

CHAPTER 5: AFTER THE ARREST

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AFTER THE ARREST

Role of the police officer

When a youth is arrested, the police officer may bring him back to the police station. The police are required to contact the youth's parents, legal guardian, or person with whom the youth resides to report what has happened.¹ The police also are required to contact an on-call probation officer (discussed below).²

The police may ask that a parent, legal guardian or person with whom the youth resides pick the youth up.³ But more likely, the police will take the youth from the police station either to court⁴ or to pre-arraignment detention, known as an Alternative Lockup Program (ALP).⁵

A youth may only be held in a police holding cell for up to six hours.⁶ In addition, arrested youth must be held separately from adults.⁷ There must be sight and sound separation, not just physical separation.


Role of the probation officer and bail commissioner while the youth is held at the police station or in pre-arraignment detention

If the police do not immediately release the youth home and the youth is being held at a police station or in pre-arraignment detention (an ALP), the youth is entitled to have a bail commissioner set bail.⁸ A bail commissioner is the state-appointed person who may set the amount of bail for a youth detained at a police station prior to arraignment in court, and who recommends to the court the amount of bail that should be set for the youth on each criminal case.

Upon being contacted by the police, the probation officer will make a recommendation, based upon the youth's past record and the police officer's description of the alleged event, about whether or not the youth should be held until his first court appearance.⁹

If the probation officer recommends that the youth be held, this recommendation is supposed to be forwarded to the bail commissioner.¹⁰ The bail commissioner then should hold a hearing at the police station or in pre-arraignment detention. The bail commissioner assesses the likelihood that the youth will voluntarily appear in court and the risk of danger to others posed by the youth.¹¹ The bail commissioner may order the person released, set a cash bail or order the person held without bail.¹²

However, this process is not being followed in many counties. Instead, police and probation officers do not contact the bail commissioner, but instead illegally hold the youth until the youth's court date solely at the recommendation of the probation officer.¹³

 **Tip for families:** If your child is not getting released from the police station or an ALP and you suspect that the bail commissioner has not been contacted, parents should insist that the police call the bail commissioner. A bail commissioner is always on call. If the police refuse to call a bail commissioner, you should inform your child's lawyer when in court.

Pre-arraignment detention in an Alternative Lockup Program (ALP)

Pre-arraignment detention is a place where a youth may be held outside his home after arrest and until his first court appearance (arraignment). While the youth typically will be held in pre-arraignment detention for one night, a youth could be held longer, such as over a long weekend.

Depending on what a youth is accused of doing, this placement either will be in a hardware secure or a non-secure facility, referring to how restricted the youth's movement is in the program.

If a youth is accused of a serious or violent crime, he will be held in a secure facility. By contrast, if a youth is accused of a status offense (an act that is a violation of the law only when committed by a juvenile, such as running away and truancy), a violation of his CHINS agreement, or a non-violent crime, he should be held in a non-secure facility, although the process is set up so that non-secure facilities may reject certain youth and they are then held in secure facilities.¹⁴

The secure ALPs are administered by the state Executive Office of Public Safety and Security (EOPSS) which, in turn, contracts with service providers to run the programs, while the non-secure ALPs are overseen by the Department of Children and Families (DCF), which similarly contracts with providers.¹⁵

Prior to July 1, 2008, the Boston Police Department operated its own detention facility, but the facility has closed.

DYS does not run ALP programs, but the agency does have three beds for boys in its Westfield facility and one bed for girls in the Terri

Thomas program in Springfield which police departments can access for post-arrest, pre-arraignment youth. Except for these beds, DYS is not responsible for pre-arraignment facilities.

Conditions in pre-arraignment detention facilities

Since pre-arraignment detention facilities or ALPs are operated by many different providers, each with their own rules and practices, conditions definitely vary. Advocates have raised concern regarding certain conditions in some facilities. For example, advocates have noted lack of access to prescribed medications, same-sex supervisors for girls, and reading materials.¹⁶

Recently, advocates have expressed particular unease with ALP oversight by EOPSS. While all the non-secure ALPs and three secure ALPs are licensed and therefore regulated by the state Department of Early Education and Care (DEEC), the two secure ALPs overseen by EOPSS (the Essex and Bristol County Sheriffs' Offices) are not DEEC-licensed.¹⁷ Advocates find this problematic.¹⁸ Advocates argue that all ALPS should be considered "temporary shelter facilities" and should maintain a license, as such facilities must pursuant to Mass. Gen. Law ch. 15D, § 11, from DEEC.¹⁹


Advocates seek DEEC licensure since DEEC-licensed ALPs must comply with DEEC regulations.²⁰ These regulations require that programs:

- prohibit practices that force youth to wear clothing that identifies them as coming from a residential facility;
- have a staff-to-youth ratio appropriate to the age, capabilities, and needs of the children;
- have gender-appropriate and trained staff;
- have sanitary and safe facilities, with at least one tub or shower for every six residents; and
- use approved behavior management techniques and policies and procedures governing the use of restraints.²¹

Continuing a youth's medication during confinement at the police station or in a pre-arraignment detention facility

While a youth has the right to continue taking needed medication while being held outside the home, including at a police station or a pre-arraignment detention facility, enjoying this right in practice may be difficult. For example, a police station or facility may not accept


medications for a confined youth from family or other outside parties and their policies about filling a doctor's prescription order will likely vary, if staff will do so at all.


 **Tip for families:** Be sure to inform those running the facility where your child is held of his medical needs and medications. Given the lack of a consistent practice or policy regarding medication across pre-arraignment detention facilities, you should ask the supervisor of the facility about the practice there. You can ask what resources are available to staff for your child (such as medical staff on call) and how the facility can best meet your child's medication needs.

In a medical emergency, all pre-arraignment detention facilities have the capacity to transport a youth to a hospital emergency room. This option should only be pursued, of course, in a genuine medical emergency.

Appearing in court for the arraignment and bail hearing

On the first business day after a youth's arrest, he will have to appear in court for the arraignment and bail hearing.²² The court also will summons (require) the youth's parent or legal guardian to appear in court for this hearing and future proceedings.²³

 **Tip for families:** It is essential to your child's interests that you attend this and subsequent hearings. Some judges will not conduct hearings unless a parent or other interested adult is present.


 **Tip for families:** Many parents find it difficult to attend court proceedings because of work. If possible, you should take the days off and go to court with your child. If you absolutely cannot take the days off work (for example, you will be fired if you do), but you can attend at least the first hearing, let the judge know your situation. The judge may schedule future proceedings around your schedule, if it is possible. If the judge cannot or will not do this, another interested adult may attend instead. This adult can be the child's aunt, uncle, grandparent, or other adult relative.

Role of the probation officer on the day of arraignment

Once the youth is brought to court for the arraignment, the probation officer is required to interview the youth and make a report to the court on the issues of bail and indigency.²⁴ Typically, the probation officer


will interview both the youth and his parents or legal guardian on the morning of the arraignment.²⁵ The information that the youth or the youth's family provides to the probation officer is not confidential and may be used in bail or other subsequent hearings.

The probation officer will use the juvenile intake form in conducting this interview.²⁶ The probation officer will ask about topics including previous court involvement, family history, family finances, school attendance and performance. The officer also will seek to identify any mental health issues.²⁷


 **Tip for families:** It is critical to remember that information provided to a probation officer is not confidential. Thus, you may choose to decline to answer questions. If you do answer, you should answer truthfully. Further, do not overstate your child's problems as that may increase the chances that your child will be recommended for commitment, as opposed to probation. There are some risks in refusing to answer questions. These risks include the possibility that the probation officer will inform the judge that the family wasn't cooperative and that information will in some way influence the judge's perspective or sway the judge to take some child protection-type action (i.e. file a report of suspected abuse or neglect with the Department of Children and Families, file a petition in court alleging that your child is in need of emergency care and protection, or appoint a guardian *ad litem* to assist the judge). Also, if you refuse to answer financial questions, your child might not be appointed an attorney.

The youth's lawyer

If the family cannot afford to hire a lawyer for the youth, the court will appoint a lawyer at the arraignment to handle the case. If a family can afford to hire a lawyer for the youth, the family may and should retain one prior to that time.

 **Tip for families:** If you plan to hire a lawyer for your child, try to hire one right away, even before the arraignment.

The youth's lawyer should meet with the youth before the arraignment.²⁸ If a youth cannot afford a lawyer, the court should appoint one for him.²⁹

 **Tip for families:** If you cannot afford a lawyer for your child, tell the court that you wish to have them appoint one. Be aware that if the court appoints a lawyer for the youth, it will also most likely assess the youth a fee of \$150 for the lawyer's services. The fee doesn't go

to the lawyer, but to a “court fund.” The family must pay the fee by the time the case ends. This fee typically can be worked off in community service hours.

Regardless of whether the family or the court pays for the youth’s lawyer, the lawyer represents the youth and not the family. Ultimately, the youth and his lawyer make the final legal decisions.

The arraignment hearing


The first hearing is the arraignment. Two things typically happen at the arraignment. First, the judge will tell the youth what he is charged with.³⁰ Then a plea of “not delinquent” will be entered.³¹ Usually this occurs as a matter of course without the youth even being asked to do so. It is unlikely that the charges against the youth will be dropped at the arraignment.

The bail hearing

Second, after the youth says he is not delinquent, the judge will decide what, if any, bail is necessary to ensure the youth’s return to court. The sole issue in making the bail determination is whether or not the youth will appear in court.³² For every youth, there is a presumption that he will be released to his parents or legal guardians without having to post bail.³³

In making the bail decision for a juvenile, the judge may look at a wide range of factors, including, among others, the nature and seriousness of the danger posed by release, the circumstances of the charges, whether the youth is involved with drugs or has a mental illness.³⁴


In addition to setting bail (and even if the judge decides not to impose a cash amount), the judge may impose conditions of release.³⁵ These conditions may be imposed without the consent of the youth or the youth’s lawyer. Youth who are subject to such conditions are considered to be on “pretrial probation.”

 **Tip for families:** It is the job of your child’s lawyer to persuade the judge to release your child without bail. The lawyer must be an advocate for your child’s release (as long as that is what your child wants). If your child has substance abuse or mental health issues, inform your child’s lawyer of these issues if you haven’t already done so.


If the judge grants bail, the judge will set an amount.³⁶ If the family pays this amount of money, the youth may return home.³⁷ However, he must appear in court at all future court dates related to his case, including trial.³⁸ The family will receive this money back later unless the youth fails to appear. If the family posts bail at the police station or DYS, there may be an additional \$40 fee (that is paid to the bail commissioner who comes to the police station or to DYS).³⁹ This \$40 fee for the bail commissioner is not refunded if bail money is ultimately returned.

Post-arraignment detention

For many youth appearing in the Juvenile Court for arraignment, the judge will set bail that the juvenile or family can post. These youth will not be further detained.

 **Tip for families:** Even if your child needs services, it is usually better to help your child access them in the community, rather than through the courts. So, if you can avoid having your child held in a detention facility, you should. Even if you are upset with your child, try to help your child remain in the community pre-trial. Talk to your child's lawyer about your child's strengths and explain why your child should be able to come home with you. Describe how you will ensure that he comes to court when he has court dates. It is much easier to accomplish these necessary steps if your child is not detained.

However, if, for whatever reason, the judge does not release the youth after arraignment, the youth probably will be sent to a DYS detention unit until the case has been completed.⁴⁰ The youth will travel to the detention unit in a sheriff's van.

 **Tip for families:** When the youth arrives at the detention unit, he will be strip searched, as discussed further in the chapter entitled "Overview of Rights During Confinement." It is also important to note that the youth may not bring medication into the detention unit, which is also discussed further in the chapter entitled "Overview of Rights During Confinement."

At the time of arrival of a detained youth at DYS, DYS must do a preliminary clinical assessment to detect urgent psychiatric and medical needs, as well as suicidal ideation.⁴¹ DYS also must conduct a visual inspection for signs of trauma, recent surgery, abscesses, open wounds, needle punctures, jaundice and communicable diseases.⁴²


DYS also seeks to determine if the youth has any current health problems (acute or chronic) or is currently being treated with medication

which needs to be continued while in custody.⁴³ In addition, DYS offers all detained youth a screening for sexually transmitted diseases.⁴⁴

This assessment, called an “intake assessment,” is performed by DYS medical staff.⁴⁵ DYS conducts this assessment within 24 hours of a youth’s arrival.⁴⁶

In addition, within 30 days of the youth’s arrival at DYS, DYS conducts a medical evaluation.⁴⁷ Typically, this evaluation begins after the youth’s 17th day in detention and will be completed by day 30 if the youth is still in detention at that time.⁴⁸


The length of stay in post-arraignment detention varies from a couple of days to many months.

 **Tip for families:** If your child is detained and released, encourage him to behave well in the community. Urge him to participate in school and stay out of fights. This information will be provided to the Court.

Diversion


Diversion is the practice of not prosecuting a youth in exchange for his agreement that he will pursue alternative steps. Diversion may occur either before or after a youth is arraigned.

Diversion programs that occur before the youth is arraigned are worthwhile as most people think that being held pre-trial in a detention facility is not good for young people.⁴⁹ Youth are removed from their homes, their schools, and their community-based service providers, including mental health service providers. In addition, youth who are held pre-trial tend to have worse outcomes on their cases than youth who are released home.⁵⁰ Studies also have shown that youth held in detention are more likely to recidivate than youth who are not.⁵¹ Further, youth of color are overrepresented in Massachusetts detention units.⁵² Finally, in 2006, less than one in five youth who are sent to DYS for pre-trial detention were ultimately committed to DYS.⁵³ So, a youth may be detained for allegations that the Commonwealth ultimately cannot prove -- beyond a reasonable doubt -- that he committed.

 **Tip for families:** There is another reason to push for pre-arraignment diversion: once your child is arraigned, that fact will appear on his juvenile record. Additionally, while the youth is not prosecuted if he participates in a diversion program, in some cases, diversion programs may require that the youth admit to the crime before entering the program.

Diversion agreements may involve such activities as supervision and monitoring, school attendance, curfew, community service, restitution, and mental health or substance abuse counseling.

Diversion agreements may impose substantial obligations. For example, diversion participants may have to attend weekly programs over a period of months where they are educated about their unlawful activities.

 **Tip for families:** Investigate a diversion proposal carefully before agreeing to participate. There are no laws or regulations in Massachusetts that set criteria for diversion so diversion practices may vary from one part of the state to another. Ask whether your child must admit to the crime before being accepted. If he must, talk to your child's lawyer about the consequences of such an admission.

Recognizing these and other negative effects of detention and in light of the large numbers of youth detained each year in Massachusetts, DYS has begun to work to decrease the use of detention for youth who do not pose a high risk to the community. The Detention Diversion Advocacy Program (DDAP), operating out of the Dorchester Juvenile Court, works to decrease the use of detention by offering intensive case management services to high risk youth.⁵⁴ DYS plans to pilot a program, called the Juvenile Detention Alternatives Initiative (JDAI), in Worcester and Suffolk Counties.⁵⁵ DYS also may be able to pilot JDAI in a court in DYS's Northeast Region as well. The program will replace subjective decision-making criteria with objective criteria when youth enter the system, so that only high-risk youth are held before trial. Those youth who are less likely to commit another offense or flee would be released pre-trial.⁵⁶

Preparation for trial

Much work is done between the bail hearing and the end of a youth's case. This work includes the discovery process, investigation, motions, trial or plea bargain and disposition, planning and advocacy. The youth and his family or legal guardian should be involved in all aspects of the case. Part of the lawyer's job is to help the youth and his family participate fully in these activities.

Predisposition mental health reviews


There are typically two sources for a predisposition mental health review of an arrested youth: a juvenile court clinic evaluation or an independent clinical evaluation.

Juvenile court clinic evaluation

The court may send the youth for evaluation to a juvenile court clinic. (The court also is permitted to ask DYS or a Department of Mental Health facility to conduct such an evaluation, but a court clinic evaluation is more common.) This evaluation is called a 68A evaluation.⁵⁷ It is not confidential and any information learned may be disclosed to the court.⁵⁸ A juvenile court clinic evaluation may be conducted by a psychologist, psychiatrist, or social worker.

In addition to conducting the types of evaluations described above, some court clinics also may provide limited short term individual and/or group treatment to youth before the juvenile court, as well as consultations to other providers working with the youth, in an effort to avoid further court involvement.⁵⁹ Such services include juvenile versions of “Anger Management” or “Life Skills Groups,” or involve short-term interventions while community referrals to mental health services are made. Whether, and to what extent these services are available, varies widely from courthouse to courthouse and is based upon resources, siting of trainees, and preferences of First Justices.⁶⁰

There is a presumption that treatment by court clinicians is subject to the usual rules of confidentiality unless the youth and the youth’s parent or legal guardian is informed otherwise as part of informed consent.⁶¹ However, if participation in treatment is a condition of probation, the probation department will want to know if a youth is showing up for treatment sessions. If a court clinician intends to disclose any specific information from treatment to probation or to the court, this fact must be explained to the youth when providing informed consent prior to beginning treatment. Youth and parents or legal guardians also would be informed of the typical exceptions to confidentiality (such as the clinician’s obligations as a mandated reporter of abuse and neglect) prior to beginning treatment. In addition, treatment records are kept separately from any forensic evaluation records.⁶²

 **Tip for families:** Prior to engaging in treatment at a court clinic, it is important for your child to consult with his lawyer about the implications of that decision. Also, it is important that you and your child pay careful attention to the information provided during the informed consent process and address any questions or concerns you may have before providing consent.

Independent clinical evaluation

Whether or not the court seeks an evaluation, a youth’s defense

lawyer may seek funds from the court to have the youth evaluated by independent clinician.⁶³

Reasons for evaluations

Evaluations may be pursued for various reasons. Typical reasons for an evaluation include:


- to determine if a youth is competent to stand trial;
- to determine if a youth is criminally responsible (a youth might have a mental illness that would support an insanity defense and a finding of not delinquent by reason of mental illness);
- to aid in sentencing/disposition.

In addition to these basic types of evaluation, evaluations may include specialized assessments that focus on substance abuse, sex offenders, violence risk or fire-setting behavior.

Evaluations often include thoughtful recommendations for appropriate services and thus may be extremely useful even after the court proceeding.


Before pursuing an evaluation

There are risks in pursuing a court clinic evaluation or an independent evaluation that will be admitted in court. For example, a youth could admit involvement in the alleged delinquent act or could discuss other acts that he then could be charged with.

 **Tip for families:** For the above reason, it is essential to talk with your child's lawyer before your child submits to such evaluations. Remember, nothing said during a court clinic evaluation is confidential!

If an evaluation is pursued, parents and legal guardians generally will be asked to participate in the process. Parents and legal guardians should exercise caution before disclosing certain information during a court clinic evaluation (for example, an issue that could expose your child to criminal liability, any history of your child acting out sexually). Before disclosing such information to an evaluator, it would be important to consult with the youth's lawyer. Similarly, while it likely will be helpful to inform the evaluator of developmental delays, cognitive/learning issues, mental health hospitalizations, diagnoses, and medications, these subjects should first be raised with the youth's lawyer. Moreover, if your child has

been in counseling, you should discuss this issue with your child's lawyer.

 **Tip for families:** It is risky to discuss your child's mental health problems with anyone else in the court proceeding (such as the probation officer or judge) without first talking about it with your child's lawyer. In addition, when speaking with an evaluator, parents should answer truthfully, but are not obligated to respond to questions and can choose not to answer a question or questions.

Endnotes

- 1 Mass. Gen. L. ch. 119, § 67; Mass. R. Crim. P. 7(a)(1).
- 2 Mass. Gen. L. ch. 119, § 67; Mass. R. Crim. P. 7(a)(1).
- 3 Mass. Gen. L. ch. 119, § 67.
- 4 Mass. Gen. L. ch. 119, § 67.
- 5 Mass. Gen. L. ch. 119, § 67. For a comprehensive critique of the operation of ALPs in Massachusetts, see “A Looming Crisis: The Secure Detention of Youth After Arrest and Before Arraignment in Facilities Administered by the Massachusetts Executive Office of Public Safety and Security, by Robin L. Dahlbert, ACLU (2008), available at http://www.aclum.org/lockingupkids/pdf/looming_crisis_web.pdf.
- 6 42 U.S.C. § 5633(a)(13)(A); see also Commonwealth of Massachusetts, Executive Order 339, Alternative Facilities of Pretrial Detention of Juveniles (Aug. 14, 1992).
- 7 42 U.S.C. § 5633(a)(13); Commonwealth of Massachusetts, Executive Order 339, Alternative Facilities of Pretrial Detention of Juveniles (Aug. 14, 1992).
- 8 Mass. Gen. L. ch. 276, §§ 42, 57, 58. The bail statute, Mass. Gen. L. ch. 276, § 58, does not expressly refer to juveniles, but Mass. Gen. L. ch. 119, § 67, governing post arrest detention of juveniles, states that nothing prevents a juvenile detained under that provision from being admitted to bail.
- 9 Mass. Gen. L. ch. 119, § 67.
- 10 See Mass. Gen. L. ch. 119, § 67 (“Nothing contained in this section shall prevent the admitting of such child to bail in accordance with law.”).
- 11 Mass. Gen. L. ch. 276, § 57.
- 12 Mass. Gen. L. ch. 276, § 57.
- 13 See Barbara Fedders and Barbara Kaban, Do You Know Where the Children Are? A Report on Massachusetts Youth Unlawfully Held Without Bail (2006) at 8, <http://www.prisonpolicy.org/kidsbail/>.
- 14 Robin L. Dahlberg, American Civil Liberties Union, A Looming Crisis: The Secure Detention of Youth After Arrest and Before Arraignment in Facilities Administered by the Massachusetts Executive Office of Public Safety and Security (2008), http://www.aclu.org/pdfs/racialjustice/aloomingcrisis_report.pdf, at 14 & Table 5.
- 15 Robin L. Dahlberg, American Civil Liberties Union, A Looming Crisis: The Secure Detention of Youth After Arrest and Before Arraignment in Facilities Administered by the Massachusetts Executive Office of Public Safety and Security (2008), http://www.aclu.org/pdfs/racialjustice/aloomingcrisis_report.pdf, at 15.
- 16 Barbara Fedders and Barbara Kaban, Do You Know Where the Children Are? A Report on Massachusetts Youth Unlawfully Held Without Bail (2006), <http://www.prisonpolicy.org/kidsbail/>, at 9.
- 17 Robin L. Dahlberg, American Civil Liberties Union, A Looming Crisis: The Secure Detention of Youth After Arrest and Before Arraignment in Facilities Administered by the Massachusetts Executive Office of Public Safety and Security (2008), http://www.aclu.org/pdfs/racialjustice/aloomingcrisis_report.pdf, at 7.
- 18 Robin L. Dahlberg, American Civil Liberties Union, A Looming Crisis: The Secure Detention of Youth After Arrest and Before Arraignment in Facilities Administered by the Massachusetts Executive Office of Public Safety and Security (2008), http://www.aclu.org/pdfs/racialjustice/aloomingcrisis_report.pdf, at 6.
- 19 Robin L. Dahlberg, American Civil Liberties Union, A Looming Crisis: The Secure Detention of Youth After Arrest and Before Arraignment in Facilities Administered by the Massachusetts Executive Office of Public Safety and Security (2008), http://www.aclu.org/pdfs/racialjustice/aloomingcrisis_report.pdf, at 23.
- 20 Robin L. Dahlberg, American Civil Liberties Union, A Looming Crisis: The Secure Detention of Youth After Arrest and Before Arraignment in Facilities Administered by the Massachusetts Executive Office of Public Safety and Security (2008), http://www.aclu.org/pdfs/racialjustice/aloomingcrisis_report.pdf, at 23.

- 21 102 CMR 3.07(4)(a); 102 CMR 3.07(2)(d); 102 CMR 3.07 (2)(a); 102 CMR 3.04(7)(a)(1); 102 CMR 3.08(5), (8); 102 CMR 3.07(7)(a).
- 22 Mass. R. Crim. P. 7; Mass. Gen. L. ch. 276, § 58.
- 23 Mass. Gen. L. ch. 119, § 55.
- 24 Mass. R. Crim. P. 7(a)(1).
- 25 Hon. Jay Blitzman et al., Massachusetts Juvenile Court Bench Book, Mass. Continuing Legal Education, Vol. I, at § I.3.2.
- 26 This intake process is governed by Supreme Judicial Court Rule 3:10.
- 27 Hon. Jay Blitzman et al., Massachusetts Juvenile Court Bench Book, Mass. Continuing Legal Education, Vol. I, at § I.4.1.
- 28 Committee for Public Counsel Performance Guidelines Governing the Representation of Indigent Juveniles in Criminal Cases, II. J.2.1.a), c).
- 29 Mass. R. Crim.P.7(a)(1).
- 30 Mass. R. Crim.P.7(c).
- 31 Mass.R.Crim.P.7(c)(2).
- 32 Mass. Gen. L. ch. 276, § 58. This handbook does not discuss dangerousness hearings, pursuant to Mass. Gen. L. ch. 276, §58A. For a discussion of these proceedings, see Hon. Jay Blitzman et al., Massachusetts Juvenile Court Bench Book, Mass. Continuing Legal Education, Vol. I at I.3.4 (2003).
- 33 See Barbara Fedders and Barbara Kaban, Do You Know Where the Children Are? A Report on Massachusetts Youth Unlawfully Held Without Bail (2006) at 6-7, <http://www.prisonpolicy.org/kidsbail/>.
- 34 Hon. Jay Blitzman et al., Massachusetts Juvenile Court Bench Book, Mass. Continuing Legal Education, Vol. I at I.3.3.1 (2003).
- 35 Mass. Gen. L. ch. 276, § 58.
- 36 Mass. Gen. L. ch. 276, § 58.
- 37 Mass. Gen. L. ch. 276, § 58.
- 38 Mass. Gen. L. ch. 276, § 58.
- 39 Mass. Gen. L. ch. 262, § 24(a).
- 40 Mass. Gen. L. ch. 119, § 68.
- 41 102 CMR 11.23(1)(a). DYS regulation 109 CMR 11.23(1)(a) requires DYS to provide detained youth with “minimal medical services,” but the U.S. Constitution likely requires a higher level of services than that standard.
- 42 102 CMR 11.23(1)(b).
- 43 DYS, 2005 Annual Report (Mar. 2007), http://www.mass.gov/Eeohhs2/docs/dys/annual_report_2005.pdf, at 23.
- 44 DYS, 2005 Annual Report (Mar. 2007), http://www.mass.gov/Eeohhs2/docs/dys/annual_report_2005.pdf, at 23.
- 45 Correspondence from Jane E. Tewksbury, Department of Youth Services to MHLAC (Dec. 27, 2007).
- 46 DYS, 2005 Annual Report (Mar. 2007), http://www.mass.gov/Eeohhs2/docs/dys/annual_report_2005.pdf, at 23.
- 47 109 CMR 11.22(1) (for committed youth).
- 48 Communication of Edward Dolan, Department of Youth Services to MHLAC (Jan. 17, 2008).
- 49 See, e.g., Holman Barry and Jason Ziedenberg, Justice Policy Institute, The Dangers of Detention: The Impact of Incarcerating Youth in Detention and Other Secure Facilities (Nov. 2006), http://www.justicepolicy.org/reports_jl/11-28-06_dangers/dangers_of_detention_report.pdf.
- 50 See, e.g., Youth Transition Funders Group, A Blueprint for Juvenile Justice Reform, 2nd ed. (2006), http://www.ytfg.org/documents/JEHT_SecondEdition.pdf.
- 51 Holman Barry and Jason Ziedenberg, Justice Policy Institute, The Dangers of Detention: The Impact of Incarcerating Youth in Detention and Other Secure Facilities

- (Nov. 2006) at 4, http://www.justicepolicy.org/reports_jl/11-28-06_dangers/dangers_of_detention_report.pdf.
- 52 Citizens for Juvenile Justice, Detention Fact Sheet (Nov. 2006), http://www.cfjj.org/Pdf/detention%20fact%20sheet%2011_29_06%20v.2.pdf.
- 53 Executive Office of Health and Human Services, Annual Population Analysis – Detention Admissions: Analysis of DYS detentions from 1997 to 2006, Figure 1, <http://www.mass.gov/eohhs>; Executive Office of Health and Human Services web site, Annual Population Analysis – New Commitments: New commitments to the Department of Youth Services from 1997 to 2006, Figure 3, <http://www.mass.gov/eohhs>.
- 54 Described at <http://www.rfkchildren.org> (under “programs”).
- 55 Dan Devine, “New juvenile justice plan expected to close racial gaps”, Bay State Banner (Dec. 28, 2006), <http://www.baystatebanner.com/archives/stories/2006/12/news12280602.htm>.
- 56 For more information on JDAI, see <http://www.aecf.org/initiatives/jdai/>.
- 57 Mass. Gen. L. ch. 119, § 68A.
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- 59 See, e.g., Blueprint for Change: A Comprehensive Model for the Identification and Treatment of Youth with Mental Health Needs in Contact with the Juvenile Justice System, Program Description: The Boston Juvenile Court Clinic (2006 draft), <http://www.ncmhjj.com/Blueprint/programs/BostonJuv.shtml>.
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- 61 Correspondence from Robert Kinscherff, Department of Mental Health to MHLAC (Jan. 2007).
- 62 Correspondence from Robert Kinscherff, Department of Mental Health to MHLAC (Jan. 2007).
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