

# **COVID-19 in the Michigan Youth Justice System:**

An Early Impact Analysis



# Acknowledgments:

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# Background and Introduction

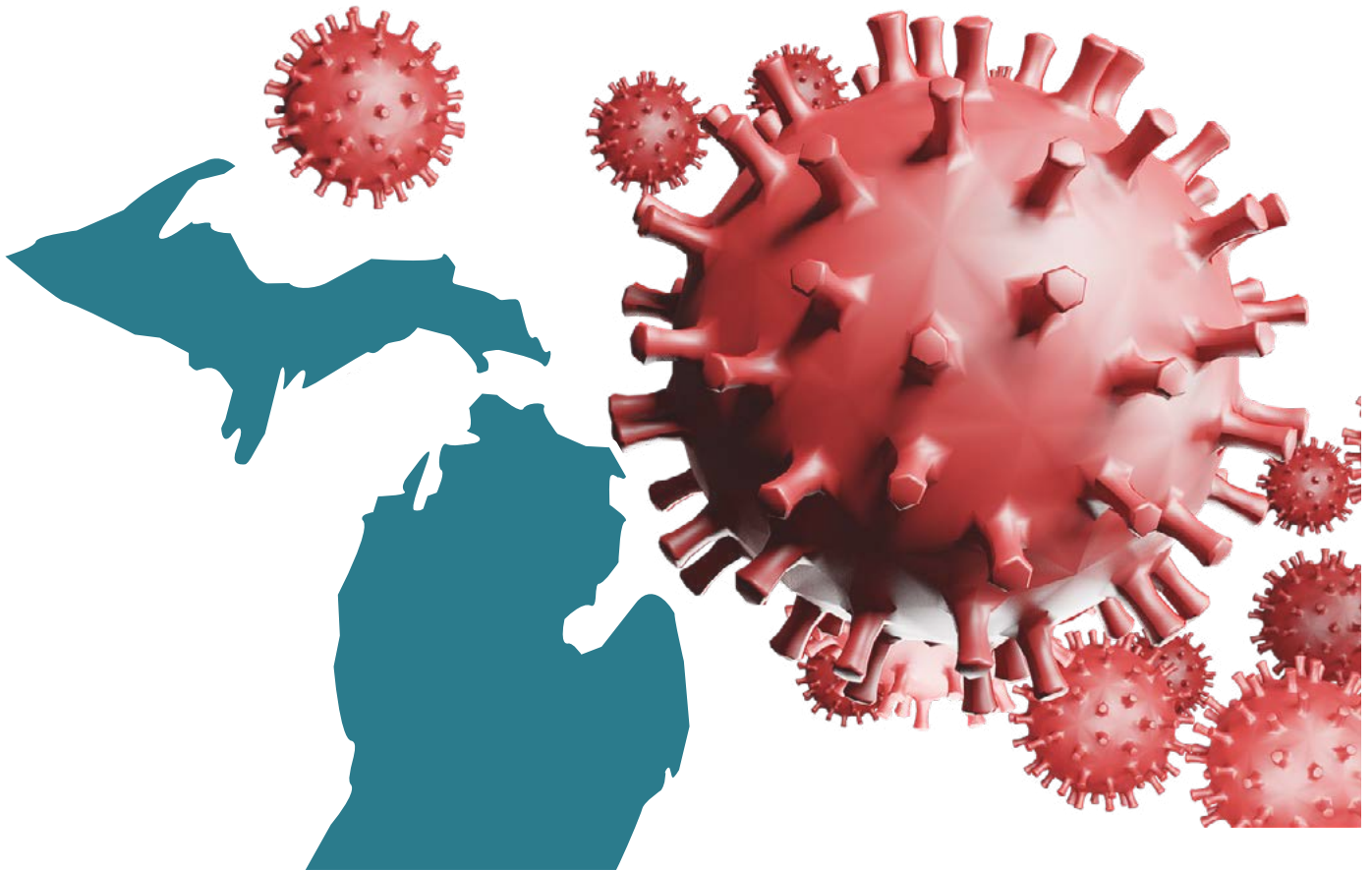
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As COVID-19 cases increased across Michigan, protecting the health and safety of young people in juvenile detention centers and other secure facilities became a matter of critical concern. Such facilities, where youth live, eat, study, and participate in activities within shared spaces, heighten the potential for COVID-19 to spread once introduced. Furthermore, the ability of young people in confined settings to adhere to the disease-prevention measures recommended by the Centers for Disease Control (e.g., maintaining social distance, frequent hand washing) is often impeded by security concerns and facility resources.

Starting in March 2020, Governor Gretchen Whitmer, the State Court Administrative Office (SCAO), and the Michigan Department of Health and Human Services (MDHHS) each issued multiple orders<sup>1</sup> and communications containing guidance and recommendations for how local courts, juvenile facilities, and other stakeholders should modify their practices to reduce the threat to youth in de-

tention or residential facilities posed by COVID-19. Among the guidance issued, a primary focus was on reducing the number of young people in confinement by limiting placement in detention or residential facilities to only those who present substantial and immediate safety risks to others.

Because Michigan does not have a centralized system to collect and report juvenile justice data, statewide information on how many young people were released from detention and residential facilities in response to the crisis is not available. To begin filling this information gap, the Michigan Center for Youth Justice (MCYJ) collaborated with the Center for Behavioral Health and Justice at Wayne State University (CBHJ) in April 2020 and surveyed juvenile court and facility staff to better understand the steps taken in response to COVID-19 and the impact of those responses.<sup>2</sup> The study found that, among the sample of courts and detention centers who responded to the survey, most had significantly reduced the number of



youth in detention centers. Furthermore, the study found that the methods for accomplishing the reductions varied from court to court but generally included changes to detention admissions criteria, identification and release of youth already in detention who could be safely supervised in the community, or a combination of reduced admissions and accelerated releases. In general, the courts surveyed indicated that they moved quickly in a time of emergency to protect the health and safety of youth by adjusting policies and practices to significantly reduce the number of youth housed in detention but not necessarily in residential facilities.

As noted in the April MCYJ/CBHI report, “Many of the temporary changes created in response to the COVID-19 pandemic may prove permanently beneficial to juvenile courts, detention centers, and residential facilities.” Additional research will be essential to provide stakeholders with the information needed to take advantage of this unique opportunity. Fully understanding the impacts of the changes made to reduce the threats posed by the COVID-19 pandemic on justice-involved youth will require ongoing data collection and analysis for years to come.

One year later, stakeholders could benefit from additional research, including more detail about the numbers and characteristics of the young people who were released or diverted from detention, the young people who remain, and the factors that drove those decisions, as well as updated information about the degree to which the initial changes have been sustained over time. Therefore, MCYJ partnered with Public Policy Associate, Inc. (PPA) to conduct updated research on the impact of COVID-19 on juvenile detention and secure residential facility populations in Michigan. In particular, the study aimed to address the following research questions:

- How does the number of youth currently housed in detention centers and secure residential facilities compare to the number pre-pandemic?
- How do the characteristics (age, sex, race/ethnicity, type of offense) of the young people who are in detention now compare to the characteristics of the population pre-pandemic?
- What impact, if any, have the efforts to reduce facility populations had on racial and ethnic disparities among the juveniles housed in secure facilities?
- What impact, if any, has the reduction of facility populations had on the number of delinquency petitions filed since March 2020?
- To what extent have the early changes made by courts and facilities to reduce detention and secure facility populations been sustained in the months following the start of the outbreak? In what ways have those policies and practices evolved?
- What challenges are courts facing in providing more youth with services and supervision in the community?

# Methods

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To answer these questions, the research team asked all secure juvenile facilities in Michigan to provide de-identified facility census data for a ten-month period from December 2019 through September 2020, including demographic characteristics and information on current charges for those juveniles. Twenty of Michigan's thirty secure juvenile facilities provided data for the study, including both detention and secure treatment facilities located in every region of the state. To protect confidentiality, this report presents only aggregate data from all of the participating facilities and does not include analysis of data from any individual facilities

The research team also conducted interviews with eleven juvenile court administrators. The interviewees were asked to describe how the use of secure confinement of juveniles has changed within their county since the start of the COVID-19 pandemic, including any changes to policies and practices related to determining which youth are detained. In addition, interviewees were asked about challenges encountered due to the pandemic, lessons learned, and plans for sustaining any changes to policies and/or practices after the pandemic ends. As with the data shared by facilities, unless given permission to identify experiences or practices shared by specific juvenile courts, all interview feedback is included anonymously.

## Michigan's Secure Juvenile Facilities

There are 23 secure juvenile detention facilities in Michigan operated by counties or courts for local youth, as well as youth from other counties - through reciprocity agreements. These facilities detain young people who are considered a risk to public safety or to themselves, have a history of not showing for court hearings, are awaiting a court hearing, were given a sanction for violating a previous court order, are awaiting placement in another residential facility, or, in some cases, are receiving longer-term treatment. In addition, there are seven secure residential facilities, two operated by the state and five operated by private vendors, primarily for longer-term treatment and removal from the community.

# Findings

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## Fewer Juveniles Confined in Secure Facilities

Data provided by facilities confirmed that the overall number of youth confined in secure juvenile facilities decreased following the start of the pandemic in March 2020 and remained below pre-pandemic numbers throughout the next six months. Figure 1 shows the average daily population, by month, among the facilities that provided data from December 2019 through September 2020. At the start of the pandemic, between the months of March 2020 and April 2020, the

average daily population among the facilities in the sample dropped 16%, from an average of 489 youth in secure confinement per day to 410. The average daily population continued to drop, albeit more gradually, through September, when the average daily population was down to 377, for an overall drop of 23% since March.





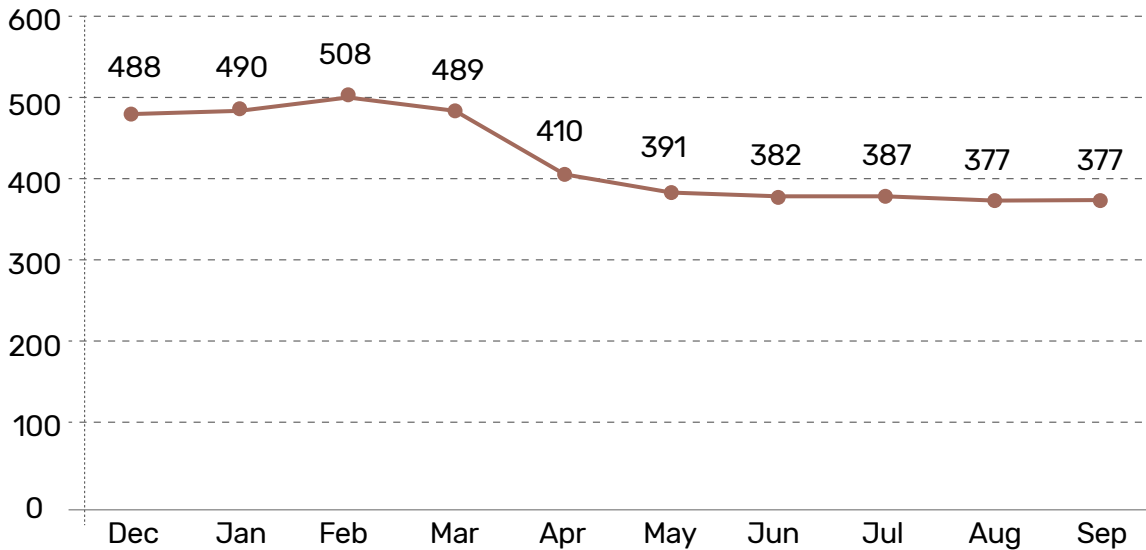


Figure 1: Average Daily Population of Youth in Secure Juvenile Facilities, by Month, December 2019 - September 2020

## Expanded Assessments

The juvenile court administrators that were interviewed, described a variety of steps taken to reduce the number of secure confinements. Nearly all of the courts implemented or expanded existing assessment and screening processes to limit the use of secure confinement to cases where the youth was determined to present an immediate risk to public safety. In addition, most of the court- and county-operated facilities stopped admitting youth from other counties.

“ Prior to the pandemic, only certain cases required a supervisor’s approval before a probation officer could recommend detention at a court hearing or file a motion requesting detention for a probation violation. During the pandemic, we expanded the requirement for supervisor case review and approval for all detention recommendations - a practice that will likely continue after the pandemic.

-Nicole Faulds, Juvenile Court Administrator, Macomb County

## Declining Referrals

Apart from active measures taken to reduce the number of youth in secure confinement, many courts noted an overall drop in juvenile court referrals (from schools, law enforcement and families) during the pandemic. In at least one county, the prosecutor’s office declined to pursue

juvenile petitions for certain low-level offenses. Other court administrators attributed the decline in referrals to the circumstances that kept many kids out of school and away from public gathering spots where a lot of offenses that end up in juvenile court arise.

## Local Variations

As noted above, the purpose of this report is not to compare responses and results among individual facilities and courts. However, it is worth noting that the pattern of declining numbers of youth in detention depicted in Figure 1 above is not necessarily representative of all of the facilities that shared data. Every facility reported a drop in average daily populations in the months immediately following the start of the pandemic, but the magnitude of the reductions varied quite

a bit. Between March 2020 and April 2020, the average daily population decreased by more than sixty percent at some facilities and less than five percent at others. Further, while population numbers through September 2020 remain lower than pre-pandemic numbers for most of the facilities, there were a handful of facilities where the average daily population in September 2020 was similar or even higher than average populations in the months preceding the pandemic.



## Barriers to Reductions

While the responses at the state and local level were mainly aimed at reducing the number of youth confined in secure juvenile facilities, a simultaneous reduction in available bed space among non-secure residential treatment facilities presented barriers for getting some youth out of secure facilities. Unrelated to the pandemic, the State of Michigan shut down operations at

two residential facilities in 2020 over concerns of abuse. Then, with the arrival of the pandemic, many non-secure residential treatment providers also reduced the number of youth they would serve at any one time, to allow for necessary social distancing and other important health and safety measures.

Court administrators also described cases where youth in residential treatment facilities became frustrated with public health orders and facility policies that limited contact with their families and restricted opportunities for activities outside of the facility -- creating restrictions more similar to a typical detention center. As a result, some of those youth began to act out or ran away from residential treatment facilities and, ironically, ended up back in a secure detention facility.

Counties with access to detention beds reported that they tended to keep youth in detention until a residential bed was available, increasing the average amount of time spent in detention during the pandemic. However, counties without their own detention centers, whose youth were no longer allowed admittance into facilities in other counties, were forced to develop community-based alternatives – some creative, some expansions of existing responses – when there was a longer than normal wait for a residential bed.

“ *Sometimes it takes a combination of extenuating circumstances, like the closure of several residential facilities and a calamity like COVID to be a driving force for change.* ”

- Elvin Gonzalez, Juvenile Court Administrator, Berrien County, Juvenile Court Administrator, Macomb County



## Impact of Virtual Hearings

Due to the pandemic and social distancing safety measures, courts were limited in their capacity to hold in-person hearings, offering virtual hearings instead. As a way to continue processing cases and maintain contact with youth during the pandemic, many courts turned to web-based video conferencing technology to conduct hearings and meet with youth and their families.

While some court administrators noted the shortcomings of using virtual contact for service delivery and supervision, many of the courts discovered that the option to attend court hearings from one’s own home resulted in increased engagement for many youth who appeared more comfortable in a familiar space than the sterility of a courtroom. In fact, for youth who might have struggled to get to required court dates prior to the pandemic, the opportunity to connect virtually made it easier to comply, thus reducing the types of violations that can lead to pick-up orders and time in detention.



## Characteristics of Youth in Confinement

In addition to considering how the overall number of youth held in secure facilities changed in response to the pandemic, it is important to examine the extent to which the impacts of the changes varied for different groups of youth. The following series of figures illustrates changes over the period of December 2019 through September 2020 in both the number and proportion of youth confined, by race, gender, age group, and offense type.

## Race

Consistent with juvenile detention data for Michigan from previous years,<sup>3</sup> data collected for this study showed Black youth to be disproportionately represented among the population of youth in secure confinement. While Black youth account for 17% of all Michigan youth aged 10–17,<sup>4</sup> they accounted for 46% of the youth in the study sample. As illustrated in Figure 2, the number of confinements involving Black youth far outnumbers confinements involving white youth.

The efforts to reduce the number of youth confined in secure facilities had little impact on the racial imbalance. In the early months of the pandemic, the number of white youth in confinement dropped more quickly than the number of Black youth. As a result, in April and May, the proportion of the youth detention population represented by Black youth increased slightly above pre-pandemic levels (Figure 3). However, by June, the proportion of Black youth was back to about 50% and remained at or below 50% through September.

Fig 2: Average Daily Population of Youth in Secure Juvenile Facilities, by Month and by Race

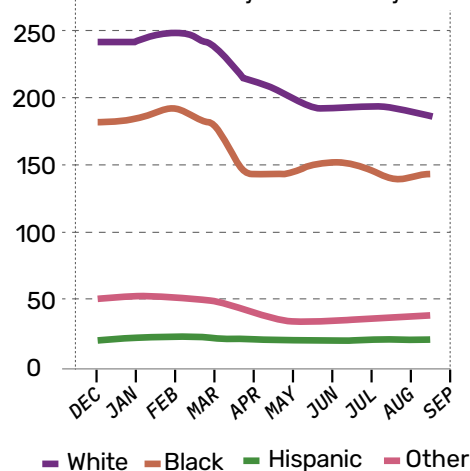
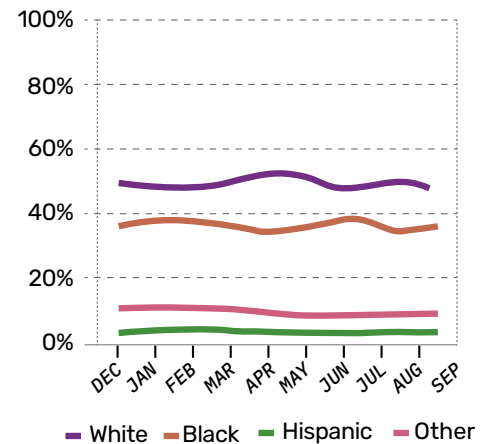


Fig 3: Proportion of Average Daily Population, by Race



## Gender

Compared to females, males accounted for a larger share of the drop in confinements following the start of the pandemic (Figure 4). However, because males far outnumber females by about three to one among youth in confinement, the proportions of males and females among the population of youth in confinement changed very little as a result of the pandemic (Figure 5).

Fig 4: Average Daily Population of Youth in Secure Juvenile Facilities, by Month and by Gender

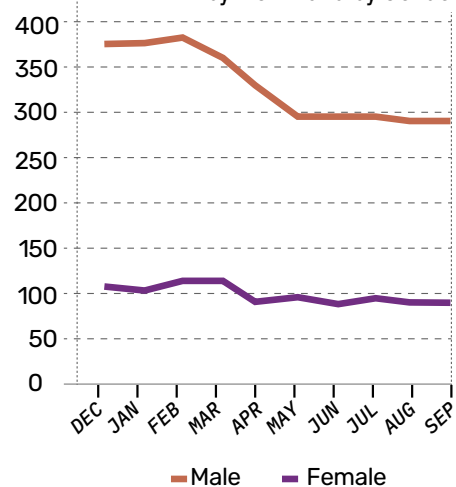
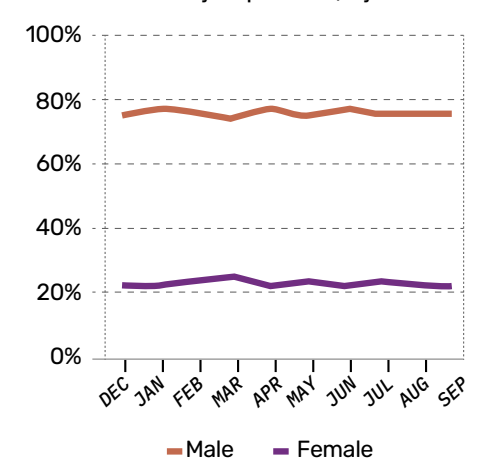
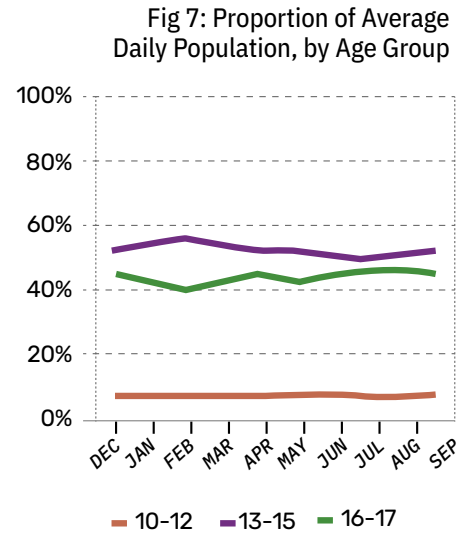
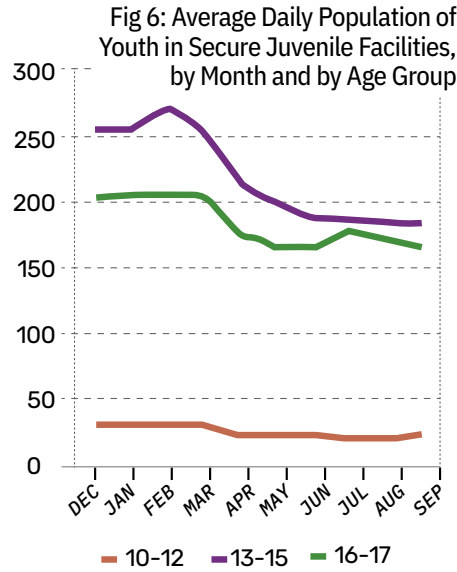


Fig 5: Proportion of Average Daily Population, by Gender



## Age

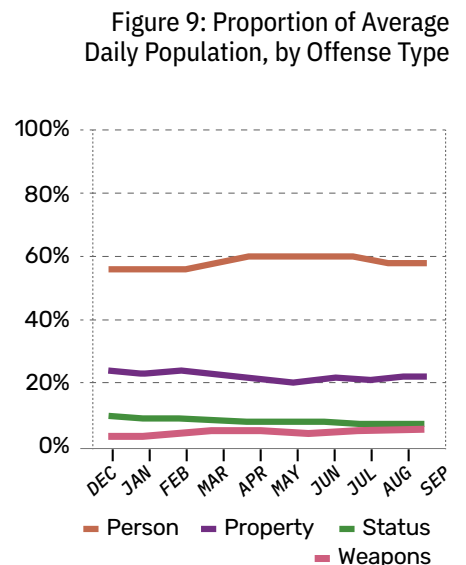
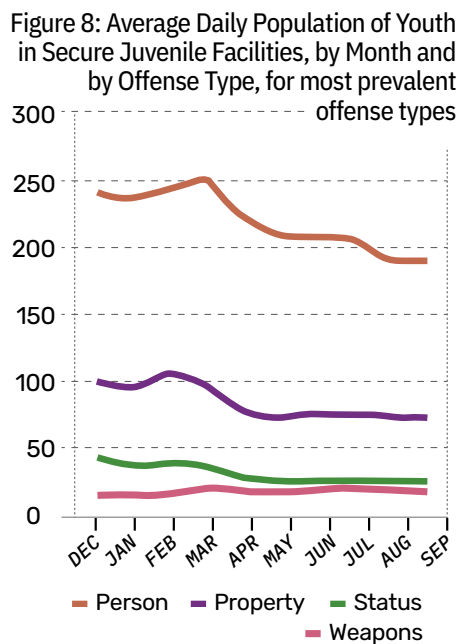
Following the start of the pandemic, the average daily population in secure juvenile facilities dropped most sharply among youth who were between the ages 13 to 15 at the time of admission (Figure 6). As a result, the proportion of the population represented by 16- and 17-year-olds increased slightly during the pandemic (Figure 7). Notably, the population of 10-12 year olds in secure facilities was reduced only slightly.



## Offense Type <sup>5</sup>

Among the types of offenses most frequently identified by facilities as the reason for confinement,<sup>6</sup> placements resulting from offenses against persons (i.e., assault, domestic violence, etc.), offenses involving property (i.e., larceny, breaking and entering, etc.), and status offenses (i.e., incorrigibility, truancy, etc.) decreased in frequency during the pandemic. Confinements resulting from weapons-based offenses were the only offense type to increase in number following the start of the pandemic (Figure 8).

Feedback from court administrators indicated that most courts, in accordance with guidance from the State Court Administrative Office and the Governor’s executive orders, limited the use of secure confinement to cases where youth presented an immediate threat to public safety. It is surprising, then, that the proportion of confinements by type offense changed very little. In fact, status offenders continued to represent at least a small proportion of confinements throughout the six months following the start of the pandemic, while the proportion of confinements specifically involving offenses against persons increased only slightly during the early months of the pandemic (Figure 9). However, it is important to note that factors beyond the immediate offense, which are not captured here, including prior offenses, patterns of behavior, and social circumstances, can influence the level of risk assessed for a young person.



## Offense Severity

At the start of the pandemic, the number of confinements related to misdemeanors dropped steeply then leveled out. Although a little more gradual, the number of confinements associated with felony-level offenses also dropped during the pandemic (Figure 10).

Prior to the pandemic, the current offenses associated with placements in secure facilities were most often misdemeanor-level offenses. While the proportion of misdemeanor cases decreased slightly at the start of the pandemic, it is worth noting that they still represented about half of all secure placements through September (Figure 11).

Figure 10: Average Daily Population of Youth in Secure Juvenile Facilities, by Month and by Offense Severity

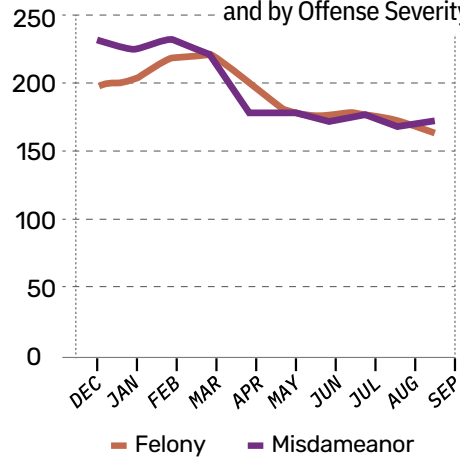
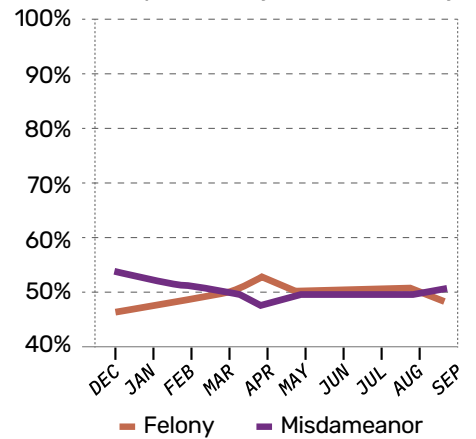


Figure 11: Proportion of Average Daily Population, by Offense Severity





## Implications

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Many jurisdictions in Michigan were already engaged in efforts to decrease the use of secure confinement for justice-involved youth prior to the pandemic. However, the emergency need to reduce viral spread forced jurisdictions to move more quickly to find other options, especially in counties without their own local detention centers. When most of the detention centers stopped accepting youth from other counties, those courts had no choice but to find alternatives to secure confinement.



In response to the pandemic, many juvenile courts increased the use of existing alternatives. This included expanded use of electronic monitoring. Although the expansion of electronic monitoring is not normally something to be recommended, if it is used exclusively for youth whose risk assessment indicates a strong need for additional supervision, it may be a safe and effective alternative to confinement.

“ *Van Buren has not historically lodged youth for domestic assault unless the safety risk in the home could not be mitigated by either police/caseworker/service provider intervention or placement out of the home for the evening with a trusted family member or friend. Likewise, simple assault did not usually result in placement in detention for safety reasons. For more serious offenses such as [domestic violence, assault, carjacking, and sex offenses], we utilized tether if possible.*

– David Pelon, Chief Probation Officer,  
Van Buren County

Intensive Supervision is another alternative to confinement for which use has been expanded during the pandemic. Intensive Supervision refers to a form of community supervision that often employs smaller caseloads, more frequent contacts, and a variety of other mechanisms to increase the level of surveillance and control for those on probation. It has always been an option for keeping higher risk youth in the community, but its use was expanded during the pandemic.



Other courts worked to increase coordination with community-based systems to provide youth and families with greater access to services. These included mental health treatment and family-focused, wraparound case management. In addition, several courts noted that they had to be more creative in utilizing specialized programming and graduated sanctions in lieu of detention to hold youth accountable.

“ *As a small, rural county with limited resources that relied on courtesy beds in other county detention facilities, we had to get creative in providing services to our youth and families during the pandemic. We have referred more families to the Wraparound program and will continue to do so, and juvenile probation has worked to have meaningful consequences (other than detention) for our youth so they don't think they are getting away with something*

– Jan Otto, Deputy Trial Court Administrator,  
Barry County

The expanded use of videoconferencing technology during the pandemic demonstrates how system-level adjustments can improve youth behavior and outcomes. By making it easier for youth to attend mandatory hearings, the use of videoconferencing helped reduce violations. Along with maintaining the option to hold virtual hearings post-pandemic, courts should continually explore opportunities to remove barriers that make it harder for youth to comply.

Although not a result of the pandemic, it is hard to overlook the significant level of racial and ethnic disparities among youth in secure confinement. Although it appears that the arrival of the pandemic had little impact on either increasing or decreasing the disparities, it is critical that any ongoing efforts to reduce the use of secure confinement include

a focus on assessing the factors responsible for the disparities and implementing data-driven solutions to eliminate the disparities.

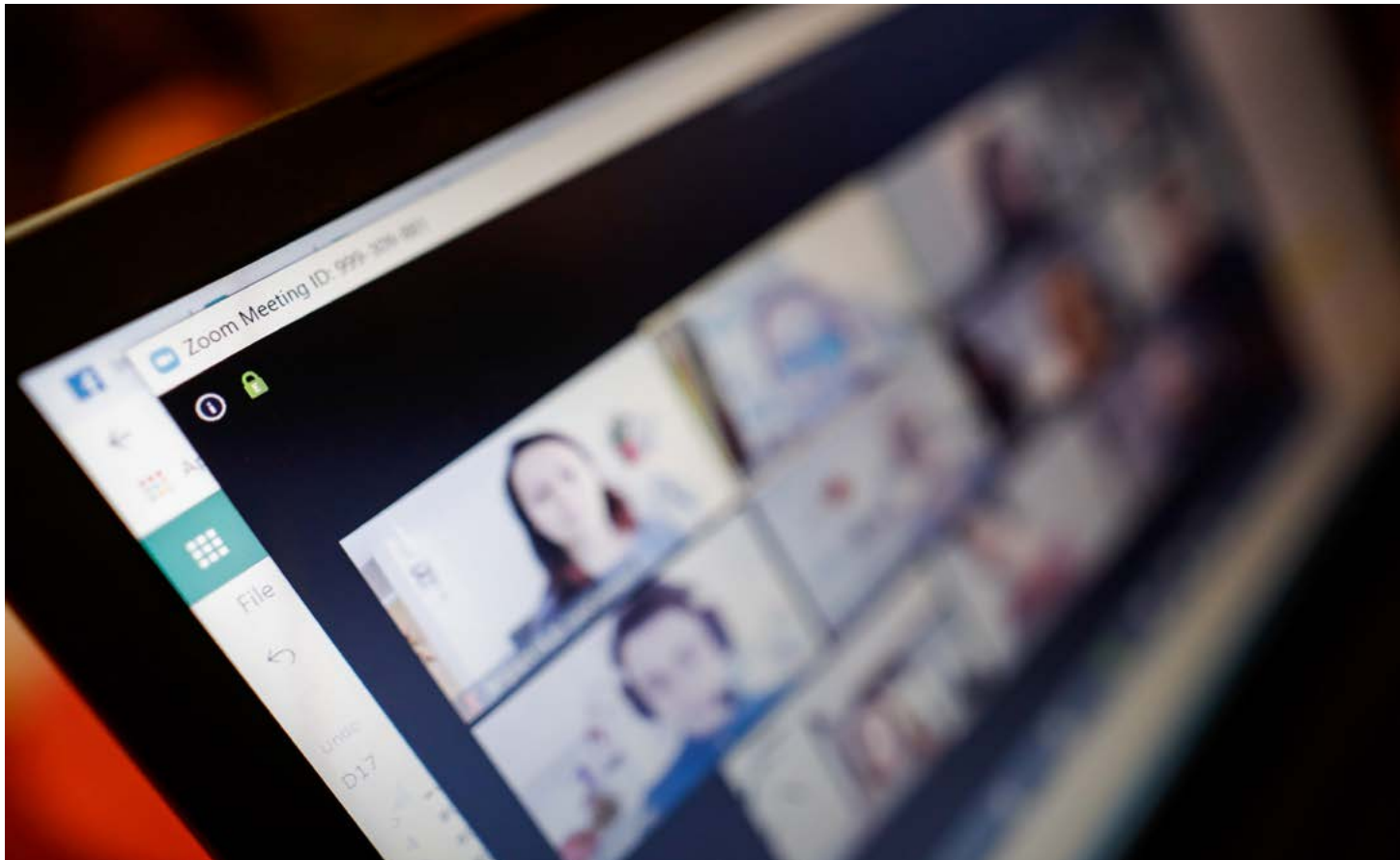
The data collected for this analysis show that emergency actions taken in the early weeks of the pandemic decreased the number of youth in secure juvenile facilities. Overall, juvenile courts and secure facilities were able to sustain those reductions over the following months. It is still too early to assess the degree to which keeping more youth out of secure facilities had an impact on public safety, as the data needed for that analysis are still emerging. However, some of the data that are available suggest that efforts to limit the use of secure confinement during the pandemic did not come at the cost of decreased public safety. For instance, data shared by the Michigan State Court Administrative Office (SCAO) show that

juvenile delinquency filings were down 32% statewide in 2020 compared to 2019. It is anticipated that additional data will become available in the coming months, including statewide arrest and incident data from the Michigan State Police and more detailed court filing data from SCAO. This will allow for a more detailed analysis of the impacts of reducing youth confinement on public safety.



# Recommendations

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## 1. Continue to emphasize and expand the availability of community-based alternatives to secure confinement.

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- Utilize objective and validated risk and needs screening/assessment tools for every youth to determine the need for detention and to identify any required community supports.
  - Do not admit youth into a juvenile detention center unless they pose an immediate and significant public safety or flight risk.
- Before detaining a youth for technical violations of probation, require supervisory consultation and approval; use community-based, graduated sanctions/rewards and restorative justice approaches instead.
- Expand the use of alternatives to secure placements, such as specialized foster care homes, and supervised independent living, that provide a community-based, home-like environment for youth who require out-of-home placement.
- End secure confinement for youth convicted of status offenses or violations of probation from an original status offense, unless the violation poses a clear and immediate danger to public safety.
- End secure confinement for children age 12 and younger except if the child poses a clear and immediate danger to public safety.
- Sustain newly expanded community-based alternatives post-pandemic.

“Regardless of whether or not we’re in the midst of a pandemic, we should always strive to put our kids in the least restrictive environment. Detainment should only be used for those circumstances when not detaining a youth presents a potential detriment to our communities.”

— Thom Lattig, Juvenile Court Director, Ottawa County

## 2. Reduce the racial and ethnic disparities among youth held in secure confinement.

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- Assess the systemic factors that are resulting in racial disparities in confinement.
- Ensure strategies aimed at eliminating disparities are incorporated into ongoing efforts to reduce the use of secure confinement.
- Implement evidence-based practices demonstrated to be effective with the specific population of youth served, including responsiveness to language, racial or ethnic group, and/or geographic setting.
- Provide cultural competency and implicit bias training for professionals who work with justice-involved youth—such as probation officers and court staff—to improve fairness and enhance communication with youth and families.

### **3. Continue to emphasize and expand the availability of community-based alternatives to secure confinement.**

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- Offer virtual hearings as an option for families with limited transportation.
- Utilize regular video conferencing to enhance communications between families and confined youth in all courts (particularly helpful for out-county youth housed in rented detention beds or placed in secure placements far from home), and to increase family participation in facility treatment programming.
- Use telehealth options to provide mental and physical health care and to address identified treatment gaps in community-based services, especially in under-resourced rural communities, in particular to provide specialized mental health treatment and psychiatric consultation. Rural courts have previously identified an urgent need to expand community-based treatment options as an alternative to detention. The expansion of remote technology in response to COVID-19 provides an opportunity to expand their access to treatment providers outside of driving distance.
- Assist community-based youth and their families in obtaining technology enablers, such as mobile phones or tablets, to close the digital divide and enable them to participate in virtual treatment and services by expanding Child Care Fund reimbursement eligibility.

### **4. Maintain high standards for quality of care within residential treatment facilities and ensure consistent reentry planning for all youth released from secure facilities.**

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- Ensure compliance with the [new, proposed MDHHS requirements](#) for improving safety, quality of care, and transparency in youth facilities.
- Establish a written reentry plan within six months pre-release and continuously review resident's progress to allow for release.
  - Do not admit youth into a juvenile detention center unless they pose an immediate and significant public safety or flight risk.
- Ensure that youth have their basic needs met for housing, food and medical care upon release from facilities, including a 30-day supply of any prescribed medications.
- Use evidence-based assessments tools to identify the critical aftercare services that will be needed based upon a youth's unique risk and need profile and coordinate with community-based service providers, including Community Mental Health agencies, family-serving agencies, and local school districts, to seamlessly deliver aftercare services.

## 5. **Implement statewide data reporting/analysis to better track youth in placements and to determine if changes implemented pursuant to COVID-19 have an impact on juvenile justice outcomes.**

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- Establish statewide juvenile justice data policies, procedures, and a centralized data repository in which every county participates, so that it is possible to analyze and report on aggregate information for youth progressing through the juvenile justice system.
  - Analyze data both in community and out-of-home placements, to measure outcomes for system efficacy.
- Ensure that every county has the capacity and infrastructure to collect and analyze data in a way that promotes outcome-driven decision-making and targeted investments of limited resources.



### **For more information, please contact:**

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# Endnotes:

1. The Office of Governor Gretchen Whitmer, “Governor Whitmer Signs Executive Order Protecting Jail, Juvenile Detention Center Populations,” March 29, 2020, [https://www.michigan.gov/whitmer/0,9309,7-387-90499\\_90640-523423--,00.html](https://www.michigan.gov/whitmer/0,9309,7-387-90499_90640-523423--,00.html).

2. Michigan Center for Youth Justice and Wayne State University School of Social Work Center for Behavioral Health and Justice, COVID-19 in the Michigan Youth Justice System; Crisis, Response, & Opportunity, June 2020, accessed July 1, 2020 from [https://03cb010d-8193-4236-af9e-5e09c2e45828.usrfiles.com/ugd/03cb01\\_fd7288ad15dd452282701e3f4ab7889b.pdf](https://03cb010d-8193-4236-af9e-5e09c2e45828.usrfiles.com/ugd/03cb01_fd7288ad15dd452282701e3f4ab7889b.pdf).

3. Michigan Committee on Juvenile Justice, “Michigan Racial and Ethnic Disparities Data,” accessed online at <https://michigancommitteeonjuvenilejustice.com/michigan-data/socio-demographic-data.html>.

4. Puzanchera, C., Sladky, A. and Kang, W. (2020). “Easy Access to Juvenile Populations: 1990-2019.” Online. Available: <https://www.ojjdp.gov/ojstatbb/ezapop/>

5. The analysis by offense type is based on the offense data provided by facilities for each of the individuals detained. Because access to detailed offense history data varies among the facilities in the sample, specific offense information was not available for approximately 25% of all records in the data set.

6. In most cases, when juveniles were detained for violating probation, the data provided by facilities did not specify the exact nature of the violations (i.e., technical violations, new offenses, etc.). Therefore, for the purpose of this analysis, the offense identified as the reason for confinement for each individual includes the most serious offense associated with a new charge or adjudication or, in the case of probation violations, the most serious offense associated with the original adjudication.

