

# Juvenile Justice Policy and Data Board

Board Meeting  
October 1, 2024

# Agenda

1. Welcome and Introductions
2. Approval of March Meeting Minutes
3. OCA Updates
4. Pretrial Project Updates & Discussion
5. Board Member Updates

# OCA Announcements

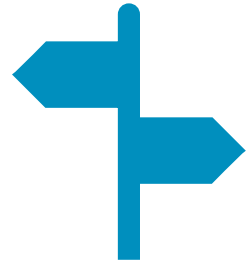
1. End of Legislative Session Update
2. Massachusetts Youth Diversion Program
3. Center for Child Wellbeing & Trauma's TREE Academy

# Legislative Updates

- Fiscal Year 2025 State Budget:
  - The Massachusetts Youth Diversion Program (MYDP) officially under the Department of Youth's (DYS) line item
  - Included a provision that eliminated the \$40 administrative bail fee

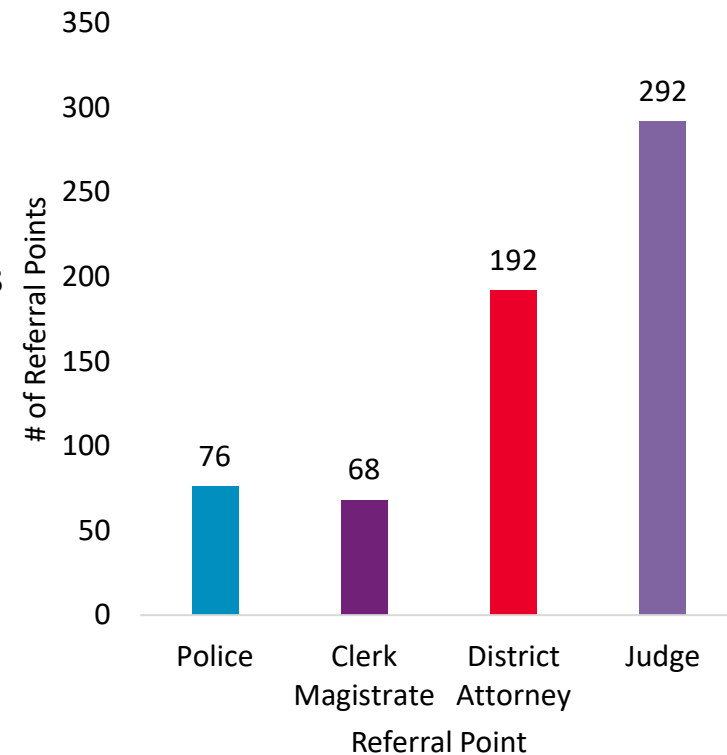


# Massachusetts Youth Diversion Program (MYDP) Updates



- As of 7/31 the program has received **629 referrals** and enrolled **486 participants**. Of those enrolled, **348 have completed the program successfully**, while 99 are currently on track to complete the program in the coming weeks & months
- RFR to continue statewide expansion closed in September. The MYDP aims to expand to **additional sites in FY25** in the following counties: Suffolk, Norfolk, Berkshire and/or Franklin/Hampshire Counties
- ForHealth Consulting at UMass [published an assessment of the MYDP program](#)
  - Examines data from the initial three pilot site and includes qualitative interviews with stakeholders
  - The evaluation **found high levels of program fidelity & high referrer and youth satisfaction**

Referrals by Referral Point  
(as of 7/31/2024)



# Trauma and Racial Equity Empowerment (Tree) Academy

The OCA's Center on Child Wellbeing & Trauma in collaboration with the Department of Youth Services' Juvenile Detention Alternatives Initiative (JDAI) has created **the JDAI Trauma and Racial Equity Empowerment Academy (TREE)**

TREE offers a unique opportunity for MA child-serving state employees and community partners to:

- Train members of their workforce to utilize trauma-informed and responsive strategies with children, youth, and families
- Understand how racial trauma and racism affect individuals and systems and where solutions may be possible
- Build internal capacity in their agency that sustains and promotes trauma-informed and responsive practices

[Applications](#) for this initial cohort will be considered from DYS, MPS, DCF, CPCS, DMH, DESE, Juvenile Court Judges, Public Defenders & their community partners

# Project Update: Juvenile Pretrial Phase

# Project Update:

## Juvenile Pretrial Phase

1. Methodology/process
2. Key data takeaways
3. Themes from interviews
4. Literature review/best practices
5. Next steps & opportunities for improvement



# Research Questions & Project Goals

## Research Questions

- How can we improve pretrial success rates and reduce the need for detention?
- What practices can help us improve long-term outcomes for youth *and* protect public safety?
- What do victims want during this phase?
- Can any of these youth be diverted & served in the community?
- What community-based interventions/supports need to exist in order to divert?

## Methodology

- Quantitative data analysis
- Interviews with stakeholders
- National research & best practices
- State policy reviews
  - MGL Ch. 276 (Sec 58, 58A, 87)
- Trial Court Guidance and MPS Standards
- Juvenile Probation Arraignment/Appearance Screening Tool (JPAST)
- Case Law

## Goals

- Make recommendations to improve our system's pretrial phase
- Identify cohorts of youth that may benefit from being served in the community vs. detention
- Make recommendations to improve pre-trial community-based supports for youth

# Pretrial Subcommittee Timeline

Fall 2023

**CBI Subcommittee** hears stakeholder presentations from CPCS, DYS, MPS

Summer/Early Fall 2024

**CBI subcommittee** discusses draft findings and recommendations

**Data Subcommittee** reviews *Data* section of the report

**CBI Subcommittee** discusses key themes heard from interviews and reviews the national research & examples from other jurisdictions

**Data Subcommittee:** Pretrial data deep dive

Spring/Early Summer 2024

**JJPAD Board** discusses findings & recommendations

Fall/Winter 2024

# Data Takeaways

# Data Reviewed (FY21-FY23)

## Court Proceedings (Trial Court)

- Arraignments
- Detention decisions at initial arraignment
- 58A Hearings

## Probation Monitoring/Supervision (MPS)

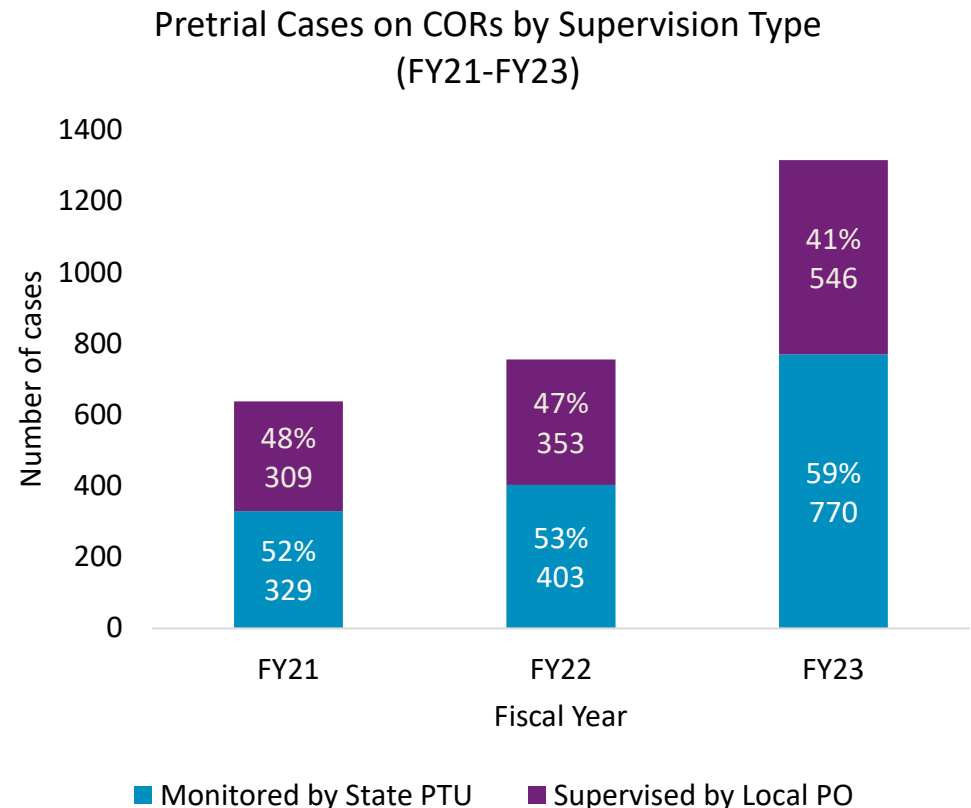
- Cases with conditions of release
- Pretrial probation as a disposition cases

## Detention (DYS)

- Detention admissions
- Bail status
  - Held without bail by reason (e.g., bail revoked, 58A)
  - Bail set by amount

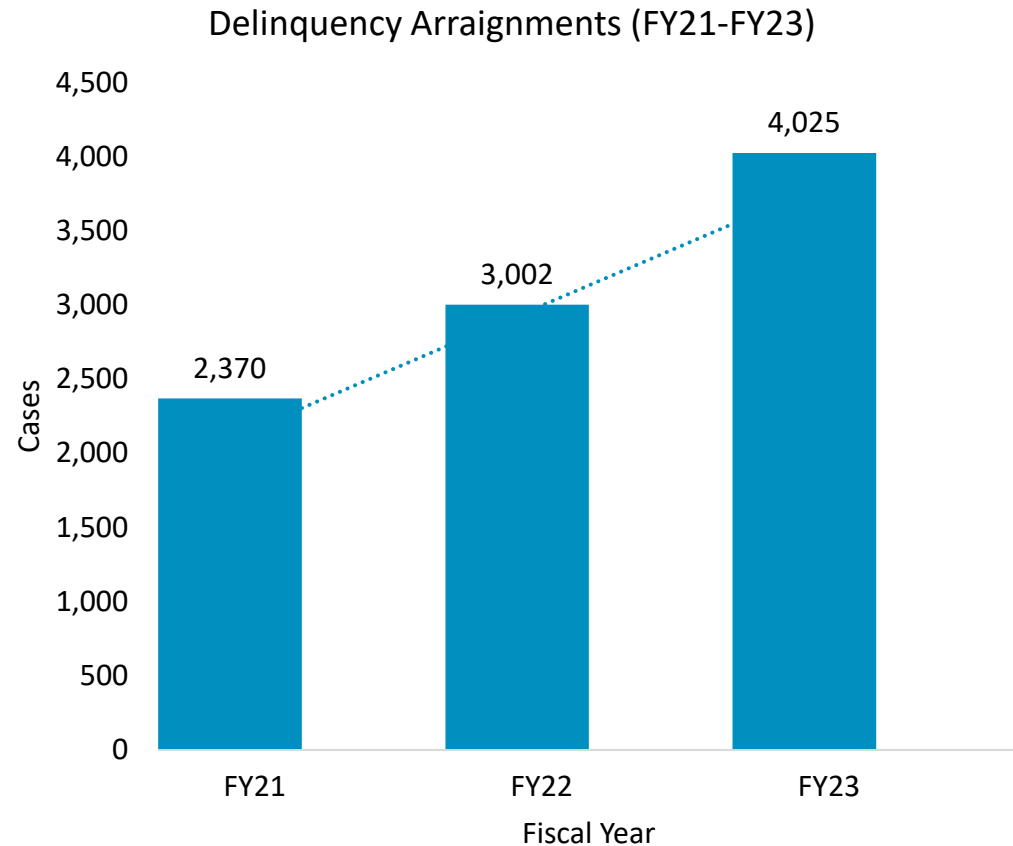
# Large Increase in Cases Supervised by Probation Pretrial

- Between FY21 and FY23 the number of cases placed on pretrial conditions of release more than doubled
- This includes cases monitored by Probation's State Pretrial Unit as well as cases supervised by local probation officers



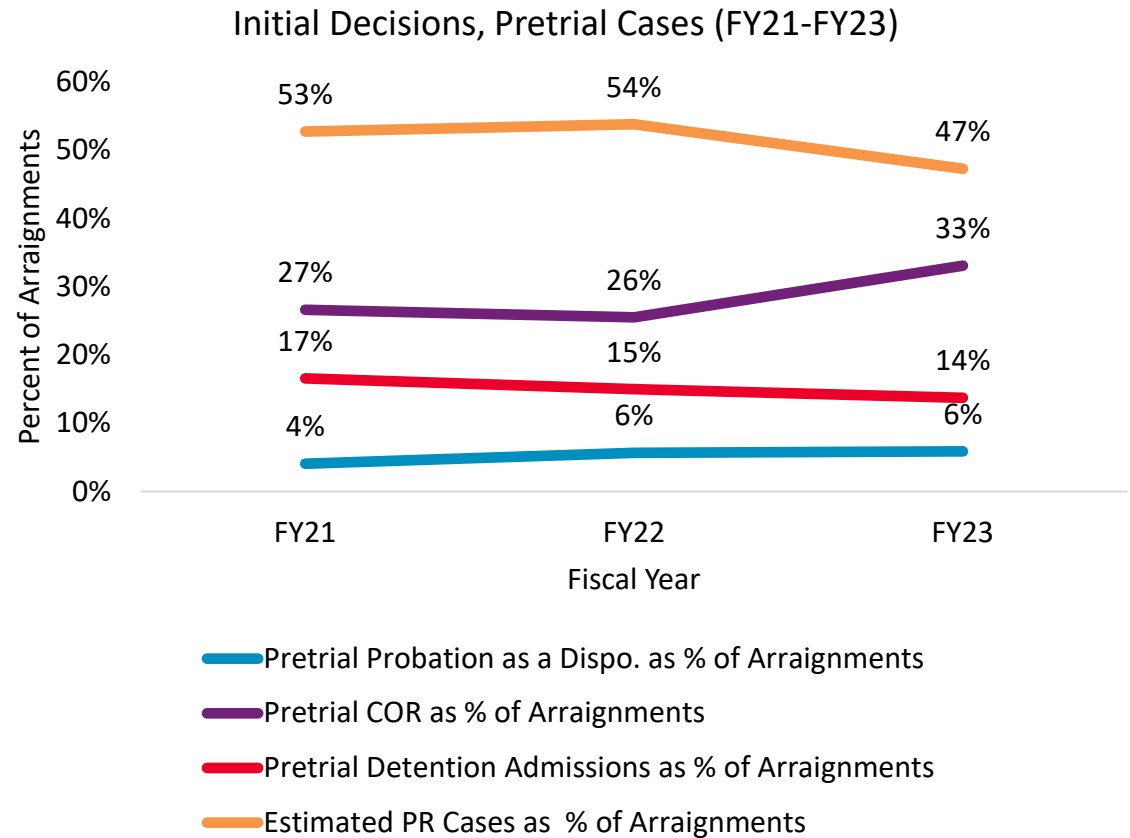
# The Increase is Due, in Part, to an Increase in the Number of Arraignments

- Arraignments increased 70% between FY21-FY23



# Some of the Increase Stems from a Decrease in Releasing Youth on Personal Recognizance (PR)

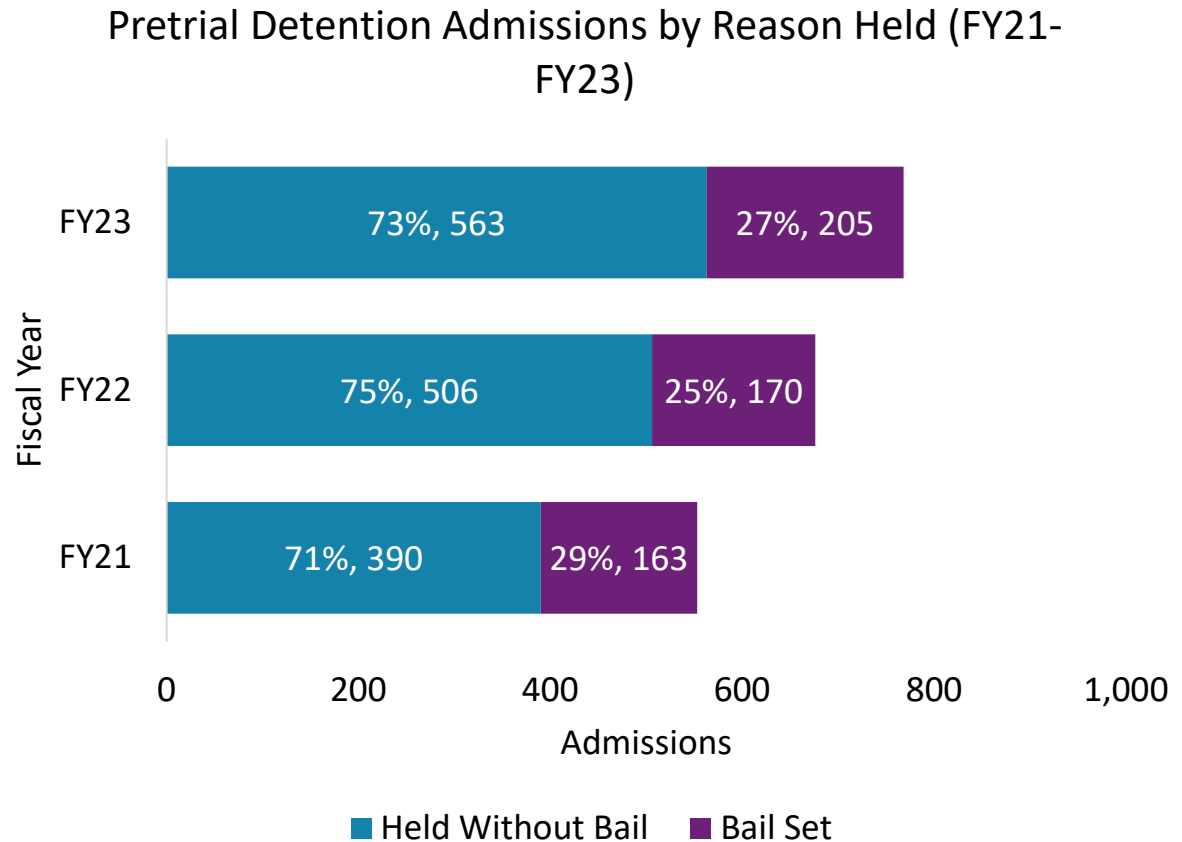
- There has been an increase in the *percent* of cases that are released with pretrial conditions of release – from 26% in FY22 to 33% in FY23
- Data on cases released on personal recognizance\* is not available, but based on what data is available we can *estimate* that the % has gone down



\*PR case estimates include those released on bail with no other conditions

# Over the Same Period, Pretrial Detention Admissions Increased 39%

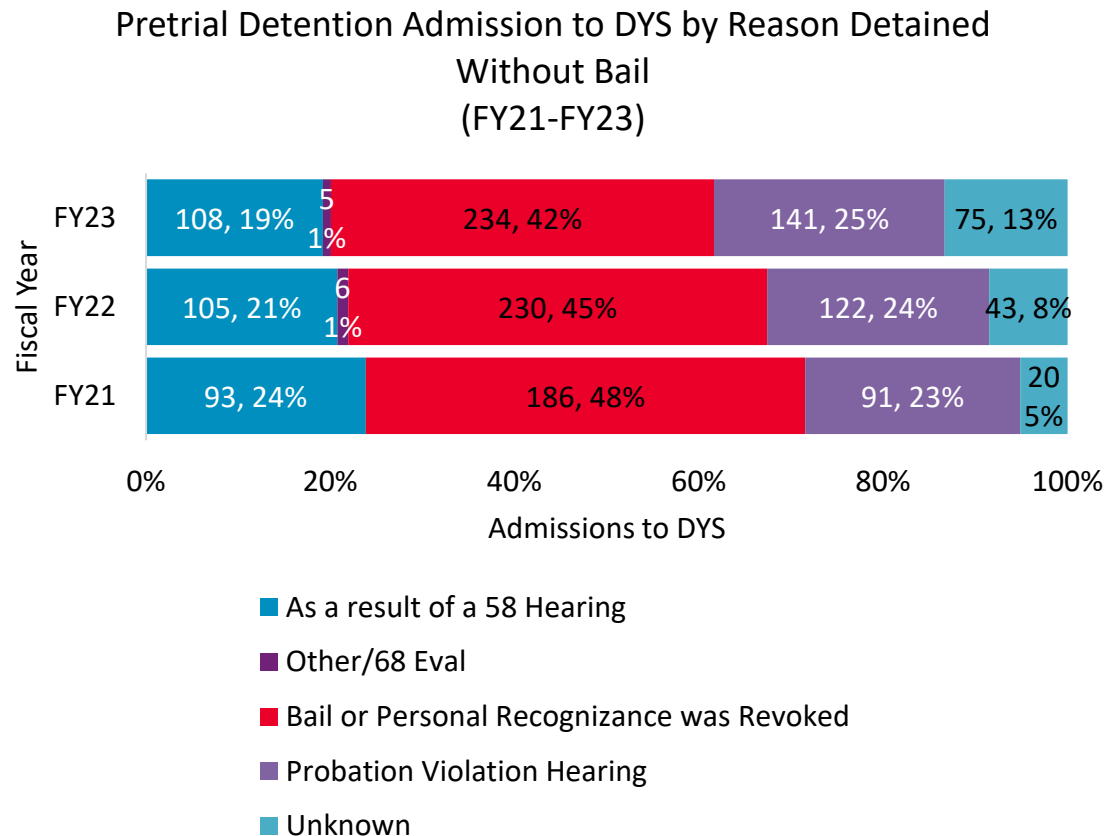
- Admissions for youth held without bail increased 44%
- Admissions for youth detained as a result of bail being set increased 26%





# Of Detention Admissions for Youth Held Without Bail, Almost Half Were for Youth Whose bail/PR was Revoked

- Most of these admissions were for youth alleged of “lower grid level” offenses\*
- Many revocations are the result of technical violations of probation



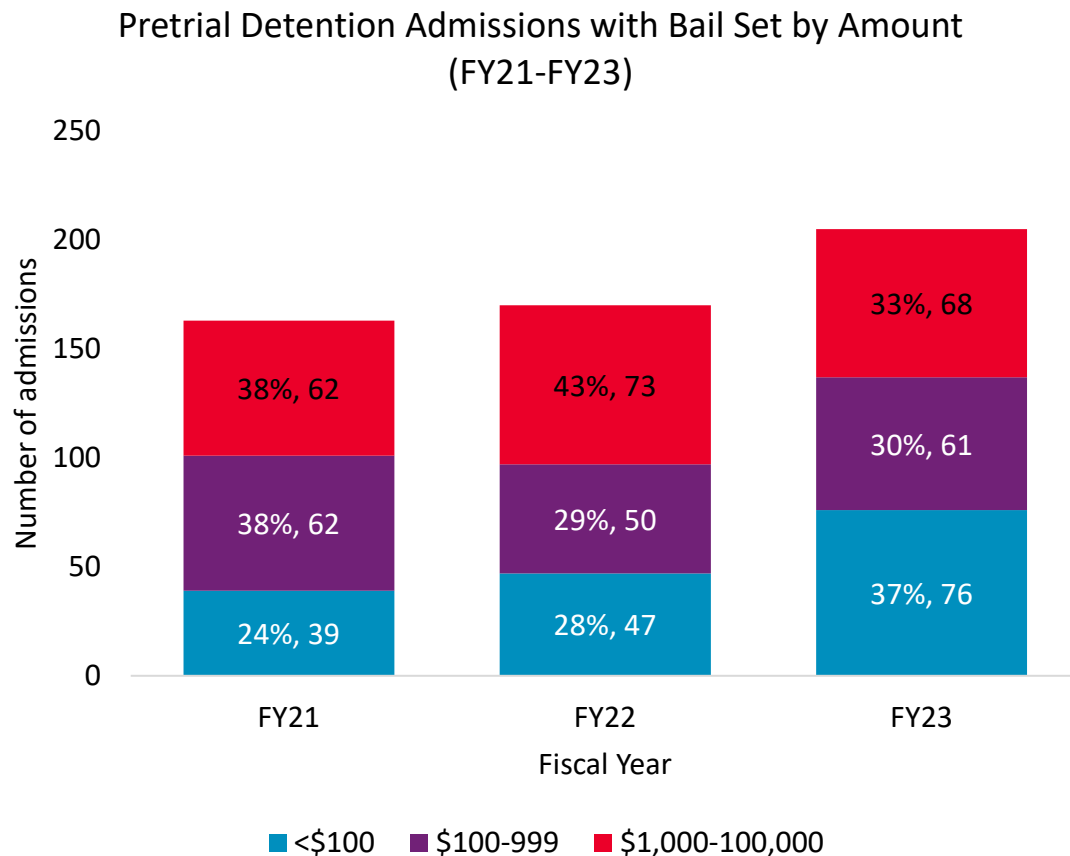
\*DYS grid levels 1-2 which are, mostly, misdemeanor offenses.

\*\* During this same time, 39% of all violations of probation were for technical offenses. MPS does not currently disaggregate data by process point, therefore this includes both pre & post-disposition violations.

Note: we do not have data on specific conditions

# There Has Been an Increase in Youth Detained on Low Bail Amounts

- Youth detained with low bail amounts (<\$100) increased 95% between FY21 and FY23
- We do not have data on bail amounts set by judges for youth who met bail and were not admitted to detention
- We do not have data on reasons bail was set – but anecdotally, bail being set for purposes *other* than prevention of flight risk



# There are Disparities in Who Gets Released on PR, is Supervised/Monitored, or Gets Detained Pretrial

In FY23:

- **Black/Latino youth:** were more likely to be detained pretrial compared to white youth
- **Girls:** Girls were more likely to be detained as a result of bail being set and are held for lower amounts compared to boys. Girls were also more likely to have PTP as a Disposition (PTP as a Dispo.) cases compared to boys arraigned
- **LGBTQ+:** LGBTQ+ youth were held on cash bail more frequently and held for lower amounts when compared to youth who did not identify as LGBTQ+
- **Youth with DCF involvement:** Youth with DCF involvement were detained with bail set more frequently and held for lower amounts compared to youth with no DCF involvement



# There are Geographic Differences in the Way the Pretrial Phase Operates

In FY23 there were differences county to county in:

- **How many youth were released on PR\*, for example:**
  - Barnstable releases 92% of youth not held at arraignment on PR, higher than the statewide average of 55% of youth not held at arraignment
- **How many youth were placed on pretrial monitoring/supervision, for example:**
  - Plymouth county represents 6% of the state's arraignments, but 15% of pretrial supervision cases
  - Berkshire (12%), Bristol (7%), Middlesex (8%), and Norfolk (12%) PTP as a disposition cases account for a larger percent of their arraignments than the state average (6%)
- **How many youth were detained, for example:**
  - Essex accounts for 25% (n=85) of the state's 58A Hearings, despite accounting for only 15% (n=376) of the state's felony arraignments
  - Hampden (43%), Norfolk (40%), and Suffolk (43%) Counties have higher rates of detention admissions as a result of bail being set than the state (27%) total
  - Berkshire (89%), Essex (48%), Franklin (100%), Hampden (93%), Middlesex (50%), and Plymouth (44%) counties had higher rates of youth held without bail as a result of bail/PR being revoked compared to the statewide total (42%).

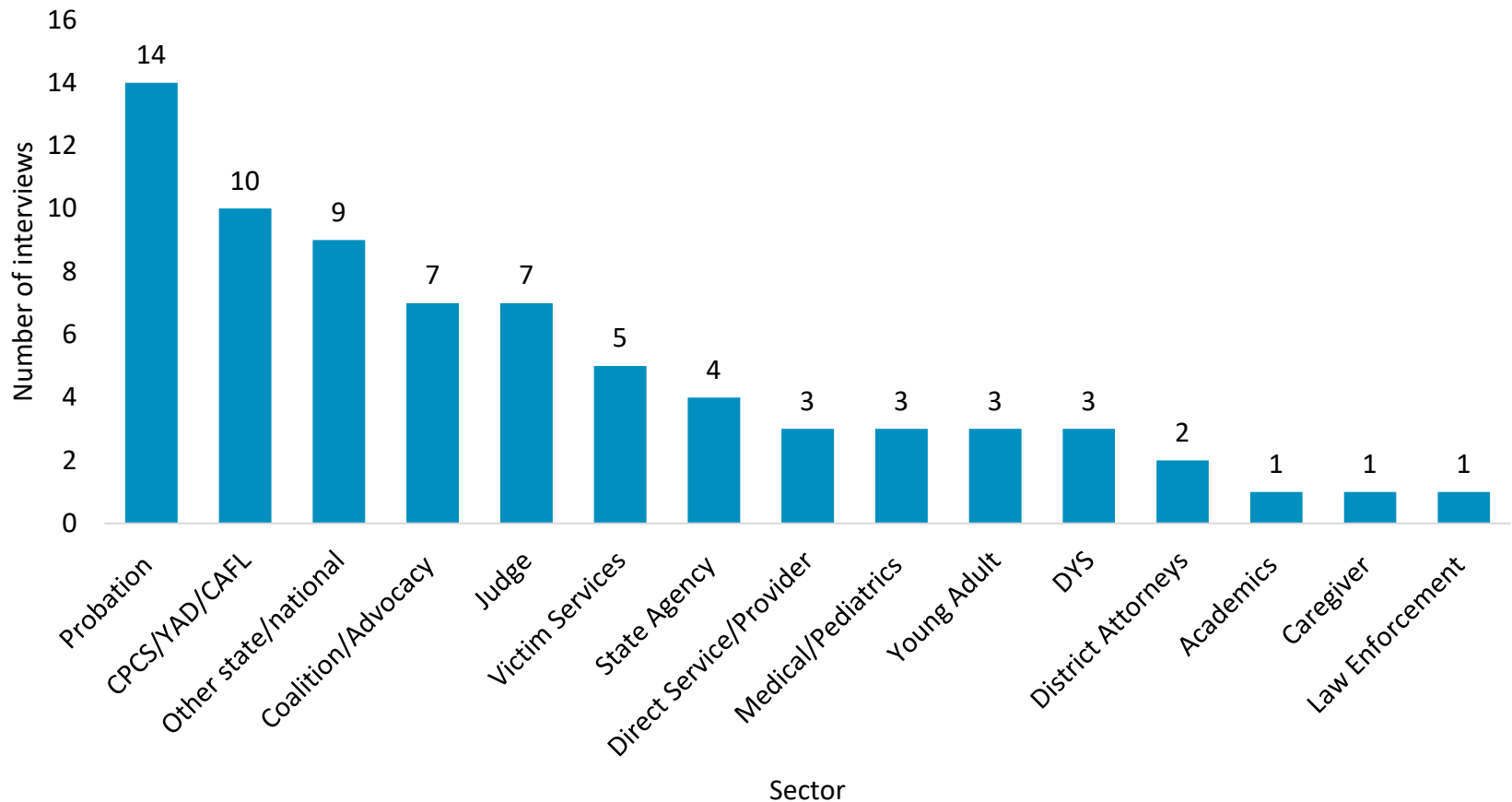
# Data Summary

- Both detention admissions and Probation pretrial caseloads are up substantially over past two years
- A greater percentage of arraigned youth are being released with conditions of release – as compared to being released on personal recognizance
- The most common reason a youth is detained is because their bail or PR was revoked
- While the number of youth held due to inability to meet bail is relatively low, it seems likely bail is being used to hold some youth for reasons other than those permitted by statute
- Black and Latino youth were more likely to be detained pretrial compared to white youth
- Pretrial detention & monitoring/supervision is being used differently for certain cohorts of youth (e.g., girls, LGBTQ+ youth, and youth with DCF involvement)
- There are differences county to county in decisions to release youth on PR, place youth on monitoring/supervision, or detain youth pretrial

# Interview Themes

# Stakeholder Interviews

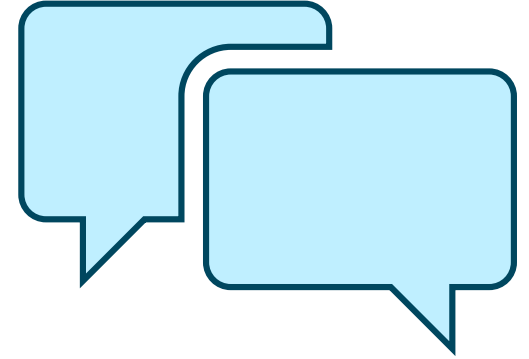
OCA-Conducted Informational Interviews, by Sector  
N=73



# Interview Themes

In general,

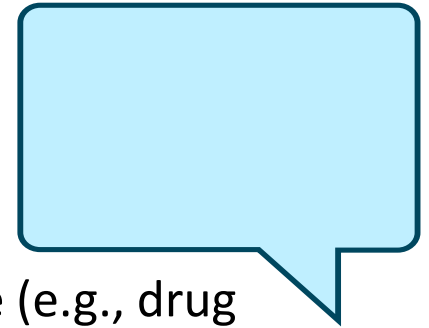
- There are vast differences in practices between judges, prosecutors, defense counsel, and probation officers across the state likely leading to the disparities we see in who is detained pretrial, who is placed on conditions of release, and who is released on personal recognizance
- Length of time this phase can take has negative consequences on youth, including increased the likelihood of violating conditions and delays in accessing appropriate services
- There are specific considerations (e.g., inability to pay, trouble planning ahead to follow conditions of release) for youth that make this part of the system different than for adults, and interviewees felt those considerations should be applied to condition setting, cash bail use, and GPS use at this stage





# Setting Conditions of Release

- Youth are given **too many and at times inappropriate pretrial conditions of release:**
  - “Blanket” conditions not tailored to youth or charge (e.g., drug testing for cases where substance use is not indicated)
  - Developmentally inappropriate conditions that set youth up to fail (e.g. restricted from using a cell phone; curfews and other restrictions that prevent participation in pro-social activities)
  - Not aligned with statute/caselaw

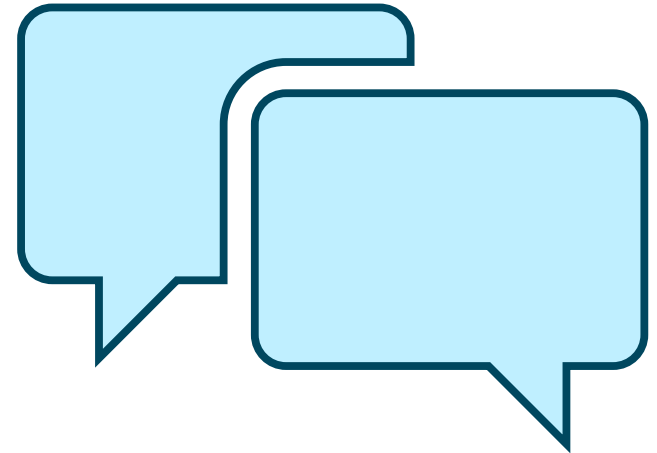


“Therefore, we conclude that the Legislature did not intend this provision [G. L. c. 276, § 58,] to address dangerousness or deterrence of future crimes. Thus, the only permissible goals of pretrial conditions of release in the defendant's case were ensuring the defendant's return to court and his presence at trial, and safeguarding the integrity of the judicial process by protecting witnesses from intimidation and other forms of influence.” – *Commonwealth vs. Norman* (2020)

# Setting Conditions of Release (GPS)

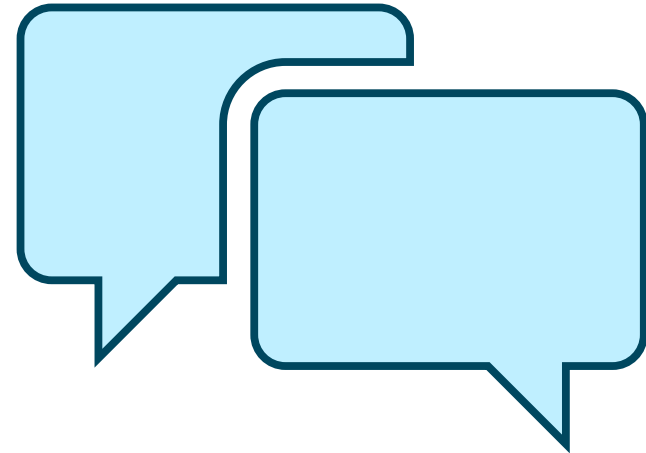
Interviewees expressed particular concern with the use of GPS:

- **Overuse of GPS**, particularly in connection with home confinement
- Youth placed **on GPS for too long**
- GPS used in situations where there is **no named victim and no exclusion zone criteria**
- **Nonsensical exclusion zone criteria** (e.g., a stay away zone that includes their school combined with a condition to attend school)
- **Technical challenges with GPS** (e.g., false positives, signal issues, youth forgetting to charge) can penalize youth & tie up court resources
- Overall **harmful impact on youth** (e.g., stigma as well as mental/physical health)



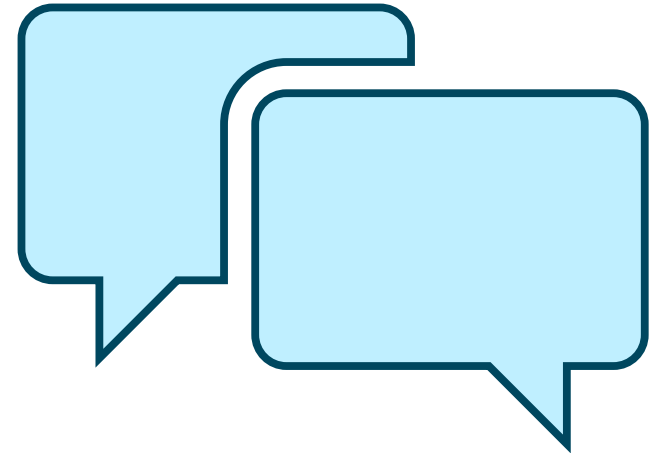
# Violations and Revocations

- **Responses to pretrial violations differ widely** from county to county and DA/judge to DA/judge
- Probation's **graduated response system** for *post-adjudication* is widely deemed to be very effective in reducing use of detention while promoting equity in responses across the system, but no such system is in place *pretrial*
- **Conditions, particularly restrictive conditions like GPS, not regularly revisited** to allow youth who is successfully complying with condition to “step down” restrictions
  - This becomes particularly important as the length of time youth are on GPS/supervised pretrial anecdotally seems to be increasing
- **Insufficient “intermediate” responses** for youth who need more support to be successful pretrial but don't necessarily need to be detained



# Cash Bail

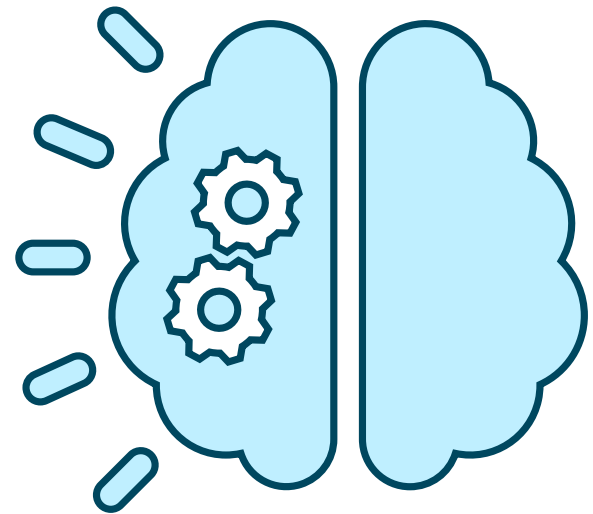
- **Bail being set for reasons *other than* ensuring court appearance** (e.g. \$1 bail for youth awaiting DCF placements, CSEC youth, dangerousness)
- **Most youth aren't fleeing prosecution** and just need reminders/help getting to court
- Positive reviews of the **court's text messaging system**
- Bail for youth runs counter to many MA policies that **acknowledge youth do not typically have independent access to financial resources**



# Literature Review & Best Practice

# Adolescent Development

- Youth are **still developing executive functioning** (e.g., planning, decision-making) which can make compliance with conditions significantly more difficult
- Youth are **more susceptible to reward-based behaviors** (e.g., peer acceptance, immediate gratification) than adults
- Adult-oriented conditions and procedures (e.g., use of case bail, use of GPS, use of certain pretrial conditions) are **less effective – and potentially more harmful – when used with youth**
- Conditions that remove youth from pro-social activities and supports can *backfire* and **increase likelihood of delinquency**



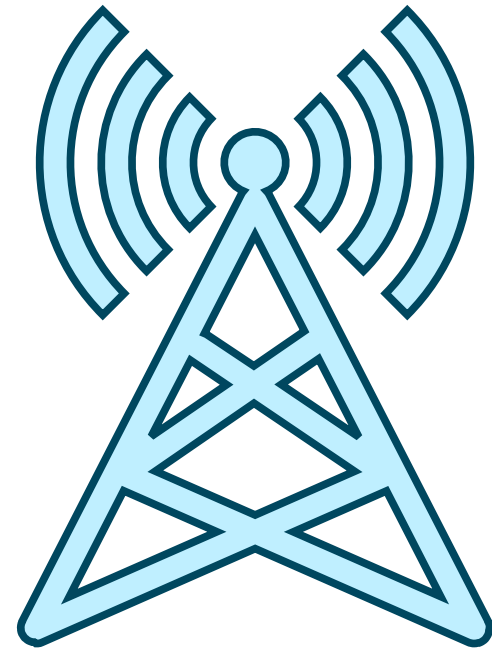
# Setting Conditions of Release

- CORs (e.g., GPS, home confinement, curfews) remove youth from prosocial activities
- Best practice is to make conditions specific & relate to the alleged offense
- Youth have a hard time remembering all the conditions set & setting numerous conditions, or overly broad conditions (e.g., obey all school rules) increases a youth's chance of violating



# Using GPS

- GPS [technology can be unreliable](#), resulting in youth violating their CORs
- Youth struggle to charge their GPS units whether they are ankle monitors, smart watches, or phones
- There is negative stigma in wearing a GPS unit, resulting in the youth isolating themselves & [missing out on prosocial activities](#)
- There are documented negative impacts on [mental](#), emotional, and [physical](#) health and well-being
- GPS has a [limited effect](#) on re-offending or failure to appear rates
- Some states don't use GPS (e.g., [New Hampshire](#)) for youth or limit its use (e.g., [California](#))





# Cash Bail

- [Limited](#) effect on failure to appear rates
- Regressive & [disproportionately](#) impacts poor people
- [Most individuals](#) show up to court
- FTA is [a system-wide issue](#) (i.e., lawyers, police, witnesses missing court dates rather than solely the defendant)
- [Many states](#) do not use cash bail in Juvenile Court, and several jurisdictions (e.g., [New Jersey](#), [Illinois](#)) have eliminated cash bail for all defendants



# Draft Findings

1. Pretrial practice (setting conditions of release and cash bail) does not align with policy
2. There is no shared understanding and conflicting legal guidance on when/if GPS should be used
3. Youth are not set up for success at this phase
4. There are vastly different regional practices at this stage leading to concerns about “justice by geography”
5. There are statewide disparities regarding who is detained pretrial, who gets placed on pretrial monitoring/supervision, and who is released on personal recognizance
6. There are youth placed on pretrial monitoring/supervision or detained that could be better served (e.g., reducing recidivism, improving public safety, addressing unmet needs) in the community/without system involvement

# Any Questions/Comments on the Draft Findings?

1. Pretrial practice (setting conditions of release and cash bail) does not align with policy
2. There is no shared understanding and conflicting legal guidance on when/if GPS should be used
3. Youth are not set up for success at this phase
4. There are vastly different regional practices at this stage leading to concerns about “justice by geography”
5. There are statewide disparities regarding who is detained pretrial, who gets placed on pretrial monitoring/supervision, and who is released on personal recognizance
6. There are youth placed on pretrial monitoring/supervision or detained that could be better served (e.g., reducing recidivism, improving public safety, addressing unmet needs) in the community/without system involvement

# Opportunities for Improvement

Change how conditions  
of release (CORs) are  
set and what warrants  
a revocation

Limit the use of GPS

Divert more youth

Limit the use of cash  
bail

Increase data  
availability

# Opportunities for Improvement

Change how conditions of release (CORs) are set and what warrants a revocation

Limit the use of GPS

Divert more youth

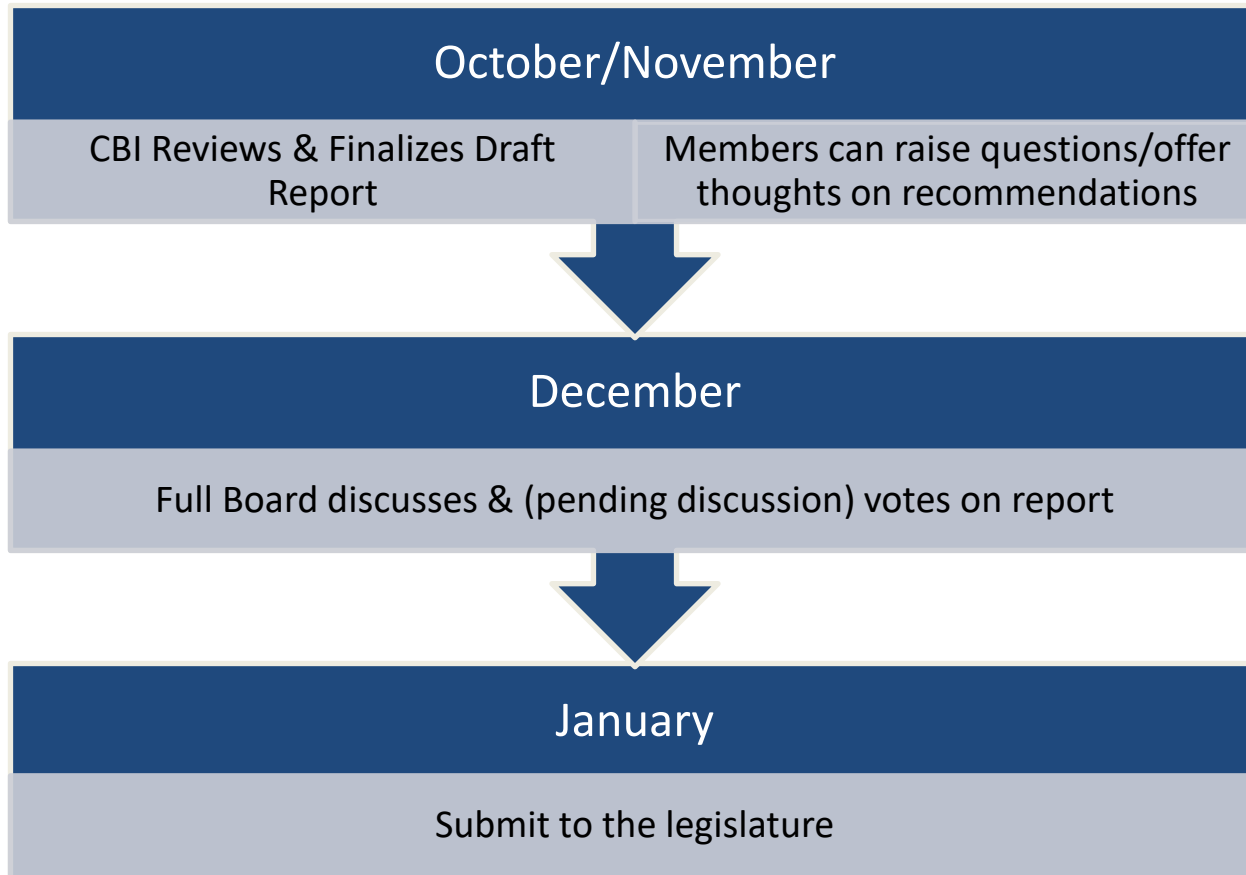
Limit the use of cash bail

Increase data availability

Multiple mechanisms to achieve each goal:

- Change statute
- Change agency policy
- Modify practice
- Add trainings
- Funding

# Pretrial Project: Next Steps



# Project Update: DIY

# Research Questions & Project Goals

## Research Questions

1. Who is crossing over and why?
2. Are there policies & practices specific to MA that are contributing to crossover?
3. Can any of these youth be diverted?

## Methodology

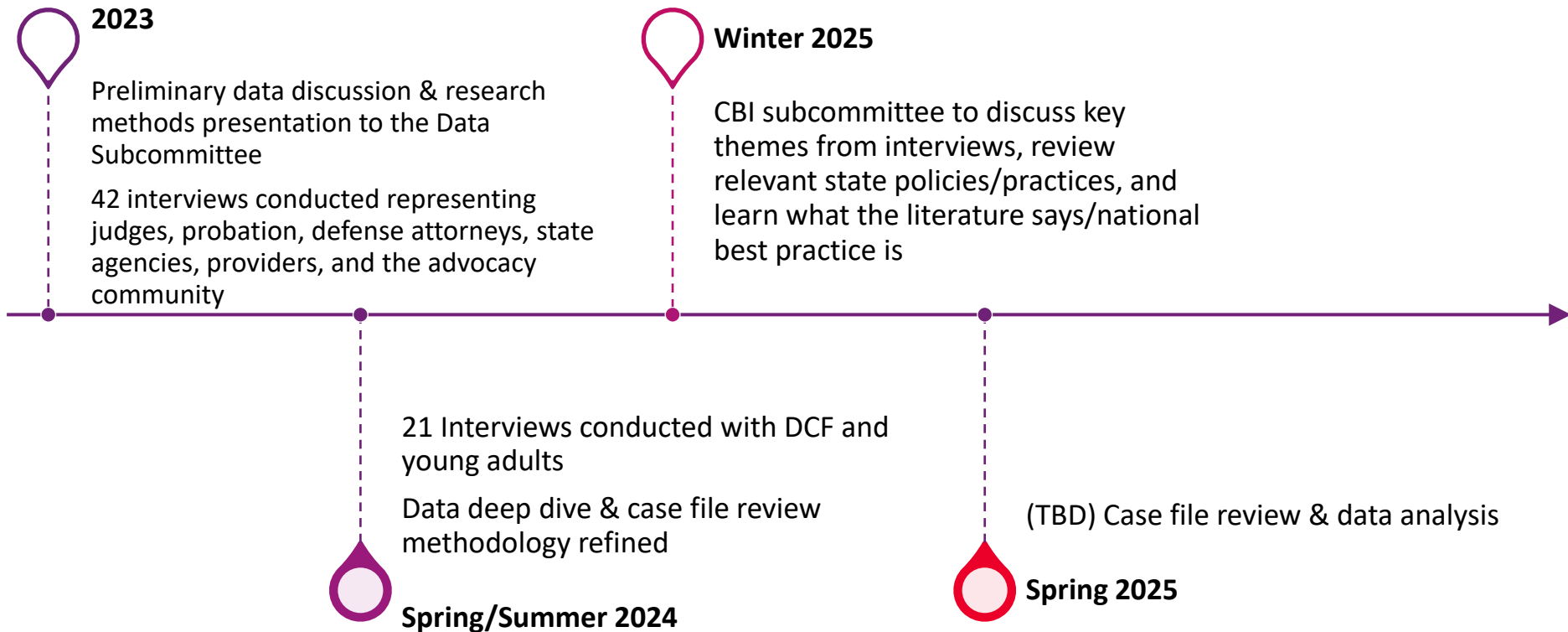
- Data analysis (DCF+DYS, Juvenile Court)
- Case file review
- Interviews with police, attorneys, judges, probation officers and DYS/DCF caseworkers
- National landscape review

## Goals

- Make recommendations to improve supports/service models for youth to prevent crossover or reduce harm
- Identify cohorts of youth that may benefit from being served in the community vs. detention
- Make recommendations to improve community-based supports/service models for youth at risk of crossover



# DIY Timeline



# Subcommittee Work Plans

# CBI Subcommittee

November 2024

- Discuss pretrial recommendations & finalize report for the Board

January 2025

- Return to Dually Involved Youth project

# Data Subcommittee

November

- FY24 data analysis

January 2025

- 2024 *Annual Report* data review

Spring 2025

- DIY Data Deep Dive & Case File Review

# Childhood Trauma Task Force

December

- Vote on annual report

2025

- Analyze training data and discuss recommendations

# Full Board

December 2024

- Review and discuss *Pretrial Report*
- Subcommittee report outs

Winter 2025

- Review and discuss 2024 *Annual Report*

# Subcommittee Fall Meeting Dates

Subcommittee	Fall/Winter meetings
Data	Tues, <b>November 26</b> 10:30am -12pm
CBI	Mon, <b>October 21</b> 11:30am-1pm Wed, <b>November 20</b> 11am-12:30pm
CTTF	Mon, <b>December 9</b> 1-2:30pm



# Board Member Updates

- Are there any new initiatives the group should be aware of?
- Does your agency/org have any new policies or standard practices the group should know about?
- Are you hosting/attending any upcoming events relevant to this group?
- Anything else you wish to share with the group?



# Next Meeting

Thursday 12/19  
10am-12pm



*(All meetings are virtual; Zoom information is in each calendar invitation)*

# Contact

Melissa Threadgill

Senior Director of Policy and Implementation

[melissa.threadgill@mass.gov](mailto:melissa.threadgill@mass.gov)

Kristi Polizzano

Senior Policy and Implementation Manager

[kristine.polizzano@mass.gov](mailto:kristine.polizzano@mass.gov)