

Chapter 1

CONCEPTS AND TERMS USED IN JUVENILE JUSTICE

SUMMARY

This chapter presents definitions of concepts and terms that comprise juvenile justice, including an overview of how juvenile justice services are organized in the state.

In order to fully utilize the resources and ideas found in this handbook, we have included some brief descriptions of the common concepts and broader terms used in the rest of the handbook.

Court Diversion—Diversion is an alternative to traditional court processing. It is a procedure that refers a youthful offender, who might otherwise be dealt with in juvenile court, to an alternative community-based program. Diversion programs deal primarily with the first-time low-risk offender and are based on the assumption that some offenses are more effectively dealt with by sanctions other than prosecution.

Based on the tenets of *Restorative Justice*, diversion aims to hold the juvenile accountable for his/her actions and to provide him/her with the knowledge to make responsible decisions in the future. When a juvenile has successfully completed the program, charges are dropped and the youth has no record. The concept of diversion itself is not new. Police have always used their discretionary powers to divert offenders from the formal criminal justice system through counsel and release and other in-house efforts.

What Diversion Is

Diversion involves and represents the members of the community harmed by the crime. It holds youth responsible and accountable for the offense they have committed and demands reparation to the community, and when feasible, the victim.

What Diversion Is Not

Diversion is not a slap on the wrist as a way to avoid real punishment. Youth who do not perform satisfactorily face the reality of being returned to the juvenile justice system for their original offense.

Juvenile Justice—A broad term meant to cover the actual institutions that provide legal recourse to juveniles as well as the philosophy that aims to separate youthful offenders from the type of justice delivered to an adult population. Although the justice system is still, by and large, punitive in nature, the police and courts recognize that there is a need for rehabilitation and prevention services for juveniles. When a juvenile commits an offense, they are provided with certain protections not found in adult court including

protections of confidentiality, separate court proceedings, and guarantees of speedy trials. They are provided social and rehabilitative services as well as disincentives for possible placement out of the home. Juveniles are also subject to *status offenses*, those acts that are considered to be criminal in nature simply because of the age of the offender. These offenses are different than criminal acts and are handled differently by the police and courts.

Intervention and Prevention—Diversion is considered an *early intervention* program. Typically, a youth enters diversion after an offense has occurred. However, since the intent of the intervention is to prevent further offenses, the action is considered early intervention. *Intervention* programs are typically offered to individual youth or targeted groups. *Prevention* programs are much broader efforts aimed at keeping youth from committing dangerous or criminal acts by using education, positive reinforcement, and positive example. Types of prevention programs include after school enrichment programs, Big Brother/Big Sister, DARE, and other efforts aimed at keeping youth from committing offenses in the first place.

Restorative Justice —An alternative view of the process of justice that looks less at punishing the offender than repairing the harm of the offense. Traditional justice focuses on the fact that a law was broken and punishment must be provided. Restorative justice considers three parties to be equal in any crime; the victim, the community, and the offender. To that end, the focus is on the harm and reparation. Since crime damages the victim and the community, the role of justice is to repair that damage and to reintegrate the offender back into the community with greater social and personal skills than before the offense was committed. This concept is also the basis of what is called *Balanced and Restorative Justice*.



NEWSWORTHY!

One of the first and best-known juvenile Balanced and Restorative Justice programs was created in Deschutes County, OR. Since then numerous states have included BARJ principals into their juvenile statutes. The newest program in NH is the Belknap County Restorative Justice Program.

Interested in knowing more about BARJ?

Try <http://alternet.descutes.org> or www.fau.edu/barj

Teen Court—A relatively new concept for alternatives to juvenile court. A teen court is run the same as an adult court except that the personnel consist of trained, volunteer teens. Judges and attorneys usually work with the youth to ensure that they adhere to basic concepts of jurisprudence. Once a defendant has pleaded true to a charge, they are tried and sentenced by a jury of their peers. Sentences are typically the same as what the youth would have faced in diversion, holding them accountable for learning from their actions. Many teen court programs insist that defendants participate in the court once they

have successfully completed their sentence. Some teen courts work the same as diversion while others are considered as a second step for youth who have re-offended or for some other reason are not suitable for diversion. Teen courts are usually associated with the local court system, a school, a diversion program or a combination. They may accept cases from just one source, such as a school, or many sources. In addition, they may take all cases or be restricted to one type, for instance, teen drug court.



Interested in knowing more about Teen Court programs?
Try www.youthcourt.net or www.ncpc.org/yia

Victim—One of the main tenets of restorative justice is the need to involve the victim in the justice process in order to ensure that they are *made whole*. It is not always feasible to have a direct face-to-face meeting with the victim, especially if he/she is uncomfortable or hesitant. In that case, contact is kept between the police and/or diversion staff and the victim. Issues of confidentiality must also be taken into consideration when dealing with both victim and offender. Diversion programs offer varying degrees of victim services. Both the courts and the Department of Corrections have victims advocate services that can help provide more information on victim services.

Youth—New Hampshire law is currently changing and will once again consider 18 to be the age of majority, that is, the age at which a youth is considered an adult if they commit a criminal act. Once apprehended, 18 year olds are subjected to adult court and adult sanctions including jail. Legislation was passed in 1995 changing the age of majority to 17 to both protect communities from 17 year olds from other states who committed crimes in New Hampshire and to save the taxpayers the cost of incarcerating this population in juvenile secure detention, an option which is significantly more costly than a county correctional facility. Opinion was mixed as to whether this legislation had its desired effect of reducing in-state and out-of-state crime and saving money. There was a credible body of data showing that 17 year olds who got involved in the adult court system were often left significantly worse off than their adult counterparts since they usually dropped out of school and were estranged from their families but yet they were not considered adults and were not eligible for assistance, able to sign leases, take out loans, etc. Legislation to change the age back to 18 was signed by the governor in the spring of 2002. There are provisions in the original juvenile code that provide police with a strict process for having juveniles of any age considered to be adults for the purpose of prosecution.

The following is a brief description of juvenile services and juvenile justice in New Hampshire.

Juvenile Justice Services in New Hampshire

Until 2001, juvenile justice services in New Hampshire were divided between two separate departments, the Department of Health and Human Services (DHHS) and the Department of Youth Development Services (DYDS). DHHS, through its Division for

Children, Youth and Families (DCYF) oversaw Juvenile Probation and Parole Officers (JPPOs). DYDS ran the state's secure institutions for juveniles. However, in late 2001, the personnel and functions of DYDS were transferred to DHHS. A new department, the Division for Juvenile Justice Services (DJJS) was created within DHHS to supervise JPPOs and to run the state's Youth Development Center at Manchester and the Youth Services Center at Concord. DCYF was left with child protection responsibility.

DJJS is responsible for investigation and community supervision of delinquents and children in need of services (CHINS). JPPOs support the District and Family courts from locations in Berlin, Claremont, Derry, Dover, Franklin, Goffstown, Lebanon, Littleton, Plymouth, Rochester, Manchester, Salem, Portsmouth, Conway, Concord, Keene, Laconia, and Nashua. Each JPPO works under the supervision of a Juvenile Probation and Parole Supervisor (who also manages the field office's daily operations).

How Juveniles Enter the Juvenile Justice System

Under New Hampshire law, anyone may file a petition with a district court alleging the delinquency of a minor. Police officers and JPPOs have the discretion to either file formal delinquency petitions against arrestees or release them to the custody of their parents or guardians without court referral. Police officers, JPPOs, and prosecutors may also refer a juvenile to any court-approved diversion program rather than file a formal petition, subject to local diversion referral procedures approved by the district's administrative judge. However, *the court must approve any diversion once a delinquency petition has been filed*. The law provides for the diversion alternative at any point from apprehension to arraignment of the youth. Some diversion programs also accept adjudicated youth, thus providing diversion type services as a dispositional alternative.

Juvenile delinquency cases are heard in the district courts, which are courts of limited jurisdiction. In Grafton and Rockingham counties, however, a Family Division Pilot Program was established in 1995. The Family Division has jurisdiction over all types of family law matters, including juvenile delinquency matters, in each of the two pilot counties. Justices are assigned to the Family Division from the district, probate, and superior court benches. There are 36 district courts in the state. In 2005 the legislature voted to expand family courts to cover the entire state by 2008.