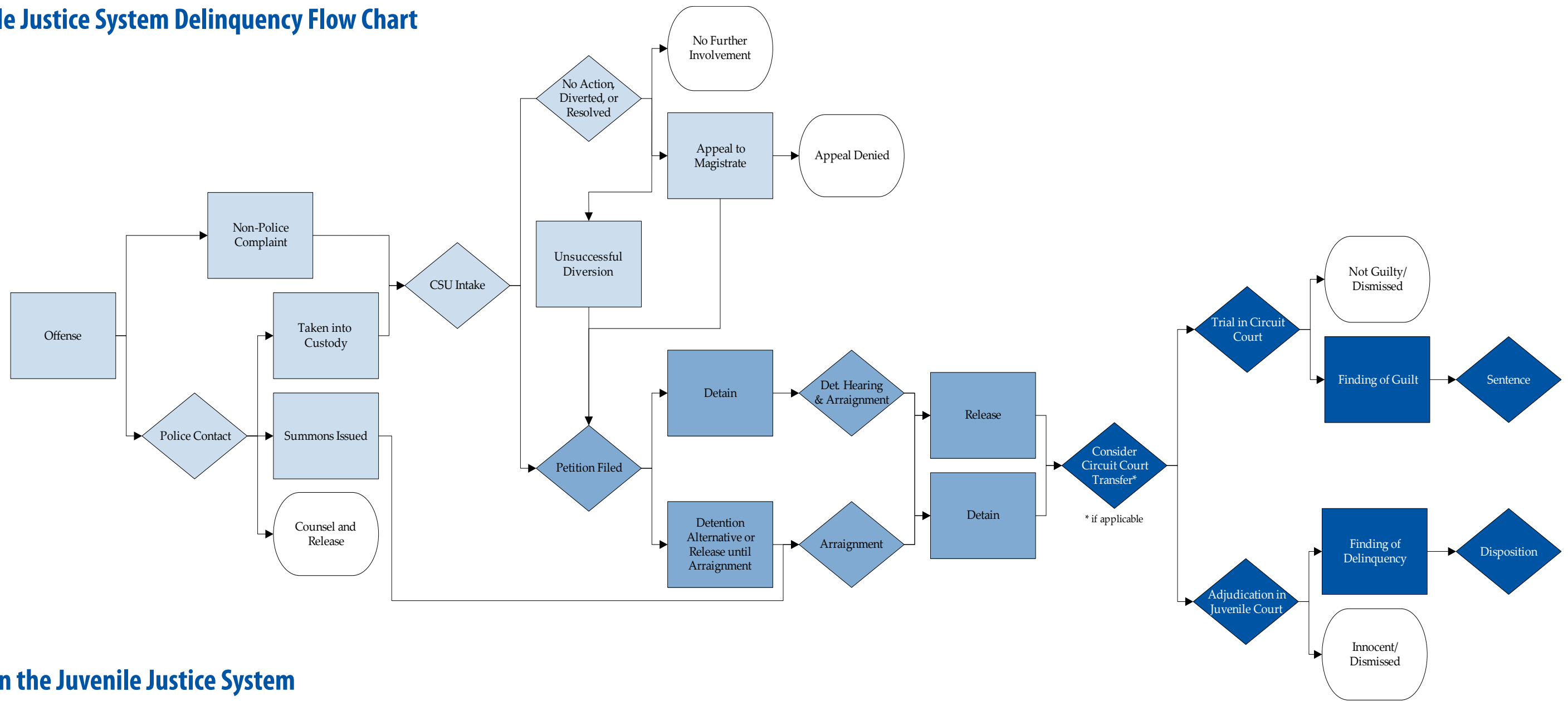


Juvenile Justice System Delinquency Flow Chart



Steps in the Juvenile Justice System

Intake

- » When an offense is committed, a parent, a citizen, an agency representative, or law enforcement personnel may seek to have a complaint filed against a juvenile with an intake officer.
- » When the juvenile has contact with law enforcement, he or she may be taken into custody, summonsed and released until a hearing on the matter, or counseled and released with no further action taken.
- » The intake officer reviews the circumstances of the complaint to determine whether probable cause exists.
- » If there is insufficient probable cause, the complaint is resolved with no further action.
- » If probable cause exists, in most cases the intake officer has the discretion to informally process or divert the case, file a petition to initiate court action, or file a petition with an order placing the juvenile in a JDC. If the intake officer does not file a petition on a felony or Class 1 misdemeanor offense, the complaining party may appeal this decision to the magistrate.

Petition and Detention

- » The filing of a petition initiates official court action on the complaint.
- » If the intake officer releases the juvenile, the next court appearance is the juvenile's arraignment, where he or she is informed of the offenses charged in the petition, asked to enter a plea, and advised of his or her right to an attorney. The juvenile does not have the right to an attorney at the arraignment hearing.
- » If the juvenile is detained pending the hearing, a detention hearing must be held within 72 hours of the detainment. At the detention hearing, the juvenile has the right to an attorney and is arraigned on the offenses charged in the petition. The judge decides whether to hold him or her in a JDC or release him or her, with or without conditions, until the adjudication.

Adjudication or Trial

- » When a juvenile is adjudicated in J&DR district court, he or she has all constitutional protections afforded in criminal court (e.g., the rights to an attorney, to have witnesses, to cross-examination, against self-incrimination), with the exception of the right to a jury trial. All delinquency charges must be proven beyond a reasonable doubt.
- » If the judge finds the juvenile to be delinquent, the case is usually continued to another day for the judge to make a dispositional decision. The judge's adjudication and dispositional decision may be appealed by either party to the circuit court for a *de novo* (like new) review.
- » When a juvenile is tried in circuit court as an adult, the trial is handled in the same manner as a trial of an adult. In the case of a jury trial, the court determines the sentence. The conviction and sentencing in circuit court may be appealed by either party to the Court of Appeals.

Types of Juvenile Dispositions

- » Defer adjudication and/or disposition for a specified period of time, with or without probation supervision, to consider dismissing the case if the juvenile exhibits good behavior during the deferral period.
- » Impose a fine, order restitution, and/or order the juvenile to complete a public service project.
- » Suspend the juvenile's driver's license.
- » Impose a curfew on the juvenile.
- » Order the juvenile and/or the parent to participate in programs or services.
- » Transfer legal custody to an appropriate individual, agency, organization, or local board of social services.
- » Place the juvenile on probation with specified conditions and limitations that may include required participation in programs or services.
- » Place the juvenile in a JDC for 30 days or less.
- » Place the juvenile in a post-D program in a JDC for a period not to exceed six months.
- » Commit the juvenile to DJJ for an indeterminate or determinate period of time.

Juveniles in Circuit Court

Consideration for Trial in Circuit Court

A case involving a juvenile 14 years of age or older accused of a felony may be certified or transferred to circuit court where the juvenile would be tried as an adult under one of the following circumstances:

Mandatory Certification: If a juvenile is charged with capital murder, first or second degree murder, murder by lynching, or aggravated malicious wounding, he or she receives a preliminary hearing in J&DR district court. If probable cause is found, the juvenile will automatically be certified for trial as an adult, and the case is sent to the circuit court. The certification is not appealable.

Prosecutorial Discretionary Certification: When a juvenile is charged with a violent juvenile felony as defined in § 16.1-2-28 of the Code of Virginia that does not require mandatory certification, the prosecution may request certification. The juvenile will receive a preliminary hearing in J&DR district court. If probable cause is found, the juvenile is certified for trial as an adult, and the case is sent to the circuit court. The certification is not appealable.

Transfer: When a juvenile is charged with a felony offense, the prosecutor may ask a J&DR district court judge to transfer the case to circuit court for trial as an adult. The judge receives a transfer report documenting each of the factors that the court must consider in the hearing (e.g., age, seriousness and number of alleged offenses, amenability to treatment and rehabilitation, availability of dispositional alternatives, prior juvenile record, mental capacity and emotional maturity, educational record, etc.). The judge decides whether the juvenile is a proper person to remain in the jurisdiction of the J&DR district court. If not, the case goes to the circuit court. The decision to transfer the case may be appealed by either party.

Direct Indictment: In cases proceeding under mandatory or prosecutorial discretionary certification, if the J&DR district court does not find probable cause, the attorney for the Commonwealth may seek a direct indictment in the circuit court on the instant offense and all ancillary charges. The direct indictment is not appealable.

Waiver: A juvenile 14 years of age or older charged with a felony may waive the jurisdiction of the J&DR district court with the written consent of counsel and have the case heard in the circuit court.

Trial of Juveniles in Circuit Court

Juveniles whose cases are transferred to circuit court are tried in the same manner as adults, but juveniles may not be sentenced by a jury. A conviction of a juvenile as an adult precludes the J&DR district court from taking jurisdiction of such juvenile for any subsequent offenses committed by that juvenile and any pending allegations of delinquency that had not been disposed of by the J&DR district court at the time of the criminal conviction. If a juvenile is not convicted in circuit court, jurisdiction over that juvenile for any future alleged delinquent behavior is returned to the J&DR district court.

Sentencing of Juveniles in Circuit Court

Circuit court judges may sentence juveniles transferred or certified to their courts to juvenile or adult sentences, including adult prison time, jail time, or both. When a juvenile receives a blended sentence, the court orders the juvenile to serve the beginning of his or her sentence with DJJ and a later portion in an adult correctional facility.