

DATA



P ● I N T S



Citizens for Juvenile Justice

DECEMBER 2011

ACKNOWLEDGMENTS

Citizens for Juvenile Justice would like to thank the following agencies and individuals for their assistance:

- Department of Youth Services, in particular Robert Tansi
- Department of Probation, in particular Laura Lempicki
- Massachusetts Sentencing Commission
- Executive Office of Public Safety and Security, in particular Andrew Polk
- Many of CfJJ's past and current interns, including: Lupita Colon, David Farber, Danielle Hamilton, Madeline Levitt, Julia Quinn, Tristan Walsh and Kyle Wibby



MISSION

Citizens for Juvenile Justice (CfJJ) advocates for a fair and effective juvenile justice system in Massachusetts, designed to promote the healthy development of children and youth so they can grow up to live as responsible and productive adults in our communities.

DATA • POINTS

*We can have facts without thinking
but we cannot have thinking without facts.*

JOHN DEWEY

The Massachusetts juvenile justice system should keep and provide data that will enable policy makers and the public to evaluate its fairness and effectiveness.

A system that is designed to protect the public and guide some of our most vulnerable children and youth toward successful lives should be based on knowledge about whether what we are doing is fair and effective. Yet for more than 10 years, basic statistical information about youth involved with the Massachusetts juvenile justice system was unavailable, including: how many children and youth are involved in the system; their gender, race and ethnicity; the nature of their offenses; and the dispositions of their cases. Many key stakeholders in the system either failed to collect this data or refused to make it public.

Fortunately, as the result of internal and external reform efforts, more data has become available over the last year. Taking advantage of this change, CfJJ has compiled current data from police, courts, Probation, and the Department of Youth Services (DYS), Massachusetts' juvenile correctional agency, to prepare this report.

First, the good news: **Juvenile crime is down. The state is spending less incarcerating youth.**

- According to the two most common indicators – arrest rates and arraignment rates – juvenile crime has been on the decline since at least 2007 and remains low in Massachusetts.*
- Secure confinement of youth in DHS, both pre- and post-adjudication, is at the lowest level in over a decade.
- The number of girls committed to DHS has reached a 10-year low.

Now the bad news: **Ineffective allocation of resources, unfair racial disparities and lack of transparency continue to plague the system.**

- Massachusetts still fails to collect and report data about many important decision points, including pre-arraignment diversion and disposition, as well as long-term outcomes for youth involved in the system.
- Racial disparities are increasing throughout the system, despite declining rates of crime among all youth, including youth of color.
- The number of girls committed to DYS has been decreasing at a slower rate than the rate of decline for boys.
- Massachusetts allocates the vast majority of DYS's budget to fund secure residential facilities rather than less costly, more effective programs that hold kids accountable in their own communities.

We hope this report is the first step toward an informed dialogue about the state of our juvenile justice system. We urge stakeholders to continue to collect and share data so that we can present an even more comprehensive report next year. Decision-makers should use this data to engage in thoughtful discussion and debate about how best to improve our system, so that it is both fair and effective.

* This report does *not* attempt to explain the reasons behind the trends or predict future crime rates. We know that crime rates are cyclical and that a multitude of factors (e.g., easy access to guns and increased levels of trauma and victimization of children) contribute to fluctuations.

JUVENILE CRIME RATES DOWN

Juvenile Arrest and Arraignment Rates Have Declined Significantly

In the ten-year period between 1998 and 2008, juvenile arrests in the Commonwealth declined significantly for both property offenses and violent crimes. During those ten years, the rate of juvenile arrests for property crimes declined 33 percent and the arrest rate for violent crimes decreased by 37 percent.¹ Although Massachusetts' juvenile arrest rate trend data is not currently available for all race and ethnic groups, national research indicates that the rate of juvenile arrests is down for all racial groups.²

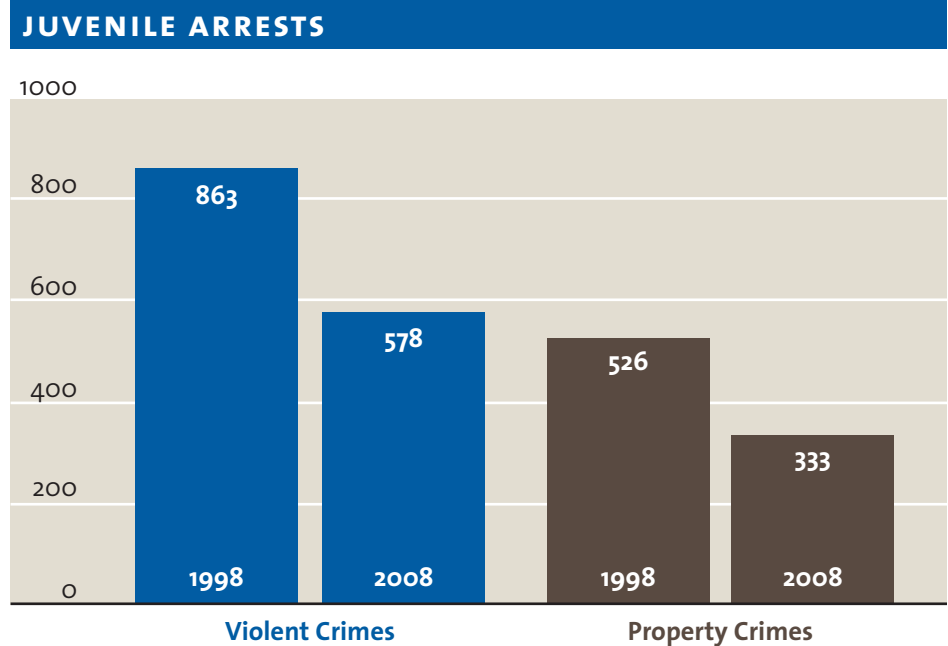
Juvenile arrests, however, do not fully account for the total number of children involved with the juvenile court. The number of juvenile delinquency complaints (i.e. cases filed in court) is a more accurate as-

essment of juvenile crime, as it also includes those children who were referred to court in a process other than arrest, via a clerk's hearing. In 2010, 22,596 juvenile delinquency complaints were issued, involving 9,208 individual youth.³ This marked a 14 percent decrease from the previous year and a 36 percent decrease over the last five years.

Youthful Offender Charges Lowest Since 2003

In 1996, the legislature gave prosecutors the discretion to treat children between the ages of fourteen and seventeen who are accused of serious offenses as "Youthful Offenders."⁴ Though indicted in juvenile court, Youthful Offenders lose the confidentiality protections otherwise available in the court: the court's file and the courtroom are open to the public, including the media. If adjudicated (found guilty) as a Youthful Offender, a youth can receive one of three enhanced sentences:

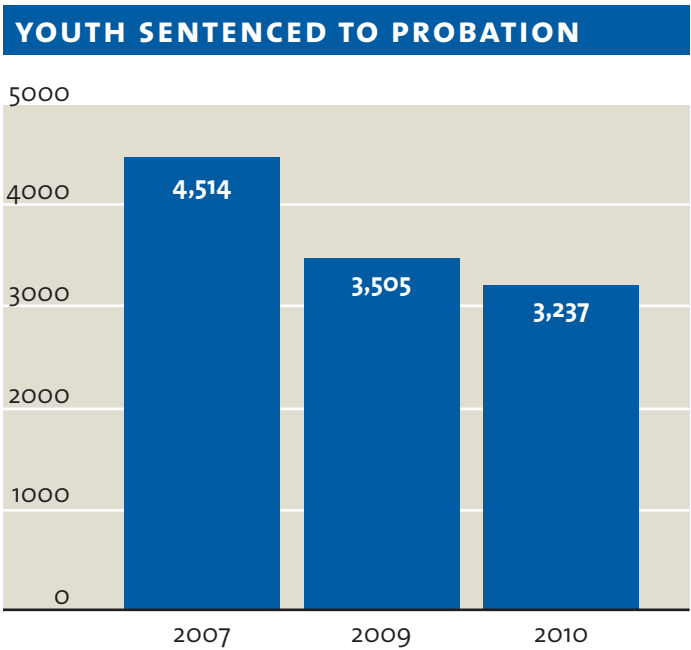
1. Commitment to DYS until age 21 (as opposed to age 18 for youth adjudicated as delinquents);
2. A sentence to an adult jail or prison for the maximum penalty allowed by law for an adult convicted of committing the same crime; or
3. A combination of a commitment to DYS until 21 and an adult suspended sentence.



In 2010, there were 129 youth indicted as Youthful Offenders. This marks the lowest number of Youthful Offenders indicted in the past five years and a 25 percent decrease from 2008.

Court ordered community supervision of youth (probation) continues to decline

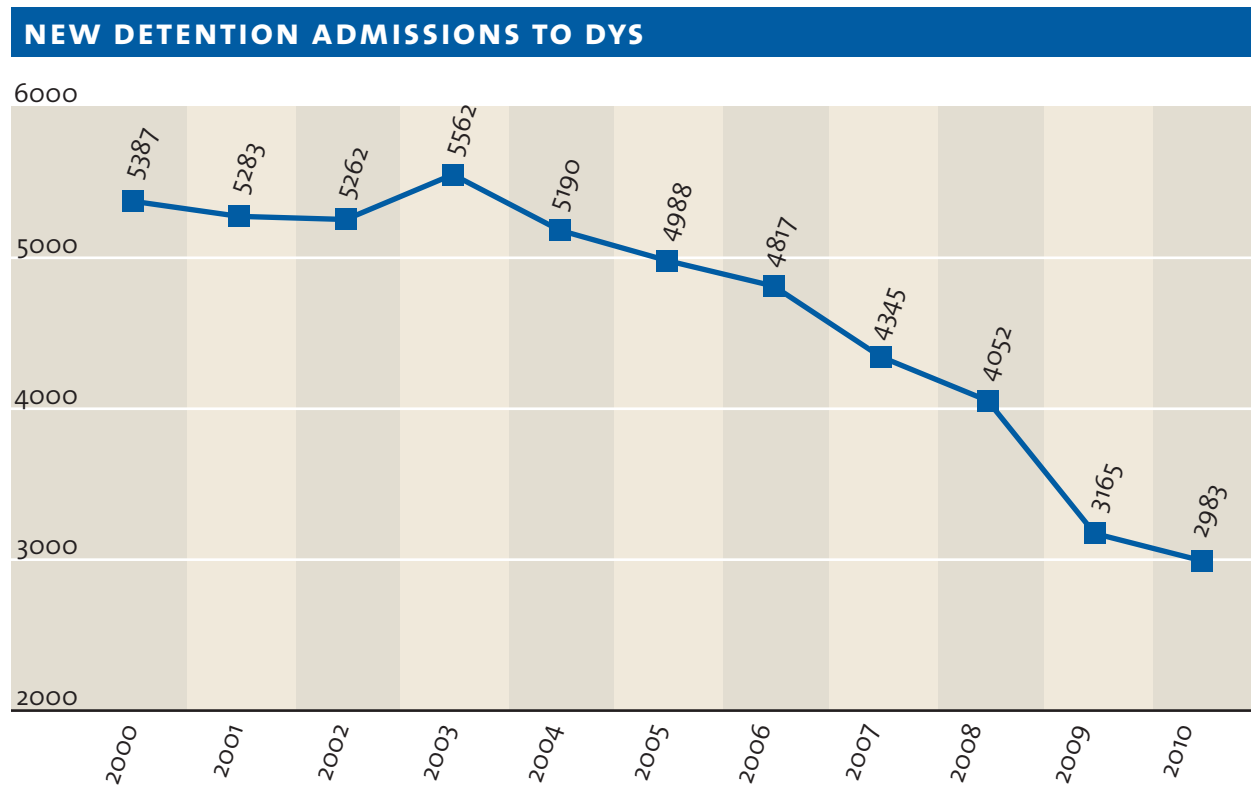
Probation is by far the most common disposition for children involved with the juvenile court. The number of probation cases involving juveniles declined by 28 percent between 2007 and 2010.



MA REDUCES USE OF SECURE CONFINEMENT — WITH BIG COST SAVINGS

Detention Admissions at 10-Year Low

In Massachusetts, the term *detention* is used specifically to refer to the practice of holding youth in secure facilities prior to trial. These children, who are presumed innocent, are most often held because they are found to pose a flight risk; a very small number are held based on



a finding of dangerousness. CfJJ estimates that 80 percent of these youth ultimately have their cases dismissed or resolved in a manner that returns them directly to their communities without any post-adjudication confinement.

Research shows that for most young people, community supervision is more effective and less detrimental than the use of pre-trial detention. It is therefore good news that 2010 pre-trial detention admissions to DYS fell to their lowest level in a decade, a 44 percent decrease since 2000.⁵ While this decline is striking, what is more remarkable is that the bulk of the decrease occurred over a three-year period, from 2006 to 2009.⁶

This dramatic decrease in pre-trial detention can be attributed largely to the leadership of DYS, particularly Commissioner Jane Tewksbury's dedication to implementing the Juvenile Detention Alternatives Initiative (JDAI), a national campaign designed by the Annie E. Casey Foundation to reduce the over-reliance on secure confinement for juveniles.⁷ JDAI uses a variety of strategies, such as promoting objective standards for admission to detention, to reduce the number of children confined inappropriately. Since Massachusetts adopted JDAI and implemented it in the two pilot locations of Suffolk and Worcester Counties in 2007, juvenile detentions have decreased by 35 percent. This decrease outpaced the overall rate of decline in arraignments, which was 23 percent during that same time period. In just one year, from 2008 to 2009, the average daily population in detention dropped 15 percent, from 218 to 185.⁸

JDAI expanded to Middlesex and Essex Counties in 2010. While it is too early to tell, the preliminary data from these counties suggests that the trend will continue: from April 2010 to December 2010, the average daily population in detention in these counties dropped from 176 to 158, or 11 percent.⁹

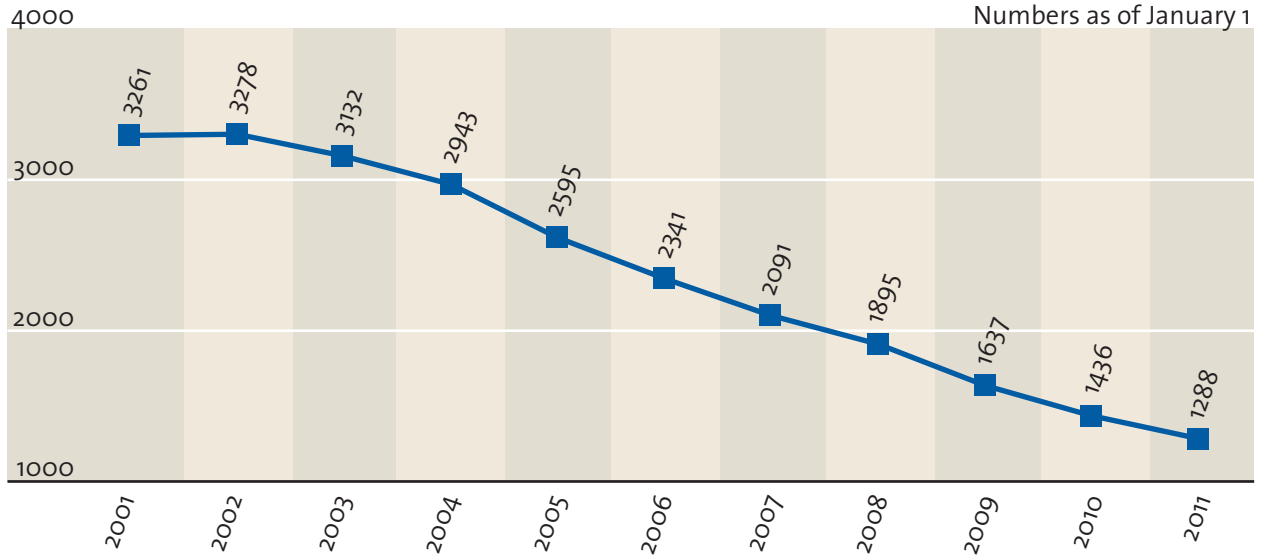
Commitments Down More than 50 percent over 10-Year Period

The most severe sentence that a child can receive as a delinquent is a commitment to DYS until the age of 18. These cases make up 95 percent of DYS's committed caseload. Additionally, Youthful Offenders who are sentenced to juvenile confinement are placed in the custody of DYS until age 21, and they make up 5 percent of the DYS committed caseload.¹⁰

All youth sentenced to DYS are first placed in a secure residential program for 30-45 days for assessment. They are then transferred to either a secure residential facility, a community placement such as a residential group home, a foster home, or their own home with community supervision and supportive services.

In the last decade, the number of new commitments to DYS has fallen dramatically. There were 602 new commitments in 2010, dropping 56 percent from the total of 1,355 in 2000.¹¹ The total committed caseload has had a corresponding reduction in the past decade, with a 61 percent decrease in the total caseload since 2001. Between 2010 and the beginning of 2011 alone there was a ten percent decline in the overall caseload, bringing it to a ten-year low.¹²

DYS COMMITTED CASELOAD



As a result of these decreases in detention and commitment caseloads, DYS has been able to reduce the bed capacity in secure facilities by 30 percent in four years, going from 1,374 total available beds in the beginning of 2007 to 955 total beds in 2011.¹³ The greatest decrease in bed capacity has been in detention, with a whopping 56 percent decrease from 2006 to 2010.¹⁴

Bed Reductions = Huge Cost Savings

Although it is difficult to calculate the exact cost savings resulting from the recent reductions in the use of secure confinement, it is clearly substantial; CfJJ estimates that DYS has saved taxpayers as much as \$37 million since 2007.¹⁵ Continued reductions in the unnecessary use of secure facilities for youth both pre- and post-adjudication should result in even greater short- and long-term cost-savings while *also* resulting in better outcomes for youth and communities, provided that sufficient funding is maintained for appropriate, effective community-based programming.

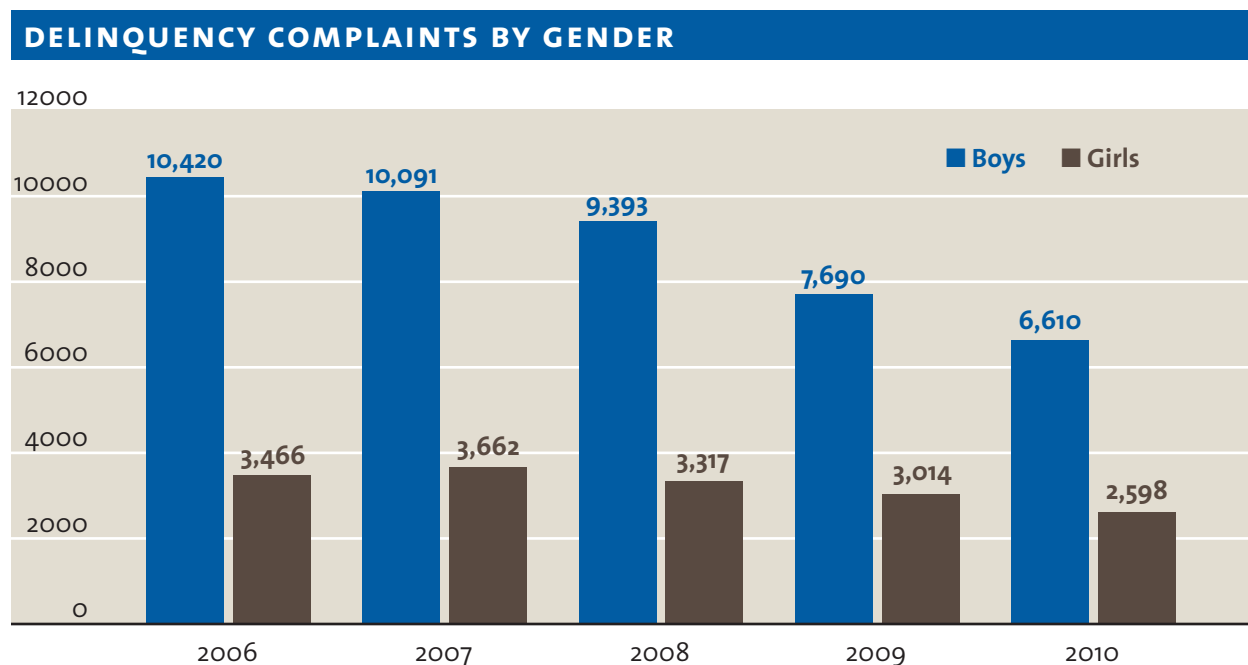
RECIDIVISM RATE DECLINES

The latest recidivism data available from DYS, which tracks the number of “convictions in the adult criminal justice system (either misdemeanor or felony) within twelve months of release from DYS’ service (at age 18 or 21)”¹⁶ indicates that recidivism by juveniles has dropped dramatically over the past decade. From 1996 to 2006, DYS saw a nearly 20 percent decline in recidivism rates, from a peak of 48.6 percent in 1996 to 33.7 percent in 2006. The data on female recidivism is particularly encouraging: between 2003 and 2006, less than 7 percent of females were convicted in the adult criminal system within one year of their release from DYS custody.

One additional measure of re-offending, the percentage of DYS clients who are sentenced again by a judge to DYS (otherwise known as a “recommitment”) also reflects a promising decline. Based on the latest available data, the rate of recommitment to DYS dropped five percent over a five-year period, from 31 percent (or 386 youth) in 2004 to 26 percent (or 243 youth) in 2008.

NUMBER OF GIRLS IN THE SYSTEM REMAINS LOW

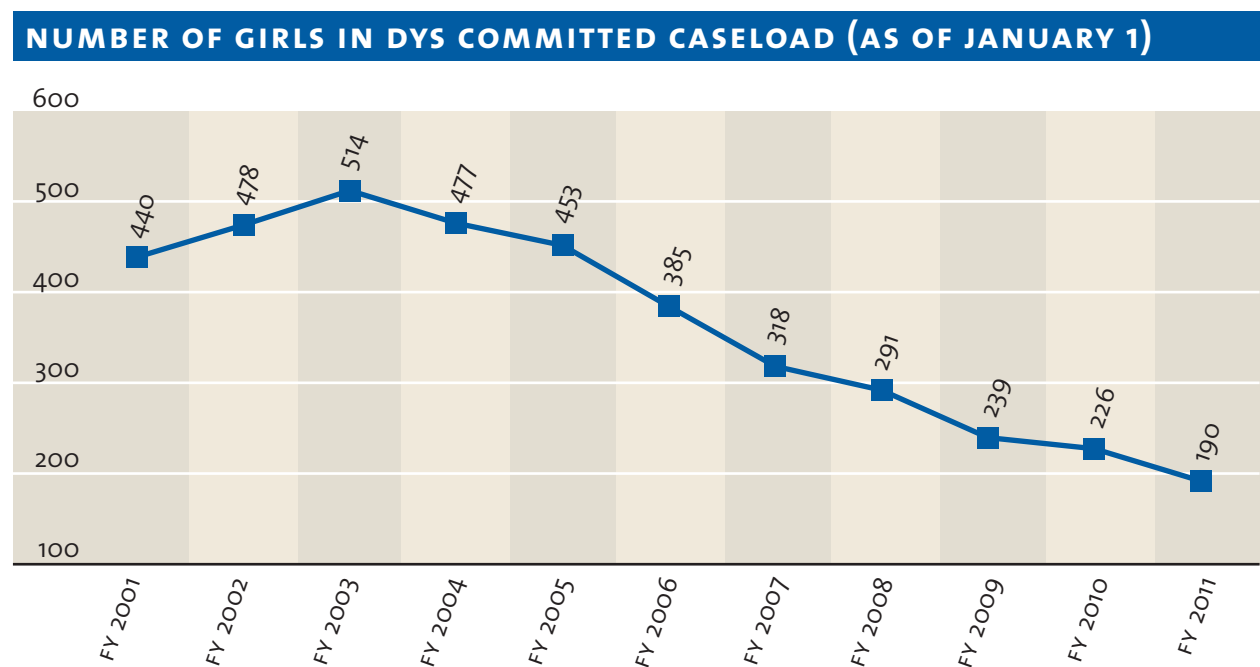
The juvenile justice system was originally designed to serve boys, who made up the vast majority of juvenile offenders for most of the system’s history. But about a decade ago, the number of girls entering the system in Massachusetts, as well as other states, started to rise. Alarm bells began to ring in the academic and advocacy communities.¹⁷ Many experts questioned the assumption that girls were becoming more violent, with alternative explanations for the increased numbers of girls in the system ranging from domestic violence laws mandating arrests of all parties (including girls) involved in physical altercations at home to gender equal-



ity (no longer did police arrest boys and send girls home). One aspect of the rise that most agreed upon was that the juvenile justice system was ill-equipped to handle the influx of girls and lacked appropriate gender-specific services.

Fortunately, the tide appears to have turned once again: less than 28 percent of the juveniles charged with crimes in 2010 were girls and the number of girls entering the juvenile system has declined steeply. The number of girls indicted as Youthful Offenders, already very low, also decreased, from a high of 17 in FY 2002 to 11 during FY 2010.

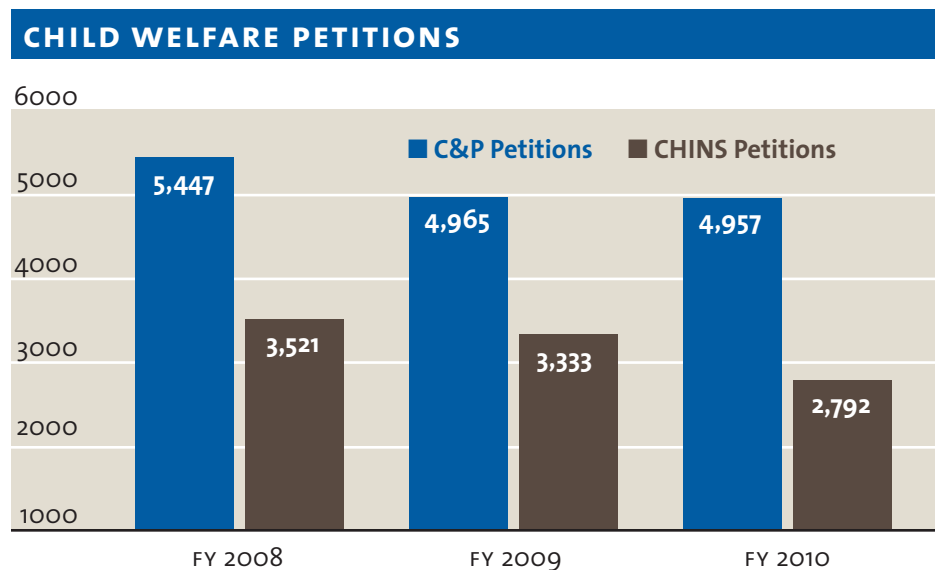
As shown in the chart below, the number of girls committed to DYS custody has also declined steadily in recent years, dropping by 57 percent between January 2003 and January 2011. Girls currently make up just 15 percent of the total committed DYS population.



While the overall decline in the number of girls involved in the juvenile justice system is an encouraging trend, it should be noted that the rate of decline for girls has not quite kept pace with the decrease in the rate of decline in the number of boys involved. For example, from January 1, 2009 to January 1, 2010, the number of girls committed to DYS decreased by 5.4 percent, compared with a 13.4 percent reduction in the number of boys committed to DYS.¹⁸ Accordingly, girls now represent a larger portion of the committed population than they did in 2006.

REDUCTIONS ALSO SEEN IN CHILD WELFARE CASES — A “FEEDER” OF THE JUVENILE JUSTICE SYSTEM

In Massachusetts, as well as nationally, there is a correlation between involvement in the child welfare system and involvement in the juvenile justice system. The Center for Juvenile Justice Reform (CJJR) at the Georgetown University Public Policy Institute has compiled national research on “crossover youth,” defined as youth who have experienced maltreatment and en-



gaged in delinquency, and has found that over half of crossover youth have had multiple contacts with law enforcement. Furthermore, the research compiled by CJJR found that crossover youth have a greater chance of being detained while awaiting trial and received harsher dis-

positions than non-crossover youth.¹⁹ Many professionals in the field believe that whether an at-risk child is placed in the child welfare system or the juvenile justice system is more a result of luck than any other factor; for example, inadequately supervised or neglected kids may act out and therefore come to the attention of police before a teacher or other adult has a chance to bring the child to the attention of child welfare authorities.

In Massachusetts, there is a substantial overlap between youth in the Department of Child and Families (DCF) (our child welfare department) and DYS: nearly 55 percent of youth committed to DYS had received services from DCF prior to their commitment.²⁰ Unfortunately, there is insufficient information about: (1) how many DCF youth become involved in other aspects of the juvenile justice system; (2) what happens to DCF youth once they are involved in the system; (3) whether there is adequate coordination between DCF, Probation and DYS; and (4) whether involvement in the juvenile justice system results from behavior that could have been better addressed through the DCF system.

Many experts believe that an uptick in child welfare cases will eventually translate to an increase in juvenile justice cases. It is good news, then, that from FY 2008 to FY 2010, there was a nearly 21 percent decrease in Care and Protection (C&P) petitions and a 9 percent reduction in CHINS (Child in Need of Services) petitions.²¹ CHINS petitions refer to status offenses, non-criminal behaviors such as running away from home.

TROUBLING RACIAL DISPARITIES PERSIST

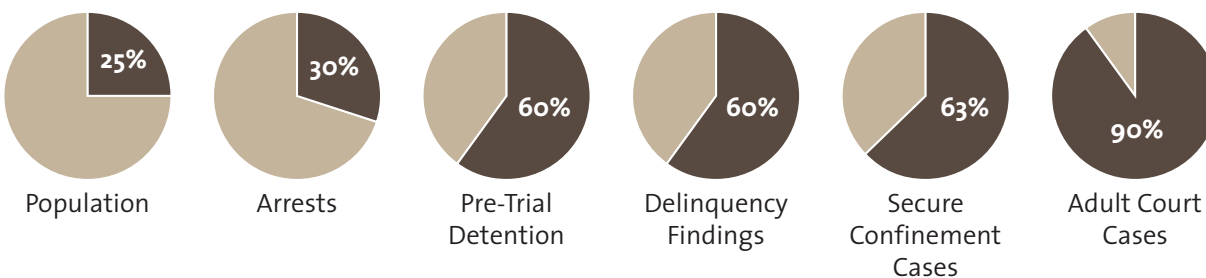
Injustice anywhere is a threat to justice everywhere.

MARTIN LUTHER KING JR.

Unfortunately, racial disparities exist in every juvenile justice system in our country – including Massachusetts – **despite a large body of research showing that there are no differences in the frequency or severity of crimes committed by white youth versus youth of color to justify such disparities.** In 2002, Congress amended the federal Juvenile Justice and Delinquency Prevention Act (JJDP A) to require states to address the issue of disproportionate minority contact (DMC). In order to remain eligible for federal funding, states must enact juvenile delinquency programs designed to both identify areas in which minority youth are overrepresented in the juvenile justice system and to address that overrepresentation.

At this time, Massachusetts does not collect and report the statistical data on the racial and ethnic background of children at every key stage of the juvenile court process, as required by the federal JJDP A. However, due to recent efforts by the Administrative Office of the Trial Court, we now have data for many of the key stages for FY 2007 and FY 2009. This data makes clear that youth of color were overrepresented at arrest, pre-trial detention, finding of delinquency, post-adjudication confinement in secure juvenile correctional facilities, and prosecution in adult court (reserved for cases involving a charge of first- or second-degree murder). While youth of color comprised only 25 percent of the total youth population of Massachusetts in 2009, they accounted for a majority of youth at most of the juvenile justice stages.²²

PERCENTAGE YOUTH OF COLOR AT DIFFERENT STAGES OF THE MA JUVENILE JUSTICE SYSTEM



The data on black youth is particularly distressing. They make up 7.7 percent of the Massachusetts youth population, yet account for 25 percent of juvenile arrests, 25 percent of secure detentions before disposition, 30 percent of cases resulting in delinquent findings, 28 percent of cases resulting in confinement in secure juvenile correctional facilities, and 40 percent of cases prosecuted in adult court.²³

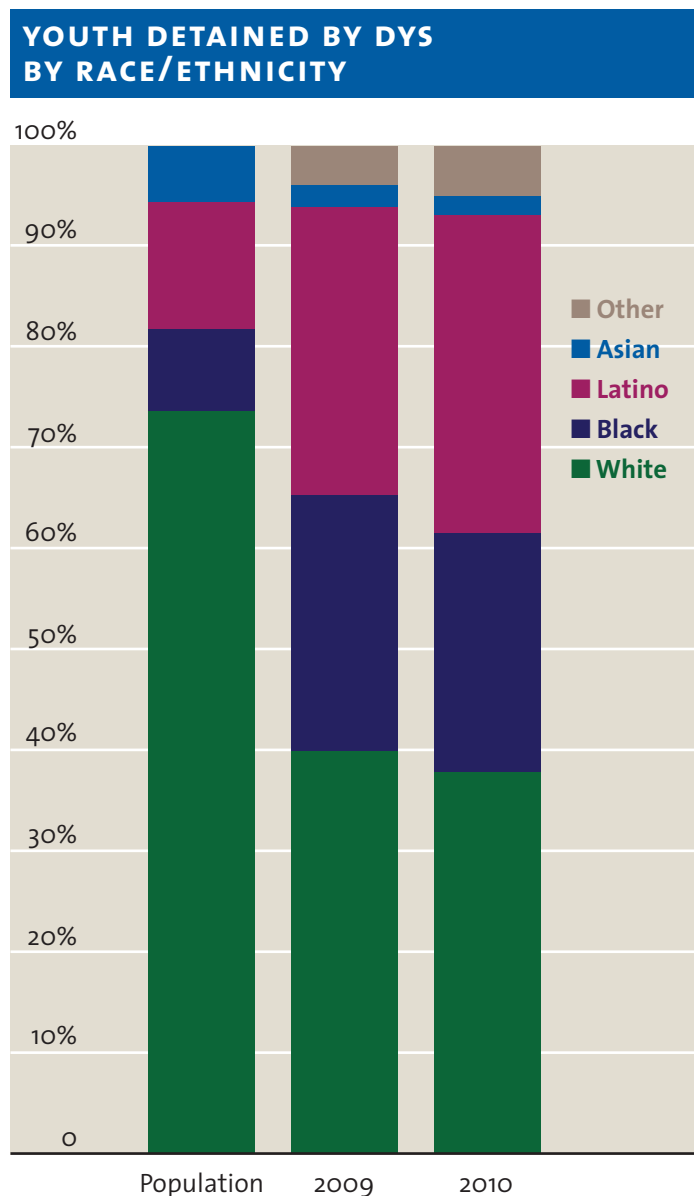
As discussed earlier, the number of youth held in detention has been decreasing dramatically but, unfortunately, these decreases are not racially neutral. From 2006 to 2010, for example, the detention of white youth decreased 42 percent while the detention of youth of color declined by only 27 percent.²⁴ Similarly, while the overall number of youth committed to DYS has been declining, youth of color are not equally sharing in this positive trend.²⁵

Inconsistent Availability of Diversion Programs for Juveniles May Be Worsening DMC

When a youth is arrested or otherwise referred to the court, a decision is made, usually by the district attorney or police, to prosecute the case in court or handle it another way, such as dismissal or diversion. Research has repeatedly demonstrated that diversion programs are an effective and preferable alternative to court processing for many youth, and pre-arraignment diversion programs, such as youth courts, community service or restorative justice programs, education referrals and treatment programs, are common in other parts of the country.

Unfortunately, Massachusetts does not collect data at the state or county level about how many youth are diverted from the juvenile court process altogether by the district attorneys, police or clerk magistrates, or what the results of the diversion efforts are. However, the limited data that is available from the Bristol County District Attorney’s diversion program are encouraging: Bristol reports a 92 percent average compliance rate and has found that 85 percent of defendants do not re-offend within one year and 70 percent of defendants do not re-offend after three years.²⁶

CfJJ is aware of only three counties in Massachusetts that have formal, countywide juvenile diversion programs with official protocols: Barnstable, Bristol and Middlesex. Over 84 percent of youth in these counties are white,²⁷ meaning that it is predominantly white youth who have access to existing diversion opportunities. By contrast, the



three counties with the largest percentage of minority youth residing in their cities, Springfield, Boston, and Worcester, respectively, have no formal, pre-arraignment diversion programs. The low correlation between the number of youth of color and availability of diversion programs in Massachusetts' counties suggests that the only stage of the juvenile court process where youth of color are *underrepresented* is pre-arraignment diversion.

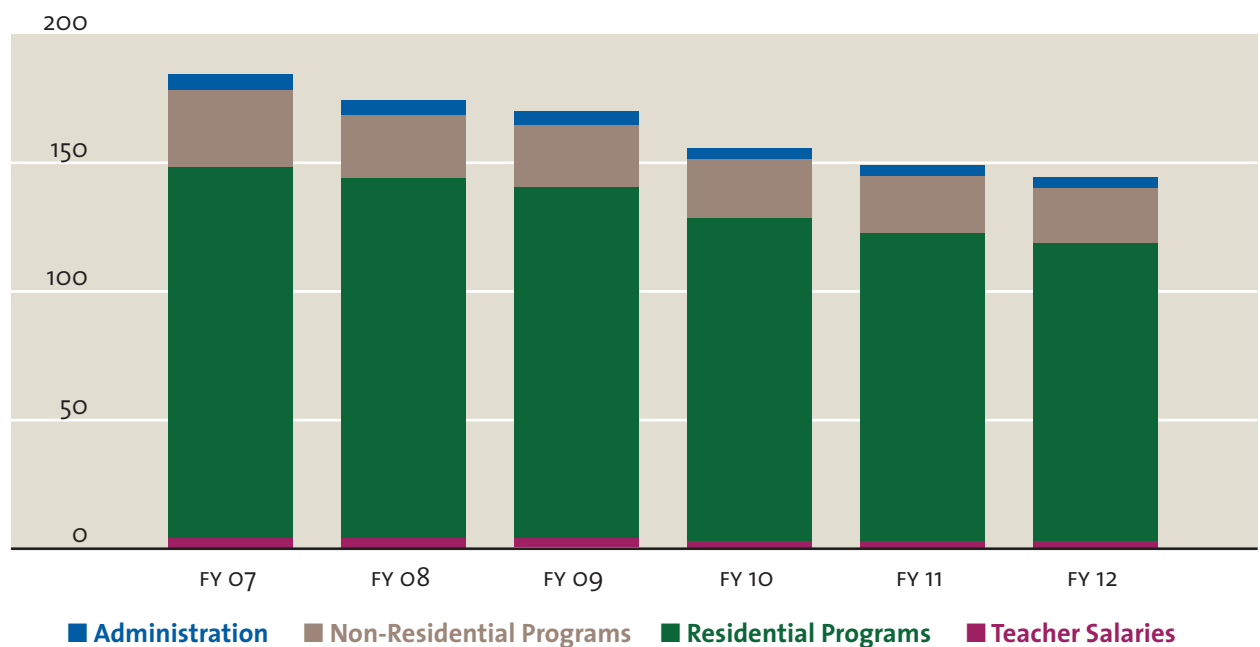
THE DYS BUDGET REMAINS SKEWED TOWARD FUNDING SECURE FACILITIES INSTEAD OF CHEAPER, MORE-EFFECTIVE COMMUNITY PROGRAMS

*We cannot always build the future for our youth,
but we can build our youth for the future.*

FRANKLIN D. ROOSEVELT

Over the years, numerous studies have shown that community-based treatment programs are more effective than secure confinement at preventing recidivism. Despite this body of research, however, the legislature continues to earmark an overwhelming portion of the DYS budget to fund secure residential facilities. For the FY 2012 Budget, for example, DYS was allocated \$142,487,607; the agency received an additional \$1.6 million for residential programs in a supplemental budget. Of this funding, 80 percent is dedicated to secure

DYS BUDGET ADJUSTED FOR INFLATION



residential facilities for both the committed and detained youth populations. In contrast, only 15 percent of funding is dedicated to the support of non-residential, community-based treatment programs.²⁸

While DYS has made progress in reducing its reliance on expensive secure facilities, greater investments in community-based alternatives to detention and commitment could result in even more cost-savings as well as better outcomes for youth. Rather than simply funding DYS to maintain its current structure, the budget should reflect this kind of investment and strategic thinking. Unfortunately, as shown in the chart below, the inflation adjusted DYS budget has declined 20 percent over the past five years, including the funding available for non-residential programming.

CONCLUSION

The test of the morality of a society is what it does for its children.

DIETRICH BONHOEFFER

Overall, the data available for juvenile crime and the juvenile justice system in Massachusetts shows positive strides being made. Juvenile crime and arrest rates are down across the board, and the use of detention and commitment in secure facilities has decreased as well.

The efforts that have led to these decreases should be applauded — and expanded. As discussed above, the benefits of juvenile justice reforms have not reached youth of all races and ethnicities equally. The positive interventions and diversion programs that exist in some communities should be accessible to young people across the Commonwealth.

As has been noted throughout this report, gaps in the available data mean that we still do not have a complete picture of how our youth in the juvenile justice system are faring, or how particular populations of youth are being served. In particular, data is still either missing, incomplete or not made publicly available, at *both* the state and county level, for the following:

- Number and types of offense for which youth are arraigned and indicted, by age, gender, and race/ethnicity.
- Age, gender, race and ethnicity information for *all* points in the system, including arrest, diversion, arraignment/indictment, disposition, and revocations or recommitments.
- Sentencing/disposition outcomes for all youth arraigned or indicted, including the number of cases dismissed or resolved without disposition (including Continuations Without a Finding), given probation, sentenced to DYS, and/or sentenced under the Youthful Offender (YO) statute. This data should be further broken down by age, gender and race/ethnicity.

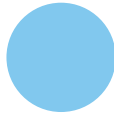
- How the Youthful Offender law is being implemented, including information about how often prosecutors are exercising their discretion to seek YO indictments or adult sentences, as well as the ages, gender, and race/ethnicity of the youth for whom indictments and adult or suspended adult sentences are sought.
- Recidivism information (including re-offense rates) for all youth involved in the system for a three year period, including those served by Probation, also broken down by age, gender and race/ethnicity.
- The number of youth in the system who have current or prior DCF or CHINS cases, as well as the number of youth with special educational needs (identified prior to court proceedings or during the course of proceedings), mental health needs, competency concerns, or potential immigration issues.

Furthermore, there are many youth who are excluded from the juvenile justice system altogether. Massachusetts automatically tries *all* 17-year-olds as adults, even for the most minor offenses. Children as young as 14 who are charged with murder are also automatically tried in adult court and, if convicted, automatically sentenced to adult time, including life without the possibility of parole. Data regarding these young people – how many there are, their gender and race/ethnicity, and the progress and outcomes of their cases – should also be collected and made available to the public.

Massachusetts can be a leader in adopting smart, evidence-based approaches to juvenile crime. But to do so, we must have a clear understanding of how our juvenile justice system is working – who it serves, where it is functioning best, and where it needs to improve. Until recently, many parts of our system failed to track even the most basic information about which kids entered our system and why, let alone what happened to them. As this situation improves, a far richer picture of our system will develop, and the policy choices that are best for youth and communities will come even more sharply into focus.

ENDNOTES

- ¹ Howard N. Snyder, Office of Juvenile Justice and Delinquency Prevention, *Juvenile Arrests 1998* (1999) and Charles Puzzanchera, Office of Juvenile Justice and Delinquency Prevention, *Juvenile Arrests 2008* (2009).
- ² *Id.*
- ³ Juvenile Court Department, *Fiscal Year 2010 Statistics* (2010), available at <http://www.mass.gov/courts/courtsandjudges/courts/juvenilecourt/2010stats.html>. Unless otherwise indicated, all information contained in this report regarding court caseloads is based on data provided by the Massachusetts Trial Courts, available at <http://www.mass.gov/courts/courtsandjudges/courts/stats/index.html>.
- ⁴ Youthful Offender cases involve youth between the ages of 14 and 17 who are charged with a felony and were: (a) previously committed to DYS; (b) charged with a crime that involves the “infliction or threat of serious bodily harm;” or (c) charged with a firearm offense. MGL Ch. 119 § 52.
- ⁵ Department of Youth Services, *Annual Population Analysis—Detention Admissions* (2010).
- ⁶ *Id.*
- ⁷ See generally <http://www.aecf.org/MajorInitiatives/JuvenileDetentionAlternativesInitiative.aspx>.
- ⁸ Jane Tewksbury, Commissioner, Department of Youth Services, Address at the Juvenile Detention Alternatives Initiative Conference (Sep. 15, 2010).
- ⁹ Department of Youth Services, *Detention Population (1st Quarter 2010)* and *Detention Population (4th Quarter 2010)*.
- ¹⁰ See, e.g., Department of Youth Services, *Annual Report* (2009).
- ¹¹ Department of Youth Services, *Annual Population Analysis – New Commitments* (2010).
- ¹² Department of Youth Services, *Annual Population Analysis – Committed Caseload* (2010).
- ¹³ Email from Edward Dolan to CfJJ.
- ¹⁴ *Id.*
- ¹⁵ The cost to taxpayers for a bed in a secure treatment facility, either for a youth who has been ordered by the court to detention or commitment, is estimated to be approximately \$90,000 a year. As DYS has eliminated approximately 419 beds in secure facilities, the total savings is over \$37 million, less the cost of alternative programs and the costs associated with maintaining a full continuum of services. To date, much of the savings DYS has achieved has been taken away from DYS and reallocated to the general fund.
- ¹⁶ All DYS recidivism data is from the Department of Youth Services’ *Juvenile Recidivism Report for Clients Discharged During 2006* (December 2010).
- ¹⁷ See, e.g., Sherman, F., *Detention Reform and Girls: Challenges and Solutions*, Annie E. Casey Foundation, Baltimore, MD (2005), available at http://www.aecf.org/upload/publicationfiles/jdai_pathways_girls.pdf.
- ¹⁸ *Id.*
- ¹⁹ Casey Family Programs and the Center for Juvenile Justice Reform at the Georgetown University Public Policy Institute, *Crossover Youth Practice Model* (2009), <http://cjjr.georgetown.edu/pdfs/cypm/cypm.pdf>
- ²⁰ Mary Silva, Department of Youth Services Public Information Packet. (August 2011)
- ²¹ See note 3.
- ²² Information provided to CfJJ by Andrew Polk, Executive Office of Public Safety and Security.
- ²³ *Id.*
- ²⁴ Massachusetts Juvenile Detention Alternative Initiative “Accomplishment and Challenges,” Powerpoint presentation presented by DYS, October 6, 2011.
- ²⁵ See, e.g., Department of Youth Services, *Annual Report* (2009).
- ²⁶ “By the Numbers: Bristol County Youth Court,” *The Taunton Gazette*, March 11, 2011.
- ²⁷ Office of Juvenile Justice and Delinquency Programs, *Easy Access to Juvenile Populations, 1990-2009: Race by County in Massachusetts* (2009).
- ²⁸ Budget data is from the Massachusetts Budget and Policy Center *Budget Browser*, available at <http://browser.massbudget.org/CompareCurrentYear.aspx?typ=Past>, as well as information about supplemental appropriations provided in FY 2011 and FY 2012 available on the Massachusetts General Court website.



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