

Massachusetts Coalition for Juvenile Justice Reform

Testimony to the Joint Committee on Public Safety and Homeland Security in support of “An Act improving juvenile justice data collection” (S.1558)

October 21, 2021 Hearing

One challenge the JJPAD Board noted in 2019 was that reporting of key demographic data is inconsistent across juvenile justice and child-serving entities, which makes it difficult to compare caseload populations from entity to entity and measure any big-picture trends, disparate impact, and/or gaps and challenges across the entire juvenile justice system. To address this challenge, in 2020, the [JJPAD] Data Subcommittee focused on developing recommended reporting standards for data on race, ethnicity, gender, sexual orientation, gender identity/transgender status, and intersex status.

MA Juvenile Justice Policy and Data Board
2020 Annual Report¹

Dear Chair González, Chair Timilty, and members of the Joint Committee on Public Safety and Homeland Security,

An Act improving juvenile justice data collection would require the collection and reporting of uniform, reliable and publicly accessible data on young people – broken down by key demographics of age, gender, gender identity, sexual orientation and type of offense at major juvenile justice system decision – to improve the state’s policy and planning. This bill tries to get answers to these critical questions:

- What is happening in the juvenile justice system?
- Is it working?
- Is it fair and just?
- How can we make it better?

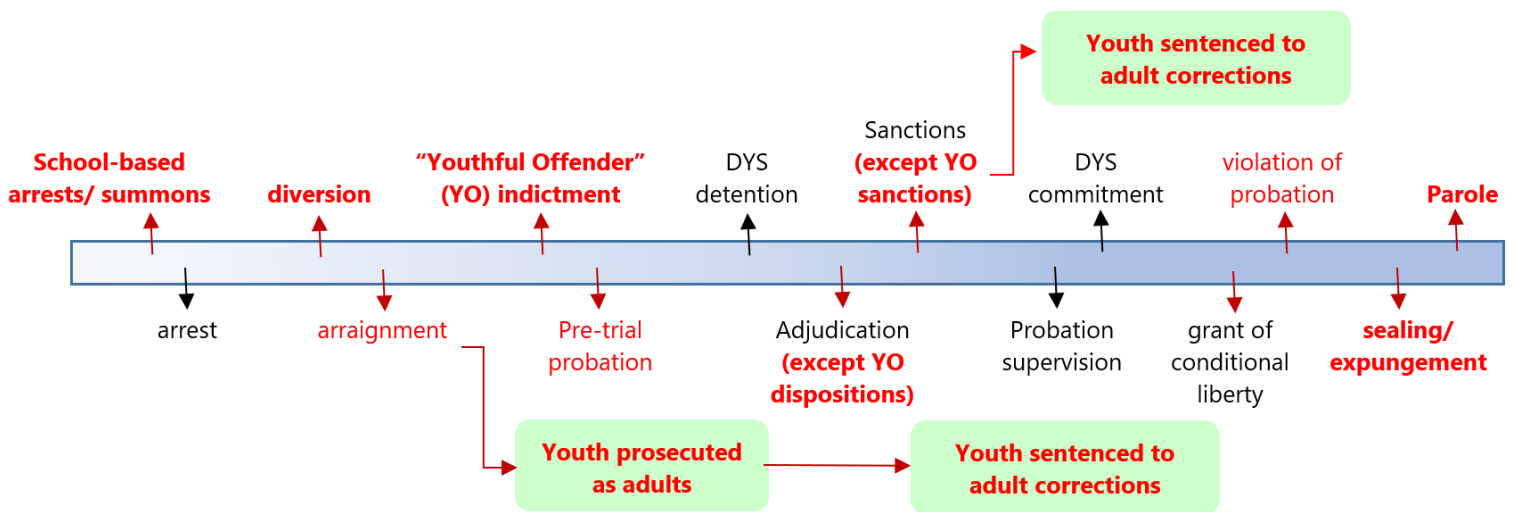
The legislature has invested in significant reforms in the juvenile justice system, but without adequate data collection and reporting, the debates on policies and funding of the system are not fully informed with the basic facts of how the system is operating.

¹ Juvenile Justice Policy and Data Board, *Massachusetts Juvenile Justice System: 2020 Annual Report*, November 2020. Available at <https://www.mass.gov/doc/jypad-board-2020-annual-report-0/download>

Sound juvenile justice policy must be based on comprehensive, uniform, reliable and publicly accessible data. Effective public policy cannot be based on instinct or anecdote; rather, it must be based on solid information that enables policy-makers and practitioners to identify and quantify problems in the system, propose and implement solutions and then evaluate whether the solutions are, in fact, effective.

Massachusetts currently fails to collect crucial data at most of the significant decision points in the juvenile justice system. As a result, taxpayers are blindly funding a system without adequate metrics to assess its fairness or effectiveness, a system that has a profound effect on kids, families and communities.

The Missing Facts (in red and bold, data missing race/ethnicity in red only)



At each of the many decision points involved in the system, one or more of these actors make choices that determine whether or not a youth is arrested, detained, arraigned, diverted, adjudicated delinquent, indicted as a youthful offender, put on probation, committed to DYS, incarcerated in adult corrections or, in certain cases prosecuted as an adult. However, unlike most states, Massachusetts’ lack of uniform, reliable data collection and reporting from each of the different actors prevents us from developing an accurate and comprehensive picture of the functioning of the juvenile justice system.

Racial and ethnic disparities persist in the juvenile justice, while LGBTQ+ youth remain invisible.

Massachusetts’ has one of the [worst rates of racial disparity for youth incarceration in the country](#) despite more than a decade of reforms to reduce the pretrial detention of youth. While youth of color make up only 36% of the youth population in Massachusetts, they represent 68%

of those with a custodial arrest, 77% and 75% who are detained or committed to the Department of Youth Services (DYS), respectively.²

Black youth in Massachusetts are 8.8 times and 10.1 times as likely as white youth to be detained and committed to DYS, respectively, and Latinx youth are 7 times and 8.9 times more likely than white youth to be detained and committed to DYS, respectively, relative to their population. A [national comparison study](#) found that MA has the 9th worst Black-white disparity and the 1st worst Latino-white disparity in the country.

Disparities not only cause the worst burdens of the juvenile justice system to fall disproportionately on children of color, they can actually increase recidivism on their own.

Young people *“may be more likely to accept responsibility for less serious offenses early in the process if they [perceive](#) delinquency proceedings to be fair and transparent and any sanctions imposed to be proportionate to their offenses.”*

Additionally, despite 17.1% of Massachusetts high school students identifying as LGBTQ+, only the Department of Youth Services publicly reports the sexual orientation and gender identity of youth involved in the juvenile justice system.³ While LGBTQ youth make up 6%-8% of youth in DYS⁴, female identifying youth make up **more than one-third** of LGBTQ+ youth in DYS, and are more likely to be youth of color⁵. LGBTQ+ youth are also 5.6 times and 3.3 times more likely to have a history of sexual and physical abuse compared to their straight counterparts, indicating a clear need to understand their experiences and histories for effective interventions at all stages of the juvenile justice system.⁶

The Biggest Gaps in the Juvenile Justice System

How many Hispanic youth are formally charged with committing a crime in Massachusetts?

We don't know. Limited [aggregate data](#) is available through the JJPAD but disaggregated data is limited to race (not ethnicity) and gender only, despite the fact that arraignments are considered to be one of the best measurements of juvenile delinquency and the most accurate measure of court capacity. No data is available on the ages or the offenses charged or categories of charges (e.g., misdemeanor, felony, property offense, drug offense, person offense, sexual offense, etc.) of the approximately 3,500 to 5,500⁷ youth arraigned each year.

² Juvenile Justice Policy and Data Board, Massachusetts Juvenile Justice System: Data and Outcomes for Youth, <https://www.mass.gov/resource/massachusetts-juvenile-justice-system-data-and-outcomes-for-youth>

³ Massachusetts Commission on Lesbian, Gay, Bisexual, Transgender, Queer & Questioning Youth Report and Recommendations for Fiscal Year 2022, <https://www.mass.gov/lists/annual-recommendations-commission-on-lgbtq-youth#2022->

⁴ Juvenile Justice Policy and Data Board, Massachusetts Juvenile Justice System 2020 Annual Report, p. 62

⁵ Department of Youth Services public record response to Citizens for Juvenile Justice for CY2016 to CY2020.

⁶ Department of Youth Services public record response to Citizens for Juvenile Justice for CY2016 to CY2020.

⁷ Arraignments CY2017 to CY2019 <https://www.mass.gov/info-details/data-about-juvenile-court-arraignments>

How do district attorneys and judges use their discretion to divert or indict youth?

We don't know. Diversion is a useful tool for sifting out less serious cases that can be resolved informally, while indictment is intended for the most serious cases with the most serious consequences. Aggregate data about whether both of these critical decisions are being made consistently or fairly is not reported or shared publicly.

What is the profile of youth on probation?

We don't know. Although probation is the most common pre-trial condition and disposition in juvenile court, only limited data is available on the demographics of youth under probation supervision, including those being supervised pre-trial.⁸ Additionally there is no public reporting of the characteristics of youth who receive a violation of probation notice, nor is there reporting on the outcomes of these notices.⁹

How many youth are prosecuted as adults and how many are given “adult” sentences?

We don't know. The prosecution and sentencing of youth as if they were adults is a profoundly serious decision with potentially devastating consequences, but there is no way to know how often this is happening, or whether it is happening fairly or appropriately. While the Court system is capable of producing this data, this data is not being produced in the publicly available data.

Is the expungement law being implemented the way the legislature envisioned?

We don't know. Massachusetts Probation Services does not report on sealing and expungement petitions, outcomes and reasons for denials to allow policy makers to evaluate the impact of the legislation. Additionally, the limited data available does not include any demographic information on the petitioners to evaluate the fairness in the implementation of the law.

Are young people and public safety better off through young people's system involvement?

We don't know. National research shows that system involvement tends to worsen outcomes. Massachusetts does not track education, housing, health and recidivism data for the 96%¹⁰ of youth who enter our Juvenile Court system but are never committed to DYS custody.

While **39 other states**¹¹ have been able to comply with federal law requiring the collection of data on race and ethnicity at each decision point in the juvenile justice system, Massachusetts is

⁸ Massachusetts Trial Court, Department of Research and Planning, Massachusetts Juvenile Court, Delinquency Dismissals and Adjudications, <https://public.tableau.com/app/profile/drap4687/viz/DelinquencyDismissalsandAdjudications/AdjudicationRates>

⁹ Juvenile Justice Policy and Data Board dashboard, <https://www.mass.gov/info-details/data-about-youth-on-probation-or-committed-to-dys>

¹⁰ Juvenile Justice Policy and Data Board, 2020 Annual Report. Using an average of FY2019 and FY2020 data, there were 3,459 arraignments resulting in 149 new commitments to DYS.

¹¹ Correspondence with Andrea Coleman, Disproportionate Minority Contact Coordinator, Office of Juvenile Justice and Delinquency Prevention Act, dated January 13, 2017. Available from Citizens for Juvenile Justice.

failing to collect this data risking the loss of federal grants which can fund important prevention and intervention programs.

Massachusetts' data collection and reporting has improved since the passage of the Criminal Justice Reform Act of 2018

Massachusetts' capacity to gather, collect and report this data has improved over the past several years. The 2018 criminal justice law created the permanent [Juvenile Justice Policy and Data Board](#) (JJPAD), which we believe is one of the strongest and most effective oversight bodies created by the law, because the board is representative of multi-agency, local and state agencies, cross secretariat agencies and community-based representatives and advocates.

The JJPAD, staffed by the Office of the Child Advocate, brings stakeholders with shared and opposing perspectives to discuss and debate policies and look at the data capacity of the various agencies. The JJPAD has created a website aggregating available [juvenile justice data](#) and the Trial Courts have recently added new public facing data on juvenile [court caseloads](#) and [disposition](#) data to streamline their responses to the OCA. So the data exists, we have a way to collect and aggregate and make it public, however, because there is no statutory requirement for the reporting of the data a lot is missing. Through collaboration with the OCA, several juvenile justice agencies have streamlined the data reporting parameters, aligned data definitions and developed voluntary standards for the collection and reporting sexual orientation and gender identity data.

Building on the effectiveness of the JJPAD

An Act improving juvenile justice data collection directs the Office of the Child Advocate to collect, coordinate and make public basic, non-identifying statistical data on youth at each key point of contact in the justice system. All stakeholders in the juvenile justice system—including the police, courts, district attorneys and the Department of Youth Services —would be required to report this data to the OCA, with privacy protection for individual youth-level data, to analyze, aggregate, and make this information available to the public on the JJPAD dashboard.

The intention of the bill is to enable the collection of aggregate data for statistical purposes only; the interests of confidentiality are protected by its provision that no individual data that would reveal the identity of an individual who had contact with the juvenile justice system will be disseminated nor subject to the public records law.

Massachusetts is better-positioned than many states to meet the challenge of juvenile justice data collection – and there are urgent reasons for it to do so now. Unlike many states whose courts and correctional agencies are fragmented among many separate local jurisdictions, Massachusetts has a statewide juvenile court, a statewide probation office, and a statewide juvenile correctional agency (DYS). Moreover, the Juvenile Justice Policy Data Board is already engaged in efforts to improve juvenile justice data collection and has pushed for greater transparency and availability of publicly available data through its [data dashboard](#).

Finally, it's worth noting that the proposed requirements for data collection contained in this bill are far from onerous: All the agencies already have systems in place to collect data and collect much more data than requested in this bill. For example, police not only collect the age, gender and race/ethnicity of an arrestee, they also collect information about the person's eye color, markings such as tattoos, and home address, etc. This bill leaves agencies discretion in how they collect needed data, and simply ensures that basic statistical data is made public and that the types of data collected are consistent and useful for everyone's benefit.

We thank you for your consideration of this important issue. We are grateful for this committee's favorable report of this bill in previous sessions and respectfully ask you again favorably report out S.1558. Please feel free to contact Sana Fadel, Citizens for Juvenile Justice at 617-338-1050 or sanafadel@cfjj.org if we can be of assistance.

**Respectfully,
Members of the Massachusetts Juvenile Justice Reform Coalition**

Bethel Institute for Community Development/In Your Corner
Center for Teen Empowerment
Children's League of Massachusetts
Citizens for Public Schools
Citizens for Juvenile Justice
Committee for Public Counsel Services
Congregation Dorshei Tzedek, Criminal Justice Reform Task Force
End Mass Incarceration Together (EMIT)
Friends of Children
GLBTQ Legal Advocates & Defenders
HEAL Center
The Home for Little Wanderers
Justice Resource Institute
League of Women Voters of Massachusetts
Massachusetts Commission on LGBTQ Youth
More Than Words
NAACP-New Bedford
Roca, Inc.
Roxbury Youthworks, Inc.
Strategies for Youth
Violence in Boston, Inc.