Seizing an Early Opportunity
Results from a Survey of Police Departments on Youth Diversion Practice in Massachusetts

Prepared for the Massachusetts Chiefs of Police Association by Citizens for Juvenile Justice
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Executive Summary
Background and Purpose of Report

Large numbers of youth come in contact with the juvenile justice system every year: nationwide, police arrested over 920,000 children under the age of 18 in 2015, while Massachusetts police departments made more than 7,600 arrests in 2015. Quite frequently, a contributing factor to contact with the juvenile system is one or more unaddressed problems (such as mental health or substance abuse) in the young person’s life, which are unlikely to be treated effectively with formal juvenile adjudication. Early intervention for youth is key to reducing their risk of committing crime and keeping them on the path to success.

The police play an influential gate-keeping role in determining whether a young person officially enters the juvenile justice system, or remains in the community. There is a compelling body of evidence on the negative effects court processing has on young people, underscoring the critical opportunity of police departments to support the positive development of youth. Instead of contributing to the certain creation of a formal record and possible experience of pre-trial or post-adjudication incarceration, police can help a young person get back and stay on track to a successful future. By offering pre-arrest diversion, the police have the unique opportunity to reduce the impact of a criminal record on a young person while more efficiently spending taxpayer dollars on practices proven to improve public safety.

Research shows that arresting a young person for the first time doubles their risk of dropping out of high school, even when controlling for socioeconomic, educational and family characteristics. Court processing further increases the risk of school drop-out, and also increases the risk of further delinquency when compared to diversion from formal processing. Though the stakes of formal juvenile system involvement are demonstrably high, police departments have substantial capacity to influence the scope and terms of justice system contact. The police are uniquely situated to direct the trajectory of youth toward better outcomes through diversion, while still ensuring accountability at the community level.

This report represents the first state-wide examination of police diversion practice in Massachusetts. Despite the extensive literature regarding the benefits of diverting young people from the justice system, there is an absence of research on the efforts of Massachusetts police departments to keep youth out of court and in their communities. Reporting on the first survey of its kind in Massachusetts, this report seeks to catalyze further study to fill the gap in knowledge regarding police-level youth diversion through an exploration of the following questions: What are the contours of current police diversion practice for young people in Massachusetts? What do we know about which towns offer diversion, what they offer, and how consistently their diversion programs align with best practices in the field?

The report presents data from an online survey of 95 (of the 357) police departments in Massachusetts, and includes information about the departments that offer formal and informal diversion to young people, as well as how such youth are deemed eligible for diversion, the interventions available, stakeholder collaboration, funding, staffing, training, and data collection practices. By providing the first comprehensive analysis of youth diversion in Massachusetts, this report aims to serve as a resource for police chiefs considering the creation or expansion of diversion programming, as well as for policymakers seeking to support such work.

The full report is available at cfjj.org/seizing-opportunity.
Key Findings

Finding 1. There is a wide range of youth diversion practices at the police level in Massachusetts, which reflects that no guidance exists from legislative or other authorities on the practice. In this survey, 24% of responding departments (23 of 95) reported offering formal diversion, 37% (35 of 95) reported offering informal diversion, and 38% (36 of 95) reported offering no diversion. The variation in working definitions of diversion presents a challenge to the standardized census and evaluation of such programs. For example, roughly a quarter of responding departments reported having formal diversion programs, but only between 6 and 13% reported having formal mission statements, written definitions of diversion, diversion policies, or standard operating procedures.

Finding 2. Larger towns in Massachusetts are more likely to offer formal diversion at the police level to young people. In this survey, formal diversion is reportedly offered in 34% of responding municipalities with populations above 15,000, but in only 16% of the municipalities with populations below 15,000. However, some smaller departments in Middlesex County have found a cost-effective strategy to partner with a community organization and pool resources to offer formal diversion for youths in their jurisdiction.

Finding 3. Affluent towns in Massachusetts are more likely to offer police-level diversion opportunities to young people. Almost half of the responding municipalities with median household incomes above $100,000 reportedly offer formal diversion, and more than 80% of those towns offer either formal or informal diversion. By contrast, no municipality with a median household income below $65,200 offers formal diversion, and only about 40% of those towns offer informal diversion.

Finding 4. There is a wide range of variation in which youth are deemed eligible for police-level diversion within and between Massachusetts police departments. Several pre-screening tools have been developed as standardized approaches to fair treatment, yet only four departments reported using such a mechanism to determine diversion eligibility. Most of the responding departments seem to leave eligibility determination up to their officers’ broad discretion, which can result in unequal and unfair access to diversion. A majority of these departments consider diversion appropriate (i) when a youth accepts responsibility, (ii) if the youth is facing her/his first offense, and/or (iii) if the family agrees to the diversion process. Nearly half the respondents automatically consider diversion for status offenses, and 44% automatically consider it for school-based offenses.

Finding 5. In-state diversion models exist already. Massachusetts boasts several police diversion programs that have been recognized nationally and that provide a range of options for departments wishing to work toward youth accountability at the community level in a manner that avoids the deleterious effects of court involvement. These programs are offered in large, medium and small municipalities. Massachusetts programs highlighted in this report:

- Communities for Restorative Justice (C4RJ) provides an opportunity for smaller departments to share resources and provide diversion at a low cost;
- Cambridge Police’s Safety Net Collaborative identifies at-risk children, sometimes well before arrest, and links them to services; and
- Massachusetts Arrest Screening Tool for Law Enforcement (MASTLE) is an objective
screening tool used by the Brookline Police at the point of arrest to identify which children
are eligible for diversion.

Key Recommendations

Massachusetts is well-placed to improve the policy framework under which police departments
can facilitate community accountability of young people accused of wrongdoing as an alternative
to arrest and formal processing through the Juvenile Court. However, the variation and discre-
tion involved in police diversion practice reflect the current lack of policy guidance from the
Massachusetts Legislature, or any other state entity. In other words, this report finds that the ca-
pacity to increase police-level diversion for youth exists, but cannot be capitalized upon without
a centralized commitment from state leaders.

Immediate Steps for Police Consideration:

• Police chiefs interested in exploring diversion should reach out to departments identified in
  this report for guidance, and to the Massachusetts Chiefs of Police Association for tools and
  technical assistance.  

• Massachusetts Chiefs of Police Association can support police departments wishing to
develop or expand youth diversion. This can take the form of institutionalizing a committee
on youth diversion, encouraging mentorship programs between departments, and support-
ing training on how to create a diversion program. To impact racial and ethnic disparities at
arrest, targeted strategies should be developed that focus on increasing availability of diver-
sion in towns/cities with a high number of arrests as well as those with large populations of
children of color. For diversion to reduce racial disparities within towns, processes should be
put in place to ensure that "all legally similar youth must be equally likely to be diverted away
from formal processing and possible secure confinement."  

• Diversion Programs that are currently in place should ensure that they are using the best-
known practices and learn from other programs across the state. Current programs are rec-
ommended follow the lead of the best working programs. Diversion programs should make
use of tools like MASTLE to screen youth for diversion, and ensure that they are using the
best practices to keep youth back on the right track. Programs should aim to work with youth
individually, specifying programming to the youth's strengths.

• Police Departments: Building on the initial success of the MASTLE (an objective screening
tool to informing police officers in the arrest/divert decision point) in reducing the number
of arrests and addressing racial and ethnic disparities at the point of arrest in Brookline,
Massachusetts, other departments may wish to consider its adoption as a tool. Furthermore,
it’s clear that police departments should begin to collect data to show exactly which youth are
chosen for diversion and why. Without being able to analyze who is chosen for diversion, un-
derstanding whether diversion has a net-widening effect, or whether diversion only reaches
certain demographics within a community becomes more difficult.

• Police Departments are recommended to adopt practices in their diversion programs that
evaluate and build on youth’s individual strengths, in line with the principles of Positive
Youth Development.

• Police Departments should be aware of, and avoid the potential net-widening effects of
adopting formal diversion programs. Police as gatekeepers should not formally divert young
people—especially low risk black and Latino youth—who they would have warned and re-
leased in the absence of such a program.  

• Police Departments that do have or that develop diversion programs should ensure that they are
collecting data about the program in order to measure the success of various diversion programs
throughout the state. Departments should ensure that the data that is collected in the course of
a diversion program (such as intake forms or mental health history) is protected against collat-
eral use in future criminal complaints against the youth. Departments should be aware of and
counter possible net-widening and further entrenchment of racial and ethnic disparities.
Further steps/stakeholders:

• The Attorney General’s Office should consider offering guidance around the benefits and appropriateness of having multiple ‘off-ramps’ from juvenile justice system processing, including both police and District Attorney diversion. Such guidance could highlight the positive impacts of using discretion in favor of community accountability versus court-driven accountability, including benefits to the accused (by avoiding deleterious effects of court processing), the victim (through restorative justice processes), and the community (through public safety and cost savings).

• The Massachusetts Legislature should provide financial incentives or legislation (i.e. through a grant program) to encourage or require departments to create partnerships that offer community accountability as an alternative to arrest for low- and medium-risk young people. The Massachusetts Legislature should further ensure that any diversion statute geared toward police prohibit incriminating statements made by participants later being used against them in court if they fail to complete the diversion program, similar to the protection in the May 2018 legislation which creates judicial diversion.¹

• Academic and non-profit partners should engage in further research, especially that which identifies the short- and long-term costs and benefits to communities of diverting young people from further system involvement, and which focuses on child outcomes and community accountability.

Report Outline

This report intends to contribute to the literature on youth diversion at the police level in Massachusetts. Part 1 of this report introduces the concept of diversion within the context of the American juvenile justice system. Part 1 also outlines the methodology undertaken to gather qualitative and quantitative data from Massachusetts police departments, and describes the national and state-wide policy framework. Part 2 describes the array of diversionary tactics employed across the state, referencing other states’ programs when relevant. Part 3 presents analysis of the findings from the Massachusetts police diversion survey, as well as recommendations for increasing and improving upon diversionary offerings for young people in the Commonwealth. Part 4 includes a series of recommendations for different stakeholders who may be interested in improving the ecosystem for police diversion from arrest for young people in Massachusetts.

Endnotes

¹ Compiled primarily by Joshua Dankoff, Project Director, Massachusetts Child Welfare and Juvenile Justice Leadership Forum. Special thanks to Chief Kevin Kennedy, Lincoln Police Department, for ongoing advice on the entire process of survey and partnership with Massachusetts Chiefs of Police Association. Survey design benefited from input from Hannah Legerton, Citizens for Juvenile Justice. Survey management, data cleaning, and initial tables provided by Rimonda Maroun, then a PhD Candidate, U-Mass Lowell. Research and/or editing contributions made by Naoka Carey, Gwen Saffran, Jaime Fong, Gracie Burger, Max Jungreis, Reilly Loyoed, Andrew Gove, and Lena Shapiro.


³ Massachusetts 2015 data compiled by the author from NIBRS and UCR (for Boston). Data excludes Lawrence, MA.


⁵ Ibid.


⁷ For the purposes of the survey and this report, “diversion” is broadly defined as any practice by which police officers divert a youth from arrest or further involvement in the juvenile justice system beyond contact with the Police Department. The survey did not define ‘formal’ or ‘informal’ diversion, but rather deferred to police departments’ understanding of these terms.

⁸ This report is not, and should not be construed as, legal advice to police departments. Any department considering a change of policy in favor of youth diversion should seek counsel on the implications of such a change.


10 Schlesinger, at p. 71.

¹¹ Section 75 of Chapter 69 of the acts of 2018 (modifying Chapter 119, Section 54A/c3).