

Juvenile Court Procedures

- Intake
- Adjudication
- Disposition
- The backdrop: police methods of handling juveniles.
 1. Diversion
 2. Referral to juvenile unit
 3. Taking into custody and detention
 4. Referrals to juvenile court

General Purposes of Detention

1. Ensure that the youth will be appear in court.
2. Stabilize behavior and/or protect the child. In this regard, detention sometimes provides time to evaluate or assess the youth and to engage in crisis intervention.
3. Protect the youth and others.

Defining Detention

- The temporary care of youth by the state in physically restricted facilities, pending court trial or disposition, or transfer to another facility or agency. In recent years, detention has been used as a sanction.
- Two **general approaches to detention**:
 1. Custodial model
 2. Rehabilitative model

The Practice of Detention

- An **intake decision**, statutorily required as a part of the *preliminary inquiry* (41-5-1201 and 1202).
- **Statutory authority** for placement: 41-5-322 (<http://data.opi.state.mt.us/bills/mca/41/5/41-5-322.htm>)
- Police **holding facilities** (41-5-350) and **shelter care** (41-5-322).
- **Operation** of detention facilities.
- **Criteria for placement** in secure detention facility: 41-5-341 (<http://data.opi.state.mt.us/bills/mca/41/5/41-5-341.htm>)

Statutory and Case Law Regulating Detention

- **41-5-332. Custody — hearing for probable cause.**
 - ✓ Specifies the time limitation as 24 hours
- **41-5-333. Hearing for probable cause — procedure.**
 - ✓ Advised of rights (specifies right to counsel)
 - ✓ Presence of parent or guardian
- **41-5-334. Custody— determinations — detention—release.**
 - ✓ “Probable cause to believe that the youth is a delinquent youth or a youth in need of intervention.”
 - ✓ “Not to be placed in a jail.”
- ***Schall v. Martin* (1984) – preventive detention**

The Use of Detention

- In 2005, juveniles were detained in 21% of all **delinquency cases** — 354,100 cases. In comparison, 8% of all **petitioned status offense** cases involved detention — 11,900.
- **TREND:** While the number of **delinquency cases detained** has increased by 48% from 1985 to 2005. the increase was greatest for person, drug, and public order offenses; but declined for property.
- **TREND:** From 1995 to 2005 the **number of detained petitioned status offense cases** increased by 35%, with an increase in the number of ungovernable and liquor law cases and a decline for curfew cases.

The Use of Detention: Delinquency Cases

	Percent <u>Detained</u>	Offense Profile <u>Detained Cases</u>
All Delinquency cases	21%	--
Person	25%	28%
Property	16%	33%
Drugs	18%	11%
Public Order	24%	<u>28%</u>
		100%

The Use of Detention:

Petitioned Status Offense Cases

	<u>Percent Detained</u>	<u>Offense Profile Detained Cases</u>
All status cases	8%	--
Runaway	16%	17%
Truancy	4%	15%
Curfew	10%	8%
Ungovernable	10%	19%
Liquor Laws	8%	23%
Miscellaneous	na	<u>18%</u>
		100%

The Use of Detention: Discretion

Detention and formal court action (petitioning) is more likely for:

- ✓ **Males** than females, for all types of offenses, including status offenses.
- ✓ **Older juveniles** than for younger juveniles, for all types of offenses except status offenses.
- ✓ **Blacks** than whites or other races, regardless of types of offense. For detention, this is called **disproportionate minority confinement**.
- ✓ More **serious offenses** and for juveniles with more extensive **prior records**.

Gender & Racial Disparity in the Likelihood of Detention

	<u>Male</u>	<u>Female</u>	<u>White</u>	<u>Black</u>	<u>Other</u>
Delinquency	22%	17%	18%	25%	21%
Person	26%	22%	23%	28%	27%
Property	19%	12%	15%	22%	17%
Drugs	20%	18%	16%	33%	27%
Public Order	23%	18%	21%	23%	24%

Snyder and Sickmund. 2006. *Juvenile Offenders and Victims 2006*.

Detention Reform — OJJDP

- **The Juvenile Justice and Delinquency Prevention Act of 1974:**
 1. remove status offenders from detention or secure confinement
 2. promote sight and sound separation of juveniles from adults while in detention
 3. remove juveniles from adult jail facilities, and
 4. reduce the number of minorities in secure facilities.
- OJJDP provided technical assistance, consultation, and evaluation grants to states.
- Evidence indicates that OJJDP initiatives have influenced state and local juvenile detention practices in each of the areas addressed in the JJDP Act.

Factors Influencing the Detention Decision

1. Seriousness of the offense
2. Prior record
3. Past or pending court action
4. Violation of court order, including consent adjustment w/o petition
5. Escape from juvenile justice facility
6. Protection of person or property
7. Extra-legal factors: family background, age, gender, race