

Juvenile Justice Policy and Data Board

Community Based Interventions Subcommittee Meeting

August 28, 2024

Agenda

1. Welcome and Introductions
2. Approval of July Meeting Minutes
3. Key Themes from Young Adult Interviews
4. Pretrial Project: Discuss Draft Findings and Brainstorm Potential Recommendations
5. Next Steps

Follow-up questions from last month's meeting re: Illinois' Pretrial Fairness Act

Impact of the PFA:

- **Defendants being detained for being deemed “dangerous”:** About a third of defendants with detainable offenses are currently being detained under the PFA under this standard.
- **Defendants being detained for “willful flight”:** In practice this is difficult for prosecutors to prove, and therefore very few defendants are being detained under this standard. Evaluators know of only a handful of cases across the state.
- **GPS use:** There has not been a large increase in the use of GPS, with some DA's opting to not use it. Additionally, prior to the PFA, GPS as a condition of release (COR) was extremely restrictive. Under the PFA, now defendants with GPS as COR have more freedom of movement to perform essential tasks.

Themes from Young Adult Interviews

- “Wasting time” or “dead time” during pretrial detention
- The appeal of GPS, but only when it wasn’t used alongside home confinement
- The harm caused by GPS, specifically how disruptive it was to prosocial activities and important relationships
- Misconceptions as to *where* a person would be bailed out to:
“I thought that I’d go to my grandma’s house[since that’s where I was living before], but they made me go to a [DCF placement]...It had me thinking I should have stayed at DYS a little longer.”
- Confusion re: pretrial monitoring vs. supervision:
“Honestly they put me on probation they never called me or checked in.”

Pretrial Project: Answering Our Research Questions

What have we learned?



Research Questions

1. How can we improve pretrial success rates and reduce the need for detention?

2. What do victims want during this phase?

3. Can any of these youth be diverted & served in the community?

4. What community-based interventions/supports need to exist in order to divert?

5. What practices can help us improve long-term outcomes for kids *and* protect public safety?

1. How can we improve pretrial success rates and reduce the need for detention?



A little under half (49%, n=115) of youth detained without bail as a result of bail/personal recognizance (PR) being revoked were for underlying charges that were lower “grid” offenses.

More than a third (37%, n=162) of violations of probation (pre- and post-adjudication) are for non-delinquency related reasons.

During the pretrial phase, violations of conditions of release (COR) are reported by Probation to the District Attorney’s Office. DAOs have discretion when deciding to bring a violation in for a hearing and judges ultimately determine whether to detain a youth without bail as a result of a violation.



1. How can we improve pretrial success rates and reduce the need for detention?

In interviews, people **were concerned about disparities in who gets released on PR, is supervised/monitored, or gets detained pretrial.**

This was confirmed in the data:



Black/Latino youth: were more likely to be detained pretrial compared to white youth, while white youth were more likely to be released on conditions of release

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

1. How can we improve pretrial success rates and reduce the need for detention?

In interviews, people **were concerned about geographic differences** in the way the pretrial phase operates. This was confirmed by the FY23 data:

- **Releasing youth on PR at arraignment:** 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
- **Conducting a 58A Hearing:** 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
- **Setting conditions of release:** For example, compared to percent of state arraignments (6%), Plymouth county is over-represented in pretrial supervision cases (15%)

1. How can we improve pretrial success rates and reduce the need for detention?

In interviews, people **were concerned about geographic differences** in the way the pretrial phase operates:

- **Using cash bail as a condition of release:** For example, 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
- **Placing youth on PTP as a Dispo.:** For example, 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%)
- **Detaining youth without bail as a result of a violation of CORs:** For example, 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%).

1. How can we improve pretrial success rates and reduce the need for detention?

Themes from interviews:



- Too many conditions being set
- Youth unable to keep track of or understand conditions
- Setting broad conditions and setting conditions not related to the offense
- Conditions (e.g., GPS, home confinement) may negatively impact youth development by limiting prosocial activities and behaviors
- Cash bail as a COR used for reasons other than safety or failure to appear concerns
- No standards or mechanism for graduated sanctions at this stage, and DAOs varying in their levels of punitiveness

1. How can we improve pretrial success rates and reduce the need for detention?

[National research](#) suggests that youth have better outcomes (e.g., higher compliance, greater public safety, etc.) when:

- CORs are **limited in number and individualized** to target risk factors
- CORs are **developmentally appropriate, and have been found to promote public safety and improve FTA rates** (research shows that GPS and cash bail have not been proven to do either)
- GPS is used, it should be used in the [least restrictive way possible](#), and jurisdictions should **collect standardized data on its use**
- Youth are diverted rather than placed on probation as [arrests](#) **for technical violations do not have a deterrent effect**, may increase subsequent offending, and can contribute to an overrepresentation of youth of color in the juvenile justice system



2. What do victims want during this phase?



We heard from victim advocates that –in general– victims **want accountability and for their safety to be considered** during the pretrial phase and throughout the juvenile justice system.

This sentiment aligns with national research on victim expectations and experiences:

- Centered on their voices [being heard, accountability & safety](#)
- Alternative responses like restorative justice practices can be [developmentally appropriate and support victims](#)
- Many victims [do not report crime](#) and/or do not engage at this phase and therefore, interventions that take [place outside of the court system](#) may serve a wider array of impacted people



3. Can any of these youth be diverted & served in the community?

Research shows that diversion:

- [Improves](#) public safety and is more effective in reducing recidivism than traditional court processing
- [Reduces](#) the risk of future juvenile justice system involvement
- [Aligns](#) with research on adolescent development



3. Can any of these youth be diverted & served in the community?

In interviews, people mentioned the following potential cohorts to divert...



...from pretrial detention:

- Just under half (46%, n=353) of all detention admissions are for misdemeanor/lower grid level offenses
- Youth held on bail for non-FTA, safety reasons (e.g., youth with CSEC concerns, youth who waiting for DCF placements)

...from pretrial supervision/monitoring:

- In recent years, the percent of cases where youth are released on personal recognizance has decreased
- Youth “monitored” via probation on “category A” conditions, (59%, n=770) that do not require active supervision by probation

...from system involvement (pre-arraignment):

- Low-level offenses: A third (36%, n=1,458) of FY23 arraignments were for misdemeanors
- Youth on pretrial probation as a disposition: 6% (n=234) of FY23 arraignments

4. What community-based interventions/supports need to exist in order to divert?

In interviews, stakeholders expressed concerns that there was an over-representation of youth with unmet needs in pretrial detention.



In FY23:

- More than half of youth detained pretrial had an individualized education plan (IEP), twice the rate of Massachusetts' students generally
- A quarter of youth detained pretrial had previously experienced physical or sexual abuse or had been sexually exploited
- About a third of youth detained pretrial had identified feelings of depression/anxiety, almost twice the rate of Massachusetts' youth population
- Over half (n=395, 51%) of all pretrial detention admissions were for youth with DCF involvement at the time of admissions

4. What community-based interventions/supports need to exist in order to divert?

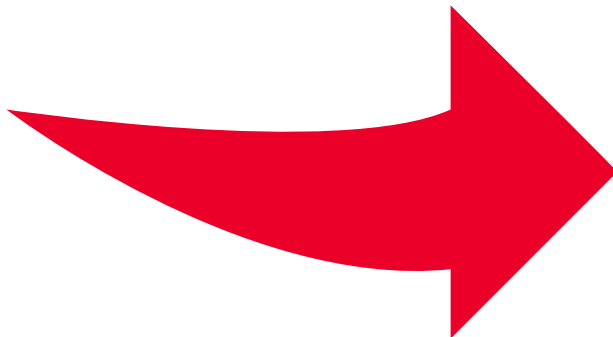
Stakeholders shared what they felt were more effective services than detention or conditions of release:

- Family programming
- Mentoring programs (with people with lived experience)
- Behavioral health programming
- Substance use programs
- Recreational programs
- Educational programs



Services highlighted included community-based options, that **were not dependent on court or DCF involvement:**

- Family Resource Centers
- Roca
- UTEC
- My Life My Choice
- Individual Therapy / Cognitive Behavior Therapy
- DPH's Opportunity Youth & Substance Abuse Services
- Mental Health Advocacy Program for Kids (embedded in FRCs)



Draft Findings

1. There is a mismatch between policy and practice in how conditions of release are set, and policy/practice is not research informed
2. There is a mismatch between policy and practice in how cash bail is set, and policy/practice is not research informed
3. A lack of shared understanding and guidance has led to GPS being used inappropriately
4. There are vastly different regional practices at this stage leading to concerns around “justice by geography,” as well as statewide disparities regarding who is detained pretrial, who gets placed on pretrial monitoring/supervision, and who is released on personal recognizance
5. There are cohorts of youth who could be diverted away from pretrial detention, pretrial supervision/monitoring, or the system entirely

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

5. What practices can help us improve long-term outcomes for kids *and* protect public safety?

If you had a magic wand, what
policy/practice/funding shift would you
recommend to improve the juvenile pretrial
phase in MA?

Magic Wand Themes

Across stakeholders, magic wand responses focused on **reducing the number of youth** who are detained and/or supervised/monitored pretrial. Themes include:

Divert youth away
from the juvenile
justice system

Modify the
conditions of
release that can be
set at this phase

Make services
more accessible to
youth and their
families

Increase out of
home placement
options for youth

Divert youth away from the juvenile justice system

Pre-arraignment:

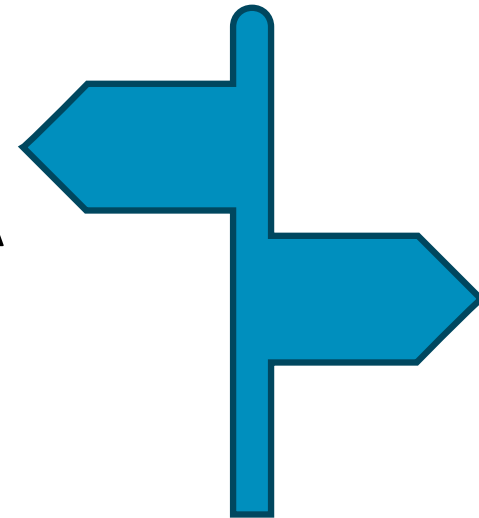
- Divert every nonviolent offense pre-arraignment
- Eliminate PTP as a Dispo. and divert pre-arraignment instead
- Increase statewide diversion opportunities

From supervision/monitoring:

- Release more youth on PR, especially those on category A conditions to focus on youth that need active supervision

From detention:

- Release youth into the community pretrial without increasing the use of GPS



Modify the conditions of release that can be set at this phase

Modify CORs:

- Eliminate category A conditions/monitoring
- Category B conditions should be set with a service component (e.g., individual therapy) or a referral to services
- Limit CORs set to only ones that would result in detention if violated (e.g., do not set a condition such as attend school daily if a violation will not result in a detention)
- Eliminate the use of home confinement
- Eliminate GPS
- Limit the use of GPS for use only under the 58A statute (e.g., when there is a named victim, discharge of a firearm, serious bodily harm)
- Create a standard, like in adult court, where all conditions should be tied to the alleged offense (e.g., no drug testing as a COR if the alleged offense was not a drug offense)
- Limit the amount of CORs to one or two per case
- COR based in positive youth development



Modify the process:

- Add a graduated sanctions process to the pretrial phase
- Collect and report data on what conditions are set
- Collect and report data related to GPS use

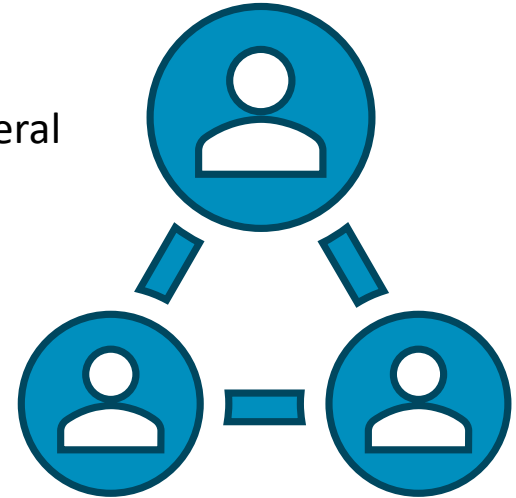
Make services more accessible to youth and their families

Upstream services to prevent court involvement:

- Ensure schools have more access to Early Intervention services
- Ensure communities have more access to upstream services in general
- Continue to fund/expand FRCs

If youth are court involved:

- Some stakeholders focused on prioritizing warm handoffs to community-based services (e.g., Slide 15)
- Some stakeholders focused on expanding court-based services:
 - Ensuring youth involved in the court process have access to substance use services
 - Create a system where MPS has certain dedicated service providers that reserve spots for youth on monitoring/supervision
 - MPS stipends for individual youth to do more program-based services
 - Expand the Court Clinic to be able to provide more clinical services
 - Replicate warm hand off to service connections (e.g., MPS has a program enrolling people in MassHealth)



Increase out of home placement options for youth

- Increase the availability of DCF placements able to meet the needs of this population
- Expand DYS' Community Based Option (CBO)/foster care placement model to be available in other counties
- Create respite options for DCF and non-DCF involved youth (e.g. youth missing from care, youth with CSEC concerns)



Next Meeting:

Wednesday, September 25th 12:30-2:00pm

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



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