



Justice By Geography:

**Differential Treatment of
Youth by Locality at Juvenile
Legal System Decision Points**

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Citizens for Juvenile Justice ¹

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¹ This brief was written by Sarah Shepley with support and supervision from Joshua Dankoff and editing from Leon Smith.

Introduction: Uneven policing drive geographic and racial disparities

Justice by geography is the differential application of justice policies and practices across a state or region. This brief establishes that justice by geography is real in Massachusetts and identifies decision points where it presents within the juvenile legal system. Drawing upon publicly available data, this brief compares and evaluates juvenile court trends across the Commonwealth, illuminating ways in which youth are treated at several decision points by municipal, state, and county authorities, and how this varies by locality. The brief examines important municipal actors like police departments, clerk magistrates, District Attorneys and juvenile court judges, identifying specific decision points that they are responsible for in the juvenile legal system, presenting a geographic breakdown (usually to the county-level) of trends and highlighting any significant outliers. Our aim is to draw attention to these outliers at decision points and establish the need to examine practices at these points in order to bring them closer to statewide norms. At select decision points, the brief highlights the over-representation of Black and Latine² youth in the juvenile legal system along with geographic trends, calling attention to the system actors responsible for upholding, yet failing to ensure, fair and equitable practices. By presenting the data broadly, we aim to drive a conversation that will invite a deeper examination of county-level trends, including research, discussion, and ultimately accountability for racial and ethnic disparities at a municipal level across the Commonwealth.

Police are *the* key gatekeeper at the front door of the juvenile legal system.³ Data establishes that police do not treat all youth the same, with more aggressive policing strategies being employed in place in larger cities, and with targeted ‘hot spot’ policing practices being utilized in neighborhoods of color. This differential application of policing resources and practices leads to significant variance in the treatment of youth, specifically involving over-surveillance, policing and referral to the legal system for youth of color. [A 2022 Juvenile Justice Policy and Data Board \(JJPAD\) report](#) found that Black youth were over four times more likely to experience a custodial arrest than their white peers, and Latine youth were almost three times more likely to experience a custodial arrest than their white peers.⁴ These differences in custodial arrest are apparent not only in felony cases but also in misdemeanors where officers tend to have greater discretion in determining whether to issue a summons – the preferred method in Massachusetts for referring youth to court – or placing a youth under arrest.⁵ Policing practices differ widely across the state and racial disparities in the juvenile justice system are driven by these practices, beginning with how Black and Latine are arrested and detained.⁶

2 Why Latinx/e? Colorado State University. <https://elcentro.colostate.edu/about/why-latinx/>; What’s the Difference Between Hispanic and Latino? Encyclopaedia Britannica. <https://www.britannica.com/story/whats-the-difference-between-hispanic-and-latino>

3 JJPAD, Racial and Ethnic Disparities at the Front Door of Massachusetts Juvenile Justice System (November 2022). <https://www.mass.gov/doc/racial-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/download>

4 Ibid.

5 Id.

6 Sarah Betancourt. “Racial disparities in the juvenile justice system start with how black and latino youth are arrested, report finds.” *GBH News*. (November 2, 2022). <https://www.wgbh.org/news/local-news/2022/11/02/racial-disparities-in-the-juvenile-justice-system-start-with-how-black-and-latino-youth-are-arrested-report-finds>

New Bedford, Massachusetts is a striking example of justice by geography within a single locality, as CfJJ’s 2021 [We Are the Prey](#) report revealed that, even within one city, practices including surveillance, field interrogations and observations (FIOs), arrests, and traffic stops are disparately used. Black and Latine youth bear the burden of these encounters.⁷ The police initiate contact with the juvenile legal system, and while many youths may never reach the deeper levels of the system, the police are a far-reaching presence that affect the day-to-day lives of many youth, especially youth of color.

The remainder of this brief addresses the role that police and other decision makers play deeper in the juvenile legal system process and how their decisions impact justice by geography in Massachusetts. Specifically, the brief focuses on the following five process points: Applications for Complaint, Pre-trial Proceedings, Adjudications, Dispositions, and Youthful Offender Charges. At each of these decision points, the findings are followed by key questions that we hope catalyze county-level reflection and substantive action to ensure that all youth – no matter where they reside in the Commonwealth – are treated in a fair and equitable manner relative to their peers.

Note on data availability: Since the establishment of the [Juvenile Justice Policy and Data Board](#) (JJPAD) through the Criminal Justice Reform Acts of 2018, the Massachusetts juvenile legal system has made strides in maintaining and disseminating publicly-available data.⁸ Citizens for Juvenile Justice is encouraged by the data sets and analysis made accessible by the [Office of the Child Advocate](#), as well as the [Massachusetts Trial Court’s Department of Research and Planning](#) and the [Massachusetts Probation Service](#) public-facing dashboards. That said, there remain opportunities to further improve availability of data, some of which are included in the proposed “[An Act Improving Juvenile Justice Data Collection](#).”⁹

Decision Point 1: Applications for Complaint

When a police officer suspects a youth of engaging in delinquent behavior, they can 1) dismiss the incident and give a warning 2) refer the youth to community alternatives in lieu of court intervention (a process sometimes referred to as ‘police-level diversion’), or 3) decide to issue a formal application for complaint via arrest or through a court summons.¹⁰ The application for complaint is the first step of juvenile court involvement.

Finding 1a. The Barnstable court district has the highest per capita rate of applications of complaint entering its juvenile court.

Decision Maker: Police, Community Members

7 CfJJ, We are the Prey, (April 2021). <https://www.cfjj.org/we-are-the-prey>

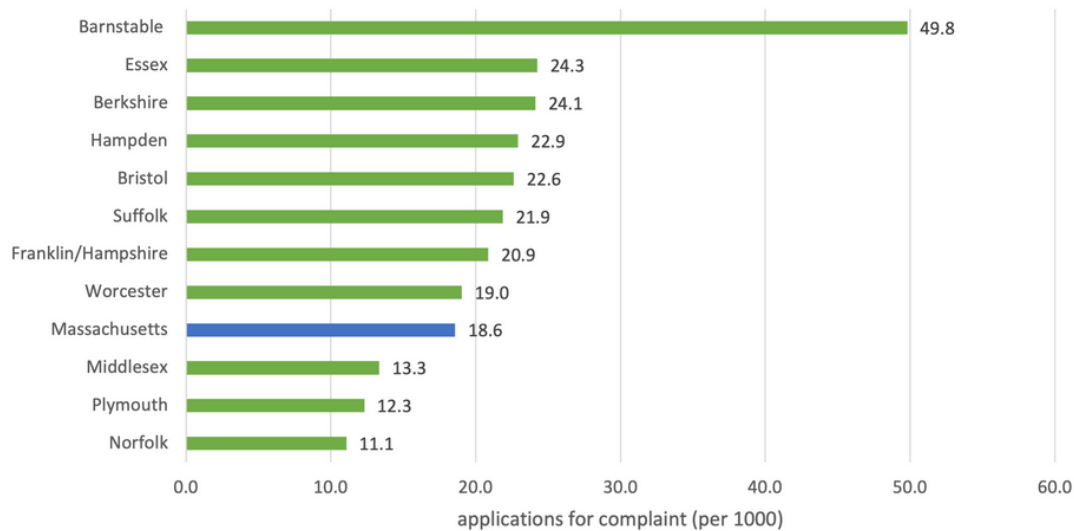
8 Mass Gen. Laws Ch. 119 § 89.

9 See <https://malegislature.gov/Bills/193/S931>. This and other CfJJ legislative priorities can be found at <http://www.cfjj.org/advocacy>.

10 CfJJ, Seizing an Early Opportunity, (August 2018). <https://www.cfjj.org/seizing-opportunity>

The overall number of applications for complaint entering the juvenile court rose between (Covid-19 impacted) FY21 (6,010 applications) and FY22 (8,807 applications), the first increase in several years.¹¹ As displayed in Figure 1, Barnstable County has the highest per capita rate among counties with 50 applications for complaint per 1000 youth in 2022. This rate is over two times higher than the Commonwealth average of 18.6 applications for complaint per 1000 youth. Essex is the second leading county in applications for complaint per capita at a rate 1.3 times higher than the State average.

Figure 1. Juvenile Applications for Complaint Per Capita by County (FY22)¹²



Source: EZAPOPOP, Easy Access to Juvenile Populations, 1990-2020, https://www.ojjdp.gov/ojstatbb/ezapop/asp/profile_display.asp; Massachusetts Trial Court, Department of Research and Planning, *Massachusetts Juvenile Court, Demographics of Selected Juvenile Matters*, <https://public.tableau.com/app/profile/drap4687/viz/DemographicsofSelectedJuvenileMatters/JuvenileMattersbyRaceEthn>

Key Question 1a. What is driving Barnstable and Essex’s rate of applications for complaint?

Police are the primary initiators of applications for complaint, but we must inquire whether Barnstable and Essex County’s high rates of driving youth into the juvenile system are solely due to policing practices, or tied to an absence of diversion opportunities to address youth misbehavior at the community level?

Evidence suggests that Barnstable County has fewer community-based diversion programs and alternatives to arrest at their disposal than other counties. Those in Barnstable county reported that capacity, family engagement, and transportation were leading barriers to accessing community alternatives. System actors also identified a lack of substance use treatment, vocational training, and mentoring services for youth.¹³

Without these types of alternative options to formal system involvement, police officers may feel that they have no other choice than to send a youth into the juvenile legal system.

11 Massachusetts Trial Court Department of Research and Planning, *Massachusetts Juvenile Court, Demographics of Selected Juvenile Matters*. <https://public.tableau.com/app/profile/drap4687/viz/DemographicsofSelectedJuvenileMatters/JuvenileMattersbyRaceEthn>

12 This graph compares data Fiscal Year 2022 with youth population (12-17) from Calendar Year 2020.

13 *JJPAD*, “Community Based Interventions Referrer Survey Results Brief,” (December 2019). file:///Users/sarahshepley_1/Downloads/JJPAD%20Diversion%20Survey_JDAI%20Annual%20Conference%20FINAL%202011.27.19.pdf

Finding 1b. Youth in Hampden and Suffolk counties experience the highest rates of applications initiated through an arrest.

Decision Maker: Police

While certain offenses, such as domestic assaults or certain serious, violent felonies, require a police officer to make an arrest, the outcome of an interaction with a police officer (arrest, summons, diversion, or simply not pursuing the case) for many alleged offenses is solely determined by the police officer’s discretion.¹⁴ It is well-documented that experiencing a physical arrest at a young age has adverse effects on that young person’s development, and, consequently, a summons is the preferred method for bringing all juveniles to court unless there is reason to believe the juvenile will not appear upon a summons.¹⁵

Less than half (43.5%) of all juvenile applications for complaint in Massachusetts in FY22 were initiated through an arrest. However, 69.3% of applications in Hampden were arrest-based and 66.7% of applications in Suffolk were arrest-based, which suggests that police departments in those counties are overusing arrest for youth suspected of delinquent behavior rather than referring them to court through the less-disruptive and less-traumatic issuance of a summons to appear in court.¹⁶ If a youth is arrested after courts have closed for the night or weekend, they are subject to an overnight arrest, being confined in detention for one night or for a full weekend prior to an arraignment in court.¹⁷ Similarly, Suffolk County accounts for 9% of the state’s juvenile population but 28% of all overnight arrests in Massachusetts.¹⁸

Suffolk’s high rate is particularly noteworthy in light of a recent turnover in District Attorney leadership. Since Kevin Hayden replaced Rachel Rollins as Suffolk County District Attorney in January 2022, there has been a fifteen percent increase in the number of juvenile cases reaching arraignment. While the data for FY22 reflect six months under Hayden’s direction and six months under Rollins’ direction, our findings signal reliance on traditionally punitive legal measures rather than diversion.¹⁹

As displayed in Figure 2, Hampden County also had an exceptionally high rate of arrest-based complaints for the following offense types: *School disturbance/Public order* (91.4%) and *Property* (85.3%). This affirms that police in Hampden County are arresting youth on these types of offenses rather than issuing a summons, which is not in line with how cases of this type are handled in other

14 MPTC Legal Standards & Procedures for Police Interactions with Youth, September 2021.

15 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-theircommunities>; Municipal Police Training Committee, *School Resource Officer In-Service Training* .(Nov-Dec 2022).

16 MGL c. 119 § 54

17 2022 JJPAD Annual Report. <https://www.mass.gov/doc/jypad-2022-annual-report/download>

18 Id.

19 The Boston Globe, “DA Hayden must take juvenile justice reform seriously” (Sept. 23, 2022).

https://www.bostonglobe.com/2022/09/23/opinion/da-hayden-must-take-juvenile-justice-reform-seriously/?p1=Article_Inline_Text_Link

counties. The high arrest rates for these offense types are concerning as the offenses are considered “less” serious in general and reflect local police trends to choose to arrest rather than issue a less-traumatic summons alternative.

Even among offense types that are generally considered more severe, Hampden and Suffolk Counties arrested youth more frequently than other counties. Suffolk had the highest rate of arrest-based complaints among counties for *offenses against a person* (76.7% of complaints), which is 1.6 times as high as the state average (48.2% of complaints initiated through an arrest). Suffolk and Hampden had the highest rates of arrest-based complaints for *Weapons offenses* (88.2% and 89.3% of complaints). These rates are 1.5 times higher than the state average for weapons offense complaints initiated through an arrest (59.8%).

Figure 2. Percent of Complaints Initiated through an Arrest by Offense Type and County (FY22)

	Alcohol	Drug	Motor Vehicle	Person	Property	School Disturb/Publ..	Weapon	Other / Not Available	Grand Total
Barnstable	10.0%	42.9%	9.5%	35.2%	37.0%	36.4%	40.6%	26.9%	30.4%
Berkshire	75.0%	100.0%	47.8%	41.7%	39.0%	25.0%	55.6%	30.0%	42.9%
Bristol		56.3%	9.1%	45.2%	41.9%	51.5%	51.9%	47.9%	40.9%
Essex	2.0%	58.3%	9.8%	43.9%	49.5%	65.5%	30.9%	23.0%	37.3%
Franklin / Hampshire	26.7%	22.2%	20.0%	44.3%	49.2%	60.0%	72.7%	55.6%	42.5%
Hampden	62.5%	60.0%	68.7%	58.1%	85.3%	91.4%	89.3%	64.3%	69.3%
Middlesex	4.8%	23.3%	10.7%	43.8%	45.6%	65.2%	51.8%	20.6%	37.5%
Norfolk	0.0%	16.7%	8.6%	34.3%	40.0%	30.0%	41.2%	41.7%	33.3%
Plymouth	0.0%	50.0%	12.5%	51.9%	56.7%	39.1%	41.7%	23.1%	42.2%
Suffolk	40.0%	62.5%	26.6%	76.7%	57.2%	60.0%	88.2%	46.9%	66.7%
Worcester	17.6%	41.7%	9.6%	44.4%	37.3%	54.1%	68.4%	35.4%	37.4%
Grand Total	11.7%	42.1%	17.4%	48.2%	48.7%	57.4%	59.8%	34.6%	43.5%

Source: Massachusetts Trial Court, Department of Research and Planning, *Massachusetts Juvenile Court, Applications for Delinquent Complaint*
<https://public.tableau.com/app/profile/drap4687/viz/MassachusettsTrialCourtApplicationsforDelinquentComplaint/SummaryCaseInitiation>

Key Question 1b. Are the arrest data from Suffolk and Hampden Counties more indicative of policing practices or of the types of behavior that youth are engaging in?

Hampden and Suffolk Counties exhibited high arrest rates for several offense types, including many non-violent offenses. It would be useful to gain an understanding of policing practices and the nature of offenses transpiring in these counties to determine the extent to which arrest data is connected to aggressive policing practices. A more pixelated view could also identify specific police departments that are driving these higher proportions of applications for complaint initiated through a custodial arrest.

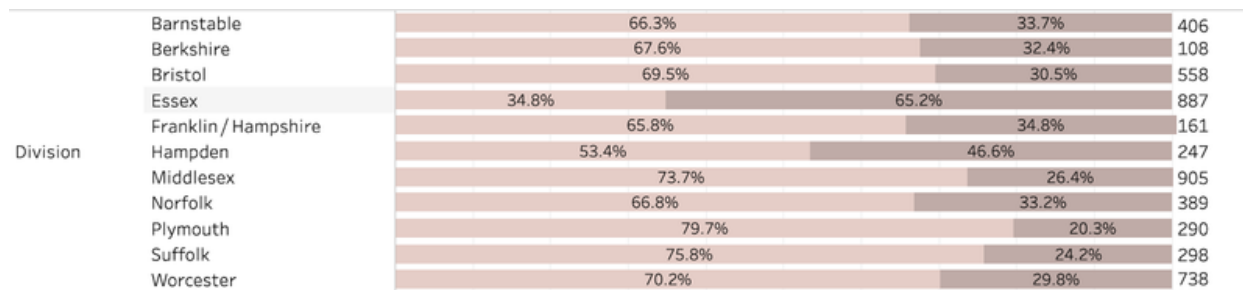
Finding 1c. Clerk magistrates in Essex County issue complaints based on a summons at a significantly higher rate than any other county in the Commonwealth.

Decision Maker: Clerk Magistrate

When the court issues a summons for a youth, clerk magistrates review the complaint and can decide to formally issue a delinquency complaint and schedule the matter for an arraignment, dismiss the application filing, or divert the case. Figure 3 shows that Essex County stands out among other court districts in issuing the highest proportion of delinquency complaints from summons (65.2%). Essex’s rate is nearly *twice* the Commonwealth average (36.3%) of summons that are issued as delinquency complaints.

Figure 3. Summons-based complaints by County in FY22

Light pink= % Diverted/Complaint not to Issue
 Dark pink=% Complaint to Issue



Source: Massachusetts Trial Court, Department of Research and Planning, *Massachusetts Juvenile Court, Applications for Delinquent Complaint*
<https://public.tableau.com/app/profile/drap4687/viz/MassachusettsTrialCourtApplicationsforDelinquentComplaint/SummaryCaseInitiation>

Key Question 1c. Why are Essex County clerk magistrates issuing delinquency complaints more frequently than in other counties rather than dismissing or diverting?

Despite Essex County District Attorney’s office having a long-standing juvenile diversion program that refers young people to counseling and educational services, community service opportunities, and opportunities to make restitution for damages outside of the formal system for juveniles who have committed first-time, non-violent offenses,²⁰ the county still maintains a high rate of issued complaints. This is notable, as it signals that fewer youth are being diverted by the clerk magistrate than elsewhere in the Commonwealth, resulting in more youth entering for formal juvenile court process. The Essex County Juvenile Clerk Magistrate has declined to participate in the Statewide juvenile diversion pilot that is now operating in the county.²¹ Diversion at this stage is crucial, as it prevents the youth from getting a formal record – and the collateral consequences that go with it – and can avoid further court involvement that can otherwise impede their access to future social and educational opportunities.

20 Essex County District Attorney’s Office. *Essex Diversion Programs*. <https://www.mass.gov/essex-diversion-programs#:~:text=District%20Attorney%20Jonathan%20Blodgett%20offers,District%20Courts%20in%20Essex%20County>.

21 See generally: <https://www.mass.gov/news/oca-and-dys-launch-youth-diversion-initiative>

Decision Point 2: Pre-trial Proceedings

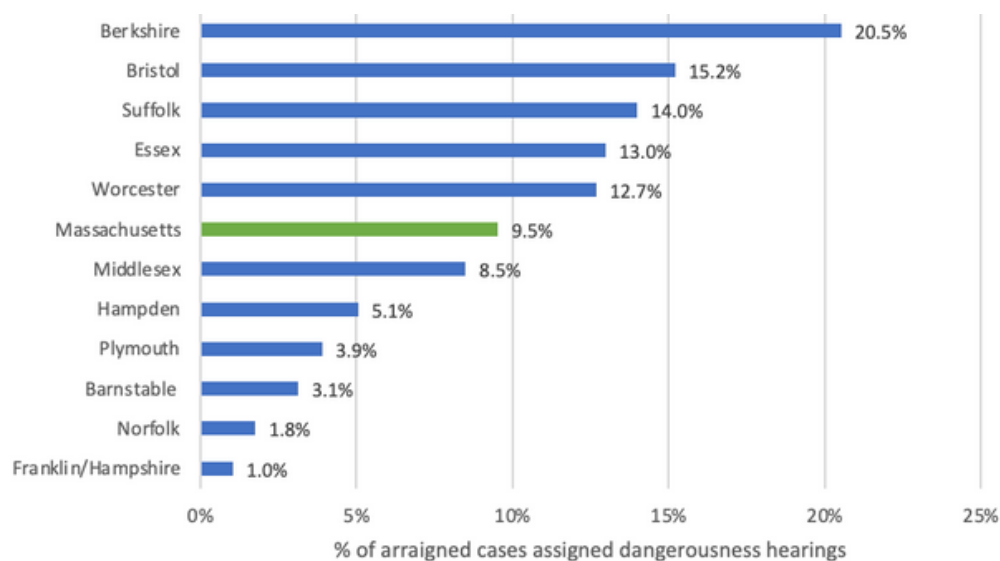
Finding 2a. District Attorneys in Berkshire, Bristol and Essex Counties are requesting dangerousness hearings for arraigned youth at higher rates than in other court districts.

Decision Maker: District Attorney

A dangerousness hearing is a proceeding where an individual faces being held without bail on certain offenses outlined in M.G.L. c.276 § 58A while their case advances through the court process. This hearing, which is requested by the District Attorney, expands the permissible scope of pre-trial detention, requiring judges to look beyond the question of whether a youth is likely to continue to appear at court – the only allowable reason under M.G.L. c.276 § 58, the Massachusetts bail statute, to hold a youth pre-trial²² – and consider both the nature of the offense and whether the youth’s release on that charge poses a danger to the safety of any other person or the community.²³ Unfavorable decisions rendered from dangerousness hearings often subject youth to prolonged stays in a juvenile detention facility, further excluding them from participation in school, family and civic life. CfJJ remains concerned that dangerousness hearings are being overused in some counties based on the high numbers displayed in the figures below.²⁴

Youth arraigned in Berkshire County’s juvenile court are more likely to undergo a dangerousness hearing than youth in other counties. In Figure 4, Berkshire stands out among Commonwealth court counties with nearly a quarter of arraignments receiving a dangerousness hearing in FY22. Berkshire’s rate of 20.5% of arraigned youth assigned dangerousness hearings is 20 times higher than the rate in nearby Franklin/Hampshire counties. However, given Berkshire’s small juvenile population– just 39 youth arraigned in FY22–it is important to also look toward the counties with larger populations.

Figure 4. Percent of Arraigned Youth Assigned Dangerousness Hearings by County (FY22)



22 M.G.L. c.276 § 58A.

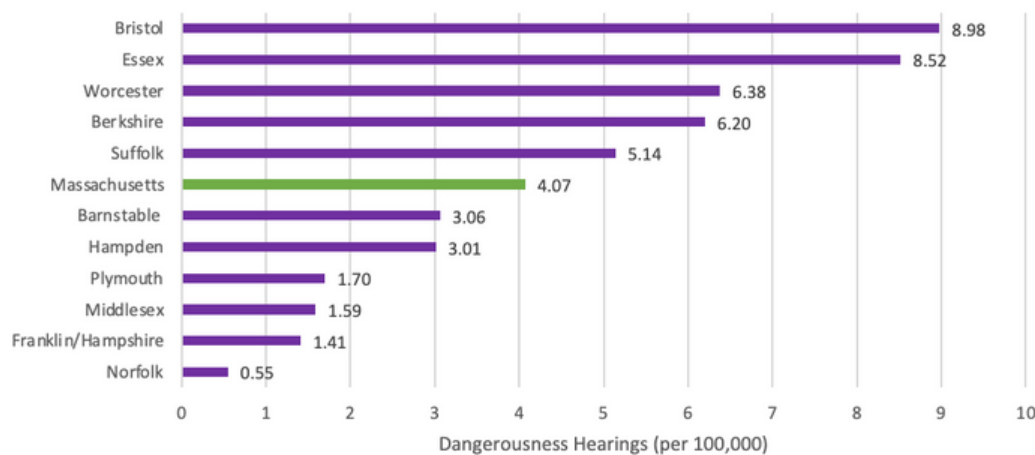
23 M.G.L. c.276 § 58A (2)

24 2022 JPAD Annual Report. <https://www.mass.gov/doc/jypad-2022-annual-report/download>.

Source: Massachusetts Trial Court, Department of Research and Planning, *Massachusetts Juvenile Court, Cases Arraigned*. <https://public.tableau.com/app/profile/drap4687/viz/JuvenileCourtCasesArraigned/CountyMapCharacteristics>; Source: Massachusetts Trial Court Department of Research and Planning, *Massachusetts Trial Court, Dangerousness Hearings* <https://public.tableau.com/app/profile/drap4687/viz/MassachusettsTrialCourtDangerousnessHearings/MainDashboard>;

When looking at *per capita rates* for dangerousness hearings, Bristol and Essex Counties– which have some of the highest numbers of arraigned youth– present alarming rates. Figure 5 displays per capita rates for Bristol and Essex Counties that are *two times higher* than the Commonwealth average (4.07 dangerousness hearings per 100,000 youth). Youth living in Essex and Bristol Counties are represented within this sanction at higher rates than in other counties, reflecting a local trend in those District Attorney offices to move for dangerousness hearings as well as overcharging or ‘charge stacking’ by police. Massachusetts Trial Court data reveal that a greater proportion of dangerousness hearings are sought for weapons offenses than offenses against a person.²⁵ However, not all weapons offenses carry the same presumed level of “dangerousness”, with many dangerousness hearings being requested for simple carrying and possession.²⁶ Essex and Bristol counties are particularly harsh in their treatment of firearms possession among juvenile cases, contributing to their high rate of dangerousness hearings.²⁷ In FY22, 52% (27/52) of dangerousness hearings in Bristol were for weapons offenses while 41% of total dangerousness hearings across the Commonwealth were for weapons offenses (Figure 6). In Essex, however, 63% (43/69) of dangerousness hearings were for offenses against a person and 28% (19/49) were for weapons offenses (Figure 6).

Figure 5. Dangerousness Hearings Per Capita Rate by County (FY22)



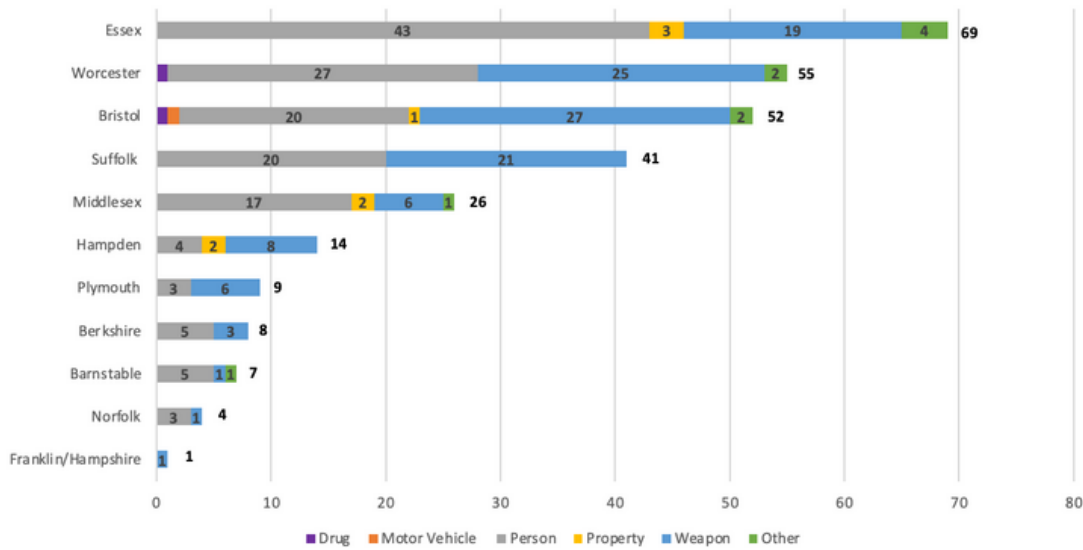
Source: United States Census Bureau. *Massachusetts: 2020 Census*. <https://www.census.gov/library/stories/state-by-state/massachusetts-population-change-between-census-decade.html>; Massachusetts Trial Court Department of Research and Planning, *Massachusetts Trial Court, Dangerousness Hearings* <https://public.tableau.com/app/profile/drap4687/viz/MassachusettsTrialCourtDangerousnessHearings/MainDashboard>;

25 Katherine Naples-Mitchell, BRIEFAMICUS CURIAE OF THE CHARLES HAMILTON HOUSTON INSTITUTE FOR RACE & JUSTICE IN SUPPORT OF THE PETITIONER-APPELLANTS & REVERSAL, (January 31, 2022). https://www.ma-appellatecourts.org/pdf/SJC-13182/SJC-13182_10_Amicus_Charles_Hamilton_Houston_Institute_Brief.pdf

26 The Criminal Justice Policy Program at Harvard Law School, “Racial Disparities in the Massachusetts Criminal System,” (September 2020). <https://hls.harvard.edu/wp-content/uploads/2022/08/Massachusetts-Racial-Disparity-Report-FINAL.pdf>.

27 Massachusetts Trial Court Department of Research and Planning, *Massachusetts Trial Court, Dangerousness Hearings* <https://public.tableau.com/app/profile/drap4687/viz/MassachusettsTrialCourtDangerousnessHearings/MainDashboard>

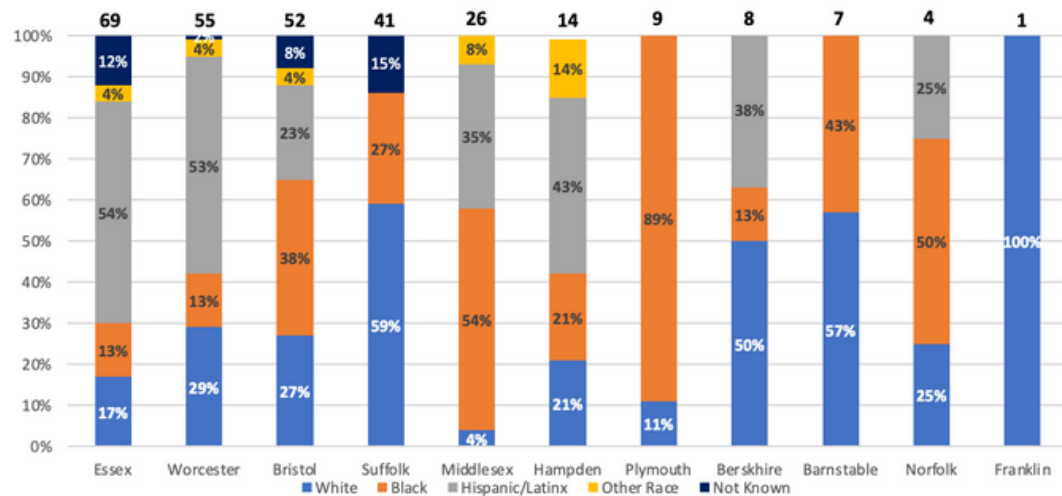
Figure 6. Dangerousness Hearings (58A Hearings) by Offense Type and County (FY22)



Source: Massachusetts Trial Court Department of Research and Planning, *Massachusetts Trial Court, Dangerousness Hearings* <https://public.tableau.com/app/profile/drap4687/viz/MassachusettsTrialCourtDangerousnessHearings/MainDashboard>

Racially disparate practices are prevalent in the decision to move for dangerousness hearings across the Commonwealth. In 8 out of 11 counties displayed in Figure 6, Black and Latine youth made up over 50% of dangerousness hearings in FY22, despite making up just 28% of the Massachusetts youth population.²⁸ In Suffolk County, no dangerousness hearings were requested for White youth, whereas 59% of dangerousness hearings were requested for Black youth and 27% were requested for Latine youth.

Figure 7. Racial and Ethnic Distribution of Dangerousness Hearings by County (FY22)



Source: Massachusetts Trial Court Department of Research and Planning, *Massachusetts Trial Court, Dangerousness Hearings* <https://public.tableau.com/app/profile/drap4687/viz/MassachusettsTrialCourtDangerousnessHearings/MainDashboard>

28 Office of the Child Advocate. “Pretrial Proceedings, Supervision, and Detention.” *Massachusetts Juvenile Justice System: Data and Outcomes for Youth*. <https://www.mass.gov/info-details/pretrial-proceedings-supervision-and-detention>

Key Question 2a. Why are Berkshire, Essex, and Bristol DAs holding dangerousness hearings at twice the state average?

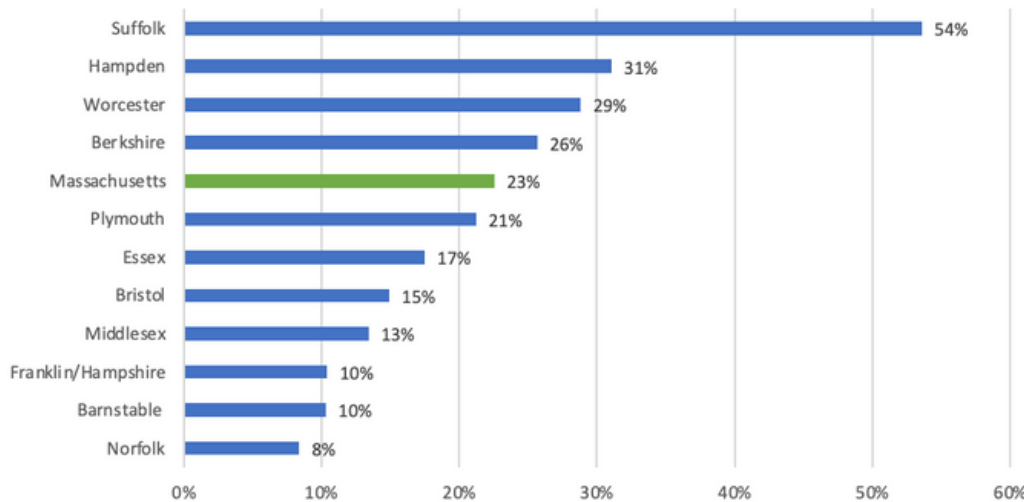
What norms and practices at the District Attorney level are driving these disproportionately high number of dangerousness hearings in these counties? There are three counties (Essex, Worcester, Barnstable) that move for dangerousness hearings for misdemeanor offenses. It is necessary to measure whether similarly situated white youth are being subjected to dangerousness hearings at a lower rate than youth of color.

Finding 2b. Suffolk County judges are detaining over half of their arraigned youth prior to adjudication.

Decision Maker: Police, District Attorney, Judge

If a delinquency case is arraigned, judges can choose to subject a youth to pre-trial detention, placing them under pretrial release conditions supervised by probation (sometimes with a GPS ankle monitor), or release the youth on their own recognizance to their home awaiting future court proceedings.²⁹ In FY22, 54% of cases in Suffolk County involved youth being held in pre-trial detention. As seen in Figure 6, this rate is much higher than in other counties, which likely reflects police and DA charging decisions as well as judicial decisions that are qualifying high rates of youth as “at-risk” to the community (for detention after a 58A dangerousness hearings) or of not showing up to court (for detention under the bail statute).

Figure 8. Percent of Arraigned Youth in Pretrial Detention by County (FY22)

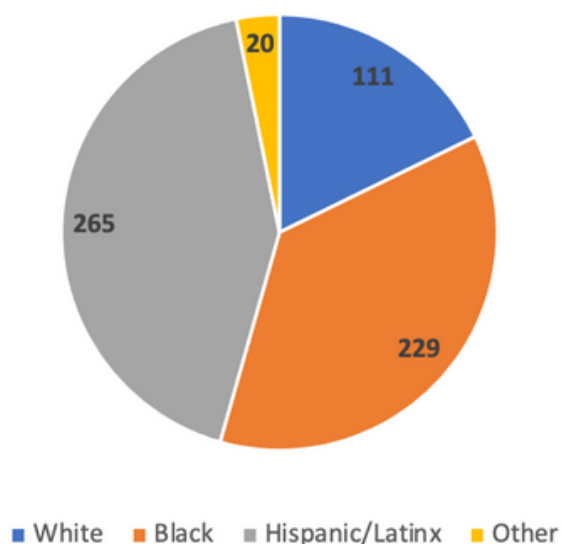


Source: Office of the Child Advocate. “Pretrial Proceedings, Supervision, and Detention.” *Massachusetts Juvenile Justice System: Data and Outcomes for Youth*. <https://www.mass.gov/info-details/pretrial-proceedings-supervision-and-detention>; Massachusetts Trial Court, Department of Research and Planning, *Massachusetts Juvenile Court, Cases Arraigned*. <https://public.tableau.com/app/profile/drap4687/viz/JuvenileCourtCasesArraigned/CountyMapCharacteristics>

29 Office of the Child Advocate. “Pretrial Proceedings, Supervision, and Detention.” *Massachusetts Juvenile Justice System: Data and Outcomes for Youth*. <https://www.mass.gov/info-details/pretrial-proceedings-supervision-and-detention>

The overwhelming majority of young people in juvenile pre-trial detention in Massachusetts are youth of color. In FY22, 42% of youth in pre-trial detention were Latine, 37% were Black, and 18% were White (Figure 9). With nearly 8 in 10 youth in detention being of color, this finding strongly suggests that youth of color are recipients of harsher law enforcement and judicial decisions that lead to more time spent in confinement.

Figure 9. Youth in Pre Trial Detention by Race/Ethnicity (FY22)



Source: Office of the Child Advocate. “Pretrial Proceedings, Supervision, and Detention.” *Massachusetts Juvenile Justice System: Data and Outcomes for Youth*. <https://www.mass.gov/info-details/pretrial-proceedings-supervision-and-detention>;

Key Question 2b. Is Suffolk’s pre-trial detention rate driven by prosecutorial and judicial discretion or by the nature of the arraigned cases?

Suffolk and Hampden have similar arrest rates, yet Suffolk’s rate of pre-trial detention surpasses Hampden’s. Are ADAs and judges in Suffolk driving pre-trial rates for youth or are the cases entering Suffolk’s juvenile court more serious in nature? We encourage future research into local judges’ use of discretion in decision making and the degree to which it is responsible for these deep disparities in pre-trial outcomes.

Decision Point 3: Adjudications

Finding 3. Suffolk County has the highest rate of delinquent adjudications among Massachusetts counties, while Essex has the lowest.

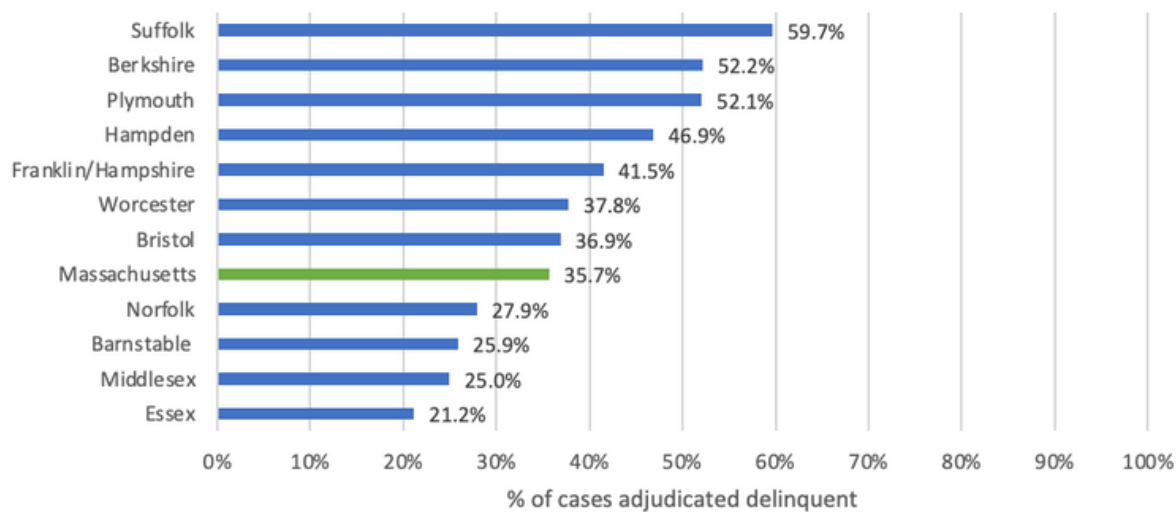
Decision Maker: Judge

At the adjudication stage, a judge has several options of how to resolve a case before the court. They may dismiss the case, continue the case without a finding (referred to as CWOFF) for a set period, or

find a youth “delinquent” (and determine the appropriate sanction) or “not delinquent” (meaning that the youth is not responsible for committing the act and ending their case).

In FY22, Suffolk judges adjudicated 59% of delinquency cases that proceeded to plea or trial “delinquent.” Essex, despite exhibiting high rates at other decision points within the juvenile legal system, has the lowest delinquent adjudication rate, with just 21.2% of cases adjudicated delinquent. The low percentage of delinquent adjudications is concerning, as it suggests that diversion opportunities are missed at earlier decision points. As a result, Essex County juvenile court judges dismiss or divert cases that may not have even reached the adjudication stage in other counties. Notably, cases that are adjudicated delinquent in Essex County are more likely to receive a probation sanction than in other Massachusetts counties.³⁰

Figure 10. Percent of Delinquency Cases Adjudicated Delinquent by County (FY22)



Source: Massachusetts Trial Court, Department of Research and Planning, *Massachusetts Juvenile Court, Delinquency Dismissals and Dispositions*. <https://public.tableau.com/app/profile/drap4687/viz/DelinquencyDismissalsandAdjudications/DispositionRatesofPleaTrial>;

Key Question 3. What do delinquent adjudication rates reveal about diversion practices in Suffolk and Essex?

It is surprising that delinquent adjudication rates for Suffolk and Essex differ by nearly 40 percentage points, given the similar trends between the two counties at most other sanctions and decision points? Are Essex County’s low delinquent adjudication rates attributed to higher rates of indicting some cases as Youthful Offender cases, and, consequently, decreasing the proportion of delinquency adjudications? Additionally, diversion standards as well as prosecutorial and judicial attitudes towards diversion in both counties should be examined to determine whether diversion practices contribute significantly to delinquent adjudications in Suffolk and Essex Counties.

30 2022 JJPAD Annual Report. <https://www.mass.gov/doc/jjpad-2022-annual-report/download>.

Decision Point 4: Dispositions

Finding 4. More than half of youth adjudicated “delinquent” in Hampden County are committed to DYS, while youth in Barnstable County receive risk-need probation at higher rates than youth in other court counties.

Decision Maker: Judge

In FY22, Hampden County juvenile court judges committed 61.7% of the youth it adjudicated “delinquent” to the custody of DYS. This is the most significant sentence available to judges for juvenile delinquency cases. As seen in Figure 8, this rate of commitment to DYS surpasses the rates of other counties and is almost twice as high as the state-wide rate of youth committed to DYS. According to the JJPAD’s 2022 Annual report, there is no indication that Hampden’s high commitment levels are driven by above average diversion at the pre-arraignment stage or by an increase in the seriousness of cases that reach disposition.³¹

There are two types of probation that a youth adjudicated delinquent can be sentenced to: administrative and risk-need. Under administrative probation, youth receive limited supervision and are required to make fewer court-ordered appearances, while those placed under risk-need probation receive direct supervision and interventions based on criminogenic needs and responsivity factors.³² The level of supervision for risk-need probation is determined by a “risk for recidivism” indicator generated by the [Ohio Youth Assessment System \(OYAS\)](#).³³ Barnstable County’s judges commit fewer youth to DYS than other court districts and, alternatively, are increasing their use of risk-need probation. Risk-need probation is preferred over a DYS commitment, as this sanction enables the youth to remain in the community and return to daily life under the supervision of a probation officer.

In FY22, 75% of youth adjudicated “delinquent” received probation as an initial sanction, which is almost twice as high as in FY21 (43.3%). Between January 2022 and December 2022, Barnstable County’s risk-need probation caseload more than doubled from 25 youth to 52 youth. Barnstable’s probation data presents a steeper trend than most other counties’ risk-need caseloads, which have increased marginally, stayed relatively flat, or decreased over the fiscal year.³⁴ While risk-need probation caseloads in Franklin/Hampshire and Plymouth Counties have also risen significantly this year, the rate of youth receiving probation as an initial sanction has decreased

31 2022 JJPAD Annual Report. <https://www.mass.gov/doc/jjpad-2022-annual-report/download>.

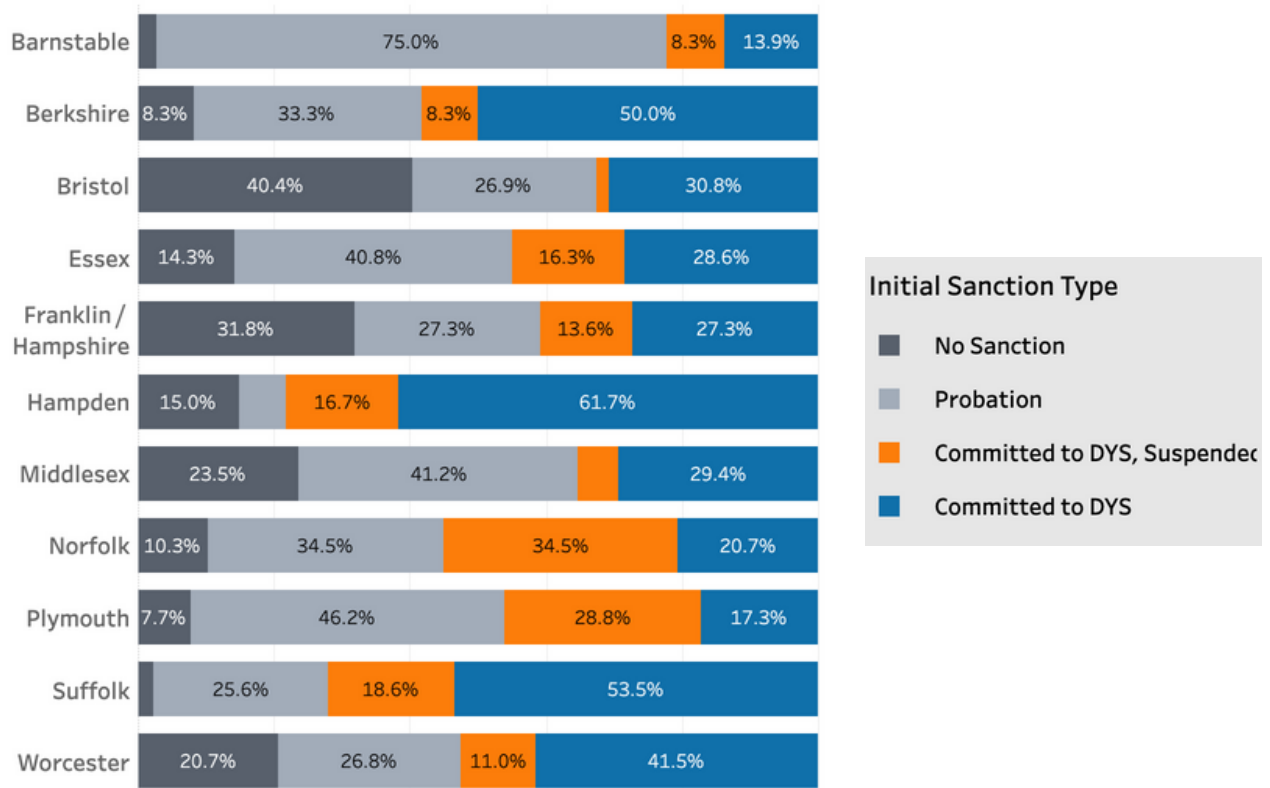
32 Office of the Child Advocate. “Data about Youth on Probation or Committed to DYS” *Massachusetts Juvenile Justice System: Data and Outcomes for Youth*. <https://www.mass.gov/info-details/data-about-youth-on-probation-or-committed-to-dys>.

33 Ibid.

34 Massachusetts Probation Service Research Department, *Juvenile Probation Court Department Trends* <https://public.tableau.com/app/profile/mpsresearchdept/viz/JuvenileCourtProbationDepartment/DelinquencyTrendsDashboard>

between FY21 and FY22.³⁵

Figure 11. Sanctions for Adjudicated Youth by County (FY22)



Source: Massachusetts Trial Court, Department of Research and Planning, *Massachusetts Juvenile Court, Delinquency Dismissals and Dispositions* <https://public.tableau.com/app/profile/drap4687/viz/DelinquencyDismissalsandAdjudications/DispositionRatesofPleaTrial>.

Key Question 4. What do these differences in adjudication tell us about differential policing, differential treatment by juvenile legal system actors, and possible differential offending?

The wealth of data available on dispositions presents an opportunity for discussion among county-level juvenile legal system actors, including police. CfJJ believes that this data can drive much needed conversations about differential policing, differential treatment, and differential offending and the connection to disposition outcomes for system-involved youth.

Youthful Offenders

³⁵ Massachusetts Trial Court, Department of Research and Planning, *Massachusetts Juvenile Court, Delinquency Dismissals and Dispositions* <https://public.tableau.com/app/profile/drap4687/viz/DelinquencyDismissalsandAdjudications/DispositionRatesofPleaTrial>; Massachusetts Probation Service Research Department, *Juvenile Probation Court Department Trends* <https://public.tableau.com/app/profile/mpsresearchdept/viz/JuvenileCourtProbationDepartment/DelinquencyTrendsDashboard>

Finding 5. Suffolk and Essex Counties brought forward the most youthful offender charges in FY22.

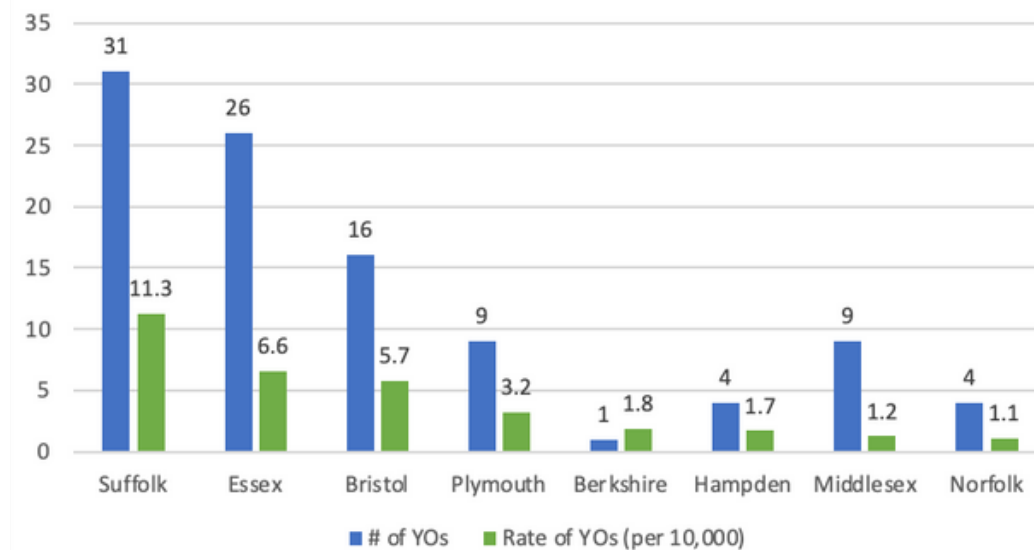
Decision Maker: District Attorney

A youthful offender (YO) is a youth between the ages of 14 and 17 who is indicted by a grand jury for committing a felony and has at least one of the following: 1) a previous DYS commitment 2) committed a certain firearms offense or 3) committed an offense which involves the infliction or threat of a serious harm.³⁶

The Suffolk County District Attorney’s office moved to indict 31 of the 100 Youthful Offender cases that entered the Massachusetts juvenile court in FY22 (Figure 9). Not only did Suffolk bring forward a higher number of YOs than any other county, but Suffolk and Bristol were the only two counties in which YO cases rose between FY21 and FY22. Suffolk’s increase is particularly noteworthy in light of a recent turnover in District Attorney leadership.

As seen in Figure 12, Essex County has the third highest population in the Commonwealth, but the second highest per capita rate of YO filings (6.6 filings per 10,000 youth). The newly elected Essex County District Attorney has an opportunity to reverse course and reduce the YO charges by policy, practice, and training efforts.³⁷ Bristol County’s DA leadership has not changed since Thomas Quinn was elected in 2015. Still, we encourage a review of YO charging practices within that office.

Figure 12. Youthful Offender Cases per Capita by County (FY22)³⁸



Source: Massachusetts Trial Court, Department of Research and Planning, *Massachusetts Juvenile Court, Delinquency Dismissals and Dispositions* <https://public.tableau.com/app/profile/drap4687/viz/DelinquencyDismissalsandAdjudications/DispositionRatesofPleaTrial>.

36 Massachusetts Department of Youth Services. “Juvenile Justice Legal Issues.” <https://www.mass.gov/service-details/dys-juvenile-justice-legal-issues>

37 Paul Tucker was elected as Essex County DA on November 8, 2022.

38 Compares data from Fiscal Year 2022 with the youth population (14-17) from Calendar Year 2020

Racial Disparities

Black and Latine youth are dramatically overrepresented in youthful offender filings in relation to the racial makeup of the counties in which they were charged. Similarly, White youth are underrepresented in youthful offender filings compared with their racial makeup of county populations. *Middlesex, Plymouth, and Suffolk County* produced the highest rates of Black youth indicted as youthful offenders, and *Essex County* produced the highest rate of Latine youth indicted as youthful offenders. In these four counties, White youth make up between 40% and 76% of county populations, but between 0 and 23% of YO filings. Likewise Black and Latine Youth make up between 13% and 39% of the four counties' population, but account for 69% to 100% of YO filings.

Key Question 5. To what extent are youthful offender case rates driven by District Attorney prosecutorial decisions rather than by the nature of offenses in these counties?

In FY22, there was a change in leadership at Suffolk County District Attorney's office, followed by a seeming shift towards traditionally punitive prosecution aligned with the increased use of the youthful offender statute. However, there are now three new District Attorneys in the Commonwealth following the 2022 election, providing further opportunity to measure policy changes, especially in Essex County. CfJJ encourages future research into youthful offender indictments and sanctions across court districts to compare both local District Attorney prosecutorial patterns and the behaviors exhibited by youth designated as youthful offenders in each county. This research should inquire into the circumstances under which district attorneys decide to use or forgo a youthful offender indictment when faced with equally chargeable cases between White youth and youth of color.

Conclusion

The data establishes that there is *justice by geography* in the Massachusetts juvenile legal system, and clear county-level outliers within five key system process points. Significant racial and ethnic disparities are embedded at these process points, establishing that youth of color are receiving harsher treatment across the Commonwealth. The data is clear, however, it is not enough to simply identify outliers; we must catalyze county-level reflection and action to ensure that all youth are treated fairly in the system, regardless of where in the state they live, or the color of their skin. With that in mind, we invite system actors, including local juvenile court and probation departments as well as [Juvenile Detention Alternatives Initiative \(JDAI\)](#) state-wide and county-committees, to engage these questions and commit to change.