

# **CHAPTER 1:**

## **USING THIS BOOK TO ADVOCATE FOR YOUTHS INVOLVED WITH DYS**

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## **Overview of DYS**

The Department of Youth Services (DYS), the Massachusetts state juvenile justice agency, serves many youth each year. Each year, 18,000 - 20,000 youth are arraigned in Massachusetts courts. Some of these youth will become involved with DYS. A youth may be detained by the Juvenile Court. In that case, if the youth cannot make court-ordered bail (or in some cases if the youth is held without bail), the youth is physically held at DYS. A youth also may be committed by the Juvenile Court to undergo treatment and supervision by DYS.

In 2006, DYS had 4817 new detention admissions and 906 new commitment admissions.<sup>1</sup> And, as of January 1, 2007, DYS was responsible for providing custody and/or supervision to a total of 2091 committed youth.<sup>2</sup>

Approximately half of the youth committed to DYS reside in DYS run or contracted facilities, while the other half of DYS committed youth reside in the community.<sup>3</sup>


Most youth held by DYS are between the ages of 14 and 17, although they are sometimes as young as 11 or up to the youth's 21st birthday.

## **Advocating for your child**


When a parent, legal guardian or other caregiver receives a phone call from his or her child or child in his or her care, and learns that he has been arrested, the family may soon become involved with DYS. Caregivers of a child involved with the juvenile justice system may feel hopeless, depressed, outraged, guilty, frightened, disappointed, or embarrassed.

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- 1 Executive Office of Health and Human Services, Annual Population Analysis – Detention Admissions: Analysis of DYS detentions from 1997 to 2006, Figure 1, <http://www.mass.gov/eohhs>; Executive Office of Health and Human Services, Annual Population Analysis – New Commitments, New Commitments to DYS, Figure 3, <http://www.mass.gov/eohhs>. The average daily number of youth held in pre-trial detention in 2006 was 296. Executive Office of Health and Human Services, Annual Population Analysis – Detention Admissions, <http://www.mass.gov/eohhs>.
  - 2 Executive Office of Health and Human Services, Annual Population Analysis - Committed Caseload: 2007 analysis of Department of Youth Services committed caseloads from 1997 to 2007, Figure 4, <http://www.mass.gov/eohhs>.
  - 3 Lisa E. Brooks et al., Prisoner Re-entry in Massachusetts, Urban Institute (March 2005) at 30, [http://www.urban.org/UploadedPDF/411167\\_Prisoner\\_Reentry\\_MA.pdf](http://www.urban.org/UploadedPDF/411167_Prisoner_Reentry_MA.pdf)

However, it is important for parents, legal guardians, and other caregivers to remember that a DYS involved youth needs support during this time. These parties can ensure the youth's emotional well-being, serve as the youth's advocate, and be a part of the youth's treatment. To provide this support, it is important to know the youth's rights. Even if a youth committed a crime, he still has rights.

 **Tip for families:** In order to be an effective advocate for your child, follow these basic steps.

- Keep all documents related to your child in one place.
- When you talk with officials, caregivers or staff, ask for and write down the person's name, position, and phone number.
- Write down all calls you make and keep copies of all letters you write on behalf of your child.
- Do not take notes of conversations you have with your child regarding the current incident that led to involvement in the juvenile justice system.

 **Tip for Families:** Be polite, but vigorous in your advocacy. You won't win every argument, but if you are polite, reasonable, well informed, and persistent, you will be an effective member of your child's treatment team at DYS.

## Legal authority cited in this book

This book contains footnotes which provide the source of the information stated in the text. Whenever possible, we have tried to include legal authority for statements made.

Legal authority may include constitutions, statutes, regulations and case law, as well as rules, guidelines and policies. These sources of authority may be state or federal.

A constitution is the fundamental law of a nation or state. A constitution establishes the basic principles under which the society operates and the government runs, and the limits on state power. Both the United States and Massachusetts have written constitutions.

Statutes are the laws passed by a state legislature or by the U.S. Congress.

- Most Massachusetts statutes are codified in the various chapters

and sections of the Massachusetts General Laws. These statutes are cited in this book as Mass. Gen. L. ch. [chapter number], § [section number]. An unofficial version of these statutes can be found online at <http://www.mass.gov/legis/laws/mgl/>.

- Nearly all federal statutes are published in the United States Code and are cited in this book in the form [chapter number] USC [section]. These statutes can be found online at <http://www.gpoaccess.gov/uscode/index.html>.

Regulations are rules written by agencies. They tend to be more detailed than statutes.

- Massachusetts state regulations are known as the Code of Massachusetts Regulations and are cited in this book as [chapter] CMR [section]. Most state agency regulations can be found online at <http://www.lawlib.state.ma.us/source/mass/cmr/index.html>. Unfortunately, most of DYS's regulations are not available on this webpage. However, they may be requested from DYS. They also may be obtained from the state trial court law library system at <http://www.lawlib.state.ma.us/libraries/services/docdelivery.html> or 1-800-445-8989.
- Federal regulations are generally referred to as the Code of Federal Regulations and are cited in this book as [chapter] CFR [section]. Federal agency regulations can be found online at <http://www.gpoaccess.gov/cfr/index.html>.

Case law is composed of written appellate judicial decisions interpreting laws and regulations and determining whether trial court decisions should be upheld or reversed.

- In Massachusetts, the highest court is the Supreme Judicial Court (SJC) and cases from that court are recorded, by case name, in numbered volumes. The standard form for an SJC case is *John Doe v. Mary Smith*, [volume number] Mass. [starting page number] [year of decision]. Massachusetts also has a lower appellate court, the Massachusetts Appeals Court. The standard form for a Massachusetts Appeals Court case is *John Doe v. Mary Smith*, [volume number] Mass. App. Ct. [starting page number] [year of decision].

Agency policies are, like regulations, rules written by agencies to set out practical procedures. Agencies write policies to explain how to

implement laws and regulations. Agency guidelines are similar instructive statements to describe how agency activity is to be carried out.

- Massachusetts DYS has many policies that describe, among other topics, how agency staff must act in certain situations and the rights of DYS-involved youth. DYS policies are available at <http://www.mass.gov/dys>.
- Massachusetts DYS has a DYS Case Management Practice and Procedural Manual, dated June 2010. It is available from DYS.
- Massachusetts DYS has a DYS Revocation Manual dated June 2003. It is available from DYS.

Statutes, regulations, and case law are all legal binding authority which the courts follow when deciding cases. Agency policies and guidelines should be followed by agencies, but do not have the force of the legally binding forms of authority.

DYS describes many of its regulations as outdated and intends to revise them. In general DYS policies are newer, although DYS is also regularly developing new policies and revising old ones. This book details existing law and policy. You may want to confirm that the provision cited is still in effect before relying on the information contained here.

Particularly relevant statutes and regulations are listed in the Resource Guide at the end of this book.

In addition, commonly used terms in this book are listed and explained in the next chapter, which is entitled “Important Terms Used in This Book.”

