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NOTE: This material was updated as of August 19, 2010 and is subject to change after that date as new laws get passed and new court decisions are rendered. You should refer to the current laws and decisions before taking any action.



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&



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*Present:
Raise the Age*

*The impact of
PA 09-7 Sept. Spec. Sess.
&
PA 10-1 June Spec. Sess.*



“Raise the Age”

IMPACT OF

PA 09-7

SEPTEMBER SPECIAL SESSION

&

PA 10-1

JUNE SPECIAL SESSION

**Who comes to the juvenile court?
PA 10-1 June Spec Sess. §28(1) - (10)**

(A) a person under 16 who violates any federal or state law or municipal or local ordinance, except an ordinance regulating FWSN behavior,

(B) an *unemancipated* person age 16 who violates any federal or state law *other than*

(i) an infraction,

(ii) a violation,

(iii) a motor vehicle offense or violation in Title 14,

(iv) a violation of a municipal or local ordinance,

(v) failure to pay or plead for an infraction, or

(vi) failure to appear for an adult court case;

(C) a person who willfully fails to appear in response to a juvenile summons or at any other juvenile court hearing of which they had notice;

(D) a person who violates any Superior Court order in a delinquency proceeding (other than a FWSN order); or

(E) a person who violates any condition of juvenile probation;

PA 10-1 June Special Session

- Authorizes the adult court to transfer to the juvenile court the case of any 16 year old, other than a case that was transferred from the juvenile court, where the youth is charged with an offense that occurred on or after 1/1/10 and for which a term of imprisonment may be imposed, other than operating under the influence.
- The court will consider the facts and circumstances of the case and prior history of the youth and will determine:
 1. if the programs and services available in the juvenile court would more appropriately address the needs of the youth; and
 2. the youth and the community would be better served by treating the youth as delinquent.

Fatal School Bus Crash On I-84

January 9, 2010



NEGLIGENT HOMICIDE WITH A MOTOR VEHICLE

Burns was driving a group of students to a kickoff for a robotics competition when the accident occurred, just after he entered I-84 heading west. State police said that the bus and a Volvo station wagon driven by Christopher Toppi, 16, of Glastonbury, collided.

The school bus plowed through the guardrail between exits 45 and 46 and plunged down an embankment, landing on its wheels 20 feet below.

Vikas Parikh, 16, of Rocky Hill, died of a blunt traumatic head injury. At least four other students on the bus suffered serious injuries.

Source: The Hartford Courant

PA 10-1 June Special Session

- Exempts statements made by a 16 year old to police in such cases from the more strict juvenile admissibility requirements;

Potential Issues for the Police Remain

What if a 16 year old is a “child” and an “adult” in the same case?

Rules & procedures for interviewing.

Rules & procedures for releasing from police custody.

Rules & procedures for secure holding in police custody.

What reference to juvenile charges (confidential) should be in the adult case report (may not be confidential)?

How will orders of erasure of juvenile record be handled by police and adult court?

**What is a “serious juvenile offense?
PA 10-1 June Spec Sess. §28(11)**

(A) the violation, attempt or conspiracy to violate, 21a-277, 21a-278, 29-33, 29-34, 29-35, 53-21, 53-80a, 53-202b, 53-202c, 53-390 to 53-392, 53a-54a to 53a-57, 53a-59 to 53a-60c, 53a-70 to 53a-71, 53a-72b, 53a-86, 53a-92 to 53a-94a, 53a-95, 53a-101, 53a-102a, 53a-103a or 53a-111 to 53a-113, 53a-122(a)(1), 53a-123(a)(3), 53a-134, 53a-135, 53a-136a, 53a-166 or 53a-167c, 53a-174(a), or 53a-196a, 53a-211, 53a-212, 53a-216 or 53a-217b, by a child, or (B) runaway from a secure placement while referred as a delinquent to CSSD or committed to DCF for an SJO;

Removed §53a-56b & §53a-57 from the list for 16 & 17 year olds.

Added §53a-56b & §53a-57 back to the list for 16 year olds and removed §53-21a(1) & §53a-166 from the list for all juveniles.

**What release options are
there for juveniles?**

PA 09-7 Sept. Spec. Sess. §72(c)

1. release the child to the custody of the child's parent or parents, guardian or some other suitable person or agency,
2. immediately turn the child over to a juvenile detention center;
3. at the discretion of the officer, release the child to the child's own custody;

When not placed in detention the officer shall serve a written complaint and summons on the child and the child's parent, guardian or some other suitable person or agency.

If such child is released to the child's own custody, the officer shall make reasonable efforts to notify, and to provide a copy of a written complaint and summons to, the parent or guardian or some other suitable person or agency prior to the court date on the summons.

**What if a juvenile fails to appear in
court in response to a summons?
PA 10-1 June Spec. Sess. §28(10)**

1. The court may order such child taken into custody and
2. such child may be charged with the delinquent act of wilful failure to appear.

**What must the court find
to hold a juvenile in detention?
PA 09-7 Sept Spec. Sess. §72(d)**

1. probable cause and
2. there is no less restrictive alternative available
3. A. a strong probability that the child will run away,
B. a strong probability that the child will commit or attempt to commit other offenses,
C. probable cause to believe the child's continued residence at home pending disposition poses a risk to the child or the community because of the serious & dangerous nature of the charges,
D. a need to hold the child for another jurisdiction,
E. need to hold the child to assure appearance before the court, in view of a previous failure to respond to the court process
F. the child has violated one or more of the conditions of a suspended detention order

**Can a juvenile be held
in an adult cell?**

PA 09-7 Sept Spec. Sess. §72(d)

Any child confined in a community correctional center or lockup shall be held in an area separate and apart from any adult detainee, except in the case of a nursing infant, and no child shall at any time be held in solitary confinement.

**Can a juvenile be released from
detention prior to a court hearing?
PA 09-7 Sept Spec. Sess. §72(e)**

Unless the arrest was for a serious juvenile offense or unless an order not to release is noted on the take into custody order, arrest warrant or order to detain, the child may be released by a detention supervisor to the custody of the child's parent or parents, guardian or other suitable person or agency.

**What is a needed to take an
admissible statement from
a juvenile under age 16?**

PA 09-7 Sept Spec. Sess. §75(a)

1. parent or guardian must be present and
2. both advised of:
 - A. the child's right to retain counsel, or if unable to afford counsel, to have counsel appointed
 - B. of the child's right to refuse to make any statements, and
 - C. that any statements the child makes may be introduced into evidence against the child.

NO CHANGE!

NOTE: this applies to any admission, confession or statement, written or oral, made by a person under 16 to a police officer or Juvenile Court official regardless of whether they are in custody or subject to interrogation or not.

**What is a needed to take an
admissible statement from
a 16 year old juvenile?**

PA 09-7 Sept. Spec. Sess. §75(b)

- (1) the police or Juvenile Court official must have made reasonable efforts to contact a parent or guardian of the child, and
- (2) such child has been advised of their:
 - (A) right to contact a parent or guardian and to have a parent or guardian present during any interview,
 - (B) right to retain counsel or, if unable to afford counsel, to have counsel appointed on behalf of the child,
 - (C) right to refuse to make any statement, and
 - (D) and that any statement the child makes may be introduced into evidence against the child.

The validity of any waiver and therefore, the admissibility of any admission, confession or statement, written or oral, made by a child sixteen years of age to a police officer or Juvenile Court official shall be determined by considering the totality of the circumstances at the time of the making of such admission, confession or statement.

The court will consider the child's:

- (1) age, experience, education, background and intelligence,
- (2) capacity to understand the advice concerning the rights and warnings given, the nature of the privilege against self-incrimination, and the consequences of waiving them,
- (3) opportunity to speak with a parent, guardian or some other suitable individual prior to or while making such admission, confession or statement, and
- (4) the circumstances surrounding the making of the admission, confession or statement, including, but not limited to,
 - (A) when and where the admission, confession or statement was made,
 - (B) the reasonableness of proceeding, or the need to proceed, without a parent or guardian present, and
 - (C) the reasonableness of efforts by the police or Juvenile Court official to attempt to contact a parent or guardian.

These restrictions apply to any admission, confession or statement, written or oral, made by a 16 year old to a police officer or Juvenile Court official regardless of whether they are in custody or subject to interrogation or not.

These restrictions do not apply to any admission, confession or statement, written or oral, made by a 16 year old to a police officer in connection with a case transferred from the adult court to the juvenile court.

Under the old law, and still for children under the age of 16, having a parent/guardian present is a requirement for the admissibility of any statement made by the child against them in court and it cannot be waived.

Under the new law, for a 16 year old, having a parent/guardian present is a right that might be waived in appropriate circumstances.

Unlike Miranda, these requirements and rights apply to any statement, admission or confession, made by a child to a police officer or juvenile court official, regardless of whether they are in custody or subject to interrogation.

**When can a juvenile's
record be erased?**

PA 09-7 Sept. Spec. Sess. §77

A petition for erasure is filed and it is found that:

1. two years have elapsed since the completion of the juvenile sentence (four years for an SJO), and
2. no juvenile proceeding or adult criminal proceeding is pending, and
3. the juvenile has not been convicted of a delinquent act that would be a felony or misdemeanor if committed by an adult during such two or four year period, and
4. the juvenile has not been convicted as an adult for a felony or misdemeanor during such two or four year period, and
5. the juvenile has reached 17 years of age.

For good cause shown, after a hearing, the court may grant a petition of erasure before the time when such records could be erased.

Who can be referred as a FWSN?

PA 10-1 June Spec. Sess. §28(1)(B) & (7)

A child under the age of 17 who has:

1. runaway from home without just cause;
2. been beyond the control of their parent or guardian;
3. engaged in indecent or immoral conduct;
4. been truant from school;
5. been continuously and overtly defiant of school rules;
6. after reaching the age of 13, engaged in sexual intercourse with another person 13 years or older and not more than 2 years older or younger.

**Who can be referred as a YIC?
PA 09-7 Sept. Spec. Sess. §69(2)(B)**

A youth age 17 who has:

1. runaway from home without just cause;
2. been beyond the control of their parent or guardian;
3. been truant from school;

**Can educational records be obtained?
PA 09-7 Sept. Spec. Sess. §70(b)(1)**

- The Superior Court may order a local or regional board of education to provide to the court educational records of a child or youth for the purpose of determining the need for services or placement of the child or youth.
- In proceedings concerning a child charged with a delinquent act or with being a FWSN, records produced subject to such an order shall be maintained under seal by the court and shall be released only after a hearing or with the consent of the child.
- Educational records obtained pursuant to this section shall be used only for dispositional purposes.

**Can work in lieu of school be ordered?
PA 09-7 Sept. Spec. Sess. §76**

If the court finds that a child is:

- convicted delinquent or adjudged a FWSN and
- they would benefit from a work-study program or employment with or without continued school attendance,

the court may as a condition of probation or supervision, authorize such child to be employed for part or full-time at some useful occupation that would be favorable to such child's welfare, under the supervision of the probation officer.

The statutory limitations on the employment of minors under the age of sixteen years shall not apply for the duration of such probation or supervision.

What are the effects of emancipation?

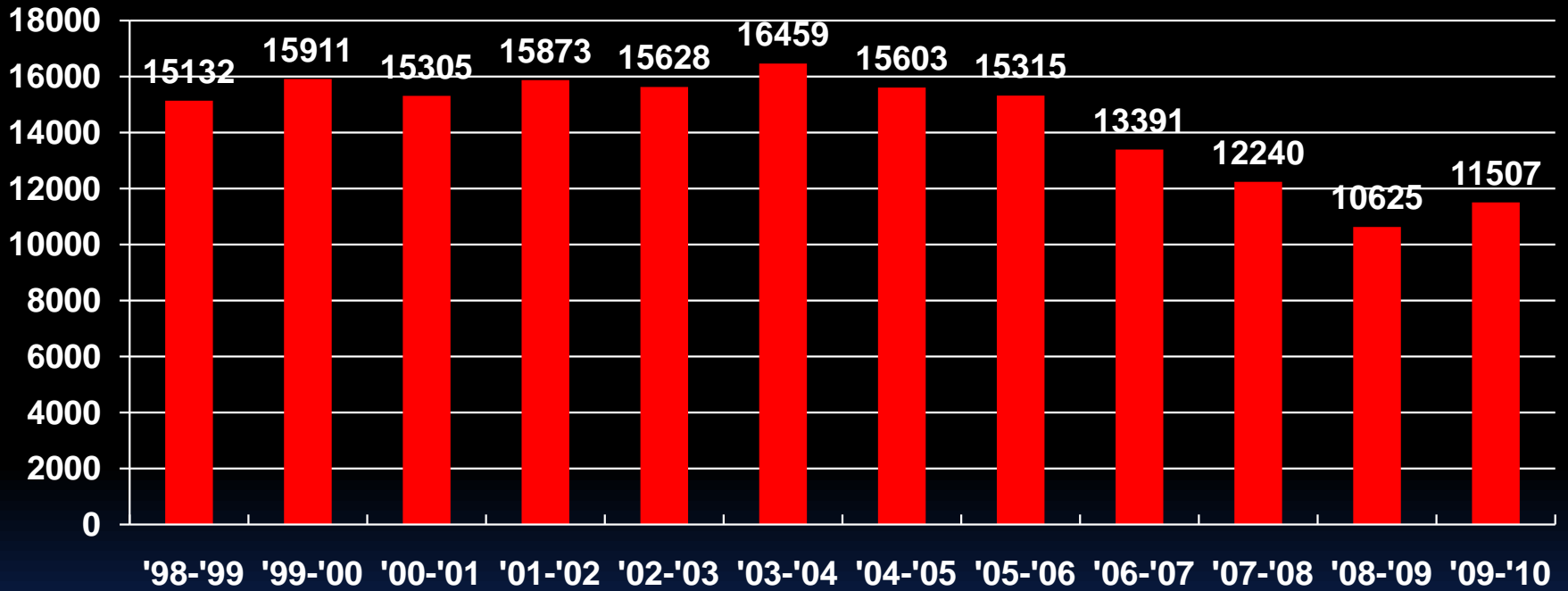
PA 09-7 Sept. Spec. Sess. §90

The minor:

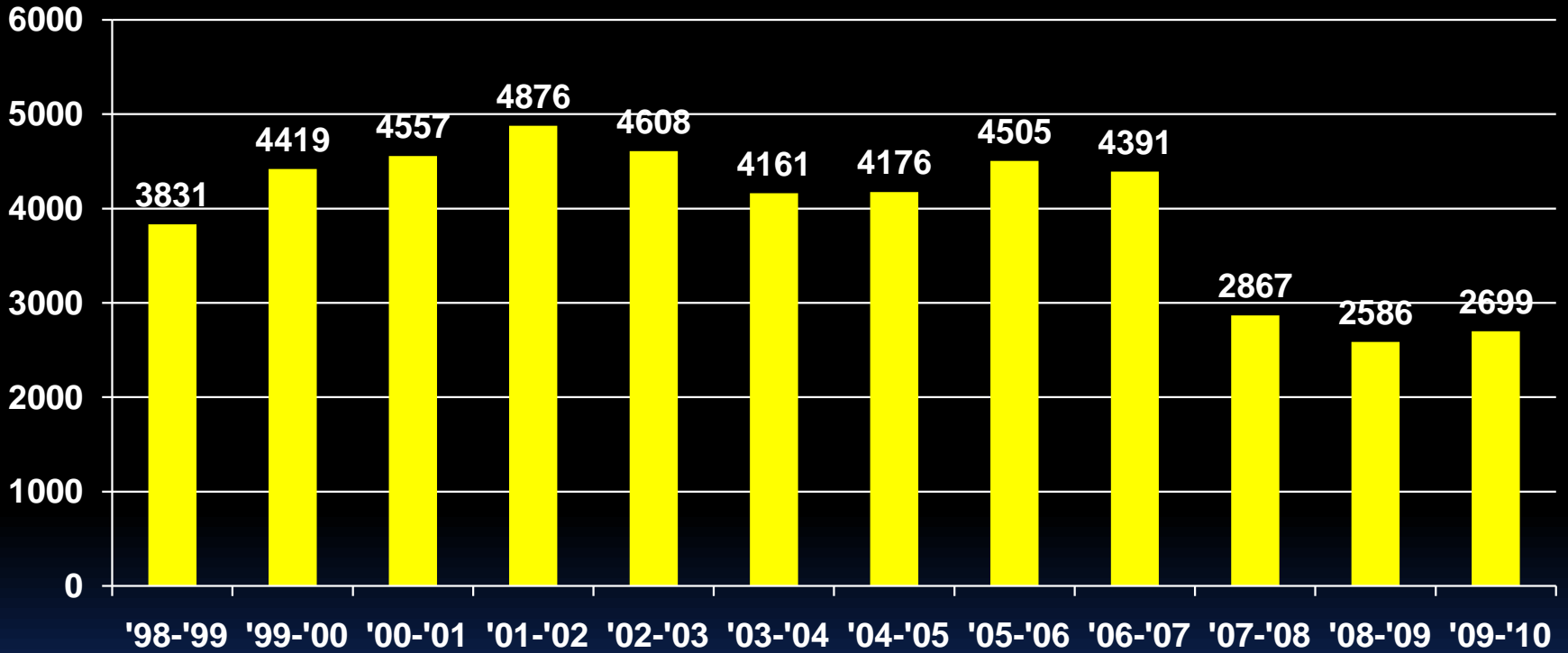
- (1) may consent to medical, dental or psychiatric care, without parental consent, knowledge or liability;
- (2) may enter into a binding contract;
- (3) may sue and be sued in their own name;
- (4) shall be entitled to such minor's own earnings and be free of control by such minor's parents or guardian;
- (5) may establish such minor's own residence;
- (6) may buy and sell real and personal property;
- (7) may not thereafter be the subject of a child protection, delinquency, FWSN or YIC petition;
- (8) may enroll in any school or college, without parental consent;
- (9) shall be deemed to be over eighteen years of age for purposes of securing an operator's license and a marriage license;
- (10) shall be deemed to be over eighteen years of age for purposes of registering a motor vehicle;
- (11) the parents of the minor shall no longer be the guardians of the minor;
- (12) the parents of a minor shall be relieved of any obligations respecting such minor's school attendance;
- (13) the parents shall be relieved of all obligation to support the minor;
- (14) the minor shall be emancipated for the purposes of parental;
- (15) the minor may execute releases; and
- (16) may enlist in the military without parental consent.

***Update on the
implementation of
“Raise the Age”***

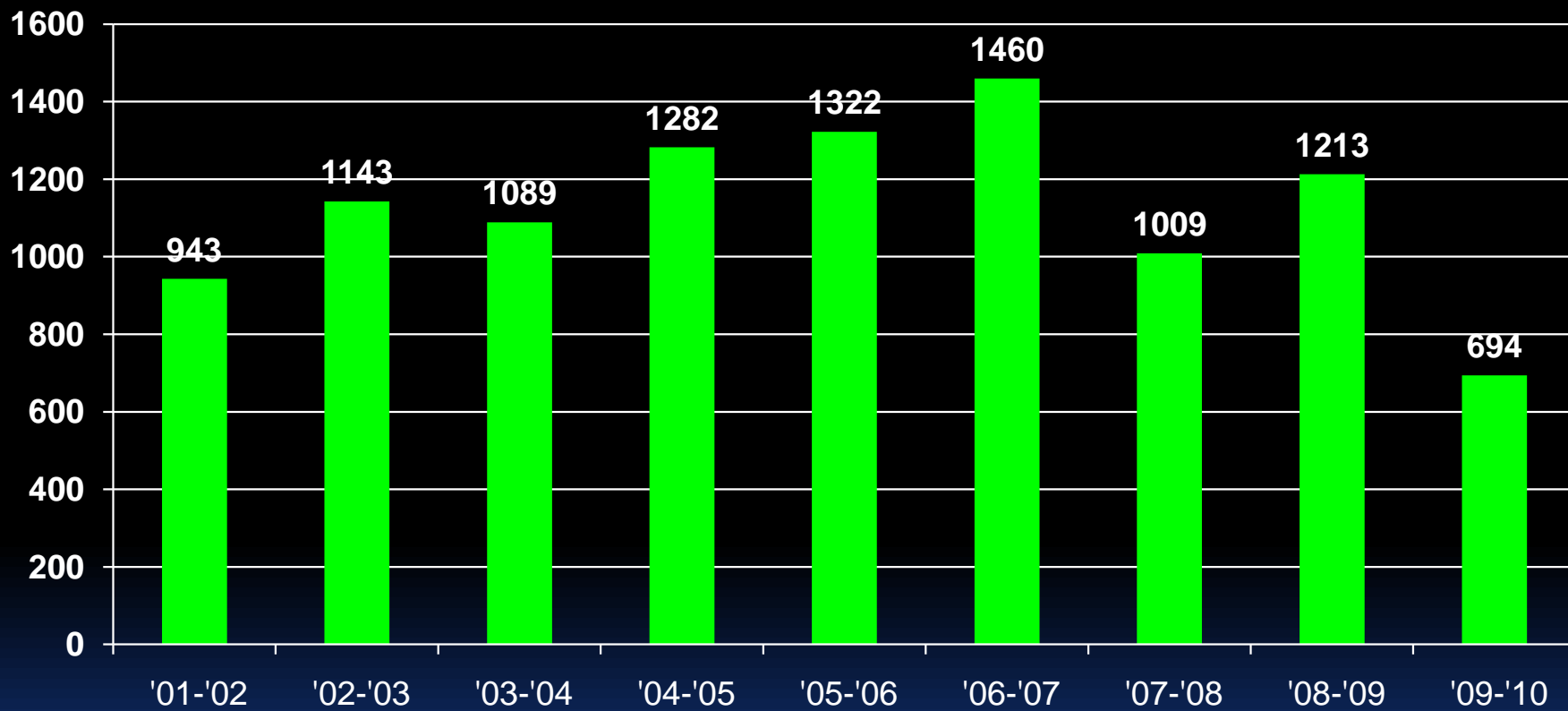
Delinquency Cases



FWSN Cases



YIC Cases



Number of Cases Received

	16 year old Delinquency	Cases Added		Net Change	%16 2010
		2009	2010		
January	261	986	1242	256	21%
February	268	1056	1196	140	23%
March	421	1443	1779	336	24%
April	366	1315	1604	289	23%
May	388	1281	1568	287	25%
June	404	1360	1555	195	26%
July	301	848	939	91	32%
Totals	2409	8289	9883	1594	25%
				20%	

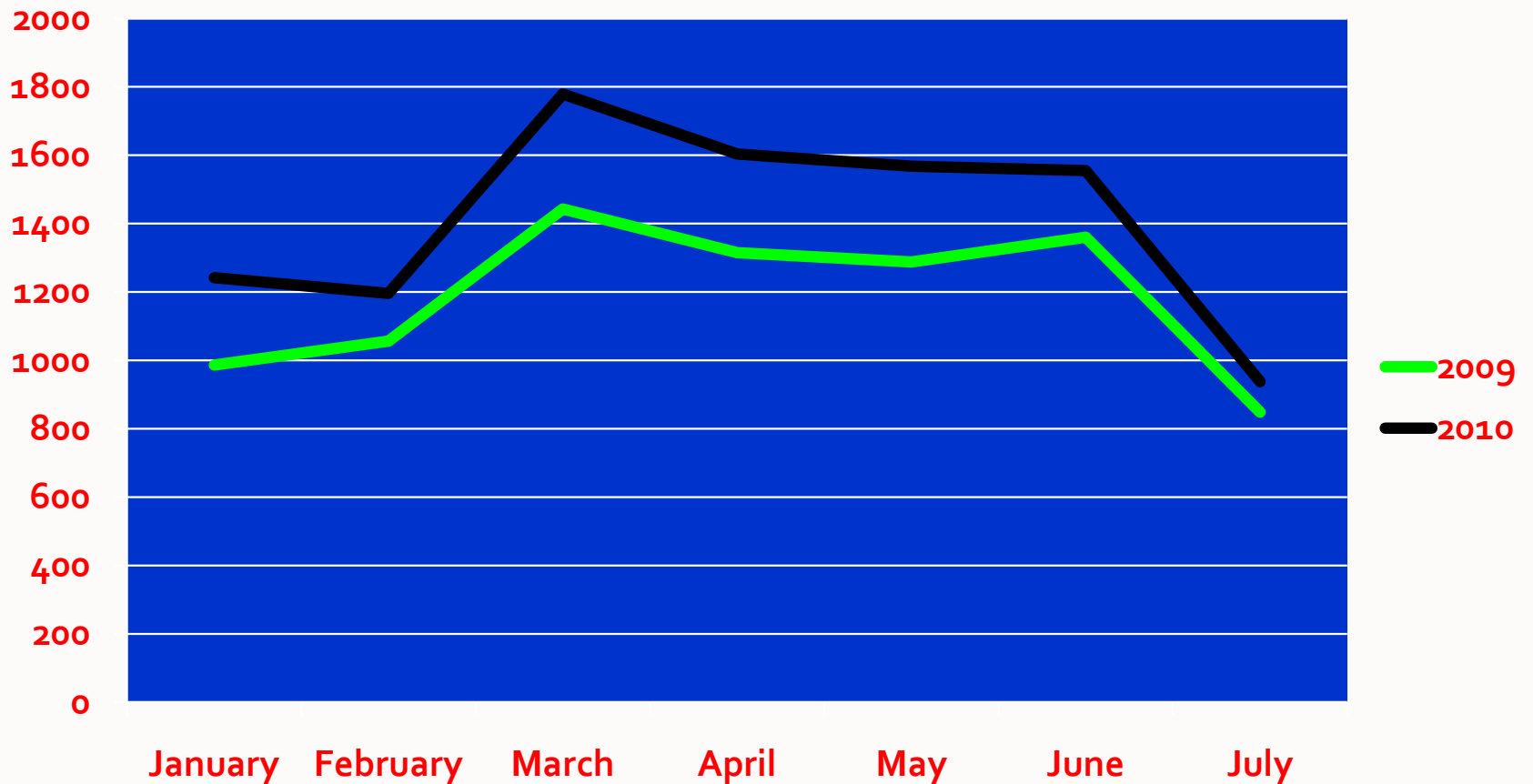
Delinquency Petitions Filed Between 1/1/10 and 6/30/10 for 16-Year Olds

The following charges were alleged:

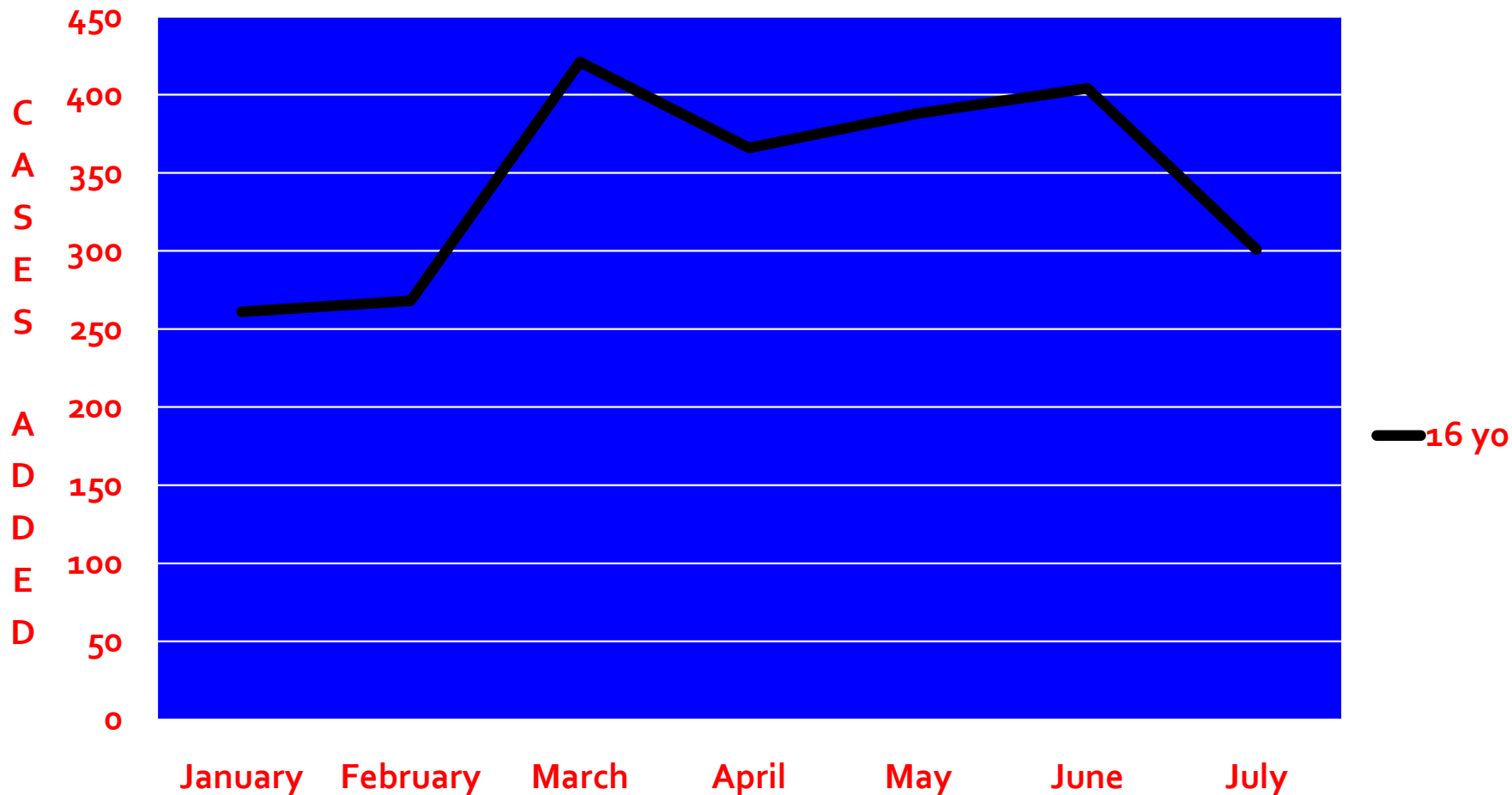
Statute	Description	Number of Times Charged
53a-181	BREACH OF PEACE 2 ND DEG	624
53a-125b	LARCENY 6 TH DEG	453
53a-182	DISORDERLY CONDUCT	329
53a-61	ASSAULT 3 RD DEG	257
21a-279(c)	POSS CNTRD SUBS/POSS MRHNA	218
53a-167a	INTERFERE WITH POLICE	179
53a-103	BURGLARY 3 RD DEG	145
53a-117	CRIMINAL MISCHIEF 3 RD DEG	114
53a-62	THREATENING 2 ND DEG	91
21a-267(a)	USE OF DRUG PARAPHERNALIA	80
53a-123	LARCENY 3 RD DEG	70
53a-109	CRIMINAL TRESPASS 3 RD DEG	67
53a-116	CRIMINAL MISCHIEF 2 ND DEG	65

Juvenile Court Intake

January - July 2009 vs January - July 2010

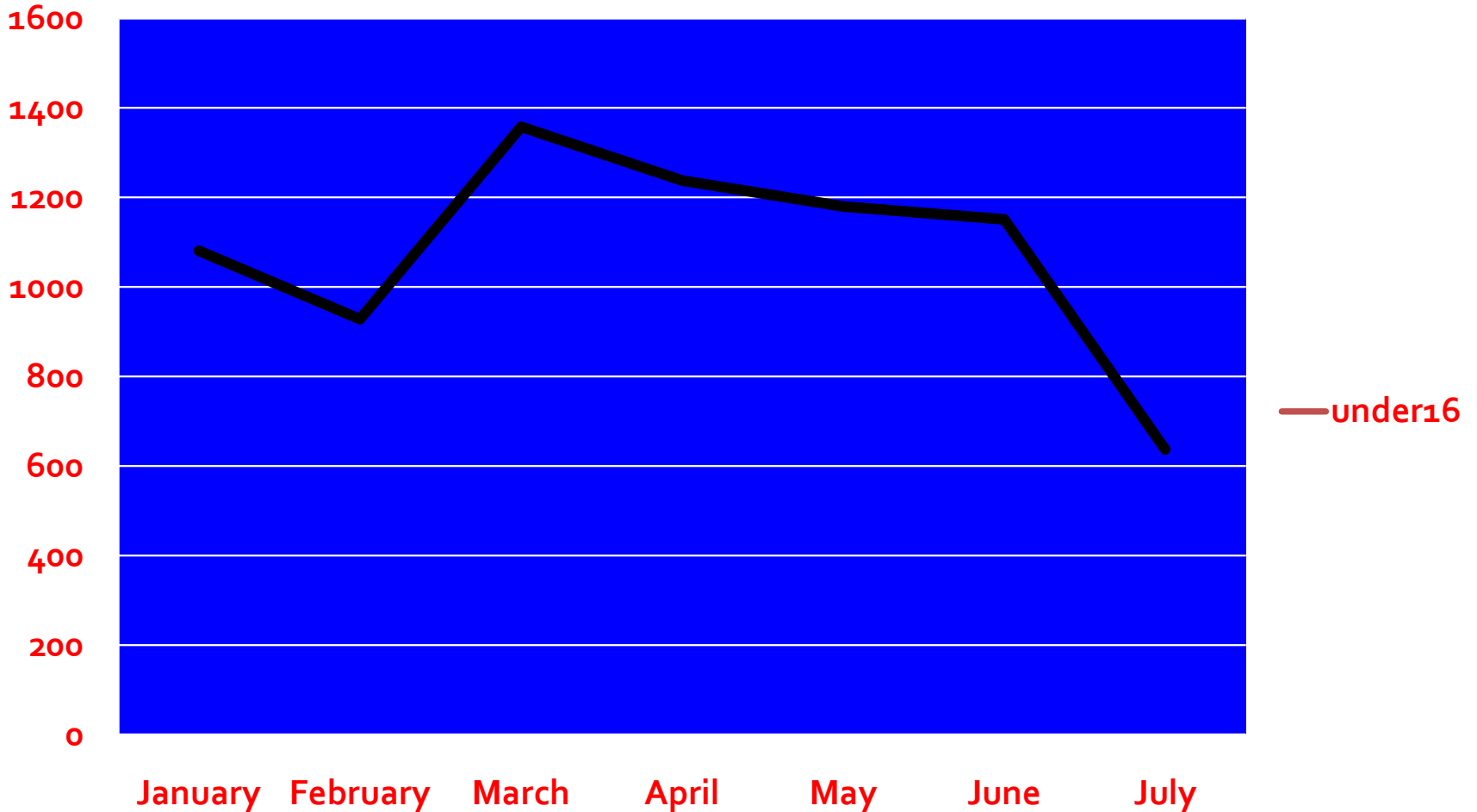


Juvenile Court Intake January 2010-July 2010 Age 16

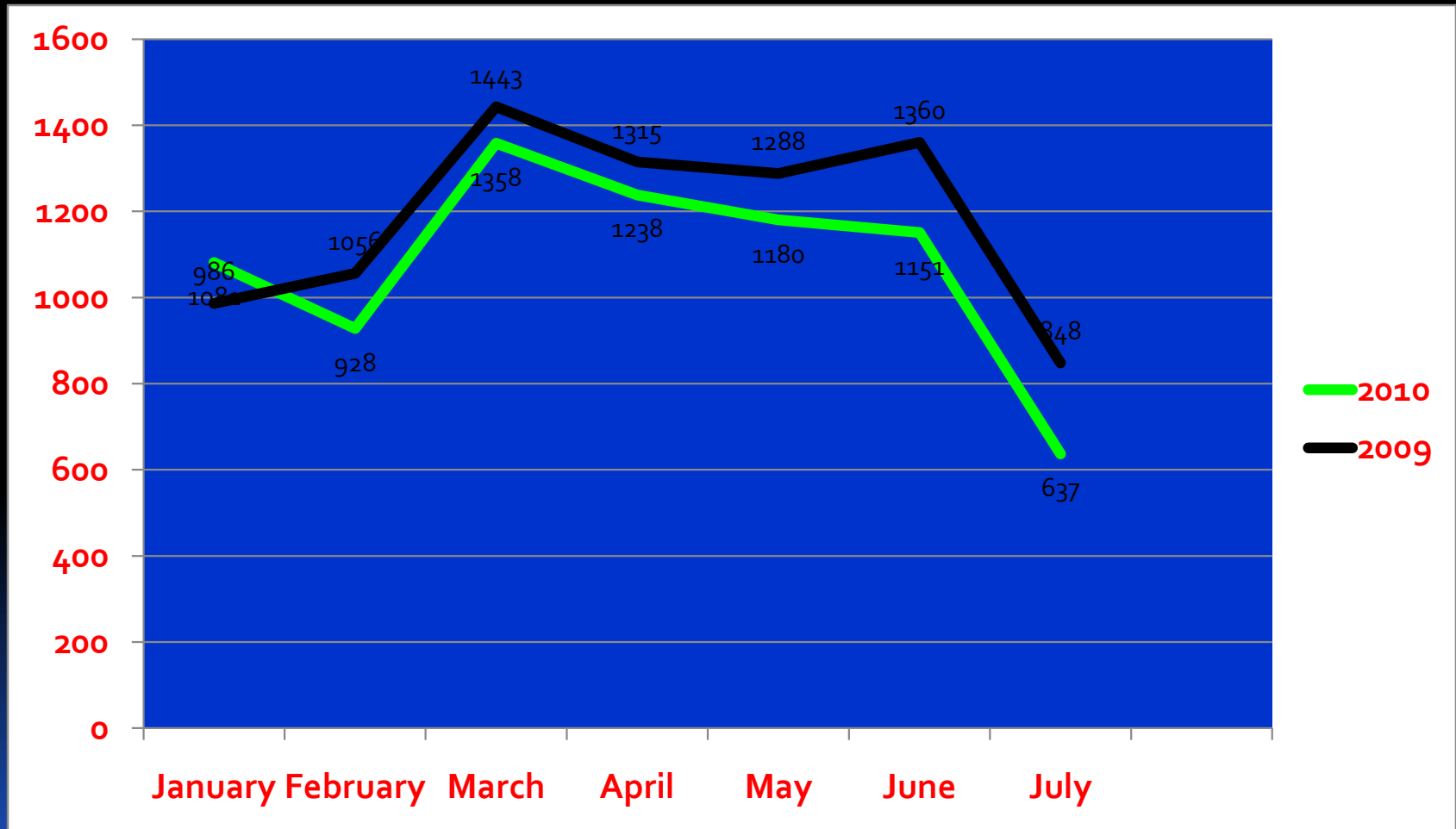


16 YEAR OLDS 2010

Juvenile Court Intake January 2010-July 2010 Under Age 16



Juvenile Court Intake January-July 2009 vs January –July 2010 Under Age 16



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A person under 16 who has violated:

- (A) any federal or state law or municipal or local ordinance, other than an ordinance regulating FWSN behavior,
- (B) any Superior Court order, other than a FWSN order, or
- (C) any condition of probation as ordered by the court;

Proposed Technical Corrections Bill (HB 5522)

Makes changes to the list of SJO's:

- Deletes specific subsection of risk of injury charge;
- Deletes hindering prosecution 2nd degree;
- Adds manslaughter 2nd and misconduct with a motor vehicle back to the list for 16 year olds;

1. probable cause and
2.
 - A. a strong probability that the child will run away, or
 - B. a strong probability that the child will commit or attempt to commit other offenses, or
 - C. probable cause to believe the child's continued residence at home pending disposition will not safeguard the best interests of the child or the community because of the serious & dangerous nature of the acts alleged, or
 - D. a need to hold the child for another jurisdiction, or
 - E. need to hold the child to assure his appearance before the court, in view of a previous failure to respond to the court process

1. release the child to the custody of the child's parent or parents, guardian or some other suitable person or agency, or
2. immediately turn the child over to a juvenile detention center.

When not placed in detention the officer shall serve a written complaint and summons on the child and the child's parent, guardian or other person having control of the child.

Proposed Technical Corrections Bill (HB 5522)

Would require “sight and sound” separation for children in custody to bring the state law back into compliance with federal regulations.

Miranda warnings if in custody and subject to interrogation.

A petition for erasure is filed and it is found that:

1. two years have elapsed since the completion of the juvenile sentence (four years for an SJO conviction), and
2. no juvenile proceeding has been instituted, and
3. the juvenile has not been found guilty of a crime.

If the court finds that a child is:

- fourteen years of age or older and
- convicted as delinquent or adjudged to be a FSWN and
- they would not benefit from continued school attendance and
- may properly be employed for part or full-time at some useful occupation and
- that such employment would be favorable to such child's welfare,

the court may place such child on vocational probation and the probation officer shall supervise such employment.

The limitations of subsection (a) of §31-23 on the employment of minors under the age of 16 shall not apply for the duration of such vocational probation.

The minor:

- (1) may consent to medical, dental or psychiatric care, without parental consent, knowledge or liability;
- (2) may enter into a binding contract;
- (3) may sue and be sued in their own name;
- (4) shall be entitled to such minor's own earnings and be free of control by such minor's parents or guardian;
- (5) may establish such minor's own residence;
- (6) may buy and sell real and personal property;
- (7) may not thereafter be the subject of a child protection petition
- (8) may enroll in any school or college, without parental consent;
- (9) shall be deemed to be over eighteen years of age for purposes of securing an operator's license and a marriage license;
- (10) shall be deemed to be over eighteen years of age for purposes of registering a motor vehicle;
- (11) the parents of the minor shall no longer be the guardians of the minor;
- (12) the parents of a minor shall be relieved of any obligations respecting such minor's school attendance;
- (13) the parents shall be relieved of all obligation to support the minor;
- (14) the minor shall be emancipated for the purposes of parental;
- (15) the minor may execute releases; and
- (16) may enlist in the military without parental consent.

Delinquency Docket Numbers Filed Between 1/1/10 and 6/30/10 for 16-Year Olds

Delinquency Docket Numbers Filed for 16 year olds = 2108
 For the 2108 delinquency docket numbers, there were 3913 counts.

Statute Number	Description	Number of Times Charged
53a-181	BREACH OF PEACE 2ND DEG	624
53a-125b	LARCENY 6TH DEG	453
53a-182	DISORDERLY CONDUCT	329
53a-61	ASSAULT 3RD DEG	257
21a-279(c)	POSS CNTRLD SBSTNC/<4 OZ MRHNA	218
53a-167a	INTERFERE WITH OFFCR/RESISTING	179
53a-103	BURGLARY 3RD DEG	145
53a-117	CRIMINAL MISCHIEF 3RD DEG	114
53a-62	THREATENING 2ND DEG	91
21a-267(a)	USE OF DRUG PARAPHERNALIA	80
53a-124	LARCENY 3RD DEG	70
53a-109	CRIMINAL TRESPASS 3RD DEG	67
53a-116	CRIMINAL MISCHIEF 2ND DEG	65
46b-120(5(Aiv	VIOLATION PROBATION UNDR 16 YR	60
46b-120(5(Biv	VIOLATION PROBATION WHILE 16YR	60
21a-279(d)	NONSTDNT-DRGS NR SCH/HSG/DY CR	43
53-206	CARRYING A DANGEROUS WEAPON	39
46b-120(5Aiii	VIOLATION COURT ORD UNDR 16 YR	37
53a-108	CRIMINAL TRESPASS 2ND DEG	35