

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

JOHN DEWEY

Citizens for Juvenile Justice’s **DATA • POINTS** reports provide policymakers and the public with the information they need to have an informed dialogue about the state of our juvenile justice system — who it serves, where it is functioning best, and where it needs to improve. We believe that 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.

Who Does Our System Serve?

This report provides a snapshot of the youth who come into contact with the Massachusetts juvenile justice system. It focuses on the youth at the “front-end” of our system, those who are arrested or brought to court, and examines both the types of crimes for which youth are arrested or brought to court, as well as their basic demographic profile. To the extent information is available, the report also looks at what is known about the social, health, and other needs or strengths of these young people.

Who is served by the juvenile justice system:

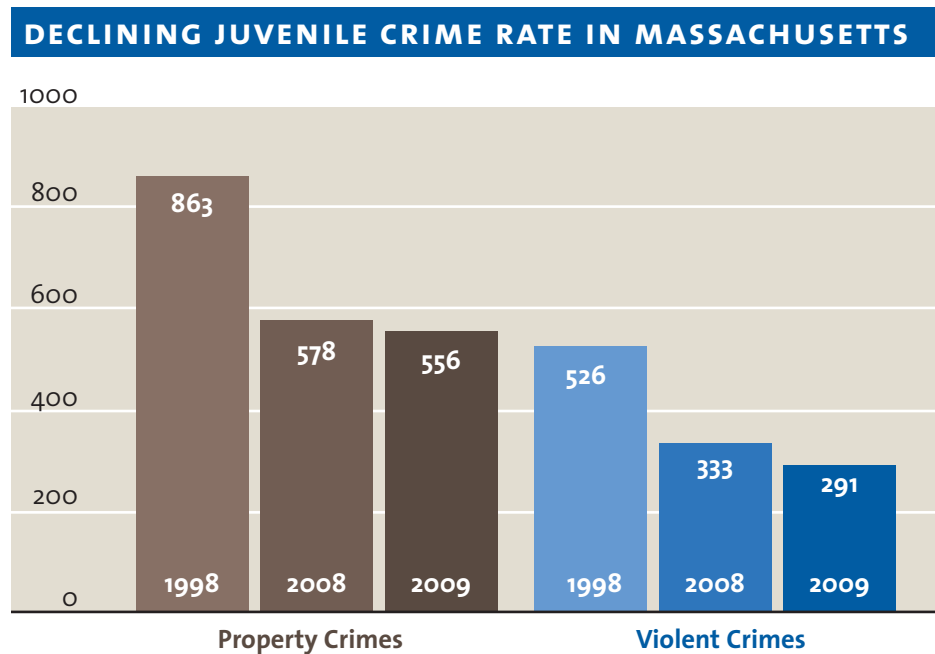
Before we discuss the kinds of youth who are coming into our juvenile justice system, it is important to understand that there are many youth under 18 who are excluded from the juvenile justice system altogether. By law, the Massachusetts juvenile justice system serves youth who are accused of committing a criminal offense or violation of a town ordinance or by-law between their seventh and seventeenth birthdays.¹ The juvenile justice system does not handle youth 14 or older accused of murder, who are automatically tried and sentenced in the adult court system.² And, although they are still considered minors in nearly every other legal context, all 17-year-olds in Massachusetts are automatically charged and tried in adult court regardless of how minor the offense, and if incarcerated, are placed in adult jails and prisons.^{3,4}

JUVENILE CRIME CONTINUES TO DECLINE

One of the most promising trends in juvenile justice is the ongoing decline in juvenile crime over the past 15 years. These declines, which have occurred in jurisdictions across the country,⁵ are reflected in fewer arrests and court filings against teens.

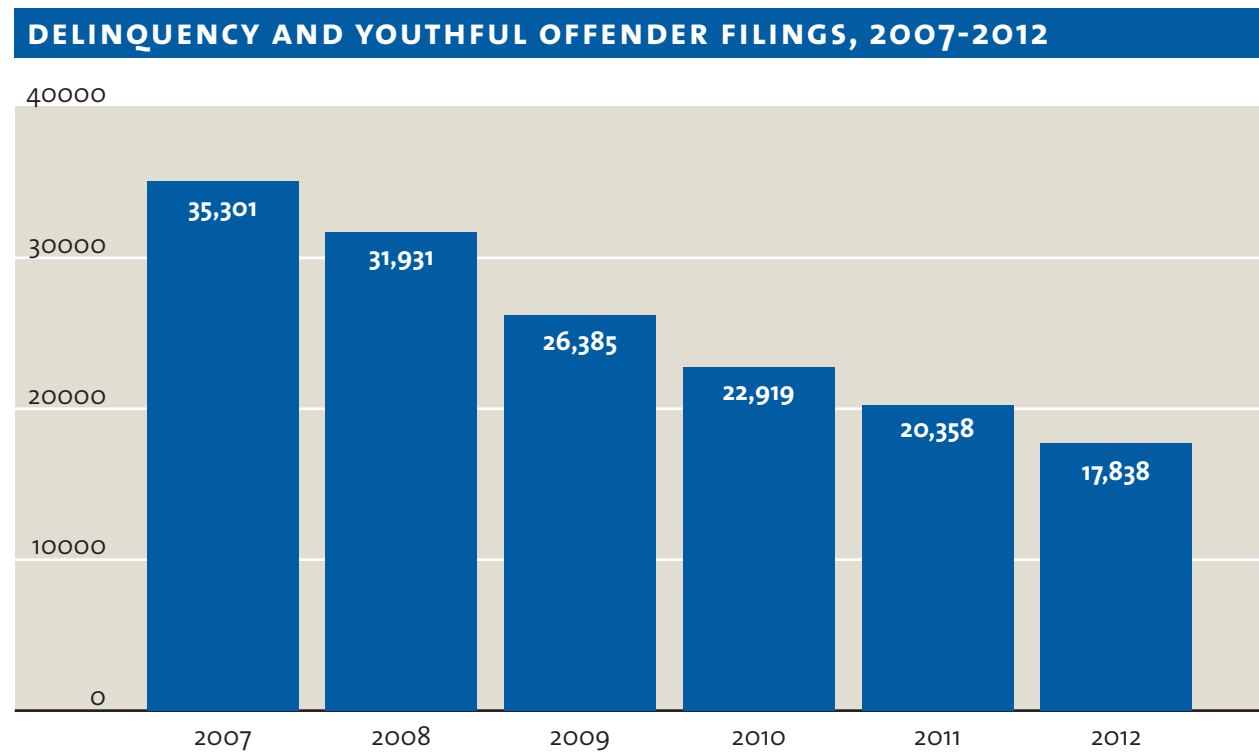
In 2010⁶, there were 15,275 arrests of youth under the age of 18 in Massachusetts, 9,996 of whom were under 17.⁷ Initial data from 2011 indicates that arrests of youth under 18 declined even further in 2011, to 12,149.⁸ This represents a 37 percent decline from 2009, and a 20 percent decline from 2010.⁹

The overall crime rate for both violent and property offenses by youth under 18 also continued to drop, with the violent crime rate declining to 291 per 100,000 youth (an 8 percent decrease from 2008 and a 36 percent decrease from 1998), and the property crime rate declining to 556 per 100,000 youth (a 4 percent decrease from 2008 and a 45 percent decrease from 1998).¹⁰



Not every youth who is arrested is sent to court. While Massachusetts does not keep data on how many youth who are arrested avoid further system contact, national data indicates that roughly 22 percent of youth under 18 who are arrested are informally diverted by police officers prior to charges being filed.¹¹ In addition to police diversion, many jurisdictions around the country offer pre-arraignment diversion through their district attorneys' offices. Unfortunately, pre-arraignment diversion for juveniles in Massachusetts is currently very limited; only a handful of counties offer any programs, and, as of publication, two of the largest counties in Massachusetts — Suffolk and Hampden — offered no formal pre-arraignment diversion programs to juveniles.

Charges (delinquency complaints and Youthful Offender indictments) filed against youth in the Juvenile Courts have also declined steadily for the past decade. In FY 2011, for example, there were 20,084 delinquency complaints and 274 Youthful Offender indictments¹² in Juvenile Courts in the Commonwealth, involving 8,338 individual youth. In FY 2012, the numbers declined even further: there were 17,505 delinquency complaints and 333 Youthful Offender indictments in Juvenile Courts in the Commonwealth. The number of delinquency and Youthful Offender proceedings brought before the Juvenile Courts in 2012 declined nearly 13 percent from just the preceding year, and is down roughly 44 percent from just five years ago, in 2008.



OFFENSE PROFILE OF ARRESTED AND CHARGED YOUTH

The vast majority of crimes for which youth are arrested or charged in Massachusetts are relatively minor. In 2010, for example, only 11 percent of under 17 arrests reported to the FBI were for “violent” offenses (murder/intentional manslaughter, rape, robbery, or aggravated assaults); over half of the arrests were for just five offenses: simple assaults, larceny, disorderly conduct, vandalism, and liquor law violations.¹³

Charging information for the Juvenile Court reflects the same pattern as arrest data, with the vast majority of youth charged with relatively minor, non-violent offenses. Nearly 65 percent of charges filed in the court involved just six types of offenses: assaults (both simple and aggravated); disturbing lawful assembly; disorderly conduct; larceny; destruction of property; and “other public order offenses.”

In 1996, the legislature gave prosecutors the discretion to treat children between the ages of 14 and 17 who are accused of serious offenses as “Youthful Offenders.”¹⁴ Though indicted in Juvenile Court, Youthful Offenders lose the confidentiality protections otherwise available in the court and, if adjudicated (found guilty) may receive an adult sentence, a Department of Youth Services commitment until age 21, or a combination of a commitment to DYS until 21 and an adult suspended sentence.

Fewer than 2 percent of the charges in Juvenile Court involved Youthful Offender offenses in 2011.¹⁵ In 2011, there were 274 Youthful Offender indictments, a 15 percent reduction from 2010 and a nearly 30 percent decrease from 2007.

DEMOGRAPHIC PROFILE OF YOUTH ENTERING THE MASSACHUSETTS JUVENILE JUSTICE SYSTEM

While basic demographic information about the youth involved in the Massachusetts juvenile justice system is incomplete, we do know some things about the youth who were arrested or charged in Massachusetts in 2011, in particular their races/ethnicities, gender, ages, and the counties in which they were prosecuted.

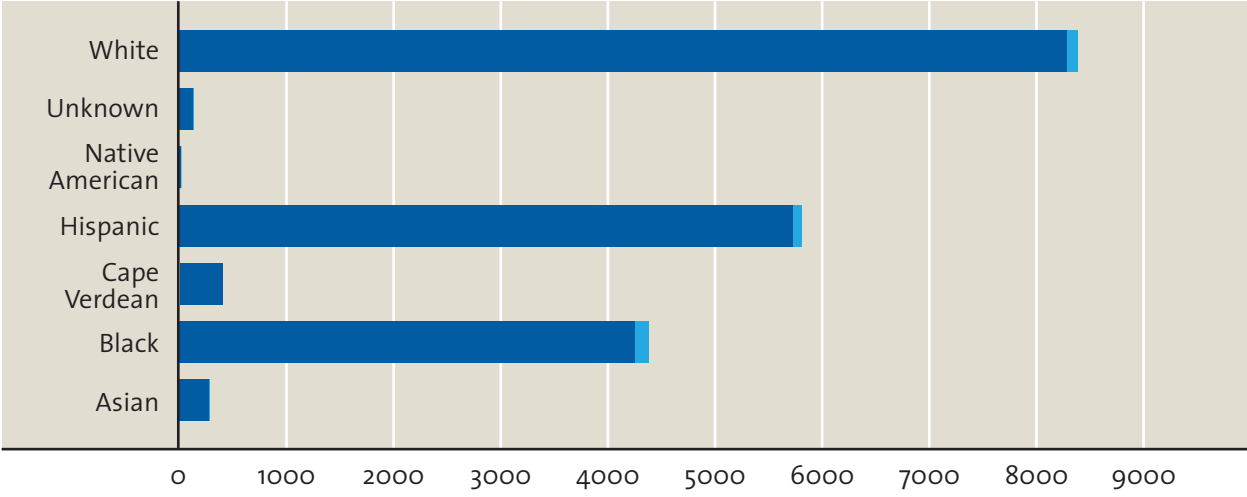
Race and Ethnicity

Youth of color are disproportionately represented at the front end of our juvenile justice system. Based on charging data provided by the Department of Probation, White youth were involved in 43 percent of the charges filed in Juvenile Court in 2011, followed by Hispanic (30 percent), African-American (23 percent), Cape Verdean (2 percent), Asian (1.5 percent), and Native American and “Unknown” youth in the remaining cases (<1 percent).¹⁶ Youth of color were disproportionately represented in Youthful Offender (YO) cases as well: 38 percent of those charges were attributed to African-American youth, 32 percent to White youth, 25 percent to Hispanic youth, 2 percent for both Cape Verdean and Asian youth, and <1 percent “Unknown.”

Although FBI arrest data does not include any information about ethnicity, the data that is available confirms that youth of color are entering the juvenile justice system at higher rates than white youth. Of the 14,860 youth under 17 arrested in Massachusetts in 2010, 76 percent were identified as White, 22.3 percent as Black, 1.6 percent as Asian, and .1 percent as Native American.¹⁷

While these disparities are concerning and require further study, it is important to note that national research has repeatedly confirmed that the over-representation of youth of color at the front end of the juvenile justice system is not due to higher levels of criminal behavior. Rather, a multitude of other factors, including the fact that youth of color often live in denser, more heavily policed areas, and are less likely to live in areas that use informal diversion (such as a police officer calling a parent instead of a prosecutor), may account for much of the disparity.

JUVENILE COURT CHARGES BY RACE (2011)



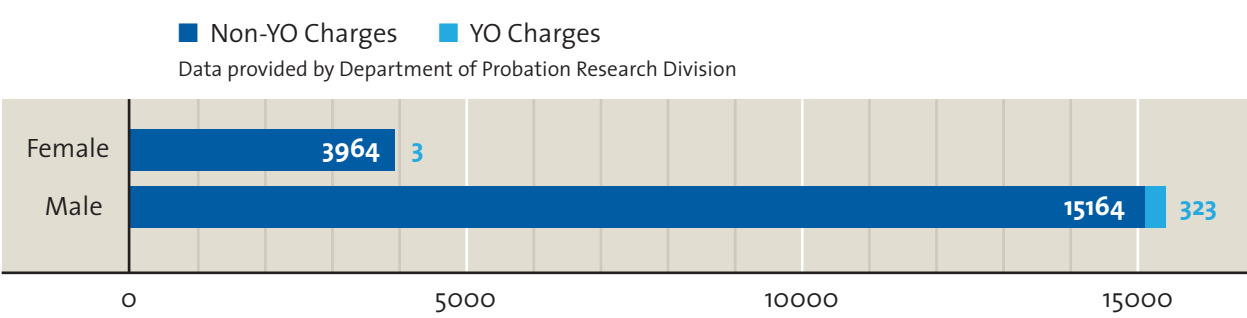
	Asian	Black	Cape Verdean	Hispanic	Native American	Unknown	White
■ Non-YO Charges	275	4265	400	5744	13	125	8306
■ YO Charges	7	126	7	82	0	1	103

Gender

Girls' involvement in the juvenile justice system has received increased attention in recent years.¹⁸ While girls still make up a much smaller percentage of the Juvenile Court caseload than boys (and are underrepresented in the system compared to their presence in the population), their presence in the system has grown in the past decade. The reasons for this increase are varied, but may include increased enforcement of domestic violence laws mandating arrests of all parties (including girls) involved in physical altercations at home to increasing gender equality (police are more likely to arrest girls for the same behavior for which they have historically arrested boys).

The vast majority of juvenile arrests (70 percent) in the Commonwealth involve boys.¹⁹ However, according to FBI arrest data for all youth under 18, girls were over-represented in arrests

JUVENILE COURT CHARGES BY GENDER (2011)



■ Non-YO Charges ■ YO Charges
Data provided by Department of Probation Research Division

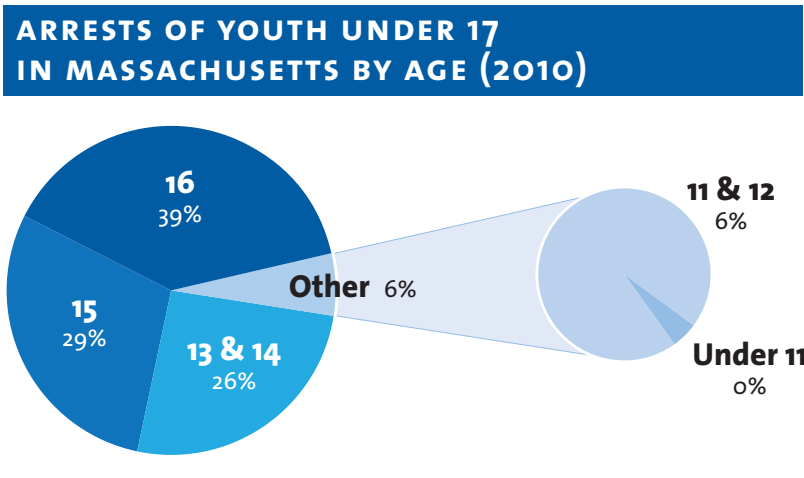
for certain categories, including: larceny (40 percent of all youth arrests), simple assaults (37 percent), fraud (34 percent), prostitution (75 percent)²⁰, offenses against family or children (44 percent), liquor law violations (35 percent), and public drunkenness (44 percent).²¹

Based on the available arrest data it appears that girls may be less likely to be referred to the Juvenile Court for potential criminal activity than boys. Thus, while girls made up 30 percent of reported arrests in the most recent year available, they were involved in only 20 percent of the charges filed in Juvenile Courts in 2011.

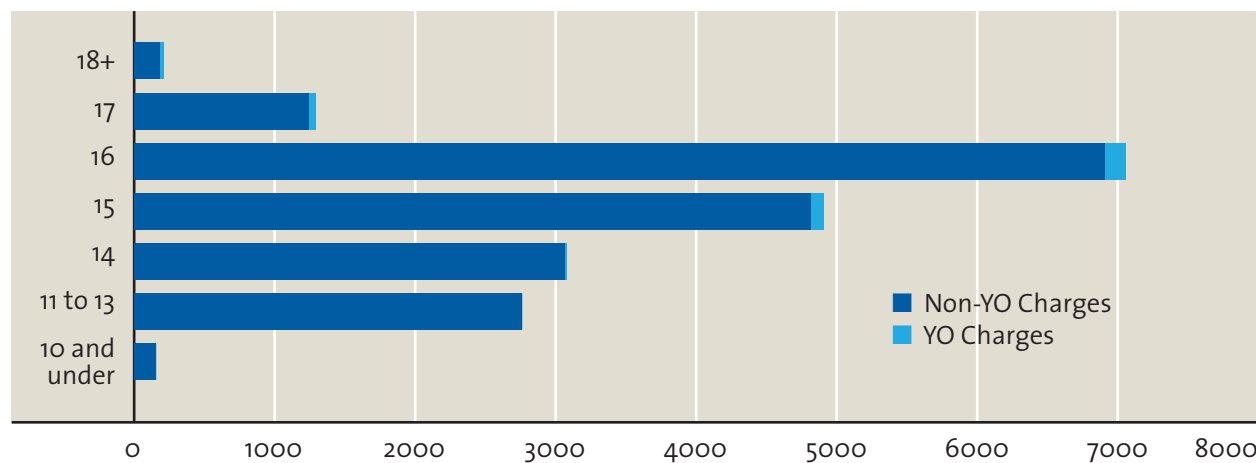
Age

While the majority of juvenile arrests and charges in the Commonwealth involve youth aged 13 to 16, the system does serve a handful of young children. In 2010, for example, 6 percent of the total arrests involved youth aged 12 or younger.

Charging data confirms that Massachusetts continues to process a number of very young teens and children in our juvenile justice system. As with older teens, the majority of these cases involve simple assaults or public order offenses.²²



JUVENILE COURT CHARGES BY AGE (2011)

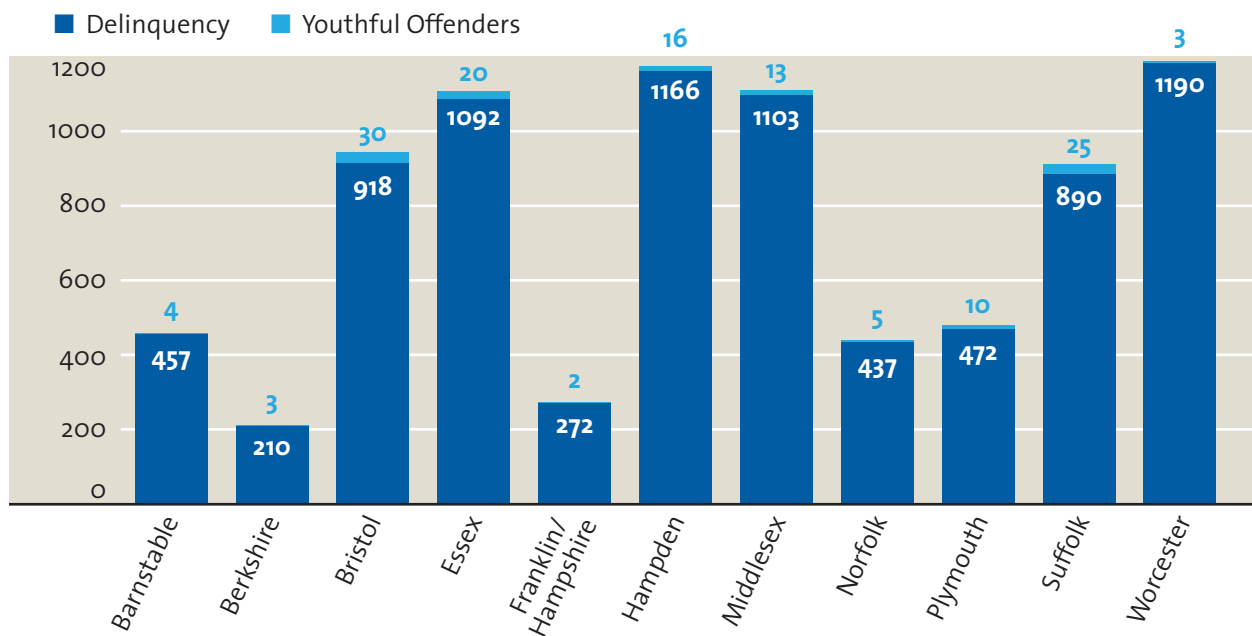


County

While Massachusetts has juvenile courts in every county in the Commonwealth, some counties do see more activity than others. Notably, the number of cases brought in a particular county does not appear to be directly related to the size of the county's youth population.

Worcester County had the highest overall caseload in the state (1,193 individuals or 14.3 percent of the cases), followed by Hampden, Middlesex and Essex Counties. Berkshire and Franklin Counties had the lowest caseloads.²³ While Worcester had the highest delinquency caseload, it also had one of the lowest levels of YO indictments (only 3 in 2011, or 2.3 percent of the statewide YO caseload). Conversely, Bristol County had only 11.4 percent of the caseload statewide, but 23 percent of the YO cases.

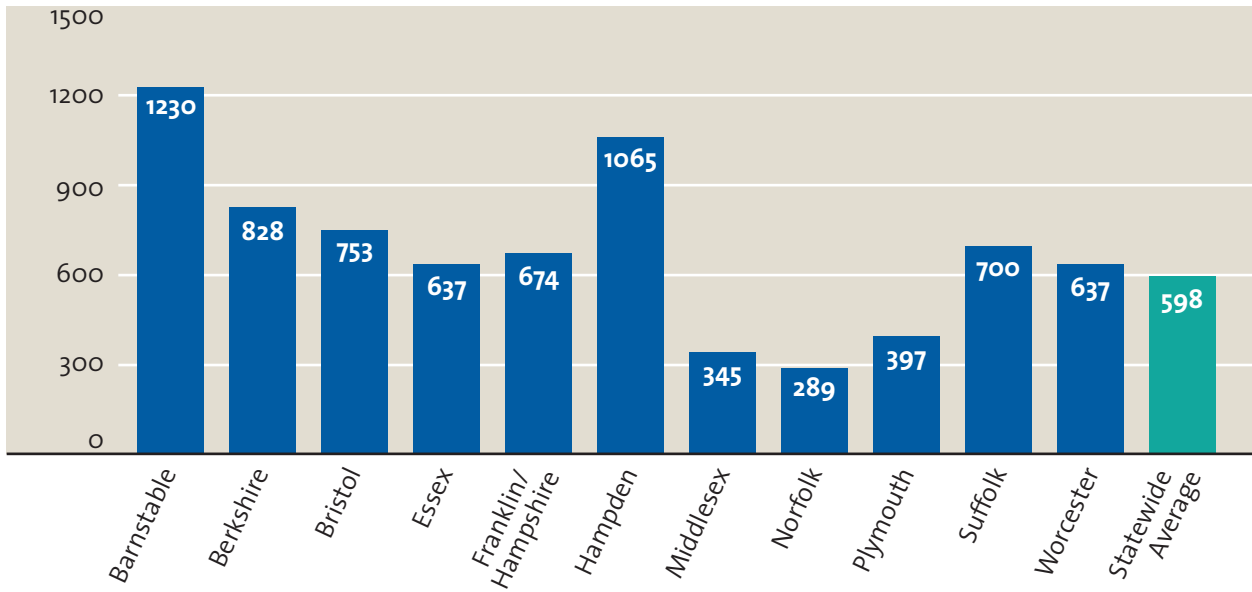
INDIVIDUALS BROUGHT BEFORE JUVENILE COURT BY COUNTY (2011)



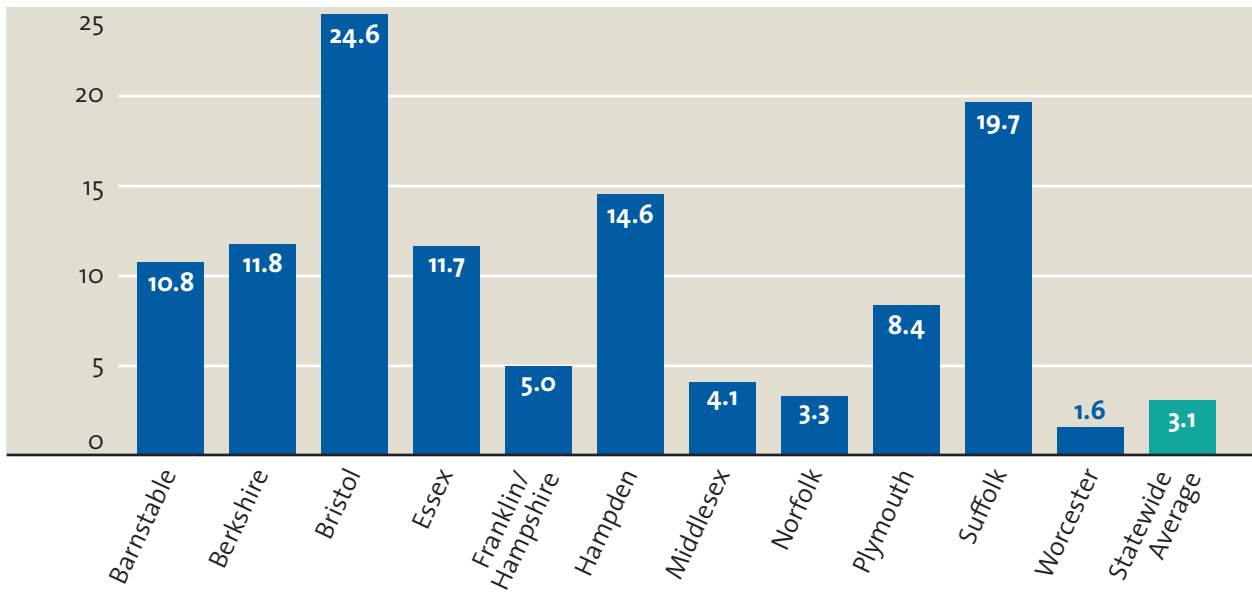
Because the counties vary significantly in terms of youth population, it is useful to evaluate the rate of juvenile court complaints — the number of youth charged per 100,000 youth under age 18 in each county.²⁴

As is clear from the charts on the next page, some counties have significantly higher rates of either delinquency and/or youthful offender filings given their youth population. The delinquency charging rates in Barnstable and Hampden counties, for example, are 2 or 3 times higher than some other counties, and roughly twice the statewide average. The youthful offender charging rates in Bristol and Suffolk Counties are 8 and 6 times the state average, respectively. By contrast, while Middlesex County has one of the highest delinquency caseloads in the state, its rate of prosecution for delinquency cases is below the statewide average.

DELINQUENCY CHARGES PER 100,000 YOUTH



YOUTHFUL OFFENDER CHARGES PER 100,000 YOUTH



ASSETS AND NEEDS PROFILE OF YOUTH IN THE MASSACHUSETTS JUVENILE JUSTICE SYSTEM

Unfortunately, some of the most important information we need to know about our juvenile justice system — the strengths, needs and social backgrounds of the youth who come into contact with it — is not currently tracked in any systematic way. We have no idea, for example, how many of the youth who are arrested or charged are out of school, have unmet special education, mental health or substance abuse needs, are suffering from trauma, lack adequate housing, or are currently or were previously involved in the child welfare system. While DYS tracks some of this information for the youth who come into its care, DYS serves only a fraction of the youth who come into contact with the juvenile justice system, and the profile of these youth is unlikely to be representative of the system as a whole.

We also know disturbingly little about the assets or potential strengths that youth in the system bring with them — whether or not they have caring adults (parents or non-parents) in their lives, are employed, are involved in sports or other programs that promote leadership and confidence skills, or have learned constructive ways to deal with stress or interpersonal conflicts in their lives.

The limited data we do have suggests that many of the youth who come into contact with the juvenile justice system have inadequately addressed educational, physical and behavioral health needs. For example, in 2011, out of the total juvenile “Risk/Need” Probation population of 2,759 youth, 74.4 percent were identified as having a “counseling need,” and 84.6 percent of youth were identified as having an “educational need.”²⁵ Nearly 90 percent were identified as having a “school discipline problem” and 60.7 percent had a “Substance Abuse Problem.” Roughly 40 percent of youth had had prior contact with the juvenile justice system, and 20 percent of youth had had two or more residence changes within the past year.²⁶

Based on data available from DYS (the only youth serving agency in the Commonwealth that appears to track this information), a disturbing number of youth who come into contact with the system are being currently served by the child welfare system, raising serious questions about whether the services provided by the Department of Children and Families (DCF) are adequate to meet the needs of the youth in its care. In 2011, for example, 38 percent of the youth held in pre-trial detention facilities in the Commonwealth had open cases with DCF.²⁷ Over half of the girls detained with DYS during 2011 had an open DCF case (including 62 percent of Hispanic girls).²⁸

Seventeen-year-olds

One additional group of youth deserves special mention because it is not currently included in our juvenile justice system: 17-year-olds. Massachusetts is one of the few states in the country that automatically sends all 17-year-olds charged with crimes into the adult criminal system, regardless of their offense. Although the vast majority of 17-year-olds are charged with minor, non-violent offenses, they are held with older criminal offenders in adult jails and prisons, where they are at much higher risk for suicide or victimization. Seventeen-year-olds incarcerated in adult facilities are not required to attend school, nor are they consistently provided with the services they need to become responsible adults, as would be the case in the juvenile system. Parents do not have the right to be notified of either their child's arrest or any of the charges against him or her.

FBI arrest data for Massachusetts confirms that 17-year-olds are arrested for the same, predominantly low-level, non-violent offenses as younger teens. In 2009 and 2010, law enforcement officials reported arresting 5,888 and 5,279 17-year-olds, respectively, compared with 11,051 and 9,996 juveniles under 17.²⁹ Like younger teens, the majority of 17-year-olds are arrested for relatively minor offenses, including larceny/theft, simple assaults, liquor law violations and disorderly conduct.³⁰ In fact, compared with their younger peers, 17-year-olds are slightly less likely to be arrested for "violent" offenses (9.3 percent versus 11.7 percent of under 17 arrests in 2009, 9.5 percent versus 11 percent of under 17 arrests in 2010).³¹

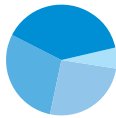
Based on available arraignment data, the vast majority (over 85 percent) of 17-year-olds who are charged with a crime in adult criminal court are charged with assaults or non-violent offenses.³²

According to the most recent data provided to CfJJ by the Department of Probation, the number of 17-year-olds formally charged in adult court in 2011 was 3,338. This is a 13 percent decline from 2010 and a 22 percent decline from 2009. Approximately 25 percent of 17-year-olds arraignments involved girls. 61 percent of the youth arraigned were White, 20 percent African-American, 17 percent Hispanic, and 1.5 percent Asian.

ENDNOTES

- ¹ See MGL Ch. 119 § 52 et seq. Although the system only serves youth who commit offenses before they turn 17, the system may have custody or supervision of youth up to the age of 18 (for delinquency cases) or 21 (for youthful offender cases).
- ² See MGL Ch. 119 § 74.
- ³ See further discussion, *Minor Transgressions, Major Consequences: Seventeen Year Olds in the Massachusetts Criminal Justice System* (Citizens for Juvenile Justice, December 2011) at pp. iii-vi. Available at <http://www.cfjj.org/minor-transgressions.php>.
- ⁴ The continuing incarceration of seventeen year olds alongside adults violates new provisions under the federal Prison Rape Elimination Act (PREA), which now requires that youth under 18 be segregated from adult inmates in all housing situations, even if they are defined as “adults” under state law. See 28 CFR §§ 115.14, 115.114. Full rule available at http://www.ojp.usdoj.gov/programs/pdfs/prea_final_rule.pdf.
- ⁵ JUVENILE ARRESTS 2009 (OJJDP, December 2011).
- ⁶ The most recent year for which detailed FBI arrest data is available for Massachusetts youth.
- ⁷ 2009 and 2010 Massachusetts Arrests by State detailed UCR data set, provided to CfJJ by the FBI Criminal Justice Information Services (CJIS) Division (hereinafter “FBI Arrest Data”). On file with CfJJ.
- ⁸ “Arrests by State” in CRIME IN THE UNITED STATES 2011 (FBI Criminal Justice Information Services Division). Available at http://www.fbi.gov/about-us/cjis/ucr/crime-in-the-u.s/2011/crime-in-the-u.s.-2011/tables/table_69_arrest_by_state_2011.xls.
- ⁹ Arrests of 17-year-olds were actually down over 10 percent.
- ¹⁰ JUVENILE ARRESTS 2009 (OJJDP, December 2011). Available at <http://www.ojjdp.gov/pubs/236477.pdf>.
- ¹¹ “Police Disposition of Juvenile Offenders Taken into Custody” in CRIME IN THE UNITED STATES 2011 (FBI Criminal Justice Information Services Division,). Available at http://www.fbi.gov/about-us/cjis/ucr/crime-in-the-u.s/2011/crime-in-the-u.s.-2011/tables/table_68_police_disposition_juvenile_offenders_taken_into_custody_2011.xls.
- ¹² Juvenile Court Department Statistics, FY 2011 (hereinafter “2011 Juvenile Court Statistics”). Available at <http://www.mass.gov/courts/courtsandjudges/courts/juvenilecourt/2011stats.html>.
- ¹³ 2010 FBI Arrest Data.
- ¹⁴ 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.
- ¹⁵ Data provided by the Department of Probation Research Division. On file with CfJJ.
- ¹⁶ According to the most recent Census data (2011), the following racial and ethnic groups were represented among children under 18 (percent of youth population): Non-Hispanic White (67.5 percent), Black (8 percent), Asian (6 percent), Multiracial (3.5 percent), Other/Unknown (7 percent), Hispanic Origin (White and non-White)(15 percent). U.S. Census Bureau Population Statistics.
- ¹⁷ 2010 FBI Arrest Data.
- ¹⁸ 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.
- ¹⁹ 2010 FBI Arrest Data.
- ²⁰ There were only four total arrests of youth under 18 for prostitution in 2010, 3 of which involved girls.
- ²¹ 2010 FBI Arrest Data.
- ²² Data provided by the Department of Probation Research Division. On file with CfJJ.
- ²³ 2011 Juvenile Court Statistics.
- ²⁴ The under 18 population estimates for each county are from the U.S. Census Bureau’s Annual Community Survey, 3-Year Population Estimates for 2009-2011. Available at <http://factfinder2.census.gov/faces/nav/jsf/pages/index.xhtml>.

- ²⁵ Data provided by the Department of Probation Research Division. On file with CfJJ. Both “educational” and “counseling” need are subjective determinations. The Department of Probation defines “educational need,” as “low performance/achievement. School adjustment problems, absenteeism. Could be a factor in recent/present unlawful behavior, or could be an obstacle to future law-abiding behavior.” “No Education Problem” is defined as “not a factor in current delinquent behavior, nor an obstacle to future law abiding behavior.” “Counseling need” is defined as “behavior problems that indicate some need for assistance. Could be a factor in recent/present unlawful behavior or could be an obstacle to future law-abiding behavior.” “No Counseling Problem” is defined as the “ability to function independently in a non-delinquent way and able to respond to a supervision plan.” The Department of Probation does not currently keep aggregate data on the presence of specific mental health disorders among its clients, or aggregate data on whether or not clients are actually receiving needed behavioral health services. The Department also does not keep aggregate data regarding special education needs, current IEPs, grade-level, or school enrollment status.
- ²⁶ Data provided by the Department of Probation Research Division. On file with CfJJ.
- ²⁷ Data provided to CfJJ by Department of Youth Services. On file with CfJJ.
- ²⁸ Id.
- ²⁹ 2009 and 2010 FBI Arrest Data.
- ³⁰ Id.
- ³¹ Id.
- ³² 2009 arraignment data on 17-year-olds was provided directly to CfJJ by the Research Division of the Department of Probation and is available from CfJJ. Nearly $\frac{3}{4}$ of these individuals were male and 63 percent were white, 20 percent were African-American, 15 percent were Hispanic, 1 percent were Asian, and less than 1 percent were Cape Verdean or Native American.



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