

KEEP KIDS IN CLASS:

JUDICIAL PERSPECTIVES ON SCHOOL-BASED REFERRALS IN THE MASSACHUSETTS JUVENILE JUSTICE SYSTEM

Through our signature project, “Keep Kids in Class: Breaking the School to Prison Pipeline,” the Massachusetts Appleseed Center seeks to mitigate the effects of elementary and secondary school discipline proceedings on the rates of drop-out and juvenile delinquency. Zero-tolerance policies dole out disciplinary consequences regardless of a child’s intent or other circumstances, pushing youth from school and feeding youth into the juvenile justice system who do not necessarily belong in that environment. MA Appleseed sought to gain insight into the relationship between these discipline policies and the juvenile justice system directly from juvenile court judges. The results of our judicial survey and key themes from interviews with the justices are summarized in this brief. The judges’ insights and reflections have been formative to MA Appleseed’s “Keep Kids in Class” project, and will continue to inform future policy work in this area.

ACKNOWLEDGMENTS

First and foremost, we extend our sincerest thanks the juvenile court judges who participated in our survey and shared their observations and thoughts with us. We thank all the MA Appleseed staff members, current and former, who devoted extensive time and energy to making this project a success. We would also like to thank our *pro bono* colleagues for their expertise and support:

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FOR MORE INFORMATION

Visit our website for more information about the Massachusetts Appleseed Center and the “Keep Kids in Class” project: www.massappleseed.org.



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INTRODUCTION

The Massachusetts Appleseed Center for Law and Justice works to remedy social injustices for at-risk and underserved children, youth, and adults. Our mission is to promote equal rights and opportunities for Massachusetts residents by developing and advocating for systemic solutions to social justice issues. In keeping with this mission, MA Appleseed became interested in the relationship between school discipline policies and the juvenile justice system. We were especially interested in the effect zero-tolerance policies in schools have on school-based referrals to the juvenile courts.

Our primary concern is that zero-tolerance policies, which dole out disciplinary consequences without regard to intent or other circumstances, are feeding youth into the juvenile justice system who do not necessarily belong in that environment. MA Appleseed sought to gain insight into the relationship between these discipline policies and the juvenile justice system directly from juvenile court judges. In 2009, MA Appleseed sent a survey to the judges to collect their thoughts about school discipline, zero-tolerance policies, and youth entering the juvenile justice system through school-based referrals.¹

The results of the judicial survey and our interviews with the juvenile court justices were formative to MA Appleseed's signature project, *Keep Kids in Class*. This project raises awareness about school discipline in Massachusetts and suggests preventative approaches to help end the school to prison pipeline. Based in part on the insights obtained from the judicial survey, "Keep Kids in Class" strongly advocates for creating positive school climates and rethinking the use of zero-tolerance policies in education settings. In addition, this survey also suggested that a cohort of youth that currently go before juvenile judges would benefit from alternative interventions beginning earlier in their lives. This finding prompted MA Appleseed to endorse early intervention for at-risk youth and continues to inform other project work.

This paper details the information that has shaped so much of MA Appleseed's work in this area. It begins by describing the methodology of the judicial survey and interviews. It goes on to examine the data collected from the judges. Finally, it concludes with a summary of the results.

METHODOLOGY

In early 2009, MA Appleseed partnered with the Charles Hamilton Institute on Race and Justice to design a survey for juvenile court judges in the Commonwealth. The survey covered the following areas: school-based referrals to the court, services offered by the courts, and trainings provided to school and court personnel.

During the spring of 2009, MA Appleseed mailed the survey to all state juvenile court judges. Of the 39 juvenile court judges who received the survey, nineteen either completed the survey, participated in an interview, or both. Of the fifteen judges who were interviewed, nine completed the survey that had been mailed to them prior to their interviews. The other six were called and asked if they would participate in an in-person interview, even though they had not completed the survey. Finally, four judges filled out the survey but chose not to participate in a follow-up interview.

The survey contained both multiple choice and open-response questions and the interviews were structured in question and answer format. The interactive nature of interviewing allowed the interviewer to elicit more details from the judges than the survey did. With respect to those judges who completed the survey prior to the interview, the interviewers were able to ask follow-up questions to survey responses.

This survey had some limitations. First, because the survey was voluntary, the responses may have been from those who felt most strongly about school discipline. As a result, the responses may not represent the full breadth of opinions regarding school discipline issues. In addition, some of the data is incomplete because a few respondents did not complete all of the survey questions. The sample size was small, which impacted the survey's statistical validity. Finally, it is important to note that all of this data was self-reported, meaning that it reflects the judges' perceptions and personal experiences. The information in this report is not supported by quantitative data from court records or any other source.² Nevertheless, we found the judges' insights immensely informative in understanding the scope of the problem, and their feedback will provide the foundation for our future policy work.

DATA ANALYSIS

This section analyzes the judges' survey responses and provides examples of responses given during interviews. There were some outliers for most questions; however, we were primarily interested in overall themes and thus focus on that throughout this section.

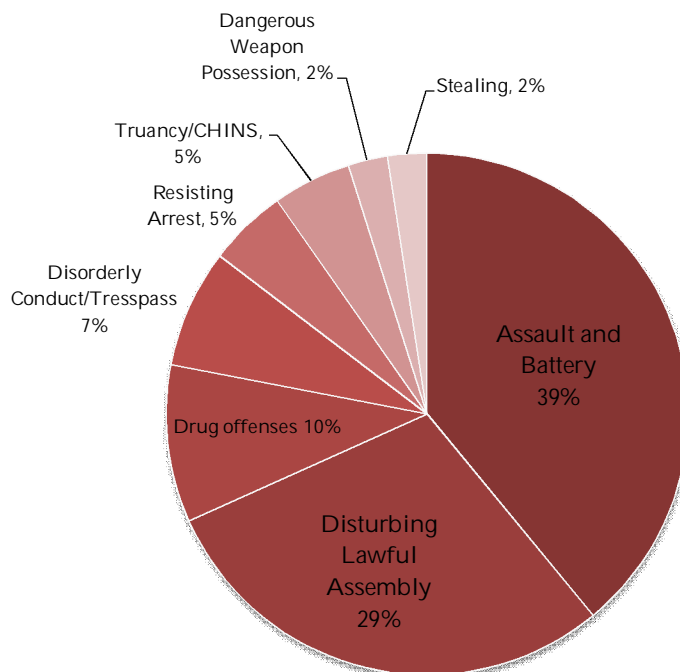
I. Characteristics of Participants

The judges who participated served in eleven of fourteen total Massachusetts counties. Many of the judges have backgrounds in social work, probation work, and/or teaching. When asked why they became juvenile court judges, many judges discussed the long-lasting impact they could have in the lives of youth and the important role that judges could play in their respective communities.

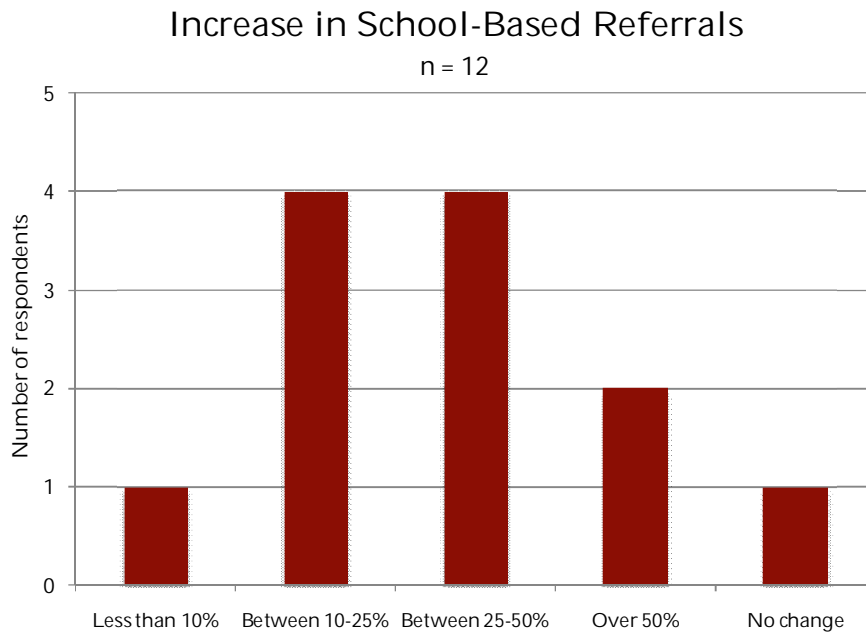
II. Judicial Insights on School-Based Referrals: Common Charges and Upward Trends

One survey question asked the judges to list the top three charges for school-based referrals to juvenile court. Overwhelmingly, the judges reported that based on their estimations, assault and battery and disturbing lawful assembly are the most common school-based charges they see in their courtrooms. The judges estimated that these two types of charges account for nearly 70% of the school-based referrals. The judges explained that often times, the types of assaults at issue were typical schoolyard fights rather than more serious violence. Crimes that traditionally merit court intervention, such as drug possession and dangerous weapon possession comprised only 10% and 2% of the charges, respectively.

Distribution of Charges for School-Based Referrals



The survey asked the judges if they had noticed an increase in the number of school-based referrals to the juvenile court system. Of those who responded, 77% said that they had noticed an increase in these kinds of referrals during their years on the bench. The degree of the increases varied, but about two-thirds of the respondents observed an increase between 10% and 50%.

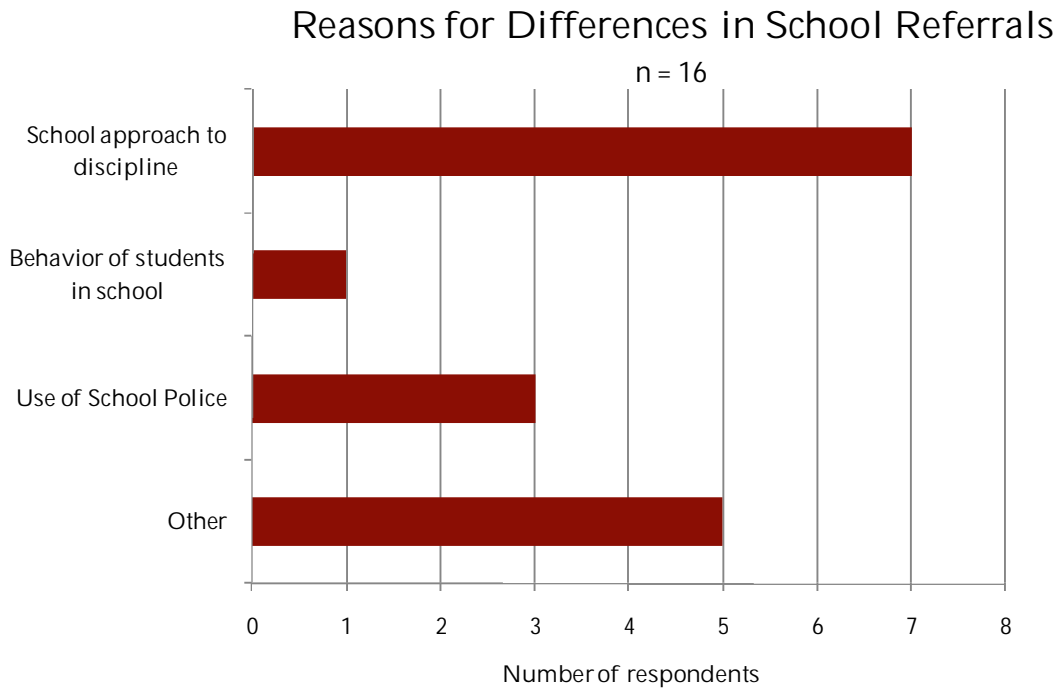


III. Initiating School-Based Referrals: Judges Identify Key Players in the Process

When asked who was pressing charges against the youth who appeared in court from school-based referrals, the majority of judges indicated school police officers.³ Judges were also asked to estimate the percentage of charges brought by school police, principals, and other parties. Of those who responded, the range for the percentage of charges brought by school police officers was between 70-100%. The range for school principals was much wider, and went from as low as 10% to as high as 100%. Some judges indicated that the person bringing the charges depends on the nature of the charge. For instance, a police officer may bring an assault and battery charge, while a principal is more likely to bring a disturbing lawful assembly charge. Despite this variability, one thing is clear: both school principals and school-based police officers play an important role in deciding who is excluded from school and included in juvenile court.

The judges were then asked if some schools were referring youth to court more often than others. Again, 77% of them responded yes. From a list of choices, most judges chose the school's approach to discipline as the cause for the increase. While the use of school police was also an important indicator, many of the judges cited other reasons for the discrepancies. Two judges indicated that the size of the school and whether or not it was urban or suburban contributed to

the difference in number of referrals. A third judge cited the experience of school staff members, and another thought that pressures brought on by standardized tests such as the Massachusetts Comprehensive Assessment Test (“MCAS”) affected the rate of referral.

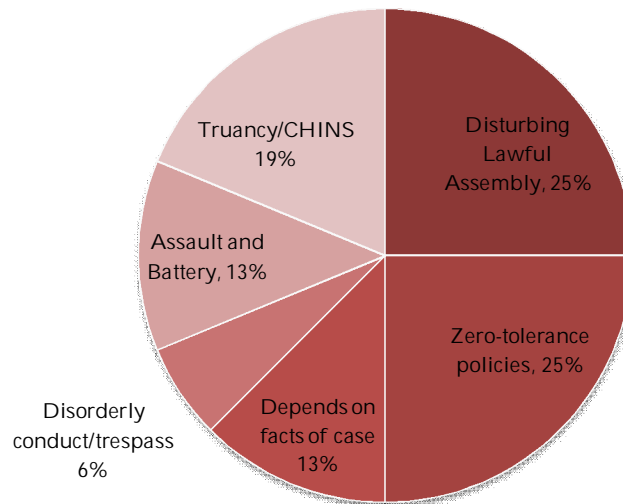


IV. The Future of School-Based Referrals: Recommendations from the Judges

After reflecting on the relative increases in school-based referrals and the types of charges most commonly seen, the judges were asked whether there were certain types of school-based referrals that would be more appropriately handled by the schools instead of the courts. The majority of respondents indicated that yes, some of these cases would be best handled by the schools. When asked what kinds of incidents should be dealt with in school, 25% of the judges thought that schools should handle cases involving disturbing lawful assembly, which the judges had earlier cited as one of the top reasons for school-based referrals. Another 25% indicated that cases involving zero-tolerance policies should be handled by the schools. The specific issues regarding zero-tolerance policies varied by respondent and included weapons policies and the school's perceived unwillingness to work with youth and families as a part of the discipline process. Nineteen percent of judges thought truancy and other status offenses (known as "CHINS" cases) are best handled by the schools.⁴

Charges that Should be Handled
by the Schools

n=16

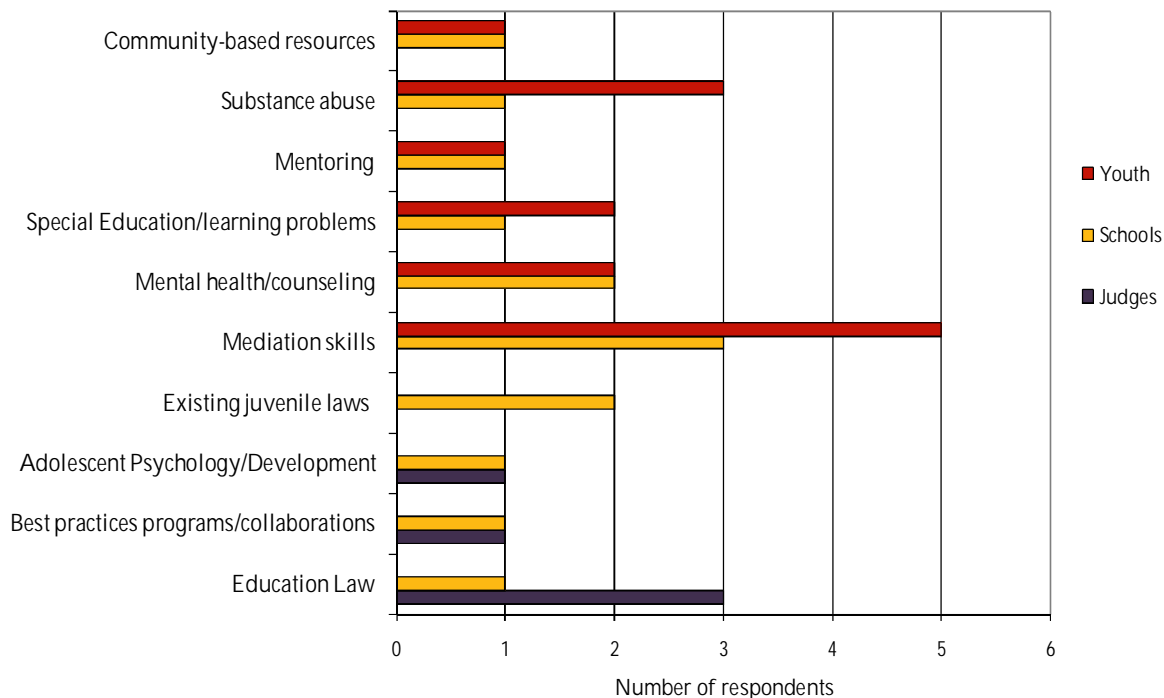


After being asked to list the types of incidents that should be handled in schools, judges were asked to estimate how much their caseload would decrease if schools took a more active role in addressing some of these discipline issues. Of those that responded, over 40% estimated a decrease in their caseloads by 10%-25%.

Finally, judges were asked for their thoughts regarding types of trainings that should be available for themselves in the juvenile court, for school officials, for teachers, and for police officers in schools. They were also asked what resources should be available for youth. While these

constituted three different questions in the survey, the common themes in the responses merit some analysis.

Common Themes: Needs for Youth, Schools, and Judges



The first question asked the judges if there was any additional training they felt they needed. Many of the respondents either left this question blank or indicated they were already receiving professional training. Only five judges indicated that they would like some type of additional training for themselves, primarily in education law.

The judges shared more thoughts regarding the types of resources and training that should be made available to school officials and youth. Many of the juvenile court judges believe that both youth and school officials would benefit from training in mediation skills. In addition to mediation, judges indicated that youth and school officials needed more resources regarding substance abuse issues, mental health/counseling, community-based resources, and special education/learning problems. Finally, a couple of judges indicated that school officials needed more training regarding existing juvenile laws, with a special emphasis on a need for training in the CHINS law for school officials and police officers.

CONCLUSION & NEXT STEPS

The judicial survey made it clear that this state has talented, educated, experienced, and diverse juvenile court judges who are committed to identifying and serving the best interests of the youth that come before them. We appreciate their willingness to share their thoughts with MA Appleseed.

The judges who participated in this survey indicated a significant increase in the number of school-based referrals to the juvenile court system over the course of their judicial tenures. The most common charges included assault and battery and disturbing lawful assembly, and many of the charges were brought by school-based police officers. The judges generally agreed that many of these cases can and should be handled within the schools. The judges also thought trainings for school personnel and students in mediation skills, substance abuse issues, and current juvenile laws would be beneficial for all parties.

MA Appleseed will continue to use the findings of this survey to inform future work on the *Keep Kids in Class* project. For instance, MA Appleseed intends to research how the juvenile court system tracks school-based referrals. This type of data could support the judges' observations and may identify trends present in the state. In addition, MA Appleseed plans to initiate a dialogue with school principals to discuss how schools view the role of the juvenile court in school discipline issues. Through continued conversations with key stakeholders, we hope to create clear policy recommendations that will help mitigate the negative effects of zero-tolerance policies across the state.

End Notes

¹ For the purposes of this paper, a school-based referral is defined as a referral to court for an offense committed either while in school or during a school-sponsored activity.

² Shadish, W.R., Cook, T.D., and Campbell, D.T. (2002). *Experimental and Quasi-Experimental Designs for Generalized Causal Inference*. Houghton Mifflin, New York.

³ These school police officers are also referred to as school resources officers (“SROs”).

⁴ CHINS is the current Massachusetts system through which parents, school officials, and the police can request court intervention and supervision when a child is exhibiting certain behavior. A CHINS action is a civil proceeding over which the Massachusetts juvenile court has jurisdiction. At the time the survey was completed, CHINS petition can be initiated for a child deemed “runaway”; “stubborn”; “habitual school offender”; “truant.”. Truancy is thus a type of CHINS petition. Also, an act determined to be disturbing lawful assembly could come under CHINS, as a habitual offender petition. Beginning in February 2013, CHINS will be replaced by Families and Children Engaged in Services (“FACES”). FACES attempts to address various weaknesses of CHINS by amending the current law. For example, FACES places an emphasis on community- based resources, rather than court intervention. See MASS. GEN. LAWS. ch. 119 § 21. One notable component of FACES is a truancy prevention program, which seeks to decrease truancy. Still, truancy remains a type of CHINS petition. One should note that disturbing lawful assembly could also come under CHINS, as a habitual offender petition.

APPENDIX A

JUDICIAL QUESTIONNAIRE

The Charles Hamilton Houston Institute for Race and Justice and the Massachusetts Appleseed Center for Law and Justice, Inc. are conducting a study examining the impact of school discipline codes and policies on law enforcement and juvenile justice practices in the state. As part of this initiative, we have designed a survey for juvenile judges that we hope you will complete.

1. Name: _____
2. How many years have you served as a Juvenile Court Judge? _____
3. What kind of law did you practice before becoming a juvenile court judge?

4. In what courts have you served as a juvenile court judge?

5. In your years of service, have you seen an increase in the number of school-based referrals (defined as referrals to court of juveniles for offenses committed while in school or in school-sponsored activities) to your court? Yes _____ No _____
If yes, by approximately how much have they increased?
a. Less than 10% b. Between 10-25% c. Between 25-50% d. Over 50%
6. What percentage of your court's caseload do school-based referrals now represent? _____%
7. What are the top three charges for school-based referrals to your court?
A. _____
B. _____
C. _____

If you would like to provide more detail about these offenses and offenders, please do so here:

8. Who is typically pressing the charge?
_____% School based police (for what kind of charge?) _____
_____% School principals (for what kind of charge?) _____
_____% Parents (for what kind of charge?) _____
9. Do you notice that some schools refer more youth to your court than other schools? Yes _____
No _____
10. To what would you attribute these differences?

- a. School approach to discipline
- b. Use of school police
- c. Behavior of students in the school
- d. Other _____

11. What percentage of school-based referrals to your court come from the following sources:

- the clerk magistrate? _____%
- school police? _____%
- the school principal? _____%
- parents? _____%

12. What services does the court offer youth?

- a. court clinic evaluations
- b. all services are given through probation
- c. none
- d. other: _____

13. Do you feel you have sufficient options to address the needs of youths who are being referred to court from school? _____

14. What additional options or resources would you like to have available to these youths, either through the courts or through the school?

15. Are there certain school-based referrals being handled by the court that you believe could be more appropriately handled by the schools? If so, which ones? _____

16. If these cases were handled by the schools instead of the courts, how much would that reduce your caseload? A. 10% or less B. 10-25% C. 25-50% D. More than 50%

17. Is there any additional training that you would like to receive? If so, what kind:

Educational Law? _____ Adolescent Psychology? _____ Other? _____

18. Is there any additional training that you would like to see school officials, school police, or teachers receive? If so, what kind?

19. Would you be willing to be contacted for a follow up interview? If so, may we contact you by email? Please provide your contact information for the manner in which you would like us to follow up with you.

THANK YOU VERY MUCH FOR YOUR PARTICIPATION IN THIS SURVEY.