

Testimony to the Joint Committee on the Judiciary in Support of An Act to Promote Public Safety and Better Outcomes for Young Adults S.920/H.1826 – November 5, 2021

Dear Chair Day, Chair Eldridge, and members of the Joint Committee on the Judiciary,

Thank you for the opportunity to submit this testimony with our recommendations on reforms to our legal system, namely its response to young people how we can produce better outcomes for our youth and for our communities. This legislation, S.920/H.1826, provides reforms that will create impactful improvements to our justice system, while improving the trajectories of young people who currently have the worst outcomes in our criminal justice system.

Massachusetts' juvenile system¹ offers a model that effectively utilizes evidence-based Positive Youth Development to improve public safety by focusing on providing developmentally appropriate sanctions and supports to help young people transition positively into adulthood. The Massachusetts Coalition on Juvenile Justice Reform urges the legislature to adopt reforms that would improve outcomes and reduce recidivism of young people that are systemic in nature.

Social science research in youth development for adolescents through those in their mid-20s in justice settings clearly demonstrates that guiding young people as they transition into adulthood will help them desist from crime. Young people's problematic behavior peaks at age 18 and 19². It is imperative that we recognize that successfully reducing recidivism is directly tied to young people's ability to meet key youth developmental milestones.

This bill would gradually raise the age of juvenile jurisdiction to incorporate 18-, then 19-, then 20-year-old youth, with a two-year gap between each age cohort to allow the system to adjust programmatically to this older adolescent population.

- Raising the age of juvenile jurisdiction will ensure that Massachusetts' legal system intervenes with 18- to 20-year-olds in a system that is already equipped with the expertise and has the existing capacity to handle this age group. Based on statewide arrest and court charging data, older teens who are 18- to 20-years-old are similar to 16- and 17-year-olds in both their development and offending patterns.
- The effectiveness of the juvenile system is built on decades of reforms incorporating the Positive Youth Development framework. The juvenile system has the expertise **today** to work

¹ The "juvenile system" refers to a variety of agencies at the municipal, county and state level. This testimony will refer to the "juvenile system" when referring to multiple agencies within the system, otherwise, it will indicate which agency or government entity is being discussed.

² Loeber, Rolf, and Rebecca Stallings, "Modeling the Impact of Interventions on Local Indicators of Offending, Victimization, and Incarceration," in *Young Homicide Offenders and Victims: Risk Factors, Prediction, and Prevention from Childhood*, eds. Rolf Loeber and David P. Farrington, New York: Springer, 2011: 137-152. Accessed at <https://nij.ojp.gov/topics/articles/juvenile-delinquency-young-adult-offending>

with the 18- to 20-year-old population. While we welcome specialized units and interventions in the adult system, these carve-outs are not as systemic as raising the age. The juvenile system should serve as a model for adult system reforms needed to appropriately work with youth in their 20's who would be outside of the scope of this legislation.

- Raising the age of juvenile jurisdiction will curtail practices that delay young people's development (that are tied to persistence in crime). Young people in the adult system are disproportionately subjected to solitary confinement; and LGBTQI youth experience disparate and harmful treatment. These practices are either banned or being addressed, respectively, in the Massachusetts juvenile system.
- Young people of color bear the harshest brunt of adult criminal justice involvement. Older teens of color are incarcerated at a higher rate than any other age group. Their over-representation of older adolescents in a developmentally inappropriate system, means that they are disproportionately harmed by criminal legal system involvement in a number of ways. Adult legal system interventions focus on punishment and lack a systemic focus on rehabilitation and positive youth development to improve youth outcomes. Shifting older adolescents to the juvenile system – which has **both federal and state mandates** to reduce racial and ethnic disparities – would be an important way to reduce the harms and collateral consequences of legal system involvement while improving public safety.

Massachusetts' juvenile system is designed to provide individualized, developmentally appropriate services for young people. Older adolescents charged with serious offenses would still be subject to adult sentences under the youthful offender statute, and those charged with the most serious offenses (first- or second-degree murder) would still be tried and sentenced in adult court, and therefore outside the scope of this legislation.

This bill will also expand the upper age of commitment to DYS or probation supervision for this population of transition age youth (18-20) to ensure there is an adequate opportunity to rehabilitate older youth entering the system. DYS and Probation already serve young people adjudicated as Youthful Offenders up to age 21; this legislation would allow for extended Y.O. commitment and supervision up to age 23.

Research demonstrates that adolescents are substantially less likely to commit future crimes when processed in the juvenile system than they are when processed in the adult system.³

Unlike youth who are incarcerated with adults – who are not required to attend school and often do not receive Special Education services to which they are entitled. In contrast, committed youth who are served in the juvenile system by DYS are **required** to attend school and receive age-appropriate services.

We anticipate that moving transition-aged youth to our juvenile system could actually save the Commonwealth money, because of the improved life outcomes for youth through the provision of superior educational and mental health treatment, and because the Department of Youth Services has

³ Centers for Disease Control and Prevention. *Effects on Violence of Laws and Policies Facilitating the Transfer of Youth from the Juvenile to the Adult Justice System*. MMWR 2007;56 (No. RR-9). Available at <https://www.cdc.gov/mmwr/pdf/rr/rr5609.pdf>

a range of services available for detained or committed youth, including much cheaper options than those available in the adult correctional facilities.

The United Nations Committee on the Rights of the Child, which sets the minimum standards to protect children's due process rights, has encouraged nations to "allow the application of the child justice system to persons aged 18 and older whether as a general rule or by way of exception. This approach is in keeping with the developmental and neuroscience evidence that shows that brain development continues into the early twenties."⁴

Finally, while this legislation does not address the emerging adult population of 21- to 25-year-olds, we strongly recommend that the legislature examine ways to infuse the lessons learned from decades of reforms in the juvenile system, as a blueprint to advance reforms in the adult criminal justice system for this population. While specialized carve outs in the adult system are positive pilots, systemic reform is long overdue for the entire population of emerging adults, 21 and older, in the adult system.

This testimony will present key arguments and responses to prevalent questions (hyperlinked below):

- [Criminal \(adult\) legal system-involved youth have the worst outcomes and are the costliest to taxpayers.](#)
- [Massachusetts' juvenile system has the specialized skills and currently handles serious and violent charges.](#)
- [Raising the age of juvenile jurisdiction advances public safety by reducing recidivism and preventing deeper criminal involvement.](#)
- [The juvenile system – as a whole – has the specialized expertise to effectively work with transition age youth.](#)
- [Massachusetts' juvenile system has the capacity to handle the incremental entry of 18- to 20-year-olds.](#)
- [Raising the age of juvenile jurisdiction represents a systemic reform.](#)
- [Raising the age of juvenile jurisdiction is a race equity issue.](#)
- [Parental involvement is a key component of the juvenile system.](#)
- [Contrasting the effects of juvenile and adult court processing](#)
- [Collateral consequences of adult criminal justice involvement have a long-term impact on young people.](#)
- [Raising the age of juvenile jurisdiction will not violate federal core requirements under the Prison Rape Elimination Act \(PREA\) and the Juvenile Justice and Delinquency Prevention Act \(JJDP A\).](#)
- [Massachusetts' economy will benefit by reducing the educational and economic impact of adult criminal justice involvement.](#)
- [Massachusetts already serves transition age youth through child- and adolescent-serving agencies and divisions and it is only appropriate for the legal system to follow suit.](#)
- [The \(adult\) criminal justice system can infuse developmentally-appropriate services into the adult correctional system using Massachusetts' juvenile system as a model.](#)

⁴ 2019 UNCRC General Comment 24, article 32. <https://undocs.org/CRC/C/GC/24>.

Criminal (adult) legal system-involved youth have the worst outcomes and are the costliest to taxpayers.

An overly punitive approach can cause more offending: Most young people "age out" of offending by their mid-twenties, particularly with developmentally appropriate interventions. The juvenile system's focus on accountability through rehabilitation and positive youth development is directly tied to lower recidivism rates. Based on a review of six studies on the effects of prosecuting juveniles as adult on subsequent violent offending, the CDC concluded that otherwise similar adolescents had a **34 percent higher felony re-arrest** rate when they were processed in court as adults compared to those arraigned as juveniles⁵. Young people exposed to toxic environments, like adult jails and prisons, are entrenched in problematic behaviors, increasing the probability of recidivism.

Recidivism among young people incarcerated in the adult correctional system is more than double the recidivism of similarly aged youth released from Department of Youth Services commitment. Teens and young adults incarcerated in Massachusetts' adult correctional facilities have a 55%⁶ re-conviction rate⁷, while teens exiting DYS commitment have a re-conviction rate of 22% (figure 1).⁸

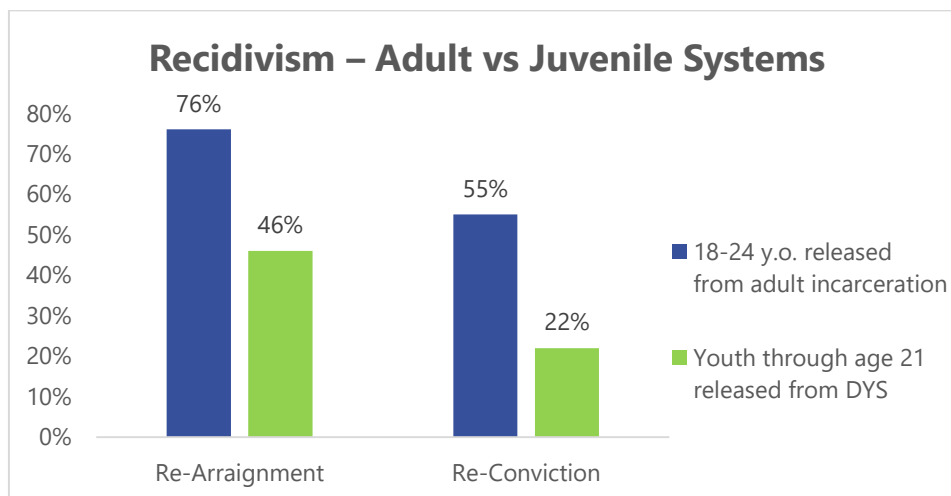


Figure 1: Recidivism Rates of Youth in Adult and Juvenile Systems

⁵ Centers for Disease Control and Prevention. *Effects on Violence of Laws and Policies Facilitating the Transfer of Youth from the Juvenile to the Adult Justice System*. MMWR 2007;56 (No. RR-9). Available at <https://www.cdc.gov/mmwr/pdf/rr/rr5609.pdf>

⁶ Council of State Governments Justice Center, "Justice Reinvestment in Massachusetts: Policy Framework," February 21, 2017. Available at <https://csgjusticecenter.org/jr/massachusetts/publications/justice-reinvestment-in-massachusetts-policy-framework/>

⁷ Re-arraignment rate is 46% after DYS commitment compared to 76% after incarceration at county jails.

⁸ Department of Youth Services, "Juvenile Recidivism Report for Youth Discharged During 2014" November 19, 2018. Available at <https://www.mass.gov/files/documents/2018/12/17/recid2018.docx>

Young people in the adult system have the highest recidivism of any age group,⁹ and similar young people in the juvenile system have the lowest recidivism of any age group¹⁰ (figure 2). DYS has been successful in reducing its recidivism rate following almost four decades of reforms, building in an emphasis on treatment and promoting policies whose primary goal is to ensure young people’s healthy and positive development into adulthood.

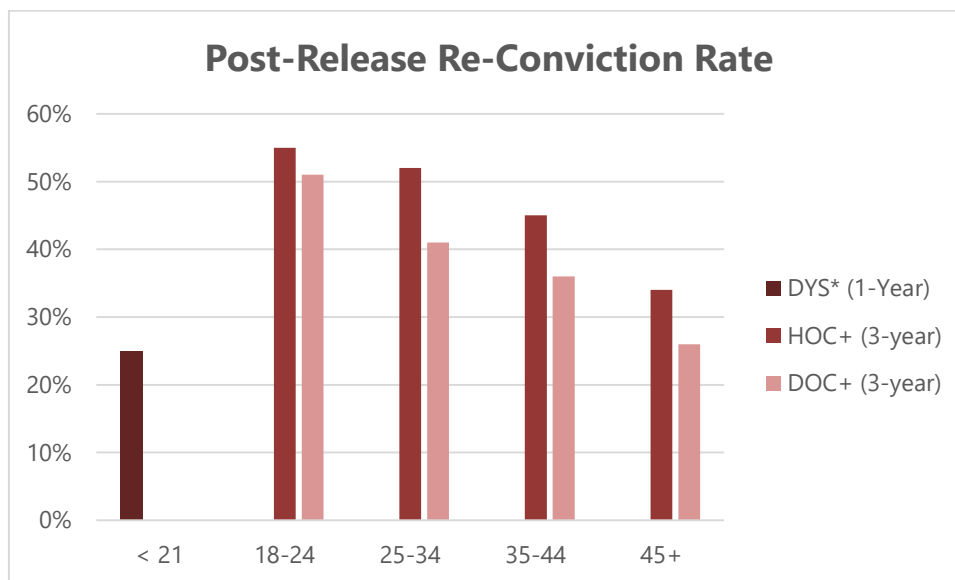


Figure 2: Recidivism Rates Post-Incarceration for All Ages

Criminal (adult) legal system-involved young people are also the costliest population to taxpayers. According to Council of State Government’s analysis of Massachusetts data, “young people have longer lengths of stay than other groups, making them the costliest group of recidivists.”¹¹

⁹ Council of State Governments Justice Center, “Justice Reinvestment in Massachusetts: Working Group Meeting 3 Interim Report,” July 21, 2017. Available at <https://csgjusticecenter.org/publications/justice-reinvestment-in-massachusetts-third-presentation/>

¹⁰ Department of Youth Services, “Juvenile Recidivism Report for Youth Discharged During 2016” December 15, 2020. Available at <https://www.mass.gov/doc/dys-2020-recidivism-report/download>.

¹¹ Council of State Governments Justice Center, “Justice Reinvestment in Massachusetts: Working Group Meeting 3 Interim Report,” July 21, 2017. Available at <https://csgjusticecenter.org/publications/justice-reinvestment-in-massachusetts-third-presentation/>

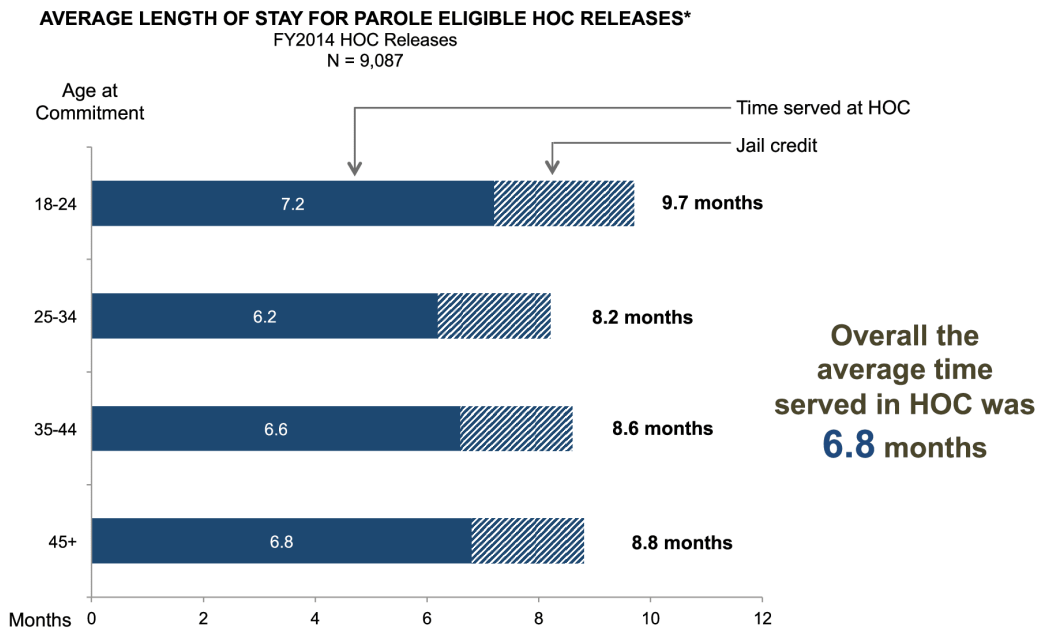


Figure 3: Length of stay in Massachusetts Houses of Corrections by age.

Massachusetts’ juvenile system has the specialized skills and currently handles serious and violent charges.

Approximately 10% of 18- to 20-year-olds are charged with a serious felony that leads to Superior Court charges¹². **The juvenile system currently handles almost all these cases, including the cases of young people under the age of 21 who are indicted on serious offenses.**

Although the focus of the Juvenile Court is treatment and rehabilitation of youth, the court is empowered to impose more severe, adult sentences in “youthful offender” (YO) cases for children as young as 14.¹³ In those cases, the prosecutor has the discretion to indict a young person as a “Youthful Offender” or to arraign them as a delinquent. An indictment requires that an offense: (1) resulted in or threatened to cause serious bodily injury; (2) involved a firearm; or (3) is a felony and the young person was previously committed to DYS for another offense. If the young person is adjudicated a Youthful Offender, then the judge has the discretion to sentence in three ways: (1) commitment to DYS until age 21; (2) a straight adult sentence; or (3) commitment to DYS until age 21 with a subsequent adult sentence. So even with the possibility of an adult sentence (based on the discretion of prosecutor and judge), the youth is still in Juvenile Court where they are eligible for juvenile and/or adult sentences.

In contrast, the district courts only handle misdemeanors and felonies punishable by imprisonment for no more than five years; the Superior Court has jurisdiction over the remaining, more serious felonies.¹⁴ Since the juvenile courts have jurisdiction over all offenses, except for first- and second-

¹² Massachusetts Sentencing Commission, *Survey of Sentencing Practices FY 2013*, December 2014. Available at <https://www.mass.gov/files/documents/2016/08/oo/fy2013-survey-sentencing-practices.pdf>

¹³ MGL Ch 119 § 52 gives prosecutors the discretion to indict the young person as a “Youthful offender” or arraign them as a “delinquent”.

¹⁴ MGL Ch. 218 §26

degree murder cases, the juvenile courts and its practitioners have more experience dealing with serious offenses.¹⁵ This legislation does not change the current statute requiring the prosecution of young people who are charged with murder to be automatically tried as an adult in Superior Court and subject to adult sentences.

The **juvenile system typically imposes more supervision and intensive programming** while in confinement than the adult criminal justice system. Educational, counseling and independent living programs are **difficult-to-impossible to access in adult correctional settings**. Teens in the juvenile system may be required to receive evaluations and assessments and frequently must participate in services and programs designed to teach responsible behavior as part of their sentence. More than 50% youth in DYS care have an IEP in place and receive at least some special education services. However, only 30 youth 18-21 across all the county houses of corrections receive special education services at any time, a tiny percentage of the youth in custody; and only 2 youth received special education services at the DOC over the last two and a half years.¹⁶

Raising the age of juvenile jurisdiction advances public safety by reducing recidivism and preventing deeper criminal involvement.

“Programs that promote positive development can help young offenders grow up and out of crime.”

– Pathways to Desistance¹⁷

Nationally, with Massachusetts being an early-adopter, youth-serving legal systems are moving towards interventions that are geared towards equipping young people with skills as well as with social connections. For youth involved in more serious or persistent risky activity, research demonstrates that successful crime prevention and rehabilitation programs:¹⁸

- Are developmentally appropriate;
- Promote “positive youth development” by building relationships between youth and adult role models and ensuring that youth have opportunities to learn and demonstrate new skills, including self-control and interpersonal skills;
- Engage youth in effective, age-appropriate therapy or drug treatment when necessary;
- Avoid the use of institutional placements or incarceration unless necessary for public safety; and
- Avoid exposing youth to the adult criminal justice system

¹⁵ These cases are automatically tried in Superior Court if the defendant is at least 14-years-old at the time of the offense.

¹⁶ Based on data received in response to public records requests submitted by Citizens for Juvenile Justice.

¹⁷ CA Schubert & EP Mulvey, *Programs that Promote Positive Development can Help Young Offenders Grow Up and Out of Crime*. Available at

<https://www.pathwaysstudy.pitt.edu/documents/MacArthur%20Brief%20Promote%20Positive%20Development.pdf>

¹⁸ Butts et al. *Positive Youth Justice* at 17-19; Centers for Disease Control and Prevention. *Effects on Violence of Laws and Policies Facilitating the Transfer of Youth from the Juvenile to the Adult Justice System*. MMWR 2007;56 (No. RR-9). Available at <https://www.cdc.gov/mmwr/pdf/rr/rr5609.pdf>

Give young people the time and skills to mature, and most young people will stop offending.

In general, programs that require kids to develop positive decision-making and concrete skills, further their education and engage with their families and other positive adult role models¹⁹ are far more likely to result in increased public safety, particularly compared with policies that push young people into the adult system, increasing their likelihood of recidivism and even escalation into serious, violent crime.²⁰

National incidence studies have shown that young people’s offending behavior peaks at age 18 and 19, and naturally decreases as they mature and grow older (Figure 4).²¹

Pathways to Desistance²², a major, long-term longitudinal study of over 1,300 serious juvenile offenders, identified factors that led some young people to persist in their offending and those that led to their desistance from crime. The study found that young people – including those with serious offenses – mature psychologically, socially, and cognitively—over time. It went further to reveal that the severity or frequency of offending did not predict future offending, however maturation and the pace young people met developmental milestones was more predictive of offending.

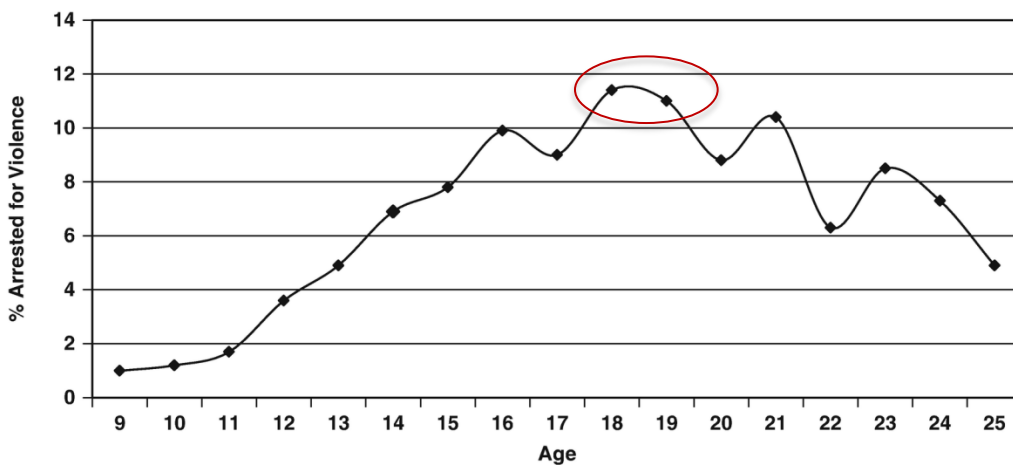


Figure 4: Age crime curve for arrests for violence by age.

Intervening with young people (teens through mid-20s) with a focus on their positive development into adulthood is more effective in improving youth outcomes, including reducing recidivism.

Interventions that delay young people meeting developmental milestones, increases the likelihood of persistence in offending behavior. The Pathways to Desistance study examined the factors that are tied to young people’s desistance or persistence in offending and found

¹⁹ Butts et al. *Positive Youth Justice*.

²⁰ Centers for Disease Control. *Effects on Violence of Laws and Policies Facilitating the Transfer of Youth from the Juvenile to Adult Justice System* (November 2007). Available at <https://www.cdc.gov/mmwr/preview/mmwrhtml/rr5609a1.htm>

²¹ Loeber, Rolf, and Rebecca Stallings, “Modeling the Impact of Interventions on Local Indicators of Offending, Victimization, and Incarceration,” in *Young Homicide Offenders and Victims: Risk Factors, Prediction, and Prevention from Childhood*, eds. Rolf Loeber and David P. Farrington, New York: Springer, 2011: 137-152. Accessed at <https://nij.ojp.gov/topics/articles/juvenile-delinquency-young-adult-offending>

²² Laurence Steinberg (2014) *Give Adolescents the Time and Skills to Mature, and Most Offenders Will Stop*. Chicago, IL: MacArthur Foundation.” Available at <https://www.pathwaysstudy.pitt.edu/documents/MacArthur%20Brief%20Give%20Adolescents%20Time.pdf>

that young people who stopped their anti-social behavior had significantly increased their psychosocial maturity than those who persisted in offending into their full adulthood. Specifically, young people who had diminished impulse control and diminished suppression of aggression were more likely to persist in offending (Figure 5).²³

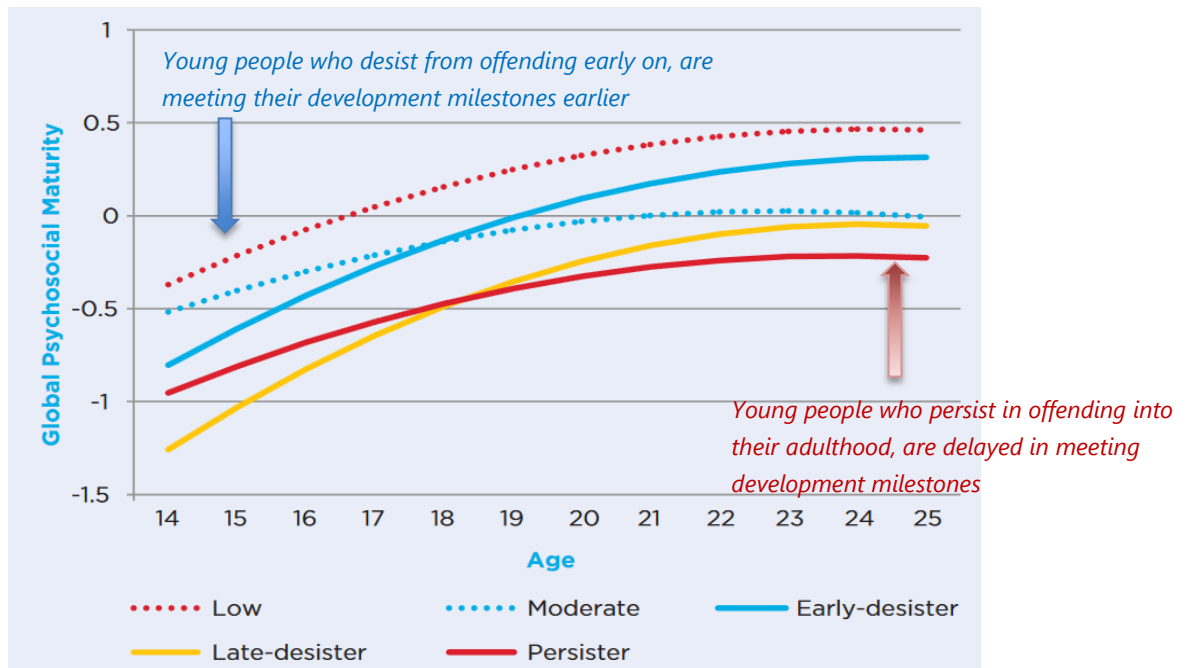


Figure 5: Trajectories of antisocial behavior and psychosocial maturity

The juvenile system – as a whole – has the specialized expertise to effectively work with transition age youth.

“Young people are assets to be developed, not problems to be fixed.”
 – DYS Commissioner Peter Forbes

While DYS is seen as a state and national model for working with adolescents, Massachusetts’ juvenile system, as a whole, has specialized expertise in working with this population. In Massachusetts, these youth also benefit from specialized Juvenile Court Clinics, Juvenile Probation, and other professionals with training and experience with youth.

Juvenile Courts | The largest caseloads of the Juvenile Courts are Delinquency/Youthful Offender, Care and Protection (C&P), and Child Requiring Assistance (CRA) cases. Juvenile courts, founded in 1993, have jurisdiction over all violations of offenses, except first- and second-degree murder. These specialized courts were created with the understanding of the unique approach to children and youth and the decades of reforms in the court system have embraced the Positive Youth Development framework. This unique approach is based on a recognition that achieving public safety requires a

²³ Monahan KC, Steinberg L, Cauffman E, Mulvey EP. Trajectories of antisocial behavior and psychosocial maturity from adolescence to young adulthood. *Dev Psychol.* 2009;45(6):1654–1668. doi:10.1037/a0015862. Available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2886970/>

more robust toolbox of approaches to youth – ranging from diversion to community-based services to incarceration and everything in between. Many strategies routinely used with adults are demonstrably counterproductive with adolescents.

Juvenile Court Clinics | Juvenile Court Clinics provide court-ordered evaluations, interventions and referral services utilizing psychologists, social workers, and other mental health professionals specially trained and credentialed by DMH. The Juvenile Court Clinics assist juvenile court judges in delinquency, C&P, and CRA cases by offering evaluations to assist in child- or family-centered interventions, public safety, and protection of children from abuse and neglect. The Juvenile Court Clinics provide emergency evaluations of youth in crisis; comprehensive biopsychosocial evaluations; participation in diversionary, alternative pathways and community-based initiatives; evaluations to assess competency to stand trial; specialized risk assessments and evaluations of substance use, sexual offending, aggressive behavior and fire setting; and specialized evaluations in Care and Protection cases. This more robust role of Court Clinics in the Juvenile Courts goes beyond evaluations to include consultation on the Court's most complicated cases and to support judges in identifying and addressing underlying needs driving the behavior leading to a young person's court involvement.

Juvenile Probation | Most young people in the juvenile court are sentenced to, and supervised by, Probation rather than to DYS. Massachusetts' Probation Services has specialized Juvenile Probation Officers and in recent years has introduced multiple changes to its juvenile probation services guided by Positive Youth Development principles. A key piece of Probation's specialized work with young people is the use of a case management tool (Juvenile Probationer Individual Change Agreement (JPICA)) developed collaboratively between the youth and the probation officer. This case management tool helps a young person work on incremental goals for their positive development based on the young person's stated interests. The goal of this case management model is to strengthen the youths' internal motivation for change and to facilitate their development of constructive skills. One of the most recent reforms is the introduction of a graduated response system recognizing that young people are more amenable to change through positive reinforcement. Through a range of incentives, juvenile probation officers reward young people for achieving short- and long-term goals, which in turn encourages the young person into further positive behavior.²⁴

Youth Advocacy Division, Committee for Public Counsel Services | Over the last ten years Massachusetts has been building the most comprehensive approach to juvenile defense in the country. The staff of the nine Youth Advocacy Division (YAD) offices, as well as the several hundred private assigned counsel, who take delinquency and YO cases are all well-trained in criminal law, juvenile law, adolescent development, family dynamics, Positive Youth Development, partnering with social workers, accessing community-based resources, opportunities and services, the workings of DCF and DYS and education advocacy. Because of the dramatic drop in juvenile cases over the past ten years, the juvenile bar has plenty of capacity to take on cases. More importantly, YAD and CPCS has the infrastructure to fairly quickly train adult criminal defense attorneys to use a more developmentally appropriate (and effective) approach to representation. Like DYS and probation, YAD has been a pioneer in incorporating the Positive Youth Development framework into their representation. Through frequent partnering with social workers and appropriate educational advocacy, YAD

²⁴ Amanda NeMoyer, *Progressing Toward Best Practice: Brief on Juvenile Probation Innovation in Massachusetts*. Forthcoming (to be published by Citizens for Juvenile Justice)

attorneys protect the legal rights of their clients while also partnering with each youth, their families, and other stakeholders to make sure that they are connected to the resources, opportunities and services that they need to avoid future court involvement and grow into healthy, self-sufficient and law-abiding adults.

District Attorney Juvenile Units | Increasingly, the state's District Attorneys are using juvenile specialist prosecutors who are skilled litigators and are also much more aware of what does and doesn't work, from a public safety and fairness perspective, than their counterparts practicing primarily in the adult courts. One result of this is the development of much more expansive, comprehensive and robust diversion programs. Juvenile prosecutors have learned that with diversion they can assure that the appropriate youth receive the amount of supervision and support they need without receiving a life altering criminal record. Diversion in juvenile court has skyrocketed as juvenile crime has gone down. While the adult courts are starting to tinker with this approach, both adult criminal system prosecutors and judges are highly resistant. It will likely take many years to break through that culture. It is worth noting that the use of diversion is one of the few concrete strategies MA can take to reduce our extraordinary rates of racial and ethnic disparities. White youth and youth of color commit most crimes at approximately the same rates, yet, White youth are far less likely to be arrested and prosecuted. Diversion allows prosecutors and judges to address that problem in a thoughtful way while still holding youth accountable.

Department of Youth Services | Youth who are adjudicated on the most serious offenses are committed to the Department of Youth Services, where there are a wide range of interventions and residential settings. DYS pioneered the Positive Youth Development framework, which was eventually embraced by other juvenile justice agencies.²⁵ DYS relies on DYS-operated hardware secure facilities and a network of provider-run residential settings from staff secure to community-based group and foster homes. In addition, DYS programming includes mandatory education and vocational programming. All DYS staff are trained in both Positive Youth Development and Dialectical Behavior Therapy (DBT), so all DYS facilities are therapeutic and focused on healthy youth development. DYS's treatment model works to address any underlying mental health needs, especially those resulting from trauma. Youth have access to post-secondary education. Family engagement is integral to DYS programming including encouraging frequent visitation and full engagement in programming and case planning to ensure a young person is supported during and after their commitment.

DYS starts planning for successful reentry from the first day of commitment. Every young person goes through an intensive 45-day assessment period in a specialized unit. DYS obtains as many educational, health, and DCF records as possible, conducts interviews with the youth and his/her family and then develops a plan for treatment. The youth is then sent to the program that is the best fit for them and their treatment needs and given a time assignment based on those treatment needs. That placement and time assignment are reviewed and reconsidered repeatedly throughout the commitment.

²⁵ MassInc, *Viewing Justice Reinvestment Through a Developmental Lens: New approaches to reducing young adult recidivism in Massachusetts*, Police Brief December 2015. Available at <https://massinc.org/research/viewing-justice-reinvestment-through-a-developmental-lens/>

After a period spent in a locked secure facility, DYS reintegrates young people slowly and carefully back into the community. This generally starts with day passes and weekend passes. When they are finally released on a Grant of Conditional Liberty, their case worker has developed a thorough plan for their transition and then works closely with each young person to implement that plan to ensure their successful reintegration back into their community. Virtually every DYS committed youth receives this support in the community before the end of their commitment. DYS does this because research shows that this is critical for reducing recidivism. Contrast this thoughtful approach with the adult system where incarcerated people, especially young people, are released straight onto the street with no support or supervision where they are much more likely to reoffend.

We also see a very different reality in the Department of Correction facilities and the County Houses of Correction. While every House of Correction is different, as a rule, incarcerated people in adult correctional facilities spend most of their time locked in their cells. Virtually none of the staff, most of whom are corrections officers, are trained in Positive Youth Development (PYD) or Dialectical Behavioral Therapy (DBT), two approaches that are crucial to the rehabilitation of older teens. No effort is made to create a therapeutic environment or to promote the healthy development of young people in these spaces into healthy, self-sufficient and law-abiding adults.

Adolescents coming into the juvenile and criminal legal systems are known to have experienced significantly more adverse childhood experiences (ACES) than their peers. This is a profoundly trauma-impacted population. Not only is the environment in adult prisons not trauma responsive, it is also highly traumatizing. Young people in adult correctional facilities are often assaulted physically and sexually and lack the life skills to protect themselves or to cope with the psychological and emotional turmoil that surrounds them in spaces filled with older, more savvy individuals. These adult correctional environments also offer very little in the way of regular, special or vocational education opportunities with the few offered being limited by long waiting lists.

Finally, DYS has a unique voluntary program, Youth Engaged in Services (YES), which allows young people who have completed their term of commitment to voluntarily sign back on for one year of services to allow them to successfully transition back into the community. About 60% of young people eligible for these services, voluntarily sign back on to engaged in these services, and that population has the lowest recidivism rate of all youth exiting DYS care. A significant percentage of the DYS population is already 18, 19, and 20. These are youth committed as youthful offenders. Therefore, much of DYS' programming and experience is aimed at this cohort. Were they to receive more young people in this age group each year, it would become cost effective to create an even broader range of programming and to keep the young people closer to their homes and families.

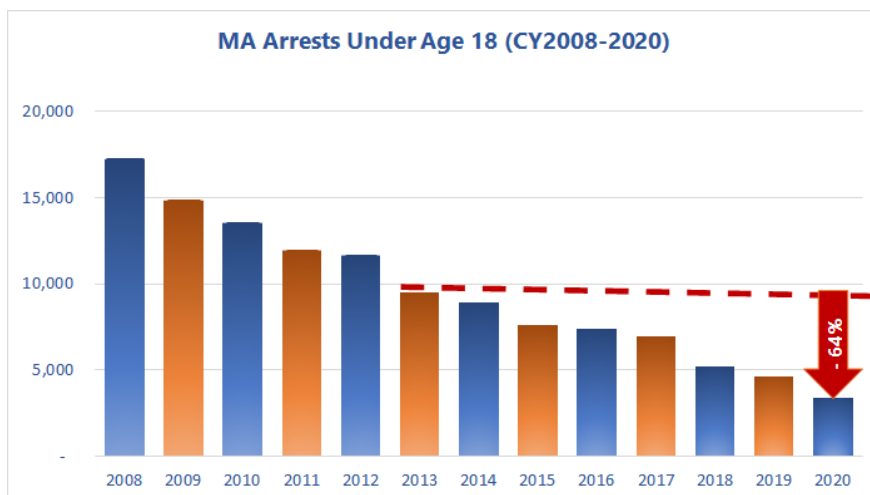
Massachusetts' juvenile system has the capacity to handle the incremental entry of 18- to 20-year-olds.

The juvenile system is already serving 18- to 20-year-olds. Over 80% of young people over the age of 18 that are committed to the Department of Youth Services are adjudicated as a Youthful Offender and committed until age 21. In 2017, DYS served 357 young people 18-years and older who were either committed to DYS until age 21 or through voluntary services provided by DYS through age 22.

In 2013, Massachusetts policy makers ended the practice of automatically prosecuting 17-year-olds as adults. Since then, **juvenile arrests have declined by 65%**, and there have been faster declines in violent and property crime rates than the national average.²⁶ With juvenile crime continuing to plummet, the system – including courts and DYS – now has the capacity to absorb 18- to 20-year-olds. Over the past decade, the juvenile system’s caseloads have dropped significantly, creating ample capacity to absorb older teens into the system.

Massachusetts’ juvenile system has more capacity today to absorb 18- to 20-year-olds compared to the system’s capacity in FY2014 when the jurisdiction of the juvenile system incorporated 17-year-olds. Even with full implementation, the caseloads at all stages of the juvenile system would still be lower than the caseloads of the juvenile system before the first Raise the Age law.

ARRESTS | The total number of juvenile arrests decreased by 80% since 2008 (figure 6). In fact, there are fewer young people under age 21 arrested in 2020 compared to young people under age 18 arrested in 2013 (figure 7).²⁷



The arrests of 18- to 20-year-olds during the same period (2008-2020) similarly dropped by 74% (figure 6).

²⁶ Citizens for Juvenile Justice, “Summary of Key System Trends of Justice Involved Youth and Young Adults in Massachusetts,” October 2021. <https://www.raisetheagama.org/court-capacity>.

²⁷ Massachusetts Executive Office of Public Safety and Security, Crime Statistics, “SRS Arrestees under 18” and “SRS Arrestees 18 and over”, 2008-2018. <https://masscrime.chs.state.ma.us/public/Browse/BrowseTables.aspx>. In 2008, there were 17,304 arrests of youth under age 18, compared to 3,427 arrests in 2020. Data includes custodial arrests and summons as reported by local law enforcement agencies to EOPSS.

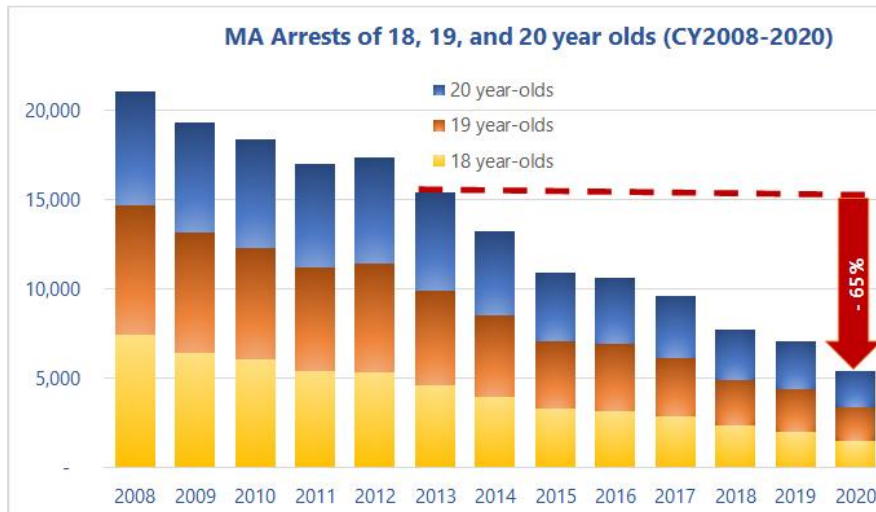


Figure 6. The decline in arrests of 18- to 20-year-olds (65%) closely mirrors the decline of arrests of children and youth under age 18 (64%).

There were fewer young people under age 21 arrested in 2020 than all youth under age 18 who were arrested in 2013 (figure 7).

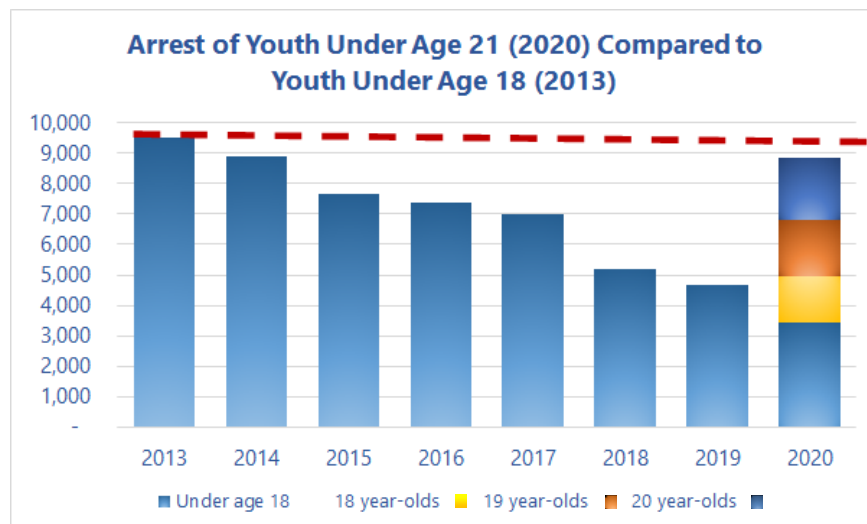


Figure 7. Statewide arrests of youth under age 21 from 2013 to 2020.

JUVENILE COURT CASES | The total number of juvenile court cases (most of which are child welfare, child requiring assistance, delinquency and youthful offender cases) has steadily declined. Since the introduction of 17-year-olds into the juvenile court in FY14, there has been a 39% decrease in all juvenile court filings through FY2020 (figure 8).²⁸

²⁸ Massachusetts Trial Courts, *Juvenile Matters in their Summary of Case Filings by Type* (multiple years). In FY14, there were 19,712 case filings, and in FY18, 16,627 case filings.

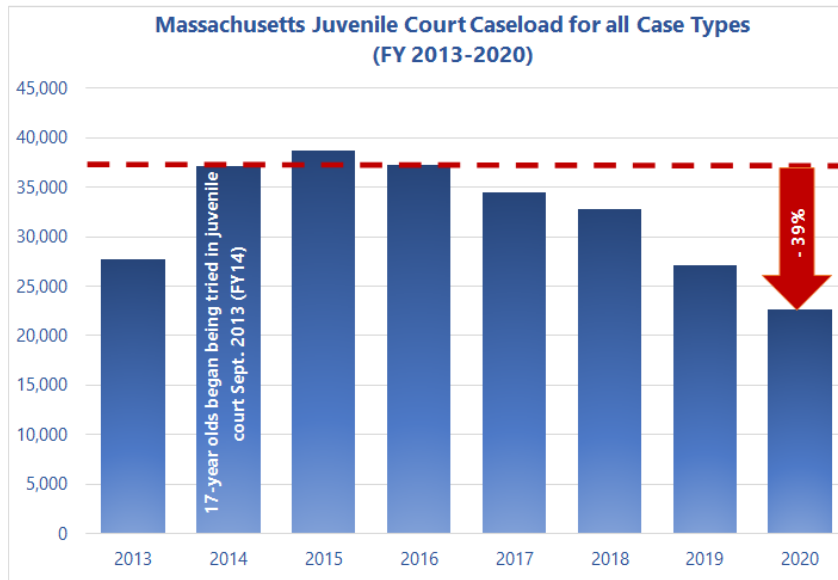


Figure 8. Juvenile Court case filings for all cases.

Juvenile delinquency and youthful offender court arraignments fell by 61% (FY14 to FY20)²⁹

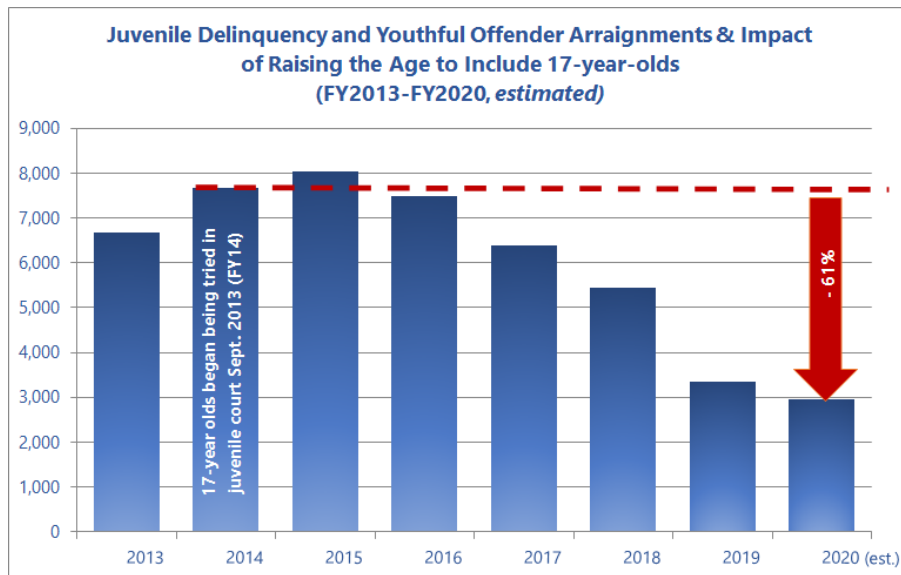


Figure 9. Juvenile Court caseload for Delinquency and Youthful Offender cases.

DEPARTMENT OF YOUTH SERVICES | DYS detention admissions dropped by 56% and DYS commitments dropped by 36% since raising the age in September 2013 (figures 10 and 11).³⁰

²⁹ Massachusetts Trial Courts, Chief Justice Paula Carey, private correspondence to Citizens for Juvenile Justice, 2019.

³⁰ Department of Youth Services, data requests and DYS annual reports. Detention admissions dropped from 4,052 FY09 to 1,079 in FY18. DYS commitments dropped from 1,637 on January 1, 2009 to 459 on January 1, 2019.

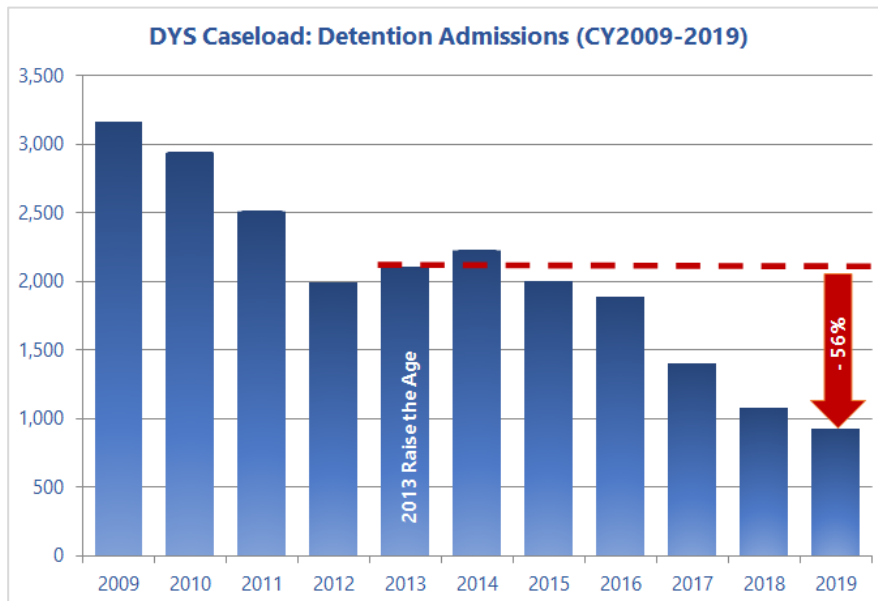


Figure 10. Detention admissions (2009-2019)

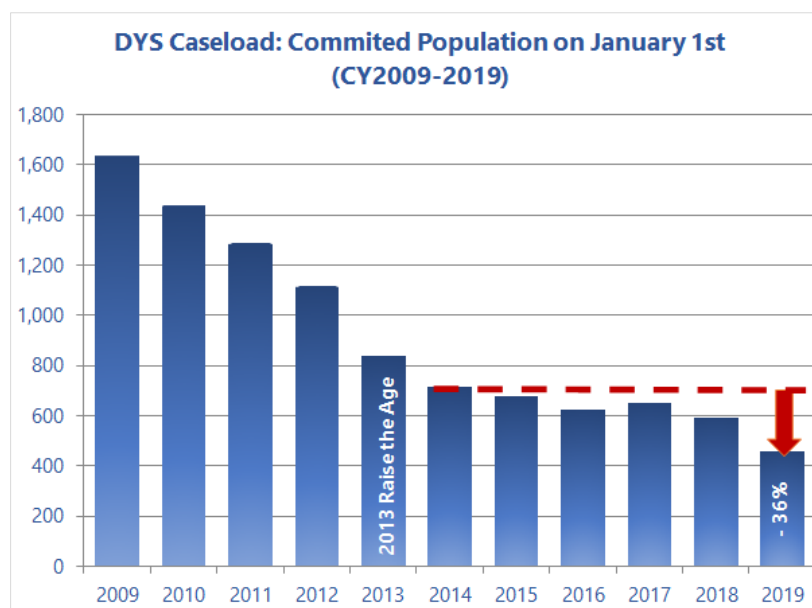


Figure 11. Detention commitments 2009-2019

Raising the age of juvenile jurisdiction represents a systemic reform.

The 2018 landmark Criminal Justice Reform Act left unanswered the question of what reforms should be implemented to address the high recidivism rate of young people in our criminal justice system. The law authorized the creation of specialized units and services in the criminal justice system for the 18- to 24-year-old population. A task force created by the law re-iterated the same findings in its report to the legislature. The task force’s report³¹ clearly stated that:

³¹ Report available at <https://malegislature.gov/Bills/191/SD2840>

- Young people are at a distinct developmental stage where they have great potential for rehabilitation;
- They are not appropriately served by the adult system, as evidenced by their high recidivism rate;
- The collateral consequences of adult system involvement uniquely and detrimentally impact young people, limiting their ability to rehabilitate and stifling their future;
- Young people would benefit from the approach and services of the Department of Youth Services (DYS); and
- A declining juvenile court caseload creates the potential to include older youth in the juvenile system.

Specialty carve-outs in correctional units and district court sessions – while commendable and a positive short-term step – are based on re-creating distinct segments of the juvenile system.

These improvements for the older emerging adults are not an end in themselves but present a steppingstone towards improved, developmentally-appropriate programming that is necessary for the entire older emerging adult population. While these reforms are innovations in the criminal justice system, and should be commended, they are essentially attempting to re-create a pre-existing system of prosecution and incarceration within the adult system that is the hallmark of the juvenile system.

The young people who are fortunate to participate in one of these specialty interventions are being treated in a more rehabilitative rather than punitive approach. However, **because it is not a system-wide intervention, these specialty interventions leave the vast majority of young people without access to these reforms; and most importantly, these reforms do not incorporate the legal impact and practical considerations of juvenile system involvement.** A young person in a young adult court session cannot legally be committed to DYS rather than an adult facility. A young person incarcerated in a young adult unit does not have the legal protections of an adjudication, rather than a conviction; nor are they connected to the range of tools, programming and interventions available within the juvenile system to promote positive youth development.

Raising the age of juvenile jurisdiction is a race equity issue.

Racial disparities for older teens in adult corrections are worse than any other age group. In Massachusetts Black 18- to 24-year-old are **7.8 times** more likely to be incarcerated than similar white teenagers. Hispanic 18- to 24-year-old are **3.8 times** more likely to be incarcerated than similar white teenagers³². National data indicates that the rate of disparities of 18- to 19-year-olds is significantly higher than 20- to 24-year-olds.³³

³² Estimated House of Corrections Populations, Council on State Governments, *Justice Reinvestment in Massachusetts: Research Addendum to Third Presentation* (July 2016). <https://csgjusticecenter.org/publications/justice-reinvestment-in-massachusetts-research-addendum-to-third-presentation/>

³³ Based on Bureau of Justice Statistics data, Black 18- to 19-year-old males are 12.4 times more likely to be incarcerated than similar white teenagers, compared to a rate of disparity of 8.0 for 20- to 24-year olds Black males. BJS did not provide data on Latinx vs. White rates of incarceration, nor is adult incarceration data available by state.

Raising the age of juvenile system – which has both federal and state mandates to reduce racial and ethnic disparities – to include the older adolescent population would be an important way to reduce the harms and collateral consequences of legal system involvement while improving public safety. Their over-representation in a developmentally inappropriate system, means older teens are disproportionately harmed by criminal legal system involvement in a number of ways:

- The greater public accessibility to their court case and records;
- Being prohibited from having their case diverted by judges;
- A criminal conviction has more, severe collateral consequences than a juvenile adjudication;
- Legal system interventions focus on punishment and lack a systemic focus on rehabilitation and positive youth development to improve youth outcomes
- Public safety is harmed with a recidivism rate double that of similarly situated teens in the juvenile system

Parental involvement is a key component of the juvenile system.

Parental involvement does not end at age 18:

"Despite the fact that the "age of majority" is eighteen, this does not mean that all obligations between parents and children will end on the day a child turns eighteen. In fact, Massachusetts courts have stated that in this state, there is no fixed age when complete emancipation occurs, and that it does not automatically occur when the child turns eighteen. For example, in some cases, parents can be required to support their children beyond the child's eighteenth birthday. See, Turner v. McCune, 4 Mass.App.Ct. 864, 357 N.E.2d 942 (1976) and Larson v. Larson, 30 Mass.App.Ct. 418, 469 N.E.2d 406 (1991). This may occur when the child lives with a parent and is principally dependent upon that parent for support."³⁴

The juvenile system already has charge of people over 18 and is one of many systems within the Commonwealth that involves the parents of young people up to the age of 21 – and in some cases beyond that. In families with resources, parents are typically quite involved in providing guidance and help to their children through college and beyond. Families with children involved in the juvenile system are no less invested in their children and no less essential to their children's success. However, parental involvement is close to impossible in the adult criminal justice system, which makes it very difficult for these older teens to benefit from family support. The Department of Youth Services already supervises youth up to age 22 and involves parents in their programming and discharge planning.

While there are older youth whose parents will not be involved in their case for any of a variety of reasons – including when the youth or the parent is unwilling or unable – most older teens will opt-into having a parent or other interested adult guiding them through their case. The juvenile court has a precedent of overseeing similar children whose parents are not involved, particularly with youth in the care and custody of DCF who are disproportionately involved in the juvenile system. In those cases, the court can assign, though it happens infrequently, a case worker, an assigned guardian or other interested adult to help guide the youth. Youth 18 and older can also elect this option. Cases generally are not delayed or stuck in those circumstances, especially when a child is older.

³⁴ Children's Law Center of Massachusetts, *Emancipation and the Legal Rights of Minors in Massachusetts*. Available at <https://www.masslegalhelp.org/children-and-families/emancipation>

Youth who age out of foster care are more likely to be involved in the criminal justice system than similarly aged youth, yet when they turn 18, the adult courts do not take into consideration that in the preceding years the Commonwealth was their parent. Families are welcome but cases don't bog down so long as they are not critical to the disposition of the case.

Parental involvement past the 18th birthday is evident in other state systems. The most common setting for parental involvement with youth 18 and older is in public education³⁵. More than 22,000 students in Massachusetts high schools are aged 18 to 20, inclusive. That's more students than play high school football or baseball. When students turn 18, schools do not stop sending report cards home to parents or stop communicating with families about health, safety and behavior. This involvement is especially evident with special education students, who are also at much higher risk of school discipline and school-based arrest than their peers. When students have an Individualized Educational Plan, parents usually remain part of the IEP team even after the student turns 18.

Contrast this with the adult system, where parents have no right to be notified or even told if their child is arrested or charged. In the Juvenile Court system, parents are notified of all proceedings against their children and provided a role to participate in many aspects of the system as well, under the "interested adult rule." While a young person 18 or older will have more of a say if their parent would be involved or not, there is at least a process and role for parents in the juvenile system to which the child can have their parent or another interested adult involved.

Contrasting the effects of juvenile and adult court processing³⁶

Adult court processing and incarceration results in *substantial* increases in recidivism among young offenders, particularly among violent offenders, and has "little general deterrent effect on would-be juvenile offenders." In fact, adult court processing alone, even without incarceration, increases the likelihood that a young person will commit future crimes.³⁷

In contrast to their younger peers in the juvenile system, older teens detained or incarcerated in the adult system are subject to much higher rates of victimization than in the juvenile system, with little or no access to rehabilitation programs or even school. The adult detention and incarceration system is, for the most part, completely decentralized, with the vast majority of incarcerated individuals housed in county jails or Houses of Correction that are independently managed by county sheriffs. Organized, statewide *systemic* efforts to provide education or other services universally to young people in the adult system, are completely non-existent.

The adult court judges and attorneys, in many cases, have little to no experience with young people and are unlikely to have much knowledge of local schools or community programs that could help

³⁵ 603 CMR 28.00

³⁶ See generally, Columbia Justice Lab, *A Comparison of Juvenile and Adult Justice Systems in Massachusetts* (Oct 2019), <https://www.eajjustice.org/s/A-Comparison-of-Juvenile-and-Adult-Justice-Systems-in-Massachusetts.pdf>. Citizens for Juvenile Justice, *Minor Transgressions, Major Consequences* (2011), <https://www.cfjj.org/s/cfjj-minor-transgressions-report.pdf> and *What Makes the Juvenile system Different?* <https://www.raisetheagenda.org/juvenile-vs-adult-system>

³⁷ Richard E. Redding. *Juvenile Transfer Laws: An Effective Deterrent to Delinquency?* OJJDP Juvenile Justice Bulletin (June 2010). Available at <https://www.ncjrs.gov/pdffiles1/ojjdp/220595.pdf>

young people in trouble. In the juvenile system, YAD attorneys and bar advocates regularly consult with social workers and community-based programs to explore and advocate for different options to offer treatment and services to young people. The juvenile system relies heavily on supervision through juvenile probation and incarceration in a locked facility is just one of an array of options available to DYS, including cheaper community-based programs. Contrast this to the adult criminal system where, older teens convicted of a crime are faced with one of two sentencing options: supervision through adult probation, or incarceration in a HOC or DOC facility.

Incarceration is often counterproductive in addressing youth crime, not to mention costly. Adult correctional workers typically have no specialized training in dealing with young people. Family members of youth are not informed of or, in many cases, involved in their children's cases. Young people incarcerated in adult facilities report significantly greater rates of Post-Traumatic Stress Disorder (PTSD) and mental illness, and are much more likely to be afraid for their safety than those in juvenile facilities.³⁸

Collateral consequences of adult criminal justice involvement have a long-term impact on young people.

The Task Force on Emerging Adults in the Criminal Justice System, found that the collateral consequences of involvement in the criminal justice system have a particular impact on young people.³⁹ The American Bar Association and the Council of State Governments identified 1,693 federal and state collateral consequences of a conviction in Massachusetts, with 752 based on Massachusetts law. The majority of collateral consequences create barriers to employment, limiting opportunities for young people to engage in legitimate employment opportunities, and barriers to becoming licensed in a number of professions which could be a viable career path for young people.⁴⁰

A conviction leading to a sentence of incarceration further exacerbates these collateral consequences, by disengaging young people from educational opportunities and engagement with family, both factors heavily tied to recidivism reduction.

Raising the age of juvenile jurisdiction will not violate federal core requirements under the Prison Rape Elimination Act (PREA) and the Juvenile Justice and Delinquency Prevention Act (JJDP A).

"The JJDP A bans the mingling of individuals over 18 who are criminally charged or convicted as "adults." It does not bar the housing of youth processed in the juvenile (delinquency) system over age 18 with those under age 18.[...] PREA's sight, sound, and physical separation requirement applies only to adult facilities. Age segregation is not a federal requirement for youth in juvenile facilities."

³⁸ Jeffrey Fagan & Aaron Kupchik. *Juvenile Incarceration and the Pains of Imprisonment*. Duke Forum for Law and Social Change (April 2011). Columbia Public Law Research Paper No. 11-263. Available at <https://scholarship.law.duke.edu/cgi/viewcontent.cgi?article=1017&context=dfisc>

³⁹ Report available at <https://malegislature.gov/Bills/191/SD2840>

⁴⁰ The Sentencing Project, testimony to the Task Force on Emerging Adults in the Criminal Justice System, November 2019

Federal law requires the separation of youth from adults in correctional facilities. Raising the age of juvenile jurisdiction past the 18th birthday **does not** violate these federal provisions.

The Juvenile Justice and Delinquency Prevention Act (JJDP) and the Prison Rape Elimination Act (PREA) dictate how states prosecute and incarcerate a “juvenile.” However, if a young person is prosecuted in court as a “juvenile” rather than an “adult,” federal law gives enough leeway for states to raise the age above the 18th birthday without violating the law or risk losing federal funds. As a matter of fact, DYS has young people in its care and custody past their 18th birthday for decades

The Columbia University Justice Lab conducted a legal analysis for states that have implemented or have pending legislation to raise the age of juvenile jurisdiction. The JJDP requires sight and sound separation of juveniles from adults. The JJDP defines an “adult inmate” as “an individual who i) has reached the **age of full criminal responsibility under applicable State law**, and (ii) has been arrested and is in custody for or awaiting trial on a criminal charge, or is convicted of a criminal offense.”⁴² It **does not** include a juvenile “who (i) at the time of the offense, was younger than the maximum age at which a youth can be held in a juvenile facility under applicable State law; and (ii) was committed to the care and custody or supervision [...] of a juvenile correctional agency by a court of competent jurisdiction or by operation of applicable State law.”⁴³

The Prison Rape Elimination Act requires the sight, sound and physical separation of “youthful inmates,” defined as young people under age 18 who are under **adult court supervision and held in adult correctional facilities**.⁴⁴ PREA’s standards for juvenile facilities applies to all “residents” confined or detained in a juvenile facility and **does not require age-based segregation in juvenile facilities**. A ‘juvenile facility’ is defined as ‘a facility primarily used for the confinement of juveniles pursuant to the juvenile system or criminal justice system’.⁴⁵ This definition is intended to include group homes and halfway houses that house juveniles.⁴⁶

Massachusetts’ economy will benefit by reducing the educational and economic impact of adult criminal justice involvement.

Massachusetts’ economic growth is dropping due to a drop in employment growth due to worker shortages as baby boomers retire. The New England Economic Partnership predicted that “employment growth in Massachusetts is expected to plunge by more than half — not because there aren't jobs, but because there won't be enough workers to fill them.”⁴⁷ These predictions were reiterated for the state’s FY2021 revenue projections. The economists recommended policies that

⁴¹ Columbia Justice Lab, *Raising the Upper Age of Juvenile Jurisdiction: Implications of Federal JJDP and PREA Requirements*, December 2019. <https://www.eajjustice.org/s/Raising-the-Upper-Age-of-Juvenile-Jurisdiction-Implications-of-Federal-JJDP-and-PREA-Requirements.pdf>

⁴² 34 USCS § 11103 (26) (A)

⁴³ 34 USCS § 11103 (26) (B).

⁴⁴ 28 C.F.R. §115.5

⁴⁵ 28 C.F.R. § 115.5

⁴⁶ National Standards to Prevent, Detect, and Respond to Prison Rape, 77 Fed. Reg. 37106, 37114 (June 20, 2012) (to be codified at 28 C.F.R. pt. 115).

⁴⁷ Deirdre Fernandes, *Baby boomer retirements may slow Mass. economic growth*. The Boston Globe, February 16, 2016.

would retain and attract a more educated labor force including policies that promote educational success for Massachusetts' children.⁴⁸

An educated workforce is one of the state's best economic assets. Massachusetts needs people eligible to serve in the armed forces, get professional licenses⁴⁹ and become members of the professional work force. An adult record can bar people from these opportunities. Because the criminal justice system impacts young people of color at higher rates, the decrease in opportunity hits minority communities especially hard. This reform gives young people a better chance to grow up to contribute to their communities, thus helping to prevent intergenerational poverty.

Young people detained or committed to DYS are mandated to attend school every day, while those detained or incarcerated in the adult system are not. Special education services are significantly more robust and easier to access in the juvenile system. Involvement in the adult system makes it less likely that a youth will graduate from high school, which poses a number of lifelong negative consequences. High school dropouts are nearly three times as likely to be unemployed, almost 20 times more likely than a college graduate to receive public assistance and are more likely to raise a child in poverty, reducing the prospect for intergenerational mobility.⁵⁰ Not finishing school also reduces a young person's prospects of ever attaining a college degree, and increases the likelihood of being excluded from the job market due to an adult criminal record:

- **Increased high school dropout increases the risk of criminal involvement and incarceration:** 40% of people in state prison and 47% in jails have not completed high school⁵¹. Dropout rates are even worse among incarcerated blacks, Hispanics and people with disabilities. Among all Americans over 18, the rate of people who have not finished high school is 18%. Without a high school diploma, a person is less likely to contribute to the economy and more likely to use safety net services or be involved with the criminal legal system. In 2009, a Northeastern University study found that a single dropout would cost taxpayers \$292,000⁵².
- **Fewer college graduates:** It is legal for colleges to ask prospective students about criminal records. While juvenile records are sealed, adult ones can be easily accessed for schools, just as they can be accessed by potential employers. That's important for the Massachusetts economy, as The Hamilton Project quantified⁵³. College means more steady employment. College graduates were less likely to lose jobs during the great recession. Most jobs created since the economic recovery require a college degree. Median lifetime income for a college graduate is twice that of a person with solely a high school diploma.

⁴⁸ Katie Lannan, *Experts: Labor Crunch Threatens State's Growth*, State House News Service, December 5, 2019.

⁴⁹ See National Inventory of Collateral Consequences of Conviction, created by the American Bar Association and updated by the Council of State Governments. Available at <https://niccc.csgjusticecenter.org/>.

⁵⁰ The Hamilton Project, "Staying in School: A Proposal to Raise High School Graduation Rates. (2012) https://www.hamiltonproject.org/assets/files/a_proposal_to_raise_high_school_graduation_rates.pdf

⁵¹ US Department of Justice, Bureau of Justice Statistics *Education and Correctional Populations* (2003). Available at <https://www.bjs.gov/content/pub/ascii/ecp.txt>

⁵² Northeastern University Center for Labor Market Studies, *The Consequences of Dropping Out of High School* (2009). Available at https://repository.library.northeastern.edu/downloads/neu:376324?datastream_id=content

⁵³ The Hamilton Project, *Eight Economic Facts on Higher Education* (2018). Available at https://www.brookings.edu/wp-content/uploads/2017/04/thp_20170426_eight_economic_facts_higher_education.pdf

- **A poorer Massachusetts:** A college degree is especially important in Massachusetts, which has the highest rate of college-educated workers in the nation.⁵⁴ The state’s Department of Higher Education projected in 2014 that by 2025, the state’s public colleges and universities would produce 55,000 to 65,000 fewer graduates than the state needs to maintain a thriving economy.⁵⁵
- **A shrinking workforce:** There are 167 trades and professions in Massachusetts that require licenses⁵⁶. A criminal record – no matter how old – can be considered when a person applies for licensure to practice or to open businesses in some trades. A record can be a barrier to everything from being a podiatrist to opening an auto repair shop. Some licenses apply to construction trades, where the state already has the largest labor shortage in the nation⁵⁷.
- **Massachusetts’ young men of color bear the harshest brunt of these policies:** Only 25% of Massachusetts’ young adult population is Black or Latino, but 70% of young adults incarcerated in state prisons and 57% of young adults incarcerated in county jails are people of color. Black and Latino young adults are 3.2 and 1.7 times as likely to be imprisoned as their white peers⁵⁸. This racial disparity in adult system involvement further exacerbates the disparity by leading to lower educational and economic opportunities for young people of color.

Massachusetts already serves transition age youth through child- and adolescent-serving agencies and divisions and it is only appropriate for the legal system to follow suit.

Two decades of adolescent development research found that:

“The abilities necessary to make reasoned decisions are mature by age 16. By this age, adolescents can gather and process information, think logically and draw evidence-based inferences. Self-regulation does not mature until around age 22, however. Not until this age are people capable of restraining themselves when their emotions are intense, when they are pressured by their peers, or when they feel hurried.”

– Laurence Steinberg⁵⁹

⁵⁴ Massachusetts Budget and Policy Center, *2017 State of Working Massachusetts*. Available at <http://massbudget.org/reports/swma/work-education.php>

⁵⁵ Massachusetts Department of Higher Education, *Degrees of Urgency: Why Massachusetts Needs More College Graduates Now* (2014). Available at <https://www.mass.edu/visionproject/degreesofurgency.asp>

⁵⁶ Massachusetts Division of Professional Licensure <https://www.mass.gov/orgs/division-of-professional-licensure>

⁵⁷ Grant Welker, *Experts: Labor Crunch Threatens State’s Growth*. Worcester Business Journal, September 17, 2018.

⁵⁸ MassInc, *Viewing Justice Reinvestment Through a Developmental Lens: New approaches to reducing young adult recidivism in Massachusetts*, Police Brief December 2015. Available at <https://massinc.org/research/viewing-justice-reinvestment-through-a-developmental-lens/>

⁵⁹ Laurence Steinberg, *When can you buy a gun, vote or be sentenced to death? Science suggests US should revise legal age limits*, The Conversation, March 5, 2018. Available at <http://theconversation.com/when-can-you-buy-a-gun-vote-or-be-sentenced-to-death-science-suggests-us-should-revise-legal-age-limits-92328>

Even though statute sets legal rights and responsibilities of adulthood defined by a person's age, there is no one age at which a person achieves adulthood. Instead, adolescents **transition** into adulthood and throughout this transition **our society and our laws grant young people access to positive and pro-social activities and then gradually allow access to more risky and dangerous activities:**

A 14-year-old is eligible for a partial work permits; but can't get a driver's license until age 16, when they can also pre-register to vote. An 18-year-old can sign contracts, go to the military, give medical consent but can't be a firefighter before age 19. A young person can't drink alcohol, smoke tobacco or marijuana, gamble or serve as a police officer in Massachusetts until age 21, when they are also allowed to purchase any firearm or ammunition. Child support is owed to the custodial parent up to age 21 if the child is living with that parent. Age 21 is the *earliest* the American Academy of Pediatrics recommends a child move out of pediatric care. Students with special education needs are eligible for DESE educational services until age 22. By age 25, a young person can rent a car without underage fees⁶⁰ and by 26 they are required to acquire their own health insurance.

The child welfare, healthcare, K-12 education, mental health, developmental disabilities, labor and other state agencies have created dedicated policies and programs to support older youth's transition to independent adulthood. These systems recognize that young people are better served through child and adolescent programs and that those services are more appropriate and effective than adult services for them.

Transition age youth in the child welfare system may receive Department of Children and Families services up to age 23. However, if they enter the adult criminal legal system those services, especially those from child-serving agencies, *can be severed*. Adult legal system involvement becomes a serious impediment for these support systems to offer continuity and keep youth connected to adult service providers and mentors.

The (adult) criminal justice system can infuse developmentally-appropriate services into the adult correctional system using Massachusetts' juvenile system as a model.

While there is no pending legislation this session to address the needs of young people through their mid-20s, we support efforts to infuse developmentally-appropriate, evidence-informed policies modeled after Massachusetts' juvenile system into the adult correctional agencies to ensure positive outcomes for all incarcerated young adults through their mid-twenties, by requiring educational programming; family engagement; incorporating Positive Youth Development principles; and prohibiting harmful practices including solitary confinement and discrimination against LGBTQIA prisoners.

Traditionally, correctional systems' primary approaches to people who offend – without regard to age – are punishment, incapacitation, control and deterrence. Though correctional facilities offer some

⁶⁰ Emily Delbridge, *Car Insurance Rates by Age*, The Balance (2019). Available at <https://www.thebalance.com/car-insurance-rates-by-age-4427974>

level of educational, behavioral health and re-entry programming, access to these programs is inconsistent and limited by individual's classification, length of sentence, the general willingness of individuals to participate and the availability of these limited programs.

Because of the lack of focus on young people's development, young people are disproportionately underrepresented in accessing these programs and are more likely to be disciplined in correctional facilities. Fundamentally, this almost-exclusive focus on punishment and the absence of rehabilitative interventions using a developmental lens with this population is a public safety failure. Young people in adult correctional facilities have the worst outcomes (with the highest recidivism rate of any age group) and cost taxpayers the most (with the longest lengths of stay in correctional facilities).

In contrast, Massachusetts' juvenile system "led the move away from confining youth in secure facilities, establishing the country's first juvenile day treatment program in the 1980s and earning national recognition for expanding access to specialized treatment... Several successive administrations have worked to build a culture of positive youth development, eschewing ineffective punitive approaches and focusing instead on promoting normative developmental experiences that build on young people's strengths."⁶¹

Thank you for considering our testimony. If you have any questions, please feel free to contact Sana Fadel at sanafadel@cfjj.org or 617.338.1050.

Sincerely,

ACLU of Massachusetts
Bethel Institute for Community Development/In Your Corner
Black Economic Council Massachusetts
Boston Teachers Union
Center for Public Representation
Center for Teen Empowerment
Charles Hamilton Houston Institute, Harvard Law School
The Children's Study Home
Citizens for Juvenile Justice
Coalition for Effective Public Safety
Collaborative Parent Leadership Action Network (CPLAN)
College Bound Dorchester
Committee for Public Counsel Services
Community Resources for Justice
Congregation Dorshei Tzedek, Criminal Justice Reform Task Force
Crystal Springs
Determined Divas
End Mass Incarceration Together (EMIT)

⁶¹ MassInc, *Viewing Justice Reinvestment Through a Developmental Lens: New approaches to reducing young adult recidivism in Massachusetts*, Police Brief December 2015. Available at <https://massinc.org/research/viewing-justice-reinvestment-through-a-developmental-lens/>

EPOCA
Fall River Deaconess Home
Family Continuity
Friends of Children
GLBTQ Legal Advocates & Defenders
Greater Boston Legal Services
HopeWell Inc.
The Home for Little Wanderers
I Have a Future
Jewish Alliance for Law and Social Action
Jobs NOT Jails
Justice Resource Institute
Latham Centers
Law Enforcement Action Partnership (LEAP)
League of Women Voters of Massachusetts
LUK, Inc.
Massachusetts Against Solitary Confinement Coalition
Massachusetts Bar Association
Massachusetts Communities Action Network
Massachusetts Coalition for the Homeless
Massachusetts Coalition to Prevent Gun Violence
Massachusetts Commission on LGBTQ Youth
Massachusetts YouthBuild Coalition
MassINC
MissionSAFE
More Than Words
NAACP-New Bedford
National Association of Social Workers – Massachusetts Chapter
New England Innocence Project
Progressive Massachusetts
Project Operation Change.org
The Real Cost of Prisons Project
Roca, Inc.
Roxbury Youthworks, Inc.
Spectrum Health Systems
Strategies for Youth
StuckOnReplay
Teens Leading the Way
Unitarian Universalist Urban Ministry
Violence Intervention Advocacy Program @ Boston Medical Center
Vital Village Network