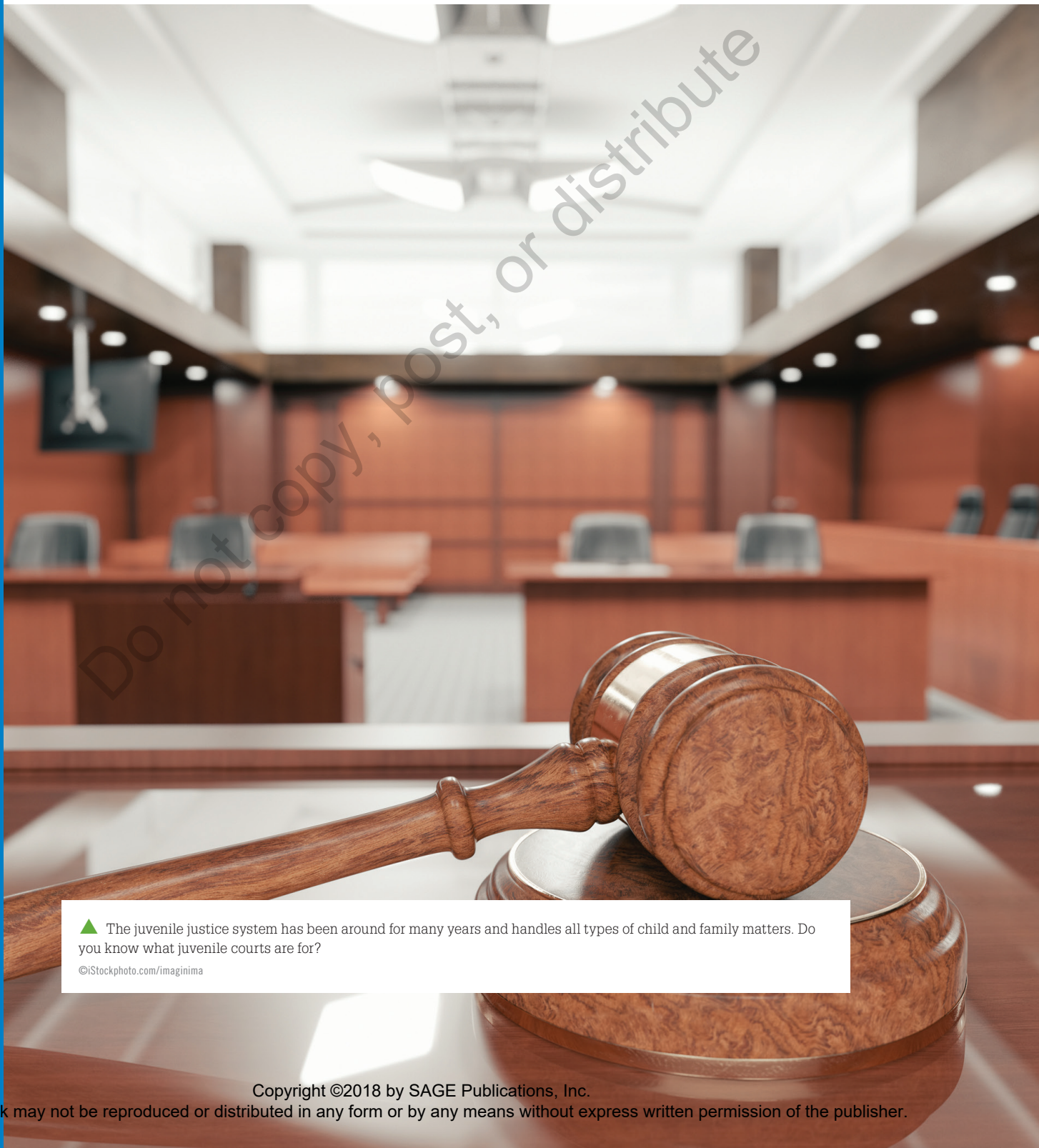


# CHAPTER 1

## THE FUNCTIONING OF THE JUVENILE JUSTICE SYSTEM

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▲ The juvenile justice system has been around for many years and handles all types of child and family matters. Do you know what juvenile courts are for?

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# LEARNING OBJECTIVES

## INTRODUCTION

The juvenile justice system handles legal matters involving a **juvenile**, defined for jurisdictional purposes in most states as a person who is younger than 18 years of age, although there are exceptions. A separate legal system for juveniles was established in the United States more than 100 years ago based on the belief that children are different than adults, and thus, they should be treated differently. The juvenile justice system in the United States is not a cohesive framework, and although there are similarities across state laws, policies, and procedures, each state has its unique system. Even though it is common to focus on the court, the juvenile justice system encompasses several subsystems, such as the police, probation, and corrections, all of which work together to bring about the process that is referred to as *juvenile justice*. Ancillary systems also exist that are unique to the juvenile justice system, including the child welfare system, schools, and behavioral health (mental health and substance abuse) systems. These ancillary systems are intricately involved with the juvenile justice because of the myriad difficulties and troubles that young people and their families face before and during involvement with the juvenile

- 1 Describe and apply key operational terms and concepts of the juvenile justice courts and juvenile justice process
- 2 Understand how the juvenile justice system and the criminal justice system differ regarding purpose, jurisdiction, and process
- 3 Summarize the jurisdiction of the juvenile courts and exceptions to original juvenile court jurisdiction
- 4 Name the basic process and stages of the juvenile justice system and agencies that are involved in each stage
- 5 Examine the unique role and policies of the child welfare system and how it interacts with the justice system

justice system. Although not considered to be part of the juvenile justice system, ancillary systems have a significant impact on the juvenile justice process and outcomes of those involved.

## JUVENILE COURTS

Juvenile courts are controlled by local jurisdictions and exist in every state throughout the country as part of 50 different and separate state court systems. Federal courts also exist, where a small but significant number of young people end up, as well as tribal courts on Native American territories. In some states, courts with juvenile jurisdiction are referred to as district, superior, circuit, county, family, or probate courts. Regardless of the name used, each state has a court that has specific jurisdiction to hear cases involving a juvenile. In addition, many courts with jurisdiction over juveniles also hear other family-related cases, including child support parentage and custody issues between unmarried individuals, adoption, and guardianship, as well as some criminal cases involving a child victim (Sickmund & Puzanchera, 2014).

Juvenile courts were established based on the doctrine of “parent of the nation” (*parens patriae*); as such, it acts “in the place of a parent” (*in loco parentis*) for the best interest of children who are in need of help and guidance. Juvenile court, therefore, differs from adult court in with a focus on individual, rather than on offense, and an emphasis on treatment and rehabilitation rather than on punishment. Juvenile court is considered civil, not criminal, and the juvenile is charged with engaging in a delinquent act, rather than in a crime. **Civil courts** handle most matters that do not involve criminal acts; **criminal courts** handle personal and property crimes (Platt, 2009; Sickmund & Puzanchera, 2014).

When a jurist (judge or magistrate) determines that a juvenile has committed a delinquent act, he or she does not find the juvenile guilty of a crime because the word “guilt” implies criminal intent; rather, he or she **adjudges** the juvenile to be **delinquent**. Once adjudicated as delinquent, the jurist does not impose the juvenile a sentence because a “sentence” implies punishment for a crime; rather, he or she renders his **disposition**. This distinction in most

**Juvenile (Juvenile Offenders):** Term used commonly in the juvenile justice system for adolescents (persons younger than 18 years of age) involved with the courts.

**Parens patriae:** Philosophical and legal doctrine (“parent of the country”) that becomes a guiding juvenile justice principal with the state acting as benevolent legal parent to a child.

**In loco parentis:** A philosophical and legal doctrine that is part of the juvenile justice framework and means “in place of the parents.”

**Civil Courts:** Courts dealing with noncriminal cases.

**Criminal Courts:** Courts dealing with personal and property criminal cases.



Marnadulle St. Johny/Alamy Stock Photo

▲ Juvenile court proceedings include a judge (magistrate), prosecuting attorney, defense attorney, the young person, and depending on the situation, family members. How would you have handled a situation like this as a teenager?

and supports the rehabilitative philosophy that began the juvenile justice system (Sickmund & Puzanchera, 2014).

The rehabilitative framework in juvenile justice, however, has shifted numerous times over the past few generations. A rehabilitative philosophy today no longer extends to all matters related to delinquency, and many states have increasingly passed more punitive laws that are focused on punishing juvenile offenders. Different states today allow for findings of delinquency to extend into adulthood, and several additional consequences can negatively impact juveniles who have been found delinquent. These “collateral consequences” vary between states, but some can be severe and include enhancements to adult sentences based on findings of delinquency (Burrell & Stacy, 2011; Griffin, 2008; Snyder & Sickmund, 2006). The consequences that a youth offender and his or her family might be subjected to include lifelong registration on a public offender list if convicted of a sexual offending crime; significant hurdles to attaining education; barriers to employment, professional licensing, subsidized housing, military service, and college entrance; assessment of fines, penalties, and restitution; publically available court records; risk to immigration status; termination of the right to vote or to serve on a jury; loss of driving privileges; and possible future prosecution.

## JUVENILE COURT PURPOSE

Each state’s juvenile code begins with a purpose statement that provides a framework for decision-making in cases involving juveniles charged with delinquent acts and provides an understanding of the state’s philosophy on juvenile justice (Table 1.1). State juvenile code purpose statements fall into five distinct groups, with numerous states incorporating more than one of these philosophies of purpose. First, the purpose clauses in at least 20 states and the District of Columbia are modeled after the Balanced and Restorative Justice (BARI) philosophy that provides for a balance between public safety, individual accountability to the victim and community, and the development of skills to help offenders become law-abiding and productive citizens. Second, 20 states model their purpose clauses after the **Standard Juvenile Court Act** (originally issued in 1925 and revised in 1959), which provides that, “[E]ach child coming within the jurisdiction of the court, shall receive. . . the care, guidance and control that will conduce to his welfare and the best interest of the state, and that when he is removed from the control of his parents the court shall secure for him as nearly as possible equivalent to that which they should have given him” (Office of Juvenile Justice and Delinquency Prevention, 2013). Third, 11 states model their purpose clauses after the *Legislative Guide for Drafting Family and Juvenile Court Acts* (Sheridan, 1969) that is concerned with the care and protection of children’s mental and physical development, incorporating supervision and rehabilitation, removing a child from their home only when necessary to the child or public safety, and guaranteeing constitutional rights. Fourth, the purpose clauses in at least five states have a child welfare focus, with the “best interest of the juvenile” as the sole or primary purpose of the juvenile justice system. And fifth, those in at least six states are considered “tough on

**Adjudges:** Jurist makes a decision; also, adjudicates.

**Disposition (Hearing):** A legally binding decision by a judge or magistrate.

**Standard Juvenile Court Act:** A federal act that was originally issued in 1925 concerning the handling of children under the care of the court.



# RESEARCH: WHAT WORKS?

## ADOLESCENTS ARE NOT YOUNG ADULTS

The recent development in brain science, through different imaging technologies, allows professionals to see the differences in adult and adolescent brains and has confirmed the long-held view that children are different than adults. Today, there is an increased understanding that children are developmentally immature compared to adults neurologically, cognitively, intellectually, and psychosocially. This affects how adolescents think and behave, which is different from the way adults think and behave. The brain section that controls “executive functioning” does not stop developing until well into early-to-mid-20s. This brain area, called the *prefrontal cortex*, is associated with numerous important cognitive functions, such as long-term thinking,

weighing consequences of one’s decisions and behaviors, and delaying impulsive reactions, all of which are found to be significantly associated with the engagement in risky behaviors, including delinquency and crime (Gottfredson & Hirschi, 1990; Larson & Grisso, 2011).

1. Why do you think that the threat of long-term imprisonment is often an ineffective deterrent for young people?
2. How should juvenile court judges approach teenagers, knowing they are so different from adults?

crime,” resembling the purpose of the adult criminal court, in that they emphasize offender accountability and punishment, deterrence, and community protection (Office of Juvenile Justice and Delinquency Prevention, 2013).

## JUVENILE COURT JURISDICTION

In most states, the juvenile court has the original jurisdiction over cases that involve delinquency committed by those who were younger than age 18 at the time of an offense, arrest for an offense, or referral to the juvenile court for an offense. There are exceptions to this general rule and significant variations by state in terms of the definition of delinquency and status offense, the age of jurisdiction, and waiver to other court jurisdictions.

### Delinquency and Status Offenses

Though **delinquency** is an act committed by a juvenile that would be considered a crime if committed by an adult, a **status offense** is a violation only when it is committed by a person younger than the age of 18 because of his or her status as a juvenile (Development Services Group, Inc., 2015). The definition of both delinquency and status offense varies depending on each state’s definition, much like the definition of crime (e.g., the recreational use of marijuana is legal in some states but illegal in others). Delinquency offenses include murder, rape, assault, burglary, robbery, larceny-theft, motor vehicle theft, drug sales, illegal possession of firearms, and arson, among others. Status offenses include alcohol law violation, running away from home, curfew violation, disobeying parents, and truancy, among others. The term used to classify a status offender varies by state and includes “a child in need of supervision,” “a child in need of services,” “a child in need of aid, assistance or care,” and “unruly child” (Office of Juvenile Justice and Delinquency Prevention, 2014b).



AP Photo/Jake May | MLive.com

▲ Young people who are formally involved with the juvenile courts experience hearings and procedures that are similar in many ways to adult criminal courts. Do you think this is the best practice?

**Delinquency (Delinquent):** Ongoing committing of criminal acts or offenses by a young person, normally younger than 18 years of age.

▼ TABLE 1.1

**Purpose Clauses for Juvenile Courts, 2012**

Statistical Briefing Bok > Juvenile Justice System Structure & Process

Organization & Administration of Delinquency Services

Q: How do states define the purpose of their juvenile courts?

**A: There is considerable variation in the way states define the purposes of their juvenile courts. Some declare their goals and objectives in exhaustive detail; others mention only the broadest of aims. Often more than one philosophy influences a single state's purpose clause.**

**Purpose Clauses for Juvenile Courts, 2012**

State	Balanced and restorative justice	Standard Juvenile Court Act	Legislative guide	Emphasis on punishment, deterrence, accountability, and/or public safety	Emphasis on Child welfare
Number of states	21	20	11	6	5
Alabama	X				
Alaska	X				
Arizona					X
Arkansas		X	X		
California	X	X			
Colorado	X				
Connecticut				X	
Delaware		X			
District of Columbia	X				
Florida	X	X			
Georgia		X			
Hawaii				X	
Idaho	X				
Illinois	X	X			
Indiana	X				
Iowa		X			
Kansas	X				
Kentucky					X
Louisiana		X			
Maine		X	X		
Maryland	X				
Massachusetts		X			
Michigan		X			
Minnesota	X	X			
Mississippi		X			

State	Balanced and restorative justice	Standard Juvenile Court Act	Legislative guide	Emphasis on punishment, deterrence, accountability, and/or public safety	Emphasis on Child welfare
Missouri		X			
Montana	X		X		
Nebraska	X				
Nevada		X			
New Hampshire			X		
New Jersey	X	X	X		
New Mexico			X		
New York		X			
North Carolina				X	
North Dakota					X
Ohio			X		
Oklahoma	X				
Oregon	X				
Pennsylvania	X				
Rhode Island		X			
South Carolina		X			
South Dakota		X			
Tennessee			X		
Texas			X	X	
Utah				X	
Vermont	X				
Virginia			X		
Washington	X				
West Virginia					X
Wisconsin	X				
Wyoming			X	X	

- The juvenile court purpose clause in at least 20 states and the District of Columbia incorporates the language of the Balanced and Restorative Justice movement, which advocates that juvenile courts give balanced attention to three primary interests: public safety, individual accountability to victims and the community, and the development in offenders of those skills necessary to live law-abiding and productive lives.
- The purpose clauses in at least 20 states appear to be influenced by the Standard Juvenile Court Act. The purpose of this Act, originally issued in 1925 and subsequently revised numerous times, was that “each child coming within the jurisdiction of the court shall receive . . . the care, guidance, and control of his parents the court shall secure for him care as nearly as possible equivalent to that which they should have given him.”
- Other states use all or most of a more elaborate, multi-part purpose clause contained in the Legislative Guide for Drafting Family and Juvenile Courts Acts, a publication issued by the Children’s Bureau in the late 1960s. The Legislative Guide’s opening section declares four purposes: (a) to provide for the care, protection, and wholesome mental and physical development of children involved with the juvenile court; (b) to remove from children committing delinquent acts the consequences of criminal behavior, and to substitute therefore a program of supervision, care, and rehabilitation; (c) to remove a child from the home only when necessary for his welfare or in the interests of public safety; (d) to assure all parties their constitutional and other legal rights.
- Purpose clauses in 6 states can be loosely characterized as “tough,” in that they stress community protection, offender accountability, crime reduction through deterrence, or outright punishment, either predominantly or exclusively.
- Statutory language in 5 states emphasizes the promotion of the welfare and best interests of the juvenile as the sole or primary purpose of the juvenile court system.

Source: OJJDP Statistical Briefing Book 2012.

**Status Offense:** The committing of acts that are illicit for only those younger than the age of 18 (truancy, liquor law violation, curfew violation, ungovernability, and running away).

**Juvenile Justice and Delinquency Prevention Act:** Federal law, originally passed in 1974, providing funds to states that follow a series of federal protections, known as the “core protections,” on the care and treatment of youthful offenders in the justice system.

**Office of Juvenile Justice and Delinquency Prevention:** Office of the U.S. Department of Justice and a component of the Office of Justice Programs that funds juvenile justice programming and directs federal initiatives.

**Racial and Ethnic Disparities:** Phrase that represents the disproportionate number of youthful offenders of color who come into contact with the juvenile justice (and adult) system.

In most states, the same court handles both delinquency and status offense cases. The process of handling status offenders in the juvenile justice system, however, differs from the process of handling delinquent offenders. The **Juvenile Justice and Delinquency Prevention Act**, for instance, mandates that the state not incarcerate juveniles who are involved in status offenses or abuse and neglect cases. In particular, the Act cites neglect as one of the areas over which juvenile courts also have jurisdiction, and child welfare cases where a child’s needs are not being met (Office of Juvenile Justice and Delinquency Prevention, 2014b).

The U.S. Congress passed the Juvenile Justice and Delinquency Prevention Act in 1974 (revised in 1980, 1992, 1996, and 2002), the first comprehensive federal law for the prevention of delinquency. The Act is overseen by the **Office of Juvenile Justice and Delinquency Prevention** (OJJDP), part of the U.S. Department of Justice (DOJ). The Act provides funding to states that comply with four “core requirements” (Table 1.2). In 2015, all states, except Wyoming, and the U.S. territories participated in the program, and almost all of them met the first three requirements, but many are trying to address the disproportionately higher involvements of minority offenders at every stages of the juvenile justice system, also known as **racial and ethnic disparities** (Office of Juvenile Justice and Delinquency Prevention, 2015a).

### Age of Jurisdiction

State laws vary concerning who falls under the jurisdiction of the juvenile court and the minimum ages at which juvenile offenders can be transferred to the adult court (Table 1.3). Nine states have the upper age for original juvenile court jurisdiction over delinquency cases younger than 17 (age 15 in NY and NC and age 16 in GA, LA, MI, MS, SC, TX, and WI as of 2015). In most states, there are statutory exceptions to the age of juvenile court jurisdiction, depending on the offender’s age, the offense, and the prior juvenile court record of the offender, which may place some cases involving juvenile offenders under the jurisdiction of criminal (adult) court or under the jurisdiction of both juvenile court and criminal court. All but two states have the upper age of juvenile court jurisdiction over status offense cases at age 17 (age 16 in SC and TX as of 2015; Office of Juvenile Justice and Delinquency Prevention, 2015b).

Most states do not specify the lower age for juvenile court jurisdiction for delinquency cases. This means that these states can formally prosecute children at any age, except for 18 states that have the lower age of original juvenile court jurisdiction over delinquency

▼ TABLE 1.2

### OJJDP Act Core Requirements

Deinstitutionalization of status offenders and nonoffenders	This requirement mandates that the liberty of youth offenders not be taken away through detention or placement in a secured facility if they did not commit a “crime,” unless it is for a violation of a court order.
Sight and sound separation	This requirement mandates juvenile offenders be separated from adult offenders when they are being detained, such that detained juveniles should not be able to see, hear, or have any interactions with adult criminals.
Jail and lockup removal	This requirement mandates that juveniles not be detained in adult jails. Exceptions can be allowed as long as the “sight and sound separation” requirement can be met, such as in rural areas where there may be only one jail.
Disproportionate minority confinement	This mandates an effort to reduce the disproportionately higher minority youth involvement, relative to their proportion in the population, at every stage of the juvenile justice system.

Source: OJJDP Statistical Briefing Book.

▼ TABLE 1.3

### Upper and Lower Age of Juvenile Court Delinquency and Status Offense Jurisdiction, 2016

Statistical Briefing Book > Juvenile Justice System Structure & Process

Jurisdictional Boundaries

Q: What are the upper and lower ages of delinquency and status offense jurisdiction?

**A: In the majority of states, the upper age is 17 and the lower age is not specified for delinquency and status jurisdiction.**

Upper and Lower Age of Juvenile Court Delinquency and Status Offense Jurisdiction, 2016

State	Delinquency lower age	Delinquency upper age	Status lower age	Status upper age
Alabama	NS	17	NS	17
Alaska	NS	17	NS	17
Arizona	8	17	8	17
Arkansas	10	17	NS	17
California	NS	17	NS	17
Colorado	10	17	NS	17
Connecticut	7	17	7	17
Delaware	NS	17	NS	17
District of Columbia	NS	17	NS	17
Florida	NS	17	NS	17
Georgia	NS	16	NS	17
Hawaii	NS	17	NS	17
Idaho	NS	17	NS	17
Illinois	NS	17	NS	17
Indiana	NS	17	NS	17
Iowa	NS	17	NS	17
Kansas	10	17	NS	17
Kentucky	NS	17	NS	17
Louisiana	10	16	NS	17
Maine	NS	17	NS	17
Maryland	7	17	NS	17
Massachusetts	7	17	6	17
Michigan	NS	16	NS	17
Minnesota	10	17	NS	17
Mississippi	10	17	7	17
Missouri	NS	16	NS	17
Montana	NS	17	NS	17
Nebraska	NS	17	NS	17
Nevada	NS	17	NS	17

(Continued)



(Continued)

State	Delinquency lower age	Delinquency upper age	Status lower age	Status upper age
New Hampshire	NS	17	NS	17
New Jersey	NS	17	NS	17
New Mexico	NS	17	NS	17
New York	7	15	NS	17
North Carolina	6	15	6	17
North Dakota	NS	17	NS	17
Ohio	NS	17	NS	17
Oklahoma	NS	17	NS	17
Oregon	NS	17	NS	17
Pennsylvania	10	17	NS	17
Rhode Island	NS	17	NS	17
South Carolina	NS	16	NS	16
South Dakota	10	17	NS	17
Tennessee	NS	17	NS	17
Texas	10	16	NS	17
Utah	NS	17	NS	17
Vermont	10	17	NS	17
Virginia	NS	17	NS	17
Washington*	NS	17	NS	17
West Virginia	NS	17	NS	17
Wisconsin	10	16	NS	17
Wyoming	NS	17	NS	17

Note: Table information is as of the end of the 2016 legislative session. NS; lower age not specified. \*In Washington the lower age of delinquency jurisdiction is applied through a state juvenile court rule, which references a criminal code provision establishing the age youth are presumed to be incapable of committing crime.

- The upper age of jurisdiction is the oldest age at which a juvenile court has original jurisdiction over an individual for law violating behavior. An upper age of 15 means that the juvenile court loses jurisdiction over a child when they turn 16; an upper age of 16 means that a juvenile court loses jurisdiction when a child turns 17; and an upper age of 17 means that a juvenile court loses jurisdiction over a child when they turn 18.
- State statutes define which youth are under the original jurisdiction of the juvenile court. These definitions are based primarily on age criteria. In most states, the juvenile court has original jurisdiction over all youth charged with a criminal law violation who were below the age of 18 at the time of the offense, arrest, or referral to court. Some states have higher upper ages of juvenile court jurisdiction in status offense, abuse, neglect, or dependency matters—often through age 20.
- Many states have statutory exceptions to basic age criteria. The exceptions, related to the youth's age, alleged offense, and/or prior court history, place certain youth under the original jurisdiction of the criminal court. This is known as *statutory exclusion*.
- In some states, a combination of the youth's age, offense, and prior record places the youth under the original jurisdiction of both the juvenile and criminal courts. In these situations where the courts have concurrent jurisdiction, the prosecutor is given the authority to decide which court will initially handle the case. This is known as *concurrent jurisdiction, prosecutor discretion, or direct filing*.
- Since 1975 eight states have changed their age criteria. Alabama raised its upper age from 15 to 16 in 1976 and from 16 to 17 in 1977; Wyoming lowered its upper age from 18 to 17 in 1993; New Hampshire and Wisconsin lowered their upper age from 17 to 16 in 1996; Rhode Island lowered its upper age from 17 to 16 and then raised it back to 17 again 4 months later in 2007; Connecticut passed a law in 2007 to raise its upper age from 15 to 17 gradually from 2010 to 2012; Illinois raised its upper age for misdemeanors from 16 to 17 in 2010; Massachusetts raised its upper age from 16 to 17 in 2013; Illinois raised its upper age for most felonies from 16 to 17 in 2014; and New Hampshire raised its upper age from 16 back to 17 in 2015.

Source: OJJDP Statistical Briefing Book 2016.

matters (age 6 in NC; age 7 in CT, MD, MA, NY, and ND; age 8 in AZ; and age 10 in AR, CO, KS, LA, MN, MS, PA, SD, TX, VT, and WI as of 2015). In these states, children who are younger than the specified age cannot be adjudicated delinquent and, thus, are not subjected to the formal prosecution. Additionally, six states had the lower age of

original juvenile court jurisdiction over status offense matters (age 0 in AR, age 6 in MA and NC, age 7 in CT and MS, and age 10 in TX as of 2015; Office of Juvenile Justice and Delinquency Prevention, 2015b).

## Waiver to Adult Court

Waiver to an adult court occurs when the jurisdiction of a case involving a juvenile offender is transferred from the juvenile justice system to the criminal justice system (also called a certification, transfer, or remand). Waiver is also used in federal cases involving juveniles who are at least 15 years of age and have violated federal criminal law. The waiver can occur at any stage of the juvenile justice system and, although jurisdictions vary in specific procedures, usually occurs in one of three ways (Sickmund & Puzanchera, 2014).

First, in many jurisdictions, a serious violent offense, such as capital crime or murder, is automatically in the jurisdiction of the criminal justice system by statutory law and results in the automatic waiver or transfer of the youth offender to the adult court (also known as legislative waiver or statutory exclusion). Second, in some jurisdictions, certain offenses are in the jurisdiction of both the juvenile justice system and the criminal justice system (concurrent jurisdiction), and prosecutors have the discretion to decide whether to transfer such cases to the criminal justice system (also known as prosecutorial waiver or direct file). One issue considered by the prosecutor is the amenability of the juvenile offender to the intervention offered through juvenile court, which may be determined based on the juvenile's history of involvement in delinquency. Third, the most common waiver is judicial waiver, which gives the discretion to the judge to determine whether to transfer a case to the criminal justice system. During the 1980s, many states reformed laws to make it easier to try juveniles as adults in the criminal court by lowering the minimum age when juveniles can be transferred and expanding the eligible offense and prosecutorial discretion (Hockenberry & Puzanchera, 2014a; Redding, 2010).

Some states have a "once an adult, always an adult" provision that requires a juvenile be tried as an adult for all subsequent offenses once he or she has been tried as an adult for an offense. Although some states have reverse waiver laws, which provide the criminal court judge the discretion to transfer a juvenile offender back to the juvenile court or to treat a defendant as a juvenile during sentencing (Sickmund, 2003), as of 2011, 14 states (AK, AR, CO, CT, IL, KS, MA, MI, MN, MT, NM, OH, RI, and TX) had juvenile court blended sentencing laws that allow juvenile courts to render a criminal sentence or both a juvenile disposition and a criminal sentence on certain offenses, usually serious offenses. In effect, blended sentencing laws allow for juvenile courts to render the same punishment to juveniles that adults receive on certain offenses. Also, 17 states (AR, CA, CO, FL, ID, IL, KY, MA, MI, MS, NE, NM, OK, VT, VA, WV, and WI) had criminal court blended sentencing laws that allow criminal courts to determine a juvenile disposition to juveniles who are transferred to the criminal court and found guilty of a crime. Both criminal court blended sentencing and reverse waiver are "fail-safe mechanisms" against mandatory statutory waivers, allowing the criminal court judge to reverse the decision and move the youth offender back to juvenile court jurisdiction. Nevertheless, of the 44 states with some type of mandatory waiver laws moving youth offenders to criminal court jurisdiction, only 33 of these states had a way to transfer the young person back to juvenile court jurisdiction (Sickmund & Puzanchera, 2014).

## Federal Courts and Jurisdiction

The **Federal Juvenile Delinquency Act** (implemented in 1938 and amended in 1948, 1974, and 1984) defines delinquency as "the violation of a law of the United States committed by a person prior to his eighteenth birthday which would have been a crime if committed by an adult" (Scalia, 1997, p. 1). Although small in number (less than 500 arrests per year), some juveniles

**Federal Juvenile Delinquency Act:** The first federal law established to handle those younger than the age of 18 who committed federal offenses.

who are apprehended by federal law enforcement agencies may be prosecuted in federal courts, (known as U.S. District Courts) and placed in the federal prisons, through the Federal Bureau of Prisons (Sickmund & Puzzanchera, 2014).

Juvenile offenders are most likely to encounter the following federal law enforcement agencies: Border Patrol, Drug Enforcement Agency, U.S. Marshals Service, and Federal Bureau of Investigation. In most cases, juveniles who are determined to have broken a federal criminal law are turned over to state or other local agencies if they are willing to accept the jurisdiction over the cases. A small number of delinquency cases, however, may be certified by the **Attorney General** for prosecution in U.S. District Courts, especially those involving a serious offense, such as a violent felony, an offense involving a firearm, or drug trafficking, and cases that are of interest to federal agencies (Sickmund, Sladky, & Wang, 2014).

## THE PROCESS OF THE JUVENILE JUSTICE SYSTEM

With 50 state laws and the District of Columbia, having both philosophical and, in some areas, fiscal and regulatory impact on their local juvenile court jurisdictions, differences do exist across the juvenile justice system even within states. Although some procedures differ across juvenile court jurisdictions, most follow similar stages across case and delinquency processing (Figure 1.1).

### Law Enforcement

Even though most juveniles in the United States admit to breaking law at some point, only a small number of juveniles end up being processed through the juvenile justice system. For these youthful offenders, the first contact with the juvenile justice system most likely occurs when they are apprehended by a law enforcement officer. The remaining cases are referred to the juvenile court by others, including parents, victims, school personnel, and probation officers. A much smaller percentage of cases involving status offenses is referred to the juvenile court by law enforcement agencies because status offense cases are more likely to be referred by a child welfare agency (Sickmund & Puzzanchera, 2014).

The law enforcement agencies have a unique and important role within the juvenile justice system because of their involvement with noncrime matters, such as missing children, curfew violation, runaways, truancy, and neglect and abuse. One of the important functions of the law enforcement officer is the protection of children and the prevention of delinquency (Sanborn & Salerno, 2005). Most local police departments (90%) have special units dedicated to cases involving juveniles and family issues, and many (42%) employ sworn officers at schools, often known as **school resource officers** (Sickmund & Puzzanchera, 2014; U.S. Department of Education, 2016a).

After an apprehension, the law enforcement officer talks to the juvenile offender, the victim, and parents; reviews the offender's court record; and determines whether the offender should be referred to a juvenile court or diverted out to alternative programs. Of the cases where the juvenile justice system is the original jurisdiction, more than two thirds of cases are referred to juvenile court, whereas the remaining cases are either referred to criminal court or handled within law enforcement agencies. Alternatives to apprehension or referral to a juvenile court include questioning and warning, issuing a citation, or referral to a diversion program or service (Sickmund & Puzzanchera, 2014).

In case the temporary detention of a juvenile is required while contacting parents or a guardian or arranging the transportation to a juvenile detention facility, law enforcement agency personnel are required by federal regulations to detain the juvenile in a secure environment for no more than six hours. In addition, the Juvenile Justice and Delinquency Prevention Act mandates separation of juvenile offenders from adult offenders when they are being detained

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#### Attorney General:

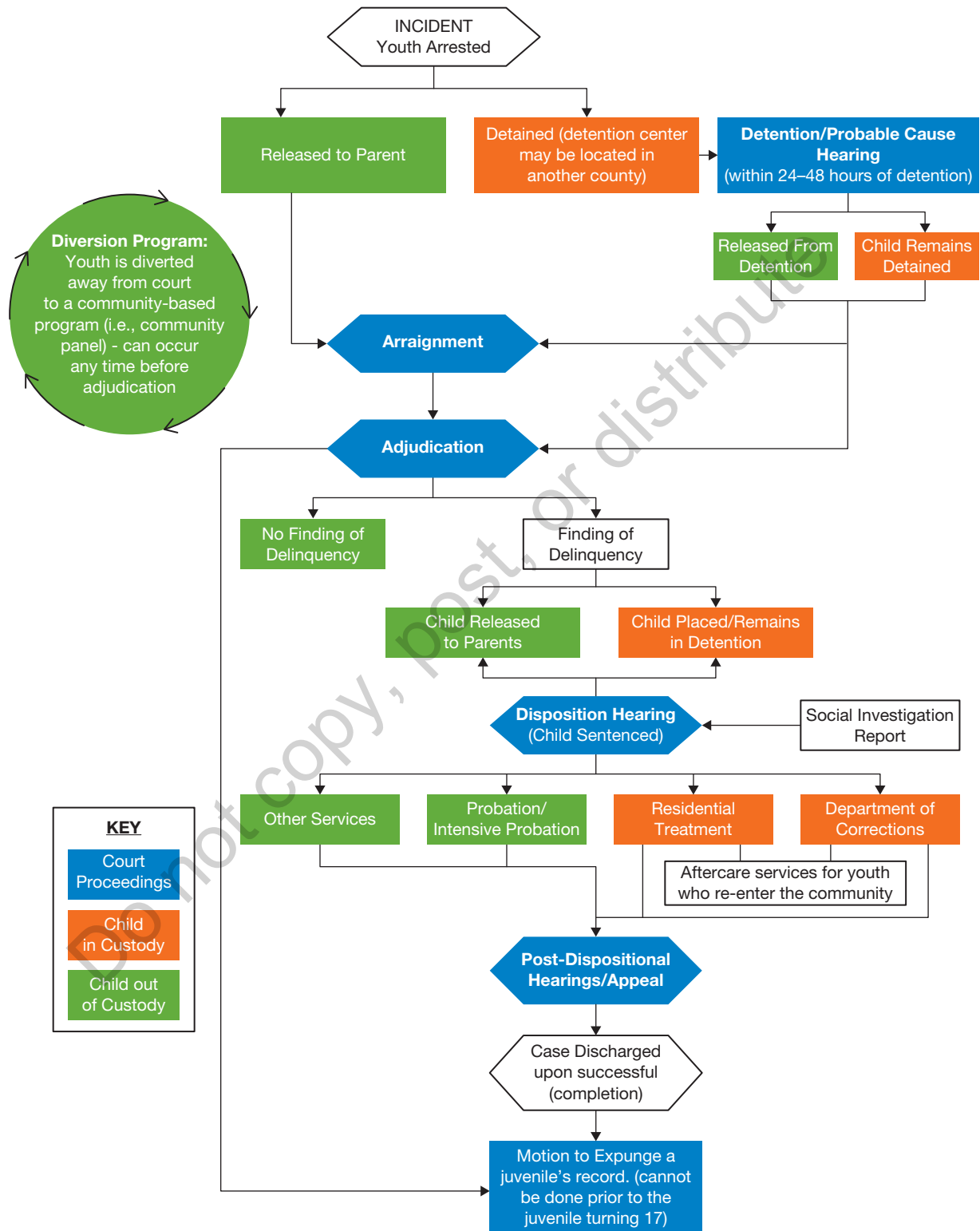
Principal legal officer who represents a country or a state in legal proceedings and provides legal advice to the government.

#### School (Police) Resource

**Officers:** Police officers that work on school campuses.

▼ FIGURE 1.1

**Flowchart of the Juvenile Justice Process**



Source: Reprinted with permission from the National Juvenile Defender Center.



## DUE PROCESS RIGHTS

A due process clause is included in the Fifth and Fourteenth amendments to the U.S. Constitution, which protects against unfair treatment and arbitrary administration of justice by the government. A series of landmark Supreme Court rulings in the 1960s have extended the following due process rights to youthful offenders in the juvenile courts, which traditionally were not subject to providing these rights because of their fundamental differences in philosophy with the criminal court:

- The Fourth Amendment guarantee against search and seizure.
- The Fifth Amendment guarantee against double jeopardy and self-incrimination.
- The Sixth Amendment guarantee for a speedy trial, knowing the charge, confronting and cross-examining

the witness, calling witnesses at trial, and attorney representation.

- The Eighth Amendment guarantee against cruel and unusual punishment.
- The Fourteenth Amendment guarantee for equal protection (regardless of race, creed, color, or status).

1. Do you think that providing these due process protections for youthful offenders was the right decision for the juvenile courts?
2. Do you think youthful and adult offenders should be afforded the same due process protections?



(Office of Juvenile Justice and Delinquency Prevention, n.d.).

### Advisement of Rights

Before questioning an individual in a criminal case, law enforcement officers are required to give a **Miranda warning** to inform the individual in custody of the right to remain silent and protection against self-incrimination and the right to an attorney. An individual is considered “in custody” if he or she does not reasonably feel free to leave in the presence of law enforcement. This is a complicated issue with juveniles because they may not understand Miranda rights as well nor feel as free to leave in the presence of law enforcement as adults do (Grisso & Schwartz, 2000; Rogers, Blackwood, Fiduccia, Steadham, & Drogin, 2012). In addition,

▲ Police officers are at the front lines of community policing and are responsible for a majority of youth referrals to the juvenile courts. What have been your experiences with police officers?

**Miranda Warning:** A right-to-silence warning given by police to criminal suspects in police custody before they are interrogated.

because the juvenile court is expected to act in the best interest of the children, it originally was not subject to the procedural due process protections afforded to adult suspects, whose liberties were at stake. This began to change in the 1960s with a series of U.S. Supreme Court rulings that amended the procedures of the juvenile justice system, which today resembles the criminal justice system, and has increasingly afforded the same due process rights to juvenile offenders.

One issue that the U.S. Supreme Court has ruled on numerous times is the use of interrogation and the confession of juvenile suspects, which is a leading cause of wrongful conviction among youthful offenders, who are much more likely than adults to falsely confess (Malloy, Shulman, & Cauffman, 2013). The Court ruled more than 60 years ago for the first time on this issue arguing for law enforcement to interrogate juveniles with



# PRACTICE: WHAT CAN I DO?

## MIRANDA RIGHTS, PROTECTION OF THE CONSTITUTION'S FIFTH AMENDMENT

A popularly used Miranda warning (see first quote below) requires a tenth-grade level of comprehension (Rogers, Hazelwood, Sewell, Harrison, & Shuman, 2008), which researchers in published empirical reviews (Grisso, 1980) indicate many juveniles may lack. When a law enforcement officer is dealing with a juvenile offender, the International Association of Chiefs of Police (2012, p. 7) in conjunction with the OJJDP, therefore, recommends a simplified version of Miranda warning (see second quote below) that requires a third-grade level of comprehension. In addition, the American Bar Association also called for the simplified Miranda warning to be used (in 2010) with juveniles (Rogers et al., 2012). Along with the simplified Miranda warning, the Association recommends that law enforcement also inform juvenile suspects before questioning that speaking may result in being tried as an adult.

“You have the right to remain silent. Anything you say can and will be used against you in a court of law. You have the right to an attorney. If you cannot afford an attorney,

one will be provided for you. Do you understand the rights I have just read to you? With these rights in mind, do you wish to speak to me?”

“You have the right to remain silent. That means you do not have to say anything. Anything you say can be used against you in court. You have the right to get help from a lawyer right now. If you cannot pay a lawyer, we will get you one here for free. You have the right to stop this interview at any time. Do you want to talk to me? Do you want to have a lawyer with you while you talk to me?”

1. Why do you think the revised Miranda warning version may be beneficial to youthful offenders?
2. Do you have other suggestions or changes that you think would help young people understand these rights?

special care due to their immature age. The Court's position on this issue changed during the nation's “get tough on crime” period. In *J.D.B. v. North Carolina* (2011), however, the Court returned to its original position arguing that the suspect's youthful age should be taken into account when a law enforcement officer is determining whether the suspect is entitled to a Miranda warning.

Because juveniles who are questioned by a law enforcement officer at school often do not feel free to leave, they should be given a proper Miranda warning before being questioned. In addition, in *N.C. v. Commonwealth* (2013), the Kentucky Supreme Court ruled that a Miranda warning is required before students are questioned by school officials who are working in conjunction with law enforcement on a delinquency matter. Juveniles, like adults, can waive Miranda rights, but the prosecution must establish, before the evidence from the police questioning is admitted to the court, that the juvenile understood his or her rights and freely waived them before being questioned—the same standard used with an adult Miranda waiver (Feld, 2013).

Contrary to the depiction on TV police dramas, only a few states require a presence of a parent or a guardian during the questioning of a juvenile by law enforcement. Many states, however, require that a parent or a guardian be notified (or at least attempted to be notified) before a juvenile is being questioned. The presence of a parent during questioning by law enforcement can, however, be detrimental to a juvenile who is suspected of a delinquency because parents often pressure their child into a confession (Farber, 2004). Unfortunately, even with the high false confession and wrongful conviction rates, most law enforcement officers are not trained to interrogate youthful offenders (International Association of Chiefs of Police, 2012).

### Diversion

**Diversion** occurs when a case is handled informally outside of juvenile courts and can occur at any stage of the juvenile justice system, from apprehension to postadjudication. Diversion to an

**Diversion:** Definitions include nonarrest and release of a youthful offender back to the community, addressing the identified problems through rehabilitative means, and any attempt to divert from the juvenile justice system.



Alex Novelli/Getty Images

▲ The United States Supreme Court has become increasingly involved in decisions on youthful offending sentencing, including the death penalty and life sentences without the possibility of parole. What do you think should be the most extreme sentence available for youthful offenders who commit a homicide? Does age make a difference? How about mitigating circumstances of the crime?

alternative program and service minimizes the negative consequences associated with being formally processed through the juvenile court (e.g., stigma, missing school, having a juvenile court record, and the school being notified). Diversion is also less costly and reduces the burden on the juvenile court that can then focus its limited resources on more serious and chronic offenders (including gang membership and activity).

An admission to the engagement in an alleged offense is required in most jurisdictions for a case to be processed informally. In what is considered formal diversion (differs from immediate diversion by law enforcement), the juvenile must also agree to specific conditions for a specified time period, spelled out in a written agreement, called a **consent decree**, and a probation officer is usually assigned to monitor the juvenile's compliance with the consent decree. If the juvenile successfully

complies to all conditions, the case may be dismissed, although the case may be returned to the juvenile court and the formal processing of the case may resume if the juvenile fails to comply with the conditions (Sickmund & Puzzanchera, 2014). Diversion conditions may include victim restitution, fine, community service, school attendance, attendance in a drug and alcohol treatment program, and probation supervision. Various community, school, and private services and programs are offered through diversion, such as drug court, mental health court, teen court, victim-offender medication programs, mentoring programs, treatment programs, intervention programs, and parent training programs (Development Services Group, Inc., 2010).

### The Prosecutor's Office

Once referred to the juvenile court, a juvenile offender goes through an intake screening, which is usually handled by probation departments or the prosecutor's office. After reviewing the case, including the age of offender, the seriousness of the offense, the juvenile court record, school record, and family information, an intake officer assigned to the case decides to request a formal intervention by juvenile court, proceed to informally handle the case, or dismiss the case altogether. Only half of all cases referred to juvenile court result in a formal intervention by juvenile court, whereas the other half are handled informally, and many informally handled cases are eventually dismissed often due to lack of evidence. For some serious offenses, the intake officer has no choice but to request a formal intervention by juvenile court, as dictated by law (Sickmund & Puzzanchera, 2014).

Once the intake officer decides to formally process a case in juvenile court, one of two petitions must be filed: a delinquency petition requesting an adjudicatory hearing or a waiver petition requesting a waiver hearing. The delinquency petition explains the allegations of the offense and requests that the juvenile be adjudicated a delinquent and made a ward of juvenile court. The waiver petition requests transferring of a case from juvenile court to criminal (adult) court.

### Shelter Care Hearing and Pretrial Detention

After an apprehension by law enforcement, many juveniles are immediately released to a parent or a guardian. After the case is reviewed by an intake officer, some juveniles are held in a secure juvenile detention facility, pending a hearing before the judge. The decision for this detention is made by an intake officer based on seriousness of the alleged offense, the risk for flight or the likelihood of the juvenile appearing for the hearing, and the safety of the juvenile and the community. This is known as pre-adjudication detention, whereby youthful offenders are detained before adjudicated delinquent, which was held by the U.S. Supreme Court to be constitutional in *Schall v. Martin* (1984) to protect the juvenile and the community.

Juveniles may be placed in a secure detention facility at any stage of the juvenile justice system. Some juveniles may go in and out of a detention facility throughout the process until a dispositional hearing, and detention may sometimes extend beyond adjudicatory and dispositional hearings until a residential placement bed (e.g., shelter home or foster home) becomes available.

**Consent Decree:** An agreement or settlement that resolves a dispute between two parties without admission of guilt (in a criminal case) or liability (in a civil case).

In most states, juvenile offenders do not have the **right to bail** while awaiting the hearing, unlike adult offenders. In all states, a detention hearing in front of a judge must be held within a few days, usually within 24 hours, to determine whether the pre-adjudication detention of a juvenile is in the best interest of the community and the juvenile. If a juvenile is held in pre-adjudication detention, most states also require that an adjudication hearing take place within a specified time period, usually between 10 and 180 days (Sickmund & Puzanchera, 2014).

## Plea Bargaining

A **plea bargain** occurs when an offender admits to committing an offense in exchange for a lesser charge and a possibility of lesser sentence/disposition. Plea bargains are common; of all convictions in state and federal cases in both adult and juvenile courts, more than 95% are the result of plea bargaining (Redlick, 2010). Plea bargaining may occur at any stage of the juvenile justice system, but most likely it will occur prior to the adjudication hearing. States vary in terms of the use of plea bargain; some states with a heavy juvenile caseload may more frequently resort to plea bargains to free up the court load to focus on a smaller number of serious cases (Sickmund & Puzanchera, 2014).

A plea bargain likely results in a lesser disposition for an offender, but the offender then relinquishes the right to a trial. The American Bar Association (ABA) warns juveniles against pleading guilty because of the extralegal “collateral consequences” discussed earlier in the chapter that are associated with this outcome. Like the use of interrogation and the higher risk for false confession, and thus, wrongful conviction among juveniles, there is also a higher risk among juveniles than adults for falsely pleading guilty to a “crime” they did not commit (Redlick, 2010; Shepherd, 2008).

## Trial

Most juvenile courts have bifurcated hearings (trials) with a separate **adjudicatory hearing** and a **disposition hearing**. At the adjudicatory hearing, the facts of the case are presented in front of a judge who determines whether a juvenile is responsible for an alleged offense and, thus, should be adjudicated a delinquent. In two thirds of cases presented before a judge in juvenile court, juvenile offenders are adjudicated delinquent for the alleged offense. Only in some states do juveniles have the right to a **jury trial**. Juveniles today are afforded many other due process rights and the same rules as adults at the hearings (Sickmund & Puzanchera, 2014).

Once a juvenile is adjudicated delinquent, a probation officer prepares a disposition plan based on his or her assessment of the juvenile, support systems, and available programs and services. The juvenile court may order psychological evaluations and diagnostic tests so that the probation officer can provide appropriate recommendations to a judge at the dispositional hearing. In addition to the probation officer, a prosecutor as well as a youthful offender may provide dispositional recommendations. After considering all the dispositional recommendations, the judge renders a disposition in the case (Sickmund & Puzanchera, 2014).

## Competency

To have a fair trial, a defendant must be competent to stand trial to be prosecuted for his or her alleged offense. Legal **competency** requires that a defendant understand the charges brought against him or her and their seriousness and possible penalties. Additionally, a defendant must be able to follow proceedings and defend himself or herself during the trial. At any point during the proceedings in the criminal court, if the competence of the defendant is questioned, the court may order an evaluation. Anyone who is deemed mentally incompetent due to mental health problems or disabilities cannot be convicted of a crime (Larson & Grisso, 2012).

Because of the developmental immaturity, which varies widely among adolescents, the question of competency is even more relevant when dealing with youthful offenders, but it was not an issue in the juvenile courts until the 1990s. Today, most states do have separate guidelines for the use of competency in juvenile courts and do not as often have to apply the criminal court guidelines. Nevertheless, as more juveniles have been transferred

**Right to Bail:** Release of an arrested or imprisoned accused person when a specified amount of security is deposited or pledged (as cash or property) to ensure the accused’s appearance in court.

**Plea Bargain:** Arrangement between a prosecutor and a defendant whereby the defendant pleads guilty to a lesser charge in the expectation of leniency.

**Adjudicatory Hearing:** Hearing in which the purpose is making a judicial ruling such as a judgment or decree. It is sometimes used in juvenile criminal cases as another term for a trial.

**Disposition (Hearing):** A legally binding decision by a judge or magistrate.

**Jury Trial:** Legal proceeding in which a jury makes a decision or findings of fact, which then directs the actions of a judge.

**Competency:** Mental capacity of an individual to participate in legal proceedings or transactions, and the mental condition a person must have to be responsible for his or her decisions or acts.





# POLICY: WHAT'S BEING DONE?

## U.S. SUPREME COURT DECISIONS ON MIRANDA AND RELATED RIGHTS

In *J.D.B. v. North Carolina* (2011), a police officer, who interrogated a 13-year-old suspect of two burglaries, did not give a Miranda warning prior to the interrogation because the officer believed that since the juvenile was interrogated at school, he or she was not “in police custody” and was, therefore, free to stop the interrogation at any time. Citing findings from brain science studies that show that juveniles are less likely than adults to feel free to leave in the presence of a police officer, more vulnerable to the fear and stress during interrogation, and therefore more at risk of confessing to a “crime” they did not commit (Drizin & Leo,

2004; Tepfer, Nirider, & Tricarico, 2010), the Court ruled that when a law enforcement officer is determining whether an individual is in police custody, and therefore, entitled to a Miranda warning, the suspect’s age should be taken into account.

1. What is your reaction to interacting with police officers? What has influenced your perspective?
2. What do you think it means to be “in police custody?”

to the adult court and tried in recent years, the criminal court has had the difficult task of determining the competency of juveniles to stand trial in criminal court (Larson & Grisso, 2012).

### Decision-Making in Juvenile Court

Although the criminal and juvenile justice systems have become more similar in recent years, one major difference between the two courts is focus. To serve the best interest of the juvenile, the juvenile court has traditionally focused on the *individual* offender to determine an individualized intervention program that emphasizes *rehabilitation* and *treatment*. This is in contrast to the criminal courts that have traditionally focused on the *offense* to determine an appropriate *punishment*, especially since the “get tough on crime” period of the 1980s and 1990s with an increased application of the mandatory sentences throughout the nation that has significantly decreased judicial discretion. In summary, mandatory sentences make sure that the same offense results in the same punishment, no matter who committed the offense or any circumstantial differences.

On the other hand, throughout the juvenile justice system, from the apprehension to the disposition, all those who are involved, including the law enforcement officer, the intake officer, the probation personnel, the prosecutor, and the judge, are expected to take into account both extralegal and legal factors in deciding what is best for the juvenile. Extralegal factors are factors that are not directly related to the legal issues at hand, including family information, school record, available support system, the history of drug and alcohol use, and work record. On the other hand, legal factors include the history of delinquency, juvenile justice system involvement, and the type and seriousness of an alleged offense (Sickmund & Puzzanchera, 2014).

### Disposition

Several disposition options are available for the judge in the juvenile justice system, including a warning, restitution to the victim, community service, attendance in counseling service or program, probation, and confinement in a secured residential facility. Most dispositions rendered in juvenile court include some supervised probation but also other requirements, such as restitution

# CASE STUDY

## A SIX-YEAR-OLD MURDERER

In the year 2000, a six-year-old girl, Kayla Rolland, was shot by her six-year-old friend, Dedrick Darnell Owens, at Buell Elementary School in Mount Morris, Michigan. At that time, Kayla was the youngest victim of a school shooting in the United States until the Sandy Hook Elementary School shooting in Connecticut in 2012. Dedrick, however, is still considered the youngest perpetrator of a school shooting in U.S. history. Dedrick, a first grader, had been living in a “crack house” with a drug-addict mother and his eight-year-old brother when he found a loaded .32-caliber handgun in the house, brought it along with a knife to school, and shot his friend in front of

a teacher and 22 other students. Prior to that, Dedrick had been in trouble at school numerous times because of behavioral problems, including for stabbing another girl with a pencil. Because of his age, Dedrick was not legally charged with murder.

1. Should this boy have been prosecuted for murder?
2. What would you do as the prosecutor or judge in a case like this?

to the victim, included as a part of probation order. The probation term may be open-ended or a specific duration of time, and during that time, review hearings monitor the progress of the offender. Once a juvenile offender successfully completes the term of probation, the judge or magistrate terminates the case (Sickmund & Puzanchera, 2014).

Less than a third of adjudicated youthful offenders are ordered to be placed in a residential facility, which include numerous options, from large public facilities that resemble adult prison to small private shelter homes, varying in the level of security. In many states, it is the responsibility of the state department of juvenile corrections to decide which facility the juvenile offender is placed in and when he or she will be released. In other states, the judge determines the length of placement through review hearings that assess the progress of each juvenile offender. In 2011, 27 states required parents to pay at least part of the costs of the juvenile residential placement (Office of Juvenile Justice and Delinquency Prevention, 2013). After release from a residential facility, the juvenile offender is often ordered to be under supervision of the court or the juvenile correction department, much like adult parole. If the juvenile fails to follow the conditions of the supervision, the judge may order the juvenile to be recommitted to the same or a different facility (Sickmund & Puzanchera, 2014). The disposition options available to federal judges are similar to ones listed already for the judges in the state juvenile courts (Figure 1.2).

### Confidentiality

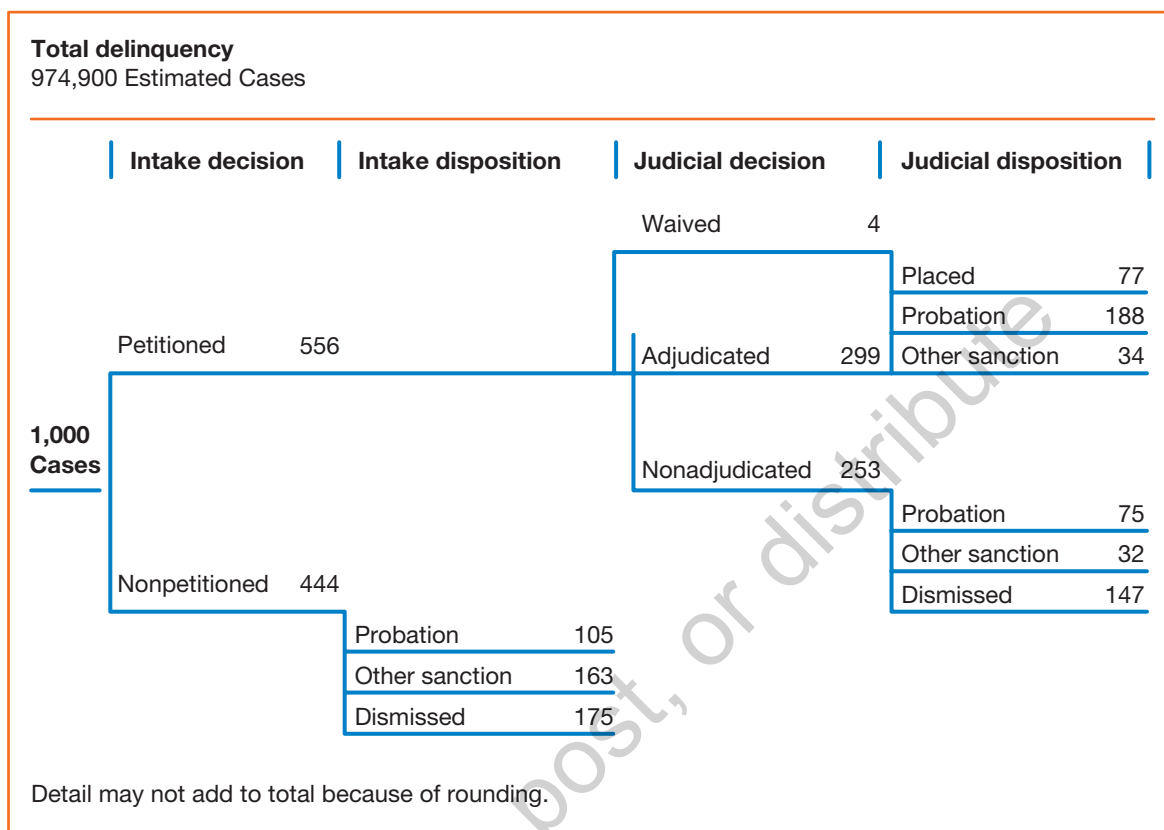
The juvenile courts have shifted their view on the **confidentiality** of court proceedings and juvenile court records over the years. In general, making the court proceedings open to the public allows scrutiny and increases government accountability, and it is in accordance with the First and Fourteenth amendments to the U.S. Constitution, which guarantee the presumption of innocence and freedom of the press. After adoption of the Standard Juvenile Court Act in 1952, however, many states instituted laws that prohibited the public, and often the press, from attending juvenile court proceedings to protect the privacy of the youthful offenders involved. This was especially pertinent to the “family court” matters that involve sensitive private matters of family.

In 1977, the U.S. Supreme Court ruled in *Oklahoma Publishing Company v. District Court in and for Oklahoma City* that the court order prohibiting the publication of a legally obtained name or photograph of a youthful offender involved in the juvenile court proceeding to be unconstitutional because of its infringement on the freedom of the press. Similarly in *Smith*

**Confidentiality:** Process of keeping juvenile court records and proceedings private.

▼ FIGURE 1.2

### Case Processing Overview: Juvenile Court Processing for a Typical 1,000 Delinquency Cases, 2014



Source: OJJDP Statistical Briefing Book 2014

*v. Daily Mail* (1979), the Court ruled that the state cannot punish the press from publishing a legally obtained alleged juvenile delinquent’s name. Beginning in the 1980s, most states modified or removed confidentiality provisions and made the juvenile justice proceedings more open. In 2011, only 13 states had statutes making delinquency hearings closed to the public, except for compelling reasons, for example, public safety (Office of Juvenile Justice and Delinquency Prevention, 2013).

In 2009, all states, except for RI, had procedures in place for the sealing or expungement of juvenile court records. States vary in terms of how they expunge or seal the juvenile record, from physically destroying the record to storing away the record that may be accessed only in limited circumstances (Sickmund, 2010). Most states, moreover, have procedures for unsealing the juvenile court records under certain circumstances, such as following a subsequent offense or a court order (Office of Juvenile Justice and Delinquency Prevention, 2013).

All states have laws that govern the circumstances under which youthful offenders are fingerprinted for alleged or adjudicated delinquent offenses. In 2009, only 10 states (HI, IN, NV, NJ, NM, NY, NC, ND, UT, and WI) limited the age (from 10 to 14 years) that youthful offenders could be fingerprinted, whereas other states had no age restriction. In addition, as of 2008, all but six states had school notification laws that require a school to be notified when students are involved in the juvenile justice system for delinquent activities. States vary, however, as to when in the juvenile justice process a school should be notified (charge, adjudication, etc.) and regarding what type of offense (Sickmund & Puzzanchera, 2014).

## THE CHILD WELFARE SYSTEM

Although the juvenile court and other subsystems play formal roles within the juvenile justice system, there is significant involvement of ancillary systems that are unique to children, including child protective services, schools, and behavioral health providers. Ancillary systems are not considered formal parts of the juvenile justice system, but they are intertwined because youthful offenders are often involved in these youth-caring systems prior to their involvement in the courts. These ancillary systems also play critical roles in supporting youthful offenders and their families while they are being processed through the juvenile justice system.



Phanie/Alamy Stock Photo

### Federal Policy

As one of the important ancillary systems, the child welfare system (child protective services) focuses on ensuring the safety of children from maltreatment protecting and promoting stable and permanent family relationships, and caring for the well-being of children who experienced maltreatment. The Child Abuse and Prevention Act (CAPTA) of 1974 defines child maltreatment as serious harm to children caused by parents or primary caregivers, including babysitters and extended family members. Harm includes all types of abuse, such as physical, sexual, and emotional, as well as neglect. As will be discussed in later chapters, because many youthful offenders who get into trouble with the law often are victims of abuse and neglect and because the two systems are intertwined, it is important to understand how the child welfare system operates (Child Welfare Information Gateway, 2011).

Although specific child welfare policies vary by state, the federal government plays an important role in providing support through funding and legislative initiatives, which are implemented by the Children's Bureau, U.S. Department of Health and Human Services (HHS). The Children's Bureau is also responsible for the publication of *Child Maltreatment*, an annual count of national child and abuse reports. Figure 1.3 highlights important federal child welfare laws that have a significant impact on how child welfare services and programs are delivered at the state and local levels (Child Welfare Information Gateway, 2013).

### State Policy

Like the juvenile justice system, each state manages its own child welfare system. These child protective systems, therefore, vary from state to state and include both public and private services and programs offered at the federal, state, and local levels. Although the child welfare system is complex and specific procedures vary across states, most child welfare cases go through a similar investigatory and supervision process (Child Welfare Information Gateway, 2011; see Figure 1.4).

Most families become involved with the child welfare system because of a report of suspected child maltreatment by parents or primary caregivers; cases involving harm to a child caused by acquaintances or strangers are referred directly to law enforcement instead of to a child welfare agency. Any concerned person can report suspected child abuse or neglect to a local child welfare agency; most reports, however, are made by those who are required to report a suspicion of child abuse and neglect, including social workers, teachers, healthcare workers, mental health professionals, childcare providers, law enforcement officers, and medical examiners. Fewer than 20 states require all persons, regardless of profession, to report a suspected child abuse and neglect (Child Welfare Information Center, 2015).

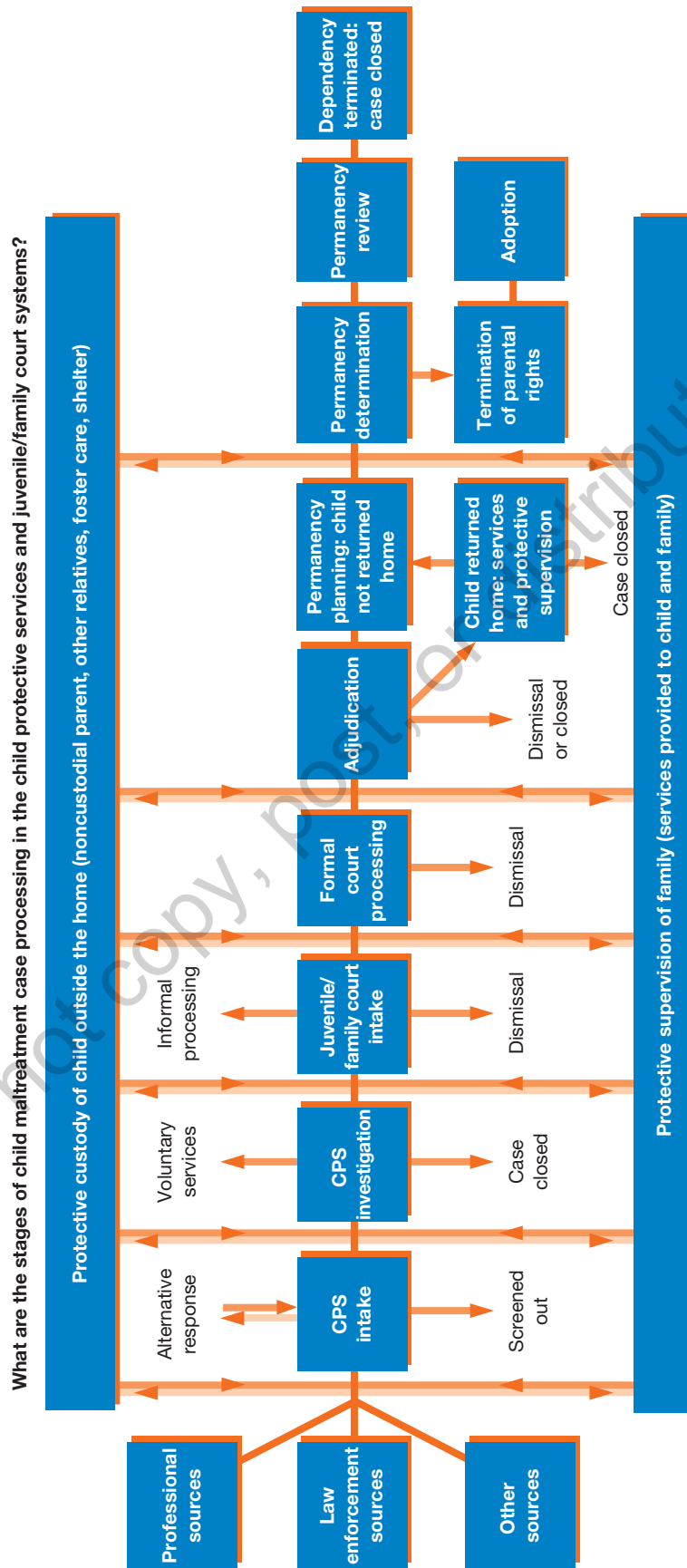
▲ The child welfare system protects young people from abuse and neglect by investigating cases and providing family supervision. Do you know of anyone who has had experiences with their local child welfare system?

▼ FIGURE 1.3

## Timeline of Federal Child Welfare Acts



▼ FIGURE 1.4  
**Stages of Child Maltreatment Case Processing**



Source: Sickmund & Puzanchara (2014), *Juvenile Offenders and Victims: 2014 National Report*. National Center for Juvenile Justice.

Child protective service (CPS) agencies receive reports of suspected abuse and neglect and screen them for further investigation. If CPS determines that there is not enough information to warrant a further investigation or the case does not meet the state's definition of maltreatment, it may refer the person who reported the incident to other services or to law enforcement. Once a case is determined to warrant a further investigation (approximately 40% of cases), CPS caseworkers speak with the parents, the child involved in the case, and other people who are in contact with the child, such as healthcare workers, teachers, and child-care providers, within a time period required by state law (typically one to three days). If CPS caseworkers determine that the child is in immediate danger, the child may be removed from the home during the investigation pending the proceedings in some states. A court order is required in other states before removing a child from their home, and in the case of emergency removal of a child, a preliminary protective hearing (or shelter care hearing) is required in these states (Sickmund & Puzanchera, 2014). Families are often directed to local services and resources during this time after caseworkers assess the specific family needs and difficulties (Child Welfare Information Center, 2015).

At the completion of an investigation, the CPS caseworkers determine whether the findings of abuse or neglect are substantiated (founded) or unsubstantiated (unfounded). When findings are determined unsubstantiated, and for other "low-risk" child maltreatment cases, CPS may offer services to children and families to help reduce the risk of future potential problems. The range of possible actions available when findings are substantiated varies from state to state and depends on the severity of maltreatment, the history of the CPS involvement, the immediate danger to child safety, and the available services and programs for the family. If findings are substantiated and CPS determines that the juvenile court needs to be involved through a child protection or dependency proceeding to keep the child safe, a juvenile court action is filed.

Once a court action is filed, the juvenile court may order the child to be temporarily removed from the home and placed in a safe alternative (e.g., shelter, respite home, or with a related family member), provide or direct services for the child and family, or restrict certain individuals who are suspected in the abuse or neglect to have no contact with the child. At the adjudicatory hearing, the juvenile court hears the evidence provided by the CPS and determines whether child maltreatment occurred and if the child should be removed from the home and remain in the custody of the court. At the dispositional hearing (some states combine the two hearings into one), the juvenile court may order parents to comply with services and programs and determine the provisions on visitation between parents and the child. In most child maltreatment cases, the juvenile court assumes jurisdiction over the cases to monitor the child welfare agencies' effort to reunite the family, as stipulated by the Federal Adoption Assistance and Child Welfare Act. In cases involving severe child maltreatment or death, law enforcement may be notified and a charge may be filed in criminal court against those who are responsible for the child maltreatment. In many states, certain types of abuse, such as sexual abuse and serious physical abuse, are automatically reported to law enforcement (Child Welfare Information Center, 2015; Sickmund & Puzanchera, 2014).

Most families of children who are removed receive services to reduce the risk of maltreatment in the future and to reunite with the child, which is usually part of the permanency plan for child maltreatment cases. The juvenile court is required by federal law to hold a permanency hearing within 12 months after the child is removed from home and placed in foster care. The juvenile court often reviews each case every 12 months thereafter, or more frequently, to ensure that the child welfare system is protecting and promoting stable and permanent family relationships for each child who enters the system. Unlike the juvenile justice system whose age of jurisdiction typically ends at age 18 or younger, many allow for supervision of young people who are in CPS custody up to ages 20 or 21. These young people receive support in forming permanent family relationships and in developing independent living skills until they leave care or age out (Child Welfare Information Center, 2015).

# CHAPTER REVIEW

## CHAPTER SUMMARY

This chapter provided an overview of the juvenile justice system, its jurisdiction, purposes, and functions, as well as a framework of important concepts and concerns that are developed and discussed in later chapters. Specifically, the issues addressed included the purpose and jurisdiction of the juvenile court, the case processing of how young people become involved in the juvenile justice system (from police contact to delinquency adjudication to

lock up), unique juvenile court concerns including delinquency and status offenses, issues related to confidentiality, and how the child welfare system operates and how it intersects with the juvenile courts. Adolescents are different from adults, and the juvenile courts were established for this and other related reasons. Hence, juvenile courts have certain discretions in deciding when to involve youthful offenders formally, to charge them, and to prosecute.

## KEY TERMS

adjudges 3	disposition 3	Office of Juvenile Justice and Delinquency Prevention (OJJDP) 8
adjudicatory hearing 17	disposition hearing 17	<i>parens patriae</i> 3
Attorney General 12	diversion 15	plea bargain 17
civil courts 3	Federal Juvenile Delinquency Act 11	racial and ethnic disparities 8
competency 17	<i>in loco parentis</i> 3	right to bail 17
confidentiality 19	jury trial 17	school resource officers 12
consent decree 16	juvenile 3	Standard Juvenile Court Act 4
criminal courts 3	Juvenile Justice and Delinquency Prevention Act 8	status offense 5
delinquency 5	Miranda warning 14	
delinquent 3		

## DISCUSSION QUESTIONS

1. Do you think a separate justice system is necessary for young people? Explain.
2. Discern and highlight the steps from informal involvement to delinquency adjudication in the juvenile justice system. In other words, how does a young person go from committing an offense to lockup?
3. What role does the federal government or federal law have in the operation of local juvenile courts? Identify the impact and policies.
4. Do you think that juveniles are different than adults and, thus, should be treated differently when they commit the same offense as adults? Explain.
5. Should we punish a juvenile offender who commits homicide the same as adults, no matter how young the person? What if the person was 17 with a history of violence? What if the person was 15 with a history of violence?
6. Explain how a youthful offender could avoid formal juvenile court involvement; where are possible diversion points?
7. What are some of the potential consequences for young people who are adjudicated delinquent and supervised by the juvenile court? What are potential outcomes for youthful offenders who continue to commit delinquent acts?
8. How does the child welfare system typically interact with the juvenile court process and structure? In other words, what cases are handled by the juvenile courts and what cases remain part of the child welfare system?
9. What are the possible outcomes of a child welfare agency investigation? How do federal laws impact child protective service decision-making for maltreatment children and adolescents?
10. Argue the pros and cons of keeping juvenile delinquency proceedings confidential. What is your opinion about whether these matters; should they remain private?

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