



D.C. Criminal Code Reform Commission
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ADVISORY GROUP MEMORANDUM #37

To: Code Revision Advisory Group
From: Criminal Code Reform Commission (CCRC)
Date: May 18, 2020
Re: Supplemental Materials to the First Draft of Report #58 – Developmental Incapacity Defense

The CCRC welcomes comments on any conforming amendments that may be appropriate to Title 16 or other statutory provisions to accompany the RCC developmental incapacity defense.

Attached, the CCRC provides the following background materials relevant to the draft RCC § 22E-501, Developmental Incapacity Defense:

1. Anthony Petrosino, Carolyn Turpin-Petrosino, and Sarah Guckenburger, *Formal System Processing of Juveniles: Effects on Delinquency*, No. 9 of Crime Prevention Research Review, U.S. Department of Justice, Office of Community Oriented Policing Services (2013) (examining the results of 29 randomized controlled trials, finding no evidence that formally moving juveniles through the juvenile justice system has a crime control effect and, in fact, processing increased delinquency).
2. Massachusetts Juvenile Justice Policy and Data Board, *Early Impacts of “An Act Relative to Criminal Justice Reform,”* (Nov. 2019) (reviewing the effects to-date of Massachusetts’ recent law to raise the minimum age for prosecution in juvenile delinquency proceedings to 12).
3. Barry Holman and Jason Zeidenburg, *Dangers of Detention: The Impact of Incarcerating Youth in Detention and Other Secure Facilities*, Justice Policy Institute (2013) (reviewing costs and effects of juvenile detention and alternatives).

Crime Prevention Research Review

No. 9

Formal System Processing of Juvéniles: Effects on Delinquency



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COPS

COMMUNITY ORIENTED POLICING SERVICES
U.S. DEPARTMENT OF JUSTICE



THE CAMPBELL
COLLABORATION

Suggested citation:

Petrosino, Anthony, Carolyn Turpin-Petrosino, and Sarah Guckenbug. 2013. *Formal System Processing of Juveniles: Effects on Delinquency*. No. 9 of Crime Prevention Research Review. Washington, D.C.: U.S. Department of Justice, Office of Community Oriented Policing Services.

The opinions contained herein are those of the author(s) and do not necessarily represent the official position or policies of the U.S. Department of Justice. References to specific agencies, companies, products, or services should not be considered an endorsement by the author(s) or the U.S. Department of Justice. Rather, the references are illustrations to supplement discussion of the issues.

The Internet references cited in this publication were valid as of the date of this publication. Given that URLs and websites are in constant flux, neither the author(s) nor the Office of Community Oriented Policing Services can vouch for their current validity.

The Campbell Collaboration Crime and Justice Group (www.campbellcollaboration.org/ccjg) is an international network of researchers that prepares, updates, and rapidly disseminates systematic reviews of high-quality research conducted worldwide on effective methods to reduce crime and delinquency and improve the quality of justice.

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Acknowledgments

We appreciate the comments and guidance of David Wilson, Charlotte Gill, and anonymous peer reviewers of the Campbell Collaboration protocol and final review draft (see Petrosino et al. 2010) upon which this COPS Office publication is based. To that end, we also thank Michael Borenstein, creator of Comprehensive Meta-Analysis, for his helpful responses to our questions about the use of the software, and Arild Bjorndal, Norwegian Knowledge Centre for the Health Services, for assisting us with funding.

We appreciate the guidance of Nazmia Alqadi with the COPS Office and the comments of WestEd colleagues Alison Cohen, Susan Hayes, and Claire Morgan.

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What leads to the best outcomes for juveniles?

”

Introduction

Introduction

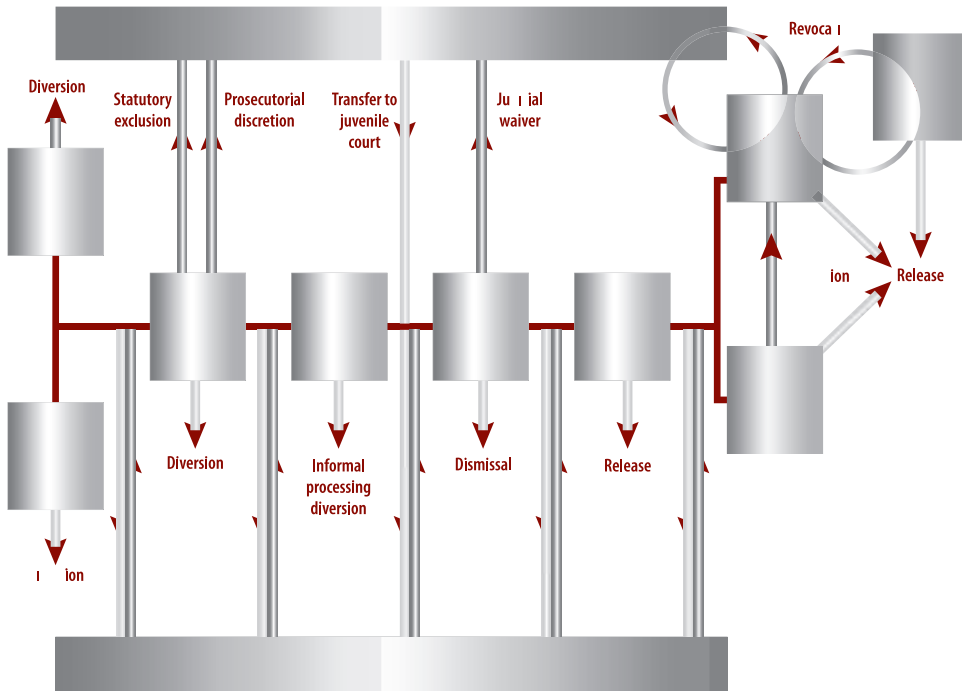
Justice practitioners have tremendous discretion on how to handle less serious juvenile offenders—those who commit offenses that are of moderate or low severity such as small property crimes or disorderly person violations. Police officers, district attorneys, juvenile court intake officers, juvenile and family court judges, and other officials can decide whether the youth should be moved formally through the juvenile justice system, or diverted out to a special program (diversion with services) or to receive nothing (diversion without services). Figure 1 illustrates this process.

A juvenile picked up by the police or referred by other sources, if not diverted out, will move formally through the system. This would ultimately lead to an adjudication in which the youth's guilt or innocence would be determined; if guilty, the youth would then face a disposition or sentencing. However, at any point the youth can also be diverted out the system to counseling or services, or released altogether.

An important policy question is: What leads to the best outcomes for juveniles? The question on how to handle such offenders is not a trivial one. For example, in 2009 nearly two million juveniles were arrested by police (Puzzanchera and Adams 2011), but most of these juveniles were arrested for minor crimes.

There is some debate over how less serious juvenile offenders should be handled. Given the juvenile justice system's dual goal of protecting public safety while rehabilitating youth offenders, it is not surprising that a strong argument for traditional processing can be made. For example, some officials believe low-level offenses are a gateway to more serious offending and should be dealt with intensively to prevent the juvenile from becoming a repeat offender. Some officials believe official system processing and subsequent handling by the juvenile court will deter or scare low-level offenders from future misconduct. Some officials also believe that the primary role of the juvenile (or sometimes family) court is to rehabilitate the child, and, therefore, they believe offenders can be better linked to treatment and services via the court system. In two studies that tracked youths appearing in juvenile court in Pennsylvania (Brown et al. 1987; Brown et al. 1989), juvenile offenders who were adjudicated earlier rather than later were less likely to be convicted of an adult offense.

Figure 1. Case Flow Diagram



Source: Snyder and Sickmund 1995

On the other hand, there are those who argue for a minimalist position—that the low-level offender should be handled in as non-intrusive a manner as possible. Researchers have warned of a possible labeling effect that may come from official processing of juveniles (see Schur 1973). For example, a petition that results in an official determination of the child as “delinquent” can lead to significant others around the child beginning to treat him or her differently. Such a juvenile may receive increased police scrutiny and end up getting rearrested more often than juveniles who are not under the same surveillance. The same actions that resulted in police turning a blind eye to misconduct may now result in an arrest. Labeling is theorized to have other potential impacts, including economic or educational losses and marginalization by significant others such as family and friends.

There are other theories, apart from labeling, that could explain why further processing in the juvenile system may increase crime. For example, such processing could further expose youth to more deviant peers, resulting in a harmful effect (see Dishion et al. 1999).

A further consideration for policymakers is that release or diversion options may be cheaper than juvenile court processing, so even a net gain of zero (i.e., no crime impact whatsoever) favors the release/diversion group in a cost-benefit analysis. Finally, there is concern over whether formal handling of youth occurs more frequently among minority youth from lower-income neighborhoods, leading to their disproportionate representation in the juvenile justice system.

For less serious juvenile offenders, the question is whether it is better to process the child through the juvenile justice system or to divert the child out of the system. To find out whether a policy alternative works, the scientific evidence surrounding this question must be examined, including prior experimental evaluations of the outcomes of this decision and whether they support handling juvenile offenders formally or informally.

“...all included studies compared the effects of formally moving a youth along the juvenile justice system to diverting the youth altogether.”

Summary of Systematic
Review Methods

Summary of Systematic Review Methods

To be included in this review, studies had to use a randomized experimental design because only randomized experiments control both the known and unknown factors that can influence outcomes (besides the intervention under investigation). Another criterion was that the participants in the study had to be juveniles who were ages 17 or younger. Moreover, to provide the fairest test of the effects of formally moving through the system, the juveniles could not yet have been officially adjudicated (i.e., found guilty) for their current offense.

Although the language used in each study differed (e.g., comparing “traditional processing” or “system processing” to diversion), all included studies compared the effects of formally moving a youth along the juvenile justice system to diverting the youth altogether.

The review included studies published or available up through 2008. To be as comprehensive as possible, relevant studies available in languages other than English were obtained and translated whenever possible. And each study had to provide data on at least one outcome of delinquency.

A variety of search methods (e.g., electronic searches and contacting colleagues) were used to find studies, which included both published documents like journal articles and unpublished documents like dissertations.

Researchers used a preliminary instrument to capture data on each study. These data were then used to summarize the effects of juvenile system processing compared to the diversion condition. They were also used to examine how these effects change depending on the characteristics of the study or the intervention (see Appendix on page 26). The main impacts of formal system processing were reported for four different crime outcomes:

1. *Prevalence*: What percentage of each group failed or succeeded?
2. *Incidence*: What was the average number of offenses or other incidents per group?
3. *Severity*: What was the average severity of offenses committed by each group? Or what percentage of persons in each group later reoffended by committing violent crimes?
4. *Self-report*: What was the impact on self-reported offenses by processed youth (rather than officially measured outcomes such as police arrest)?

“The studies included 7,304 juveniles across 29 experiments reported over a 35-year period.”

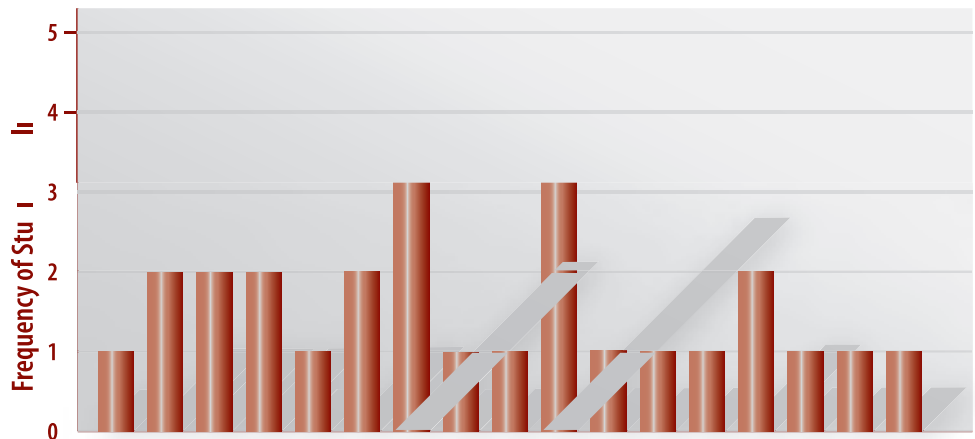
Descriptive Findings

Descriptive Findings

Twenty-nine experimental studies published between 1973 and 2008 (see Figure 2) were included in this review (for a list of included studies, see page 20). Approximately 75 percent of the included studies were published or reported before 1990, likely reflecting the early interest in diversion as an alternative to the juvenile justice system process during the 1970s and 1980s and the amount of funding made available at that time for implementing randomized experiments to test these diversionary innovations.

The studies included 7,304 juveniles across 29 experiments reported over a 35-year period. An important characteristic of the studies is the type of control group. Half of the studies (51.7 percent) compared processing to diversion with services, which included such interventions as family counseling, restorative justice conferencing, and education programs. The other studies (48.3 percent) assigned juveniles to diversion without services or programs, such as counsel and release, or release directly to parents.

Figure 2. Year Experiment was Published



Source: Petrosino et al. 2010

[Diversion groups represent] an approximate 5 to 6 percent increase in delinquency prevalence for processed youth in the studies.

Meta-Analysis:
Main Effects

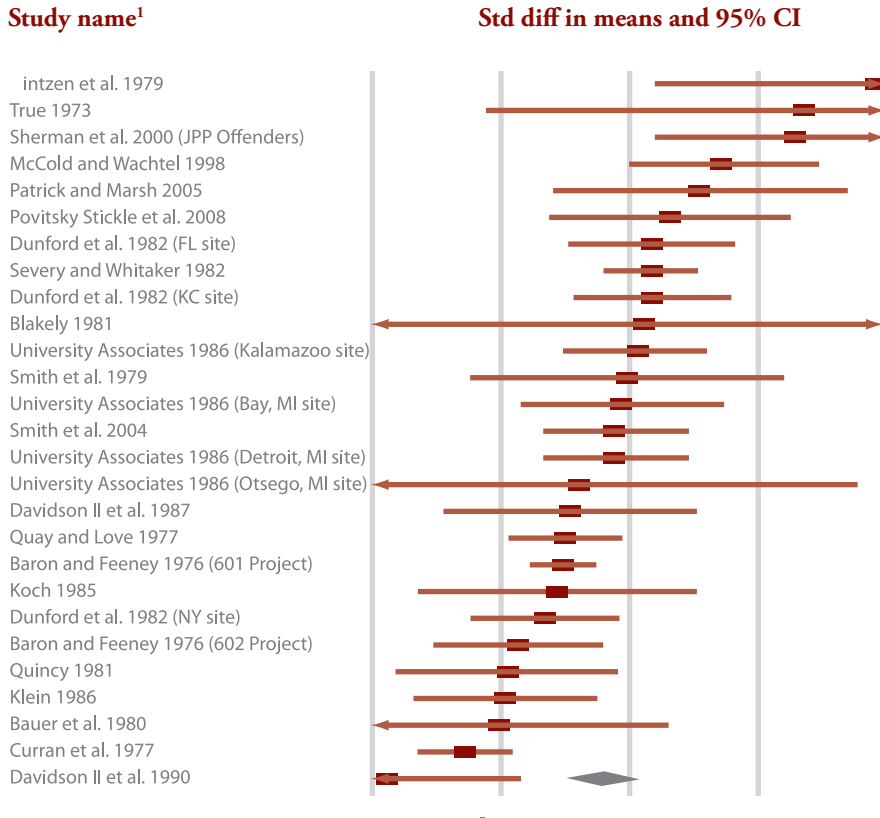
Meta-Analysis: Main Effects

To summarize the results of the 29 experiments statistically, meta-analysis was used. To conduct a meta-analysis, the difference between the two groups in the study, such as processing versus diversion, had to be converted to a common metric (Lipsey and Wilson 2001; Boruch and Petrosino 2004). This common metric is called an effect size.

There are many kinds of effect sizes, and a common one—Cohen's d (i.e., the standardized difference in means)—was used in this review. An effect size of zero means there was absolutely no difference in delinquency between processing and diversion. A positive effect size (above zero) indicates that processing reduced delinquency compared to diversion. Conversely, a negative effect size indicates that processing had a backfire effect and actually increased delinquency compared to diversion.

A series of meta-analyses were conducted. Figure 3, known as a forest plot, provides a visual summary of the effects reported by the 27 studies that included at least one outcome of delinquency prevalence (i.e., the percentage of each group that was delinquent). It indicates the effect of moving a youth formally through the system on delinquency, compared to diverted youth, on the first measurement or follow-up period.

Figure 3. System Processing Effects on Delinquency Prevalence at First Follow-Up



Source: Petrosino et al. 2010

Figure 3 shows that, overall, system processing was associated with an average increase in delinquency prevalence. The overall effect size across the studies is $-.11$. In technical terms, this means that the diversion groups performed about $.11$ standard deviation units better than the processing group on delinquency prevalence. In other words, it represents an approximate 5 to 6 percent increase in delinquency prevalence for processed youth in the studies.

¹ Some citations include multiple studies that took place in different places or different projects. For these, additional details have been provided to help distinguish the place or project.

This result is consistent through all of the meta-analyses conducted on the 29 studies. Table 1 summarizes all of these main effects. In these statistical analyses, no attempt was made to look at different types of studies. Instead, the main effect—i.e., average effect size across all of the studies—was reported. In every instance, processing was associated with increasing delinquency, regardless of how it was measured (i.e., prevalence, incidence, severity, and self-report). Note that sometimes there were multiple follow-up measurements for prevalence outcomes. Thus, the effect size for the longest follow-up period was also reported.

Table 1. Summary of Effects on Delinquency Outcomes

	Prevalence (N=27)	Incidence (N=7)	Severity (N=9)	Self-report (N=5)
First effect	-.11 (CI -.22, .02)	-.23 (CI -.41, -.06)	-.14 (CI -.33, .05)	-.15 (CI -.40, .10)
Longest effect	-.15 (CI -.265, -.035)			

“...the youth were diverted from the system to receive services, such as counseling...”

Meta-Analysis:
Moderator Analysis

Meta-Analysis: Moderator Analysis

Moderator analysis refers to breaking down the main effects into smaller subgroups based on characteristics (see the Appendix on page 26) of the program or the study. Table 2 presents an important moderator for analysis and shows that the effect size differed for the two types of diversionary experiences to which processing was being compared. Caution must be exercised in interpreting these results due to the small number of studies in some of the analyses.

The first type of diversion involves juveniles who were diverted from the system and received no services. In the table, this is called “doing nothing.” In the second type, the youth were diverted from the system to receive services, such as counseling or another intervention, and this is called “doing something.”

As Table 2 indicates, processing seems to have had no crime control effect whether compared to diversion (“doing nothing”) or to diversion with services (“doing something”). In fact, the effect sizes are negative in direction, indicating that processing increases delinquency relative to the diversion conditions. For example, when processing is compared to “doing nothing,” the effect size for prevalence is slightly negative ($-.04$). This effect size is still negative and substantially larger for incidence outcomes ($-.36$). A slightly positive but nearly negligible impact is reported for severity outcomes ($.02$).

However, when system processing is compared to “doing something,” the effect size is consistently negative and larger across all three delinquency outcomes (i.e., prevalence, incidence, and severity). The effect sizes range from $-.16$ to $-.33$.

Table 2. Effects of Processing Compared to Two Different Diversion Groups at First Follow-Up

Type of Control Group	Crime Control Results (N = number of studies)
Processing versus “doing nothing,” i.e., counsel and release	Prevalence: (14) $-.04$ Incidence: (3) $-.36$ Severity: (6) $.02$
Processing versus “doing something,” i.e., diversion program/service	Prevalence: (15) $-.16$ Incidence: (4) $-.18$ Severity: (3) $-.33$

“...jurisdictions should review their policies regarding the handling of juveniles coming to the attention of legal authorities.”

Conclusion

Conclusion

This review, which examined the results of 29 randomized controlled trials, finds no evidence that formally moving juveniles through the juvenile justice system has a crime control effect. In fact, all analyses showed an average main effect that was negative: i.e., processing increased delinquency. This was consistent not only across measures of prevalence, incidence, severity, and self-report but also regardless of whether looking at the first or longest time interval the crime measure was reported. A moderating analysis examining the type of diversionary alternative indicated that processing was not as effective as “doing nothing” (i.e., diversion without services) and was even more negative when diversion was coupled with some type of service or intervention (i.e., diversion with services).

Given the overall negative results for processing across these studies and outcome measures, jurisdictions should review their policies regarding the handling of juveniles coming to the attention of legal authorities. Any reasonable cost-benefit analysis has to take into account not only the lack of a crime control effect for processing but also that it is the more expensive way to deal with youth in nearly all instances except when compared to a very intensive diversionary alternative.

For example, jurisdictions should examine if a larger percentage of less serious juvenile delinquent cases can be diverted. Such policies should be evaluated after they are implemented to determine if these variations did reduce juvenile justice costs and, more important, whether they resulted in no greater risk to public safety.

These experiments compared formal processing to diversion, with or without services. The data from these studies do not support any policy of expanding diversion programs to juveniles that would not have been officially processed under any circumstances. Such expansion, referred to as “net-widening,” would expand the reach of the juvenile justice system to youth for which the processing versus diversion decision is irrelevant because their offenses were so minor that they would not be formally processed.

List of Included Studies

List of Included Studies

Note: Some citations include multiple studies that took place in different places or different projects.

- Baron, R., and F. Feeney. 1976. *Juvenile Diversion through Family Counseling*. Washington, D.C.: National Institute of Law Enforcement and Criminal Justice. *(Two studies are included in this report.)*
- Bauer, Michelle, Gilda Bordeaux, John Cole, William S. Davidson, Arnolando Martinez, Christina Mitchell, and Dolly Singleton. 1980. "A Diversion Program for Juvenile Offenders: The Experience of Ingham County, Michigan." *Justice and Family Court Journal* 31 (August): 53–62.
- Blakely, Craig H. 1981. "The Diversion of Juvenile Delinquents: A First Step toward the Dissemination of a Successful Innovation." Ph.D. dissertation, Michigan State University (Psychology).
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- Davidson, William S., II, Robin Redner, Richard L. Amdur, and Christina M. Mitchell. 1990. *Alternative Treatments for Troubled Youth: The Case of Diversion from the Justice System*. New York: Plenum Press.
- Davidson, William S., II, Robin Redner, Craig H. Blakely, Christina M. Mitchell, and James G. Emshoff. 1987. "Diversion of Juvenile Offenders: An Experimental Comparison." *Journal of Consulting and Clinical Psychology* 55 (1): 68–75.
- Dunford, F.W., D.W. Osgood, and H.F. Weichselbaum. 1982. *National Evaluation of Diversion Projects: Executive Summary*. Washington, D.C.: Office of Juvenile Justice and Delinquency Prevention. *(Three studies are included in this report.)*
- Emshoff, James G., and Craig H. Blakely. 1983. "The Diversion of Delinquent Youth: Family-Focused Intervention." *Children and Youth Services Review* 5:343–356.
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- Severy, L.J., and J.M. Whitaker. 1982. "Juvenile Diversion: An Experimental Analysis of Effectiveness." *Evaluation Review* 6 (6): 753–774.
- Sherman, L.W., H. Strang, and D.J. Woods. 2000. *Recidivism Patterns in the Canberra Reintegrative Shaming Experiments (RISE)*. Canberra, Australia: Australian National University. (Two studies are included in this report.)
- Smith, E.P., A.M. Wolf, D.M. Cantillon, O. Thomas, and W.S. Davidson. 2004. "The Adolescent Diversion Project: 25 Years of Research on an Ecological Model of Intervention." *Journal of Offender Rehabilitation* 27 (2/3): 29–48.
- Smith, P., M. Bohnstedt, and T. Tompkins. 1979. "Juvenile Diversion Evaluation: Report of an Experimental Study." *Pretrial Services Annual Journal* 2:118–140.
- Stickle, W.P., N.M. Connell, D.M. Wilson, and D. Gottfredson. 2008. "An Experimental Evaluation of Teen Courts." *Journal of Experimental Criminology* 4 (2): 137–163.
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Appendix

²Some citations include multiple studies that took place in different places or different projects. For these, additional details have been provided to help distinguish the place or project.

Appendix: Characteristics of Included Studies

Citation ²	System Processing Treatment	Treatment Group N	Control Group
Baron and Feeney 1976 (601 Offenses Project)	Processing	612	Family counseling
Baron and Feeney 1976 (602 Offenses Project)	Processing	105	Family counseling
Bauer et al. 1980	Intake	33	Diversion program
Blakely 1981	Intake	15	Diversion program (university staff)
Curran et al. 1977	Intake	288	Diversion program
Davidson et al. 1987	Processing	60	Placebo
Davidson et al. 1990	Processing	27	Three diversion programs
Dunford et al. 1982 (Florida site)	Processing	222	Release
Dunford et al. 1982 (Kansas City site)	Processing	111	Release
Dunford et al. 1982 (New York site)	Processing	158	Release
Emshoff and Blakely 1983	Processing	26	Two diversion programs
Hintzen et al. 1979	Hearing	65	Release
Klein 1986	Processing	81	Counsel and release
Koch 1985	Processing	78	Release
McCold and Wachtel 1998	Adjudication	103	Restorative justice
Patrick and Marsh 2005	Magistrate court	83	Education group
Stickle et al. 2008	Processing	85	Teen court
Quay and Love 1977	Processing	132	Diversion program (university staff)
Quincy 1981	Processing	31	Diversion program
Severy and Whitaker 1982	Processing	377	Release
Sherman et al. 2000 (Juvenile Personal Property Offenders)	Court	62	Restorative justice
Sherman et al. 2000 (Juvenile Property and Shoplifting Offenders)	Court	114	Restorative justice
Smith et al. 1979	Petition	26	Counsel and release
Smith et al. 2004	Processing	124	Counsel and release
True 1973	Cite to probation	6	Two diversion programs
University Associates 1986 (Bay, Michigan site)	Processing	71	Release
University Associates 1986 (Detroit, Michigan site)	Processing	124	Release
University Associates 1986 (Kalamazoo, Michigan site)	Processing	149	Release
University Associates 1986 (Otsego, Michigan site)	Processing	15	Release

Control N	Mean Age	% Males	% White	Level of Prior Offending	Current Offense Type
977	—	—	—	Unknown	Mostly status
111	—	—	—	Moderate	Mixed
99	14	83	74	High	Mixed
11	14	85	70	Unknown	Mixed
306	15	58	72	Low	Mostly status
300	14	83	74	High	Mixed
102	14	84	70	High	Mixed
220	—	—	—	None	Mixed
100	—	—	—	High	Mixed
194	—	—	—	High	Mixed
47	15	66	66	Unknown	Mixed
62	15	90	19	None	Mostly property
82	—	—	—	High	Mixed
86	15	57	74	Low	Mixed
189	15	69	35	Low	Mixed
68	15	55	91	None	Mostly drug
83	15	71	64	Low	Mixed
436	16	73	71	Moderate	Mostly status
59	—	—	—	Unknown	—
475	15	88	33	Low	Mostly property
73	16	56	—	Unknown	Mostly property
124	16	84	—	Moderate	Mostly property
29	15	93	65	High	Mixed
134	14	84	9	Unknown	Mostly property
8	14	100	—	High	Mostly property
76	14	86	87	Low	Mostly property
135	14	34	10	Low	Mostly property
174	14	59	75	Low	Mostly property
13	15	76	100	Low	Mostly property



U.S. Department of Justice
Office of Community Oriented Policing Services
145 N Street, N.E.
Washington, DC 20530

To obtain details on COPS programs,
call the COPS Office Response Center at 800.421.6770.

Visit COPS Online at www.cops.usdoj.gov.

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Juvenile Justice Policy and Data Board

Early Impacts of “An Act Relative to Criminal Justice Reform”

A Report of the Massachusetts Juvenile Justice
Policy and Data (JJPAD) Board

NOVEMBER 2019

<https://www.mass.gov/juvenile-justice-policy-and-data-board>

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Members of the JJPAD Board

Member Name	Affiliation/Appointing Organization
Maria Mossaides, Chair	Office of the Child Advocate
Representative Carolyn Dykema	House of Representatives (Speaker of the House)
Representative Timothy Whelan	House of Representatives (Minority Leader)
Senator Joseph Boncore	State Senate (Senate President)
Senator Patrick O'Connor	State Senate (Minority Leader)
Deputy Court Administrator Thomas Capasso*	Juvenile Court
Commissioner Edward Dolan*	Massachusetts Probation Service
Commissioner Peter Forbes*	Department of Youth Services
Assistant Commissioner Rebecca Brink*	Department of Children and Families
Deputy General Counsel Cristina Tedstone*	
Assistant Commissioner Nancy Connolly, Psy.D.*	Department of Mental Health
Associate Commissioner Lindsey Tucker*	Department of Public Health
General Counsel Katherine Lipper*	Executive Office of Education
Barbara Kaban	Committee for Public Counsel Services
<i>No Appointment Made¹</i>	Massachusetts District Attorney Association
Ruth Budelmann	Juvenile Justice Advisory Committee
Naoka Carey	Citizens for Juvenile Justice
Tammy Mello	Children's League of Massachusetts
Police Chief Kevin Kennedy	Massachusetts Chiefs of Police Association
Dawn Christie	Parent of child who has been subject to juvenile court jurisdiction (2)
<i>No Appointment Made</i>	Individual with experience or expertise related to design and implementation of state administrative data systems
*Members with an asterisk next to their name abstained from voting on this report. Representatives from agencies within the Executive Office of Health and Human Services and the Executive Office of Education abstain from voting on commission reports making recommendations related to budget appropriations.	

¹Michael Glennon of the Suffolk County District Attorney's Office has participated in the work of the JJPAD Subcommittees as an interim MDAA representative during the period over which this report was compiled.

Guide to Acronyms

Acronym	Definition
CPCS	Committee for Public Counsel Services
CRA	Child Requiring Assistance
BSAS	Bureau of Substance Addiction Services
DCF	Department of Children and Families
DESE	Department of Elementary and Secondary Education
DMH	Department of Mental Health
DPH	Department of Public Health
DYS	Department of Youth Services
EOE	Executive Office of Education
EOHHS	Executive Office of Health & Human Services
EOPSS	Executive Office of Public Safety & Security
JJPAD	Juvenile Justice Policy and Data Board
MOU	Memorandum of Understanding
ONA	Overnight Arrest
SRO	School Resource Officer
SOP	Standard Operating Procedures

Executive Summary

In April 2018, the Legislature passed “An Act Relative to Criminal Justice Reform,” which makes a number of statutory changes to the juvenile justice system, including:

- Raising the minimum age of criminal responsibility proceedings from age 7 to age 12
- Removal of Juvenile Court jurisdiction for certain lower-level offenses
- Granting judges the authority to divert youth pre-arraignment under certain circumstances
- Instituting new requirements for School Resource Officers (SROs), police departments and school districts
- Revising juvenile overnight arrest lock-up procedures

The Juvenile Justice Policy and Data (JJPAD) Board, which was created by the Legislature as part of the 2018 legislation, has been charged with evaluating juvenile justice system policies and procedures and making recommendations to improve outcomes. Specifically, the Legislature asked the JJPAD Board to report on *“the impact of any statutory change that expands or alters the jurisdiction or functioning of the juvenile court”* and make recommendations for *“any statutory changes concerning the juvenile justice system.”*

This “Early Impacts” report, which comes approximately a year and a half after the effective date of “An Act Relative to Criminal Justice Reform”²:

- **Provides a big-picture look at how our juvenile justice system is currently utilized** – how many youth are processed by the justice system each year, what the demographics of the impacted population are at various points, and what they are charged with – as well as some basic information on utilization of other state systems that may serve these youth

Year 1: An Overview of the JJPAD Board’s First Year of Work

The Legislature created the JJPAD Board as a permanent entity, which allowed the Board to prioritize areas for in-depth study. In addition to studying the impact of recent statutory changes, in the first year, the Board chose to focus on:

- **Data:** Identifying gaps and developing recommendations for improving aggregate data collection and reporting. (June 2019 JJPAD Board Report)
- **Community-Based Interventions:** Studying and making recommendations for increasing access to high quality diversion programs and other community-based interventions.

This “Early Impacts” report is issued in tandem with a second report – “Improving Access to Diversion and Community-Based Interventions for Justice-Involved Youth” – which provides a deeper examination of our current system of diverting youth to community-based alternatives to justice system processing and makes recommendations for expanding and improving the use of diversion in the Commonwealth. All reports can be found on the [JJPAD Board’s website](#).

² The legislation was passed in April 2018, and most changes went into effect on July 1, 2018.

- **Provides a preliminary analysis of the impact** of the juvenile justice-related provisions of the law within the limitations of currently available data
- **Describes implementation to date** and **details concerns and challenges** that have arisen during implementation
- **Makes recommendations for further modifications to the law** designed to address some of these implementation challenges and concerns

In this Executive Summary, the JJPAD Board summarizes its key findings and recommendations after a year of study. The full Report includes a detailed description of implementation activities, accomplishments and challenges, as well as an in-depth explanation of recommendations for additional legislative action.

Table 1: Summary of Statutory Changes Examined in this Report

An Act Relative to Criminal Justice Reform made numerous changes impacting the juvenile justice system, including:

- **Raising the Lower Age:**
 - Raising the lower age of criminal responsibility from age 7 to age 12
- **Removal of Juvenile Court Jurisdiction for Certain Offenses:**
 - Youth can no longer be found delinquent for certain offenses:
 - Violations of local ordinances
 - First offenses for lower-level misdemeanors (maximum punishment is fine and/or incarceration for no more than six months) including disorderly conduct
- **New Requirements for School Resource Officers (SROs) and Schools Districts:**
 - Decriminalizing “disturbing lawful assembly” and “disorderly conduct” offenses for students under 18 when in school or at school events
 - New requirements regarding how SROs are assigned and trained
 - Requirements that school districts and police departments sign Memorandum of Understanding and develop Standard Operating Procedures governing SRO conduct and involvement in school discipline
- **Increased Opportunities for Judicial Diversion**
 - Authorizes juvenile court judges to divert some youth pre-arraignment
 - Specifically authorizes diversion to Restorative Justice programs
 - Juvenile court judges can convert delinquency charges to civil infractions
- **Revising Juvenile Lock-Up Procedures**
 - Removes requirement that the police department contact Probation when there is a written request to detain a child overnight
 - Requires police department to notify DCF when a child in the care and custody of DCF has been arrested and will otherwise be at risk of overnight lock-up

Key Data Findings

One goal of “An Act Relative to Criminal Justice Reform” was to reduce the “number of incidents resulting from children’s unlawful or problematic behavior [resulting] in a response from the juvenile justice system.”³ This goal was set in light of a recognition that the brains of children and young people are still developing. The goal was also set due to an increasingly strong body of research demonstrating that contact with the juvenile justice system can increase a youth’s likelihood for negative outcomes⁴ and even further delinquency over time.⁵ In other words: diverting youth away from contact with the juvenile justice system can have public safety benefits as well. Rigorous research has found that youth who have participated in diversion programs are less likely to reoffend than youth who are formally processed through the juvenile court.⁶

On this front, **it is clear the law is having its intended effect. At every process point for which data was provided⁷, there has been a significant drop in utilization of the juvenile justice system:**

- Juvenile arrests⁸ fell 43% from FY18 to FY19
- Overnight arrest admissions dropped 44% from FY18 to FY19
- Applications for complaint dropped 26% from FY18 to FY19
- Delinquency filings dropped 33% from FY18 to FY19
- Pre-trial detention admissions dropped 27% from FY18 to FY19
- Probation delinquency monthly caseloads dropped 24% from July 2018 to July 2019
- First-time commitments to DYS dropped 17% from FY18 to FY19

The available data also indicates that **much of the decline is driven by reductions in the use of the juvenile justice system for lower-level offenses.**

³Landry, J. (2018, June 20). Juvenile Justice Reform in the Criminal Justice Package. Retrieved from <https://willbrownsberger.com/juvenile-justice-reform/>

⁴Youth Involved with the Juvenile Justice System (n.d.). Youth.gov. Retrieved from <https://youth.gov/youth-topics/juvenile-justice/youth-involved-juvenile-justice-system>

⁵Mowen, T.J., Brent, J.J., & Bares, K.J. (2018). How Arrest Impacts Delinquency Over Time Between and Within Individuals. *Youth Violence and Juvenile Justice*, 16(4), 358-377. <http://doi.org/10.1177/1541204017712560>

⁶Wilson, H., & Hoge, R. (2012). The effect of youth diversion programs on recidivism: A meta-analytic review. *Criminal Justice and Behavior*, (40) p. 497-518. International Association for Correctional and Forensic Psychology. Retrieved from http://users.soc.umn.edu/~uggen/Wilson_CJB_13.pdf

⁷As detailed in the *Improving Access to Massachusetts Juvenile Justice System Data* report submitted to the legislature June 2019, the Trial Court was not able to provide data on adjudications or dispositions for the purpose of this report. The Trial Court provided arraignment data through Calendar Year 2017. Data on arraignments for the time period this report focuses on—FY18 and FY19—was not provided.

⁸Juvenile arrest data in this report only includes custodial arrests (categorized as “on-view” and “taken into custody” in the NIBRS reporting system.) Many police departments will issue youth a summons to court rather than making a custodial arrest for less serious offenses. However, the use of summons is not consistently reported by all police departments; as a result, data on summons is not included in this report for the sake of consistency.

Due to inconsistencies in the reporting of arrest data (as detailed in Footnote 8, above), applications for complaint and delinquency filings provide the most accurate measure of the total frequency of incidents resulting in a response from the juvenile justice system. The largest decreases in applications for complaint and delinquency filings were found for the following case types:

- School Disturbances and other Public Order case types (68% decrease in applications, 69% decrease in filings)
- Alcohol case types (55% drop in applications, 81% drop in filings)
- Motor Vehicle case types (27% drop in applications, 40% drop in filings)
- Property case types (29% drop in applications, 42% drop in filing)

Declines in the use of pre-trial detention and first-time commitments to DYS are also driven by decreases in admissions for lower-level offenses:

- The largest declines in admissions to pre-trial detention were for the lowest level offenses (45% for Grid Level 1 offenses, 35% for Grid Level 2 offenses).⁹
- The decline in first-time commitments to DYS was driven by a 74% drop for Grid Level 1 offenses.

It's important to note, however, that the decreases in the first year of implementation are part of a longer trend. Juvenile arrests have been declining for at least the past 10 years, as have delinquency filings, use of detention, probation delinquency caseloads and commitments to DYS. This decrease cannot be attributed to any single factor, but rather a collection of initiatives, agency policy and practice changes, reform legislation and public attitudes. **It seems likely that the legislation has accelerated the decline at certain process points in the first year, but also that the decreases cannot be solely attributed to the new statute.**

Although the data shows that the overall goal of the legislation – reducing the number of youth becoming involved with the juvenile justice system for lower-level charges – is being met, there is still one area for strong concern: as shown in Table 2, **youth of color are still disproportionately represented at every level of the juvenile justice system.**

⁹ The Department of Youth Services categorizes seriousness of offense by a system called "Grid Level." Grid Level is a numeric representation of offense based on seriousness of offense ranging from 1 (least serious) to 7 (most serious) based on adult sentencing guidelines.

	White	Black or African-American	Hispanic/Latinx
Massachusetts General Youth Population ¹¹ (12-17 years)	66%	9%	17%
Custodial Arrests	26%	37%	36%
Overnight Arrest Admissions	17%	26%	34%
Applications for Complaint	38%	47% ¹²	
Delinquency Filings	36%	56% ¹³	
Probation ¹⁴	44%	18%	32% ¹⁵
Detention	21%	27%	45%
DYS Commitments	20%	26%	48%

The JJPAD Board is particularly concerned by data demonstrating that, although the total number of youth of color processed in the juvenile justice system has, at most process points, decreased, **the disparity between white youth and youth of color has actually increased** following passage of the new law. This is because the law had a more substantial impact on justice system involvement rates for white youth than for youth of color, as shown in Table 3.

¹⁰ Due to a small number of youth in other racial categories (American Indian/Alaska Native, Asian, Native Hawaiian/Pacific Islander, and Multi-Race) most of this report will include analysis of just White, Black/African- American and Hispanic/Latinx race/ethnic categories. It is important to note that despite these smaller numbers, there is evidence of over-representation of some smaller racial categories throughout the juvenile justice system. Total percentages will not necessarily total 100%, since we are not reporting smaller racial categories. For a more detailed breakdown of racial categories, please see Appendix B.

¹¹ Puzzanchera, C., Sladky, A. and Kang, W. (2019). "Easy Access to Juvenile Populations: 1990-2018." Online. Available: <https://www.ojjdp.gov/ojstatbb/ezapop/>

¹²The Trial Court provided data broken down into two categories: "white youth" and "non-white youth." Historically, the vast majority of "non-white" youth are Black and/or Hispanic/Latinx; however, it should be noted that this figure would also include a small number of youth of other races (e.g. Asian, Native American, Hawaiian/Pacific Islander and multiracial youth.)

¹³ Ibid.

¹⁴ Probation race data only includes youth on Risk/Need probation. Pre-trial probation and Administrative probation racial breakdowns were not reported.

¹⁵ Probation supplied data that reported on Race and Race with Ethnicity. For the purpose of this report, if a youth was identified as Hispanic/Latinx as their ethnic category, they were captured and reported in the "Hispanic/Latinx" category rather than their reported race.

	White	Black or African-American	Hispanic/Latinx
Custodial Arrest	-56%	-32%	-39%
Overnight Arrest Admissions	-67%	-53%	-47%
Applications for Complaint	-24%	-15% ¹⁶	
Delinquency Filings	-33%	-22% ¹⁷	
Probation ¹⁸	-13%	-28%	-23% ¹⁹
Detention	-48%	-26%	-17%
DYS Commitments	-46%	-12%	5%

Despite the many positive results detailed in this report, it is clear from the data in Table 2 and 3 that more work is necessary at all levels to reduce racial and ethnic disparities in our juvenile justice system.

In “Improving Access to Diversion and Community-Based Interventions for Justice-Involved Youth,” a report issued in tandem with this one, the JJPAD Board makes recommendations for policy and practice changes the Board hopes will address some of the racial and ethnic disparities in the “front end” of the juvenile justice system.

The JJPAD Board will continue to track data on disparities and develop additional recommendations to reduce disparities as part of its ongoing work.

Implementation Findings & Recommendations for Further Statutory Changes

As indicated by the data above, on the whole the new law appears to be having its intended effect. However, as may be expected with any substantial change in law, some concerns and challenges have arisen during implementation.

¹⁶ The Trial Court provided data broken down into two categories: “white youth” and “non-white youth.” Historically, the vast majority of “non-white” youth are Black and/or Hispanic/Latinx; however, it should be noted that this figure would also include a small number of youth of other races (e.g. Asian, Native American, Hawaiian/Pacific Islander and multiracial youth.)

¹⁷ Ibid.

¹⁸ Probation race data only includes youth on Risk/Need probation. Pre-trial probation and Administrative probation racial breakdowns were not reported.

¹⁹ Probation supplied data that reported on Race and Race with Ethnicity. For the purpose of this report, if a youth was identified as Hispanic/Latinx as their ethnic category, they were captured and reported in the “Hispanic/Latinx” category rather than their reported race.

For the past year, the JJPAD Board has tracked these implementation challenges, providing a forum for stakeholders to raise concerns and discuss possible system responses. A high-level summary of the implementation challenges and potential areas for further legislative action is provided below; additional details and support is provided in the full Report.

Raising the Lower Age to 12

“An Act Relative to Criminal Justice Reform” raised the age of criminal responsibility from age 7 to age 12.

Incidents of children under the age of 12 committing a crime are rare. Prior to the passage of the law, there were already very few children arrested or processed through the juvenile justice system, as demonstrated in the chart below. After passage of the law, those numbers have dropped to nearly zero.

Data Point	Pre (FY18)		Post (FY19)	
	Number of Youth Under 12	Percent of Total	Number of Youth Under 12	Percent of Total
Overnight Arrests	2	0.2%	0	0%
Applications for Complaint	221	2%	9	0.1%
Delinquency Filings	120	2%	2	0.04%
Detention Admissions	1	0.1%	0	0%
DYS Commitments	0	0%	0	0%

JJPAD Board members agree that the delinquency system was not the appropriate system for children under 12 to obtain necessary supports and services. However, some Board members are concerned that there is no longer a specific state entity with the legal authority and leverage to intervene and require a child/family to participate in an evaluation or treatment plan if a child under the age of 12 should commit serious criminal acts, based solely on the criminal acts themselves.²⁰

The JJPAD Board did not reach consensus regarding the best path forward:

- Some Board members recommend **amending Chapter 119 to give DCF the responsibility and authority to develop, implement, and monitor a treatment plan for youth under 12 who have committed a serious criminal act**, with Juvenile Court oversight as needed.
- Other Board members believe it is neither necessary nor advisable to create or expand a legal mechanism giving the state responsibility for identifying and overseeing/monitoring services for this population, particularly given the possible consequences of such a process which could ultimately result in a Care and Protection petition if parents/guardians are unwilling or unable

²⁰ As described in the full Report, it is still the case that other state systems may exercise oversight in some circumstances.

to cooperate. These Board members feel that creating such a system could cause more harm than good.

“First Offense” Misdemeanor Rule

The legislation also changes the definition of a “delinquent child” by excluding “a civil infraction, a violation of any municipal ordinance or town by-law or a first offense of a misdemeanor for which the punishment is a fine or imprisonment in a jail or house of correction for not more than 6 months” from offenses qualifying a child to be adjudicated delinquent.²¹ The purpose of this statutory change was to reduce the number of low-level incidents that are referred to the juvenile court.

Data was not provided to the JJPAD Board in such a way that allows us to look specifically at impacted offenses. As described in Key Data Findings above, however, we see a general reduction in the use of the juvenile justice system for lower-level charges at all points for which data is available.

Following passage of the legislation, there were differing interpretations of this section of the statute and its impact, leading to confusion and variation in practice.²² In August 2019, the Supreme Judicial Court (SJC) partially addressed this confusion in *Wallace v. Commonwealth (2019)*²³, finding that “An Act Relative to Criminal Justice Reform” intended to give juveniles a “second chance” with regard to a first offense of a low-level misdemeanor – but that the Legislature did *not* intend to excuse multiple misdemeanors. The Court delineated a process for establishing that a youth was on their “second offense” and therefore eligible to be adjudged delinquent, even if the youth had not been adjudged delinquent on a first offense (as the charge was dismissed due to it being a first offense).

The JJPAD Board concludes that the SJC ruling brought needed clarity with regard to law enforcement’s authority to arrest for a low-level misdemeanor. However, the Board members note that the process for proving a “first offense” is complicated and may prove difficult to implement, which might lead to calls at some point in the future for statutory revision. Given that the case was very recently decided, the Board believes that **additional time is needed to better understand how the mandated processes will play out in practice and if there are any additional points of concern**. The JJPAD Board will continue to follow this issue and make additional recommendations in the future should it prove necessary.

School Resource Officers (SROs) and School-Based Offenses

The 2018 law established new requirements designed to provide more guidance on the role of SROs and reduce the criminalization of nonviolent youth behavior in school, including:

²¹ See M.G.L. Chapter 119 Section 52: <https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXVII/Chapter119/Section52>

²² As detailed in the full Report, this likely had a significant impact on data related to applications for complaint presented in this report. Following the August 2019 Supreme Judicial Court ruling clarifying the law, applications for complaint may rise closer to pre-implementation levels.

²³ See *Wallace W., a juvenile, vs. Commonwealth*, 482 Mass. 789 (2019)
https://www.mass.gov/files/documents/2019/09/27/AmendedSJC_482_789.pdf

- Decriminalizing nonviolent conduct if it takes place at school, including “disturbing an assembly,” “disorderly conduct,” and “disturbing the peace.”
- Requiring police departments who employ SROs to develop a memorandum of understanding (MOU) with the local school district defining the role of the SRO, as well as Standard Operating Procedures (SOPs) establishing guidance to SROs.

Data on school-based arrests is not yet available.²⁴ However, as demonstrated in the chart below, applications for complaint and delinquency filings for school disturbances and other public order offenses²⁵ have dropped substantially from FY18 to FY19:

Data Point	Number Pre (FY18)	Number Post (FY19)
School-Based Arrests	No Baseline Available	Data from DESE not yet available
Applications for Complaint (School-Disturbance/Public Order)	1040	337
Delinquency Filings (School-Disturbance/Public Order)	777	244

Although the available data suggests that the law is having its overall intended effect of reducing the criminalization of nonviolent behavior in schools, two primary concerns have been raised with regards to implementation:

- Not all school districts and police departments with SROs have fully implemented the new MOU and SOP requirements
- SROs have raised repeated concerns about the lack of clarity regarding the role and legal authority of an SRO following passage of the new statute

MOU/SOP Requirements: The new law does not require any particular state agency to monitor implementation of the new requirements, provide oversight and/or ensure that the new requirements are being followed. As a result, the JJPAD Board is unable to fully ascertain compliance with these provisions of the new law.

²⁴ DESE required school districts to submit data on school-based arrests for the first time in the 2018-2019 school year. The Department is currently analyzing the data and intends to make it publicly available in late fall/early winter.

²⁵ Due to the way charge types are categorized by the Trial Court, this includes all offenses from MGL Chapter 272 (Public Order). Prior to the law change, the majority of these charges for juveniles have been for school-based offenses.

In an attempt to collect this information, the OCA sent a survey to police chiefs through the Massachusetts Chiefs of Police Association. Despite a relatively low response rate (approximately a quarter of police departments responded), the survey results demonstrate that the MOU and SOP portions of the new law are not fully implemented across the state, and that additional work is needed to bring school districts and police departments into full compliance with every aspect of the law:

- Most survey respondents have signed MOUs, but many MOUs do not include every provision required by the new statute.
- Most survey respondents do not have SOPs, and many existing SOPs are missing key statutorily required elements.

There are 300+ police departments and 400+ school districts in Massachusetts. Ensuring that every single school and police department with an SRO have a signed MOU and SOPs that include every provision required by the new law will take a significant amount of effort. Some schools and police department may not be aware that they need to create or update their MOUs/SOPs, while others may simply lack the bandwidth.

To ensure the law is fully implemented, **the JJPAD Board recommends that the Legislature designate a state agency or agencies to track and review MOUs and SOPs, and provide feedback and assistance when a school district or police department is not in full compliance.**

The Board also recommends that **if any agency is given an explicit oversight role, they should be allocated sufficient staff resources to support the work.**

Clarity on SRO Role/Legal Authority: Following passage of the law, SROs have expressed concern about potential situations where an SRO believes they should physically intervene to deescalate a situation before it potentially becomes violent, but the student has not yet committed a crime for which they could be arrested. Prior to passage of the law, situations of escalating conduct could have been addressed by police intervention based on the crimes of disorderly conduct or disturbing a school assembly. Now it is unclear if the SRO is legally permitted to intervene, even if they believe the student poses a danger to themselves or others, until a law has been broken.

There is not agreement among JJPAD Board members about what the current law permits in terms of acceptable SRO intervention in situations where a crime has not yet been committed. Some members believe current law already allows for law enforcement to intervene to deescalate a situation before it becomes violent in school settings, while others believe that law enforcement does not have that authority unless a crime has been committed.

The Board was also unable to reach consensus regarding whether there was a clear need for clarifying language.

- Some members **recommend adding language to Chapter 71, Section 237 to clarify the circumstances under which an SRO would be permitted to intervene** even if misbehavior does not involve criminal conduct, as well as when school personnel may request the presence

of an SRO.

- **Other members believe that no further changes to the law should be made until all provisions** – including the MOU and SOP provisions described above – **have been fully implemented**, and there is an opportunity to evaluate whether additional changes to the law are needed.

Increased Opportunities for Judicial Diversion

The new statute included a number of provisions that were designed to increase opportunities for a youth charged with lower-level offenses to be diverted from the juvenile court pre-arraignment, including explicitly authorizing juvenile court judges to divert some youth pre-arraignment.

Data regarding the use of diversion by juvenile court judges is not available. Additional information and recommendations regarding juvenile diversion is included in the JJPAD Board's 2019 Report, "Improving Access to Diversion and Community-Based Interventions for Justice-Involved Youth."

Revising Juvenile Lock-Up Procedures

The statute also made changes to the procedure law enforcement are required to follow when a youth is held at a police station and at risk of being placed in an overnight lock-up facility.

As described above, overnight arrest admissions dropped by 44% from FY18 to FY19, and it seems likely that a portion of this drop can be attributed to the law changes described above. However, overnight arrests have been declining for several years, and it is not possible to completely isolate the impact of these changes to juvenile lock-up procedures.

Following passage of the law, a variety of juvenile justice practitioners have reported situations in which there has been a lack of clarity regarding the roles and responsibilities of various state actors and, in some cases, circumstances that do not fit neatly into the current legal structure:

- Lack of clarity regarding the role of the Bail Magistrate
- Children between the age of 12 and 14 who cannot be legally held by DYS
- Placement of youth when family cannot or will not resume physical custody

Role of Bail Magistrate: The legislation gave the Officer-in-Charge the authority, in certain circumstances, to decide to either release a youth who had been arrested and brought to the police station, or call the Bail Magistrate to review the case and set bail. However, law enforcement have raised the concern that the Officer-in-Charge is not, by nature, a neutral party and therefore not an appropriate party to exercise this discretion. Anecdotally, there has also been some confusion in the field following the law change regarding whether a Bail Magistrate can or should be called at all.

The JJPAD Board recommends that the Legislature amend MGL Chapter 119 Section 67 (a) and (b) to return the decision regarding release of a youth who has been arrested and brought to a police station to the Bail Magistrate.

However, doing so would raise a separate but related concern: the issue of the \$40 fee that youth admitted to bail are charged (on top of any monetary bail amount that is set).²⁶ These topics are related because under the current statute, an Officer in Charge could release the youth to their parents without calling the Bail Magistrate and incurring the \$40 fee.

Board members note that as youth typically do not have access to their own funds, this fee is often paid by parents – who may or may not be able to afford the fee, and who are not the individuals alleged to have committed a crime. To address this concern, **the Board also recommends eliminating the \$40 bail magistrate fee for youth under the age of 18.**²⁷

Children Between the Age of 12 and 14 Who Cannot Be Held by DYS

Under current law, a youth cannot be held by DYS prior to their first court appearance if they are under the age of 14. This is the case even if the court issued a warrant for their arrest and directed that the child be held in safekeeping pending their appearance in court, or if the youth was charged with a serious crime – such as murder – that would allow them to be held without bail if they were 14 or over.

Although the law precluding the detention of youth under 14 who were arrested after court hours predates the 2018 law, the changes made in “An Act Relative to Criminal Justice” brought renewed focus to the language in the entire statute. As a result of this renewed focus, juvenile justice stakeholders interpreted M.G.L. Chapter 119 Section 67 to mean that youth under 14 who are arrested after court hours cannot be held in either police lockups or the DYS Overnight Arrest system and therefore they must be released. As a result, since the law change, youth who are 12 and 13, regardless of their offense and bail status, are no longer held by DYS prior to their first appearance in court.

The Board did not reach consensus on if or how the statute should be changed to address this issue:

- Some Board members believe that **the Legislature should amend M.G.L. Chapter 119, Section 67 to permit DYS to hold youth between the ages of 12 and 14 who have been arrested for a serious violent offense**²⁸ until the next court session, unless they are deemed eligible for release on personal recognizance by the bail magistrate or a bail is posted.
- **Other Board members believe there is a risk that this change may lead to net widening,** with youth held who might otherwise have been released simply because there is now an option to do so. As a result, **these Board members do not support making any change to current law.**

²⁶ This \$40 is a payment to the Bail Magistrate for their services and is statutorily authorized by law.

²⁷ The Board recognizes that Bail Magistrates perform a service at nights and on weekends, and that the Legislature cannot require them to perform the service without compensation. Determining how best to operationalize this recommendation requires further conversation with a larger group of stakeholders.

²⁸ Defined as “An act that has caused serious bodily injury, including permanent disfigurement, protracted loss or impairment of a bodily function, limb or organ, or a substantial risk of death; or a sexual assault.”

Placement of Youth When Family Cannot or Will Not Resume Physical Custody of Child

Stakeholders have also encountered a small number of cases where a youth has been arrested and the Officer-in-Charge has determined the youth does not need to be held, but their parent/guardian will not, or cannot, pick them up from the police station, or the parent/guardian cannot be located. Sometimes, the parent/guardian may be unwilling to pick up the child because the youth was arrested as a result of behavior in the home, and the parent/guardian does not feel ready or safe taking the youth back. In such a situation, it is legally unclear which organization/agency is responsible for the care and custody of the youth.

JJPAD Board members agree that a statutory change is needed to ensure that all youth who have been arrested and cleared for release have an appropriate, safe, and legal place to spend the night.

The Board did not reach consensus on how the statute should be changed, but instead presents the following options that were considered by the group:

- Some Board members believe the **Legislature should amend M.G.L Chapter 119, Section 67 to permit DYS to hold youth until the next court session** if they are otherwise eligible for release but a parent/guardian cannot or will not take child.
- Other Board members believe that **the state budget line item for the Alternative Lock-Up (ALP) program, currently administered by DCF, should be amended to provide funding for the placement of youth at an ALP until the next court session** if they are otherwise eligible for release but a parent/guardian cannot or will not take child and DYS is not statutorily authorized to hold the youth.

Summary of JJPAD Board Recommendations Following Implementation of “An Act Relative to Criminal Justice Reform”		
Topic	Recommendation	Consensus?
Children Under 12 who Commit Serious Criminal Acts	<u>Some</u> Board members recommend amending Chapter 119 to give DCF the responsibility and authority to develop, implement, and monitor a treatment plan for youth under 12 who have committed a serious criminal act, with Juvenile Court oversight as needed.	No
“First Offense” Misdemeanor (post Wallace decision)	Additional time is needed to better understand how the mandated processes will play out in practice and if there are any additional points of concern. The JJPAD Board will continue to follow this issue and make additional recommendations in the future should it prove necessary.	Yes
SRO MOUs/SOPs	To ensure the law is fully implemented, the JJPAD Board recommends that the Legislature designate a state agency or agencies to track and review MOUs and SOPs, and provide feedback and assistance when a school district or police department is not in full compliance.	Yes

	The Board also recommends that if any agency is given an explicit oversight role, they should be allocated sufficient staff resources to support the work.	
SRO Role/Authority	<u>Some members</u> recommend adding language to Chapter 71, Section 237 to clarify the circumstances under which an SRO would be permitted to intervene even if misbehavior does not involve criminal conduct, as well as when school personnel may request the presence of an SRO.	No
Role of Bail Magistrate	The JJPAD Board recommends that the Legislature amend MGL Chapter 119 Section 67 (a) and (b) to return the decision regarding release of a youth who has been arrested and brought to a police station to the Bail Magistrate.	Yes
Bail Magistrate Fee	The Board recommends eliminating the \$40 bail magistrate fee for youth under the age of 18.	Yes
Youth Between 12 and 14 Arrested for Serious Violent Offense	<u>Some</u> Board members believe that the Legislature should amend M.G.L. Chapter 119, Section 67 to permit DYS to hold youth between the ages of 12 and 14 who have been arrested for a serious violent offense ²⁹ until the next court session, unless they are deemed eligible for release on personal recognizance by the bail magistrate or a bail is posted.	No
Placement of Youth When Family Cannot/Will Not Resume Physical Custody Following Arrest	JJPAD Board members agree that a statutory change is needed to ensure that all youth who have been arrested and cleared for release have an appropriate, safe, and legal place to spend the night. The Board did not reach consensus on how the statute should be changed, but instead presents the following options that were considered by the group: <ul style="list-style-type: none"> • <u>Some</u> Board members believe the Legislature should M.G.L Chapter 119, Section 67 to permit DYS to hold youth until the next court session if they are otherwise eligible for release but a parent/guardian cannot or will not take child. • <u>Other</u> Board members believe that the state budget line item for the Alternative Lock-Up (ALP) program, currently administered by DCF, should be amended to provide funding for the placement of youth at an ALP until the next court session if they are otherwise eligible for release but a parent/guardian cannot or will not take child and DYS is not statutorily authorized to hold the youth. 	Yes No No

²⁹ Defined as “An act that has caused serious bodily injury, including permanent disfigurement, protracted loss or impairment of a bodily function, limb or organ, or a substantial risk of death; or a sexual assault.”

Introduction

In April 2018, the Massachusetts Legislature passed, and Governor Charlie Baker signed into law, “[An Act Relative to Criminal Justice Reform](#).” In addition to making a number of changes to our juvenile and criminal justice systems, that legislation created the Massachusetts [Juvenile Justice Policy and Data \(JJPAD\) Board](#), which is charged with evaluating juvenile justice system policies and procedures and making recommendations to improve outcomes. The JJPAD Board is chaired by the Child Advocate and comprised of members representing a broad spectrum of stakeholders involved in the juvenile justice system.

The JJPAD Board is required to report annually on “*the impact of any statutory change that expands or alters the jurisdiction or functioning of the juvenile court*” and make recommendations for “*any statutory changes concerning the juvenile justice system*.” A summary of statutory changes examined in this report is included in Table 1 below.

To develop this report, the JJPAD Board:

- Identified data elements that could help the Board assess the early impacts of the new law and, through the Office of the Child Advocate, requested and reviewed data from the agencies holding relevant data.³⁰
- Received reports from implementing agencies and advocacy organizations regarding implementation successes, challenges and areas of concern
- Formed two Working Groups – one focused on juvenile arrest procedures and one focused on School Resource Officer reforms – to allow for in-depth examination and discussion regarding particular areas of concern

Year 1: An Overview of the JJPAD Board's First Year of Work

The Legislature created the JJPAD Board as a permanent entity, which allowed the Board to prioritize areas for in-depth study. In addition to studying the impact of recent statutory changes, in the first year, the Board chose to focus on:

- **Data:** Identifying gaps and developing recommendations for improving aggregate data collection and reporting. (June 2019 JJPAD Board Report)
- **Community-Based Interventions:** Studying and making recommendations for increasing access to high quality diversion programs and other community-based interventions.

This “Early Impacts” report is issued in tandem with a second report – “Improving Access to Diversion and Community-Based Interventions for Justice-Involved Youth” – which provides a deeper examination of our current system of diverting youth to community-based alternatives to justice system processing and makes recommendations for expanding and improving the use of diversion in the Commonwealth. All reports can be found on the [JJPAD Board's website](#).

³⁰ The OCA requested data for one year before (FY18) and after (FY19) of the effective date of the new law. Not all data requests could be fulfilled in time to be included in this report. The OCA and the JJPAD Board will continue working with agencies to identify and collect relevant data.

Table 1: Summary of Statutory Changes Examined in this Report

An Act Relative to Criminal Justice Reform made numerous changes impacting the juvenile justice system, including:

- **Raising the Lower Age:**
 - Raising the lower age of criminal responsibility from age 7 to age 12
- **Removal of Juvenile Court Jurisdiction for Certain Offenses:**
 - Youth can no longer be found delinquent for certain offenses:
 - Violations of local ordinances
 - First offenses for lower-level misdemeanors (maximum punishment is fine and/or incarceration for no more than six months), including disorderly conduct
- **New Requirements for School Resource Officers (SROs) and Schools Districts:**
 - Decriminalizing “disturbing lawful assembly” and “disorderly conduct” offenses for students under 18 when in school or at school events
 - New requirements regarding how SROs are assigned and trained
 - Requirements that school districts and police departments sign Memorandum of Understanding and develop Standard Operating Procedures governing SRO conduct and involvement in school discipline
- **Increased Opportunities for Judicial Diversion**
 - Authorizes juvenile court judges to divert some youth pre-arraignment
 - Specifically authorizes diversion to Restorative Justice programs
 - Juvenile court judges can convert delinquency charges to civil infractions
- **Revising Juvenile Lock-Up Procedures**
 - Removes requirement that the police department contact Probation when there is a written request to detain a child overnight
 - Requires police department to notify DCF when a child in the care and custody of DCF has been arrested and will otherwise be at risk of overnight lock-up

This report, which comes approximately a year and a half after the effective date of An Act Relative to Criminal Justice Reform³¹:

- **Provides a big-picture look at how our juvenile justice system is currently utilized** – how many youth are processed by the justice system each year, what the demographics of the impacted population are at various points, and what they are charged with – as well as some basic information on utilization of other state systems that may serve these youth
- **Provides a preliminary analysis of the impact** of the juvenile justice-related provisions of the law, within the limitations of currently available data

³¹ The legislation was passed in April 2018, and most changes went into effect on July 1, 2018.

- **Describes implementation to date and details concerns and challenges** that have arisen during implementation
- **Makes recommendations for further modifications to the law** designed to address some of these implementation challenges and concerns.

Juvenile Justice System Data Trends

This section provides a big-picture overview of our juvenile justice system and identifies recent trends in utilization at various points in the process.

As described in the JJPAD Board’s June 2019 report ([Improving Access to Massachusetts Juvenile Justice System Data](#)), historically individual juvenile justice agencies have each reported their own data in various formats and on separate timelines. There has not been a singular, consistent place or report analyzing all juvenile justice agencies each year, making it difficult to evaluate the entirety of the system or identify system trends. The high-level overview provided in this section allows us to examine current data and recent trends in the context of an entire system, not just individual agencies.

One goal of “An Act Relative to Criminal Justice Reform” was to reduce the “number of incidents resulting from children’s unlawful or problematic behavior [resulting] in a response from the juvenile justice system.”³² This goal was set in light of a recognition that the brains of children and young people are still developing, as well as an increasingly strong body of research demonstrating that contact with the juvenile justice system can increase a youth’s likelihood for negative outcomes³³ and even further delinquency over time.³⁴

On this front, it is clear the law is having its intended effect: **at every process point for which data was provided³⁵, there has been a significant drop in utilization of the juvenile justice system.**

Figure 1: Key Juvenile Justice System Process Points



Aggregate data is available at most, but not all, process points for the period of time examined in this report (FY18 to FY19). Data was not provided for the process points in light blue.

³² Landry, J. (2018, June 20). Juvenile Justice Reform in the Criminal Justice Package. Retrieved from <https://willbrownsberger.com/juvenile-justice-reform/>

³³ “Youth Involved with the Juvenile Justice System” (n.d.) Youth.gov. Retrieved from <https://youth.gov/youth-topics/juvenile-justice/youth-involved-juvenile-justice-system>

³⁴ Mowen, T.J., Brent, J.J., & Bares, K.J. (2018). How Arrest Impacts Delinquency Over Time Between and Within Individuals. *Youth Violence and Juvenile Justice*, 16(4), 358-377. <http://doi.org/10.1177/1541204017712560>

³⁵ As detailed in *Improving Access to Massachusetts Juvenile Justice System Data*, which was submitted to the legislature June 2019, the Trial Court was not able to provide data on adjudications or dispositions for the purpose of this report. The Trial Court provided

The data below looks at trends at various process points in the juvenile justice system over the past two to three fiscal years (July 2016 through June 2019) – one to two years prior to implementation of “An Act Relative to Criminal Justice Reform” as well as the first year following implementation.

It’s important to note, however, that the decreases we see in the first year of implementation are part of a longer trend. Juvenile arrests have been declining for at least the past 10 years, as have delinquency filings, use of detention, probation delinquency caseloads and commitments to DYS. This decrease cannot be attributed to any single factor, but rather a collection of initiatives, agency policy and practice changes, reform legislation and public attitudes. **It seems likely that the legislation has accelerated the decline at certain process points in the first year, but also that the decreases cannot be solely attributed to the new statute.**

A Note of Caution

The JJPAD Board recommends the data in this report be viewed in context, and with caution, for a number of reasons:

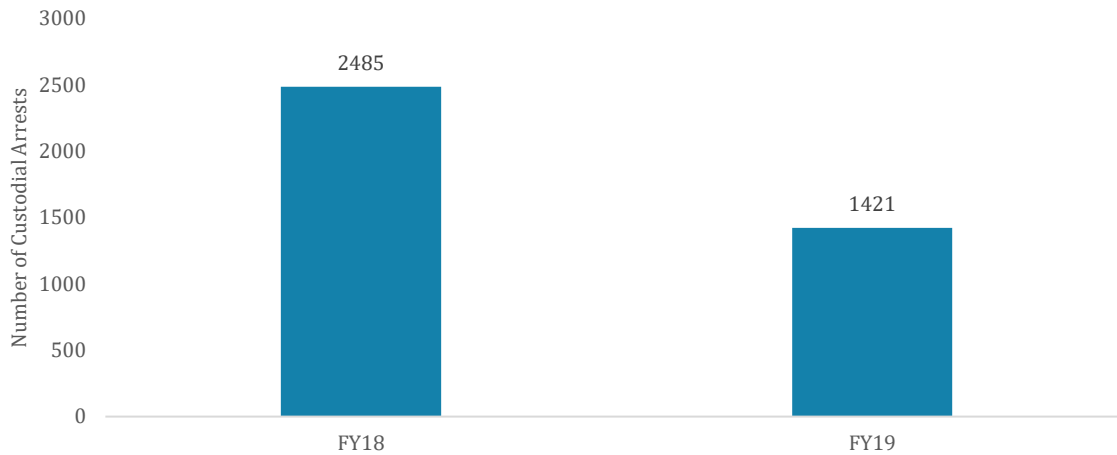
- The first year of data following implementation of a new law can be misleading. Implementation is a process: some changes are still being rolled out, and it can take time for practitioners to adjust to new operating procedures.
- This is particularly true with this legislation, as there were significantly different interpretations across the state regarding the definition of a “first offense” and law enforcement’s authority to arrest for low-level misdemeanors. This likely had a significant impact on data related to applications for complaint presented in this report. Following an August 2019 Supreme Judicial Court ruling clarifying the law,¹ applications for complaint may rise closer to pre-implementation levels.
- Some expected positive impacts of the legislation – particularly impacts on youth behavior and life trajectory – may take years to fully emerge. Given data collection limitations and the confidentiality protections attached to data on juveniles, many of these long-term impacts will be difficult to measure.
- As detailed in the JJPAD Board’s June 2019 report on juvenile justice system data, we are unable to obtain much of the data that is needed to measure the impact of this legislation, even with the above caveats. Until changes are made to improve the availability of this data, we are limited in what we can report.

arraignment data through Calendar Year 2017. Data on arraignments for the time period this report focuses on—FY18 and FY19—was not provided.

Custodial Arrests

Custodial arrests³⁶ for juveniles fell 43%³⁷ in FY19 following passage of “An Act Relative to Criminal Justice Reform.”

Figure 2: Custodial Arrests of Youth Under Age 18



Source: Research and Policy Analysis Division (RPAD), Executive Office of Public Safety and Security (EOPSS); data obtained from CrimeSOLV

Overnight Arrests

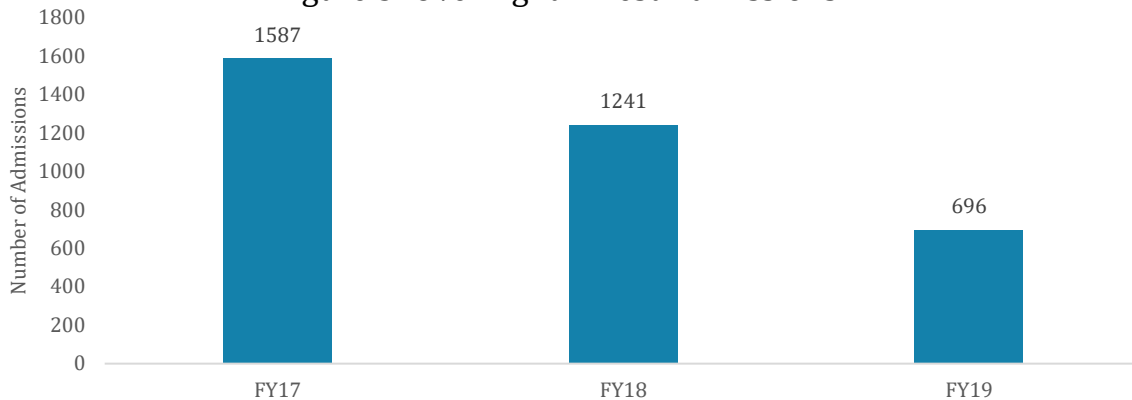
From FY18 to FY19, Massachusetts has seen a 44% decrease in overnight arrest admissions (ONA)³⁸ to DYS detention facilities (Figure 3).

³⁶ Juvenile arrest data in this report only includes custodial arrests (categorized as “on-view” and “taken into custody” in the NIBRS reporting system.) Many police departments will issue youth a summons to court rather than making a custodial arrest for less serious offenses. However, the use of summons is not consistently reported by all police departments; as a result, data on summons is not included in this report for the sake of consistency.

³⁷ Nearly all of the most populous cities/towns in Massachusetts track crime data using NIBRS. The major exceptions are Boston and Lawrence; however, both are in the process of becoming NIBRS compliant. Boston offense data obtained from the Boston Police Department, Boston Regional Intelligence Center. Lawrence data is not available.

³⁸ An Overnight Arrest (ONA) occurs when a juvenile has been arrested by the police (either on a new offense or an active warrant) when court is not in session and is held in a locked DYS ONA facility overnight or until the next court day.

Figure 3: Overnight Arrest Admissions

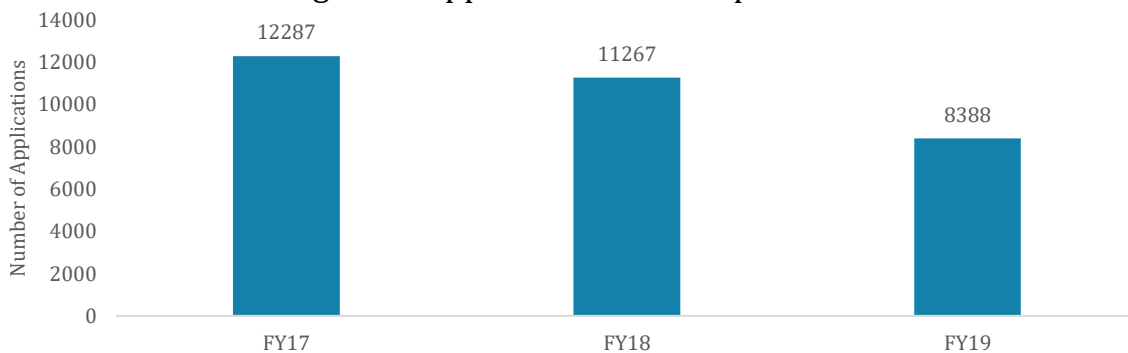


Source: Research Department, Department of Youth Services

Applications for Complaint

Due to inconsistencies in the reporting of arrest data (as detailed in Footnote 36, above), applications for complaint and delinquency filings provide the most accurate measure of the total frequency of incidents resulting in a response from the juvenile justice system. In FY19, the Juvenile Court received 8,388 applications for complaint,³⁹ representing a 26% decrease from the year prior (Figure 4).

Figure 4: Applications for Complaint



Source: Massachusetts Trial Court

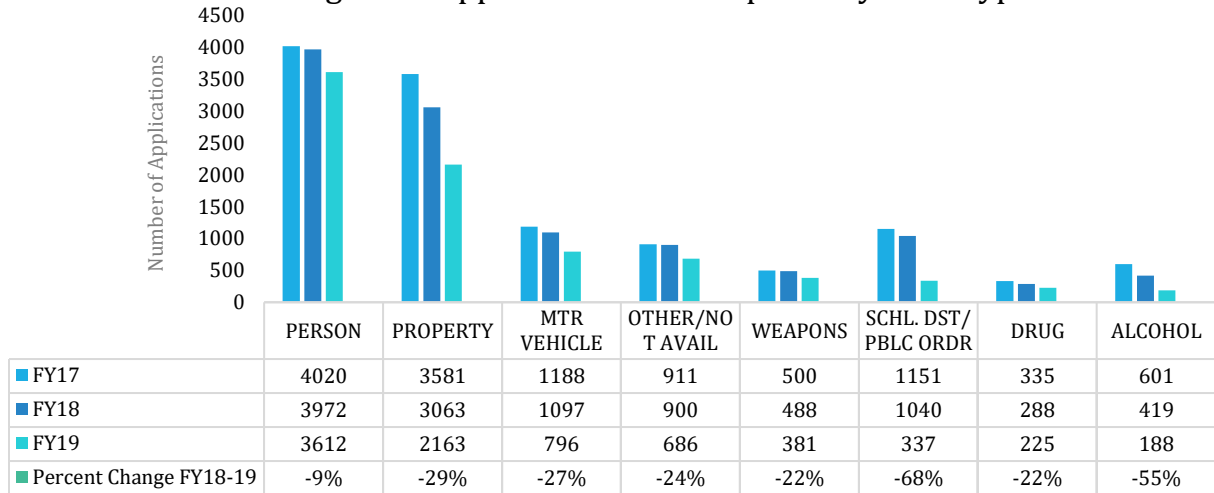
While each juvenile delinquency case type saw a decrease in applications, there was a more substantial decrease in certain case types (Figure 5).⁴⁰ Most notably, there was a 68% decrease in school disturbance and other public order applications between FY18 and FY19, a 55% decrease in alcohol case type applications, and a 27% decrease in motor vehicle case type applications. These decreases can

³⁹ Applications for complaint are filed with the Clerk’s office when a police officer or other citizen believes a youth has committed a crime.

⁴⁰ Cases are categorized based on the Massachusetts Survey of Sentencing Practices offense type groups. Modifications were made to the offense type groups to reflect the volume and characteristics of cases in the Juvenile Court. For example, public order offenses were renamed as “school disturbance” (offenses in MGL, Ch 272), and alcohol (possession under 21) was added (MGL, Ch 138). Sex offenses were also regrouped to “person” offenses (MGL, Ch 265). On cases containing multiple charges, the offense is categorized by the first charge listed; additional charges may be of a different category or severity.

likely be at least partially attributed to the recent legislation reforms decriminalizing first time lower-level misdemeanors⁴¹ and certain school-based offenses.

Figure 5: Applications for Complaint by Case Type

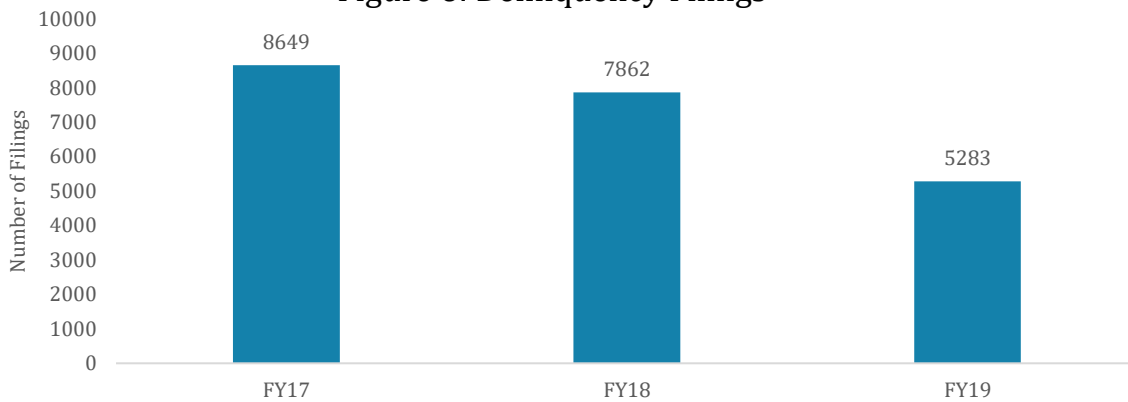


Source: Massachusetts Trial Court

Delinquency Filings

Delinquency filings⁴² also decreased over the past three years, dropping from 7,862 in FY18 to 5,283 in FY19—a 33% decrease. (Figure 6).

Figure 6: Delinquency Filings



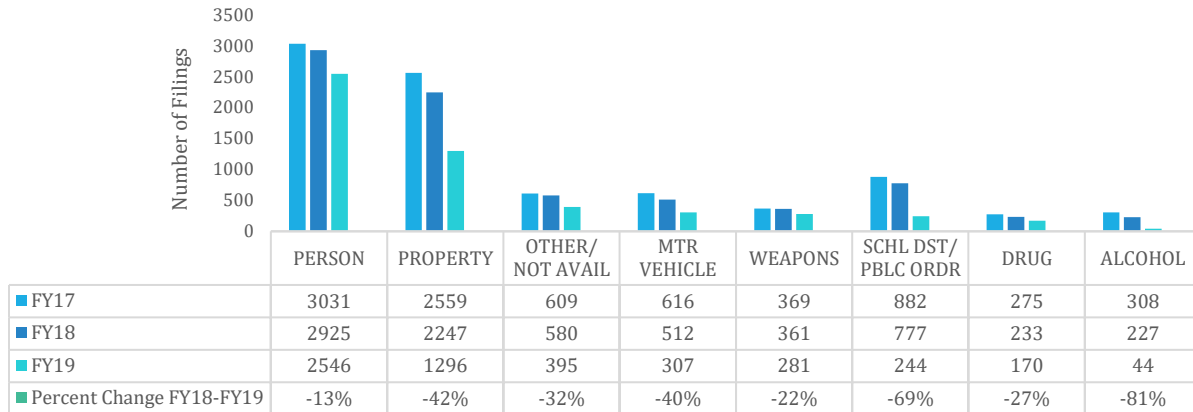
Source: Massachusetts Trial Court

⁴¹ Under the new law, youth can no longer be found delinquent for violations of local ordinances, or for the first offense of a misdemeanor for which the punishment is a fine and/or incarceration for no more than six months.

⁴² Delinquency filings occur in the Clerk’s office if probable cause is found on an Application for Complaint (Massachusetts Rules of Criminal Procedure, Rule 3).

Figure 7 shows that, like Applications for Complaint, all case types⁴³ filed at this stage have decreased as well. The largest decreases in delinquency filings were for alcohol case types (81% decrease) school disturbance and other public order case types (69% decrease), property case types (42% decrease) and motor vehicle (40% decrease). Again, these case types include common charges that were impacted by the reform legislation.

Figure 7: Delinquency Filings by Case Type



Source: Massachusetts Trial Court

Probation

The overall monthly caseload for Delinquency probation decreased by 24% from July 2018 to July 2019.⁴⁴ While Risk/Need⁴⁵ and Administrative probation⁴⁶ caseloads decreased 28% and 46% respectively, the number of cases of Pre-trial probation⁴⁷ increased 18% from 510 to 603 (Figure 8).

⁴³ Cases are categorized based on the Massachusetts Survey of Sentencing Practices offense type groups. Modifications were made to the offense type groups to reflect the volume and characteristics of cases in the Juvenile Court. For example, public order offenses were renamed as “school disturbance” (offenses in MGL, Ch 272), and alcohol (possession under 21) was added (MGL, Ch 138). Sex offenses were also regrouped to “person” offenses (MGL, Ch 265). On cases containing multiple charges, the offense is categorized by the first charge listed; additional charges may be of a different category or severity.

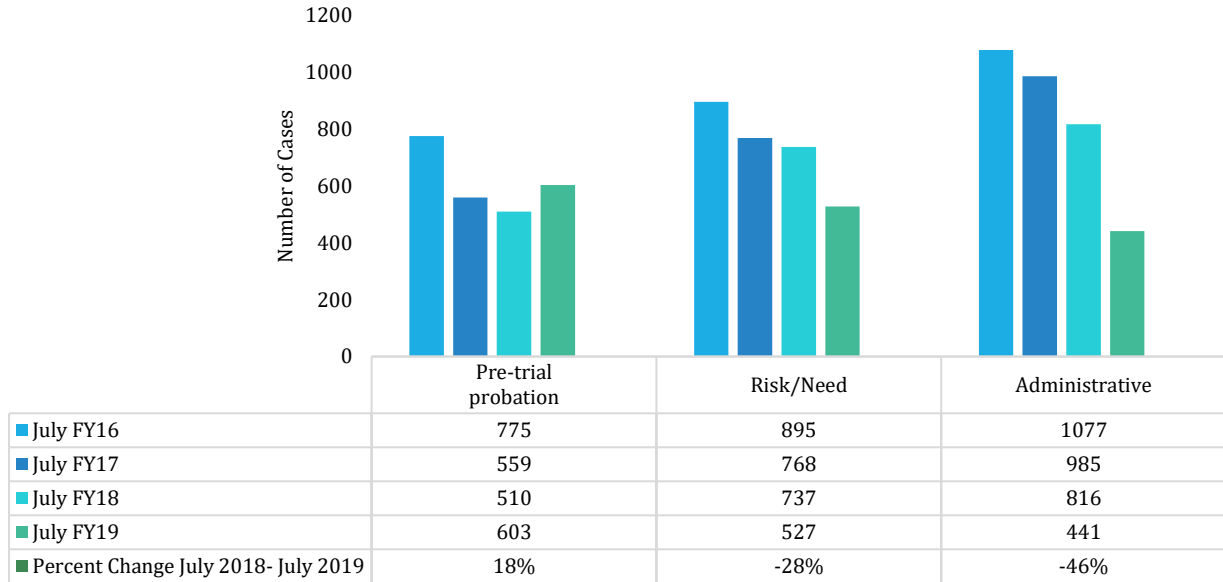
⁴⁴ Probation was unable to provide yearly caseload data for all delinquency-related probation types. Rather, probation reported on monthly caseload totals rather than new probation starts. Youth can be on probation for multiple months. Given the available data, the best way to see change in utilization of probation over time is to compare one-month caseload snapshots. This report looks at July monthly comparisons.

⁴⁵ The classification of probation supervision for adjudicated youth where Probation Officers have direct supervision of youth based on supervision standards in place for Minimum, Moderate or Maximum supervision. These levels are determined by an assessment tool and classification process.

⁴⁶ Administrative probation is a classification of probation that limits the amount of directly supervised conditions an adjudicated youth has while on probation. Unlike Risk/Need Probation, there is no assessment tool used for this classification of probation.

⁴⁷ Pre-trial probation occurs before the Disposition phase in which youth are supervised by Probation and required to adhere to their Conditions of Release (MGL, Ch. 276, § 87).

Figure 8: Probation Delinquency-Related Caseloads July Comparisons



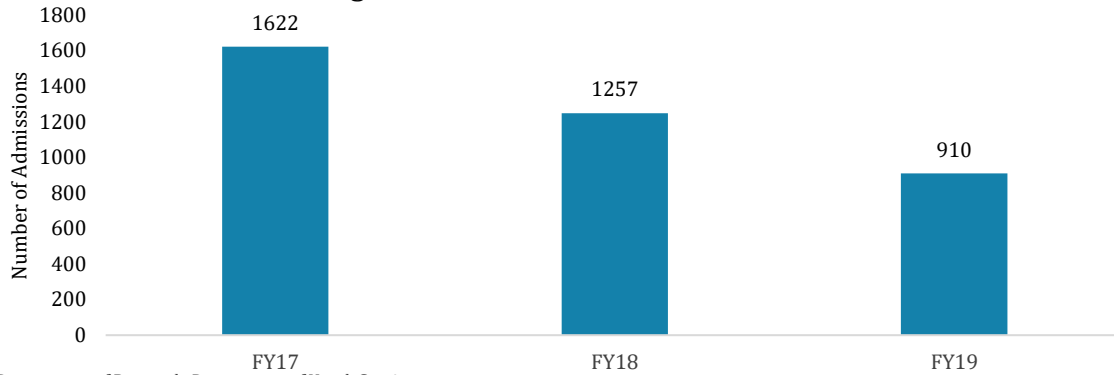
Source: Massachusetts Juvenile Probation Research Department Public Tableau
<https://public.tableau.com/profile/mpsresearchdept#!/vizhome/JuvenileCourtProbationDepartmentMRPA/JuvenileDashboard>

Detention

Continuing a ten-year trend, there has been a decrease in detention admissions across the Commonwealth in the past three fiscal years. Detention⁴⁸ admissions were down 28% from FY18 to FY19 (Figure 9).

⁴⁸ A temporary status in which the court places a youth in physical custody of the Department of Youth Services (DYS) at a DHS-operated facility following arrest and determination of bail.

Figure 9: Detention Admissions



Source: Department of Research, Department of Youth Services

The Department of Youth Services categorizes the seriousness of offense by “grid level.” This is a numeric representation ranging from 1 (least serious) to 7 (most serious), based on adult sentencing guidelines.

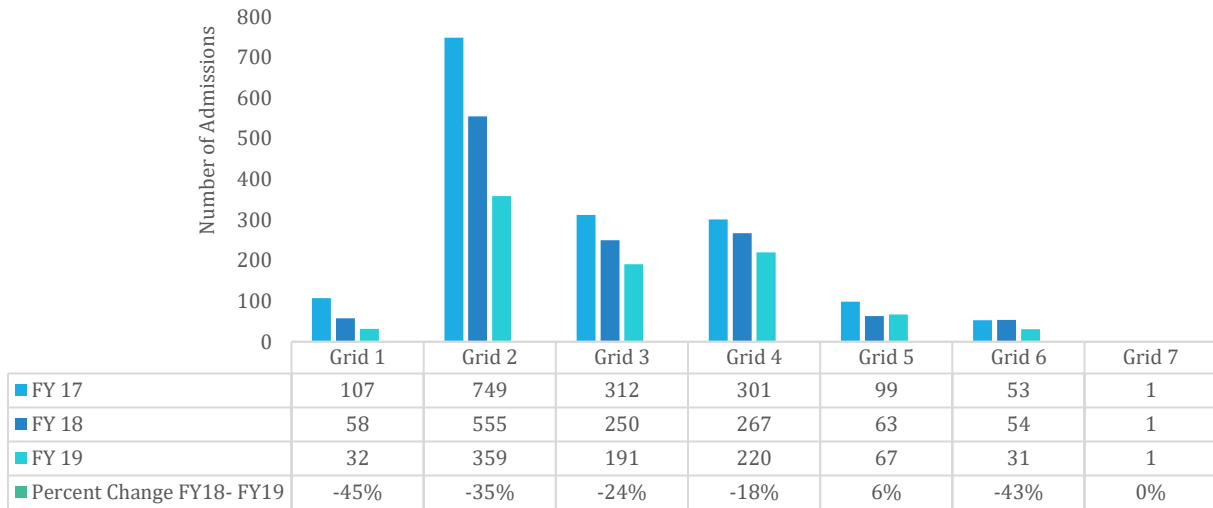
Table 4: Grid Level Examples

Below is a list of common offense types and their corresponding Grid Level

DYS Grid Level	Common Offense Type	DYS Grid Level	Common Offense Type
1	Disturbing the Peace	3	Breaking and Entering (Felony)
1	Petty Larceny	3	Larceny (Felony)
1	Possession of Marijuana	4	Assault and Battery with a Dangerous Weapon
2	Distributing Marijuana	4	Armed Robbery
2	Possession of Cocaine	4	Distributing Cocaine
2	Poss. of a Dangerous Weapon	5	Armed Assault & Robbery
2	Receiving Stolen Property	5	Attempted Murder
2	Assault and Battery	5	Rape
		6	Home Invasion
		6	Murder in the 1st Degree

While almost all grid levels saw a decrease in detention admissions, the largest decrease in admissions came from youth with Grid 1 or Grid 2 level offenses (45% and 35% decreases, respectively).

Figure 10: Detention Admissions by Grid Level



Source: Department of Research, Department of Youth Services

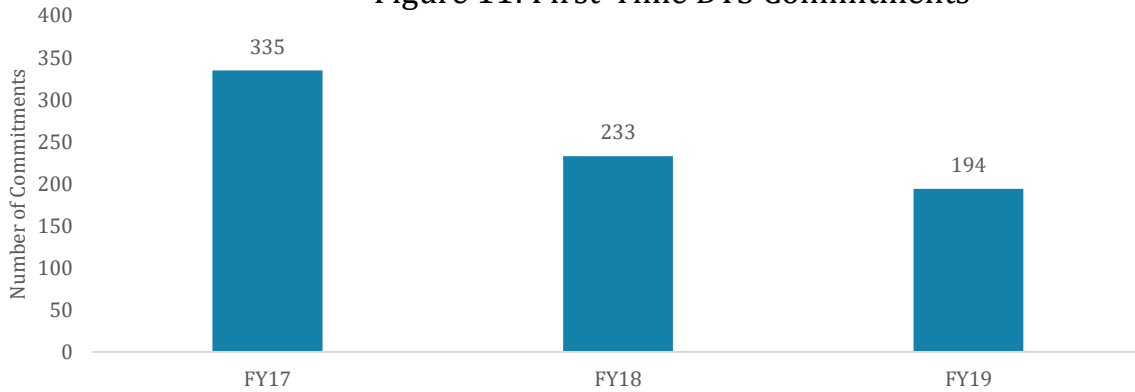
DYS Commitment

First-time⁴⁹ commitments⁵⁰ to DYS decreased by 17% between FY18 and FY19.

⁴⁹ First-time commitments include youth who have never previously been committed to DYS. This count does not include youth who have been committed previously and are “recommitted” to the department.

⁵⁰ The most serious disposition the judge can make after a finding of “delinquent” is to commit the child to DYS custody until their 18th birthday (can be extended to 19, 20, or 21 years old depending on time of disposition).

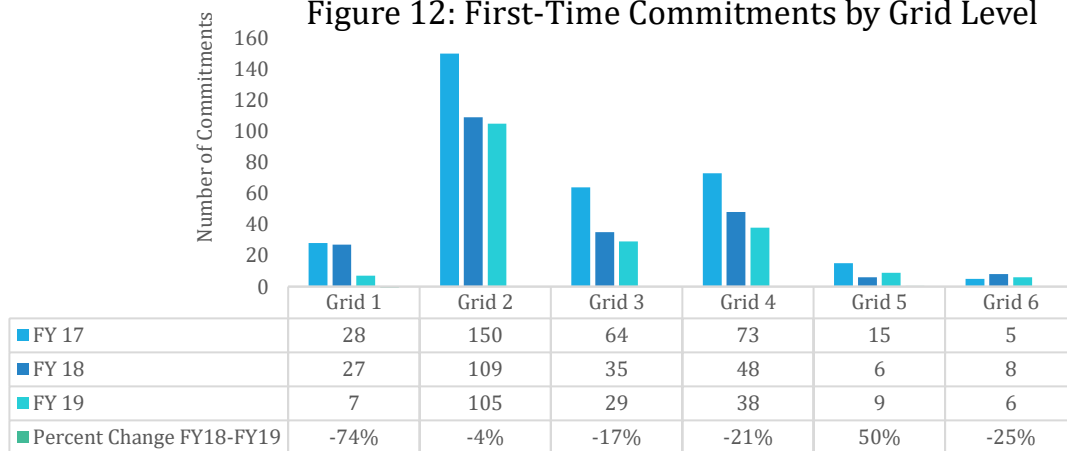
Figure 11: First-Time DYS Commitments



Source: Department of Research, Department of Youth Services

Figure 12 shows a decrease in commitments for youth with lower grid levels. This was primarily driven by a decrease in first-time commitments for Grid Level 1 offenses.

Figure 12: First-Time Commitments by Grid Level



Source: Department of Research, Department of Youth Services

Utilization of Other Systems

The JJPAD Board also gathered data on the use of other state systems that may serve youth who are, or might otherwise have been, involved with the juvenile justice system. The goal was to identify the extent to which other response options are being used to address unlawful/problematic adolescent behavior and see if changes restricting the use of the delinquency system for certain types of behavior has led to an increase in the use of other systems.

There is very limited data available on the use of other systems or responses. Most notably, as detailed in the JJPAD Board’s June 2019 report, there is no data available regarding the use of diversion, which is a common government response to lower-level unlawful behavior.

Although the data that is available is limited – and should, therefore, be interpreted with caution – the JJPAD Board does not currently find evidence that the decline in the use of the juvenile justice system has led to increases in the use of other state systems/services.

This is not necessarily cause for concern. We know from theories of child development that adolescence is a time for taking risks and testing limits. Behavior that adults may consider “problematic” or “concerning” is common among adolescents and is in many cases normal adolescent behavior.⁵¹ Eventually, most youth mature and grow out of risky/antisocial behavior – and will do so without any state intervention (justice system or otherwise) required.

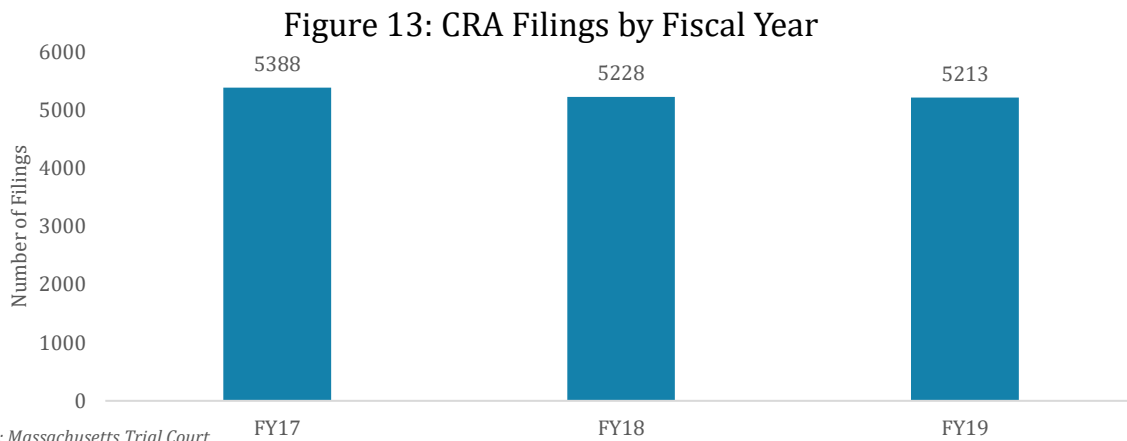
We also know that many of the most effective interventions for youth do not involve state government at all: families, schools, community organizations, faith-based organizations, and health care providers are all systems that are likely to respond to problematic adolescent behavior without involving state government. None of these interventions will appear in our data, despite the importance these systems and organizations have in a youth’s life.

With these caveats, the JJPAD Board presents the following data on the use of other state systems:

Child Requiring Assistance (CRA)

The Child Requiring Assistance (CRA) civil court process allows parents, guardians, and school officials to bring youth with concerning behaviors into court for additional assistance. These cases can include youth who are truant or are considered “habitual school offenders,” youth exhibiting signs of sexual exploitation, “stubborn” youth, and “runaway” youth.

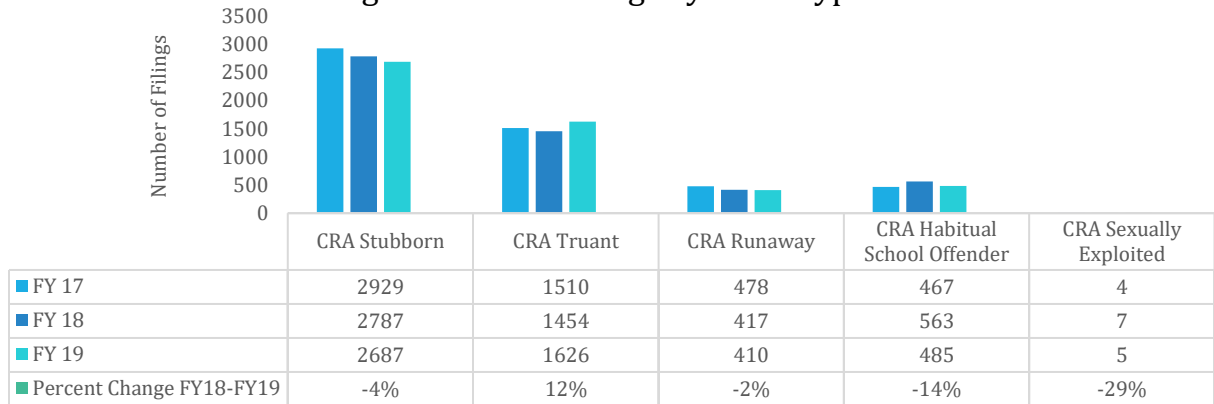
CRA Court Filings have remained stable over the past three fiscal years:



⁵¹ Kann, L., McManus, T., & Harris, W. (2018). *Youth risk behavior surveillance-- United States, Surveillance Series, (67)*. Centers for Disease Control and Prevention. Retrieved from <https://www.cdc.gov/healthyouth/data/yrbs/results.htm>

CRA case types, overall, have also remained relatively stable year to year. With the change in law decriminalizing certain school-based offenses, it is important to note that the CRA system did not absorb those cases in CRA “Habitual School Offender” filings, which are down 14% from FY18 to FY19, though truancy filings are up 12%.

Figure 14: CRA Filings by Case Type

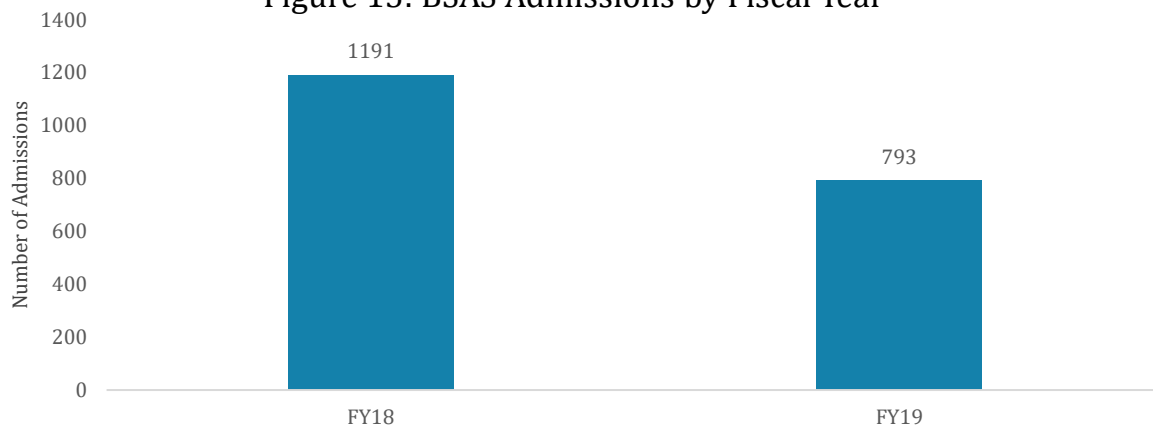


Source: Massachusetts Trial Court

Admissions to BSAS Residential Treatment

The Bureau of Substance Addiction Services (BSAS) has also reported a decline in admissions to residential treatment for youth age 12-17.⁵²

Figure 15: BSAS Admissions by Fiscal Year



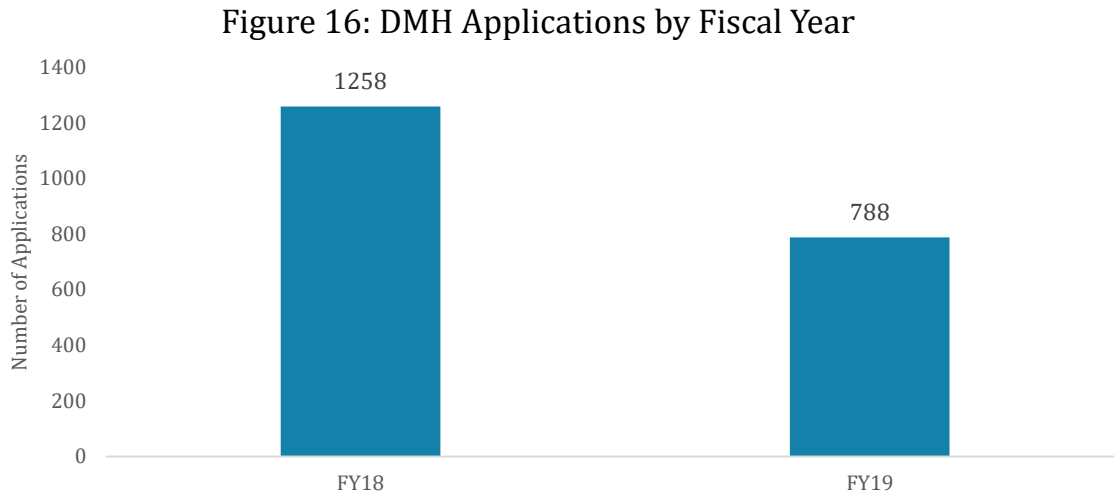
Source: Office of Statistics and Evaluation, Bureau of Substance Addiction Services, Massachusetts Department of Public Health on 9/4/2019 with data as of 6/27/2019.

⁵² It is important to note that reductions in admissions may be explained in part by closures in Youth Residential programs during this time period and cessation of data submission from Recovery High School programs. Due to lag in data submission, admissions for FY2019 may be outstanding.

Most referrals to BSAS were already coming from sources outside of the juvenile court process. This remained the case after the legislation change, with 82% of all referrals to BSAS coming from sources other than the courts.⁵³

Applications for Department of Mental Health Services

The Department of Mental Health (DMH) has also reported a 37% decline in applications for DMH services for youth under 18 years of age. In FY18, a total of 1,258 youth applied compared to just 788 youth in FY19.



Source: Department of Mental Health

Changes in DCF Case Composition

It is also possible that changes to juvenile justice system practices in recent years has led to a shift in the composition of youth served by the Department of Children and Families, particularly adolescent youth in group care settings. This is not a question that can be easily answered with existing structured data, and yet it is an important area that merits deeper study. In the coming year, DCF will partner with the Office of the Child Advocate to design and implement a qualitative study which seeks to provide additional information on potential shifts to the DCF-served youth population, with the goal of identifying needed changes to policy or practice.

Racial Disparities

In addition to looking at aggregate totals, it is important to examine any differences by geography or demographic group (including gender, race, and ethnicity), which allows us to uncover and ultimately address any disparities in treatment and outcomes for particular groups of youth.

⁵³ See Appendix D for BSAS referral data table breakdown.

In this section, the JJPAD Board reports data broken down by race/ethnicity, to the extent available.⁵⁴ Additional breakdowns by gender, age and geography are included in Appendix B.

Although the data shows that the overall goal of the legislation – reducing the number of youth becoming involved with the juvenile justice system for lower-level charges – is being met, there is still one area for strong concern: as shown in Table 2, **youth of color are still over represented at every level of the juvenile justice system.**

	White	Black or African-American	Hispanic/Latinx
Massachusetts General Youth Population ⁵⁶ (12-17 years)	66%	9%	17%
Custodial Arrests	26%	37%	36%
Overnight Arrest Admissions	17%	26%	34%
Applications for Complaint	38%	47% ⁵⁷	
Delinquency Filings	36%	56% ⁵⁸	
Probation ⁵⁹	44%	18%	32% ⁶⁰
Detention	21%	27%	45%
DYS Commitments	20%	26%	48%

The JJPAD Board is particularly concerned by data demonstrating that, although the total number of youth of color processed in the juvenile justice system has, at most process points, decreased, **the disparity between white youth and youth of color has actually increased** following passage of the new law. This is because the law had a more substantial impact on justice system involvement rates for white youth than for youth of color at most process points, as shown in Table 3.

⁵⁴ As described in detail in the JJPAD Board’s June 2019 report on juvenile justice data systems, not all agencies are consistently collecting or reporting data on youth race or ethnicity.

⁵⁵ Due to a small number of youth in other racial categories (American Indian/Alaska Native, Asian, Native Hawaiian/Pacific Islander, and Multi-Race) most of this report will include analysis of just White, Black/African- American and Hispanic/Latinx race/ethnic categories. It is important to note that despite these smaller numbers, there is evidence of over-representation of some smaller racial categories throughout the juvenile justice system. Total percentages will not necessarily total 100%, since we are not reporting smaller racial categories. For a more detailed breakdown of racial categories, please see Appendix B.

⁵⁶ Puzzanchera, C., Sladky, A. and Kang, W. (2019). "Easy Access to Juvenile Populations: 1990-2018." Online. Available: <https://www.ojjdp.gov/ojstatbb/ezapop/>

⁵⁷The Trial Court provided data broken down into two categories: “white youth” and “non-white youth.” Historically, the vast majority of “non-white” youth are Black and/or Hispanic/Latinx; however, it should be noted that this figure would also include a small number of youth of other races (e.g. Asian, Native American, Hawaiian/Pacific Islander and multiracial youth.)

⁵⁸ Ibid.

⁵⁹ Probation race data only includes youth on Risk/Need probation. Pre-trial probation and Administrative probation racial breakdowns were not reported.

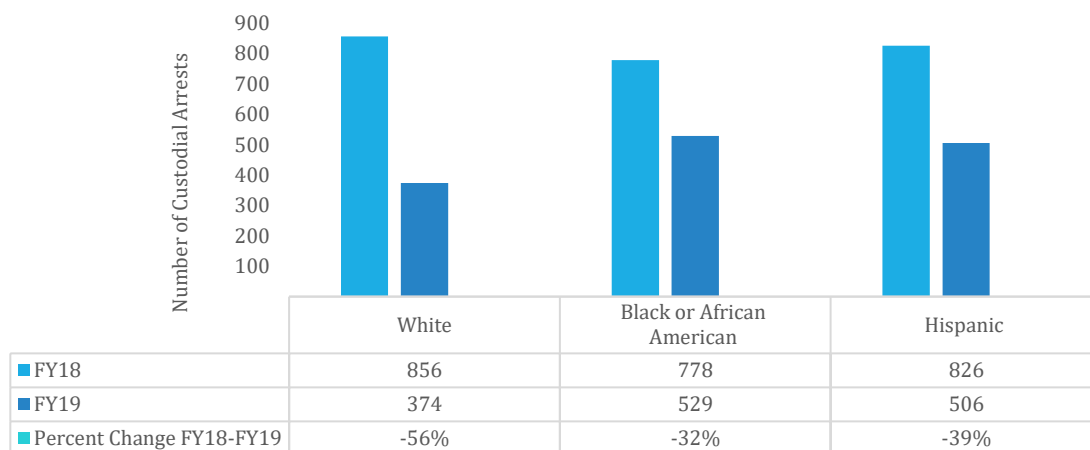
⁶⁰ Probation supplied data that reported on Race and Race with Ethnicity. For the purpose of this report, if a youth was identified as Hispanic/Latinx as their ethnic category, they were captured and reported in the “Hispanic/Latinx” category rather than their reported race.

	White	Black or African-American	Hispanic/Latinx
Custodial Arrests	-56%	-32%	-39%
Overnight Arrest Admissions	-67%	-53%	-47%
Applications for Complaint	-24%	-15% ⁶¹	
Delinquency Filings	-33%	-22% ⁶²	
Probation ⁶³	-13%	-28%	-23% ⁶⁴
Detention	-48%	-26%	-17%
DYS Commitments	-46%	-12%	5%

Custodial Arrests

Custodial arrests decreased more for white youth (56%) between FY18 and FY19 compared to Black/African-American youth (32%) and Hispanic/Latinx youth (39%).

Figure 17: Custodial Arrests by Race



Source: Research and Policy Analysis Division (RPAD), Executive Office of Public Safety and Security (EOPSS); data obtained from CrimeSOLV

⁶¹ The Trial Court provided data broken down into two categories: “white youth” and “non-white youth.” Historically, the vast majority of “non-white” youth are Black and/or Hispanic/Latinx; however, it should be noted that this figure would also include a small number of youth of other races (e.g. Asian, Native American, Hawaiian/Pacific Islander and multiracial youth.)

⁶² Ibid.

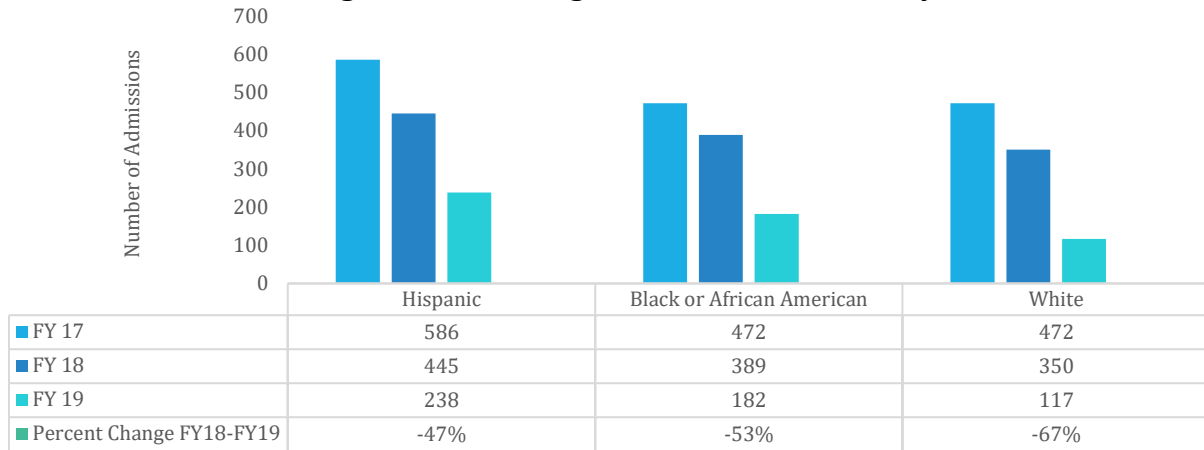
⁶³ Probation race data only includes youth on Risk/Need probation. Pre-trial probation and Administrative probation racial breakdowns were not reported.

⁶⁴ Probation supplied data that reported on Race and Race with Ethnicity. For the purpose of this report, if a youth was identified as Hispanic/Latinx as their ethnic category, they were captured and reported in the “Hispanic/Latinx” category rather than their reported race.

Overnight Arrests

Overnight arrest admissions decreased by 67% for white youth from FY18 to FY19, compared to 53% for Black/African American youth and 47% for Hispanic/Latinx youth.⁶⁵

Figure 18: Overnight Arrest Admissions by Race



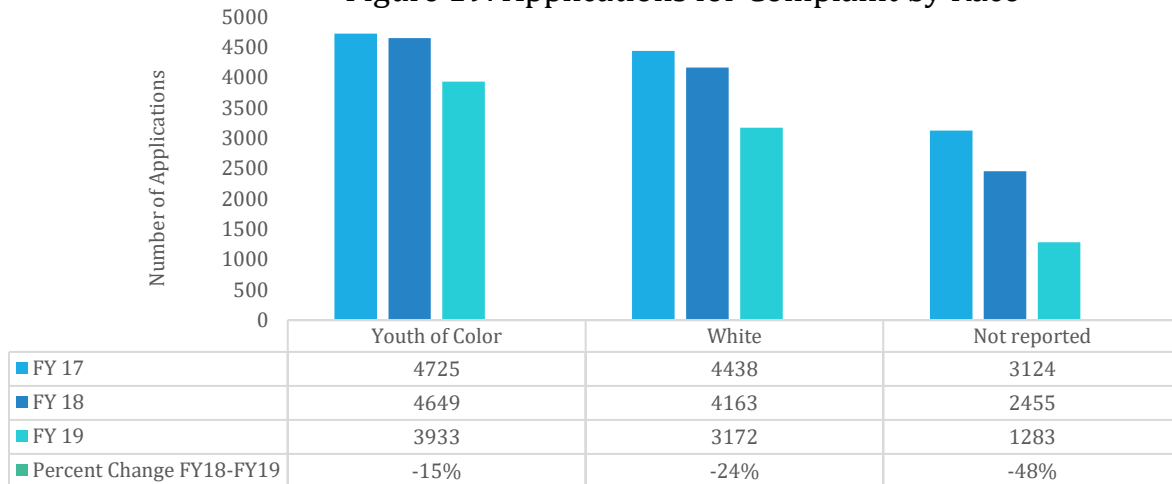
Source: Department of Research, Department of Youth Services

⁶⁵ DYS moved to self-reporting in June of 2018 and previously did not capture data for youth identifying as American Indian or Alaska Native, Multiracial, Native Hawaiian or Other Pacific Islander, or if a youth chose not to self-identify.

Applications for Complaint

Applications for complaint for white youth decreased by 24% from FY18 to FY19, compared to applications for youth of color which only decreased by 15%.⁶⁶

Figure 19: Applications for Complaint by Race

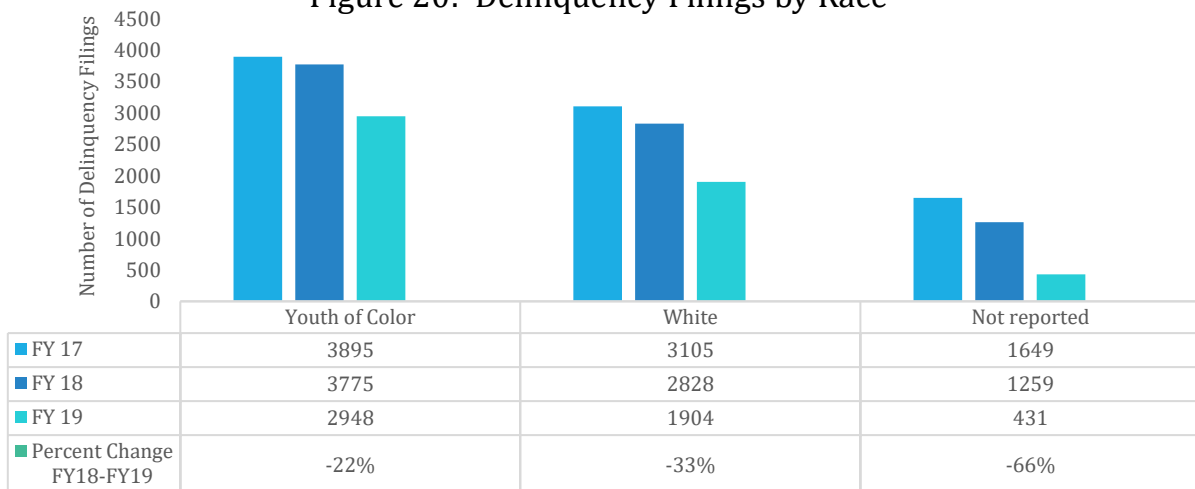


Source: Massachusetts Trial Court

Delinquency Filings

Delinquency filings for white youth decreased 33% from FY18 to FY19, while filings for youth of color decreased by only 22%.

Figure 20: Delinquency Filings by Race



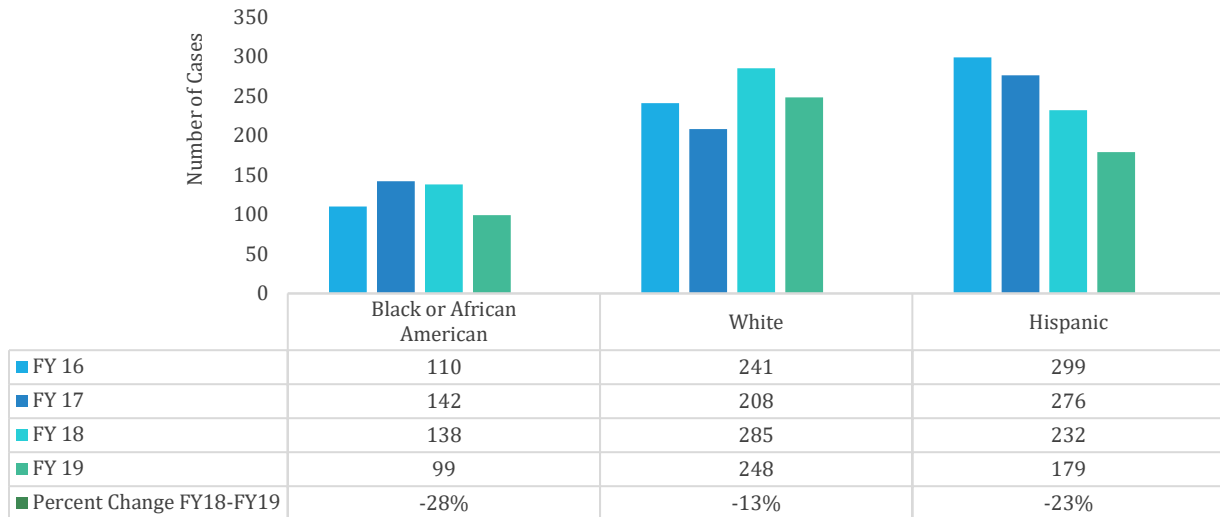
Source: Massachusetts Trial Court

⁶⁶ The Trial Court provided data broken down into two categories: “white youth” and “non-white youth.” Historically, the vast majority of “non-white” youth are Black and/or Hispanic/Latinx; however, it should be noted that this figure would also include a small number of youth of other races (e.g. Asian, Native American, Hawaiian/Pacific Islander and multiracial youth.)

Probation Risk/Need Caseload

Probation Risk/Need⁶⁷ caseloads decreased by 13% for white youth from FY18 to FY19. In comparison, probation caseloads for Black youth decreased by 28%, and for Hispanic/Latinx⁶⁸ youth by 23%.

Figure 21: Probation Risk/Need Caseload by Race



Source: Department of Research, Massachusetts Probation Service

Detention Admissions

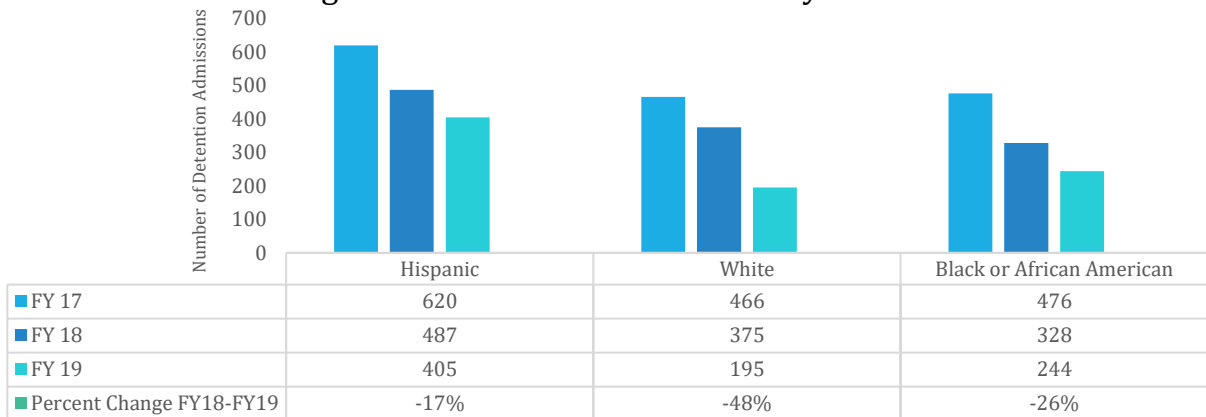
Detention admissions⁶⁹ decreased by 48% for white youth from FY18 to FY19. In comparison, detention admissions decreased by only 26% for Black/African-American youth and 17% for Hispanic/Latinx youth.

⁶⁷ Probation race data only includes youth on Risk/Need probation, not including youth on Pre-trial probation or Administrative probation.

⁶⁸ Probation supplied data that reported on Race and Race with Ethnicity. For the purpose of this report, if a youth was identified as Hispanic/Latinx as their ethnic category, they were captured and reported in the "Hispanic/Latinx" category rather than their reported race.

⁶⁹DYS moved to self-reporting in June of 2018 and previously did not capture data for youth identifying as American Indian or Alaska Native, Multiracial, Native Hawaiian or Other Pacific Islander, or if a youth chose not to self identify.

Figure 22: Detention Admissions by Race

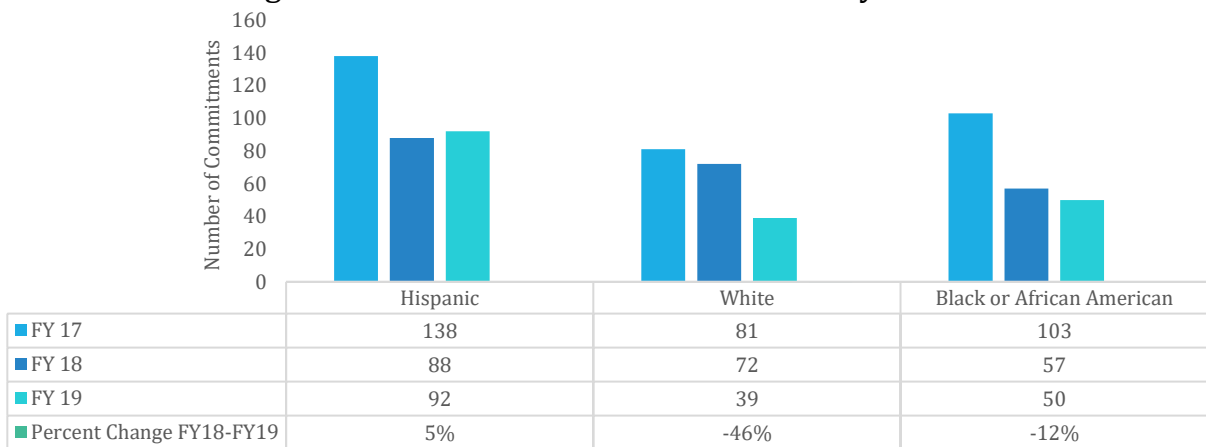


Source: Department of Research, Department of Youth Services

DYS Commitments

First-time commitments⁷⁰ to DYS dropped 46% for white youth from FY18 to FY19, compared to a 12% drop for Black/African-American youth. First-time commitments for Hispanic/Latinx youth increased by 5%.

Figure 23: DYS First-Time Commitments by Race



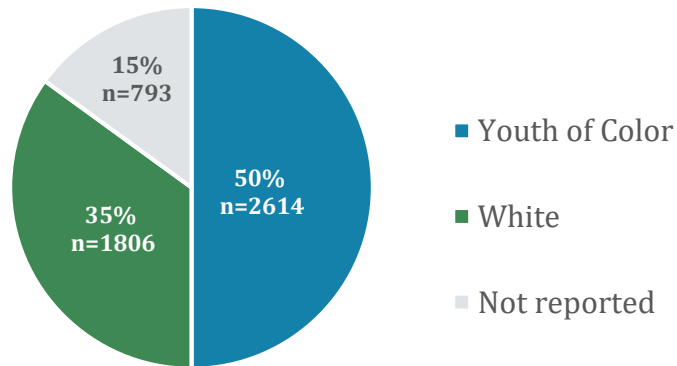
Source: Department of Research, Department of Youth Services

⁷⁰ Ibid.

Child Requiring Assistance (CRA) Filings

Figure 22 shows that CRA applications are also filed for youth of color⁷¹ at a disproportionate rate: 50% of CRA filings in FY19 were for youth of color, compared to 35% for white youth and 15% for youth whose race/ethnicity was not reported.

Figure 24: CRA Filings by Race FY19
 n=5213 filings



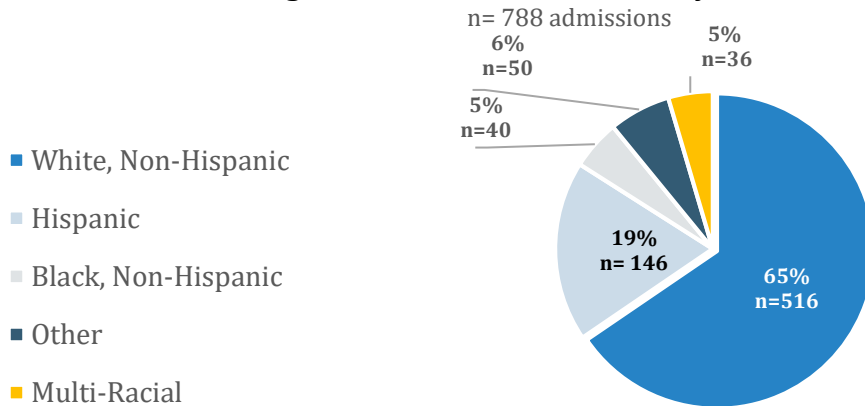
Source: Massachusetts Trial Court

Admissions for Residential Substance Use Treatment

While the data shows that youth of color are disproportionately represented in the juvenile justice system, admissions to residential substance use treatment programs track closer to overall Massachusetts population demographics. As shown in Figure 23, in FY19, 66% of BSAS residential treatment admissions were for white non-Hispanic/non-Latinx youth, 19% were for Hispanic/Latinx youth, and 5% for Black non-Hispanic/non-Latinx youth.

⁷¹ The Trial Court has updated its reporting structure for race and ethnicity to conform to federal best practices. Reported racial categories are defined as the following: American Indian or Alaska Native, Asian, Black or African American, Native Hawaiian or other Pacific Islander, White, and Other or Mixed Race. The reported ethnicity categories are Hispanic or Latinx, and Not Hispanic or Latinx. For the purposes of this report, the Trial Court has assigned the following racial / ethnic minority categories based on the information collected in the new reporting structure: White, Non-white, and Not reported.

Figure 25: BSAS Admissions by Race, FY19



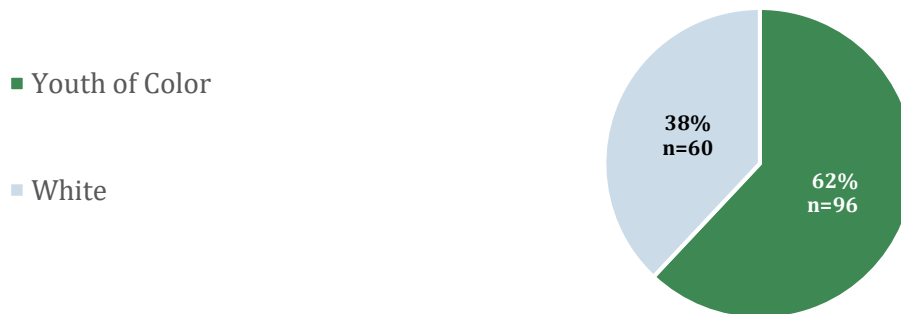
Source: Office of Statistics and Evaluation, Bureau of Substance Addiction Services, Massachusetts Department of Public Health on 9/04/2019 with data as of 6/27/2019.

It is important to note, however, that although BSAS admissions declined in FY19 for all races/ethnicities, the decline was the largest (-47%) for youth of color.

By way of comparison, juvenile court delinquency filings for offenses involving drugs or alcohol are disproportionately likely to be youth of color, as shown in Figure 23.

Figure 26: Drug and Alcohol Delinquency Filings by Race, FY19

n=156 filings



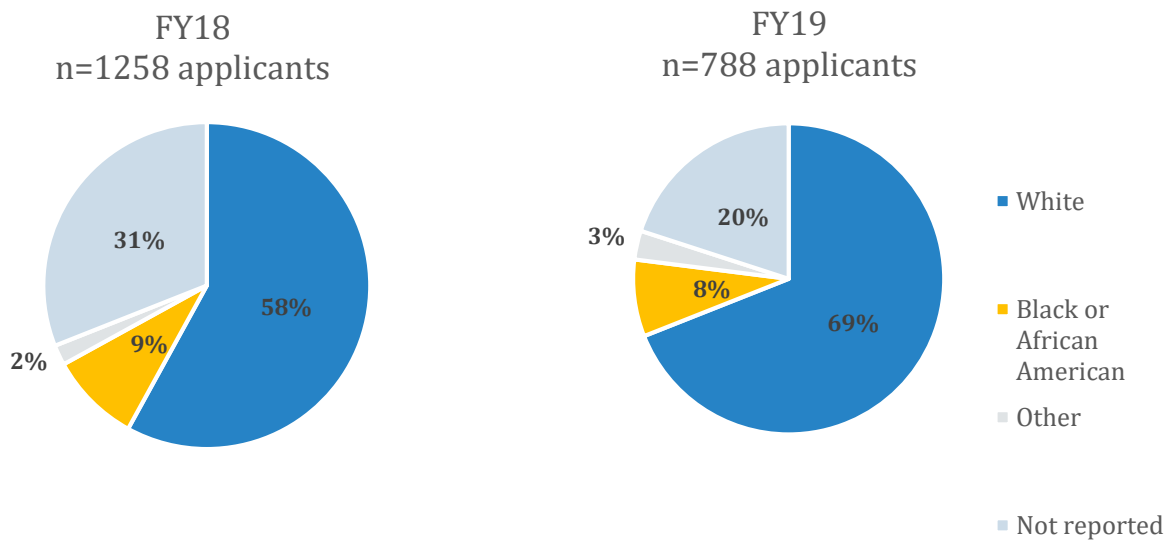
Source: Massachusetts Trial Court

Applications for Department of Mental Health Services

White youth represented 69% of applications for DMH services in FY19, an increase from 58% in FY18. The percentage of applications for youth of color remained relatively stable from year to year.⁷²

⁷² Due to small sample sizes, DMH "Other" race category represents combined selections for Asian, American Indian or Native Alaskan, Native Hawaiian or Other Pacific Islander, Other or two or more races.

Figure 27: Applications for Department of Mental Health by Race



Source: Department of Mental Health

Disparities in Context

One theory that is often suggested as an explanation for the racial and ethnic disparities we see in our juvenile justice system is that youth of color may be committing more serious offenses and/or have a more extensive history of prior justice system contact. In other words, the theory is that youth of color may, on average, be more likely to be processed through court, detained, and committed to DYS because they are presenting with more serious charges and/or criminal history.

Data was not provided to the JJPAD Board in a way that allows us to isolate the impact of charge seriousness or criminal history. However, in 2019 the Trial Court released a study on “Disproportionate Minority Contact,”⁷³ which included a logistic regression analysis that can help us test this theory. Logistic regression is a statistical method that allows us to assess the individual effect of specific independent variables, such as race or ethnicity, on each decision point, holding other factors (including offense severity, offense type, and number of prior juvenile charges) constant. Put more simply, this type of analysis can help us understand if the differences is one explained by characteristics rather than differential treatment.

The analysis found that, controlling for all other independent variables:

- Black youth were 1.53 times more likely to have a delinquency petition issued than white youth

⁷³ Commonwealth of Massachusetts Disproportionate Minority Contact Statewide Assessment Report, (2018). Retrieved from <https://www.mass.gov/doc/disproportionate-minority-contact>

- Hispanic/Latinx defendants were 2.46 times more likely to have a delinquency petition issued than defendants with an unreported ethnicity

In examining the population characteristics, racial and ethnic disparities exist in the court-based stages of the decision to issue a complaint, decision to hold an arraignment event, decision to detain the defendant at arraignment, initial disposition and sanction decision. When controlling for race and ethnicity in a logistic regression, there was racial disparity found in two of the four stages that were analyzed, and ethnic disparity found in three of the four stages analyzed.

Addressing Racial and Ethnic Disparities: Next Steps

Taken together, the above data and information demonstrates that racial and ethnic disparities exist in our juvenile justice system at every decision point for which data was provided, and they cannot be entirely attributed to other factors, such as charge type or criminal history.

Despite the many positive results detailed in this report, it is clear from the data in this section that more work is necessary at all levels to reduce racial and ethnic disparities in our juvenile justice system.

In “Improving Access to Diversion and Community-Based Interventions for Justice-Involved Youth,” which is released in tandem with this report, the JJPAD Board makes recommendations for policy and practice changes the Board hopes will address some of the racial and ethnic disparities in the “front end” of the juvenile justice system.

The JJPAD Board will continue to track data on disparities and develop additional recommendations to reduce disparities as part of its ongoing work.

Early Impacts of Specific Reforms

Raising the Lower Age to 12

An Act Relative to Criminal Justice Reform raised the age of criminal responsibility from age 7 to age 12. This change resulted from a recognition that the brains of young children are still developing and that addressing unlawful behaviors of children under the age of 12 through the delinquency system is neither fair nor developmentally appropriate.

Incidents of children under the age of 12 committing a crime are rare. Prior to the passage of the law, there were already very few children arrested or processed through the juvenile justice system, as demonstrated in the chart below. After passage of the law, those numbers have dropped to nearly zero.

Data Point	Number of Youth Under 12	Percent of Total	Number of Youth Under 12	Percent of Total
Overnight Arrests	2	0.2%	0	0%
Applications for Complaint	221	2%	9	0.1%
Delinquency Filings	120	2%	2	0.04%
Detention Admissions	1	0.1%	0	0%
DYS Commitments	0	0%	0	0%

Removal of Juvenile Court Jurisdiction for Certain Offenses

The legislation also changed the definition of a “delinquent child” by excluding “a civil infraction, a violation of any municipal ordinance or town by-law or a first offense of a misdemeanor for which the punishment is a fine or imprisonment in a jail or house of correction for not more than 6 months” from offenses qualifying a child to be adjudicated delinquent. The purpose of this statutory change was to reduce the number of low-level incidents that are referred to the juvenile court.

Data was not provided to the JJPAD Board in such a way that allows us to look specifically at impacted offenses. As a result, the data below is an approximation of the impact within the limitations of the available data, with caveats as footnoted. At all process points for which data is available, however, we see a reduction in the use of the juvenile justice system for lower-level charges.

Data Point	Pre (FY18)	Post (FY19)
Overnight Arrests (All Misdemeanors)⁷⁴	605	319
Applications for Complaint⁷⁵	School Disturbance/Public Order: 1040 Alcohol: 419 Motor Vehicle: 1098 Property: 3063	School Disturbance/Public Order: 337 Alcohol: 188 Motor Vehicle: 796 Property: 2163
Delinquency Filings⁷⁶	School Disturbance/Public Order: 777 Alcohol: 227 Motor Vehicle: 512 Property: 2247	School Disturbance/Public Order: 244 Alcohol: 44 Motor Vehicle: 307 Property: 1296

⁷⁴ This data includes all misdemeanors, not just those impacted by the law

⁷⁵ Data provided can only be broken down by charge type, which may include both low-level offenses and more serious offenses. Categories chosen for this chart are those most likely to be impacted by the 2018 statutory changes.

⁷⁶ Data provided can only be broken down by charge type, which may include both low-level offenses and more serious offenses. Categories chosen for this chart are those most likely to be impacted by the 2018 statutory changes.

DYS Commitments⁷⁷ (All Misdemeanors)	111	82
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New Requirements for School Resource Officers (SROs) and Schools Districts:

The change in the law also established new requirements designed to provide more guidance on the role of SROs and reduce the criminalization of nonviolent youth behavior in school, indicating that such behavior is better handled by school staff:

- Decriminalizing nonviolent conduct if it takes place at school, including “disturbing an assembly,” “disorderly conduct,” and “disturbing the peace.”
- Requiring police departments who employ SROs to develop a memorandum of understanding (MOU) with the local school district defining the role of the SRO, as well as Standard Operating Procedures (SOPs) establishing guidance to SROs. The Executive Office of Public Safety and Security (EOPSS) was also tasked with developing a model MOU, SOP, and non-binding advisories on how to establish these documents.
- Establishing new guidelines for chiefs of police to follow when assigning an officer to be a SRO, including guidelines on SRO training.
- Requiring the collection of additional data regarding school-based arrests, citations, and court referrals of students.

Data on school-based arrests is not yet available.⁷⁸ However, as demonstrated in the chart below, applications for complaint and delinquency filings for school disturbances and other public order offenses⁷⁹ in Chapter 272 have dropped substantially from FY18 to FY19:

Data Point	Pre (FY18)	Post (FY19)
School-Based Arrests	No Baseline Available	Data from DESE not yet available
Applications for Complaint (School-Disturbance/Public Order)	1040	337
Delinquency Filings (School-Disturbance/Public Order)	777	244

⁷⁷ This data includes all misdemeanors, not just those impacted by the law

⁷⁸ DESE has required school districts to submit data on school-based arrests for the first time in the 2018-2019 school year. The Department is currently analyzing the data and intends to make it publicly available in late fall/early winter.

⁷⁹ Due to the way charge types are categorized by the Trial Court, this includes all offenses from MGL Chapter 272 (Public Order). Prior to the law change, the majority of these charges for juveniles have been for school-based offenses.

Increased Opportunities for Judicial Diversion

The new statute included a number of provisions that were designed to increase opportunities for a youth charged with lower-level offenses to be diverted from the juvenile court pre-arraignment. These provisions include:

- Explicitly authorizing juvenile court judges to divert some youth pre-arraignment following an assessment by the Massachusetts Probation Service or a community provider, or following a determination that sufficient information is available establishing the appropriateness of diversion to a program
- Permitting juvenile court judges to convert delinquency charges to civil infractions
- Providing specific authorization for youth to be referred to community-based restorative justice programs

Data regarding the use of diversion or civil infractions by juvenile court judges was not provided by the Trial Court. There is no statutory requirement that the Juvenile Court collects or reports this data.

Revising Juvenile Lock-Up Procedures

The statute also made changes to the procedure law enforcement are required to follow when a youth is held at a police station and at risk of being placed in an overnight lock-up facility. In particular, the statute did the following:

- Removed requirement that the police department contact Probation when there is a written request to detain a child overnight
- Authorized police department officer-in-charge (OIC) to either release youth to a guardian or admit the youth to bail
- Required police department to notify DCF when a child in the care and custody of DCF has been arrested, and requires the social worker assigned to the child's case to make arrangements for the child's release as soon as practicable if it has been determined that the child will not be detained

As described above, ONA admissions dropped by 44% from FY 18 to FY19, and it seems likely that a portion of this drop can be attributed to the law changes described above. However, overnight arrests have been declining for several years, and it is not possible to completely isolate the impact of these changes to juvenile lock-up procedures on ONA admissions.

Implementation Updates and Recommendations for Legislative Action

As indicated by the data above, on the whole the new law appears to be having its intended effect. However, as may be expected with any substantial change in law, some concerns and challenges have arisen during implementation.

For the past year, the JJPAD Board has tracked these implementation challenges, providing a forum for stakeholders to raise concerns and discuss possible system responses. As a result of concerns that were raised, the Board formed two Working Groups – one focused on juvenile arrest procedures and one focused on School Resource Officer reforms – to allow for in-depth examination and discussion regarding particular areas of concern.

Board members were invited to attend and/or send a representative from their respective agency/organization to join the Working Group(s). The Working Group members also invited other individuals who brought a specific area of expertise to join the discussions. Each group met for three to five times between July and November and developed a report for the full JJPAD Board detailing the group's findings and recommendations for additional legislative action, if any.

If the Working Group could not reach consensus regarding one or more elements of a specific recommendation, the report lists a variety of options discussed as well as the reasons why some members support or oppose each of the options. The reports, which are summarized in the Executive Summary, are provided in full here.

Report of the JJPAD Juvenile Arrest Procedures Working Group *November 2019*

In June 2019, the JJPAD Board formed a short-term Working Group to focus on concerns raised by the Massachusetts Chiefs of Police Association regarding juvenile arrest procedures following implementation of the Criminal Justice Reform Bill (2018). The Working Group capitalized on the unique and varied perspectives of its members to review the concerns raised by the Massachusetts Chiefs of Police Association and develop recommendations to the legislature for statutory changes, as needed.

The group met five times between July and October. In that time, the group discussed the following issues:

- Impact of raising the lower age of juvenile court jurisdiction to age 12
- Impact of the changes regarding “first offense” lower-level misdemeanors
- Decriminalization of certain school-based offenses
- Revisions to juvenile lock-up procedures

The working group also discussed issues regarding police authority that arose out of the 2012 CHINS/CRA Reform Legislation and remain, from the perspective of some members of law enforcement, unresolved. The group believes this issue requires further discussion, likely with a larger set of stakeholders. As such, this report does not include recommendations on the 2012 CHINS/CRA concerns beyond the need for further conversation.

This report details concerns and challenges that have arisen during implementation of the bulleted provisions above and, where possible, proposes targeted solutions.

The Working Group recognizes that many of the issues addressed in this report fit into a larger context of long-term systemic challenges. These challenges include, but are not limited to, the lack of sufficient accessible and appropriate behavioral health services, wrap around supports for youth including youth involved in the child welfare system, underperforming schools, and racial and ethnic disparities across multiple systems. Policy and budget decisions impacting “upstream” systems – including schools, child welfare, and community-based services – affect the functioning and impact of our juvenile justice

JJPAD Working Group Members:

- Chief Kevin Kennedy (Massachusetts Chiefs of Police Association)
- Joshua Dohan (Committee for Public Counsel Services)
- Cecely Reardon (Department of Youth Services)
- Sana Fadel (Citizens for Juvenile Justice)
- Cristina Tedstone (Department of Children and Families)
- Melissa Threadgill (Office of the Child Advocate)
- Crissy Goldman (Office of the Child Advocate)

The Working Group also appreciates the contributions of the following individuals:

- Phillip Kassel (Mental Health Legal Advisors Committee)
- Sheila Gallagher (Municipal Police Training Committee)
- Cathy Coughlin (Bail Commissioner)

system. The options and recommendations in this report are primarily technical in nature and intended to address immediate concerns – but the Working Group acknowledges the proposals do not tackle the larger systemic challenges facing our most vulnerable youth, and believes that efforts to enhance community-based resources and schools for struggling children and families has the potential for far greater impact and long-term cost effectiveness.

Raising the Minimum Age of Criminal Responsibility to 12 Years old

The legislation raised the age of criminal responsibility from age 7 to age 12. This change resulted from a recognition that the brains of young children are still developing and that addressing unlawful behaviors of children under the age of 12 through the delinquency system is neither fair nor developmentally appropriate.

One impact of this statutory change is that there is no longer a specific state entity with the legal authority and leverage to intervene and require a child/family to participate in an evaluation or treatment plan if a child under the age of 12 should commit serious criminal acts, based solely on the criminal acts themselves.⁸⁰ This impact is of concern to some Working Group members.

The issue put to the Working Group was what – if anything – the state should do if a child under 12 commits a serious criminal act?

Implementation Overview and Findings

Incidents of children under the age of 12 committing any crime – much less a serious crime that poses a threat to public safety – are rare. A very small number of applications for complaint were for children under the age of 12 (a total of 221 in FY18, out of the 11,267 juvenile applications for complaint, representing just 2% of all juvenile applications that year) prior to passage of the new law.

Serious incidents in particular are even rarer, but they do happen: in December 2018, for example, a 12 year old was stabbed by an 11 year old in school.⁸¹ There are also documented cases of child-on-child sexual assault involving children under age 12.⁸²

Given these small numbers, the impact of this change on the juvenile justice system has been minimal – although the impact for each individual child who might otherwise have been arrested is substantial. The Working Group agrees that in most cases, this change in law is likely highly beneficial, as research

⁸⁰ As described in detail below, it is still the case that other state systems may exercise oversight in some circumstances.

⁸¹ Moroney, J. and M. Fortier. “11-Year-Old Stabs Classmate at Middle School in Woburn, Ma.” December 6, 2018. <https://www.nbcboston.com/news/local/Student-Stubbed-at-Middle-School-in-Woburn-502056402.html>

⁸² See, for example, Lazlo L. v. Commonwealth, 482 Mass. 325 (2019). <http://masscases.com/cases/sjc/482/482mass325.html>

shows that the act of being arrested in and of itself is associated with increased delinquency over time⁸³ as well as negative impacts on educational attainment.⁸⁴

In some cases, however, the impact of this change may also include a missed opportunity to effectively intervene early in the life of a youth with substantial unmet needs. Unfortunately, we do not know if children under the age of 12 who are alleged to have committed a serious crime are any less likely to receive services now than before the law was changed, as we understand that young children accused of criminal behavior were not always brought into the delinquency system before the law change.⁸⁵ There is no relevant data gathered from before the change, nor any way, known to the Working Group, to collect relevant data after the change.

Although the number of children impacted by this particular change in the law is small, the number of children who are in need of services to address serious behavioral health concerns is much larger. **The Working Group finds that the failure to meet the needs of at-risk youth – whether or not they are alleged to have committed a serious crime – is both damaging to those youth and a potential public safety risk.**

The Working Group notes that there are numerous reasons why a child’s need for services may not be met, including:

- Appropriate services are not available
- Appropriate services are not accessible (e.g. not affordable to family, difficult to reach due to transportation barriers, not available in needed language)
- Parent/guardian do not believe services are necessary, or are unable or unwilling to follow through with an on-going treatment plan
- Child is unwilling to participate in services

The first two challenges – appropriate services not being available or accessible – are systemic problems that existed well before the statute was changed, and are beyond the scope of the Working Group’s charge. However, the Working Group notes that any discussion regarding the state’s authority to order participation in services should also include a discussion of the state’s responsibility to ensure those services are readily available and accessible to all children and families, and that those who are responsible for providing such services are held accountable for doing so.

The second two challenges – parental and/or child resistance to participation in services – are more closely related to the Working Group’s initial charge. It is important to remember that most parents are eager to access resources, opportunities and services for their children and that most young people will

⁸³ Mowen, T. J., Brent, J. J., & Bares, K. J. (2018). How Arrest Impacts Delinquency Over Time Between and Within Individuals. *Youth Violence and Juvenile Justice*, 16(4), 358–377. Retrieved from <https://doi.org/10.1177/1541204017712560>

⁸⁴ Kirk, D. S., & Sampson, R. J. (2013). Juvenile Arrest and Collateral Educational Damage in the Transition to Adulthood. *Sociology of Education*, 88(1), 36–62. Retrieved from <https://journals.sagepub.com/doi/abs/10.1177/0038040712448862?journalCode=soea>

⁸⁵ For example, the Working Group is aware that cases of child-on-child sexual assault involving children under the age of 12 were (and still are) often referred to Child Advocacy Centers rather than being prosecuted in court.

accept help when presented in a developmentally appropriate manner. However, there are times when parental or youth resistance becomes a barrier.

The group found that there are a variety of state systems that *may* become involved in the situation that have some legal authority to order a child or family to participate in an evaluation and follow a treatment plan:

- **Juvenile Delinquency Proceeding:** A youth charged with a crime can be referred to the Juvenile Court, which would have the authority to order participation in services for those youth who are adjudicated delinquent.⁸⁶ After the 2018 law change, this mechanism is only available for youth 12 or older.
- **Child Requiring Assistance Application (CRA):** Youth who exhibit repeated behavioral issues – such as chronic truancy, repeatedly running away from home, or repeatedly refusing to obey the lawful and reasonable commands of their guardian – can be brought to the Juvenile Court under a Child Requiring Assistance application.⁸⁷
- **Care and Protection Petition:** If a parent or caregiver does not ensure that a child in their custody receives needed services, and as a result the child suffers from serious abuse or neglect, or is in immediate danger of serious abuse or neglect, a care and protection petition may be filed, and a court may order the removal of a child from the parent or caregiver until the abuse or neglect has been alleviated.⁸⁸
- **Section 12:** A child can be held involuntarily for a brief period, or longer if civil commitment proceedings ensue, on the opinion of a mental health clinician who asserts a “reason to believe” that a failure to hospitalize a child poses a “likelihood of serious harm by reason of mental illness.”⁸⁹

However, these processes do not address all situations, and **the Working Group finds that – whether due to service unavailability/accessibility as noted above, or because the parent or child is resistant to participating in services and the legal mechanisms bulleted above are imperfect fits for this population – there remains a possibility that some children who need services may not receive them.**

Recommendations

No system will ever ensure that all children receive all of the services that they need. However, Working Group members believe that more needs to be done to ensure that all children have access to services to address behavioral health needs. The Working Group members believe that failure to provide and

⁸⁶ See M.G.L. Chapter 119, Section 52: <https://www.mass.gov/info-details/mass-general-laws-c119-ss-52>

⁸⁷ See M.G.L. Chapter 119, Section 21: <https://www.mass.gov/info-details/mass-general-laws-c119-ss-21>

⁸⁸ See M.G.L. Chapter 119, Section 24 and Section 26:

<https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXVII/Chapter119/Section24>

<https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXVII/Chapter119/Section26>

⁸⁹ See M.G.L. Chapter 123, Section 12: <https://malegislature.gov/Laws/GeneralLaws/PartI/Titlexvii/Chapter123/Section12>

monitor such services undermines long term public safety given the connection between behavioral health needs in young people and a variety of adverse life outcomes, including dropping out of school, becoming involved in the criminal legal system, substance use and economic hardship.”⁹⁰

Working Group members also agree that the delinquency system was not the appropriate system for such children under 12 to obtain necessary supports and services, since the participation of a child under 12 in treatment and/or services is dependent on the cooperation and accountability of the adults in their lives. That being said, some Working Group members feel that Court oversight of some sort is necessary in order to ensure the child and family receive and engage in appropriate services.

The group was unable to reach consensus regarding whether or not it is necessary or advisable to create or expand a legal mechanism to:

- Require a state entity to intervene when a child under 12 commits a serious criminal act, including monitoring the case to ensure the child receives an evaluation, is connected with appropriate services, and continues to follow the treatment plan; and
- Give a state entity the authority to require participation in services for children under the age of 12 who commit a serious criminal act, which would necessarily include the legal authority to impose consequences to parents and/or children for non-compliance.

In particular, there is disagreement among Working Group members about the effectiveness of “coerced” treatment (i.e., treatment that is engaged in under threat of legal consequences, which could include incarceration or removal of children from a home), and whether or not the potential harms that can result from the use of coercion/legal leverage outweigh or negate the potential benefits of treatment.

Given the lack of consensus, the Working Group presents the following options that were considered by the group, and the pros and cons of each:

⁹⁰ See, for example, “Promoting Awareness of Children’s Mental Health Issues” from the American Psychological Association: <https://www.apa.org/advocacy/health/children>

Option Considered	Reasons in Support	Reasons in Opposition
<p>Amend Chapter 119 to give DCF the responsibility and authority to develop, implement, and monitor a treatment plan for youth under 12 who have committed a serious criminal act (e.g. serious bodily injury or sexual assault). Law enforcement would be required to bring these cases to the attention of either the court or DCF through a process developed in the amended statute. Implementing this option may also require the creation of new resources and services for struggling families.</p>	<ul style="list-style-type: none"> • In making the original law change, the Legislature recognized that the brains and personalities of children are still in development and that holding children under the age of 12 legally accountable for their behavior is neither fair nor developmentally appropriate. This option seems to most closely adhere to that concept while addressing the concerns of some Working Group members regarding the need for state intervention and oversight. • DCF has expertise in connecting children and families with needed services. 	<ul style="list-style-type: none"> • This option is outside of DCF’s current statutory authority, which is to intervene in instances when there are allegations of abuse or neglect of a child by a parent or caregiver. • Involvement with DCF is stressful for families and can create numerous collateral consequences for parents; some working group members believe this option may cause more harm than good. • Implementing this option would require the agency to develop new policies, training, and tracking mechanisms. The administrative costs and challenges to implement may be too substantial to warrant this change, given the small number of impacted children. • Some Working Group members think that continuing to build a strong network of well-resourced Family Resource Centers would be more effective than changing Chapter 119.
<p>No statutory change recommended</p>	<ul style="list-style-type: none"> • Some working group members believe it is neither necessary nor advisable to create or expand a legal mechanism giving the state responsibility for identifying and overseeing/monitoring services for this population, particularly given the possible consequences of such a process which could ultimately result in a care and protection petition if parents/guardians are unwilling or unable to cooperate. • Some Working Group members believe that services accessed voluntarily are more effective than those accessed under the threat of legal consequences. 	<ul style="list-style-type: none"> • Some working group members believe that failing to intervene when a child under the age of 12 has committed a serious criminal act but is not receiving services is harmful to the child and poses a potential public safety risk. Therefore, the overall benefits of state intervention outweigh the potential harm that intervention may cause.

While not preferred by some Working Group members, if Option #1 is chosen, the Working Group believes it should be reserved for only the most serious situations so as not to undermine the overall intent of the law. Accordingly, the Working Group recommends that the Legislature use the following definition for “serious criminal act” in that situation:

“An act that has caused serious bodily injury, including permanent disfigurement, protracted loss or impairment of a bodily function, limb or organ, or a substantial risk of death; or a sexual assault.”⁹¹

“First Offense” Misdemeanor Rule

The legislation also changes the definition of a “delinquent child” by excluding “a civil infraction, a violation of any municipal ordinance or town by-law or a first offense of a misdemeanor for which the punishment is a fine or imprisonment in a jail or house of correction for not more than 6 months” from offenses qualifying a child to be adjudicated delinquent.⁹² The purpose of this statutory change was to reduce the number of low-level incidents⁹³ that are referred to the juvenile court.

This statutory change brought Massachusetts a little more into alignment with international standards, which recognize that for many children, exposure to the juvenile legal system, from arrest through the acquisition of a record, is more harmful than helpful. Since institutional action in response to minor crime is highly discretionary, it is particularly subject to the potential for implicit bias. The law change was, in part, motivated by a desire to decrease the racial and ethnic disparities that mar our otherwise nation-leading juvenile justice system.

Following passage of the legislation, there were differing interpretations of this section of the statute and its impact, leading to confusion and variation in practice. The Working Group was asked to examine if a legislative change is needed to add clarity to this law.

Implementation Overview and Findings

As noted above, there were differing interpretations of the law following passage. Members of law enforcement (as well as the Municipal Police Training Committee and the Massachusetts Chiefs of Police Association) interpreted the legislation as decriminalizing certain offenses and thereby abolishing law enforcement authority to arrest a youth for low-level misdemeanors. The Administrative Office of the Juvenile Court issued guidance interpreting the statute to mean that law enforcement could arrest the child, but the child could not be adjudged delinquent if it was a first offense.

⁹¹ Similar wording can be found in the jury instructions for “assault and battery causing serious bodily injury” and “assault and battery by means of a dangerous weapon causing serious bodily injury.”

⁹² See M.G.L. Chapter 119 Section 52: <https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXVII/Chapter119/Section52>

⁹³ For brevity, in this document “low-level” should be taken to mean “a misdemeanor for which the punishment is a fine or imprisonment in a jail or house of correction for not more than 6 months.”

In August 2019, the Supreme Judicial Court (SJC) found in *Wallace v. Commonwealth (2019)*⁹⁴ that the Criminal Justice Reform Bill intended to give juveniles a “second chance” with regard to a first offense of a low-level misdemeanor – but that the Legislature did *not* intend to excuse multiple misdemeanors. The Court delineated a process for establishing that a youth was on their “second offense” and therefore eligible to be adjudged delinquent, even if the youth had not been adjudged delinquent on a first offense (as the charge was dismissed due to it being a first offense).

Though *Wallace* doesn’t directly address the question, it is implicit in the process outlined by the Court that police officers have the authority to arrest for a low-level misdemeanor.

Recommendations

The JJPAD Working Group was convened to discuss the lack of clarity and differing interpretations of this statute, particularly as it related to arrest authority. **The SJC ruling brings the needed clarity on the arrest authority point, and the Working Group concluded that no further change to the statute is recommended in that regard at present.**

However, the Working Group notes that the process for proving a “first offense” is complicated and may prove difficult to implement, which might lead to calls at some point in the future for statutory revision.

On the other hand, some Group members are concerned about the implications of *Wallace* relative to arrest. If the statute were revisited, they would argue that, since avoiding the trauma of hand-cuffing and arrest for minor crimes was, in part, what motivated the law change, police should be charged with undertaking reasonable efforts to ascertain that a low-level misdemeanor is a first offense before arresting or issuing a summons.

While the court did not, in deciding *Wallace v. Commonwealth*, resolve the situation in a way that all Working Group members found entirely satisfactory, the Working Group believes additional time is needed to better understand how the mandated processes will play out in practice and if there are any additional points of concern. **The Working Group recommends the Board continue to follow this issue and reconvene the Working Group in the future should it prove necessary.**

School Resource Officers (SROs) and Schools-Based Offenses

The change in the law also established new requirements designed to provide more guidance on the role of SROs and reduce the criminalization of nonviolent youth behavior in school, indicating that such behavior is better handled by school staff:

⁹⁴ See *Wallace W., a juvenile, vs. Commonwealth*, 482 Mass. 789 (2019)
https://www.mass.gov/files/documents/2019/09/27/AmendedSIC_482_789.pdf

- Decriminalizing nonviolent conduct if it takes place at school, including “disturbing an assembly,” “disorderly conduct,” and “disturbing the peace.”
- Requiring police departments who employ SROs to develop a memorandum of understanding (MOU) with the local school district defining the role of the SRO, as well as Standard Operating Procedures (SOPs) establishing guidance to SROs. The Executive Office of Public Safety and Security (EOPSS) was also tasked with developing a model MOU, SOP, and non-binding advisories on how to establish these documents.
- Establishing new guidelines for chiefs of police to follow when assigning an officer to be an SRO, including guidelines on SRO training.
- Requiring the collection of additional data regarding school-based arrests, citations, and court referrals of students.

This report focuses on the first bullet – decriminalization of certain behaviors. The Working Group defers to the School-Based Reforms Working Group on the implementation of the remaining bullets.

Implementation of the new statute has been complicated by differing interpretations of the law and an overall lack of consensus regarding what is, and is not, permitted under the new statute. The Working Group was asked to consider if additional changes to the statute are necessary to clarify the role and legal authority of School Resource Officers.

Implementation Overview and Findings

The Municipal Police Training Committee, in partnership with the Massachusetts Juvenile Police Officers Association, has conducted numerous trainings on the new legal requirements for SROs following passage of the law. In the course of those trainings, SROs have raised repeated concerns about the lack of clarity regarding the role and legal authority of an SRO following passage of the new statute.

SROs have expressed concern about potential situations where an SRO believes they should physically intervene to deescalate a situation before it becomes violent, but the student has not yet committed a crime for which they could be arrested. Prior to passage of the law, situations of escalating conduct could have been remedied by police intervention based on the crimes of disorderly conduct or disturbing a school assembly (though some Working Group members believe that pre-law escalation more often resulted from undue police intervention on this basis). Now it is unclear if the SRO is legally permitted to intervene, even if they believe the student poses a danger to themselves or others, until a law has been broken.

Case law states that police, acting as community caretakers, have “...authority to take reasonable protective measures whenever public safety is threatened by acts that are dangerous, even if not expressly unlawful.”⁹⁵ However, the working group does not know of any examples where SROs have operated under a “community caretaker” role in schools and does not know whether there have been

⁹⁵ Commonwealth v. Marcavage, 76 Mass.App.Ct. 34, 918 N.E.2d 855, 860 (2009), review denied 456 Mass. 1104, 925 N.E.2d 547 (2010), cert denied 131 S. Ct. 247, 178 L. Ed. 2d 138 (2010). <http://masscases.com/cases/app/76/76massappct34.html>

challenges, whether meritorious or not, to their authority to do so. Additionally, this power would be restricted to situations where public safety is threatened and would not apply to situations where the student is on the verge of causing harm to himself/herself.

Ultimately, there is not agreement among Working Group members about what the current law permits in terms of acceptable SRO intervention in situations where a crime has not yet been committed. Some Working Group members believe current law allows for law enforcement to intervene to deescalate a situation before it becomes violent in school settings, while others believe that law enforcement does not have that authority unless a crime has been committed.

SROs have also described situations in which an SRO was asked by school officials to assist with a situation that the SRO felt was clearly a matter of school discipline, not safety. These situations place the SRO in a difficult position during a heated moment, notwithstanding that the new statute requires law enforcement and schools to develop MOUs stating that “SROs shall not serve as school disciplinarians, as enforcers of school regulations or in place of licensed school psychologists, psychiatrists or counselors and that SROs shall not use police powers to address traditional school discipline issues, including non-violent disruptive behavior.”⁹⁶

Recommendations

The Working Group did not reach agreement regarding whether there was a clear need for clarifying language.

Some members feel clarifying language is necessary to:

- Delineate the role an SRO may play in responding to student misbehavior that requires immediate intervention to maintain safety – even if a youth has not committed an arrestable offense
- Delineate the actions school officials are required to take with regards to de-escalation and intervention prior to involving an SRO in a situation

Other members believe that no further changes to the law should be made until all provisions – including the training and MOU provisions described above – have been fully implemented, and there is an opportunity to evaluate whether additional changes to the law are needed.

Given the lack of consensus, the Working Group presents the following options that were considered by the group, and the pros and cons of each:

⁹⁶ See M.G.L. Chapter 71, Section 37P: <https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXII/Chapter71/Section37P>

Option Considered	Reasons in Support	Reasons in Opposition
<p>Amend Chapter 71, 37P (b) to add the following sentence after paragraph 4: “For student misbehavior that requires immediate intervention to maintain safety (whether or not the misbehavior involves criminal conduct), the SRO may act to deescalate the immediate situation and to protect the physical safety of members of the school community. To this end, school personnel may request the presence of the SRO when they have a reasonable fear for their safety or the safety of students or other personnel.”</p> <p><u>AND</u> Amend Chapter 71, Section 37H ¾ (b) to add the following sentence: “Prior to disciplining or excluding a student from school for non-violent verbal misbehavior, and prior to bringing any matter to the attention of a school resource officer, school staff shall employ all reasonable means to avoid the need for exclusionary punishment or police involvement, including, but not limited to, acting in accordance with the recommendations stated in any behavioral intervention plan; employing de-escalation techniques; and seeking the intervention of a mental health crisis team if warranted.”</p>	<p>This language is currently included in the model MOU that was developed by the Attorney General’s Office, the Executive Office of Public Safety and Security, and the Department of Elementary and Secondary Education in partnership with representatives from law enforcement, education, and advocates for youth, juvenile justice, mental health, and disability. Adding this language to the statute would help clarify the circumstances under which an SRO would be permitted to intervene even if misbehavior does not involve criminal conduct. It would also further clarify when school personnel may request the presence of an SRO.</p> <p>Adding this provision would reinforce the original law’s focus on avoiding the need for involving SRO’s in school disciplinary matters as much as possible and make it clearer to school officials what their duties are with regards to de-escalation and intervention prior to involving an SRO. It would also make it clear to all schools that, when appropriate, the services of mental health crisis teams should be sought rather than/before involving an SRO. (There are anecdotal reports that some schools are unwilling to utilize mental health crisis teams currently.)</p>	<p>Some Working Group members are concerned that modifying the statute would be interpreted by some SROs and school staff as permitting them to return to previous practices before the reform law was passed, leading to additional use of force and arrest powers in schools and contradicting the underlying goals of the reform law: that school police should confine themselves to addressing genuine crime and not get involved in dealing with behavior that school staff have always handled, until recently, themselves.</p>
<p>No statutory change recommended</p>	<p>Some Working Group members believe it is not advisable to</p>	<p>Currently, there is a disagreement among multiple</p>

	<p>modify the statute at this time, and that no further changes to the law should be made until all provisions – including the training and MOU provisions described above – have been fully implemented, and there is an opportunity to evaluate whether additional changes to the law are needed.</p>	<p>stakeholders about what is truly permitted under current law. Some Working Group members believe this lack of clarity creates an untenable situation for SROs and school authorities, and that language should be adopted to eliminate the ambiguity and give clear guidance to SROs and school authorities.</p>
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Revising Juvenile Lock-Up Procedures

The statute also changed the procedure police officers are required to follow when a youth is arrested and then held at a police station for possible bail and/or placement in an overnight lock-up facility. In particular, the statute:

- Removed requirement that the police department contact Probation when there is a written request to detain a youth overnight
- Authorized the police department officer-in-charge (OIC) to either release a youth to a guardian or admit the youth to bail
- Required the police department to notify DCF when a child in the care and custody of DCF has been arrested and requires the social worker assigned to the child’s case to make arrangements for the child’s release as soon as practicable if it has been determined that the child will not be detained

Following passage of the law, a variety of juvenile justice practitioners have reported situations in which there has been a lack of clarity regarding the roles and responsibilities of various state actors and, in some cases, circumstances that do not fit neatly into the current legal structure. The Working Group was asked to examine these situations and determine if additional statutory changes were necessary.

Role of Bail Magistrate

Prior to the passage of this statute, an Officer-in-Charge would notify both the Probation department and a bail magistrate when a youth was arrested and brought to the station. In an effort to streamline this process, the legislation removed the requirement that the Officer-in-Charge call the Probation Department. The legislation also gave the Officer-in-Charge the authority, in certain circumstances, to decide to either release the youth or call the Bail Magistrate to review the case and set bail.

The intent of this change appears to be to increase the speed with which a youth can be released to a parent or guardian following arrest. However, law enforcement raised the concern that the Officer-in-Charge is not, by nature, a neutral party and therefore not an appropriate party to exercise this discretion. Anecdotally, there has also been some confusion in the field following the law change regarding whether a Bail Magistrate can or should be called at all. The Chiefs of Police Association has proposed that all decisions regarding bail or release should be made by the Bail Magistrate to provide consistency, neutrality, and clarity.

Recommendations

Although Working Group members do not object to returning this decision to the Bail Magistrate, discussions on this topic have raised a separate but related concern: the issue of the \$40 fee that youth admitted to bail are charged (on top of any monetary bail amount that is set). This \$40 is a payment to the Bail Magistrate for their services, which is statutorily authorized by law.⁹⁷ Working Group members note that as youth typically do not have access to their own funds, this fee is often paid by parents – who may or may not be able to afford the fee, and who are not the individuals alleged to have committed a crime. These topics are related because under the current statute, an Officer in Charge could release the youth to their parents without calling the Bail Magistrate and incurring the \$40 fee.

To address the above concerns, the Working Group unanimously makes the following recommendations:

- **Eliminate the \$40 bail magistrate fee for youth under the age of 18.**
 - The Working Group recognizes that determining how best to operationalize this recommendation requires further conversation with a larger group of stakeholders. For example, Bail Magistrates perform their service at night and on weekends, and the Legislature cannot require them to perform the service without compensation. As a result, the Legislature would need to develop an alternative mechanism for compensating Bail Magistrates.
- **Amend MGL Chapter 119 Section 67 (a) and (b) as follows to return the decision regarding release of a youth who has been arrested and brought to a police station to the Bail Magistrate:**

*Section 67. (a) Whenever a child between 12 and 18 years of age is arrested with or without a warrant, as provided by law, and the court or courts having jurisdiction over the offense are not in session, the officer in charge shall immediately notify at least 1 of the child's parents, or, if there is no parent, the guardian or custodian with whom the child resides or if the child is in the custody and care of the department, the department of children and families. **If the child is between the age of 14 and 18, the officer in charge shall also immediately notify the bail magistrate, who shall inquire into the case.** Pending such notice **and inquiry**, such child shall be detained pursuant to subsection (c).*

*(b) **The youth shall be admitted to bail in accordance with the law. The bail magistrate may direct** ~~Upon the acceptance by~~ the officer in charge of the police station or town lockup **to accept** of the written promise of the parent, guardian, custodian or representative of the department of children and families to be responsible for the presence of the child in court at the time and place when the child is ordered to appear, **and** the child shall be released to the person giving such promise. ~~provided, however, that if the arresting officer requests in writing that a child between 14 and 18 years of age be detained, and~~ **However, if** the court issuing a warrant for the arrest of a child between 14 and 18 years of age directs in the warrant that the child shall be held in safekeeping pending the child's appearance in court, **if the child is charged with a crime that is not bailable or if the child is unable to furnish any sureties required by the bail magistrate***

⁹⁷ See M.G.L. Chapter 262 Section 24: <https://malegislature.gov/Laws/GeneralLaws/PartIII/TitleVI/Chapter262/Section24>

***for his appearance;** the child shall be detained in a police station, town lockup, a place of temporary custody commonly referred to as a detention home of the department of youth services or any other home approved by the department of youth services pending the child's appearance in court; provided further, that in the event any child is so detained, the officer in charge of the police station or town lockup shall notify the parents, guardian, custodian or representative of the department of children and families of the detention of the child.*

Children Between the Age of 12 and 14 Who Cannot Be Held by DYS

Under current law, a youth cannot be held by DYS prior to their first court appearance if they are under the age of 14.⁹⁸ This is the case even if the court issued a warrant for their arrest and directed that the child be held in safekeeping pending their appearance in court, or if the youth was charged with a serious crime – such as murder – that would allow them to be held without bail if they were 14 or over.

Although the section of M.G.L. c. 119, § 67 precluding the detention of youth under 14 arrested after court hours predates the recent Criminal Justice Reform Bill, the changes made in the Criminal Justice Reform Bill brought renewed focus to the language in the entire statute. As a result of this renewed focus, juvenile justice stakeholders interpreted M.G.L. c. 119, § 67 to mean that youth under 14 who are arrested after court hours cannot be held in either police lockups or DYS' Overnight Arrest system and therefore they must be released. **As a result, since the law change, youth who are 12 and 13, regardless of their offense and bail status, are no longer held by DYS prior to their first appearance in court.**

Recommendations

Working Group members did not reach consensus on if or how the statute should be changed to address this issue. Accordingly, the Working Group presents the following options that were considered by the group and the pros and cons of each:

Option Considered	Reasons in Support	Reasons in Opposition
Amend M.G.L. c. 119, § 67 to permit DYS to hold youth between the ages of 12 and 14 who have been arrested for a serious violent offense ⁹⁹ until the next court session, unless they are deemed eligible for release on personal recognizance by the bail magistrate or a bail is posted.	DYS has a well-established system for holding youth overnight before a court session. It would not require substantial changes in practice, policy, or procedure to implement this change. This option would create a legal mechanism for holding youth aged 12 and 13 who are arrested for a serious violent offense (a very small number	This is outside DYS's current statutory authority as well as contrary to the statutory presumption that youth under 14 should be released. Some Working Group members think there is a risk that this will lead to net widening, with youth held who might otherwise have been released simply because there is now an option to do so. This is

⁹⁸ See MGL Chapter 119 Section 67: <https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXVII/Chapter119/Section67>

⁹⁹ Defined as "An act that has caused serious bodily injury, including permanent disfigurement, protracted loss or impairment of a bodily function, limb or organ, or a substantial risk of death; or a sexual assault."

	each year) prior to their first court hearing, thereby supporting public safety.	concerning to the group because of the progress the Commonwealth has made toward ensuring that the use of detention is limited to those circumstances when it is absolutely necessary, because of the associated dangers.
No Statutory Change	Some Working Group members believe the risk of harm due to net widening, as described above, is more substantial than the any potential risk of harm from leaving the statute unchanged.	Some Working Group members note that under current law, if a child aged 12 or 13 commits a serious violent felony, they cannot be held by DYS under any circumstances prior to their first court hearing, nor can they be held at a police station for longer than 6 hours. These members believe this could pose a potentially serious threat to public safety. Although these working group members believe in the overall goal of reducing the use of unnecessary detention, they also believe that this is an example of a situation where detention may, in fact, be necessary.

Placement of Youth When Family Cannot or Will Not Resume Physical Custody of Child

Stakeholders have also encountered a small number of cases where a youth has been arrested and the Officer-in-Charge has determined the youth does not need to be held, but their parent/guardian will not, or cannot, pick them-up from the police station, or the parent/guardian cannot be located. Sometimes, the parent/guardian may be unwilling to pick up the child because the youth was arrested as a result of behavior in the home, and the parent/guardian does not feel ready or safe taking the youth back. In such a situation, it is legally unclear which organization/agency is responsible for the care and custody of the youth.

- **Law Enforcement:** Once a youth has been taken into police custody, law enforcement has up to six hours to either transport the youth to juvenile court, release the youth to a parent/guardian, or transfer the youth to the Overnight Arrest (ONA) Program, run by DYS.
- **DYS:** A youth can only be placed into an ONA program who is over the age of 14 and is held on bail or cannot legally be bailed due to a warrant. DYS cannot legally hold a youth under 14 or a youth or who has been released on personal recognizance but has not paid the bail fee.

- **DCF:** Law enforcement could, in this situation, file a 51A alleging neglect by the parent/guardian who is not able or willing to resume physical custody of the child. If DCF determines that the child is at risk of abuse or neglect as a result of the parent/guardian's unwillingness to resume custody of their child and the allegation poses a threat of immediate danger warranting an emergency response, DCF would visit the child within two hours. If the situation was not considered to be an emergency, DCF would visit the child within three business days. Depending on the totality of the circumstances, DCF may take custody if the child is in immediate danger of abuse or neglect, or would otherwise continue to investigate this situation.

The various legal requirements and response timeline policies governing the actions of each of these three entities can come into conflict. If law enforcement cannot hold the youth longer than 6 hours, DYS cannot accept the youth and DCF determines that the circumstances do not require an immediate response, where should the youth go and who should be responsible for their safe keeping?

Anecdotally, this situation has been "resolved" in the moment in a variety of ways. In some cases, bail has been set, giving DYS legal authority to hold the youth overnight. In other cases, juvenile justice practitioners have resorted to driving a youth around or other similar practices designed to safely skirt the legal requirements. The result is often unnecessary detentions of youth, waste of staff time and resources, and unneeded stress and/or trauma for the child involved.

Historically, the Legislature has allocated funding to DCF to provide "alternative overnight nonsecure placements" for status offenders and youth who are alleged to have committed nonviolent offenses to prevent the inappropriate use of juvenile cells in police stations. These are sometimes referred to as "Alternative to Lock-Up Programs" or ALPS. ALPS was offered in response to the Federal Juvenile Justice and Delinquency Prevention Act (JJJPA) of 1974 which mandated that status offenders could not be detained in a locked police cell for any length of time and alleged delinquent offenders could not be held in a police lockup for longer than six hours. Therefore, ALPS placements were used to house youth arrested overnight on a non-criminal (status) offense, such as a CHINS warrant, as well as lower-level delinquencies as authorized in the ALPS state budget line item language (Line Item 4800-0151). When the CHINS law was replaced in 2012 with the CRA law, warrants were no longer allowed for status offenses and the utilization of the ALPS placements decreased dramatically. As a result, the funding for these placements have shrunk, to approximately \$500,000 in FY2020.

In practice, DCF funds existing group homes with open beds to take these emergency overnight placements. The ALPS beds are currently used for placement of children who have run away, are subsequently apprehended by a police officer, and a determination is made through contact with the Runaway Assistance Program that a child cannot safely return home. While the ALPS beds had also

been used in the past to house youth arrested and held on a list of enumerated non-violent offenses,¹⁰⁰ this process has fallen out of practice.¹⁰¹

ALPS is currently due for re-procurement. As part of that process, DCF could, theoretically, re-procure the service and examine the list of non-violent offenses and circumstances under which placement of youth would be accepted after hours. Although this would address some situations, it would not cover every situation described above (for example, assault in the home is not a nonviolent offense).

Recommendations

The Working Group members agree that a statutory change is needed to ensure that all youth who have been arrested and cleared for release have an appropriate, safe, and legal place to spend the night.

Working Group members did not reach consensus on how the statute should be changed, but instead presents the following options that were considered by the group and the pros and cons of each:

Option Considered	Reasons in Support	Reasons in Opposition
Amend M.G.L. c. 119, § 67 to permit DYS to hold youth until the next court session if they are otherwise eligible for release but a parent/guardian cannot or will not take child.	DYS has a well-established system for holding youth overnight before a court session. It would not require substantial changes in practice, policy, or procedure to implement this change.	The detention of youth otherwise eligible for release is precluded by state and Federal law. It is analogous to detaining a status offender, since the youth’s only reason for detention in such circumstances is the youth’s minority. Additionally, placing such a youth in detention is inconsistent with the Commonwealth’s work to move away from the unnecessary use of detention of youths, due to the dangers attendant to its unnecessary use.
Revise the DCF line item that funds the ALPS program (4800-0151) to read: “For a program to provide alternative overnight non-secure placements for status	The youth who are currently falling into this legal gap are ones that have been deemed eligible for release by the Bail Magistrate and are therefore not an imminent public safety	Under their current procurement, DCF ALP beds are only open to youth who have run away from home or have been charged with certain non-violent offenses as enumerated

¹⁰⁰ The current list of eligible non-violent offenses includes: disturbing the peace, larceny under \$250, possession of alcohol (under 17), protective custody, runaway (c. 119, s. 39H) and trespassing.

¹⁰¹ The Runaway Assistance Program (“RAP”) went into effect 11/18/14 to assist police with runaways during the hours that the juvenile court is closed. After consultation with probation, and if the police officer determines a child cannot be safely delivered to a parent or other responsible adult, the officer calls the Massachusetts 211 line to speak to a runaway assistance specialist. Depending on the condition of the child, the child may be referred for an emergency evaluation once evaluated is released to the ALPs personnel who places the child and arranges for transportation to court on the next working day.

<p>offenders and delinquent youths up to the age of 18 in order to prevent the inappropriate use of juvenile cells in police stations for such offenders, in compliance with the federal Juvenile Justice and Delinquency Prevention Act of 1974, as amended; for placement of youth until the next court session if they are otherwise eligible for release but a parent/guardian cannot or will not take child and DYS is not statutorily authorized to hold the youth.” This may require additional funding for this line item.</p>	<p>risk. For the past decade-plus, the Commonwealth has been working to reduce the unnecessary use of detention, including for youth that meet this criteria. Accordingly, placing the youth in an alternative overnight non-secure placement facility run by DCF, rather than DYS, is in alignment with that goal.</p>	<p>in the DCF RFR. Implementing this change would require a re-procurement in addition to a change in the ALPS budget line item language, which means there would be a substantial lag between when the policy is enacted and when it is implemented.</p>
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Report of the JJPAD Board School Resource Officer Working Group November 2019

In June 2019, the JJPAD Board formed a short-term Working Group to focus on concerns raised by Citizens for Juvenile Justice about the implementation of the Criminal Justice Reform Bill (2018) provisions related to School Resource Officers (SROs).

The Working Group met three times between July and November, focusing on the following new statutory requirements:

- Police departments that assign officers as SROs must develop a memorandum of understanding (MOU) with the local school district defining the role of the SRO as well as Standard Operating Procedures (SOPs) establishing guidance for SROs
- The MOU is required to include a provision that an SRO be trained in child and adolescent development, conflict resolution and diversion strategies
- Chiefs of police must consider certain experience, training, and other information about an officer before selecting an officer to be an SRO
- Schools must collect additional data regarding school-based arrests, citations, and court referrals of students

The Working Group developed and executed a plan for assessing implementation progress and discussed areas of concerns. Based on that work, this report details the progress made thus far and recommendations for next steps.

JJPAD Working Group Members:

- Chief Kevin Kennedy (Massachusetts Chiefs of Police Association)
- Marlies Spanjaard (Committee for Public Counsel Services)
- Leon Smith (Citizens for Juvenile Justice)
- Melissa Threadgill (Office of the Child Advocate)
- Lindsay Morgia (Office of the Child Advocate)

The Working Group also appreciates the contributions of the following individuals:

- Angela Brooks (Attorney General’s Office)
- Matthew Cregor (Mental Health Legal Advisors Committee)
- Lisa Thureau (Strategies for Youth)

Finally, the Working Group acknowledges, with appreciation, the information and input provided by the Executive Office of Public Safety and Security, the Municipal Police Training Committee, the Executive Office of Education, and the Department of Elementary and Secondary Education.

Implementation Overview

Description of New Requirements

The 2018 Criminal Justice Reform Bill requires the superintendent of a school district with an SRO to enter into an MOU defining the role of the SRO with the chief of police of the town providing the SRO. The law requires that all MOUs describe, at a minimum, the following:

- The mission/goals of the SRO program

- The roles and responsibilities of an SRO
- The process for selecting an SRO
- The mechanisms for incorporating an SRO into the school environment
- Information sharing between SROs and the school staff and other partners
- The organization structure of the SRO program, including supervision and lines of communication
- Required training for SRO, including child and adolescent development, conflict resolution and diversion strategies
- The manner and division of responsibility for collecting and reporting data on school-based arrests, citations and court referrals of students to DESE

The law also requires that the MOU state that “SROs shall not serve as school disciplinarians, as enforcers of school regulations or in place of licensed school psychologists, psychiatrists or counselors and that SROs shall not use police powers to address traditional school discipline issues, including non-violent disruptive behavior.”¹⁰²

Further, the law requires chiefs of police of towns providing an SRO to develop SOPs that provide guidance to SROs about daily operations, policies and procedures. At a minimum, the SOPs are required to describe:

- The SRO uniform
- Use of police force, arrest, citation and court referral on school property
- A statement and description of student’s legal rights
- The chain of command (who SRO reports to, how school administrators and the SRO work together)
- Performance evaluation standards
- Protocols for diverting and referring at-risk kids to school- and community-based supports
- Information sharing

Finally, the law requires the Executive Office of Public Safety and Security (EOPSS), in consultation with the Department of Elementary and Secondary Education (DESE), to make available to all communities examples of model memoranda of understanding, statements of procedures, and non-binding advisories on how to establish said documents.

Implementation Progress

In September 2018, the Attorney General, EOPSS, and DESE released a model MOU providing guidance on the roles and responsibilities of SROs that conformed with the provisions in the new law.¹⁰³

¹⁰² M.G.L. Chapter 71, Section 37P: <https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXII/Chapter71/Section37P>

¹⁰³ Sample MOU can be retrieved at <https://www.mass.gov/doc/sro-mou-final-9-5-18>

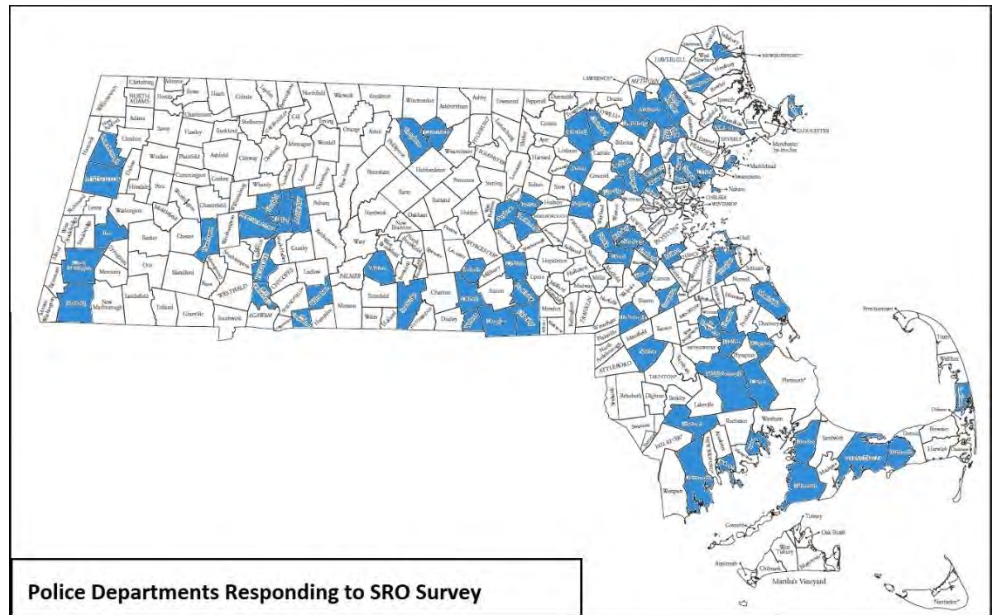
The Massachusetts Police Chiefs Association (MCOPA), the Massachusetts Juvenile Police Officers Association (MJPOA), and the Municipal Police Training Committee (MPTC) have all made a variety of efforts to ensure law enforcement are aware of the law change, including providing notifications at professional conferences, including information as part of in-service trainings, and sending the model MOU and other materials through various email lists.

A model SOP has not yet been released by EOPSS, although examples were shared with police departments through the Massachusetts Chiefs of Police Association.

Aside from the requirement that EOPSS issue model documents, **the new law does not otherwise require any particular state agency to monitor implementation of the new requirements, provide oversight and/or ensure that the new requirements are being followed.**

As a result, **the JJPAD Board is unable to fully ascertain compliance with these provisions of the new law**, as there is no master list of school districts or police departments with SROs and whether or not they have an MOU and SOPs in full compliance with the provisions of the new law.

In an attempt to collect this information, the Working Group developed a survey, which was sent to police chiefs through the Massachusetts Chiefs of Police Association. There were 85 responses to the survey, which is approximately 24% of the 351 city and town police departments in the state. Of these, 79 respondents reported that they provide SROs to their local school districts. The responses skewed toward smaller departments; the Working Group received very few responses from municipalities with a population over 50,000.



Despite the limitations of the data, the survey results revealed several important pieces of information:

Memorandum of Understanding:

- **Most Respondents Have Signed MOUs:** 97% of respondents that report having an SRO assigned said they have a signed MOU with their school district.¹⁰⁴

- **Many MOUs Do Not Include Every Provision Required by the New Statute:** Table 5 below shows that almost 40% of departments who responded to the survey reported that their MOUS do not include statements about training requirements, prohibitions on using police powers to address school discipline issues, and how the SRO will be included in the school environment.

Table 5: Compliance with MOU Requirements

MOU Requirement	Percent of responding police departments that report their MOU does not include this provision (N=85)
How SRO will be incorporated into school environment	39%
SRO training requirements	38%
Statement that prohibits SRO from using police powers to address traditional school discipline issues	38%
Process for selecting SRO	34%
Statement that prohibits SRO from serving as school disciplinarian	30%
Goals/objectives	28%
Person responsible for supervising SRO	28%
Mission statement	27%
SRO roles and responsibilities	27%
Process for sharing information	23%

Separate from the survey process, in late 2018 the Mental Health Legal Advisors Committee (MHLAC) obtained copies of MOUs developed by the larger school districts, including Boston, Worcester, Springfield, Holyoke, Lawrence, Lowell, Lynn, Brockton, Taunton, New Bedford, Fitchburg and Fall River. The MOUs obtained by MHLAC show a similar pattern as the Working Group found in our survey results: they exist, but they have not all been updated to include all of the information required by the 2018 law.

Standard Operating Procedures (SOPs):

- **Most Respondents Do Not Have SOPs:** Only 48% of survey respondents with SROs report having SOPs, as is required by the new statute. Of those departments with SOPs, 58% report that their SOPs are in complete compliance with the new law.
- **Key Elements Missing from SOPs:** Of most concern to the Working Group, the following items were reported as missing from a substantial number of SOPs:
 - 21% of departments with SOPs do not include information on use of police force on school property
 - 21% of departments with SOPs do not include guidelines on confidentiality and information-sharing
 - 29% of departments with SOPs do not include a description of students’ legal rights.

Based on these results, **the Working Group finds that there is sufficient evidence to demonstrate that the MOU and SOP portions of the new law are not fully implemented across the state, and that additional work is needed to bring school districts and police departments into full compliance with every aspect of the law.**

The Working Group also asked the Municipal Police Training Committee and the Department of Secondary and Elementary Education to provide information regarding current training and data collection efforts.

Training:

As noted above, the new law requires that each school district with an SRO have a signed MOU with the police department that includes a list of required trainings for SROs, including trainings on child and adolescent development, conflict resolution and diversion strategies.

Currently, the Massachusetts Municipal Police Training Committee (MPTC) offers a 5-day basic training course for SROs through the National Association of School Resource Officers (NASRO), which covers topics such as:

- **Function of Law Enforcement:** Instruction on the differences between law enforcement when conducted inside a school environment, including understanding the teen brain and de-escalation techniques.
- **Mentoring Students:** Instruction designed to provide tools to be a positive role model for youth, including informal counseling techniques.
- **Guest Speaking:** Instruction on a variety of instructional techniques as well as classroom management tools to provide law-related education to students.

To supplement the optional NASRO training, the MPTC is currently working to develop and implement trainings specifically focused on child and adolescent development, conflict resolution and diversion strategies to help SROs meet the new statutory requirements.

Plans for the training are still in progress, but the MPTC is tentatively planning to offer a full one-day training during the Massachusetts Juvenile Police Officers Association's annual conference in early April 2020. This training will include:

- A training from a national expert focused on diversion and de-escalation/conflict resolution
- A panel of Massachusetts practitioners – including representatives from Family Resource Centers, juvenile probation, and court clinics, as well as representatives with expertise in child psychology and emergency crisis response – to discuss child and adolescent development as well as practical scenarios and case studies, with the goal of teaching SROs how the various service systems work and how SROs can effectively divert youth to these systems as an alternative to arrest.

MPTC is also planning to offer regional versions of the training for those unable to make the April conference.

Data Collection and Reporting:

The new law also includes provisions designed to improve collection and reporting of information on school-based arrests, citations and court referrals. To ensure that this data is fully reported, it's important that local school districts and police departments have a clear understanding with regards to who is collecting and reporting the data. To address this, the 2018 Criminal Justice Reform Bill requires that MOUs between school districts and police departments "specify the manner and division of responsibility for collecting and reporting the school-based arrest, citations and court referrals of students to the Department of Elementary and Secondary Education (DESE) in accordance with regulations promulgated by the department."¹⁰⁵

DESE has required school districts to submit data on school-based arrests for the first time in the 2018-2019 school year. The Working Group's survey of police chiefs found that while a majority of survey respondents (60%) knew which entity (police or schools) was responsible for collecting the data, a large proportion (38%) of respondents said they were "unsure" who was responsible. It is not unusual for there to be challenges of this nature when attempting to collect new data for the first time, but it does suggest that additional communication and support may be needed to ensure data is properly collected and reported.

The law goes on to say that DESE "shall collect and publish disaggregated data in a like manner as school discipline data made available for public review." The Department is currently analyzing the data and intends to make it publicly available in late fall/early winter.

DESE is also requiring schools to report data on referrals to law enforcement, which would include school-based citations and court referrals, for the first time in the 2019-2020 school year and intends to make the data publicly available in 2020.

Recommendations for Improving Implementation

Recommendation #1: Monitoring and Implementation Assistance: There are 300+ police departments and 400+ school districts in Massachusetts. Ensuring that every single school and police department with an SRO have a signed MOU and SOPs that include every provision required by the new law will take a significant amount of effort. Some schools and police department may not be aware that they need to create or update their MOUs/SOPs, while others may simply lack the bandwidth.

Working Group members agree that active monitoring and implementation assistance is needed to ensure the MOU and SOP provisions of the new law are fully implemented. However, the new law does not currently assign any particular state agency with the role of monitoring implementation.

¹⁰⁵ See MGL Chapter 71, Section 37P: <https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXII/Chapter71/Section37P>

Accordingly, the group recommends that **the Legislature designate a state agency or agencies to perform the following functions:**

Memoranda of Understanding:

- Track which police departments have assigned at least one SRO, and ascertain whether or not the school district and the police chief have signed a MOU
- Review SRO MOUs to determine if they are in compliance with the law
- Provide feedback and assistance when MOUs are not in full compliance

Standard Operating Procedures

- Track which police departments employ at least one SRO, and whether or not they have SOPs
- Review SRO SOPs to determine if they are in compliance with the law
- Provide feedback and assistance when SOPs are not in full compliance

Recommendation #2: Resources: Achieving full compliance with this law requires changes in practice among hundreds of schools and police departments. The Working Group notes that, given this scope, providing effective oversight of the law would be a significant amount of work for whatever agency was tasked with this role.

Accordingly, the Working Group recommends that, **if an agency or agencies is given an explicit oversight role, they should be allocated sufficient staff resources for outreach to school districts and police departments, review of MOUs and SOPs, and the provision of technical assistance as needed.**

Additional Notes on Challenges and Next Steps:

Enforcement Mechanism: The SRO law does not contain an enforcement mechanism: if a school district or police department is out of compliance with the law, there are no consequences that could be enforced by a state agency, even if one were designated to play the monitoring and oversight role described above.

This is not a challenge that is unique to the implementation of this law. There are numerous statutory requirements for school districts that also lack an enforcement mechanism. Similarly, there is no statutory mechanism for enforcing requirements related to training and job performance of police officers in Massachusetts. (Unlike many states, Massachusetts does not have a Peace Officers Standards and Training, or POST, regulatory/licensing program.)

Enforcement, then, is a challenge that goes far beyond this particular policy matter. Given the scope of the challenge, the Working Group did not develop a recommendation with regards to enforcement – but does note that the lack of an enforcement mechanism will likely be an impediment to reaching full compliance with the law, and the Legislature may want to consider this issue.

Data Collection and Reporting: DESE is currently in the process of analyzing the first year of data on school-based arrests, and so the Working Group cannot yet identify if there any issues with regards to data collection that need to be addressed, or if additional resources are needed to support this effort.

However, the Working Group notes that efforts to obtain similar data on the federal level have often been stymied by under-reporting and other data collection challenges. The Working Group also notes the preliminary findings from the survey of police chiefs, which indicated that there may be confusion in some areas regarding who is responsible for collecting and reporting data.

At this time, the Working Group recommends that the JJPAD Board continue to monitor the implementation of the data collection and reporting elements of this bill, and, if necessary following DESE's report of the first year of data on school-based arrests, consider if additional recommendations to support the development and promotion of best practices with regards to data are needed.

Appendix A: County Level Data by Juvenile Justice Process Point

Custodial* Arrests** by County							
County	Massachusetts Youth Population (Age 12-17)		FY18		FY19		Percent Change FY18- FY19
	n	Statewide Percent	n	Statewide Percent	n	Statewide Percent	
Barnstable County	12,187	3%	54	2%	14	1%	-74%
Berkshire County	8,054	2%	38	2%	14	1%	-63%
Bristol County	41,533	9%	244	10%	130	9%	-47%
Dukes County	1,016	0.2%	1	0.04%	2	0.1%	100%
Essex County	59,727	12%	181	7%	87	6%	-52%
Franklin County	4,529	1%	38	2%	6	0.4%	-84%
Hampden County	36,200	7%	401	16%	225	16%	-44%
Hampshire County	9,174	2%	32	1%	9	1%	-72%
Middlesex County	110,070	23%	442	18%	155	11%	-65%
Nantucket County	741	0.2%	0	0%	0	0%	0%
Norfolk County	53,669	11%	156	6%	66	5%	-58%
Plymouth County	41,256	9%	146	6%	103	7%	-29%
Suffolk County	42,097	9%	629	25%	479	34%	-24%
Worcester County	62,965	13%	324	13%	131	9%	-60%
State	483,218	100%	2485	100%	1421	100%	-32%

*Juvenile arrest data in this report only includes custodial arrests (categorized as “on-view” and “taken into custody” in the NIBRS reporting system.) Many police departments will issue youth a summons to court rather than making a custodial arrest for less serious offenses. However, the use of summons is not consistently reported by all police departments; as a result, data on summons is not included in this report for the sake of consistency.

**Nearly all of the most populous cities/towns in Massachusetts track crime data using NIBRS. The major exceptions are Boston and Lawrence; however, both are in the process of becoming NIBRS compliant. Suffolk County includes Boston offense data obtained from the Boston Police Department, Boston Regional Intelligence Center. Lawrence Data is not available and is not reflected here.

Arrest Data Source: Research and Policy Analysis Division (RPAD), Executive Office of Public Safety and Security (EOPSS); data obtain from CrimeSOLV.

Massachusetts Youth Population Data Source: Puzanchera, C., Sladky, A. and Kang, W. (2019). "Easy Access to Juvenile Populations: 1990-2018." Online. Available: <https://www.ojjdp.gov/ojstatbb/ezapop/>

Overnight Arrest Admissions by County									
County	Massachusetts Youth Population (Age 12-17)		FY17		FY18		FY19		Percent Change FY18- FY19
	n	Statewide Percent	n	Statewide Percent	n	Statewide Percent	n	Statewide Percent	County Percent
Barnstable County	12,187	3%	28	2%	30	2%	9	1%	-70%
Berkshire County	8,054	2%	30	2%	24	2%	5	1%	-79%
Bristol County	41,533	9%	185	12%	157	13%	58	8%	-63%
Dukes County	1,016	0.2%	*	*	1	0.10%	0	0%	-100%
Essex County	59,727	12%	204	13%	148	12%	85	12%	-43%
Franklin County	4,526	1%	18	1%	12	1%	5	1%	-58%
Hampden County	36,200	7%	194	12%	172	14%	103	15%	-40%
Hampshire County	9,174	2%	24	2%	11	1%	3	0.40%	-73%
Middlesex County	110,070	23%	174	11%	134	11%	60	9%	-55%
Norfolk County	53,669	11%	80	5%	47	4%	27	4%	-43%
Plymouth County	41,256	9%	61	4%	54	4%	69	10%	28%
Suffolk County	134,004	10%	321	20%	275	22%	167	24%	-39%
Worcester County	62,965	13%	268	17%	176	14%	105	15%	-40%
State	48,3218	100%	1587	100%	1241	100%	696	100%	-44%

*Missing Dukes County data for FY17.
Source: Department of Research, Department of Youth Services
Massachusetts Youth Population Data Source: Puzzanchera, C., Sladky, A. and Kang, W. (2019). "Easy Access to Juvenile Populations: 1990-2018." Online. Available: <https://www.ojjdp.gov/ojstatbb/ezapop/>

Applications for Complaint by County									
County*	Massachusetts Youth Population (Age 12-17)		FY17		FY18		FY19		Percent Change FY18- FY19
	n	Statewide Percent	n	Statewide Percent	n	Statewide Percent	n	Statewide Percent	County Percent
Barnstable County	12,187	3%	664	5%	647	6%	411	5%	-36%
Berkshire County	8,054	2%	350	3%	359	3%	262	3%	-27%
Bristol County	41,533	9%	1508	12%	1372	12%	926	11%	-33%
Essex County	59,727	12%	1687	14%	1556	14%	1188	14%	-24%

Franklin / Hampshire County	13,703	3%	384	3%	349	3%	190	2%	-46%
Hampden County	36,200	7%	1281	10%	1234	11%	840	10%	-32%
Middlesex County	110,070	23%	1839	15%	1485	13%	1258	15%	-15%
Norfolk County	53,669	11%	808	7%	743	7%	538	6%	-28%
Plymouth County	41,256	9%	685	6%	691	6%	562	7%	-19%
Suffolk County	42,097	9%	1403	11%	1239	11%	1123	13%	-9%
Worcester County	62,965	13%	1678	14%	1592	14%	1090	13%	-32%
State	483,218	100%	12287	100%	11267	100%	8388	100%	-26%

*Massachusetts Trial Court distinguishes eleven juvenile court jurisdictions and reports Franklin County and Hampshire County combined.

Source: Massachusetts Trial Court

Massachusetts Youth Population Data Source: Puzzanchera, C., Sladky, A. and Kang, W. (2019). "Easy Access to Juvenile Populations: 1990-2018." Online. Available: <https://www.ojjdp.gov/ojstatbb/ezapop/>

Delinquency Filings by County									
County*	Massachusetts Youth Population (Age 12-17)		FY17		FY18		FY19		Percent Change FY18-FY19
	n	Statewide Percent	n	Statewide Percent	n	Statewide Percent	n	Statewide Percent	County Percent
Barnstable County	12,187	3%	443	5%	380	5%	217	4%	-43%
Berkshire County	8,054	2%	262	3%	253	3%	145	3%	-43%
Bristol County	41,533	9%	1025	12%	851	11%	516	10%	-39%
Essex County	59,727	12%	1547	18%	1412	18%	930	18%	-34%
Franklin / Hampshire County	13,703	3%	238	3%	219	3%	129	2%	-41%
Hampden County	36,200	7%	1012	12%	965	12%	590	11%	-39%
Middlesex County	110,070	23%	1233	14%	1030	13%	789	15%	-23%
Norfolk County	53,669	11%	447	5%	449	6%	274	5%	-39%
Plymouth County	41,256	9%	418	5%	404	5%	312	6%	-23%
Suffolk County	42,097	9%	963	11%	863	11%	691	13%	-20%
Worcester County	62,965	13%	1061	12%	1036	13%	690	13%	-33%
State	483,218	100%	8649	100%	7862	100%	5283	100%	-33%

*Massachusetts Trial Court distinguishes eleven juvenile court jurisdictions and reports Franklin County and Hampshire County combined.

Source: Massachusetts Trial Court

Massachusetts Youth Population Data Source: Puzzanchera, C., Sladky, A. and Kang, W. (2019). "Easy Access to Juvenile Populations: 1990-2018." Online. Available: <https://www.ojjdp.gov/ojstatbb/ezapop/>

Detention Admissions by County									
County*	Massachusetts Youth Population (Age 12-17)		FY17		FY18		FY19		Percent Change FY18-FY19
	n	Statewide Percent	n	Statewide Percent	n	Statewide Percent	n	Statewide Percent	County Percent
Barnstable County	12,187	3%	65	4%	62	5%	34	4%	-45%
Berkshire County	8,054	2%	41	3%	47	4%	25	3%	-47%
Bristol County	41,533	9%	144	9%	104	8%	57	6%	-45%
Essex County	59,727	12%	238	15%	165	13%	136	15%	-18%
Franklin County	4,529	1%	12	1%	10	1%	9	1%	-10%
Hampden County	36,200	7%	214	13%	179	14%	99	11%	-45%
Hampshire County	9,174	2%	26	2%	21	2%	9	1%	-57%
Middlesex County	110,070	23%	136	8%	66	5%	41	5%	-38%
Norfolk County	53,669	11%	65	4%	58	5%	46	5%	-21%
Plymouth County	41,256	9%	69	4%	63	5%	91	10%	44%
Suffolk County	42,097	9%	316	19%	221	18%	149	16%	-33%
Worcester County	62,965	13%	295	18%	255	20%	214	24%	-16%
State	483,218	100%	1622	100%	1251	100%	910	100%	-27%

*Dukes County level data was not reported.

Source: Department of Research, Department of Youth Services

Massachusetts Youth Population Data Source: Puzzanchera, C., Sladky, A. and Kang, W. (2019). "Easy Access to Juvenile Populations: 1990-2018." Online. Available: <https://www.ojjdp.gov/ojstatbb/ezapop/>

First-Time Commitments to DYS by County									
County*	Massachusetts Youth Population (Age 12-17)		FY17		FY18		FY19		Percent Change FY18-FY19
	n	Statewide Percent	n	Statewide Percent	n	Statewide Percent	n	Statewide Percent	County Percent
Barnstable County	12,187	3%	4	1%	16	7%	13	7%	-19%
Berkshire County	8,054	2%	5	1%	5	2%	3	2%	-40%
Bristol County	41,533	9%	35	10%	19	8%	17	9%	-11%
Essex County	59,727	12%	63	19%	30	13%	31	16%	3%
Franklin County	4,529	1%	3	1%	1	0.4%	0	0%	-100%

Hampden County	36,200	7%	38	11%	37	16%	26	13%	-30%
Hampshire County	9,174	2%	3	1%	6	3%	3	2%	-50%
Middlesex County	110,070	23%	20	6%	7	3%	5	3%	-29%
Norfolk County	53,669	11%	16	5%	15	6%	9	5%	-40%
Plymouth County	41,256	9%	23	7%	16	7%	28	15%	75%
Suffolk County	42,097	9%	63	19%	32	14%	17	9%	-47%
Worcester County	62,965	13%	62	19%	49	21%	41	21%	-16%
State	483,218	100%	335	100%	233	100%	193	100%	-17%

*Dukes County level data was not reported.

Source: Department of Research, Department of Youth Services

Massachusetts Youth Population Data Source: Puzanchera, C., Sladky, A. and Kang, W. (2019). "Easy Access to Juvenile Populations: 1990-2018." Online. Available: <https://www.ojdp.gov/ojstatbb/ezapop/>

Appendix B: Demographic Breakdown of Justice Involved Youth

Gender

Overnight Arrest Admissions by Gender									
Gender	Massachusetts Youth Population (Age 12-17)		FY17		FY18		FY19		Percent Change FY18-FY19
	n	Statewide Percent	n	Statewide Percent	n	Statewide Percent	n	Statewide Percent	Percent
Female	236776	49%	408	26%	307	25%	168	24%	-45%
Male	246442	51%	1179	74%	934	75%	528	76%	-43%
Total	483218	100%	1587	100%	1241	100%	696	100%	-44%

Source: Department of Research, Department of Youth Services
Massachusetts Youth Population Data Source: Puzanchera, C., Sladky, A. and Kang, W. (2019). "Easy Access to Juvenile Populations: 1990-2018." Online. Available: <https://www.ojjdp.gov/ojstatbb/ezapop/>

Applications for Complaint by Gender									
Gender	Massachusetts Youth Population (Age 12-17)		FY17		FY18		FY19		Percent Change FY18-FY19
	n	Statewide Percent	n	Statewide Percent	n	Statewide Percent	n	Statewide Percent	Percent
Female	236776	49%	3295	27%	3151	28%	2337	28%	-26%
Male	246442	51%	8495	69%	7690	68%	5812	69%	-24%
Not Reported	**	**	497	4%	426	4%	239	3%	-44%
Total	483218	100%	12,287	100%	11267	100%	8388	100%	-26%

Source: Massachusetts Trial Court
Massachusetts Youth Population Data Source: Puzanchera, C., Sladky, A. and Kang, W. (2019). "Easy Access to Juvenile Populations: 1990-2018." Online. Available: <https://www.ojjdp.gov/ojstatbb/ezapop/>

Delinquency Filings by Gender									
Gender	Massachusetts Youth Population (Age 12-17)		FY17		FY18		FY19		Percent Change FY18-FY19
	n	Statewide Percent	n	Statewide Percent	n	Statewide Percent	n	Statewide Percent	Percent
Female	236776	49%	2168	25%	2080	26%	1343	25%	-35%
Male	246442	51%	6314	73%	5629	72%	3872	73%	-31%
Not Reported	**	**	167	2%	153	2%	68	1%	-56%

Total	483218	100%	8649	100%	7862	100%	5283	100%	-33%
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Source: Massachusetts Trial Court
Massachusetts Youth Population Data Source: Puzanchera, C., Sladky, A. and Kang, W. (2019). "Easy Access to Juvenile Populations: 1990-2018." Online. Available: <https://www.ojjdp.gov/ojstatbb/ezapop/>

DYS Detention Admissions by Gender									
Gender	Massachusetts Youth Population (Age 12-17)		FY17		FY18		FY19		Percent Change FY18-FY19
	n	Statewide Percent	n	Statewide Percent	n	Statewide Percent	n	Statewide Percent	Percent
Female	236776	49%	367	23%	250	20%	197	22%	-21%
Male	246442	51%	1255	77%	1007	80%	713	78%	-29%
Total	483218	100%	1622	100%	1257	100%	910	100%	-28%

Source: Department of Research, Department of Youth Services
Massachusetts Youth Population Data Source: Puzanchera, C., Sladky, A. and Kang, W. (2019). "Easy Access to Juvenile Populations: 1990-2018." Online. Available: <https://www.ojjdp.gov/ojstatbb/ezapop/>

First-Time Commitments to DYS by Gender									
Gender	Massachusetts Youth Population (Age 12-17)		FY17		FY18		FY19		Percent Change FY18-19
	n	Statewide Percent	n	Statewide Percent	n	Statewide Percent	n	Statewide Percent	Percent
Female	236776	49%	42	13%	31	13%	23	12%	-26%
Male	246442	51%	293	87%	202	87%	170	88%	-16%
Total	483218	100%	335	100%	233	100%	193	100%	-17%

Source: Department of Research, Department of Youth Services
Massachusetts Youth Population Data Source: Puzanchera, C., Sladky, A. and Kang, W. (2019). "Easy Access to Juvenile Populations: 1990-2018." Online. Available: <https://www.ojjdp.gov/ojstatbb/ezapop/>

Race/ Ethnicity

Custodial Arrests* by Race							
Race/Ethnicity	Massachusetts Youth Population (Age 12-17)		FY18		FY19		Percent Change FY18- FY19
	n	Statewide Percent	n	Statewide Percent	n	Statewide Percent	Percent
American Indian or Alaska Native	1144	0.20%	2	0.1%	2	0.1%	0%
Asian	35255	7%	23	1%	10	1%	-57%
Black or African American	45460	9%	778	31%	529	37%	-32%
Hispanic/Latinx	82730	17%	826	33%	506	36%	-39%
White	318629	66%	856	34%	374	26%	-56%
Total	483218	100%	2485	100%	1421	100%	-43%

*Juvenile arrest data in this report only includes custodial arrests (categorized as “on-view” and “taken into custody” in the NIBRS reporting system.) Many police departments will issue youth a summons to court rather than making a custodial arrest for less serious offenses. However, the use of summons is not consistently reported by all police departments; as a result, data on summons is not included in this report for the sake of consistency.

**Nearly all of the most populous cities/towns in Massachusetts track crime data using NIBRS. The major exceptions are Boston and Lawrence; however, both are in the process of becoming NIBRS compliant. Suffolk County includes Boston offense data obtained from the Boston Police Department, Boston Regional Intelligence Center. Lawrence Data is not available and is not reflected here.

Arrest Data Source: Research and Policy Analysis Division (RPAD), Executive Office of Public Safety and Security (EOPSS); data obtained from CrimeSOLV.

Massachusetts Youth Population Data Source: Puzanchera, C., Sladky, A. and Kang, W. (2019). "Easy Access to Juvenile Populations: 1990-2018." Online. Available: <https://www.ojjdp.gov/ojstatbb/ezapop/>

Overnight Arrest Admissions by Race*									
Race/Ethnicity	Massachusetts Youth Population (Age 12-17)		FY17		FY18		FY19		Percent Change FY18-FY19
	n	Statewide Percent	n	Statewide Percent	n	Statewide Percent	n	Statewide Percent	Percent
American Indian or Alaska Native	1144	0.2%	*	*	1	0.1%	2	0.3%	100%
Asian	35255	7%	18	1%	11	1%	3	0.4%	-73%
Black or African American	45460	9%	472	30%	389	31%	182	26%	-53%
Chooses not to self-identify	**	**	*	*	1	0.1%	9	1%	800%
Hispanic/Latinx	82730	17%	586	37%	445	36%	238	34%	-47%
Multiracial	**	**	*	*	3	0.2%	17	2%	467%
Native Hawaiian or Other Pacific Islander	**	**	*	*	0	0%	2	0.3%	
Other	**	**	34	2%	27	2%	0	0%	-100%
Unknown	**	**	5	0.3%	14	1%	126	18%	800%
White	318629	66%	472	30%	350	28%	117	17%	-67%
Total	483218	100%	1587	100%	1241	100%	696	100%	-44%

*DYS moved to self-reporting in June of 2018 and previously did not capture data for youth identifying as American Indian or Alaska Native, Multiracial, Native Hawaiian or Other Pacific Islander, or if a youth chose not to self-identify.
 **OJJDP does not report out on youth who identify as Multiracial, Native Hawaiian or Other Pacific Islander, Other, Unknown, or youth who chose not to identify.
 Source: Department of Research, Department of Youth Services
 Massachusetts Youth Population Data Source: Puzanchera, C., Sladky, A. and Kang, W. (2019). "Easy Access to Juvenile Populations: 1990-2018." Online. Available: <https://www.ojjdp.gov/ojstatbb/ezapop/>

Applications for Complaint by Race									
Race *	Massachusetts Youth Population (Age 12-17)		FY17		FY18		FY19		Percent Change FY18-FY19
	n	Statewide Percent	n	Statewide Percent	n	Statewide Percent	n	Statewide Percent	Percent
Youth of color**	164589	34%	4725	38%	4649	41%	3933	47%	-15%
Not reported	***	***	3124	25%	2455	22%	1283	15%	-48%
White	318629	66%	4438	36%	4163	37%	3172	38%	-24%
Total	483218	100%	12287	100%	11267	100%	8388	100%	-26%

*The Trial Court has updated its reporting structure for race and ethnicity to conform to federal best practices. Reported racial categories are defined as the following: American Indian or Alaska Native, Asian, Black or African American, Native Hawaiian or other Pacific Islander, White, and Other or Mixed Race. The reported ethnicity categories are Hispanic or Latinx, and Not Hispanic or Latinx. For the purposes of this report, the Trial Court has assigned the following racial / ethnic minority categories based on the information collected in the new reporting structure: White, Non-white, and Not reported. The OCA renamed "Non-white" as "Youth of Color."

** The OCA combined American Indian, Asian, Black/African American, and Hispanic/Latinx race categories into one field "Youth of Color" for Massachusetts youth population data from the OJJDP for the purpose of comparison with Trial Court data.

***OJJDP does not report out on youth who identify as Multiracial, Native Hawaiian or Other Pacific Islander, Other, Unknown, or youth who chose not to identify.

Source: Massachusetts Trial Court
Massachusetts Youth Population Data Source: Puzanchera, C., Sladky, A. and Kang, W. (2019). "Easy Access to Juvenile Populations: 1990-2018." Online. Available: <https://www.ojjdp.gov/ojstatbh/ezapop/>

Applications for Complaint* Case Type by Race				
Application Case Type**	Statewide Percent	Youth of Color *** Percent of Case Type	White Percent of Case Type	Not Reported Percent of Case Type
MASSACHUSETTS YOUTH POPULATION		34%****	66%	
	FY17 N=12213			
ALCOHOL	5%	3%	58%	38%
DRUG	3%	39%	42%	19%
MOTOR VEHICLE	10%	27%	46%	27%
OTHER/NOT AVAILABLE	7%	40%	34%	25%
PERSON	33%	45%	32%	23%
PROPERTY	29%	40%	36%	24%
SCHOOL DISTURBANCE/PUBLIC ORDER	9%	38%	33%	29%
WEAPONS	4%	41%	33%	26%
ALL CASE TYPES	100%	38%	36%	25%
	FY18 N=11176			
ALCOHOL	4%	8%	64%	28%
DRUG	2%	39%	44%	17%
MOTOR VEHICLE	10%	31%	44%	25%
OTHER/NOT AVAILABLE	8%	40%	38%	22%
PERSON	36%	46%	34%	20%
PROPERTY	27%	44%	35%	21%
SCHOOL DISTURBANCE/PUBLIC ORDER	9%	40%	36%	24%
WEAPONS	4%	43%	38%	20%

ALL CASE TYPES	100%	41%	37%	22%
	FY19 N=8264			
ALCOHOL	2%	11%	70%	20%
DRUG	2%	50%	44%	6%
MOTOR VEHICLE	10%	32%	46%	23%
OTHER/NOT AVAILABLE	8%	46%	40%	15%
PERSON	44%	52%	34%	14%
PROPERTY	26%	47%	38%	15%
SCHOOL DISTURBANCE/PUBLIC ORDER	4%	48%	45%	6%
WEAPONS	4%	53%	35%	12%
ALL CASE TYPES	100%	47%	38%	15%

*To provide confidentiality, the Trial Courts suppresses data when any given delinquency filing case type has less than 5 instances. This means that the total number of delinquency filings is higher than the number of delinquency filings with the variables of race and case type included.

**Cases are categorized based on Massachusetts Survey of Sentencing Practices offense type group. Modifications were made to the offense type group to reflect the volume and characteristics of cases in the Juvenile Court. For example, public order offenses were renamed as "school disturbance" (offenses in MGL, Ch 272), and alcohol (possession under 21) was added (MGL, Ch 138). Sex offenses were also regrouped to "person" offenses (MGL, Ch 265). On cases containing multiple charges, the offenses is categorized by the first charge listed; additional charges may be of a different category or severity.

***The Trial Court has updated its reporting structure for race and ethnicity to conform to federal best practices. Reported racial categories are defined as the following: American Indian or Alaska Native, Asian, Black or African American, Native Hawaiian or other Pacific Islander, White, and Other or Mixed Race. The reported ethnicity categories are Hispanic or Latinx, and Not Hispanic or Latinx. For the purposes of this report, the Trial Court has assigned the following racial / ethnic minority categories based on the information collected in the new reporting structure: White, Non-white, and Not reported. The OCA renamed "Non-white" as "Youth of Color."

****The OCA combined American Indian, Asian, Black/African American, and Hispanic/Latinx race categories into one field "Youth of Color" for Massachusetts youth population data from the OJJDP for the purpose of comparison with Trial Court data. OJJDP does not report out on youth who identify as Multiracial, Native Hawaiian or Other Pacific Islander, Other, Unknown, or youth who chose not to identify and thus, are not included here.

Source: Massachusetts Trial Court

Massachusetts Youth Population Data Source: Puzanchera, C., Sladky, A. and Kang, W. (2019). "Easy Access to Juvenile Populations: 1990-2018." Online. Available: <https://www.ojjdp.gov/ojstatbb/ezapop/>

Delinquency Filings by Race									
Race	Massachusetts Youth Population (Age 12-17)		FY17		FY18		FY19		Percent Change FY18-FY19
	n	Statewide Percent	n	Statewide Percent	n	Statewide Percent	n	Statewide Percent	
Youth of Color**	164589	34%	3895	45%	3775	48%	2948	56%	-22%
White	318629	66%	3105	36%	2828	36%	1904	36%	-33%
Not reported	***	***	1649	19%	1259	16%	431	8%	-66%
Total	483218	100%	8649	100%	7862	100%	5283	100%	-33%

*The Trial Court has updated its reporting structure for race and ethnicity to conform to federal best practices. Reported racial categories are defined as the following: American Indian or Alaska Native, Asian, Black or African American, Native Hawaiian or other Pacific Islander, White, and Other or Mixed Race. The reported ethnicity categories are Hispanic or Latinx, and Not Hispanic or Latinx. For the purposes of this report, the Trial Court has assigned the following racial / ethnic minority categories based on the information collected in the new reporting structure: White, Non-white, and Not reported. The OCA renamed "Non-white" as "Youth of Color."

** The OCA combined American Indian, Asian, Black/African American, and Hispanic/Latinx race categories into one field "Youth of Color" for Massachusetts youth population data from the OJJDP for the purpose of comparison with Trial Court data.

***OJJDP does not report out on youth who identify as Multiracial, Native Hawaiian or Other Pacific Islander, Other, Unknown, or youth who chose not to identify.

Source: Massachusetts Trial Court
Massachusetts Youth Population Data Source: Puzanchera, C., Sladky, A. and Kang, W. (2019). "Easy Access to Juvenile Populations: 1990-2018." Online. Available: <https://www.ojjdp.gov/ojstatbb/ezapop/>

Delinquency Filings* by Case Type and Race				
Delinquency Filing Case Type**	Statewide Percent	Youth of Color*** Percent of Case Type	White Percent of Case Type	Not Reported Percent of Case Type
Massachusetts Youth Population (Age 12-17)		34%****	66%	
	FY17 N=8519			
ALCOHOL	3%	3%	70%	27%
DRUG	3%	49%	41%	10%
MOTOR VEHICLE	7%	38%	47%	15%
OTHER/NOT AVAILABLE	7%	48%	36%	16%
PERSON	36%	49%	32%	19%
PROPERTY	30%	46%	35%	18%
SCHOOL DISTURBANCE/PUBLIC ORDER	10%	42%	33%	24%
WEAPONS	4%	53%	33%	14%
ALL CASE TYPES	100%	45%	36%	19%
	FY18 N=7737			
ALCOHOL	3%	7%	65%	28%
DRUG	3%	44%	43%	13%
MOTOR VEHICLE	6%	46%	40%	14%
OTHER/NOT AVAILABLE	7%	45%	39%	16%
PERSON	38%	50%	34%	15%
PROPERTY	29%	52%	34%	15%
SCHOOL DISTURBANCE/PUBLIC ORDER	10%	45%	38%	18%
WEAPONS	4%	52%	36%	12%
ALL CASE TYPES	100%	48%	36%	16%
	FY19 N=5119			
ALCOHOL	0%	0%	100%	0%
DRUG	3%	69%	31%	0%
MOTOR VEHICLE	6%	46%	48%	6%
OTHER/NOT AVAILABLE	7%	57%	40%	3%
PERSON	50%	58%	33%	9%
PROPERTY	25%	56%	38%	6%
SCHOOL DISTURBANCE/PUBLIC ORDER	4%	50%	44%	6%
WEAPONS	5%	63%	32%	5%
ALL CASE TYPES	100%	57%	36%	7%

*To provide confidentiality, the Trial Courts suppresses data when any given delinquency filing case type has less than 5 instances. This means that the total number of delinquency filings is higher than the number of delinquency filings with the variables of race and case type included.

**Cases are categorized based on Massachusetts Survey of Sentencing Practices offense type group. Modifications were made to the offense type group to reflect the volume and characteristics of cases in the Juvenile Court. For example, public order offenses were renamed as “school disturbance” (offenses in MGL, Ch 272), and alcohol (possession under 21) was added (MGL, Ch 138). Sex offenses were also regrouped to “person” offenses (MGL, Ch 265). On cases containing multiple charges, the offenses is categorized by the first charge listed; additional charges may be of a different category or severity

***The Trial Court has updated its reporting structure for race and ethnicity to conform to federal best practices. Reported racial categories are defined as the following: American Indian or Alaska Native, Asian, Black or African American, Native Hawaiian or other Pacific Islander, White, and Other or Mixed Race. The reported ethnicity categories are Hispanic or Latinx, and Not Hispanic or Latinx. For the purposes of this report, the Trial Court has assigned the following racial / ethnic minority categories based on the information collected in the new reporting structure: White, Non-white, and Not reported. The OCA renamed “Non-white” as “Youth of Color.”

****The OCA combined American Indian, Asian, Black/African American, and Hispanic/Latinx race categories into one field “Youth of Color” for Massachusetts youth population data from the OJJDP for the purpose of comparison with Trial Court data. OJJDP does not report out on youth who identify as Multiracial, Native Hawaiian or Other Pacific Islander, Other, Unknown, or youth who chose not to identify and thus, are not included here.

Source: Massachusetts Trial Court

Massachusetts Youth Population Data Source: Puzanchera, C., Sladky, A, and Kang, W. (2019). "Easy Access to Juvenile Populations: 1990-2018." Online. Available: <https://www.ojjdp.gov/ojstatbb/ezapop/>

Probation Risk/Need Caseload* by Race

Race**	Massachusetts Youth Population (Age 12-17)		FY16		FY17		FY18		FY19		Percent Change FY18-FY19 Percent
	n	Statewide Percent	n	Statewide Percent	n	Statewide Percent	n	Statewide Percent	n	Statewide Percent	
American Indian / Alaska Native	1144	0.3%	1	0.1%	0	0%	0	0%	2	0.4%	
Asian	35255	8.8%	6	0.9%	3	0.5%	9	1%	7	1%	-22%
Black / African American	45460	11.4%	110	16.4%	166	26%	163	24%	116	21%	-29%
Native Hawaiian / Pacific Islander	***	***	1	0.1%	0	0%	0	0%	1	0.2%	
Not known / Not reported	***	***	6	0.9%	143	22%	68	10%	36	6%	-47%
Other Race / Multi-Race	***	***	6	0.9%	23	4%	28	4%	32	6%	14%
White	318629	79.6%	241	36.0%	303	47%	410	60%	365	65%	-11%
Total	400488	100.0%	371	55.5%	638	100%	678	100%	559	100%	-18%

* These caseload totals are for Risk/Need Probation supervision only and do not include youth on Pre-trial probation, or Administrative probation.

**Probation has updated its reporting structure for race and ethnicity to conform to federal best practices. Reported racial categories are defined as the following: American Indian or Alaska Native, Asian, Black or African American, Native Hawaiian or other Pacific Islander, White, and Other or Mixed Race. The reported ethnicity categories are Hispanic or Latinx, and Not Hispanic or Latinx. For the purpose of this report, if a youth was identified as Hispanic/Latinx as their ethnic category, they were captured and reported in the “Hispanic/Latinx” category rather than their reported race.

***OJJDP does not report out on youth who identify as Multiracial, Native Hawaiian or Other Pacific Islander, Other, Unknown, or youth who chose not to identify.

Source: Massachusetts Probation Service

Massachusetts Youth Population Data Source: Puzanchera, C., Sladky, A. and Kang, W. (2019). "Easy Access to Juvenile Populations: 1990-2018." Online. Available: <https://www.ojjdp.gov/ojstatbb/ezapop/>

Probation Risk/Need* Caseload by Ethnicity											
Ethnicity**	Massachusetts Youth Population (Age 12)		FY16		FY17		FY18		FY19		Percent Change FY18-FY19
	n	Statewide Percent	n	Statewide Percent	n	Statewide Percent	n	Statewide Percent	n	Statewide Percent	
Hispanic/Latinx	82730	17%	299	44.7%	276	43%	232	34%	179	32%	-23%
Non-Hispanic/Latinx	400488	83%	357	53.4%	344	54%	420	62%	354	63%	-16%
Unknown	***	***	13	1.9%	18	3%	26	4%	26	5%	0.0%
Total	483218	100%	669	100.0%	638	100%	678	100%	559	100%	-18%

* These caseload totals are for Risk/Need Probation supervision only and do not include youth on Pre-trial probation, or Administrative probation.

**Probation has updated its reporting structure for race and ethnicity to conform to federal best practices. Reported racial categories are defined as the following: American Indian or Alaska Native, Asian, Black or African American, Native Hawaiian or other Pacific Islander, White, and Other or Mixed Race. The reported ethnicity categories are Hispanic or Latinx, and Not Hispanic or Latinx.

Probation supplied data that reported on Race and Race with Ethnicity. For the purpose of this report, if a youth was identified as Hispanic/Latinx as their ethnic category, they were captured and reported in the "Hispanic/Latinx" category rather than their reported race.

***OJJDP does not report out on youth who identify as Multiracial, Native Hawaiian or Other Pacific Islander, Other, Unknown, or youth who chose not to identify.

Source: Massachusetts Probation Service

Massachusetts Youth Population Data Source: Puzanchera, C., Sladky, A. and Kang, W. (2019). "Easy Access to Juvenile Populations: 1990-2018." Online. Available: <https://www.ojjdp.gov/ojstatbb/ezapop/>

Detention Admissions by Race										
Race/Ethnicity	Massachusetts Youth Population (Age 12-17)		FY17		FY18		FY19		Percent Change FY18-FY19	
	n	Statewide Percent	n	Statewide Percent	n	Statewide Percent	n	Statewide Percent		
American Indian or Alaska Native	1144	0.2%	*	*	4	0.30%	3	0.30%	-25%	
Asian	35255	7%	13	1%	12	1%	4	0.40%	-67%	
Black or African American	45460	9%	476	29%	328	26%	244	27%	-26%	
Chooses Not to Self-Identify	**	**	*	*	8	1%	25	3%	213%	
Hispanic/Latinx	82730	17%	620	38%	487	39%	405	45%	-17%	
Multiracial	**	**	*	*	8	1%	29	3%	263%	
Native Hawaiian or other Pacific Islander	**	**	*	*	1	0.10%	1	0.10%	0%	
Other	**	**	42	3%	34	3%	0	0%	-100%	
Unknown	**	**	5	0.3%	0	0%	4	0.40%		
White	318629	66%	466	29%	375	30%	195	21%	-48%	

Total	483218	100%	1622	100%	1257	100%	910	100%	-28%
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*DYS moved to self-reporting in June of 2018 and previously did not capture data for youth identifying as American Indian or Alaska Native, Multiracial, Native Hawaiian or Other Pacific Islander, or if a youth chose not to self identify.
 *OJJDP only reports on American Indian or Alaska Native, Asian, Black or African American, Hispanic/Latinx and White racial categories.
 Source: Department of Research, Department of Youth Services
 Massachusetts Youth Population Data Source: Puzanchera, C., Sladky, A. and Kang, W. (2019). "Easy Access to Juvenile Populations: 1990-2018." Online. Available: <https://www.ojjdp.gov/ojstatbb/ezapop/>

First-Time Commitments to DYS by Race									
Race/ Ethnicity	Massachusetts Youth Population (Age 12-17)		FY17		FY18		FY19		Percent Change FY18- FY19
	n	Statewide Percent	n	Statewide Percent	n	Statewide Percent	n	Statewide Percent	Percent
Asian	35255	7%	1	0%	4	2%	0	0%	-100%
Black or African American	45460	9%	103	31%	57	24%	50	26%	-12%
Chooses not to self-identify	**	**	*	*	1	0.4%	4	2%	300%
Hispanic/ Latinx	82730	17%	138	41%	88	38%	92	48%	5%
Multiracial	**	**	*	*	3	1%	8	4%	167%
Other	**	**	12	4%	8	3%	0	0%	-100%
White	318629	66%	81	24%	72	31%	39	20%	-46%
Total	482074	100%	335	100%	233	100%	193	100%	-17%

*DYS moved to self-reporting in June of 2018 and previously did not capture data for youth identifying as American Indian or Alaska Native, Multiracial, Native Hawaiian or Other Pacific Islander, or if a youth chose not to self identify. No American Indian or Alaska Native youth had first commitments to DYS during these three fiscal years.
 **OJJDP only reports on American Indian or Alaska Native, Asian, Black or African American, Hispanic/Latinx and White racial categories. Source: Department of Research, Department of Youth Services Massachusetts
 Youth Population Data Source: Puzanchera, C., Sladky, A. and Kang, W. (2019). "Easy Access to Juvenile Populations: 1990-2018." Online. Available: <https://www.ojjdp.gov/ojstatbb/ezapop/>

Age

Overnight Arrest Admissions by Age							
Age	FY17		FY18		FY19		Percent Change FY18-19 Percent
	n	Statewide Percent	n	Statewide Percent	n	Statewide Percent	
Ten	0	0%	1	0.1%	0	0%	-100%
Eleven	4	0.3%	1	0.1%	0	0%	-100%
Twelve	24	2%	12	1%	1	0.1%	-92%
Thirteen	65	4%	59	5%	10	1%	-83%
Fourteen	217	14%	144	12%	85	12%	-41%
Fifteen	334	21%	245	20%	152	22%	-38%
Sixteen	470	30%	355	29%	210	30%	-41%
Seventeen	465	29%	423	34%	237	34%	-44%
Eighteen	7	0.4%	1	0.1%	1	0.1%	0%
Nineteen	1	0.1%	0	0.00%	0	0%	0%
Total	1587	100%	1241	100%	696	100%	-44%

Source: Department of Research, Department of Youth Services

Applications for Complaint by Age*							
Age	FY17		FY18		FY19		Percent Change FY18-19 Percent
	n	Statewide Percent	n	Statewide Percent	n	Statewide Percent	
Not reported	35	0%	20	0%	19	0%	-5%
Under Age 12	273	2%	221	2%	9	0%	-96%
Twelve	396	3%	424	4%	317	4%	-25%
Thirteen	870	7%	854	8%	667	8%	-22%
Fourteen	1452	12%	1277	11%	1040	12%	-19%
Fifteen	2201	18%	2023	18%	1544	18%	-24%
Sixteen	2971	24%	2629	23%	2016	24%	-23%
Seventeen	3893	32%	3597	32%	2604	31%	-28%
Eighteen	196	2%	222	2%	172	2%	-23%
Total	12287	100%	11267	100%	8388	100%	-26%

*Age at case filing is the age of the child/youth at the time the case was filed. For the case types, Application for Complaint and Delinquency, the age category, 18+, includes adults charged with a delinquency committed prior to their 18th birthday and adults charged with one of several criminal offenses in which the Juvenile Court has jurisdiction.

Source: Massachusetts Trial Court

Delinquency Filings by Age							
Age*	FY17		FY18		FY19		Percent Change FY18-19
	n	Statewide Percent	n	Statewide Percent	n	Statewide Percent	
Not reported	9	0.10%	4	0.10%	4	0.10%	0%
Under Age 12	142	2%	120	2%	2	0.04%	-98%
Twelve	250	3%	251	3%	152	3%	-39%
Thirteen	595	7%	547	7%	420	8%	-23%
Fourteen	1049	12%	927	12%	676	13%	-27%
Fifteen	1603	19%	1442	18%	1012	19%	-30%
Sixteen	2163	25%	1915	24%	1263	24%	-34%
Seventeen	2649	31%	2468	31%	1608	30%	-35%
Eighteen	189	2%	188	2%	146	3%	-22%
Total	8649	100%	7862	100%	5283	100%	-33%

*Age at case filing is the age of the child/youth at the time the case was filed. For the case types, Application for Complaint and Delinquency, the age category, 18+, includes adults charged with a delinquency committed prior to their 18th birthday and adults charged with one of several criminal offenses in which the Juvenile Court has jurisdiction.
Source: Massachusetts Trial Court

Detention Admissions by Age							
Age	FY17		FY18		FY19		Percent Change FY18-19
	n	Statewide Percent	n	Statewide Percent	n	Statewide Percent	
Eleven	3	0.2%	1	0.1%	0	0	-100%
Twelve	23	1%	6	0.5%	2	0.20%	-67%
Thirteen	63	4%	61	5%	30	3%	-51%
Fourteen	178	11%	143	11%	90	10%	-37%
Fifteen	365	23%	243	19%	173	19%	-29%
Sixteen	443	27%	324	26%	272	30%	-16%
Seventeen	442	27%	386	31%	283	31%	-27%
Eighteen	84	5%	82	7%	52	6%	-37%
Nineteen	15	1%	7	1%	7	1%	0%
Twenty	6	0.40%	4	0.30%	1	0.10%	-75%
Total	1622	100%	1257	100%	910	100%	-28%

Source: Department of Research, Department of Youth Services

First-Time Commitments to DYS by Age							
Age	FY17		FY18		FY19		Percent Change FY18-19 Percent
	n	Statewide Percent	n	Statewide Percent	n	Statewide Percent	
Twelve	1	0.30%	0	0%	0	0%	0%
Thirteen	4	1%	5	2%	1	1%	-80%
Fourteen	15	4%	14	6%	10	5%	-29%
Fifteen	57	17%	31	13%	25	13%	-19%
Sixteen	84	25%	53	23%	38	20%	-28%
Seventeen	112	33%	80	34%	78	40%	-3%
Eighteen	54	16%	44	19%	28	15%	-36%
Nineteen	5	1%	6	3%	9	5%	50%
Twenty	3	1%	0	0%	4	2%	
Total	335	100%	233	100%	193	100%	-17%
<i>Source: Department of Research, Department of Youth Services</i>							

Appendix C: Child Requiring Assistance Filing Data

CRA Filings by County									
County*	Massachusetts Youth Population (Age 12-17)		FY17		FY18		FY19		Percent Change FY18- FY19
	n	Statewide Percent	n	Percent of State	n	Percent of State	n	Percent of State	County Percent
Barnstable County	12,187	3%	218	4%	213	4%	191	4%	-10%
Berkshire County	8,054	2%	191	4%	194	4%	185	4%	-5%
Bristol County	41,533	9%	606	11%	523	10%	558	11%	7%
Essex County	59,727	12%	862	16%	837	16%	772	15%	-8%
Franklin / Hampshire County	13,703	3%	78	1%	96	2%	153	3%	59%
Hampden County	36,200	7%	350	6%	336	6%	340	7%	1%
Middlesex County	110,070	23%	812	15%	839	16%	755	14%	-10%
Norfolk County	53,669	11%	272	5%	299	6%	327	6%	9%
Plymouth County	41,256	9%	242	4%	254	5%	239	5%	-6%
Suffolk County	42,097	9%	1031	19%	958	18%	1005	19%	5%
Worcester County	62,965	13%	726	13%	679	13%	688	13%	1%
State	483,218	100%	5388	100%	5228	100%	5213	100%	-0.3%

*Massachusetts Trial Court distinguishes eleven juvenile court jurisdictions and reports Franklin County and Hampshire County combined.
Source: Massachusetts Trial Court
Massachusetts Youth Population Data Source: Puzanchera, C., Sladky, A. and Kang, W. (2019). "Easy Access to Juvenile Populations: 1990-2018." Online. Available: <https://www.ojdp.gov/ojstatbb/ezapop/>

CRA Filings by Gender									
Gender	Massachusetts Youth Population (Age 12-17)		FY17		FY18		FY19		Percent Change FY18-19
	n	Statewide Percent	n	Statewide Percent	n	Statewide Percent	n	Statewide Percent	Percent
Female	236776	49%	2279	43%	2139	41%	2151	42%	1%
Male	246442	51%	2740	51%	2935	57%	2900	56%	-1%
Not Reported	**	**	369	7%	154	3%	162	3%	5%

Total	483218	100%	5388	100%	5228	100%	5213	100%	0%
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Source: Massachusetts Trial Court
Massachusetts Youth Population Data Source: Puzanchera, C., Sladky, A. and Kang, W. (2019). "Easy Access to Juvenile Populations: 1990-2018." Online. Available: <https://www.ojjdp.gov/ojstatbb/ezapop/>

CRA Filings by Race									
Race*	Massachusetts Youth Population (Age 12-17)		FY17		FY18		FY19		Percent Change FY18-FY19
	n	Statewide Percent	n	Statewide Percent	n	Statewide Percent	n	Statewide Percent	Percent
Youth of Color	164589	34%	2240	42%	2586	49%	2614	50%	1%
Not reported	**	**	1458	27%	891	17%	793	15%	-11%
White	318629	66%	1690	31%	1751	33%	1806	35%	3%
Total	164589	34%	5388	100%	5228	100%	5213	100%	-0.3%

*The Trial Court has updated its reporting structure for race and ethnicity to conform to federal best practices. Reported racial categories are defined as the following: American Indian or Alaska Native, Asian, Black or African American, Native Hawaiian or other Pacific Islander, White, and Other or Mixed Race. The reported ethnicity categories are Hispanic or Latinx, and Not Hispanic or Latinx. For the purposes of this report, the Trial Court has assigned the following racial / ethnic minority categories based on the information collected in the new reporting structure: White, Non-white, and Not reported.
**OJJDP only reports on American Indian or Alaska Native, Asian, Black or African American, Hispanic/Latinx and White racial categories.
Source: Massachusetts Trial Court
Massachusetts Youth Population Data Source: Puzanchera, C., Sladky, A. and Kang, W. (2019). "Easy Access to Juvenile Populations: 1990-2018." Online. Available: <https://www.ojjdp.gov/ojstatbb/ezapop/>

CRA Filings by Age							
Age	FY17		FY18		FY19		Percent Change FY18-19 Percent
	n	Statewide Percent	n	Statewide Percent	n	Statewide Percent	
Not reported	14	0.30%	20	0.40%	8	0.20%	-60%
Under Age 12	327	6%	299	6%	306	6%	2%
Twelve	434	8%	402	8%	413	8%	3%
Thirteen	677	13%	731	14%	736	14%	1%
Fourteen	1076	20%	1059	20%	1038	20%	-2%
Fifteen	1365	25%	1268	24%	1306	25%	3%
Sixteen	968	18%	935	18%	902	17%	-4%
Seventeen	527	10%	514	10%	504	10%	-2%
Total	5388	100%	5228	100%	5213	100%	0%

Source: Massachusetts Trial Court

Appendix D: Bureau of Substance Addiction Services Admissions Data

BSAS Admissions* by County of Residence							
County	Massachusetts Youth Population (Age 12-17)		FY18		FY19		Percent Change FY18-FY19
	n	Statewide Percent	n	Statewide Percent	n	Statewide Percent	
Barnstable County	12,187	3%	42	4%	19	2%	-55%
Berkshire County	8,054	2%	56	5%	19	2%	-66%
Bristol County	41,533	9%	105	9%	53	7%	-50%
Dukes County	1,016	0.2%	**	**	**	**	**
Essex County	59,727	12%	190	16%	186	24%	-2%
Franklin County	4,529	1%	**	**	**	**	
Hampden County	36,200	7%	81	7%	35	4%	-57%
Hampshire County	9,174	2%	26	2%	8	1%	-69%
Middlesex County	110,070	23%	238	20%	206	26%	-13%
Nantucket County	741	0.2%	0	0%	**	**	**
Norfolk County	53,669	11%	54	5%	47	6%	-13%
Plymouth County	41,256	9%	97	8%	41	5%	-58%
Suffolk County	42,097	9%	107	9%	48	6%	-55%
Worcester County	62,965	13%	167	14%	113	14%	-32%
State	483,218	100%	1178	100%	783	100%	-34%

*Admissions for BSAS clients aged 12-17 were less in each county in FY 2019 than in FY 2018 except for Nantucket, which had no FY 2018 admissions for BSAS clients aged 12-17. These reduction in admissions may be explained in part by closures in Youth Residential programs during this time period and cessation of data submission from Recovery High School programs. Due to lag in data submission, admissions for FY2019 may be outstanding.

**To maintain client confidentiality, the data in cells with counts ≤ 5 are suppressed.

Source: Treatment statistics prepared by the Office of Statistics and Evaluation, Bureau of Substance Addiction Services, Massachusetts Department of Public Health on 9/04/2019 with data as of 6/27/2019.

Massachusetts Youth Population Data Source: Puzanchera, C., Sladky, A. and Kang, W. (2019). "Easy Access to Juvenile Populations: 1990-2018." Online. Available: <https://www.ojjdp.gov/ojstatbb/ezapop/>

BSAS Admissions* by Gender							
Gender	Massachusetts Youth Population (Age 12-17)		FY18		FY19		Percent Change FY18-19
	n	Statewide Percent	n	Statewide Percent	n	Statewide Percent	
Female	236776	49%	386	33%	218	28%	-44%
Male	246442	51%	793	67%	561	72%	-29%

Total	483218	100%	1179	100%	779	100%	-34%
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*Admissions for BSAS clients aged 12-17 who were reported as male or female were each less for the respective gender in FY 2019 than in FY 2018. These reduction in admissions may be explained in part by closures in Youth Residential programs during this time period and cessation of data submission from Recovery High School programs. Admissions for FY2019 may be outstanding.
Missing and Unknown values as well as individuals reporting as trans, representing 26 total enrollments are excluded. Admissions for trans individuals could not be represented in this table due to small cell counts.
Source: Treatment statistics prepared by the Office of Statistics and Evaluation, Bureau of Substance Addiction Services, Massachusetts Department of Public Health on 9/04/2019 with data as of 6/27/2019.
Massachusetts Youth Population Data Source: Puzanchera, C., Sladky, A. and Kang, W. (2019). "Easy Access to Juvenile Populations: 1990-2018." Online. Available: <https://www.ojjdp.gov/ojstatbb/ezapop/>

BSAS Admissions* by Race							
Race/Ethnicity	Massachusetts Youth Population (Age 12-17)		FY18		FY19		Percent change FY18-FY19
	n	Statewide Percent	n	Statewide Percent	n	Statewide Percent	Percent
Black, Non-Hispanic/Latinx	45460	10%	76	6%	40	5%	-47%
Hispanic/Latinx	82730	19%	216	18%	146	19%	-32%
Multi-Racial	**	**	52	4%	36	5%	-31%
Other	**	**	65	5%	50	6%	-23%
White, Non-Hispanic/Latinx	318629	71%	775	65%	516	65%	-33%
Total	446819	100%	1184	100%	788	100%	-33%

*Admissions for BSAS clients aged 12-17 for each reported race/ethnicity were less for the respective race/ethnicity in FY 2019 than in FY 2018. These reduction in admissions may be explained in part by closures in Youth Residential programs during this time period and cessation of data submission from Recovery High School programs. Admissions for FY2019 may be outstanding.
Missing and Unknown values, representing 12 total enrollments are excluded.
**OJJDP only reports on American Indian or Alaska Native, Asian, Black or African American, Hispanic/Latinx and White racial categories.
Source: Treatment statistics prepared by the Office of Statistics and Evaluation, Bureau of Substance Addiction Services, Massachusetts Department of Public Health on 9/04/2019 with data as of 6/27/2019.
Massachusetts Youth Population Source: Puzanchera, C., Sladky, A. and Kang, W. (2019). "Easy Access to Juvenile Populations: 1990-2018." Online. Available: <https://www.ojjdp.gov/ojstatbb/ezapop/>

BSAS Admissions* by Age					
Age	FY18		FY19		Percent Change FY18-19
	n	Statewide Percent	n	Statewide Percent	Percent
Twelve	**	**	**	**	**
Thirteen	**	**	**	**	**
Fourteen	87	7%	50	6%	-43%
Fifteen	177	15%	153	19%	-14%
Sixteen	356	30%	228	29%	-36%

Seventeen	536	45%	333	42%	-38%
Total	1,191	100%	793	100%	-33%

*Admissions for BSAS clients aged 12-17 were less for each age in FY 2019 than in FY 2018. These reduction in admissions may be explained in part by closures in Youth Residential programs during this time period and cessation of data submission from Recovery High School programs. Admissions for FY2019 may be outstanding.

**To maintain client confidentiality, the data in cells with counts ≤ 5 are suppressed.

Source: Treatment statistics prepared by the Office of Statistics and Evaluation, Bureau of Substance Addiction Services, Massachusetts Department of Public Health on 9/04/2019 with data as of 6/27/2019.

BSAS Admissions* by Referral Source				
Referral Source**	FY18		FY19	
	n	Statewide Percent	n	Statewide Percent
Pre-adjudication (including Court - Other; Court - Section 35; Court - DUI; Drug Court; County House of Correction/Jail)	165	14%	108	14%
Post-adjudication (including Dept. of Probation; Dept. of Youth Services; Pre-Release, Legal Aid, Police)	74	6%	33	4%
All other referral sources	952	80%	652	82%
Total	1,191	100%	793	100%

*Admissions for BSAS clients aged 12-17 were less in FY 2019 than in FY 2018 for each respective group of referral sources. The relative proportion of clients referred by a pre-adjudication source remained unchanged in FY 2018-2019 despite fewer overall admissions for BSAS clients aged 12-17 in FY 2019. This reduction in admissions may be explained in part by closures in Youth Residential programs during this time period and cessation of data submission from Recovery High School programs. Due to lag in data submission, admissions for FY2019 may be outstanding.

**Some Sources of Referral are not applicable to all Service Types.

Source: Office of Statistics and Evaluation, Bureau of Substance Addiction Services, Massachusetts Department of Public Health on 9/04/2019 with data as of 6/27/2019.

Appendix E: Department of Mental Health Applications

DMH Applicants by Age (Male)					
Age	FY18		FY19		Percent Change FY18-FY19
	n	Statewide Percent	n	Statewide Percent	Male Percent Change
Seven	33	5%	16	4%	-52%
Eight	37	6%	22	6%	-41%
Nine	50	8%	20	5%	-60%
Ten	60	10%	22	6%	-63%
Eleven	51	8%	38	10%	-25%
Twelve	56	9%	32	8%	-43%
Thirteen	62	10%	32	8%	-48%
Fourteen	52	8%	32	8%	-38%
Fifteen	73	12%	43	11%	-41%
Sixteen	54	9%	53	14%	-2%
Seventeen	90	15%	67	18%	-26%
Total	618	100%	377	100%	-39%

*Indicates a non-zero number under eleven. Total counts for gender are not inclusive of gender not reported and/or counts of gender non-conforming persons.
Source: Department of Mental Health

DMH Applicants by Age (Female)					
Age	FY18		FY19		Percent Change FY18-FY19
	n	Statewide Percent	n	Statewide Percent	Percent Change
Seven	11	2%	*	*	*
Eight	21	3%	*	*	*
Nine	26	4%	*	*	*
Ten	31	5%	*	*	*
Eleven	38	6%	16	4%	-58%
Twelve	38	6%	21	6%	-45%
Thirteen	60	10%	44	12%	-27%
Fourteen	81	13%	52	14%	-36%
Fifteen	92	15%	66	18%	-28%
Sixteen	94	16%	89	25%	-5%
Seventeen	112	19%	74	20%	-34%
Total	604	100%	362	100%	-40%

*Indicates a non-zero number under eleven. Total counts for gender are not inclusive of gender not reported and/or counts of gender non-conforming persons.
Source: Department of Mental Health

Age	FY17		FY18		FY19		Percent Change FY18-19 Percent
	n	Statewide Percent	n	Statewide Percent	n	Statewide Percent	
Seven	*	*	*	*	*	*	*
Eight	*	*	*	*	12	1%	*
Nine	11	1%	*	*	15	1%	*
Ten	27	2%	29	2%	17	1%	-41%
Eleven	36	3%	43	3%	34	3%	-21%
Twelve	101	7%	114	9%	83	6%	-27%
Thirteen	187	13%	153	12%	162	13%	6%
Fourteen	234	16%	233	18%	272	21%	17%
Fifteen	307	22%	280	22%	277	21%	-1%
Sixteen	273	19%	246	19%	212	16%	-14%
Seventeen	247	17%	204	16%	210	16%	3%
Total	1423	100%	1302	100%	1294	100%	-1%

*Indicates a non-zero number under eleven.
Source: Department of Mental Health

Gender Percentages	Massachusetts Youth Population (Age 12-17)	FY17	FY18	FY19
Male	51%	66%	65%	63%
Female	49%	34%	33%	36%

Source: Department of Mental Health

	Massachusetts Youth Population (Age 12-17)	FY18	FY19
White	66%	58%	69%
Black or African American	9%	9%	8%
Other*	**	2%	3%
Not Reported	**	31%	20%

*"Other" on the chart above represents combined selections for Asian, American Indian or Native Alaskan, Native Hawaiian of Other Pacific Islander, Other, or Two or More Races.
**OJJDP does not report out on youth who identify as Multiracial, Native Hawaiian or Other Pacific Islander, Other, Unknown, or youth who chose not to identify.
Massachusetts Youth Population Data Source: Puzanchera, C., Sladky, A. and Kang, W. (2019). "Easy Access to Juvenile Populations: 1990-2018." Online. Available: <https://www.ojjdp.gov/ojstatbb/ezapop/>

Source: Department of Mental Health

Juvenile Court Clinic Referrals by Race				
Race Percentages	Massachusetts Youth Population (Age 12-17)	FY17	FY18	FY19
White	66%	51%	52%	55%
Black or African American	9%	16%	12%	17%
Asian	7%	1%	1%	2%
Other*	**	10%	14%	14%
Not Reported	**	22%	20%	11%

**"Other" on the chart above represents combined selections for American Indian or Native Alaskan, Native Hawaiian or Other Pacific Islander, Other, or Two or More Races.
 **OJJDP does not report out on youth who identify as Multiracial, Native Hawaiian or Other Pacific Islander, Other, Unknown, or youth who chose not to identify.
 Massachusetts Youth Population Data Source: Puzanchera, C., Sladky, A. and Kang, W. (2019). "Easy Access to Juvenile Populations: 1990-2018." Online. Available: <https://www.ojjdp.gov/ojstatbb/ezapop/>
 Source: Department of Mental Health

DMH Applicants by Ethnicity			
	Massachusetts Youth Population (Age 12-17)	FY17	FY18
Hispanic or Latinx	17%	15%	16%
Not Hispanic or Latinx	83%	55%	65%
Not Reported	**	29%	19%

**OJJDP does not report out on youth who identify as Multiracial, Native Hawaiian or Other Pacific Islander, Other, Unknown, or youth who chose not to identify.
 Massachusetts Youth Population Data Source: Puzanchera, C., Sladky, A. and Kang, W. (2019). "Easy Access to Juvenile Populations: 1990-2018." Online. Available: <https://www.ojjdp.gov/ojstatbb/ezapop/>
 Source: Department of Mental Health

Juvenile Court Clinic Referrals by Ethnicity				
Ethnicity Percentages	Massachusetts Youth Population (Age 12-17)	FY17	FY18	FY19
Hispanic or Latinx	17%	18%	19%	23%
Not Hispanic or Latinx	83%	82%	81%	77%

**OJJDP does not report out on youth who identify as Multiracial, Native Hawaiian or Other Pacific Islander, Other, Unknown, or youth who chose not to identify.
 Massachusetts Youth Population Data Source: Puzanchera, C., Sladky, A. and Kang, W. (2019). "Easy Access to Juvenile Populations: 1990-2018." Online. Available: <https://www.ojjdp.gov/ojstatbb/ezapop/>
 Source: Department of Mental Health

Juvenile Court Clinic (JCC) Service Referrals by Category			
Referred to JCC For:	Statewide Counts*		
	FY17	FY18	FY19
Youthful Offender Eval (c119 §58)	0	**	0
Aid In Sentencing Eval	**	0	**
Behavioral Health Screening	178	234	325
Brief Psychotherapy	39	75	75

Care & Protection Eval	101	64	85
Case Management	0	0	*
Child Requiring Assistance Eval	466	417	462
Competence to Proceed Eval	19	**	13
Competency and/or Criminal Responsibility Eval	240	209	157
Diagnostic Study (c119 §68A)	226	195	174
Emergency Mental Health Commitment Eval	**	**	**
Medication Consultation	**	**	0
Other	236	118	32
Parental Rights Eval	0	0	0
Psychological Testing	**	**	12
Substance Abuse Commitment Eval	94	84	80
TOTALS	1611	1415	1423

*Numbers represent specific service categories. Individuals may therefore be counted in more than one category.

** Indicates a non-zero number under eleven.

Source: Department of Mental Health

Commonwealth of Massachusetts

Office of the Child Advocate

Address

One Ashburton Place, 5th Floor
Boston, MA 02108

Website

<https://www.mass.gov/orgs/office-of-the-child-advocate>
<https://www.mass.gov/juvenile-justice-policy-and-data-board>

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A Justice Policy Institute Report
By Barry Holman and Jason Ziedenberg

The Dangers of Detention:

The Impact of Incarcerating Youth in Detention and Other Secure Facilities

The Dangers of Detention:

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A Justice Policy Institute Report
by Barry Holman and Jason Ziedenberg

The Dangers of Detention¹

Introduction: The Growing Impact of Youth Detention

Despite the lowest youth crime rates in 20 years, hundreds of thousands of young people are locked away every year in the nation's 591 secure detention centers. Detention centers are intended to temporarily house youth who pose a high risk of re-offending before their trial, or who are deemed likely to not appear for their trial. But the nation's use of detention is steadily rising, and facilities are packed with young people who do not meet those high-risk criteria—about 70 percent are detained for nonviolent offenses.²

"[F]airly viewed, pretrial detention of a juvenile gives rise to injuries comparable to those associated with the imprisonment of an adult."

—Justice Marshall for the minority in Schall v. Martin, 1984.

*"Detention: A form of locked custody of youth pre-trial who are arrested—juvenile detention centers are the juvenile justice system's version of "jail," in which most young people are being held before the court has judged them delinquent. Some youth in detention are there because they fail the conditions of their probation or parole, or they may be waiting in detention before their final disposition (i.e. sentence to a community program, or juvenile correctional facility)."*³

The increased and unnecessary use of secure detention exposes troubled young people to an environment that more closely resembles adult prisons and jails than the kinds of community and family-based interventions proven to be most effective. Detention centers, said a former Deputy Mayor of New York of that city's infamous Spofford facility, are "indistinguishable from a prison."⁴ Commenting on New York's detention centers, one Supreme Court Justice said that, "fairly viewed, pretrial detention of a juvenile gives rise to injuries comparable to those associated with the imprisonment of an adult."⁵

Detained youth, who are frequently pre-adjudication and awaiting their court date, or sometimes waiting for their placement in another facility or community-based program, can spend anywhere from a few days to a few months in locked custody. At best, detained youth are physically and emotionally separated from the families and communities who are the most invested in their recovery and success. Often, detained youth are housed in overcrowded, understaffed facilities—an environment that conspires to breed neglect and violence.

A recent literature review¹ of youth corrections shows that detention has a profoundly negative impact on young people's mental and physical well-being, their education, and their employment. One psychologist found that for one-third of incarcerated youth diagnosed with depression, the onset of the depression occurred after they began their incarceration,⁶ and another suggests that poor mental health, and the conditions of confinement together conspire to make it more likely that incarcerated teens will engage in suicide and self-harm.⁷ Economists have shown that the process of incarcerating youth will reduce their future earnings and their ability to remain in the workforce, and could change formerly detained youth into less stable employees. Educational researchers have found that upwards of 40 percent of incarcerated youth have a learning disability, and they will face significant challenges returning to school after they leave detention. Most importantly, for a variety of reasons to be explored, there is credible and significant research that suggests that the experience of detention may make it more likely that

youth will continue to engage in delinquent behavior, and that the detention experience may increase the odds that youth will recidivate, further compromising public safety.

Each year it is estimated that approximately 500,000 youth are brought to juvenile detention centers. On any given day more than 26,000 youth are detained.⁸

Detention centers do serve a role by temporarily supervising the most at-risk youth. However, with 70 percent being held for nonviolent offenses, it is not clear whether the mass detention of youth is necessary—or being borne equally. While youth of color represent about a third of the youth population, the latest figures show that they represent 61 percent of detained youth.⁹ Youth of color are disproportionately detained at higher rates than whites, even when they engage in delinquent behavior at similar rates as white youth.

This policy brief looks at the consequences of detention on young people, their families, and communities. This policy brief shows that, given the new findings that detaining youth may not make communities safer, the costs of needlessly detaining young people who do not need to be there are simply too high. Policymakers, instead, should look to detention reform as a means to reduce the number of young people needlessly detained, and reinvest the savings in juvenile interventions proven to reduce recidivism and crime, and that can help build healthy and safe communities.

⁸This policy brief brings together the best existing literature on the efficacy and impact of detention, and also examines the reported outcomes of incarcerating juveniles in secure, congregate detention facilities in order to provide practitioners and policymakers with a deeper understanding of “the dangers” of overusing detention. Some of the findings reported here are the result of research conducted on youth and young adults in facilities or programs outside of juvenile detention facilities. The implications and conclusion drawn from research outside of detention centers proper is worthy of consideration: detention is usually the first form of congregate institutional confinement that youth falling under the authority of juvenile justice agencies will experience, and like residential or adult correctional or pretrial institutions, it is reasonable to infer that the impact of other kinds of incarceration and secure, congregate facilities do apply to the detention experiences. Every attempt has been made to accurately portray the population that the cited authors were studying, and the environment in which the study was conducted—generally, we referred to “detention” when the youth were detained, and “incarceration” when they were somewhere else.

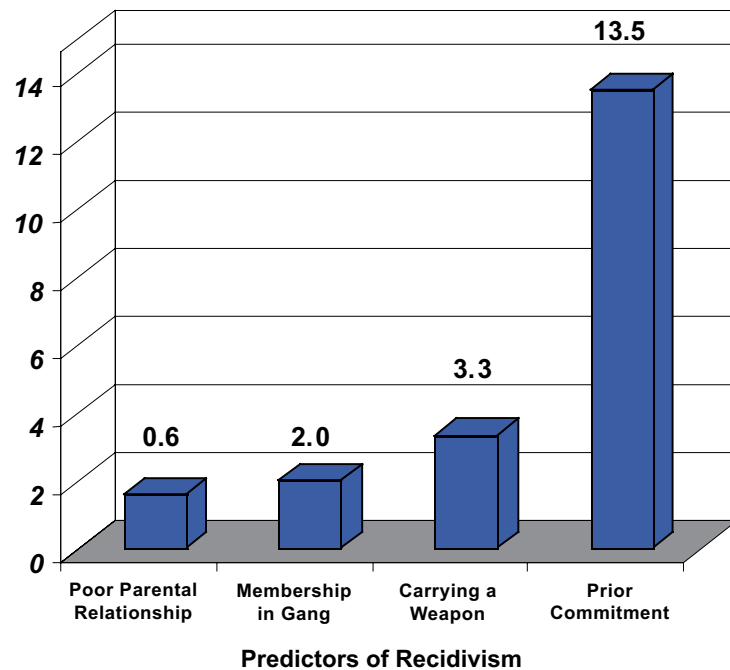
The Impact of Detention on Crime, Rehabilitation, and Public Safety

Detention can increase recidivism

Instead of reducing crime, the act of incarcerating high numbers of youth may in fact facilitate increased crime by aggravating the recidivism of youth who are detained.

A recent evaluation of secure detention in Wisconsin, conducted by the state's Joint Legislative Audit Committee reported that, in the four counties studied, 70 percent of youth held in secure detention were arrested or returned to secure detention within one year of release.¹⁰ The researchers found that *"placement in secure detention may deter a small proportion of juveniles from future criminal activity, although they do not deter most juveniles."*

Prior Incarceration was a Greater Predictor of Recidivism than Carrying a Weapon, Gang Membership, or Poor Parental Relationship



Source: Benda, B.B. and Tollet, C.L. (1999), "A Study of Recidivism of Serious and Persistent Offenders Among Adolescents." Journal of Criminal Justice, Vol. 27, No. 2 111-126.

Studies on Arkansas' incarcerated youth¹¹ found not only a high recidivism rate for incarcerated young people, but that the experience of incarceration is the most significant factor in increasing the odds of recidivism. Sixty percent of the youth studied were returned to the Department of Youth Services (DYS) within three years. The most significant predictor of recidivism was prior commitment; the odds of returning to DHS increased 13.5 times for youth with a prior commitment. Among the youth incarcerated in Arkansas, two-thirds were confined for nonviolent offenses. Similarly, the crimes that landed the serious offenders under the supervision of adult corrections were overwhelmingly nonviolent—less than 20 percent were crimes against persons.

Congregating delinquent youth together negatively affects their behavior and increases their chance of re-offending

Behavioral scientists are finding that bringing youth together for treatment or services may make it more likely that they will become engaged in delinquent behavior. Nowhere are deviant youth brought together in greater numbers and density than in detention centers, training schools, and other confined congregate “care” institutions.

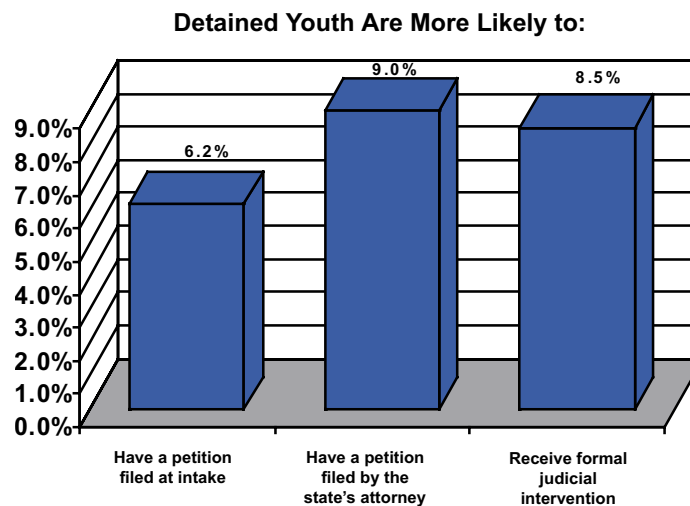
Researchers at the Oregon Social Learning Center found that congregating youth together for treatment in a group setting causes them to have a higher recidivism rate and poorer outcomes than youth who are not grouped together for treatment. The researchers call this process “peer deviancy training,” and reported statistically significant higher levels of substance abuse, school difficulties, delinquency, violence, and adjustment difficulties in adulthood for those youth treated in a peer group setting. The researchers found that “unintended consequences of grouping children at-risk for externalizing disorders may include negative changes in attitudes toward antisocial behavior, affiliation with antisocial peers, and identification with deviancy.”¹²

Detention pulls youth deeper into the juvenile and criminal justice system

“Locking up kids is the easiest way. But once they get in the juvenile justice system, it’s very hard to get them out.”

—San Jose Police Chief
Bill Landsdowne¹³

Similar to the comment by the San Jose police chief, studies have shown that once young people are detained, even when controlling for their prior offenses, they are more likely than non-detained youth to end up going “deeper” into the system; these studies show that detained youth are more likely to be referred to court, see their case progress through the system to adjudication and disposition, have a formal disposition filed against them, and receive a more serious disposition.



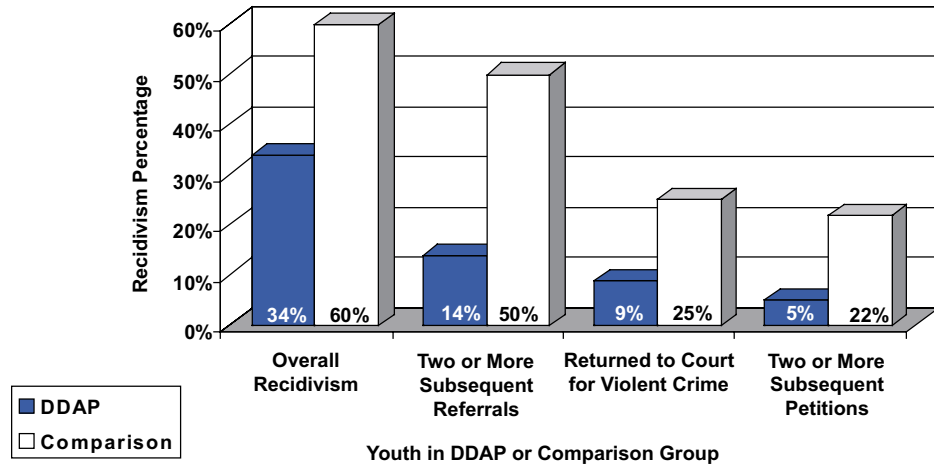
Source: Frazier, C.E. and Cochran, J.K. (1986) Detention of Juveniles: Its Effects on Subsequent Juvenile Court Processing and Decisions. *Youth and Society*, Vol. 17, No. 3, March 1986, p. 286-305 (N=9,317; p=.05)

A study done in Florida in the late 1980s found that, when controlling for other key variables such as age, race, gender, and offense severity, detained youth faced a greater probability of having a petition filed at intake (6.2 percent), a greater probability for having a petition filed by the State Attorney (9 percent), and a greater probability of receiving formal judicial interventions (8.5 percent) than youth not detained. Another study in Florida by the Office of State Court Administrators found that when controlling for other factors—including severity of offense—youth who are detained are *three times more* likely to end up being committed to a juvenile facility than similar youth who are not detained.¹⁴

Alternatives to detention can curb crime and recidivism better than detention

Several studies have shown that youth who are incarcerated are more likely to recidivate than youth who are supervised in a community-based setting, or not detained at all. Young people in San Francisco’s Detention Diversion Advocacy Program, for example, have about *half the recidivism rate* of young people who remained in detention or in the juvenile justice system.¹⁵

Various Measures of Recidivism between Detention and Diversion



Source: Sheldon, R.G. (1999), "Detention Diversion Advocacy: An Evaluation." Juvenile Justice Bulletin Washington, DC: Department of Justice, Office of Juvenile Justice and Delinquency Prevention (DDAP n=271; Comparison n=271)

Research from Florida shows that when controlling for other factors, youth who are detained are three times more likely to end up being committed to a juvenile facility than similar youth who are not detained.

Research from Texas suggests that young people in community-based placements are 14 percent less likely to commit future crimes than youth that have been incarcerated.¹⁶

Detention can slow or interrupt the natural process of “aging out of delinquency”

Many young people in fact engage in “delinquent” behavior, but despite high incarceration rates, not all youth are detained for delinquency. Dr. Delbert Elliott, former President of the American Society of Criminology and head of the Center for the Study of the Prevention of Violence has shown that as many as a third of young people will engage in delinquent behavior¹⁷ before they grow up but will naturally “age out” of the delinquent behavior of their younger years. While this rate of delinquency among young males may seem high, the rate at which they end their criminal behavior, (called the “desistance rate”) is equally high.¹⁸ Most youth will desist from delinquency on their own. For those who have more trouble, Elliott has shown that establishing a relationship with a significant other (a partner or mentor) as well as employment correlates with youthful offenders of all races “aging out” of delinquent behavior as they reach young adulthood.

Most Young People Age Out of Crime on Their Own



Source: FBI Crime in the United States (1993).

There is little observed relationship between the increased use of detention, and crime.

Whether a youth is detained or not for minor delinquency has lasting ramifications for that youth's future behavior and opportunities. Carnegie Mellon researchers have shown that incarcerating juveniles may actually interrupt and delay the normal pattern of "aging out" since detention disrupts their natural engagement with families, school, and work.¹⁹

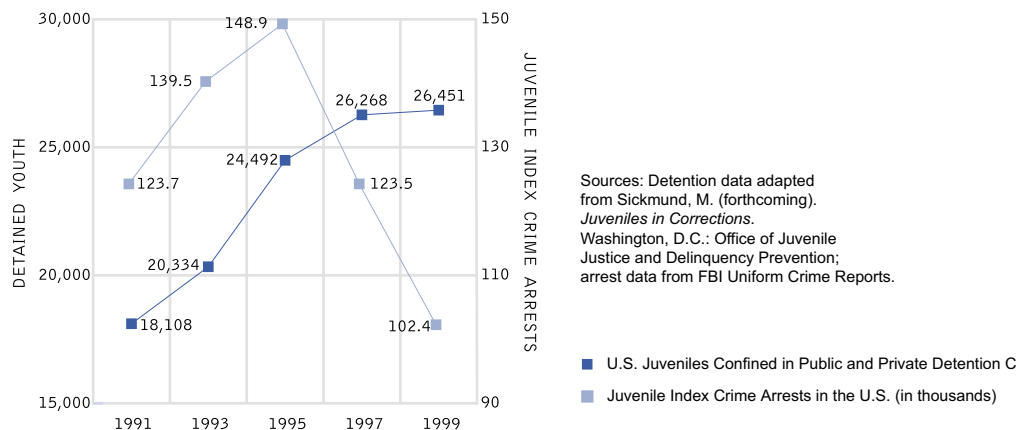
There is little relationship between detention and overall crime in the community

While there may be an individual need to incarcerate some high-risk youth, the mass detention of a half-million youth each year is not necessarily reducing crime.

During the first part of the 1990s, as juvenile arrests rose, the use of detention rose far faster (See table, "Different Directions"). By the middle of the 1990s, as juvenile arrests began to plummet (and the number of youth aged 10-17 leveled off), the use of detention continued to rise. *In other words, while there may be some youth who need to be detained to protect themselves, or the public, there is little observed relationship between the increased use of detention, and crime.*

Different Directions: Detention Populations vs. Arrest Rates for U.S. Juveniles in the 1990s

DIFFERENT DIRECTIONS: Detention Populations vs. Arrest Rates for U.S. Juveniles in the 1990's



Researchers believe that the combination of mental health disorders youth bring into detention coupled with the negative effects of institutionalization places incarcerated youth at a higher risk of suicide than other youth.²¹

To the contrary, several communities ranging from the Western United States (Santa Cruz, California and Portland, Oregon) to one of the nation's biggest urban centers (Chicago, Illinois) have found ways to both reduce detention and reduce crime, better serving the interests of youth development and public safety. Between 1996 and 2002, violent juvenile arrests in the country fell by 37 percent; Santa Cruz matched that decline (38 percent), and Portland and Chicago exceeded it (45 percent and 54 percent, respectively).²⁰ And during roughly the same time, juvenile detention populations fell between 27 and 65 percent in those jurisdictions.

The Impact of Detention on Young People's Mental Health, and Propensity to Self-Harm.

Of all the various health needs that detention administrators identify among the youth they see, unmet mental and behavioral health needs rise to the top. While researchers estimate that upwards of two-thirds of young people in detention centers could meet the criteria for having a mental disorder, a little more than a third need ongoing clinical care—a figure twice the rate of the general adolescent population.²²

Why is the prevalence of mental illness among detained youth so high? First, detention has become a new “dumping ground” for young people with mental health issues. One Harvard academic theorizes that the trauma associated with the rising violence in the late 1980s and early 1990s in some urban centers had a deep and sustained impact on young people. At the same time, new laws were enacted that reduced judicial discretion to decide if youth would be detained, decreasing the system's ability to screen out and divert youth with disorders. All the while, public community youth mental health systems deteriorated during this decade, leaving detention as the “dumping ground” for mentally ill youth.

Detention makes mentally ill youth worse

Another reason for the rise in the prevalence of mental illness in detention is that the kind of environment generated in the nation's detention centers, and the conditions of that confinement, conspire to create an unhealthy environment. Researchers have found that at least a third of detention centers are overcrowded,²³ breeding an environment of violence and chaos for young people. Far from receiving effective treatment, young people with behavioral health problems simply get worse in detention, not better. Research published in *Psychiatry Resources* showed that for one-third of incarcerated youth diagnosed with depression, the onset of the depression occurred after they began their incarceration.²⁴ “*The transition into incarceration itself,*” wrote one researcher in the medical journal, *Pediatrics*, “*may be responsible for some of the observed [increased mental illness in detention] effect.*”²⁵

An analysis published in the *Journal of Juvenile Justice and Detention Services* suggests that poor mental health and the conditions of detention conspire together to generate higher rates of depression and suicide idealization:²⁶ 24 percent of detained Oregon youth were found to have had suicidal ideations over a seven-day period, with 34 percent of the youth suffering from “*a current significant clinical level of depression.*”

An indicator of the shift was spelled out by a 2004 Special Investigations Division Report of the U.S. House of Representatives, which found that two-thirds of juvenile detention facilities were holding youth who were waiting for community mental health treatment, and that on any given night, *7 percent of all the youth held in detention were waiting for community mental health services.* As one detention administrator told Congress, “*we are receiving juveniles that 5 years ago would have been in an inpatient mental health facility. . . [W]e have had a number of juveniles who should no more be in our institution than I should be able to fly.*”²⁷

A Washington state detention administrator interviewed by the U.S. House of Representatives said, “We are receiving juveniles that five years ago would have been in an inpatient mental health facility. . . . [W]e have had a number of juveniles who should no more be in our institution than I should be able to fly.”

Detention puts youth at greater risk of self-harm

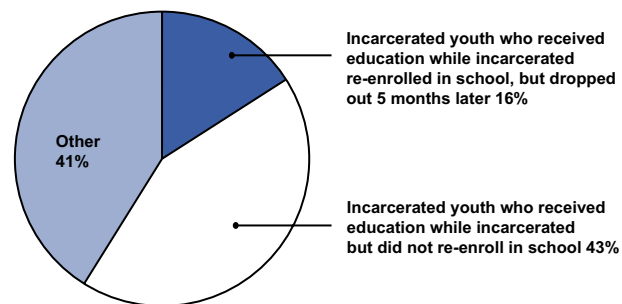
While some researchers have found that the rate of suicide in juvenile institutions is about the same as the community at large,²⁸ others have found that incarcerated youth experience from *double to four times* the suicide rate of youth in community.²⁹ The Office of Juvenile Justice and Delinquency Prevention reports that 11,000 youth engage in more than 17,000 acts of suicidal behavior in the juvenile justice system annually.³⁰ Another monograph published by OJJDP found that juvenile correctional facilities often incorporate responses to suicidal threats and behavior in ways that endanger the youth further, such as placing the youth in isolation.³¹

The Impact of Detention on the Education of Detained Youth

Detained youth with special needs fail to return to school

Juvenile detention interrupts young people's education, and once incarcerated, some youth have a hard time returning to school. A Department of Education study showed that 43 percent of incarcerated youth receiving remedial education services in detention did not return to school after release, and another 16 percent enrolled in school but dropped out after only five months.³² Another researcher found that most incarcerated 9th graders return to school after incarceration but within a year of re-enrolling two-thirds to three-fourths withdraw or drop out of school: After four years, less than 15 percent of these incarcerated 9th graders had completed their secondary education.³³

Detention May Affect Youth's Ability to Re-enroll in School



Source: LeBlanc, (1991), "Unlocking Learning" in Correctional Facilities. Washington, D.C. Department of Education.

In one study, 43 percent of incarcerated youth receiving remedial education services did not return to school after release. Another 16 percent enrolled in school but dropped out after only 5 months.

Young people who leave detention and who do not reattach to schools face collateral risks: High school dropouts face higher unemployment, poorer health (and a shorter life), and earn substantially less than youth who do successfully return and complete school.³⁴ The failure of detained youth to return to school also affects public safety. The U.S. Department of Education reports that dropouts are 3.5 times more likely than high school graduates to be arrested.³⁵ The National Longitudinal Transition Study reveals that approximately 20 percent of all adolescents with disabilities had been arrested after being out of school for two years.³⁶

The Impact of Detention on Employment

Formerly detained youth have reduced success in the labor market

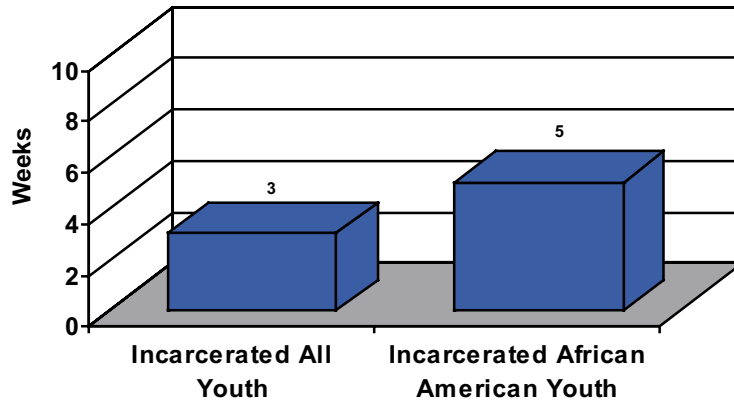
If detention disrupts educational attainment, it logically follows that detention will also impact the employment opportunities for youth as they spiral down a different direction from their

non-detained peers. A growing number of studies show that incarcerating young people has significant immediate and long-term negative employment and economic outcomes.

A study done by academics with the *National Bureau of Economic Research* found that jailing youth (age 16-25) reduced work time over the next decade by 25-30 percent.³⁷ Looking at youth age 14 to 24, Princeton University researchers found that youth who spent some time incarcerated in a youth facility experienced three weeks less work a year (for African-American youth, five weeks less work a year) as compared to youth who had no history of incarceration.³⁸

“Having been in jail is the single most important deterrent to employment...the effect of incarceration on employment years later [is] substantial and significant,” according to the National Bureau of Economic Research.

Annual Estimated Loss of Work Weeks Due to Youth Incarceration



Source: Western, Bruce and Beckett, Katherine (1999), "How Unregulated Is the U.S. Labor Market?: The Penal System as a Labor Market Institution," *The American Journal of Sociology*, 104: 1030-1060.

Due to the disruptions in their education, and the natural life processes that allow young people to "age-out" of crime, one researcher posits, *"the process of incarceration could actually change an individual into a less stable employee."*³⁹

A monograph published by the *National Bureau of Economic Research* has shown that incarcerating large numbers of young people seems to have a negative effect on the economic well-being of their communities. Places that rely most heavily on incarceration reduce the employment opportunities in their communities compared to places that deal with crime by means other than incarceration. *"Areas with the most rapidly rising rates of incarceration are areas in which youths, particularly African-American youths, have had the worst earnings and employment experience."*⁴⁰

The loss of potentially stable employees and workers—and of course, county, state, and federal taxpayers—is one of numerous invisible costs that the overuse of detention imposes on the country and on individual communities.

The Larger Economic Impact of Detention on Communities

Detention is expensive— more expensive than alternatives to detention

The fiscal costs of incarcerating youth are a cause for concern in these budget-strained times. According to Earl Dunlap, head of the National Juvenile Detention Association, the annual average cost per year of a detention bed—depending on geography and cost of living—could range from \$32,000 (\$87 per day) to as high as \$65,000 a year (\$178 per day), with some big cities paying far more. Dunlap says that the cost of building, financing, and operating a single detention bed costs the public between \$1.25 and \$1.5 million over a twenty-year period of time.⁴¹

“It is quite reasonable to suggest that a single detention bed costs the public between \$1.25 and \$1.5 million over a twenty-year period of time.”

—Earl Dunlap, CEO, National Juvenile Detention Association

By contrast, a number of communities that have invested in alternatives to detention have documented the fiscal savings they achieve on a daily basis, in contrast to what they would spend per day on detaining a youth. In New York City (2001), one day in detention (\$385) costs 15 times what it does to send a youth to a detention alternative (\$25).⁴² In Tarrant County, Texas (2004), it costs a community 3.5 times as much to detain a youth per day (\$121) versus a detention alternative (\$35), and even less for electronic monitoring (\$3.75).⁴³

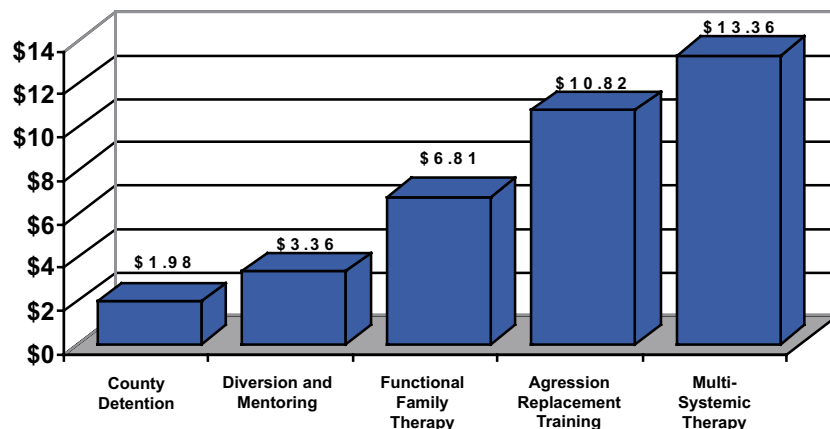
Detention is not cost effective

Whether compared to alternatives in the here and now, or put to rigorous economic efficiency models that account for the long-term costs of crime and incarceration overtime, juvenile detention is not a cost-effective way of promoting public safety, or meeting detained young people’s needs.

The Washington State Institute for Public Policy (WSIPP), a non-partisan research institution that—at legislative direction—studies issues of importance to Washington State, was directed to study the cost effectiveness of the state’s juvenile justice system. WSIPP found that there had been a 43 percent increase in juvenile justice spending during the 1990s, and that the main factor driving those expenditures was the confinement of juvenile offenders. While this increase in spending and juvenile incarceration was associated with a decrease in juvenile crime, WSIPP found, *“the effect of detention on lower crime rates has decreased in recent years as the system expanded. The lesson: confinement works, but it is an expensive way to lower crime rates.”*⁴⁴ The legislature directed them to take the next step, and answer the question, *“Are there less expensive ways to reduce juvenile crime?”*

WSIPP found that, for every dollar spent on county juvenile detention systems, \$1.98 of “benefits” in terms of reduced crime and costs of crime to taxpayers was achieved. By sharp contrast, diversion and mentoring programs produced \$3.36 of benefits for every dollar spent, aggression replacement training produced \$10 of benefits for every dollar spent, and multi-systemic therapy produced \$13 of benefits for every dollar spent. Any inefficiencies in a juvenile justice system that concentrates juvenile justice spending on detention or confinement drains available funds away from interventions that may be more effective at reducing recidivism and promoting public safety.

Cost Effectiveness of Interventions per Dollar Spent



Source: Aos, S. (2002), *The Juvenile Justice System in Washington State: Recommendations to Improve Cost-Effectiveness*. Olympia, Washington: Washington State Institute for Public Policy.

Given the finding by the Journal of Qualitative Criminology that the cost of a youth offender’s crimes and incarceration over their lifetime (including adult) can cost as much as \$1.7 million,⁴⁵ a front-end investment in interventions proven to help young people would seem to be more effective public safety spending.

“The effect of detention on lower crime rates has decreased in recent years as the system expanded... it is an expensive way to lower crime rates.”

—Washington State
Institute for Public
Policy

By the end of the 1990s, the system became more punitive, and every state in the nation had changed their laws in some way to make it easier to incarcerate youth in the adult system. An adult charge often means a young person must be held pre-trial in either a detention center or an adult jail.

The rise of youth detention: policy or politics?

With falling youth crime rates, and a growing body of research that shows that alternatives are less expensive and more effective than detention, why do we continue to spend valuable resources building more locked facilities to detain low-risk youth?

Similar to the fate of the adult criminal justice system, the traditional mission of the juvenile justice system has been altered by the politicization of crime policy in this country.

At the turn of the century, when reformers developed the nation’s first juvenile court in Chicago, Illinois, they set up a separate system for youth to meet the needs of adolescents, acknowledging that youth have different levels of culpability and capacity than adults. They also believed that youth deserved a second chance at rehabilitation. Within 30 years, every state in the nation had a juvenile court system based on the premise that young people were developmentally different than adults.

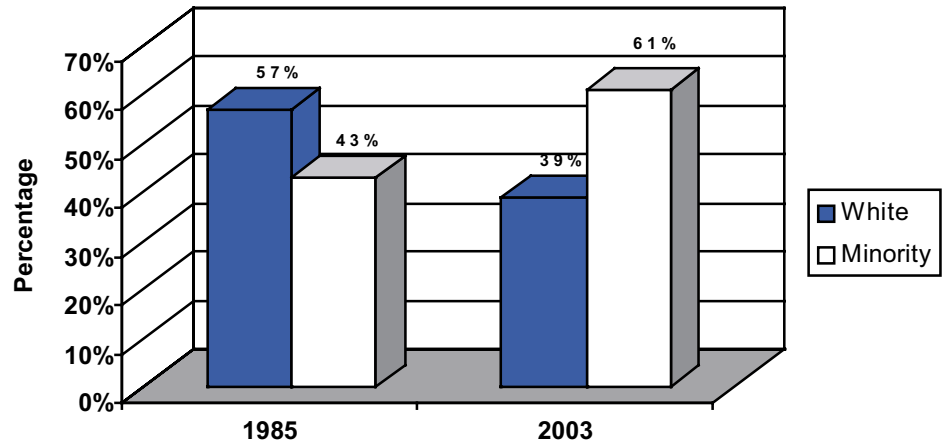
But the “tough-on-crime” concerns of the 1990s changed the priorities and orientation of the juvenile justice system. Rising warnings of youth “superpredators,” “school shootings,” and the amplification of serious episodes of juvenile crime in the biggest cities fueled political momentum to make the system “tougher” on kids. By the end of the 1990s, every state in the nation had changed their laws in some way to make it easier to incarcerate youth in the adult system. As many states made their juvenile justice systems more punitive, the courts made more zealous use of detention.

The rise of youth detention borne by youth of color

The rapid expansion of the use of juvenile detention has hit some communities harder than others. From 1985 to 1995, the number of youth held in secure detention nationwide increased by 72 percent. But during this time, the proportion of white youth in detention actually dropped, while youth of color came to represent a majority of the young people detained. The detained white youth population increased by 21 percent, while the detained minority youth population grew by 76 percent. By 1997, in 30 out of 50 states (which contain 83 percent of the U.S. population) minority youth represented the majority of youth in detention.⁴⁶ Even in states with tiny ethnic and racial minority populations, (like Minnesota, where the general population is 90 percent white, and Pennsylvania, where the general population is 85 percent white) more than half of the detention population are youth of color. In 1997, OJJDP found that in every state in the country (with the exception of Vermont), the minority population of detained youth exceeded their proportion in the general population.⁴⁷

The latest figures show that the shift in the demographics of detention that occurred during the 1980s and 1990s continues today: In 2003 African-American youth were detained at a rate 4.5 higher than whites; and Latino youth were detained at twice the rate of whites. Minority youth represented 61 percent of all youth detained in 2003.⁴⁸

Disproportionate Minority Confinement
Racial and ethnic proportions of the juvenile detention population

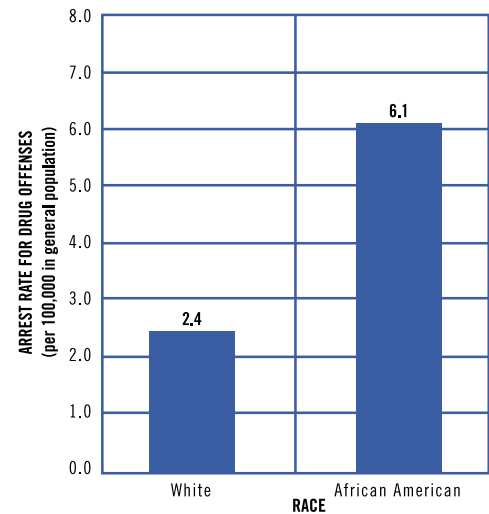
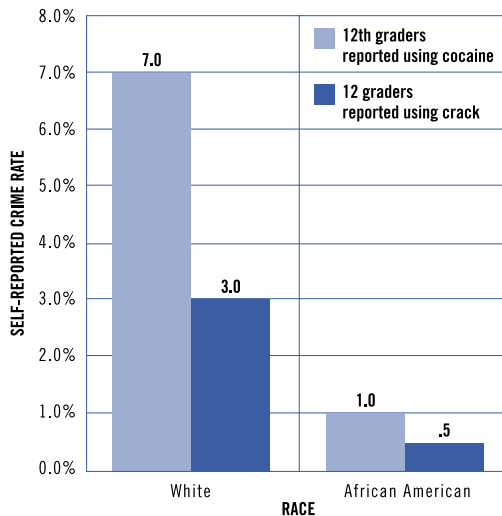


Source: Sickmund, Melissa, Sladky, T.J., and Kang, Wei (2004), "Census of Juveniles in Residential Placement Databook," <http://www.ojdp.ncjrs.org/ojstatbb/cjrp/>.

The greatest levels of racial disparity in the use of detention are found in the least serious offense categories. For example, surveys from the late 1990s found that whites used and sold drugs at rates similar to other races and ethnicities, but that African Americans were detained for drug offenses at more than twice rate of whites.⁴⁹ White youth self-reported using heroin and cocaine at 6 times the rate of African-American youth, but African-American youth are almost three times as likely to be arrested for a drug crime.⁵⁰ On any given day, African Americans comprise nearly half of all youth in the United States detained for a drug offense.⁵¹

WHITE YOUTH REPORT USING DRUGS AT 6 TO 7 TIMES THE RATE OF AFRICAN AMERICANS, BUT AFRICAN AMERICAN YOUTH ARE ARRESTED AT HIGHER RATES THAN WHITES FOR DRUG CRIMES

While white youth and minority youth commit several categories of crime at the same rate, minority youth are more likely to be arrested.



Sources for both graphs: Yamagata, Eileen Poe and Michael A. Jones. *And Justice for Some: Differential Treatment of Minority Youth in the Justice System*. Washington, DC: Building Blocks for Youth, April 2000; *U.S. Population Estimates by Age, Sex, Race, and Hispanic Origin: 1980–1999*. Population Estimates Program, Population Divisions, U.S. Census Bureau, 2000; *Monitoring the Future Report, 1975–1999*, Volume I. Washington, DC: National Institute on Drug Abuse, 2000.

The causes of the disproportionate detention of youth of color are rooted in some of the nation's deepest social problems, many of which may play out in key decision-making points in the juvenile justice system.

While white youth and minority youth commit several categories of crime at the same rate, minority youth are more likely to be arrested. Once arrested, white youth tend to have access to better legal representation and programs and services than minority youth.

People involved in the decision to detain a youth may bring stereotypes to their decision. One study shows that people charged with the decision of holding youth prior to adjudication are more likely to say a white youth's crimes are a product of their environment (i.e. a broken home), while an African-American youth's delinquency is caused by personal failings—even when youth of different races are arrested for similar offenses and have similar offense histories.⁵²

The way to reduce the impact of detention is to reduce the number of youth needlessly or inappropriately detained.

A Better Way: Juvenile Detention Reforms Taking Hold Across the Nation

The way to reduce the impact of detention on young people is to reduce the number of youth needlessly or inappropriately detained. The Juvenile Detention Alternatives Initiative (JDAI) is a response to the inappropriate and unnecessary detention of youth in the nation's juvenile justice systems. JDAI is a public-private partnership being implemented nationwide; pioneering jurisdictions include Santa Cruz County, California; Multnomah County (Portland), Oregon; Bernalillo County (Albuquerque), New Mexico; and Cook County (Chicago), Illinois.

JDAI is a process, not a conventional program, whose goal is to make sure that locked detention is used only when necessary. In pursuing that goal, JDAI restructures the surrounding systems to create improvements that reach far beyond detention alone.

To achieve reductions in detention populations, the JDAI model developed a series of core strategies, which include:

- **Inter-governmental collaboration:** bringing together the key actors in the juvenile justice system—especially courts, probation, and the police—as well as actors outside the justice system such as schools and mental health.
- **Reliance on data:** beginning with data collection and leading to continuous analysis of data as well as the cultural expectation that decisions will be based on information and results.
- **Objective admissions screening:** developing risk assessment instruments and changing procedures so they are always used to guide detention decisions.
- **Alternatives to secure confinement:** creating programs and services in the community to ensure appearance and good behavior pending disposition, and to be available as an option at sentencing.
- **Expedited case processing:** to move cases along so youth don't languish in detention for unnecessarily long time periods.
- **Improved handling of "special cases":** Youth who are detained for technical probation violations, outstanding warrants, and youth pending services or placement create special management problems and need special approaches.
- **Express strategies to reduce racial disparities:** "good government" reforms alone do not eliminate disparities; specific attention is needed to achieve this goal.
- **Improving conditions of confinement:** to ensure that the smaller number of youth who still require secure detention are treated safely, legally, and humanely.

The fundamental measure of JDAI's success is straightforward: a reduction in the number of youth confined on any day and admitted to detention over the course of a year, and a reduction in the number of young people exposed to the dangers inherent in a detention stay.

Detention Reform Decreases Detention Populations: Admissions Impact of JDAI on Select Sites.				
County	Average Daily Population		Annual Admissions	
	Pre-JDAI	2003	Pre-JDAI	2003
Cook	623	454 (-27.1%)	7,438	6,396(-14.0%)
Multnomah	96	33 (-65.6%)	2,915	348 (-88.1%)
Santa Cruz	47	27 (-42.6%)	1,591	972 (-38.9%)

Source: Cook County, Multnomah, and Santa Cruz Probation Departments.

Decreasing the use of detention has not jeopardized public safety. In the counties implementing JDAI, juvenile crime rates fell as much as, or more than, national decreases in juvenile crime. These communities have also experienced an improvement in the number of young people who appear in court after they have been released from detention, further reducing the need for detention.

Detention Reform Coincides with Crime Declines, and Failure to Appear Rates Fall.			
County	Violent Juvenile Arrest Rate (1996-2002)	Failure to Appear	
		Pre-JDAI	2003
Cook	-54%	39%	13%(-66.7%)
Multnomah	-45%	7%	7%
Santa Cruz	-38%	N/A	3%
United States Average	-37%		

Source: Uniform Crime Report, Crime in the United States Survey (1996; 2002); Cook County, Multnomah and Santa Cruz Probation Departments

Like the impact of detention—which can extend beyond the walls of the locked facility—reducing detention populations influences the entire juvenile justice system. In Cook County, the number of youth sent from local detention to state prison beds declined from 902 in 1997 to 498 in 2003, at average annual savings of \$23,000 per bed.⁵³ In addition, more kids who rotated through the juvenile justice system re-enrolled in school and obtained scholarships for college.

Cities and counties engaged in detention reform also note their progress by their acceptance in the community. Cook County engaged system kids and their parents for advice about how to improve the system, and persevered (and supported the staff) through some daunting complaints. In the aftermath, the probation department adjusted its office hours and locations, changed the way it communicated with clients and their families, and institutionalized feedback mechanisms. Now community members are genuinely engaged in decisions including policy formulation, program development, and even hiring. It is not a formal measure, but it leads to improved services and priceless levels of respect and engagement in the community.

A better future: invest juvenile justice funds in programs proven to work

If detention reform is successful, communities should be able to reinvest the funds once spent on detention beds and new detention centers in other youth-serving systems, or other interventions proven to reduce recidivism.

The Center for the Study and Prevention of Violence, the Office of Juvenile Justice and Delinquency Prevention, the Washington State Institute for Public Policy, and a plethora of other research institutes have shown that several programs and initiatives are proven to reduce recidivism and crime in a cost-effective matter. Some common elements in proven programs include:

- Treatment occurs with their family, or in a family-like setting
- Treatment occurs at home, or close to home
- Services are delivered in a culturally respectful and competent manner
- Treatment is built around the youth and family strengths
- A wide range of services and resources are delivered to the youth, as well as their families.

Most of these successful programs are designed to serve the needs of youth in family-like settings, situated as close to home as possible with services delivered in a culturally sensitive and competent manner.

These proven programs identify the various aspects of a youth—their strengths and weaknesses as well as the strengths and resources of their families and communities. Progress is based on realistic outcomes and carefully matches the particular needs of the youth and family to the appropriate intervention strategy.

For online information and assistance on detention reform, visit: www.jdaihelpdesk.org

To learn more about the work and research of the Justice Policy Institute, visit: www.justicepolicy.org.

In the counties implementing JDAI, juvenile crime rates fell as much as, or more than the national decreases in juvenile crime.

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- ¹ Adapted from the publication by Holman, Barry and Ziedenberg, Jason, *The Dangers of Detention: The Impact of Incarcerating Youth in Detention and Other Secure Congregate Facilities* (forthcoming). Baltimore, Maryland: Annie E. Casey Foundation.
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- ⁵ *Ellen Schall, Commission of New York City Department of Juvenile Justice v. Gregory Martin et al. Robert Abrams, Attorney General of New York.* No. 82-1248, 82-1278. (Decided, June 4, 1984).
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- ⁷ Mace, D., Rohde, P., and Gnau, V. (1997), "Psychological Patterns of Depression and Suicidal Behavior of Adolescents in a Juvenile Detention Facility." *Journal of Juvenile Justice and Detention Services* Vol. 12 No. 1 18-23.
- ⁸ Sickmund, M., Sladky, T.J., and Kang, W. (2004), "Census of Juveniles in Residential Placement Databook" <http://www.ojjdp.ncjrs.org/ojstatbb/cjrp/>. In regards to the estimate of the number of youth moving through detention each year, the most recent data available from surveys administered by the National Council on Juvenile Justice (NCJJ) estimate that 350,000 youth were detained in 1999 (OJJDP, 2001b). This figure, however, does not include youth detained while they are awaiting a court-ordered out-of-home placement. Further, according to Dr. Barry Krisberg, "The NCJJ data covers court hearings for detention—many youths come into detention via law enforcement agencies, schools, parents, social service agencies etc, and are released before a court hearing is held—this might also include probation and parole violators in some jurisdictions." Personal correspondence (2003).
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frequently. Others question whether the number of suicides being accounted in more recent studies accurately reflects the true number of suicides in juvenile institutions (Hayes, Personal Communications; 2006). It is beyond the scope of this paper to answer which method yields a more accurate reflection of true youth risk of “successful” suicidal behavior—something resulting in a young person’s death, rather than the kind of self-harm behaviors young people engage in when in custody. As the researcher who finds no difference in “free-world” and juvenile custody suicide rates notes, “any suicide in custody is unacceptable. Its circumstances should be investigated and practice adjusted when possible.” Synder, Howard (2005), “Is Suicide More Common Inside Or Outside of Juvenile Facilities,” *Corrections Today*; Gallagher, Catherine A. and Dobrin, Adam. “The Comparative Risk of Suicide in Juvenile Facilities and the General Population: The Problem of Rate Calculations in High Turnover Institutions.” (forthcoming). *Criminal Justice and Behavior*.

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