



Across the country, juvenile justice advocates are questioning how detention is being used. *Do all the youth being detained need to be detained? Does detention increase public safety—or reduce it? Are there effective alternatives to detention?* It's time for Massachusetts to answer these questions—and take action.

WHAT IS DETENTION?

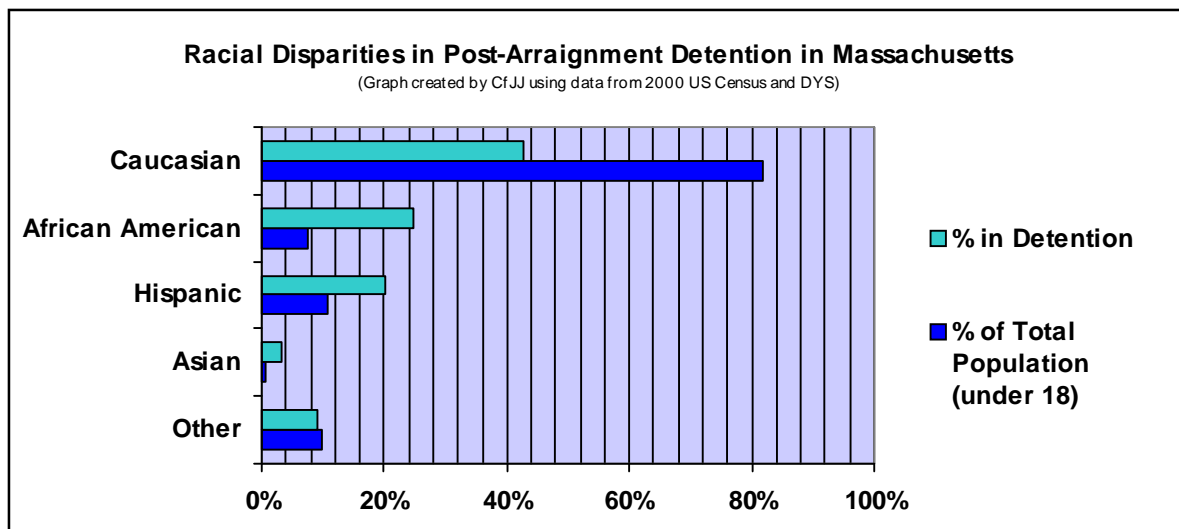
Detention is the secure confinement of children or adolescents while their delinquency or youthful offender cases are pending. Detention is not punishment. It can be used under only two circumstances: 1) when a youth presents a serious flight risk or 2) when the judge determines the youth is dangerous and no other less restrictive option would reasonably assure public safety. The laws in Massachusetts provide a clear presumption that youth will be released on personal recognizance while a case is pending.

However, despite this presumption, each year in Massachusetts approximately 4,000 youth are held before they are arraigned (formally charged) and approximately 6,000 are held in detention after arraignment. The average amount of time a child spent in detention after an arraignment was 17 days in 2005; detention can, however, last anywhere from hours to months.

WHO ARE WE DETAINING?

All of the youth detained are **presumed innocent**. They are also often:

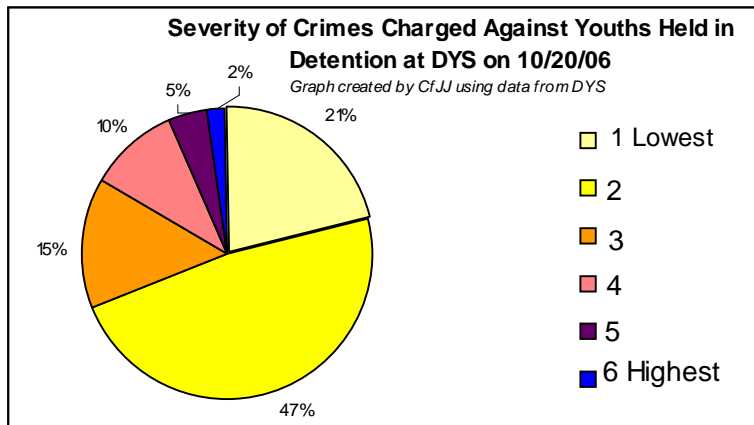
MINORITIES Although the vast majority of youth in Massachusetts are white, the majority of youth in detention are children of color.



CHILDREN Almost one-quarter of all youth detained are 14 and under (DYS detention census 10/10/06).

NON-VIOLENT The majority of youth – almost 70% – are charged with non-violent, low-level crimes.

WHO ARE WE DETAINING (continued)?



DYS classifies juvenile charges in a grid according to their seriousness with **1 being the lowest charge and 6 the highest charge**. The following are **examples** of charges from each grid level:

- 1: Disorderly conduct and trespass
- 2: Shoplifting, possession of marijuana, assault and battery
- 3: Larceny, drug violations near a school
- 4: Assault and battery with a dangerous weapon
- 5: Drug trafficking, armed robbery
- 6: Aggravated rape, voluntary manslaughter, large quantity drug trafficking

WHAT ARE THE PROBLEMS WITH DETENTION?

Detention can harm detained youth – and the public.

- ◆ School attendance is interrupted, with possible long-lasting effects, especially for this population of youth who are likely to already be behind academically and/or struggling with learning disabilities.
- ◆ Between 50 and 80% of detained youth in Massachusetts suffer from a mental disorder. While DYS provides mental health services, research indicates these youth would be better served in their communities or mental health facilities.
- ◆ Separation from families and communities is a stressful and traumatizing experience, especially for youth already suffering from depression or other mental illness, and increases the risk of suicide.
- ◆ The racial disparities raise troubling questions about the fairness of detention.
- ◆ Younger, non-serious offenders learn crime-related skills and develop criminal identities by being confined with older, more-serious offenders.
- ◆ Detention is the most expensive way to handle the needs of youth awaiting trial. In the vast majority of cases (over 75%), detained youth will not be sentenced to DYS after their cases are resolved.
- ◆ Recent studies have shown that **youth held in detention are much more likely to recidivate than youth who are not** - indicating that high detention rates might actually increase the risk to public safety.

WHAT SHOULD MASSACHUSETTS DO NOW?

First, **Massachusetts must ensure that detention is fair**. For example, the recently published report *Do You Know Where the Children Are?* (by Barbara Fedders at the Criminal Justice Institute of Harvard Law School and Barbara Kaban at the Children's Law Center) documented that thousands of children are held illegally each year prior to arraignment. Second, **Massachusetts must commit the necessary resources and energy to create an effective system of alternatives to detention**. At the moment, the only alternatives operating in Massachusetts are two pilot projects funded by the Juvenile Justice Advisory Committee (JJAC) with federal Formula Grant funds: the Annie E. Casey Foundation's Juvenile Detention Alternative Initiative (JDAI) and the Detention Diversion Advocacy Project (DDAP). Both are evidence-based programs that have been successful in other jurisdictions and constitute a great beginning in Massachusetts, particularly with the recent news that the Casey Foundation has chosen Massachusetts to be an official JDAI site. But Massachusetts must not rely on limited federal or private funds to address these serious issues. The Commonwealth must commit its own resources to support and expand effective programs across the state.