

# Juvenile Justice Policy and Data Board

Community Based Interventions Subcommittee

March 1st, 2019  
2pm – 4pm

# Agenda

- Welcome and Introductions
- Review/Approval of Minutes
- Updates from 2/27 Board Meeting
- Presentations on Police Diversion
- Questions and Discussion on Police Diversion
- Community-Based Interventions Survey Drafts
- Diversity & Inclusion Workgroup Report

# *Lincoln Police Department*

## *Diversion Program*

JJPAD

CBI Subcommittee

March 1, 2019

# *Juvenile Policy*

- Juveniles shall be afforded their constitutional and statutory rights when being questioned, searched, detained or arrested;
- Juvenile offenders shall not be detained in the police station for any longer than necessary;
- Children Requiring Assistance shall be provided custodial protection and other required services where this can be done safely. (Court/211 Program)
- Officers shall, whenever reasonable and justified under this policy, take those measures necessary to effect positive change in juvenile offenders that are consistent with Massachusetts Law and the safety and security interests of the community;
- The department is committed to the development and perpetuation of programs to prevent and control juvenile delinquency.

# *Delinquent Child*

M.G.L. c. 119, s. 52

- A child between 12 and 18 years of age who commits any offense against a law of the commonwealth; *provided, however, that such offense shall not include:*
- a civil infraction,
- a violation of any municipal ordinance or town by-law
- or a *first offense of a misdemeanor* for which the punishment is a *fine, imprisonment* in a jail or house of correction for *not more than 6 months* or both such fine and imprisonment.

# *Delinquent Child, Cont.*

It is the department's position that officers *SHALL NOT arrest or file a delinquency complaint* against a juvenile for a first offense misdemeanor or status offense for which the penalty is either a *fine or imprisonment of less than six months or both.*

# *Common Misdemeanor Offenses*

## *Less than 6 months*

- Indecent Exposure,
- Disorderly Conduct,
- Disturbing the Peace,
- Trespass
- Juvenile - Possessing/Transporting Alcohol,
- Operating with a Suspended License,
- Shoplifting under \$250.00,
- Threats,
- Driving Without a License
- Breaking and Entry to Commit a Misdemeanor, or
- Making Annoying/Harassing Phone Calls

# *Enforcement Alternatives*

1. Officers dealing with juveniles in enforcement capacities may exercise *reasonable discretion in deciding appropriate action.* Officers shall use the least coercive and most reasonable alternative, consistent with preserving public safety, order and individual liberty.
2. Whenever reasonable and possible, an officer will *request a summons for a juvenile rather than taking him/her into custody.*

# *Enforcement Alternatives*

3. Alternatives available include the following:
  - a. *Release* the juvenile with *no further action or following informal counseling*. Officers will turn the juvenile over to his/her parent or guardian when appropriate;

# *Enforcement Alternatives*

b. Refer the juvenile to the appropriate diversion program, such as;

- Communities for Restorative Justice,
- Middlesex District Attorney's Diversion Program,  
or
- Jail Diversion Coordinator for outside services.

Note: Prior to referring a juvenile to a particular juvenile diversion program, the Lieutenant or Juvenile Officer will review the case with the Middlesex District Attorney's Diversion Coordinator.

# *Enforcement Alternatives*

- c. Limited custody with notification to the parent/guardian. *If the juvenile is brought to the station, he/she shall enter the station through the front doors and held in non-secure custody* (lobby or conference room) until released to his/her parent(s) or guardian;
- d. Issue a citation or applying for a summons or complaint with the Juvenile Court; and
- e. Arrest when appropriate and authorized.

# ***GOALS***

- Take responsibility, be held accountable and accept the consequences;
- Educate;
- Address the root cause(s) of the behavior;
- Repair the harm to the victim;
- Restore good standing in community;
- Prevent future criminal conduct; and
- Prevent the creation of criminal record

# *Persons Eligible*

- Any juvenile between the ages of 12 and 18
- Any young adult between the ages of 18 and 25
- Willing to accept responsibility for his or her actions and conduct
- Willing to participate and engage in a remedial program
- No significant prior criminal involvement

# *Data Collection & Reporting*

Police data collection and reporting in accordance with NIBRS:

Gender, Race & Ethnicity (Police Reports)

Disposition (Only options for police)

- Arrest (Without a Warrant)
- Arrest (Warrant)
- Summons
- Diversion – Middlesex DA's Office



# Restorative Justice: Making right after everything goes wrong

*Introduction to RJ and C4RJ*  
*Erin V. Freeborn, C4RJ Executive Director*  
*March 1, 2019*  
[www.c4rj.org](http://www.c4rj.org)



COMMUNITIES FOR  
**RESTORATIVE JUSTICE**

# What is Restorative Justice

## ❖ As defined by MGL ch. 276B

- A voluntary process whereby offenders, victims and members of the community collectively identify and address harms, needs and obligations resulting from an offense, in order to understand the impact of that offense; provided, however, that an offender shall accept responsibility for their actions and the process shall support the offender as the offender makes reparation to the victim or to the community in which the harm occurred.



# Three Questions

## *Traditional approach*

1. What law was broken? (charge)
2. Who did it? (identify offender)
3. What should we do to them? (punishment/sentencing)

## *RJ approach*

1. Who has been hurt/affected?
2. What are their needs?
3. Who is obliged to meet these needs?



# Communities for Restorative Justice (C4RJ) Mission

- ❖ To provide a restorative justice option within the criminal justice system, wherein:
  - Victim- address those who have harmed them, ask questions, and help determine the repair
  - Offender- better understand impact of actions, held meaningful accountable, encouraged to make amends
  - Community- offers support to parties and process



# C4RJ At-a-Glance

## ❖ The History

- Began in 2000 with 2 engaged citizens and one willing Chief of Police - Len Wetherbee

## ❖ The Organization

- Non-profit structure
- 3 full-time staff, 14 member Board of Directors, over 135 volunteers

## ❖ Our Partners

- 24 Cities and Towns
- Middlesex and Suffolk District Attorney's Offices (Juvenile and Young Adult Diversion Programs)



# A Good Referral

- ❖ Offender takes responsibility
  - “I did it.” (Sometimes this doesn’t sound contrite. That’s OK!)
- ❖ Victim allows process to go forward
  - Range of options: in-person participation, surrogates, submitting a statement, receiving letter of apology, stating charity preferences for community service, etc.
- ❖ We can reasonably assure a safe process
  - No serious mental health concerns, threats of harm among parties.



# *Our Process*

- ❖ *Referral from Police, Prosecutor or Courts*
- ❖ Opening Circle with Agreement
- ❖ Work with Facilitators
- ❖ Closing Circle

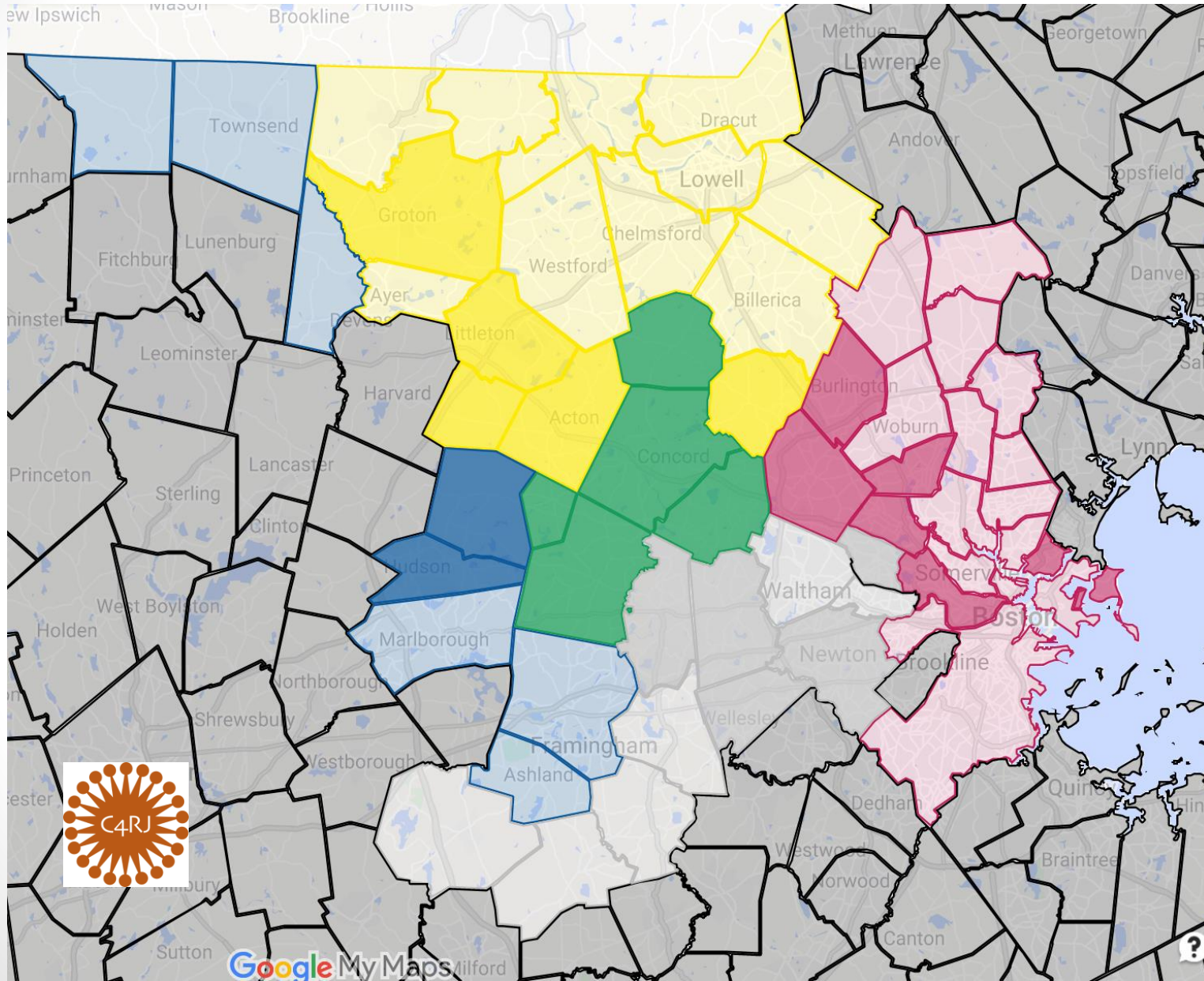


# Police Involvement at C4RJ

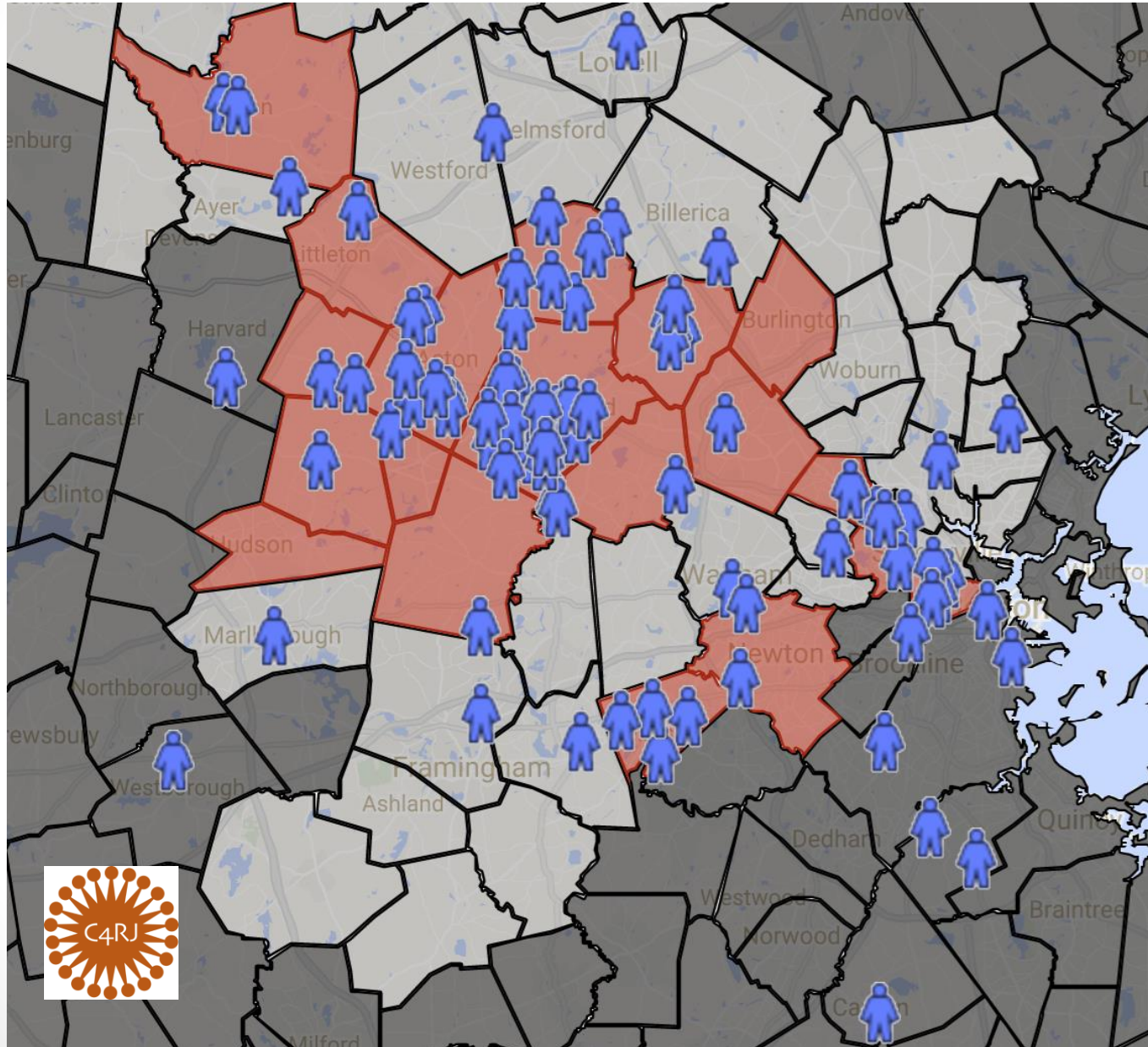
- ❖ Case referrals, opening and closing circles
- ❖ A Police Chief serves on the C4RJ non-profit Board
- ❖ All volunteers are CORI-checked, and volunteer candidates can be vetoed by respective Police Chiefs
- ❖ A quarterly Police Council convened to discuss C4RJ policies and practices
- ❖ Cases can be sent back to the referring department if the victim is unsatisfied with the process, if the offender is not taking responsibility, or if the safety/well-being of the parties cannot be guaranteed.



# *Our Region*



# C4RJ Volunteers



# Sampling of Charges

- ❖ A&B
- ❖ Arson (plea)
- ❖ B&E, night/day
- ❖ Larceny
- ❖ Shoplifting
- ❖ Vandalism/tagging
- ❖ Credit card fraud
- ❖ Identity theft
- ❖ Drug possession
- ❖ Trespassing
- ❖ Harassment, bullying
- ❖ Malicious destruction
- ❖ Fireworks charges



# Recent MA Legislation

## M.G.L. ch 276B

- ❖ Created restorative justice as an option in the criminal courts
- ❖ Created a confidentiality provision
- ❖ Created an Advisory Committee of system stakeholders & RJ practitioners



# Community-based Restorative Justice Program

- ❖ A voluntary program established on restorative justice principles that engages parties to a crime or members of the community in order to develop a plan of repair that addresses the needs of the parties and the community. Programs may include the parties to a case, their supporters and community members or 1-on-1 dialogues between a victim and an offender.





COMMUNITIES FOR  
**RESTORATIVE JUSTICE**

[www.C4RJ.org](http://www.C4RJ.org)

**Questions?**

# Police Perspective of C4RJ

[https://www.youtube.com/watch?v=\\_hBUpJNpzaQ](https://www.youtube.com/watch?v=_hBUpJNpzaQ)



[www.c4rj.org](http://www.c4rj.org)

# Sept. 2016 Chronicle RJ Story

<https://www.youtube.com/watch?v=M3uLg-rVszs&feature=youtu.be>



# The Data: Does it Really Work?

	Criminal Justice (%)	Restorative Justice (%)
Recidivism.....	27	18 (16-C4RJ)
Victim Satisfaction.....	57	79 (94-C4RJ)
Victim's fear of revictimization.....	23	10
Offender Satisfaction.....	78	87
Completed Restitution.....	58	81 (100-C4RJ)

**RJ can be 6 times more cost effective (UMass 2012 study)**

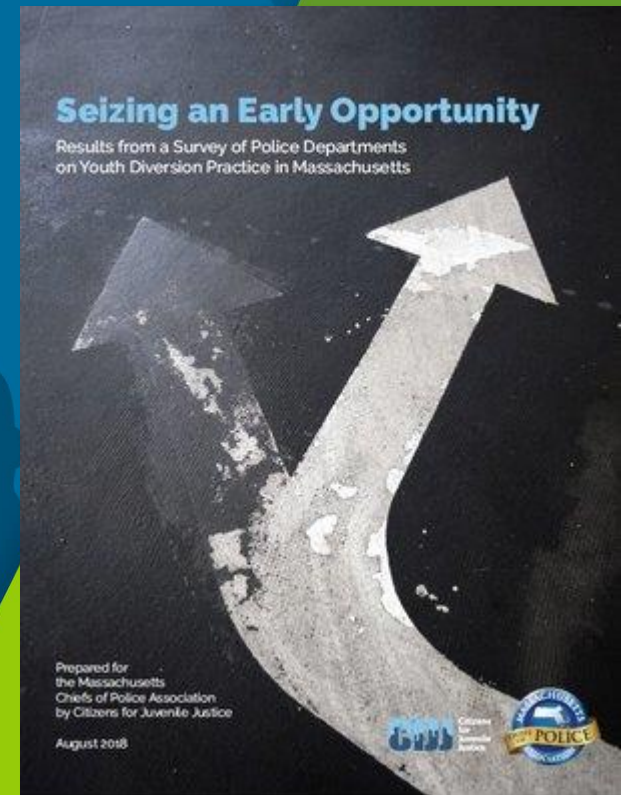
Source: <http://wcr.sonoma.edu/v1n1/umbreit.html>



# Seizing an Early Opportunity:

Results from a Survey of Police Departments on Youth Diversion Practice in Massachusetts

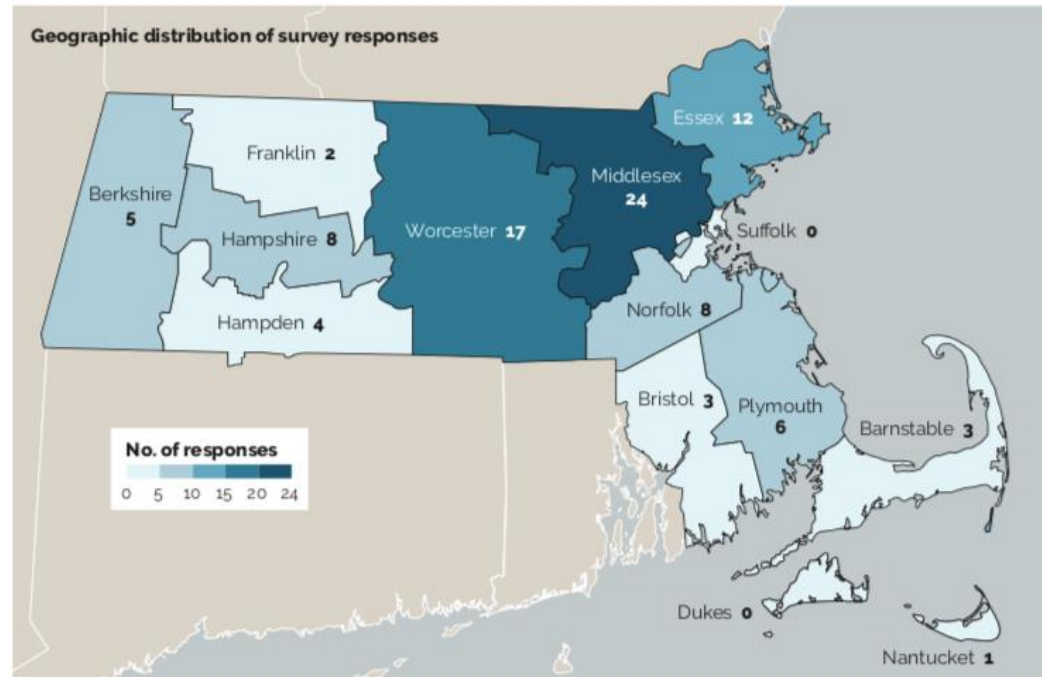
Joshua Dankoff  
Leadership Forum Project Director  
Citizens for Juvenile Justice  
March 1, 2019



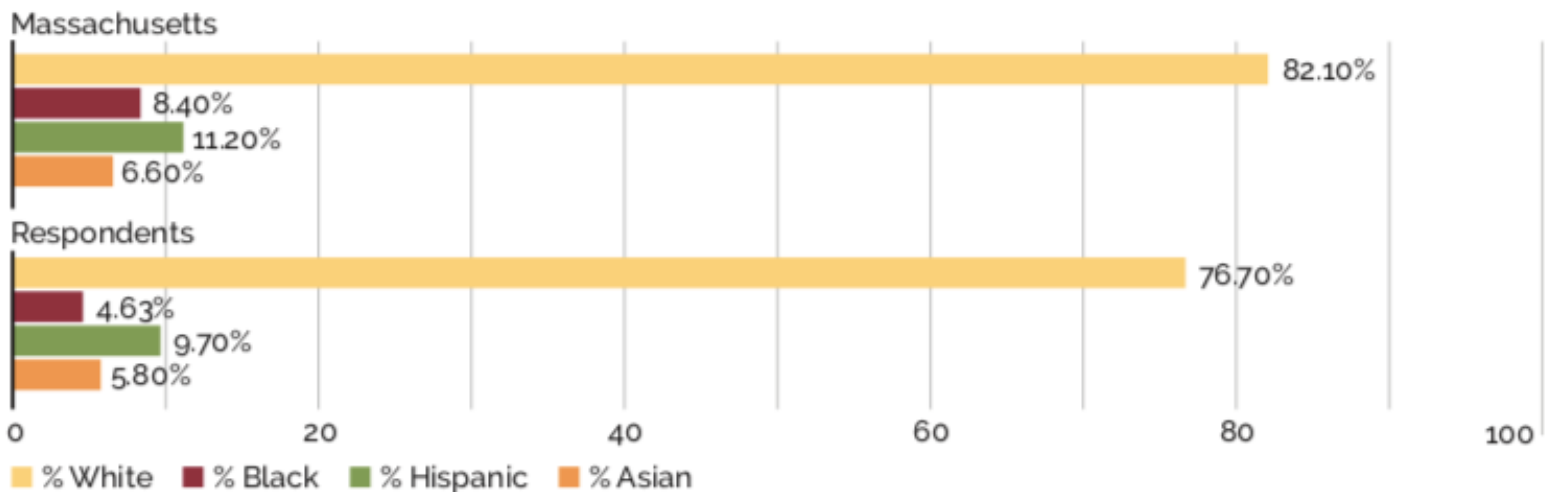
# Seizing an Early Opportunity: Origins, Research Question, Methodology

- **Origins.** Leadership Forum; companion to – “Massachusetts Juvenile Diversion Assessment Study” on DA diversion (available at <https://www.cfjj.org/diversion>)
- **Research Question:** 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?
- **Methodology: Review of best practice;** Online survey; 95 respondents out of 351 departments. 27% of departments representing 29% of MA population

# Responding Departments



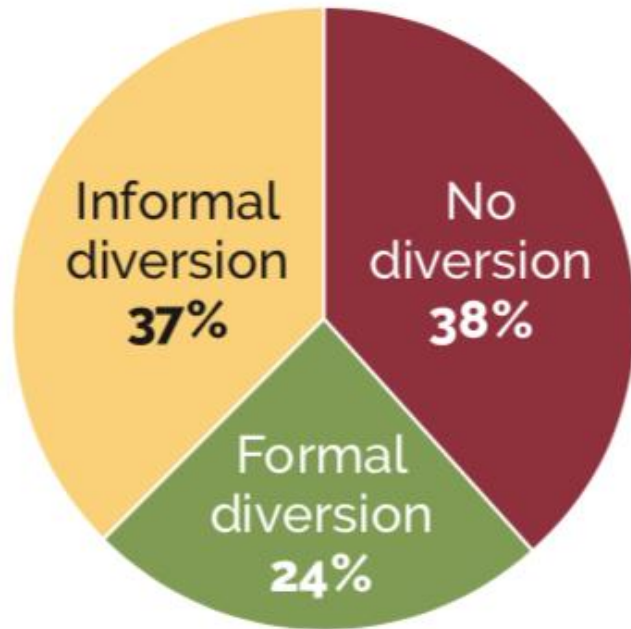
## Racial composition of responding municipalities compared to Massachusetts



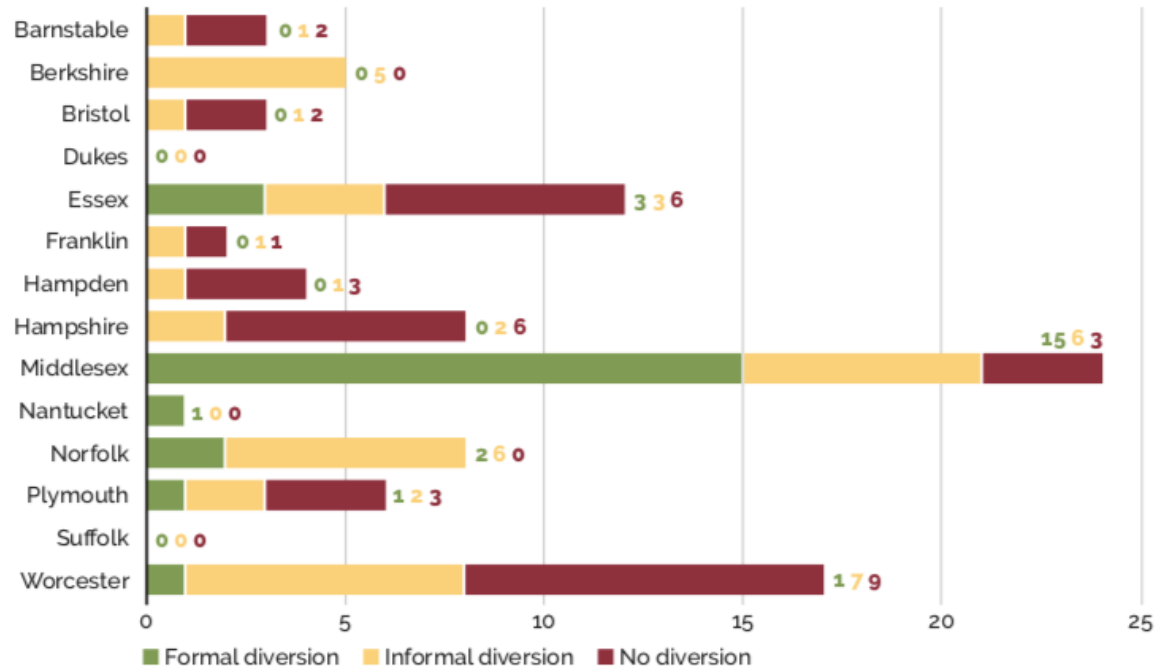
Source: US Census. <https://www.census.gov/quickfacts/MA>.

# Finding 1: Wide Variation of Youth Diversion Practice

Does your department offer police-level diversion?

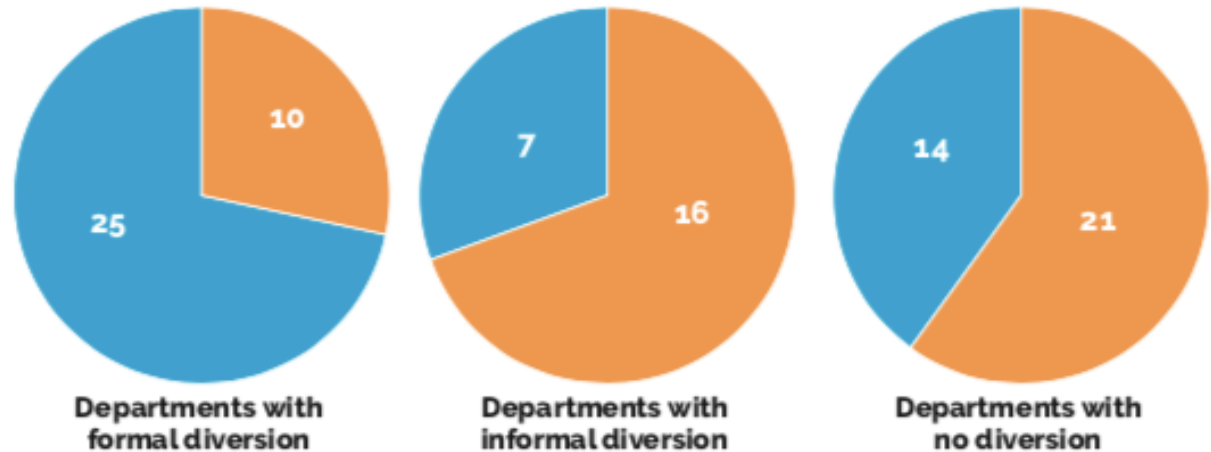


Police diversion practice by county: Middlesex County boasts most responding police departments with formal diversion



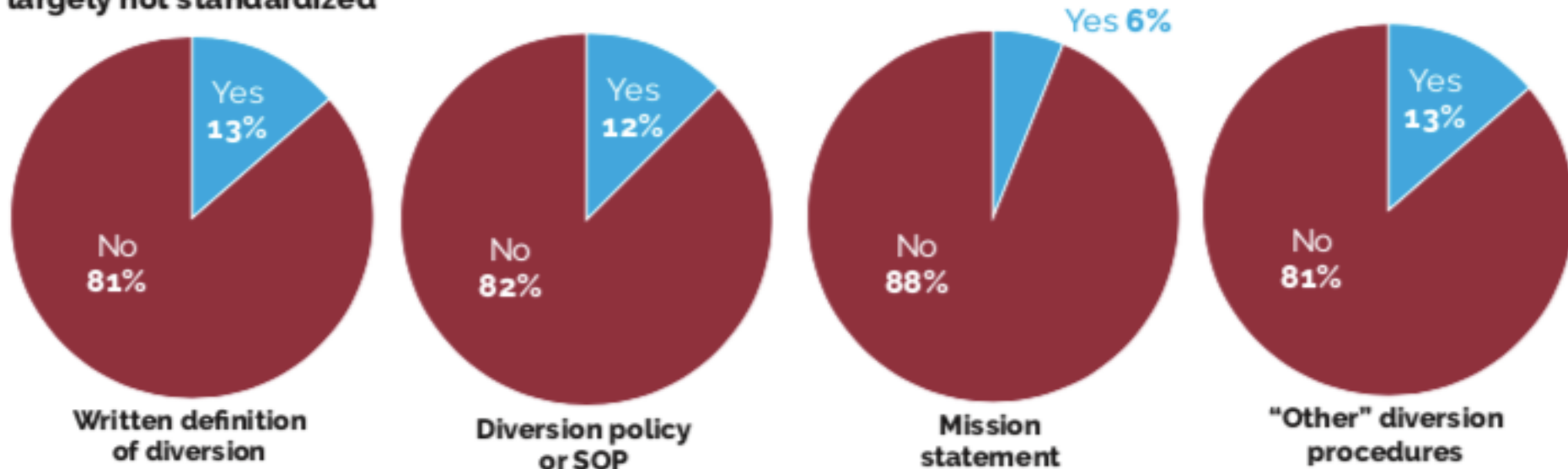
# Finding 1 (Continued): Variation in Diversion Definitions and Policies

Wide range in 'diversion' definition: Departments with formal diversion programs less likely to consider a warning as diversion

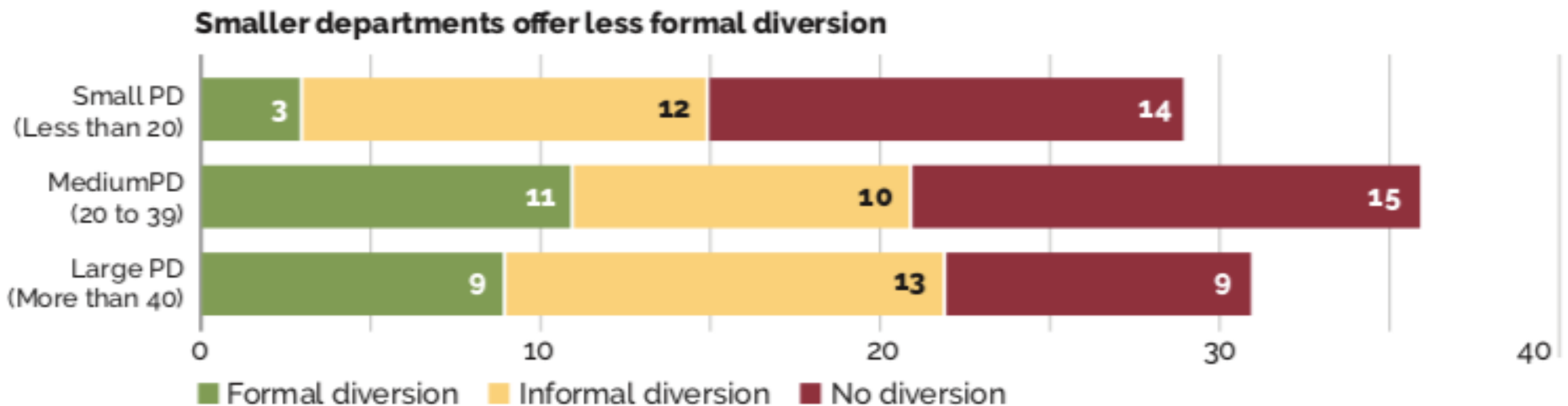


Police diversion in Massachusetts is largely not standardized

Warning is not diversion (orange)    Warning is diversion (blue)

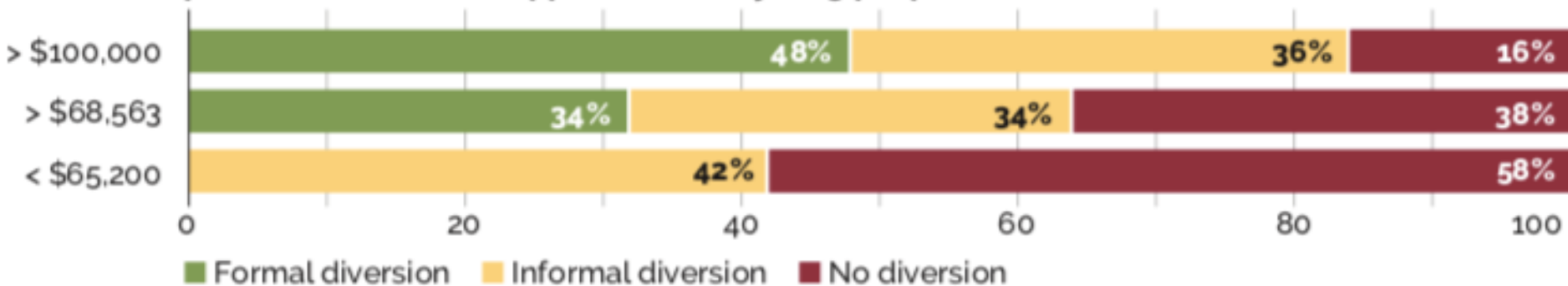


## Finding 2: Larger departments offer formal diversion at a higher rate than smaller departments



# Finding 3: Affluent towns in Massachusetts, and those with lower arrest rates are more likely to offer police-level diversion opportunities to young people

Affluent towns in Massachusetts are more likely to offer police-level diversion opportunities to young people



% of departments that offer diversion:	Municipal arrest rate (2015)	
	<3/1000	>7/1000
Formal	23%	15%
Informal	33%	34%
None	43%	50%
N=	42	26

**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.

How does your department identify who is eligible for diversion?

	Responses	
	N	Percent
Case by case assessment	54	57%
Other process	28	29%
Meeting criteria on a pre-screening tool	4	4%
Counseling assessment <sup>58</sup>	2	2%

# Diversion Eligibility (2)

What are the eligibility requirements for youth to be considered for diversion?

	Responses	
	N	Percent
Youth accepts responsibility	52	55%
Family agrees <sup>59</sup>	52	55%
Criminal history, first offense	51	54%
Responding officer judgment call	39	41%
Youth with apparent or identified mental or behavioral health needs	38	40%
Age	30	32%
Other circumstances	21	22%

# Diversion Eligibility (3)

Are there specific types of offenses that are automatically considered open for diversion? Check all that apply.

	Responses	
	N	Percent
School-based offense automatically considered open for diversion	42	44%
Other offense automatically considered open for diversion; please specify	25	26%
Non-violent drug crime automatically considered open for diversion	31	33%
Status offense automatically considered open for diversion	47	49%
Public order offense automatically considered open for diversion	37	39%
Property offense automatically considered open for diversion	28	29%

## **Finding 5. *In-state Police-Level diversion models exist already.***

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**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.

# Police Diversion Staffing and Funding

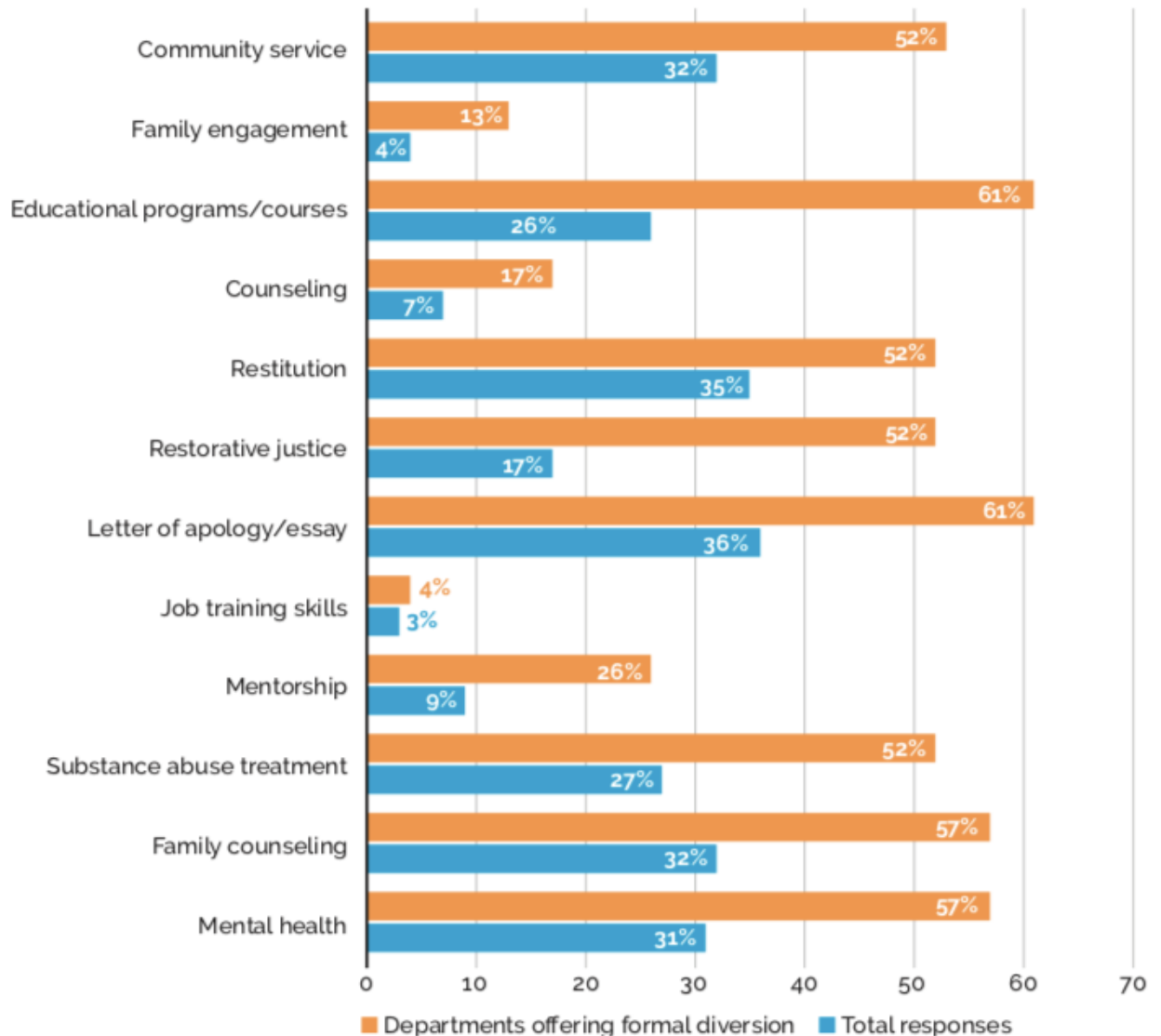
How is your diversion program funded?

	All responses (out of 95)		Of formal diversion (out of 23)	
	N	Percent	N	Percent
Police department budget	35	37%	9	39%
Local government funding	7	7%	4	17%
State government funding	7	7%	2	9%
Federal funding	2	2%	1	4%
Other grants; please specify	9	9%	6	26%
Other; please specify	25	26%	7	30%

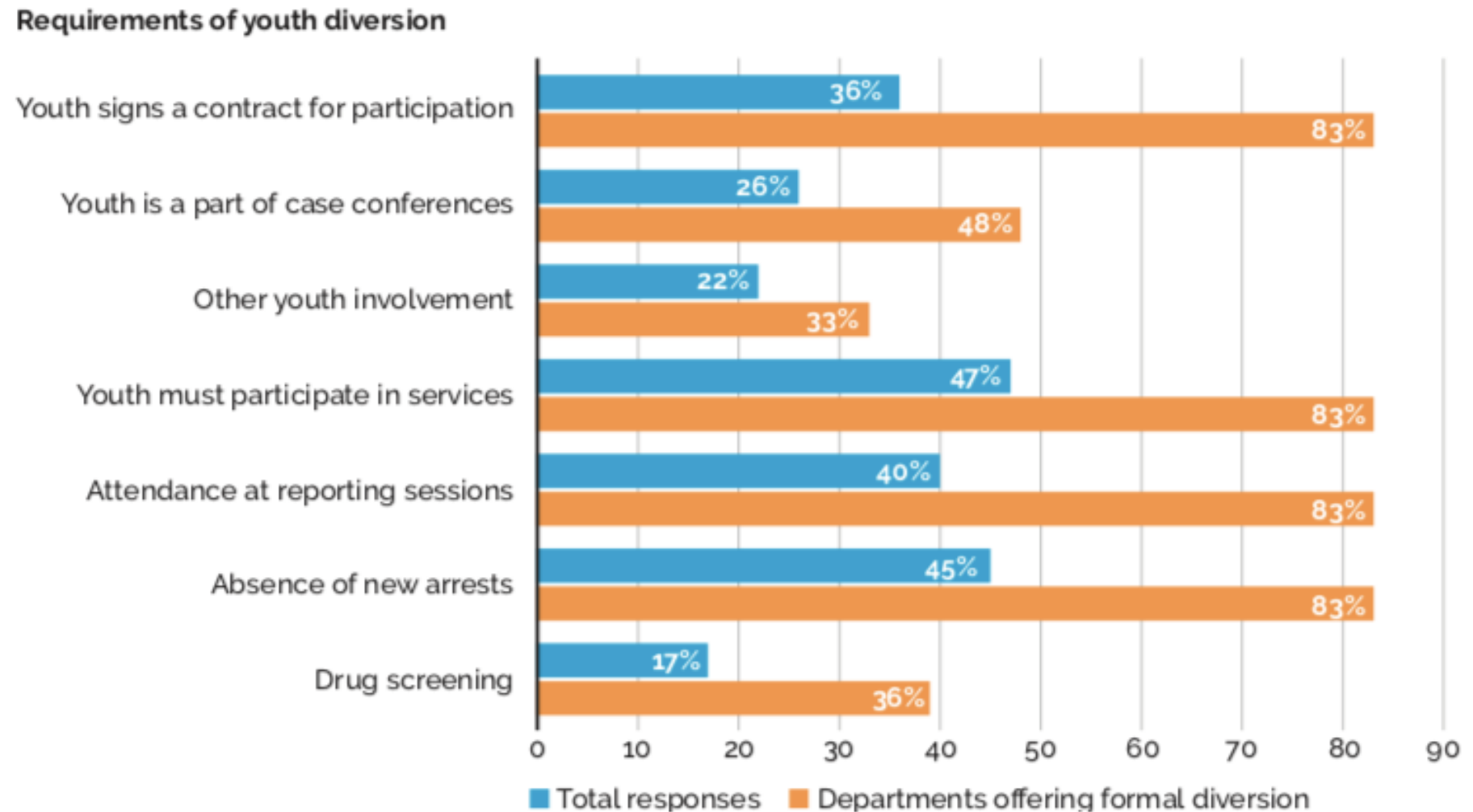
Undoubtedly, additional availability of funding would enable more formal diversion programs to be established.

# Contours of Diversion Programming

Contours of diversion programming

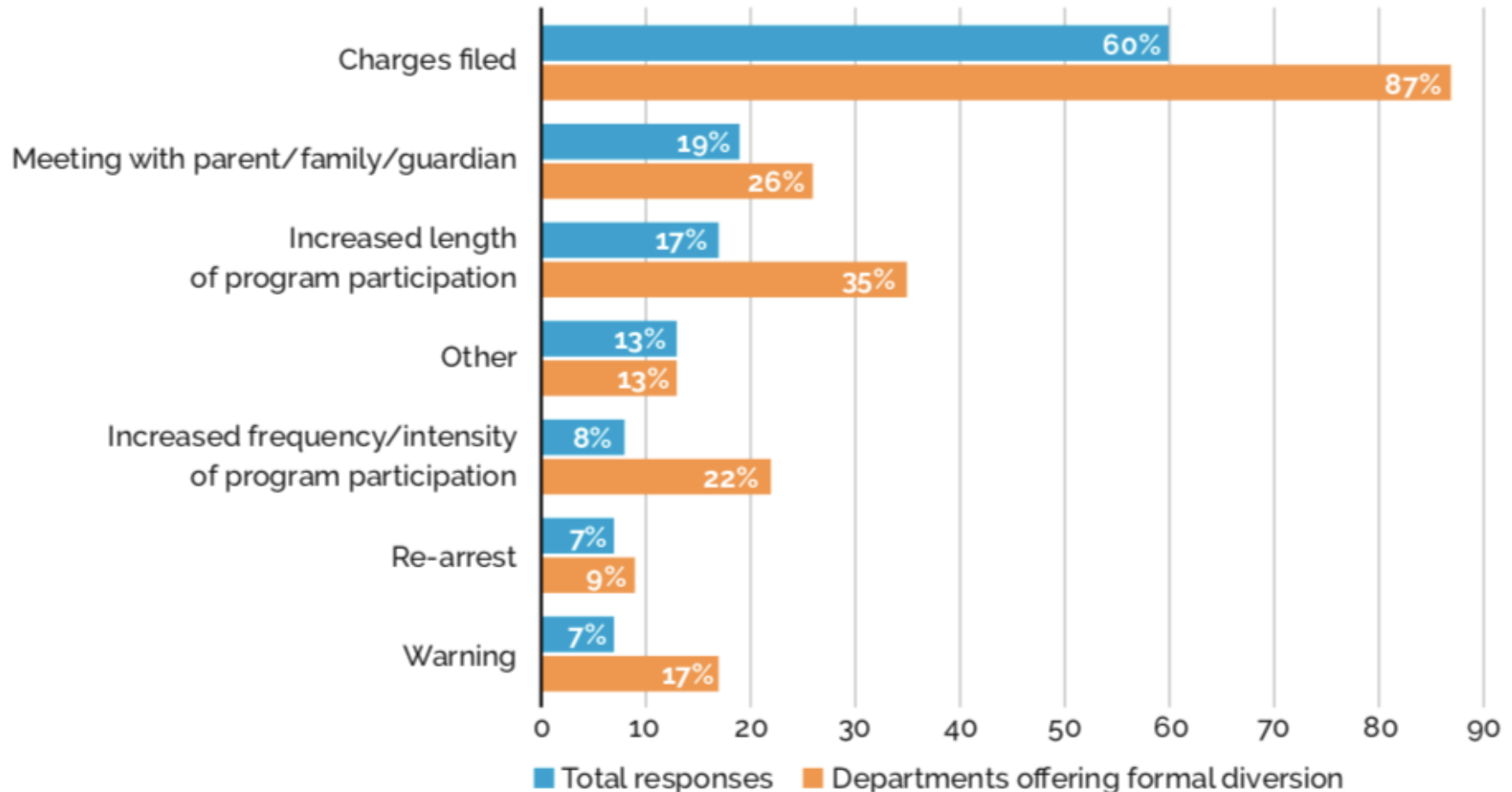


# Requirements of Diversion Programs



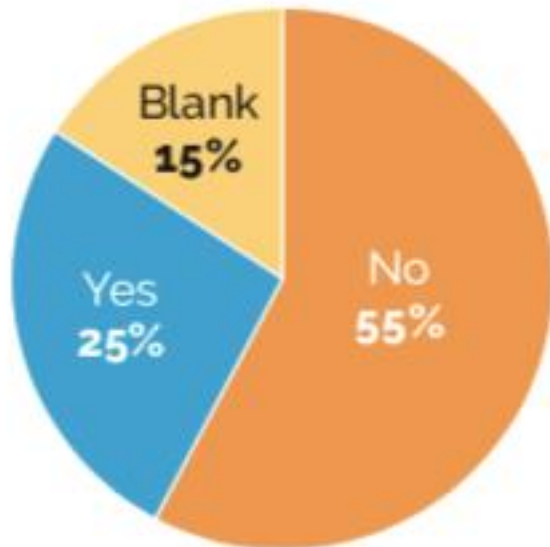
# What options exist if diversion fails?

What options exist if diversion fails?

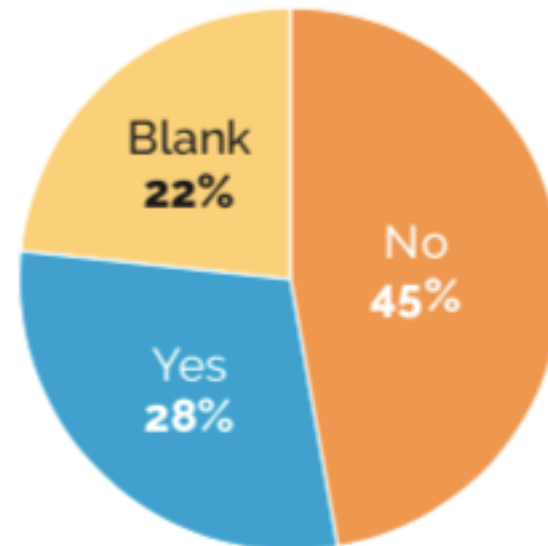


# Access to Counsel?

Is responding officer aware that counsel from CPCS is available to advise on diversion process?

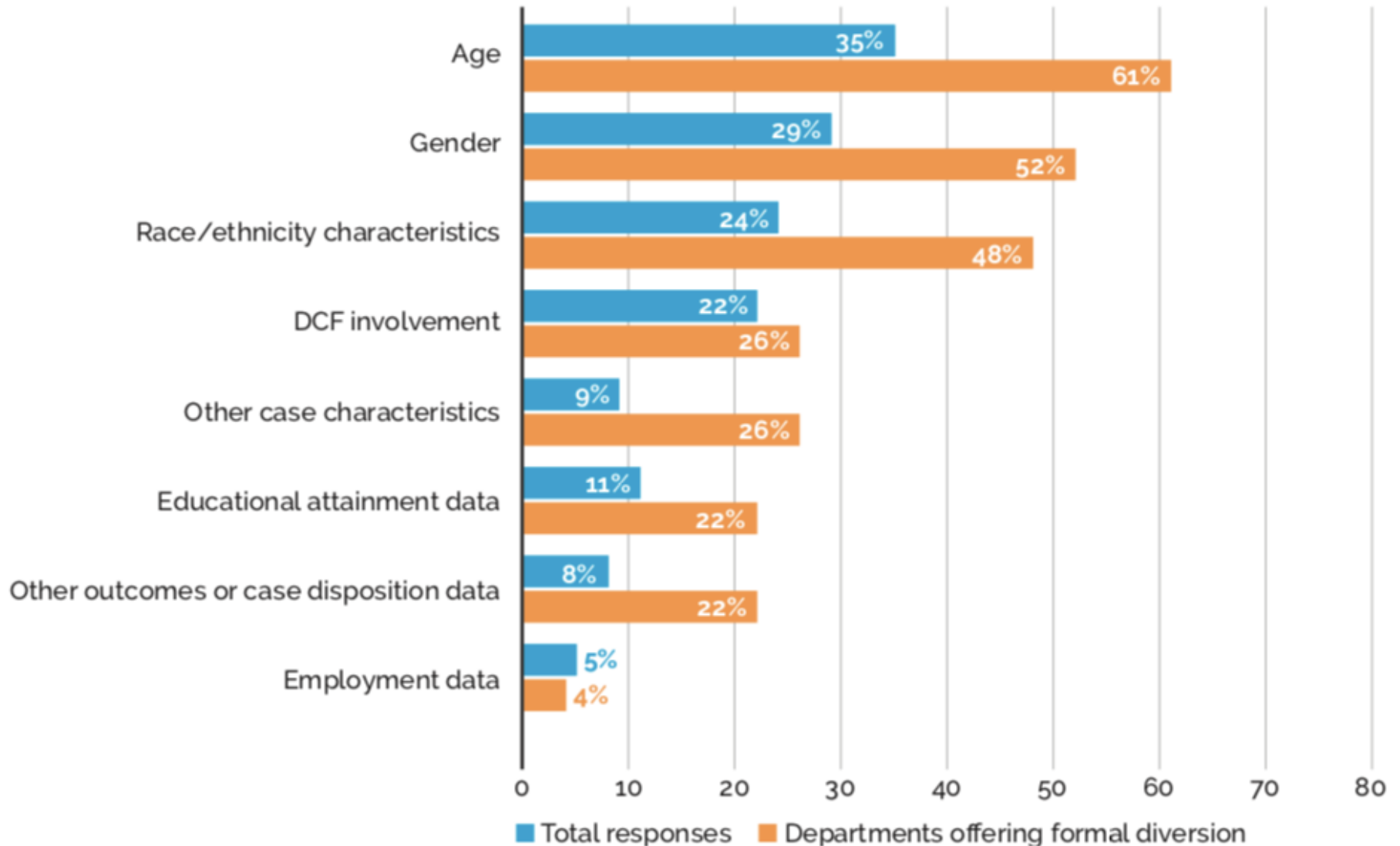


Youth and/or caregivers routinely offered attorney counsel on diversion process?



# Data Collection

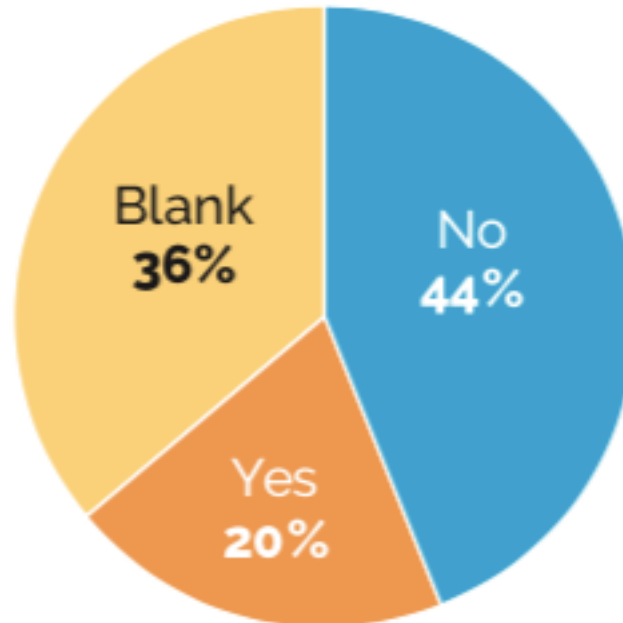
Departments collect the following data ...



# Data Collection: Collateral Use of Information

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**Can information collected by the diversion program (e.g., intake or mental health history) be used in the subsequent criminal complaint?**



# Recommendations for Police

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- Interested Departments and Municipalities should reach out to peer departments for guidance,
- Massachusetts Chiefs of Police Association could provide additional guidance and technical assistance to departments. Such as:
  - Establish Committee on youth diversion,
  - Encourage mentorship between departments, and
  - Train on how to create a diversion program.

# Recommendations for Police (Continued)

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- 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.”
  - Who accesses diversion?
  - Target increasing availability of diversion in towns/cities with a high number of arrests as well as those with large populations of children of color.

# Recommendations for Police (Continued)

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- *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 released in the absence of such a program.
- Collect data, even aggregate, on who is benefiting from diversion, and the outcome.

# Recommendations for Policymakers

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- *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.
- *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.

# Recommendations

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- *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 .

# Contact

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**Joshua Dankoff**

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**Join CfJJ's email list [cfjj.org/jj-news](http://cfjj.org/jj-news)**

# Questions & Discussion

- What are the benefits and potential pitfalls/concerns with expanding use of police diversion?
- What are the barriers to improving/expanding police diversion?
- What community partnerships are needed and where are the gaps?
- What role could/should state government play?
- Should identifying ways to improve/expand use of police diversion be a goal/priority for this subcommittee?

# Community-Based Interventions Surveys

- CBI Referral Survey
  - Target Pop: People making referrals
  - Goals:
    - Better understand referrals processes and links
    - Gather perspectives on gaps and barriers
    - Collect lists of CBIs
- CBI Provider Survey
  - Target pop: Orgs providing services
  - Goals:
    - Collect information on programs
    - Gather perspectives on gaps and barriers

# Diversity & Inclusion

## Working Group Update

- Initial focus on including youth and family voice in process
- Proposal to convene meeting with leaders/representatives of a variety of youth organizations (TBD – April?)
- Initial meeting focus:
  - Explaining JJPAD
  - Discussing CBI Subcommittee objectives and process
  - Soliciting input on gaps/barriers in Community-Based Interventions
  - Discussing methods of meaningfully including youth voice in process moving forward

# Contact

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