In the last five years, the ideological pendulum has begun to swing away from extreme approaches to youth in conflict with the law. Numerous studies have documented the failures of the draconian hard-on-crime approaches promoted in the 1990s, and include convincing evidence that these approaches result in youth becoming more troubled and reactive than before they went into the systems that tried to correct them. Empirical studies show that these “silver bullet” adultification practices—bootcamps, trying youth in adult courts, imprisoning youth with adults—provide more in the way of lethal friendly fire to communities than healthy fixes for them or their youth.

A watershed moment occurred when US Supreme Court Justice Kennedy invoked scientific understanding of adolescent development leading him to write for the Court’s majority that youth who had committed crimes as adolescents should not be executed, in Roper v. Simmons 125 S.Ct. 1183 (2005):

“...the signature qualities of youth are transient; as individuals mature, the impetuousness and recklessness that may dominate in younger years can subside... It is difficult even for expert psychologists to differentiate between the juvenile offender whose crime reflects unfortunate yet transient immaturity, and the rare juvenile offender whose crime reflects irreparable corruption... the absence of evidence of deterrent effect is of special concern because the same characteristics that render juveniles less culpable than adults suggest as well that juveniles will be less susceptible to deterrence... [cites omitted]"

A Reason for Hope

THE GOOD

AS THE JUVENILE JUSTICE CENTER BEGINS ITS EIGHTH YEAR AND PREPARES TO GRADUATE ITS EIGHTH CLASS OF SUFFOLK UNIVERSITY LAW SCHOOL STUDENTS, WE ARE HOPEFUL FOR STATEWIDE AND NATIONAL SUPPORT OF IMPROVED JUVENILE JUSTICE SYSTEMS.

IN THIS ISSUE

A REASON FOR HOPE 1
WHEN WORLDS COLLIDE 2
JUVENILE JUSTICE CLINIC GRADUATES 3
SUPREME COURT VICTORY 4
THE JUVENILE CORI STORY 5
MEDIA TRAINING EFFORT 7
HARSH APPROACHES ARENT PRODUCTIVE 9
DISPROPORTIONATE MINORITY CONFINEMENT 10
WHEN TRAUMA AND VIOLENCE PREVENT LEARNING 12
TEST YOUR KNOWLEDGE OF SCHOOL DISCIPLINE 13
THE STATE OF JUVENILE JUSTICE 14
REPORTS IN BRIEF 19
PRACTICES FUELING DMC 22
SUMMARIES OF JUVENILE JUSTICE CASES 24
JUVENILE RECORDS TRAINING 26
JUVENILE JUSTICE SCRAPBOOK 26
MASSACHUSETTS AFTERSCHOOL PARTNERSHIP 27

THE BAD

But as the ideological approach to juvenile delinquency has improved, the funding for critical programs has not. Since 2001, the state of Massachusetts has seen an unprecedented decline in federal funding to meet the requirements of the Juvenile Justice Delinquency Prevention Act (JJDPA). Federal support has declined from $6,882,662 in 2001 to $1,940,513 in 2006. President Bush’s recently released budget proposes the complete elimination of the Office of Juvenile Justice and Delinquency Prevention and no funding for the JJDPa. Countless other federally funded programs, including those provided through empowerment zones, the Housing and Urban Development corporation, and Health and Human Services, have been slashed dramatically. Our state legislature has allocated no funding to supplement the drastically reduced federal funds.

continued on next page
Ensuring that all reforms and changes under way take root in Massachusetts’ strong and creative roots.

With that in mind, the Center’s wish list for the coming months includes:

* Reforming the Massachusetts policy and practice to return the state to a position of leadership, and the restoration of necessary accountability and oversight.

With recent political changes, there may be a reason to be hopeful for both critically needed change and progress.

**The Wish List**

When Worlds Collide

The Opportunity for Counseling at the Crossroads

By Amy Allgair, Anne Miller, Josh Smith

Suffolk University Psychology Department graduate students who worked in the Suffolk Chelsea Court Clinical Service under the supervision of Alice LaCicera

**MANY OF THE ADOLESCENTS** we see in court are involved, influenced, or exposed to a gang culture—and are torn between the mainstream culture and a very active gang culture.

With gang involvement comes financial support, protection, a peer group, a somewhat predictable environment, as well as feelings of power and importance. As we know, the façade of gang life doesn’t last.

The youth that come through our door either have seen or will soon see how the gang culture can fail them. They may be facing the legal ramifications of their actions, having witnessed some terrible outcome, or have begun to question their surroundings. Some may have younger siblings, and begin to feel guilty that their brother or sister is following in their footsteps.

We have seen many youth who witness violence or are involved in violence scared to death at the reality of their situation.

When youth are faced with this crossroad, their two worlds collide, and at this point, counseling and support can become a crucial and powerful asset.

When youth are facing this crossroad, their two worlds collide, and at this point, counseling and support can become a crucial and powerful asset. Youth may be pulled between the worlds they know, and the reality of their actions. Counseling provides validation and support, within a safe haven to speak about experiences and identify opportunities for assistance. Counselors can promote critical thinking, and provide an invitation for change.

Our experience clearly indicates that the process of counseling youth at this crossroad has a profoundly positive impact on the lives of court-involved youth.

**NEWS FROM THE CENTER**

**Editor**
Lisa Tharu-Grey

**Associate Editor**
Eric Haaland

**Contributors**
Stephan Harris, Atara Rich-Shea, Ken J. King

**Contact**
45 Bromfield Street, 7th Floor, Boston, MA 02108 617.305.3200
www.law.suffolk.edu/academic/clinical@jhc jc

---

**Juvenile Justice Clinic Graduates**

Visit Clinic Class of 2007

Suffolk Law School graduates Brian LaManna, JD ’03; Daniel Najarian, JD ’01; Greg Donoghue, JD ’04; Lori Atkins, JD ’04; Christine Capstick, JD ’06; and Julie Buszuwski, JD ’03 visited the Juvenile Justice Clinic to speak about the benefits of their own JSC experiences and how those experiences helped shape their careers and their effectiveness as practicing attorneys. Here are some of the highlights of their conversations with each other and current Clinic students.

**Why Clinical Education is Important**

Dan Najarian, now a trial attorney who conducts trials 40 trials annually for a law firm that exclusively handles DYS cases north of Boston, recalled how Clinic Supervisor Pierre Monette, Jr. taught him the art of cross-examination. “I remember writing out each question neatly for my first cross-examination. Pierre told me to ignore the paper and taught me how to answer a question with a question. It’s been invaluable. I’ve learned how to do a cross-exam using the inflection of my voice and a single word to convey a question.”

Now a Children and Family Law lawyer working on parental child welfare cases, Christine Capstick remembers her courtroom experience. “Standing next to [Clinical Supervisor] Ken King, I learned not to be intimidated by a judge and how to stand my ground even if they are making faces like they don’t want to hear it. I took from the clinic an ability to take a stand as an advocate.”

For Lori Atkins, now a prosecutor handling predominantly juvenile cases in Chelsea, “The Clinic experience helped me be at ease in a courtroom, and taught me how to listen—the best answers on the stand come from witnesses and officers themselves. The Clinic teaches you how to get and use that information.”

**How Did the Clinic Experience Affect Your Point of View?**

For Lori, the Clinic also opened her eyes to the life of youth in the system. She remembers her first visit to the Department of Youth Services (DYS) as a major shock. “It changed my whole perspective. I had never seen anything like it.” Understanding the immaturity of the clients and meeting their families affected her. “Now, I do everything I can to avoid sending kids to DYS.”

Brian learned how naïve he could be. “I kept telling Pierre my client was a good kid and Pierre would just shake his head. Sure enough, two weeks after we got his case dismissed, he was arrested for stealing a car and kidnapping his girlfriend. I learned how people are going to tell you what they want you to hear.”

Christine echoed this experience. “I learned that it’s important not to take it personally when clients don’t do what you tell them. Linda Plonowski—the Center’s caseworker—drove my client all over the place to get a job and the kid didn’t even act on it. This helps me know when I deal with people who want them to abide by certain rules to keep their kids, but don’t, even knowing the consequences.”

Julie said that she learned how much the system is disadvantageous to defendants. “My first glimpse of just how bad it was in the Clinic. The system is so stacked against juveniles. My first client was a 13-year-old charged with prostitution. She broke my heart and I felt often the judges didn’t like our clients. Most of my clients lack education, have no family support, and with one act of bad judgment, we send them to Plymouth, which is just awful. And then we expect them to come out at 18 and be able to function.”

Greg said that his first trip to Casa Isla, a DYS facility on Long Island, was an “overwhelming experience. In fact, many of my out-of-court experiences were overwhelming where a case came to life and was not some neat fact pattern. Doing it makes it very real and very challenging. It’s great to have this experience before you go out and practice.”

**Does a Clinic Experience Help Getting a Job?**

Absolutely! The alums gave current students ideas about how to present and invoke clinic experiences when meeting with prospective employers. Brian said that it’s not having bad experiences when they graduated and shared how they succeeded in finding work after they passed the bar. The alums all said that clinic experiences were crucial to their ability to find a job.

Greg, who obtained his clerkship at the Superior Court, thanks to the recommenda- tion of a very demanding professor, pointed out that you start your legal career the first day of law school. “Your reputation in school will either help or hinder you.”

Each alum cited networking as key. “Suffolk Law School is too big and powerful in this city for you not to get a job through some network,” Greg commented.

Lori noted that when potential employers interviewed her and asked hypothetical questions, she could use her clinic experiences to show how she had handled a matter in a...
The Juvenile CORI Story

The Juvenile Justice Center continues to push for reform of the state’s current law regarding juvenile records. Since its 2002 ruling in Commonwealth v. Gara Co., 437 Mass. 470, the Massachusetts Supreme Judicial Court has revoked juvenile court jurisdictional authority to purge juveniles’ court records. The court found that the existing statute, Chap. 276, Section 100B, could be read to permit only sealing, not purging juvenile records.

To tackle a juvenile record, a person has to wait three years after all juvenile court proceedings are over (for example, three years after the last day of probation or after a DYS commitment is terminated), hire an attorney, and argue for sealing of the records. As the Supreme Judicial Court has noted in several decisions dating from the early 1990s, the problem with sealing is that the information sent to employers stating that the record is sealed “has the same impact as criminal records.” Commonwealth v. Baldini, 419 Mass. 42, 46 (1994).

The significance of this issue is increasing exponentially. First, the number of employers who are designated “CORI accessors” has dramatically increased. In Police Commissioner v. Dorembacher Municipal Court, 374 Mass. 640 (1978), Justice Lacom expressed his concern that 146 agencies and employers then had access to certain juvenile records. In 2006, an estimated 10,700 employers have access to records; some percentage of these employers have access to juveniles’ records.

Another important point of the problem is the way that juvenile files are documented. For instance, a teen charged with assault and battery with a dangerous weapon (shod foot) may appear in court six or seven times before the case is adjudicated. Employers who have not been trained in reading juvenile records, will look at this teen’s record and see ARB with DWP repeated six times and assume there were six charges—instead of one charge being heard and refiled on six different court dates.

Legislative action

The Center has worked hard to educate legislators about the ramifications of the 2002 decision. Representative Gloria Fox of Boston, the bill’s lead sponsor in the House, “The juvenile justice system should allow kids who have made a wrong decision or been caught up in something minor, a second chance. That second chance could be the difference between a life spent under state supervision, or a life making a difference in the lives of others.”

Senator Augustus, of Worcester, a co-sponsor of the Senate bill, says, “The best way to increase public safety in our communities is to ensure that there are good jobs available for those who need them most.”

“We must help young people who have fulfilled their obligations to the juvenile justice system get on the right track by investing their time in productive pursuits like work. Shutting them out of these opportunities only increases the potential for wrongful conduct, which is not in any of our interests.”

Increased recognition of the need to reduce dissemination of juvenile records

In spite of the frequent setbacks at the legislative level, there has been an increased recognition that juveniles’ records keep them from many opportunities in the Commonwealth. Boston, in the summer of 2006, for the first time, Mayor Menino agreed to hire 180 youth with juvenile CORIs and place them in Summer Youth Employment Programs.

Previously, youth with CORI were denied all summer work opportunities in Boston—including work that did not involve engage- ment of CORI NG youth with vulnerable popu- lations. Although there were some minor kinks in the 2006 program—the Center learned of two youths who had been working successfully in daycare facilities who lost their jobs when someone learned they had CORIs—this remains a very positive step in the right direction.

The Mayor plans to increase offerings to youth with CORIs in the 2007 Summer Youth Employment Program. All of these youth initiatives appear to be a result of the Mayor’s courageous decision to sign an historic agreement to change CORI review requirements for all city vendors—a bold move that affects 7,000 jobs.

Boston Connects, the organization that oversees the distribution of federal funding to the City’s empowerment zones, recently acknowl- edged the Center’s efforts with its award for “Outstanding Leadership and Commitment to Improving the CORI Laws for Hiring Juveniles” at an event on January 10, 2007.

Congress should deny a request from the FBI to begin including juvenile arrests that never led to convictions (and offenses like drunkenness or vagrancy) in the millions of rap sheets sent to employers. That would transform single indiscretions into lifetime stigmas.


continued from next page.

The following is excerpted from the Amicus Brief

“…the minor, a second chance. That second chance or been caught up in something minor, a second chance. That second chance could be the difference between a life spent under state supervision, or a life making a difference in the lives of others.”

Senator Augustus, of Worcester, a co-sponsor of the Senate bill, says, “The best way to increase public safety in our communities is to ensure that there are good jobs available for those who need them most.”

“We must help young people who have fulfilled their obligations to the juvenile justice system get on the right track by investing their time in productive pursuits like work. Shutting them out of these opportunities only increases the potential for wrongful conduct, which is not in any of our interests.”
WHAT BEGAN AS AN ADVERSARIAL RELATIONSHIP is now an unexpectedly positive partnership. Five years after suing the MBTA Transit Police for a zero tolerance policing policy in 2001, the Juvenile Justice Center completed its 18-month training program with the MBTA Transit Police in 2006. During that period, the Center provided six two-day trainings for more than 180 MBTA Transit Police officers.

In the late 1990s, the Boston Public Schools decided to use public transit to transport 30,000 of its students to middle and high schools throughout Boston. The MBTA Police chose to enforce a zero tolerance policy, resulting in large numbers of arrests of juveniles for minor and sometimes no offenses, leading to widespread dismissal of such cases by the juvenile courts, and the deterioration of the Transit Police’s reputation in the city. In 2001, after a public hearing in Roxbury convened by the Black Legislative Caucus and a lawsuit by the Juvenile Justice Center, the zero tolerance policy was abandoned and a new chief was named to head the police authority. Since his appointment in 2003, Chief Joseph C. Carter has made youth a major focus of all policing efforts and strategies at the T. In 2004, Chief Carter invited the Juvenile Justice Center to train the department’s officers in working effectively with youth.

“One of the core values of the MBTA Transit Police Department is treating all people with dignity and respect,” Carter says. “I saw the youth training initiative as an effective tool for our officers in establishing and maintaining a positive, respectful relationship with one of the MBTA’s largest constituencies: school age children. We have been very pleased with the results and place the youth training effort among the most important efforts undertaken by the Transit Police.”

The second day of the MBTA training focused on a review of the five aspects of adolescent development—identity, morality, cognitive, sexual, and physical changes—by Dr. Jeffrey Q. Bostic of the Psychiatry Department of Massachusetts General Hospital, and ended with role play performed by youth and selected officers. Dr. Bostic’s presentation integrates recent findings in neurosciences which demonstrates the difference in adolescents’ brains and capacity to process information and control their impulses.

This training, now called “New Approaches to Police/Youth Interactions,” helps officers imagine life from a teen’s perspective, and use approaches that work with young people’s strengths instead of merely invoking assertions of legal authority or arresting youth. The Center’s theory is that police investment in relationships and outreach with youth has demonstrated long-term positive effects, which actually improve public safety.

One of the most challenging parts of the training is to clarify how adolescent behaviors, including provoking authority, are a normal, albeit irritating, aspect of adolescent development. Everybody wants respect, but no one wants to give it first and demonstrations of respect for youth who feel marginalized is of tremendous importance. And sometimes, the least respectful youths are the most in need of attention but their negative expression of that need leads to more punishment instead of interaction. “A lot of us had to recognize that the way we wore our blue uniform was more like a red

PROPOSED LEGISLATION IN A NUTSHELI House Bill 1426/Senate Bill 2195 would:
- Return to judges the authority and discretion to decide which juvenile records should be purged, on a case-by-case basis;
- Require juvenile court judges to apply the following five-pronged test to decide whether a juvenile’s record could be purged: (1) severity of the offense, (2) probable adverse consequences to the person as a result of maintenance of the record, (3) any specific public safety need to maintain such a record, (4) the person’s personal history and, (5) behavior since the juvenile proceedings were commenced and/or disposed of that provides indicia of rehabilitation;
- If a juvenile court judge orders the file to be purged, allow the record to be purged from both police and court files;
- Enable youth and court clerks to legally state “no record exists” upon purging;
- Provide that the Juvenile Court has an affirmative obligation to inform youth and their families verbally and in writing of their right to purging and sealing records; and
- Eliminate the need for youth to wait three years for relief.
When dealing with juveniles, we want to make arrest a last resort.

Lt. Gillespie, MBTA Transit Police, 2006

RESULTS OF THE TRAINING

“The training has changed how some of us work with youth,” said Officer Thomas O’Connor. “I think some officers just didn’t have a sense of other ways of handling some of these kids and inadvertently escalated the problems.”

The statistical picture and results described below show the remarkable decline in arrests. After learning more about the collateral impacts of a juvenile arrest, Sergeant Kenny Greene and Sergeant Mark Columbus asked that the impacts of an arrest be noted on a business card so that they could hand it out to youth as a warning against being arrested. This led to the creation of the THINK ABOUT IT card.

Officers use these cards to break the ice with youth who are at-risk for arrest. The MBTA routinely distributes 30,000 of these cards twice each year with Boston Public School (BPS) students’ T passes. The THINK ABOUT IT card is now used with after school programs and youth employment programs throughout the state as a reminder to youth about the ramifications of getting arrested in Massachusetts.

During the 18 months of training, the MBTA began implementing the Stop Watch program developed by the MBTA Transit Police to focus on “hot spot” stations where fights and other conflicts tend to erupt regularly among youth. The goal of the program is to stop and watch the youth and to provide a large and clear presence of police, probation, and school authorities in specific stations.

Stop Watch now includes community partners from the private and public sectors, who conduct outreach with youth and introduce officers and youth to one another. Each member of the Stop Watch team is required to make a personal contact with a youth during Stop Watch weekly. “Our goal is to reduce anonymity. We want the kids to know us and us to know them. That goes a long way to reducing problems,” said Lt. Gillespie, who coordinates the program.

The MBTA is now focusing on truancy issues and is coordinating Traunyc Watch efforts with the Boston Police Department, the BPS, attendance officers, the BPS Office of Alternative Education, the Department of Probation, and community partners from Boston Youth and Family Services. Through this program, youth are identified, their school assignment is verified, and letters are sent to schools and parents. Recently officers called the home of each youth who had left school.

At the instigation of the T, the adults conducting Traunyc Watch are interviewing youth about when they decided not to go to school. “I figure if we get at the ‘when’ we can get at the ‘why,’” says Detective Paul Pantascelli, who participates in Traunyc Watch. “It makes you look at the problem differently.”

The MBTA has taken a leadership role in addressing truancy,” says Rep. Liz Malia—who arranged for a group of MBTA Transit Police officers, Judge Terry Craven, Private Industry Council representatives, and members of the Juvenile Justice Center to visit Rhode Island’s truancy court in December of 2006. “I am very impressed with the way the T has stepped up and said, ‘We’re going to focus on this together and be your partner.’ Their support for this effort is already making a marked difference.”

The MBTA and Everett Public Schools’ District Directors have been able to track trends in youth arrests, truancy, and behavior issues. In February, the Everett Police Department began issuing a card to at-risk youth to provide them with a sense of other ways of handling some of these kids and inadvertently escalated the problems.

The training effort was funded by the Mabel Louise Riley Foundation and the Boston Foundation. “One of our goals was to feature and promote those officers who are really excellent at working with youth,” says Lisa Thuras-Grey. “These are the officers who have the ‘magic.’ They can accomplish in a conversation what many officers were responding to with an arrest that just caused more hostility and anger. We wanted those officers to model to other officers how they work this magic, how they see these situations, and serve as a resource for officers who were grappling less successfully with certain youth.”

“I think before we were forced to look at how we are dealing with kids, we just viewed them as a real nuisance. But they were also the elements in the room in that we couldn’t just say they are nuisances and not deal with them,” said Lt. Gillespie. “I think now we affirmatively address them and their issues and we reach out to them instead of hoping they will talk to us, tell us they need help and ask us for advice.”

The training effort was funded by the Mabel Louise Riley Foundation and the Boston Foundation. “One of our goals was to feature and promote those officers who are really excellent at working with youth,” says Lisa Thuras-Grey. “These are the officers who have the ‘magic.’ They can accomplish in a conversation what many officers were responding to with an arrest that just caused more hostility and anger. We wanted those officers to model to other officers how they work this magic, how they see these situations, and serve as a resource for officers who were grappling less successfully with certain youth.”

“I think before we were forced to look at how we are dealing with kids, we just viewed them as a real nuisance. But they were also the elements in the room in that we couldn’t just say they are nuisances and not deal with them,” said Lt. Gillespie. “I think now we affirmatively address them and their issues and we reach out to them instead of hoping they will talk to us, tell us they need help and ask us for advice.”

The training effort was funded by the Mabel Louise Riley Foundation and the Boston Foundation. “One of our goals was to feature and promote those officers who are really excellent at working with youth,” says Lisa Thuras-Grey. “These are the officers who have the ‘magic.’ They can accomplish in a conversation what many officers were responding to with an arrest that just caused more hostility and anger. We wanted those officers to model to other officers how they work this magic, how they see these situations, and serve as a resource for officers who were grappling less successfully with certain youth.”

“I think before we were forced to look at how we are dealing with kids, we just viewed them as a real nuisance. But they were also the elements in the room in that we couldn’t just say they are nuisances and not deal with them,” said Lt. Gillespie. “I think now we affirmatively address them and their issues and we reach out to them instead of hoping they will talk to us, tell us they need help and ask us for advice.”

“...[M]ost students report that the presence of armed police officers who criminalize minor misbehavior can create tense and destructive school environments...”

“Almost every student said that heavy police presence makes schools feel like jails and students feel like criminals, while only half said police presence sometimes makes them feel safer...”

“...[M]ost students report that the presence of armed police officers who criminalize minor misbehavior can create tense and destructive school environments...”

“…”

“Almost every student said that heavy police presence makes schools feel like jails and students feel like criminals, while only half said police presence sometimes makes them feel safer...”

“The report concludes that the use of this discipline plays a critical role in student the drop-out levels which hover near 40 percent in New York and Los Angeles. “

To read the entire report, go to www.nwe.org/programs/dropout_report.html

More Proof That Harsh Approaches Aren’t More Productive

IN FEBRUARY 2007, the National Economic and Social Rights Initiative released “Exposing of Dignity: Degrading Treatment & Abusive Discipline in New York & Los Angeles Public Schools,” detailing the use of police to implement disciplinary practices. In the context of excessive use of school suspensions and expulsions, the report noted:

• "...[M]ost students report that the presence of armed police officers who criminalize minor misbehavior can create tense and destructive school environments...""Almost every student said that heavy police presence makes schools feel like jails and students feel like criminals, while only half said police presence sometimes makes them feel safer...”

“The research possibilities are also very exciting,” says Thurau-Gray. "This area is a major subject of conversation but very under-studied. We'll be able to look at this data and be able to form some conclusions and consider the questions to be asked and addressed next."
Disproportionate Minority Confinement: A Cri de Coeur Against Unnecessary Detention of Massachusetts Children

FOR TOO MANY YOUTH IN MASSACHUSETTS, an arrest on Friday means a weekend in an arrest on Friday means a weekend in an arrest on Friday means a weekend in jail. In Do You Know Where the Children Are? A Report on Massachusetts Youth Unfairly Held Without Bail, juvenile defendants Barbara Fedders and Barbara Kaban of the Criminal Justice Institute of Harvard Law School and the Children’s Law Center, respectively, point to Massachusetts’ “widespread systemic failure” in prohibiting the pre-arraignment detainment of children under age 14.

The law is plain: M.G.L. Ch. 119 Section 67. “[w]hen the arresting officer requests in writing that [the child] be detained and… the court issues a warrant for the arrest of a child in default that such child shall be detained;” or “[w]hen the probation officer shall so direct.” Presently, pre-arraignment detention is recommended for children as young as 10 and for offenses ranging from shoplifting to assault and battery. The Executive Office of Public Safety (EOPS) has stated unequivocally in its Three-Year Plan, dated 2006, “Detention is not a therapeutic environment or a gateway to treatment and should only be used when absolutely necessary.”

The experience of the authors of Do You Know… is in line with the Center’s attorneys’ experience that police officers rarely request detention, and defer instead to probation officers who make the decisions on limited information and without recourse to a protocol. Judges’ decisions to release the vast majority of detainted children suggests that the original decision to place the child in secure detention was not warranted. This practice is compounded by the fact that when the detention decision is made, children have not yet been assigned an attorney who can make colorless arguments, and by the failure to use a bail commissioner who would review the recommendation of secure detention.

IMPACTS OF THESE PRACTICES ARE FELT MOSTLY BY CHILDREN OF COLOR

In keeping with many other findings about Massachusetts’ poor record of treatment of youth of color, Do You Know… analyzed 2004 post-arrest/pre-arraignment detention data obtained from six detention centers statewide. The data showed:

- 4,201 children aged 7 to 14 were detained
- 520 children under the age of 14 were detained
- 17 percent African American children in Massachusetts are youth of color
- 66 percent children detainted pre-arrangement are youth of color

The impact on children is enormous: ranging from severe trauma to subsequent and pervasive feelings of degradation that makes aspiring to anything more or better no longer possible after this branding. Many children are kept in conditions that are neither clean nor neat. Children are often kept in solitary confinement for 23 hours a day, and when they are finally brought into court, they are stuffed and shackled—before they have been arraigned much less adjudicated. Typically, the children are not given any services while they await arraignment—no counseling, no supports, nothing.

The chart below indicates that specific groups of youth are treated differently than others within the category of youth of color:

<table>
<thead>
<tr>
<th>MA YOUTH POPULATION</th>
<th>WHITE</th>
<th>BLACK</th>
<th>ASIAN</th>
<th>LATINO</th>
</tr>
</thead>
<tbody>
<tr>
<td>70.9%</td>
<td>6.5%</td>
<td>4%</td>
<td>10.5%</td>
<td></td>
</tr>
</tbody>
</table>

Youth of color are over-represented in the juvenile justice systems, and subsequently are over-represented among detained youth.” explained Lael Chest, executive director of Citizens for Juvenile Justice and chair of the DMC Subcommittee of the Massachusetts Juvenile Justice Advisory Committee (JMC).

“By reducing the number of children detained pre trial, we can simultaneously help address the problem of DMC.”

Chest also noted that, “almost 70 percent of detained youth are being charged with non-violent, low level offenses. More often than not, these youths are high need but low risk, and their needs would be better addressed by connecting the youth to services within their own communities.”

The Three Year Plan submitted by the Massachusetts JAC to the US Department of Justice (USDOJ) states that the current system of pre-arraignment detention is seriously flawed for these reasons:

- “Detention mixes youth that have less serious levels of offending with youth that have more serious levels of offending. Lower offending youth who are placed in a secure detention setting are likely to make new friends that are negative influences, learn new crime-related skills, break new social taboos, and develop a criminal identity.”
- “Detention separates youth from their families and support systems, causing additional stress to youth who may already be suffering from depression or other mental illness.”
- “Detention disrupts the continuity of the child’s involvement in school and community-based activities. For example youth can have their case closed by their outpatient counselor or prescribing doctor after missing two to three sessions and get put back on the waiting list.”
- “There is also the risk of having out-of-home placement changed because the youth was detained too long and DSS needed access to the foster or other placement bed (Massachusetts JAC, 2006).”

The data from the 2004 post-arrest/pre-arraignment detention data show that the vast majority of detained youth are charged with non-violent offenses.

WASTING TAXPAYERS’ MONEY WITH BAD POLICIES THAT PROMOTE RECIDIVISM

According to a variety of research studies, this practice ensures a steady stream of traumatized children who are in and out of the juvenile justice system. Juvenile justice researchers and practitioners strongly condemn the practice of holding young people without bail prior to arraignment. The state’s conduct has led to taxpayers expending at least $213,200 for 520 beds for two nights at $205,000/bed in the state’s alternative lock-ups. The authors of Do You Know… believe that nearly $1,200,000 in federal funds—this figure notably does not include what cities are spending on this approach to detention—has been spent on detaining youth in 2004. In FY 2004, the Alternative Lock-up Program (ALPs) budget from the federal government included a 10 percent match of service vendors’ own funds. The places in which children are kept—alternative lock-ups—are required by federal law to remove youth from police stations within six hours and keep detainted children separate (sight and sound) from adults. For many years, Massachusetts has used federal funds to pay for the ALPs in the Commonwealth, with the exception of ALPs in Boston. But the federal funds are quickly shrinking, the costs are steadily rising, and Massachusetts is now forced to use a substantial amount of precious federal funding to pay for this service.

“All of our federal allocation of the Juvenile Accountability Block Grant has been spent this fiscal year to pay for ALPs” says Chester. “Not only is it inappropriate to use these funds to pay for this service, but the reality is that the funds will only continue to shrink and will be unable to cover the costs in the future.”

The authors of Do You Know Where the Children Are… “... several different aspects of the practice of holding young people without bail prior to arraignment combine to make it unhelpful, unfair, and unfair…” and exhort us to remember what should be obvious; “children should have more—not fewer—legal protections than adults. The practice of detaining youth under the age of 14 must cease.”

RECOMMENDATIONS FOR CHANGE

The Center supports the recommendations for change suggested by the authors of Do You Know… and the Coalition for Juvenile Justice. The Center hopes other defenders and youth advocates will stand behind these rec-ommendations:

- Stop detaining children under the age of 14 pre-arraignment, and for non-violent offenses post-arraignment
- The Commissioner of Probation should promulgate uniform rules for detention decisions which should be subject to quart-erly review by a panel of probation officers, judges, defenders, and children’s advocates;
- The Commissioner of Probation should support its officers and the youth it serves by increasing the use of existing alternatives to detention including supervised release, home detention and electronic monitoring which also are more cost effective;
- Alternative lock-ups should meet minimum federal requirements and those that the Massachusetts Department of Early Education and Childcare requires of child-care providers for cleanliness and safety;
- Juvenile court judges should be keenly aware of the extent of the children’s post-detention distress.

Additionally, the Center proposes that:

- The Juvenile Justice Advisory Committee, a committee selected by the Governor to address comprehensive statewide juvenile justice planning as well as distribute the merger federal funds coming to the state, has recognized this issue and documented it in its Three Year Plan to the USDOJ; it should be a priority of this administration.
- The state legislature should step up to the plate and ask what is happening in the juvenile justice system—once a national flagships, and now one with disturbing practices towards children of color—which is hard to change without political will.
- The state legislature should analyze why it has failed to supplement the 60 percent cuts in federal funding to maintain minimum standards of decency in the juvenile justice system, as set forth in the recently reauthorized federal Juvenile Justice Delinquency Prevention Act of 2002, and commit state funding to do more, including reducing probation officers’ caseloads, and fund alter- natives to detention and commitment.

For a copy of Do You Know… go to our website. See also. Unlocking the Future: Detention Reforming the Juvenile Justice System, published by the Coalition for Juvenile Justice, in 2003 and found at www.cjj.org. The Dangers of Detention: The Impact of Incarcerating Youth in Detention and Other Secure Facilities, published by the Justice Police Institute, November 2006; a summary of study on p. 13.
When Trauma and Community Violence Prevent Learning

By Isabel Raskin, Education Attorney

The LEVEL OF VIOLENCE IN AND AROUND THE STREETS OF BOSTON impacts the students in the Boston Public Schools. These are the children who live in the city, ride the T to school daily, walk through the streets in the dark before and after school, and live in neighborhoods permeated with violence.

A study of 1,079 Boston High School students in grades 9–12, released in August 2005 by the Harvard School of Public Health found:

- More than 80 percent of students had witnessed someone being hit, kicked, or beaten last year.
- Nearly one-third of the students said they had a family member killed in a shooting, stabbing, or being.
- 25 percent had seen someone shot within the last year.
- 70 percent of students reported the presence of dangerous gangs in their neighborhood and half said gangs in the school were dangerous.

A 2004 report by Massachusetts Advocates for Children proposes an educational and policy agenda that enables schools to recognize signs of trauma in children and to prevent the compounding of traumatized children’s stressors. Recommendations include the following:

- Creation of clinical support systems for teachers to develop classroom strategies for addressing the needs of traumatized children;
- Re-evaluation of school discipline policies recognizing the needs of traumatized children;
- Development of protocols for early identification of trauma and implementation of services before children are at risk for discipline or school failure; and
- Funding of collaborative efforts at the local level.

Unaddressed trauma interferes with a child’s ability to pay attention in school and learn. Youth who experience trauma can have trouble with social skills, communication, organization, and often have a compromised ability to focus and pay attention.

The experience of exposure to violence and the trauma engendered by this exposure can manifest in varying ways. Some children may misinterpret social cues and overreact with a "fight or flight" reaction. Others may withdraw into their own world or act out aggressively and defiantly with adults who they are likely to distrust. They are often unable to concentrate and focus sufficiently to learn. They may challenge school personnel, overreact, or misperceive classroom encounters. Left unrecognized and untreated, trauma can put them at risk for truancy, school failure, substance abuse, suspension, expulsion, and dropping out. The punishment they receive often intensifies and exacerbates their existing sense of vulnerability and fear.

A useful resource is the National Child Traumatic Stress Network (NCTSN) which exists to "raise the standard of care and improve access to services for traumatized children, their families and communities..." With 50 centers across the United States, the NCTSN works to raise public awareness and improve standards of care for children suffering from traumatic stress. The NCTSN also provides a continuum of care by helping to coordinate established systems of care and by ensuring that knowledge of traumatic stress and its effects on children are widely known.

Childhood trauma can impact academic performance by negatively affecting the brain’s executive functioning:

- Language and communication skills
- Ability to learn and retrieve new verbal information
- Social and emotional communication
- Problem solving and analytic ability
- Organizational skills
- Ability to understand cause and effect relationships
- Attentiveness to classroom tasks
- Regulation of emotions

Traumatized children’s behavior is marked by:

- Reactivity and impulsivity
- Aggression
- Defiance
- Withdrawal
- Perfectionism

The State of Juvenile Justice

The following remarks are excerpts of the keynote speech delivered by Vincent Schiraldi, Director of Department of Youth Rehabilitation Services, Washington, DC, at the annual conference at Suffolk University Law School on November 10, 2006.

I thought I’d get to the state of juvenile justice in America by starting off with a story from ancient Greek Mythology—the story of Procrustes and Theseus.

Theseus is the hero of the fable who, as the story begins, must travel from Crete to Athens in haste. Despite his need for speed, however, Theseus is warned by his advisors to take the slower, sea route instead of going by land. The reason, they explain, is that Procrustes, an evil demi-god, haunts the road from Crete to Athens.

Now Procrustes matches up unwary travelers on the road, and imprisons them in his castle. The trouble with his castle is that, while it has many rooms, all of the beds in those rooms are exactly the same size. Procrustes’ solution! If travelers are too tall to fit into those beds, he cuts their legs off to make them fit. If they’re too short, he puts them on the rack and stretches them out.

The first message I take from the myth is that our system of justice should be designed to fit the needs of consumers—defined as victims, offenders, or society at large—and not the other way around. Right now, the system is not serving the needs of victims or offenders by missing a huge opportunity to work with our nation’s troubled young people and return them to us better equipped to live productive, law-abiding lives.

Juvenile justice systems are too often characterized by this devil’s choice with funds and non-violent youth flowing freely into large, debilitating locked institutions; while community-based programs go begging. Nearly 20 years of litigation have revealed conditions in DC’s Procrustean institutional bed at the Oak Hill Youth Center to be uniformly substandard and debilitating; while rehabilitation programs, in and out of our facilities, have been found wanting and not only failed to improve, but put the department on the brink of receivership when I arrived on the scene two years ago.

The lack of adequate programming for troubled youth, of course, leads judges and probation officers to overuse our nation’s large, locked institutions, like Oak Hill, for non-violent youth who could be better rehabilitated in the community. About seven out of ten youth in the Oak Hill Youth Center, for example, are locked up for non-violent offenses. In Massachusetts, you’re doing a little better in your institutions—only six out of ten youth are confined for non-violent offenses. Three-quarters of those in our detention system are confined for non-violent offenses. According to data produced by the Annie E. Casey Foundation’s Juvenile Detention Alternatives Initiative, two-thirds of the youth detained nationally are detained for technical violations of their release, status offenses, or non-violent offenses.

It would be bad enough if all this overuse of confinement cost us measured in terms of dollars and cents, but that’s hardly the case. For one thing, once we detain young people pretrial, research tells us that, even controlling for other factors like offense severity and prior adjudications, we’re more likely to file petitions against them and they’re more likely to receive formal court intervention than non-detained youth. Worse still, serving time in a juvenile institution has been shown to be the single greatest predictor of future delinquency, more than six times more predictive than poor parental relationships, gang membership, and carrying a weapon.

If we were thinking of our own children, we wouldn’t need multi-variate analysis to tell us that they’re going to get a worse deal if they’re detained than if they’re back at home pretrial, and that if they get sent to an institution, they’re going to come out worse—more hardened, more abused, and generally with worse life prospects. All of us know that about our own kids instinctively, as do the parents of youth in the juvenile justice system—we only distance ourselves from that when it’s other people’s children we’re talking about or caring for.

What options are there between the aspirin and prefrontal lobotomy, between hobbling kids and stretching them out to fit our limited, bipolar options?

To start with, there would be no large, locked institutions for kids—no more Oak Hills designed on a 19th century model of juvenile justice.

At the deepest end, when we had to put our most troubled young people in locked custody, they would be confined in small, home-like facilities, with no more than 30 to 60 youth in each facility, which is what standards for both the American Bar Association and the American Correctional Association recommend. These facilities would be located close to the child’s home to facilitate their families being involved in their treatment and rehabilitation from the start of their confinement to the day of their release. And they would be geared toward returning young people to the community better, not worse, than when they entered.

In 1981, the state of Missouri began what we have proposed for DC and what Massachusetts pioneered successfully in the early 1970s—a process of downsizing large, locked facilities and creating smaller, homelike, treatment-rich facilities. Missouri’s facilities now house no more than 40 youth, often less, and are spread throughout the state so that they are close to their homes. Missouri’s youth centers maintain a heavy emphasis on treatment in every aspect of their programming, including a strong emphasis on aftercare when youth are released. If you walk into them, you see kids wearing their own clothes, with pictures of their parents and family on the wall, calling staff by their first names. They sleep on non-institutional wooden beds in a dorm rooms, with comforters on their beds. They eat with metal knives and forks. These are revolutionary concepts. They soften and normalize the inherently abnormal institutional setting in a way that compliments the wonderful stuff culture that they have established.

These reforms were accomplished with support from both political parties, which have maintained their strong support for this innovation because it has delivered on the promise that better treatment can reduce youth offending. Within three years of release from...
the early 1970s, Massachusetts DYS Secretary Jerome Miller decided to close the institutions.

Fed up with attempts to fix an inherently flawed design—the juvenile training school—in 1970s and sustain for years and years prior to reverting to an institution-based system, the continuum of care in Massachusetts is like bringing coal to Newcastle. Every discussion of public safety.

Casey Foundation, is another systemic reform that has been heavily studied and found to psychiatric hospitalization declined by 80 percent. Arrests per participant dropped from 2.3 and is coordinated across agencies. After Milwaukee introduced the Wraparound model, the family-focused approach, employed in youths’ settings, using flexible, non-categorical funding

grams, which recognizes that young people each have individual needs and strengths that could not be identified as being the “trouble-maker,” but with the many systems—school, family, neighborhood—with which that youth comes into contact. The project shares the youth and his or her family into the process of designing successful home-based plans, and then intensively works with the family and youth on bringing those plans to fruition. MST has been extensively evaluated in multiple jurisdictions, and has been shown to reduce future days in corrections or residential placement by at least 47 percent. MST costs about $6,000 per youth, compared to the over $150,000 per year it costs to incarcerate a youth at Oak Hill.

More than 20 years ago, recognizing that segmented, label-driven efforts to respond to troubled youth were not working, the Wraparound approach was born. Wraparound models, perhaps best implemented in Milwaukee, Wisconsin, are more of a process than a single program, which recognizes that young people each have individual needs and strengths that must be considered and addressed if we are to achieve positive outcomes. It is a youth and family-focused approach, employed in youths’ settings, using flexible, non-categorical funding and is coordinated across agencies. After Milwaukee introduced the Wraparound model, the number of youths in residential programming declined from 360 to 135 per day and psychiatric hospitalization declined by 80 percent. Arrests per participant dropped from 2.3 prior to enrollment, to 0.8 during enrollment, to 0.6 after enrollment—a 75 percent decline.

The Juvenile Detention Alternatives Initiative, funded by the Baltimore-based Annie E. Casey Foundation, is another systemic reform that has been heavily studied and found to successfully reduce the number of youths detained pre-adjudication without jeopardizing public safety.

Of course, discussing the move away from large, locked facilities to smaller facilities and a continuum of care in Massachusetts is like bringing coal to Newcastle. Every discussion of these types of reforms needs to tip in hat to what your state was able to do in the early 1970s and sustain for years and years prior to reverting to an institution-based system, which we called the “Massachusetts Experiment” or “Massachusetts Miracle.”

Fed up with attempts to fix an inherently flawed design—the juvenile training school—in the early 1970s, Massachusetts DYS Secretary Jerome Miller decided to close the institutions run by the state of Massachusetts and drastically design a system that was based in the community, not in juvenile prison. Over a few short years, Miller moved almost all of the 1,000 youth out of Massachusetts’ locked facilities and placed them in an as yet not fully formed network of community programs. He increased control to his regional directors to localize their approach to his vision, started many of the programs that are now mainstays of juvenile justice systems around the country—Key Tracking and Wilderness Challenge programs being but two of those—and established small, 30-bed facilities to replace the large locked training school model. Miller studied these efforts prior to initiating its reforms.

The research on the Massachusetts Experiment by Harvard and the National Council on Crime and Delinquency yielded several positive outcomes. One was that, in the region of the state where a full continuum of care was developed, recidivism amongst former DYS youth was significantly lower. The other is that youth in the less community-based system “matriculated” into Massachusetts adult prison systems at half the rate of youth from the previous, institution-based system. I understand that a breath of fresh air is blowing through the Department of Youth Services in the form of Commissioner Jane Tewksbury. We all hope that under Jane’s visionary leadership, Massachusetts can reestablish itself as the nation’s leader in juvenile justice reform.

But the second message of Procrustes is that Procrustes never could have done what he did to his prisoner-victims unless he first depersonalized them and dehumanized them.

The dehumanization of young people has taken many disturbing forms in recent years. Our society has a predilection for demonizing our young people as well as trying and imprisoning them with adults. During the 1990s, 47 states including Massachusetts and the District of Columbia, made it easier to try juveniles as adults and there was a virtual explosion of imprisoning young people alongside adults throughout the country. 250,000 young people are tried in adult courts in America each year, and nearly 20,000 youth under age 18 reside in adult prisons and jails on any given night—a practice unheard of in the rest of the Western world. This practice occurs despite research that has found that youths incarcerated with adults are five times more likely to be sexually assaulted, and eight times more likely to commit suicide, than youth kept in the juvenile justice system.

Youth sentenced as adults are also more likely to be rearrested and to be rearrested for more serious crimes than youths with similar prior records and current offenses who are kept in the juvenile justice system. It’s only [when discussing] other people’s kids, depersonalized kids, kids who don’t look like our kids or have the resources of our kids, that we’d need to research these questions—like researching whether rain is wet. If any of us had a loved one who was locked up in an adult jail or prison we know in our heart of hearts what fears we’d take with us to bed every night.

The Justice Department has reported pervasive violence in juvenile facilities in Louisiana and Mississippi. Rampant physical abuse has also been documented in California, Maryland, and Texas. In many of the state juvenile facilities where abuses have occurred, medical and mental health professionals have failed to prevent or report dangerous conditions, or collaborated in abusive practices.
Thank you. Issues head on, lest we become any fuller of Procrustean beds and imprison ourselves any
take the nobler route on behalf of a population who needs our protection, and confront these
subdues him, and incarcerates Procrustes in a prison of his own making. We now need to
nobler, but more difficult, route to Athens. On the way, Procrustes attacks Theseus, who
In the end of the fable, Theseus ignores the advice of his counselors and decides to take the
Figure out how to stop locking up our kids in these kinds of nightmarish conditions.
I say these things so that each and every one of us walks out of this room today with a sense
of absolute urgency that these large locked institutions must be closed, and that services for
young people inside and outside these facilities be brought into the 21st century so that these
types of indignities are no longer heaped upon our troubled young people. Not to put too
fine a point on it, but I wouldn’t kennel my dog at the Oak Hill Youth Center and lots of
other training schools. I’m familiar with, no less place someone whose welfare I cared about.
These kids will be forgotten if the people in this room do not make it our business to keep this
issue on the table for policy makers, so that it doesn’t get overwhelmed in debates over
gay marriage, budget reductions and tax cuts.
Finally, the last type of dehumanization I’d like to talk about takes the form of racial dis-
parities that permeate most American juvenile justice systems. Meta analyses conducted by
the Justice Department show that even when controlling for prior record and current
offense, kids of color get incarcerated more frequently and for longer periods of time. African
American youth with no prior records convicted of drug crimes are 48 times as likely to be
incarcerated as white youth with no prior record convicted of drug crimes—for Latino
youth it’s 13 times as much. You could hardly do any worse than that if you were trying.
If the typical youngsters in one of DC’s, Massachusetts’ or any other juvenile facilities or, even
worse, one of our adult facilities, was a middle class white teenage boy from Newton, MA or
Friendship Heights in DC, there is no way these policies would continue as they are. Our
leaders would declare a state of emergency and bring the best and brightest to the table to
figure out how to stop locking up our kids in these kinds of nightmarish conditions.
So, what does the myth of Proucrutes teach us, in the end? One lesson is that we need to
design a system which gradually increases in intensity from probation, through a continuum of
well-designed services, to decent and humane locked custody, so that we don’t have to
stretch our young people out or hobble them in order to make them fit into a system that is
convenient for us adults.
The other is that these institutions are full of real young people, living real lives, with real
hopes and dreams. They feel real pain, they really suffer. We need to remain cognizant of
this fact. It is in our self-interest to do so because if we continue to treat them like animals
they will make us pay by continuing to be dysfunctional members of society when they get out.
But more importantly, we need to remember this because it is simply the right thing to do.
In the end of the fable, Theseus ignores the advice of his counselors and decides to take the
nobler, but more difficult, route to Athens. On the way, Proucrutes attacks Theseus, who
subdues him, and incarcerates Proucrutes in a prison of his own making. We now need to
take the nobler route on behalf of a population who needs our protection, and confront these
issues head on, lest we become any fuller of Proucrutes beds and imprison ourselves any
deeper in this nightmare of our own making.
Thank you.
For a copy of the full text of the speech, please go to the Center’s Web site: www.law.ufl.edu/
academic/clinical/jcji/
A November 2006 report titled “Are Boot Camps Obsolete?” published by Connect for Kids, claims that boot camps are failing in their mission to rehabilitate offending youth. The report asserts that “no study has found that boot camps reduce recidivism.” And though children in boot camps often improve academically during their stay, these positive gains are often completely eroded after their release. Once youth leave boot camp, there is often little or no structure in their lives. Unless comprehensive multi-agency aftercare programs are implemented when a youth leaves boot camp, the resulting lack of opportunities and supportive adults often leads young people back to their old habits.

The study also criticizes the methods employed by boot camps as ineffective and possibly more harmful than beneficial. “They’re teaching these kids that the way you solve problems is to get up in someone’s face and yell. It’s a formula for disaster,” says Dr. Ed Latessa, a juvenile justice expert from the University of Cincinnati.

“There’s a common misconception that what these kids need is structure, discipline and order...They don’t have that much to do with criminal behavior,” writes Latessa. “As that experience becomes less common, less police and courts...To read the entire report visit: www.connectforkids.org/node/5030

THE DANGERS OF DETENTION

A report released in November 2006 by the Justice Policy Institute titled, “The Dangers of Detention: The Impact of Incarcerating Youth in Detention and Other Secure Facilities,” states that the pretrial detention of juveniles who have not yet been found delinquent can have “a profoundly negative impact on young people’s mental and physical well-being, their education, and their employment.” In addition to the negative impact on the lives of those detained, the detention of youth also has a negative effect on society—both in terms of future crime and tax dollars spent.

Studies contained in the report suggest that detention—intended to keep high-risk offenders off the street while awaiting trial or adjudication—often has the unintended result of increasing levels of recidivism. A study of Arkansas’ DYS showed that prior incarceration is the best predictor of recidivism; a far better predictor than carrying a weapon, being involved with a gang, or having poor parental relationships. The odds of returning to DYS increased 13.5 times for youth with a prior incarceration. According to a Wisconsin study cited in the report, 70 percent of youth held in secure detention were arrested or returned to secure detention within one year of being released. The vast majority of officials were originally detained for non-violent offenses.

Other findings of the report:
- Many youth who are detained are in need of mental health care. Instead of receiving appropriate treatment, their confinement often aggravates their condition including leading to a higher likelihood of self-harm.
- Detention increases the likelihood that a youth will drop out of school: almost 60 percent of youth in one study either did not return to school or dropped out within five months after being released from detention.
- Detention is more expensive than alternatives. In New York City, one day in detention costs taxpayers $385. One day in a detention alternative program costs the city $25. In addition to its lower cost, the added social benefits of detention alternatives (i.e. reduced recidivism, increased quality of life) make alternatives more cost effective than detention. Aggression reduction training and therapy produce five to six times the return in investment in terms of reduced crime and cost to taxpayers than does detention.

To read the entire report visit: www.justicepolicy.org/reports.html

RESEARCH ON COMPETENCE

CONFIRMS WHAT DEFENDERS KNOW

An issue brief published by the MacArthur Foundation Research Network on Adolescent Development and Juvenile Justice in September 2006 details the findings from the “first comprehensive assessment of juvenile capacities to participate in criminal proceedings using measures of both trial-related abilities and developmental maturity.” The study assessed the functional abilities necessary to meet the existing legal concept of competence to proceed, regularly applied in criminal courts for mentally impaired adults, to illustrate that the younger the juvenile, the more likely he or she will be unable to attain this standard. Almost one-third of those aged 11–13 were found to have impaired reasoning and understanding to a degree that courts may question their ability to proceed in a trial. Almost one-fifth of 14–15 year olds were found to have a significant level of impaired reasoning and understanding. The 16–17 year olds performed as well as young adults aged 18–24. The report notes that this pattern did not vary when considering race/ethnicity, gender, socio-economic status, or geographic location.

The study indicated that younger youth “are often more willing than adults to confess to authority figures such as a police, rather than remaining silent, especially if they believe it will result in an immediate reward, such as going home. For similar reasons, they may be more willing to accept a prosecutor’s plea agreement.”

The report suggests that competency evaluations be mandatory for all youth below 14. It is noted that the current competence standard established by the US Supreme Court in Roper v. United States (2005) is a test of func- tional ability and whether the source of incompetence stems from mental illness or impair- ment, or from developmental immaturity is not the factor of consequence. 

To read the entire report, visit: www.adl.org/downloads/5065issue_brief1.pdf

RACE STILL MATTERS

“And Justice for Some: Differential Treatment for Youth of Color in the Justice System,” a January 2007 report of the National Council on Crime and Delinquency, documents the “cumulative disadvantage” youth of color face at all levels of the juvenile justice system. Findings include:
- While controlling only 16 percent of youth, African American youth account for 28 percent of juvenile arrests.
- African American youth were more likely than white youth to be formally charged in juvenile court, even when referred for the same offense.
- Although African American youths are 16 percent of the adolescent population in the US, they are 38 percent of the almost 100,000 confined youth.
- Youth of color, especially Latinos, are more likely to be held in public facilities which tend to be harsher environments than their private counterparts.
- Youth of color accounted for 75 percent of youth sent to adult prisons.

To read the entire report, visit: http://www.justicepolicy.org

NEW FEDERAL GUIDELINES FOR JUVENILE INFORMATION SHARING

In October 2006, the Office of Juvenile Justice and Delinquency Prevention (OJJDP) released a report which provides guidelines for the sharing of information pertaining to at-risk youth involved in the juvenile justice system. The OJJDP says the report “provides comprehensive guidelines for state and local efforts to improve information sharing among key agencies involved with at-risk youth and juvenile offenders. Drawing on the experience and expertise of leaders from youth-serving agencies and information technology initiatives throughout the country, the guidelines integrate the three critical components of juvenile information sharing—collaboration, confidentiality, and technology—into an effective developmental framework.”

A statewide system for sharing information would make possible access to information by all entities that work with youth in crisis, from police departments, to courts, to youth workers.

To read the entire report, visit: www.ojjdp.gov/pdfs/files/jjjd253786.pdf

IN BRIEF

Many youth who are detained are in need of mental health care. Instead of receiving appropriate treatment, their confinement often aggravates their condition including leading to a higher likelihood of self-harm. Detention increases the likelihood that a youth will drop out of school: almost 60 percent of youth in one study either did not return to school or dropped out within five months after being released from detention. Detention is more expensive than alternatives. In New York City, one day in detention costs taxpayers $385. One day in a detention alternative program costs the city $25. In addition to its lower cost, the added social benefits of detention alternatives (i.e. reduced recidivism, increased quality of life) make alternatives more cost effective than detention. Aggression reduction training and therapy produce five to six times the return in investment in terms of reduced crime and cost to taxpayers than does detention.

To read the entire report visit: www.chapinhall.org and search for Youth Violence, “Too Soon to Tell.” To read the entire report, visit: www.chapinhall.org
School zones were created by the US Congress in 1970 as part of the Comprehensive Drug Abuse, Prevention and Control Act for the purpose of creating safe havens around schools and protecting children from drug activity. In the mid-1980s states followed suit. Massachusetts enacted its law in 1989. By 2000, all 50 states and the District of Columbia had laws making possession and/or distribution of controlled substances within a school zone a criminal offense.

In New Jersey’s cities, it is no longer possible to analyze the impact of the laws. Its Sentencing Commission has reported that between 1990 and 2000, 14,500 people were arrested for drug offenses near schools and 4,500 of those convictions led to imprisonment.

The researchers reported that when they were asked about the disparities, the police uniformly said, “It has to do with whether it’s a good kid or a bad kid.”

The researchers noted that in an article from 2004, Brown and Spencer examined the impact of school zones in Massachusetts in the 1990s and found that school zones were not only ineffective in preventing drug sales but also shifted the location of drug sales to areas not covered by school zones.

The researchers concluded that school zones are not a solution to the problem of drug sales near schools. Instead, they suggested that more effective strategies are needed to address drug sales and protect children from drug activity.

The researchers also noted that school zones have been used to target low-income neighborhoods and communities of color, which has led to increased racial disparities in drug enforcement. They recommended that policymakers consider alternatives to school zones that are more effective and equitable.
In this case, the SJC overturned the juvenile's decision to allow expert testimony in a pre-trial motion to dismiss the case. The Court found that the failure of juvenile's counsel to raise competence did not prejudice either party. The Court found that the failure of the attorney to ask for counsel to raise competence did not prejudice the juvenile's case.

The Dorchester District Court requires that all bags must be x-rayed; signs posted at the entrance of the courthouse inform all who enter that all bags are subject to manual search. On March 12, 2004, the juvenile walked through the electronic metal detector and placed his bag on a table to be passed through the x-ray machine. The juvenile then continued through the metal detector without setting off the alarm. When a courthouse security officer told the juvenile that the officer intended to search the bag manually, the juvenile replied that he didn't want his bag searched, picked up the bag and turned to leave the building. The security officer notified a Boston police officer assigned to the courthouse who approached the juvenile outside the courthouse and told him to "come here." The juvenile turned and ran. After being chased by five to ten officers, the juvenile was apprehended and arrested. His bag was searched and 19 bags of marijuana were found. He was arrested and charged with delinquency by reason of possession of a class D controlled substance (marijuana), possession of marijuana with intent to distribute, and possession with intent to distribute in a school zone. 448 Mass. at 279-280.

The SJC reversed the allowance of the motion to suppress, finding that it is reasonable for security to complete a search that has been initiated and that the signs posted at the entrance gave fair notice that the bag would be subjected to a hand search. The SJC held that once the security screening process had begun, allowing a person to withdraw their consent and leave created an unreasonable risk that the person would leave only to make multiple attempts to smuggle contraband into the courthouse. 448 Mass. at 280-281. Without much discussion, the SJC determined that the hand search of the bag, which was designed to find contraband such as food, as well as drugs, did not exceed the scope of lawful administrative, point-of-entry searches that are traditionally limited to the discovery of weapons. 448 Mass. at 282-283. Further, the pursuit of the youth after he had left the courthouse was justified because the act of leaving with contraband threatened the security of the courthouse and the safety of the youth's flight when approached by a Boston police officer, gave the officers reasonable suspicion to believe that the juvenile posed a safety risk. 448 Mass. at 284-285. Thus the chase and subsequent arrest by officers who were not initially involved in any interaction with the youth and security were not personally aware of the reasons for the chase were irrelevant, "as the knowledge of each officer is treated as the common knowledge of all officers." 448 Mass. at 284-285.

The Commonwealth v. Guthrie G., 66 Mass. App. Ct. 416, Review Granted 447 Mass. 1105 (2006) In Guthrie G., three uniformed police officers arrived at the juvenile's home after receiving information indicating that the juvenile fled a friend's home in possession of a gun. The juvenile was home alone, but invited the officers into the living room. Without Mirandizing the juvenile, the officers began to question him about the gun. Though denying any knowledge of the gun, the juvenile admitted owning a BB gun and agreed to retrieve it from his bedroom. Two officers accompanied him without his consent. As the juvenile produced the gun from his bedroom closet, one officer observed gun parts in a trash can and under the bed. The gun parts were seized and the gun was later identified as a .22 caliber Ruger. The juvenile was then taken to the police station and placed in a sitting room until his father arrived. Immediately upon his father's arrival, the boy was Mirandized and interrogated. The juvenile admitted possessing the gun for two days, since finding it on a roadside.

On the Commonwealth's interlocutory appeal, the Appeals Court reversed the juvenile's appeal and held that the gun and gun parts were lawfully seized. The Appeals Court relied on the public safety exception to the search and seizure requirements, which obviates the necessity of warnings when questioning is closely tailored to the exigencies of public safety emergencies, such as a gun left in a public place. In this case, the failure to give Miranda warnings when asking questions aimed at locating the gun was excused by the urgent need to protect the public from a gun that could have been loaded. 64 Mass. App. Ct. at 417-420. Therefore, the court reasoned, the officers' questions regarding the gun were lawful, despite their failure to Mirandize the juvenile. The Appeals Court also determined that the juvenile's consent to produce the BB gun from his bedroom was freely and voluntarily given, reasoning, without discussion, that the juvenile's youth alone did not preclude his giving a lawful consent. 64 Mass. App. Ct. at 418. Although the juvenile did not expressly consent to being accompanied to the bedroom, the majority reasoned that a police escort was necessary for officer safety. 64 Mass. App. Ct. at 418-419. Thus, the gun and gun parts, which were seen when the juvenile retrieved the BB gun, were lawfully obtained because the police had a right to be where they were when these observations were made. The house station questioning was lawful where there were reasonable grounds to believe that the juvenile had over the age of 14 and waived his Miranda rights in the presence of an adult who was also informed of the warnings and acknowledged understanding of the warnings. 64 Mass. App. Ct. at 419-420. The Appeals Court held that the Miranda waiver was lawful because the adult's presence provided all the opportunity to consult that is required. 64 Mass. App. Ct. at 419. Whether or not the juvenile actually took the opportunity, or whether he or his father were told they could not consult was not germane to the court's analysis. Accordingly, the majority concluded that the juvenile's statements were admissible where both the juvenile and his father understood the Miranda warnings and could have conferred privately, despite their decision not to. The dissent, written by Judge Duffy, contended that they had affirmed the juvenile's decision in all respects. The SJC has granted further review in this case. 447 Mass. at 1105.

Please visit www.law.suffolk.edu/academic/clinical/jjcc/jjc_1105.pdf for an analysis of Commonwealth's v. Guthrie G.
Juvenile Justice Jeopardy (JJJ)

A derivation of the television game show, JJJ offers teenagers the opportunity to explore what they think they know about the juvenile justice system including how the media portrays teen violence and criminality—and how much that portrayal influences their beliefs.

How to Play the Game
Typically, a juvenile defender or trained community outreach staff go through each of the questions drawing on related information to enrich the discussion. Prizes, in the form of candy, are awarded to participating terms. The JJJ questions are the skeletal structure for a larger dialogue about how the juvenile justice system works. The game is eminently replicable, cheap (solely the cost of laminating it and candy prizes), and easy to adapt to each state’s laws, practices, and realities.

Results
Each session ends by asking youth the following questions:

- What surprised you the most today?
- What did you learn that was new?

These questions often launch further discussions.

How to Receive the Training
The Center offers this training at programs throughout the metropolitan Boston area as well as further west of the city if scheduled in the Everette Police Department. The Center pointed out that national standard-setting organizations require police departments to compile lists of programs to divert youth from arrest and to offer supports for families in need. “The Everett PD could not have compiled such a list if not aware how effective their local Training Program is,” said Lisa Thomas-King of the Center. The Center partnered with Everett Police Chief Steven Mazzie to make funding such programs a priority. The Center invited Chief Mazzie to make a keynote presentation at the Annual Massachusetts Afterschool Partnership lobby day, in which he urged the legislature to consider the Partnership’s funding request for two programs.

The survey results were prepared by Suffolk Sociological Associates Professor Matthew Norton-Hawk, and four graduate student researchers: Kelly Manning, Mark Poppo, Ashley Ran, Jessica Stoker, and Eliza Wheeler—in the analysis of the high school student’s responses to the survey in Everett and Cambridge.

In a Boston Globe article profiling these developments April 19th, Alderman Robert Van Capen said the presentation “really drove home in a statistical format that young people are not only in desperate need of this type of facility, but that they are asking for it.”

When young people fill out applications online, how do fill them out concerning reporting criminal background can make the difference between whether they get an interview or not. Knowing the difference between adjudication and conviction, as well as how one incident can show up as a 3-page CORI really helps educate the people we work with.

Florrie Reddish, Commonwealth Corporation

Juvenile Records Trainings

The Center offers training to adults working to place youth in jobs and to develop jobs, about the law of the juvenile court system and the current laws and practices regarding the distribution of juvenile records.

Training Goals
The goal of the training is to educate adults working to place youth and those who develop jobs for youth about the consequences of juvenile court-involvement and its impact on future employment opportunities for youth. In addition to an explanation of the legal framework, the Center provides strategies for helping youth navigate responses on job applications and how to affirmatively approach the existence of juvenile records with employers.

Training Elements
The Center’s training offers the following information at two-hour sessions for audiences of 20 or more:

- Role of the juvenile court in providing adjudication and dispositions;
- Explanation of the CORI statutes as they affect youth;
- Review of current employment applications and how adjudicated youth should complete them;
- Strategies for summarizing and explaining a CORI to a prospective employer;
- Strategies for job developers and youth to explain their CORI to prospective employers;
- Current efforts to change the existing law.

How to Receive the Training
The Center offers this training at programs throughout the metropolitan Boston area as well as further west of the city if scheduled in advance. The training is free and provided as a service of the Suffolk University Law School’s Juvenile Justice Center.

To arrange a training, please call the Juvenile Justice Center at 617.395.3200.

The next training at Suffolk University Law School is scheduled for June 25, 2007 at 9:30am in Room 209.

Reservations are required. Please call 617.395.3200 to reserve your place.

Juvenile Justice Jeopardy (JJJ)

The game uses 24 questions Velcro-ed to poster boards with the answers beneath. The questions are arranged in the following five categories with the goal of clarifying the reality and the law of each topic:

- Who is a juvenile?
- How would you interact with the police?
- Did you know this is an offense?
- What does getting arrested do to your education options?
- How will your arrest/credit records follow you?

How to Play the Game

For me, as a direct service provider who is not from the same background as the people I serve, it was a great experience to understand the perils that youth face in the justice system. For the youth who participate, Juvenile Justice Jeopardy is important as a very clear and concise confirmation of what they already instinctively know. It also provides them with useful strategies for avoiding negative interactions with the juvenile justice system.

Mindy Newman, Bridge Over Troubled Water

Massachusetts Afterschool Partnership Initiative

THE JUVENILE JUSTICE CENTER is working with the Massachusetts Afterschool Partnership (MAP) to support increased funding and programming for afterschool options for teenagers.

Broad financial support for afterschool programming generally stops for youth by age 12, when federally subsidized voucher payments terminate. The absence of programming for teens is highly problematic for teens and everyone else.

Consider these facts:

- 53 percent of all juvenile offenses in Boston occur on school days between the hours of 2 and 6pm;
- The FBI reports that youth are at the highest risk of being the victim of a violent crime in the four hours following the end of the school day;
- Sexual assaults against teen girls occur in the afternoons, a time when girls are at high risk of becoming pregnant;
- The Office of Juvenile Justice and Delinquency found that youth without adult supervision are at greater risk of truant, school failure, depression and substance abuse (49 percent higher).

Yet the programs serving teens in Boston are funded under ever-decreasing local and school aid programming. In the 2006 fiscal year, the state allocated only $1 million to state-funded afterschool programs.

“The loss of opportunities for youth to grow because of a lack of programming is disturbing,” said Mo Barbosa, assistant director for training and capacity building at The Medical Foundation. “Who knows how many artists or doctors or carpenters we are losing because we are not offering these opportunities?”

“Who knows what kinds of programs work for teens and how successful they can be in keeping kids involved in school and in their communities. We know these programs help youth make better decisions,” he said. “We know that these programs are labor-intensive and must be properly funded. We just don’t know why they are not supported by the state at the level teens need.”

This year the Center is again supporting MAP’s request for funding for teen programming. MAP is urging the state to allocate funding for the Healthy Development of Young People programming through the Department of Public Health, as well as extend school-age subsidies to 15-year-olds, and provide increased funding for summer youth employment programs and arts-based youth development programs. Together these new requests for funding total $8,118,000.

For more information: www.massachusetts.org and for information on Boston-based after school programs, see www.youthadvocacyproject.org

Partnering with Police for Afterschool Programming for Everett Teens

The Juvenile Justice Center surveyed Everett youth-and police in preparation for implementing its New Approaches to Police/Youth Interactions police training (see pages 7-8). One of the constant themes of the interviews and surveys was the paucity of services available for youth. Surrender youth wrote, “There’s nothing for us to do.” We need a place to go.” “We need to be with police when they are not wearing uniforms.”

Officer Dennis O’Donnell, the school resource officer greatly admired by students in the survey noted, “The question shouldn’t be, ‘Should we have a teen center now?’ The question should be, ‘Why haven’t we had one for the last 10 years?’”

In preparing a draft juvenile justice policy for the Everett Police Department, the Center pointed out that national standard-setting organizations require police departments to compile lists of programs to divert youth from arrest and to offer supports for families in need. “The Everett PD could not have compiled such a list if not aware how effective their local Training Program is,” said Lisa Thomas-King of the Center. The Center partnered with Everett Police Chief Steven Mazzie to make funding such programs a priority. The Center invited Chief Mazzie to make a keynote presentation at the Annual Massachusetts Afterschool Partnership lobby day, in which he urged the legislature to consider the Partnership’s funding request for two programs.

Everett City Councilor Jim Keane arranged for the Center to present the findings of its youth survey at the Everett Police Department’s April 9th Board recommended Mayor Hanlon immediately create a committee and consider allocating one of the City’s newly empty buildings to creating a teen center instead of selling it.

The survey results were prepared by Suffolk Sociological Associates Professor Matthew Norton-Hawk, and four graduate student researchers: Kelly Manning, Mark Poppo, Ashley Ran, Jessica Stoker, and Eliza Wheeler—in the analysis of the high school student’s responses to the survey in Everett and Cambridge.

In a Boston Globe article profiling these developments April 19th, Alderman Robert Van Capen said the presentation “really drove home in a statistical format that young people are not only in desperate need of this type of facility, but that they are asking for it.”

The survey results were prepared by Suffolk Sociological Associates Professor Matthew Norton-Hawk, and four graduate student researchers: Kelly Manning, Mark Poppo, Ashley Ran, Jessica Stoker, and Eliza Wheeler—in the analysis of the high school student’s responses to the survey in Everett and Cambridge.

In a Boston Globe article profiling these developments April 19th, Alderman Robert Van Capen said the presentation “really drove home in a statistical format that young people are not only in desperate need of this type of facility, but that they are asking for it.”