



Juvenile Justice Policy and Data Board

Improving Massachusetts' Juvenile Pretrial Phase

AN ASSESSMENT OF THE CURRENT PRETRIAL SYSTEM AND
RECOMMENDATIONS FOR IMPROVEMENT

January 2025

The Commonwealth of Massachusetts

Juvenile Justice Policy and Data Board

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

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<i>Awaiting New Appointment</i>	House of Representatives (Minority Leader)
Senator Adam Gomez^	State Senate (Senate President)
Senator Patrick O'Connor^	State Senate (Minority Leader)
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Laura Miller*	Massachusetts District Attorney Association
Dawn Christie	Parent of child who has been subject to juvenile court jurisdiction (2)
No Appointment Made	
<i>Awaiting New Appointment</i>	Massachusetts Chiefs of Police Association
<i>Awaiting New Appointment</i>	Juvenile Justice Advisory Committee
<i>Awaiting New Appointment</i>	Executive Office of Education
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The Board also wishes to thank Brian Blakeslee (CPCS) and Amy Ponte (CAFL) for their participation and contributions to the CBI Subcommittee meetings.	

About the JJPAD Board

In April 2018, the Legislature passed An Act Relative to Criminal Justice Reform, which created the Juvenile Justice Policy and Data (JJPAD) Board under [M.G.L. Chapter 119, Section 89](#). The Legislature charged the JJPAD Board with evaluating juvenile justice system policies and procedures, making recommendations to improve outcomes based on that analysis, and reporting annually to the Governor, the Chief Justice of the Trial Court, and the Legislature.

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

JJPAD and Childhood Trauma Task Force (CTTF) Reports

All prior JJPAD & CTTF reports can be found on the JJPAD website:

<https://www.mass.gov/lists/jjpacttf-legislative-reports-and-key-documents>

About the Office of the Child Advocate

The Office of the Child Advocate (OCA) is an independent executive branch agency with oversight and ombudsperson responsibilities, established by the Massachusetts Legislature in 2008. The OCA's mission is to ensure that children receive appropriate, timely and quality state services, with a particular focus on ensuring that the Commonwealth's most vulnerable and at-risk children have the opportunity to thrive. Through collaboration with public and private stakeholders, the OCA identifies gaps in state services and recommends improvements in policy, practice, regulation, and/or law. The OCA also serves as a resource for families who are receiving, or are eligible to receive, services from the Commonwealth.

<https://www.mass.gov/orgs/office-of-the-child-advocate>

Guide to Acronyms

Acronym	Definition
CAFL	Children and Family Law Division of CPCS
COR	Conditions of Release
CPCS	Committee for Public Counsel Services (Public Defenders)
CRA	Child Requiring Assistance
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
OCA	Office of the Child Advocate
PTP as a Dispo.	Pretrial Probation as a Disposition
PR	Personal Recognizance

Executive Summary

Massachusetts has made a concerted effort to directly and indirectly decrease the use of pretrial detention for youth over the past decade-plus by limiting the circumstances in which youth are detained pretrial, as well as limiting overall youth contact with the juvenile justice system. This effort has been driven by a growing body of research showing pretrial detention stays – for any length of time – can be harmful and result in negative outcomes for youth and public safety.¹

At the same time, the effort to keep youth out of pretrial detention has impacted other aspects of the juvenile justice system, specifically throughout the *pretrial phase* (post-arraignment and pre-disposition). However, until this report, those impacts have not been publicly assessed or reported.

This report is particularly timely in light of the increase in juvenile justice cases in Massachusetts following the Covid-19 pandemic, even though overall numbers remain lower than pre-pandemic levels. Between FY21 and FY23, there was a striking 110% increase in the number of cases assigned pretrial conditions of release, rising from 628 cases with pretrial conditions of release in FY21 to 1,316 in FY23. Although this increase can partly be attributed to a 70% increase in arraignments, the data also shows a concerning shift away from releasing youth on personal recognizance (PR) over the same time period. In FY23, only 62% of youth were initially released on PR, down from 68% in FY21.

Additionally, there was a 39% increase in pretrial detention admissions, from 553 in FY21 to 768 in FY23. On average, about a third of all detention admissions in this period are due to a bail or PR revocation. These trends underline the importance of addressing the rising reliance on detention and pretrial conditions while ensuring youth have the supports they need to be successful and avoid future delinquency.

¹ The Justice Institute. (2022). The Dangers of Detention: The Impact of incarcerating Youth in Detention and Other Secure Facilities. https://justicepolicy.org/wp-content/uploads/2022/02/06-11_rep_dangersofdetention_ji.pdf ; Mendel, R. (2023). Why Youth Incarceration Fails: An Updated Review of the Evidence. <https://www.sentencingproject.org/reports/why-youth-incarceration-fails-an-updated-review-of-the-evidence/>

The Juvenile Justice Policy and Data (JJPAD) Board, which was created by *An Act Relative to Criminal Justice Reform* (2018), was charged by the Legislature with evaluating juvenile justice system policies and procedures and making recommendations to improve outcomes based on that analysis.² In 2023, the Board launched a project to study the pretrial phase in Massachusetts.

What is the “juvenile pretrial phase” in Massachusetts?

The “juvenile pretrial phase” encompasses juvenile justice processes and proceedings after a youth is arraigned in Juvenile Court (“post-arraignment”) and before their case is disposed via an adjudication, a dismissal, or Continued Without a Finding “CWOFF” (“pre-disposition”). Events during this phase can include, but are not limited to:

- Bail hearings
- 58A “Dangerousness” hearings
- Placement on pretrial monitoring or supervision by the Massachusetts Probation Services
- Placement in detention with the Department of Youth Services (“pretrial detention”)

This report largely focuses on delinquency cases. However, many of the themes, findings, and recommendations can apply to youthful offender cases as well.

Findings

Based on information gathered from over 70 stakeholder interviews, national research, dozens of JJPAD subcommittee discussions and presentations, an analysis of available data, and a review of Massachusetts’ and other states’ policies, the Board has found:

- 1. Pretrial conditions for youth can be developmentally inappropriate or not tailored to their specific cases.** Stakeholders interviewed for this report repeatedly expressed that “kids are different,” and the current pretrial system is not designed with the unique circumstances and developmental stage of youth in mind. The time in which youth can be involved in Juvenile Court – adolescence (i.e., 12-17 years old in MA) – is a distinct period in life, one in which the brain is still anatomically developing, making some aspects of the pretrial phase particularly difficult for youth to comply with. Interviewees mentioned that a common reason youth violate their pretrial conditions is because the conditions were not appropriate and/or were unachievable for a youth.

² An Act Relative to Criminal Justice Reform, Ch. 69. (2018). <https://malegislature.gov/Laws/SessionLaws/Acts/2018/Chapter69> ; For more information on the JJPAD Board visit: <https://www.mass.gov/juvenile-justice-policy-and-data-boardchildhoodtrauma-task-force>

This concept was reflected in the national research reviewed for this project as well. Research suggests conditions of release should be developmentally appropriate, focus on safety, and relate to the underlying offense.

- 2. Restrictive conditions, most notably GPS and home confinement, are overused.** Many Massachusetts professionals are concerned that restrictive conditions like GPS monitoring and home confinement conditions are overused in the state’s juvenile justice system as an unintended consequence and result of the state’s effort to limit the use of detention. While the Board does not have data to measure this perceived shift, many stakeholders could point to instances in which GPS was overused or used in inappropriate circumstances. Those interviewed generally agreed that being released on GPS was the “lesser of two evils” when compared to being detained. At the same time, many felt as though the harm caused by being placed on a GPS unit was not well understood across all Massachusetts juvenile court stakeholders, and some professionals are skeptical that the adoption of GPS was effective at limiting detention admissions.

National research generally shows that GPS and other forms of electronic monitoring (EM) as a condition of release are developmentally inappropriate and not necessarily effective at promoting public safety or improving failure to appear rates.

- 3. The pretrial process lasts too long, causing harm to youth.** While the Juvenile Court time standards clearly state delinquency proceedings are to be disposed within six to eight months, in practice, the pretrial phase can extend much longer. In fact, in the Board’s interviews, it was not uncommon for professionals to cite examples of a youth’s case taking years to reach disposition. There are many ways in which the pretrial phase can be extended, some of which can “pause” the clock for time standards, some of which are due to systemic challenges, and others which are a result of ensuring individuals’ rights are upheld. Research suggests that a lengthy pretrial phase can be harmful for all parties, including the youth, any alleged victims or witnesses, and the system itself.
- 4. There are vastly different regional practices at this stage, leading to concerns about equity.** The juvenile pretrial phase operates differently across Massachusetts’ counties. While in some cases this may be a reasonable response to variations in local circumstances, it can also raise concerns about equity: the zip code a youth is arrested in can significantly impact how their case proceeds, with similarly situated youth receiving different treatment based on the county or even court in which their case is handled. (Evidence of other kinds of disparities, such as racial disparities, are further discussed in Finding 5).

Examples of county-by-county differences include:

- **Whether youth are released on personal recognizance/assigned to be monitored by the MPS Pretrial Unit or supervised at the local probation level.**³ In FY23, estimates ranged from 59% (n=126) of youth arraigned being released on personal recognizance/monitored in Plymouth County (41% supervised by probation) to 92% (n=265) of all youth being released on personal recognizance/cases monitored in Barnstable County (and 8% supervised by probation).
- **Whether youth are placed on GPS:** Although the Board does not currently have data on all conditions set, point-in-time data from August 2023 suggests that Suffolk County uses GPS at a higher rate than other counties compared to the proportion of state arraignments coming from Suffolk.
- **Use of cash bail:** Compared to the rest of the state, youth who are detained in Hampden, Norfolk, and Suffolk Counties are more likely to be detained due to inability to make bail than because they were held without the possibility of bail than in other counties.
- **Whether youth are placed on pretrial probation as a disposition:** Pretrial probation as a disposition is used much more frequently in Bristol, Middlesex, and Norfolk counties than the rest of the state. Of the pretrial probation as a disposition cases supervised at the local level, 68% (n=105) are supervised in those three counties (which represent just 28% of arraignments in the state).
- **Use of 58A Hearings:** Essex County has the highest number of 58A Hearings when compared to other counties, representing 25% (n=85) of the state total, despite making up only 15% (n=376) of the state's felony arraignments. Further, it appears these dangerousness hearings result in detention less frequently than the state total; while Essex conducts more 58A Hearings than any other county, youth held without bail due to being found dangerous account for only 25% of Essex's detention admissions where youth are held without bail.

5. The pretrial statutory framework is unclear and does not account for all relevant circumstances. The Board heard significant concerns from many professionals interviewed for this report about when and how cash bail and other conditions of release are set in certain cases. In some cases, this may be the result of an unclear statutory framework, further complicated by case law, that does not account for all relevant circumstances.

³ Due to the way data are reported, county level estimates of youth released on personal recognizance include youth monitored on conditions supervised by the statewide Pretrial Unit.

As discussed further in this report, MGL Ch. 276 Section 58 and 58A state that the intention of setting cash bail during this phase of the system is to make sure youth appear in court and, in the case of 58A, ensure the safety of a victim or another individual. However, in making that determination, the state can legally weigh a number of factors that – research indicates— do not relate to a youth’s “flight risk” and seem unlikely to be related to victim safety. Based on interviews with stakeholders and analysis of the data, the Board has concluded that cash bail is being used at times due to reasons other than flight risk – albeit reasons that in many cases are related to protecting a child’s safety or other system constraints. Examples include:

- Holding youth with DCF involvement, specifically due to lack of other placement options.
- Holding youth being, or perceived as being, commercially sexually exploited (CSEC).
- Holding youth whose parents refuse to take them home.

6. There are disparities in who is detained pretrial, who gets placed on pretrial monitoring/supervision, and who is released on personal recognizance. The Board has documented the persistent racial and ethnic disparities in the Commonwealth’s juvenile justice system each year since its inception. The pretrial phase is no exception. In fact, in FY23, Black and Latino youth remained overrepresented at each pretrial process point in the juvenile justice system.⁴ Further, the Board heard concerns from court stakeholders that certain groups of youth, namely girls and youth with DCF involvement, were more likely to be detained pretrial for reasons other than concerns regarding failure to appear or community safety. This is reflected in the data.

- In FY23, compared to white youth detained at the initial arraignment, Hispanic/Latino youth were 1.32 times more likely to be detained pretrial and 1.47 times more likely to be detained as a result of bail being set.
- In FY23, compared to white youth detained at the initial arraignment, Black/African American youth were 1.07 times more likely to be detained pretrial and 1.37 times more likely to be detained as a result of bail being set. Of youth who were detained as a result of bail being set, Black/African American youth had higher bail amounts set.
- While girls made up 14% (n=106) of all detention admissions in FY23, they made up 21% (n=44) of detention admissions as a result of bail being set and are held for lower amounts compared to boys. As further discussed in this report, many

⁴ Massachusetts Juvenile Justice Data and Policy Board (JJPAD). (2024). 2023 JJPAD Annual Report. <https://www.mass.gov/doc/jjpad-2023-annual-report/download>

professionals believed that girls were being detained with bail set for reasons other than flight risk.

- In FY23, 6% (n=47) of pretrial detention admissions were for youth who identified as LGBTQ+. LGBTQ+ youth were held on cash bail more frequently, and held for lower amounts when compared to youth who did not identify as LGBTQ+.
- Youth with DCF involvement represent more than half (51%, n=395) of all pretrial detention admissions.^{5,6} Youth with DCF involvement are detained with bail set more frequently and held for lower amounts compared to youth with no DCF involvement.

7. There are cohorts of youth who could be diverted away from pretrial detention, pretrial supervision/monitoring, or the system entirely. The Board found that youth could be diverted more frequently:

- **Pre-arraignment:** Many professionals interviewed for this report felt there are still too many youth at arraignment with lower-level underlying offenses who could benefit from diversion away from the system entirely, rather than keeping them involved in the formal juvenile court process. This is reflected in the data: in FY23, a third (36%, n=1,458) of FY23 arraignments were for misdemeanors.
- **From pretrial supervision/monitoring:** In recent years the percent of cases in which youth are released on their personal recognizance has decreased, directly correlating with the increase in the percent of cases monitored/supervised by probation. Professionals interviewed suggested more youth could be released without *any* conditions. Some professionals highlighted cases for youth who had “Category A” conditions of release set (n=770, representing 59% of pretrial cases with conditions of release set) and are assigned to be monitored by the statewide Pretrial Unit as those that could more frequently be released on their own recognizance instead.
- **From pretrial detention:** Professionals interviewed highlighted that there are youth who could be diverted from detention who need intermediate options and more active case management than the current pretrial probation supervision/monitoring structure provides. Specifically, professionals mentioned youth who are detained for a misdemeanor/lower “grid” level offense (n=353, 46% of detention admissions) as good candidates for diversion from detention if the *right* community supports and options are in place for youth and families.

⁵ Massachusetts Juvenile Justice Data and Policy Board (JJPAD). (2024). FY2023 Annual Report. <https://www.mass.gov/doc/jjpad-2023-annual-report/download>

⁶ DYS defines DCF involvement as a youth who enters DYS care/custody and is either in the care/custody of DCF or has an open case with DCF.

Recommendations

Increases in the use of pretrial conditions of release, including more restrictive conditions like GPS and home confinement, are at least partially a result of a shift away from the use of pretrial detention for youth in Massachusetts over the past decade-plus. Yet an increasingly large body of research, Massachusetts data, and practitioner experience suggest that just as more critical examination of detention began over a decade ago, a similar examination is now needed regarding how and when pretrial conditions of release are used. To help spur this change in practice and culture, the Board offers the following recommendations to continue the progress made over the past decade-plus and **ensure that our pretrial system promotes equity and positive outcomes for youth, protects alleged victims and witnesses, and supports the professionals doing this work each day.**

In order to achieve these goals, the JJPAD Board recommends Massachusetts:

Improve how conditions of release are set and re-visited throughout the pretrial process. This includes:

1. Providing more guidance on setting pretrial conditions of release for youth
2. Developing a new “order of pretrial conditions of release” form
3. Providing guidance on the process for revising pretrial conditions of release for youth and addressing violations

Divert more youth from detention and juvenile court involvement by expanding the range of pretrial supervision and pre-arraignment diversion options. This includes:

4. Creating a continuum of interventions for supervision in the community during the pretrial period
5. Improving GPS technology
6. Diverting more youth pre-arraignment by expanding opportunities for state diversion

Support implementation of pretrial reforms and continue to measure the impact. This includes:

7. Requiring training on aspects of the pretrial phase across state entities and encouraging cross-entity trainings when possible
8. Increasing the number of juvenile court judges to reduce the pretrial timeline and support reform implementation
9. Expanding the availability, and promoting the use of, social workers in delinquency related cases
10. Increasing data availability to support continuous quality improvement and data-informed policymaking

Introduction

The Juvenile Justice Policy and Data (JJPAD) Board, which was created by *An Act Relative to Criminal Justice Reform* (2018), was charged by the Legislature with evaluating juvenile justice system policies and procedures and making recommendations to improve outcomes based on that analysis. In particular, the JJPAD Board is charged with assessing “the system of community-based services for children and juveniles who are under the supervision, care or custody of the department of youth services or the juvenile court.”⁷

Massachusetts has made a concerted effort to directly and indirectly decrease the use of detention for youth over the past decade-plus by limiting the circumstances in which youth are detained pretrial, as well as limiting overall youth contact with the juvenile justice system. (See the text box “State Efforts to Limit Detention,” below). This effort has been driven by a growing body of research showing pretrial detention stays – for any length of time – can be harmful and result in negative outcomes for youth and public safety.⁸

At the same time, the effort to keep youth out of pretrial detention has impacted other aspects of the juvenile justice system, specifically throughout the *pretrial phase* (post-arraignment and pre-disposition). However, until this report, those impacts have not been publicly assessed or reported.

Further, in recent years juvenile detention admissions and use of the pretrial system overall have increased. Between FY22 and FY23:

- Arraignments increased by 34% and have exceeded pre-pandemic numbers. (In FY19, there were 3,322 arraignments compared to 4,025 in FY23). On average, over the past five fiscal years, more than half (55%) of all arraignments do not reach a disposition.⁹
- Youth placed on pretrial monitoring/supervision increased by 68%.¹⁰
- Pretrial detention admissions increased by 14%. Pretrial detention admissions are still down, however, compared to pre-pandemic numbers: in FY19 there were 893 detention

⁷ An Act Relative to Criminal Justice Reform, Ch. 69. (2018). <https://malegislature.gov/Laws/SessionLaws/Acts/2018/Chapter69> ; For more information on the JJPAD Board visit: <https://www.mass.gov/juvenile-justice-policy-and-data-boardchildhoodtrauma-task-force>

⁸ The Justice Institute. (2022). *The Dangers of Detention: The Impact of incarcerating Youth in Detention and Other Secure Facilities*. https://justicepolicy.org/wp-content/uploads/2022/02/06-11_rep_dangersofdetention_ji.pdf ; Mendel, R. (2023). *Why Youth Incarceration Fails: An Updated Review of the Evidence*. <https://www.sentencingproject.org/reports/why-youth-incarceration-fails-an-updated-review-of-the-evidence/>

⁹ This includes cases that are not resolved with a CWO or do not result in a plea/trial. These cases are dismissed or diverted prior to that point. Cases may be *dismissed* for several reasons, including lack of probable cause or lack of sufficient evidence at any point pre- or during a trial. Cases may be *diverted* either formally or informally.

¹⁰ Data on probation monitoring/supervision prior to FY21 was not available to the Board for this report.

admissions, compared to 768 in FY23. On average over the past five years, about half of all admissions (45%) were for “lower-grid level”¹¹ offenses.

Based on these considerations, the JJPAD Board launched a project in 2023 to study the pretrial phase in Massachusetts with the goal of making recommendations to:

1. Improve this part of the system to support better outcomes for youth and public safety.
2. Identify cohorts of youth that may benefit from diversion from detention and/or pretrial supervision.
3. Improve pretrial community-based supports for youth.

This report includes the following:

- A description of the pretrial phase, a review of the research on best practices during this phase, and an analysis of the available data
- Findings on the pretrial phase based on the Board’s qualitative and quantitative research and policy analysis
- Recommendations to the state for improvement

¹¹ DYS measures offense severity by a numerical (1-7) “grid level.” Grid levels 1 and 2 are categorized as low, grid level 3 is considered “medium” severity and grid levels 4 through 7 is considered “high” severity. Most “lower-grid level” offenses are misdemeanor offenses.

State Efforts to Limit Detention

Efforts to keep youth out of pretrial detention have largely been successful. Between FY15 to FY24, pretrial detention admissions were cut by more than half from 2,101 pretrial detention admissions in FY15 to 899 admissions in FY24.

State efforts include:

- Annie E. Casey’s Juvenile Detention Alternatives Initiative (JDAI), based at DYS. Since 2006, the MA JDAI team has led state and local conversations on the dangers of detention and coordinated a variety of state and local efforts to divert youth from detention. JDAI operates at the court county level in six counties and convenes several statewide committees.
- A concerted effort by professionals to keep youth out of detention in light of the COVID-19 pandemic that highlighted the negative physical and mental consequences of congregate care facilities. However, many youth who remained in detention during this time were held for longer periods of time awaiting court as a result of the pandemic.
- Provisions in the 2018 *Criminal Justice Reform Act* that aimed to limit the number of youth coming into contact with the juvenile justice system, and therefore, the number of youth detained pretrial. This included giving judges the statutory authority to divert youth pre-arraignment for some offenses.
- The creation and funding of the Massachusetts Youth Diversion Program (MYDP). The MYDP is a state-funded diversion program administered by the Department of Youth Services (DYS) and operated by community-based organizations.
- The establishment of an administrative review process by Massachusetts Probation Services (MPS), along with a rewards/graduated sanction protocol to support reinforcement of positive behavior and intervene effectively with negative behaviors short of a formal probation violation – understanding that each time a youth is given a Notice of Probation Violation, they are brought back into court and risk detention.
- An increased effort to build community-based systems that are focused on supporting youth *prior* to Juvenile Court involvement, such as the Executive Office of Public Safety and Security (EOPSS) Shannon Gang Prevention grants, the Executive Office of Health and Human Services (EOHHS) Safe and Successful Youth Initiative, and the Department of Public Health Violence Prevention grants to name just a few.

Sources :

- <https://www.mass.gov/info-details/juvenile-detention-alternatives-initiative-jdai>
- <https://www.mass.gov/doc/covid-19-and-the-massachusetts-juvenile-justice-system-jjpad-report-october-2021/download>
- <https://malegislature.gov/Laws/SessionLaws/Acts/2018/Chapter69>
- <https://www.mass.gov/doc/jjpad-board-2020-annual-report-0/download>

Key Terminology

Arraignment: The formal reading of charges against the youth in court, and the point at which youth officially have a Juvenile Court entry record.

Cash bail: A cash amount that must be posted to secure a youth's release from DYS pretrial detention between arraignment and disposition. Bail is determined and the amount is set at a bail hearing, if a judge determines the youth is at risk of failing to appear at future court proceedings.

Disposition: The outcome of a case and the end of the "pretrial phase."

Failure to appear: Missing a court appearance.

Notice of Violation: If a youth violates one of their imposed conditions of release, Massachusetts Probation Services (MPS) will send a notice detailing the alleged violation to the District Attorney's Office (DAO).

Pretrial conditions of release: Terms youth must comply with, which are set by a judge. Depending on the court's order, probation either monitors the pretrial conditions or actively supervises the individual to ensure compliance with the conditions of release while they remain in the community as their case is pending.

Pretrial detention: Detention occurs when a judge has placed a youth in the care of the Department of Youth Services (DYS) before their trial. This occurs after a youth has been arrested and arraigned. Detention stays can last from a couple of hours to weeks or months depending on a variety of factors.

Pretrial probation as a disposition: Youth can be placed on pretrial probation as a "disposition" post-arraignment by a judge. If the youth complies with all the conditions set by a judge, the matter will ultimately be dismissed by the prosecution. If youth fail to comply, the prosecution of the matter may resume (at the discretion of the district attorney).

58A "Dangerousness" Hearing: Allows the prosecution to request at arraignment that a youth be detained without bail if the DA believes the youth is a threat to public safety. If a judge finds a youth to be dangerous and that there are no conditions that would assure a youth and community's safety, the youth is held in detention prior to their trial.

Methodology

The following questions guided the Board's research:

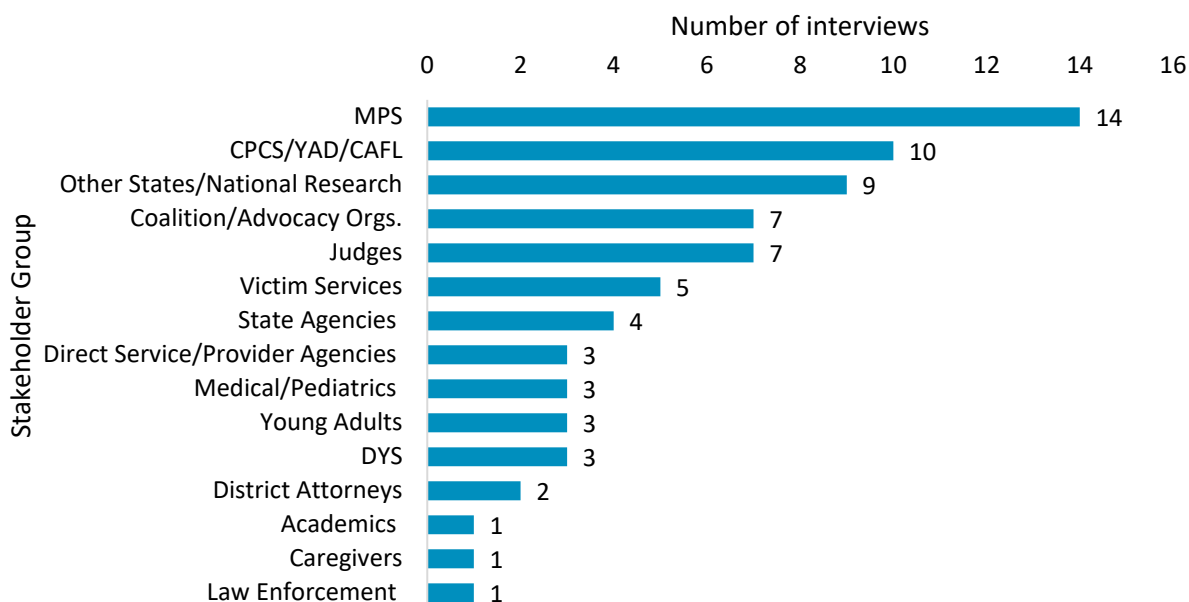
1. How can we improve pretrial success rates (i.e., compliance with conditions) and reduce the need for detention?
2. What practices can help us improve long-term outcomes for youth and protect public safety?

3. What do victims want during this phase?
4. Can any of the youth who are being placed on pretrial probation and/or detained be diverted and served through community-based services?
5. What community-based interventions or supports need to exist in order to divert more of this population from detention and/or the justice system entirely?

To answer these questions the Board employed a mixed methods research approach. OCA staff led the research, the JJPAD Board [Community-Based Interventions \(CBI\) Subcommittee](#) discussed findings from the qualitative methods, and the [Data Subcommittee](#) discussed findings from the quantitative methods. Collectively, the Board spent about two years reviewing and analyzing the pretrial phase.

73 interviews with stakeholders across sectors: OCA staff conducted interviews with professionals, stakeholders, and people with experience in the juvenile justice system to learn about experiences and practices within these systems. The goal of these interviews was to identify common gaps, challenges, and areas of strength; gain insight on stakeholder ideas for further system improvement; and assess potential shifts in policy and practice that could potentially improve the pretrial phase. The OCA made significant efforts to invite a wide variety of stakeholders to participate in the interview process, including direct outreach to specific individuals and organizations representing stakeholder groups as well as regular “open” invitations through the JJPAD Board’s monthly newsletter.

Figure 1:
Informational Interviews by Stakeholder Group (n=73)



Analysis of the available data: The Data Subcommittee analyzed available aggregate data reported by the Trial Courts, DYS, and MPS. The analysis informed the data section of this report as well as the findings and recommendations.

Subcommittee presentations: The CBI Subcommittee dedicated all or part of their meetings in calendar year 2023 and 2024 to learn about the pretrial phase, guide the OCA's research, and analyze the findings. Meetings included presentations from the OCA staff on research (see below), as well as representatives of JJPAD Board member organizations:

- The Committee for Public Council Services (CPCS), who presented on each court process point in the juvenile pretrial phase, including an overview of practice considerations, and relevant statutes and case law.¹²
- MPS, who presented on the juvenile pretrial supervision process and practice.¹³
- DYS, who presented on the juvenile pretrial detention process and detention services.¹⁴

National Research: To inform the findings of this report, OCA staff conducted a review of the national research to better understand what evidence-based best practices exist at the pretrial phase. Areas of focus included conditions of release, the use of monetary bail, youth failure to appear rates, and the impacts and efficacy of GPS monitoring for juveniles.¹⁵ This review also included an overview of pretrial policy changes in other jurisdictions.

Review of Massachusetts Policy: OCA staff reviewed relevant statutes, case law, and any agency standards/guidance that pertained to the pretrial phase. A full list of what was reviewed can be found in the appendix.

Taken together, the five methods provided the Board with a holistic approach to studying the pretrial phase.

Limitations

There are strengths and limitations to each of the above methods. For example, academic research specific to the juvenile pretrial phase is limited. Therefore, research from the adult system and research conducted on the juvenile system post-adjudication was included to supplement the Board's understanding.

¹² The full presentation can be accessed on the CBI Subcommittee's website here: <https://www.mass.gov/doc/jjpad-cbi-subcommittee-september-27-2023-meeting-presentation/download>

¹³ The full presentation can be accessed on the CBI Subcommittee's website here: <https://www.mass.gov/doc/jjpad-cbi-subcommittee-november-2023-meeting-presentation/download>

¹⁴ Ibid.

¹⁵ Justice Data and Policy Board (JJPAD). (2024) Community Based Interventions Subcommittee Meeting May 29, 2024. [PowerPoint Slides]. <https://www.mass.gov/doc/jjpad-cbi-subcommittee-may-2024-meeting-presentation/download> ; Justice Data and Policy Board (JJPAD). (2024). Community Based Interventions Subcommittee Meeting July 29, 2024. [PowerPoint Slides]. <https://www.mass.gov/doc/jjpad-cbi-subcommittee-july-2024-meeting-presentation/download>

Further, the data presented in this report is reported to the OCA at the aggregate level, limiting the Board's ability to do causal analysis or analysis at the individual level (e.g., understanding the intersection of measures like race and gender of youth held on low bail amount). Additionally, there are some data elements that are captured by two different agencies, but the totals do not always match and/or there are other discrepancies, likely due to differences in how different agencies report and collect the data.

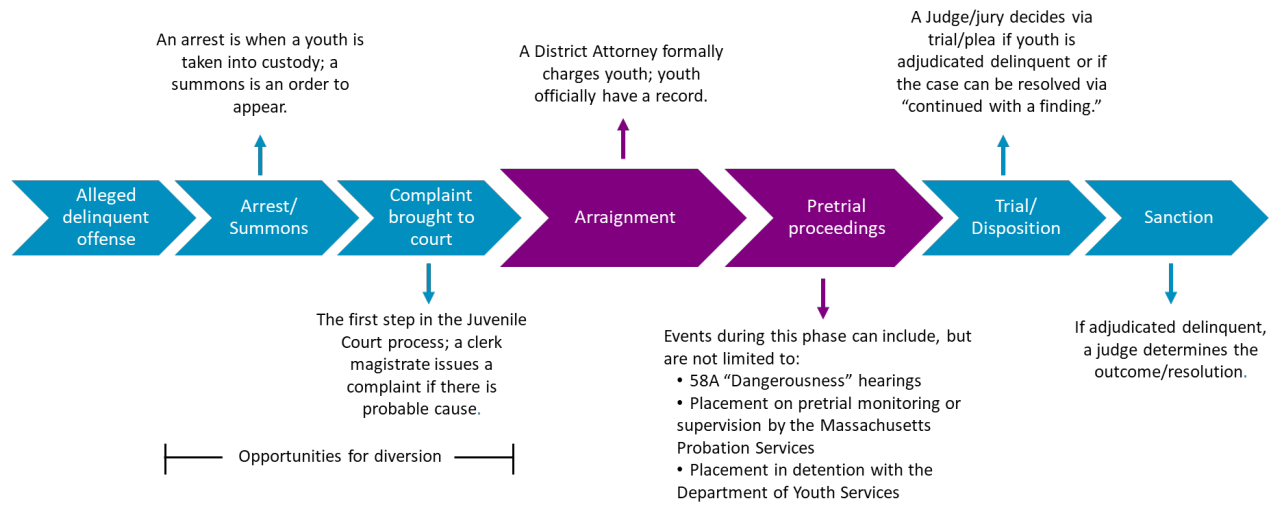
MPS first began reporting data to the JJPAD Board on new "case starts" for youth released on pretrial conditions of release in FY21, which was during the COVID-19 pandemic. In FY21, the JJPAD Board found that there was a decrease in the utilization of the juvenile justice system during the pandemic as a result of shifts in "circumstantial" factors (e.g., limited contact with peers) that are tied to decreased likelihood of delinquent behavior as well as a concerted effort by juvenile justice system stakeholders to divert youth away from the juvenile court at this time.¹⁶ Therefore, it is likely that the increase in utilization between FY21 and FY23, described later in this report, was greater than would have been observed if the analysis included data from pre-pandemic years. Additionally, it is likely that the pandemic caused delays in pretrial proceedings, resulting in an increase in the length of time a youth's case spent in the pretrial phase. To address these concerns, pre-pandemic data was included in the analysis when available.

Finally, while much of what was learned in stakeholder interviews was echoed in the quantitative data, some quantitative data is unavailable to validate key themes heard across stakeholders. As a result, that information is anecdotal and cannot be objectively measured (e.g., the number and types of conditions of release). Additionally, the number of interviews within each stakeholder group varied. The OCA did extensive outreach and issued numerous invitations to relevant organizations to participate in the interview process. Some organizations connected the OCA to numerous people within the organization to provide a range of viewpoints within the agencies, while others declined participation or only allowed for one or two individuals to participate.

The findings in this report are informed by a mixed-methods research approach to ameliorate the limitations of any one method.

¹⁶ Justice Data and Policy Board (JJPAD). (2022). FY2021 Annual Report. <https://www.mass.gov/doc/jjpad-2021-annual-report/download>

Figure 2:
The Pretrial Phase in Context of the Greater Juvenile Justice System



Massachusetts’ Juvenile Pretrial Phase

This section reviews the pretrial phase and:

- Defines the pretrial phase in context of the greater juvenile justice system
- Presents the available state data.

The Pretrial Phase Process

The pretrial phase begins after a youth has been arraigned and officially “charged” with a delinquent offense by a prosecutor.¹⁷ Once a youth has been arraigned, the incident will appear on a youth’s court record.

After a youth is arraigned, there are several ways a case can progress:

Release on personal recognizance

At arraignment, the youth may be given a bail warning by the judge and leave court on their own “personal recognizance” (referred to as “PR”), meaning the youth is released from court with the promise that they will return for future court hearings.¹⁸

Setting conditions of release and using cash bail

If youth are not released on their own recognizance, following an arraignment, the court holds a bail hearing, oftentimes at the same court date.¹⁹ At this hearing, the judge makes a determination as to whether the youth is unlikely to appear for future court hearings (referred to as “risk of failure to appear” or “a flight risk”) and **may set monetary bail as a condition of release, and/or set other pretrial conditions of release.**^{20,21} **If youth do not comply with the conditions of release, they may be subject to a violation hearing and detained as a result.**

Presumptive Innocence

The presumption of innocence is a legal principle that means that an individual accused of a crime is considered innocent until proven guilty. This principle is fundamental in both juvenile and adult court proceedings to ensure a fair legal process.

At a trial, the prosecution has the burden of proving that a delinquent offense was committed. However, the legal processes *pretrial* presume innocence.

¹⁷ Per the Juvenile Court’s Standing Order 2-18: Time Standards, arraignments should be held within 15 days from the issuance of the complaint, unless the juvenile has been referred to diversion. For more information see: Massachusetts Court System. (2018). Juvenile Court Standing Order 2-18: Time standards. <https://www.mass.gov/juvenile-court-rules/juvenile-court-standing-order-2-18-time-standards>

¹⁸ A bail warning at arraignment informs youth that if they are charged with a new offense while their case is pending their bail may be revoked, and as a result, the youth will be detained.

¹⁹ Bail hearings may also be held during the pendency of the pretrial phase if new information becomes available that may warrant a change in bail status. For example, if a youth is found to have violated one of their conditions of release, a bail hearing may be held to revoke the youth’s bail, and they may be ordered to be detained pretrial as a result.

²⁰ [M.G.L. Ch.276 Section 58](#); a complete list of statutes and case law relevant to the pretrial phase can be found in Appendix A.

²¹ [M.G.L. Ch. 276 Section 87](#); a complete list of statutes and case law relevant to the pretrial phase can be found in Appendix A.

Judges must consider the youth’s financial resources if they set bail.²² Additionally, the judge can set stipulations of a youth’s release if they are able to post bail. For example, for youth in the custody of the Department of Children and Families (DCF), the judge can set the stipulation that they only be released to the Department’s custody. If the youth is unable to post the monetary bail and/or meet other pretrial release conditions, they are detained before their trial (called “pretrial detention”).

If a judge sets any pretrial conditions of release, the youth is placed on pretrial monitoring and/or supervision, which is overseen by the Massachusetts Probation Services (MPS).

Setting Conditions of Release in Juvenile Court

In Juvenile Court, judges primarily set conditions pursuant to:

- [M.G.L Ch.276 Section 58](#), which allows judges to set conditions to ensure the defendant’s appearance in court or that specify restrictions on personal associations or conduct (e.g., stay away orders from a named victim or witness). It also allows judges to set cash bail as a condition of release if there is concern that the youth will fail to appear to future court dates. Setting conditions under Section 58 does not require the youth’s consent.
- [M.G.L. Ch 276 Section 58A](#), which allows judges to set conditions to ensure the safety of any other individual or the community. Setting conditions under Section 58A does not require the youth’s consent.
- [M.G.L. Ch. 276 Section 87](#), which allows judges to set broader conditions compared to those set under Section 58, such as “cooperate in a mental health or substance use disorder evaluation and treatment.” **Setting conditions under Section 87 require the youth’s consent.**

As discussed in Finding 4, interviews suggest that judges are not consistently tying the setting of specific conditions to the specific statute, and in practice, statutes are frequently used interchangeably. The JJPAD Board does not have data to address this point.

²² [M.G.L Ch.276 Section 58](#) ; [Commonwealth vs. Brangan \(2017\)](#) ; a complete list of statutes and case law relevant to the pretrial phase can be found in Appendix A.

The specific conditions of release ordered by a judge determine if a youth’s case is either *monitored* or *supervised* by MPS Pretrial:²³

- Cases that are monitored by MPS are pretrial cases that are not actively supervised by a probation officer at the local level. Rather, they are monitored by the statewide Pretrial Unit. Youth with pretrial cases monitored by MPS have conditions set under a category called “Category A.” Examples of Category A conditions include:
 - Obey all laws and court orders
 - Obey any no contact or stay away orders
 - Refrain from illegal drugs, recreational marijuana, and/or alcohol

- Cases that are supervised by MPS are pretrial cases that are actively supervised by a probation officer at the local level. Youth with pretrial cases supervised by MPS have conditions set under a category called “Category B.” Examples of Category B conditions include:
 - Drug testing
 - Cooperate with mental health and/or substance use treatment
 - GPS monitoring
 - Home confinement

MPS Pretrial Services Unit

Established in 2019 as a result of the state’s [Criminal Justice Reform Act](#), MPS’ [Pretrial Services Division](#) is a system of collaborative partnerships that includes the court, criminal justice agencies, and community service providers that enables a set of policies, guidelines, and practices aimed to improve pretrial services statewide while minimizing unnecessary pretrial detention. Along with monitoring cases with conditions of release and pretrial probation as a disposition cases, the Pretrial Services Division has also implemented other pretrial services, including issuing new pretrial supervision and standards and the eReminder Program, an automated text message system that provides reminders of upcoming court dates.

²³ Massachusetts Probation Service Pretrial Conditions of Release Supervision Standards Policy. No.02.02.04(a). Effective May 2022.; Massachusetts Trial Court Guidelines for Pretrial Conditions of Release. Effective November 2016.
<https://www.mass.gov/doc/trial-court-guidelines-for-pretrial-release/download#:~:text=The%20Purposes%20of%20Pretrial%20Conditions,collateral%20consequences%20of%20pretrial%20incarceration.>

Youth are assigned a probation officer, who is then charged with supervising the youth's compliance with their conditions of release. Probation officers will notify the prosecutor if a youth violates a condition.

A judge determines a youth is a danger to the community and must be detained pretrial or sets conditions of release.²⁴

Youth charged with certain offenses can be detained without the opportunity of bail if the prosecution moves for an order of pretrial detention based on dangerousness.²⁵ Youth can be detained while awaiting a 58A Hearing for up to 7 days.²⁶ Following a hearing, called a "58A Hearing" or "dangerousness hearing," a judge will determine what, if any, conditions of release will reasonably assure the safety of any other person or the community. If a judge determines that no conditions of release will reasonably assure the safety of any other person or the community, the youth is held for up to 120 days in detention prior to their trial.²⁷

A judge may also place a youth on "pretrial probation as a disposition" post-arraignment.

If a youth placed on pretrial probation as disposition is successful in complying with the conditions of probation set, the matter will ultimately be dismissed by the prosecution. This is one way of resolving the case without having to proceed to plea or trial. However, if the youth fails to comply, the prosecution of the matter may resume (at the discretion of the district attorney). The ordering of pretrial probation as a disposition requires the consent of the prosecutor.²⁸

Violations of pretrial conditions

Regardless of the case type or supervision level or if a youth is released on their own PR, if a youth violates any of their conditions of release or commits a new alleged offense, the county MPS office notifies the prosecutor. The prosecutor has discretion as to whether they bring the case back into court to revoke bail or personal recognizance. The prosecution does not have discretion to unilaterally modify conditions at this point. If a case is revoked, a judge determines

²⁴ Per the 58A Statute, a dangerousness hearing shall be held immediately upon the person's first appearance before the court, unless either attorney requests a continuance. A continuance may not exceed 7 days, during which the youth will be held in pretrial detention at DYS. For more information, see [M.G.L.Ch.276 Section 58A](#)

²⁵ [M.G.L.Ch.276 Section 58A](#); a complete list of statutes and case law relevant to the pretrial phase can be found in Appendix A.

²⁶ MGL Ch. 276 Section 58A states, "The hearing shall be held immediately upon the person's first appearance before the court unless that person, or the attorney for the commonwealth, seeks a continuance. Except for good cause, a continuance on motion of the person may not exceed seven days, and a continuance on motion of the attorney for the commonwealth may not exceed three business days. During a continuance, the individual shall be detained upon a showing that there existed probable cause to arrest the person."

²⁷ After 120 days, the law states that youth should be released from detention. However, there are a variety of legal reasons youth may be (and, indeed, are) held beyond 120 days. See Finding 3, for more information on the length of time this phase takes.

²⁸ A Juvenile Court judge may place a youth on pretrial probation based on the statutory authorization of MGL Ch. 276, Section 87. MGL Ch. 276, Section 87 also establishes statutory authorization for pretrial conditions of release, which are distinct from pretrial probation. The SJC reiterates this distinction in [Commonwealth v. Jake J., a juvenile](#), and [Commonwealth v. Tim T., a juvenile](#).

whether they should detain the youth or modify conditions of release.²⁹ During this hearing, defense counsel and prosecution can present recommendations for modified conditions to the court or the prosecution can ask to detain the youth.³⁰

The pretrial phase officially ends if a youth’s case is dismissed or once the case is resolved. Cases can be resolved through a plea, trial, or a plea resulting in a “continuance without a finding (CWOFF).”

How long does the pretrial phase last?

The Juvenile Court adopted time standards for all court proceedings in October 2018, and include the following lengths of time for delinquency and youthful offender cases:

- Filing of complaint or indictment to adjudication/disposition (bench trial): Six months (180 days)[^]
- Filing of complaint or indictment to adjudication/disposition (jury trial): Eight months (240 days)

Benchmarks* include:

- Arraignment: within 15 days from the issuance of the complaint, unless the juvenile has been referred to diversion.
- Pretrial Conference: within 30 days from the arraignment.

[^]Indictment of a juvenile as a Youthful Offender proceeds only at the option of the District Attorney; there are no time requirements for the exercise of that option.

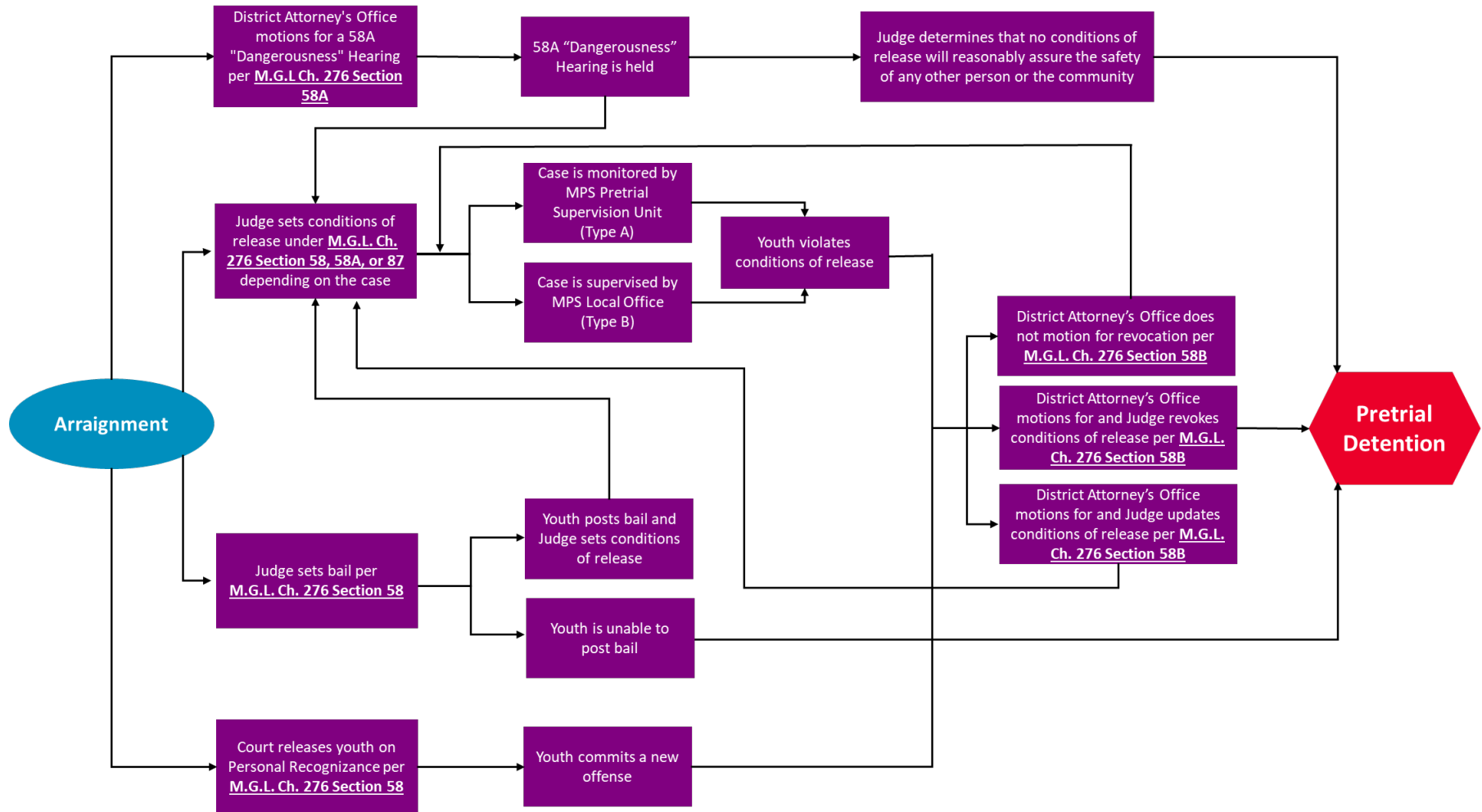
*Benchmarks are not part of the time standards but are provided to offer guidance in achieving compliance with the standards.

Source : <https://www.mass.gov/doc/juvenile-court-standing-order-2-18-time-standards/download>

²⁹ Per MGL. Ch. 276 Section. 58B, “a person who has been released after a hearing pursuant to sections 42A, 58, 58A or 87 and who has violated a condition of his release, shall be subject to a revocation of release and an order of detention.”

³⁰ If the condition violated was set under [M.G.L.Ch.276 Section 58](#), prosecutors have the discretion to either motion to revoke youth’s bail, or not. If the condition of release violated was set under [M.G.L. Ch. 276 Section 87](#), prosecutors have the discretion to modify the conditions, if the youth and their defense attorney agree. If the youth and their defense attorney do not agree to modify conditions set under Section 87, then prosecutors have the discretion to either motion to revoke youth’s bail, or not.

Figure 3:
Decisions that Can Result in a Youth Being Held Pretrial



Victim Experience

It's important to note that one goal of the pretrial process is to make sure any potential alleged victim(s) are safe while a youth's case is pending. This could be one reason why a judge decides to detain or set conditions of release rather than releasing a youth on personal recognizance.

Throughout the Board's research, victim advocates expressed that victims want **an individualized approach** at each phase of the system. At the pretrial phase, some alleged victims want a youth to be detained, others want youth to be diverted completely, and others want something in between.

Advocates also stated that many alleged victims – at this stage—weren't consulted or actively listened to regarding conditions that would make them feel safe.

The Board heard from victim advocates that alleged victims typically want accountability and for their safety to be considered during the pretrial phase. This sentiment aligns with national research on victim expectations and experiences:

- Victims want the process to be centered on their voices being heard, accountability, and safety
- Alternative responses like restorative justice practices can be developmentally appropriate *and* support victims
- Many victims do not report crime and/or do not engage at this phase and therefore, interventions that take place outside of the court system may serve a wider array of impacted people.

Finally, it is important to note research indicates a strong connection between experiences of victimization and the likelihood of perpetrating violence. This cyclical connection between victim and perpetrator of violence makes it particularly challenging and critical to stopping violence.

Sources :

<https://www.vera.org/downloads/publications/accounting-for-violence.pdf>

<https://www.hks.harvard.edu/centers/wiener/programs/criminaljustice/research-publications/young-adult-justice/developments-in-young-adult-justice/fostering-accountability-among-young-adults>

<https://bjs.ojp.gov/library/publications/criminal-victimization-2022>

<https://d3n8a8pro7vhmx.cloudfront.net/commonjustice/pages/445/attachments/original/1608142349/accounting-for-violence.pdf?1608142349>

<https://pubmed.ncbi.nlm.nih.gov/19805459/>

Research on Best Practices During the Pretrial Phase

The JJPAD Board reviewed peer reviewed research, government reports from other jurisdictions, as well as policy papers published by national organizations related to the following aspects of the pretrial phase:

- Diversion
- Setting Conditions of Release
- Using GPS
- Using Cash Bail
- Pretrial Detention

Additionally, the Board reviewed key findings from research on adolescent brain development to consider at each phase. Research on adolescent psychology demonstrates that young people have difficulty appropriately weighing the consequences of their immediate actions with their long-term goals. Indeed, “neurobiological research suggests that the parts of the brain that govern impulse control, planning ahead, weighing risks and rewards, and coordinating emotion and cognition continue to mature throughout adolescence.”³¹ **Youth likely experience the pretrial phase differently than adults in the adult criminal justice system.**

The following subsections summarize the JJPAD’s review of the research, by topic.

When Possible, Youth Should be Diverted

As discussed in Finding 7, the Board’s interview findings and data analysis suggests there is room for improvement in diverting youth away from the juvenile justice system across multiple “off ramps” (i.e., pre-arraignment and pretrial). Research suggests diversion can be an effective tool to increase public safety and improve youth outcomes compared to the traditional juvenile justice system.

- **Diversion improves public safety:** One meta-analysis of 45 studies showed that diversion was more effective in reducing recidivism than traditional court processing. Another meta-analysis of 19 studies specific to police-based diversion showed that youth were less likely to reoffend when they received diversion.³²
- **Diversion helps reduce justice system contact and reduces the risk of future justice system involvement:** Relative to diverted youth, a 2020 study showed that youth who

³¹ Weisburd, K. (2023). Monitoring Youth: The Collision of Rights and Rehabilitation. <https://ilr.law.uiowa.edu/sites/ilr.law.uiowa.edu/files/2023-02/ILR-101-1-Weisburd.pdf>

³² Wilson, H. & Hoge, R. (2013) The effect of Youth Diversion Programs on Recidivism: A meta - Analytic Review. Criminal Justice and Behavior. Vol. 40, No. 5, May 2013, 497-518. http://users.soc.umn.edu/~uggen/Wilson_CJB_13.pdf

were formally processed were more likely to be re-arrested, more likely to be incarcerated, engaged in more violence, reported a greater affiliation with delinquent peers, reported lower school enrollment, were less likely to graduate high school within 5 years, reported less ability to suppress aggression, and had lower perceptions of opportunities as compared to similarly-situated youth who were diverted.³³

Conditions of Release Should be Developmentally Appropriate and Focus on Assuring Safety

As discussed in Findings 1 and 2, the Board’s interview findings and data analysis suggests there is an overreliance on conditions of release for youth. Research suggests conditions of release should be developmentally appropriate, focus on safety, and relate to the underlying offense.

Conditions should be developmentally appropriate. If the conditions being set are not developmentally appropriate, this creates an extremely difficult bar for youth to meet. Some conditions of release remove youth from prosocial activities, impacting the youth’s well-being. This runs contrary to a body of research which shows that these positive connections and participation in prosocial activities are vital to youth’s mental health and wellbeing.³⁴ This loss of prosocial activities is not only detrimental to a youth’s physical and emotional well-being, but it also increases their risk of further delinquency.³⁵ Factors that negatively impact youth’s mental and physical health include:

- Social isolation, disintegration of support networks, and restrictions on practicing developmentally appropriate skills (e.g., spending time with their peers)
- Isolation and abrupt separation from friends and family members
- Loss and/or disruption of their daily routines, leading to dysregulation
- Lack of freedom of movement and access to recreational facilities

The impact of loneliness and isolation on youth’s mental health has been extensively demonstrated in over sixty studies, particularly its long-term association with anxiety and depression.³⁶

³³ Cauffman, E., et. al. (2020). Crossroads in Juvenile Justice: The Impact of Initial Processing Decision on Youth Five Years after First Arrest. *Development and Psychopathology*. <https://pubmed.ncbi.nlm.nih.gov/33955345/>

³⁴ Telzer, E. H., van Hoorn, J., Rogers, C. R., & Do, K. T. (2018). Social Influence on Positive Youth Development: A Developmental Neuroscience Perspective. *Advances in child development and behavior*, 54, 215–258. <https://doi.org/10.1016/bs.acdb.2017.10.003>

³⁵ Gentle-Genitty, C. (n.d.). Understanding Juvenile Delinquent Behavior through Social Bonding. Indiana University. <https://scholarworks.indianapolis.iu.edu/server/api/core/bitstreams/959aad5e-526b-4b84-b5ee-37a2c7bbf980/content> ; Massachusetts Juvenile Justice Data and Policy Board (JJPAD). (2021). COVID-19 and the Massachusetts Juvenile Justice System. <https://www.mass.gov/doc/covid-19-and-the-massachusetts-juvenile-justice-system-jypad-report-october-2021/download>

³⁶ Crump, C. & Gandhi, A. (2020). Electronic Monitoring of Youth in the California Justice System. <https://www.law.berkeley.edu/wp-content/uploads/2020/11/Samuelson-Electronic-Monitoring-Youth-California-Addl-Data-11-2020.pdf> ; Massachusetts Childhood Trauma Task Force. (2020). Protecting our Children’s Well-Being During Covid-19. <https://www.mass.gov/doc/cttf-june-2020-report-protecting-our-childrens-well-being-during-covid-19-0/download> ;

Conditions of release should be focused on ensuring safety and related to the underlying offense. Research on probation condition setting post-adjudication shows that youth have a hard time remembering all of the conditions set, and that setting numerous conditions increases a youth’s chance of violating.³⁷ In fact, one study in Washington State found that youth only recalled approximately one-third of conditions imposed on them.³⁸

Further, research shows the “one-size fits all” approach to condition setting is not an efficient use of staff time or resources. As one study states, “This is because surveillance alone has little to no impact on reoffending; adolescents are unable, developmentally, to make progress on multiple goals; and standardized approaches don’t address the varying factors that contribute to youth’s delinquent behavior.”³⁹ Conditions that are overly broad, such as “obey all school rules” are difficult for youth to comply with and increase their chances of violating.⁴⁰ Research on youth placed on supervision *post-adjudication* suggests that conditions that target specific risk factors and are related to the offense the youth was adjudicated delinquent of result in better outcomes for youth.⁴¹

Cash Bail Should Only be Used to Assure Court Appearance – and Most Youth Will Appear Without any Need for Cash Bail

As discussed in Finding 5 of this report, the Massachusetts General Laws dictate that cash bail be set only for the purposes of ensuring youth appear to court, or – in certain cases (e.g., allegations of domestic violence) – to ensure the safety of the alleged victim or witness, any other individual, or the community. However, research suggests that cash bail is not effective at improving failure to appear rates or public safety, and disproportionately impacts poor people.

Massachusetts Juvenile Justice Data and Policy Board (JJPAD). (2021). COVID-19 and the Massachusetts Juvenile Justice System. <https://www.mass.gov/doc/covid-19-and-the-massachusetts-juvenile-justice-system-jpad-report-october-2021/download>

³⁷ The Council of State Governments. (n.d.). Breaking the Rules: Rethinking Condition Setting and Enforcement in Juvenile Probation. <https://projects.csgjusticecenter.org/breaking-the-rules/>

³⁸ Peralta, R., et al. (2012). Washington Judicial Colloquies Project: A Guide for Improving Communication and Understanding in Juvenile Court. Seattle, WA. https://nyjn.org/uploads/digital-library/Washington-Judicial-Colloquies-Project--A-Guide-for-Improving-Communication-and-Understanding-in-Juvenile-Court_JIDAN-TeamChild_Oct.2012.pdf

³⁹ Vincent, G. M., Skeem, J., & Weber, J. (2024). The Youth Protective Factors Study: Risk, Strengths, and Reoffending. https://csgjusticecenter.org/wp-content/uploads/2024/09/The-Youth-Protective-Factors-Study_508.pdf

⁴⁰ The Council of State Governments. (n.d.). Breaking the Rules: Rethinking Condition Setting and Enforcement in Juvenile Probation. <https://projects.csgjusticecenter.org/breaking-the-rules/>

⁴¹ Esthappen, S., Laco, J., Young, D. (2019). Juvenile Probation Transformation. Urban Institute. https://www.urban.org/sites/default/files/publication/99608/juvenile_probation_transformation.pdf; Vincent, G. M., Skeem, J., & Weber, J. (2024). Youth Reoffending: Prevalence and Predictive Risk Factors in Two States. Worcester, MA: UMass Chan Medical School, Department of Psychiatry, Law & Psychiatry Program. <https://repository.escholarship.umassmed.edu/bitstream/handle/20.500.14038/53784/Youth%20Reoffending%20brief%209.16.24.pdf?sequence=1&isAllowed=y>

Cash Bail and Failure to Appear

Research shows that most individuals show up to their court hearings, and the risk of failing to appear is low across-the-board (i.e., whether cash bail is used or not). For example, one study conducted involving over 3,900 adults in Virginia found that those who were released on personal recognizance appeared at a very high rate of 96%.⁴²

Cash bail has a limited effect on failure to appear (FTA) rates. A review of the current research on FTA rates in jurisdictions (e.g., Kentucky, Philadelphia) before and after they passed reforms that limited the use of cash bail found that limiting the use of monetary release conditions did not result in substantial change in the rate at which defendants fail to appear in court.⁴³

Failure to appear is a system-wide issue rather than solely an issue related to an individual defendant. When people do not appear, it is often due to factors outside of their control (e.g., transportation issues, work or school obligations) rather than an intention to evade the justice system.⁴⁴ One study done in Philadelphia found that failure to appear was an issue across court stakeholders rather than just with defendants. The study found that:

- An essential witness or lawyer failed to appear for at least one hearing in 53% of all cases, compared to a 19% FTA rate for defendants.
- The defense attorney (both public & private) failed to appear for at least one hearing in 36% of cases.
- Police officers fail to appear on a subpoena almost twice as often as defendants.⁴⁵

Reforms successful in reducing failure to appear rates tend to address the more mundane reasons that defendants tend to miss their court date. In Santa Clara County, the introduction of automated text message court date reminders reduced warrants issued for missed court dates by 20%.⁴⁶ At the time of this report's publication, Massachusetts has re-introduced a similar test-messaging system in juvenile court to remind youth of upcoming court hearings.⁴⁷

⁴² Danner, M., VanNostrand, M. & Spruance, L. (2015) Risk-Based Pretrial Release Recommendation and Supervision Guidelines. <https://www.dcs.virginia.gov/sites/dcs.virginia.gov/files/publications/corrections/risk-based-pretrial-release-recommendation-and-supervision-guidelines.pdf>

⁴³ Nastasi, V. (2024). The Effects of Cash Bail on Crime and Court Appearances: A review of the recent research evidence. <https://reason.org/wp-content/uploads/the-effects-of-cash-bail-on-crime-and-court-appearances.pdf> ; Wylie, S. & Grawert, A. (2024). Challenges to Advancing Bail Reform. <https://www.brennancenter.org/our-work/research-reports/challenges-advancing-bail-reform>

⁴⁴ Doyle, C., Bains, C., Hopkins, B. (2019). Bail Reform: A guide for State and Local Policymakers. <https://static.prisonpolicy.org/scans/Harvard%20Guide%20to%20Bail%20Reform.pdf>

⁴⁵ Graef, L., Mayson, S., Ouss, A., & Stevenson, M. (2023). Systemic Failure to Appear in Court. University of Pennsylvania Law Review, Vol.172, p.1, 2023, U of Penn Law School, Public Law Research Paper No. 23-44, <https://ssrn.com/abstract=4558056>

⁴⁶ Chohlas-Wood, A., Coots, M., Nudell, J., Nyarko, J., Brunskill, E., Rogers, T. & Goel, S. (2023). Automated Reminders Reduce Incarceration for Missed Court Dates: Evidence from a Text Message Experiment. <https://Sharad.com/papers/court-reminders.pdf>

⁴⁷ For more information, see the text box below. Massachusetts Probation Service. (n.d.) About the Pretrial Services Division. <https://www.mass.gov/info-details/about-the-pretrial-services-division>

Cash Bail and Public Safety

Research suggests that the use of cash bail may not result in improved public safety. One review of bail reforms implemented between 2010-2020 in four states and nine cities and counties found that all jurisdictions saw decreases or negligible increases in crime or re-arrest rates after implementing reforms.⁴⁸ Highlights include:

- New Mexico: After implementing a voter approved constitutional amendment that prohibits judges from detaining defendants solely due to inability to post bail, the safety rate (the number of people released pretrial who are not charged with committing a new crime) increased from 74% to 83% after the reform took effect.
- Washington D.C.: Judges cannot set monetary bail that results in someone’s pretrial detention, and there are limits to the amount of time people can spend in jail after their arrest. In FY22, 93% of people were not re-arrested when released pretrial.

Cash Bail and Ability to Pay

Cash bail disproportionately affects low-income families, exacerbating existing inequalities in the juvenile justice system and leading to worse outcomes for disadvantaged youth.⁴⁹ It has been widely documented that cash bail in the adult criminal system is regressive and disproportionately impacts poor people.⁵⁰ According to some estimates, adults jailed pretrial had a median annual income of about \$15,109 prior to incarceration, which was less than half (48%) of the median income for non-incarcerated people of similar ages.⁵¹ Further, the burden of paying cash bail is often placed on families of loved ones.⁵² For youth in the juvenile justice system, this means additional burden on parents/caregivers, and the impossible financial decision of whether to bail their child out or be able to pay essential bills.

GPS Should be Used Sparingly for Youth Given its Harmful Impact and Limited Effectiveness

As discussed in Finding 2 of this report, the Board heard from many individuals who were concerned about the overreliance and overuse of GPS for youth in Massachusetts.

⁴⁸ Staudt, S. (2023). Releasing people pretrial doesn’t harm public safety. <https://www.prisonpolicy.org/blog/2023/07/06/bail-reform/>

⁴⁹ Job Opportunities Task Force. (2018). The Criminalization of Poverty. <https://www.aecf.org/blog/casey-funded-report-documents-the-criminalization-of-poverty>; Szymanski, L. (2005). Juvenile’s Right to Bail in Pre-Adjudicatory Proceedings. National Center for Juvenile Justice, Vol. 10, No. 9, 2005. www.ncjj.org/PDF/Snapshots/2005/vol10_no9_righttobail.pdf

⁵⁰ American Civil Liberties Union Pennsylvania. (2023). Cash bail leads to wealth-based detention. <https://www.aclupa.org/en/issues/criminal-justice-reform/cash-bail>; Vera Institute. (n.d.). The money bail system perpetuates poverty and injustice, making it a crime to be poor. It’s time for that to change. <https://www.vera.org/ending-mass-incarceration/criminalization-racial-disparities/bail-reform>

⁵¹ Prison Policy Initiative. (2016). Detaining the Poor. <https://www.prisonpolicy.org/reports/incomejails.html>

⁵² The Center for American Progress. (2022). 5 Ways Cash Bail Systems Undermine Community Safety. <https://www.americanprogress.org/article/5-ways-cash-bail-systems-undermine-community-safety/>

GPS Use and Adolescent Development and Well-being

Research generally shows that GPS and other forms of electronic monitoring (EM) as a condition of release are developmentally inappropriate. Because of this, youth have a difficult time being successful while released on them. GPS requires advanced planning skills that most youth have not yet fully developed. Because the monitors must always remain charged to avoid any violations, youth are required to schedule charging times at appropriate increments. Being supervised on GPS also requires advanced notice be granted from probation officers for youth to leave their inclusion zones for necessary activities.⁵³

In summary, research shows:

GPS can result in a harmful labeling effect and weaken positive relationships.

Research shows that youth who society perceives as “bad kids” are more likely to go on to make additional poor choices in their lives.⁵⁴ The social stigma associated with wearing an electronic monitor, a visible symbol of being deemed a “bad kid”, can lead to judgements by teachers, peers, and other adults in a youth’s life. This—in turn—can result in psychological damage to the youth wearing it, and other negative consequences.

- This stigma can lead to children avoiding school, removing their monitors, and being isolated from their peers.⁵⁵
- In one study designed to understand a person’s experience on EM in the adult system, almost half of those interviewed reported that it negatively impacted their personal relationships, and 89% of probation officers reported that EM pretrial weakened participants’ ties with friends and family and hurt relationships.⁵⁶ This effect of electronic monitoring directly contradicts delinquency prevention research showing prosocial connections can prevent further delinquency involvement.⁵⁷

Further, **the emotional, mental, and physical toll that GPS takes on a youth is significant.**

⁵³ Weisburd, K. (2023). Monitoring Youth: The Collision of Rights and Rehabilitation.

<https://ilr.law.uiowa.edu/sites/ilr.law.uiowa.edu/files/2023-02/ILR-101-1-Weisburd.pdf>

⁵⁴ Rowan, Z., Fine, A., Steinberg, L., Frick, P. & Cauffman. (2023). Labeling effects of initial juvenile justice system processing decision on youth interpersonal ties. <https://onlinelibrary.wiley.com/doi/full/10.1111/1745-9125.12348#:~:text=Broadly%2C%20labeling%20theory%20suggests%20that,1967%3B%20Tannenbaum%2C%201938>

⁵⁵ The Appeal. (2019). Chicago is Tracking Kids with GPS Monitors That Can Call and Record Them Without Consent. <https://theappeal.org/chicago-electronic-monitoring-wiretapping-juveniles/> ; Davis, E., Lockman, P., & Shaughnessy, M. (2024).

An alternative to incarceration: Juvenile home detention and electronic monitoring.

<https://ojs.library.okstate.edu/osu/index.php/FICS/article/view/1163> ; *Commonwealth v. Hanson H. (2013)*

⁵⁶ Smith, S. & Robson, C. (2022). Between a Rock and a Hard Place: The Social Costs of Pretrial Electronic Monitoring in San Francisco. HKS Faculty Research Working Paper Series RWP22-014. <https://www.hks.harvard.edu/publications/between-rock-and-hard-place-social-costs-pretrial-electronic-monitoring-san-francisco#citation>

⁵⁷ Gentle-Genitty, C. (n.d.). Understanding Juvenile Delinquent Behavior through Social Bonding. Indiana University.

<https://scholarworks.indianapolis.iu.edu/server/api/core/bitstreams/959aad5e-526b-4b84-b5ee-37a2c7bbf980/content>

- A study conducted in three New York counties found that “of 115 juveniles involved with the EM program, 64% of juveniles who failed to complete their term of EM cut off their ankle bracelets, generally thought to be the result of coping difficulties.”⁵⁸ Additionally, some youth report living in constant fear of unintentionally violating conditions.⁵⁹ This can lead to youth experiencing “the anger and frustration, anxiety and stress, fear and intimidation, misery, powerless and helplessness that is found at moderate to high rates among individuals detained pretrial.”⁶⁰
- The GPS devices themselves can cause physical harm to the wearer, with some reporting welts and rashes from the devices.⁶¹
- Additionally, being on strict surveillance, with conditions that often require extensive documentation and advance notice to deviate from, also creates serious obstacles to receiving medical care. This can mean a delay in receiving critical routine, preventative, or diagnostic care, a delay that could be especially harmful for a “population beset by many often-untreated mental health illnesses, substance use problems, and chronic health conditions.”⁶²

GPS Use, Public Safety, and Failure to Appear Rates

Separate from research on GPS and adolescent development, research also suggests that GPS is not effective at promoting public safety or improving failure to appear rates. The research reviewed for this report includes:

- A 2020 international meta-analysis of 34 studies on the use electronic monitoring (post-adjudication), which found that the use of electronic monitoring does not have a statistically significant impact on reducing re-offending (except for individuals convicted of a sex offense). In terms of improving FTA rates, there was a mix ranging from no effect to “inconclusive.”⁶³

⁵⁸ An Alternative to Incarceration: Juvenile Home Detention and Electronic Monitoring. Edward Davis, Youth Opportunities Unlimited, Inc., Paul T. Lockman, Jr. and Michael Shaughnessy, Eastern New Mexico University.

⁵⁹ Weisburd, K. (2023). Monitoring Youth: The Collision of Rights and Rehabilitation. <https://ilr.law.uiowa.edu/sites/ilr.law.uiowa.edu/files/2023-02/ILR-101-1-Weisburd.pdf>

⁶⁰ Smith, S. & Robson, C. (2022). Between a Rock and a Hard Place: The Social Costs of Pretrial Electronic Monitoring in San Francisco. HKS Faculty Research Working Paper Series RWP22-014. <https://www.hks.harvard.edu/publications/between-rock-and-hard-place-social-costs-pretrial-electronic-monitoring-san-francisco#citation>

⁶¹ Ibid.

⁶² Ibid.

⁶³ Belur, J., Thornton, A., Tompson, L., Manning, M., Sidebottom, A., & Bowers, K. (2020). A systematic review of the effectiveness of the electronic monitoring of offenders. <https://www.sciencedirect.com/science/article/abs/pii/S004723522030026X>

- In its 2020 report, the Illinois Supreme Court reviewed a study looking at pretrial GPS use for individuals facing intimate partner violence charges, leading the Court to conclude: “there is no research that indicates this condition [electronic monitoring] promotes public safety or court appearance,” although use of GPS did reduce the risk of failing to appear to meetings with pretrial probation officers.⁶⁴

Electronic Monitoring Technology and its Impact on Youth Compliance

Research on jurisdictions that have introduced EM devices with more advanced technology have shown that these **improvements to the devices themselves do not necessarily result in higher compliance from youth.**

In a 2019, a New York pilot program conducted for youth 16-18 replaced traditional forms of EM (e.g., a GPS ankle bracelet) with a small ankle bracelet which was connected via Bluetooth to the participating youth’s phone. The ankle bracelet had no GPS capabilities and did not need to be charged throughout the project; its only purpose was to ensure the cell phone was physically with the youth.

The program found that this system resulted in an average of four notice of violation alerts (i.e., youth was out of compliance). However, only 5% of all alerts represented actual violations – with the other 95% representing violations due to the participants not adequately charging their cell phone.

Ultimately, the pilot was unsuccessful, with the researchers noting that “keeping a cell phone charged was not an easy task for many of the young people in our program.”

Source : <https://www.innovatingjustice.org/sites/default/files/media/documents/2019-06/jom-3101-01-balasubramanyam-battery.pdf>

Pretrial Detention Should be Used Sparingly Given its Harmful Impact and Limited Effectiveness

The JJPAD Board has documented research on the potential harms of detention since its inception. In short, research shows that detention:

⁶⁴ Illinois Supreme Court Commission on Pretrial Practices. (2020). Final Report. <https://ilcourtsaudio.blob.core.windows.net/antilles-resources/resources/227a0374-1909-4a7b-83e3-c63cdf61476e/Illinois%20Supreme%20Court%20Commission%20on%20Pretrial%20Practices%20Final%20Report%20-%20April%202020.pdf> ; Grommon, E., Rydberg, J., & Carter, J. G. (2017). Does GPS supervision of intimate partner violence defendants reduce pretrial misconduct? Evidence from a quasi-experimental study. *Journal of Experimental Criminology*, 13(4), 483-504. DOI: <https://doi.org/10.1007/s11292-017-9304-4https://scholarworks.indianapolis.iu.edu/items/3c591bfd-3ca2-4ed5-889f-a6961509a869>

- **Is not effective in promoting public safety:** Studies have shown that detention does not reduce delinquent behavior and increases youth’s likelihood of being re-arrested – with longer stays in detention increasing recidivism.⁶⁵
- **Increases the odds that youth will become further justice system involved:** Pretrial detention increases the likelihood that youth will be placed in residential custody if a court adjudicates them delinquent. Further, studies that track youth longer term outcomes have found that a large portion of youth detained are later involved in the adult criminal legal system.⁶⁶
- **Disrupts youths’ education:** Studies show that school re-enrollment rates for youth after they are detained are low. Further, youth who are detained are less likely to graduate high school, enroll in and/or complete college, and have lower employment and earning opportunities in adulthood.^{67,68,69}
- **Has a negative impact on youth’s health and well-being:** Youth in detention have higher rates of physical and behavioral health issues compared to youth generally. Detention can exacerbate these health problems. In fact, studies find that detention or commitment during adolescence leads to poorer health in adulthood.⁷⁰

⁶⁵ Walker, S. C., & Herting, J. R. (2020). The Impact of Pretrial Juvenile Detention on 12-Month Recidivism: A Matched Comparison Study. *Crime & Delinquency*, 66(13-14), 1865-1887. <https://doi.org/10.1177/001128720926115>

⁶⁶ Mendel, R. (2023). Why Youth Incarceration Fails: An Updated Review of the Evidence. The Sentencing Project. <https://www.sentencingproject.org/reports/why-youth-incarceration-fails-an-updated-review-of-the-evidence/>

⁶⁷ Jung, H. (2015). The long-term impact of incarceration during the teens and 20s on the wages and employment of men. *Journal of Offender Rehabilitation*, 54(5), 317–337. <https://doi.org/10.1080/10509674.2015.1043480>

⁶⁸ Apel, R. & Sweeten, G. (2009). Effect of Criminal Justice Involvement in the Transition to Adulthood. <https://nij.ojp.gov/library/publications/effect-criminal-justice-involvement-transition-adulthood>

⁶⁹ Cavendish, W. (2014). Academic Attainment During Commitment and Post release Education–Related Outcomes of Juvenile Justice-Involved Youth with and Without Disabilities. *Journal of Emotional and Behavioral Disorders*, 22(1), 41-52. <https://doi.org/10.1177/1063426612470516>

⁷⁰ Barnert, E. S., Dudovitz, R., Nelson, B. B., Coker, T. R., Biely, C., Li, N., & Chung, P. J. (2017). How Does Incarcerating Young People Affect Their Adult Health Outcomes?. *Pediatrics*, 139(2), e20162624. <https://doi.org/10.1542/peds.2016-2624>

State Data by Pretrial Process Point⁷¹

The Board analyzed available aggregate data reported by the Trial Courts, DYS, and MPS to inform its research into the juvenile pretrial phase. This section outlines that data by pretrial process point.

Impact of the COVID-19 Pandemic on the Data

As mentioned in the *Limitations* section of this report, the COVID-19 pandemic impacted juvenile justice system operations and decision-making. There was a concerted effort across decision-makers to keep youth out of custodial settings as a precautionary measure to prevent contagion. This meant that the number of youth who were in contact with the state’s juvenile justice system in FY21 (and to a lesser extent FY20 and FY22) was at an all-time low. Some of the increases in system use can be attribute to the system resuming “normal” operations in FY23.

When possible, data pre-pandemic is provided in the following section. However, one of the most central data elements in this report, condition of release case starts, is only available from FY21 onward.

For more information on the pandemic’s impact on the juvenile justice system and youth involved with the system, see the JJPAD Board’s 2021 report:

<https://www.mass.gov/doc/covid-19-and-the-massachusetts-juvenile-justice-system-jypad-report-october-2021/download>

Key Takeaways

1. **Recently, the percent of cases placed on pretrial conditions of release has increased:** Between FY21 and FY23, there was an 110% increase in the number of cases with pretrial conditions of release. In FY21, there were 628 cases with pretrial conditions of release and in FY23 that number increased to 1,316.^{72,73}

⁷¹ Select data by county and by demographics can be found in the *Findings* section of this report.

⁷² As is discussed in the *Limitations* section of this report, data on COR case starts became available beginning in FY21. During FY21, there was a concerted effort among juvenile justice stakeholders to divert youth away from the juvenile justice system during the COVID-19 pandemic. It is likely this resulted in more youth being released on PR when compared to other more “typical” years.

⁷³ As is discussed in the *Limitations* section of this report, data on COR case starts became available beginning in FY21. During FY21, there was a concerted effort among juvenile justice stakeholders to divert youth away from the juvenile justice system during the COVID-19 pandemic. It is likely this resulted in more youth being released on PR when compared to other more “typical” years.

2. **Arraignments increased as well during this time.** Data suggests that some of the increase in the number of cases placed on pretrial conditions of release may be due to the 70% increase in the number of arraignments during the same time. In some cases, conditions of release may be used as alternatives to detention for cases with 58A Hearings: over this period, the number of 58A hearings have gone up, but the percent resulting in a detention admission is down.

3. **However, over this same time period, a lower percentage of cases were placed on PR – which means the increase in arraignments does not fully explain the increase in the number of cases placed on COR.** In FY21, an estimated 68% of cases not detained at the initial arraignment were released on PR. In FY23, this percent dropped to 62% of cases at this stage.⁷⁴

4. On average, over the past three fiscal years, **bail/personal recognizance revocations accounted for about a third (33%) of all detention admissions.** Most of these admissions were for youth charged with “lower grid level” offenses. On average, over the past three fiscal years, about 39% of notices of violation of probation (pre and post adjudication) are for non-delinquency related reasons. Taken together, the data indicates **a subset of youth are being detained without bail as a result of non-delinquency related notices of violation of pretrial probation conditions of release.**

5. Further, **there has been an increase in youth detained on low bail amounts in recent years.** Between FY21 and FY23, there was a 26% increase in detention admissions in which bail was set. Further, the number of admissions in which bail was set below \$100 increased 95%.⁷⁵ The increase in the percent of cases detained on low bail amounts may be due – in part – to the requirement that judges must take financial resources into consideration when setting bail now, but as discussed further in the *Findings* section of this report, youth may have bail set for reasons other than flight risk.

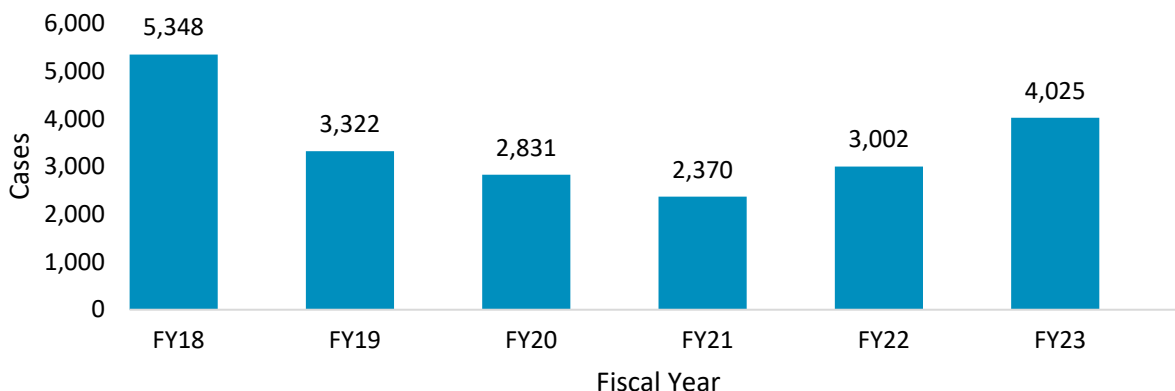
⁷⁴ At the time of this report, the number of youth released pretrial on their own personal recognizances is not reported. Therefore, the Board has estimated the number by taking the total number of youth not detained pretrial and subtracting the number of youth released on pretrial conditions of release and pretrial probation as a disposition.

⁷⁵ As was discussed in the *Introduction* section of this report, there was a concerted effort by juvenile justice stakeholders to keep youth out of detention during the COVID-19 pandemic. It is likely this resulted in fewer youth being detained when compared to other more “typical” years.

Arraignment

The number of arraignments has increased in recent years. In FY23, there were 4,025 arraignments, representing a 34% increase from FY22.⁷⁶

Figure 4:
Delinquency Arraignments (FY21-FY23)

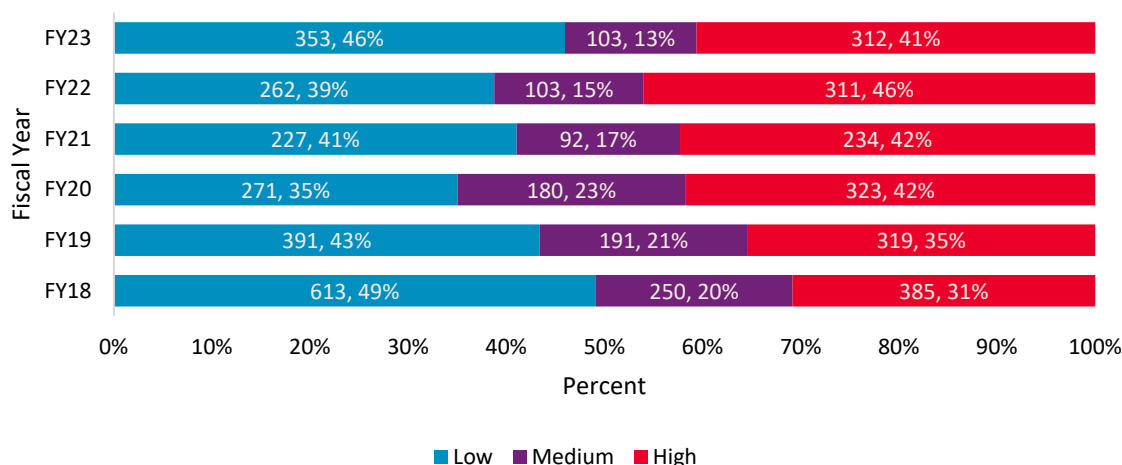


Source: Arraignment data retrieved from the JJPAD FY23 Annual Report

Detention Admissions

The number of detention admissions has increased in recent years. In FY23, there were 768 admissions, representing a 14% increase from FY22. Most of these admissions were for youth with lower-level grid offenses.

Figure 5:
Pretrial Detention Admissions by Offense Severity (FY18-FY23)

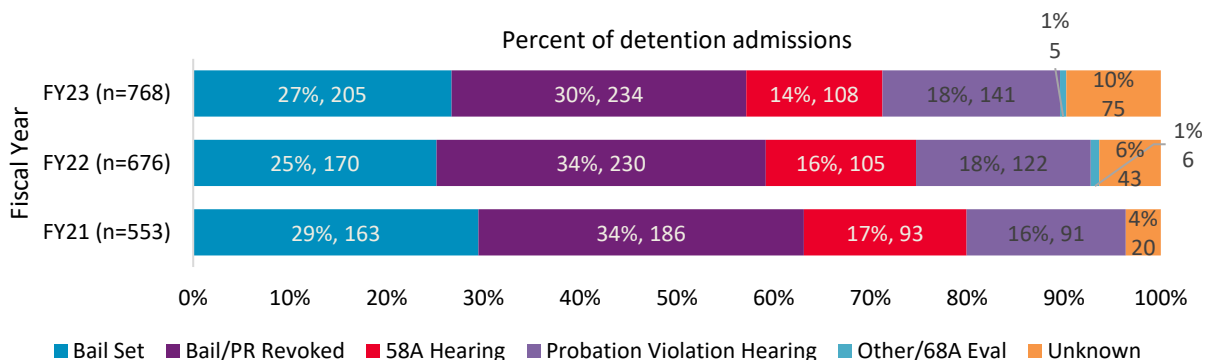


Source: Data retrieved from the JJPAD FY23 Annual Report

⁷⁶ The data presented in this section is case based, not individual. One youth could have multiple charges associated with one arraignment event.

On average, over the past three fiscal years about a third of all detention admissions were for youth with bail/PR revoked.

Figure 6:
Pretrial Detention Admissions by Reason Held (FY21-FY23)



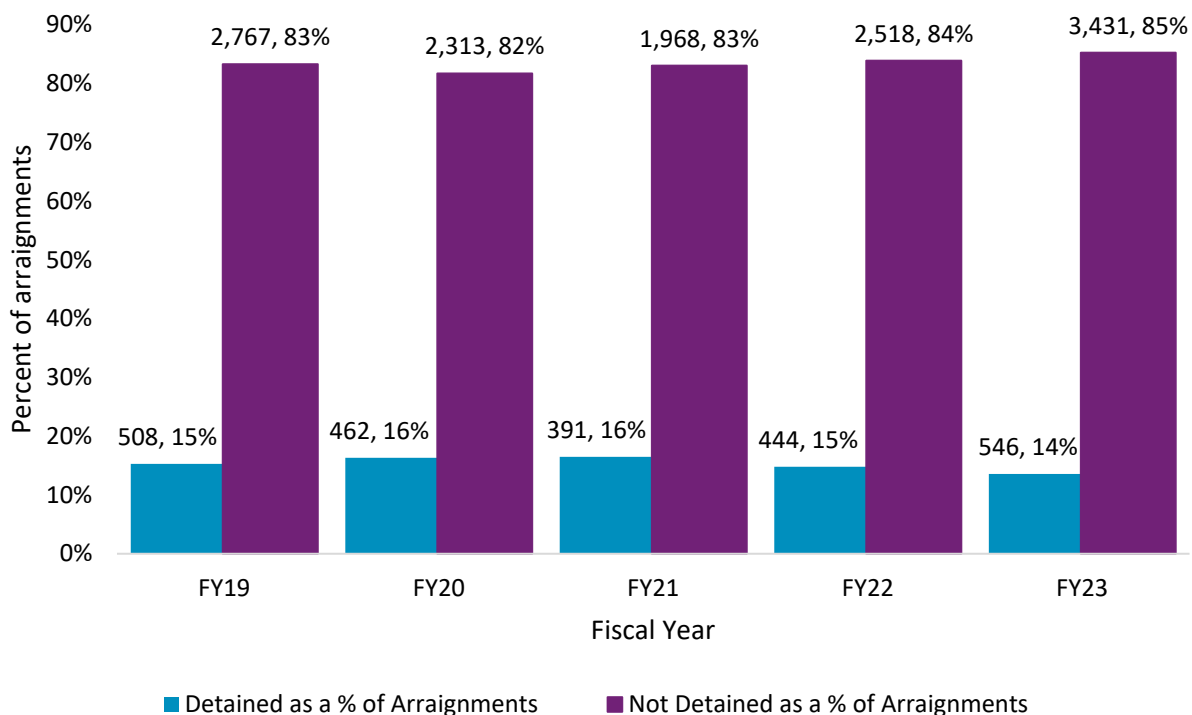
Source: Data retrieved from the JJPAD FY23 Annual Report

In January 2024, the Trial Court began publicly reporting data on initial release decisions at arraignment on delinquency cases. In FY23, there were 3,977 initial detention/release decisions made at initial arraignment:

- 3,431 resulted in a youth not being detained (representing about 85% of arraignments)
- 546 resulted in a youth being detained with or without conditions of release (representing about 14% of arraignments)⁷⁷

⁷⁷ The data presented reflects outcomes at the first arraignment event on delinquency cases, and therefore may include youth held pending a 58A Hearing or as a result of bail being set. This count does not include detention decisions as a result of bail/PR being revoked later on in a case.

Figure 7:
Initial Release Decisions as a Percent of Arraignments (FY19-FY23)



Source: Data on youth not detained and detained at the initial arraignment appearance retrieved 7/2024 from the Massachusetts Trial Court’s Tableau Public page <https://public.tableau.com/app/profile/drap4687/viz/MassachusettsJuvenileCourtDelinquencyInitialBailDecisions/InitialDecisionbyDivision>

Youth Not Detained at the Initial Arraignment

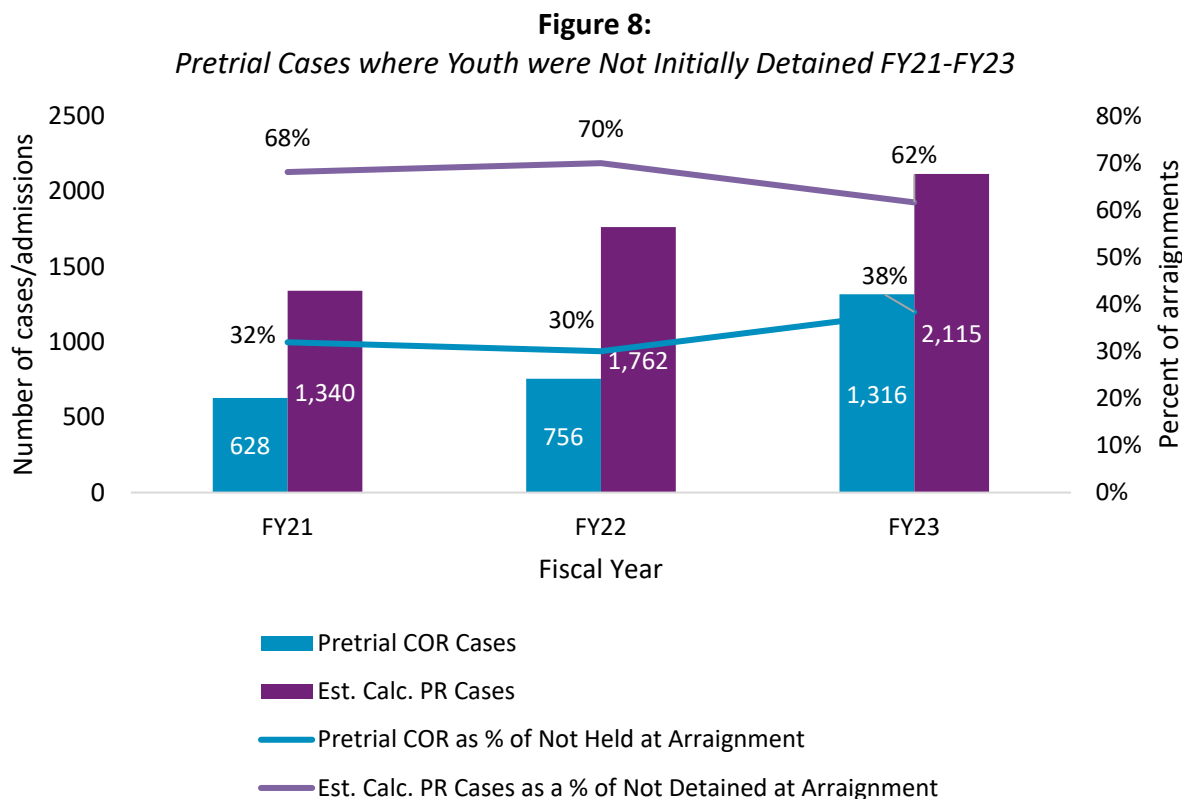
In FY23, of the youth who were *not* detained at their first arraignment appearance:

- Over half (51%, n = 1,746) were charged with an alleged persons offense (compared to 40%, n=273 of youth detained at the initial arraignment)
- 39% (n=1,343) were charged with an alleged misdemeanor offense (compared to 16%, n=86 of youth detained at the initial arraignment)

As is discussed in greater detail in the *Background* section of this report, youth not detained can be released either on their own personal recognizance, with conditions of release which are monitored/supervised by MPS or, in rare occasions, on pretrial probation as a disposition.

Personal Recognizance

In FY23, youth were initially released on PR in an estimated 62% (n=2,115) of arraigned cases where youth were not detained, compared to about 68% (n=1,340) of cases in FY21.^{78,79,80}



Source: COR data provided by the Massachusetts Probation Service’s Department of Research. PR cases are an estimated calculation by OCA by subtracting the number of COR and from the total number of arraignments reports by the Trial Court on its public dashboards.

⁷⁸ At the time of this report, the number of youth released pretrial on their own personal recognizances is not reported. Therefore, the Board has estimated the number by taking the total number of youth not detained pretrial and subtracting the number of youth released on pretrial conditions of release and pretrial probation as a disposition.

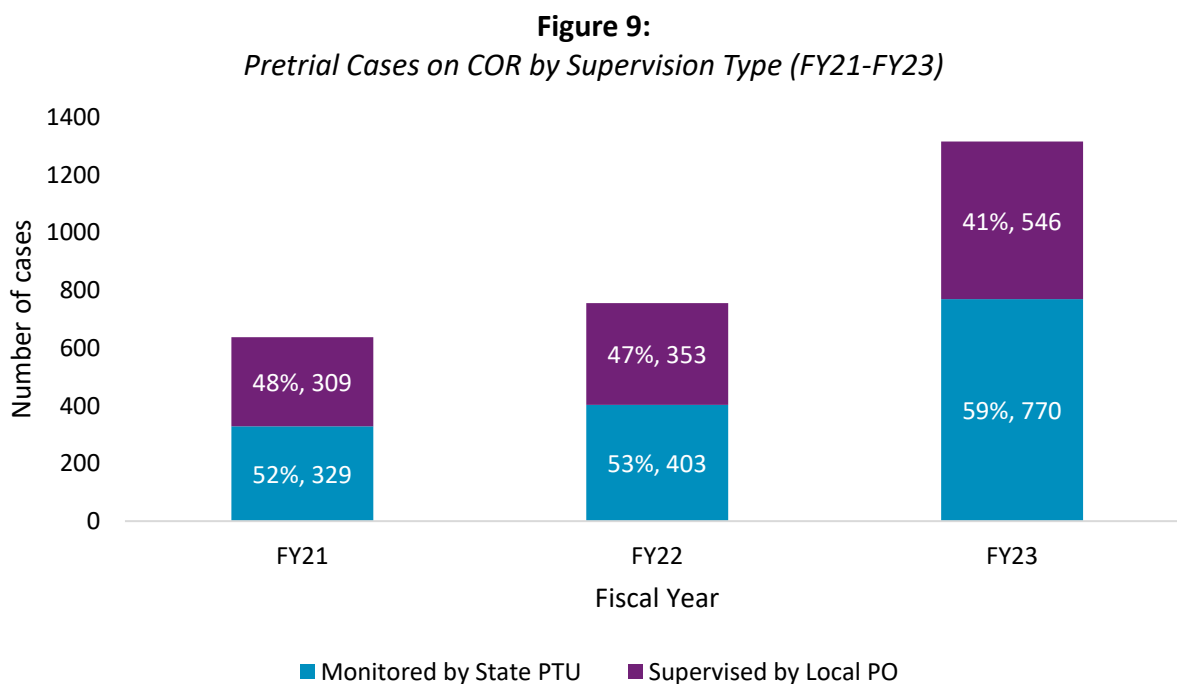
⁷⁹ As is discussed in the *Limitations* section of this report, data on COR case starts became available beginning in FY21. During FY21, there was a concerted effort among juvenile justice stakeholders to divert youth away from the juvenile justice system during the COVID-19 pandemic. It is likely this resulted in more youth being released on PR when compared to other more “typical” years.

⁸⁰ Youth can be placed on Pretrial Probation as a Disposition at initial arraignment and not detained as a result. However, in practice this is extremely rare, and therefore, pretrial probation as a disposition cases are presented in this section but omitted from the Board’s calculations estimating the number of youth who were released on personal recognizance.

Pretrial Conditions of Release

In FY23, there were 1,316 pretrial conditions of release cases started.⁸¹ This is more than two times the number of cases that started in FY21. As is discussed in the *Limitations* section of this report, data on COR case starts became available beginning in FY21. During FY21, there was a concerted effort among juvenile justice stakeholders to divert youth away from the juvenile justice system during the COVID-19 pandemic. It is likely this resulted in more youth being released on PR when compared to other more “typical” years.

The increase in pretrial condition of release cases reflects an increase in both cases that are *monitored* and *supervised* by probation, but the majority of cases during this time were *monitored* by the Pretrial Services Unit. As Figure 7 shows, more than half of the cases that start each year are *monitored* by the Pretrial Services Unit and not *supervised* by the local office.



Source: Data provided by the Massachusetts Probation Service’s Department of Research

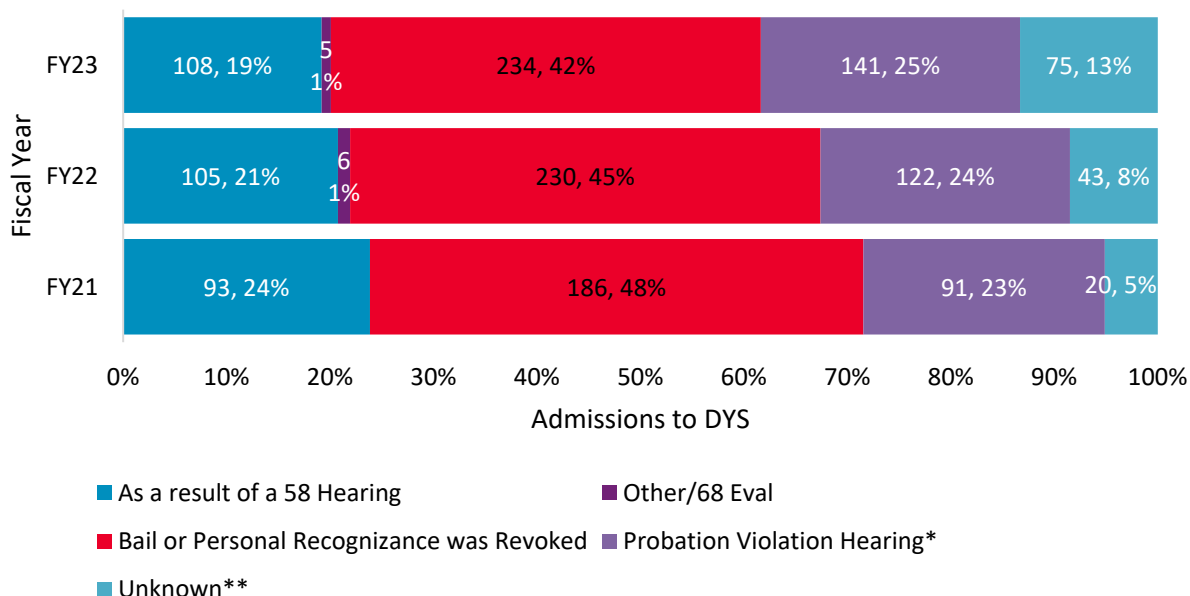
The Board does not currently have data on the specific conditions of release that are set, other than point-in-time GPS data from August 2023. During that month, 179 youth were monitored on GPS.

⁸¹ An individual youth can have more than one pretrial monitoring and supervision case.

Pretrial Detention Admissions to DYS as a Result of Personal Recognizance or Bail Being Revoked

If youth do not comply with their conditions of release, or are charged with a new alleged offense, their bail may be revoked, and they may be detained pretrial without bail. In FY23, 42% (n=234) of detention admissions without bail were due to a youth’s bail or personal recognizance being revoked.

Figure 10:
Pretrial Detention Admission to DYS by Reason Detained without Bail (FY21-FY23)



*Probation violation hearings can include both pretrial and post disposition cases.
 **This means the court documents sent to DYS do not list a reason for detaining without bail. Unknowns have increased in recent years. As of this report, this discrepancy in data reporting is being addressed by the state’s Juvenile Detention Alternative Initiative (JDAI).

Source: Data retrieved from the JJPAD FY23 Annual Report

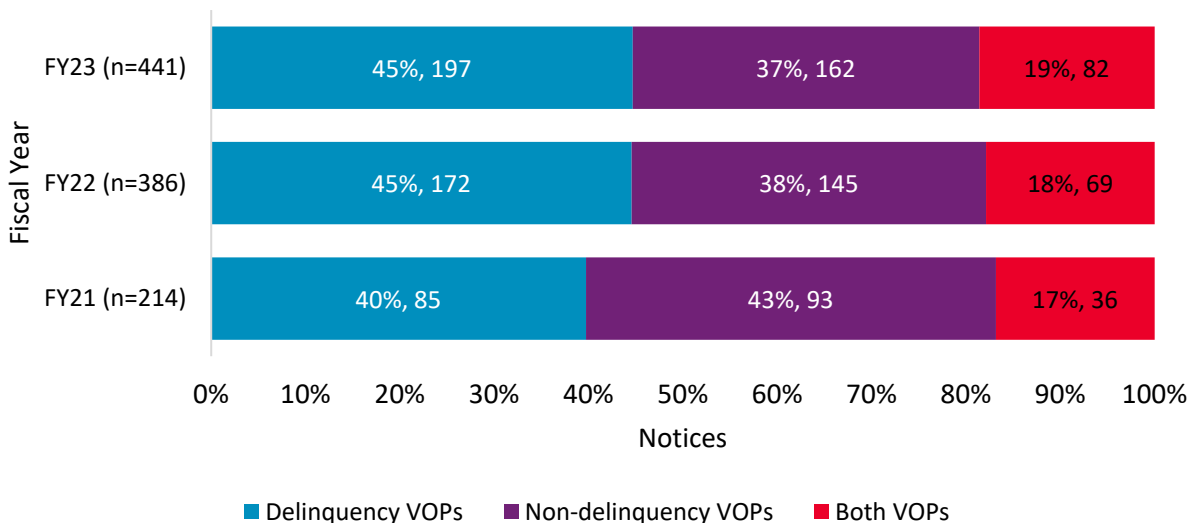
In FY23, the majority of detention admissions where youth were detained without bail as a result of bail or personal recognizance being revoked were for underlying persons offenses (58%, n=136), and about half were for “lower grid level” offenses (49%, n=115).

Historically, MPS has not disaggregated pretrial and post-disposition notices of violation of probation in its public data reporting.⁸² On average, over the past three fiscal years, about 39% of probation violation notices (both pre- and post-adjudication) were for non-delinquency related reasons.

⁸² Beginning in April of 2024, MPS started collecting violation notice data disaggregated by pre and post adjudication with plans to begin publicly reporting that data on their Tableau Public Dashboard.

As discussed in the *Findings* section below, stakeholder interviews revealed that probation officers have more discretion when handling violations post-disposition than pretrial. Therefore, it may be the case that some non-delinquency (“technical”) violation notices occur during the pretrial phase and are contributing to the detention admissions that stemmed from a revocation.

Figure 11:
Violation of Probation Notices by Reason (FY21-FY23)

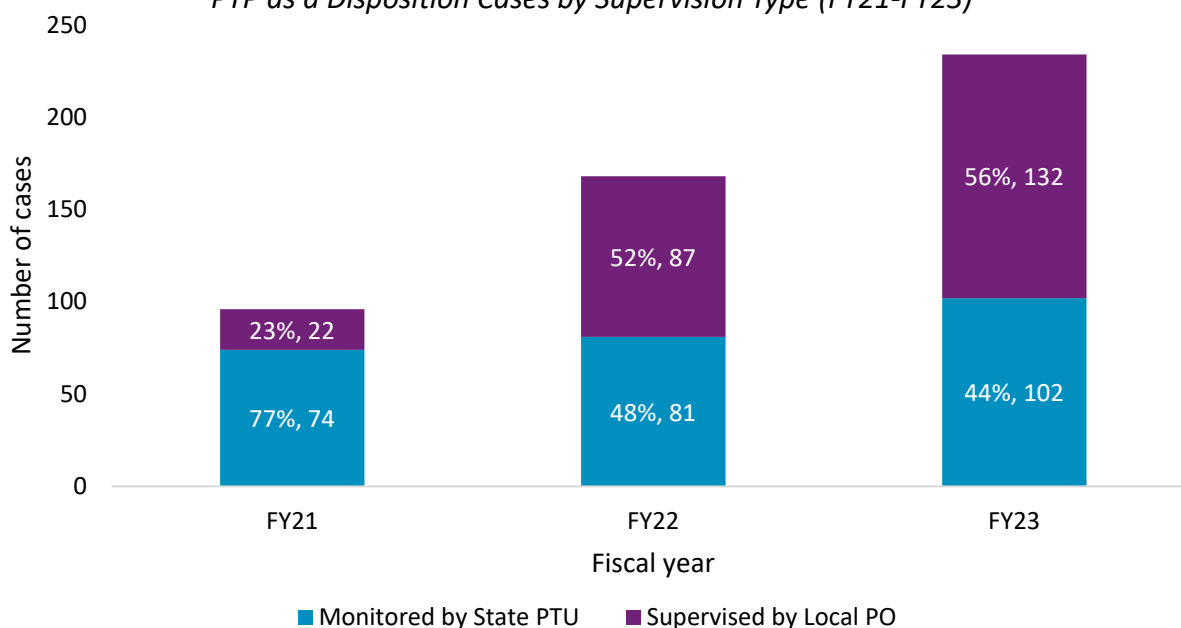


Source: Data provided by the Massachusetts Probation Service’s Department of Research

Pretrial Probation as a Disposition

In FY23, there were 234 cases with pretrial probation as a disposition, representing 7% of arraignments where youth were not detained at the initial appearance (Figure 10). On average over the past three fiscal years, more than half of these cases were monitored by the PTU.

Figure 12:
PTP as a Disposition Cases by Supervision Type (FY21-FY23)



Source: Data provided by the Massachusetts Probation Service’s Department of Research

Youth Detained at Initial Arraignment

In FY23, of the 546 cases that resulted in youth being detained at the initial arraignment:⁸³

- About 38% (n=205) were detained with bail set
- About 20% (n=108) were detained as a result of, or pending a, 58A Hearing
- About 14% (n=75) were detained for unknown reasons
- Fewer than 1% (n=5) were detained for a 68A Evaluation

Youth Detained with Bail Set

In FY23, about a quarter (27%, n= 205) of all detention admissions (n=768) were for youth with bail set, about a third of which (37%, n=76) were held on less than \$100. Nearly half (46%, n=94) of the youth detained with bail included the stipulation that they be released to their parent/guardian.⁸⁴

Over half (59%, n=120) of youth detained with bail set were detained for “lower-level grid offenses”, most of which (51%, n=62) were for youth who had bail set under \$100.⁸⁵ In FY23,

⁸³ Total does not add up to 100% due to differences in reporting by DYS and the Juvenile Court.

⁸⁴ Legally, all youth must be released to a parent or legal guardian unless otherwise specified by the Court, but anyone can post bail for the youth. The Board will explore this topic as part of the group’s dually involved youth project in 2025.

⁸⁵ DYS measures offense severity by a numerical (1-7) “grid level.” Grid levels 1-2 are categorized as low, grid level 3 is categorized as medium, and grid levels 4-7 are categorized as high.

57% (n=117) of admissions where bail was set were for person offenses, a third of which (33%, n=38) were held on bail amounts under \$50.

Table 1: Detention Admissions to DYS with Bail Set by Offense Type (FY23)		
Offense Type	Count	Percent of Total Admissions with Bail Set
Drugs + Public Order	7	3%
Motor Vehicle	13	6%
Person	117	57%
Property	38	19%
Weapons	30	15%
Total Detention Admissions to DYS with Bail Set	205	100%

Source: Data retrieved from the JJPAD FY23 Annual Report

Table 2: Detention Admissions to DYS with Bail Set by Bail Stipulation (FY23)		
Bail Stipulations	Count	Percent of Total Admissions with Bail Set
Release to Parent/Guardian Only	94	46%
None	62	30%
Release to DCF only	47	23%
Total Detention Admissions to DYS with Bail Set	205	100%

*Other bail stipulations omitted due to cell suppression; therefore, summed total may not equal 100%
Source: Data retrieved from the JJPAD FY23 Annual Report

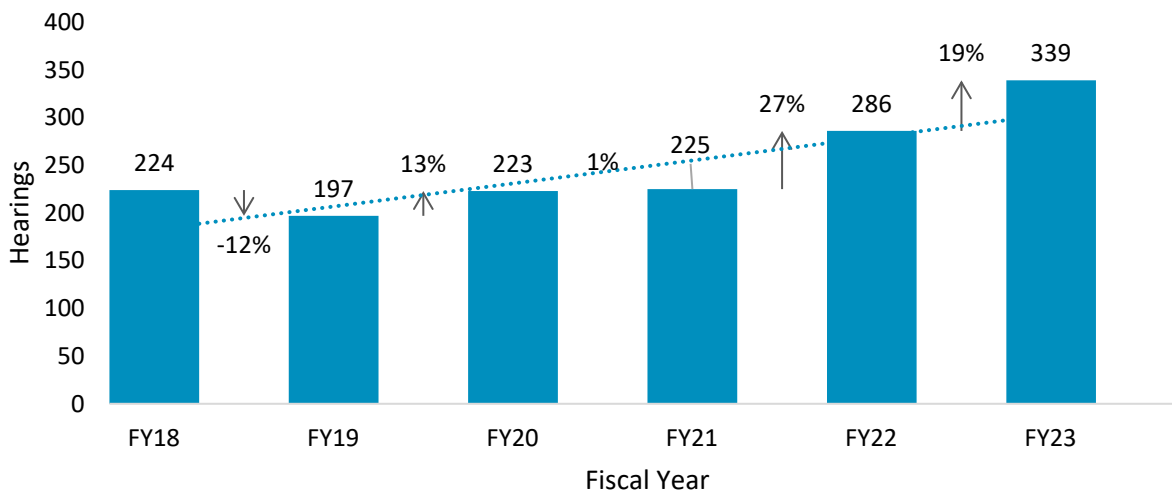
Table 3: Detention Admissions to DYS with Bail Set by Bail Amount (USD) (FY23)		
Bail Amounts (USD)	Count	Percent of Total Admissions with Bail Set
Under \$50	60	29%
\$50-\$99	16	8%
\$100-\$499	34	17%
\$500-\$999	27	13%
\$1,000-\$9,999	52	25%
\$10,000-\$100,000	16	8%
Total	205	100%

Source: Data retrieved from the JJPAD FY23 Annual Report

58A Dangerousness Hearings

If youth are found to be “dangerous” as a result of a 58A Hearing, they may be detained without bail. In recent years, the number of 58A Hearings has been increasing.

Figure 13:
 58A Hearings (FY18-FY23)



Source: 58A Hearings data retrieved from the JJPAD FY23 Annual Report

However, most 58A hearings do not result in a detention admission. In FY23, there were 339 58A Hearings held, but only about 32% (n=108) of those hearings resulted in a detention admission.⁸⁶ The other 231 hearings may have resulted in:

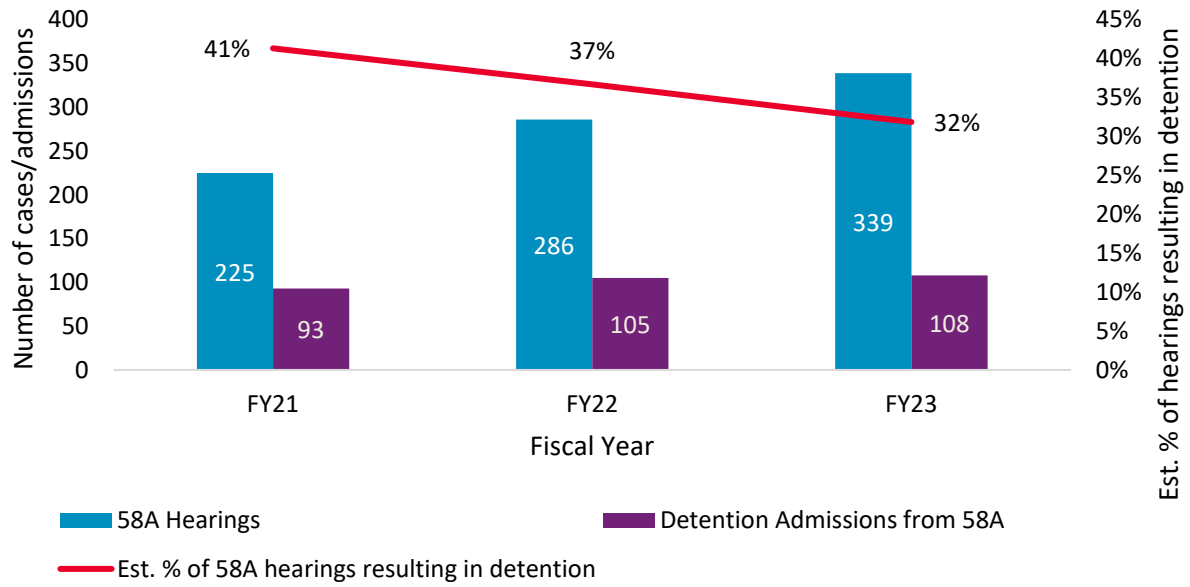
- the youth being found not dangerous and released with conditions of release being set
- the youth being found dangerous and released with conditions of release being set

Currently, outcomes of 58A Hearings are not reported by the Trial Court.

Most youth held as a result of a 58A Hearing are held for “higher grid level” (90%, n=97) and persons related offenses (56%, n=60).

⁸⁶ This is an estimated calculation based on the number of detention admissions to DYS for 58A Hearings divided by the number of 58A Hearings.

Figure 14:
*Estimated Percent of 58A Hearings Resulting in a Detention Admission to
 DYS (FY21-FY23)*



Source: Data retrieved from the JJPAD FY23 Annual Report

Findings

The pretrial process of the juvenile justice system is complex – and requires the balancing of a number of competing priorities:

- **Youth are, at this phase, presumed innocent**, which means they have a variety of legal rights that must be protected. These legal rights mean that there are limits on judges mandating certain conditions related to treatment, punishment, or restorative practices as compared to how they might set conditions post-disposition when youth are adjudicated delinquent or admit sufficient facts (i.e., a CWO). Youth can refuse voluntary services in the pretrial phase – even if some or all of the adults in the system believe such participation would lead to the best long-term outcomes for the youth.
- **Youth are entitled to a speedy trial.** However, the judicial process is (often intentionally) slow to protect a youth’s right to due process. A lengthy pretrial period is often harmful to the youth, and yet sometimes it is necessary to ensure they have full access to the various legal proceedings – including discovery and the opportunity to prepare for trial – to which they are entitled.
- **The Juvenile Court is required by law to treat children “not as criminals, but as children** in need of aid, encouragement and guidance,” and the “care, custody and discipline of the children brought before the court shall approximate as nearly as possible that which they should receive from their parents.”⁸⁷ However, many of the mechanisms in place during this time are the same mechanisms in place for adults (e.g., detention, cash bail, pretrial supervision) with limited modifications for youth. **The Juvenile Court must balance this mandate with its mission to “...protect the public from delinquent and criminal activity” during this part of the system.**
- **Victims and witnesses also have rights and needs.** Safeguarding the rights and needs of an alleged victim or witness, without infringing on a youth’s presumed innocence at this stage, can, in some circumstances, be challenging. As is discussed in *The Pretrial Process* section of this report, victim advocates stress that victims are not a monolith, and have unique needs and ways in which they want to be included in the court process. However, prosecutors and judges have limited mechanisms in which they are able address victim’s needs at this phase.

⁸⁷[M.G.L. Ch.119 Section 53](#)

Complicating things further, there are particular considerations at this phase that are unique to youth – as many stakeholders interviewed for this report noted, “kids are different.” These considerations include:

- The different developmental needs of youth, and the increased level of harm they can experience, compared to adults, from certain interventions or restrictions.
- The added imperative to consider a child’s safety in decision-making.
- The difference in how children experience time as compared to adults.
- Youth have parents/guardians that have legal obligations, rights, and expectations that can – at times – support or conflict with court proceedings and considerations.

Despite these complications, it is clear that **the Commonwealth will benefit when youth are able to succeed during the pretrial phase – and receive the support they need to do so.**

On the other hand, **when youth are harmed by the pretrial process** – including the harms that can come from detention or overly restrictive pretrial conditions of release, or from being treated unfairly – **the child, their family, and citizens of the Commonwealth suffer the consequences directly and indirectly.** Although the youth and their families feel those harms most acutely, youth who “finish” the pretrial period more isolated from their communities, with more difficulties in school, fewer pro-social connections, and more exacerbated behavioral health challenges are ultimately more likely to commit delinquent acts in the future, making us all less safe.

The goal, then, is a pretrial system that treats youth, their families, and victims fairly, sets youth up to succeed, and does not cause more harm than good. Based on the numerous interviews conducted for this report, an analysis of the available data, and a review of national research and best practices at this phase, however, **the Board concludes that our pretrial system is not systematically achieving this goal.**

In particular, the Board finds that our pretrial process:

- Sets **pretrial conditions for youth that can be developmentally inappropriate or not tailored to their specific cases** – increasing the likelihood youth will violate those conditions and leading to detentions that could have been avoided.
- **Overuses “control” mechanisms, most notably GPS monitoring** and home confinement, that pose multiple harms to youth without necessarily increasing public safety.
- **Lasts too long**, causing harm to youth, and results in youth missing time from school and other prosocial activities and delaying treatment and services that might help prevent delinquent behavior.
- Is directed by a **pretrial statutory framework that is unclear** and does not account for all relevant circumstances.

The Board also stresses that the state’s pretrial process should be equitable: a youth’s demographics, family circumstances, or the zip code they are arrested in should not dramatically influence the trajectory of their case. While some level of variation to respond to individual circumstances and community needs is to be expected, the Commonwealth should strive for a basic level of fairness and equitable treatment of all youth across the state. The Board’s review of quantitative and qualitative data makes clear, however, that:

- There are **vastly different regional practices** at this stage, leading to concerns about equity
- There are **disparities** in who is detained pretrial, who gets placed on pretrial monitoring/supervision, and who is released on personal recognizance

Each of the Board’s findings are detailed below.

Finding 1: Pretrial Conditions for Youth can Fail to be Developmentally Appropriate or Tailored to a Youth’s Specific Case

Stakeholders interviewed for this report repeatedly expressed that “kids are different”, and that the current pretrial system is not designed with the unique circumstances and developmental stage of youth in mind.

Interviewees regularly noted that current statute, case law, guidance, and standards are geared toward the adult system, and believed that the Juvenile Court should have specific guidance, forms, and practices for youth. For example, the readability of the state’s conditions of release form is at an eleventh-grade level, well above the recommended fifth grade level suggested for other Trial Court publications.⁸⁸

Further, as highlighted in the *Research* section above, the time in which youth can be involved in Juvenile Court – adolescence (i.e., 12-17 years old in MA) – is a distinct period in life, one in which the brain is still anatomically developing, making some aspects of the pretrial phase particularly difficult for youth to comply with.

Additionally, research on juvenile probation conditions suggests that a “one-size” fits all approach is not effective for youth. Rather, research on youth placed on supervision post-adjudication suggests that conditions that target specific risk factors and are related to the offense the youth was adjudicated delinquent of result in better outcomes for youth.

Interviewees noted that a common reason youth violate their pretrial conditions is because the conditions were not appropriate and/or were unachievable for a youth. Probation is required to

⁸⁸ For more information see: Massachusetts Trial Court. (2018). Readability Guidelines for Printed Self-Help Materials and Forms. <https://www.mass.gov/doc/readability-guidelines-for-printed-self-help-materials-and-forms/download>

notify the DAO whenever they become aware of a violation of probation during this phase. Many probation officers cited inappropriate conditions causing these violations, and thought the violations could often be better addressed outside of the courtroom. For example:

- Professionals interviewed expressed concerns about frequently used conditions of release (specifically about GPS, home confinement, and curfews) that remove youth from their community and prosocial activities. As detailed in the *Research* section above, research shows that positive connections and participating in prosocial activities are vital to youth’s mental health and wellbeing, and when removed, can contribute to delinquency.
- Some professionals caution against the use of treatment-related conditions at this stage, noting the “Juvenile Court is not a service provider,” and in many cases these types of conditions assume guilt. Further, individuals emphasized the challenge of when services are tied to a delinquency case/process, the services end when the case ends. Often, treatment-based services require long, ongoing relationships beyond the length of the delinquency court process, and this disruption in service delivery can be problematic. On the other hand, some professionals noted that when youth *do well* on their treatment-related pretrial conditions, that can help their case at the dispositional stage (i.e., a less severe sanction).
- In many interviews, professionals expressed concern that judges are setting too many conditions of release for youth, making it difficult for youth to keep track of, and comply with, all of the conditions. This ultimately increases the youth’s chances of violating their conditions and risking detention.
- Stakeholders noted that restrictive conditions can be the hardest for youth to follow, and cited numerous examples where restrictive conditions were set that were unrelated to the alleged offense, the facts of a case, or an alleged victim or witness, such as:
 - Youth being ordered to periodic drug testing, regardless of if the alleged offense was drug related
 - Youth being ordered to adhere to a nightly curfew, even if the alleged offense happened during the day or afternoon
 - Youth being ordered not use social media or their cell phone even if the alleged offense did not involve the use of social media or relate to their phone

- The Board also heard instances of youth being placed on conditions that were in direct conflict with each other, such as setting a condition to attend school daily, as well as setting an exclusion zone that includes their school.

Professionals and young adults also reported that families often were unsure who their probation officer was when their case was monitored by the Pretrial Unit and what their requirements were during this time. Youth and families were left frustrated trying to understand who their probation officer was when their case was monitored at the state level, and who they could go to for support.

As described above, and further explored in Finding 5, there are a variety of laws that govern the setting of pretrial conditions of release, and some conditions can only legally be set with the permission of the youth. Although in some cases the youth may technically agree, through their attorney, to certain conditions, stakeholders noted that the notion of consent in such situations is complicated, particularly if the alternative on the table is detention. For this reason, some stakeholders suggested that the onus should be on all adults in the system – prosecutors requesting conditions, judges agreeing to conditions, and defense attorneys advising their clients and arguing for or against conditions – to ensure that conditions are developmentally appropriate, and that youth are set up to succeed during this pretrial phase.

Bright Spots: MPS' eReminder Program

Research shows that many youth (as well as adults) miss court dates for mundane reasons (e.g., lack of transportation, forgetting their court date) rather than intentionally fleeing justice. Programs targeting these barriers have better results in improving failure to appear rates when compared to systems that just rely on cash bail.

Understanding this, MPS, in partnership with the Trial Court's Information Technology Department, worked to develop an eReminder text message system that sends reminders to defendants of their court date. The program was piloted in 2022 at a few district courts and has since been expanded. An evaluation of the program's impact on failure to appear rates for pretrial hearings found that in the text reminder group, 11% of defendant's failed to appear at their pretrial hearing, compared to 14% for the no text reminder group. Further, the failure to appear rate at pretrial hearing events was consistently lower for the text reminder group regardless of age, race/ethnicity, gender, or offense severity.

As of the writing of this report, MPS and the Juvenile Courts have begun implementation in delinquency cases.

Source : <https://www.mass.gov/info-details/about-the-pretrial-services-division#electronic-notification->

Finding 2: Restrictive Conditions, Most Notably GPS and Home Confinement, are Overused

In almost every interview conducted for this report across sectors, professionals expressed concern about the overuse of overly restrictive conditions, most notably GPS, during the pretrial phase.

Many professionals believed that the increase in GPS use was an unintended consequence to Massachusetts limiting the use of detention in Juvenile Court. As discussed earlier in this report, Massachusetts has made a concerted effort to decrease the use of pretrial detention for youth, resulting in a 57% decrease in admissions between FY15 and FY24. **The Board does not have annual data on GPS use throughout the same time period or other data pertaining to GPS use, but many professionals believed it has gone up.**

Those interviewed generally agreed that being released on GPS was the “lesser of two evils” when compared to being detained, and that there are times when a youth can successfully avoid further juvenile justice system involvement after successfully complying with their GPS conditions.⁸⁹ At the same time, many felt as though the harm caused by being placed on a GPS unit was not well documented or understood across all Massachusetts Juvenile Court stakeholders.

Some professionals interviewed are skeptical that the adoption of GPS was effective at limiting detention admissions, however. While it may be the case that the adoption of GPS as a condition of release is resulting in *some* youth being diverted from detention, that is not the case for all youth on GPS. In interviews, professionals cited examples including:

- GPS is often used in cases where youth may have otherwise been released pretrial and, in some cases, were not even eligible for detention (e.g., there was insufficient evidence to detain youth as a result of a 58A Hearing).
- Youth in Massachusetts have been held in detention waiting for an ankle monitor, despite state policies that say youth should not be held for equipment for more than 24 hours.^{90,91}

⁸⁹ This is reflected in national research as well, and in several law review articles. For example: Crump, Catherine, Tracking the Trackers: An Examination of Electronic Monitoring of Youth in Practice (2019). UC Davis Law Review, Vol. 53, No. 2, 2019, <https://ssrn.com/abstract=3414273>

⁹⁰ Per Massachusetts Probation Service policy individuals should not be detained for more than 24 hours waiting for equipment.

⁹¹ This appears to be a national phenomenon. For example, in one San Francisco study, individuals placed on pretrial electronic monitoring were held for a median of seven days, compared to three days for those who were released to supervision. Skog, A. & Laco, J. (2022). Pretrial Electronic Monitoring in San Francisco. California Policy Lab. <https://www.capolicylab.org/wp-content/uploads/2022/11/Pretrial-Electronic-Monitoring-in-San-Francisco.pdf>

- GPS can contribute to “net widening” due to an increase in technical violations related to the GPS equipment.

In the Board’s review of relevant statutes, case law, and official guidance, it found that there is **no statute providing legal guidance for the use of GPS pretrial in Juvenile Court**, and the case law is conflicting. Many interviewees felt there should be more guidance on the appropriate use of GPS pretrial.

Specific concerns about using GPS as a condition expressed by interviewees include:

- **GPS is not developmentally appropriate for youth**, as it requires long-term planning skills that are still developing in adolescence. The Board heard several examples of youth having a difficult time keeping devices charged, resulting in youth receiving “false alarm” violations.
- **GPS contributes to a “labeling effect”, which is harmful for youth and families.** The labeling effect refers to the well-documented process by which youth labeled as “bad kids” adopt those labels as part of their identity, leading to increased likelihood of future delinquent behavior.⁹²

The Board heard these same sentiments expressed in interviews with young adults who were placed on GPS as youth. In one interview, the young adult shared how complying with the conditions of his GPS disrupted his personal relationships, making him feel further isolated from other youth. In another extreme example, the Board heard of a youth having two GPS monitors at once – potentially exacerbating the labeling impact.

- **GPS when coupled with home confinement is detrimental to youth’s physical and mental wellbeing.** The Board heard numerous examples of youth whose mental and physical health were severely diminished as a result of being placed on GPS, especially when it was coupled with home confinement. Examples shared include:
 - Youth were unable to maintain positive connections with their families and community.
 - Youth were unable to participate in prosocial activities.
 - Youth experienced negative impacts on their physical and mental wellbeing due to the lack of space and recreation options available to them while on GPS.

⁹² Kerckhoff, R. K., & Becker, H. S. (1964). Outsiders: Studies in the sociology of deviance. *Social Forces*, 42(3), 389. <https://doi.org/10.2307/2575560> This theory is also supported in juvenile justice system research. For example: Rowan, Z., et. Al. (2023). Labeling effects of initial juvenile justice system processing decision on youth interpersonal ties. *Criminology*, Vol. 61, No. 4, 2023, p. 731-757. <https://onlinelibrary.wiley.com/doi/10.1111/1745-9125.12348>

In fact, in a point-in-time data sample pulled from MPS regarding 217 youth on GPS monitoring, 80% (n=174) had a “home confinement” condition. About 24% (n=52) had an “exclusion zone” condition, and about 20% (n=43) had a “curfew” condition.⁹³

The Board heard several examples from professionals of youth who had to delay preventative medical care due to the burden associated with getting their conditions of release modified to accommodate medical appointments. While MPS is allowed to make day-to-day modifications to conditions (e.g., opening a time window to be out of the house), any changes to the conditions themselves need to be brought into court. This theme is discussed further in the *Research* section of this report.

- **GPS technology can be unreliable, resulting in youth violating their conditions of release.** Professionals shared several examples of the judicial system citing youth for technical violations due to faulty or failing technology, such as the GPS suddenly losing connection.
- **GPS is resource-intensive for both court stakeholders and youth and their families.** The Board heard in interviews that both placing a GPS on a youth and responding to frequent violations due to the unreliable nature of the technology strained Probation’s resources. Additionally, professionals also shared examples of how disruptive/resource intensive wearing a GPS unit was for youth and their families. Examples frequently cited include:
 - Youth and families having to notify the court/MPS frequently in order to get the conditions of the GPS modified so the youth could attend medical appointments
 - Youth and families having to drive to MPS’ Electronic Monitoring Program (ELMO) Unit in Clinton or Quincy to address a device that is having technical difficulties
- **Youth are on GPS devices for too long.** The Board heard concerns of youth being on GPS for extended periods, in some instances years, during the pretrial phase. As discussed in the *Research* Section of this report, extended use of GPS exacerbates the negative outcomes associated with its use in adolescents and can also increase the youth’s likelihood that they will violate and as a result be detained.

It’s clear from both stakeholder interviews and the available research that GPS, as it is currently used, is resulting in harmful outcomes for youth and their families. Further, due to the lack of

⁹³ Data obtained by OCA from MPS on 12/3/2024.

data on usage in Massachusetts, and the lack of a shared “benchmark” for how GPS *should* be used, it is difficult to assess its impact on both public safety and failure to appear rates.

Finding 3: The Pretrial Process Lasts Too Long, Causing Harm to Youth

While the Juvenile Court time standards⁹⁴ state that delinquency proceedings are to be disposed within six to eight months, in practice, the pretrial phase can extend much longer. **In fact, in the Board’s interviews, it was not uncommon for professionals to cite examples of a youth’s cases taking years to reach disposition.** There are many ways in which the pretrial phase can be extended:

- The introduction of evidence that requires forensic or scientific testing (e.g., DNA testing, drug analysis) or the request of third-party records.
- Motions to dismiss/suppress statements, evidence, search warrants or identifications.
- Requests for a court-ordered delay of a hearing, trial, or other proceeding, referred to as a *continuance*, due to the unavailability of a victim, witness, or court personnel, or to prepare additional evidence for submission. Some continuances have time-limits set in statute (e.g., a continuance for a 58A Hearing can be no longer than 7 days) while others are up to the judge’s discretion.
- Requests for court services, such as obtaining interpreters from the Office of Language Access.
- Finding and scheduling a trial date. Juvenile Courts often schedule trials during certain days of the week/month, which impacts other court proceedings moving forward during that time and can create a backlog of trials. Many interviewees noted trials were being scheduled 6 or more months out.⁹⁵
- Impacts of other Juvenile Court cases. Delinquency cases represent just *part* of the cases judges oversee in Juvenile Court. In addition to delinquency cases, judges hear many other types of cases including Child Requiring Assistance (CRA) and Care & Protection (C&P) cases. Emergency hearings for these cases require courts to be flexible and constantly re-prioritize cases, which can impact case processing time.
- Limited staffing and/or resources across state entities to address the current caseload of delinquency cases including a limited number of Juvenile Court judges and a shortage of defense attorneys.

Not only do each of these circumstances take time, but certain court processes (e.g., filing certain motions) also “pause” the clock tracking how long the pretrial phase lasts (this is

⁹⁴ For more information, see the “How long does the pretrial phase last?” text box in this report.

⁹⁵ As noted throughout this report, the pandemic impacted court processing time. However, the time standards say cases should be resolved in 6-8 months, and the court resumed normal jury trial operations in July 2021.

referred to as “tolling time”). This means that *technically* a case may be disposed within the time standards, but in real time extend far beyond the 6-8 months.

The Board does not have data on how long this phase can last beyond data on detention stays (see the text box on this page), but from the circumstances cited above, pretrial proceedings can extend a youth’s case far beyond the standard 6-8 months.

While some of the processes are designed to ensure due process and protect the rights of youth defendants, victims, and witnesses, the extended amount of time this phase can be harmful for all parties.

Youth defendant: If a youth is arrested in April, but their case is not resolved until October, that means this case has impacted two school years. If a youth has a GPS monitor on their ankle for four months, that may prevent them from playing an entire soccer season. If a youth is detained for three months, they have missed an entire quarter of education at their school.

Once a youth’s education and prosocial activities are disrupted, it’s difficult for youth to make that time up. Research shows that any amount of time away from school can be detrimental to a youth’s learning, and it can take youth years to recover from that disruption.⁹⁶ Similarly, as is discussed in the *Research* section of this report, disruption or removal from prosocial activities has been shown to have a negative impact on youth’s physical and mental well-being.

Having a legal case hanging over a youth’s head can significantly impact their mental health. The stress and uncertainty of pending legal decisions can lead to anxiety, depression, and feelings of

Length of Time Detained

DYS reports data on the length of time youth are detained to the Board each year. On average, youth spent 69 days in detention in FY23, up from about 63 days in FY22 and FY21.

The length of time a youth can spend detained before their trial varies substantially: in FY23, youth released from detention spent anywhere between one day and over three years (1,191 days) detained. In FY23, 7.3% (n=56) of detention admissions were for youth held for more than 180 days.

Source : <https://www.mass.gov/doc/jipad-2023-annual-report/download> ; DYS Research Department

⁹⁶ Engzell, P., Frey, A. & Verhagen, M. (2021). Learning loss due to school closures during the COVID-19 pandemic. <https://www.pnas.org/doi/10.1073/pnas.2022376118> ; Kuhfeld, M., Soland, J. Lewis, K & Morton, C. (2022). The pandemic has had devastating impacts on learning. What will it take to help students catch up? <https://www.brookings.edu/articles/the-pandemic-has-had-devastating-impacts-on-learning-what-will-it-take-to-help-students-catch-up/> ; Fahle, E., Kane, T., Reardon, S., & Staiger, D. (2024). The First Year of Pandemic Recovery: A District-Level Analysis <https://educationrecoverycorecard.org/wp-content/uploads/2024/01/ERS-Report-Final-1.31.pdf>

hopelessness, which may hinder their overall development and coping abilities. This constant pressure can also exacerbate existing mental health issues.⁹⁷

Further, research shows that children perceive time differently than adults, often experiencing it as more fluid and less linear, which can influence their understanding of events and memory formation. Youth often remember events based on emotional impact rather than chronological order, while adults usually have a clearer sense of past and future events and how they relate. Kids can experience moments as feeling longer or shorter based on their engagement in activities.^{98,99} Adults, with their greater experience, often have a more consistent sense of duration.¹⁰⁰

This impacts how youth remember the juvenile justice system experience and perceive it in real time. Research shows youth's perceptions of procedural fairness often center on process rather than outcomes, which can significantly influence their attitudes and behaviors.¹⁰¹

Finally, research suggests that the longer a case takes to reach disposition, the less impactful any sanction is on future deterrence. The theory of "swiftness" suggests that timely consequences for delinquent behavior are crucial for effective individual deterrence in youth. Research shows when youth experience immediate sanctions for their actions, it enhances their understanding of the consequences. This reinforces the connection between behavior and outcomes, which can lead to a reduction in recidivism.¹⁰²

Alleged victims and witnesses: Depending on the case, victims and witnesses may be asked to come into court or meet with court personnel on multiple occasions, interrupting daily life (including school attendance for victims and witnesses who are also youth) and serving as a reminder of the alleged offense. Prolonged Juvenile Court processes can lead to increased anxiety and emotional distress for victims and witnesses, as uncertainty about outcomes and

⁹⁷ Steiner, B. & Woolard, J. (2018). "The effects of juvenile justice involvement on mental health: A systematic review." *Journal of Child Psychology and Psychiatry*, 59(11), 1150-1160. DOI: 10.1111/jcpp.12835

⁹⁸ Furst, J. (2004). The effects of activity on children's perception of time. *Journal of Experimental Child Psychology*, 87(3), 178-190. <https://doi.org/10.1016/j.jecp.2003.11.003>; Weller, J. A., & Lamer, K. (2013). Children's and adults' time estimation of future events: Evidence for the fluidity of time perception. *Child Development*, 84(4), 1220-1231. <https://doi.org/10.1111/cdev.12059>

⁹⁹ Quas, J. A., Rush, E. B., Yim, I. S., Edelstein, R. S., Otgaar, H., & Smeets, T. (2016). Stress and emotional valence effects on children's versus adolescents' true and false memory. *Memory (Hove, England)*, 24(5), 696-707. <https://doi.org/10.1080/09658211.2015.1045909>

¹⁰⁰ Furst, J. (2004). The effects of activity on children's perception of time. *Journal of Experimental Child Psychology*, 87(3), 178-190. <https://doi.org/10.1016/j.jecp.2003.11.003>

¹⁰¹ Office of Juvenile Justice and Delinquency Prevention. (2018). Interactions between Youth and Law Enforcement. <https://ojjdp.ojp.gov/model-programs-guide/literature-reviews/interactions-between-youth-and-law-enforcement.pdf>

¹⁰² Piquero, A. R., & Blumstein, A. (2007). "Self-report delinquency and the importance of swift punishment." *Criminology*, 45(3), 635-665. DOI: 10.1111/j.1745-9125.2007.00093.x.

delays in justice can exacerbate feelings of vulnerability.¹⁰³ Lengthy processes may result in witnesses being less likely to participate in court proceedings, potentially leading to reduced testimony and impacting the overall effectiveness of the justice system.¹⁰⁴ For victims, delays in resolution can hinder their psychological recovery and sense of closure, prolonging trauma associated with the incident.¹⁰⁵

Further, research shows that most victims (whether they are children or adults) live in close proximity – even the same neighborhoods – to the individuals accused of committing delinquent acts.¹⁰⁶ The longer a case is unresolved, the longer potential stressors in a community are felt, which can lead to delinquency and feelings of vulnerability, as mentioned. When cases take a long time to be resolved, a community’s perception of the system can worsen and question legitimacy, which erodes trust.¹⁰⁷

Juvenile Justice System/System Personnel: A prolonged Juvenile Court case can overburden staff across the Juvenile Court, Probation, CPCS/YAD, DAOs, police, DYS, and other state entities, and can lead to inefficiencies and delays in subsequent cases, leading to a vicious cycle.¹⁰⁸

Finding 4: There are Vastly Different Regional Practices at this Stage, Leading to Concerns about Equity

As documented by the JJPAD Board in previous reports, the juvenile justice system operates differently across counties. While in some cases this may be a reasonable response to variations in local circumstances, it can also raise concerns about equity: the zip code a youth is arrested in can significantly impact how their case proceeds, with similarly situated youth receiving different treatment based on the county or even court in which their case is handled. (Evidence of other kinds of disparities, such as racial disparities, are further discussed in Finding 6).

¹⁰³ Randell, I., Seymour, F., Henderson, E., & Blackwell, S. (2017). The Experiences of Young Complainant Witnesses in Criminal Court Trials for Sexual Offences. *Psychiatry, psychology, and law: an interdisciplinary journal of the Australian and New Zealand Association of Psychiatry, Psychology and Law*, 25(3), 357–373. <https://doi.org/10.1080/13218719.2017.1396866>

¹⁰⁴ Ibid.

¹⁰⁵ National Crime Victim Law Institute. (2023). Considerations when talking to victims about their expectations for case duration and their rights related to timeframes for the disposition of criminal cases. <https://ncvli.org/wp-content/uploads/2023/10/Checklist-of-Considerations-When-Talking-to-Victims-About-Case-Duration-and-Rights-Related-to-Timelines-2023.pdf>

¹⁰⁶ The distinction between victim/offender is not black and white. Research shows that many perpetrators of violence have also been victims of crime. Illinois Criminal Justice Information Authority (ICJIA). (2019). The Victim-Offender Overlap: Examining the Relationship Between Victimization and Offending. <https://icjia.illinois.gov/researchhub/articles/the-victim-offender-overlap-examining-the-relationship-between-victimization-and-offending>

¹⁰⁷ Ibid.

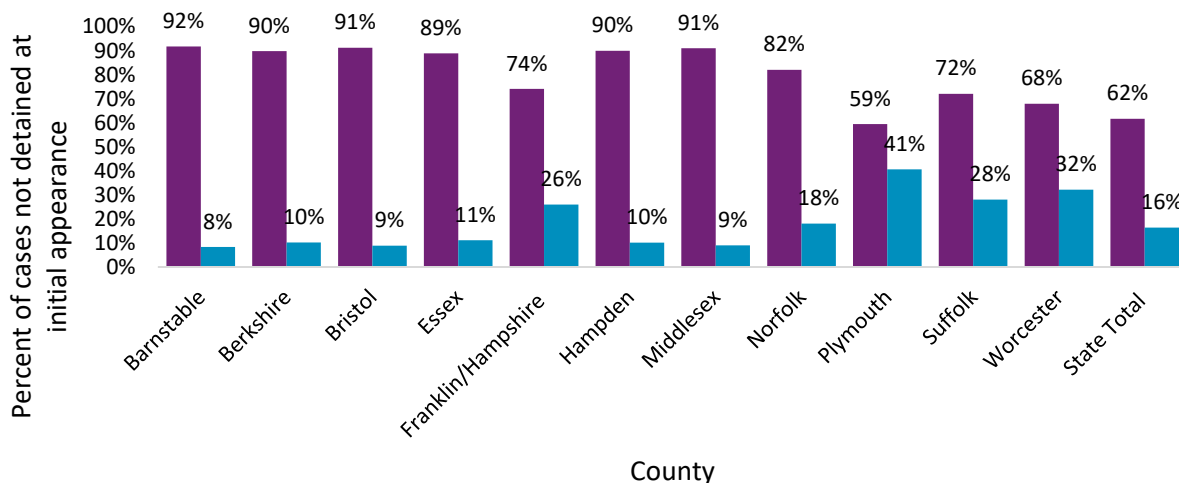
¹⁰⁸ Mays, G. & Taggart, W. (1986). Court Delay - Policy Implications for Court Managers. Criminal Justice Policy Review Volume: 1 Issue: 2 Pages: 198-210 <https://www.ojp.gov/ncjrs/virtual-library/abstracts/court-delay-policy-implications-court-managers>

The pretrial phase is no exception. During interviews, the Board heard instances in which differences across district attorneys’ offices, defense attorneys, probation officers, and judges led to disparate outcomes for youth.

While the Board does not have all the data necessary to validate the concerns expressed in interviews, it is clear from what *is* available that the pretrial phase does operate differently county to county, and there are indeed disparities in who gets detained, placed on pretrial monitoring and supervision, or released on personal recognizance. These differences include:

Whether youth are released on personal recognizance or assigned to be monitored by the MPS Pretrial Unit.¹⁰⁹ Based on the Board’s estimated calculations, the percent of youth released on personal recognizance/sent to be monitored by the Pretrial Unit across counties varies widely. In FY23, estimates ranged from 59% (n=126) of youth arraigned being released on personal recognizance/cases monitored in Plymouth County to 92% (n=265) of all youth being released on personal recognizance/cases monitored in Barnstable County.

Figure 15:
Percent of Youth Not Detained at Initial Appearance Supervised on Conditions of Release & Estimated Calculation of Youth Released on PR/Monitored by PTU (FY23)



■ Est. Number of Youth Released on PR + COR Monitored by the PTU ■ PT COR Supervised at Local PO

*Pretrial conditions of release cases monitored by the State Pretrial Unit were omitted *from this analysis*. Source: Data on youth not detained at arraignment retrieved 7/2024 from the Massachusetts Trial Court’s Tableau Public page here <https://public.tableau.com/app/profile/drap4687/viz/MassachusettsJuvenileCourtDelinquencyInitialBailDecisions/InitialDecisionByDivision> ; Pretrial conditions of release cases data provided by the Massachusetts Probation Service’s Department of Research

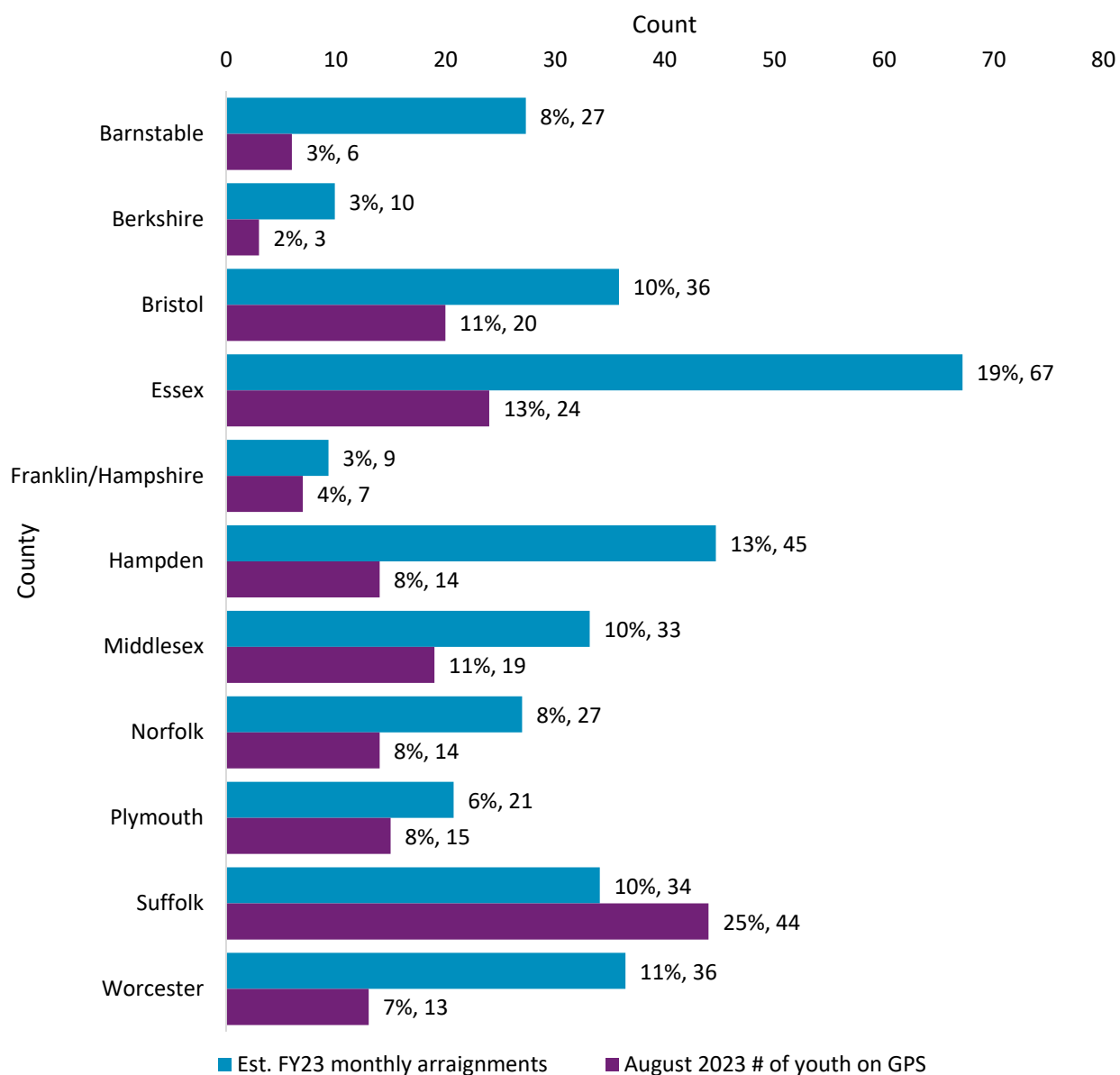
¹⁰⁹ Due to the way data are reported, county level estimates of youth released on personal recognizance include youth monitored on conditions supervised by the statewide Pretrial Unit.

Whether youth are assigned conditions of release: In FY23, 42% (n= 561) of pretrial cases with conditions of release were supervised at the county level. Franklin/Hampshire, Plymouth, Suffolk, and Worcester counties are more likely to require a youth be supervised pretrial than other counties. Although the Board does not currently have data on all conditions set, point-in-time data from August 2023 suggests that Suffolk County uses GPS at a higher rate than other counties compared to the proportion of state arraignments coming from Suffolk.

Table 4: Use of Pretrial Conditions of Release by County (FY23)				
Court County	Arraignments	# Not Detained at Initial Appearance	Est. # of Youth Released on PR or Assigned COR Monitored by PTU	# Assigned PT COR and Supervised at Local PO
Barnstable	328, 8%	300, 9%	275, 13%	25, 4%
Berkshire	119, 3%	88, 3%	79, 4%	9, 2%
Bristol	430, 10%	373, 11%	340, 16%	33, 6%
Essex	806, 19%	690, 20%	613, 29%	77, 14%
Franklin/Hampshire	112, 3%	104, 3%	77, 4%	27, 5%
Hampden	536, 13%	454, 13%	408, 19%	46, 8%
Middlesex	398, 10%	355, 10%	323, 15%	32, 6%
Norfolk	324, 8%	272, 8%	223, 11%	49, 9%
Plymouth	249, 6%	212, 6%	126, 6%	86, 15%
Suffolk	409, 10%	250, 7%	180, 9%	70, 12%
Worcester	437, 11%	333, 10%	226, 11%	107, 19%
State Total	4,148, 100%	3,431, 100%	2,115, 100%	561*, 100%

Percents indicate the percent of the state total.
 *Pretrial conditions of release cases monitored by the State Pretrial Unit were omitted from this analysis due to the way MPS reports this data. Source: Data on youth not detained at arraignment retrieved 7/2024 from the Massachusetts Trial Court's Tableau Public page <https://public.tableau.com/app/profile/drap4687/viz/MassachusettsJuvenileCourtDelinquencyInitialBailDecisions/InitialDecisionbyDivision> ; Pretrial conditions of release cases data provided by the Massachusetts Probation Service's Department of Research

Figure 16:
Number of Youth on GPS (August 2023)

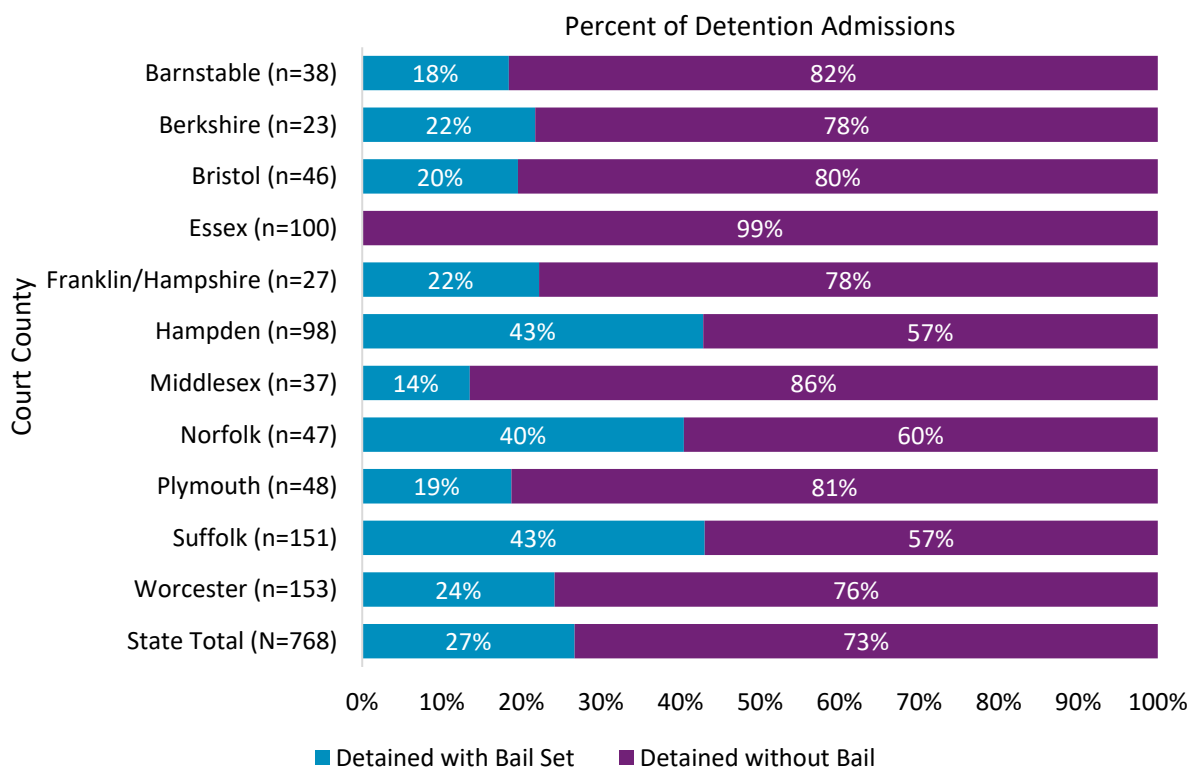


Percents indicate the percent of the state total.

Source: FY23 arraignment data retrieved from the JJPAD Board’s FY23 Annual Report, GPS data provided by the Massachusetts Probation Service’s Department of Research

Use of cash bail: Compared to the rest of the state, youth who are detained in Hampden, Norfolk, and Suffolk Counties are more likely to be detained due to inability to make bail than because they were held without the possibility of bail than in other counties. Of the youth who are detained with bail set in Hampden County, 76% (n=32) are held on amounts of \$50 or less. In Norfolk, 46% (n=9) of youth detained with bail set are held on amounts of \$50 or less.

Figure 17:
Detention Admission to DYS by Bail Status and County (FY23)



Source: Data retrieved from the JJPAD FY23 Annual Report

Whether youth are placed on pretrial probation as a disposition: Of the pretrial probation as a disposition cases supervised at the local level, 68% (n=105) are supervised in Bristol, Middlesex, and Norfolk Counties. In comparison, 28% of cases in the state are arraigned in those three counties. In other words, pretrial probation as a disposition is used much more frequently in those counties than the rest of the state. In comparison, pretrial probation as a disposition is rarely if ever used in Plymouth, Barnstable, Franklin/Hampshire, Suffolk, or Worcester counties. Between FY22 and FY23, Bristol more than doubled the amount of pretrial probation as a disposition cases, while these cases in Norfolk increased by 78%.

Table 5: Arraignments and Pretrial Probation as a Disposition Cases by County (FY23)			
County	Arraignments	Not Detained at Arraignment	Pretrial Probation as a Disposition
Barnstable	328, 8%	300, 9%	0, 0%
Berkshire	119, 3%	88, 3%	14, 9%
Bristol	430, 10%	373, 11%	32, 21%
Essex	806, 19%	690, 20%	17, 11%
Franklin/Hampshire	112, 3%	104, 3%	2, 1%
Hampden	536, 13%	454, 13%	12, 8%
Middlesex	398, 10%	355, 10%	32, 21%
Norfolk	324, 8%	272, 8%	41, 27%
Plymouth	249, 6%	212, 6%	0, %
Suffolk	409, 10%	250, 7%	2, 1%
Worcester	437, 11%	333, 10%	2, 1%
State Total	4,148, 100%	3,431, 100%	154*, 100%
Percents indicate the percent of the state total. *Pretrial probation as a disposition cases monitored by the State Pretrial Unit were omitted from this analysis. Source: FY23 arraignment data retrieved from the JJPAD Board’s FY23 Annual Report; data on youth not detained at arraignment retrieved 7/2024 from the Massachusetts Trial Court’s Tableau Public page here https://public.tableau.com/app/profile/drap4687/viz/MassachusettsJuvenileCourtDelinquencyInitialBailDecisions/InitialDecisionbyDivision ; Pretrial Probation as a Disposition provided by the Massachusetts Probation Service’s Department of Research			

Use of 58A Hearings: Essex County has the highest number of 58A Hearings when compared to other counties, representing 25% (n=85) of the state total, despite making up only 15% (n=376) of the state’s felony arraignments. Further, it appears these dangerousness hearings result in detention less frequently than the state total; while Essex conducts more 58A Hearings than any other county, youth held without bail due to being found dangerous account for only 25% of Essex’s detention admissions where youth are held without bail (Table 6 below). Berkshire, Bristol, Middlesex, Suffolk and Worcester counties were *slightly* overrepresented in 58A Hearings, compared to their proportion of state felony arraignments. This means that, while the level of severity of offense (misdemeanor vs. felony) accounts for *some* of the differences in 58A Hearings from county to county, it does not account for all of it.

Table 6: Felony Arraignments and 58A Hearings by County (FY23)		
Court County	Felony Arraignments	58A Hearing
Barnstable	6%, 165	5%, 17
Berkshire	3%, 78	6%, 22
Bristol	12%, 307	13%, 44
Essex	15%, 376	25%, 85
Franklin/Hampshire	3%, 69	1%, 4
Hampden	13%, 324	4%, 12
Middlesex	10%, 263	11%, 37
Norfolk	9%, 228	1%, 5
Plymouth	6%, 166	4%, 14
Suffolk	12%, 318	14%, 47
Worcester	11%, 273	15%, 52
State Total	100%, 2,567	100%, 339

Source: Felony arraignments and 58A Hearing data retrieved from the JJPAD's FY23 Annual Report

Finding 5: The Pretrial Statutory Framework is Unclear and Does Not Account for All Relevant Circumstances

As discussed above and further described below, the Board heard significant concerns from many professionals interviewed for this report about when and how cash bail and other conditions of release are set in certain cases. In some cases, this may be the result of an unclear statutory framework, further complicated by case law, that does not account for all relevant circumstances. At times, this lack of clarity of intent meant that it was hard for the Board to measure if the laws are having their intended impact.

Cash Bail

As discussed in the *Massachusetts' Pretrial Phase* section of this report, MGL Ch. 276 Section 58¹¹⁰ and 58A¹¹¹ state that the intention of setting cash bail during this phase of the system is to make sure youth appear in court and, in the case of 58A, ensure the safety of a victim or another individual. This statutory focus on flight risk in Section 58 has been reiterated by the SJC as well.¹¹²

However, in making that determination, the state can legally weigh a number of factors that – research indicates – do not relate to a youth's "flight risk" and seem unlikely to be related to victim safety. For example, the statute states that a judge should consider a person's employment record and history of mental illness.

¹¹⁰ [M.G.L. Ch. 276 Section 58](#)

¹¹¹ [M.G.L. Ch. 276 Section 58A](#)

¹¹² [Commonwealth v. Norman](#)

Based on interviews with stakeholders and analysis of the data, the Board has concluded that cash bail is being used at times due to reasons other than flight risk – albeit reasons that in many cases are related to protecting a child’s safety or responding to other system constraints. Examples include:

- **Holding youth with DCF involvement, specifically due to lack of other placement options.** Youth with DCF involvement represent over half (51%, n=395) of total detention admissions, and 57% (n=116) of youth held as a result of bail being set.¹¹³ Professionals across sectors expressed concern that youth with DCF involvement are overrepresented in detention admissions, and that detention is being used in lieu of other placement options.
- **Holding youth being, or perceived as being, commercially sexually exploited (CSEC).** Many professionals believed that youth, particularly girls, are more likely to be held due to concerns that they are at risk, or are currently being sexually exploited, even if that was not reflected in the alleged offense.
- **Holding youth whose parents refuse to take them home.** Some professionals cited bail being set when a parent/caregiver in court asks the judge to detain their child. According to interviews, caregivers request youth be held for a variety of reasons such as “teaching them a lesson” or safety concerns for other household members. Further, only parents/caregivers have the authority to bail youth out, and for youth whose legal custodian is DCF, the agency’s practice is to not post bail.

Additionally, it is unclear whether judges are documenting if cash bail is set with the financial considerations of the youth in mind as required by law. Some interviewees argued that Massachusetts has already deemed all youth as “indigent” by assigning all youth – regardless of financial status of their parents/guardians – counsel.¹¹⁴ Interviewees noted that setting cash bail as a condition of release contradicts that sentiment.

Conditions of Release

As discussed in the *Background* section of this report, conditions of release set under Section 58 are by law meant to ensure that youth appear in court.¹¹⁵ Further, under *Commonwealth v. Norman* (2020), the Massachusetts Supreme Judicial Court clarified that “the only permissible

¹¹³ Further data on youth with DCF involvement can be found in Finding 6 of this report.

¹¹⁴ See Section 6A. Assignment of counsel for juveniles of the Supreme Judicial Court Rule 3:10: Assignment of counsel <https://www.mass.gov/supreme-judicial-court-rules/supreme-judicial-court-rule-310-assignment-of-counsel#section-6a-assignment-of-counsel-for-juveniles>

¹¹⁵ [M.G.L Ch.276 Section 58](#)

goals of pretrial conditions of release [set under Section 58] ... were ensuring the defendant's return to court and his presence at trial and safeguarding the integrity of the judicial process by protecting witnesses from intimidation and other forms of influence.” (Conditions of release related to ensuring public safety can only be set for certain offenses under Section 58A or for cases related to domestic violence under Section 58).

However, stakeholders interviewed for this report noted numerous situations where conditions were set, even though there were no concerns of a flight risk or witness intimidation. In interviews, professionals often cited examples of cases where the youth and their family had been diligent in appearing to court, had a stable living situation, and were attending school, but still, several conditions were imposed.

While other, broader conditions can permissibly be set under MGL Ch. 267 Section 87, as discussed above, those conditions are only supposed to be set with the consent of the youth – which, as the SJC has noted, is an unclear concept when pretrial detention is the alternative to “consenting.”¹¹⁶

It is unclear to many stakeholders the extent to which judges are being clear about whether conditions are being set under Section 58 or Section 87 – and, thus, whether a youth’s consent is truly and meaningful being obtained for all conditions being set. Indeed, many individuals interviewed noted seeing “all the boxes checked” on the bail form, suggesting that judges are not always clearly indicating for the record under which statute the condition is set.

¹¹⁶ The “coercive quality of the circumstance in which a defendant seeks to avoid incarceration by obtaining probation on certain conditions makes principles of waiver and consent generally inapplicable.” Norman, 484 Mass. at 335, quoting Commonwealth v. Feliz, 481 Mass. 689, 702 (2019).

Failure to Appear in Massachusetts and the J-PAST

In Massachusetts, the Juvenile Probation Arraignment/Appearance Screening Tool (J-PAST) was implemented in 2015 as part of the state's JDAI efforts. The screener predicts youth's risk of failing to appear for a court hearing, and calculates that risk based on five factors: 1) Current open warrants, 2) Number of felony adjudications, 3) School attendance, 4) Prior failures to appear, 5) History of mental health disorder. The J-PAST was validated using Massachusetts data, and the factors used to calculate risk somewhat aligns with available research done in other jurisdictions.

The Board heard in interviews that *most* youth show up to their court hearings, regardless of whether or not cash bail is set, and that the J-PAST is not consistently conducted or used. The intended use of the J-PAST is for a probation officer to screen youth prior to arraignment. The results of the screener are then supposed to be made available to judges. However, in practice, it does not appear that the J-PAST is consistently conducted or, when it is, that judges are asking for its results, nor using the results to inform their decision making. The Board does not know why the J-PAST was not fully implemented, but in interviews professionals cited:

- Most youth appear to their court date, even youth who score as a “high” risk for failing to appear.
- Professionals interviewed expressed concern that there may be biases in the tool contributing to disparities and racialized outcomes in who scored high and were detained as a result.
- A lack of understanding of the purpose of the tool (e.g., claiming it took away discretion, when it was intended to be one of many factors judges could use).
- Lack of implementation monitoring and assessment to see if the tool's results were accurate and implementation of the new tool had its intended effect.
- Lack of buy-in from system partners (e.g., judges, DAOs, CPCS, etc.).
- Implementation challenges as a result of a roll-out spanning across the two chief justices: Chief Justice Edgerton, who was then succeeded then by Chief Justice Nechtem.

Source : <https://www.innovatingjustice.org/sites/default/files/media/documents/2019-06/jom-3101-01-balasubramanyam-battery.pdf>

The Trial Court does not report failure to appear rates, but has issued a report for the adult system in 2019: <https://www.mass.gov/doc/massachusetts-trial-court-survey-of-pretrial-statistics-in-criminal-cases-fy2019/download>

Finding 6: There are Disparities in Who is Detained Pretrial, Who Gets Placed on Pretrial Monitoring/Supervision, and Who is Released on Personal Recognizance

The Board has documented the persistent racial and ethnic disparities in the Commonwealth's juvenile justice system each year since its inception. The pretrial phase is no exception. In fact, in FY23, Black and Latino youth remained overrepresented at each pretrial process point in the juvenile justice system.¹¹⁷

Further, the Board heard concerns from court stakeholders that certain groups of youth, namely girls and youth with DCF involvement, are more likely to be detained pretrial for reasons other than concerns regarding failure to appear or community safety.

Racial and Ethnic Disparities

To better understand racial and ethnic disparities in pretrial decision-making, the Board examined Trial Court data on initial decisions on whether to detain a youth on a delinquency case at the initial arraignment hearing.

Youth detained at the initial arraignment:

In FY23, compared to white youth detained at the initial arraignment,

- Hispanic/Latino youth were 1.32 times more likely to be detained pretrial and 1.47 times more likely to be detained as a result of bail being set.
- Black/African American youth were 1.07 times more likely to be detained pretrial and 1.37 times more likely to be detained as a result of bail being set. Of youth who were detained as a result of bail being set, Black/African American youth had higher bail amounts set (Figure 16).

Youth not detained at the initial arraignment:

In FY23 compared to non-Hispanic/Latino¹¹⁸ youth not detained at the initial arraignment in the state, Hispanic/Latino youth were 1.88 times more likely to have conditions of release set and 1.71 times more likely to be placed on pretrial probation as a disposition.

In FY23, compared to white youth not detained at the initial arraignment in the state, Black/African American youth were 1.10 times more likely to be placed on conditions of release and 0.63 times less likely to be placed on pretrial probation as a disposition.

¹¹⁷ Massachusetts Juvenile Justice Data and Policy Board (JJPAD). (2024). 2023 JJPAD Annual Report. <https://www.mass.gov/doc/jjpad-2023-annual-report/download>

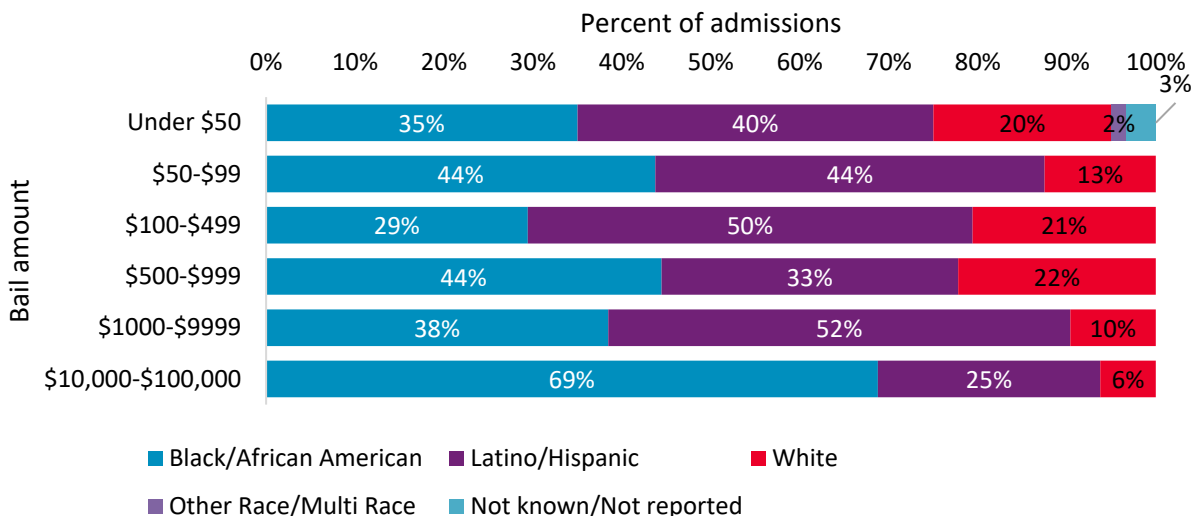
¹¹⁸ MPS reports race and ethnicity data as two separate categories. This analysis may change if race/ethnicity were combined.

Table 7: Pretrial Process Points by Race/Ethnicity Data (FY23)						
FY23 Process Point	Black/African American	Latino/Hispanic	White	Other Race/Multi Race	Not known/Not reported	Total
Held at arraignment	195	198	109	15	29	546
Not detained at arraignment	828	1,056	1,209	143	195	3,977
Detention admissions	269	339	141	9	10	768
Held without bail	188	251	108	8	8	563
Held with bail set	81	88	33	^	^	205
Pretrial conditions of release*	458	371	606	95	157	1,316
Pretrial probation as a disposition*	56	69	129	25	24	234

* MPS reports race and ethnicity data as two separate categories. Therefore, the numbers reported above will not equal the total. Source: Data on youth not detained at arraignment retrieved 7/2024 from the Massachusetts Trial Court's Tableau Public page here <https://public.tableau.com/app/profile/drap4687/viz/MassachusettsJuvenileCourtDelinquencyInitialBailDecisions/InitialDecisionbyDivision> ; Detention admission to DYS retrieved from the JJPAD FY23 Annual Report, Pretrial probation as a disposition and pretrial conditions of release data provided by the Massachusetts Probation Service's Department of Research

^ Number suppressed to protect confidentiality. DYS suppresses data for categories with under five youth.

Figure 18:
Bail Amount by Race/Ethnicity (FY23)



Source: Detention admission to DYS data retrieved from the JJPAD FY23 Annual Report

Gender Disparities

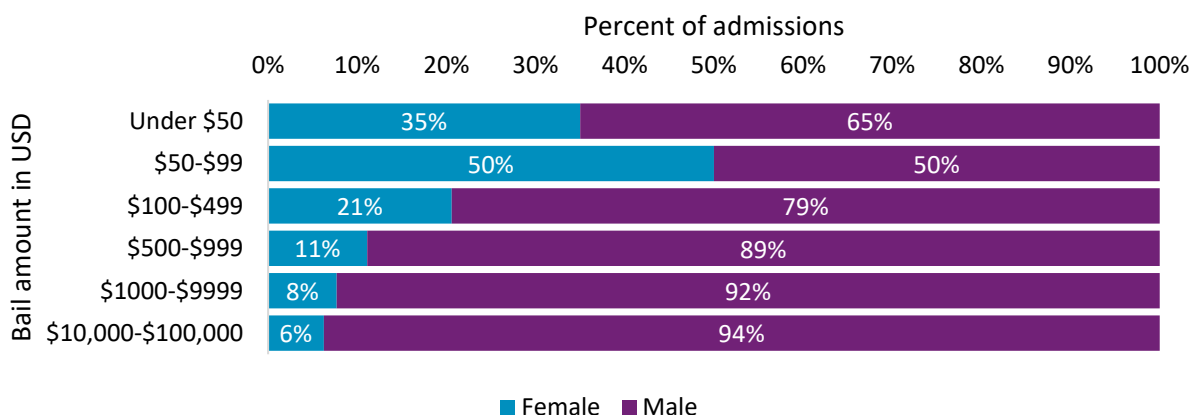
As with the rest of the juvenile justice system, boys represent the majority of admissions in the pretrial phase when compared to girls. While girls only represent a small number of admissions, it is clear from the data that both detention and pretrial probation as a disposition are used differently for girls, including:

- While girls made up 14% (n=106) of all detention admissions in FY23, they made up 21% (n=44) of detention admissions as a result of bail being set and are held for lower amounts compared to boys. As discussed throughout this report, many professionals believed that girls are being detained with bail set for reasons other than flight risks.

Table 8: Detention Admissions by Sex Assigned at Birth (FY23)			
Sex Assigned at Birth	All Detention Admissions	Admissions with Bail Set	Admissions without Bail Set
Female	14%, 106	21%, 44	11%, 62
Male	86%, 662	79%, 161	89%, 501
Total	100%, 768	100%, 205	100%, 563

Source: Data retrieved from the JJPAD FY23 Annual Report

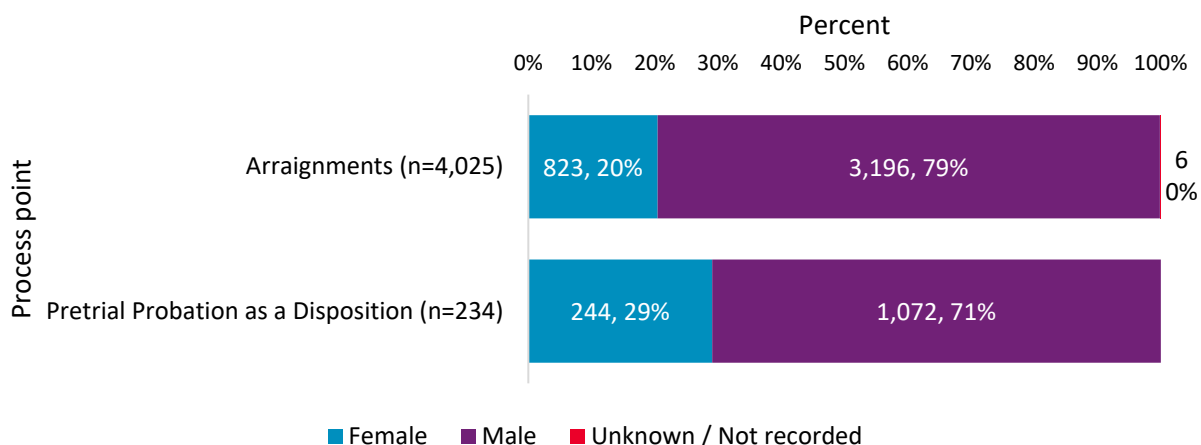
Figure 19:
Bail Amounts by Sex Assigned at Birth (FY23)



Source: Data retrieved from the JJPAD FY23 Annual Report

- Girls account for 29% (n=244) of pretrial probation as a disposition cases, despite representing only 20% (n=823) of arraignments. Between FY22 and FY23, the number of girls on pretrial probation as a disposition cases more than doubled.

Figure 20:
Pretrial Process Points by Gender (FY23)



Source: Arraignment data retrieved from the JJPAD’s FY23 Annual Report, Pretrial Probation as a Disposition data provided by the Massachusetts Probation Service’s Department of Research

LGBTQ+ Disparities

DYS reports the sexual orientation, transgender status, and intersex status of youth in their care and custody.¹¹⁹ In FY23, 6% (n=47) of pretrial detention admissions were for youth who identified as LGBTQ+. As the MA LGBTQ Youth Commission has highlighted in recent reports, 6% of the detention population identifying as LGBTQ+ is below national estimates,¹²⁰ and as the Board has highlighted previously, it is unknown if this is a positive sign, or the result of underreporting by detained youth who may decide not to disclose their gender identity or sexual orientation status at intake.¹²¹

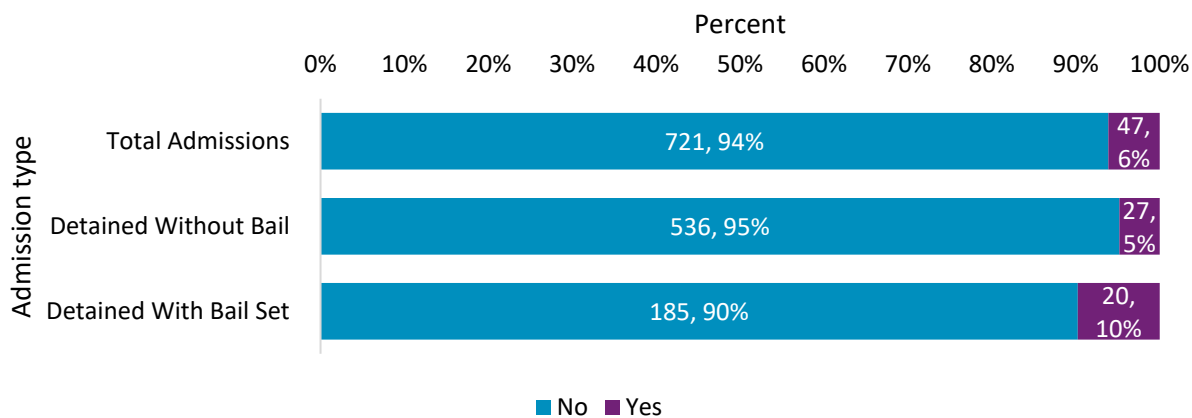
Further, LGBTQ+ youth were held on cash bail more frequently, and held for lower amounts when compared to youth who did not identify as LGBTQ+.

¹¹⁹ Currently, DYS is the only juvenile justice system entity in Massachusetts that collects and reports data on sexual orientation and gender identity/transgender/intersex status.

¹²⁰ According to an OJJDP literature review published in 2014: “available research has estimated that LGBT youths represent 5% to 7% of the nation’s overall youth population, but they compose 13% to 15% of those currently in the juvenile justice system. Office of Juvenile Justice and Delinquency Prevention. (2014). LGBTQ Youths in the Juvenile Justice System. <https://ojjdp.ojp.gov/model-programs-guide/literature-reviews/lgbtq-youths-in-the-juvenile-justice-system.pdf>

¹²¹ Massachusetts Commission on LGBTQ+ Youth. (2023). Report and Recommendations Fiscal Year 2024. <https://www.mass.gov/doc/mclgbtqy-annual-recommendations-fy-2024-0/download> ; Massachusetts Juvenile Justice Data and Policy Board (JJPAD). (2024). FY2023 Annual Report. <https://www.mass.gov/doc/jipad-2023-annual-report/download>

Figure 21:
Detention Admissions by LGBTQ+ Status (FY23)

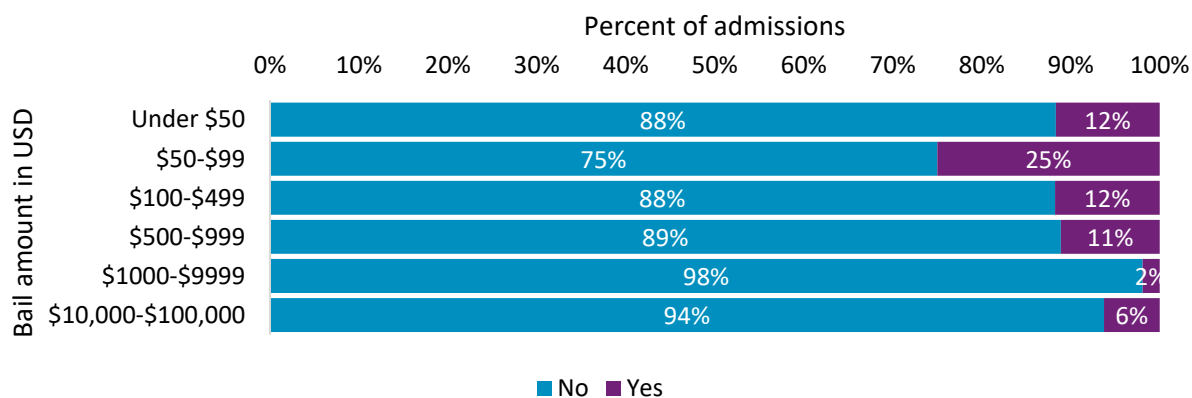


Source: Data retrieved from the JJPAD FY23 Annual Report

Differences Due to Child Welfare System Involvement

As the Board most recently highlighted in its FY23 Annual Report, youth with DCF involvement represent more than half (51%, n=395) of all pretrial detention admissions.^{122,123} Youth with DCF involvement are detained with bail set more frequently and held for lower amounts compared to youth with no DCF involvement.

Figure 22:
Bail Amount by LGBTQ+ Status (FY23)

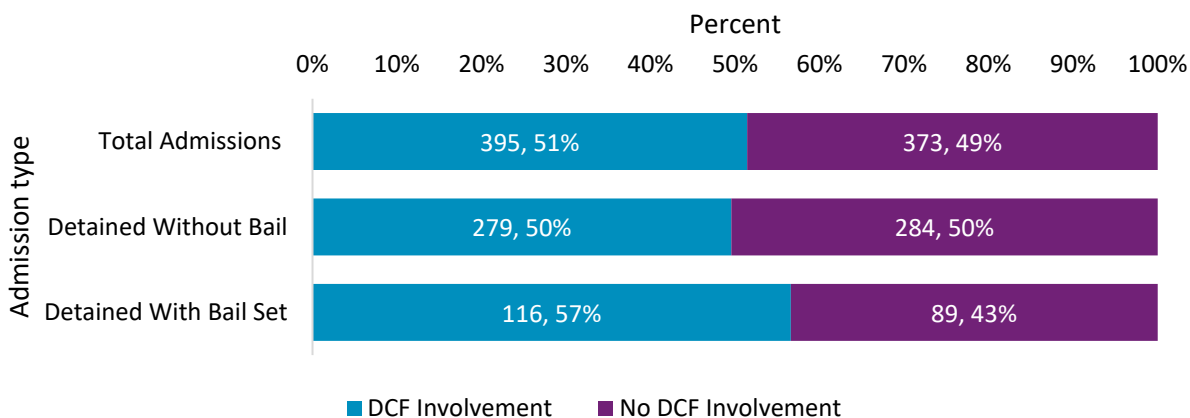


Source: Data retrieved from the JJPAD FY23 Annual Report

¹²² Massachusetts Juvenile Justice Data and Policy Board (JJPAD). (2024). FY2023 Annual Report. <https://www.mass.gov/doc/jjpad-2023-annual-report/download>

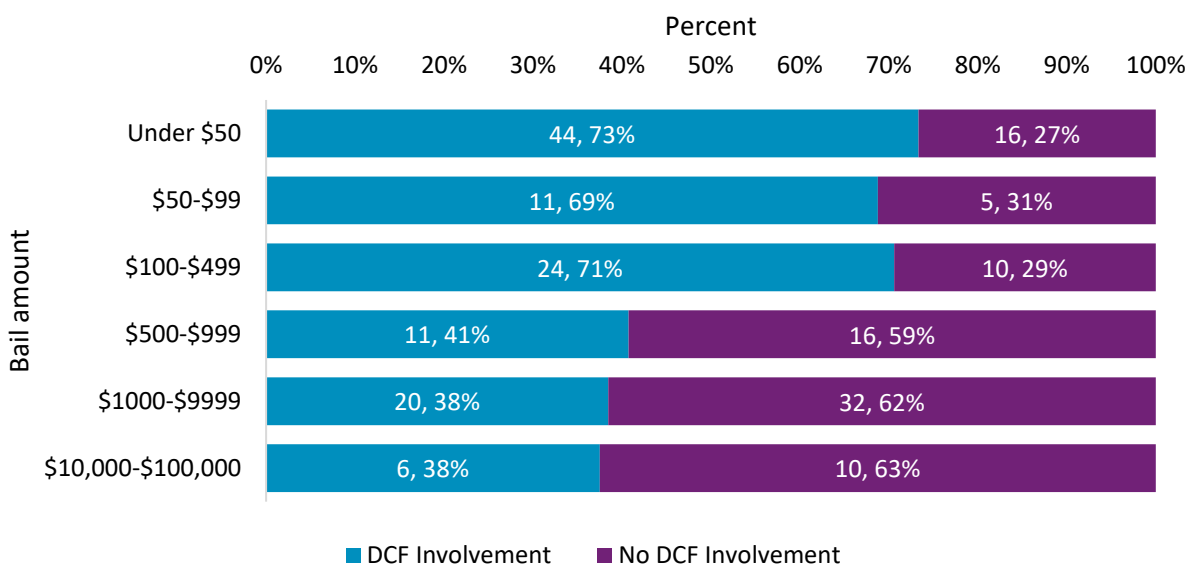
¹²³ DYS defines DCF involvement as a youth who enters DYS care/custody with an open investigation/case with DCF.

Figure 23:
Detention Admissions by DCF Involvement (FY23)



Source: Data retrieved from the JJPAD FY23 Annual Report

Figure 24:
Bail Amount by DCF Status (FY23)



Source: Data retrieved from the JJPAD FY23 Annual Report

- As discussed in this report, professionals cited examples of youth with DCF involvement being held on cash bail due to a lack of DCF placement options, rather than due to failure to appear or safety concerns. DCF does not post bail for youth in their custody who are detained. Further, when another individual posts bail for youth with DCF involvement, but a stipulation of “Release to DCF only” is listed, DYS and the entity posting bail must work with DCF to organize a pickup and DCF must have a placement for that youth when they are bailed out.

Finding 7: There are Cohorts of Youth Who Could be Diverted Away from Pretrial Detention, Pretrial Supervision/Monitoring, or the System Entirely

As in previous JJPAD reports, the Board has found that there are cohorts of youth that can be diverted away from the Juvenile Court system. In interviews, professionals cited that more youth could be diverted:

- **Pre-arraignment:** Many professionals felt there are still too many youth at arraignment with lower-level underlying offenses who could benefit from diversion away from the system entirely, rather than keeping them involved in the formal Juvenile Court process. This is reflected in the data: in FY23, a third (36%, n=1,458) of FY23 arraignments were for misdemeanors.
- **From pretrial supervision/monitoring:** As discussed in the Data section of this report, in recent years the percent of cases in which youth are released on their personal recognizance has decreased, directly correlating with the increase in the percent of cases monitored/supervised by probation. Professionals interviewed suggested more youth could be released without *any* conditions. Some professionals highlighted cases for youth who had “Category A” conditions of release set (n = 770, representing 59% of pretrial cases with conditions of release set) and are assigned to be monitored by the statewide Pretrial Unit as those that could more frequently be released on their own recognizance instead. Stakeholders argued that this would help concentrate MPS resources on cases that require active supervision, including cases diverted from detention (as discussed, below). Many people suggested MPS should focus resources during this part of the system on cases in which youth are determined to be a flight risk or safety risk to a victim or the community.
- **From pretrial detention.** While Massachusetts has been successful in its effort to limit pretrial detention, professionals interviewed mentioned there are still cohorts of youth who could be better served in the community. Individuals highlighted there are youth who could be diverted from detention who needed intermediate options and more active case management than the current supervision/monitoring structure of probation during this time. Specifically, professionals mentioned youth who are detained for a misdemeanor/lower “grid” level offense (n=353, 46% of detention admissions) as good candidates for diversion from detention once the necessary community-based options or supports exists.

Additionally, professionals expressed concerns in interviews that there is an over-representation of youth with unmet needs in pretrial detention. This is confirmed by the data. In FY23,

- More than half of youth detained pretrial had an individualized education plan (IEP), twice the rate of Massachusetts' students generally.
- A quarter of youth detained pretrial had previously experienced physical or sexual abuse or had been sexually exploited.
- About a third of youth detained pretrial had identified feelings of depression/anxiety, almost twice the rate of Massachusetts' youth population.

Stakeholders shared what they felt are more effective services than detention or conditions of release:

- Family programming
- Mentoring programs (with credible messengers and other people with lived experience)
- Behavioral health programming
- Substance use programs
- Recreational programs
- Educational programs

Interviewees differed as to whether these services should be court-mandated and court-provided, or if participation should be voluntary and the emphasis should be on consistent, warm handoffs to community-based organizations. Several individuals noted the importance of community-based supports rather than court-based to make sure services don't end when legal processes do.

Others noted that youth have the legal right to refuse to participate in services pretrial – and that some youth do, even if the adults in their life believe it would be in their best interests (both for a successful resolution of their legal case as well as for their overall life outcomes) to participate in treatment. Some cited this as a reason to move toward adjudication in certain cases rather than divert the youth, as participation in services *can* be required as part of a disposition.

Recommendations for Improvement

As this report describes, Massachusetts has, over the past decade-plus, made significant shifts to limit the use of detention and increase diversion of youth away from the system – a result this Board applauds. While some of these shifts were a result of a change of statute (most notably, provisions of the 2018 *Criminal Justice Reform Act*), many of the positive changes in the system were the result of changes in practice by individual judges, prosecutors, probation officers, defense attorneys, clerk magistrates, and police officers.

These shifts in practice represent a change in culture, prompted by training, by an ever-growing body of research supporting these practices, and by the development of new supervision and service options that gave practitioners the tools they needed to try a different approach. At the core, the shifts have been the result of individual practitioners trying a new approach and seeing, with their own eyes, the positive impacts.

The moment is ripe for a new shift in practice and culture. Increases in the use of pretrial conditions of release, including more restrictive conditions like GPS and home confinement, are at least partially a result of the shift away from the use of detention. Yet an increasingly large body of research, Massachusetts data, and practitioner experience suggest that just as more critical examination of the use of detention began over a decade ago, a similar examination is now needed regarding how and when pretrial conditions of release are used.

Similarly, just as the state has put more resources toward expanding diversion options in recent years, the Commonwealth must also consider ways to expand services and supports during the pretrial phase for youth who have not been diverted, but who also do not need to be detained. In doing so, Massachusetts can improve outcomes for youth who become involved with the justice system – and in the process, protect public safety by reducing the likelihood of future delinquency.

To help spur this change in practice and culture, the Board offers the following recommendations to continue the progress made over the past decade-plus and **ensure that our pretrial system promotes equity and positive outcomes for youth defendants, protects alleged victims and witnesses, and supports the professionals doing this work each day.**

In order to achieve these goals, the JJPAD Board recommends Massachusetts:

- **Improve how conditions of release are set and re-visited throughout the pretrial process**
- **Divert more youth from detention and Juvenile Court involvement by expanding the range of pretrial supervision and pre-arraignment diversion options**
- **Support implementation of pretrial reforms and continue to measure the impact**

Improve How Conditions of Release are Set and Re-visited Throughout the Pretrial Process

As described in Findings 1 and 2, the Board found that many pretrial conditions are not developmentally tailored for the individual youth – increasing the likelihood they will violate those conditions and leading to detentions that could have been avoided. In particular, the Board is concerned about overuse of “control” mechanisms, most notably GPS and home confinement, that harm youth without necessarily increasing public safety.

Although there was widespread agreement among individuals interviewed for this report that pretrial condition-setting is an area of concern, there was less agreement as to *why*. In particular, professionals working in the system differed on the extent to which judges should focus solely on setting conditions that relate to ensuring court appearance and protecting alleged victims and witnesses at this stage, versus setting conditions that connect youth defendants to treatment interventions as soon as possible or are otherwise set “for the good of the youth” (e.g., attend school daily). There was not universal agreement as to which approach leads to better outcomes.

Guidance in statute and case law is also limited. In 2020, the Supreme Judicial Court held in *Commonwealth v. Norman* that pretrial conditions ordered under the bail statute¹²⁴ must be narrowly tailored toward ensuring a defendant’s presence at trial and protecting the integrity of the judicial process. However, under *Jake J v. Commonwealth* (2000),¹²⁵ nearly any condition of release may be set by the judge with the youth’s consent. (The notion of “consent” is, however, complicated when the alternative is detention – a concept the Supreme Judicial Court has also recognized.¹²⁶)

Finally, many stakeholders interviewed for this report noted the impact of fear on the condition-setting process. No prosecutor or judge wants to be the person to release a youth from detention or not use GPS or not set a curfew for a youth who goes on to commit a new alleged offense – and then find their decisions excoriated in the local press.¹²⁷ Conversely, some defense attorneys expressed fear that objecting – at all or “too vociferously” – to certain

¹²⁴ [M.G.L Ch.276 Section 58](#)

¹²⁵ [Commonwealth v. J. Jake](#)

¹²⁶ The “coercive quality of the circumstance in which a defendant seeks to avoid incarceration by obtaining probation on certain conditions makes principles of waiver and consent generally inapplicable.” *Norman*, 484 Mass. at 335, quoting *Commonwealth v. Feliz*, 481 Mass. 689, 702 (2019).

¹²⁷ For example, in 2024 the following stories involved individuals during the pretrial phase:

https://www.bostonglobe.com/2024/02/01/metro/teen-girl-charged-with-stabbing-at-jeremiah-e-burke-high-school/?p1=BGSearch_Overlay_Results ; https://www.bostonglobe.com/2024/05/30/metro/16-year-old-girl-killed-apparent-murder-suicide-acton-da-says/?s_campaign=8315 ; <https://www.bostonglobe.com/2024/06/10/metro/patrick-mendoza-cuts-off-gps/> ; https://www.bostonglobe.com/2023/12/27/metro/hingham-apple-store-crash-gps-monitoring/?p1=BGSearch_Overlay_Results

conditions, even if those conditions were clearly setting their client up to fail, could ultimately lead to worse outcomes for their clients.

These are not easy decisions – and while research findings alone cannot tell professionals what the “right” decision is for any individual case, they can help point us in the right direction. Just as a better understanding of the research on the longer-term harms of detention has led Massachusetts to reduce the use of detention over time, so too can a better understanding of the longer-term harms of GPS, home confinement, and other conditions that restrict youth engagement with pro-social activities help inform decision-making in this arena.

The state should not assume every practitioner in the court has the time to keep abreast of all of the relevant research, however. The juvenile justice system professionals who work in the field day in and day out deserve evidence-based guidance and state support to help make informed decisions based on each youth’s case and the alleged victims.

Therefore, the Board recommends that the state provide a greater level of guidance and – as discussed in Recommendation 7, training – to Juvenile Court practitioners on setting and revising pretrial conditions of release.

Recommendation 1: Provide More Guidance on Setting Pretrial Conditions of Release for Youth

While the Trial Court published guidance on this topic in 2016, the JJPAD Board believes the Juvenile Court should set its own guidance for court processes at this stage, building on the unique mission of the Juvenile Court.¹²⁸ Similar to the Juvenile Court’s 2019 guidance on dispositional and sentencing best practices, and drawing on statute, case law, and the best available research on topics like adolescent brain development and the negative impacts that certain conditions can have on youth, the Juvenile Court should provide detailed guidance for judges. This guidance would aim to assist judges in determining when they should release a youth on personal recognizance, when to set conditions of release and what those conditions should be, when to revoke bail or modify conditions, and when to detain a youth pretrial.¹²⁹ This guidance could take a variety of forms and should be explained and reinforced with regular training (see Recommendation 7).

Based on the Board’s research, the Juvenile Court should consider including the following concepts when developing this guidance:

¹²⁸ Massachusetts Trial Court. (2016). Trial Court Guidelines for Pretrial Conditions of Release. <https://www.mass.gov/doc/trial-court-guidelines-for-pretrial-release/download>

¹²⁹ Massachusetts Trial Court. (2016). Juvenile Court Dispositional and Sentencing Best Practices. <https://www.mass.gov/doc/juvenile-court-dispositional-and-sentencing-best-practices/download>

- **Determining whether conditions of release are needed and starting with a presumption of release on personal recognizance.** As this report highlights, data suggests judges are releasing youth on personal recognizance *less* and using conditions of release (particularly those that don't require active probation supervision) *more*. According to numerous stakeholder interviews, many of those youth could, instead, be released on personal recognizance without negative public safety consequences. One group that may be appropriate to release on personal recognizance, for example, are youth released on "Category A" conditions monitored by the state Pretrial Unit. Indeed, these cases increased 77% since FY21.

- **Avoiding the use of restrictive conditions that conflict or prevent participation in a youth's current prosocial activities unless necessary given the facts and circumstances of the case, or in order to permit an alleged victim's participation in prosocial programs.** Research shows that positive connections and participating in prosocial activities are vital to youth's mental health and wellbeing.¹³⁰ However, many conditions of release remove youth from their community and any prosocial activities. This loss of prosocial activities is not only detrimental to a youth's physical and emotional well-being, but it also increases their risk of further delinquency.¹³¹ **When determining if/when restrictive conditions are necessary for the youth, judges should consider:**
 - Starting with the least restrictive option possible (accounting for the circumstances of the alleged offense and other relevant factors) and making modifications (more or less restrictions) based on the youth's behavior (see Recommendation 3 for more details on this idea).

 - Setting the most focused restrictions possible with the goal of ensuring alleged victim/witness safety while also avoiding the detrimental impact isolation can have on a youth's long-term outcomes.¹³² For example, a judge could start by imposing a

¹³⁰ Telzer, E. H., van Hoorn, J., Rogers, C. R., & Do, K. T. (2018). Social Influence on Positive Youth Development: A Developmental Neuroscience Perspective. *Advances in child development and behavior*, 54, 215–258.
<https://doi.org/10.1016/bs.acdb.2017.10.003>

¹³¹ Gentle-Genitty, C. (n.d.). Understanding Juvenile Delinquent Behavior through Social Bonding. Indiana University.
<https://scholarworks.indianapolis.iu.edu/server/api/core/bitstreams/959aad5e-526b-4b84-b5ee-37a2c7bbf980/content> ;
<https://www.mass.gov/doc/covid-19-and-the-massachusetts-juvenile-justice-system-jypad-report-october-2021/download>

¹³² The impact of loneliness and isolation on youth's mental health has been extensively demonstrated in over sixty studies, particularly its long-term association with anxiety and depression. Crump, C. & Gandi, A. (2020). Electronic Monitoring of Youth in the California Justice System. <https://www.law.berkeley.edu/wp-content/uploads/2020/11/Samuelson-Electronic-Monitoring-Youth-California-Addl-Data-11-2020.pdf> ; Massachusetts Childhood Trauma Task Force. (2020). Protecting our Children's Well-Being During Covid-19. <https://www.mass.gov/doc/cttf-june-2020-report-protecting-our-childrens-well-being-during-covid-19-0/download> ; Massachusetts Juvenile Justice Data and Policy Board (JJPAD). (2021). COVID-19 and the Massachusetts Juvenile Justice System. <https://www.mass.gov/doc/covid-19-and-the-massachusetts-juvenile-justice-system-jypad-report-october-2021/download>

curfew rather than home confinement. If a youth is unable to follow the curfew condition, curfew could be limited even further, and then finally, a judge may choose to impose home confinement.

- Only using GPS as an alternative for cases in which a judge would otherwise detain a youth,¹³³ or as a last option before revoking bail and detaining a youth and ensuring that GPS restrictions are limited to specific exclusion zones rather than being overly broad.
- Avoiding the use of home confinement, restricting the use to situations where there is evidence before the court establishing that a youth presents a flight risk or an imminent danger (e.g., as determined by MGL c. 276 Section 58A) to the community. In setting a condition of home confinement, judges should also consider the mental health impact on the youth, the safety of the youth in their home, and the negative impact that home confinement can have on their participation in prosocial activities, and their family dynamics.
- **Limiting the number of conditions.** As this report details, “less is more” when it comes to supervising youth, and research shows individualized condition setting is more effective at reducing recidivism.¹³⁴ This principle can also apply to conditions set at the pretrial phase. Therefore, judges should make every effort to only set conditions that are directly related to the youth’s risk of failing to appear at future court dates and the safety of any alleged victims and witnesses, rather than a list of conditions that are “good for youth.” This can help youth be successful and not violate their terms of release. One way to limit the number of conditions set at this stage is to **focus on the individual facts of the case by relating conditions to the underlying alleged offense.** For example, if a youth is not charged with a drug-related offense and substance use was not a factor in the underlying offense, drug testing should not be set as a condition. Judges should also ensure the concerns of alleged victims and witnesses regarding personal safety are heard and take that input into consideration when setting conditions.

¹³³ The court may consider modeling guidance off of Illinois law that states GPS should be used when there is no less restrictive condition that would ensure appearance in court or protect an identifiable person from imminent threat from serious physical harm. <https://www.ilga.gov/legislation/101/HB/PDF/10100HB3653lv.pdf>

¹³⁴ As one study states, “This is because surveillance alone has little to no impact on reoffending; adolescents are unable, developmentally, to make progress on multiple goals; and standardized approaches don’t address the varying factors that contribute to youth’s delinquent behavior.” The Council of State Governments. (n.d.). Breaking the Rules: Rethinking Condition Setting and Enforcement in Juvenile Probation. <https://projects.csjusticecenter.org/breaking-the-rules/>

The legislature may want to consider revisiting the General Laws to determine whether there is a need to adopt changes that ensure that conditions set in the Juvenile Court are developmentally appropriate for youth and are limited to the facts and circumstances of the underlying case.

- **Determining when to use prosocial, treatment, or service-related conditions.**

Professionals interviewed for this report varied on when it is helpful to set prosocial, treatment, or service-related conditions (e.g., drug treatment, behavioral health assessments, counseling, mentorships, attending community programming, attend school). Some suggested using these types of conditions when a youth's needs were urgent and delaying the service would hurt the youth's opportunity for success. Others thought the treatment/service-related conditions should be used to promote positive youth life outcomes beyond the scope of the legal case. Others thought these conditions should only be used if related to the underlying offense (e.g., if a youth was alleged of committing a drug offense, a drug-related counseling condition would be appropriate). Others felt these types of conditions should not be used at all pretrial, as they may assume guilt. Research suggests overly broad conditions such as "Obey all school rules" are difficult for youth to comply with and increase their chances of violating.¹³⁵

These conditions can typically only be set under G. L. c. 276, Section 87, which means a youth's consent is required. Even if that consent is given, however, setting such conditions may not always be in their long-term best interests. While there are many considerations to balance, it would be useful for the Juvenile Court to provide guidance on how judges can determine when a prosocial, treatment, or service-related condition is the best course of action, and how judges can avoid broad/generalized conditions. In particular, the Juvenile Court should consider how judges can determine if a youth's consent was "freely and voluntarily given...unfettered by coercion, express or implied."¹³⁶

The legislature may consider a review of the data in this report to consider whether there is a need to revisit G. L. c. 276, Section 87 in order to ensure that there is greater clarity under the law that offers when, and what type, of service-based conditions are appropriate and developmentally appropriate so that the onus of consent is not squarely placed on still-developing youth.

¹³⁵ Ibid.

¹³⁶ [Commonwealth v. Norman](#)

- **Judges should clearly put on the record which statute they are tying conditions to**, so youth know what they are consenting to and why, and professionals understand what pretrial supervision is for in each specific case (i.e., flight risk, public safety risk).¹³⁷ It was clear in the interviews that informed this report that court professionals across roles (prosecutors, defense, judges, and probation officers) are not always consistent in aligning conditions with statutes. While the Board does not have data to verify this, several stakeholders referenced situations where judges used Section 87 and Section 58 interchangeably – contra to the holding in *Jake J.*¹³⁸

There also may be a role for the legislature to revisit the statutory framework currently in place to determine whether there is a way to streamline and avoid this type of confusion.

The Juvenile Court should consider additional tools to support implementation of this guidance such as developing bench cards and, as outlined in Recommendation 7, training judges.

Recommendation 2: Develop a New “Order of Pretrial Conditions of Release” Form

To encourage condition setting in accordance with the above-recommended guidance, **the Juvenile Court and MPS should develop a new “Order of Pretrial Conditions of Release” form specifically for Juvenile Court use.**

The current “Order of Pretrial Conditions of Release” form reads at an 11th grade level and is the same one used in adult court. It is also constructed in a way that sets up a “check list of conditions.” Stakeholders interviewed for this report suggested that this “check list” format encourages judges to set a number of conditions quickly, without necessarily pausing to reflect on the applicability of each condition to each individual case.

The Juvenile Court and MPS should craft a specific order form for its court processes. MPS is currently undergoing a restructure of the order of conditions for post-disposition supervision.

¹³⁷ As cited in <http://masscases.com/cases/sjc/433/433mass70.html>

¹³⁸ “Where the Juvenile Court intends to set conditions of release, we emphasize the need to be clear on the record that the juvenile is being released on bail or personal recognizance pursuant to G. L. c. 276, § 58, and that, with his consent and agreement, he is simultaneously being placed on probation pursuant to § 87. Further, it should be explained to the juvenile that any agreed-on conditions of probation also constitute the conditions of his release. ... Finally, the judge should explain the consequences of violating any of the agreed-on conditions. We stress that these requirements are matters of substance, not merely of form. Placing a juvenile on conditions of release under § 87 should be more than -[a]rtful nomenclature,” *Commonwealth v. Taylor*, supra at 626, or the reference to one statute rather than another.”
<http://masscases.com/cases/sjc/433/433mass70.html>

The Board is encouraged by this and recommends the pretrial order form also be updated with the following considerations:

- Placing the box for “Other” conditions set at the top of the form to make it more prominent. This is to encourage judges to set individualized conditions at this stage and to limit the “checklist” effect of selecting all conditions on the form. The name of the category could also be changed – to, for example, “Individualized Conditions.”
- Remove adult-specific conditions to focus on research-supported conditions for youth. For example, the current form includes “pretrial services” and treatment at Community Corrections Centers as a condition, which are currently only available for adult defendants, not youth.
- Clearly indicate which conditions are being set under which statute (Sections 42A, 58, 58A, or 87), especially when conditions are set under multiple statutes. This should also indicate *why* a judge sets a condition (i.e., a flight risk vs. victim/witness safety considerations).
- Make the form accessible at the 5th grade level to match court guidance.¹³⁹ This revision can also help ensure youth are able to understand, and therefore abide by, their conditions.
- Make the form available in multiple languages.

Recommendation 3: Provide Guidance on the Process for Revising Pretrial Conditions of Release for Youth and Addressing Violations

While pretrial conditions of release can already be revisited when there is a change of circumstance, the Board heard that this was not happening consistently across the state for all youth defendants, and that many youth could benefit from more frequent revisiting of conditions. Based on interviews, there are several reasons why conditions of release may not be consistently revisited, including resource allocation, attorneys’ strategies, and/or lack of options to actually modify conditions.

Many professionals interviewed for this report believed that additional guidance from the state on when and how pretrial conditions should be revisited throughout the life of a case, and in particular how violations of pretrial conditions should be addressed, would be helpful for ensuring greater consistency across the state in pretrial proceedings and in promoting evidence-informed practices.

¹³⁹ For more information see: Massachusetts Trial Court. (2018). Readability Guidelines for Printed Self-Help Materials and Forms. <https://www.mass.gov/doc/readability-guidelines-for-printed-self-help-materials-and-forms/download>

The state has already started to do this for post-disposition violations of probation with MPS' graduated response system, which many stakeholders interviewed for this report pointed to as a successful and important reform in recent years.¹⁴⁰

The Board recommends the Juvenile Court (in collaboration with MPS, DAOs, and CPCS/YAD) develop a standardized protocol for revisiting conditions of release during the pretrial phase and addressing violations. The Board recommends the following concepts be included in any standard protocol:

- **A mechanism for incenting compliance/positive behavior:** Professionals interviewed for this report believed that it would be useful to have clear mechanisms for revising conditions of release in response to youth behaviors, and to be able to communicate those mechanisms to youth in advance. Research is clear that youth are more motivated by potential rewards than potential punishments,¹⁴¹ giving youth the opportunity to “earn their way off of” certain restrictive conditions (e.g. GPS, drug testing) could help incent positive behavior. Creating recommended, standardized timelines for when these conditions should be revisited could prompt judges to set review hearings in advance and/or give defense attorneys clear guidance on when a motion to revisit a condition would likely be successful.
- **Mechanism for adjusting conditions in response to violations without requiring a motion for revocation:** Stakeholders interviewed for this report also noted that sometimes probation will report that a youth has violated a condition, but there will be no response from the system. This is likely due to the fact that a DAO does not believe the violation is significant enough to warrant moving for a revocation. While avoiding unnecessary revocations is an important goal, this can send mixed messages to a youth about whether they really have to follow conditions, or not.¹⁴² Creating guidelines for how the system might respond to violations that do not warrant revocation, coupled with more flexibility in when and how a DAO could motion for reconsideration of conditions in lieu of requesting a revocation, might allow for more equitable, predictable, and measured responses to youth behaviors. Such a process may also

¹⁴⁰ MPS implemented an administrative hearing process as part of their post-disposition violation process and starting using incentives to encourage positive behavior. Probation has also started to implement the [Carey Guides](#) to assist in case management, concepts which may be helpful to think about in collaboration with other court stakeholders when developing a court system response pretrial.

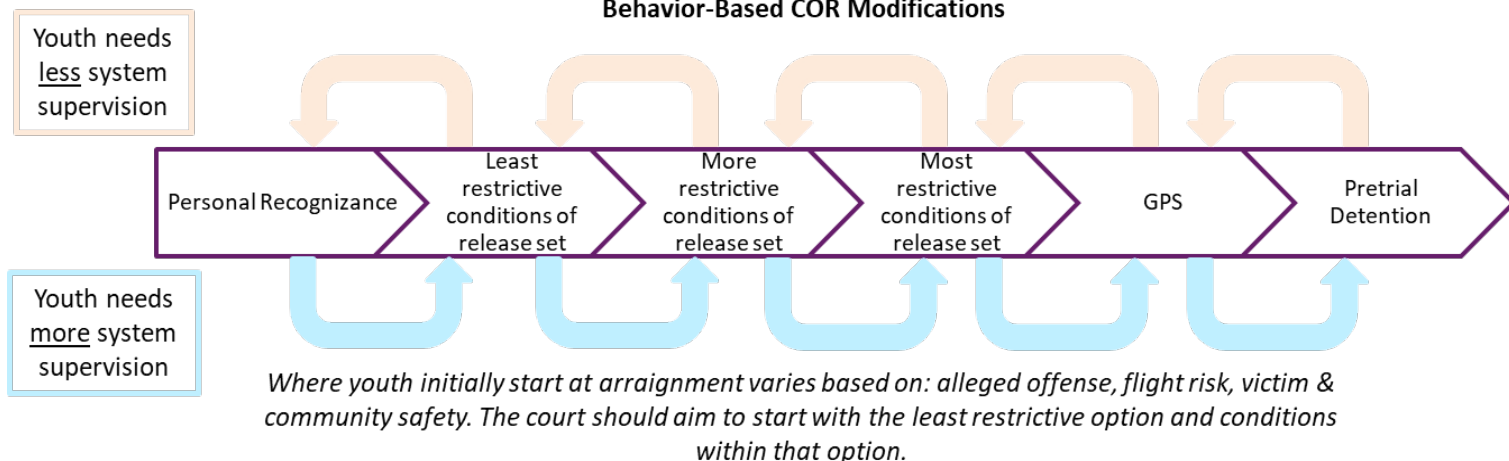
¹⁴¹ Steinberg L. (2008). A Social Neuroscience Perspective on Adolescent Risk-Taking. *Developmental review: DR*, 28(1), 78–106. <https://doi.org/10.1016/j.dr.2007.08.002>

¹⁴² Research has shown the importance of certainty in system response deterring crime more so than the severity of the offense. See for example: Loughran, T., et. Al. (2015). *Studying Deterrence Among High-Risk Adolescents*. OJJDP Juvenile Justice Bulletin. <https://ojjdp.ojp.gov/sites/g/files/xyckuh176/files/pubs/248617.pdf>

promote stakeholders to consider at the outset whether a condition is important enough that a violation would always prompt a system response.

Figure 25:
Behavior-Based Conditions of Release Modifications

Behavior-Based COR Modifications



- **Timeframes for revisiting conditions:** The protocol should provide guidance on when/how often conditions should be revisited. This report highlights that the pretrial phase of Massachusetts’ legal process can last a long time. Conditions of release are set relatively early in that process. Judges may set conditions that seem appropriate at the time of arraignment, but these same conditions may not be appropriate some days, weeks, months, or even years later.

While some temporary modifications can be made by probation without a court hearing, changing the terms or conditions entirely requires bringing the youth back into court. The current practice is for attorneys to bring a motion for a change of conditions based on information that shows a change of circumstance, but there are barriers that exist to doing so in a timely manner. For example, it requires a youth to plan ahead and alert their attorney to any predictable change in circumstance and communicate that with their attorneys. Attorneys then need to file a motion to change the terms, a prosecutor may need time to respond, and a judge must set a date to convene all parties for a court hearing.

Time standards should include process points where system practitioners are expected to discuss adjusting pretrial conditions. For example, the court may want to revisit conditions shortly after arraignment. Often youth meet their attorney for the first time at an arraignment, and counsel has a limited amount of information on the youth they

are representing, the case, and what conditions a youth can *actually* abide by. Yet, judges often need to set conditions at this process point, namely, to protect any alleged victims/witnesses. If pretrial conditions could be revisited more easily shortly after an arraignment, this provides defense counsel the opportunity, preferably in partnership with a social worker, to provide additional information to inform the setting of conditions.

Additionally, time standards might be tied to specific conditions. For example, when setting GPS monitoring as a condition of release, judges may want to impose that for a set number of days, after which a hearing would be scheduled to see if the GPS conditions needed to be modified. This is the case, for example, in California, which by law limits the amount of time a youth can be placed on GPS to 30 days, after which a case is brought back into court to revisit if GPS is still necessary.¹⁴³

- **Processes/expectations for probation input:** Professionals interviewed for this report noted that there are differences from courtroom to courtroom as to whether probation is consulted in determining conditions to set at this stage, and when in the process that happens. This difference in practice can contribute to disparities across the state. Any standard protocol should clearly outline probation’s role in recommending conditions of release and reporting changes in a youth’s circumstances and behaviors. One way to streamline this could be for probation to make recommendations shortly after initial conditions are set at arraignment about the appropriateness of the initial conditions. (Such a process would likely require MPS to issue standards for how probation officers should make these recommendations – for example, what information they should consider.)
- **Processes/expectations for victim input:** While the Board did not have the opportunity to interview victim/witness advocates across all DAOs, the Board did hear from other stakeholders that victims were not consistently given the chance to be heard on what conditions would be supportive for them during the pretrial phase. Any standard protocol should clearly outline alleged victims’ rights and how a victim’s requests should be considered in condition-setting, including any revisitation of conditions throughout the pretrial process.
- **The ability to conduct these hearings virtually.** Court practitioners may be reluctant to bring system stakeholders together to revisit conditions as often as might be useful for a

¹⁴³ [California Assembly Bill No. 2658, CH. 796](#)

given case, given the fact that even quick in-person conferences can add up in a system that already has a backlog of cases.¹⁴⁴ Virtual hearings are less of a resource strain and can encourage revisiting conditions more frequently without interrupting long term case processes. Courts might consider setting a regular date and time for virtual hearing to reconsider pretrial conditions. Court officials and defense attorneys should make sure youth are able to attend these virtual hearings and meet with their attorney. Further, before relying on virtual hearings, challenges regarding stable internet connections that can impede a youth’s ability to participate in a hearing should be resolved.

Divert More Youth from Detention and Juvenile Court Involvement by Expanding the Range of Pretrial Supervision and Pre-arraignment Diversion Options

As detailed in Finding 7, despite the positive results of a concerted statewide effort to limit the number of youth coming into contact with the Juvenile Court process, this Board’s research suggests there are still cohorts of youth that can be diverted from detention, pretrial supervision/monitoring, or arraignments generally.

As this report highlights, research supports diverting youth away from the formal justice system whenever possible. Research suggests diversion can be an effective tool to increase public safety¹⁴⁵ and improve youth outcomes compared to the traditional juvenile justice system.¹⁴⁶ For cases that cannot be diverted from the system entirely, diversion from custodial settings (e.g., pretrial detention, residential commitments) can reduce some potential negative consequences.¹⁴⁷

Additionally, diverting youth away from detention, probation, or the system generally allows the state to focus on the limited number of youth who require a higher level of supervision during this time.

¹⁴⁴ In some cases, a change to a youth’s conditions might not require a formal virtual hearing. For example, currently, MPS can adjust certain conditions for short time frames (e.g., to travel for an emergency), which should continue to be practice in those circumstances.

¹⁴⁵ Wilson, H. & Hoge, R. (2013) The effect of Youth Diversion Programs on Recidivism: A meta - Analytic Review. *Criminal Justice and Behavior*. Vol. 40, No. 5, May 2013, 497 518. http://users.soc.umn.edu/~uggen/Wilson_CJB_13.pdf

¹⁴⁶ Cauffman, E., et. al. (2020). Crossroads in Juvenile Justice: The Impact of Initial Processing Decision on Youth Five Years after First Arrest. *Development and Psychopathology*. <https://pubmed.ncbi.nlm.nih.gov/33955345/>

¹⁴⁷ Mendel, R. (2023). *Effective Alternatives to Youth Incarceration*. The Sentencing Project. <https://www.sentencingproject.org/reports/effective-alternatives-to-youth-incarceration/> ; Holman, B. & Ziedenberg, J. (2022). *The Dangers of Detention: The Impact of Incarcerating Youth in Detention and Other Secure Facilities*. Justice Policy Institute. https://justicepolicy.org/wp-content/uploads/2022/02/06-11_rep_dangersofdetention_ji.pdf

The Board encourages the development and use of additional “off ramps” at each of these process points to continue to divert youth away from system involvement and focus state resources during the pretrial phase on the limited number of youth who need the higher level of supervision.

Recommendation 4: Create a Well-resourced Continuum of Interventions for Supervision in the Community During the Pretrial Period

In its research, the Board learned that supervision options during the pretrial phrase are limited. Youth can be:

1. Monitored by the MPS statewide Pretrial Unit. These cases include conditions set under “Category A” and are not actively supervised by probation.
2. Supervised by the local probation office, which primarily entails a probation officer checking in with the youth prior to each court date, regardless of the condition set as long as it is a “Category B” condition. The only exception is a GPS condition, which is monitored 24/7. Any violations are issued by the local probation office. Community supervision or face-to-face meetings with probation officers only take place when a judge orders those as conditions. These are the same standards for both adult and juvenile pretrial probation supervision.
3. Detained pretrial in a DYS staff secure or hardware secure facility. In some regions across the state, DYS can place detained youth in DYS-contracted foster homes and provide case management for youth placed there. These beds are limited.

These options leave little flexibility in tailoring this part of the system to fit the individual circumstances of the youth. As numerous professionals interviewed for this report noted, to those working in the field it can feel sometimes like the options are “diversion or detention” with nothing in between.

For example, there are limited options (beyond GPS) for youth who may need a higher level of supervision to address pressing needs or to ensure public safety, but who do not need to be detained. In the same vein, youth who are released from pretrial detention back into the community may need a higher level of supervision and/or support to ensure success – and judges may feel more comfortable releasing a youth from detention prior to disposition if they knew those supports existed.

Indeed, a review of the available data suggests that there are some youth being held in detention that could, with the right supports, be safely maintained in the community. For example, of all detention admissions in FY23:

- 46% (n=353) were for youth with underlying lower-level severity offenses, such as misdemeanor assault and battery
- 27% (n=205) were for youth held on cash bail (as opposed to being held for dangerousness)

In fact, most youth who are detained are not ultimately committed to DYS. Just 16% (n=120) of detention admissions in FY23 were for youth who were ultimately committed to DYS for the underlying case when their case was resolved.

A number of these admissions are likely for youth who do present a flight risk or a threat to a victim, witness, or community safety. However, many stakeholders interviewed for this report cited examples of situations where pretrial detention was used for reasons other than community safety or assuring a youth appeared in court.

Finally, several stakeholders mentioned underlying, potentially unmet needs, driving behavior that can lead to a violation of probation, bail revocation, and eventual detention admission.

For all these reasons, **Board members and numerous stakeholders interviewed for this report wanted more tools and options to respond to those types of cases as a way to focus supervision on individual needs while continuing to decrease the number of youth that are held in a detention facility.**

For the state to successfully implement changes to *how* conditions of release are set and revisited throughout the pretrial phase, **there must be a continuum of supervision and case management options.** In other words, if youth “fail” with their current conditions, the state needs options to adjust either the supervision levels or conditions.

Similarly, additional service options could help youth who spend some number of days in detention navigate re-entry and provide more of a “step down” option from a residential placement back to the community. For example, numerous stakeholders mentioned challenges with schools re-engaging with youth coming home from detention, and many youth face educational challenges as a result. Other stakeholders noted youth returning home who face pressures of gang involvement and who don’t have the supports in place to avoid that or stay safe themselves.

Some examples of what the state could consider in this continuum include:

- MPS could enhance its internal processes for making voluntary service referrals and streamline collaboration with referral networks, like the Family Resource Centers, for youth on their caseload.

- MPS and/or EOHHS could offer wraparound supports or additional services for youth who need a higher level of support during the pretrial period who might otherwise be detained. Some examples of these services could be:
 - those procured by DCF to support child wellbeing for youth with open DCF cases as part of their family support and stabilization program;
 - DPH BSAS programs expanding substance abuse programming for youth pretrial;
 - DMH Children, Youth, and Family services expanding connections to youth in the pretrial process;
 - DMH Juvenile Court Clinics expanding in-house treatment, bridge therapy, and service referral;
 - MPS offering additional services for youth pretrial, similar to what is currently offered for adult defendants through Justice Support Centers. JSCs offer numerous programs pretrial, including cognitive behavioral therapy, employment counseling, and educational supports such as GED/HiSET and post-secondary preparation.¹⁴⁸
 - DYS could expand eligibility for and increase the number and type of community-based options for detained youth, including but not limited to DYS contracted foster home placements.

Some of these options may require additional funding from the legislature to support new contracts with community-based providers. When considering funding, the Board recommends including funds to hire additional staff to build capacity. Additionally, funds should be made available to create ongoing professional development opportunities for that staff, which should include additional trainings focused on diversity, equity and inclusion, implicit bias, cultural competency, and cultural humility in addition to the trainings outlined in Recommendation 7. To avoid duplication of services and promote efficiency, MPS, EOHHS, and the Juvenile Court should collaborate when re-procuring services and align referrals whenever possible.

Recommendation 5: Improve GPS technology

As detailed in Finding 2, many stakeholders reported technological challenges with the current GPS units for youth in Massachusetts. Individuals specifically mentioned the immense difficulties getting youth to 1) remember to charge the device and 2) find time to sit next to the device to charge it for hours. Interviewees also highlighted the “false alarm” notifications that went off throughout the day when youth were in approved areas (like their school), but out of cell phone range.

¹⁴⁸ MPS previously offered JRCs for youth but closed these programs due to declines in funding and low utilization at the time. Of note, this was prior to many of the systems-level changes that have led to an increase in the utilization of pretrial probation for youth.

As referenced in Recommendation 1 of this report, the use of restrictive conditions should be limited and conditions such as GPS should be used as a last option. However, given that **GPS is increasingly being used as an alternative to detention, and this Board is recommending an expansion of supervision options during the pretrial phase, the state should improve GPS technology** in order to support effective supervision.

As of this report, MPS recently closed a bid to procure a GPS contract. MPS also reports working on best practices for GPS supervision. The Board is enthused about both initiatives and encourages MPS to take the Board's research and findings into consideration when selecting a contract, for ongoing contract monitoring, and to inform GPS supervision standards.

Recommendation 6: Divert More Youth Pre-Arrestment by Expanding Opportunities for State Diversion

In the Board's 2019 report on community-based interventions for youth involved in the juvenile justice system, the JJPAD Board found that there were no statewide standards or guidelines in Massachusetts regarding the use of diversion, and no entity that provided oversight for diversion practices.¹⁴⁹ That report recommended the creation of a statewide diversion program to ensure that youth across the Commonwealth had equitable access to high quality, state-funded diversion programming.

As a result of that report, with funding allocated by the Legislature in the state budget, the OCA partnered with DYS to launch the Massachusetts Youth Diversion Program (MYDP), a multiphase state-funded youth diversion initiative that provides high-quality, evidence-based programming that can serve as an alternative to arresting youth or prosecuting them through the Juvenile Court.

Since 2021, the MYDP has expanded to seven counties, with the goal of expanding statewide. In 2024, UMass published an evaluation of the program and noted its success.¹⁵⁰ In its FY25 budget, the Legislature made the MYDP a permanent state service when it transferred the operating budget to DYS' line item 4200-0700 as part of DYS' mandate for evidence-based delinquency prevention.¹⁵¹

Due to the success of the model, as well as continued inequities in which youth remain in the Commonwealth's traditional justice system (i.e., youth of color, youth with unmet needs, youth

¹⁴⁹ Massachusetts Juvenile Justice Policy and Data Board. (2019). Improving Access to Diversion and Community-Based Interventions for Justice Involved Youth. <https://www.mass.gov/doc/improving-access-to-diversion-and-community-based-interventions-for-justice-involved-youth-0/download>

¹⁵⁰ forHealth Consulting. (2024). Formative Evaluation of the Massachusetts Youth Diversion Program Learning Labs. <https://www.mass.gov/doc/massachusetts-youth-diversion-program-evaluation-presentation-august-2024/download>

¹⁵¹ [Massachusetts State Legislature FY25 Final Budget](#)

in certain counties), **the JJPAD Board recommends the Legislature continue to fully fund and expand this program to cover all counties in the Commonwealth.**

In addition to funding the MYDP, **the Board recommends the Legislature also expand the list of offenses eligible for judicial diversion.**¹⁵² Juvenile judicial diversion was created as a result of the 2018 CJRA¹⁵³ to keep youth with low level offenses out of the juvenile system. Judicial diversion gives judges, a neutral party, the opportunity to decide if youth charged with certain offenses would benefit from a youth's participation in diversion programming rather than the formal court process.

Although data is not available yet for all judicially diverted cases, it is available for cases diverted to the MYDP. For cases referred to the MYDP in the first two years of its existence, judges represented 48% (n=198) of all referrals, representing an interest in judicial diversion.¹⁵⁴ In the same timeframe, of the judicial cases that were closed, 85% (n=116) of those completed the program successfully. Since the implementation of judicial diversion, however, the list of eligible cases has only been updated one time, when the state included sexting-related offenses in the list of eligible charges.¹⁵⁵

Support the Commonwealth's Capacity to Implement Reforms and Measure the Impact

As this report highlights, there have been several initiatives, policy reforms, and procedural changes to the juvenile justice system over the past decade. Many of these shifts represent improvements based on evidence-based best practices and current research. However, it has also meant potential unintended consequences and challenges for professionals working in the system every day.

Changes in policies and procedures must be accompanied by sufficient training to support culture shift and buy-in from the professionals asked to implement these changes. Similarly, in some cases additional resources are needed to ensure implementation – and data to track the impact of changes can help us measure the extent to which we are or are not achieving our

¹⁵² In the most recent legislative session, H1495/S940, *An Act promoting diversion of juveniles to community supervision and services* was filed expanding the list of eligible offenses was filed. In 2024, the bill was voted favorably out of the Judiciary Committee.

¹⁵³ An Act Relative to Criminal Justice Reform, Ch. 69. (2018). <https://malegislature.gov/Laws/SessionLaws/Acts/2018/Chapter69>

¹⁵⁴ Massachusetts Office of the Child Advocate. (2023). The Massachusetts Youth Diversion Program: Impact Report <https://www.mass.gov/doc/oca-report-on-the-massachusetts-youth-diversion-program/download>; Massachusetts Office of the Child Advocate. (2024). The Massachusetts Youth Diversion Program: Year Two Program Data <https://www.mass.gov/doc/oca-report-on-the-massachusetts-youth-diversion-program-year-two/download>

¹⁵⁵ As of October 2024, judges –and other referrers– can now divert youth alleged of committing certain charges that relate to “sexting.” <https://malegislature.gov/Laws/SessionLaws/Acts/2024/Chapter118>

implementation goals. Policies are only as good as the people and systems that implement them, and reforms without proper implementation support often fail to achieve their intended impact.

To support the implementation of the other recommendations in this report, **the Board recommends providing training on aspects of the pretrial system for all system practitioners, increasing court capacity, providing additional supports for case practitioners, and increasing data availability to continue to inform policy and practice.**

Recommendation 7: Require Training on Aspects of the Pretrial Phase across State Entities and Encourage Cross-Entity Trainings When Possible

Turnover in the judicial system – including turnover driven by the state’s mandatory retirement age for judges – means that we must have systems in place for constantly ensuring new practitioners receive training that will help support them in performing their jobs.

A review of the professional background of recently appointed Juvenile Court judges shows that most have extensive backgrounds in the child welfare system but more limited experience in delinquency cases. In fact, **only half (n=11) of the 22 judges** that were appointed to the Juvenile Court between 2016 and 2023 had experience practicing in the juvenile delinquency system immediately prior to their nomination.¹⁵⁶

This may therefore be a particularly important moment to ensure all Juvenile Court judges have received training on the best-available research on juvenile delinquency, adolescent brain development, risk and protective factors, positive youth development, and other factors that are highly relevant to delinquency-related practice and law. While these trainings are recommended for delinquency case practices, the fundamental concepts can apply to other areas of judicial practice including both Care and Protection and Child Requiring Assistance case practice.

Juvenile justice system stakeholders are often trained on similar topics, but each through their own agency. To accompany the above-recommended shifts in pretrial processes, the Board recommends that the Juvenile Court implement a combined judicial system training for judges, clerks, DAOs, defense counsel, and probation that address the following topics:

- Adolescent development, and how that should inform condition setting for youth, as highlighted in the research section of this report

¹⁵⁶ In order to ascertain the prior experience of judges nominated to the Juvenile Court, the JJPAD reviewed sources from State House News pertaining to the nomination. These sources contained information such as most recent role and general work history – but did not provide comprehensive, or complete information on each judge’s professional history. Therefore, the JJPAD’s assessment of the judge’s prior experience is likely incomplete. A full list of the sources reviewed can be found in Appendix C.

- Setting conditions of release in Juvenile Court in alignment with the guidelines developed under Recommendation 1. Data related to condition setting and the “pretrial phase” should also inform training curriculum and discussions.
- Using a Positive Youth Development framework (e.g., involving youth in the process) to inform condition-setting

By holding joint trainings, the state can ensure clear, consistent communication is provided to all the relevant practitioners.

Recommendation 8: Increase the Number of Juvenile Court Judges to Reduce the Pretrial Timeline and Support Reform Implementation

As previously mentioned, one of the challenges with the pretrial process is that it can last a long time. As Finding 3 explained, cases are extended for a number of reasons, and increases in the length of time until case resolution can have negative consequences for public safety, the youth defendant, any alleged victim or witness, and the system generally.

One of the reasons the pretrial phase lasts a long time for some youth is because trials are regularly scheduled for six or more months out due to judge and courtroom availability. There are currently five Juvenile Court vacancies, with three more on the horizon due to judges reaching the mandatory retirement age in the coming months or taking new positions within the Trial Court. These vacancies have put significant strain on the system, leading to trial delays and requiring some judges to travel between counties, and even multiple locations in one day, to provide the necessary coverage. The delays and time pressures could be a contributing factor in the differences in which the justice system operates county to county or courthouse to courthouse.¹⁵⁷ As mentioned in Finding 3, Juvenile Court judges also hear other non-delinquency related case matters, which have emergency hearings that can delay proceedings for other court matters.

Even when all of the vacancies are filled, however, state law caps the number of Juvenile Court judges at 42 – a number that has only increased once (from 41) since the cap was implemented in 1906.¹⁵⁸ One way the state can address the significant delays in delinquency proceedings without impacting other cases like child welfare matters is to increase the cap on the number of Juvenile Court judges. **The Board recommends the state increase the cap and the governor’s office work expeditiously to fill remaining vacancies in the Juvenile Court.** This would also provide an important opportunity to increase diversity on the bench (e.g., race, ethnicity, gender, LGBTQ+). If increased, the state should also adequately increase and fund other court

¹⁵⁷ State House News. (2024). *Judges Stretched Thin in Busy Juvenile Court*. https://www.statehousenews.com/judges-stretched-thin-in-busy-juvenile-court/article_dbb65bfc-7f6d-11ef-a99a-772c3e11bbba.html

¹⁵⁸ Ibid.

personnel (e.g., clerks, law clerks, court officers) and facility resources (e.g., courtrooms and judicial lobbies) to support the increased number of judges.

Reduce Length of Time

If the number of judges increases, the Board recommends the judiciary revisit time standards.¹⁵⁹ While the Juvenile Court currently has time standards for when certain hearings and trials need to happen, several court stakeholders mentioned these are not consistently adhered to or are extended for a variety of reasons.¹⁶⁰ No data on this is available, however. The Board recognizes any change to the time standards would have significant consequences to court practices, state resources, and youth. **Therefore, the Board recommends the Juvenile Court, MPS, CPCS/YAD, MDAA/DAOs, DYS, and OCA convene to address the problem of extended case lengths and make recommendations for state improvements.**¹⁶¹

Recommendation 9: Expand the Availability, and Promote the Use of, Social Workers in Delinquency Related Cases

While many professionals interact with and may advocate on behalf of youth throughout the pretrial phase, it is the defense attorney’s job to advocate for their client. The JJPAD Board heard from a significant number of YAD staff attorneys and bar advocates in stakeholder interviews. Most defense attorneys argued that their clients would be better served in the community than in detention or strict restrictive conditions of release. However, many also cited the long waitlists, dearth of services, and insufficient resources to navigate the service-provider world themselves as barriers.

While waitlists and service gaps are larger challenges across the human services sector, ensuring youth have access to effective and well trained “system navigators” can at least somewhat help improve youth access to services. The Board encourages the continued and expanded use of social workers by YAD staff and private attorneys (bar advocates). To this end, the Board recommends the state continue to fund CPCS’s budget to allow social workers who assist defense counsel in connecting youth clients to appropriate services. These professionals can support defense attorneys in identifying alternatives to detention or supervision that the court can consider when making its pretrial determination.

In cases where youth are represented by bar advocates who do not have access to in house

¹⁵⁹ Massachusetts Juvenile Court. (2018). Juvenile Court Standing Order 2-18: Time standards. <https://www.mass.gov/juvenile-court-rules/juvenile-court-standing-order-2-18-time-standards>

¹⁶⁰ Although the COVID-19 pandemic exacerbated the pretrial length of time for cases for a period of time, the Juvenile Court resumed in person operations in 2021. However, the impact of the pandemic, specifically staff shortages and frequent absences due to COVID, were ongoing throughout the year. As of 2024, practitioners continued to note concerns with the length of time to disposition, suggesting this challenge persists for reasons other than the impact of the pandemic on court operations.

¹⁶¹ Other jurisdictions have addressed case length of time through the Juvenile Detention Alternatives Initiative (JDAI). Massachusetts should explore whether the states’ JDAI has capacity to lead this work here.

social workers and who, reportedly, do not universally petition the court for resources to work with social workers for clients at this stage, the Board encourages them to petition for funds to hire social workers to support their clients and court case-planning. The Board also encourages CPCS to continue to provide training and support to bar advocates toward this end. Further, the **Juvenile Court should consider streamlining the petition process** (e.g., making the process administrative rather than an in-person court hearing) for court funds for social workers, something that is not consistently happening across all courthouses.

Recommendation 10: Increase Data Availability to Support Continuous Quality Improvement and Data-Informed Policymaking

In recent years, Massachusetts has made significant progress increasing the volume and complexity of publicly reported data related to the state’s juvenile justice system.¹⁶² As a result, the JJPAD Board is able to report a substantial amount of data across the entire system from the beginning of the court process through dispositions. Of course, there is still room for improvement, but this achievement is worth recognition.

As highlighted in the *Limitations* section of this report, the Board was unable to answer several research questions with Massachusetts-based data due to data unavailability. Further, the Board did not have data to inform key themes heard in stakeholder interviews (e.g., How many youth violate pretrial conditions of release? What conditions are used more frequently?).

As a result, the Board has had to rely on estimated calculations and key stakeholder interviews while researching this topic. The table below highlights key pretrial research questions and steps various entities could take to ensure data to answer those questions is available in the future.¹⁶³

It is the Board’s recommendation that any additional data should be reported annually. As recommended in the JJPAD Board’s 2022 report on data availability, the state should make sure there are adequate resources (i.e., additional funding, for staff and reporting infrastructure) to support state entities in increasing their data reporting.¹⁶⁴

¹⁶² For more information on this topic, see the JJPAD Board’s report: Massachusetts Juvenile Justice and Policy Data Board. (2022). Improving Access to Massachusetts Juvenile Justice System Data: An Update of the 2019 Report. <https://www.mass.gov/doc/improving-access-to-massachusetts-juvenile-justice-system-data-2022-update/download>

¹⁶³ Entities should also regularly review other states’ data reporting on these topics. At the time of this report other states were not reporting statewide data yet, but the Board heard of California and Illinois working to improve their statewide public data reporting on pretrial concepts like flight risk and GPS use, with public data anticipated in the future.

¹⁶⁴ Ibid.

Table 9: Pretrial Research Questions without Current Data Reporting		
Pretrial Research Question	State Entity	Recommendation
How many youth violate pretrial CORs?	MPS	MPS recently reported starting to disaggregate violation notices by pre- and post-disposition. MPS should report this data on their public dashboards and to the JJPAD Board in the future.
How many youth are on GPS monitors as a CORs? How long are youth on GPS? How many youth comply with their GPS?	MPS	As this report mentions, MPS is currently re-procuring their GPS service. Once a vendor is selected, MPS should work with the vendor to begin publishing public data reports and report this data to the JJPAD Board.
What are common conditions set at this phase?	MPS	MPS has been developing a case management system over the past several years. MPS should develop a system that has the ability to collect this data and report it. MPS should report this data publicly to the JJPAD Board.
Which of those are youth able to comply with? Which of those result in the most violations?	MPS	MPS has been developing for a case management system over the past several years. MPS should develop a system that has the ability to collect this data and report it. MPS should report this data publicly to the JJPAD Board.
How many youth are released on personal recognizance? How many youth are placed on conditions of release?	Trial Court	The Trial Court should report this as an outcome option on their <u>Public Dashboard</u> detailing initial bail decisions.
How many youth who violate their COR are detained as a result? How many are released with modified conditions?	Trial Court	The Trial Court should report hearing outcome data on the public dashboards.
How many youth are found “dangerous,” and are detained as a result? How many are released on CORs?	Trial Court	The Trial Court should report hearing outcome data on the public dashboards.
How are bail amounts decided?	Trial Court	The Juvenile Court should review if judges are reading into the record why bail amount are set the way they are on a case. Interviews suggested it is not consistently being reported across courts.

		The Trial Court should collect this data moving forward, and report it publicly on <u>their initial bail decisions dashboard</u> .
How often are attorneys requesting bail review hearings?	CPCS/YAD	CPCS/YAD recently implemented a new case management system, which YAD is currently fine-tuning to address the needs of their cases. YAD should design its system to be able to collect this data and report it. YAD should report this data publicly to the JJPAD Board.
How often are attorneys motioning to modify conditions of release?	CPCS/YAD	CPCS/YAD recently implemented a new case management system, which YAD is currently fine-tuning to address the needs of their cases. YAD should design its system to be able to collect this data and report it. YAD should report this data publicly to the JJPAD Board.
How often do attorneys visit youth clients detained at DYS?	CPCS/YAD	CPCS/YAD recently implemented a new case management system, which YAD is currently fine-tuning to address the needs of their cases. YAD should design its system to be able to collect this data and report it. YAD should report this data publicly to the JJPAD Board.
How many violation notices result in a motion to revoke?	DAO	DAOs should publicly report data to the JJPAD annually, including data on the number of motions to revoke disaggregated by violation type (new arrest vs. technical offense).

Conclusion

There have been a significant number of reforms to the Massachusetts' juvenile justice system over the past two decades. These reforms have had various intended and unintended impacts for the pretrial phase of the system specifically. The findings and recommendations in this report aim to continue to build on the success of these reforms and address challenges that remain.

The JJPAD Board will monitor implementation of these reforms and continue to research the topics that emerged during this research that the Board was unable to address in its recommendations for this project, including:

Use of cash bail: The JJPAD Board will continue to study state alternatives to detention for vulnerable populations, especially for youth currently held on cash bail.

As documented above, youth detained pretrial as a result of cash bail being set are – anecdotally—being held for reasons *other* than flight risk. While the CBI Subcommittee discussed the possibility of eliminating cash bail, as a result of a growing body of research documenting its ineffectiveness,¹⁶⁵ the Board was not ready to make that recommendation until the state can safely respond to the needs of the youth currently detained on bail. This includes, but is not limited to, ensuring there are appropriate DCF placements available for youth.

The JJPAD Board is currently researching the topic of “dually involved youth” (youth involved in both DYS and DCF) and will be making recommendations for state improvements on this project in 2025. As part of that work, the group will further investigate **why youth involved with DCF are held on low amounts of cash bail, sometimes as low as \$1 and determine what alternatives to detention exist for this cohort and make recommendations for improvement.**

Delinquency prevention and intervention programming: Since the Board's inception, members have highlighted a wide array of community-based delinquency prevention and intervention programs that exist throughout the state. At the same time, members reported the service gaps (and sometimes service deserts) that exist, and a complex, disparate system that makes it hard to navigate eligibility, criteria, and effectiveness of these programs for youth in the juvenile justice system. Furthermore, when quality services *do* exist, they may not have adequate funding or resources to serve youth impacted by the state's juvenile justice system. Board members have also noted there may be gaps in community-based delinquency prevention and intervention programs meeting the current level of need for the cohorts of youth that remain in the state's juvenile justice system. Members mentioned that individuals arraigned in Juvenile

¹⁶⁵ As further discussed in the *Research* section of this report.

Courts today have complex needs and face challenges that cannot be addressed by the current landscape of community-based programs.

This theme was highlighted again in the group's initial research questions for the pretrial project. Specifically, the Board asked, "What community-based interventions or supports need to exist in order to divert more of this population from detention and/or the justice system entirely?"

Further, as highlighted throughout this report, victim services are not always considered when thinking about delinquency prevention/intervention services, despite research showing victims of violence are more likely to go on to commit violent acts and therefore, services that support victims are some of the best crime prevention strategies.

Therefore, in order to continue to make informed policy recommendations and decisions, **the Board will study the landscape of community-based delinquency-related prevention and intervention programs in Massachusetts and make recommendations for funding, expansion, and strategies to fill landscape gaps.**

The state's commitment to implementing these reforms and the Board's continued study of these important topics can ensure the Commonwealth's juvenile justice system policies and practices are research-informed, equitable, and impactful.

Appendix A: Statutory Landscape and Relevant Case Law

There are several Massachusetts statutes (as outlined in Table 10) that impact the pretrial process, as well as recent case law (as outlined in Table 11).

Table 10: Massachusetts Statutes and their impact on Pretrial Processes		
Statute	Summary	Impact on Pretrial Processes
M.G.L Ch.276 Section 42A	This section, in cases of domestic violence, specifies restrictions on the travel, association or home of the youth to prevent contact with the alleged victim.	Allows judges to set conditions of release such as no contact or stay away orders.
M.G.L Ch.276 Section 58	This section specifies restrictions on personal associations or conduct, or in cases alleging domestic violence, to ensure the safety of the alleged victim, any other individual or the community or ensure the defendant's appearance in court.	Allows a judge to set cash bail as a condition of release if the judge determines that release on personal recognizance will not assure the youth's appearance in court. It requires that the judge setting bail provide a record of why neither an alternative condition nor a more affordable bail amount would ensure appearance in court.
M.G.L Ch.276 Section 58A	Referred to as Massachusetts' "Dangerousness" Statute, prosecution can move for an order of pretrial detention for youth charged with certain offenses.	If youth are found to be "dangerous" the judge can order detention without setting cash bail for 120 days prior to their trial. The judge can also set conditions of release that will assure appearance to court and the safety of a person(s) and the community. The statute states that these conditions should be the least restrictive possible.
M.G.L Ch.276 Section 58B	Allows for a judge to enter an order of revocation and detain a youth if they are found to have violated a condition set under sections 42A, 58, 58A or 87.	If no other conditions of release are determined to reasonably assure the person will not pose a danger to the safety of any person or the community, a judge can order

		a youth's bail or personal recognizance be revoked and they be detained pretrial.
M.G.L. Ch. 276 Section 87	Allows for youth to be released pretrial, with any conditions set to be supervised by MPS.	Allows the judge to set pretrial conditions of release with the youth's consent; distinguished from pretrial probation as a disposition. Conditions set under MGL Ch. 276 Sec. 87 require youth's consent.

Table 11: Massachusetts Case Law and its Impact on Pretrial Processes		
Case Law	Year	Summary/Impact on Pretrial Processes
Commonwealth v. J. Jake	2000	A Juvenile Court judge had authority under MGL Ch. 276, Section 87 (see table above), to impose pretrial probation with conditions on a juvenile with his consent for his release pending trial, and implicitly had inherent power to revoke the juvenile's bail for violation of the conditions.
Commonwealth v. Brangan	2017	Dictates that a judge must consider a defendant's financial resources in setting bail and set it only at an amount that will assure appearance to court. It also states that a judge may not consider a defendant's alleged dangerousness in setting the amount of bail.
Commonwealth v. Norman	2020	Dictates that conditions of release should only be set to assure a defendant's appearance to court or the safety of a victim or the community. The decision also states that the use of GPS

		location data can only be used for the purpose of enforcing conditions of release and not general law enforcement purposes.
<u>Commonwealth v. Preston</u>	2020	Concluded that G. L. c. 276, Section 58B, does not govern the revocation of pretrial probation of a juvenile, and that to revoke a juvenile's pretrial probation based on a new criminal offense, a judge must find probable cause that the juvenile committed the offense.
<u>Commonwealth v. Quigley Q.</u>	2021	Probation conditions that order compliance with an executive branch agency (e.g., "Comply with DYS", "Comply with DCF") violate separation of powers, and therefore, cannot be used.

There is recent case law that informs the use of GPS as a condition of pretrial release.

Table 12: Massachusetts Case Law and its Impact on GPS Use		
Case Law	Year	Summary
<u>Commonwealth v. Feliz</u>	2019	A Superior Court judge found that "GPS monitoring's deterrent potential appears linked primarily to its possible post hoc investigative use." However, the Commonwealth did not prove that the defendant would be likely to violate the terms of his probation without the deterrent of GPS. Therefore, the court ruled that the "government interests do not outweigh the privacy infringement occasioned by GPS monitoring." The judge modified the probation conditions to not include GPS.
<u>Commonwealth v. Johnson</u>	2019	A Superior Court judge denied the defendant's pretrial motion to suppress historical GPS location data recorded from the GPS monitoring device that had been attached to the defendant as a condition of his probation. The Judge also

		found that based on the defendant's criminal convictions and past probation violations, the defendant's particular circumstances rendered GPS monitoring as a condition of his probation reasonable under the Fourth Amendment to the United States Constitution.
<u>Commonwealth v. Norman</u>	2020	Dictates that conditions of release should only be set to assure a defendant's appearance to court or the safety of a victim or the community. The decision also states that the use of GPS location data can only be used for the purpose of enforcing conditions of release and not general law enforcement purposes.
<u>Commonwealth v. Roderick</u>	2022	A judge must consider a number of factors when deciding whether to order GPS monitoring, including the Commonwealth's interest in protecting the public and rehabilitating the probationer, and the intrusion on the probationer's privacy.

Appendix B: Trial Court and Massachusetts Probation Service Pretrial Standards Summary

Table 13: Massachusetts Trial Court & Probation Service Guidance		
Policy/Guidance	Date Effective	Summary
Massachusetts Probation Service Pretrial Conditions of Release Supervision Standards Policy	May 2022	<p>MPS developed and periodically revises these supervision standards with the goal of promoting public safety and compliance with court-ordered pretrial conditions of release. The Standards include guidance on:</p> <ul style="list-style-type: none"> • General case management • Specific guidance for pretrial processes (e.g., bail hearings, cases with GPS as a condition of release) • Program referrals • Supervision standards • The procedure for if a defendant violates their pretrial conditions of release
Trial Court Guidelines for Pretrial Conditions of Release	November 2016	<p>Developed by the Probation Pretrial Services Task Force, the Guidelines are intended to assist judges, clerk magistrates, assistant clerk magistrates and others authorized to set bail when determining whether to set pretrial conditions of release, and if released, which conditions to impose. The Guidelines provide information on:</p> <ul style="list-style-type: none"> • The purpose of pretrial conditions of release • What considerations should inform setting pretrial conditions of release • What considerations inform violations of pretrial conditions of release

Appendix C: Juvenile Court Judge Prior Experience

Table 14: Juvenile Court Judge Prior Experience		
Prior Experience Category	Definition	Source
Delinquency	Includes experience working for CPCS YAD, Juvenile Clerk Magistrate positions, and private bar attorneys who represented juveniles in delinquency matters	<p>State House News. (2017). Advances – Week of April 9, 2017. https://www.statehousenews.com/news/advances/advances---week-of-april-9-2017/article_66a5cbc2-dc55-5fd6-9461-02e5ac2a9283.html ; State House News. (2019). Former Baker Deputy Cleared for Clerk Magistrate. https://www.statehousenews.com/archives/former-baker-deputy-cleared-for-clerk-magistrate/article_e3807eb3-639f-5cdf-bd14-53e750b4367b.html ; State House News. (2017). State Capitol Briefs Wednesday March 15, 2017. https://www.statehousenews.com/archives/state-capitol-briefs---wednesday-march-15-2017/article_9ecf00e4-ecec-5ba4-ad5e-772810732610.html ; State House News. (2019). Evening Briefs: Hughes Confirmed Juvenile Court Nominee, November 27, 2019. https://www.statehousenews.com/archives/evening-briefs-hughes-confirmed-juvenile-court-nominee/article_7a9c8893-3d60-5d04-a695-6b9317cb730a.html ; State House News. (2017). State Capitol Briefs Wednesday Aug. 23, 2017. https://www.statehousenews.com/archives/state-capitol-briefs---wednesday-aug-23-2017/article_20fb4485-035c-52d3-a4a9-1e10aa6c8a49.html ; State House News. (2017). Daily Advances Wednesday Feb. 15, 2017. https://www.statehousenews.com/news/schedule/daily-advances---wednesday-feb-15-2017/article_e7d903d9-3fe0-501e-b947-23d0efc07c43.html ; State House News. (2016). State Capitol Briefs – Lunch Editions – Thursday May 12, 2016. https://www.statehousenews.com/archives/state-capitol-briefs---lunch-edition---thursday-may-12-2016/article_42fb48b2-7050-5539-b197-1c6eab13603a.html ; State House News. (2023). Advances - Week of Oct. 29, 2023. https://www.statehousenews.com/news/advances/advances---week-of-oct-29-2023/article_7f3dbeae-7507-11ee-9021-7792c5b7e983.html ; State House News. (2020). Afternoon Briefs: Revenue Debate Underway Confirmation, and 2 Nominees Supp Budget</p>

		<p>Signed, March 4, 2020. https://www.statehousenews.com/archives/afternoon-briefs-revenue-debate-underway-confirmation-and-2-nominees-supp-budget-signed/article_816a0366-bac0-55f4-9524-8d26a240ce25.html ; State House News. (2022). Late Afternoon Briefs: Baker to NGA Conference Federal Judge Nomination Juvenile Court Nominee, July 13, 2022. https://www.statehousenews.com/archives/late-afternoon-briefs-baker-to-nga-conference-federal-judge-nomination-juvenile-court-nominee/article_2e976a14-5ced-57c9-bc77-a79c0838c171.html ; Daily Times Chronicle. (2019). Attorney Karen Hennessy nominated Associate Justice of Juvenile Court. https://homenewshere.com/daily_times_chronicle/news/reading/article_59cd41d6-d4ce-11e9-ae31-b386670895c1.html ; State House News. (2023). Worcester Attorney Tapped for Juvenile Court, December 21, 2023. https://www.statehousenews.com/news/judiciary/guvcouncil/worcester-attorney-tapped-for-juvenile-court/article_e5214476-a012-11ee-9f28-f7cbf570f58d.html</p>
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