



“ Among all of the policy areas affecting vulnerable children and families, juvenile justice has probably suffered the most glaring gap between best practice and common practice, between what we know and what we most often do. ... The consequences have been both disturbing and costly: Our juvenile justice systems have become littered with poorly conceived strategies that often increase crime, endanger young people and damage their future prospects, waste billions of taxpayer dollars, and violate our deepest held principles about equal justice under the law.”

- Douglas Nelson, President and CEO,  
Annie E. Casey Foundation

# JUVENILE JUSTICE IN MONTANA

## Introduction

In 1899, the United States established the world’s first court of law dedicated exclusively to children, in Cook County, Illinois, on Chicago’s west side. Until then, children were tried in criminal courts alongside adults and were imprisoned and sentenced to hard labor at ages as young as 8. Together with a sister court in Denver, the Cook County youth court devised “an entirely new system of justice based on the principle that children are inherently different from adults, less culpable for their acts and more amenable to rehabilitation” (Annie E. Casey Foundation).

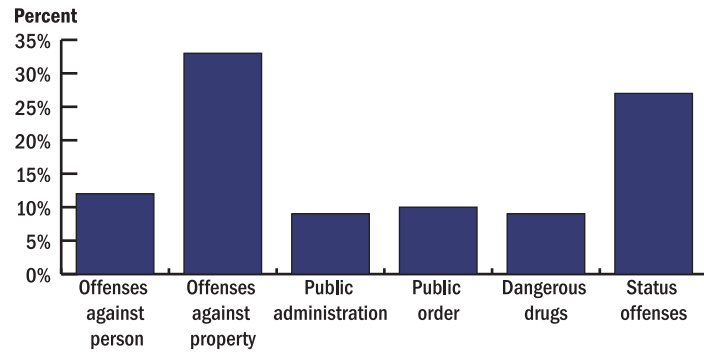
Rooted in lofty ideals, the juvenile justice system has unfortunately fallen far short of its original potential. The consequences have been disturbing and costly in the words of the Annie E. Casey Foundation president and CEO (sidebar on the left).

Montana seems to be better off than most states in terms of its juvenile justice system. In this case, our small size and rural nature work to our advantage, helping us showcase a juvenile justice system that is not as broken as national trends would indicate. While the national system as a whole is still suffering the consequences of a public policy shift in the 1980s and 1990s toward punishment and deterrence, and away from rehabilitation (Casey Foundation), Montana’s system places a great deal of emphasis on early intervention and prevention, as well as rehabilitation when the first two prove not to be sufficient. Additionally, Montana’s unique characteristics in terms of size and rurality translate into a relatively low rate of violent offenses and serious crime patterns (Figures 1, 2, and 3), allowing for a juvenile justice system that is far ahead of other states in terms of what is being done for youth.

## Juvenile Delinquency Intervention Program

In Montana, the juvenile justice system functions as part of the district courts under the name of Juvenile Delinquency Intervention Program (JDIP). The state is divided into 22 judicial districts supported by the Office of Court Administration, and probation officers are supervised by the district court judges within each district. The JDIP covers youth ages 10 through 17; by contrast many states restrict their system to age 15 or 16,

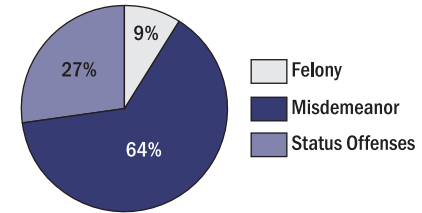
**Figure 1**  
**Referrals to Montana's Youth Courts:**  
**Offense Categories, 2007**



Note: Public order includes disorderly conduct, animal cruelty, weapons possession, flag desecration, and criminal gang-related activity.  
 Public administration includes resisting arrest, perjury, falsification, and bribery.  
 Status offenses are acts that are law violations only for individuals of juvenile status (e.g. running away and truancy; liquor law violations are included under MIP).

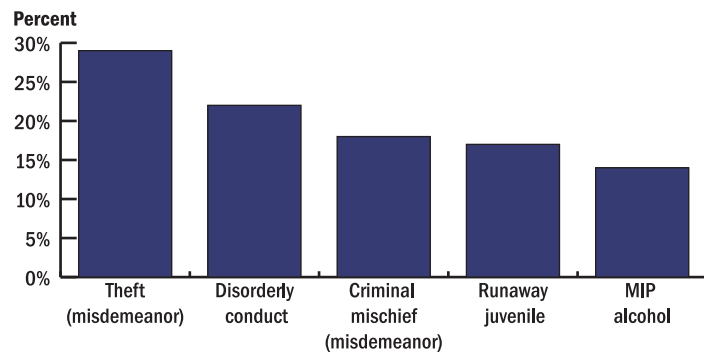
Source: Montana Supreme Court, Office of the Court Administrator.

**Figure 2**  
**Referrals to Montana's Youth Courts:**  
**Offense Classifications, 2007**



Source: Montana Supreme Court, Office of the Court Administrator.

**Figure 3**  
**Five Most Common Offenses Associated with**  
**Referrals to Juvenile Probation in Montana, 2007**



Note: MIP = minor in possession.

Source: Montana Supreme Court, Office of the Court Administrator.



**Table 1**  
**Number of Referrals to Montana's Youth Court, 2007**

Youth referred to Youth Court	6,676
Referrals (a youth may have multiple referrals)	10,593
Offenses (a referral may have multiple offenses)	13,673

Source: Montana Supreme Court, Office of the Court Administrator.

**Table 2**  
**Juvenile Probation Budget, 2007**

State Fiscal Year	Juvenile Probation Allocation for Out-of-Home Placement and Services	Amount Available for Prevention and Early Intervention Services at the End of the Year
FY2005	\$5,830,346	\$1,175,217
FY2006	\$5,538,110	\$1,874,747
FY2007	\$5,538,110	\$2,329,193
FY2008	\$5,467,589	\$2,099,915

Source: Montana Supreme Court, Office of the Court Administrator.

some allow for children as young as 6 or 8 to enter the juvenile justice system, and several states have no specified lowest age (NCJJ).

Montana youth enter the juvenile justice system through a referral to youth court (Table 1). The disposition handed down can be one of three: informal (81 percent), to be handled by a juvenile probation officer; formal (11 percent), where the youth appears before a youth court judge; and pending (8 percent), where the case is awaiting action from the county attorney's office, requires further investigation by law enforcement, or a ticket has been issued and juvenile probation is waiting to see the youth and parent(s) (Montana Supreme Court 2007).

Funding for JDIP is appropriated by the Legislature and divided among the 22 districts according to the number of youths and the number of intakes during the previous year. District funds are to be used for out-of-home placements and direct services, such as counseling. There is an incentive within the JDIP for districts to stay within their budgets and to treat youths within their own communities, while trying to eliminate out-of-home placement as much as possible. If a district has funds remaining at the end of the fiscal year, they are routed to a special account and called "prevention incentive funds." These funds are to be used locally to provide early intervention and prevention services to youth, which may help prevent further involvement within the juvenile justice system and ultimately keep youth from being placed in a higher level of care. For example, a district may refer youth into existing programs and services within their communities and pay for them with prevention incentive funds, or they may identify the need for additional services and work with local providers to develop them.

Looking at the reductions in the numbers of out-of-home placements and commitments to the Department of Corrections, it becomes clear that Montana's program of prevention and early intervention is working. The 1999 Legislature approved an expansion of Pine Hills Youth Correctional Facility for Boys in Miles City from 85 beds to 144 beds by fiscal year 2001. Since then, two units within the facility have closed down, leaving a current capacity of 124. At the time of publication, there were 70 boys at Pine Hills and only 12 girls at Riverside Youth Correctional Facility for Girls in Boulder, which has a capacity of 20.

**Table 3**  
**Montana Youth Intake Statistics, 2005 - 2007**

	2005*	2006	2007	3-year average
Intakes per year	10,828	10,311	10,590	10,576
Unduplicated youth per year	7,299	6,627	6,685	6,870

\*5/9/05 - 5/9/06.

Source: Montana Supreme Court, Office of the Court Administrator.

The funding available for juvenile probation has remained fairly constant over the past few years, whereas the amounts returned to the districts for prevention and early intervention have increased considerably (Table 2). The number of youth and the number of intakes throughout the 22 districts have also remained fairly constant over the past three years (Table 3).

## Juvenile Court Assessment Tracking System

For the Juvenile Delinquency Intervention Program to work to its full potential, probation officers and district court judges need to be able to track individual youths through the system, paying close attention to trends in offenses, dispositions, placements, and services. This is the only way to monitor the effectiveness of various treatments and services and to detect changes in the composition of offenses, responses to those offenses, and minority representation within the system.

In Montana, the youth court system uses a data management system called Juvenile Court Assessment and Tracking System, which has been in place since May 2005. Prior to its implementation, not much information was collected on system trends. However, advanced tracking technology now allows probation officers to keep track of youths and then analyze the data to help identify the placements and services that are most successful in reducing recidivism, and potentially target the areas with the highest needs within their districts.

## Minorities in the Juvenile Justice System

Throughout the United States, minorities are over-represented in the juvenile justice system. This over-representation of minority youth has been recognized at the federal level, and as a result, all states are required to identify, assess, address, and monitor disproportionate minority confinement for juvenile minority populations that represent more than 1 percent of the total general juvenile population for the state.

In Montana, three juvenile ethnic/racial groups met this 1 percent threshold requirement: Hispanic/Latino, American Indian/Alaskan Native, and Other/Mixed. In 2006, American Indians represented 14.6 percent of people age 10 to 17 who were referred to Youth Court, yet they only made up 9.7 percent of the total population under 18. Montana's State Advisory Group, the Youth Justice Council, developed a three-year plan to address the disproportionate representation of minority youth in Montana's juvenile justice system. The plan, in the process of being updated, establishes priorities along the continuum of prevention, intervention, and accountability. The Youth Justice Council identified the following priorities for the juvenile justice system: early identification, diversion, and prevention/intervention that engages family. The majority of youths coming into contact with the juvenile justice system are handled through an informal process and are diverted into community programs to help prevent them from further escalating into the system.

One diversion tactic Montana is piloting is the Annie E. Casey Foundation's Juvenile Detention Alternative Initiative (JDAI), which has been successful in other states. JDAI is a proven approach to diversion resulting in better outcomes for youth in the juvenile justice system. The Casey Foundation pilot sites are Missoula, Cascade, and Hill counties. The three sites are funded by an Annie E. Casey grant awarded to the Montana Board of Crime Control.



**Probation** – a disposition given to youth by the Youth Court. Juvenile probation is part of the Youth Court within the judicial branch.

**Parole** – a term used for youth who have been committed to the Department of Corrections for placement in a Youth Correctional Facility and have been released on community supervision with a juvenile parole officer, who works for the Department of Corrections.

designed to address the highest risk areas and to build on the protective factors, such as family connections. This type of case management fits well with the restorative justice approach adopted by the state, and the youth court laws that were designed to keep youth out of the system.

Another advantage of an assessment is to identify youth with mental health needs. The earlier youths' needs can be identified, the better are the chances of not having them penetrating too far into the juvenile justice system. Collaboration with Children's Mental Health in supporting a Children's System of Care has helped in this area. Under this program, a multi-agency team evaluates the mental health needs of a youth and develops a strengths-based life plan with the family and the youth at its center. Increasingly, foster families also are becoming involved in this process.

## Assessment

The juvenile justice system in Montana also includes the mandatory use of an assessment instrument on all youth placed on probation. Youth needs are addressed through an official assessment process that is used by over 20 other states. The instrument identifies the areas of risk a youth is facing, as well as the protective factors present in his or her life. Case plans are then

## Ongoing Struggles

Despite the best efforts involved in designing and implementing youth court programs, there continues to be challenges. One problem is that juvenile probation has become the default agency for many youth with mental health needs. If a child acts out and parents do not have the resources to seek mental health treatment, they may be told by other agencies to refer them to probation. The state is in dire need of assessment centers that are

accessible to parents, schools, and other agencies to refer youth to for a thorough assessment. Timely intervention can prevent them from being placed in the wrong system which sometimes does more harm than good.

Another problem within the Montana juvenile justice system is the lack of intermediate sanctions in the continuum of care available to youth. Options go from a group home setting to a correctional setting, with no programs in between. The Montana system lacks facilities that provide lower levels of security than what correctional settings offer, yet more structure, oversight and treatment options than a group home. Additionally, there needs to be a focus on long-term drug and alcohol treatment, as well as mental health services.

Ultimately, the goal of the Montana Juvenile Justice System is to make youth entering the system better for it, not worse. While youth are still held accountable for their actions, there is great emphasis on treatment and education.



## Conclusion

The Montana Youth Court was created to keep youths out of the justice system, as far too many were prosecuted for common adolescent misbehavior. The consensus within the juvenile justice system is that youth outgrow crime. As such, the approach to dealing with juvenile delinquency has to be constantly dynamic. To improve outcomes for youths and their families, treatment options cannot be based solely on funding. Emulating best practice in our common practice will increase the odds of long-term success for all youths who come into contact with the juvenile justice system.

Youth Court does not terminate parental rights. Youth cannot be placed in jail for a disposition unless there is consent of the youth and the youth's parent(s)/guardian and either a consent adjustment or consent decree is signed. In Montana, youth can be held only for 24 hours before a detention hearing (as opposed to 48 hours in most other states), and cannot be incarcerated for a status offense.