to reoffend than their counterparts in the juvenile justice system.³³

Prior to 2011, juveniles charged as adults could be held in adult detention facilities. In 2011, Minnesota enacted a law to allow adult certified juveniles to be detained in juvenile facilities while awaiting the outcome of criminal proceedings.³⁶ The goal of the law is to protect juveniles from the harmful effects, such as sexual abuse, of being housed in adult facilities until convicted or acquitted.³⁷

Juvenile Life Without Parole

In 2012, the U.S Supreme Court ruled that mandatory juvenile life without parole sentences for youth under the age of 18 was unconstitutional and violated the 8th Amendment.³⁸ The ruling does not prohibit all juvenile life parole sentences, however, it allows a jury or judge to consider mitigating factors affecting the juvenile such as age, home environments, etc.³⁹ This

decision stemmed from the recognition of the difference in cognitive development between youth and adults, therefore, deeming it unjust to mandate a life sentence to juveniles that commit homicides.³⁸

In Minnesota, life sentences without parole are mandatory for certain offenses committed by adults such as premeditated murders, killing police officers, etc. The law does not make exceptions for juveniles that receive adult certification.⁴⁰ Minnesota is one of the 18 states that currently still mandates juvenile life without parole.⁴⁰ More recently, judicial advocates in Minnesota are discussing the options available for those previously sentenced to juvenile life without parole in an attempt to comply with the U.S Supreme Court ruling⁴⁰. The issue being debated pertains to 8 juveniles who received this sentence prior to the U.S Supreme Court ruling. A bill currently being sponsored by Senator Ron Latz will repeal the mandate and allow it to be retroactive for the 8 juveniles serving life sentences without parole. The bill will permit such offenders to appeal for parole after 20 years.⁴⁰ In opposition, the Minnesota County Attorney's Association has proposed a bill that would retain juvenile life without parole sentences only to some offenders while allowing others to appeal for parole after 30 years. This bill will not be retroactive.⁴⁰ The debate continues making it unlikely for a bill to be passed into law this year. Meanwhile, courts in states such as Illinois, Massachusetts, Texas and Iowa have ruled that juveniles serving life without parole will be eligible for new sentence hearings.⁴⁰

Racial and Ethnic Disparities

Although there has been a tremendous drop in juvenile arrests over the last 10 years, the magnitude of racial and ethnic disparities remains prevalent in the juvenile justice system. In many states, youth of color are overrepresented at every stage of the juvenile justice system; this phenomenon, known as Disproportionate Minority Contact (DMC), also exists in Minnesota.⁴¹ Youth of color in Minnesota constitute 22% of the total youth population but represent 46% of juvenile arrests.⁴² Such disproportionality threatens the legitimacy of the juvenile justice system.

In 2009, Minnesota enacted a law to address racial and ethnic disparities via data collection.⁴² The law mandated for a study to be conducted on appropriate methods in which data on race, ethnicity, gender and offenses be collected and analyzed.⁴³ In response to this requirement, Minnesota's Department of Public Safety and Office of Justice Programs released a report on strategies to improve data collection methods pertaining to race and ethnicity in the juvenile justice system.⁴² This study revealed the gravity of racial disparities in Minnesota's juvenile justice system.⁴⁴ The findings illustrates that:

- African American youth are 6 times more likely to be arrested than white youth⁴⁴
- American Indian youth are 4 times more likely to be detained in secure confinement⁴⁴
- American Indian youth are twice as likely to be petitioned to court than white youth⁴⁴

- Youth of color (with the exception of Asians) are half as likely to receive probation than white youth⁴⁴
- African American youth are more than 6 times likely to receive adult certification than white youth⁴⁴

As part of on-going assessments, the Juvenile Justice and Delinquency Prevent Act requires all states to develop a *Three Year Plan* articulating state level plans to monitor and improve all aspects of the juvenile justice system.⁴⁴ In 2010, Minnesota's Juvenile Justice Advisory Committee drafted its plan for 2012 through 2014, which included objectives to reduce DMC. Community-based agencies in Minnesota have contributed to this specific goal by exploring racial disparities and analyzing the underlying factors influencing DMC in their communities.⁴⁴

The Office of Juvenile Justice and Delinquency Prevention highlights general characteristics of DMC to aid state-level responses.⁴⁴ The recommended strategies promote system level changes and are instrumental to tackling Minnesota's DMC:

- DMC can occur at all stages of the juvenile justice system, thus requiring multi-level intervention⁴⁴
- DMC intervention strategies should be based on data driven decisions⁴⁴
- DMC reduction require high level support (public figures, state agencies, etc.)⁴⁴
- DMC reduction strategies should be implemented at the local level⁴⁴
- DMC reduction requires strong partnerships at all levels⁴⁴
- Outcomes of DMC initiatives should be measured to produce evidence-based data⁴⁴

Diversion

As the gradual shift to a rehabilitative model for juvenile justice continues, states are beginning to embrace the use of diversion programs for low-risk and non-violent youth offenders.⁴⁵ Diverting offenders away from the juvenile justice system in lieu of adjudication is a promising avenue to rehabilitate youth and prevent re-offending.⁴⁶ Minnesota's statutes and Rules of Juvenile Procedure permit diversion of youth offenders to lessen their contact with the juvenile justice system and avoid the consequences attached to a delinquency record.⁴⁷ In 2012, roughly a quarter of all juvenile arrests in Minnesota were diverted to formal diversion programs.⁴⁷

Diversion programs have been successful in Minnesota.⁴⁷ Twenty-four counties (36%) cited benefits relating to reduced recidivism, low costs, dismissal of charges, prevention of juvenile records and reparation to victims via restorative justice.⁴⁷ Seventeen counties (26%) indicated that diversion programs provide the opportunity for youth to learn decision-making skills to prevent future re-offense and nine counties (17%) stated that diversion offers community level intervention that involves citizens.⁴⁷

While diversion programs exist in Minnesota, stakeholders have argued for the need to increase and maintain consistent diversion programming. Minnesota's statute requires that each county have at least one diversion program. Sixty-five counties (75%) report having one diversion program. Fourteen counties (16%) noted their program services youth from other counties while sixty-two counties (71%) indicated offering services only to youth in their particular county.⁴⁷ Limited information is available on other diversion services.⁴⁷

Timing of diversion is critical to ensuring program success.⁴⁷ In Minnesota, this occurs at several points prior to adjudication, however, it is argued that diversion decisions that occur after petitioning and pre-trial probation fails to serve its purpose. At these points, juveniles have already had extensive contact with juvenile justice officials, obtained a record and been detained, all of which contradicts the goal of diversion.⁴⁷

In response to hiccups in the diversion process, the Department of Public Safety and Office of Justice Programs has made recommendations on improving diversion practices. These include but are not limited to informing youth and families that diversion is optional, providing youth with written contracts and agreements and introducing a standardized length of pre-trial diversion.⁴⁷

Promising Practices

Juvenile Detention Alternatives Initiative

The Juvenile Detention Alternatives Initiative (JDAI) is one of the nation's most effective juvenile justice reform initiatives with 200 sites in 29 states.⁴⁸ It was developed in 1992 to support the Casey Foundation's vision that all youth in the juvenile justice system should be given the opportunity to rehabilitate and develop into productive adults.⁴⁸ This initiative focuses specifically on the detention aspect of the juvenile justice system since youth are often detained unnecessarily leading to undesirable effects on youth development.⁴⁸

The purpose of the JDAI is to:⁴⁸

- Eliminate unnecessary use of secure detention
- Reduce re-arrests pending adjudication
- Ensure appropriate conditions of confinement
- Advocate for public funding to sustain successful reforms
- Minimize racial and ethnic disparities

JDAI's measurable outcomes include:⁴⁸

- Lower detention populations
- Substantial decrease in juvenile crime in JDAI sites
- Decrease in racial disparities

- JDAI sites have substantially reduced their detention budgets and redirected resources into productive and cost-effective uses

Conclusion

Minnesota's achievement in reducing its juvenile crime rate deserves applauding. This outcome has sparked considerable confidence around juvenile justice reforms heading in the right direction. While this trend is undoubtedly remarkable, this literature review demonstrates that there are other aspects of Minnesota's juvenile justice system that require attention. Although outcome-oriented goals are valuable indicators of success in the juvenile justice system (e.g. lower crime rates), this review illustrates that process-oriented goals hold equal importance, therefore, justifying further exploration. Deterring all youth crime is impossible, however, what is possible is the ability to improve processes within the juvenile justice system in the best interests of our youth and the public. Fair processes carry the ability to positively impact our youths' quality of experience within the juvenile justice system and in their futures.

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