



Juvenile Justice Policy and Data Board

Racial and Ethnic Disparities at the Front Door of Massachusetts' Juvenile Justice System:

UNDERSTANDING THE FACTORS LEADING TO
OVERREPRESENTATION OF BLACK AND LATINO YOUTH
ENTERING THE SYSTEM

NOVEMBER 2022
THE COMMONWEALTH OF MASSACHUSETTS
JUVENILE JUSTICE POLICY AND DATA BOARD
[HTTPS://WWW.MASS.GOV/JUVENILE-JUSTICE-POLICY-AND-DATA-BOARD](https://www.mass.gov/juvenile-justice-policy-and-data-board)

Members of the JPAD Board

Member Name	Affiliation/Appointing Organization
Maria Mossaides, Chair	Office of the Child Advocate
Awaiting New Appointment	House of Representatives (Speaker of the House)
Representative Timothy Whelan[^]	House of Representatives (Minority Leader)
Senator Adam Gomez[*]	State Senate (Senate President)
Senator Patrick O'Connor[^]	State Senate (Minority Leader)
Deputy Court Administrator Thomas Capasso[*]	Juvenile Court
Commissioner Edward Dolan[*]	Massachusetts Probation Service
Acting Commissioner Cecely Reardon	Department of Youth Services
Assistant Commissioner Rebecca Brink[*]	Department of Children and Families
Deputy General Counsel Cristina Tedstone[*]	
Assistant Commissioner Nancy Connolly, Psy.D.	Department of Mental Health
Yves Singletary[*]	Department of Public Health
Dulcineia Goncalves Barbara Kaban	Committee for Public Counsel Services
Rachel Gwaltney	Children's League of Massachusetts
Naoka Carey	Citizens for Juvenile Justice
Police Chief Kevin Kennedy[^]	Massachusetts Chiefs of Police Association
Dawn Christie <i>No Appointment Made</i>	Parent of child who has been subject to juvenile court jurisdiction (2)
Ruth Budelmann[^]	Juvenile Justice Advisory Committee
Matthew Connolly[^] <i>No Appointment Made</i>	Executive Office of Education
<i>No Appointment Made</i>	Massachusetts District Attorney Association
<i>No Appointment Made</i>	Individual with experience or expertise related to design and implementation of state administrative data systems
* Abstained from voting on this report	
[^] Not present to vote on this report	

Acknowledgements

Over the course of several meetings, the [JPAD Data Subcommittee](#) reviewed and provided feedback on the methodology and data analysis presented in this research brief.

The following OCA staff provided support on this report:

Melissa Threadgill, Director of Strategic Innovation
 Kristi Polizzano, Juvenile Justice Program Manager
 Janice Neiman, Senior Data and Research Analyst
 Morgan Byrnes, Project and Research Coordinator
 Jessica Seabrook, Policy and Research Analyst
 Ayanna Miller-Smith, Rappaport Fellow

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.

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. The statute creating the JJPAD Board also placed a special emphasis on improving the quality and availability of juvenile justice system data.

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

Introduction

Both nationally and in Massachusetts, Black and Latino youth are more likely to be arrested and to be referred to Juvenile Court than their white peers.¹ Across Massachusetts, the number of youth entering and moving through the juvenile justice system has gone down substantially over the past four years as a result of a variety of statutory and agency reforms, including provisions of *An Act Relative to Criminal Justice Reform* (2018).² Despite these steps forward, disparities in the number of youth of color coming into contact with the juvenile justice system remain stubbornly high overall.³ This is the case even as overall use of the system across the board has declined most years.⁴

While racial and ethnic disparities (referred to as “RED” throughout this brief) exist throughout Massachusetts’ juvenile justice system, the disparities are *largest* at the “front door” of the system— the arrest and application for delinquency complaint stage. These early disparities matter. Although Massachusetts has significantly increased efforts in recent years to divert more and more youth who enter the Juvenile Court system from progressing further within that system⁵, the initial contact with police and with the Court system can still have harmful effects, which can last throughout their adolescence and into adulthood. Research demonstrates that juvenile justice

About this Brief

Using available data on Massachusetts’ juvenile justice system as well as national research on the potential drivers of racial and ethnic disparities, this research brief aims to:

- Describe the extent of racial and ethnic disparities (RED) at the “front door” of the juvenile justice system
- Examine potential explanations for what may be causing some or all of the disparities we see
- Propose potential steps Massachusetts could take to reduce RED, based on the data and analysis presented in this brief.

¹ For example, in 2019, Black youth in the United States accounted for 42% of all property-related arrests and 48% of all arrests for violent offenses despite only making up 17% of the population of youth aged 10-17 that year. In comparison, their white counterparts accounted for 55% of all property-related arrests and 49% of all arrests for violent offenses, while making up 75% of the overall youth population. Puzanchera, C. (2019). “Juvenile Arrests, 2019.” Washington, DC: Office of Juvenile Justice and Delinquency Prevention, Office of Justice Programs, U.S. Department of Justice.

<https://ojjdp.ojp.gov/library/publications/juvenile-arrests-2019> ; Similar trends can be seen in national court referral data: <https://www.ojjdp.gov/ojstatbb/ezajcs/asp/display.asp> and Massachusetts specific data: <https://www.mass.gov/info-details/data-about-youth-arrests>

² See: <https://malegislature.gov/Laws/SessionLaws/Acts/2018/Chapter69>

³ In 2018, Black youth were 3.6 times more likely than white youth to be the subject of an application for complaint, 3.8 times more likely in 2019, 3.9 times in 2020, and 3 times more likely in 2021. Latino youth were 2.4 times more likely than white youth to be subjects of applications for complaint in 2018 and 2019, 2.2 times more likely in 2020 and 2.0 times more likely in 2021. See Appendix D for trend data.

⁴ For other process point data broken down by race/ethnicity that is not discussed in this report, see the JJPAD Board’s FY21 Annual Report: <https://www.mass.gov/doc/jypad-2021-annual-report/download>

⁵ Most youth who enter the Juvenile Court system will have their case dismissed prior to adjudication. For more information on this and to learn more about Massachusetts’ diversion efforts, see the JJPAD Board’s FY21 Annual Report: <https://www.mass.gov/doc/jypad-2021-annual-report/download>

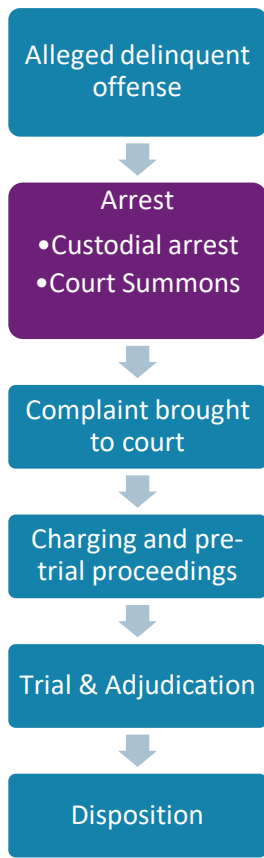


Figure 1: The "typical" juvenile justice process. This brief focuses on the

contact can lead to worse educational outcomes (i.e., not graduating high school, not going to college), more limited employment opportunities, housing insecurity, and a higher likelihood of being arrested again.⁶

How youth enter the juvenile justice system also matters. Among youth who have been identified by law enforcement as having allegedly committed a delinquent offense, we see further racial and ethnic disparities in whether a police officer *physically* arrests a youth for an alleged delinquent offense⁷ or issues a court summons after an alleged offense has been committed. The data presented in this brief shows that in Massachusetts, in FY21, **Black youth were over four times more likely to experience a custodial arrest than their white peers, and Latino youth were almost three times more likely to experience a custodial arrest than their white peers.**⁸

The harmful effects of placing youth in handcuffs, in a police cruiser and, oftentimes, in police lock-up have been well-documented.⁹ This has led to a push, both nationally and in Massachusetts, to, whenever possible, rely on a court summons as the preferred method of bringing youth to Juvenile Court for alleged delinquent offenses. Despite these efforts, the disparate use of custodial arrests for youth of color means that Black and Latino youth in Massachusetts who are alleged to have committed a delinquent offense are more likely to suffer the negative consequences and trauma of an arrest than white youth who are similarly accused.

To reduce disparities both in and out of the juvenile justice system and create a fairer system for Black and Latino youth, Massachusetts must reduce disparities at this earliest point of justice system contact.

⁶ Kirk, D. S., & Sampson, R. J. (2013). Juvenile Arrest and Collateral Educational Damage in the Transition to Adulthood. *Sociology of Education*, 86(1), 36–62. <https://doi.org/10.1177/0038040712448862> ; Lopes, G., Krohn, M. D., Lizotte, A. J., Schmidt, N. M., Vásquez, B. E., & Bernburg, J. G. (2012). Labeling and Cumulative Disadvantage: The Impact of Formal Police Intervention on Life Chances and Crime During Emerging Adulthood. *Crime & Delinquency*, 58(3), 456–488. <https://doi.org/10.1177/0011128712436414> ; Liberman, A. M., Kirk, D. S., & Kim, K. (2014). Labeling effects of first juvenile arrests: Secondary deviance and secondary sanctioning. *Criminology*, 52(3), 345-370. <https://doi.org/10.1111/1745-9125.12039>; Geller A. (2021). *Youth–Police Contact: Burdens and inequities in an adverse childhood experience, 2014–2017. Am J Public Health*. DOI: <https://doi.org/10.2105/AJPH.2021.306259>; Del Toro, J., Jackson, D. B., & Wang, M.-T. (2022). The Policing Paradox: Police Stops Predict Youth’s School Disengagement Via Elevated Psychological Distress. *Developmental Psychology*. Advance online publication. <http://dx.doi.org/10.1037/dev0001361>

⁷ Referred to in this brief as a “custodial arrest” or simply an “arrest.”

⁸ In FY21, there 645 custodial arrests for Black youth, 780 for Latino youth, and 994 for white youth. There were 502 summons issued for Black youth, 577 for Latino youth and 1,500 for white youth. The remainder of this brief largely focuses on arrest *rates* instead of *counts* as a better method of documenting disparities.

⁹ St. John, V. et. Al. (2022). Reducing Adverse Police Contact Would Heal Wounds for Children and Their Communities. *Child Trends*. <https://www.childtrends.org/publications/reducing-adverse-police-contact-would-heal-wounds-for-children-and-their-communities>

The fundamental question is: “How?” What can Massachusetts do – through changes in policy, statute, practice and/or funding – to reduce disparities in youth arrest rates? To answer this question, we must first better understand what causes these disparities in the first place.

This brief explores four potential factors that could lead to disparities, as described further below: differences in the **severity** and **type** of offenses youth are alleged of committing (“differential offending”), **variations in police practice by region**, and **police department policies, practices and officer decision-making** (“differential treatment”). Our data analysis finds that each of the first three (severity, type, region) can partially, but not fully, explain racial and ethnic disparities in youth entering the juvenile justice system, which suggests that – as has been found in research in other jurisdictions – police department policies, practices, and officer decision-making are at least partially responsible for these disparities in Massachusetts.

Differential Offending: Some have posited that racial disparities in arrests and applications for complaint are the natural result of disparities in behavior: in other words, that youth of color are more likely to commit delinquent offenses and/or are more likely to commit more serious offenses. This is often referred to as “differential offending.”¹⁰ Reasons given for why behavior patterns might differ by race vary, but many point to the concentrated disadvantages – from higher rates of poverty to systemic underinvestment in communities of color to increased likelihood of experiencing traumatic events to structural racism – facing many youth of color, suggesting these may result in different behavior patterns once youth reach adolescence.¹¹ The suggestion, in other words, is that the disparities in arrests and applications for complaint are driven by ***societal factors*** and not ***justice system practices***.

On the national level, however, researchers looking into juvenile behavior have found that, while some behavioral differences exist, Black and Latino youth are roughly as likely as white youth to get into fights,¹² carry weapons,¹³ steal property,¹⁴ and use and sell drugs.¹⁵ This would suggest that differences in behavior cannot fully explain the racial and ethnic disparities we see in arrest and complaint rates. In this brief, we examine available Massachusetts data to see what impact charge type and severity have on complaint filings and arrest patterns for white youth compared to Black and Latino youth here in the Commonwealth. **As described in detail below, we find that differences in charge type and severity can explain some, but not all, of the disparities we see at these stages.**

¹⁰ Office of Juvenile Justice and Delinquency Prevention. (n.d.) Literature Review: Racial and Ethnic Disparity in Juvenile Justice Processing. <https://ojjdp.ojp.gov/model-programs-guide/literature-reviews/racial-and-ethnic-disparity>

¹¹ Ibid.

¹² See: <https://yrbs-explorer.services.cdc.gov/#/graphs?questionCode=H17&topicCode=C01&location=XX&year=2019>

¹³ See: <https://yrbs-explorer.services.cdc.gov/#/graphs?questionCode=H12&topicCode=C01&location=XX&year=2019>

¹⁴ Rovner, J. (2016). Racial Disparities in Youth Commitments and Arrests. The Sentencing Project.

<https://www.sentencingproject.org/publications/racial-disparities-in-youth-commitments-and-arrests/> citing data from: <http://www.cdc.gov/yrbs>

¹⁵ Johnson, L. et. al. (2019), Monitoring the Future: National Survey Results on Drug Use, 1975-2018, Institute for Social Research, University of Michigan. <https://eric.ed.gov/?id=ED594190> ; YRBSS Data & Documentation 1991-2017. CDC. (2022, May 2). <https://www.cdc.gov/healthyouth/data/yrbs/data.htm>

Differential Treatment Others have suggested that *police policies and practices* – at the individual officer, police department, or regional (e.g., urban vs rural) level – are a driver of disparity. This is often referred to as “differential treatment.” Police practices that can lead to increased racial and ethnic disparities may be driven by police department policies (e.g., guidance given to officers on when to offer a youth diversion, issue a summons, or make an arrest, or which neighborhoods to patrol) as well as differences in how individual officers treat white youth as compared to Black and Latino youth.¹⁶ Our ability to examine this hypothesis through available Massachusetts data is more limited – but, to the extent we are able, this brief also looks at the potential disparate impact of policing practices using both Massachusetts data and national research.

Based on this analysis, we close with recommendations for steps Massachusetts should take to reduce disparities in arrest rates and practices.

About the Data

The data presented in this brief is from Fiscal Year (FY) 2021 (July 1, 2020-June 30, 2021). Application for complaint data (which encompasses custodial and summons arrests data) comes from the Massachusetts [Trial Court public data reporting dashboard](#).¹⁷ The application for delinquency complaint includes a sworn statement of the alleged facts and is the first step in the court process. The data also indicates whether the application was initiated through a physical arrest (as a result of a new offense or a warrant) or through a court summons. In rare instances, members of the public can initiate an application for delinquency complaint, although this happens rarely, and as a result would not change this analysis. The race/ethnicity was unknown/missing for 841 (14%) of all applications for complaint in FY21.

Police departments also report data on arrests to the federal reporting system, the “National Incident-Based Reporting System” (referred to as “NIBRS” in this report).¹⁸ However, departments in Massachusetts do not universally report on the uses of summons (some only report arrests), which means the NIBRS data cannot currently be used for this type of analysis. Therefore, Juvenile Court applications for complaint data provides the most comprehensive dataset. The *Limitations* section at the end of this brief further discusses the discrepancy between datasets as a barrier.

The data was pulled from the Trial Court’s dashboard and analyzed by the Office of the Child Advocate (OCA). The OCA methodology and analysis was reviewed by the Data Subcommittee of the state’s Juvenile Justice Policy and Data (JJPAD) Board, which is chaired by the OCA.

¹⁶ Office of Juvenile Justice and Delinquency Prevention. (n.d.) Literature Review: Racial and Ethnic Disparity in Juvenile Justice Processing. <https://ojjdp.ojp.gov/model-programs-guide/literature-reviews/racial-and-ethnic-disparity>

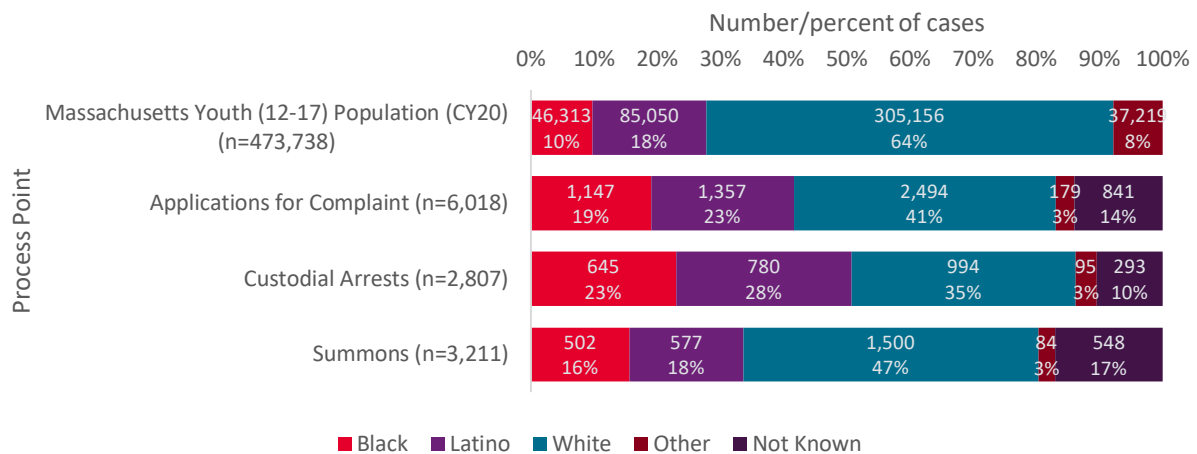
¹⁷ Data was obtained on September 23, 2022, from Massachusetts’ Trial Court Public Tableau. Totals may not match due to the timing of the data pull and due to rounding.

¹⁸ See: <https://www.fbi.gov/services/cjis/ucr/nibrs>

Data Analysis

In FY21, there were a total of 6,018 applications for complaint. Black youth were the subject of 19% of all applications, Latino youth were the subject of 23% and white youth were the subject of 41% of all applications for complaint.¹⁹ Compared to white youth in Massachusetts, **Black youth were over three times more likely to be the subject of an application for complaint, and Latino youth were almost twice as likely to be the subject of an application for complaint** (Figure 2).

Figure 2:
FY21 RED at the "Front Door"



In general, the method by which youth enter the Juvenile Court process on an application for complaint is almost evenly divided: of the 6,018 applications for complaint, 2,807 (47%) were initiated by a custodial arrest and 3,211 (53%) were initiated by a court summons.

Yet there are much greater disparities in the use of custodial arrests for Black and Latino youth compared to white youth. **Black youth in Massachusetts were over four times more likely to experience a custodial arrests (instead of a summons) than white youth in Massachusetts. Latino youth were almost three times more likely to experience a custodial arrest than their white counterparts.** Sixty-four percent of youth in Massachusetts are white, but just 35% of custodial arrests and 47% of court summons were of white youth (Table 1).²⁰

¹⁹ This report excludes data reporting youth of "Other" races due to relatively small numbers. Other races can include Asian, American Indian or Alaska Native, Native Hawaiian or Other Pacific Islander. For more information on how the JJPAD Board reports race, download the JJPAD Board Data Reporting Standards Recommendations: <https://www.mass.gov/doc/jypad-recommended-data-reporting-standards/download>

²⁰ Puzzanchera, C., Sladky, A. and Kang, W. (2021). "Easy Access to Juvenile Populations: 1990-2020." Online. Available: <https://www.ojdp.gov/ojstatbb/ezapop/>

Table 1: Disparities in How Youth Enter the Juvenile Court (FY21)				
Process Point	Measure	Race		
		Black	Latino	White
State Youth Population (CY20)	Distribution of MA Youth (12-17 yrs. old population)	10%	18%	64%
Custodial Arrests	Distribution of Custodial Arrests	23%	28%	35%
	Rate of Disproportionality (Compared to MA youth 12-17 yrs. old population)	2.35	1.55	0.55
	Relative Rate Index (Compared to White MA youth population)	4.28	2.82	1.00
Court Summons	Distribution of Summons	16%	18%	47%
	Rate of Disproportionality (Compared to MA youth 12-17 yrs. old population)	1.60	1.00	0.73
	Relative Rate Index (Compared to White MA Youth Population)	2.21	1.38	1.00

Measuring Racial and Ethnic Disparities

Rate of Disproportionality (RoD)*— an indicator of inequality calculated by dividing the percentage of youth arrested in a racial/ethnic group by the percentage of youth in that same racial/ethnic group in the Massachusetts youth census. RoDs greater than 1.0 indicate overrepresentation. RoDs less than 1.0 indicate underrepresentation.

Relative Rate Index (RRI)*— compares the observed rate of disproportionality for white youth to the observed rate of disproportionality for youth of color after adjusting for “base” population rates, using data on the demographics of all Massachusetts youth as identified by the U. S. Census. Thus, RRIs for white youth are always “1.00.” RRIs greater than 1.00 indicate an increased likelihood of involvement for people of color at that point. RRIs less than 1.00 indicate a decreased likelihood of involvement for people of color at that point.

Hypothesis Testing

As described above, multiple explanations have been offered – both nationally and here in Massachusetts – for why Black and Latino youth are more likely to be brought to the Juvenile Court for alleged delinquent behavior, and in particular for why they are more likely to be brought via an arrest rather than a summons. This brief investigates four common hypotheses

often posed to the JPAD Board that may explain disparities at the “front door” of the system:

Hypothesis #1: Racial disparities in applications for complaint as well as in the use of arrests instead of summons can be explained by offense severity (e.g., “Youth of color are brought to court for more serious crimes than white youth”).

Hypothesis #2: Racial disparities in applications for complaint as well as the use of arrests instead of summons can be explained by offense type (e.g., “Youth of color are brought to court for offense types that are more likely to result in arrest because they threaten public safety, such as weapons and person offenses”).

Hypothesis #3: Racial disparities in applications for complaint as well as the use of arrests instead of summons can be explained by different regional practices (e.g., “Some police departments are more likely to use arrests compared to summons (or diversion) than others, and those same jurisdictions have a higher percent of youth of color than other counties”).

Hypothesis #4: Racial disparities in applications for complaint as well as the use of arrests instead of summons can be explained by police department policies and practices, particularly, policies that allow for more individual police officer decision making, which can introduce biases (e.g., “Police officers are more likely to use arrests compared to summons or diversion for Black and Latino youth than white youth”).

Below, we test three of these hypotheses (severity, type, and regional practices) to the extent possible using available Massachusetts data.²¹ The brief uses academic research to explore the remaining hypothesis – individual police officer decision-making.

Despite data limitations, **it is clear from our analysis that each one of these hypotheses can *in part, but not fully*, explain the disparities seen in use of custodial arrests in Massachusetts.**²²

Testing Hypothesis #1: Are youth of color brought to court for more serious offenses than white youth?

One hypothesis for why Black and Latino youth are more likely to be the subject of an application for a complaint than white youth, and also for why they are more likely to enter the Juvenile Court system as a result of a custodial arrest than white youth, is

Severity	Black	Latino	White	All applications
Felony	53%	46%	37%	41%
Misdemeanor	47%	54%	63%	59%
Total	100%	100%	100%	100%

²¹ Due to the way in which this data is currently reported to the JPAD Board (i.e., aggregate data and not individual-level data), we are unable to determine if there is a *statistically* significant difference in arrests for Black and Latino youth when controlling for offense severity, offense type and/or the county a youth was arrested in.

²² For the data tables used in this brief, see Appendix A.

that Black and Latino youth may be brought to court for allegations of more serious offenses. For example, a law enforcement officer is much more likely to give a youth a warning or offer diversion for a misdemeanor than for a felony, which means many of those lower-level cases will not show up in data on applications for complaint. (At present, data on warning decisions or police-led, pre-arrest diversion is not publicly reported by departments.) Similarly, an officer may be more likely to make a custodial arrest for a felony than for a misdemeanor, particularly given legal restrictions on misdemeanor arrests.²³ Indeed, most custodial arrests in FY21 (72%) were for felonies.

In FY21, Black and Latino youth were slightly more likely (1.43 times and 1.23 times, respectively) to enter the Juvenile Court process as the result of a felony than white youth. **Given the differences in the way law enforcement are likely to respond to a felony compared to a misdemeanor, this partially, but not completely, accounts for racial and ethnic disparities in overall applications for complaint.**

However, Black and Latino youth entering the system with a felony application are still somewhat more likely to enter via an arrest as compared to a white youth with a felony, as shown in Table 3, below.

The disparities are even more substantial when we look at misdemeanor applications for complaint, which make up a majority (59%) of applications for complaint and are, by their legal

classification, less serious. Black and Latino youth who enter the Juvenile Court process for an alleged *misdemeanor* are substantially more likely to be brought to the court via a custodial arrest than white youth: Latino youth who are the subject of misdemeanor

Table 3: Custodial Arrests by Offense Severity (FY21)

Race	Percent of time youth with a felony application enters via arrest	Percent of time youth with a misdemeanor application enters via arrest
Black	82%	28%
Latino	88%	32%
White	76%	18%

complaints are brought to the court via a custodial arrest 32% of the time, compared to 28% of the time for Black youth and 18% for white youth (Table 3).

All told, the above data suggests that **the fact that Black and Latino youth are accused of felony offenses more often than white youth can, in part, explain higher rates of disparities – but it does not explain disparities completely**, especially when considering that Black and Latino youth experience custodial arrests more frequently than summons for the same offense levels as white youth, and specifically for misdemeanor offenses which are lower-level offenses.

²³ Under common law, as interpreted by the United States Supreme Court (see, for example, *Atwater v. City of Lago Vista*), there are more restrictions on when a police officer can make a warrantless arrest for a misdemeanor than for a felony.

It is also important to note the national evidence that charging decisions (i.e., what specific law(s) a youth is alleged of breaking based on the event) in and of themselves are a potential sort of bias that is unable to be accounted for with the current data available to the Board.²⁴

Examples of youth offenses and corresponding severity level

Misdemeanor: Possession of a controlled substance, using a motor vehicle without authority, shoplifting, assault and battery

Felony: Distribution of a controlled substance, assault and battery (domestic), Carrying a dangerous weapon

Testing Hypothesis #2: Are youth of color brought to court for person and weapons offenses more often than white youth?

A second hypothesis for why we see racial and ethnic disparities in applications for complaint and custodial arrests is that Black and Latino youth may commit offenses that threaten public safety more often than white youth.²⁵

This hypothesis cannot be perfectly tested, as “threat to public safety” can be subjective, and offense type categories can encompass both offenses that are and are not a threat to public safety. However, “person” (typically offenses that are considered “violent”, such as assault and battery) and “weapon” (offenses that relate to possession of a weapon, such as illegal possession of a firearm) are two good proxy offense types to examine.

Table 4: Racial Distribution of Applications for Complaint by Offense Type (FY21)²⁶

Offense Type	Black	Latino	White	All Applications
Alcohol	1%	1%	4%	2%
Drug	3%	3%	2%	2%
Motor vehicle	13%	21%	20%	20%
Person	41%	38%	35%	36%
Property	29%	24%	29%	28%
Public order	3%	3%	3%	3%
Weapons	6%	5%	2%	4%
Other	4%	4%	4%	4%
Total	100%	100%	100%	100%

²⁴ For more information, see <https://www.vera.org/downloads/publications/for-the-record-unjust-burden-racial-disparities.pdf>

²⁵ For a table of example charges in each offense type, [click here](#) or see Appendix B.

²⁶ Totals may not add up to 100% due to missing data and due to timing of when this data was pulled.

In FY21, Black and Latino youth were slightly more likely than white youth to enter the Juvenile Court process for a person or weapons offense. For example, 47% of applications for complaint for Black youth are for alleged person and weapons offenses—a rate 1.26 times that of white youth. Latino youth also have higher rates of alleged person and weapons offenses (1.15 times that of white youth).

However, for youth of all races, a majority of applications for complaint are for *other* offense types – such as property charges like larceny or drug charges like illegal possession – that typically do not present an immediate public safety threat. **As a result, differences in the types of offenses youth are alleged as having committed can partially, but does not fully, explain racial and ethnic disparities at the application for complaint stage.**

Further, similar to offense severity, the racial and ethnic disparities seen at the application for complaint stage are greater when we look at *how* youth enter the system.

Offense types that most frequently result in a custodial arrest rather than a summons include weapons (78% resulting in arrest), person (56% resulting in an arrest), and drugs (55% resulting in arrest). Black youth are slightly more likely to be the subject of a complaint for a person (1.15 times more frequently), weapon (3.13 times more frequently) or drug offense (1.42 times more frequently) than a white youth. Similar rates exist for Latino youth alleged of these offenses – 1.08, 2.50, and 1.72 times more frequently than white youth respectively. Together, this means that differences in offense type can partially explain the racial disparities we see in whether a youth is brought to the court via an arrest or a summons.

However, Black and Latino youth *also* experience custodial arrests at higher rates than white youth across most other offense types (Table 5). For example, Black youth experience custodial arrests for alleged drug offenses 1.64 times that of white youth, and Latino youth experience custodial arrests for drug offenses 2.42 times the rate of white youth. Similar disparities are seen in custodial arrests for property offenses as well.

Table 5: Custodial Arrests by Offense Type (FY21)

Offense Type	Percent of applications for complaint initiated by custodial arrest for Black youth	Percent of applications for complaint initiated by custodial arrest for Latino youth	Percent of applications for complaint initiated by custodial arrest for white youth	Percent of applications for complaint initiated by custodial arrest for all youth
Alcohol	11%	43%	15%	15%
Drug	53%	79%	33%	55%
Motor vehicle	21%	23%	18%	19%
Person	62%	66%	49%	56%
Property	58%	67%	45%	52%
Public order	56%	56%	43%	52%
Weapons	88%	84%	66%	78%

All told, the above data suggests that **the fact that Black and Latino youth are accused of person and weapons offenses more often than white youth can, in part, explain higher rates of disparities at the front door of the system, but it does not explain disparities completely,** particularly considering Black and Latino youth experience higher rates of custodial arrests than white youth for almost every offense type.

Examples of youth offenses and corresponding offense types

Person: Assault & battery, carjacking, robbery

Property: Shoplifting, breaking & entering, unarmed burglary

Motor Vehicle: Leaving the scene of property damage, operating a motor vehicle with suspended license, reckless operation

Weapons: Carrying a dangerous weapon, possession of a firearm without a license

Drug: Possession of Class A or B drugs, distributing drugs, possession with intent to distribute

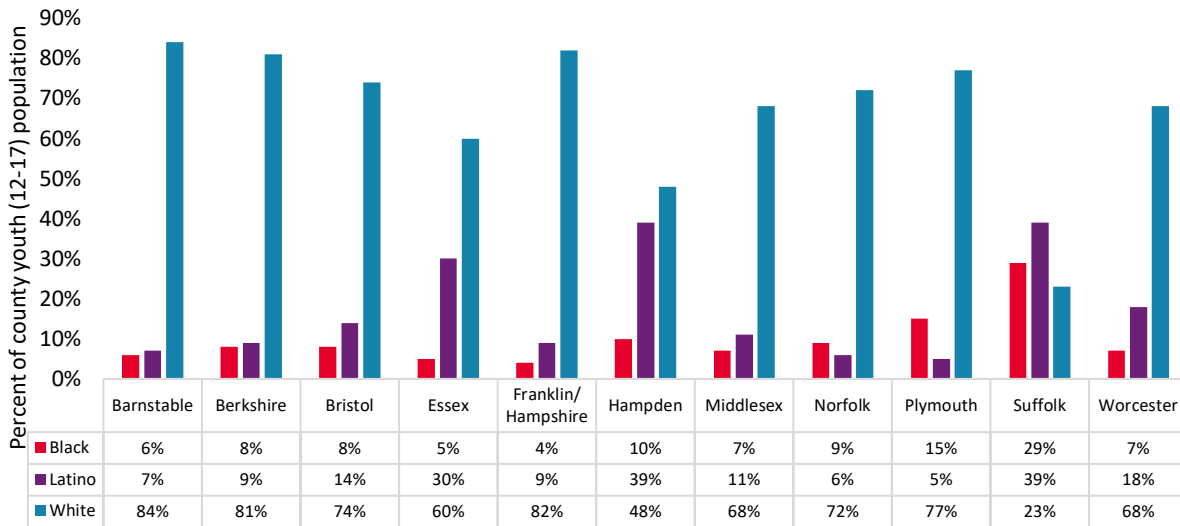
Alcohol: Possession of alcohol under age 21

Public Order: Disorderly conduct

Testing Hypothesis #3: Do county-level differences contribute to racial and ethnic disparities?

A third hypothesis is that state-level disparities are actually driven by regional or jurisdictional disparities. In other words, there may be more applications for complaint in areas with higher proportions of youth of color, and those areas are driving state-level disparities (Figure 3).

Figure 3:
MA General Youth (12-17) Population County-level racial distribution (CY20)



The most detailed level of data we have for examining regional differences in Massachusetts is at the county-level. County-level census data shows that Suffolk, Hampden and Essex counties have the highest rates of youth of color in their population. These counties do, in fact, account for more of the state’s applications than most others.²⁷

But as Table 6 highlights, disparities are also seen in counties with *lower* overall application for complaint rates, **suggesting the state disparities at the front door of the system are not exclusively due to county population data.** For example, Norfolk and Plymouth counties account for smaller shares of the state’s applications for complaint, yet Black and Latino youth in those counties are one and a half to three and a half times more likely to have applications filed on them compared to their county populations (Table 6).²⁸

²⁷ The Massachusetts Juvenile Court consists of 11 divisions across the state: combining Franklin and Hampshire counties, and Barnstable, Dukes and Nantucket counties along with the town of Plymouth.

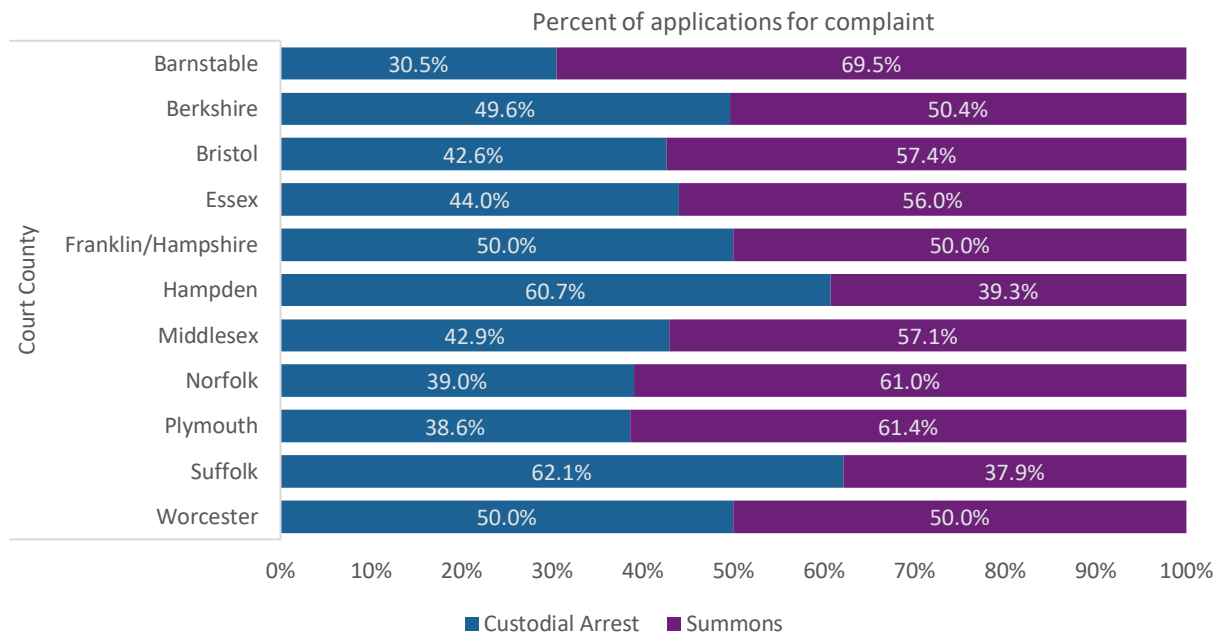
²⁸ For county level distributions and totals, see Appendix C.

Table 6: Rate of Disproportionality (RoD) for Applications for Complaint Compared to Overall Youth County Population Rates (FY21)

Court County	Black	Latino	White
Barnstable	1.67	1.25	0.70
Berkshire	3.26	0.50	0.55
Bristol	2.21	1.32	0.53
Essex	1.47	0.94	0.92
Franklin/ Hampshire	0.87	1.69	0.65
Hampden	1.68	0.77	0.76
Middlesex	1.78	2.90	0.64
Norfolk	3.49	2.23	0.46
Plymouth	2.63	1.45	0.51
Suffolk	1.56	0.59	0.35
Worcester	1.85	1.36	0.73

Further, policing practices in some counties may lead to police officers more frequently using a custodial arrest rather than issuing a summons or offering diversion, and Black and Latino youth may make up a higher percentage of the county population in those areas (Figure 4). In this scenario, even if Black and Latino youth were brought to court at equal rates as white youth in these counties, the different county-level demographics would lead to racial and ethnic disparities in custodial arrests at the state level.

Figure 4:
Percent of county-level applications for complaint initiated by custodial arrest and summons (FY21)



The data shows that in both Hampden and Suffolk County, law enforcement are more likely to bring a youth to court via a custodial arrest than a summons. In these same counties, Black and Latino youth make up a higher percentage of the youth population compared to most of the rest of the state. Thus, Hampden and Suffolk County are partially driving state-level racial disparities in arrests. Still, **Black and Latino youth experience higher rates of custodial arrests across all counties –even those with fewer Black and Latino youth than white youth.** (Table 7).

Court County	Percent of applications for complaint for Black youth initiated by custodial arrests	Percent of applications for complaint for Latino youth initiated by custodial arrests	Percent of applications for complaint for white youth initiated by custodial arrests	Percent of applications for complaint for all youth initiated by custodial arrests
Barnstable	48%	48%	28%	31%
Berkshire	51%	83%	59%	50%
Bristol	47%	50%	39%	43%
Essex	36%	58%	38%	44%
Franklin/ Hampshire	17%	56%	52%	50%
Hampden	64%	74%	53%	61%
Middlesex	48%	47%	39%	43%
Norfolk	46%	47%	26%	39%
Plymouth	56%	53%	25%	39%
Suffolk	74%	70%	53%	62%
Worcester	54%	60%	47%	50%
Massachusetts	56%	57%	40%	47%

The above data suggests that while Suffolk, Hampden and Essex counties account for a large proportion of the states’ applications for complaint and have higher rates of youth of color generally, **there are other factors contributing to racial and ethnic disparities seen across the state for both applications for complaint generally, and the use of custodial arrests in particular for youth of color.** There are high levels of disparities seen in certain counties despite a smaller proportion of the state’s overall applications for complaint in those places, and there is a higher percentage of youth of color entering the front door of the justice system as a result of an arrest instead of a summons in every court county.

Hypothesis #4: Do police department policies/practices and police officer discretion and individual bias account for disparities in the decision to arrest instead of summoning or diverting a youth?

As demonstrated above, differences in offense severity, offense type, and county-level variations, partially, but not fully, explain racial disparities seen in the decision to file an application for complaint (instead of offering diversion) or to make an arrest instead of issuing a summons. The impact of police department policies and practices, as well as officer decision making, are additional hypotheses as to why youth of color are more likely to be the subject of an application for complaint and to experience a custodial arrest than a summons.

The JPAD Board does not have access to data that would allow us to examine variations in arrest practices by police department or police officer. Instead, we must turn to a review of national research to help inform the extent to which this hypothesis may explain the disparities we see in Massachusetts.

A study examining how police officers rank factors that contribute to their decision making in how to handle a youth-related incident found that the seriousness of the offense, degree of harm done, presence of a weapon, and an apprehended youth's prior record are ranked as the top four most important factors in a police officers' decision making.²⁹ However, a meta-analysis of 23 research studies that focused on the relationship between race and the likelihood of an arrest between 1977 and 2004 found that **law enforcement were more likely to arrest a person if they were Black, even when controlling for factors like the seriousness of the alleged offense and the suspect's prior record.**³⁰

What could be causing this discrepancy between how police officers report they make decisions versus what is seen in the data?

- **Department Policies:** Certain police department policies may be impacting the racial and ethnic disparities we see in arrests and applications for complaint. Policies that determine *where*, *when* and *how* police officers patrol all can lead to disparities. Policies like hotspot policing,³¹ stop and frisk³², and traffic stops³³ have been shown to disproportionality target Black and Latino individuals. For example, "hot spot" policing concentrates resources in certain neighborhoods with higher crime rates. While, in theory, this is good policy, crime

²⁹ Schulenberg, J. L. (2010). Patterns in police decision-making with youth: an application of Black's theory of law. *Crime, Law, and Social Change*, 53(2), 109–129. <https://doi.org/10.1007/s10611-009-9210-4>

³⁰ Kocheil, T. R., Wilson, D. B., & Mastrofski, S. D. (2011). Effect of Suspect Race on Officers' Arrest Decisions*. *Criminology*, 49(2), 473–512. <https://doi.org/10.1111/j.1745-9125.2011.00230.x>

³¹ Rosenbaum, D. (2006). Critic The limits of hot spots policing. In D. Weisburd & A. Braga (Eds.), *Police Innovation: Contrasting Perspectives* (Cambridge Studies in Criminology, pp. 245-264). Cambridge: Cambridge University Press. doi:10.1017/CBO9780511489334.013

³² ACLU of New York. (2013). Analysis Finds Racial Disparities, Ineffectiveness in NYPD Stop-And-Frisk Program; Links Tactic to Soaring Marijuana Arrest Rate. <https://www.nyclu.org/en/press-releases/analysis-finds-racial-disparities-ineffectiveness-nypd-stop-and-frisk-program-links>

³³ Vera Institute of Justice. (2022). Black Drivers Disproportionately Pulled Over in Suffolk County <https://www.vera.org/newsroom/black-drivers-disproportionately-pulled-over-in-suffolk-county-its-not-about-public-safety>

rates are often measured by arrest rates for certain offense types only— and thus determinations about where to police in the future are heavily impacted by where the police have recently been, causing over policing in some instances and creating a vicious cycle.

- **Impact of Discretion:** Situations where there is a high degree of ambiguity, unclear guidelines for decision-making (e.g., charging decisions, decisions to make an arrest), and/or broad discretion may lead to implicit biases guiding decisions, resulting in more racially biased outcomes.³⁴ Studies have found that that in situations where police officers have more discretion (and often the amount of discretion is inversely related to the seriousness of the offense), disparities in arrests are higher.³⁵ This effect is seen in the Massachusetts data presented above, which showed that Black and Latino youth were more likely to experience a custodial arrest for misdemeanor offenses—where the decision to arrest a youth rather than issue a summons or offer diversion is more often decided based on the discretion of police officers than through department policy or statute—than their white peers.
- **Implicit Bias:** The impact of implicit bias³⁶ on decision-making could also be a factor. For example, a 2004 study found that when officers were asked “who looks criminal?” and shown a series of pictures, they more often chose Black faces than white ones.³⁷

A 2018 study by the [VERA Institute of Justice](#) illustrates how all of these various factors can come together to produce disparities. The report found “*the best available evidence suggests that police bias, coupled with strategic decisions to deploy certain law enforcement practices—like hot spots policing—more heavily in Black communities, increases the likelihood of encounters with police...*”³⁸ The increase in encounters with police can lead to increases in the likelihood Black and Latino youth experience a custodial arrest. The report highlights research finding that police are more likely to pull over and search Black drivers despite lower contraband hit rates and are more likely to stop Black pedestrians more frequently than white people when controlling for certain factors. This research was recently replicated in Suffolk County as well, showing Black drivers are disproportionately pulled over by law enforcement in

³⁴ National Center for State Courts. (2012). Helping Courts Address Implicit Bias. https://horsley.yale.edu/sites/default/files/files/IB_Strategies_033012.pdf

³⁵ Tapia, M. (2011). Gang Membership and Race as Risk Factors for Juvenile Arrest. *The Journal of Research in Crime and Delinquency*, 48(3), 364–395. <https://doi.org/10.1177/0022427810393013> ; Schulenberg, J. L. (2010). Patterns in police decision-making with youth: an application of Black’s theory of law. *Crime, Law, and Social Change*, 53(2), 109–129. <https://doi.org/10.1007/s10611-009-9210-4>

³⁶ Implicit bias is a term that describes when an individual has attitudes toward people or associate stereotypes with them without conscious knowledge. See: <https://perception.org/research/implicit-bias/>

³⁷ Eberhardt, J. Goff, P., Purdie, V., and Davies, P. (2004). “Seeing Black: Race, Crime, and Visual Processing,” *Journal of Personality and Social Psychology* 87 (6), 876- 893, <https://perma.cc/XS7F-3B48>

³⁸ Hinton, E., Henderson, L., & Reed, C., (2018). *An Unjust Burden: The Disparate Treatment of Black Americans in the Criminal Justice System*. New York: Vera Institute of Justice. <https://www.vera.org/downloads/publications/for-the-record-unjust-burden-racial-disparities.pdf>

for non-traffic-safety offenses. Police disproportionately stopped Black drivers in Suffolk County for non-traffic-safety reasons at 2.3 times the rate of white drivers.³⁹

Taken together, this review of the national research indicates that policies impacting policing practices as well as individual decision-making present opportunities for biases to influence an officer's decision to make an arrest instead of issuing a summons. This can account for some of the racial disparities seen in arrest data in Massachusetts.

Massachusetts Juvenile Arrest Policies and Procedures

Under common law, as interpreted by the United States Supreme Court (see, for example, *Atwater v. City of Lago Vista*), there are more restrictions on when a police officer can make a warrantless arrest for a misdemeanor than for a felony. Further, Massachusetts' general law states that "a summons is the preferred method on bringing a juvenile to court ([MGL c. 119 § 54](#))." This is reiterated in the state's Municipal Police Training Committee's training and resource materials and in [guidance](#) recently issued by the Peace Officer Standards and Training (POST) Commission. Police officers are instructed to reserve custodial arrests for when an alleged offense threatens public safety, or if there is "reason to believe the child will not appear upon a summons." (*MPTC Legal Standards & Procedures for Police Interactions with Youth*, September 2021). In certain instances, police officers do not have the option to issue a summons, and must issue an arrest (e.g., domestic violence offenses). For many offenses, however, police officers have the sole discretionary authority to decide whether to arrest a youth, issue a court summons, or give them a warning or offer diversion.

Recommendations

Most researchers and policymakers agree that there is no *single* reason for racial and ethnic disparities in the juvenile justice system, but rather, a combination of factors stemming from both differences in individual behaviors influenced by societal factors and differences in treatment of youth of color.⁴⁰ This is evident in the data and research reviewed above.

Accordingly, our recommendations to reduce racial and ethnic disparities in the youth who enter the "front door" of the juvenile justice system in Massachusetts are multifold. In this report, we primarily focus on recommendations that could be implemented at the police department level, given the JJPAD Board's mandate to make recommendations for improvements to the juvenile justice system.⁴¹ Still, the Board would be remiss if we did not

³⁹ Vera Institute of Justice. (2022). Black Drivers Disproportionately Pulled Over in Suffolk County—It's....

<https://www.vera.org/newsroom/black-drivers-disproportionately-pulled-over-in-suffolk-county-its-not-about-public-safety>

⁴⁰Office of Juvenile Justice and Delinquency Prevention. (n.d.) Literature Review: Racial and Ethnic Disparity in Juvenile Justice Processing. <https://ojdp.ojp.gov/model-programs-guide/literature-reviews/racial-and-ethnic-disparity#7>

⁴¹ Bill: An Act relative to criminal justice reform, Ch. 69. (2018).

<https://malegislature.gov/Laws/SessionLaws/Acts/2018/Chapter69>

also recommend measures that could be taken to reduce the likelihood a youth engages in delinquent behavior to begin with.⁴²

Investing in Prevention and Alternatives to Arrest

1. **The state should increase investments in community-based programs aimed at reducing system involvement and promoting prosocial activities.** Given the importance of prosocial connections and activities in preventing youth's risk of delinquency,⁴³ the JJPAD Board recommends the state expand its support for programs and services that promote social connectedness and promote positive youth development. Some examples include:
 - o Increasing funding for and coordination of services aimed at preventing delinquency or supporting youth previously or currently involved with our juvenile justice system. In particular, the state should target programs and services that promote:
 - ❖ Peer support specialists and mentorship
 - ❖ Academic success (secondary or post-secondary) and school re-engagement
 - ❖ Vocational programming, professional development, and opportunities for employment
 - ❖ Life skills and civic engagement
 - ❖ Safety planning and violence desistance with gang-involved youth, including credible messenger programs
 - o Expanding support and availability of enrichment activities across schools, community-based organizations, libraries, and Family Resource Centers.

2. **The state should continue to support and expand the state Diversion Learning Labs:** The JJPAD Board has previously documented the concerns around equitable access to diversion programs across the Commonwealth,⁴⁴ and as a result the Board recommended the state create a state-funded diversion program. With funding in the FY22 state budget, the Department of Youth Services (DYS) in partnership with the Office of the Child Advocate (OCA) successfully launched three diversion sites across the state, and will be expanding to five sites this fiscal year (FY23).⁴⁵

⁴² Although it is beyond the scope of the JJPAD Board, the Board also supports measures taken by the state to expand services and policies aimed at reducing societal problems as a result of systemic racism throughout history, such as addressing financial/housing stability, addressing the financial wealth gap, and investing in communities of color.

⁴³ OJJDP. (n.d.). *Provide Opportunities for Children and Youth*. Retrieved September 22, 2021, from <https://ojdp.ojp.gov/sites/g/files/xyckuh176/files/action/sec4.htm>

⁴⁴ [Office of the Child Advocate](https://www.mass.gov/doc/improving-access-to-diversion-and-community-based-interventions-for-justice-involved-youth-0/download). (2019). Improving Access to Diversion and Community-Based Interventions for Justice-Involved Youth, A Report of the Massachusetts Juvenile Justice Policy and Data (JJPAD) Board. <https://www.mass.gov/doc/improving-access-to-diversion-and-community-based-interventions-for-justice-involved-youth-0/download>

⁴⁵ [Office of the Child Advocate](https://www.mass.gov/news/oca-and-dys-launch-youth-diversion-initiative). (2021). OCA and DYS Launch Youth Diversion Initiative. <https://www.mass.gov/news/oca-and-dys-launch-youth-diversion-initiative>

A statewide diversion program is an important tool to help reduce racial and ethnic disparities seen at the front door of our justice system. Preliminary research in other jurisdictions has shown that police officers described themselves as more likely to charge a youth to provide meaningful consequences in the absence of available pre-charge diversion programs.⁴⁶ Expanding the DYS diversion program will ensure police across the state have access to an evidence-based diversion program to which they can divert youth.

Gathering and Using Data to Spot Problem Areas and Improve Practice

3. **Police departments should uniformly report the use of summons to the NIBRS data system**, which would allow the state to continue to monitor and analyze this data in the context of racial and ethnic disparities. As mentioned in the “About the Data” section of this brief, this data is not currently consistently reported across all Massachusetts police departments. The most detailed level of geographic disparities analyzed here uses county-level data, while police department level data would provide more granular data to help address policy and/or practice concerns in each department. The Executive Office of Public Safety & Security should identify departments that are not consistently reporting this data and support those sites in reporting this data in a timely manner and on a regular basis.
4. **Police departments should review internal data:** Departments should use their internal data to see if the disparities highlighted in this brief are replicated at the department and/or individual officer level to guide further practice recommendations. Specifically, departments should look at the racial distribution of instances when diversion or a warning were issued as well as data on arrests and summons by:
 - o the specific charge type (e.g., assault and battery, possession of a firearm, possession of a controlled substance)
 - o specific locations of arrests (e.g., school, zip code)
 - o specific time of arrests (e.g., overnight, during school hours)
 - o offense type and severity (e.g., felony person offense, misdemeanor drug offense)

Police departments should also look for any patterns in how police interactions between Black and Latino youth may differ from interactions with white youth, and how those patterns may lead to differential use of arrests. For example, are Black and Latino youth more likely to be the subject of a stop and frisk? Are Black and Latino youth treated with the same measure of respect in interactions as white youth? Do officers use de-escalation

⁴⁶ Schulenberg, J. L. (2010). Patterns in police decision-making with youth: an application of Black’s theory of law. *Crime, Law, and Social Change*, 53(2), 109–129. <https://doi.org/10.1007/s10611-009-9210-4>

tactics equitably? Some of these measures may be difficult to identify through data alone, although looking at civilian complaints against police can be a place to start. Some departments may also track data on field interactions that could be studied for disparities, as has been done in Boston.⁴⁷

5. **Police departments should require officers to document *why* they decided to arrest a youth instead of issuing a summons for arrests and publish their findings.** To better understand officer decision-making, police departments should require statements of reasoning on arrest paperwork as to why an officer chose to make an arrest instead of issuing a summons. Details should be provided that indicate what the public safety threat was and/or what other circumstances existed that the officer considered. Departments should institute an internal review process of this information to:
 - o Provide feedback to officers who over-utilize custodial arrests to help them change those practices
 - o Update department policies and procedures to provide clarification and guidance as necessary based on patterns seen in the documentation
 - o Publish and share their findings with the state and other police departments

Reducing Disparities through Practice and Policy Change

6. **Police departments should provide more guidance and limitations on when to use a custodial arrest, when to issue a summons, and when to offer diversion:** Police departments should examine their departmental policies and trainings on the use of arrest and summons. Currently, guidance varies across police departments, leading to potential inequities across the state. Many police departments include language in their policies stating, *“Whenever reasonable and possible, an officer will request a summons for a juvenile rather than taking him/her into custody.”*⁴⁸ However, some departments use more explicit language. For example, the Everett police department’s juvenile arrest procedures state, *“Youth should be taken into custody as a last resort; where possible issuance of written citations and summonses should be used first.”*⁴⁹ Departments should consider adopting language similar to Everett’s policy and go further to provide specific example of types of offenses that would warrant an immediate custodial arrest and ones that are –more often than not—appropriate for a court summons.

⁴⁷ See: <https://data.boston.gov/dataset/boston-police-department-fio>

⁴⁸ See, for example, Malden: <https://www.cityofmalden.org/DocumentCenter/View/4793/Policy-008-Handling-Juveniles-PDF> and Brookline: <https://www.brooklinepolice.com/DocumentCenter/View/942/BPD-MANUAL6282017?bidId=#page=280>

⁴⁹ Everett Police Department. (2007). Handling Juveniles. https://everettpolicema.com/wp-content/uploads/simple-file-list/Operations/PP-1_15-Handling-Juveniles.pdf

Similarly, police departments can encourage the use of diversion, particularly for lower-level and first-time offenses, through policy, training and the development of partnerships with local diversion service providers, such as the Diversion Learning Lab providers where available. Currently, the availability of police-led diversion programs varies across the state. A 2018 survey by Citizens for Juvenile Justice conducted in partnership with the Massachusetts Chiefs of Police Association found that of the 95 police departments that responded to the survey, 24% had a formal diversion program established (mostly concentrated in higher-income municipalities), another 37% used informal diversion, and 38% reported no police diversion option.⁵⁰ This survey also found wide variation regarding which youth are deemed eligible for police-level diversion. In some departments, specific types of offenses are automatically considered open for diversion, while others make the determination on a case-by-case basis.

- 7. Police departments should re-examine which department policies and practices may be contributing to racial and ethnic disparities in arrests**, including policies and practices regarding how decisions on where (e.g., what neighborhood), when (e.g., during the day, in school, overnight), how (e.g., traffic stops, on foot patrol, in schools) and in what manner (e.g., use of stop & frisk techniques) police enforce public safety. For example, research recently conducted by Citizens for Juvenile Justice (CfJJ) found police interactions were geographically clustered in poor, non-white neighborhoods near public housing and schools, and many contacts occurred in the middle of the night.⁵¹ While this research looked at just one city in Massachusetts (New Bedford), national research suggests similar findings would be seen across cities in Massachusetts.⁵²

To reduce disparities, police departments, particularly those in urban areas, should re-examine their policing practices with consideration for how they might *create* racial and ethnic disparities, using data from Recommendations #4 and #5 in this brief.

Police departments across the Massachusetts, in partnership with the Municipal Police Training Commission, have made significant progress in implementing trainings (e.g., trainings on adolescent brain development and implicit bias) and shifting juvenile policing practices over the past decade-plus. The results of these efforts are evident in a variety of ways, including overall decreases in referrals to Juvenile Court and the number of police departments launching

⁵⁰ Citizens for Juvenile Justice (2018). Seizing an Early Opportunity. <https://www.cfjj.org/seizing-opportunity>

⁵¹ Citizens for Juvenile Justice. (2021). We are the Prey: Racial Profiling and Policing of Youth in New Bedford. <https://www.cfjj.org/s/We-Are-The-Prey-FINAL.pdf>

⁵² Rosenbaum, D. (2006). Critic The limits of hot spots policing. In D. Weisburd & A. Braga (Eds.), *Police Innovation: Contrasting Perspectives* (Cambridge Studies in Criminology, pp. 245-264). Cambridge: Cambridge University Press. doi:10.1017/CBO9780511489334.013

diversion programs. Still, as this brief details, significant racial and ethnic disparities remain. The recommendations above are intended to add to that ongoing work and help departments think of new ways to continue to address the problem of racial and ethnic disparities in arrests throughout their communities.

Limitations

This brief is not without limitations. First, the data in this report about police use of arrests versus summons comes from the Trial Court, and not directly from the NIBRS federal reporting system. Due to the inconsistencies in police reporting on the use of summons (described in About the Data, above), which was needed for this analysis, we chose to use the Juvenile Court dataset. However, the Juvenile Court's dataset does not disaggregate custodial arrests for a new offense from those resulting from a warrant. Typically, warrants are issued for youth who fail to appear in court for a previously issued summons or when youth violate their conditions of probation. Further, this data does not indicate whether police officers were responding to an emergency call or if an arrest happened on patrol.

Data stemming from the police departments themselves (i.e., through NIBRS) would be a better measure of arrests if summons data was accurately reported across departments. In addition to including the information noted above, this would likely be a better measure as it provides a more complete dataset for youth who may be arrested but never brought to court. There is also no way for the Board to know the number of youth who are diverted pre-arrest or who are offered a warning and are not captured in this dataset. This is important because there may be disparities in police interactions prior to the decision to make a custodial arrest or issue a summons. For example, police may make an arrest instead of issuing a warning if a victim is requesting to press charges. Police departments do not currently report this number to the state or federal reporting systems.

The data currently available to the JJPAD Board from the Trial Court is pre-aggregated due to confidentiality considerations. As a result, the Board is unable to conduct regression testing to isolate the impact of race/ethnicity as a factor in a decision to issue an arrest over a summons. Similarly, due to the way data is reported, the Board is also unable to look at intersectional effects, such as how offense severity and charge type combined impact the likelihood of making an arrest or issuing a summons.

This data also encompasses a year in which police practices may have differed due to the COVID-19 pandemic. While this may have some impact on the data presented here, our analysis would likely be similar for other years given that the proportion of youth entering the juvenile

justice system through a custodial arrest or a summons has remained relatively the same over the past five fiscal years.⁵³

Conclusion

While Massachusetts has made substantial progress limiting the number of youth coming into contact with the juvenile justice system, including a 50% decline in applications for complaint between 2017 and 2021, this decrease in utilization has not reversed the racial and ethnic disparities seen across the system. As this brief indicates, disparities are particularly high at the “front end” of the juvenile justice system, and these disparities cannot be fully attributed to differences in the offense types or severity youth are alleged of committing, or the counties in which they reside. While this Board does not have data needed to quantify the impact of police department polices/practices or individual officers’ decision-making on custodial arrest decision making, national research concludes that those factors can also be contributing to the overall disparities we see. Therefore, the Board recommends steps the state can take to further address and reverse the disparities we see in our state’s juvenile justice system.

⁵³ [Office of the Child Advocate](https://www.mass.gov/doc/jipad-2021-annual-report/download). (2022). Massachusetts Juvenile Justice System: 2021 Annual Report. <https://www.mass.gov/doc/jipad-2021-annual-report/download>

Appendix A: Data Tables⁵⁴

All Applications for Complaint							
Variable	Measure	Black	Latino	White	Other	Not known	Total
	Massachusetts Youth Population	46,313	85,050	305,156	37,219	0	473,738
	Applications for complaint	1,147	1,357	2,494	179	841	6,018
Offense Severity	Felony	609	621	925	78	255	2,488
	Misdemeanor	538	736	1,566	101	581	3,522
Offense Type	Alcohol	9	7	96	1	23	136
	Drug	30	43	46	4	14	137
	Motor vehicle	147	291	508	30	211	1,187
	Person	469	518	884	67	255	2,193
	Property	337	329	723	54	249	1,692
	Public order	32	45	79	7	25	188
	Weapons	72	68	50	7	23	220
	Other	51	56	108	9	41	265
Court County	Barnstable	40	33	232	20	72	397
	Berkshire	35	6	58	4	28	131
	Bristol	115	124	261	25	132	657
	Essex	59	231	453	23	52	818
	Franklin/Hampshire	6	27	91	3	44	171
	Hampden	96	176	211	6	94	583
	Middlesex	128	321	430	45	76	1,000
	Norfolk	126	55	133	8	82	403
	Plymouth	158	32	161	18	40	409
	Suffolk	273	141	49	5	134	602
	Worcester	111	211	417	22	88	848

⁵⁴ Data was obtained on September 23, 2022, from Massachusetts' Trial Court Public Tableau. Totals may not match due to the timing of the data pull.

Custodial Arrests							
Variable	Measure	Black	Latino	White	Other	Not known	Total
	Massachusetts Youth Population	46,313	85,050	305,156	37,219	0	473,738
	Custodial Arrests	645	780	994	95	293	2,807
Offense Severity	Felony	497	548	704	70	206	2,026
	Misdemeanor	148	232	289	25	86	780
Offense Type	Alcohol	1	3	14	0	3	21
	Drug	16	34	15	3	7	75
	Motor vehicle	31	68	93	7	25	224
	Person	291	341	436	42	115	1,225
	Property	197	221	327	28	106	879
	Public order	18	25	34	5	16	98
	Weapons	63	57	33	5	13	171
	Other	28	31	42	5	8	114
Court County	Barnstable	19	16	65	12	9	121
	Berkshire	18	5	34	1	7	65
	Bristol	54	62	103	11	50	280
	Essex	21	135	171	14	19	360
	Franklin/Hampshire	1	15	47	2	21	85
	Hampden	61	130	112	3	48	354
	Middlesex	62	150	166	24	27	429
	Norfolk	58	26	34	4	36	157
	Plymouth	88	17	41	7	5	158
	Suffolk	203	98	26	4	43	374
	Worcester	60	126	197	13	29	425

Summons							
Variable	Measure	Black	Latino	White	Other	Not known	Total
	Massachusetts Youth Population	46,313	85,050	305,156	37,219	0	473,738
	Summons	502	577	1,500	84	548	3,211
Offense Severity	Felony	112	73	221	8	49	463
	Misdemeanor	390	504	1,277	76	495	2,742
Offense Type	Alcohol	8	4	82	1	20	115
	Drug	14	9	31	1	7	62
	Motor vehicle	116	223	415	23	186	963
	Person	178	177	448	25	140	968
	Property	140	108	396	26	143	813
	Public order	14	20	45	2	9	90
	Weapons	9	11	17	2	10	49
	Other	23	25	66	4	33	151
Court County	Barnstable	21	17	167	8	63	276
	Berkshire	17	1	24	3	21	66
	Bristol	61	62	158	14	82	377
	Essex	38	96	282	9	33	458
	Franklin/Hampshire	5	12	44	1	23	85
	Hampden	35	46	99	3	46	229
	Middlesex	66	171	264	21	49	571
	Norfolk	68	29	99	4	46	246
	Plymouth	70	15	120	11	35	251
	Suffolk	70	43	23	1	91	228
	Worcester	51	85	220	9	59	424

Appendix B: Examples of youth offenses and corresponding offense types

Offense type	Examples of Offenses
Person	Assault and battery, home invasion, carjacking, robbery, statutory rape
Property	Larceny, unarmed burglary, arson, breaking and entering, shoplifting
Motor Vehicle	Leaving the scene of property damage, operating a motor vehicle with suspended license, reckless operation of motor vehicle
Weapons	Carrying a dangerous weapon, possession of a firearm without license
Drug	Possession of Class A or B drugs, distributing drugs or possession with intent to distribute (class A, B, C, D, E)
Alcohol	Possession of alcohol under age 21
Public Order/School Disturbance	Disorderly conduct

Appendix C: County Level Census Estimates (CY20)

Court County	Black	Latino	White	Other	Total
Barnstable County ⁵⁵	815	898	11,351	465	13,529
Berkshire County	643	712	6,321	158	7,834
Bristol County	3,289	5,955	30,888	1,432	41,564
Essex County	2,861	17,591	35,047	2,761	58,260
Franklin/ Hampshire County ⁵⁶	541	1,247	10,907	675	13,370
Hampden County	3,435	13,758	16,664	1,175	35,032
Middlesex County	7,772	11,985	73,113	15,348	108,218
Norfolk County	4,703	3,210	38,020	6,618	52,551
Plymouth County	5,965	2,196	31,485	1,033	40,679
Suffolk County	11,914	16,168	9,555	3,318	40,955
Worcester County	4,375	11,330	41,805	4,236	61,746
State Total	46,313	85,050	305,156	37,219	473,738

⁵⁵ Barnstable County includes counts for Dukes and Nantucket counties.

⁵⁶ Franklin/Hampshire combines both Franklin County and Hampshire County census estimates.

Appendix D: Applications for Complaint (FY18-FY21) by Race

Year	Race	MA Youth Population	Applications for Complaint
2018	Black	45,259	2,231
	Hispanic/Latino	82,120	2,680
	White	318,519	4,309
	Total	481,975	11,116
2019	Black	45,847	1,780
	Hispanic/Latino	83,713	2,074
	White	311,559	3,222
	Total	477,734	8,377
2020	Black	46,313	1,755
	Hispanic/Latino	85,050	1,859
	White	305,156	2,978
	Total	473,738	7,777
2021	Black	46,313	1,147
	Hispanic/Latino	85,050	1,357
	White	305,156	2,494
	Total	473,738	6,018

Commonwealth of Massachusetts
Office of the Child Advocate



Phone

Main Office: [\(617\) 979-8374](tel:(617)979-8374)
Complaint Line: [\(617\) 979-8360](tel:(617)979-8360)

Address

One Ashburton Place, 11th Floor
Boston, MA 02108

Website

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

Contact

Melissa Threadgill, Director of Strategic Innovation
Melissa.threadgill@mass.gov