

# Minnesota Juvenile Justice Advisory Committee



Annual Report and Recommendations to the  
Minnesota Governor and State Legislature  
November 2010



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STATE OF MINNESOTA

## Juvenile Justice Advisory Committee

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*Richard Gardell, Chair*

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November 2010

It is my privilege to present to you the 2010 Juvenile Justice Advisory Committee (JJAC) Annual Report with Accomplishments and Recommendations. Each year JJAC reports on its interactions with other youth-serving organizations, reviews current youth data and youth issues that form the commonalities that describe the state of affairs for youth in Minnesota and which gives JJAC direction.

These issues form our executive and legislative proposals in order to ensure the Juvenile Justice and Delinquency Prevention Act's (JJDP Act) four core protections. These protections are given to our youth as they travel their road to maturity and independence and as they chart their individual course through their formative years. JJAC believes that all youth deserve many opportunities to succeed. Therefore we all should do everything we can to assist them make healthy and productive choices as they mature. Additionally, we value accountability and responsibility resulting in safe communities in Minnesota. JJAC's Accomplishments continue to build on a concerted effort in the past several years making a difference in our youth's lives. Some highlights:

- There is now a formal MOU with the Department of Corrections for inspections of jails, juvenile facilities and other mandated inspection sites.
- The three pilot JDAI sites continue to be extremely successful in reducing the inappropriate use of secure detention without compromising public safety.
- The partnership with JJAC and law enforcement continues with focused training and strategies in response to a juvenile's interaction with the police officer.

Other accomplishments noted in the report are important steps in providing a comprehensive approach in all aspects of a Minnesota youth's experience. JJAC's Recommendations will focus on educating policy makers on legislative needs to keep Minnesota's protections in order. Among them are:

- Our law should be consistent in sight and sound separation with the JJDP Act.
- Some law enforcement agencies currently release private juvenile records with informed consent and others do not resulting in inconsistent and unfair treatment for juveniles across the state. A legislative change would make this consistent.

Please see the full report for further recommendations and initiatives. JJAC's hope is that you will reflect on the immense body of work that has already been accomplished and that you will see the need for vigilance as we go forward together. Thank you for this opportunity to share our work knowing of your commitment to all Minnesotans.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard Gardell".

Richard Gardell, Chair



## About the Minnesota Juvenile Justice Advisory Committee (JJAC)

In 1974, the U.S. Congress created the Juvenile Justice and Delinquency Prevention Act (JJDP Act).

The JJDP Act guarantees four core protections to America's youth when they become involved in the juvenile justice system. Congress has continually re-authorized the JJDP Act in the thirty-six years since its passage and it is currently before Congress once again for re-authorization (2009~2010). The four core protections provide the foundation for each state's required advisory committee's work plan and become requirements for the states to protect:

**De-institutionalization of status offenders (DSO)** – Each state must ensure that juveniles who are charged with a status offense (truancy, curfew, running away, alcohol and tobacco possession/consumption) are not placed in secure detention or in correctional facilities. Status offenses are so designated as those offenses that would not be an offense if committed by someone over the status age of eighteen (or in the case of alcohol, age 21).

**Sight and sound separation of juveniles from adult offenders** – Each state must ensure that a juvenile charged with a delinquent offense and who is detained or confined in an adult jail or lockup will not have verbal or visual contact with adult offenders.

**Removal of juveniles from adult jails and lockups** – Each state must ensure that no juvenile shall be detained or confined in a jail or lockup that is intended for adult offenders beyond specific proscribed time limits – six hours in a Metropolitan Statistical Area (MSA) county and twenty-four hours in a non-MSA county. Minnesota has a combination of MSA and non-MSA counties.

**Disproportionate Minority Contact (DMC)** – Each state must make an effort to reduce DMC at all of the designated nine points along the juvenile justice continuum when that proportion exceeds the minority's representation in the general population.

For oversight on these mandated requirements, Minnesota's Governor appoints eighteen members to sit on the supervisory Juvenile Justice Advisory Committee (JJAC). As one of its duties, JJAC reports annually to the Office of Juvenile Justice and Delinquency Prevention (OJJDP) within the Department of Justice with required data on the state's current compliance with the four core requirements. **Minnesota is in compliance on all four core protections or requirements of the JJDP Act.**

The eighteen members of JJAC are appointed by the Minnesota Governor to advise and make recommendations to the Governor and the Legislature on issues, trends, practices and concerns surrounding juvenile justice in Minnesota. JJAC serves as the supervisory committee safeguarding the state's involvement with youth in the juvenile justice.

Currently the members of JJAC represent all Minnesota's eight congressional districts. They represent the following major categories: youth, courts, law enforcement, private non-profit youth-serving agencies, public defense, prosecution, and private citizens who have acquired special knowledge relating to juveniles. They represent Minnesota's rural, suburban and urban areas equally. They represent all major cultural and national groups who reside in Minnesota. They are a working board.

JJAC meets monthly to work on its federal and state responsibilities. Committees with specific focused items meet outside of the monthly meeting. Responsibilities of JJAC include:

- To develop a comprehensive Three Year Plan for juvenile justice in Minnesota as mandated by the JJDP Act.
- To report to the Governor and Legislature Minnesota's compliance with the JJDP Act's four core requirements.
- To advise the Governor and Legislature on recommendations for improvement of the Minnesota juvenile justice system.
- To review, award and monitor federal juvenile justice funds appropriated by Congress in Title II, Title V and the Juvenile Accountability Block Grant (JABG) funds. Title II provides funding for Prevention, Intervention and Aftercare programs to youth serving and community based organizations. Title V provides funding to local units of government for community delinquency prevention programs. JABG provides funding support for juvenile justice to local units of government and allocations are based on population.

JJAC meets monthly in various sites around the state to become familiar with local juvenile justice issues and to allow specific communities convenient access to relating their overarching perspective on juvenile justice. In 2010 the committee visited:

St. Paul's Youth Express agency, St. Paul  
Minnesota Department of Corrections, St. Paul  
Dakota County Western Service Center, Apple Valley  
Hennepin County Home School, Minnetonka  
Minnesota Correctional Facility, Red Wing  
Life Work Planning Agency, Mankato  
Lakes Area Restorative Justice Program, Pequot Lakes  
Minnesota State Capitol, St. Paul  
Evergreen House, Bemidji  
Duluth School District, Duluth  
Minnesota JJAC members serve nationally as well as statewide.



JJAC Chair **Richard Gardell** also serves as Chair of the Federal Advisory Committee on Juvenile Justice (FACJJ) which functions in a parallel manner to the state advisory committee by advising the President and Congress on juvenile justice issues.

Judge **Michael Mayer**, one of JJAC's Vice Chairs, serves as the Midwest Regional Chair of the Coalition for Juvenile Justice (CJJ), an organization of state advisory committees. He also serves on the CJJ Board of Directors.

**Danielle Chelmo**, JJAC Youth Member, serves on the National Youth Committee of CJJ.

### **JJAC Ex Officio Members**

JJAC relies on the expertise of concerned resource individuals in order to accomplish its work plan. A major source of information has been the Ex Officio members who attend the JJAC meetings and keep JJAC apprised of activities, interests and concerns they have in their respective area. The five state agencies besides Public Safety which serve juveniles are:

- Department of Corrections (DOC)
- Department of Education (MDE)
- Department of Employment and Economic Development (DEED)
- Department of Health (MDH)
- Department of Human Services (DHS)

Additionally, JJAC has representation by the Minnesota judicial branch's Court Administration.

These six Ex Officio members give their time and expertise to JJAC deliberations. In 2010, Department of Health and Human Services Ex Officio Bill Wyss resigned his Ex Officio status after seven years of dedicated JJAC involvement. Ongoing representation from Ex Officios has contributed to JJAC's overall knowledge and ability to problem-solve comprehensively.

### **JJAC Youth Caucus**

JJAC has had a singular advantage in its ongoing deliberations and policy considerations by having its youth members enthusiastically and actively engaged in all aspects of the work of the committee. In 2009~2010 youth members formalized their meetings into a JJAC Youth Caucus. The youth members are joined by several other JJAC members who have worked or are working specifically with youth – one as a correctional administrator and the other as a school resource officer.

The Youth Caucus has put together an initiative for advancing positive youth development. The Youth Caucus plans on sponsoring a forum which will hear directly from youth on their perceptions of the juvenile justice system and their ideas for keeping youth out of the system. Youth Caucus members will lead this initiative and develop it based, in part, on their

own involvement with the juvenile justice system. School Resource Officers, who also share the concern about the over-criminalization of juveniles, will collaborate with the Youth Caucus on this important initiative. Focus groups involving youth and police officers will be part of this forum. Plans are to focus on the Minneapolis zip code of 55411 which has the largest number of violent crimes in Minnesota, and which will be the site for much of the analysis of the effort.

JJAC Youth Member Danielle Chelmo continues to serve on the Coalition of Juvenile Justice (CJJ) National Youth Committee. She has represented JJAC nationally at the National Youth Committee meetings. At this past summer's meeting, the committee developed a national youth member engagement project consisting of six goals which will keep youth members not only participating in their state's advisory committee but also providing incentives for each state's youth involvement.

### **JJAC Staff Collaboration Involvement**

Along with the above partnerships, JJAC staff members are involved in other youth-serving collaborations:

Maurice Nins attends

- Juvenile Detention Alternatives Initiative (JDAI) meetings and the McKnight Foundation.
- Out of School Time Advisory Council meetings.

Dana Swayze attends

- "Snapshots on Minnesota Youth" state agency collaboration.
- "Spotlighting Positive Youth Development" team, a 4-H grant.
- "Youth Vision Group" on youth policy across state agencies.

Carrie Wasley attends

- Enforcing Underage Drinking Laws (EUDL) meetings.
- Shared Youth Vision (SYV) collaboration meetings.
- Support systems for Rural Homeless Youth (SSRHY) meetings.
- Girls Collaborative meeting out of DOC.

## 2010 JJAC Accomplishments

Overall, Minnesota ranked number-two among the states in the Annie E. Casey Kids Count Data Book for 2010 (see [www.datacenter.kidscount.org](http://www.datacenter.kidscount.org)). Kids Count measures ten key indicators for a healthy childhood. With a population of 5.29 million, Minnesota outweighs first-place New Hampshire which has only one-fifth the population at 1.32 million. Also, Minnesota ranked seventh among the states in graduation rates (see [www.manhattan-institute.org](http://www.manhattan-institute.org)). However, a breakdown of the 2007 Minnesota graduation rate (73.1 percent) shows Caucasians at 80 percent and Asians at 65 percent, while African American, Hispanic/Latino and American Indian students all graduated at a 40 percent rate (School Report Cards, MDE Website, <http://education.state.mn.us/MDE/index.html>). These Minnesota benchmarks are included here to give a broader picture of youths' experiences in Minnesota.

Minnesota is in complete compliance with the OJJDP Act requirements (see Appendix E for notifying letters from OJJDP). The requirements require annual inspections of facilities around the state to make sure the four Core Requirements are met. In 2010, facilities licensed to hold juveniles were inspected by either staff at the Office of Justice Programs or by Department of Corrections Inspection and Enforcement Unit. The DOC Inspectors include: Timothy Thompson, Manager; Teresa Smith, Management Analyst; Julie Snyder; Lisa Cain; Diane Grinde; Greg Croucher and Sarah Johnson. All except Johnson are Senior Inspectors.

### **Compliance Inspections:**

In 2009, the Department of Corrections (DOC) entered into a formal Memorandum of Understanding (MOU) which resulted in a working collaboration with the Office of Justice Programs (OJP) for ongoing inspection of jails, juvenile facilities and other mandated inspection sites. In 2010, DOC inspectors began to observe conditions for youth being held in jails and other facilities to verify that the institutions' procedures were within the parameters of the JJDP Act. By the end of September 2010, they had inspected over 50 percent of total facilities. OJJDP mandates an annual inspection rate of 33 percent.

This partnership is important for JJAC's success in complying with the OJJDP inspection mandates as it gives correctional inspectors a working knowledge of the OJJDP requirements while allowing them to augment each individual inspection with their professional correctional training. Education of jail personnel in OJJDP's Core Requirements created a more comprehensive perspective as they carried out their duties during site visits and resulted in many more compliance checks.

In September 2010, JJAC received written affirmation that Minnesota was in full compliance on the first three of the JJDP Act's Core Requirements. Earlier, in June, JJAC had received written confirmation that Minnesota was in full compliance on the OJJDP DMC Core Requirement.

### **Juvenile Detention Alternatives Initiative**

The Minnesota Juvenile Justice Advisory Committee (JJAC) began supporting the Juvenile Detention Alternatives Initiative (JDAI) in Minnesota in 2005 in an effort to eliminate Disproportionate Minority Contact (DMC). JDAI was initially implemented in Dakota, Hennepin and Ramsey counties and expanded in 2009 to St. Louis County with JJAC support.

JDAI is a reform initiative based on eight core interconnected strategies that address the primary reasons why youth are unnecessarily or inappropriately detained. Additionally, as Minnesota engaged in the initiative to eliminate DMC, a ninth strategy was added to reflect the importance of involving those most impacted by DMC in eliminating racial and ethnic disparities. The nine core strategies are as follow: collaboration, data-driven decisions, objective admission criteria and instruments, alternatives to detention, expediting case processing, special detention cases, conditions of confinement, reducing racial disparities, and community engagement.

The three pilot counties have been extremely successful in reducing the inappropriate use of secure detention without compromising public safety. Data from the three initial sites indicates that the average daily facility population for the sites combined declined by 56 percent between 2005 and 2009. Further, during the same period, the combined youth of color average daily facility population declined by 45 percent. Moreover, after the implementation of risk assessment instruments in the three initial sites in 2008, DMC at detention was reduced by 15 percent between implementation and first quarter 2010. Also during this same period, recidivism rates for juveniles released on detention alternatives on average have been less than 2 percent on average and failure to appear to court rates have been less than 6 percent on average. Finally, the three pilot JDAI sites have realized significant cost savings through cost-avoidance and cost-reduction as a result of eliminating the need for expanding one detention facility, closing six detention pods, and shifting staffing.

Many jurisdictions across Minnesota can achieve similar outcomes by replicating JDAI strategies such as: collecting and using data to inform decision making, developing objective and race neutral detention risk assessments instruments, utilizing culturally appropriate and geographically suitable detention alternative programs, developing probation graduated response grids, and involving communities most impacted by system practices in development of system and community solutions.

### **DMC Minnesota Police Input Project**

Metropolitan State University's School of Law Enforcement and Criminal Justice (SLC) has become a predominant source of education for those seeking a professional role in criminal justice or law enforcement related fields. In addition, the SLC Center for Applied Research has been involved in a range of academic research endeavors focused on diversity issues.

In late 2009 and continuing in 2010, JJAC funded a statewide DMC law enforcement training and response project. The project combines training and focus group feedback from a broad range of Minnesota law enforcement officers. It is designed to provide policymakers with information and recommendations that may help establish a strategy for improving law enforcement response to DMC. This ongoing project will present a final report to JJAC when finished. Hastings Police Chief Paul Schnell led this initiative.

**Passage of the Interstate Compact:**

The Minnesota Legislature passed acceptance of the Interstate Compact during the 2010 session. The Interstate Compact for Juveniles is an agreement between states that authorizes the transfer of supervision and care as well as the return of juveniles from one state to another. Member states, including Minnesota, have enacted legislation in substantially the same language in order to be part of the compact. The compact governs the states' transfer of supervision of juvenile offenders, temporary travel of defined offenders, and return of juveniles who have run away, escaped, or fled to avoid prosecution from supervision. Underlying the Interstate Compact is a set of rules that lay out the criteria and process for transfers of juveniles between states. This cooperative agreement assures juveniles that all states will operate under the same provisions in regard to juvenile transfers. Representative Joe Mullery, Chair of the Civil Justice Committee in the Minnesota House, authored this legislation.

**Support of Legislation from the Department of Human Services (DHS):**

JJAC has worked closely with the DHS in their mental health initiatives for youth. The following are successful legislative additions to these efforts:

**Tribal Authority in Mental Health and Chemical Dependency Care**

Effective August 1, 2010, the DHS Mental Health policy bill (*Laws of 2010, Chapter 303*) requires a county Juvenile Treatment Screening Team evaluating an Indian child for possible placement in a treatment facility to notify the child's tribe and permit a tribal representative to participate in recommendations to the juvenile court. This bill was proposed because some counties had not included tribal representatives in juvenile court treatment decision-making for Indian children until final disposition hearing.

Also effective August 1, 2010, the DHS Mental Health policy bill (*Laws of 2010, Chapter 303*) requires a tribal health facility or Indian Health Services facility to determine the appropriate level of children's mental health care when Indian Health Services or tribal funds are to be used for the care. Previous law required counties to determine the appropriate level of care when county funds are to be used.

**Report from the Department of Employment and Economic Development**

Minnesota's youth unemployment rate was 22 percent in 2009 for all youth, and double that number for youth from communities of color. Many of Minnesota's neediest youth face obstacles to meeting current and future job demands. Each year, youth employment and

training programs such as the Workforce Investment Act, Minnesota Youth Program and Youthbuild, provide approximately 10,000 of Minnesota's at-risk youth, including juvenile offenders, with opportunities to develop the skills needed to succeed in the future. In State Fiscal Year 2010, **44** percent of participants had a disability, **41** percent were from families receiving public assistance, **42** percent were from communities of color, and **45** percent were system-involved youth (foster youth or juvenile offenders).

With additional Workforce Investment Act funding provided by the American Reinvestment and Recovery Act, Minnesota expanded 2009 summer youth employment opportunities to an additional 6,749 youth. The work readiness attainment rate was 94 percent and the summer youth completion rate was 93 percent. Youth participants had multiple challenges such as substance abuse, criminal records and mental health issues, in addition to being poor. The Recovery Act allowed Minnesota to almost triple the number of youth who had job opportunities at a time when unemployment rates among young people in Minnesota are at the highest level in a generation.

In 2009-10, DEED partnered with DHS and the Minnesota Workforce Council Association (MWCA) to provide work experience and work readiness training for teen parents enrolled in the Minnesota Family Investment Program (MFIP). Approximately 300 teen parents were served in 16 sites in this year-round pilot initiative.

As a result of the successful Teen Parent Pilot Project, DEED again partnered with DHS and the MWCA to secure Temporary Assistance to Needy Families (TANF) Emergency Contingency Funds from the U.S. Department of Health and Human Services to operate a TANF Summer Youth Program in the summer of 2010. This project targeted low-income youth who are on MFIP or eligible for TANF with work experience and work readiness training opportunities.

### **Partnerships**

JJAC is in a unique position of being the state's central juvenile justice policy body. As such, it has a responsibility to listen to and encourage other juvenile justice organizations. The Second Chance Coalition, a coalition of 51 organizations advocating fair and responsible laws, policies, and practices, allow those who have committed crimes to redeem themselves, to fully support themselves and their families, and to contribute to their communities with their full potential. The coalition is at the forefront of policy change. In 2010, the Second Chance Coalition was awarded the 2010 Nonprofit Mission Award for Advocacy by the Minnesota Council on Nonprofits (see more about this partnership in Recommendations).

JJAC also communicates and coordinates with the Minnesota County Attorney's Association, Juvenile Officers Association, Minnesota Community Corrections Association, Minnesota Association of County Probation Officers, Minnesota Corrections Association, Minnesota Association of Community Corrections Act Counties, and others. These agencies share their ongoing work with JJAC.

**EUDL (Enforcing Under Age Drinking Laws)**

JJAC's companion program from OJJDP is the EUDL program. The Juvenile Justice Specialist attends the EUDL quarterly meetings and receives and shares juvenile justice information. The state EUDL coordinator and sub-grantees have provided technical assistance to communities and counties that are interested in adopting social host ordinances to deter underage drinking.

A social host ordinance closes a loophole in current state laws by making the hosting of an event that includes underage alcohol consumption a misdemeanor criminal offense, regardless of who provided the alcohol. A model Social Host ordinance would consist of the following:

*Makes it unlawful for any person(s) to host or allow an event or gathering at any private or public property where alcoholic beverages are present when the person knows or reasonably should know that an underage person consumes or possess alcohol, and the person fails to take reasonable steps to prevent possession or consumption by the underage person(s). A person who hosts an event as described above does not have to be present at the event or gathering to be criminally responsible.*

The ordinance does not apply to conduct solely between an underage person and his or her parents while present in the parent's household, to legally protected religious observances, to retail liquor licensees, municipal liquor stores, or where underage persons are lawfully in possession of alcoholic beverages during the course and scope of their employment.

## 2010 JJAC Recommendations

**Deinstitutionalization of Status Offenders (DSO):**

JJAC will continue to support the OJJDP core protection of the Deinstitutionalization of Status Offenders (DSO) in Minnesota. By statute, the status offenses of tobacco use/possession, alcohol use/possession and curfew violations are not to result in secure detention in Minnesota (see below under CHIPS for truancy and runaway disposition). The growing use of Risk Assessment Instruments (RAI) at detention facilities as an initial determinant for assessing the public safety risk of the individual juvenile has been a successful tool for not detaining and for releasing status offenders (and other low-level offenders) who previously would not have been released. RAIs are objective tools that ensure that those detained pose a risk to public safety based on their present or past offense history or a documented history of non-compliance with less restrictive alternatives.

Results in larger jurisdictions (Dakota, Hennepin and Ramsey) show a significant decrease in numbers of juveniles held in detention in the immediate past years. From 2005 through 2009, Hennepin County saw a decrease of 54 percent in the average daily population at the

Juvenile Detention Center. Ramsey County experienced a similar drop (54 percent) with its average daily population of juveniles in detention. Rounding out the three JJAC-funded Juvenile Detention Alternatives Initiative counties, Dakota's rate fell over 50 percent in the same period. These significant declinations in the detention average daily population show the dedication and innovation of county staff. St. Louis County, the first outstate Minnesota county to initiate juvenile detention reform, is in its second year of JJAC funding.

A proposed change within the Re-authorization of the JJDP Act is to phase out the valid court order (VCO) for status offenders. Many states use the VCO which allows the court to hold a juvenile when they have been found in contempt of a valid court order for their status offense (such as community service, school attendance and other non-secure penalties). Minnesota has a judicial device called the Hammergren Warning which allows non-delinquents to be held securely. The proposed phase-out is to span a three-year period. JJAC will monitor the Re-authorization and this specific change closely.

The Office of Justice Programs has begun an in-depth analysis of the JJDP Act and its codification in Minnesota Statutes and Rules of Juvenile Procedure. Preliminary findings suggest the following would need to occur in order for Minnesota Statutes and procedures to fully align with the JJDP Act:

Minnesota Statutes, section 260C.181, is in direct conflict with the JJDP Act in that it allows, under certain conditions, juvenile non-offenders to be held in adult jails or lockups. Minnesota Statutes, section 260C.181, should be amended to remove secure adult facilities as a place to detain juvenile non-offenders (see Appendix G).

**CHIPS:**

In order to be in full compliance with the JJDP Act, Minnesota Statutes, section 260C.181, should be amended to preclude the use of secure adult detention for all non-offenders such as CHIPS cases which include truants and runaways. The statute also should be clarified with the JJDP Act to provide that the 24-hour period relating to juvenile facilities is exclusive of weekends and holidays consistent with the JJDP Act (see Appendix H for an analysis regarding these issues).

**Jails:**

Recommendations from the JJDP Act and Minnesota Statutes Analysis would modify Minnesota Statutes, section 260B.181, subd. 4, to state that youth in adult facilities who require continued detention must be moved to a juvenile facility consistent with Minnesota Statutes, section 260B.178, subd. 2. Eliminate the statement that continued detention can occur in an adult facility for up to eight days. Allowing youth to be held in an adult facility following their initial court appearance is in conflict with the JJDP Act (see Appendix H).

Request the DOC license adult facilities for only six hours if there is a secure juvenile facility within the county, even when the county is outside a Metropolitan Statistical Area (MSA).



JJAC will continue to support community-based alternatives to juveniles who find themselves within the juvenile justice system (see JJAC-funded grantees in Appendix D for a description of innovative programs for juveniles).

**Sight and Sound Separation:**

Minnesota had no documented or observed sight and sound violations in 2009. Vigilance for this core requirement will continue (see Appendix H).

**DMC:**

Minnesota law should be amended to define sight and sound separation consistently with the JJDP Act definitions. Moreover, Minnesota law should be clarified to include that the application of sight and sound separation requirements apply to secure court holding areas.

The following three initiatives demonstrate an ongoing commitment by JJAC and its individual members toward Disproportionate Minority Contact within the system:

JJAC Member Jean Hancock, a School Resource Officer (SRO) in Woodbury, has spent considerable effort developing PEER COR (Peer Council for Offense Resolution). This program uses peer juries in a process emphasizing restorative solutions to juvenile crime. Participants in PEER COR do show some DMC effect in the offender group of this metropolitan suburb. It is planned that by utilizing restorative principles including family and peer groups, plus allowing more input from the offender and family, the cultural problems associated with this racial imbalance can be more successfully offset and create a climate of success.

JJAC Member Freddie Davis-English has been instrumental in bringing together the near North side of Minneapolis (zip code 55411) which has the state's highest number of violent offenses. The initial phase of the Youth Caucus' Youth Development Forum will be a collaboration of community agencies with the University of Minnesota's UROC (Urban Research and Outreach/Engagement Center) to put together a number of youth-focus groups with youth living in that zip code to ascertain and analyze how violence affects participants' lives. JJAC has approved funding for this initiative.

In June 2010, JJAC approved funding for an improved judicial response to Native American youth within the Ninth Judicial District. The Leech Lake Band of Ojibwe Tribal Court presented a proposal to work with the seven counties contained within the Ninth Judicial District. This collaboration between the Leech Lake Band of Ojibwe Tribal Court and the Ninth Judicial District will significantly support and expand juvenile detention reform.

**Legislation:**

**Limit access to juvenile records.** Currently, court proceedings for 16 and 17 year-olds charged with any felony-level offense are public and resulting records are public, even if the charges are later dismissed or reduced. There are efforts to change this to limit public hearings to 16 and 17 year-olds charged with a felony level offense that is serious and

violent enough to justify a public hearing, or to limit access to the records if a felony level adjudication or conviction does not result from the proceedings.

Some law enforcement agencies currently release private juvenile records with informed consent and some do not, resulting in inconsistent and unfair treatment for young people across the state. A proposed legislative change would make private juvenile peace officer records comport with the law governing the records of the Bureau of Criminal Apprehension (BCA), prohibiting release with informed consent to private employers and landlords. This proposal would not modify the release of juvenile records for background checks already permitted or required by statute or inter-agency governmental access to juvenile records.

Minnesota's criminal expungement statute (Chapter 609A) does not have any provision for the sealing of juvenile records other than when the juvenile was certified to adult court. There is a juvenile records expungement statute, Minn. Stat. § 260B.198, that states "...the court may expunge the adjudication of delinquency at any time that it deems advisable." But it provides no guidance to petitioners, judges, and attorneys regarding guidelines and procedures. Expungement law should provide those with a juvenile record the opportunity to overcome barriers created by the record and give them adequate access to opportunities for personal and social growth. The current situation provides a chilling effect on the individual juvenile's employment potential.

**Limit sexual offender registration for juveniles.** Current juvenile sex offender law does not adequately account for differences between juveniles and adults, and often results in the unnecessary stigmatizing of juvenile offenders for the rest of their lives. Juvenile offenders do not present the same risks as adults who commit sex crimes, particularly when the charges are based solely on a difference in age. Requiring registration and tracking for these cases overly burdens resources that are needed for the most serious offenders. Juvenile justice groups support reforms that give judges and prosecutors discretion to require registration for juveniles when appropriate.

**Require racial impact statements.** Racial disparities currently existing in our juvenile justice system could have been prevented if legislators had data that is readily available to understand potential racial impact the proposed legislation might have. Racial Impact statements provide a tool to create fair laws and policies that will prevent unwarranted racial disparity.

Other legislative initiatives involving youth within the juvenile justice system were introduced in the 2010 session, as well as previous sessions. JJAC will continue to serve as an educational and historical resource to the 2011 legislative sessions as legislation involving juveniles are presented. The following are highlights of proposed legislative initiatives involving youth which were not successfully passed into law:

- HF 58: The commissioner (Education) must include content in the standards that teaches sixth, seventh, and eighth grade students about the juvenile and criminal justice systems, consequences of delinquent and criminal conduct, state and federal drug penalties, forfeiture of property, and issues related to gun violence, financial costs of crime, impact of drug and alcohol use, and consequences of selling drugs.
- HF 2515: An appropriation to the commissioner of education for crisis intervention team training for school liaison officers. The commissioner, in consultation with state and local crisis intervention experts, shall establish training guidelines and criteria for awarding grants to interested schools, school districts, and charter schools on a first-come, first-served basis. Training guidelines must promote local collaboration among school officials, public safety professionals, community mental health and emergency medicine providers, and members of the public. The commissioner may use up to 2.5 percent of this appropriation for administering this training program.
- HF 2618: Notice of collateral sanctions: (a) For purposes of this [legislation] "collateral sanctions" means a legal penalty, disability, or disadvantage, however denominated, that is imposed on an individual as a result of an adjudication of delinquency, even if the sanction is not included in the dispositional order. The term does not include:  
(1) a direct consequence of a violation of the law such as a fine, restitution, or detention; or (2) a requirement imposed by the court or other designated official or agency that the delinquent child provide a biological specimen for DNA analysis, provide fingerprints, or submit to any form of assessment or testing. (b) The court shall provide a child with a notice of the collateral sanctions of an adjudication of delinquency prior to accepting or entering a dispositional order upon a plea of guilty. (c) The notice provided in this subdivision shall not provide a basis for: (1) invalidating a plea, delinquency adjudication, or dispositional order; or (2) a claim for relief from or defense to the application of a collateral sanction. (d) The notice provided in this subdivision does not affect: (1) the duty an individual's attorney owes to the individual; (2) a claim or right of a victim of an offense; or (3) a right or remedy under law other than this subdivision available to an individual. delinquency may include: (1) being unable to get or keep certain licenses, permits, or jobs as a child or as an adult; (2) receiving a harsher disposition or adult sentence if adjudicated delinquent or convicted of another offense in the future; and (3) being unable to possess a firearm.
- HF 2665: The commissioner of human services, in consultation with the commissioner of corrections, shall offer to develop a discharge plan for community-based services for every serious and chronic juvenile offender at the Minnesota Correctional Facility-Red Wing who has a serious and persistent mental

illness as defined in section 245.462, subdivision 20, paragraph (c), or who has, if not for age, an emotional disturbance as defined in section 245.4871, subdivision 15.

- HF 2707: The court shall not stay adjudication on any felony offense if the child has previously received a stay of adjudication of delinquency by a court in any judicial district. This subdivision does not apply to an extended jurisdiction juvenile proceeding. In calculating an adult criminal history score, a stay of adjudication for a felony level offense ordered by the court pursuant to this subdivision shall be counted as an adjudication by the Minnesota Sentencing Guidelines Commission.
- HF 3137: When a child is detained for an alleged delinquent act in a state licensed juvenile facility or program, or when a child is detained in an adult jail or municipal lockup, the supervisor of the facility shall, if the child's parent or legal guardian consents, have a chemical use screen conducted with a screening instrument approved by the commissioner of human services, unless a screening has been performed within the previous 180 days or the child is currently under the care of a licensed alcohol and drug counselor. The screening shall be conducted by a mental health practitioner (see section 245.4871, subdivision 26), or a probation officer who is trained in the use of the screening instrument. The screening shall be conducted after the initial detention hearing has been held and the court has ordered the child continued in detention.

The following legislative proposal was passed into law:

**CHAPTER 330 Execution of adult sentence.** (a) When it appears that a person convicted as an extended jurisdiction juvenile has violated the conditions of the stayed sentence, or is alleged to have committed a new offense, the court may, without notice, revoke the stay and probation and direct that the offender be taken into immediate custody. The court shall notify the offender in writing of the reasons alleged to exist for revocation of the stay of execution of the adult sentence. If the offender challenges the reasons, the court shall hold a summary hearing on the issue at which the offender is entitled to be heard and represented by counsel. (b) If a person described in paragraph (a) is taken into custody, the person may be detained in a secure juvenile detention facility. If there is no secure juvenile detention facility or existing acceptable detention alternative available for juveniles within the county, the child may be detained up to 24 hours, excluding Saturdays, Sundays, and holidays, or for up to six hours in a standard metropolitan statistical area, in a jail, lockup, or other facility used for the confinement of adults who have been charged with or convicted of a crime. In this instance, the person must be confined in quarters separate from any adult confined in the facility that allow for complete sight and sound separation for all

activities during the period of the detention, and the adult facility must be approved for the detention of juveniles by the commissioner of corrections. If the person is 18 years of age or older and is to be detained prior to the revocation hearing, the person may be detained in a local adult correctional facility without the need for sight and sound separation. (c) After the hearing, if the court finds that reasons exist to revoke the stay of execution of sentence, the court shall treat the offender as an adult and order any of the adult sanctions authorized by section 609.14, subdivision 3, except that no credit shall be given for time served in juvenile facility custody prior to a summary hearing. If the offender was convicted of an offense described in subdivision 1, clause (2), and the court finds that reasons exist to revoke the stay, the court must order execution of the previously imposed sentence unless the court makes written findings regarding the mitigating factors that justify continuing the stay. (d) Upon revocation, the offender's extended jurisdiction status is terminated and juvenile court jurisdiction is terminated. The ongoing jurisdiction for any adult sanction, other than commitment to the commissioner of corrections, is with the adult court.

Other juvenile justice legislation was proposed during the 2010 legislative session and previous sessions. Groups supporting juvenile justice reformation continue to watch and educate on protecting juveniles (see Appendix G which lists known consequences of having a juvenile delinquency record in Minnesota).

## 2010 Youth Demographics and Juvenile Justice System Data

**Minnesota's Youth Population** under the age of 18 accounts for roughly 1.26 million of Minnesota's 5.26 million residents. While Minnesota's total estimated population has been slowly rising since 2000, the estimated percentage of youth under age 18 has been declining. In 2000, youth made up 26 percent of Minnesota's population; by 2009, they accounted for 24 percent.<sup>1</sup>

Of the 1.26 million youth, Minnesota has approximately 553,000 youth ages 10~17, who under Minnesota Statutes are eligible for involvement in the juvenile justice system. Of these youth, there are approximately 284,000 aged 14~17 who appear in greater numbers in the juvenile justice system than their younger counterparts.<sup>2</sup>

Minnesota's youth are more **racially and ethnically diverse** than the state population as a whole.<sup>3</sup> U.S. Census Bureau estimates for 2009 indicate that close to one-quarter (24 percent) of all Minnesota youth under age 18 represent racial or ethnic minority groups. This is true of 15 percent of the state population as a whole. In the youth population, those of Hispanic ethnicity are estimated to have surpassed African American youth as the most populous minority group in the state (6.6 percent Black or African American alone vs. 7.5 percent Hispanic of any race).

Race/Ethnic Category <sup>4</sup>	Minnesota's Overall Population (2009)	Minnesota's Youth Population (Under age 18)
<b>Caucasian, non-Hispanic</b>	84.8%	76.1%
<b>African American, non-Hispanic</b>	4.5%	6.6%
<b>American Indian, non-Hispanic</b>	1.1%	1.5%
<b>Asian, non-Hispanic</b>	3.7%	5.0%
<b>Native Hawaiian/Pacific Islander, non-Hispanic</b>	0.1%	0.1%
<b>Two or more races, non-Hispanic</b>	1.5%	3.2%
<b>Hispanic (any race)</b>	4.3%	7.5%

Information on the number of foreign-born youth in Minnesota will become available following the 2010 Census, but according to data created by the Department of Homeland Security and the Immigration and Naturalization Service, 18,020 immigrants declared Minnesota as their intended state of residence in 2009. Knowledge of foreign-born and

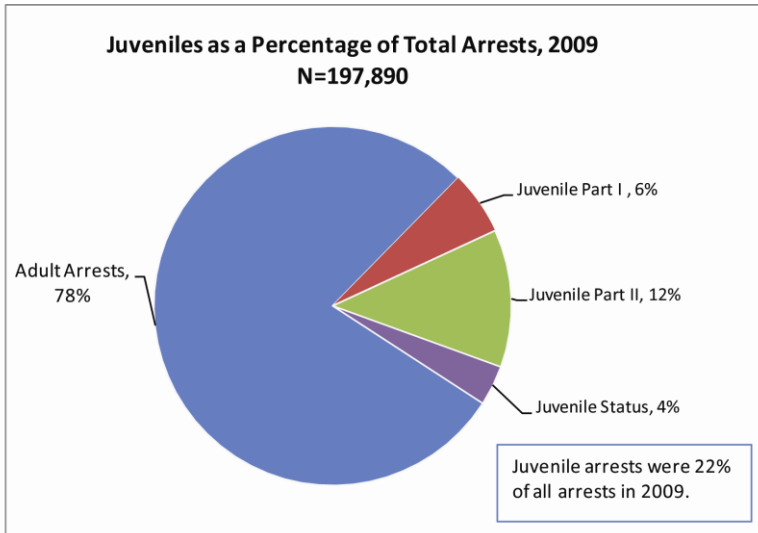
<sup>1</sup> U.S. Census Bureau State and County Quick Facts: 2000, 2009: Minnesota. <http://quickfacts.census.gov/qfd/states/27000.html>

<sup>2</sup> U.S. Census Bureau. Estimates of the Resident Population by Selected Age Groups for the United States, States, and Puerto Rico: July 1, 2009. <http://www.census.gov/popest/states/asrh/SC-EST2009-01.html>

<sup>3</sup> U.S. Census Bureau. Population Estimates: State Population Datasets: State by Age, Sex, Race and Hispanic Origin: Illinois-Missouri. 2009.

<sup>4</sup> The US Census uses the racial categories 'White' and 'Black or African American'. The terms 'Caucasian' and 'African American' have been selected for use in this report to ensure consistent use of terms throughout.

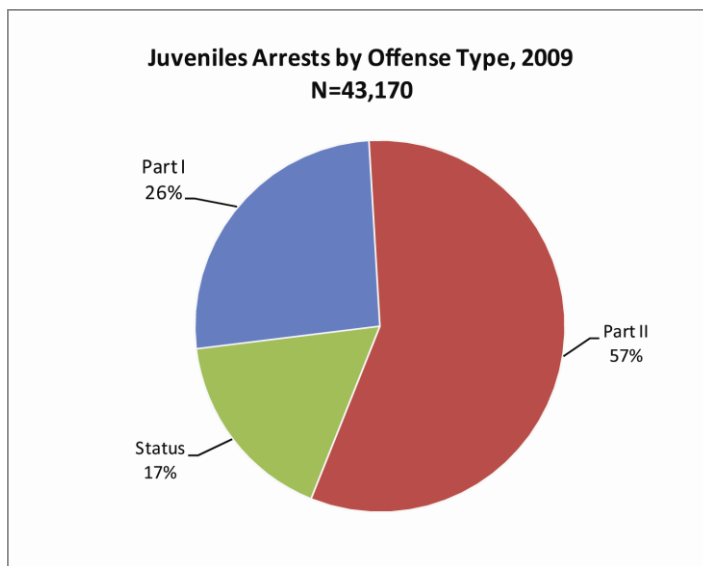
non-English speaking youth in the state can help to inform the allocation of juvenile justice resources and the creation of culturally competent services. The majority of immigrants are African born (53 percent) followed by Asian born (28 percent) followed by North American born (9 percent) and European born (7 percent). The five most common countries of birth for Minnesota immigrants are Somali, Ethiopia, Kenya, Liberia and Mexico. These figures include adult and youth immigrants arriving during one calendar year.



**Youth Entering the Juvenile Justice System: 2009 Arrests<sup>5</sup>**

In 2009 there were a total of 197,890 arrests, of which 43,170 were juveniles. Juveniles as a percentage of total arrests have slowly declined from 26 percent in 2000 to 22 percent in 2009.

Just over one-quarter of juvenile arrests (26 percent) fall within the Part I offense category for the most serious person and property crimes.<sup>6</sup>



The majority of all juvenile arrests are for Part II offenses (57 percent), which are typically less serious person and property offenses. Arrests for the Status Offenses of curfew/loitering and runaway make up the smallest percentage of juvenile arrests at 17 percent.<sup>7</sup>

**Arrests by Gender**

For the past five years, males have consistently accounted for about two-thirds of juvenile arrests. In 2009, more males than females were arrested for Part I offenses (60

<sup>5</sup> While the term “arrest” is used to describe juveniles in the Minnesota Crime Information Report, the term used in the juvenile justice system to describe the detaining or citing of juvenile offenders is “apprehension”.

<sup>6</sup> Information regarding offenses categorized by the FBI as Part I, Part II and Status can be found at [http://www.fbi.gov/ucr/ucr\\_general.html](http://www.fbi.gov/ucr/ucr_general.html)

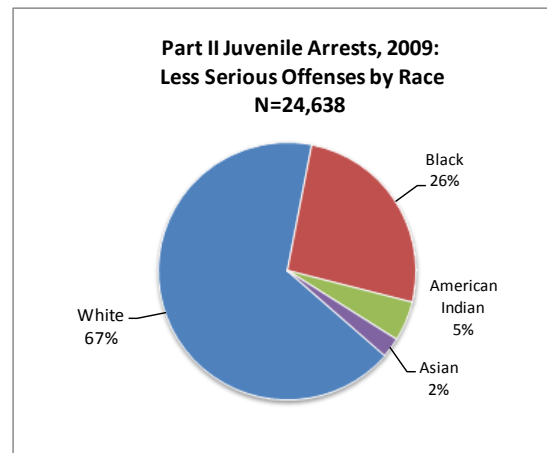
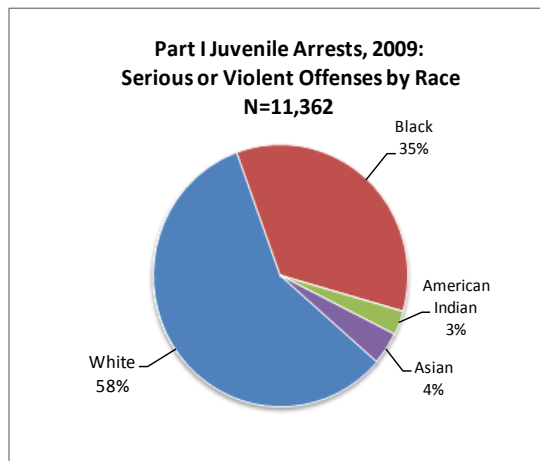
<sup>7</sup> Only curfew/loitering and runaway arrests are counted as Status Offenses for federal reporting requirements. Other Status Offenses, such as underage consumption of alcohol, are counted in other UCR categories such as “Liquor Laws”. Law enforcement agencies are not required to report Truancy to the BCA for federal UCR reporting.

percent vs. 40 percent) and for Part II offenses (71 percent vs. 29 percent). While more males than females were arrested for the status offenses of curfew and loitering (67 percent vs. 33 percent), more females than males were arrested for the offense of running away from home (53 percent vs. 47 percent). Runaway is the only UCR arrest category for which females are consistently arrested in greater numbers than males.

### Arrests by Race/Ethnicity<sup>8</sup>

Within each arrest category (Part I, Part II and Status Offenses), unique racial distributions exist. While Hispanic ethnicity data is collected for the UCR, it is not currently published on juveniles. As such, youth of Hispanic ethnicity are included in the four primary racial categories reported. The racial category "Native Hawaiian/Pacific Islander" is not collected separately and is included with data on Asian youth.

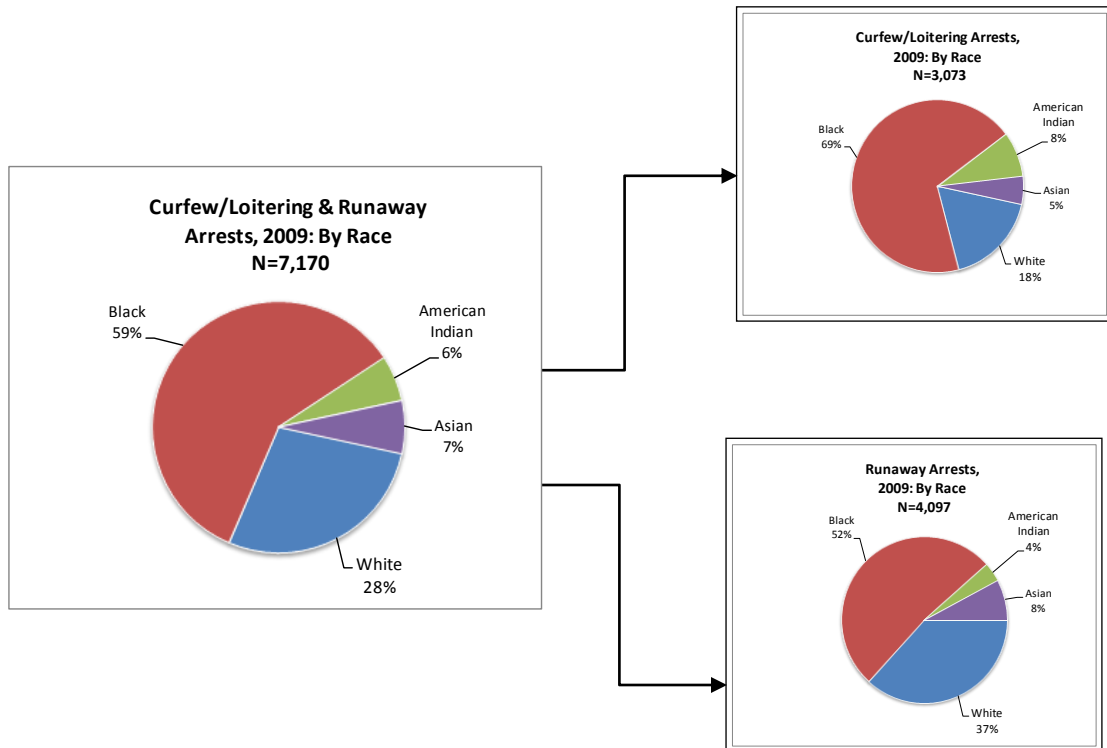
Caucasian youth, who are the majority of the Minnesota youth population, represent the majority of arrests for Part I and Part II crimes (58 percent and 67 percent, respectively). When it comes to arrests for status offenses, however, youth from minority communities constitute 72 percent of arrests and Caucasian youth only 28 percent.



Minority youth are over-represented compared to their percentage of the juvenile population in all arrest categories, especially for the status level offenses of curfew/loitering and runaway. Specifically, African American youth represent nearly seven in 10 arrests for curfew/loitering (69 percent) and over half (52 percent) of arrests for running away.

<sup>8</sup> The UCR uses the racial categories 'White' and 'Black' when reporting race data. The terms 'Caucasian' and 'African American' have been selected for use in this report to ensure consistent use of terms throughout.





Since the electronic publication of UCR data in 1997, the number of juvenile arrests has dramatically decreased from approximately 79,000 to 43,000, while youth of color as a percentage of total juvenile arrests has been rising. In 1997, youth of color accounted for less than one-quarter of juvenile arrests (23 percent); in 2009, youth of color accounted for 42 percent of juvenile arrests.

### Cases Petitioned and Cases Resulting in Delinquent Findings

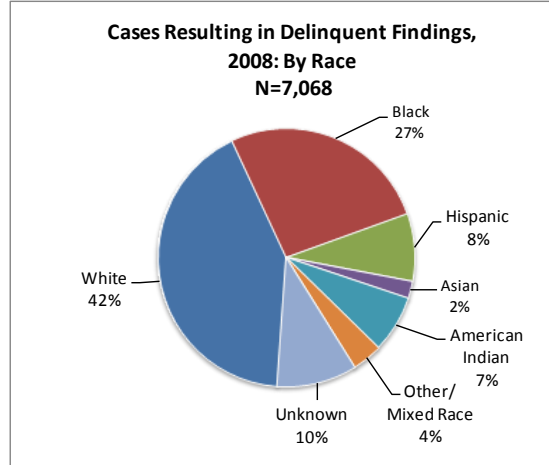
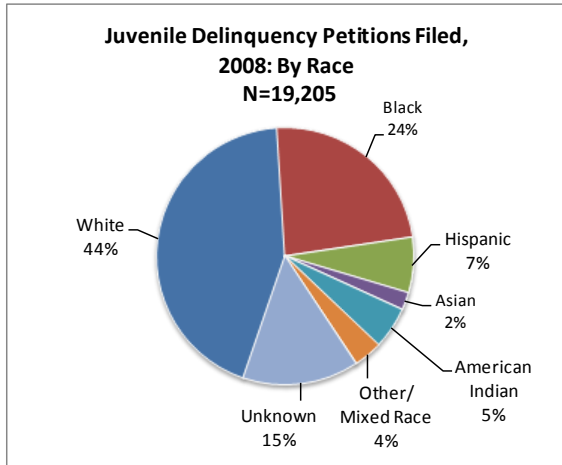
In 2008<sup>9</sup>, there were 53,063 juvenile filings in Minnesota district courts. These filings included Delinquency, Petty/Status Offenses, Runaway and Truancy, Dependency/Neglect, and Termination of Parental Rights.<sup>10</sup>

According to data supplied by the State Court Administrator's Office, there were 19,205 delinquency petitions filed in 2008 (roughly 36 percent of all juvenile cases). Delinquency petitions include felony, gross misdemeanor and misdemeanor level charges. They do not include charges for petty misdemeanors or the status offense of curfew/loitering or runaway. In 2008, Caucasian youth accounted for 44 percent of all delinquency petitions filed.<sup>11</sup> Youth of color as a whole in Minnesota are just under one-quarter of all youth (24 percent) but are 42 percent of delinquency petitions where race is known. The majority of juvenile arrests do occur in urban areas where there are greater concentrations of communities of color.

<sup>9</sup> 2008 court data are the most recent available by race.

<sup>10</sup> Minnesota Judicial Branch. (2010). A Report to the Community: The 2009 Annual Report of the Minnesota Judicial Branch. [http://www.mncourts.gov/Documents/0/Public/Court\\_Information\\_Office/AR\\_09\\_FinalA.pdf](http://www.mncourts.gov/Documents/0/Public/Court_Information_Office/AR_09_FinalA.pdf)

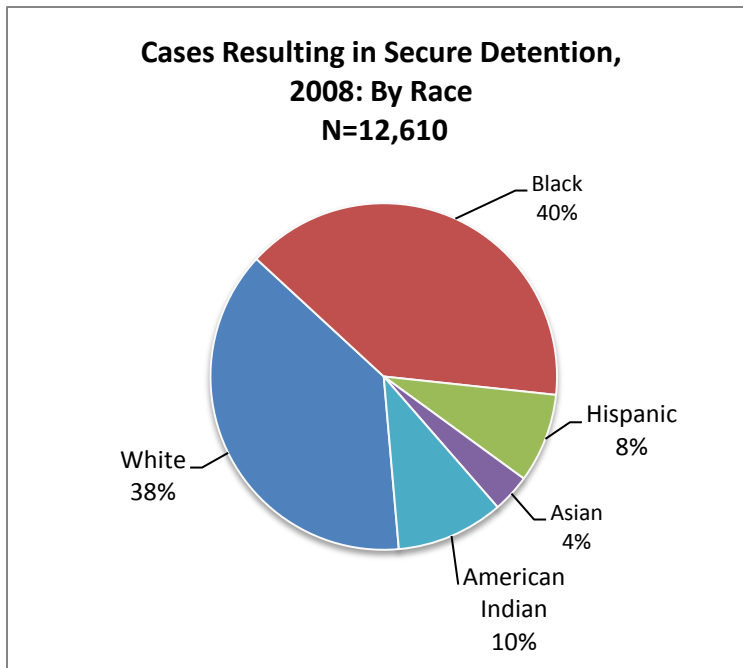
<sup>11</sup> Juvenile case filing and disposition data provided upon request by the State Court Administrator's Office.



District courts in 2008 yielded 7,068 cases resulting in delinquent findings. Caucasian youth were most likely to be found delinquent (42 percent of all delinquency findings) followed by African American youth (27 percent), Hispanic and American Indian youth (8 percent and 7 percent, respectively), “Other” or Mixed Race youth (4 percent) and Asian youth (2 percent).

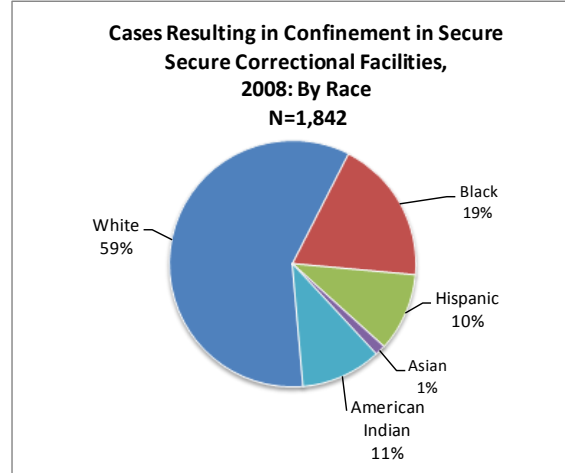
**Youth in Secure Facilities**

2008 juvenile admissions<sup>12</sup> reported by the Minnesota Department of Corrections and select individual facilities for the purpose of federal Disproportionate Minority Contact Reporting indicate that 12,610 juveniles were held in secure juvenile detention in 2008.



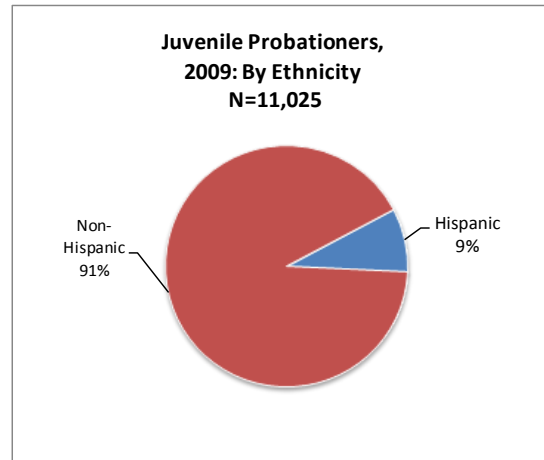
<sup>12</sup> 2008 admissions data are the most recent available by race.

Furthermore, 1,842 youth were held in secure juvenile placement following disposition. These are not a count of individuals, rather events, as the same youth can be admitted to detention multiple times in a calendar year. Additionally, youth can move from detention to post-disposition placement which will be counted as two separate admissions. Statewide, youth of color account for just over six in 10 secure detention admissions (62 percent) and just under four in 10 secure placement admissions following disposition (41 percent). Facility admissions by race can vary significantly, however, by geographical location.



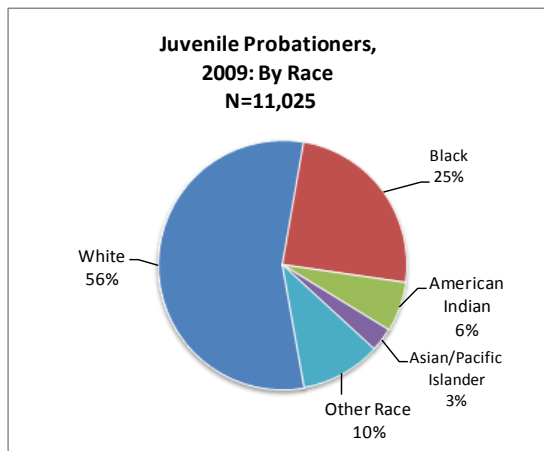
**Youth on Probation<sup>13</sup>**

In 2009, there were 11,025 youth under probation supervision at year’s end in Minnesota, accounting for eight percent of all Minnesota probationers. The number of youth on probation has been declining since a peak of 17,460 in 2002, as have youth as a percentage of all probationers.



In 2009, males accounted for 73 percent of the juvenile probation population; females 27 percent. The percentage of male probationers declined between 2002 and 2007 from 76 percent to a low of 72 percent.

Like arrests, the percentage of youth of color on probation has been rising while the number of youth on probation has been declining. Caucasian youth were two-thirds of probationers in 2002 (67 percent) but closer to half (56 percent) in 2009.



**Youth Homelessness**

The issue of youth homelessness is on the rise in Minnesota. There are many reasons for this

<sup>13</sup> Minnesota Department of Corrections (2010). 2009 Probation Survey. <http://www.corr.state.mn.us/publications/documents/2009ProbationSurvey.pdf>

including child abuse and neglect, the difficult economic times and lack of employment opportunities, lack of affordable housing, mental health and/or chemical dependency issues, youth who are coming out as gay/lesbian/bisexual or transgender (GLBT), and lack of resources and appropriate response to adolescents in the child welfare system.

Between 2006 and 2009, there was a 46 percent increase in the number of homeless youth (ages 12 to 21) in Minnesota. The increase was 10 percent for youth in the 12 to 17 age category. The total number of youth (12-21) who are homeless in Minnesota in a given year is estimated to be 22,410, or 1,250-2,300 per night.<sup>14</sup> The largest numbers of turn-aways from emergency shelters across the state was of homeless youth. In the recent 2009 Homeless Survey conducted by Wilder Research Center, it was found that 24 percent of homeless youth had slept outside at least one night during a month, 46 percent of homeless youth report a serious mental illness, 45 percent have been physically or sexually abused, 64 percent had experienced a placement such as a foster home, detention facility or treatment center, and 20 percent had left some type of social service placement in the previous 12 months. There are disparities between youth who are homeless and those who are not.<sup>15</sup> These disparities include race and sexual orientation (see below):

2009 Homeless Youth Population:	General Youth Population:	
	2008 Census Estimates	
20%	1%	American Indian
2%	4%	Asian American
43%	6%	African American
24%	81%	Caucasian (Non-Hispanic)
11%	7%	Other/Multi-Racial
11%	5%	Hispanic (Any Race)
35%	5-10%	GLBT <sup>16</sup>

### Disproportionate Minority Contact

Disproportionate Minority Contact (DMC) is measured using a Relative Rate Index (RRI) that compares outcomes for youth of color at various stages in the juvenile justice system to the outcomes of Caucasian youth at the same stage. In order to be analyzed using the RRI, a population must represent at least 1 percent of the total population at each stage in the system. In reading the following RRI matrix, a calculation of 1.0 means the outcomes for both Caucasian youth and minority group youth were statistically the same. As an example, Asian youth were equally likely to have their case result in delinquent findings (RRI=1.03) as Caucasian youth.

The 2009 RRI (using 2008 data) demonstrates significant disparities in juvenile justice system outcomes both between Caucasian youth and youth of color, and between minority

<sup>14</sup> Minnesota Department of Human Services Presentation. (2010). *Youth on Their Own in Minnesota: A Different Side of Homelessness*.

<sup>15</sup> Wilder Research Center. (2010). *Homelessness in Minnesota: Key Findings from the 2009 Statewide Survey*.

<sup>16</sup> National Gay & Lesbian Taskforce Report on Homeless Youth. (2006). *Lesbian, Gay, Bisexual and Transgender Youth: An Epidemic of Homelessness*

groups themselves. The greatest disparities occur in Minnesota at the point of arrest where African American youth are over five and one-half times more likely to be arrested; American Indian youth are nearly three and one-half times more likely to be arrested; and Hispanic youth are over twice as likely to be arrested as Caucasian youth.

The second most disparate stage occurs immediately following arrest with admission to secure detention facilities, including adult jails and police lock-ups. American Indian youth are nearly four times more likely to be securely detained following an arrest and Asian youth are two and one-half times more likely to be securely detained following an arrest than Caucasian youth. Following case disposition, youth of color are less likely than Caucasian youth to be placed in secure residential facilities (which are typically rehabilitative in nature) (RRI=.61) and less likely to receive probation supervision in the community (RRI=.69).

<b>Summary: Relative Rate Index Compared with White Juveniles</b>								
State : Minnesota	Reporting Period Month / Year							
County: Statewide	1/1/2008 through 12/31/2008							
	Black or African-American	Hispanic or Latino	Asian	Native Hawaiian or other Pacific Islanders	American Indian or Alaska Native	Other/Mixed	All Minorities	
2. Juvenile Arrests	<b>5.60</b>	<b>2.04</b>	<b>0.59</b>	*		<b>3.28</b>	*	<b>3.16</b>
3. Refer to Juvenile Court	--	--	--	*		--	*	--
4. Cases Diverted	--	--	--	*		--	*	--
5. Cases Involving Secure Detention	<b>2.19</b>	<b>1.59</b>	<b>2.59</b>	*		<b>3.92</b>	*	<b>2.18</b>
6. Cases Petitioned	<b>1.13</b>	<b>1.16</b>	<b>1.41</b>	*		<b>1.94</b>	*	<b>1.30</b>
7. Cases Resulting in Delinquent Findings	<b>1.17</b>	<b>1.26</b>	1.03	*		<b>1.41</b>	*	<b>1.20</b>
8. Cases resulting in Probation Placement	<b>0.75</b>	<b>0.84</b>	<b>1.29</b>	*		<b>0.31</b>	*	<b>0.69</b>
9. Cases Resulting in Confinement in Secure Juvenile Correctional Facilities	<b>0.51</b>	<b>0.87</b>	<b>0.46</b>	*		1.05	*	<b>0.61</b>
10. Cases Transferred to Adult Court	<b>2.07</b>	**	**	*		**	*	1.55
<b>Group meets 1% threshold?</b>	<b>Yes</b>	<b>Yes</b>	<b>Yes</b>	<b>No</b>		<b>Yes</b>	<b>No</b>	
Statistically significant results: <b>Bold Font</b>								

### JJDA Core Compliance Requirements

Data provided by the Minnesota Department of Corrections for Compliance Monitoring purposes indicates that 3,015 juveniles were securely held in adult jails or police lock-ups across the state in 2009. The Juvenile Justice and Delinquency Prevention Act limits the holding of youth accused of delinquency to six hours in jails and police lock-ups in

Metropolitan Statistical Areas (MSAs). Youth requiring longer detention must be transferred to an appropriate juvenile facility. The JJDP Act prohibits the secure holding of status offenders for any length of time in adult facilities and limits the secure holding of youth in juvenile facilities to 24 hours. Sight and sound contact between juvenile and adult inmates is prohibited in all secure facilities under the JJDP Act.

Because much of greater Minnesota is rural, state statute allows for juvenile holds of up to 24 hours in adult facilities outside of MSAs. The Office of Juvenile Justice and Delinquency Prevention (OJJDP) allows a Rural Removal Exception (RRE) for these facilities as well. In 2009, Minnesota had RREs for 33 county jails in greater Minnesota. The holding of status offenders in adult facilities is always prohibited under the JJDP Act regardless of geographic location.

### **Deinstitutionalization of Status Offenders (DSO)**

Admissions data show 29 instances in 2008 where status offenders were detained in Minnesota's secure juvenile facilities in excess of the allowable time limits. In addition, there were two cases of status offenders admitted to a secure police facility. These 31 admissions resulted in a DSO rate of 2.48 per 100,000 youth under 18. States with a DSO rate under 5.7 are in compliance.

### **Sight and Sound Separation**

Facility audits completed by Minnesota's Compliance Monitor and the DOC Inspection and Enforcement Unit resulted in no known violations of the Sight and Sound Separation requirement. No violations were reported in 2009 (2008 data).

### **Jail Removal**

Of the 3,015 juvenile admissions to adult jails and lock-ups, 286 were found to be held in excess of the allowable six hours. However, 237 of these holds were allowable up to 24 hours with the Rural Removal Exception in place. Minnesota reported just over 50 Jail Removal violations resulting in a Jail Removal violation rate of 4.08 per 100,000 youth. States with a Jail Removal Rate under 9.0 are considered within compliance provided a plan is submitted to OJJDP that: "describes a state's plan to eliminate the noncompliant incidents through legislation, rule, executive or judicial policy order, education, the provision of alternatives, or other effective means. In order to eliminate incidents of non-compliance, Minnesota intends to do the following:

- Increase the percentage of on-site inspections of secure facilities annually to a minimum of 33 percent. This will be accomplished both by OJP staff and in partnership with the DOC which has trained six inspectors to assist with monitoring for JJDP Act requirements.
- Require all jails to use a common juvenile log that clearly indicates time limits for secure holds.
- Increase use of technology to educate/train stakeholders regarding the JJDP Act.
- Reduce response time to investigate potential hold violations to two business days.

## Appendix A: JJAC Membership Roster

### JUVENILE JUSTICE ADVISORY COMMITTEE MEMBERS

Chelsea Becker, Youth Member Maple Grove	Cortland Johnson, Youth Member Minneapolis
Danielle Chelmo, Youth Member Medina	Chong Y. Lo, Co-Chair, Jail Issues Committee Saint Cloud
William Collins, Co-Vice Chair Saint Paul	Honorable Michael Mayer, Co-Vice Chair Eagan
Freddie Davis-English Co-Chair, DMC Committee Plymouth	Felix Raymond Montez Faribault
Amanda Dionne, Youth Member Crystal	Brenda Pautsch Mankato
Sarah Dixon, Past Chair Duluth	Kathryn Richtman Co-Chair, Long Range Planning Committee Saint Paul
Richard Gardell, Chair Minneapolis	Honorable Kathryn N. Smith Co-Chair, DMC Committee Willmar
Jean Hancock Woodbury	Richard Smith Plymouth
Abdallai Hassan Saint Paul	Antonio Tejada Co-Chair, Long Range Planning Committee Spicer

### EX-OFFICIO STATE AGENCY MEMBERS

Jim Eberspacher Minnesota Court Services Division State Court Administrator's Office	Kyuinga Olson Department of Corrections, Red Wing
Amy Roberts, Director Division of Compliance and Assistance Department of Education	Martha Aby Children's Mental Health Division Department of Human Services
Jennifer O'Brien, Adolescent Health Coordinator Department of Health	Lynn Douma Office of Youth Development Dept. of Employment and Economic Development

### STAFF

Department of Public Safety Office of Justice Programs 445 Minnesota Street - Suite 2300 Saint Paul, MN 55101  (651) 201-7348	Maurice Nins, DMC and Compliance Monitor  Debi Reynolds, JABG Grant Manager  Dana Swayze, Juvenile Justice Analyst Statistical Analysis Center  Carrie Wasley, Juvenile Justice Specialist
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## Appendix B: JJAC Membership Analysis

### 2010 JJAC Members:

#### Gender:

Female =	9
Male =	9

#### Occupations:

Government Employees/Full Time:	9
Non-Profit:	3
Private Legal Practice	1
Retired	1
Youth members	4

#### Race:

African American =	4
Asian American =	1
European American =	9
Hispanic American =	2
Native American =	2

#### Geographic Distribution:

Greater MN:	5
Minneapolis/St. Paul	5
Metro Suburban	8

#### Counties:

		Congressional District
Blue Earth	1	1
Dakota	1	2
Hennepin	6	3/5**
Kandiyohi	2	7
Ramsey	3	4
Rice	1	2
St. Louis	1	8
Stearns	1	6
Washington	2	6

**\*\* Two members are in Minneapolis and represent the 5<sup>th</sup> Congressional District**



## Appendix C: OJJDP Allocations to Minnesota

Total of all Juvenile Justice Allocations for Minnesota		
Federal Fiscal Year	Amount	Percentage Change per year
2000	\$6,244,300	NA
2001	\$5,952,800	(-) 5%
2002	\$6,152,300	(+) 3%
2003	\$5,213,200	(-) 15%
2004	\$3,916,600	(-) 25%
2005	\$2,197,085	(-) 44%
2006	\$1,683,550	(-) 23%
2007	\$1,722,489	(+) 2%
2008	\$1,674,760	(-) 3%
2009	\$1,841,786	(+) 10%
2010	\$1,814,245	(-) 1%
Title II: Formula Grants		
2000	\$1,209,000	NA
2001	\$1,190,000	(-) 2%
2002	\$1,193,000	0%
2003	\$1,173,000	(-) 2%
2004	\$1,060,000	(-) 10%
2005	\$1,104,000	(+) 4%
2006	\$932,000	(-) 16%
2007	\$962,000	(+) 3%
2008	\$893,000	(-) 7%
2009	\$977,000	(+) 9%
2010	\$934,000	(-) 4%
Title V: Community Delinquency Prevention		
2000	\$733,000	NA
2001	\$659,000	(-) 10%
2002	\$679,000	(+) 3%
2003	\$473,000	(-) 30%
2004	\$0	NA
2005	\$246,000	NA
2006	\$56,250	(-) 77%
2007	\$75,250	(+) 34%
2008	\$48,360	(-) 36%
2009	\$33,486	(-) 31%
2010	\$84,945	(+)154%
Juvenile Accountability Block Grant (JABG)		
2000	\$4,156,300	NA
2001	\$3,962,800	(-) 5%
2002	\$4,140,300	(+) 4%
2003	\$3,432,200	(-) 17%
2004	\$2,644,600	(-) 23%
2005	\$847,085	(-) 68%
2006	\$695,300	(-) 18%
2007	\$685,239	(-) 1%
2008	\$733,400	(+) 7%
2009	\$831,300	(+) 13%
2010	\$795,300	(-) 4%

Appendix D: Current Title II and Title V Grantees

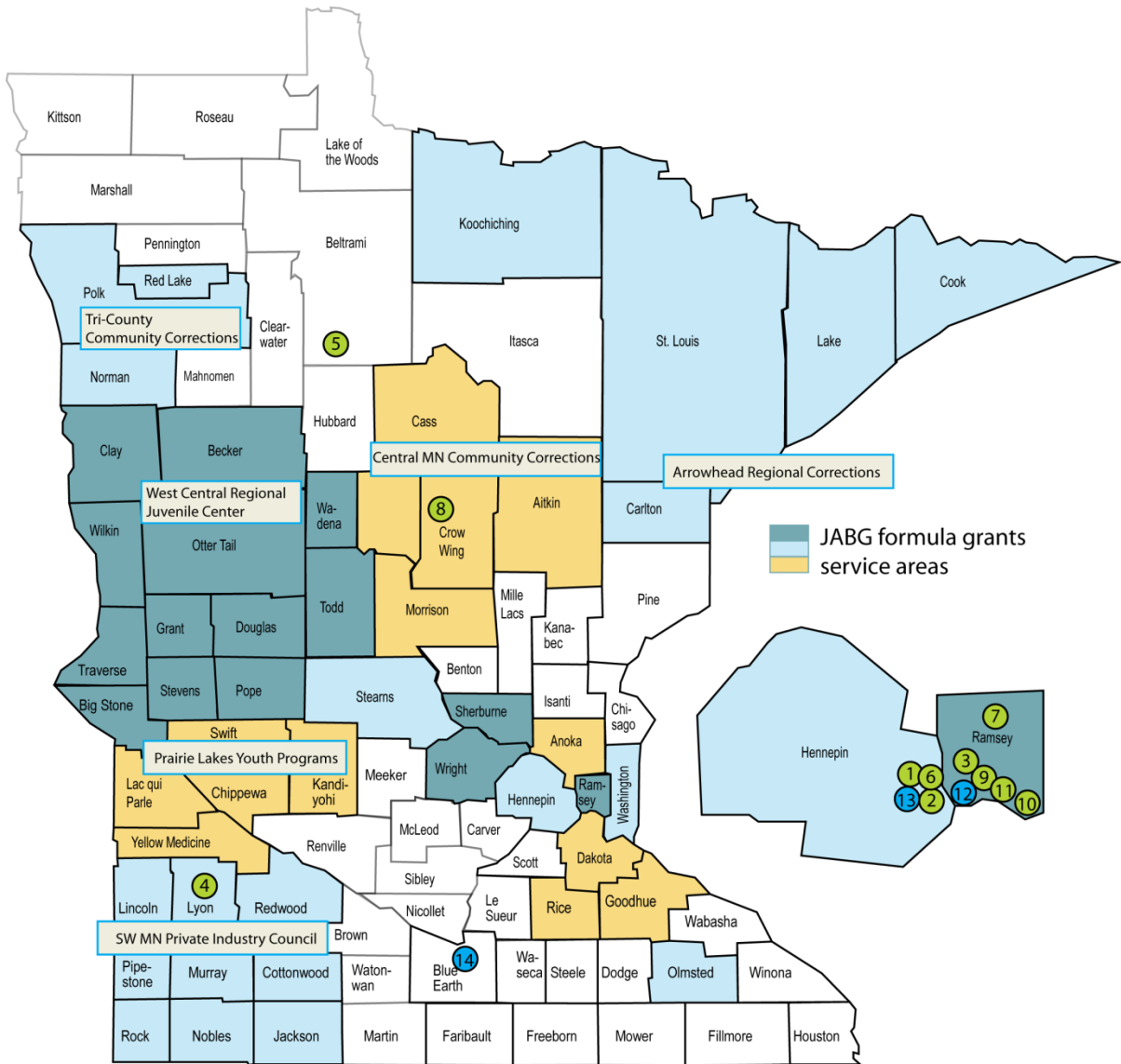
	Amount	Location	Cong. District
<b>180 Degrees</b> 236 Clifton Avenue Minneapolis, MN 55403 Contact: Sarah Walker 612-813-5017	\$59,480	Minneapolis	5 <sup>th</sup>
		Caseload of young men returning from Red Wing with mentoring and other tailored services.	
<b>American Indian Center</b> 1530 East Franklin Minneapolis, 55404 Contact: Julie Green 612-879-1765	\$60,000	Minneapolis	5th
		Golden Eagles after school program for area youth with focus on cultural identity and personal stability.	
<b>Guadalupe Alternative Program (GAP)</b> 381 East Robie Street St. Paul, MN 55107 Contact: Jody Nelson 651-290-2703	\$60,000	St. Paul	4 <sup>th</sup>
		Conexion Program for young Latinas who are enrolled in GAP school providing case management and mentoring.	
<b>Children's Health Care</b> 2525 Chicago Avenue South Minneapolis, MN 55404 Contact: Laurel Edinburgh 651-220-6750	\$60,000	St. Paul	4 <sup>th</sup>
		Referred caseload of young women from courts, schools and law enforcement. Mostly runaway young women who need structure and acceptance.	
<b>Youth Express</b> 1150 Selby Avenue St. Paul, MN 55104 Contact: Chris Ohland 651-659-061	\$22,892	St. Paul	4 <sup>th</sup>
		Entrepreneurial opportunity for young women to set up a consignment shop. Interns are from the community.	
<b>SW MN PIC</b> 607 West Main Marshall, MN Contact: Juanita Lauritsen 507-537-6987	\$59,300	Marshall	7 <sup>th</sup>
		Probationary youth in fourteen rural counties will complete service or restitution; some continue on in their first paid position.	

<p><b>Evergreen</b>        820 Beltrami Avenue        PO Box 662        Bemidji, MN 56619        Contact: Rebecca Schueller        218-751-8223</p>	<p>\$60,000</p>	<p>Bemidji</p>	<p>7<sup>th</sup></p>	<p>Case management for chemical abuse clients. The Transition Coordinator has added home visits and a focus on individual needs.</p>
<p><b>Little Earth Residents Association</b>        2495 18<sup>th</sup> Avenue South        Minneapolis, 55404        Contact: Bill Ziegler        612-455-2828</p>	<p>\$59,765</p>	<p>Minneapolis</p>	<p>5<sup>th</sup></p>	<p>Teen programming at inner city housing. Assist youth through court processes and other needs in unstable environment.</p>
<p><b>Tree Trust</b>        2350 Wycliff Street, Ste 200        St. Paul, MN 55114        Contact: Norm Champ        651-644-5800</p>	<p>\$60,000</p>	<p>St. Paul</p>	<p>4<sup>th</sup></p>	<p>Youth Conservation Corps summer program focused on inner city youth in both St. Paul and Minneapolis.</p>
<p><b>Freepoint</b>        2219 Oakland Avenue        Minneapolis, MN 55404        Contact: Ramona Wilson        612-252-2701</p>	<p>\$59,185</p>	<p>St. Paul</p>	<p>4<sup>th</sup></p>	<p>Project Step Up is a cultural awareness program providing mentoring and program support for young African American men from the area.</p>
<p><b>YouthCare</b>        2701 University Avenue SE        Suite 205        Minneapolis, MN 55414        Contact: Craig Luedemann        612-338-1233</p>	<p>\$58,590</p>	<p>Minneapolis</p>	<p>5<sup>th</sup></p>	<p>Young Women's Mentoring Program has concentric layers of involvement with young women of color and living within metro housing projects.</p>
<p><b>Life-Work Planning</b>        201 North Broad Street        Suite 100        Mankato, MN 56001        Contact: Jean Willaert        507-345-1577</p>	<p>\$60,000</p>	<p>Mankato</p>	<p>1<sup>st</sup></p>	<p>Project Succeed is to empower young Latinas to remain in school to graduation and to avoid high risk behaviors.</p>

<b>YWCA of St. Paul</b> 375 Selby Avenue St. Paul, MN 55102 Contact: Christina McCoy 651-222-3741	\$60,000	St. Paul	4 <sup>th</sup>	IMPACT is Y program for youths ages 13~18. Academic enrichment and life skills along with work readiness are focus of program.
<b>Lakes Area Restorative Justice</b> 4638 County Road 11 Pequot Lakes, MN 56472 Contact: Janet Wedan 218-568-8111	\$38,895	Pequot Lakes	8th	Restorative justice project in Crow Wing county with referrals coming from law enforcement and courts. Program is becoming known as alternative.

## Appendix E: 2010 Map of Minnesota Juvenile Justice Grantees

(JJAC serves as the JCEC for JABG funding)



**# Title II Grantees**

1. 180 Degrees
2. Minneapolis American Indian Center
3. Youth Express
4. Southwest Minnesota Private Industry Council, Inc.
5. The Evergreen House, Inc.
6. Little Earth Residents Association
7. Tree Trust
8. Lakes Area Restorative Justice Project
9. Guadalupe Alternative Programs
10. Children's Health Care
11. Freeport West, Inc.
12. YWCA St. Paul
13. YouthCare
14. LifeWork Planning

**# Other JABG Grantees**

- Minneapolis
- Minneapolis
- St. Paul
- Marshall
- Bemidji
- Minneapolis
- Minneapolis
- Pequot Lakes
- St. Paul
- Minneapolis
- Minneapolis
- St. Paul
- Hennepin Co.
- Blue Earth Co.

## Appendix F: OJJDP Compliance Letters



U.S. Department of Justice

Office of Justice Programs

Office of Juvenile Justice and Delinquency Prevention

Office of the Administrator

Washington, D.C. 20535

Ms. Jer' Boisvert  
 Director  
 Office of Justice Programs  
 Department of Public Safety  
 444 Cedar Street, #100  
 St. Paul, MN 55103-0100

JAN 21 2011

Dear Ms. Boisvert:

The Office of Juvenile Justice and Delinquency Prevention (OJJDP) has completed its review and analysis of the Disproportionate Minority Contact (DMC) component of Minnesota's Fiscal Year (FY) 2010 Title I Formula Three-Year Plan Update. This review and analysis was conducted to determine the extent of compliance with Section 223(a)(22) of the Juvenile Justice and Delinquency Prevention (JJDP) Act of '97, as amended, which requires States to address juvenile delinquency prevention efforts and system improvement efforts designed to reduce the disproportionate number of juvenile members of minority groups who come into contact with the juvenile justice system. As a result of the analysis, it has been determined that Minnesota is eligible to receive the 20 percent portion of the FY 2011 Formula Grant allocation related to compliance with Section 223(a)(22).

I thank you for your continuing efforts in addressing DMC. We are available to help Minnesota maintain compliance with all of the JJDP Act provisions. If you have any questions, please contact Linda Rosen, your OJJDP State Representative, at (202) 353-0222.

Sincerely,

*Jeff Slowikowski*  
 Jeff Slowikowski  
 Acting Administrator

cc: Carrie Wasley, Juvenile Justice Specialist  
 Richard Gardell, State Advisory Group Chair  
 Maurice Niles, DMC Coordinator

Enclosure: Status of Compliance

### STATUS OF COMPLIANCE

Juvenile Justice and Delinquency Prevention Act of 1974, as amended

#### Section 223(a)(22)

A determination has been made that Minnesota is in compliance with Section 223(a)(22) of the Juvenile Justice Delinquency Prevention (JJDP) Act of 1974, as amended, due to completing and/or adequately addressing the following activities in the 2010 DMC Compliance Plan: Significantly improved State and local data collection; expanded the Juvenile Alternatives to Detention (JDAT) program to include St. Louis County (supported in part with JABC funding); funded and supported promising and evidence-based projects; engaged communities within targeted jurisdictions to develop innovative strategies for addressing DMC; and advocated for the development of a state-wide DMC no tolerance policy in the State juvenile justice system, which became effective July 2009. The State submitted Relative Rate Index (RRI) spreadsheets statewide and for Dakota, Hennepin, and Ramsey Counties. Although there has been significant progress with data collection and analysis statewide and for the targeted reduction sites, JJDP is encouraging the State to collect more recent data than from calendar year 2005, and for at least two additional juvenile justice system contact points which should be included in the DMC component of Minnesota's Fiscal Year (FY) 2011 Title II Formula Three-Year Plan Update.

Minnesota's FY 2010 DMC Compliance Plan has identified the following activities it will address:

- Continue to support local JDAT sites through funding and/or technical assistance;
- Conduct a statewide and regional DMC summit to promote awareness;
- Use information gathered from communities to assist with DMC reduction efforts;
- Continue to improve statewide and local data collection by race and ethnicity;
- Continue to fund part-time DMC Coordinator; and
- Continue to fund evidence based strategies and/or promising practices that include but are not limited to: evening reporting centers, culturally responsive programs, developing juvenile probation response grids, and implementing civil citation programs at the arrest contact point.



## U.S. Department of Justice

Office of Justice Programs

*Office of Juvenile Justice and Delinquency Prevention**Office of the Administrator**Washington, D.C. 20531*

SEP 03 2010

Jeri Boisvert, Director  
 Office of Justice Programs  
 Minnesota Department of Public Safety  
 444 Cedar Street, Suite 100  
 St. Paul, MN 55101

Dear Ms. Boisvert:

The Office of Juvenile Justice and Delinquency Prevention (OJJDP) has completed its review and analysis of Minnesota's 2009 Compliance Monitoring Report to determine the extent of compliance with Sections 223(a)(11), (12), and (13) of the Juvenile Justice and Delinquency Prevention (JJDP) Act of 1974, as amended. This review resulted in the following findings:

- Minnesota is in full compliance with the deinstitutionalization requirement of Section 223(a)(11) of the JJDP Act.
- Minnesota is in compliance with Section 223(a)(12) of the JJDP Act, which requires that juveniles not be detained or confined in any institution in which they have contact with adult inmates.
- Minnesota is in compliance with the jail and lockup removal requirement of Section 223(a)(13).

OJJDP is currently undertaking a significant policy review of the guidance given each State for compliance monitoring. The purpose of the review is to provide further clarity and definition to participating States in their monitoring efforts as well as preparing for the anticipated changes in the re-authorization of the OJJDP Act. Once the review is complete, OJJDP will facilitate public comment on any proposed changes. It is anticipated that one of the issues for review will be the definition of a "lockup." Currently, there are significant disparities among States in the numbers of "lockups" that are reported. It is OJJDP's goal to provide sufficient guidance to States to achieve consistency among them. Your State compliance report indicates a significantly lower number of "lockups" than other States of similar population. While there is not a determination in this finding that the number reported is insufficient for purposes of an adequate monitoring system definition of "lockup", this is notice to you that the



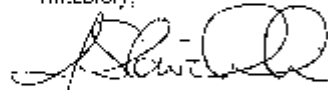
anticipated policy and regulatory changes may alter that conclusion in future funding years. As always, OJJDP intends to provide support for States to transition with any changes in definitions or policies that result in the need to monitor additional facilities.

As indicated in the Compliance Monitoring Report, all of the facilities in the State do not report data on juveniles held. As part of an adequate system of monitoring compliance with the JJDPA, Minnesota should increase attempts to obtain data from all facilities in the State that may hold juveniles. For the few facilities from which data cannot be obtained, the State must continue to project violations, in a statistically valid manner.

Each State receives 20 percent of its total Fiscal Year (FY) allocation for participating in the JJDPA and an additional 20 percent for each of the four core requirements with which they have demonstrated compliance. Therefore, based on the above findings, it is determined that Minnesota is currently eligible to receive 80 percent of the FY 2011 Formula Grant allocation related to compliance with Section 223(a)(11), (12) and (13) of the JJDPA of 1974, as amended. Notification of Minnesota's compliance with the disproportionate minority contact core requirement was mailed to you under separate cover.

We are available to help Minnesota achieve and maintain compliance with all of the JJDPA provisions. If you have any questions, please contact Linda Rosen, your OJJDP State Representative, at (202) 353-9222.

Sincerely,



Jeff Stowikowski  
Acting Administrator

cc: Richard Gandeli, State Advisory Group Chair  
Carrie Wasley, Juvenile Justice Specialist  
Maurice Nits, Compliance Monitor

Enclosure

**STATUS OF COMPLIANCE**

Juvenile Justice and Delinquency Prevention Act of 1974, as amended

**Section 223(a)(11)**

A determination has been made that Minnesota has an institutionalization rate of 2.48 status offenders and nonoffenders held per 100,000 persons under age 18. Minnesota is in full compliance with the requirements of Section 223(a)(11) of the JJDP Act, as amended, pursuant to the policy and criteria for de minimis exceptions published in the January 9, 1981 Federal Register (46 FR 2567).

**Section 223(a)(12)**

The review determined that Minnesota is in full compliance with Section 223(a)(12) of the JJDP Act, which requires that juveniles not be detained or confined in any institution in which they have contact with incarcerated adults. This finding is based on the 2009 Monitoring Report data which indicated that during a 12-month period, no juveniles were incarcerated in circumstances that violated Section 223(a)(12).

**Section 223(a)(13)**

Pursuant to the requirements of Section 223(a)(13), the review determined that Minnesota has an annual rate of 4.08 incidents of juveniles held securely in adult jails and lockups per 100,000 juvenile population. This is consistent with the established standard of a rate not in excess of nine per 100,000 juvenile population. In addition, an acceptable plan has been developed by Minnesota to eliminate the noncompliance incidents. Minnesota is in compliance with the requirements of Section 223(a)(13) of the JJDP Act of 1974, as amended, pursuant to the policy and criteria for de minimis exceptions published in the November 2, 1988, Federal Register (23 CFR 31).

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## Appendix G: Consequences of a Juvenile Delinquency Record in Minnesota

**1. Is it true that a juvenile delinquency record will not limit a young person's future opportunities in Minnesota?**

No, it is not true. Although many people believe a juvenile record will not follow someone past 18, there are many ways juvenile records can be made public and ways private juvenile records can be accessed that can limit a young person's opportunities as an adult.

**2. What is the difference between a public and a private juvenile record?**

A public juvenile record can be seen by the general public. A private record can only be accessed if allowed by one of the exceptions described below, and for sharing between government agencies and with schools as described in Minn. Stat. § 260B.171.

**3. Where is a juvenile record kept?**

Juvenile records are kept at the law enforcement agency where the arrest was made, by the courts on the Minnesota Court Integration Service (MNCIS), and at the Minnesota Bureau of Criminal Apprehension (BCA). Generally, a juvenile who goes through the court system for a delinquency proceeding will end up with records at each of these locations. Each of these locations has different legal requirements for protection, retention, and sharing of the records.

If the record is public, it will also be collected by data collection companies who will then sell the data to employers and landlords and anyone else willing to pay a small fee.

**4. When is a juvenile delinquency record publicly available, so that any employer or landlord can get it?**

If a juvenile is *charged* with a felony-level offense that was committed while they were 16 or 17, the court proceeding is public and the records are public. *Minn. Stat. § 260B.163, subd. 1*. It does not matter if the charges were later dismissed or reduced, it will still be a public record and anyone, including future employers and landlords, can easily get it and deny employment or housing based upon the record.

Also, if the juvenile is certified to adult court (a possibility for offenders as young as 14 who are charged with a felony-level offense), all of the records relating to the proceeding are public records. See *Minn. Stat. § 260B.125*.

5. **What about the record of an Extended Jurisdiction Juvenile (EJJ) sentence?**

EJJ is a sentencing option that allows the court to extend juvenile jurisdiction until the age of 21. See *Minn. Stat. § 260B.130*. If the youth fails to successfully complete the EJJ sentence, it will result in an adult conviction and is treated the same as an adult record. It is publicly available and will often be the basis for denial of employment and housing. An EJJ will also be publicly available regardless of successful completion of probation if it was a felony level charge at 16 or 17 as described in number 4 above.

6. **Are there any other ways a juvenile delinquency record can be seen by employers and landlords?**

If the case or incident is reported on by the media, it will be publicly available and the information is not restricted by any juvenile records privacy laws. Someone might be able to find the information by just searching the internet. However, not all employers and landlords do internet searches of prospective employees and tenants and most juvenile court proceedings are closed to the media.

Many retailers maintain a database of people who have been stopped for shoplifting in their store; they then share this with other stores who may use it to deny employment. Because this data is maintained by private companies, it is not subject to juvenile records privacy laws.

The BCA and the courts are not allowed to release private juvenile records to third parties even with informed consent (a release form signed by the subject of the record), but law enforcement agencies can release the private record with the consent of the subject of the record. Some law enforcement agencies have chosen to not release the information even with informed consent, but an informal survey of several Minnesota police departments found that some do release these records to employers and others with informed consent.

7. **Is a juvenile adjudication of delinquency a criminal conviction?**

No. Under Minnesota law, a delinquency adjudication is not a criminal conviction. *Minn. Stat. § 260B.245*. However, for many practical purposes, delinquency adjudications are treated like criminal convictions.

8. **Are there any laws in Minnesota that limit what an employer, landlord, or higher education institution can ask about or consider as far as juvenile records are concerned?**

No.

9. **How should someone with a juvenile record answer the question about criminal convictions and records on employment and housing applications?**

Someone who was adjudicated delinquent can truthfully say they have never been convicted, and the record may not be discovered if it is private. However, if the employer or landlord finds the record and does not understand the difference between adjudication and

a conviction, they may think the applicant is lying. If asked if ever arrested, and someone was arrested as a juvenile, the truthful answer would be yes.

If the record is private the employer or landlord may not find it. But if a person is uncertain about the record's availability, perhaps the best way to answer these questions is to state that the applicant has a juvenile record, and would be willing to discuss it if necessary.

**10. What about driving violations?**

Driving violation information is publicly available regardless of whether the driver was an adult or a juvenile.

**11. What if someone with a juvenile record (even if not adjudicated delinquent or found guilty) wants to later volunteer or work with children or vulnerable adults or in health care or adopt or be a foster parent?**

They might not be able to do so. The Minnesota Department of Human Services is allowed to access private juvenile records for the purposes of a background study. *Minn. Stat. § 245C.08 subd. 4*. These studies are done for jobs like working in a hospital, nursing home, personal care attendant, childcare, foster care, and adoption. Approximately 500,000 of these background studies are conducted in Minnesota each year.

The disqualification can also be based on an arrest or charge *without* a finding of guilt or adjudication if the Department of Human Services determines by a "preponderance of the evidence" that the person engaged in the conduct. *Minn. Stat. § 245C.14 subd. 1 (a)(1)*.

Certain types of crimes or conduct will prevent someone from ever working in these occupations, and others will prevent it for seven or ten or fifteen years with the possibility of a waiver. See *Minn. Stat. §245C.15*.

**12. What if the juvenile's parent has an in-home daycare or provides foster care or lives in public housing?**

Department of Human Services background studies are also conducted on juvenile household members of licensed homes and subject to the restrictions described in number 11 above.

Delinquency adjudication can also affect eligibility for public benefits and housing. Public housing authorities have the right to evict families of delinquent children, even if their delinquent conduct does not occur on public housing property. See *HUD v. Rucker, 535 U.S. 125, 133-136 (2002)*.

**13. How does a juvenile record affect joining the military?**

Delinquency adjudication may be a bar to entering the military. Each branch has different regulations for juvenile records consideration and waivers. It is advisable to ask a recruiter about the possibility of a waiver before applying for enlistment.

**14. What about working in law enforcement?**

Although juvenile records are not an automatic bar to working in law enforcement in Minnesota, private juvenile records can be accessed by law enforcement agencies. Depending upon the circumstances, these records may be a factor in denying law enforcement employment.

**15. How does a juvenile record affect being able to own or carry a firearm?**

Someone adjudicated delinquent or convicted of a “crime of violence”, as defined by Minn. Stat. § 260B.245, is not entitled to ship, transport, possess, or receive a firearm for the remainder of the person's lifetime. Violating this law can result in a new felony conviction. See *Minn. Stat. § 624.713*.

**16. Is a juvenile record ever destroyed?**

With exceptions for some records that do not result in adjudication, the courts and the Bureau of Criminal apprehension keep their records on juvenile offenders until an offender's 28th birthday. But, if a juvenile offender was adjudicated delinquent for a gross misdemeanor or felony offense and later commits a felony offense as an adult, the record will be maintained for as long as the records would have been maintained if the offender had been an adult. See *Minn. Stat. § 260B.171, subd. 1(b)*. and *Minn. Stat. § 299C.095*.

There is no law stating how long peace officer juvenile records should be kept.

**17. Are juvenile offenders ever required to register as a sex offender?**

Yes. If juveniles are adjudicated delinquent for certain offenses, or another offense arising out of the same set of circumstances, they are required to register as a predatory offender. Registered juvenile offenders are not listed on a publicly accessible database. However, if they are not in compliance with registration requirements and are over 16, the information will be made publicly available. See *Minn. Stat. § 243.166*.

**18. Can a juvenile adjudication affect sentencing for later convictions after the age of 18?**

Yes, juvenile BCA records can be used to compute an individual's criminal history score for sentencing purposes under the Minnesota Sentencing Guidelines. *Minn. Stat. § 299C.095*.

A juvenile adjudication also may enhance a sentence in the federal criminal system. For example, delinquency adjudications count toward the three convictions necessary to impose

a mandatory 15-year prison term for a crime committed under 18 U.S.C. § 922 (i.e., crimes relating to the unlawful possession, sale, manufacture or transfer of firearms). See *18 U.S.C. § 924 (e)(2)(B)*.

**19. Are juveniles ever required to provide a DNA sample?**

Yes. Juveniles charged with or adjudicated delinquent of certain offenses are required to provide a DNA sample. *Minn. Stat. § 609.117* and *Minn. Stat. § 299C.105*.

**20. Will a juvenile who has been adjudicated delinquent be allowed to vote or sit on a jury?**

Because delinquency adjudication is not a conviction, a young person who turns 18 while completing the terms of his or her treatment, rehabilitation or supervision is permitted to register and vote. He or she may vote regardless of whether the delinquency adjudication is for conduct that would be a felony or a misdemeanor if committed by an adult, and regardless of whether he or she is in placement, and a person adjudicated delinquent may serve on a jury once he/she reaches the age of 18. The law is not clear regarding the voting eligibility of someone serving an EJJ sentence. For this reason, someone still serving their EJJ sentence should not vote.

In Minnesota those *convicted* of a felony have their right to vote automatically restored once they have completed all of the terms of their sentence, including probation or supervised release.

**21. Will adjudication of delinquency restrict access to higher education?**

In most cases no, but is up to the discretion of each school. Delinquency adjudication does not automatically bar access to federal student financial aid. A criminal *conviction* for possessing or selling illegal drugs while the person was receiving federal student grants, loans or work-study can restrict access to financial aid. See *20 U.S.C. § 1091(r)*.

**22. How will a juvenile adjudication of delinquency affect immigration status?**

Assessing the immigration consequences of delinquency adjudications is very complicated. Prior to entering an admission or proceeding to an adjudicatory hearing, the juvenile defense attorney handling the matter should always seek advice from an immigration attorney with relevant experience. Some delinquency adjudications can trigger harsh penalties, including ineligibility for legal immigrant status and vulnerability to deportation.

**23. Can a juvenile record be expunged?**

The juvenile records expungement statute, *Minn. Stat. § 260B.198*, states "...the court may expunge the adjudication of delinquency at any time that it deems advisable." But, due to some confusion and ambiguity in the law about whether judges have the authority to seal executive branch records, some judges will not seal the law enforcement and BCA records. Minnesota's adult criminal expungement statute (*Minn. Stat. § 609A*) does not have any

provision for the sealing of juvenile records other than when the juvenile was certified to adult court.

Persons seeking to have a juvenile record expunged should seek the assistance of an attorney to ensure that the most complete expungement possible is obtained. For additional information and assistance options go to the Council on Crime and Justice website at [www.crimeandjustice.org](http://www.crimeandjustice.org) and click on “Expungement”.

**Nothing in this appendix should be relied upon as legal advice. There may be other ways a juvenile record can be released or used, and the information in this publication may not reflect current law. For legal advice regarding a juvenile record, you must consult with an attorney who can provide guidance based upon the particular circumstances. This publication was created on October 1<sup>st</sup>, 2010 by Mark Haase, J.D., Advocacy Manager, 180 Degrees, Inc.**

**For more information, visit the website of the Minnesota Second Chance Coalition at:**

[www.mnsecondchancecoalition.org](http://www.mnsecondchancecoalition.org)



## Appendix H: The Federal Juvenile Justice and Delinquency Prevention Act vs. Minnesota Statutes and Rules of Juvenile Procedure

Minnesota has long participated in monitoring correctional facilities and juvenile justice system procedures for compliance with the Juvenile Justice and Delinquency Prevention Act (JJDP Act). Nevertheless, the requirements for processing youth under Minnesota Statutes, Administrative Rules, and Court Rules of Juvenile Procedure, do not always seamlessly align with the requirements of the act.

The Minnesota Department of Public Safety Office of Justice Programs (OJP), as the administrator of federal funds allocated to Minnesota through the JJDP Act, has explored the aforementioned resources to identify where state law and practice is in concert with, or in conflict with, the JJDP Act.

This document is intended to guide OJP and system stakeholders in identifying and prioritizing state-level juvenile justice policy issues. **This document describes needed steps in order for Minnesota to come into full alignment with the JJDP Act.** This document does not assess the impact these changes may have on justice system practitioners and resources.

At present, September 2010, the full report and this report summary have not yet been publically disseminated. OJP is still in the process of peer review, discussion and edits. As such, the recommendations that follow are subject to change prior to final publication.

### **Report Summary**

The JJDP Act, through its Core Protections, is intended to help states institutionalize policies and procedures that promote public safety and protect juvenile non-offenders and delinquents. Most of these protections are related to ensuring the appropriate use of secure detention for accused and adjudicated youth. Minnesota, through statutes, rules and court procedures has implemented many of the recommendations and protections of the JJDP Act.

Minnesota can continue to better protect and serve youth and ensure federal funding for prevention and intervention in the future with on-going movement toward full compliance with the JJDP Act. The following sections are a compilation of all the statute, rule and enforcement opportunities detailed in the report, listed by each Core Protection. It is the hope that juvenile justice policy makers, leadership, practitioners, and advocates can prioritize these tasks, investigate the potential effects of these changes, and move forward with recommendations for state level action.

## I. The Deinstitutionalization of Status Offenders Requirement (DSO)

1. Clarify in Statute or Rule where non-delinquent federal wards and undocumented youth are to be detained. The JJDP Act requires that these holds be non-secure. If they must be secure, they may only be in a juvenile facility and cannot exceed 24 hours exclusive of weekends and holidays.
2. Consider decriminalizing fish and game violations committed by youth, currently charged as Misdemeanors.
3. Minnesota Statutes, section 260C.181 is in direct conflict with the JJDP Act in that it allows, under certain conditions, juvenile non-offenders to be held in adult jails or lockups. Minnesota Statutes, section 260C.181 must be amended to remove secure adult facilities as a place to detain juvenile non-offenders.
4. For full compliance with the JJDP Act, Minnesota Statutes, section 260C.181 would need to be amended to clarify that the use of secure juvenile detention for all non-offenders (CHIPS youth) must be limited to 24 hours exclusive of weekends and holidays.
5. Ensure that non-offenders securely held in adult or juvenile detention appear in court or are transferred to the “least restrictive setting to meet the child’s health and welfare” within 24 hours of admission exclusive of weekends and holidays. This could potentially be enforced by the DOC Inspection and Enforcement Unit.

## II. Jail Removal Requirement

1. Modify Minnesota Statutes, section 260B.181, subd. 4 to state that youth in adult facilities who required continued detention must be moved to a juvenile facility consistent with Minnesota Statutes, section 260B.178, subd. 2. Eliminate the statement that continued detention can occur in an adult facility for up to 8 days. Allowing youth to be held in an adult facility following their initial court appearance is in conflict with the JJDP Act.
2. Request that the DOC license adult facilities for only 6 hours if there is a secure juvenile alternative in their county, even if the county is outside a metropolitan statistical area. This is consistent with the federal Rural Removal Exception guidelines.
3. The JJDP Act allows youth certified as adults to be held in a secure juvenile facility until the age of majority plus six months. Minnesota Statute presumes that youth certified as adults will serve their sentence in an adult facility, including pending an appeal of their Certification. Minnesota could modify the statutes to allow certified youth to serve their sentence in a juvenile facility until they are age 18 and six months, if that were the most appropriate placement, and still be in compliance with the JJDP Act.

## III. Sight and Sound Separation Requirement

1. Minnesota Statutes and/or Administrative Rules ought to be more specific in their definition of "contact" to prohibit clear visual contact and direct oral communication between adult and juvenile inmates in non-residential areas of secure facilities. This would apply to Minnesota Statutes, sections 260B.181 and 260C.181 and also the Administrative Rules for adult jails and lock-ups.
2. Minnesota Administrative Rules related to court holding facilities ought to specifically state that sight and sound separation must occur in secure court holding areas, rather than being presumed under jail rules.

OJP will make the full report publically available upon its completion.







***Juvenile Justice Advisory Committee***

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