

## RED Plan FY2021-2023

Racial and ethnic disparities (RED) in Montana’s juvenile justice system are analyzed and addressed by the RED Committee of the state advisory group, the Youth Justice Council (YJC). The RED Committee meets and reports new findings to the YJC on a quarterly basis. The committee currently includes professionals from youth courts, local/tribal youth organizations, local government, and the education system. The plan below analyzes Youth Court Data by race from 2018-2020.

### I. Statewide Data

#### 2018 Racial and Ethnic Disparities Data\*

Race		White	Black	Hispanic/ Latinx	American Indian	Asian
Population		84082	1443	5782	10789	1100
Arrest	Number	2285	97	113	426	9
	Percentage	2.72%	6.72%	1.95%	3.95%	0.82%
Diversion	Number	2216	94	106	408	9
	Percentage	2.64%	6.51%	1.83%	3.78%	0.82%
Detention	Number	240	22	22	104	4
	Percentage	0.29%	1.52%	0.38%	0.96%	0.36%
Secure Confinement	Number	11	2	0	2	0
	Percentage	0.01%	0.14%	0.00%	0.02%	0.00%
Adult Transfer	Number	3	0	0	3	0
	Percentage	0.00%	0.00%	0.00%	0.03%	0.00%

\*206 adult transfers represent direct filings of charges against minors in district court instead of youth court

2019 Racial and Ethnic Disparities Data\*

Race		White	Black	Hispanic/ Latinx	American Indian or Alaska Native	Asian
Population		84157	1495	5914	10850	1140
Arrest	Number	2311	105	90	486	11
	Percentage	2.75%	7.02%	1.52%	4.48%	0.96%
Diversion	Number	2224	100	81	470	11
	Percentage	2.64%	6.69%	1.37%	4.33%	0.96%
Detention	Number	288	20	16	102	1
	Percentage	0.34%	1.34%	0.27%	0.94%	0.09%
Disposition Commitment	Number	11	0	1	4	0
	Percentage	0.01%	0.00%	0.02%	0.04%	0.00%
Adult Transfer (206)*	Number	9	2	0	4	0
	Percentage	0.01%	0.13%	0.00%	0.04%	0.00%

\*206 adult transfers represent direct filings of charges against minors in district court instead of youth court

2020 Racial and Ethnic Disparities Data\*

Race		White	Black	Hispanic/ Latinx	American Indian or Alaska Native	Asian
Population		84157	1495	5914	10850	1140
Arrest	Number	1703	86	66	334	19
	Percentage	2.02%	5.75%	1.12%	3.08%	1.67%
Diversion	Number	1542	74	50	288	17
	Percentage	1.83%	4.95%	0.85%	2.65%	1.49%
Detention	Number	219	22	9	69	4
	Percentage	0.26%	1.47%	0.15%	0.64%	0.35%
Disposition Commitment	Number	13	0	0	2	0
	Percentage	0.02%	0.00%	0.00%	0.02%	0.00%
Adult Transfer (206)*	Number	3	0	2	2	0
	Percentage	0.00%	0.00%	0.03%	0.02%	0.00%

\*206 adult transfers represent direct filings of charges against minors in district court instead of youth court

**II. Develop an Action Plan**

1. What do RED numbers tell you about your jurisdiction?

Generally, Black and American Indian youth are overrepresented in Montana's juvenile justice system, while Hispanic/Latinx and Asian youth are typically underrepresented. While these patterns continued over the past three years, certain fluctuations affected multiple groups. From 2018 to 2019 there was a rise in youth from most racial/ethnic backgrounds at the point of arrest and a smaller increase at various other contact points. Most notably, arrest rates for nearly all races and ethnicities decreased significantly from 2019 to 2020. This decrease was most likely caused by issues related to the pandemic and may rise in the next couple of years.

The data discussed contains several limitations. Since 2020 population data for youth in Montana is not yet available, MBCC used 2019 population data to calculate rates from 2020 youth court data. The addition of correct population data will slightly change the 2020 RED data in next year's report. Numbers captured by the youth courts also change depending on the time at which data is pulled. The status of juvenile cases changes periodically and sealed/expunged records are deleted from all youth court data. Finally, several minority groups have an extremely small population size in Montana. For these groups, the percentages of youth in the juvenile justice system may appear inflated. Among Black and Asian youth in particular, an increase or decrease of just a few juveniles can lead to exaggerated and misleading changes in disparities. The following assessment will examine representation and trends at each contact point for all racial/ethnic category that makes up at least one percent of Montana's youth population.

At the point of arrest, Black youth are the most overrepresented by percent of population. In 2019, 7.02% of Black youth were arrested. This rate was over 2.5 times the rate of arrest for white youth at 2.75%. While arrests rates for black youth dropped to 5.75% in 2020, the arrest rate for Black youth was 2.8 times higher than that of white youth. This indicates that the decline in arrest rates for Black juveniles during the pandemic was not significant enough to keep pace

with the drop in arrests among their white peers. American Indian youth are the second most overrepresented group, with an arrest rate of 4.48% in 2019 (about 1.6 times higher than the arrest rate for white youth). Hispanic/Latinx youth tend to be underrepresented in comparison to white youth at the point of arrest and are the only racial/ethnic group to experience a decline in arrests during both 2019 and 2020. Finally, Asian youth make up the smallest minority population in Montana and are the least likely to enter the juvenile justice system. In 2018 only 9 Asian youth (0.82%) were arrested and in 2019 11 Asian youth were arrested. Interestingly, Asian youth were the only racial/ethnic youth to experience a rise in arrests during the pandemic. However, their population size is too small to draw any meaningful conclusions.

Montana has very strong diversion for all racial/ethnic groups. In 2019, 100 out of 105 Black youth, 81 out of 90 Hispanic youth, and 470 out of 486 American Indian youth were diverted. All Asian youth were diverted, and out of 2,311 arrests among white youth 2,224 were diverted. Unfortunately, diversion rates dropped in 2020 for all racial/ethnic groups. According to offense classification data in the 2020 Youth Court Report<sup>1</sup>, during the pandemic there was a reduction in status, misdemeanor, and felony referrals. However, the steepest drop by far was in referrals for misdemeanor cases, which are typically diverted. Since reductions in status and felony offenses were much smaller, the sudden reduction in misdemeanors can most likely account for the reduction in diversion rates overall. As the effects of the pandemic subside, MBCC expects diversion rates to return to normal levels.

Detention rates in Montana are low. However, there are still some disparities in detention rates for Black and American Indian youth. In 2019 1.34% of Black youth and 0.94% of American Indian youth in Montana were sent to a detention facility pre-adjudication, compared to 0.34% of

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<sup>1</sup> Retrieved from [Youth Court At-a Glance 2020 \(mt.gov\)](https://www.mt.gov/youth-court-at-a-glance-2020)

white youth. Hispanic/Latinx youth were slightly overrepresented in 2018, but during 2019 and 2020 they were underrepresented compared to white youth. Asian youth were the most underrepresented racial/ethnic group, with a 0.09% detention rate in 2019. Between 2018 and 2019 there were slight reductions in detention rates for all minority groups and a slight increase among white youth. During 2020, detention rates decreased for white, Hispanic, and American Indian youth. Detention rates did rise for Black and Asian youth, but the increases were both negligible after accounting for the small population size.

A small number of juveniles receive a disposition commitment after being adjudicated delinquent. Because the numbers are so small, it is difficult to track racial/ethnic disparities. In 2020 13 white youth and two American Indian youth were committed. Both groups represented 0.02% of the total population. In the previous year eleven white youth, one Hispanic youth, and four American Indian youth had been committed. No Asian youth were recorded in youth correctional facilities over the past three years, and typically there is at least one other minority group with no commitments in a single year. All youth receive extensive support, education, and through re-entry plans.

Finally, MBCC has included 206 adult transfer data. These types of transfers occur when a petition is filed directly in district court due to the seriousness of the offense and the child's age. This data does not include 208 transfers, which occur when a youth ages out of the juvenile justice system. Black and/or American Indian youth can be overrepresented in 206 transfers. The largest disparities are shown in 2019 data. Nine white youth (0.01%), two Black youth (0.13%), and four American Indian youth (0.04%) were transferred to adult court. However, the number of juveniles is too small to draw meaningful conclusions. Additionally, most minority groups may have a couple of 206 transfers one year and none the next. This was the case for

Hispanic/Latinx youth, who received no transfers in 2018 and 2019 but two in 2020. Asians were the only racial/ethnic group with no 206 transfers over the past three years.

2. What would success in RED reduction look like for your state?

Success in RED reduction starts by reducing the numbers of minority youth coming into contact with the juvenile justice system. This would best be accomplished through strong and culturally specific prevention efforts, especially in diverse communities. To be successful, minority youth would receive targeted services to reduce risk factors and enhance protective factors related to juvenile offending. Evidence-based programs and services should be made available to at-risk and delinquent youth in counties with large minority populations and/or higher RED. Due to disproportionate referral rates described above, a strong focus on delinquency prevention for Black and American Indian youth is needed. Reduced referral rates for these groups will most likely lead to RED reduction in later contact points.

Local Title II programs will need significant collaboration and cooperation from cities, counties, and tribes to reduce RED in their communities. Most youth are referred by local police or school resource officers (SROs) if applicable. Some of the most successful youth programs in Montana involve strong partnerships between program staff, schools, SROs, law enforcement, and the youth court system. For example, the Center for Restorative Youth Justice (CRYJ) in Kalispell works with SROs to provide services for youth committing a first-time non-violent offense on school property. Students found with alcohol, nicotine, or marijuana on school property can complete substance use classes and/or other restorative interventions at CRYJ rather than being arrested/referred. If similar partnerships can be created in larger cities, Montana's Title II programs may be able to prevent a significant number of referrals and reduce re-offending for all youth, including minorities.

3. How much do you want to reduce RED next year?

Over the next three years, MBCC seeks to reduce arrests rates for Black and American Indian youth in communities with active Title II programs.

4. Is this reduction reasonable?

Reducing arrest rates for Black and American Indian youth will be challenging, but possible. MBCC has strong relationships with youth courts, law enforcement representatives, and other state and local agencies. Montana's state advisory group, the Youth Justice Council (YJC), is committed to spreading awareness about RED and working with outside agencies to identify alternatives to arrest/referral for nonviolent offenders. The RED Committee of YJC, with the assistance of MBCC staff, will continue gathering data and working towards goals outlined in the RED plan.

5. What do you need from OJJDP?

So far, the RED coordinator calls have been very helpful. MBCC may also request technical assistance from OJJDP to develop and implement strategies to reduce arrests for nonviolent offenses on school campuses.

6. What safeguards will you put in place to ensure that as you work to reduce RED, you are still protecting the public, holding youth accountable, and equipping youth to live crime-free, productive lives?

School and community-based programs funded by MBCC are intended to prevent delinquency and improve outcomes for youth who are not considered a threat to public safety. These programs provide services such as mentoring, life-skills training, family support, substance use programming, and academic help to ensure that participants have every possible chance to succeed. Montana also has a strong focus on restorative justice practices, which hold youth accountable by creating opportunities to repair harm and reintegrate them back into the community. MBCC funds one Title II program that uses restorative justice practices and plans to fund new restorative justice programs in the state under a different grant award.

Despite extensive prevention and diversion efforts, a small number of youths are held in secure facilities out of necessity. Montana's youth courts and juvenile detention/correctional facilities overcome multiple barriers to provide a small number of juveniles who are considered a threat to public safety with a safe environment, individualized treatment services, trauma-informed care, and consistent educational programs. The SAG is committed to identifying potential improvements in the juvenile justice system for youth of all racial and ethnic backgrounds.

### **III. Conduct an Outcome-Based Evaluation**

#### 1. What are your new numbers?

RED numbers decreased dramatically at most contact points between 2019 and 2020. RED reduction goals mainly focused on Black and American Indian youth. As shown in Table 3, 5.75% of Black youth were arrested, 4.95% were diverted, 1.47% were detained, and none were committed in 2020. Table 3 also shows that 3.08% of American Indian youth were arrested, 2.65% were diverted, 0.64% were detained, and 0.02% were committed. Of the total youth arrested in 2020, 86.04% of Black youth and 86.23% of American Indian youth were successfully diverted.

Between 2019 and 2020, the Black arrest rate decreased by 18.1% and the American Indian arrest rate decreased by 31.25%. Detention rates decreased by about 47% for American Indian youth and rose 9.7% for Black youth. The reason for increased detention rates among only Black youth during the pandemic is unknown. However, this represents an increase of only two youth in detention and could be coincidental. The number of Hispanic/Latinx youth in detention is typically low, but the rate dropped further from 0.27% in 2019 to 0.15% in 2020. Diversion rates decreased among all racial and ethnic groups in 2020 as well, possibly because fewer youth were arrested for misdemeanor crimes during the pandemic. The diversion rate dropped from 95.24%

in 2019 to about 86% in 2020. Similarly, diversion rates for American Indian youth dropped from 96.71% in 2019 to 86.23% in 2020.

## 2. Did you meet your goals?

MBCC exceeded most of its targets from its 2020 RED Plan. Arrest rates for Black and American Indian youth decreased much more than expected, as did detention rates for most minority youth. The rise in detention for Black youth is small but breaks the pattern of decreasing detention rates. The RED Committee will discuss these discrepancies in more depth. MBCC did not improve diversion rates for Black, American Indian, and Hispanic youth in 2020. However, this is expected given the decrease in arrests for low-level offenses. The RED Committee followed through on its plan to work with local leaders and organizations supporting youth of color. The YJC and MBCC staff have had multiple discussions with the Montana Racial Equity Project and exchanged data. This has helped staff discover inaccuracies in reported arrest data and led to the goal of improving data collection and sharing efforts, which is described in the project narrative.

## 3. If yes, what worked? What drove the success? If no, what were the barriers? How might you overcome them next year? What partners do you need?

Montana experienced unexpected changes in juvenile justice data during the pandemic. For this reason, it is difficult to pinpoint MBCC's role in these reductions. MBCC anticipates that numbers will return to normal levels in FY 21 and FY 22. The RED Committee and DSA staff continually revise RED goals and objectives based on the progress made and new developments. By continuing these efforts, MBCC hopes to create sustainable RED reductions in the coming years. MBCC is building more partnerships with local agencies to address barriers such as a lack

of control over local jurisdictions, an inability to provide comprehensive services in some areas, and pushback regarding federal and state recommendations to reduce RED.

#### 4. How can OJJDP help next year?

MBCC staff appreciate the frequent discussions with OJJDP and other states regarding RED reduction strategies. MBCC may request assistance in identifying evidence-based methods to reduce RED, especially in rural areas.

#### 5. How did you protect the public, hold juvenile offenders accountable, and equip them to live crime free and productive lives?

Montana limits the use of detainment and confinement for all juveniles except those who are a threat to public safety. The youth targeted by most Title II programs have only committed nonviolent offenses or are simply at risk of future delinquency. These programs hold youth accountable by monitoring progress on court requirements and providing opportunities that improve participants' chances of graduating school, supporting themselves financially, and staying out of the justice system.

#### 6. What are your goals?

MBCC has included goals/objectives to be completed over the next three years. These include:

##### 1. Expand the SAG's Tribal Outreach Efforts

Objective: Add a minimum of two new members to the Tribal Outreach Committee and seek input from a minimum of three tribes that historically have not had strong ties to the SAG and the MBCC.

Outcome Measures: Number of new Tribal Outreach Committee members added; number of tribes contacted (successfully and unsuccessfully).

Objective 2: Develop at least three recommendations based on tribal input to reduce RED. These recommendations will be included in MBCC's report to the Governor and Legislature.

Outcome Measure: number of recommendations in the Governor's Report.

Objective 3: Advocate for specific tribal needs with state or local agencies as needed.

Continue having discussions with tribal leaders as their needs evolve.

Outcome Measures: Number of meetings with representatives of other agencies regarding the needs of American Indian youth; percent of tribes successfully contacted in year one engaged in ongoing conversations with the Youth Justice Council.

## 2. Measure and improve RED outcomes for programs receiving Title II funding.

Objective 1: Provide a form for subgrantees to use quarterly as they collect and report data regarding program participation outcomes for youth of color. Collect forms from subgrantees throughout the grant cycle.

Outcome Measure: Percent of active subgrantees completing quarterly RED reports.

Objective 2: Analyze data provided by subgrantees in year 1 and present results to the Youth Justice Council. Improve, where appropriate, the reporting process and gather strategies for RED reduction from successful subgrantees.

Outcome Measure: The RED committee will complete one annual presentation to the SAG regarding RED data and suggested RED reduction strategies.

Objective 3: Continue to require Title II applicants to collect and report RED data.

Develop resources to train subgrantees on data collection, reporting, and strategies for RED reduction.

Outcome Measures: percent of active subgrantees completing quarterly RED reports; completion of annual presentation of RED data to the SAG, percent of subgrantees receiving training regarding data collection, reporting, and RED reduction strategies.

3. Increase delinquency prevention efforts and supportive services for at-risk and justice-involved Black youth in Montana.

Objective 1: Invite organizations advocating for reduced inequality in the justice system for Black youth to participate in SAG meetings.

Collect data regarding arrests made by SROs, with a specific focus on Black youth.

Outcome Measure: number of organizations invited to SAG meetings; number of local law enforcement agencies/schools contacted for SRO arrest data.

Objective 2: Analyze and present SRO arrest data for Black youth to the SAG. Include the data and conclusions, if needed, in the report to the Governor and Legislature.

Outcome Measures: Completion by the RED Committee of at least one presentation of SRO arrest data to the SAG.

Objective 3: Discuss potential alternatives to arrests/referrals for nonviolent offenses with juvenile justice stakeholders.

Outcome Measure: Number of agencies/organizations contacted.