

***A SUMMARY OF STATE TRENDS
IN JUVENILE JUSTICE***

**Roxanne Lieb
Lee Fish
Todd Crosby**

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**Washington State Institute for Public Policy
The Evergreen State College
Seminar 3162, MS: TA-00
Olympia, Washington 98505
(360) 866-6000, extension 6380
Fax: (360) 866-6825**

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EXECUTIVE SUMMARY

The 1994 Legislature determined that Washington's juvenile justice system requires "substantial revision," and created a legislative task force to review the system. To assist in this endeavor, the Institute reviewed the major trends in the nation regarding juvenile justice.

The following juvenile justice issues are topics of attention across the country:

1. **Transfer to Adult Court:** Transfer of juveniles to adult court has been a *major focus* of legislative attention throughout the country. Most states now prosecute some juveniles as adults, and nearly half of the states have specifically excluded some offenses, and youth with particular criminal histories, from juvenile court jurisdiction. States differ in their decision regarding where the juvenile prosecuted as an adult is confined. Some states, including **Washington**, confine these individuals in the adult system. Other states start the person in juvenile corrections, then switch them to adult corrections when they are older.
2. **Runaways:** Children who run away from home and those who commit acts that would not be criminal offenses if they were conducted by adults--"status offenders"--pose difficult policy choices. Since the federal legislation in 1974, the incentive of \$40 million annually has been used to reward states that comply with the mandate that status offenders be removed from confinement settings. Most, if not all, states comply. This "deinstitutionalization" of status offenders, however, has not been a panacea. The federal Office of Juvenile Justice and Delinquency Prevention has concluded that deinstitutionalization has "too often meant, not transferring youth from reform schools to caring environments, but releasing them to the exploitation of the streets."
3. **Confidentiality of Juvenile Proceedings/Records:** The increasing seriousness of juvenile crime has caused policymakers to rethink confidentiality laws for juveniles. The traditional emphasis has been on protecting juveniles; thus, court records are sealed and courtrooms closed to the public. Reducing this confidentiality has been a common theme in juvenile system reform efforts. **Washington** reduced the confidentiality of juvenile proceedings in 1977, and the legislature has passed several laws requiring that certain juvenile crimes be calculated as part of an adult's criminal history.
4. **Role of the Prosecutor:** Many states are shifting discretion toward the prosecutor, typically removing the power from probation staff. Washington implemented this reform with its 1977 law, placing additional responsibilities in the prosecutor's office. Where Washington differs from other states that have shifted discretion to the prosecutor is the legislatively-adopted guidelines covering sanctions for all adjudicated juveniles. Thus, the prosecutor plays a major role but does not have free rein.

5. **Parents of Delinquents:** States are also concentrating attention on the parents of delinquents, trying to force them to act more responsively. Although several states have passed laws allowing the courts to impose sanctions on parents who contribute to a child's delinquency, this remedy is rarely enforced. Several legislators are considering statutes that withdraw state benefits from parents whose children are delinquents, including connecting welfare benefits to children's school attendance. California just enacted a law authorizing the welfare department to seek reimbursement for benefits paid to families with children who are incarcerated for over 30 days.¹

6. **Juvenile Facilities:** Another topic that has received considerable attention concerns the type of facility for juvenile offenders. When Massachusetts radically altered its juvenile justice system in the 1970s, national attention was focused on the state's efforts to move all the juveniles from training schools to small, community-based facilities. Similar initiatives have occurred in Maryland, Utah, Pennsylvania, and Florida.

7. **Boot Camps:** One particular type of facility, the juvenile boot camp, has been established in several states. The Institute is preparing a separate report on boot camps for juveniles which will describe the experiences of other states. This report will be available in late November.

Washington State's System: Washington's 1977 Juvenile Justice Act enacted a sentencing grid for all juvenile offenders, and established specific ranges of punishment. About one-third of the states employ some form of structured approach to sentencing, either through one or a combination of mandatory minimums, serious offender laws, determinate sentencing laws, and administrative guidelines. **Washington's juvenile system, however, is the most structured in the country** and places the greatest authority with the state legislature in determining appropriate penalties.

Many legislative changes regarding juveniles that were recently passed by other states were incorporated into SSHB 2319 during Washington's 1994 legislative session. These changes include the following:

- Transferring more juveniles directly to adult court.
- Creating boot camps for juveniles.
- Ensuring that diversion programs for juveniles have consequences if juveniles do not comply with court orders.
- Emphasizing the importance of prevention of delinquency.

¹ "Welfare to Work," MII Publications, Volume 3, Number 19, October 10, 1994.

INTRODUCTION

The 1994 Washington Legislature determined that its juvenile justice act required "substantial revision," and created a legislative task force on juvenile justice. The legislation direction was as follows:²

The Legislature finds that the juvenile justice act of 1977...requires substantial revision. The Legislature reaffirms the goals of the act, including the dual goals of punishment and rehabilitation of juvenile offenders. The legislature finds, however, that the substantive provisions of the act are too structured to achieve fully the act's goals.

The framework created by the act has diminishing relevance to today's violent and chronic offenders. Juveniles are committing increasingly violent crimes, and they are committing these violent crimes at an increasingly younger age. Simultaneously, juveniles commit minor offenses. Dispositions prescribed by the act are not long enough to permit substantial rehabilitation of violent offenders and minor offenders receive no meaningful intervention. The fixed system established by the act restricts the judiciary's efforts to tailor punishment and treatment to the juvenile's individual needs. Additionally, substantial delays occur before the juvenile offender is held accountable for criminal acts.

As legislators conduct this task force, the juvenile systems in other states are of interest. This report summarizes the major trends in juvenile justice reform across the country. We intend this overview as a resource document to inform policymakers about options.

Information was collected from publications and telephone conversations with juvenile justice experts. We selected seven states for a detailed review, focusing on states that either recently undertook comprehensive reforms of their juvenile justice system, or have a unique approach. These seven states are: Colorado, Florida, Minnesota, New Mexico, New York, Ohio, and Oregon.

- **Section One** reviews major policy questions surrounding juvenile justice.
- **Section Two** describes key trends in state systems for juveniles.
- The **appendixes** include data and descriptions regarding the seven states.

² Chapter 7, 1994 Special Session, Laws of Washington.

SECTION ONE: POLICY ORIENTATION TOWARD JUVENILE JUSTICE

One of the responsibilities of the Legislative Task Force on Juvenile Justice is to "examine the effectiveness of the Juvenile Justice Act of 1977." When Washington's 1977 Act was debated, substantial time was spent discussing the overall purposes of the juvenile court, and broad policy choices open to the legislature. This section briefly reviews four policy areas:

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1. Does justification remain for a separate juvenile court? If so, who should be under its jurisdiction?	3
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1. Does justification remain for a separate juvenile court? If so, who should be under its jurisdiction?

History:

The first juvenile code was enacted in Illinois in 1899; at the same time, the first juvenile court was established in Chicago as an alternative to criminal courts for youth engaged in criminal and noncriminal misconduct. Before juvenile courts, the only special protection for young offenders charged with crimes occurred through the common law's exemption for those lacking sufficient criminal capacity ("*mens rea* defense").

Supreme Court Rulings:

For many years, disparities in the legal rights of children and adults were tolerated, with the justification that the "best interests of the child" should be paramount. Starting in the mid-1960s, however, several Supreme Court decisions strengthened the rights of children. They included *In re Kent* (1967) which extended limited due process rights, and *In re Gault* (1967) which provided juveniles with the right to receive notice of the charges, the right to counsel, the privilege against self-incrimination, and the right to confront and examine witnesses. *In re Winship* (1970) substituted the "preponderance of the evidence" standard with the highest standard of proof--beyond a reasonable doubt.³

The *Kent* decision also determined that the juvenile court should have "considerable latitude" to decide whether a juvenile case should be waived to criminal court. The court ruled that all waivers must provide the juvenile with a hearing on the waiver, effective assistance of counsel, and a statement of reasons for the juvenile court's decision.

State Legislatures:

The jurisdiction of juvenile courts has been a topic of considerable attention by state legislatures in recent decades. During the late 1970s and 1980s, attention was focused on removing runaways and other youth from secure confinement if they were charged with acts that would not be a crime if done by adults (often called "status offenders"). In the 1990s, the effort has concentrated on moving juvenile offenders accused of committing murders and serious assaults into the criminal court.

³ "Beyond a reasonable doubt" means there is so much evidence of the person's guilt that there is no reasonable doubt left. This standard applies in adult criminal law.

Scholarly Discussions:

Several law review publications have addressed whether the juvenile court should continue, given these changes in purpose and scope.⁴ The general line of argument is if the juvenile court is simply a scaled-down version of the adult court, with less focus on rehabilitation and the "best interests of the child," then it should be abolished and children given the full protections of the criminal law.⁵

Others argue that the juvenile court should remain intact, but the maximum age of jurisdiction should be lowered from 18 to either 14, 15, or 16, thus allowing the juvenile court to emphasize intervention and rehabilitation and having the criminal court focus on punishment. Eight states have set the maximum age at 17, while four have set the age at 16 (see p. 31).

Family Courts As Another Option:

The Council of Juvenile and Family Court Judges argues that juvenile courts have not lived up to their goals because the family unit is more troubled than in the past, and the strain on the court has increased. This organization is promoting a "unified family court" housed in a central location as the preferred solution.⁶ A family court can have several different meanings:

- A renamed juvenile court, including juvenile offenders and consideration of parental rights (dependencies).
- A traditional juvenile court plus domestic violence.
- A traditional juvenile court plus domestic violence and divorces/dissolutions.
- A traditional juvenile court plus misdemeanors and felonies.
- Any of the above, plus other crimes.

A common theme in family court organizations is a more centralized information system. Family courts can be found in Hawaii, Delaware, New Jersey, New York, Nevada, Virginia, Missouri, Maryland and Rhode Island. Pilot projects are operating in San Diego, California; Louisville, Kentucky; and Grants Pass, Oregon. King County, in Washington State, is studying a family-court organizational model for juvenile court.

⁴ Janet E. Ainsworth, "Re-Imaging Childhood and Reconstructing the Legal Order: The Case for Abolishing the Juvenile Court," *North Carolina Law Review*, 69, 1991, pp. 1083-1133. (Note: Professor Ainsworth is a faculty member at Seattle University's School of Law.)

⁵ Barry C. Feld, "Criminalizing the American Juvenile Court," *Crime and Justice*, 1993, Vol. 17, pp. 197-280.

⁶ Robert W. Page, *Family Courts: An Effective Judicial Approach to the Resolution of Family Disputes*, National Council of Juvenile and Family Court Judges, Reno, Nevada, 1993.

2. Assuming the continuation of a juvenile court, which philosophical orientation is most suitable: rehabilitation, crime control, or the justice model?

Belief in the "**rehabilitative ideal**" was a significant force behind the creation of the juvenile system. Intrinsic to this belief is the view that human behavior is malleable, and the state can intervene as a nurturing force to serve the child's best interest.

This rehabilitative focus was called into question around 1975 because of research demonstrating that "with few and isolated exceptions, the rehabilitative efforts that have been reported so far have no appreciable effect on recidivism."⁷

Another approach to juvenile justice emphasizes **crime control**. This philosophical approach focuses attention on the most serious offenders, those who injure others. Its advocates contend that juveniles are not innocent children but instead are hardened criminals who deserve significant punishment at the first sign of wrongdoing. California and New York are recognized by many as leaders in "cracking down" on youth crime.⁸

A third approach--**the justice model**--emphasizes certainty and consistency in the juvenile system, placing limits on the discretion of judges, prosecutors, and correctional personnel. **Washington** State's 1977 reform emphasized the justice model. Legislators aimed at establishing a juvenile justice system that was accountable for its effects on juveniles, and also held juveniles accountable for their offenses.

Most (42) states have intent sections for their juvenile codes, and since the 1960s, about one-quarter of them have redefined their intent.⁹ Generally, the change has been to introduce public safety as a primary concern and de-emphasize rehabilitation and intervention.

As state courts interpret these statutory changes, many recognize a signal in basic philosophical orientation toward juvenile justice. **Washington's** court upheld the legislature's conclusion that "accountability for criminal behavior, the prior criminal activity and punishment commensurate with age, crime and criminal history does as much to rehabilitate, correct and direct an errant youth as does the prior philosophy of focusing on the particular characteristics of the individual juveniles"¹⁰

⁷ Lipsey, Martinson, and Wilkes, *The Effectiveness of Correctional Treatment: A Survey of Treatment Evaluation Studies*, New York: Praeger, 1975.

⁸ Barry C. Feld, p. 217.

⁹ Barry C. Feld, p. 245.

¹⁰ *State v. Lawley*, 91 Wash.2nd, pp. 654, 656, 591, P.2d 772, 773, 1979.

The Nevada Supreme Court held that "by formally recognizing the legitimacy of punitive and deterrent sanctions for criminal offenses juvenile courts will be properly and somewhat belatedly expressing society's firm disapproval of juvenile crime and will be clearly issuing a threat of punishment for criminal acts to the juvenile population"¹¹

Some juvenile experts are promoting what they call "***the balanced approach,***" or "***restorative justice.***" This approach relies on balancing three core values: community protection, accountability, and competency development (education and training) in the context of individual assessment.¹² The Office of Juvenile Justice and Delinquency Prevention, in the U.S. Department of Justice, sponsors a project on "balanced and restorative justice" that produces policy papers and provides technical assistance to states.¹³

¹¹ *In re Seven Minors*, 99 Nev. pp. 427, 423, 664, P.2d 947, 1950, 1983.

¹² Maloney, Romig, and Armstrong, *Juvenile Probation: The Balanced Approach*, National Council of Juvenile and Family Court Judges, Reno, Nevada, 1991.

¹³ Balanced and Restorative Justice Project, Florida Atlantic University, Fort Lauderdale, Florida.

3. Which part of the juvenile system is in greatest need of change?

Recently, the primary motivation for most states to change their juvenile system has been concern about violent crime committed by juveniles. In addition, prevention of delinquency has also been a common focus.

When **Minnesota's** Supreme Court convened an Advisory Task Force on the Juvenile Justice System in 1992, the group agreed to focus exclusively on the serious and repeat juvenile offenders. In the group's judgment, the system worked reasonably well for the less serious offender.

The chair of **New Mexico's** Children's Code task force wrote that the "chief motivating factor [for rewriting the code] was a growing public concern about juveniles who were committing extremely violent crimes."¹⁴

Colorado assembled a Task Force on Juvenile Issues to propose changes to the 1995 legislative session. According to Jim Hill, counsel to the Senate Judiciary Committee, "the group's purpose is to determine if a whole recodification is necessary to reflect the more violent offender and crimes with guns."¹⁵

In **New York**, the Governor's Commission for the Study of Youth Crime and Violence and Reform of the Juvenile Justice System placed priority on making the system more equitable and consistent, "while sending a credible message to young people that those who commit crimes will face punishment." Simultaneously, the Commission noted that "reforming the juvenile justice system is the easiest part of its mission," and that prevention services are critical.¹⁶

For **Ohio**, the primary motivation for legislative change was severe crowding at the state juvenile institutions, crowding that was caused by increased felony offenders.¹⁷

4. Which is the most effective structure for a state's juvenile system?

¹⁴ "The New Children's Code," *Young Lawyers Division Newsletter*, State Bar of New Mexico, Spring 1993.

¹⁵ Telephone conversation, July 1994.

¹⁶ *Preliminary Report to the Governor*, New York Commission for the Study of Youth Crime and Violence and Reform of the Juvenile Justice System, June, 1994, p. vi.

¹⁷ Telephone conversation with Hernan Ramirez, Director of Communications, Department of Youth Services, June 1994.

Juvenile justice systems are organized and administered in numerous ways across the nation. These structures vary from statewide judicial systems, to those organized entirely within the executive branch, and with many combinations of both structures in between. Pertinent questions related to organizational structure include the following:

- Should the authority for services be issued from the state or local level of government?
- Which department of government strikes the appropriate balance among rehabilitation, accountability, and public safety?
- Should juvenile courts or the executive branch administer probation services?
- Is the public or private sector better prepared to administer non-institutional programs for juveniles?

Washington's system is organized as follows:

<u>Responsibility</u>	<u>Division of Government</u>	<u>Branch of Government</u>
Probation	Local	Judicial or Executive
Institutions	State	Executive
Parole	State	Executive

The National Center for Juvenile Justice completed a nationwide survey regarding the organization and administration of juvenile services in June 1993.¹⁸ Their conclusions are as follows:

- In terms of **probation, services continue to be predominantly organized under the judiciary**. In 23 states and the District of Columbia, probation services are administered by the local juvenile court or by the state Administrative Office of Courts. In the last five years, legislative activity has focused on transferring these services from the local juvenile court to a state judicial department (e.g., **Iowa, Kansas, Nebraska, and South Dakota**). This pattern is consistent with the emerging pattern of state funding of courts.
- In 10 states, a single statewide executive branch agency is responsible for all aspects of juvenile corrections (Arkansas, Delaware, Florida, Maine, Montana, New Hampshire, New Mexico, Rhode Island, South Carolina, and Vermont). Of these 10 states, 4 are social service agencies, 3 are family

¹⁸ Hunter Hurst IV and Patricia Torbet, *Organization and Administration of Juvenile Services*, National Center for Juvenile Justice, Pittsburgh, Pennsylvania, 1993.

and children service departments, 2 are youth service agencies, and 1 is a corrections department.

- The authority for administration of state juvenile institutions rests with the executive branch of state government in all 50 states. However, the states vary in the type of executive department within which they choose to place juvenile corrections: the social service department, the corrections department, or separate departments for either family and children services department or youth services. The trend is to remove the responsibility for juvenile corrections from adult departments and place it with either a youth services department or a family and children services department. Most states continue to place juvenile corrections within **social service departments**.
- The same state departments that run the **state training schools** are predominantly responsible for **parole/aftercare** for released offenders.

Many national experts believe that organizational remedies rarely provide an effective solution to perceived problems in juvenile justice. One expert commented that states with centralized systems are choosing decentralization, while those with decentralized systems are moving toward centralization.¹⁹

A 1981 study sponsored by the Federal Office of Juvenile Justice and Delinquency Prevention explored whether the executive or judicial branch could more effectively administer probation supervision. The project director concluded: "(w)hichever structure the interested reader may consider...certain factors...have critical impact. These include the amount of money available for these services, the quality of personnel with which the system is staffed, and the personal leadership (of those in charge) in stimulating interest and support. Each of these attributes is an [absolute prerequisite] of good services, *regardless of the formal administrative structure.*"²⁰

¹⁹ Telephone conversation with Troy Armstrong, Associate Professor, California State University at Sacramento, June 1994.

²⁰ Joseph L. White, *Major Issues in Juvenile Justice Information and Training: Services to Children in Juvenile Courts: The Judicial-Executive Controversy*, Academy for Contemporary Problems, Columbus, Ohio, 1981. (emphasis added)

SECTION TWO: KEY TRENDS IN STATES

This section summarizes the key trends surrounding juvenile justice. The questions addressed are:

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11. Are ethnic minorities overrepresented in the juvenile justice system and disproportionately confined?	35

1. What is known about outcomes for juvenile offenders?

In recent years, increasing attention is being placed on learning how interventions affect people. In the area of juvenile offenders, the outcome of most interest is future criminal conduct--recidivism.

A separate document from the Institute summarizes the research findings on experimental programs for juvenile offenders.²¹ A limited number of states have also investigated the recidivism rates for juvenile offenders.

WASHINGTON: Washington State has conducted very rigorous studies on the recidivism rates for youth released from the Juvenile Rehabilitation Authority (formerly the Division of Juvenile Rehabilitation). A report on the "Class of 1982" youth calculated Washington's reconviction rate at 43 percent one year after release. The authors compared similar reconviction rates for four other states.²²

**TABLE 1
WASHINGTON'S RECIDIVISM RATE
IN COMPARISON**

State	Reconviction Rate
Washington	43%
Massachusetts	43%
Wisconsin	34%
Utah	48%
California	54%

The recidivism rate for the "Class of 92" youth in Washington State was calculated at **six months** after release and found to be **33 percent**.²³

²¹ Roxanne Lieb, *Juvenile Offenders: What Works?*, Washington State Institute for Public Policy, Olympia, Washington, 1994.

²² John C. Steiger and Cary Dizon, *Rehabilitation, Release, and Reoffending: A Report on the Criminal Careers of the Division of Juvenile Rehabilitation, 'Class of 1982,'* Juvenile Offender Research Unit, Olympia, Washington, 1991. (Florida was included in the original comparison but was not included here because we cite more recent Florida data on the next page.)

²³ Telephone conversation with Dave Guthmann, Juvenile Rehabilitation Authority, Washington Department of Social and Health Services, October, 1994.

FLORIDA: Florida recently initiated the country's most intensive evaluation of outcomes for its juvenile system. A recent evaluation report for juveniles released between January and June of 1991 provided a cross-program summary of recidivism rates **one year after release**. Recidivism was defined in three ways: new referrals, new adjudications, and new commitments to delinquency programs.

The evaluation helps state leaders determine which programs should be continued, expanded, or eliminated. Recidivism rates are only one measure in determining a program's effectiveness because the types of youth served can significantly affect recidivism rates. For example, programs that house the most serious offenders are not expected to have the same recidivism rates as those for first time offenders.

The highest recidivism rates appeared for youth in Florida's low-risk and moderate-risk residential programs. The lowest recidivism rates were from prevention/diversion programs and community control programs. The table below shows recidivism rates for youth in each of Florida's program categories.

TABLE 2
RECIDIVISM RATES IN FLORIDA'S JUVENILE PROGRAMS

Program	New Referrals	New Adjudications	New Commitments
Prevention/Diversion	32.6%	13.9%	2.9%
Community Control	27.2%	15.4%	7.9%
Non-residential	54.0%	30.0%	21.1%
Low-Risk Residential	74.5%	51.8%	38.7%
Moderate-Risk Residential	73.7%	45.3%	34.9%
High-Risk Residential	65.1%	31.9%	14.8%
Post-Placement	49.3%	27.4%	18.2%
Total Recidivism²⁴	35.8%	18.3%	18.2%

COLORADO: Colorado has also measured recidivism rates. A Division of Youth Services study of youth discharged from the division in FY 1989-90 analyzed recidivism rates one year after discharge. Recidivism was defined as a "subsequent filing (either juvenile or adult) for a criminal offense."

²⁴ The total recidivism rate is an average of the total population. Because far more youth are placed in prevention and diversion programs than residential programs, the total rate is not an average of the displayed numbers.

Of the discharged youth: 64 percent were discharged with no evidence of an additional filing after one year, 26 percent received another filing within one year, and 10 percent were discharged to adult court authority.

Recidivism rates were influenced by offender-related variables such as prior living arrangements, history of out-of-home placements, runaway history, and prior drug/alcohol treatment. When considering types of offenses committed, property offenders are the most likely to receive another filing within one year.

Finally, the study revealed few differences in discharge outcomes based on the type of residential program (community, medium secure, or intensive programs).

2. What role should the state legislature play in setting sentencing policy for juveniles?

Washington is the only state with a determinate sentencing system that is codified in statute, imposed by judges, and covers all juvenile offenders. Therefore, the Washington State Legislature plays the strongest role in the country in determining sentencing policy for juvenile offenders.

Washington's 1977 Juvenile Justice Act created a "point system" for determining sentencing ranges. Those ranges are based on the youth's age, commitment offense and criminal history. Originally, the Juvenile Disposition Standards Commission set the guidelines and they became law unless the legislature affirmatively acted otherwise. In recent years, the legislature has taken more control of juvenile sentencing, changing the law so the Commission's recommendations must be affirmatively enacted, and proposing sentencing changes not supported by the Commission.

Other state legislatures have set sentences for juvenile offenders, primarily for those convicted of serious person offenses. About one-third of the states regulate at least some of the juvenile sentencing decisions through either statute or administrative guidelines.²⁵

Since 1987, **Texas** has relied on determinate sentencing for juveniles charged with serious offenses whose cases are submitted to a grand jury. Mandatory minimum terms are specified for juveniles convicted of particular felonies in **Colorado, Georgia, New York, and Ohio**. In some cases, the juvenile court judge has the discretion to impose the mandatory minimum terms; in other cases, it is required.

Many state legislatures have passed statutes transferring the more serious juveniles to adult court (see Appendix Two). **Minnesota's** Supreme Court Task Force on the Juvenile Justice System recently recommended against statewide sentencing guidelines for juvenile delinquency, instead recommending that judicial districts publish written criteria for their dispositional decisions.²⁶

²⁵ Barry C. Feld, "Criminalizing the American Juvenile Court," *Crime and Justice*, 1993, p. 245.

²⁶ *Final Report*, Minnesota Supreme Court Advisory Task Force on the Juvenile Justice System, Minnesota Supreme Court, St. Paul, Minnesota, 1994.

3. What emphasis should be placed on prevention?

Policy discussions about juvenile justice frequently focus on ways to prevent delinquency. Rather than responding after criminal behavior begins, legislators are interested in prevention activities.

Washington's 1994 Violence Reduction Act places a strong emphasis on prevention, incorporating a public health model as a critical aspect of the state's response.

The federal Department of Justice and its Office of Juvenile Justice and Delinquency Prevention released a comprehensive strategy regarding serious, violent, and chronic juvenile offenders.²⁷ Their strategy emphasizes preventing and reducing risk behaviors statistically linked to delinquency. "Prevention is the most cost-effective means of dealing with delinquency," the report concludes, recommending a risk-focused approach similar to the model adopted in Washington State's Violence Reduction Act. The risk factors they identify are: delinquent peer groups, poor school performance, high-crime neighborhoods, weak family attachments, lack of consistent discipline, and being the victim of physical or sexual abuse.

Recent policy initiatives in other states have also emphasized prevention. **Minnesota's** Advisory Task Force on the Juvenile Justice System noted that "the ultimate solution to juvenile crime lies in the strengthening of families and communities, and the implementation of prevention and early intervention programs."²⁸

New York's Commission for the Study of Youth Crime and Violence and Reform of the Juvenile Justice System also recommended additional resources for what they termed the "social infrastructure that is supposed to help all young people grow up safely." Their proposal calls for a major expansion of "safe havens" in school buildings.

²⁷ John Wilson and James Horvell, *Serious, Violent and Chronic Juvenile Offenders: A Comprehensive Strategy*, Office of Juvenile Justice and Delinquency Prevention, Washington D.C., August 1993.

²⁸ *Final Report*, Minnesota Supreme Court Advisory Task Force on the Juvenile Justice System, Minnesota Supreme Court, St. Paul, Minnesota, 1994.

4. What role should the state play in responding to children who are in conflict with their families (specifically, truants and runaways)?

The term "status offender" refers to juveniles whose behavior would not be a crime if they were an adult, thus encompassing truants, runaways, and children not responding to parental discipline. In the 1970s, status offenders comprised approximately one-fourth the workload of the nation's juvenile courts.²⁹

Federal Law

Starting in the mid-1970s, state governments and the federal government began placing restrictions on the commitment of status offenders to institutions. Federal legislation in 1974 and 1977 set financial penalties on states that placed status offenders in confinement.

1980 amendments to the federal law allowed courts to incarcerate status offenders under two conditions: (1) if the juvenile ran away from nonsecure placements or (2) if the juvenile violated court orders and was found in contempt of court.

National Statistics

The number of status offense cases involving detention in the nation declined 33 percent between 1987 and 1991. Of the 90,100 status offense cases in 1991, runaways were the most likely to involve detention (17 percent of all formally processed runaway cases).³⁰

Washington Law

Washington's 1977 Juvenile Justice Act divested the juvenile court of all jurisdiction over status offenders. The legislature instead determined that these youth and their families should be offered services on a voluntary basis.

In situations where runaway youth are at risk, the legislature authorized law enforcement to pick up reported runaways if the officer believes they are in dangerous circumstances. The officer can escort the child to the child's home, place the child with a responsible adult, or place the child in a temporary semi-secure facility known as a Crisis Residential Center (CRC).

Originally, the statute restricted the length of stay in the CRC to 72 hours. This time period proved to be unrealistic, and was extended to five days. There are currently 76 CRC beds in the state.

²⁹ Charles H. Shireman, *Rehabilitating Juvenile Justice*, Columbia University Press, New York, 1986, p. 123.

³⁰ Office of Juvenile Justice and Delinquency Prevention, *Juvenile Court Statistics 1991*, National Center for Juvenile Justice, Pittsburgh, PA, 1994.

Families in conflict can request services from the Department of Social and Health Services (DSHS). The 1994 Legislature directed DSHS to create and maintain a 24-hour toll-free hotline to assist parents of runaway children.

Parents of at-risk youth can request assistance from the court in supervising and caring for a child whose behavior is beyond their control and substantially endangers the child or another person. If granted, the At-Risk Youth Petition allows the court to order the youth to stay at home and meet certain conditions, and can result in detention for up to seven days. In 1992, 225 of these petitions were filed in Washington State.³¹

What Are Other States Doing?

Runaways and other status offenders continue to pose difficult policy questions for state policymakers. In 1989, the Office of Juvenile Justice and Delinquency Prevention in the U.S. Department of Justice reviewed the national deinstitutionalization of status offenders and concluded the following:

"Deinstitutionalization has emancipated children, essentially allowing them to live wherever and however they choose. It has prevented authorities from effectively controlling and protecting runaways. Deinstitutionalization has too often meant, not transferring youth from reform schools to caring environments, but releasing them to the exploitation of the streets. Moreover, youth may be spared a criminal record for the act of running away, but life on the street often leads to the same end. Many runaways are arrested and ultimately enter the judicial system, no longer as status offenders, but as criminal offenders--facing charges for crimes committed in order to survive. In other words, deinstitutionalization may only be postponing the inevitable for many of these youth."³²

Almost every state has decriminalized status offenses, frequently creating an alternative form of legal control such as Persons, Families, or Children in Need of Supervision or Services (PINS, FINS, CHINS or CHIPS). Examples of states with these statutes are **New York, New Mexico, and Minnesota**. Typically, the initial response of the state is to offer services to the child and family. Courts usually have the option to order compliance with their orders and can require confinement when individuals do not respond.

New Jersey revised its juvenile code in the late 1980s to create a mechanism called "Juvenile-Family Crisis Intervention Units." These units apply a social service model to cases involving truancy, runaways and related family conflicts. In 1990, over 11,000 cases were handled by these units. Most units are operated by county executive agencies or mental health centers, the others by court intake services.

³¹ Source: Telephone conversation with Rosalie McHale, Governor's Juvenile Justice Advisory Committee, 1994.

³² Office of Juvenile Justice and Delinquency Prevention, "Assessing the Effects of the Deinstitutionalization of Status Offenders," Washington D.C., 1989.

By statute, all community resources must be "exhausted" before court petitions in this state are allowed. A 1989 study indicated that about 10 percent of the cases referred to the units resulted in later court hearings. Failure to comply with a court order can result in civil contempt, and some judges use incarceration to force compliance.

In **Illinois**, law enforcement agencies can pick up runaway youth and have up to six hours to resolve the situation. By the end of the six hours, law enforcement has to turn the youth over to a crisis intervention unit within the county. If the situation is not resolved within 21 days, the youth has to be sent to court. The state is divided into 19 youth service planning areas that receive funding by a specific formula related to population and poverty. A 24-hour crisis intervention system is set up in each area, with access to nonsecure beds. Community networks of public and private organizations pool resources and try to positively influence youth.

In many cities, the options of street kids are being limited through curfew ordinances and other measures that restrict loitering, panhandling, and sleeping on the streets.

Many youths who formerly would have been processed as status offenders, especially those whose parents have resources or insurance, have been treated and confined in private mental health and chemical dependency programs. Anecdotes about parents in states other than Washington who "lock up" children at serious risk are usually from states where parents can involuntarily commit children up to age 18 because of mental health or substance abuse impairment.³³

³³ James W. Ellis, "Volunteering Children: Parental Commitment of Minors to Mental Institutions," *California Law Review*, 62, 1974, pp. 840-916.

5. ***How should the juvenile justice system respond to minor delinquent behavior?***

History and Purpose

From the late 1960s to the early 1970s, federal commissions were created and legislation passed to reduce juvenile delinquency.³⁴ The major reforms included decriminalizing status offenders, removing youth from adult jails, and using community-based treatments by nonjustice agencies for minor offenders. This community-based treatment effort became known as *diversion*. Diversion represents an informal response by the juvenile justice system for first-time, minor offenders. The youth is required to "stay out of trouble," attend certain treatment programs and perform community service. Diversion has five purposes:

- Reduce the number of children processed through overburdened courts.
- Avoid the negative effects of labeling youth as offenders.
- Reduce recidivism rates among juveniles.
- Promote a sense of community responsibility for youth.
- Provide financial relief for government by reducing processing costs.

Controversy

In considering early interventions with delinquents, two opposite philosophies predominate. The first argues that initial criminal activity requires a quick and clear response, thus teaching consequences. The second asserts that this activity should be basically ignored (normalized) because it is harmful to the juvenile to be labeled as a delinquent. Malcolm Klein summarized the conflicting theories of deterrence versus labeling:

If we sanction, we apply labels: bad!
If we sanction, we deter: good!
If we normalize, we don't label: good!
If we normalize, we don't deter: bad!³⁵

³⁴ The President's Commission on Law Enforcement and the Administration of Justice, 1967; the Youth Development Delinquency Prevention Administration (1972), and subsequent federal legislation (the Juvenile Justice and Delinquency Prevention Act of 1974) and Amendments.

³⁵ Malcolm W. Klein, *A Judicious Slap on the Wrist: Thoughts on Early Sanctions for Juvenile Offenders*, in Susan E. Martin (ed.), *New Directions in the Rehabilitation of Criminal Offenders*, National Academy Press, Washington D.C., 1981, pp. 376-393.

Evaluation Research

Diversion programs have been rigorously evaluated across the country. A 1986 study analyzed 103 studies regarding diversion and concluded that the research did not provide "substantial evidence for the efficacy of diversion. Diversion interventions produce no strong positive or strong negative effects with youth diverted from the Juvenile Justice System." The authors also concluded:

- The younger the diversion client, the more likely the intervention will have a positive effect.
- The greater the number of contact hours between the youth and the service worker, the greater the positive effect.³⁶

Several authors have examined whether diversion programs contribute to "net-widening," that is, the provision of services and sanctions to a population that otherwise would not receive further government intervention.³⁷ A 1993 article examined diversion programs in Florida and concluded that diversion programs emphasizing treatment and rehabilitation do contribute to net-widening, but programs that emphasize crime control do not.³⁸

Washington's Practices

In most states, the local probation officer has discretion to decide which individuals will be referred for diversion. In **Washington**, however, decisions regarding diversion are structured by statute, and cover eligibility, procedures, and duration. As with sentencing guidelines, Washington represents a more structured approach to decision-making.

Washington's 1994 Legislature restricted the eligibility for diversion and placed new requirements on youth to be diverted.³⁹ Diversion staff are now required to consult with the offenders' parents when entering into the diversion contract. The legislature also authorized community accountability boards to act as diversion units.

³⁶ Genscheimer and Associates, "Diverting Youth From the Juvenile Justice System: A Meta-Analysis of Intervention Efficacy," in S.J. Apter and A. Goldstein, eds, *Youth Violence Programs and Prospects*, Pergamon, Elmsford, New York, 1986.

³⁷ William S. Davidson, "Diversion of Juvenile Offenders: An Experimental Comparison," *Journal of Consulting and Clinical Psychology*, Vol. 55, No. 1, 1987, pp. 69-75.

³⁸ John R. Fuller and William N. Norton, "Juvenile Diversion: The Impact of Program Philosophy on Net Widening," *Journal of Crime and Justice*, Vol. XVI, No. 1, 1993, p. 29.

³⁹ Offenders can only have two prior diversions, rather than three, and cannot have a firearm allegation.

Diversion Practices In Other States

In **Colorado**, the prosecutor decides which delinquents should be diverted. Juveniles with a prior diversion or court action are not eligible. After conferring with the juvenile and the family, the prosecutor sets the conditions of the diversion agreement, which is statutorily limited to six months. The juvenile must admit guilt before entering into the agreement.

New York places responsibility for diversion with the county juvenile probation officer, who decides which juveniles to divert and under what conditions. "Designated felony acts" are exempt from diversion, as are juveniles with prior diversions for other serious acts. Probation officers may require an admission of guilt before entering into a diversion agreement. Agreements may last for two months, with an option for two more months with the court's permission.

In **Minnesota**, the diversion decision rests with either the county probation officer or the county attorney, depending on the county. The youth's admission of guilt is not required for the diversion agreement. The lengths of the agreements are set by each county.

In **Oregon**, the county juvenile probation officer has responsibility to decide which offenders should be diverted and to set the conditions. Diversion is an option for youth charged with both misdemeanors and felonies. In cases where a juvenile does not comply with the diversion order, the length of the diversion agreement can be extended or a petition filed to take the matter to court.

Several groups in **Oregon** are now reviewing their state's juvenile justice systems. A legislative task force is likely to propose that diversion be limited to misdemeanors, and an admission of guilt be required.

Ohio is one state that has not developed a statewide diversion program. Crowding at the state institutions for juvenile offenders (180 percent of capacity) has caused the state to investigate diversion options. Pilot diversion programs are being implemented in selected counties.

In **New Mexico**, probation officers decide which delinquents are diverted. A confession can be required before a youth enters a diversion agreement. Felony offenders cannot be diverted, nor can youth with two previous diversions.

6. How does the executive branch control resource expenditures when the judicial branch has broad authority in sentencing juveniles?

In recent legislative sessions in **Washington**, various proposals to amend the juvenile sentencing system have been debated. Most of these proposals increase judicial flexibility. The potential costs associated with this statutory change have been a topic of concern, since most proposals set the "ceiling" higher.

Various mechanisms to control resources exist in each state. Some work better than others. The most typical arrangement vests the judicial branch with authority, but the judge acts on the recommendations of the executive branch, typically a probation officer. The probation officer's recommendation is based on available placement beds and funds. Before Washington State enacted its 1977 reform, a similar decision-making structure existed here.

Resource allocation between state and local governments also varies by state and significantly influences placement decisions for individual youth. Washington juvenile courts, for example, treat and care for most of the state's juvenile population at the county level. In other states, such as **New Mexico**, juvenile services for adjudicated delinquents are consolidated in a single state agency.

The following description is divided into state systems and combined state and county systems.

STATE SYSTEMS:

In **Maryland**, judges have broad judicial authority to determine placement of juvenile offenders. Cooperative efforts between the state Department of Juvenile Services and courts regarding placement keep the department within budget, while providing judges with disposition and placement options.

The courts order juveniles to a certain level of care (such as group homes, community-based care, or institutionalized care) but the state agency arranges placements in specific facilities. State department probation officers make recommendations on available resources. Representatives from the probation department and the state judges' association meet once a month to discuss and coordinate their respective needs. This cooperation has resulted in a climate where judges usually accept probation officers' recommendations and approve the department's releases. Thus, the department is able to operate within its capacity and budget.

New Mexico is a state system, sharing placement authority between the courts and the state Children, Youth, and Families Department. Delinquents can be adjudicated through a FINS (Families in Need of Services) proceeding or a delinquency proceeding. For FINS proceedings, the courts order a program of services and sanctions based on the department's recommendation. Once a juvenile is committed, the department determines placement and other terms of commitment. In addition, the department can transfer delinquents placed in correctional facilities to a FINS program after court approval. For FINS cases, the department may use up to 25 percent of its general fund to contract for services with county and private providers.

In delinquency proceedings, a state probation officer recommends placement. A judge can order placement in group home care (primarily a private agency) or in a department-operated treatment center for youth with special needs. Also, the legislature has granted the courts two choices for institutional care: short-term commitment for one year, of which up to six months may be in institutional care; or a long-term commitment of no more than two years in institutional care. The department, thereafter, determines placement. The courts may also place delinquent youth on probation under the department's jurisdiction and supervision.

Recently the **New Mexico** legislature authorized "shock incarceration" as a condition of probation, allowing the courts to place juveniles in a local state-operated detention facility for up to 15 days.

In **Oregon**, cooperative efforts between the state Children Services Department and the courts determine placement for youth. The juvenile court can order placement in private "substitute care" (group homes) to the department. Typically this decision is based on a probation officer's recommendations after discussion with state agency representatives. The department staff decide on the specific facility and later recommend when the juvenile will be released.

Upon a youth's commitment to secure custody, the department places the individual in a training school or a forestry camp. However, the legislature has mandated that the department not exceed its capacity of 523 beds, a figure set by statute. Individual counties are allotted a maximum number of beds based on their at-risk juvenile population, with exemptions for certain serious offenders. When an individual county exceeds maximum allotment, the state and probation department negotiate which juvenile will be released to make room for the new commitment.

In **Florida**, the court orders commitment to the state department and the state uses a risk assessment guide to determine one of five levels of placement. These levels include non-residential treatment, foster or group home, forestry camps, physically-secure residential facilities, and high risk physically-secure residential facilities.

Florida relies heavily on privately-operated facilities for all levels of security, with the majority community-based and not physically secure. The number of private beds is

increasing rapidly as Florida meets the increased demand for institutional beds through contracts with privately-run facilities.

In **Ohio**, juvenile courts have the authority to commit juveniles to the state Department of Youth Services for placement. Placement with county providers depends on county resources. Due to the lack of resources at the county level, the courts have relied upon commitment to the state for all youths committing felony offenses. For sanctioning misdemeanants and for placement in group home care, courts can commit to the Department of Social Services or use limited county resources.

Upon a youth's commitment to Youth Services, the department determines placement based on a classification system which considers prior offenses, committing offenses and special needs. All youths committed to the department may, at the discretion of the department, be institutionalized to age 21, although very few are. The legislature has established minimum periods of institutionalization for serious offenders that determine placement in secure facilities.

Ohio's courts have requested more options for placement at the county level, as an alternative to committing less serious juveniles to state institutions. (Ohio's Department of Youth Services has been operating at up to 180 percent of capacity). In response, the department has begun to provide large grants--75 percent of their operating budget--to counties as an incentive for judges to order care and treatment for youths in a community setting and to avoid operating over capacity. For every juvenile committed to the department, however, funding is taken back from that judge's county.

COMBINED STATE AND COUNTY SYSTEMS:

In **Colorado**, the courts can order services and care (treatment and group homes) from the county and the state. County probation officers make disposition recommendations to the court, taking into account available resources. If the courts order services from the county or a private agency, a probation officer coordinates the place of care.

The state Department of Youth Services must admit all youth committed by the court. After a 30-day assessment, the department has the authority to release youth, and the responsibility to provide aftercare. Once a youth is committed to the department, his or her placement is determined by the department's disposition guidelines based on individual risk factors (age, delinquency history, and social/psychological factors). The legislature has established minimum sentences for serious offenders which determine a placement in a secure facility. The most serious offenders, however, are typically waived to adult court.

Recently, the Colorado Legislature authorized a form of "shock incarceration," allowing judges to order a youth to a detention facility for up to 10 days before ordering a further disposition. In these cases, even though a juvenile is sentenced to a state department-operated facility, the courts retain jurisdiction.

In **New York**, the courts can order dispositions for delinquents through a PINS (Persons in Need of Services) petition or through delinquency proceedings. PINS' delinquents can be committed to a county department of social services for placement in group homes or residential treatment facilities or to the State Division for Youth for placement in a restrictive residential facility.

The state division operates a variety of facilities, from physically secure institutions to community-based minimum security facilities. Placement along the continuum of facilities depends upon several factors. These include the court order, the division's assessment of a youth's risk factors and program needs, and statutory provisions for serious offenders. In addition, the division may make placements for persons adjudicated in adult court under age 16, for youths 16 to 19 years old sentenced to probation by the adult courts, and for 16 and 17 year-old youths sentenced to boot camp.

In **Minnesota**, the counties are responsible for much of the care and treatment of juveniles. The courts can order group home care by either directly making a placement under the supervision of a probation officer, or by transferring custody to a county agency for placement. Delinquents can be committed to either the Department of Corrections or the Department of Health Services. Delinquents committed to Health Services must also have received a CHIPS (Child in Need of Protection or Services) disposition. Health Services can place a youth in a variety of public and private residential treatment centers.

Upon commitment to the Department of Corrections, a juvenile's placement is determined by a sentencing "grid" created and adopted by Corrections. The grid is based on delinquency history and commitment offense. All juveniles are initially placed in one of the two state institutions. Corrections may also place juveniles in group homes or contract with the counties for placement in detention facilities. Juveniles adjudicated under the new category of Extended Jurisdiction Juvenile may be placed in an adult correctional facility by Corrections if the juvenile violates the condition of the juvenile disposition.

7. Who determines a juvenile offender's length of stay in an institution?

Across the United States three models of decision-making exist for juvenile sentencing: legislative, executive, and judicial. In 1991, a survey of states conducted by the Texas Youth Commission found twenty-eight states provided judges with "little or no" authority to determine a juvenile's length of stay. Further, the Commission found that only five states granted judges "much or total" authority. The remaining 18 states shared authority between the judicial and executive branch.⁴⁰

While most states have a mixture of determinacy and discretion, a few states still stand out. For instance, **Washington** is the only state to legislatively determine sentences for *all* delinquencies. **Rhode Island**, on the other hand is the only state identified in the Texas Youth Commission's study where judges have total authority in determining a juvenile's length of stay without any control from the legislative or executive branch.

In some states, restrictions on institutional capacity can determine a juvenile's length of stay. For example, **Oregon** and **Iowa** have legislatively-mandated controls on capacity, while **New Hampshire** is under a federal court order not to exceed capacity.

The following description of states is divided into those with primarily legislative, executive, and judicial authority.

LEGISLATIVE AUTHORITY:

In **Washington**, the courts order juvenile sentences within the structure of a statutory sentencing grid. The grid covers all juvenile delinquencies and is based on a juvenile's delinquency history, age, and severity of offense. The Juvenile Rehabilitation Administration in Washington's Department of Social and Health Services has the authority to determine the release date for juveniles who have completed 60 percent of their minimum sentences; however, release must occur between the minimum and maximum sentence length established by the statutory grid.

EXECUTIVE AUTHORITY:

New York's Division for Youth determines a juvenile's length of stay, but the statute authorizes judges to order type of placement (secure or non-secure) for short periods of time. The statute mandates minimum sentences for serious crimes. If the statute does

⁴⁰ Texas Youth Commission Research and Planning, *Juvenile Sentencing in the United States: A Survey*, 1991, pp. 4-5.

not apply, the state Division assesses each youth's risk and need for services to determine length of stay.

In **Utah**, the Division of Youth Corrections has the authority to release juveniles from commitment. A juvenile's length of stay is determined in an observation and assessment facility. Youth are placed in such a facility either by the courts, as a means to identify appropriate placements, or by the Division. A juvenile's eligibility for secure detention also influences length of stay. The department's administrative code has a list of "holdable offenses" for which youth can be placed in secure detention.

In 1994, the Utah legislature authorized courts to order "shock incarceration" for juveniles, allowing 10 to 30 days detention in a Division detention facility.

In **Minnesota**, juveniles face determinate sentences if committed to the Department of Corrections. The department's sentencing grid is based on the severity of the committing offense and delinquency history. Also, a juvenile adjudicated as an Extended Jurisdiction Juvenile (EJJ) receives both a juvenile and adult disposition. An EJJ's adult sentence is based on Minnesota's determinate adult sentencing grid. However, the adult sentence is "stayed" (held in abeyance) upon a youth's compliance with the juvenile disposition and may never be activated.

Colorado's Division of Youth Services determines a juvenile's length of stay through the use of disposition guidelines based on individual risk factors. The legislature has established minimum sentences for serious offenders, although the most serious offenders are usually waived to adult court.

The **Florida** Juvenile Court orders commitment to the state Department of Health and Rehabilitative Services. The Department has discretion in determining a juvenile's length of stay, except for certain serious offenders who must serve a sentence of between 18 and 36 months as determined by the legislature.

New Mexico's juvenile court has two options when committing an offender to a juvenile institution: a short-term commitment of one year or a long-term commitment of up to two years. State law allows the Children, Youth, and Families Department to place a youth given a short-term commitment in a training institution for up to six months. All youths given a long-term commitment must serve their sentence in a juvenile training institution unless paroled. "Serious Youthful Offenders" may receive a juvenile or an adult sentence.⁴¹ If a juvenile sentence is given, the department may retain jurisdiction and extend the youth's length of stay until age 21. If an adult sentence is given, adult sentencing guidelines apply.

⁴¹ The *Kent* criteria must apply for an adult sentence to be ordered. These criteria are derived from case law.

In **New Hampshire**, the courts determine a juvenile's length of stay. All terms are indeterminate. The legislature has mandated that the state Bureau of Residential Services must admit all Part 1 felony offenders (the most serious offenders), but has authorized the Bureau to release juveniles before a court-ordered release date. The Bureau is charged \$100 per day, per child over their 107 capacity by a federal court order. The court order authorizes the Bureau to deny admittance to youths--excluding Part 1 offenders--in order to maintain capacity.

In **Oregon**, the courts order an indeterminate sentence. The State Department of Children's Services cannot hold a juvenile longer than an adult incarcerated for a similar charge. Length of stay may also be limited by a statutory control on institutional capacity. Once the state reaches its capacity, the courts and the state negotiate to decide which juveniles will be released early.

JUDICIAL AUTHORITY:

In **Maryland**, the juvenile courts have the authority to sentence all juveniles for an indeterminate period of time. The state Department of Juvenile Services recommends a date of release based on an individualized assessment. The courts and the department rely on a high degree of cooperation at all points in the juvenile justice system to determine a youth's length of stay.

In **Rhode Island**, a juvenile's length of stay is decided by the family court judge. The state Department of Children, Youth, and Families must get permission from the family court to make any changes to a youth's rehabilitation plan or length of stay. The result is that Rhode Island's Juvenile Corrections Services has doubled its budget for the last biennium and is under a federal court order to ensure minimum standards of care.

In **Ohio**, the courts determine a youth's length of stay. The Department of Youth Services must admit all felony offenders and obtain court approval before releasing a juvenile. The legislature mandates minimum length of stays for murder; however, many youth are released before this minimum through a statutory process which requires court approval. In addition, the department has the authority to release a juvenile into community-based care 90 days before the end of the sentence.

In **Iowa**, the courts determine a juvenile's release date. However, the legislature has mandated that the state's juvenile institutional population not exceed a 277-bed capacity. Once the state reaches capacity, the Division of Adult, Children, and Family Services supplies the committing court with a list of youths for the courts to release. The courts choose which youth is released or the department determines which youth is released.

8. Should the juvenile court have authority to order a juvenile's parents to behave more responsibly?

The juvenile court has four potential roles in enforcing parental responsibility for their children:

- Requiring parents to ensure that their children get somewhere (school, treatment, work).
- Requiring that parents seek treatment for their own deficits which contribute to the child's delinquency.
- Requiring that parents participate in the processing of their child's case.
- Requiring that parents pay restitution, or pay for the child's services or confinement.

The offense of contributing to delinquency was first incorporated in the 1903 Colorado juvenile law, and now exists in 42 states and the District of Columbia.⁴² Such statutes are usually justified "under the broad purpose...to stamp out juvenile delinquency at its roots."⁴³ Two major types of parental-responsibility laws exist: financial liability and irresponsibility sanctions in criminal court.⁴⁴ These two areas of law are discussed:

FINANCIAL LIABILITY:

Washington's 1994 Legislature required parents to pay the costs of juveniles committed to the Department of Social and Health Services. The court was given authority to order parents to pay for confinement and treatment at the county level.

In **Oregon**, parents are responsible for the costs of residential care. Some counties enforce this requirement and others do not. Typically, it is enforced only for placement in private facilities, not state institutions. If the court finds that a parent's conduct contributed to the problems exhibited by a juvenile, he or she can be ordered to participate in court-ordered services. This statute is rarely used.

Parents in **Florida** can be ordered to pay the costs of court fees, detention, placement, and court-ordered services, according to their ability to pay.

⁴² Gilbert Geis and Arnold Binder, "Sins of Their Children: Parental Responsibility for Juvenile Delinquency," *Notre Dame Journal of Law, Ethics, and Public Policy*, Vol.5, Issue 2, 1991, p. 305.

⁴³ Quoted in: Geis, *Sins of Their Children*, p. 306.

⁴⁴ S. Randall Humm, "Criminalizing Poor Parenting Skills as a Means to Contain Violence By and Against Children," *University of Pennsylvania Law Review*, April 1991, pp. 1123-1161.

The courts in **Ohio** have jurisdiction over parents upon juveniles' second delinquency. The courts can order a recognizance fine of up to \$500 from the parents, conditional upon the juvenile completing probation orders.

Colorado recently enacted a law requiring judges to order parents who are financially able to pay the costs of out-of-home care, probation ordered services, and parole.

PARENTAL IRRESPONSIBILITY SANCTIONS:

Examples of these statutes include a 1990 Florida law subjecting parents to a five-year prison term and a \$5,000 fine if a child uses a gun that has been left around the house.⁴⁵ In Baltimore, a judge ordered a mother to a 10-day jail term for her daughter's truancy and failure to meet with school officials. California's Street Terrorism and Prevention Act (1990) allows parents to be arrested if a child becomes a suspect in a crime and the parents have knowingly failed to control or supervise him or her.⁴⁶

In **Minnesota**, **New York**, and **New Mexico** parents can be ordered to participate in (and pay for) some services and programs ordered through CHINS, PINS, or FINS proceedings.

⁴⁵ Florida Statutes Annotated §754.05 West Supp. 1990.

⁴⁶ *New York Times*, July 20, 1989, (West Coast ed.), at A4, col. 3.

9. Should juveniles accused of committing serious crimes be sent to adult court?

Compared with adult courts, juvenile courts have more limited sanctions that can be imposed, even for the most violent offenders. The death penalty cannot be imposed by any juvenile court in the United States. Sanctions by juvenile courts are limited by the juvenile's age. Once juveniles reach the age of majority, most exit the juvenile system. Typically, those leaving the juvenile system do so with "clean" records.

States vary in their age limits for original juvenile court jurisdiction. The following table organizes the states by the juvenile's age. (Appendix A organizes the states by the lower age of delinquency jurisdiction.)

**TABLE 3
MAXIMUM AGE OF ORIGINAL COURT JURISDICTION⁴⁷**

Age*	States
18	Alabama, Alaska, Arizona, Arkansas, California, Colorado, Delaware, District of Columbia, Florida, Hawaii, Idaho, Indiana, Iowa, Kansas, Kentucky, Maine, Maryland, Minnesota, Mississippi, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Dakota, Tennessee, Utah, Virginia, Washington , West Virginia, Wisconsin, Wyoming
17	Georgia, Illinois, Louisiana, Massachusetts, Michigan, Missouri, South Carolina, Texas
16	Connecticut, New York, North Carolina, Vermont

* Jurisdiction ends at this age.

⁴⁷ Offenses statutorily excluded from juvenile court jurisdiction and age of decline are excluded from this table. In addition, 46 states and the District of Columbia have special circumstances for which juvenile court jurisdiction extends beyond original exclusive jurisdiction.

PROVISIONS FOR PROSECUTING JUVENILES AS ADULTS:

Virtually every state has a mechanism for prosecuting some juveniles as adults.⁴⁸ In 1992, juvenile courts in the U.S. transferred 11,700 cases to criminal court, a 68 percent increase since 1988.⁴⁹ These mechanisms fall into two categories: judicial waiver, and legislative offense exclusion. With the waiver, the judge is given discretion to consider the particular juvenile and his or her amenability to treatment and threat to public safety. The exclusion of offenses by the legislature defines specific crime categories, sometimes in combination with particular ages, and requires that those offenses be handled in adult court. In this category, the prosecutor must file the case in adult court.

As states have amended their laws regarding juvenile court jurisdiction, some have also made statutory provisions regarding where juveniles sentenced as adults shall serve their confinement. In some states, the juveniles are confined in the same facilities with adults. In others, the juvenile starts in the juvenile system until reaching the age of majority, at which time he or she is transferred to the adult institution.

In **Washington**, a juvenile offender is prosecuted as an adult if the juvenile is 16 or 17 years old and the alleged offense is either a serious violent offense or a violent offense and the juvenile has a certain criminal history. In these situations, a decline hearing is not held. (This law expires in 1994 if the voters do not approve Referendum 43.)

In **Oregon**, both the filing and judicial decision regarding waiver are discretionary. The prosecutor decides whether to file, and the judge whether to approve it.

A consideration of waiver in **Florida** can be initiated by any party, including the juvenile. The action is heard by the judge. The state's attorney can file directly in adult court for juveniles who are 16 and 17 who are arrested for a felony. As of January 1, 1995, the state attorney must prosecute any juvenile as an adult if he or she has three prior felony adjudications and three prior residential commitments.

The 1994 **Minnesota** Legislature created a hybrid category for "Extended Jurisdiction Juveniles," a special legal status for serious youthful offenders. Under this law, the juvenile is given both an adult and juvenile disposition, with the adult sentence stayed on the condition that the juvenile not violate the juvenile disposition order. The juvenile is under the court's jurisdiction until age 21.

New York and **New Mexico** do not have a waiver statute. New York excludes certain serious crimes at certain ages from juvenile court's original jurisdiction. In New Mexico, individuals 16 or older charged with first degree murder are encompassed within the adult system. In addition, someone adjudicated as a "youthful offender" may be given a full adult sentence if the criteria specified in relevant case law (Kent criteria) are met.

⁴⁸ Feld, p. 233.

⁴⁹ Most of the cases transferred were drug cases. See "Juvenile Court Caseload Rising," *Criminal Justice Newsletter*, Vol. 25, No. 15, August 1, 1994, p. 6.

EVALUATION RESEARCH:

Several studies have been conducted of juveniles processed in the adult system. A nationwide survey of judicially-waived juveniles revealed that the majority were property offenders and received probation. In contrast, in states where serious offenses and offenders were targeted for legislatively-mandated waivers, studies have shown that the resulting sentences were far more serious than those that would have been received in juvenile court.⁵⁰

Two studies have investigated whether waiver statutes have deterrent effects. A 1988 study of New York's legislative waiver statute concluded that the law had no effect on homicides, assaults, rapes, or arsons, but may have prevented robberies from increasing.⁵¹ A study of a 1981 legislative waiver statute in Idaho concluded that the law had no effect on rates of juvenile violent crime.⁵²

CONFIDENTIALITY OF JUVENILE RECORDS:

Along with transferring some juveniles to adult court, many states are changing their confidentiality laws so access to juvenile records is allowed if a person continues committing crimes into adulthood.

⁵⁰ Feld, pp. 242-243.

⁵¹ Simon Singer and David McDowell, "Criminalizing Delinquency: The Deterrent Effects of the New York Juvenile Law," *Law and Society Review*, Vol. 22, pp. 521-535.

⁵² Eric Jensen and Linda Metsger, "A Test of the Deterrent Effect of Legislative Waiver on Violent Juvenile Crime," *Crime and Delinquency*, Vol. 40, No. 1, January 1994, pp. 96-104.

10. What is an appropriate balance between institutional and community beds for juvenile offenders?

The proportion of juvenile offenders that are housed in correctional or treatment facilities varies greatly among the states, as does the proportion of beds that are institutional beds (training schools) or community-based (typically, a home-like facility located in a neighborhood).

A state's use of institutional beds for juveniles is influenced by two statutory factors:

1) the ages of jurisdiction for juvenile court and 2) the extent that juveniles are transferred to adult court. When the older, most serious juveniles are handled by the adult system, the juvenile system's need for institutional beds is reduced.

The states researched in this study varied greatly in their use of institutions and community-based care. (Table 6, p. 39, summarizes the types of juvenile beds available in each state).

New Mexico and **Ohio** are examples of states with an emphasis on institutionalized beds. Other states, such as **Minnesota** and **New Hampshire**, have an orientation towards community-based care. **Utah** and **Oregon** balance the number of beds between institutions and community-based care. **Washington's pattern lies in the middle of the states.** Table 4, below, compares the ratio of institutional and community beds in the states reviewed in this study.

TABLE 4
JUVENILE JUSTICE FACILITIES: RATIO OF BED TYPE

STATE	INSTITUTIONAL BEDS	COMMUNITY BEDS
Colorado	2.8	1.0
Florida	1.0	2.6
Minnesota	1.0	5.6
New Hampshire	1.0	6.2
New Mexico	3.9	1.0
New York	1.0	2.4
Ohio	5.0	1.0
Oregon	1.0	1.0
Utah	1.0	1.0
Washington	2.5	1.0

11. Are ethnic minorities overrepresented in the juvenile justice system and disproportionately confined?

In 1992, 80 percent of the nation's juvenile population was white and 15 percent was black. Black youth, however, were involved in 31 percent of delinquency cases, with white youth involved in 65 percent.⁵³

Cohen and Luegel, researchers in the area of racial bias, have suggested three methods for drawing conclusions about bias in the juvenile justice system:

1. By observing *direct effects of race* where non-caucasians receive more serious dispositions, while controlling for legal factors such as offense seriousness and prior delinquency history.
2. By determining an *interaction between race and legal factors* which may indicate minorities receive harsher dispositions for the same legal factors.
3. By observing *indirect race effects* through other factors considered 'race stereotypical,' such as the higher rate of single-parent households in some minority communities correlated with harsher dispositions.⁵⁴

A study of juvenile court data from 17 states, for the period of 1985 to 1989, found that non-white youth are more likely to be referred to and petitioned in court, to be detained, and to be placed outside the home. This disparity increased from 1985 to 1989.⁵⁵

A 1993 study of racial disproportionality in **Washington's** juvenile justice system found that racial and ethnic disproportionality is pervasive across all stages of the juvenile justice system.⁵⁶ Youth of color are more likely to be referred, detained, prosecuted, adjudicated and confined in juvenile correctional facilities than white youth and at rates higher than would be expected given their numbers in the population.

The study found that over-representation is not an equivalent problem for all minority groups. In most situations, black youth appear to be more over-represented than other groups. Hispanic youth also tend to be more over-represented.

⁵³ Jeffrey Butts, "Delinquency Cases in Juvenile Court, 1992," Office of Juvenile Justice and Delinquency Prevention, Washington, D.C., July 1994.

⁵⁴ L. Cohen and J. Kluegal, "Determination of Juvenile Court Dispositions: Descriptive and Achieved Factors in Two Metropolitan Courts," *American Sociological Review*. 42 (2), p. 162-176.

⁵⁵ Edward F. McGarrell, *Juvenile Correctional Reform: Two Decades of Policy and Procedural Change*, Clark Boardman Company, New York, 1994.

⁵⁶ George S. Bridges, et al., *Racial Disproportionality in the Juvenile Justice System*, Commission of African American Affairs and Department of Social and Health Services, Olympia, Washington, 1993.

In general, the rate of over-representation is lowest at the arrest stage, with increasing levels of disproportionality as the juvenile justice system progresses toward one of two ends--secure confinement or transfer to adult court.

Washington's study revealed that the following factors are associated with disproportionality:

- *Higher rates of detention for minority youth.*
- *Lower rates of diversion for minority youth.*
- *Charges are less likely to be filed in cases involving white youth.*
- *Youth detained prior to adjudication are more likely to be adjudicated guilty and sentenced to confinement.*
- *Minority youth are less likely to be placed in community residential facilities.*

Other states that have investigated racial patterns in their juvenile justice systems have uncovered similar results.

The **Oregon** Supreme Court Task Force on Racial/Ethnic Issues in the Judicial System came to the following conclusion:

"It has been an axiom of popular wisdom that minority youth are simply more likely to become involved with the justice system than their non-minority counterparts. This cannot be characterized as a paranoid fantasy, nor can it be dismissed as mere 'perception.' It was confirmed more than a decade ago in the 1982 court monitoring study; it was confirmed overwhelmingly by the summary and system data analyzed by the State Commission's Phase I report. There are debates over the reason why this over-representation exists, but overwhelming evidence demonstrates that it does exist."⁵⁷

An investigation into **Missouri's** juvenile justice system identified a disproportionate number of black youth referred to juvenile courts during 1978 and 1988.⁵⁸

A report from **Ohio** noted that although the majority of juveniles that were charged with crimes were white (67 percent), every minority group except Asians were charged in numbers disproportionate to their population rates.⁵⁹

⁵⁷ *Report of the Oregon Supreme Court Task Force on Racial/Ethnic Issues in the Judicial System*, Office of the State Court Administrator, Oregon Judicial Department, Salem, Oregon, May 1994.

⁵⁸ Kimberly L. Kempf et al., *An Analysis of Apparent Disparities in the Handling of Black Youth Within Missouri's Juvenile Justice System*, University of Missouri, St. Louis, 1990.

⁵⁹ *Final Report: Juvenile Offender Based Tracking Study Followup*, Ohio Office of Criminal Justice Services, Columbus, Ohio, 1990.

A **Florida** report concluded that statewide, black youth "tended to be over-represented at every stage of the (juvenile justice) process."⁶⁰

Minnesota's Supreme Court Task Force on Racial Bias in the Judicial System found in 1993 that minority juveniles were detained at a significantly higher rate, and "detention has a direct relation to the seriousness of the disposition." In addition, the group concluded that minority first-time offenders are removed from the home in metropolitan Minnesota at disproportionate rates.⁶¹

Georgia's review of racial patterns covered 1988 cases. The analysis revealed that outcome was significantly influenced by the severity of the youth's current charge and the extent of prior contact with the juvenile system. Black youth tended to have more prior contact and to be arrested for more severe offenses.⁶²

⁶⁰ *Minority Over-Representation Initiative for Florida*, Department of Health and Rehabilitative Services, Florida, July 1993.

⁶¹ Minnesota Supreme Court Task Force, "Minnesota Supreme Court Task Force on Racial Bias in the Judicial System," *Hamline Law Review*, Volume 16, Number 3, Spring 1993.

⁶² L.L. Lockhart, P.D. Kurtz, R. Stutphen, and K. Ganger, "Georgia's Juvenile Justice System: A Retrospective Investigation of Racial Disparity," Research report to the Georgia Juvenile Justice Coordinating Council: Part 1 of the Racial Disparity Investigation, School of Social Work, University of Georgia, 1990.

APPENDIX ONE: SUPPORTING DATA

Lower Age of Juvenile Court Jurisdiction: Only nine states statutorily define the lower age of juvenile court jurisdiction for delinquents. Other states establish a youth's age of capacity through case law or common law.

Of the nine states, six established capacity at age 10: Colorado, Kansas, Mississippi, Pennsylvania, Texas, and Vermont. Massachusetts and New York establish a youth's age of capacity for delinquent acts at age 7. Wisconsin's definition of a delinquent youth begins at age 12.⁶³

Of the states establishing the lower age of jurisdiction in common law, 18 states set this age at 12 years old.

**TABLE 5
LOWER AGE OF JUVENILE COURT JURISDICTION⁶⁴**

Age	States (Number of States) ⁶⁵
7	New York, Massachusetts (2)
8	Arizona (1)
9	Montana, District of Columbia (2)
10	Delaware, Georgia, Minnesota, Mississippi, North Carolina, Pennsylvania, South Dakota, Texas, Utah, Vermont, Virginia, West Virginia (12)
11	Illinois, Maine, Maryland, New Hampshire (4)
12	Alabama, Colorado, Hawaii, Indiana, Iowa, Michigan, Missouri, Nevada, New Jersey, North Dakota, Ohio, Oklahoma, Oregon, South Carolina, Tennessee, Washington , Wisconsin, Wyoming (18)
13	Kansas, Louisiana (2)

⁶³ National Center for Juvenile Justice, *Lower Age of Juvenile Court Delinquency Jurisdiction (1993 Update)*, Linda Szymanski, Esq., December 1993.

⁶⁴ Information provided by Joan Scaffidi of the American Correctional Association.

⁶⁵ Eight states do not have a lower age of juvenile court jurisdiction for delinquent offenders: Alaska, Arkansas, California, Connecticut, Florida, Nebraska, New Mexico, and Rhode Island. Idaho and Kentucky did not report.

TABLE 6
JUVENILE JUSTICE STATE-OPERATED RESIDENTIAL BEDS
AVERAGE DAILY POPULATION

White spaces are publicly-operated beds. Gray spaces are privately-operated beds.

State	Type of Facility							Funding Source	
	Institutionalized Care				Community-Based Care			County	State
	Diagnostic Centers	Ranches Camps ¹	Training Schools	Total	Group Homes	Special Care ²	Total		
Colorado ³	47	27	190	264 ⁴				0	100%
		8	166	174	126	30	156		
Florida		192	85	277	983		983	0	100%
		683	258	940	1566		1566		
Minnesota ⁵		70	214	284		422	422	50% for group home care	100% (50% for group homes)
			35	35	1005 ⁶	349	1354		
New Hampshire			107	107	23		23	25% (per child)	75%
					594	45	639		
New Mexico ³	130		280	410	86	20 ⁷	106	0	100%
New York ^{5, 8}		54	626	680	1656		1656	50%	50%
Ohio		38	2276	2314		471	471	0	100%
			57	57					
Oregon		100	423	523				0	100%
					600		600		
Utah ³	69	80 ⁹	80	229	6		6	0	100%
					229		229		
Washington ³		236 ¹⁰	594 ¹¹	830	110		110	0	100%
					220		220		

(Table notes appear on next page.)

¹ Utah, Minnesota, and New York camp programs do not require that residents are committed to the state. The courts can order probation and dependent youth to the camps.

² This category includes specialized treatment centers, shelter care, proctor (foster) homes and transition beds.

³ In these states, the court can place juveniles in post-adjudication detention for short periods of time.

⁴ Colorado is currently privatizing their training schools. By the end of 1994, approximately 100 publicly-operated beds will be privately-operated.

⁵ In these states, a number of institutional beds not shown here are operated and funded by county governments.

⁶ This is a combined total of beds available for placement by county social services agencies, the Department of Corrections, and the Department of Human Services.

⁷ This home specializes in wilderness excursions and culinary arts training.

⁸ Current Division for Youth statistics were used to categorize these beds.

⁹ The total represents a combination of probation youth and Division of Youth Corrections youth.

¹⁰ Includes new 76-bed youth camp, Indian Ridge.

¹¹ Includes 62 contracted beds in county-operated detention facilities.

TABLE 7
AT-RISK YOUTH POPULATION

State	Population	Age Range
Colorado	377,504	10 - 17
Florida	1,246,245	10 - 17
Minnesota	610,906	10 - 19
New Mexico	446,741	10 - 17
New York	2,295,579	7 - 15
Ohio	1,061,979	12 - 18
Oregon	341,667	10 - 17
Utah	291,491	10 - 17
Washington	448,669	12 - 17

APPENDIX TWO: JUVENILE JUSTICE SYSTEMS IN SEVEN STATES

This section compares key decision points for seven states' juvenile justice systems. As mentioned earlier, the states were selected because they recently underwent reforms or because they represent a unique approach to juvenile justice.

The states reviewed are:

- Colorado
- Florida
- Minnesota
- New Mexico
- New York
- Ohio
- Oregon

COLORADO:

Philosophy: Care and guidance for the child is the primary legislative intent. Also included is the protection of society and the importance of strengthening family ties.

Jurisdiction: Juvenile Court has original and exclusive jurisdiction until age 18. Juvenile court jurisdiction extends to age 21 for any child adjudicated as neglected or dependent and for any child committed to the Division of Youth Services.

Custody: A law enforcement officer or probation officer may take a child into the custody of the court as is necessary for the purpose of their job.

Pre-court Detention: Intake staff at detention centers admit juveniles into detention based on court-established criteria. Each county court determines the agency responsible for detention intake.

Filing: A law enforcement officer refers cases to the district attorney. The district attorney's office then decides to file a petition in juvenile court. A law enforcement officer may also refer the case directly to the juvenile court judge.

Diversion: The district attorney's office is responsible for diversion. Juveniles must admit guilt before entering into a diversion agreement. Admitting guilt enables the district attorney to prosecute at any time for non-compliance with the diversion agreement.

Transfer: Both the juvenile court judge and the district attorney may seek transfer to adult court. For juveniles 14 years or older who are accused of violent crimes, the decision to file a waiver petition is solely the district attorney's.

Jury Trial: The accused juvenile or the district attorney may demand a jury trial, or the juvenile court judge may order a jury trial. Minor misdemeanors, petty offenses, violations of municipal or county ordinances, or violations of court orders are exempt from jury trials.

Disposition: Juvenile court judges can place juveniles in detention (up to 10 days), in group homes, on probation, or can commit them to the state Division of Youth Services (DYS). Sentencing guidelines and options defined in statute structure dispositions.

Special Offender Categories: Statute mandates an out-of-home placement for not less than one year for violent and repeat offenders (four or more adjudications for violent acts). Juvenile court judges may order an alternative disposition, and often do, for 13- and 14-year-old violent and repeat offenders. The legislature has also mandated a three-to-five year out-of-home placement for aggravated juvenile offenders defined in statute. (However, most juveniles who qualify as aggravated juvenile offenders are transferred to adult court.)

COLORADO, continued

Parental Responsibility: Juvenile court judges can order parents to participate in treatment programs in cases involving abuse and neglect. They generally do not enforce the treatment once ordered, however. Also, the legislature has mandated juvenile court judges to order parents to pay the costs of out-of-home care, probation, and parole.⁶⁶

Status Offenders (truants and runaways): Status offenders are adjudicated in the same way as juveniles who are neglected or dependent on the courts for protection and services. The courts must approve a treatment plan, usually designed by the probation department, which typically consists of group-home care and specialized treatment/counseling.

Community Supervision: The courts can order up to 10 days of group-home care as recommended by the probation department and/or district attorney. DYS may place juveniles in community supervision after a 30 day diagnosis at a state training school. Usually, however, a child is placed in community supervision only after compliance with the terms of DYS's individually-assessed disposition guidelines.

State Commitment: Juvenile court judges have discretion with some statutory mandates (see *Disposition* above). The conditions of commitment and release dates are determined by DYS. DYS staff make a "diagnosis" for a juvenile's commitment using disposition guidelines based on individual risk factors. The minimum secure supervision time is 48 hours; however, up to 30 days is allowed for diagnosis. The maximum commitment allowed under the statute is two years, except for aggravated juvenile offenders.

New Legislation: Minor changes to the Children's Code were made in the 1994 legislative session. A study begun in July 1994 will determine whether a comprehensive recodification is necessary that "will reflect today's more violent youth."

⁶⁶ This is a new law effective July 1, 1994.

FLORIDA:

Philosophy: To provide for the care, safety, and health and well being of children. Due process should be ensured, balanced with the protection of society through a combination of program services and sanctions.

Jurisdiction: Juvenile Court has original and exclusive jurisdiction until age 18. Jurisdiction extends to age 21 for any disposition ordered under the court's original jurisdiction.

Custody: Law enforcement has authority to take a juvenile into custody. Probation officers can take into custody juveniles under their supervision who violate court ordered conditions.

Pre-court Detention: Detention intake staff must consider criteria established by the legislature, along with a risk assessment instrument in deciding whether or not to hold or release juveniles referred.

Filing: The State Attorney's Office is responsible for the filing of delinquency petitions to juvenile court.

Diversion: Probation intake staff recommend to the State Attorney whether or not to divert. A juvenile can be referred to a variety of diversion programs, most conducted by private non-profit vendors. The decision is based on a combination of the charge and a risk assessment, and can include felonies. The juvenile must waive the right to a speedy trial. If the juvenile does not complete the terms of the agreement, charges are filed for court action.

Transfer: The State Attorney has the discretion to file directly in adult court for juveniles age 16 and 17 who are charged with a felony. Statute provides that a 16- or 17-year-old who commits certain serious, violent offenses will be automatically charged as an adult. Any party can file a motion requesting a transfer hearing, including the juvenile, and the court decides whether or not to grant the request and transfer the juvenile to adult court.

Jury Trials: No statutory provision.

Disposition: The court determines the suitability for adjudication and commitment to the state Department of Juvenile Justice based on legislative criteria. Juveniles not committed to the state can be placed on community supervision, where the court has broad authority to order conditions.

FLORIDA, continued

Special Offender Categories: None outlined in statute.

Parental Responsibility: The court can order parents to pay for the costs of care as they are able to pay, or participate in counseling necessary for the rehabilitation of the child.

Status Offenders: Youth who run away or who are in conflict with their parents can be placed for up to 30 days in one of 28 shelters, each housing from 8 to 30 youth. Status offenders are classified as FINS, Families in Need of Services, and are eligible for counseling and related services. If the problems are not resolved, a CINS, Child in Need of Services, petition can be filed. The court can then order the child home or back in shelter care for an additional limited time. Under new legislation, children who do not comply can be held in contempt and placed for a limited time in staff secure facilities. School administrators can also refer truants for CINS processing.

Community Supervision: Juveniles who are not committed are placed in a "Community Control Program," operated by the state probation department, or referred to "Juvenile Alternative Services" operated by a private contractor. Both include an array of services and sanctions. The legislature requires that such orders include both a penalty component and a rehabilitative component, but the court decides what each should specifically include.

State Commitment: Juveniles committed to the state Department of Health and Rehabilitative Services are not to exceed the maximum sentence for an adult convicted of a similar crime. They are then assigned to one of five risk levels established through a risk assessment process. Placement is on a continuum from non-residential intensive day treatment, foster care, group care, and staff or physically secure group care, to boot camps and institutions. The state is currently involved in a major initiative to reduce state-operated programs and increase contracts with private vendors. At present, for every juvenile in a state program, there are two in a privately-contracted program. The state's goal is to have the vast majority of juvenile delinquents, if not all, in private programs. The state determines when juveniles will be released, with the concurrence of the committing court.

New Legislation: Major juvenile legislation was passed in 1990, 1993 and 1994. The latest legislation includes comprehensive changes. Some will take effect in October 1994, and the remainder in January 1995. These include allowing sentences to local detention centers, establishing a maximum-risk residential commitment program for 18 to 36 months, requiring set minimum lengths of stay for certain programs, increasing parental responsibility, and establishing additional categories of offenders to be charged directly in adult court.

MINNESOTA:

Philosophy: The purpose of the delinquency statute is to promote public safety, reduce delinquency, and develop individual responsibility for lawful behavior by recognizing the unique characteristics of each child.

Jurisdiction: Juvenile court has original and exclusive jurisdiction until age 18. Jurisdiction extends to age 19 for any disposition ordered under the court's original jurisdiction.

Custody: Law enforcement officers have authority to take a juvenile into custody for warrants. They also have discretion in cases of criminal acts and in cases of children in need of protection. Probation and/or parole officers have authority if a juvenile has violated probation or parole.

Pre-court Detention: The probation department (local or state) operates the detention facility and, therefore, determines admittance. Police departments, through an agreement with the probation department, may also have decision-making authority over admittance to detention.

Filing: The district attorney files petitions to juvenile court.

Diversion: Depending upon the county, probation officers or prosecutors may be responsible for diversion.

*Transfer:*⁶⁷ District attorneys are responsible for petitioning a transfer to district court. Juvenile court judges may order transfers to district court for juveniles 14 years or older who have allegedly committed a felony. There is a statutory presumption of transfer if the child was 16 or 17 years old and: 1) allegedly committed an act that would result in a presumptive prison commitment--adult sentencing "grid" standards--under sentencing guidelines and applicable statutes, or 2) allegedly committed a felony while using a firearm. Juveniles may also choose to be tried in adult court (for some offenses, adult sentencing guidelines allow for two to three years' probation instead of the usual 30-60 days juvenile detention).

Jury Trial: Jury trials are allowed only in the case of Extended Jurisdiction Juveniles (see **DISPOSITION** below). A juvenile receiving an adult sentence is entitled to a jury trial.

⁶⁷ The Juvenile Justice Crime Bill of 1994 recodified the state's transfer criteria to adult court. The statute eliminates 16- and 17-year-olds from juvenile court jurisdiction if they are accused of first degree murder. The law becomes effective January 1, 1995.

MINNESOTA, continued

Disposition: Juvenile courts have a broad range of options for a juvenile's disposition. Courts refer to disposition guidelines within judicial districts (judges from the judicial districts meet to refer to each district's guidelines for statewide consistency). The guidelines apply to youths under juvenile court jurisdiction up to age 19.

Special Offender Categories: Juvenile court judges are statutorily required to impose one or more juvenile dispositions **and** an adult criminal sentence on Extended Jurisdiction Juveniles (EJJ). The adult sentence is stayed on the condition that the EJJ does not violate the juvenile disposition order. The disposition guidelines apply to an EJJ until age 21.⁶⁸

Parental Responsibility: Juvenile court judges can order parents to participate in counseling and treatment. Judges do not have the legal authority to enforce these orders unless they issue a warrant for contempt.

Status Offenders (truants and runaways): Status offenders are included in the definition of children in need of protection or services (ChIPS). The courts, upon finding that a juvenile has committed a status offense as a ChIPS youth, have broad authority in ordering dispositions. The courts may place a juvenile in specialized treatment, in a group home, or with a county welfare agency. The courts may: order counseling for the juvenile and/or parents; revoke a juvenile's driver's license; or order probation, fines, restitution, or community service.

Community Supervision: A juvenile court judge may place youth in detention, group homes, or in the custody of a child placing agency, county welfare board, or probation officer for placement and/or supervision. The Department of Corrections (DOC) and the Department of Health (DOH) may order a juvenile to a DOC group home or private community facility.

State Commitment: Commitment is discretionary with juvenile court judges. DOC releases juveniles according to a release guidelines "grid." The grid is based on an individual's history of offenses and the seriousness of the commitment offense. Secure beds for delinquent youth are operated by DOC and DOH (DOH youth must also be ChIPS youth). Both agencies also contract out for staff-secure beds.

Juveniles committed to DOC are sent directly to one of two correctional facilities. Red Wing is a combined adult/juvenile facility for males with a capacity of 170. Sauk Centre is a combined male/female facility for juveniles with a capacity of 105.

New Legislation: Significant changes were made to the juvenile code during the 1994 legislative session in response to the perceived growth in violent juvenile crime and accessibility to firearms. Some of the changes are noted above.

⁶⁸ Juvenile Justice Crime Bill of 1994, effective July 1, 1994.

NEW MEXICO:

Philosophy: The first priority is the care and protection of the child, then the preservation of the family. The legislative purpose is to provide a continuum of services and sanctions for delinquents and dependents.

Jurisdiction: Juvenile court has exclusive original jurisdiction over juveniles up to age 18. The Department of Children, Youth, and Families (DCYF) may retain custody of juveniles up to age 21 if DCYF files a petition for extension. Extensions are granted year by year.

Custody: Police officers have the authority and discretion to take juveniles into the custody of juvenile court. Probation and parole officers may take juveniles into custody for probation and parole violations upon a court order.

Pre-court Detention: The probation department is responsible for determining whether detention is appropriate. The department must abide by statutory criteria and departmental guidelines based on those criteria.

Filing: The prosecuting attorney's office is solely responsible for filing petitions to children's court. Probation officers conduct a preliminary screening. The probation officers then decide either to divert the case from court or refer the case to the prosecuting attorney's office to file a petition to court.

Diversion: A probation officer makes the decision to enter into a diversion agreement. After the third diversion, a probation officer must refer the case to the prosecuting attorney's office. Felony offenders are ineligible for diversion.

Transfer: There is no statutory provision. The statute provides that a 16- or 17-year-old who commits first degree murder is an adult defined as a "serious youthful offender."

Jury Trials: Six-member jury trials are permitted for delinquent offenses that would be triable by jury if committed by an adult. "Youthful offenders" (see **DISPOSITION** below) have the right to a full 12-member jury trial because they may receive an adult sentence.

Disposition: A children's court judge may order fines or restitution (not to exceed that ordered for adults), a variety of services for abused and neglected children, probation, local detention, or commitment to DCYF. Once committed to DCYF, staff determine the placement and terms of commitment. Judges may choose from two types of commitment: a short-term commitment of one year, of which up to six months may be in a "long-term facility"; or a long-term commitment for no more than two years in a "long-term facility."

NEW MEXICO, continued

Special Offender Categories: The children's court judge has the discretion to invoke either an adult sentence or juvenile sanctions on a "youthful offender."⁶⁹ The youthful offender may serve the adult sentence in the juvenile system until age 21 before transfer to an adult facility.

Parental Responsibility: In cases of delinquency, the court may order a parent to submit to counseling, probation or other treatment programs; participate in institutional treatment or counseling at the institution in which the child is committed; and/or pay the costs of institutionalization as the parent is financially able. In cases of a child from a "family in need of services" (FINS), courts may order parents to comply with the conditions set forth in a "plan for family services" prepared by DCYF.

Status Offenders: The FINS program is constructed to deal with all status offenders. Families may enter into a FINS program voluntarily. If families fail to participate in a recommended FINS plan, judges can order compliance (see above) or order a new plan of services.

Community Supervision: Courts can order a youth into county-operated detention for no more than 15 days, or placement in a group home. State probation officers supervise youth ordered by the court to complete community service, attend support groups or treatment programs, or long-term and short-term group-home care.

State Commitment: Commitment is discretionary with the children's court judges. DCYF determines placement, transfer, and release once committed by the court. Transfers are guided by DCYF administrative risk assessment guidelines. Release is determined by a volunteer parole board. Juveniles are eligible for parole 40 days after commitment. Releases most commonly occur to halfway houses before release into the community.

DCYF operates two "long-term" institutions. The boys' school has a capacity of 181, but an average daily population of 250. The diagnostic and development center and girls' school has 35 beds for girls, 60 beds for development programs, and 15 beds for evaluation.

New Legislation: In 1993 New Mexico's legislature completely recodified the Children's Code. The primary motivating factor was the "growing public concern about juveniles who were committing extremely violent crimes."⁷⁰ The most significant changes were made in delinquencies and children/families in need of services.

⁶⁹ A "youthful offender" is a 15- to 18-year-old adjudicated for an offense from a list of 11 serious offenses defined in the statute; a 15- to 18-year-old adjudicated for a fourth felony offense; or a 15-year-old adjudicated for first degree murder. "Chronic offenders," those with three felony adjudications, are also considered youthful offenders.

⁷⁰ Anne Kass, District Court Judge, The New Children's Code," *Young Lawyers Division Newsletter*, Young Lawyers Division of the State Bar of New Mexico, Albuquerque, New Mexico, Spring 1993, pp. 1,3,4.

NEW YORK:

Philosophy: The best interests of the child and the protection of the community are of equal importance regarding delinquency. For "persons in need of supervision" (PINS), the primary focus is on "devising the appropriate order of disposition for [the child]."

Jurisdiction: Juvenile court has exclusive original jurisdiction for juveniles up to age 16. Family court retains jurisdiction until age 21 if placed with the Division for Youth (DFY).

Custody: Police officers have the authority to take juveniles into family court custody. Probation and parole officers have this authority for probation and parole violations.

Pre-court Detention: Police officers have discretion. The detention center, operated either by the state or county, decides if a child is to be released to the parents or held for 72 hours until a family court hearing.

Filing: The probation department refers cases to the county attorney for filing. The county attorney has the discretion to file. Family court judges may, with consent from the prosecutor and juvenile, substitute a PINS petition.

Diversion: Police officers may divert cases immediately upon initial contact.⁷¹ After an arrest, probation services decides which cases will be diverted. "Designated felony acts" and other serious acts denoted in statute are exempt from diversion. Probation officers can make an agreement, upon the admission of guilt, with the child and/or family for two months with an option for an additional two months.

Transfer: There are no statutory provisions for transferring juveniles to adult court. Juveniles age 13 or older charged with second degree murder, and juveniles age 14 or older charged with serious felonies listed in the statute, are adults. Criminal court may transfer juveniles to family court.

Jury Trial: No statutory provision.

Disposition: Family courts have discretion over a juvenile's disposition. Judges receive assistance from probation officers and detention staff. Statutes determine maximum placements with DFY at 18 months for felonies and 12 months for misdemeanors. Judges have two options for disposition: probation or commitment to DFY.

⁷¹ "The police have the greatest discretion of any organization in the juvenile justice system." *Juvenile Justice Processing Study*, Division of Criminal Justice Services, Volume I, 1990, p. 45.

NEW YORK, continued

Special Offender Categories: Statute requires juveniles 13 years or older who have been adjudicated of first or second degree murder, or kidnapping or arson in the first degree, to be placed with DFY for five years. The first 12-18 months must be secure confinement, and the next 12 months must be spent in residential care. For other "designated felony acts," statute requires a three-year commitment to DFY with 6-12 months secure confinement and 6-12 months in a residential facility.

Parental Responsibility: Parents can be ordered to participate in counseling as part of a PINS disposition. Otherwise, family court does not have the authority to make parents comply with court orders.

Status Offenders: Most status offenders are diverted from court to a PINS program. Others enter into diversion agreements with the probation department. A few are sent to specialized, community-based, non-secure, private non-profit facilities.

Community Supervision: Family court judges can order a variety of conditions of probation such as community service, restitution, drug and alcohol treatment, and placement in a non-secure DFY facility.

State Commitment: Family court judges have discretion to commit juveniles to DFY with some statutory requirements (see *disposition* above). The court requests an exploration of placement--a 30-day diagnosis in a private non-profit facility--to determine the most appropriate placement. The courts may make orders determining the type of facilities in which a juvenile is placed (e.g. residential, secure, or non-secure community-based). DFY has the authority to decide placement, transfer, and release.

Persons under age 18 with adult sentences serve their time in maximum-security juvenile facilities until age 18. Between ages 18 and 21, time is served in a special secure facility. After 21, time is served in an adult facility.

New Legislation: Several groups are considering ways to amend the juvenile laws. A *New York Times* article recently reported, "...even though New York's law covers younger teenagers and more crimes than most other states do, it is rarely used and erratically applied, and almost no one seems to think it works."⁷² A governor's Commission for the Study of Youth Crime and Violence completed preliminary recommendations in June 1994 with a final report due in late 1994.

⁷² Jane Hoffman, "Quirks in Juvenile Offender Law Stirs Calls for Change," *New York Times*, July 12, 1994, p. B1.

OHIO:

Philosophy: The legislative purpose is to: a) provide for the care, protection, and development of the child; b) protect the public by removing or correcting anti-social behavior; c) preserve the family unit; and d) provide due process.

Jurisdiction: Juvenile court has exclusive original jurisdiction until age 18. A juvenile may be held in custody until age 21 if institutionalized.⁷³

Custody: Police officers have the authority to take a juvenile into custody. Probation officers can make arrests for probation violations.

Pre-court Detention: Persons authorized to take a juvenile into custody may place him or her in detention before court action if the juvenile is in danger or is dangerous.

Filing: Police officers, probation officers, parents, and prosecutors may file charges with the juvenile court.

Diversion: Less than four percent of the juvenile delinquent population is handled through informal adjustment, diversion, or treatment in lieu of conviction. As the result of recent legislation, pilot diversion programs are underway in a few counties. The agency responsible for diversion will vary according to each county when expanded statewide.

Transfer: Prosecutors have the discretion to file a petition for waiver. Waivers are permitted at age 15 when a juvenile has been charged with a felony. Murder, aggravated murder, or any felony or aggravated felony of the first or second degree are excluded from juvenile court jurisdiction, if the juvenile previously had a case waived and was convicted.

Jury Trial: Jury trials are statutorily prohibited.

Disposition: The courts can order any disposition authorized for abused and neglected juveniles (juvenile court has discretion over an expansive list of dispositions for abused and neglected juveniles), probation, commitment to a county-operated facility, or commitment to the Department of Youth Services (DYS).

Special Offender Categories: Statute requires that the minimum sentence for a juvenile adjudicated for murder or aggravated murder is until age 21. Minimum for first and second degree felonies is one year. Minimum for third and fourth-degree felonies is six months.

Parental Responsibility: Judges have jurisdiction over parents in a juvenile's second delinquency. Judges also have authority over parents as a feature of a juvenile's

⁷³ Cuyahoga County (including the city of Cleveland) has a separate juvenile court system.

OHIO, continued

probation. A judge can order recognizance bail up to \$500, conditional upon the juvenile completing probation orders.

Status Offenders: The court may make any disposition authorized for abused and neglected juveniles, order probation, suspend the juvenile's drivers license, or--if adjudicated for drug/alcohol offenses--order drug/alcohol treatment.

Community Supervision: The courts have the authority to place juveniles in private non-profit programs and facilities, or in county-operated programs and facilities.⁷⁴ They may order restitution, community service, or detention as a component of probation.

State Commitment: To be committed to a DYS institution, a juvenile must be adjudicated for a felony or capital offense. A juvenile may not be committed to DYS for a misdemeanor without a prior felony adjudication. DYS places the juvenile based on a classification system which considers prior offenses, severity of offenses, and special program/service needs.

A juvenile may remain institutionalized by DYS until age 21 at DYS's discretion, although very few actually are. Many youth are released before the "minimum period" (see *disposition* above), through a statutory process which requires approval of the committing court.

New Legislation: Following major reform in 1993, judges are now authorized to place less serious offenders in a community setting. The state is now responsible only for serious offenders and chronic repeat offenders. Previously, the juvenile courts sent most juveniles to DYS for confinement and treatment, resulting in DYS operating at 180 percent of capacity. The new legislation allows for DYS to use 25 percent of their funds for their facilities and programs and distribute the remaining 75 percent to the counties.

During the 1994 session, a new curfew law was passed allowing municipalities to set an early curfew for juveniles under age 15, and a later curfew for those between 15 and 18 years of age.

⁷⁴ For example, Cincinnati (Hamilton County) has a privately-operated treatment program focused on African-Americans. They also have a county-operated residential, non-secure school for younger and middle offenders.

OREGON:

Philosophy: Legislative intent focuses primarily on the youth, while considering protection of the community, with a preference for home- or community-based services.

Jurisdiction: Juvenile court has original jurisdiction up to age 18. A juvenile can be held in custody until age 21 if institutionalized before age 18.

Custody: Law enforcement and probation officers have peace-officer authority to take a juvenile into custody. Probation officers take juveniles into custody on a limited basis for probation violations.

Pre-court detention: When brought in by law enforcement, intake staff at detention decide if the juvenile will be booked into detention, placed in a non-secure shelter-care facility, or released.

Filing: There are no statutory guidelines relating to the filing of petitions, thus these decisions are determined by each jurisdiction. Probation officers, usually acting through the county prosecuting attorney's office, generally initiate petitions.

Diversion: Each probation department adopts criteria to decide which cases will be diverted, and which will go to court. An informal contract is entered into for up to six months. The agreement may stipulate such conditions as restitution, community service, and referral to a counseling-related program. If the youth does not fulfill the agreed terms, the contract can be extended for an additional six months, or the juvenile can be referred to court.

Transfer: Transfer hearings are discretionary. Probation officers may request hearings, or prosecutors may act independently. Eligibility criteria are established by law, but only a small percentage of eligible youth are scheduled for a hearing. Even if a juvenile is transferred to adult court and is convicted, he or she serves time in a juvenile institution until placement in an adult facility at age 18.

Jury Trials: There is no statutory provision.

Disposition: Juvenile courts have discretion over juvenile dispositions; recommendations are received from probation officers.

Special Offender Categories: There are no special categories in statute.

Parental Responsibility: Technically, the court has authority to order parents to counseling if it believes there is a "causal" relationship between parenting and the juvenile's behavior. In practice, however, court officials contacted for this report could not recall a case where the court exercised this authority.

OREGON, continued

Status Offenders: Status offenders have been the joint responsibility of the state Children Services Department and local juvenile court services. Services have varied significantly from county to county, with cases rarely appearing before the juvenile court. Recently, the state legislature assigned this population to the Commission on Children and Families. They are now in the process of establishing local responsibility and resources for these youth.

Community Supervision: The court may place a juvenile on probation and order a variety of conditions such as restitution, community service, school attendance, and counseling.

The court also has authority to place a juvenile offender in "substitute care" through the state's Children's Services Division. Normally, probation staff develop a plan prior to court if they believe placement is warranted. During the disposition hearing, the court is informed of the plan. Placement can include shelter care, foster care, and group care.

State Commitment: Commitment is discretionary with each judge. Due to a past class action suit, the state facilities have an established maximum capacity of 523. Each county has a certain number of beds apportioned to it based on its at-risk population. Each county must stay within its allotted number, although certain serious offenses do not count against the bed cap. Once maximum capacity is reached, when a judge commits an additional youth, the probation department negotiates with the state to release a juvenile from its jurisdiction so a new youth can be committed. The institution has the final say on who will be released to make room for the new commitment.

Counties that participate in the CAP program receive funds to provide alternative programs so as to minimize the number of state commitments. These funds are made available to local commissions who then select the services they believe are needed to achieve their local goals.

Institutionalization and placement in "substitute" care cannot exceed the maximum term for an adult convicted of the same crime.

The state institution program has two large institutions, three forestry camps, and a series of half-way houses. Parole is handled by the state, but Lane County is currently participating in a pilot project in which the county has assumed parole responsibilities.

New Legislation: There are several significant, independent efforts currently underway to propose legislative changes this next session. These are being undertaken by an Attorney General's Task Force, a legislative task force, and the state Juvenile Directors' Association.

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