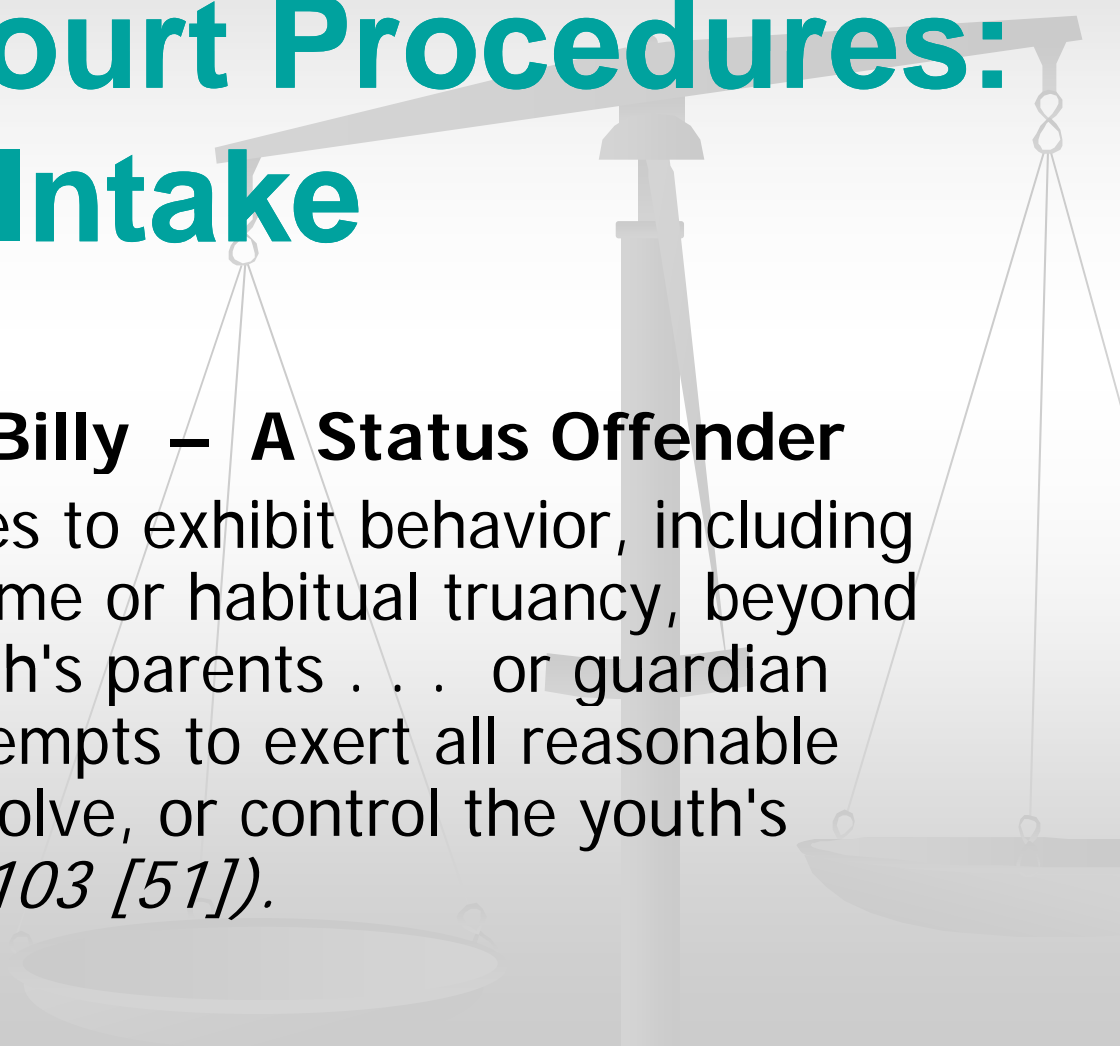


Juvenile Court Procedures: Intake



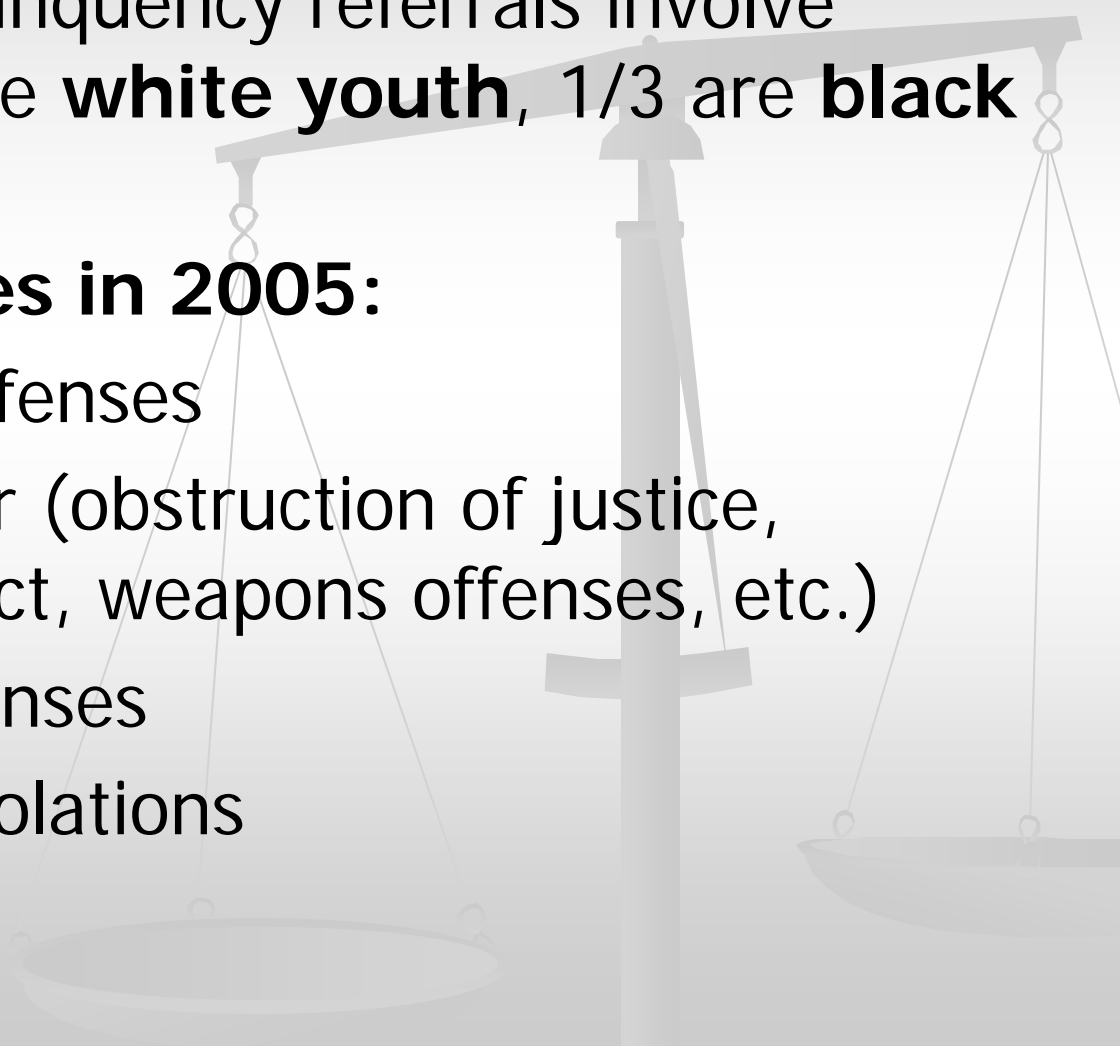
Case Study of Billy – A Status Offender

A youth who “continues to exhibit behavior, including running away from home or habitual truancy, beyond the control of the youth's parents . . . or guardian despite . . . [their] attempts to exert all reasonable efforts to mediate, resolve, or control the youth's behavior” (*MCA 41-5-103 [51]*).

Referrals to Juvenile Court

- **Discretion** and **diversion** characterize the **juvenile court process**: intake; petitioning; judicial waiver; adjudication; and disposition.
- In 1972 police **referred to juvenile court** 51% of all juveniles **taken into custody**; by 2002 this rose substantially to 73%. In 2005, 70% of all custody cases were referred to the juvenile court.
- In 2005, juvenile courts across the United States handled an estimated **1.7 million delinquency cases**.
- **Trends**: The number of **delinquency cases referred to juvenile courts** has increased by 46% from 1985-2005, but has actually declined in the last 10 years (1996-2005) by 15%.
- We have limited data regarding the referrals of **status offense cases**.

Referrals to Juvenile Court

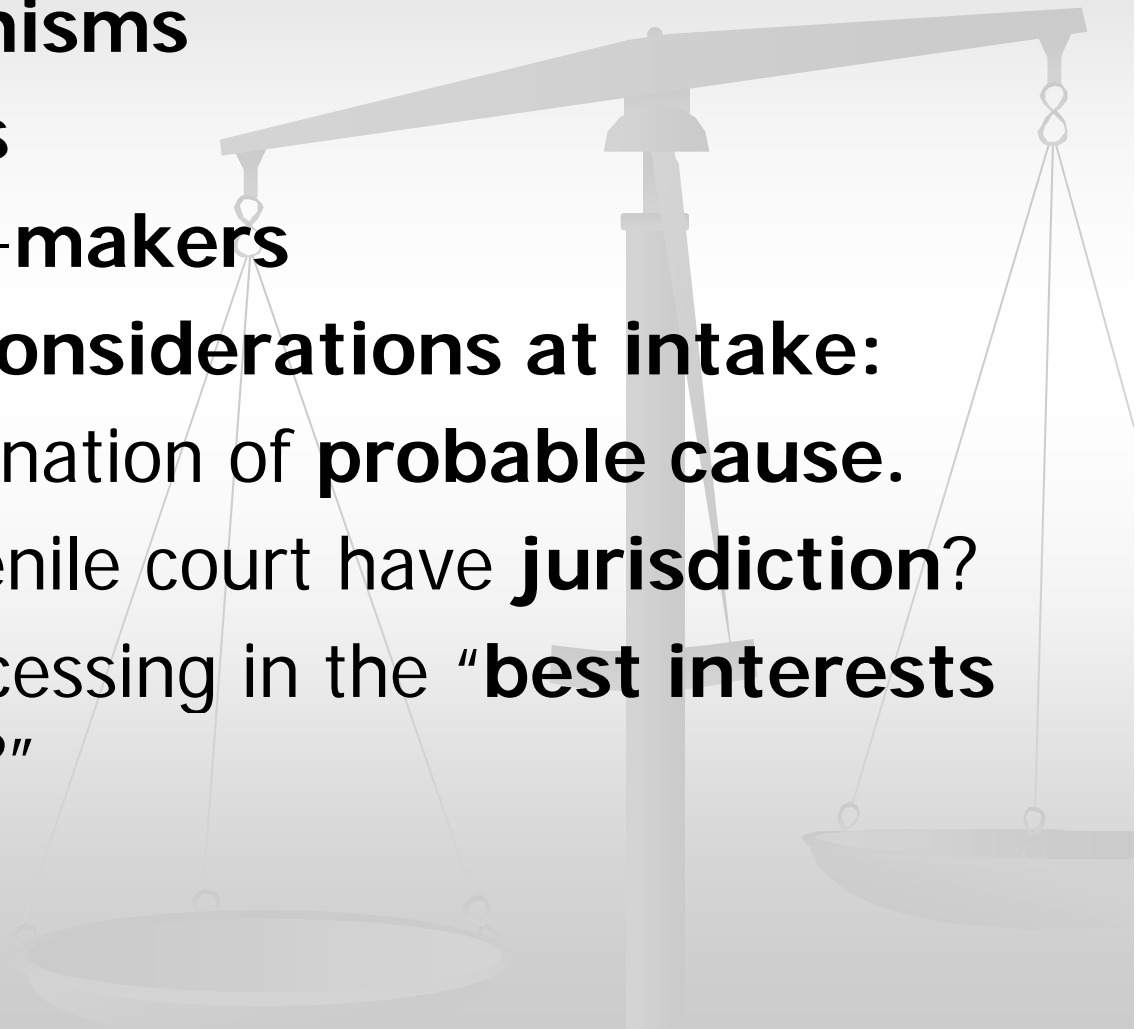
- Almost $\frac{3}{4}$ of all delinquency referrals involve **males**, over $\frac{2}{3}$ are **white youth**, $\frac{1}{3}$ are **black youth**.
 - **Delinquency cases in 2005:**
 - 35% property offenses
 - 28% public order (obstruction of justice, disorderly conduct, weapons offenses, etc.)
 - 25% person offenses
 - 12% drug law violations
- 

Intake is a Screening Decision

- After a case is referred to the juvenile court, a **screening decision** is made regarding how the case will be handled by the juvenile court. This decision is called **intake**.
- **Orientation of intake**: a determination of **dependency and risk**, following the **rehabilitative ideal** (philosophy and process) with ***parens patriae* authority**:
 1. Diminished criminal responsibility
 2. A child-welfare approach – the “best interests of the child” – individualized – emphasizing reform
 3. Informal, family-like procedures, pursuing the “least restrictive option”

Intake is a Screening Decision

- Referral **mechanisms**
- Referral **sources**
- Intake **decision-makers**
- **Three critical considerations at intake:**
 1. Legal determination of **probable cause**.
 2. Does the juvenile court have **jurisdiction**?
 3. Is formal processing in the "**best interests of the child**?"



Preliminary Inquiry



- **Statutory basis:** *MCA 41-5-1201–1205*
- Statutory **authority** for the assessment
- **Procedures** to be followed in the preliminary inquiry
- Specification of the assessment content as a **“multidisciplinary assessment,”** including:
 - ✓ chemical dependency evaluation
 - ✓ educational assessment
 - ✓ determination of mental health needs
 - ✓ need for family-based services
 - ✓ summary of “family’s strengths and needs”
- **“Determinations”:** further action or no further action and release
- **“Dispositions”:** refer to County Attorney for **petitioning** or arrange for **informal disposition**

Petition: Formal Handling

- The **petition** is a legal document, issued by the prosecutor's office, that specifies:

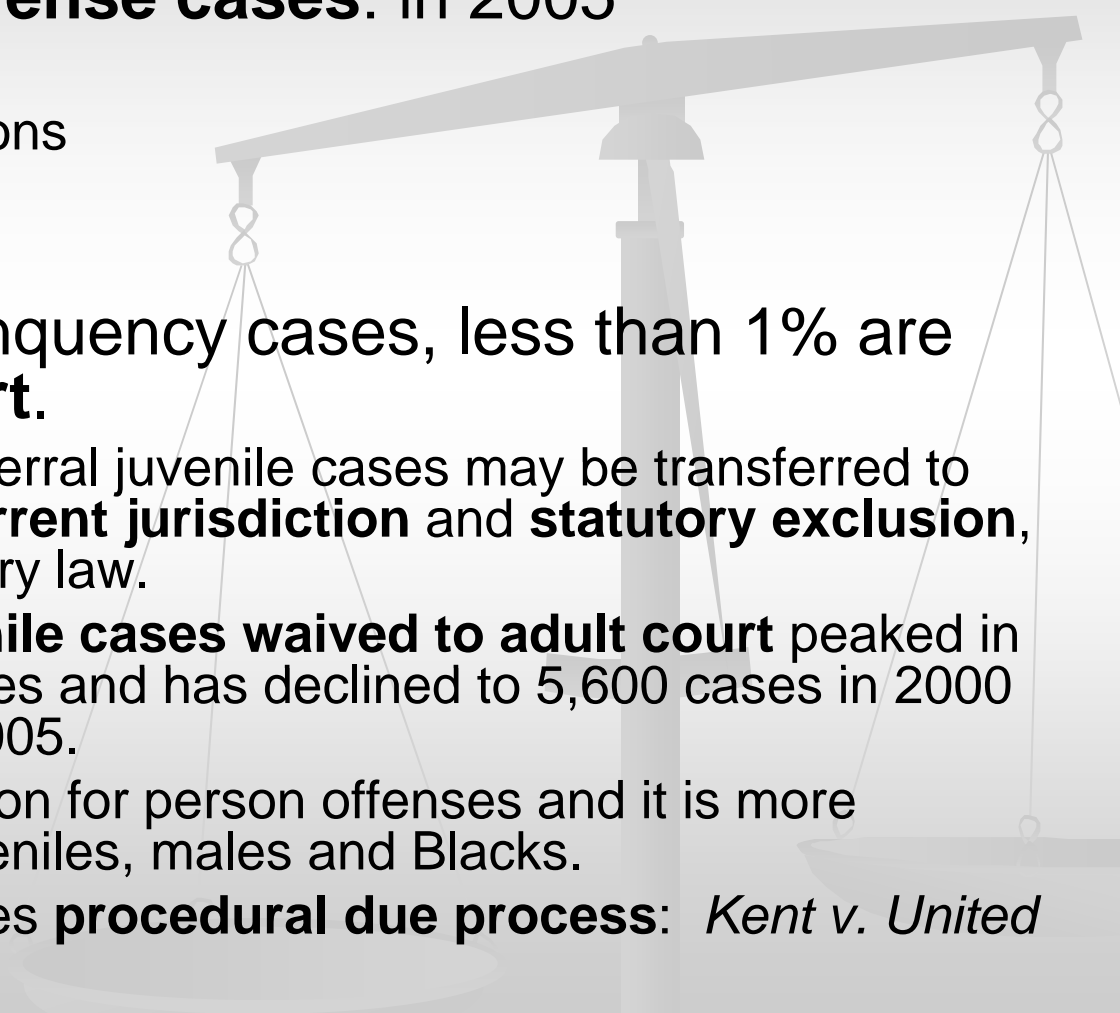
- ✓ facts of the case
- ✓ charges
- ✓ basic identifying information of the youth and parents

Form and content of the petition is specified in statutory law:

MCA 41-5-1402.

- **56% of all delinquency cases** referred to the juvenile court are **petitioned**. There has been an increased tendency to deal with referred cases **formally**, by petitioning.
- Petitioned delinquency cases tend to involve **more serious crime, older juveniles**, and juveniles with **longer court histories**. **Males** and **Blacks** are also more likely to have their cases petitioned into juvenile court.

Petitioned Cases: Status Offense Cases and Waived to Adult Court and

- **Petitioned status offense cases:** in 2005
 - 35% truancy
 - 19% liquor law violations
 - 15% ungovernability
 - 14% running away
 - **Of the petitioned delinquency cases, less than 1% are waived to adult court.**
 - ✓ Recall that prior to referral juvenile cases may be transferred to adult court via **concurrent jurisdiction** and **statutory exclusion**, as specified in statutory law.
 - ✓ The **number of juvenile cases waived to adult court** peaked in 1994 with 12,100 cases and has declined to 5,600 cases in 2000 and 6,900 cases in 2005.
 - ✓ Waiver is most common for person offenses and it is more common for older juveniles, males and Blacks.
 - ✓ Judicial waiver requires **procedural due process**: *Kent v. United States* (1966)
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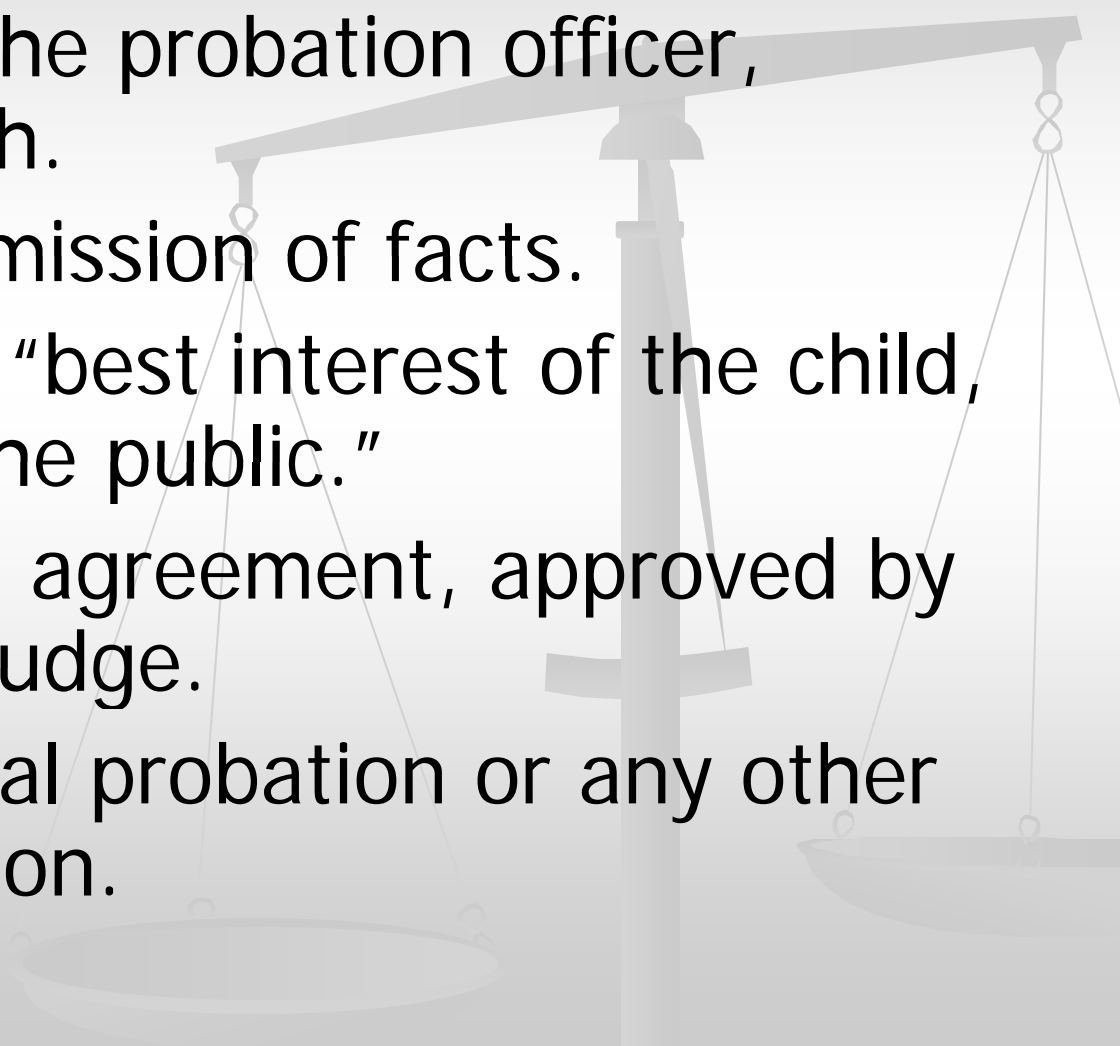
Not Petitioned: Informal Handling



- **44%** of all delinquency cases referred to the juvenile court are **not petitioned**:
 - 40% were **dismissed**
 - 22% were placed on **informal probation**
 - 38% are given “other sanction” – some **informal disposition** other than probation
 - < 1% were **placed**
- **Informal disposition**: both informal probation and “other sanction” are considered “**informal disposition**” and are a form of **diversion**.
- **41-5-1301. Informal Disposition.**

<http://data.opi.state.mt.us/bills/mca/41/5/41-5-1301.htm>

41-5-1302. Consent adjustment without petition.

- Entered into by the probation officer, parent, and youth.
 - Based on the admission of facts.
 - Should be in the “best interest of the child, the family, and the public.”
 - A signed, written agreement, approved by the youth court judge.
 - Results in informal probation or any other informal disposition.
- 

- 41-5-1304. Disposition permitted under consent adjustment.** (1) The following dispositions may be imposed by consent adjustment:
- (a) **probation**;
 - (b) placement of the youth in substitute care in a **youth care facility** . . . ;
 - (c) **placement** of the youth with a **private agency** responsible for the care and rehabilitation of the youth . . . ;
 - (d) **restitution**, as provided in [41-5-1521](#), upon approval of the youth court judge;
 - (e) placement of the youth under **home arrest** as provided in Title 46, chapter 18, part 10;
 - (f) **confiscation of the youth's driver's license**, if the youth has one, by the probation officer for a specified period of time, not to exceed 90 days.
 - (g) a requirement that the youth receive **counseling** services;
 - (h) **placement in a youth assessment center** for up to 10 days;
 - (i) placement of the youth in **detention** for up to 3 days on a space-available basis at the county's expense, which is not reimbursable under part 19 of this chapter;
 - (j) a requirement that the youth perform **community service**;
 - (k) a requirement that the youth participate in **victim-offender mediation**;
 - (l) an agreement that the youth **pay a contribution covering all or a part of the costs** for the adjudication, disposition, attorney fees for the costs of prosecuting or defending the youth, costs of detention, supervision, care, custody, and treatment of the youth, including the costs of counseling;
 - (m) an agreement that the youth pay a contribution covering all or a part of the **costs of a victim's** counseling or restitution for damages that result from the offense for which the youth is disposed;
 - (n) **any other condition ordered by the court to accomplish the goals of the consent adjustment**, including but not limited to mediation or youth assessment.

Factors Influencing the Intake Decision

1. Seriousness of the offense
 2. Prior record
 3. Policies and practices of the juvenile court
 4. Age, gender, and race of the youth
 5. Social environment of the youth
 6. Attitude and demeanor of the youth
 7. Availability of diversion services
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