Chapter outline

Chapter Objectives
Introduction
The Juvenile Justice System
A Process or System?
Who Are Juvenile Offenders?
Juvenile Offenders Defined
The Age Jurisdiction of Juvenile Courts
Parens Patriae
Modern Interpretations of Parens Patriae
The Get-Tough Movement
Juvenile Delinquents and Delinquency
Juvenile Delinquents
Juvenile Delinquency
Status Offenders
Runaways
Truants and Curfew Violators
Juvenile and Criminal Court Interest in Status Offenders
The Deinstitutionalization of Status Offenses (DSO)
The JJDPA of 1974
Changes and Modifications in the JJDPA
DSO Defined
Potential Outcomes of DSO
Some Important Distinctions between Juvenile and Criminal Courts
An Overview of the Juvenile Justice System
The Ambiguity of Adolescence and Adulthood
Being Taken into Custody and Being Arrested
Juveniles in Jails
Referrals
Intake
Alternative Prosecutorial Actions
Adjudicatory Proceedings
Juvenile Dispositions
Nominal Dispositions
Conditional Dispositions
Custodial Dispositions
Juvenile Corrections
Juvenile Probation
Juvenile Parole
Summary
Key Terms
Questions for Review
Internet Connections
As the result of reading this chapter, you will accomplish the following objectives:

1. Understand the basic components of the juvenile justice system.
2. Learn about the doctrine of *parens patriae* and how juveniles continue to be affected by this doctrine.
3. Understand the difference between juvenile delinquents and status offenders.
4. Determine what is meant by juvenile delinquency.
5. Distinguish between juvenile delinquents and the broad class of status offenders, including runaways, truants, and curfew violators.
6. Understand the meaning of the deinstitutionalization of status offenders.
7. Differentiate between and understand the primary characteristics of juvenile and criminal courts.
8. Understand the intake process for screening juveniles.
9. Learn about different prosecutorial options for pursuing cases against juveniles.
10. Acquire an understanding of the different types of juvenile court dispositions, including nominal, conditional, and custodial sanctions that may be applied.

**Case Study**

A 16-year-old boy in Milledgeville, Georgia, was arrested for armed robbery. Police alleged that the youth assaulted and robbed a 34-year-old resident. The adult was struck in the head numerous times with a gun wielded by the youth who stole the man’s wallet following the assault and fled in the victim’s car. Police arrested the youth a short time later. The prosecutor said the youth would be charged as an adult and tried in criminal court. [Source: Adapted from the Associated Press, “Juvenile Arrested on Robbery Charge,” October 25, 2007.]

In Clackamas County, Oregon, a 17-year-old, Jose Pablo Hernandez, armed with a knife and gun, entered and robbed a food market. Police arrested Hernandez a short time later near the store, where Hernandez was hiding in some bushes. [Source: Adapted from the Associated Press, “Clackamas County Juvenile Accused of Armed Robbery,” October 29, 2007.]

**Case Study**

At Mercer Middle School in Seattle, Washington, Tam Chau, 15, hated school. He cut classes repeatedly, preferring to hang out with his friends at a mall in an arcade room. Eventually a truancy court ordered Chau to attend school. Violating this court order three times subsequently led to Chau’s arrest and confinement in a juvenile detention facility, with juvenile robbers, murderers, and thieves. Chau’s arrest and detention is the result of Becca’s Bill, an initiative signed into law by the Washington governor. The bill is named after Rebecca Hedman, a 13-year-old, who in 1993 had been abused by her biological mother and placed in foster care. She ran away from the foster home, becoming a drug addict and prostitute. She was found beaten to death that same year. The bill gave rise to truancy courts and empowered judges to jail runaway, at-risk, or incorrigible youths like Tam Chau. [Source: Adapted from the Associated Press, “Should Kids Serve Time for Skipping School?” May 9, 2007.]

In Fort Pierce, Florida, kids roaming the streets after 10:00 P.M. are subject to arrest and overnight detention. The procurfew argument and action taken by Fort Pierce
authorities is simple: if kids don’t have the opportunity to commit crime, they won’t. Just ask Shelwand Riley, 15. She was punched and pepper sprayed by police officers when she resisted arrest for violating curfew and possibly possessing stolen property. [Source: Adapted from the Associated Press, “Broken Curfew=Broken Arm,” October 10, 2007.]

And in Charlotte County, Florida, 17-year-old Brian Crist, a runaway teen, was arrested by police officers after he was located and found in possession of nearly three pounds of marijuana. “I just found it,” Crist claimed. Crist was charged with felony—possession of marijuana with intent to distribute. [Source: Adapted from the Associated Press, “Runaway Found, Then Arrested,” November 16, 2007.]

Introduction

Each of these cases is different. But there are similarities. One boy beats and robs a man and steals his car. Another youth holds up a food store at gunpoint. Another youth shuns school, is arrested by police, and is placed in detention. Another youth is arrested as a curfew violator and for possessing stolen merchandise. Another youth is a runaway with nearly three pounds of marijuana in his possession. All of these arrested youths are juveniles. Each of them has committed one or more offenses that have brought them into the juvenile justice system.

This book is about the juvenile justice system and describes its principal components. The organization of this chapter is as follows. First, the juvenile justice system is described. Sometimes the expression “juvenile justice process” is preferred, since there is much fragmentation and differentiation within organizations that process juveniles. Several of the similarities and differences among these systems will be described in greater detail in later chapters.

Juvenile delinquents are defined and described, as well as the types of offenses they commit. Different definitions of juveniles and juvenile delinquency are presented. Every jurisdiction has its own criteria for determining who juveniles are and whether they are encompassed within the jurisdiction of the juvenile court. A majority of states classify juveniles as ranging in age from 7 to 17, and juvenile courts in these states have jurisdiction over these juveniles. Some states have no minimum-age provisions and consider each case on its own merit, regardless of the youthfulness of the juvenile.

Because juveniles are not considered adults and fully responsible for some of their actions, special laws have been established that pertain only to them. Thus, violations of the laws pertaining only to juveniles are called status offenses. Juveniles who commit such infractions are called status offenders. Juveniles who commit crimes are considered juvenile delinquents, and their actions are labeled juvenile delinquency. Different types of status offenses are discussed. These offenses are not considered crimes if adults commit them. Examples of status offenses include runaway behavior, truancy, and curfew violation. These will be defined and explained. The characteristics of youths involved in such behaviors will also be described.

In 1974, the U.S. Congress passed the Juvenile Justice and Delinquency Prevention Act (JJDPA). This act, although not binding on the states, encouraged all states to remove their status offenders from secure institutions—juvenile prisons or custodial facilities—where they were being held for more or less lengthy periods. Many states subsequently removed their status offenders from these institutions and placed these youths in community, social service, or welfare agencies. This process is called the deinstitutionalization of status offenses (DSO) and will be described in some detail. Several meanings of DSO will be presented. Both anticipated and unanticipated consequences of DSO have occurred. These consequences will be listed and discussed.

Next, a general overview of the juvenile justice system will be presented. While later chapters will focus upon each of these components in greater detail, the juvenile justice
system consists of all of the processes involved whenever juveniles come into contact with law enforcement. There are several parallels between the criminal and juvenile justice systems. These will be described. For those juveniles who advance further into the system, prosecutors make decisions about which cases to pursue. These decisions are often preceded by petitions from different parties requesting a formal juvenile court proceeding. When juveniles appear before a juvenile court judge, they face an adjudicatory proceeding and have their cases adjudicated. Juvenile court judges have a more limited range of punishment options compared with criminal court judges. Juvenile court judges may impose nominal, conditional, or custodial dispositions. These different kinds of dispositions will be described.

The Juvenile Justice System

The juvenile justice system, similar to criminal justice, consists of a more or less integrated network of agencies, institutions, organizations, and personnel that process juvenile offenders. This network is made up of law enforcement agencies; prosecution and the courts; corrections, probation, and parole services; and public and private community-based treatment programs that provide youths with diverse services. This definition is qualified by the phrase “more or less integrated” because the concept of juvenile justice has different meanings for individual states and for the federal government. Also, in some jurisdictions, the diverse components of the juvenile justice system are closely coordinated, while in other jurisdictions, these components are, at best, loosely coordinated. There is no single nationwide juvenile court system. Instead, there are 51 state systems, including the District of Columbia, and most of them are divided into local systems delivered through either juvenile or family courts at the county level, local probation offices, state correctional agencies, and private service providers. These systems do, however, have a common set of core principles that distinguish them from criminal courts for adult offenders, including: (1) limited jurisdiction (up to age 17 in most states); (2) informal proceedings; (3) focus on offenders, not their crimes; (4) indeterminate sentences; and (5) confidentiality (Feld, 2007).

A Process or System?

Many criminologists and criminal justice professionals prefer “process” rather than “system” when referring to juvenile justice. This is because “system” connotes a condition of homeostasis, equilibrium, or internal balance among system components. In contrast, process focuses on the different actions and contributions of each of these components in dealing with juvenile offenders at various stages of the processing through the juvenile justice system. Furthermore, system implies coordination among elements in an efficient production process; but in reality, communication and coordination among juvenile agencies, organizations, and personnel in the juvenile justice system are often inadequate or nonexistent (Congressional Research Service, 2007).

Further blurring the concept of juvenile justice is that different criteria are used to define juveniles among local, state, and federal jurisdictions. Within each of these jurisdictions, certain mechanisms exist for redefining particular juveniles as adults so that they may be legally processed by the adult counterpart to juvenile justice, the criminal justice system. Despite these definitional ambiguities and systemic interfaces among jurisdictions, most scholars who investigate juveniles understand what is meant by juvenile justice. As with pornography, these scholars and investigators recognize the juvenile justice process whenever they see its components, even if they may not always be able to define it precisely.
Who Are Juvenile Offenders?

Juvenile Offenders Defined

Juvenile offenders are classified and defined according to several different criteria. According to the 1899 Illinois Act that created juvenile courts, the jurisdiction of such courts would extend to all juveniles under the age of 16 who were found in violation of any state or local law or ordinance (Ferzan, 2008). About a fifth of all states place the upper age limit for juveniles at either 15 or 16. In most other states, the upper age limit for juveniles is 17, except for Wyoming, where the upper age limit is 18. Ordinarily, the jurisdiction of juvenile courts includes all juveniles between the ages of 7 and 18. Federal law defines juveniles as any persons who have not attained their eighteenth birthday (18 U.S.C., Sec. 5031, 2009).

The Age Jurisdiction of Juvenile Courts

The age jurisdiction of juvenile courts over juveniles depends upon established legislative definitions among the states. The federal government has no juvenile court. Although upper and lower age limits are prescribed, these age limits are not uniform among jurisdictions. Common law has been applied in many jurisdictions where the minimum age of accountability for juveniles is seven. Youths under the age of seven are presumed to be incapable of formulating criminal intent and are thus not responsible under the law. While this presumption may be rebutted, in most cases, it isn’t. Thus, if a six-year-old child kills someone, deliberately or accidentally, he/she will likely be treated rather than punished. In some states, no lower age limits exist to restrict juvenile court jurisdiction. Table 1.1 shows upper age limits for most U.S. jurisdictions.

Those states with the lowest maximum age for juvenile court jurisdiction include Connecticut, New York, and North Carolina. In these states, the lowest maximum age for juvenile court jurisdiction is 15. The states having the lowest maximum age of 16 for juvenile court jurisdiction are Georgia, Illinois, Louisiana, Massachusetts, Michigan, Missouri, South Carolina, and Texas. All other states and the federal government

<table>
<thead>
<tr>
<th>Table 1.1</th>
<th>Age at Which Criminal Courts Gain Jurisdiction over Youthful Offenders, 2008</th>
</tr>
</thead>
<tbody>
<tr>
<td>Age (years)</td>
<td>States</td>
</tr>
<tr>
<td>16</td>
<td>Connecticut, New York, North Carolina</td>
</tr>
<tr>
<td>17</td>
<td>Georgia, Illinois, Louisiana, Massachusetts, Missouri, South Carolina, Texas</td>
</tr>
<tr>
<td>19</td>
<td>Wyoming</td>
</tr>
</tbody>
</table>

Juvenile offenders who are especially young (under age seven in most jurisdictions) are often placed within the control of community agencies such as departments of human services or social welfare. These children frequently have little or no responsible parental supervision or control. In many cases, the parents themselves may have psychological problems or suffer from alcohol or drug dependencies. Youths from such families may be abused and/or neglected, and in need of supervision and other forms of care or treatment. Instead of punishing those under the age of seven, various kinds of treatment, including social therapy and psychological counseling, are most frequently required. Some states have further age-accountability provisions. Tennessee presumes, for instance, that juveniles between the ages of 7 and 12 are accountable for their delinquent acts, although this presumption may be overcome by their attorneys through effective oral arguments and clear and convincing evidence.

Some states have no minimum age limit for juveniles. Technically, these states have the power to decide matters involving children of any age. This control often involves placement of children or infants in foster homes or under the supervision of community service or human welfare agencies. Neglected, unmanageable, abused, or other children in need of supervision are placed in the custody of these various agencies, at the discretion of juvenile judges. Thus, juvenile courts generally have broad discretionary powers over most persons under the age of 18. Under certain circumstances that will be discussed in a later chapter, some juveniles, particularly young ones such as 11-year-olds and 12-year-olds, may be treated as adults for the purpose of prosecuting them in criminal court for alleged serious crimes.

**Parens Patriae**

*Parens patriae* is a concept that originated with the King of England during the twelfth century. It means literally the father of the country. Applied to juvenile matters, *parens patriae* means that the king is in charge of, makes decisions about, and has the responsibility for all matters involving juveniles. Within the scope of early English common law, parental authority was primary in the early upbringing of children. However, as children advanced beyond the age of seven, they acquired some measure of responsibility for their own actions. Accountability to parents was shifted gradually to accountability to the state, whenever youths seven years of age or older violated the law. In the name of the king, chancellors in various districts adjudicated matters involving juveniles and the offenses they committed. Juveniles had no legal rights or standing in any court. They were the sole responsibility of the king or his agents. Their future often depended largely upon chancellor decisions. In effect, children were wards of the court, and the court was vested with the responsibility of safeguarding their welfare (McGhee and Waterhouse, 2007).

Chancery courts of twelfth- and thirteenth-century England, and later years, performed many tasks, including the management of children and their affairs, as well as the management of the affairs of the mentally ill and incompetent. Therefore, an early division of labor was created, involving a three-way relationship among the child, the parent, and the state. The underlying thesis of *parens patriae* was that the parents are merely the agents of society in the area of childrearing, and that the state has the primary and legitimate interest in the upbringing of its children. Thus, *parens patriae* established a type of fiduciary or trust-like parent–child relation, with the state able to exercise the right of intervention to delimit parental rights (Friday and Ren, 2006).

Since children could become wards of the court and subject to their control, a key concern for many chancellors was for the future welfare of these children. The welfare
interests of chancellors and their actions led to numerous rehabilitative and/or treatment measures. Some of these measures included placement of children in foster homes or their assignment to various work tasks for local merchants (Rockhill, Green, and Furrer, 2007). Parental influence in these child placement decisions was minimal. In the context of *parens patriae*, it is fairly easy to trace this early philosophy of child management and its influence on subsequent events in the United States, such as the child saver movement, houses of refuge, and reform schools. These latter developments were both private and public attempts to rescue children from their hostile environments and meet some or all of their needs through various forms of institutionalization.

### Modern Interpretations of *Parens Patriae*

*Parens patriae* in the present is very much alive throughout all juvenile court jurisdictions in the United States, although some erosion of this doctrine has occurred during the past three or four decades. The persistence of this doctrine is evidenced by the wide range of dispositional options available to juvenile court judges and others involved in the early stages of offender processing in the juvenile justice system. Most of these dispositional options are either nominal or conditional, meaning that the confinement of any juvenile for most offenses is regarded as a last resort. Nominal or conditional options involve relatively mild sanctions (e.g., verbal warnings or reprimands, diversion, probation, making financial restitution to victims, performance of community service, participation in individual or group therapy, or involvement in educational programs), and these sanctions are intended to reflect the rehabilitative ideal that has been a major philosophical underpinning of *parens patriae*.

### The Get-Tough Movement

However, the strong treatment or rehabilitative orientation reflected by the *parens patriae* concept is in conflict with the contemporary juvenile justice themes of accountability, justice, and due process. Contemporary juvenile court jurisprudence stresses individual accountability for one's actions. Increasingly there is a trend toward just deserts and justice in the juvenile justice system. This **get-tough movement** is geared toward providing law violators with swifter, harsher, and more certain justice and punishment than the previously dominant rehabilitative philosophy of American courts (Mears et al., 2007).

For juveniles, this means greater use of nonsecure and secure custody and incarcerative sanctions in state group homes, industrial schools, or reform schools. For those juveniles charged with violent offenses, this means transferring larger numbers of them to the jurisdiction of criminal courts for adults, where more severe sanctions such as life imprisonment or the death penalty may be imposed. Not everyone agrees that this is a sound trend, however. It has been suggested that while many people favor a juvenile justice system separate from the criminal justice system, they exhibit a strong preference for a system that disposes most juveniles to specialized treatment or counseling programs in lieu of incarceration, even for repeat offenders.

Influencing the *parens patriae* doctrine are the changing rights of juveniles. Since the mid-1960s, juveniles have acquired greater constitutional rights commensurate with those enjoyed by adults in criminal courts. As juveniles are vested with greater numbers of constitutional rights, a gradual transformation of the juvenile court is occurring toward one of greater criminalization. Interestingly, as juveniles obtain a greater range of constitutional rights, they become less susceptible to the influence of *parens patriae*.

Another factor is the gradual transformation of the role of prosecutors in juvenile courts. As prosecutors become more involved in pursuing cases against juvenile
George B. Mumma, Jr.

Senior Investigator, Jefferson County, District Attorney’s Office, Littleton, CO

Statistics:
B.A. (criminal justice), Columbia College;
Certified Juvenile Court Administrator, University of Nevada, Reno; Colorado P.O.S.T. Certified

Background

I am a Senior Investigator for the Jefferson County District Attorney’s Office assigned to the Juvenile Crime Unit. I currently supervise the Special Operations Group and office firearms program. I have been in law enforcement for the past 29 years. I started out joining the Boy Scouts, earning the Eagle Scout award. Later, I was a member of the Arapahoe Rescue Patrol (ARP) for five years. The ARP is a youth search and rescue group in Littleton, Colorado. I have always enjoyed service work, and subsequently I worked as a paramedic. Eventually, I was exposed to police work. After being a paramedic for three years, I began working at the Littleton Police Department (LPD).

My life in the LPD started as a patrol officer writing tickets and taking reports, and since those early days, I have worked in a variety of assignments. I was a member of the SWAT Team, where my first assignment was as sniper/observer on a team, then breacher on an entry team, then team leader of an entry team, and now a special operations supervisor of seven operators.

I left the LPD to work for a larger department in Lakewood, Colorado, in 1983. After 10 years with that department, I left patrol work and began pursuing an investigations career where I worked briefly in Internal Affairs before taking a detective assignment in the Crimes Against Children Unit. Ultimately, I joined the Juvenile Crime Unit. It was during this time that I found my passion, though my time in Crimes Against Children took its toll. I became somewhat depressed dealing with victimized children. Many of these children had been so severely abused that I knew they would have permanent emotional and physical scars. Many of them had been sexually assaulted by teachers, babysitters, and pedophiles, and had also been forced into incestuous relationships within their own homes.

Late in 1994, I was asked by the District Attorney’s Office to act as the County Law Enforcement Liaison to the Jefferson County Juvenile Assessment Center. The Juvenile Assessment Center is a collaborative operation involving partners from the school district, human services, mental health, and law enforcement, all acting in the best interests of county children. I accepted the position and was told there was no real plan, just a concept, and so I would have to create a workable plan and implement it. The Jefferson County Juvenile Assessment became a model for assessment centers across the country, and I currently work with other collaborative players to ensure that all children in our jurisdiction receive prompt and positive outreach, whether it involves juvenile justice, truancy, human service, or mental health components of the system.

In my role as the law enforcement liaison, I assist the county truancy officer, the Division of Youth Corrections, in managing the number of detainees in the detention center; teach juvenile justice to 174 area school students and parents; teach at two area colleges in the counseling program; write arrest warrants and make arrests in juvenile delinquency cases; assist with the district attorney’s intake process; and review area law enforcement warrantless arrest affidavits.

At least one case stands out in my mind as motivating me to enter and stick with juvenile work. One family had some children with problems, especially their daughters. I was contacted by the school district’s truancy officer who wanted me to go to an elementary school with her and talk with two secretaries who had reported two little girls with lice. While I believed...
Chapter 1  An Overview of Juvenile Justice in the United States

this should be a human services issue, I went along anyway. When I arrived at the school and spoke to the secretaries, they advised that they had reported the problem to human services but were told that human services didn’t deal with that “type of a situation.” Shortly thereafter, the girls returned to school after a 52-day absence and they still had lice. The secretary worried that the man who brought the girls to school looked like “Eddie Munster” and that she was unsure of his relationship with the children. I went to the house that same day and found the two little girls, a kindergartner and a first grader, living in a trailer. The front of the trailer was missing and that turned out to be their bedroom! I knocked on the door and the little kindergartner answered. I asked where her mother was and she said she hadn’t seen her for four days. I asked who was babysitting and she yelled for the babysitter who came to the door. He resembled “Eddie Munster,” just as the secretaries had described. I asked him where the mother was, and he said she was with her boyfriend in another city. I told “Eddie” I would need to come in, and when I entered, I saw a large hole in the trailer roof. The home was a complete wreck, filthy and very unsafe for occupancy.

At this point, I met the first grader. I asked her if she had eaten breakfast, and she said “I wouldn’t eat anything in this house.” She took me to the kitchen where I found bugs crawling out of cereal boxes. The refrigerator was filthy, also filled with crawling pests. Case workers from human services were summoned to the scene and immediately took custody of the two girls. Subsequently, the mother returned and made a scene about the house becoming so dirty in just four days. This was a complete fabrication, as the house had been filthy for quite some time.

The fire department condemned the home later, and the case workers advised that the girls had been tortured and sexually molested. I arrested the mother and babysitter, charging them both with child endangerment and other offenses. The girls were placed in foster care. After two years, the girls were returned to their mother who had become rehabilitated. This case was just one of many where children were put at risk and were saved by a public servant. When I speak to school personnel, I tell them that they are the people who must look out for their children, and I continue to do what I can to protect youth from those who might prey on them.

I spent four months investigating the Columbine tragedy, an event that continues to haunt my community. It’s been 10 years since the shootings, and the magnitude of the event is always on my mind. I am deliberate about my work and will do everything in my power to see that this type of tragedy will not happen again on my watch.

Advice to Students

- If you aren’t enthusiastic about police work, you are in the wrong field.
- Police work is demanding. You may not get off when your shift ends; you must always complete your tasks thoroughly before you end your shift.
- Your report reflects your work and will be used in court. Make sure it is accurate, thorough, and complete.
- Interview everyone, don’t leave out the obvious.
- Treat everyone with respect, even the suspects. You have the authority given to you and you don’t have to prove that to anyone.
- Police work is 99 percent boredom, and 1 percent sheer terror.
- Train hard and practice. You must be in shape, skilled with your weapon, and prepared for anything.
- Police work is not just a job, it is a lifestyle. You are always on duty and must represent yourself and the profession in a positive way. You are viewed as a hero, act like one. There aren’t many heroes anymore and you can be one.

defendants, the entire juvenile justice process may weaken the delinquency prevention role of juvenile courts (Sungi, 2008). Thus, more aggressive prosecution of juvenile cases is perceived as moving away from delinquency prevention for the purpose of deterring youths from future adult criminality. The intentions of prosecutors in most cases are to ensure that youths are entitled to due process, but the social costs may be to label these youths in ways that will propel them toward adult criminality rather than away from it (Mears et al., 2007).
Juvenile Delinquents and Delinquency

Juvenile Delinquents

In law, juveniles are referred to as infants. Legally, therefore, a juvenile delinquent is any infant of not more than a specified age who has violated criminal laws or engages in disobedient, indecent, or immoral conduct, and is in need of treatment, rehabilitation, or supervision. These youths are juvenile delinquents. A juvenile delinquent is a delinquent child (Champion, 2009). These definitions are somewhat ambiguous. What is “indecent” or “immoral conduct?” Who needs treatment, rehabilitation, or supervision? And what sort of treatment, rehabilitation, or supervision is needed? What is a “specified age?” These ambiguities have never been fully resolved.

Juvenile Delinquency

Federal law says that juvenile delinquency is the violation of any law of the United States by a person prior to his eighteenth birthday, which would have been a crime if committed by an adult (18 U.S.C., Sec. 5031, 2009). A broader, legally applicable, definition of juvenile delinquency is a violation of any state or local law or ordinance by anyone who has not yet achieved the age of majority. Although not especially perfect, these definitions are qualitatively more precise than the former ones.

Juvenile courts most often define juveniles and juvenile delinquency according to their own standards. For many jurisdictions, a delinquent act is whatever a court says it is. To illustrate the implications of such a definition for any juvenile, consider the following scenarios.

Scenario #1:
It is 10:15 P.M. on a Thursday night in Detroit. There is a curfew in effect for youths under age 18 prohibiting them from being on city streets after 10:00 P.M. A police officer in a cruiser notices four youths standing at a street corner, holding gym bags and conversing. One youth walks toward a nearby jewelry store, looks in the window, and returns to the group. Shortly thereafter, another boy walks up to the same jewelry store window and looks in it. The officer pulls up beside the boys, exits the vehicle, and asks them for IDs. Each of the boys has a high school identity card. The boys are 16 and 17 years of age. When asked about the jewelry store interest, one boy says that he plans to get his girlfriend a necklace like one in the store window, and he wanted his friends to see it. The boys explain that they are waiting for a ride, since they are members of a team and have just finished a basketball game at a local gymnasium. One boy says, “I don’t see why you’re hassling us. We’re not doing anything wrong.” “You just did,” says the officer. He makes a call on his radio for assistance from other officers, and makes all of the youths sit on the curb with their hands behind their heads. Two other cruisers arrive shortly and the youths are transported to the police station where they are searched. The search turns up two small pocket knives and a bottle opener. The youths are charged with “carrying concealed weapons” and “conspiracy to commit burglary.” Juvenile authorities are notified.

Scenario #2:
A highway patrol officer spots two young girls with backpacks attempting to hitch a ride on a major highway in Florida. He stops his vehicle and asks the girls for IDs. They don’t have any, but claim they are over 18 and are trying to get to Georgia to visit some friends. The officer takes both girls into custody and to a local jail where a subsequent identification discloses that they are respectively 13- and 14-year-old runaways from a Miami suburb. Their parents are looking for them. They are detained at the jail until their parents can retrieve them. In the meantime, a nearby convenience store reports that two young girls from off the street came in an hour earlier and shoplifted several items. Jail deputies search the backpacks of the

infants
Legal term applicable to juveniles who have not attained the age of majority (in most states it is 18).

juvenile delinquent
Anyone who, under the age of his/her majority, has committed one or more acts that would be crimes if adults committed them.

juvenile delinquents, delinquent child
Infant of not more than a specified age who has violated criminal laws or engages in disobedient, indecent, or immoral conduct, and is in need of treatment, rehabilitation, or supervision.

juvenile delinquency
Violation of the law by any person prior to his/her eighteenth birthday; punishable by juvenile courts; violation of any law or ordinance by anyone who has not achieved the age of their majority.
girls and find the shoplifted items. They are charged with “theft.” Juvenile authorities are notified.

Scenario #3: A 15-year-old boy who has been suspended from a local Atlanta school for pushing another student is being held in the juvenile psychiatric wing of a mental hospital while undergoing some juvenile court-ordered tests to determine his mental condition. During the night, he sneaks away from the facility but is caught by police the next day. He is charged with “escape.” Juvenile authorities are notified.

These and a thousand other scenarios could be presented. Are these scenarios the same? No. As the facts are presented, some of these scenarios are not especially serious. Can each of these scenarios result in a finding of delinquency by a juvenile court judge? Yes. Whether juveniles are “hanging out” on a street corner late at night, whether they have shoplifted, or whether they have run away from a psychiatric institution, it is possible in some juvenile court somewhere that all of them could be defined collectively as delinquent or delinquency cases. Some juvenile offending is more serious than other types of juvenile offending. Breaking windows or violating the town curfew would certainly be less serious than armed robbery, rape, or murder. The wide range of offense seriousness has caused many jurisdictions to channel less serious cases away from juvenile courts and toward various community agencies where the juveniles involved can receive assistance rather than punishment. Should one’s age, socioeconomic status, ethnicity or race, attitude, and other situational circumstances influence police response one way or another? The fact is that regardless of the offenses alleged, all juveniles are confronted by subjective appraisals and judgments from the police, prosecutors, and juvenile court judges on the basis of both legal and extralegal factors. Because of their status as juveniles, youths may also be charged with various noncriminal acts. Such acts are broadly described as status offenses.

Status Offenders

Status offenders are of interest to both the juvenile justice system and the criminal justice system. Status offenses are any acts committed by juveniles that would (1) bring the juveniles to the attention of juvenile courts and (2) not be crimes if committed by adults. Typical status offenses are running away from home, truancy, and curfew violations. Adults wouldn’t be arrested for running away from home, truancy, or walking the streets after some curfew time for juveniles. However, if juveniles do these sorts of things in particular cities, they may be grouped within the broad delinquency category, together with more serious juvenile offenders who are charged with armed robbery, forcible rape, murder, aggravated assault, burglary, larceny, vehicular theft, or illicit drug sales.

Runaways

In 2007, it was estimated there were over 300,000 runaways in the United States reported to police (Office of Juvenile Justice and Delinquency Prevention, 2007). This represents less than 1 percent of all offenses charged that year. Over half of those runaways were 15 to 17 years of age. Runaways are those youths who leave their homes, without permission or their parents’ knowledge, and who remain away from home for prolonged periods ranging from several days to several years. Many runaways are eventually picked up by police in different
Jurisdictions and returned to their homes. Others return of their own free will and choice. Some runaways remain permanently missing, although they are likely a part of a growing number of homeless youths roaming faraway city streets throughout the United States (Slesnick et al., 2007). Information about runaways and other types of status offenders is compiled annually through various statewide clearingshouses and the federal funded National Incidence Studies of Missing, Abducted, Runaway, and Throwaway Children (NISMArt).

Runaway behavior is complex and difficult to explain, although researchers tend to agree that many runaways generally have serious mental health needs (Chen et al., 2007). Many of these youths seek out others like them for dependency and emotional support (Kempf-Leonard and Johansson, 2007). Some runaways regard others like them as role models and peers, and often, delinquency among them occurs and increases through such peer modeling. Studies of runaways indicate that many boys and girls have psychological and/or familial adjustment problems and have been physically and sexually abused by their parents or close relatives. Evidence suggests that many runaways engage in theft or prostitution to finance their independence away from home and are exploited (Armour and Haynie, 2007).

Although all runaways are not alike, there have been attempts to profile them. Depending upon how authorities and parents react to children who have been apprehended after running away, there may be either positive or negative consequences. Empathy for runaways and their problems is important for instilling positive feelings within them. Various runaway shelters have been established to offer runaways a non-threatening residence and social support system in various jurisdictions. These shelters often locate particular services for runaways that will help meet their needs. Many children accommodated by these shelters report that they have been physically and sexually abused by family members. Thus, there is some coordination of these homes with various law enforcement agencies to investigate these allegations and assist parents in making their homes safer for their children.

Truants and Curfew Violators

**Truants.** Other types of status offenders are truants and curfew and liquor law violators. **Truants** are those who absent themselves from school without either school or parental permission. Very little is known about the numbers or characteristics of truants in the United States. This is due to several reasons: each school district defines truancy different from other districts; sociodemographic characteristics of truants are not normally maintained, even by individual schools; and no consistent, central reporting mechanisms exist for data compilations about truants. For instance, in Wisconsin, a truant may be a youth who absents himself/herself from school without excuse for five or more consecutive school days. In other states, a truant may be defined as someone who misses one day of school without a valid excuse.

There are probably 200,000 or more truants in the United States on any given day. This figure is most likely an underestimate of the actual number of truants. On a city-by-city basis, where records of truants are maintained, we can glean much about the true magnitude of truancy. For instance, in Pittsburgh, Pennsylvania, on any given day, there are 3,500 students absent from school, with about 70 percent of these absences unexcused. In Philadelphia, there are 2,500 students truant each day. One disturbing dimension of truancy is that about two-thirds of all juvenile males arrested while truant have tested positive for drug use (Chiang et al., 2007).

Truancy is not a crime. It is a status offense. Youths can be charged with truancy and brought into juvenile court for a status offense adjudication. Truancy is taken quite seriously in many jurisdictions, since evidence suggests that daytime crime and truancy are highly correlated.
Rhode Island Truancy Court. Several states, such as Rhode Island, have established formal mechanisms to deal with the problem of truancy. The Family Court system of Rhode Island has established truancy courts for the purpose of heightening status offender accountability relating to truancy issues. Chronic truants are referred to the Truancy Court where their cases are formalized. This formal process dealing with truancy involves truants, their parents/guardians, a truant officer, and a Truancy Court magistrate. Participants must sign a “Waiver of Rights Form,” illustrated in Figure 1.1. This form outlines the rights of truants, including the right to challenge any truancy accusation against them. Several important due process rights are included on the form. The purpose of the Truancy Court is to avoid formal juvenile court action by obeying the behavioral requirements outlined. These include (1) attending school every day; (2) being on time; (3) behaving; and (4) doing classroom work and homework. Failure to comply with one or more of these requirements may result in a referral to Family Court or placement in the Department of Children, Youth, and Families and removal from the home. This means possible institutionalization if one’s truancy persists following the Truancy Court hearing.

The Truancy Court also requires parents to sign a form that permits the release of confidential information about the truant. This information is necessary in devising any type of treatment program and providing any counseling or services the truant may require. Thus, the Family Court is vested with the power to evaluate, assess, and plan activities for the truant that are designed to prevent further truancy. Various interventions are attempted in an effort to heighten the youth’s awareness of the seriousness of truancy and the importance of staying in school. This form is illustrated in Figure 1.2.

Two other documents are required by the Truancy Court: a Treatment Reference Sheet (Figure 1.3) and an Official Family Court Order (Figure 1.4).

The Treatment Reference Sheet shown in Figure 1.3 is an informational document designed to provide the Truancy Court magistrate with valuable information about the student’s progress prior to the Truancy Court hearing. Some of this information pertains to the parents and whether they have any criminal history, the status of their mental health, and their own educational attainment. It is believed that the parents’ background is a significant consideration in any treatment recommendation made for the truant. For instance, information is acquired relating to whether the youth has any disabilities or mental health problems, which could account for his/her truant conduct. The youth’s grades in different subjects are also recorded for the magistrate’s inspection. Figure 1.4 is a formal court order outlining any sanctions the magistrate believes will heighten the truant’s accountability. These include possible home confinement and any special conditions the court chooses to impose. Rhode Island Family Court officers are pleased with the results of the Truancy Court process thus far.

Curfew Violators. Curfew violators are those youths who remain on city streets after specified evening hours when they are prohibited from loitering or not being in the company of a parent or guardian. In 2007, there were over 282,000 youths charged with violating curfew and loitering laws in the United States (Office of Juvenile Justice and Delinquency Prevention, 2007).

Curfew violators tend to differ from runaways in that they are more serious offenders. However, truants and
Figure 1.1 Rhode Island Truancy Court Waiver of Rights Form

Rhode Island Truancy Court

Waiver of Rights Form

Juvenile Name: ____________________________________________
School: ____________________________________________
Juvenile ID: ____________________________________________
Petition Number: ____________________________________________

I understand that I have the right to a trial on the truancy offense filed against me and recognize that I have the following rights should I decide to go to trial:

1. My right to a trial by a Judge and my right to appeal to the Supreme Court from any decision or finding of delinquency or waywardness.
2. The right to have the City/Town prove each and every element of the offense(s) against me by evidence and by proof beyond a reasonable doubt.
3. My right to the presumption of innocence.
5. My right to confront and cross-examine the City/Town witnesses against me.
6. My right to present evidence and witnesses on my behalf and to testify in my own defense if I choose to do so.
7. My right to appeal to the Rhode Island Supreme Court from any sentence imposed by the Court after the entry of my ADMISSION OF SUFFICIENT FACTS or ADMISSION.

I understand that the Court has jurisdiction over me until my 21st birthday. I also understand that if I go to trial and am found wayward on the Truancy charge, I could be sent to the Rhode Island Training School if I refuse to obey a valid court order to attend school after I have been sentenced by a Family Court Judge.

I understand that I will have the right to an attorney if it appears that I could receive a sentence to the Rhode Island Training School.

I understand that by staying in the Truancy Court I will not go to trial and will have to abide by the Truancy Court requirements of:

1. Attending School Every Day.
2. Being on Time.

I agree that I will present a doctor’s note or nurse’s note if I am absent from school due to illness.

I understand that if I do not obey the Truancy Court requirements my case may be referred to the Family Court for trial or that I can be placed in the custody of the Department of Children, Youth, and Families and be removed from my home.

I understand that I may request a trial or hearing before a Justice of the Family Court at any time during my Truancy Court participation.

I/we have discussed the content of this document with the Truancy Court Magistrate who has explained this to me.

Participant’s Signature __________________________ Date __________________________

Responsible Adult __________________________ Date __________________________

Responsible Adult __________________________ Date __________________________

Truancy Court Magistrate __________________________ Date __________________________

Truant Officer __________________________ Date __________________________

TCW-1 (4/03)

Source: Reprinted by permission of the Rhode Island Family and Truancy Court.
Figure 1.2  Rhode Island Release of Confidential Information Form

RHODE ISLAND FAMILY COURT
TRUANCY COURT
CHIEF JUDGE JEREMIAH S. JEREMIAH, JR.

RELEASE OF CONFIDENTIAL INFORMATION

CLIENT'S NAME________________________ DATE OF BIRTH_________

PARENT'S NAME __________________________

CLIENT'S ADDRESS __________________________

I hereby authorize all school, educational and treatment providers to release to The Rhode Island Family Court or its representative any records concerning me and/or my children relating to educational and school records, mental health, psychological and medical/physician records, counseling, any treatment records, or other related documents and/or evaluations that relate to said individuals.

This authorization is needed for the purpose of evaluation, assessment and planning by the Rhode Island Family Court.

I understand that these records are protected by law and cannot be released without written consent. This information may not be relayed to any other agency/facility/individual not specified above. I understand that I may revoke this consent at any time.

__________________________________________  ______________________________________
SIGNATURE of CLIENT/ PARENT       WITNESS

_____________________________________
DATE

Source: Reprinted by permission of the Rhode Island Family and Truancy Court.
**Figure 1.3 Rhode Island Truancy Court Treatment Reference Sheet**

<table>
<thead>
<tr>
<th>JUVENILE NAME</th>
<th>D.O.B.</th>
</tr>
</thead>
</table>

**DATA:**

1. Advised Child / Parent of right to trial and consequences of Truancy Court
   - [ ] YES
   - [ ] NO

2. Number of days absent before Arraignment: _______ out of _______ days

3. Grades at Time of Arraignment:
   - a. English _______
   - b. Reading _______
   - c. Science _______
   - d. Math _______
   - e. History _______
   - f. Others

4. Single Parent Family  [ ]
   - Two Parent Family  [ ]

5. Sibling Information (age, educational status)

6. Parent(s) graduated from high school:
   - [ ] YES
   - [ ] NO

7. Parent(s) has/have criminal history:
   - [ ] YES
   - [ ] NO

8. Parent(s) has/have mental health history:
   - [ ] YES
   - [ ] NO

9. Child disabilities (mental health)

10. Medication

11. Child’s Educational Status:
   - [ ] Regular Education
   - [ ] 504
   - [ ] Alternative placement
   - [ ] IE

12. Does child want to graduate from high school:
   - [ ] YES
   - [ ] NO

Source: Reprinted by permission of the Rhode Island Family and Truancy Court.
RHODE ISLAND FAMILY COURT
FAMILY AND JUVENILE DRUG COURT
OFFICIAL FAMILY COURT ORDER

Please be advised that:

PARENT’S NAME: ______________________

CHILD’S NAME: ______________________ DATE OF BIRTH: ________

ADDRESS: ____________________________ __________________________

Has been ordered on this _____ day of ______________, in the year 2005, the following:

☐ HOME CONFINEMENT

From _______ Until _______

☐ SPECIAL CONDITIONS: ____________________________

__________________________

__________________________

__________________________

BY ORDER OF THE COURT:

DATE ____________________

Assoc. Justice Kathleen A. Voccola

Source: Reprinted by permission of the Rhode Island Family and Truancy Court.
Juvenile and Criminal Court Interest in Status Offenders

Among status offenders, juvenile courts are most interested in chronic or persistent offenders, such as those who habitually appear before juvenile court judges (Hill et al., 2007). Repeated juvenile court exposure by status offenders may eventually be followed by adult criminality, although there is little support for this view in the research literature. The chronicity of juvenile offending seems to be influenced by the amount of contact youths have with juvenile courts. Greater contact with juvenile courts is believed by some persons to stigmatize youths and cause them to acquire labels or stigmas as delinquents or deviants (Feiring, Miller-Johnson, and Cleland, 2007). Therefore, diversion of certain types of juvenile offenders from the juvenile justice system has been advocated and recommended to minimize stigmatization.

One increasingly popular strategy is to remove certain types of offenses from the jurisdiction of juvenile court judges (Trulson, Marquart, and Mullings, 2005). Because status offenses are less serious than juvenile delinquency, many state legislatures have pushed for the removal of status offenses from juvenile court jurisdiction. The removal of status offenders from the discretionary power of juvenile courts is a part of what is generally known as the DSO.

The Deinstitutionalization of Status Offenses (DSO)

The JJDPAs of 1974

The U.S. Congress passed the JJDPAs of 1974 in response to a national concern about growing juvenile delinquency and youth crime (Bjerk, 2007). This Act authorized the establishment of the Office of Juvenile Justice and Delinquency Prevention (OJJDP), which has been extremely helpful and influential in matters of disseminating information about juvenile offending and prevention and as a general data source.

Changes and Modifications in the JJDPA

In 1977, Congress modified the Act by declaring that the juveniles be separated by both sight and sound from adult offenders in detention and correctional facilities.
This mandate became known as the **deinstitutionalization of status offenses** or DSO. Nonoffenders, such as dependent and neglected children, were also included. Congress relaxed certain JJDPA rules and gave states additional latitude regarding their placement options for status offenders.

In 1980, Congress recommended that states should refrain from detaining juveniles in jails or lockups. Explicit compliance with this recommendation by any state is complicated by several factors. First, many juveniles appear to be adults when arrested for various offenses. Second, the relatively easy access to false identification cards and driver’s licenses makes a precise determination of one’s age difficult. Sometimes it may take days or weeks for police to determine the identity and age of any particular youth being held in a jail or lockup. Congress also directed that states should examine their secure confinement policies relating to minority juveniles and to determine reasons and justification for the disproportionately high rate of minority confinement. Congress also established an exception to the DSO by declaring that juveniles who violate a valid court order can be placed in secure confinement for a period of time.

By 1992, Congress directed that any participating state would have up to 25 percent of its formula grant money withheld to the extent that the state wasn’t in compliance with each of the JJDPA mandates. Thus, it is clear that state compliance with these provisions of the JJDPA was encouraged and obtained by providing grants-in-aid to various jurisdictions wanting to improve their juvenile justice systems and facilities. There has been almost universal compliance with the JJDPA mandate throughout the various state juvenile justice systems, and it has served as a significant catalyst for major reform initiatives.

### DSO Defined

The most popular meaning of DSO is the removal of status offenders from juvenile secure institutions. However, the JJDPA has extended the meaning of DSO to include alternative ways of ensuring that status offenders are separated from delinquent offenders. Presently, DSO occurs in three major ways: (1) decarceration; (2) diverting dependent and neglected children to social services; and (3) divestiture of jurisdiction.

**Decarceration.** Decarceration means to remove status offenders from secure juvenile institutions, such as state industrial schools. Prior to the JJDPA of 1974, it was common practice in most states to incarcerate both status and delinquent offenders together in reform schools or industrial schools (Champion, 2008a). But more than a few people, scholars and the general public alike, questioned this practice. Why should truants, curfew violators, runaways, and difficult-to-control children be placed in prison-like facilities together with adjudicated juvenile murderers, rapists, burglars, thieves, robbers, arsonists, and other violent and property felony offenders? Qualitatively, there are substantial differences between status offenders and delinquent offenders. Do status offenders deserve to be treated the same as delinquent offenders for such drastically different offending behaviors? No.

Prevalent opinion suggests that causing status offenders to live and interact with delinquents in secure confinement, especially for prolonged periods of time, is definitely detrimental to status offenders. The mere exposure of status offenders to the criminogenic influence of, and close association with, hard-core delinquents adversely affects the social and psychological well-being of status offenders. The damage to a status offender’s self-concept and esteem is incalculable (Champion, 2008a). This particular problem has been acknowledged outside of the United States as well. Countries such as China have implemented similar reforms in their juvenile justice systems in recent years, in order to separate less-serious juvenile offenders from more serious ones (Champion, 2008a). The many potential problems associated with combining status offenders with delinquent offenders in secure institutions no doubt was a compelling factor leading to the passage of the JJDPA.
Subsequently, most states have implemented decarceration policies for status offenders. For instance, Pennsylvania does not place status offenders in secure facilities. However, in some predominantly rural states, such as Montana and North Dakota, some status offenders have continued to be disposed to secure institutions by juvenile court judges. One reason is that juvenile court judges view incarcerating these youths as an appropriate punishment and a potential cure for their status offending. Another reason is that these state legislatures have not devised alternative strategies for treating status offenders through other state agencies or services. A third reason is that often, facilities simply don’t exist in rural areas to meet status offender needs and provide the social services they require. Thus, the only alternative for their treatment and punishment is to be locked up in secure juvenile facilities together with delinquent offenders.

In order to expedite the decarceration of status offenders from secure juvenile facilities, the federal government has made available substantial sums of money to the states for the purpose of establishing alternative social services. Usually, states who agree to accept federal money in exchange for implementing the DSO are given several years over which to implement these reforms in how status offenders are processed. Thus, a period of time is allocated in which to phase out the incarceration of status offenders and phase in the creation of alternative social service agencies designed to accommodate them and meet their needs.

Under certain conditions, however, states may incarcerate status offenders who are under some form of probationary supervision. For instance, a Texas juvenile, E.D., was on probation for a status offense (In re E.D., 2004). During the term of E.D.’s probation, one or more probation conditions were violated. The juvenile court elected to confine E.D. to an institution for a period of time as a punishment for the probation violation. The juvenile appealed, contending that as a status offender, he should not be placed in a secure facility. The appellate court disagreed and held that the juvenile court judge had broad discretionary powers to determine E.D.’s disposition, even including placement in a secure facility. The appellate court noted that secure placement of a status offender is warranted whenever the juvenile probation department (1) reviewed the behavior of the youth and the circumstances under which the juvenile was brought before the court; (2) determined the reasons for the behavior that caused the youth to be brought before the court; and (3) determined that all dispositions, including treatment, other than placement in a secure detention facility or secure correctional facility, have been exhausted or are clearly inappropriate.

The juvenile court judge set forth an order that (1) it is in the child’s best interests to be placed outside of his home; (2) reasonable efforts were made to prevent or eliminate the need for the child’s removal from his home; and (3) the child, in his home, can’t be provided the quality of care and support that he needs to meet the conditions of probation. There was no suggestion in the record that the judge failed to comply with these three major requirements. Thus, even status offenders may suffer incarceration if they fail to obey court orders while on probation despite the deinstitutionalization initiative.

**Diverting Dependent and Neglected Children to Social Services.** A second type of DSO deals with dependent and neglected children. While the juvenile court continues to exercise jurisdiction over dependent and neglected youths, diversion programs have been established to receive these children directly from law enforcement officers, schools, parents, or even self-referrals. These diversion programs provide crisis intervention services for youths, and their aim is to eventually return juveniles to their homes. However, more serious offenders may need more elaborate services provided by shelter homes, group homes, or even foster homes (Sullivan et al., 2007).

**Divestiture of Jurisdiction.** The third type of deinstitutionalization is called divestiture of jurisdiction. Under divestiture, juvenile courts can’t detain, petition, adjudicate, or place youths on probation or in institutions for any status offense. However, several studies of DSO implementation policies reveal that there are gaps in
coordinating interjurisdictional practices involving juveniles. Often, particular agencies continue to operate in their own philosophical contexts in contrast with, and sometimes in opposition to, legislative mandates for juvenile processing changes (Feld, 2007).

Potential Outcomes of DSO

Five potential outcomes of the DSO are the following:

1. DSO reduces the number of status offenders in secure confinement, especially in local facilities. Greater numbers of jurisdictions are adopting deinstitutionalization policies and the actual number of institutionalized status offenders is decreasing.

2. **Net-widening**, or pulling youths into the juvenile justice system who wouldn’t have been involved previously in the system, has increased as one result of DSO. Many state jurisdictions have drawn large numbers of status offenders into the net of the juvenile justice system following DSO. In past years, many status offenders would have been ignored by police or handled informally. But when specific community programs were established for status offenders, the net widened and many status offenders were placed in these programs regardless of whether they needed specific social services.

3. **Relabeling**, or defining youths as delinquent or as emotionally disturbed who, in the past, would have been defined and processed as status offenders, has occurred in certain jurisdictions following the DSO. For instance, police officers can easily relabel juvenile curfew violators or loiterers as larceny or burglary suspects and detain these youths. In many instances, juvenile court judges have resisted DSO reforms for similar reasons (e.g., loss of discretionary control and power over status offenders).

4. DSO has had little, if any, impact on recidivism rates among status offenders.

5. DSO has created several service delivery problems, including inadequate services, nonexistent services or facilities, or the general inability to provide services within a voluntary system. This is because there is so much variation among status offenders that it is difficult to establish standardized programming and services that will be effective for all of them.

Regardless of the relative merits of DSO and the ambiguity of research results concerning its short- and long-term effects, there is no doubt that DSO is widespread nationally and has become the prevailing juvenile justice policy. The DSO has set in motion numerous programs in all jurisdictions to better serve the needs of a growing constituency of status offenders. This necessarily obligates growing numbers of agencies and organizations to contemplate new and innovative strategies, rehabilitative, therapeutic, and/or educational, to cope with these youths with diverse needs. Greater cooperation between the public, youth services, and community-based treatment programs is required to facilitate developing the best program policies and practices.

Some Important Distinctions between Juvenile and Criminal Courts

Some of the major differences between juvenile and criminal courts are indicated below. These generalizations are more or less valid in most jurisdictions in the United States.

1. Juvenile courts are civil proceedings exclusively designed for juveniles, whereas criminal courts are proceedings designed to try adults charged with crimes. In criminal
courts, adults are targeted for criminal court actions, although some juveniles may be tried as adults in these same courts. The civil-criminal distinction is important because a civil adjudication of a juvenile court case does not result in a criminal record for the juvenile offender. In criminal courts, either a judge or jury finds a defendant guilty or not guilty. In the case of guilty verdicts, offenders are convicted and acquire criminal records. These convictions follow adult offenders for the rest of their lives. However, when juveniles are tried in juvenile courts, their juvenile court adjudications are sealed or expunged and generally forgotten, with exceptions, once they reach adulthood or the age of their majority.

2. Juvenile proceedings are more informal, whereas criminal proceedings are more formal. Attempts are made in many juvenile courts to avoid the formal trappings that characterize criminal proceedings. Juvenile court judges frequently address juveniles directly and casually. Formal rules of criminal procedure are not followed relating to the admissibility of evidence and testimony, and hearsay from various witnesses is considered together with hard factual information and evidence. Despite attempts by juvenile courts to minimize the formality of their proceedings, however, juvenile court procedures in recent years have become increasingly formalized. In some jurisdictions at least, it is difficult to distinguish criminal courts from juvenile courts in terms of their formality.

3. In 39 states, juveniles are not entitled to a trial by jury, unless the juvenile court judge approves. In all criminal proceedings, defendants are entitled to a trial by jury if they want one, and if the crime or crimes they are accused of committing carry incarcerative penalties of more than six months. Judicial approval is required for a jury trial for juveniles in most jurisdictions. This is one of the remaining legacies of the parens patriae doctrine in contemporary juvenile courts. Eleven states have legislative mandated jury trials for juveniles in juvenile courts if they are charged with certain types of offenses, if they are of certain ages, and if they make a timely request for a jury trial.

4. Juvenile court and criminal court are adversarial proceedings. Juveniles may or may not wish to retain or be represented by counsel (In re Gault, 1967). In almost every juvenile court case, prosecutors allege various infractions or law violations against juveniles, and these charges may be rebutted by juveniles or others. If juveniles are represented by counsel, these defense attorneys are permitted to offer a defense to the allegations. Criminal courts are obligated to provide counsel for anyone charged with a crime, if defendants can’t afford to retain their own counsel (Argersinger v. Hamlin, 1972). Every state has provisions for providing defense attorneys to indigent juveniles who are adjudicated in juvenile court.

5. Criminal courts are courts of record, whereas transcripts of most juvenile proceedings are made only if the judge decides. Court reporters record all testimony presented in most criminal courts. All state criminal trial courts are courts of record, where either a tape-recorded transcript of proceedings is maintained, or a written record is kept. Thus, if trial court verdicts are appealed later by either the prosecution or defense, transcripts of these proceedings can be presented by either side as evidence of errors committed by the judge or other violations of one’s due process rights. Original convictions may be reversed or they may be allowed to stand, depending upon whatever the records disclose about the propriety of the proceedings. Juvenile courts are not courts of record. Thus, it is unlikely that in any given juvenile proceeding, a court reporter will keep a verbatim record of the proceedings. One factor that inhibits juvenile courts from being courts of record is the sheer expense of hiring court reporters for this work. Courts of record are expensive to maintain. Certainly in some of the more affluent jurisdictions, some juvenile court judges may enjoy the luxury of a court reporter to transcribe or record all court matters. But this is the exception rather than the rule. Furthermore, the U.S. Supreme Court has declared that juvenile courts are not obligated to be courts of record (In re Gault, 1967).
6. The standard of proof used for determining one’s guilt in criminal proceedings is beyond a reasonable doubt. The less rigorous civil standard of preponderance of the evidence is used in most juvenile court matters. However, the U.S. Supreme Court has held that if any juvenile is in jeopardy of losing his/her liberty as the result of an adjudication by a juvenile court judge, then the evidentiary standard must be the criminal court standard of beyond a reasonable doubt (In re Winship, 1970). Losing liberty means to be locked up for any period of time, whether it is for one day, one month, or one or more years. Thus, juveniles who face charges in juvenile court where the possible punishment is confinement in a secure juvenile facility for any period of time are entitled to the beyond a reasonable doubt criminal standard in determining their guilt. Therefore, it is expected of juvenile court judges that they will always apply this standard when adjudicating a juvenile’s case and where one’s loss of liberty is a possibility.

7. The range of penalties juvenile court judges may impose is limited, whereas in most criminal courts, the range of penalties may include life-without-parole sentences or the death penalty. The jurisdiction of juvenile court judges over youthful offenders typically ends when these juveniles reach adulthood. Some exceptions are that juvenile courts may retain jurisdiction over mentally ill youthful offenders indefinitely after they reach adulthood. In California, for instance, the Department of the Youth Authority supervises youthful offenders ranging in age from 11 to 25.

The purpose of this comparison is to show that criminal court actions are more serious and have harsher long-term consequences for offenders compared with juvenile court proceedings. Juvenile courts continue to be guided by a strong rehabilitative orientation in most jurisdictions, where the most frequently used punishments are either verbal reprimands or probationary dispositions. Secure confinement is viewed by most juvenile court judges as a last resort, and such a punishment is reserved for only the most serious youthful offenders, with exceptions (LaMade, 2008). Probably less than 10 percent of all adjudicated delinquent offenders are incarcerated in secure juvenile facilities. However, in criminal courts, convicted offenders are more frequently jailed or imprisoned. Criminal courts also use probation as a punishment in about 60 percent of all criminal cases, especially for first-offenders or those who have committed less serious crimes. Although increasing numbers of juvenile courts are adopting more punitive sanctions similar to those of criminal courts, many youths continue to receive treatment-oriented punishments rather than incarceration in secure juvenile facilities.

An Overview of the Juvenile Justice System

The Ambiguity of Adolescence and Adulthood

Police have broad discretionary powers in their encounters with the public and dealing with street crime. Although some evidence suggests that police have shifted their policing priorities away from juveniles toward more serious adult offenders for various reasons (e.g., cases against juveniles are often dismissed or judges issue nothing more than verbal warnings to them and return them to the custody of their parents), police arrests and detentions of juveniles in local jails remains the major conduit of a juvenile’s entry into the juvenile justice system.

Many juveniles are clearly juveniles. It is difficult to find youths under 13 who physically appear 18 or older. Yet, nearly 10 percent of all juveniles held for brief periods in adult jails annually are 13 years old or younger (Office of Juvenile Justice and Delinquency Prevention, 2007). For juveniles in the 14–17 age range, visual determination of one’s juvenile or nonjuvenile status is increasingly difficult. Thus, at least some justification exists for why police officers take many youthful offenders to jails initially for identification and questioning.
Other ways that juveniles can enter the juvenile justice system include referrals from or complaints by parents, neighbors, victims, and others (social work staff, probation officers) unrelated to law enforcement. Dependent or neglected children may be reported to police initially. Following up on these complaints, police officers may take youths into custody until arrangements for their care can be made. Or police officers may arrest youths for alleged crimes.

**Being Taken into Custody and Being Arrested**

Being *taken into custody* and being arrested are different procedures. For law enforcement officers, whenever youths are taken into custody, they are not necessarily arrested, and they may not necessarily be arrested later. Being taken into custody means precisely what it says. Officers take certain youths into custody as a protective measure so that they can determine what is best for the juvenile. Some youths who are taken into custody might be those suffering from child sexual abuse or physical abuse inflicted by parents or others, runaways, or missing children (Armour and Haynie, 2007). Youths wandering the streets may also be taken into custody by police if they are suspected of being truant from school.

When youths are arrested, this is more serious police action. An arrest means that the juvenile is suspected of committing a crime. Charges may be filed against arrested youths once it is determined who should have jurisdiction over them. Police authorities may determine that the juvenile court has jurisdiction, depending on the age or youthfulness of the offender. Or authorities may decide that the criminal court has jurisdiction and the youthful-appearing offender should be charged as an adult.

**Juveniles in Jails**

In 2007, there were 11,000 juveniles under the age of 18 being held in jails (Office of Juvenile Justice and Delinquency Prevention, 2007). About 89 percent of these juveniles were being held as adults. This represents about 1 percent of all jail inmates held in jails for 2007. This figure is misleading, however. It does not reflect the total number of juveniles who are brought to jails annually after they have been arrested or taken into custody by police. Many youths are jailed for short time periods, merely on suspicion, even though they haven’t committed any obvious offenses. Short time periods are often two or three hours. Some states, such as Illinois, have passed laws preventing police officers from detaining juveniles in adult jails for more than six hours. Such laws reflect the *jail removal initiative*, whereby states are encouraged not to house juveniles in adult jails, even for short periods.

The Illinois policy preventing the police from detaining juveniles in jails except for limited periods is consistent with a major provision of the JJDPA of 1974. Although the JJDPA is not binding on any state, it does encourage law enforcement officials to treat juveniles differently from adult offenders if juveniles are taken to jails for brief periods. For instance, the JJDPA recommends that status offenders should be separated in jails by sight and sound from adult offenders. Furthermore, they should be held in nonsecure areas of jails for periods not exceeding six hours. They should not be restrained in any way with handcuffs or other restraint devices while detained. Their detention should only be as long as is necessary to identify them and reunite them with their parents, guardians, or a responsible adult from a public youth agency or family services.

Even more serious delinquent offenders brought to jails for processing should be subject to similar treatment by jail officials, according to JJDPA recommendations. Sight and sound separation and segregation from adult offenders is encouraged, although juveniles alleged to have committed delinquent offenses are subject to more restrictive detention provisions. The general intent of this aspect of the JJDPA is to minimize the adverse effects of labeling that might occur if juveniles were processed.
like adult offenders. Another factor is the recognition that most of these offenders will eventually be processed by the juvenile justice system, which is a civil entity. Any attributions of criminality arising from how juveniles are treated while they are in adult jails are considered incompatible with the rehabilitative ideals of the juvenile justice system and the civil outcomes or consequences ultimately experienced by most juvenile offenders. Thus, some of the JJDPA goals are to prevent juveniles from being influenced psychologically or physically by adults through jail contacts with them and to insulate juveniles from defining themselves as criminals which might occur through criminal-like processing.

Despite new laws designed to minimize or eliminate holding juveniles in adult jails or lockups, even for short periods, juveniles continue to be held in jails for short time periods. In more than a few instances, these detentions are unavoidable. Many juveniles appear older to police officers than they really are. They carry fake IDs or no IDs, give false names when questioned, or refuse to give police any information about their true identities. It takes time to determine who they are and what responsible adult or guardian should be contacted. Many runaways are from different states, and it takes time for their parents or guardians to reunite with them. Some of these juveniles are very aggressive, assaultive, and obviously dangerous. They must be locked up or restrained, if only to protect others. Some are suicidal and need temporary protection from themselves.

The U.S. Supreme Court has authorized the preventive detention of juveniles in jails for brief periods without violating their constitutional rights, especially for those offenders who pose a danger to themselves or others (Schall v. Martin, 1984). In this particular case, a juvenile was detained by police on serious charges. He refused to give his name or other identification, and was deemed by those in charge to be dangerous, either to himself or to others. His preventive detention was upheld by the U.S. Supreme Court as not violating his constitutional right to due process. Prior to this Supreme Court ruling, however, many states had similar laws that permitted pretrial and preventive detention of both juvenile and adult suspects. Although pretrial detention presupposes a forthcoming trial of those detained and preventive detention does not, both terms are often used interchangeably or even combined, as in preventive pretrial detention (Brookbanks, 2002). If 1 percent of the 13 million admissions and releases to jails annually are juveniles, a reasonable estimate would be that at least 130,000 or more juveniles spend at least some time in jails annually, if only to determine their identity and release them into the custody of their parents or guardians after a few hours.

**Referrals**

Figure 1.5 is a diagram of the juvenile justice system. Although each jurisdiction in the United States has its own methods for processing juvenile offenders, Figure 1.5 is sufficiently general to encompass most of these processing methods. Focusing on the diagram in Figure 1.5, a majority of juvenile encounters with the juvenile justice system are through referrals from police officers. Referrals are notifications made to juvenile court authorities that a juvenile requires the court’s attention. Referrals can be made by anyone, such as concerned parents, school principals, teachers, neighbors, and others. However, over 90 percent of all referrals to juvenile courts are made by law enforcement officers. These referrals may be made for runaways; truants; curfew violators; unmanageable, unsupervised, or incorrigible children; children with drug or alcohol problems; or for any youth suspected of committing a crime (Kuntsche et al., 2007).
Each jurisdiction throughout the United States has its own policies relating to how referrals are handled. In Figure 1.5, following an investigation by a police officer, juveniles are either counseled and released to parents; referred to community resources; cited and referred to juvenile intake, followed by a subsequent release to parents; or transported to juvenile hall or shelter for further detention. Each of these actions is the result of police discretion. The nature of the discretionary action of police officers who take youths into custody for any reason is governed by what these officers have observed. If a youth has been loitering, especially in cities with curfew laws for juveniles, then the discretion of police officers might be to counsel the youth and turn him/her over to his/her parents without further action. In more than a few cases, youth are taken into custody and parents or guardians for these youths can’t be found. In these cases, police officers turn the youths over to community resources for further action. If particular youths have violated liquor laws or committed some minor infraction, they may be cited by police and referred to a juvenile probation officer for further action. Subsequently, most of these youths are returned to the custody of their parents or guardians. However, some youths are apprehended while committing serious crimes. Police officers will likely transport these youths to a juvenile hall or shelter to await further action by juvenile justice system personnel. A law enforcement juvenile court referral form is illustrated in Figure 1.6.

In New Mexico, for example, whenever a juvenile is referred to the juvenile justice system for any offense, the referral is first screened by the Juvenile Probation/Parole Office. Juvenile probation/parole officers (JPPOs) are assigned to initially screen a police report and file. This screening is performed, in part, to determine the accuracy of the report and if the information is correct. If the information is correct, then an intake process will commence, where the youth undergoes further screening by a JJPO assigned to the case by a supervisor (New Mexico Juvenile Justice Division, 2002). Figure 1.7 is a decision tree for the New Mexico Juvenile Justice Division and provides us with an overview of how their processing of juvenile offenders works.

Figure 1.7 shows that once a referral has been made to the Juvenile Probation/Parole Office, a decision is made whether to file petitions or to handle the case informally. About 50 percent of all juvenile cases are handled informally. Petitions are official documents filed in juvenile courts on the juvenile’s behalf, specifying reasons for the youth’s court appearance. These documents assert that juveniles fall within the categories of dependent or neglected, status offender, or delinquent, and the reasons for such assertions are usually provided. Filing a petition formally places the juvenile before the juvenile court judge in many jurisdictions. But juveniles may come before juvenile court judges in less formal ways. About 45 percent of the cases brought before the juvenile court each year are nonpetitioned cases. Less than 1 percent of these cases result in out-of-home placements, 30 percent receive probation, 50 percent are dismissed, and the remainder are diverted, downgraded, or result in verbal warnings (Champion, 2008a).

When individual cases are handled informally, JPPOs in New Mexico jurisdictions have several options. Whenever youths are determined to require special care, are needy or dependent, or are otherwise unsupervised by adults or guardians, JPPOs may refer them to a Juvenile Early Intervention Program (JEIP). The JEIP is a highly structured program for at-risk, nonadjudicated youths. Figure 1.8 shows a referral form used by New Mexico JPPOs to refer youths into this early intervention program.

Juveniles referred to the program will have been assessed to need services and/or supervision due to the nature of their current offense or situation, as well as their propensity for future misconduct as determined from a preliminary inquiry by the JPPO. The target group for the JEIP ranges in age from 10 to 12 at the time of the allegation against them. Status offenders, including truants, runaways, or curfew violators, may be referred to the JEIP. Both the juvenile and his/her family must agree to participate in the JEIP and to follow through with recommendations for additional services. The JEIP consists of eight weekly sessions, including an overall presentation of the
Figure 1.6 Juvenile Court Referral Form

Fourth Juvenile Court, Division 1, 1234 Main Street, Laredo, TX 78041
Date:__________________

Juvenile Court Referral

<table>
<thead>
<tr>
<th>Intake Case #</th>
<th>____________________________</th>
</tr>
</thead>
<tbody>
<tr>
<td>Intake Officer:</td>
<td>______________________________</td>
</tr>
<tr>
<td>Badge #:</td>
<td>__________________</td>
</tr>
<tr>
<td>District:</td>
<td>____________________</td>
</tr>
</tbody>
</table>

Name of Juvenile  
__________________________

Address  
__________________________

City, State  
__________________________

Name(s) of Parent(s)/Guardian(s)  
Marital Status

Address of Parent(s)/Guardian(s)

______________________________________________
Telephone Number of Parent/Guardian

Name and Relation to Juvenile of Referring Person: ____________________________

Delinquency/Status Offense Allegation(s) ________________________________

Prior Record of Juvenile, if any:  

Signed by:  

__________________________  Date

Child/juvenile  

Parent/guardian  

Parent/guardian  

Approved by:  

Court attorney  

Judge

Source: Prepared by author.
program and expectations, choices, self-esteem including a parent’s group, peer pressure, gangs, drug and alcohol issues with parents included, feelings, and a final session that includes a review and graduation ceremony. Following completion of the program, a 30-day follow-up is conducted by JPPOs.

Depending upon the jurisdiction, however, the majority of alleged juvenile delinquents will be advanced further into the juvenile justice system. Some status offenders,
especially recidivists, will also move further into the system. Some youths may be maintained in juvenile detention facilities temporarily to await further action. Other youths may be released to their parent’s custody, but these youths may be required to reappear later to face further action. Most of these youths will subsequently be interviewed by an **intake officer** in a proceeding known as **intake**.

### Intake

Intake varies in formality among jurisdictions. Intake is a **screening** procedure usually conducted by a juvenile probation officer, where one or several courses of action are recommended. Some jurisdictions conduct **intake hearings** or **intake screenings**, where comments and opinions are solicited from significant others such as the police, parents, neighbors, or victims. In other jurisdictions, intake proceedings are quite informal, usually consisting of a dialogue between the juvenile and the intake officer. These are important proceedings, regardless of their degree of formality. Intake is a major screening stage in the

---

**Intake officer**

Juvenile probation officer who conducts screenings and preliminary interviews with alleged juvenile delinquents or status offenders and their families.

**Intake**

Critical phase where a determination is made by a juvenile probation officer or other official whether to release juveniles to their parent’s custody or recommend their detention for further juvenile court action.

**Screening**

Procedure used by prosecutor to determine which cases have prosecutive merit and which ones don’t.

**Intake hearings, intake screenings**

Proceedings where juvenile official, such as juvenile probation officer, conducts an interview with a youth charged with a delinquent or status offense.
juvenile justice process, where further action against juveniles may be contemplated or required. Intake officers hear complaints against juveniles and informally resolve the least serious cases, or they are more often juvenile probation officers who perform intake as a special assignment. Also, juvenile probation officers may perform diverse functions, including intake, enforcement of truancy statutes, and juvenile placements (Champion, 2008a).

Intake officers also consider youths’ attitudes, demeanor, age, offense seriousness, and a host of other factors. Has the juvenile had frequent prior contact with the juvenile justice system? If the offenses alleged are serious, what evidence exists against the offender? Should the offender be referred to certain community social service agencies, receive psychological counseling, receive vocational counseling and guidance, acquire educational or technical training and skills, be issued a verbal reprimand, be placed on some type of diversionary status, or be returned to parental custody? Interviews with parents and neighbors may be conducted as a part of an intake officer’s information-gathering. Although intake is supposed to be an informal proceeding, it is nevertheless an important stage in juvenile processing. The intake officer often acts in an advisory capacity, since he/she is the first contact children and their parents will have following an arrest or being taken into custody. Figure 1.9 is a form used by intake officers in some jurisdictions that provides both parents and children with an outline of their legal options in the case. Youths and their parents have a right to know the charge(s) against their children. Also, it is indicated that the intake hearing is a preliminary inquiry and not a fact-finding session to determine one’s guilt. Also, the intake officer advises that statements made by the child and/or parents may be used against them later in court if such action is warranted.

In most jurisdictions, depending upon the discretion of intake officers, intake results in one of five actions: (1) dismiss the case, with or without a verbal or written reprimand; (2) remand youths to the custody of their parents; (3) remand youths to the custody of their parents, with provisions for or referrals to counseling or special services; (4) divert youths to an alternative dispute resolution program, if one exists in the jurisdiction; (5) refer youths to the juvenile prosecutor for further action and possible filing of a delinquency petition (Champion and Mays, 1991).

Returning to an examination of Figure 1.9, following an intake screening, some of the options available to intake officers noted above are indicated. Theoretically, at least, only the most serious juveniles will be referred to detention to await a subsequent juvenile court appearance. In order for a youth to be detained while awaiting a juvenile court appearance, a detention hearing is usually conducted. Most of the time, youths considered for such detention are either a danger to themselves or to others, or they are likely to flee the jurisdiction to avoid prosecution in juvenile court. Others may be released to the custody of their parents or they may be referred to one or more community resources. Usually, these community resources are intended to meet the specific needs of particular juvenile offenders. Or the intake officer may release the juvenile to his/her parents prior to a subsequent juvenile court appearance. For serious cases, a petition is filed with the juvenile court. The juvenile court prosecutor further screens these petitions and decides which ones merit an appearance before the juvenile court judge. In Alaska, for example, a petition for adjudication of delinquency is used to bring delinquency cases before the juvenile court. An illustration of such a petition is shown in Figure 1.10.

Notice in Figure 1.10 that allegations are made concerning the delinquent acts committed by the juvenile. Furthermore, supporting information accompanies the
IN THE MATTER OF:
A CHILD ALLEGED TO BE A DELINQUENT CHILD

CAUSE NUMBER:

IN THE VIGO COURT

JUVENILE DIVISION

INTAKE OFFICER'S ADVICE TO CHILD AND PARENT, GUARDIAN OR CUSTODIAN
(Indiana Code 31-6-4-7)

TO SAID CHILD AND HIS OR HER PARENT, GUARDIAN OR CUSTODIAN:
You are hereby advised that:

1. You have the right to know the allegations against said child;

2. The undersigned intake officer is conducting a preliminary inquiry to assist in determining whether a petition should be filed alleging that said child a delinquent child;

3. The undersigned intake officer will recommend whether to file a petition, informally adjust the case, refer the child to another agency, or dismiss the case;

4. Said child has a right to remain silent; anything said child says may be used against said child in subsequent proceedings; said child has a right to consult with an attorney before he or she talks with the Intake Officer, and said child has a right to stop at any time and consult with an attorney, and to stop talking with the intake officer at any time; said child has a right to talk with his or her parents, guardian or custodian in private before he talks with the Intake Officer;

5. If said child cannot afford an attorney, the Court will appoint one for him or her.

DATED THIS THE _____________ DAY OF ___________________________, 2003

___________________________
PROBATION OFFICER

By signing this paper you agree only that you have received this advice

___________________________
SIGNATURE OF CHILD

___________________________
SIGNATURE OF PARENT OR GUARDIAN

___________________________
SIGNATURE OF PARENT OR GUARDIAN

Source: Reprinted by permission of the Vigo County juvenile court.
Figure 1.10  Delinquency Petition (Alaska)

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

JUDICIAL DISTRICT AT

In the matter of:  

CASE NO. __________ CP

A minor under 18 years of age

Date of Birth:__________

PETITION FOR ADJUDICATION OF DELINQUENCY

The petitioner requests that the above-named juvenile be adjudicated as a delinquent under A.S 47.12.020 and that an appropriate disposition be entered.

The petitioner alleges that:

Probable cause supporting the above allegation(s) is that:

The juvenile's address is ________________________________

The juvenile's father is: ________________________________, whose address is ________________________________

The juvenile's mother is: ________________________________, whose address is ________________________________

The juvenile's guardian/custodian/grandmother is ____________________, whose address is ________________________________
Figure 1.10  Delinquency Petition (Alaska) (Cont.)

In the Matter of: ___________________________ Case No. ______________

Petitioner swears or affirms upon information and belief to the above statements.

__________________________
Date

__________________________
PETITIONER (signature)

__________________________
PRINT NAME AND OCCUPATION/RELATIONSHIP

__________________________
ADDRESS AND PHONE NUMBER

SUBSCRIBED AND SWORN TO before me on ________________________

__________________________
Date

(SEAL)

__________________________
CLERK/NOTARY PUBLIC

My Commission Expires: ________________

CERTIFICATE OF SERVICE
I certify that on July 21, __________
a copy of this document was sent
to: ______________________

By: __________ Notary

06-9541 (Rev. 10/97) YC

PETITION FOR ADJUDICATION OF DELINQUENCY

2 b 2

Source: Reprinted by permission of the State of Alaska.
Police encounters with juveniles on city streets sometimes lead to arrests and juvenile processing.

petition, which presumably establishes probable cause and supports the facts alleged. The petitioner signs the petition under oath and avers that the statements made are true. Their occupation and relationship with the juvenile are also included, as well as their telephone number and address. It is up to the prosecutor to determine whether action should be taken on petitions filed. Figure 1.10 alleges delinquency, or one or more crimes committed by the named juvenile. Other petitions may allege status offending, such as truancy, runaway behavior, curfew violation, or violation of drug or liquor laws (McNamara, 2008). These petitions are similar in form to Figure 1.10. Not all petitions result in formal action by a juvenile court prosecutor. Like prosecutors in criminal court, juvenile court prosecutors prioritize cases they will prosecute. Such case prioritizing depends upon the volume of petitions filed, the time estimated for the juvenile court judge to hear and act on these petitions, the sufficiency of evidence supporting these petitions, as well as an array of other factors.

**Alternative Prosecutorial Actions**

Cases referred to juvenile prosecutors for further action are usually, though not always, more serious cases. Exceptions might include those youths who are chronic recidivists or technical program violators and nonviolent property offenders (e.g., status offenders, vandalism, petty theft, public order offenders).

Juvenile court prosecutors have broad discretionary powers. They may cease prosecutions against alleged offenders or downgrade the offenses alleged from felonies to misdemeanors or from misdemeanors to status offenses. Much depends upon the docket load or case activity of their own juvenile courts. In some instances, prosecutors may divert some of the more serious juvenile cases for processing by criminal courts. The least serious cases are disposed of informally. Prosecutors either file petitions or act on petitions filed by others, such as intake officers, the police, school officials, or interested family and citizens (LaMade, 2008).

**Adjudicatory Proceedings**

Jurisdictions vary considerably concerning their juvenile court proceedings. Increasingly, juvenile courts are emulating criminal courts in many respects. Most of the physical trappings of criminal courts are present, including the judge’s bench, tables for the prosecution and defense, and a witness stand. Further, there appears to be widespread interest in holding juveniles more accountable for their actions than was the case in past years (LaMade, 2008).

Besides the more formal atmosphere of juvenile courts, the procedure is becoming increasingly adversarial, where prosecutors and defense attorneys do battle against and on behalf of juveniles charged with various offenses. However, less than 50 percent of the juvenile offenders in most jurisdictions have the assistance of counsel, although they are entitled to counsel (LaMade, 2008). Both alleged status offenders and those charged with crimes are entitled to be represented by counsel in their court cases. In most jurisdictions, juvenile court judges have almost absolute discretion in how their courts are conducted. Juvenile defendants alleged to have committed various crimes...
IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
AT ____________________

In the Matter of: ______________________

A minor under 18 years of age.

CASE NO. ____________________ CP

ADJUDICATION UPON ADMISSION

Date of birth: ____________________

A petition was filed on ____________________, 20 __, alleging that the above-named juvenile is:

☐ a delinquent juvenile.

☐ a delinquent juvenile who has violated the conditions of his (probation) / (deferred institutional order) / (conduct agreement).

An adjudication hearing was held on the above petition on ____________________, 20 __. Present were:

The court has considered the allegation in the petition and evidence presented and makes the following FINDINGS AND CONCLUSIONS:

1. The court has jurisdiction over the parties and the subject matter of the proceedings.

2. The child has knowingly and voluntarily admitted pursuant to Delinquency Rule 14(b)(4) that:

☐ all allegations in the petition are true.

☐ the following allegations in the petition are true:

THEREFORE, IT IS ADJUDGED that the above-named juvenile is:

☐ a delinquent juvenile.

☐ a delinquent juvenile who has violated the conditions of his (probation) / (deferred institutional order) / (conduct agreement).

Recommended on ____________________ Effective Date: ____________________

Superior Court Master Superior Court Judge Date

I certify that on ____________________ a copy of this adjudication was sent to:

DHSS, Juvenile/Attorney, Parent/Guardian, Other: ____________________

Clerk: ____________________

CP-230 (5/88) (st.5) Del.R. 14(b) (4)
ADJUDICATION UPON ADMISSION AS 47.10.010

Source: Reprinted with permission by the State of Alaska.
may or may not be granted a trial by jury if they request one. In 2007, only 11 states provided jury trials for juveniles in juvenile courts, and these jury trials were restricted to a narrow list of serious offenses.

After hearing the evidence presented by both sides in any juvenile proceeding, the judge decides or adjudicates the matter in an adjudication hearing, sometimes called an adjudicatory hearing. An adjudication is a judgment or action on the petition filed with the court by others. If the petition alleges delinquency on the part of certain juveniles, the judge determines whether the juveniles are delinquent or not delinquent. If the petition alleges that the juveniles involved are dependent, neglected, or otherwise in need of care by agencies or others, the judge decides the matter. If the adjudicatory hearing fails to yield supporting facts for the petition filed, then the case is dismissed and the youth exits the juvenile justice system. If the adjudicatory hearing supports the allegations in the petition, then the judge must dispose the juvenile according to a range of punishments (Champion and Mays, 1991). An example of an adjudication or dispositional order form where action is taken by the juvenile court judge on facts alleged in a delinquency petition is illustrated in Figure 1.11.

In Figure 1.11, the adjudication form shows that a petition was filed with the court on a particular date, an adjudicatory hearing was conducted, and particular findings and conclusions are indicated. Notice in Figure 1.11 that juveniles may be adjudicated delinquent by the court, or they may be found in violation of one or more conditions of their probation, if they were originally disposed to probation by the juvenile court judge. This is because, like adult proceedings in criminal court, juvenile court judges retain jurisdiction over juveniles whenever they are placed on probation.

Juvenile Dispositions

Disposing juveniles is the equivalent of sentencing adult offenders. When adult offenders are convicted of crimes, they are sentenced. When juveniles are adjudicated delinquent, they are disposed. At least 12 different dispositions or punishments are available to juvenile court judges, if the facts alleged in petitions are upheld (Jarjoura et al., 2008). These dispositions are: (1) nominal, (2) conditional, or (3) custodial options.

Nominal Dispositions

Nominal dispositions are either verbal warnings or stern reprimands and are the least punitive dispositional options. The nature of such verbal warnings or reprimands is a matter of judicial discretion. Release to the custody of parents or legal guardians completes the juvenile court action against the youth (Foley, 2008). Usually nominal dispositions are most often applied to low-risk, first offenders who are the least likely to recidivate and commit new offenses (Abbott-Chapman, Denholm, and Wyld, 2007). The emphasis of nominal dispositions is upon rehabilitation and fostering a continuing, positive, reintegrative relationship between the juvenile and his/her community (Ross, 2008).

Conditional Dispositions

All conditional dispositions are probationary options. The most frequently imposed disposition is probation. Youths are placed on probation and required to comply with certain conditions during a probationary period lasting from several months to several years. Conditional dispositions usually require offenders to do something as a condition of probation. The nature of the conditions to be fulfilled depends on the needs of the offender and the nature of the offense committed. If youths have alcohol or drug
Chapter 1
An Overview of Juvenile Justice in the United States

mediation between victims and offenders whereby a suitable punishment is imposed and agreed to by offender and victim; usually involves victim compensation and some offender service.


dependencies, they may be required to undergo individual or group counseling and some type of therapy to cope with substance abuse (McMorris et al., 2007). Juvenile murderers are often subjected to psychological counseling and clinical evaluation (Marriott, 2007). In more than a few cases, polygraph tests may be administered contemporaneous with these evaluations, counseling, and assessments.

Property offenders may be required to make restitution to victims or to compensate the court in some way for the damage they have caused (Jarjoura et al., 2008). In a growing number of jurisdictions, restorative justice is practiced, where offenders and their victims are brought together for the purpose of mediation. Youths learn to accept responsibility for what they have done, and their accountability is heightened (Swanson, 2005). Many jurisdictions have gravitated toward a more balanced approach in sanctioning youths, where the emphasis is upon restorative and victim centered justice. The aim of this legislation is to (1) promote public safety and the protection of the community; (2) heighten accountability of youths toward victims and the community for offenses committed; and (3) increase competency and improve character development to assist youths in becoming responsible and productive members of society (Champion and Mays, 1991).

Offenders with behavioral disorders may require more intensive supervision while on probation (Abatiello, 2005). Those considered high risks for recidivism may be required to undergo electronic monitoring and house arrest as part of their supervision by juvenile probation officers. These and other similar control strategies are a part of the growing area of community corrections and intermediate punishments, where greater emphasis is upon community reintegration and rehabilitation (Rivers, 2005). During the 1990s there has been a gradual intensification of punishments for juveniles, including probation dispositions (Wilkerson, 2005). This emphasis on punishment is a reflection of state legislatures’ tougher stance toward juveniles. Figure 1.12 is an acknowledgment of dispositional conditions and sanctions imposed by the court. Juveniles must sign this form to indicate that they have read and understood the disposition(s) imposed on them. They agree to comply with any imposed conditions.

The terms and conditions of the disposition are outlined in Figure 1.12. Obeying the law, attending school, maintaining employment, reporting to the probation officer, attending vocational training or education courses, appearing at subsequent court hearings, refraining from using drugs and alcohol, and refraining from possessing dangerous weapons are standard probation conditions. Furthermore, the judge may add other conditions, such as mandatory counseling or therapy, depending upon the particular needs exhibited by the offender and which are brought to the attention of the court.

Custodial Dispositions

Custodial disposions are classified according to nonsecure custody or nonsecure confinement and secure custody or secure confinement. Nonsecure custody consists of placing certain juveniles into foster homes, group homes, camps, ranches, or schools. These are temporary measures often designed to lead to more permanent placement arrangements for juveniles later. Juveniles have freedom of movement, and they can generally participate in school and other youthful activities. If they are living in group homes or are on camp ranches, there are curfews to be observed. It is assumed that if they are in the care of others in foster homes or shelters, such curfews will be implicitly (if not explicitly) enforced (McNamara, 2008).

The secure custodial option is considered by most juvenile court judges as the last resort for serious juvenile offenders. Some of the reasons for this include overcrowding in secure juvenile facilities, a general reluctance among judges to incarcerate youths because of adverse labeling effects, and the potential effectiveness of certain intermediate punishments through community-service agencies. Fewer than 10 percent of all juveniles processed by juvenile courts annually are subsequently placed in either nonsecure or secure facilities (LaMade, 2008).
IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

_______ JUDICIAL DISTRICT AT _________________

In the Matter of: )

) )

) )

A minor under 18 years of age )
Date of Birth: _________________)

CASE NO. _______________ CP

☐ CONDUCT AGREEMENT
☐ CONDITIONS OF PROBATION
OR DEFERRED INSTITUTIONAL
PLACEMENT

1. I will obey all municipal, state and federal laws.

2. I will remain in the placement designated by my Probation/Intake Officer and obey the curfew
hours set by my parents, guardian, custodian or Probation/Intake Officer.

3. I will notify my Probation/Intake Officer prior to changing my residence, employment or school.

4. I will obey the rules and instructions set forth by my parents, guardian, custodian, and
Probation/Intake Officer.

5. I will attend school or vocational training when in session and conduct myself in accordance with
school policy; otherwise, I will maintain steady employment.

6. I will report as directed to my Probation/Intake Officer.

7. I will appear at all scheduled court hearings.

8. I will not ingest illegal drugs or alcohol, and will submit to random urinalysis as requested.

9. I will not possess, have in my custody, handle, purchase or transport any firearm, knife, club or
other type of weapon, ammunition or explosives. I will not carry any weapon on my person
including pocket knives.

10. I will obey the following additional conditions: ________________________________

__________________________________________________________________________

__________________________________________________________________________

__________________________________________________________________________

__________________________________________________________________________

Page 1 of 2
06-9555 (10/97) YC
CONDUCT AGREEMENT/CONDITIONS OF PROBATION

Del.R. 12(c), 23 & 24
AS 47.12.120

3.q.1
In the Matter of: ________________________________  Case No. ________CP

I (have read) (have had read to me) and understand these conditions. I agree to obey them and understand that any violation may result in my being detained or having my probation revoked.

Probation/Intake Officer               Date               Juvenile               Date

We have read and understand these conditions. We agree to require the juvenile to obey them and to report any violations. We understand that if we fail to report a violation which is known to us, action may be taken against us in court. We further understand that any violation by the juvenile may result in his/her detention. We agree to bring the juvenile before the court when directed.

Parent/Guardian/Custodian               Date

ORDER

The above juvenile is hereby released under the terms and conditions agreed to in this document.

Recommended on ______________________ Date

Superior Court Master

Effective Date: ______________________

Superior Court Judge               Date

Type or Print Name

I certify that on ______________ a copy of this document was sent to:

DHSS
Juvenile/Attorney
Parent/Guardian
Placement Facility
Other: _____________________________

Clerk: _____________________________

Page 2 of 2
06-9555 (10/97) YC
CONDUCT AGREEMENT/CONDITIONS OF PROBATION

Source: Reprinted by permission of the State of Alaska.
Juvenile Corrections

In 2006, there were over 70,000 juveniles in residential and nonresidential correctional programs other than probation (American Correctional Association, 2007). The range of juvenile corrections is almost as broad as programs for convicted adult offenders. In fact, since 1992 changes in juvenile court dispositions have been in the direction of increased incarceration of juveniles adjudicated delinquent for violent or other serious offenses without comparable attention to probation, community corrections, or other types of aftercare (Wilkerson, 2005).

Juvenile Probation

Juveniles adjudicated delinquent may be placed on probation or in secure confinement, depending upon juvenile court judge opinions and evaluations. Depending upon juvenile probation officer caseloads in various jurisdictions, probation may be more or less intense, commensurate with intensive supervised probation for adults. Placement in different types of probationary programs is dependent upon how the youth is originally classified. Interestingly, juvenile court judges have not consistently applied legal variables in their decision making about juvenile secure placements. More rational legal criteria for secure confinement decision making have been recommended (Sullivan et al., 2007).

Whether it is intensive, probation may be conditional and involve restitution to victims and/or community services. In 2006, there were over 650,000 juveniles on probation in various state jurisdictions (American Correctional Association, 2007). Juveniles may be placed in community-based residential programs or exposed to various therapies and treatments or training (Champion and Mays, 2001).

Confinement in state industrial schools is the juvenile equivalent of incarceration in a state prison for adults. This type of confinement is considered hard time for many juveniles. The California Youth Authority operates various facilities to house growing numbers of juvenile offenders in secure confinement. Lengths of commitment vary for offenders, depending upon the seriousness of their adjudication offenses (Office of Juvenile Justice and Delinquency Prevention, 2007).

Juvenile Parole

When juveniles have served a portion of their incarcerative terms, they are paroled by a juvenile paroling authority to the supervision of an appropriate state or community agency. Such supervision may be in the form of intensive aftercare (Champion, 2008a). In 2006, there were 95,000 juveniles on parole in various state jurisdictions (American Correctional Association, 2007). In Utah, for instance, a nine-member board, the Utah Youth Parole Authority, makes early-release decisions over large numbers of incarcerated youths monthly. Operated by the Utah Division of Youth Corrections, this board conducted over 385 parole hearings in 2006 (American Correctional Association, 2007). Although the board appears to be guided by certain eligibility criteria, one’s institutional behavior while confined is considered quite important as an indicator of one’s future community reintegration.

Summary

The juvenile justice system is an integrated network of agencies, institutions, and organizations that process juvenile offenders. Its essential components are law enforcement, prosecution and the courts, community and institutional corrections, aftercare, and parole. There is considerable diversity among jurisdictions about the
structure and operations of the juvenile justice system. Juveniles or infants are defined according to various ages. The maximum age limits for youths used by juvenile courts define juveniles among jurisdictions. The most common maximum age for juvenile court jurisdiction is 17, although maximum age limits of 18, 16, and 15 are found in some states. Lower age limits over juveniles used by juvenile courts also vary, with some courts having no lower age limits. Infants under age seven are generally considered incapable of formulating criminal intent and are treated by one or more community agencies rather than processed by juvenile courts.

Delinquency is any act committed by a juvenile that would be a crime if an adult committed it. Any criminal act committed by someone who has not reached the age of majority would also define delinquency. A status offense is any act committed by a juvenile that wouldn’t be a crime if an adult committed it. Common status offenses include runaway behavior, curfew violation, incorrigibility, and truancy. Several policies have been established to differentiate between status and delinquent offenders. The JJDPA of 1974 was designed to remove status offenders from secure institutions where more hard-core delinquent offenders might be housed. This was called the DSO. The general meaning of DSO is broadly interpreted as decarceration of status offenders from institutions; diverting dependent and neglected children to social services; and divestiture of jurisdiction of juvenile courts over status offenders.

The traditional orientation of juvenile courts has been perpetuated by the parens patriae doctrine. This doctrine vests juvenile courts with individualized sanctioning powers intended to treat youths rather than punish them. Over time, juvenile courts have become increasingly adversarial, resembling criminal courts. Presently, juvenile courts are due process bodies, influenced significantly by the get-tough movement that espouses more punishment-centered options for juveniles. Despite this get-tough stance, juvenile court judges exhibit mixed philosophical principles that guide their decision making about youths. Many of these judges attempt to balance the aims of due process and justice with individualized treatments and therapies intended to rehabilitate and reintegrate youthful offenders.

The juvenile justice system and the criminal justice system parallel one another in several respects. Juveniles suspected of committing delinquent acts are taken into custody or arrested. Referrals to juvenile court by police, school authorities, neighbors, or even one’s parents are common ways. These referrals are made whenever it is suspected that juveniles have violated one or more laws. About half of all juvenile cases are petitioned. A petition is a formal document seeking a hearing for the juvenile in a juvenile court. An adjudicatory hearing is a formal court proceeding much like a criminal trial. Judges usually impose dispositions on guilty juveniles, similar to criminal sentences. These include nominal dispositions or verbal warnings, conditional dispositions or probation, and custodial dispositions, which may involve incarceration.

A wide range of punishments is available to juvenile court judges that parallel the punishments available to criminal offenders, including probation and parole. Community-based punishments include probation, intensive supervised probation, home confinement, electronic monitoring, community service, restitution, fines, day reporting programs, halfway house placement, or other conditions. Other dispositions may include placement in a secure facility. Once juveniles have served a portion of their disposition in these facilities, they may be paroled. Juvenile parole is much like adult parole in that it is community-based and conditional.

Key Terms

adjudication, 37
adjudication hearing, 37
adjudicatory hearing, 37
adversarial proceedings, 22
aftercare, 41
beyond a reasonable doubt, 23
Questions for Review

1. What are the principal components of the juvenile justice system? Why do some persons view juvenile justice as a process rather than a system?

2. Why is there a general lack of uniformity among juvenile courts in the United States?

3. What is the age range for juvenile courts in the United States? What factors make it difficult to provide a consistent definition of this age range among states? Explain.

4. What is the doctrine of parens patriae? What are its origins? Does parens patriae continue to influence juvenile courts today? Why or why not?

5. What is the Juvenile Justice and Delinquency Prevention Act of 1974? What are its implications for juveniles?

6. What is meant by DSO? What are some of its outcomes for juvenile offenders?

7. What is the difference between being taken into custody and being arrested?

8. What are some major differences between juvenile courts and criminal courts?
9. What are dispositions? How do they resemble sentences for adult criminals? What are three types of dispositions? Define each and give an example.

10. Distinguish between juvenile probation and parole. What is the difference between secure and nonsecure confinement?

11. Are juvenile courts primarily treatment centered or punishment centered? What is the get-tough movement and what are some reasons for its existence?

Internet Connections

ABA Juvenile Justice Committee
http://www.abanet.org/dch/committee.cfm?com=CR200000

Center on Juvenile and Criminal Justice

Children’s Advocacy
http://www.childprotect.org/

Children’s Defense Fund
http://www.childrensdefense.org/

Empowerment Resources
http://www.empowermentresources.com/