Desktop Guide
to Good* Juvenile Probation Practice

*Mission-driven
*Performance-based
*Outcome-focused

Editors
Patrick Griffin
Patricia Torbet

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This revision of *The Desktop Guide to Good Juvenile Probation Practice* was produced by a group of juvenile probation professionals from across the country, convened by the National Center for Juvenile Justice with funding from the Office of Juvenile Justice and Delinquency Prevention. Authors, contributors, and advisors to the *Desktop Guide* revision project included members of three national membership organizations that are committed to improving the status and raising the standards of the juvenile probation profession: the National Council of Juvenile and Family Court Judges, the American Probation and Parole Association, and the National Juvenile Court Services Association.
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In this chapter you will learn about:

- predisposition investigation and assessment techniques
- factors that should govern disposition recommendations
- how to write useful predisposition reports
- how to testify effectively in disposition hearings

Juvenile courts rely on probation officers to investigate and assess juvenile offenders and recommend appropriate dispositions. Once a juvenile has been found to be delinquent, a judge must decide what to do about it—that is, what disposition to order. Juvenile probation officers have a good deal of influence over this decision. It is the probation officer who conducts the predisposition investigation for the court, assembling information about the juvenile into a broad picture that is both detailed and objective. Taking into account and balancing the interests of the juvenile, the victim, and the community, the probation officer then makes an appraisal of the dispositional alternatives available and recommends appropriate sanctions, interventions, and services. The written report that summarizes all these matters is submitted to the court and generally forms the basis for disposition decision-making. Indeed, one study concluded that juvenile court judges follow probation officers’ recommendations more than 90% of the time.1

This chapter will discuss the timing, conduct, and purpose of predisposition investigations, general principles that should guide the choice of dispositions, and techniques for conveying disposition recommendations clearly, concisely, and effectively.

Probation departments should avoid conducting wasteful, unnecessary or redundant predisposition investigations. Most cases referred to juvenile court intake will never require a full-blown predisposition investigation. In 1998, for example, only about 36% of all cases referred to intake actually resulted in an adjudication of delinquency. About 43% were never petitioned at all, and about 20% were dismissed or otherwise resolved without a finding of delinquency.2

Obviously, both in order to save time and expense and to avoid unwarranted intrusions into the privacy of juveniles referred to intake, probation departments should focus their assessment efforts narrowly at the start of a case, gathering only the information that is necessary to make the intake decision, and reserving more extensive predisposition investigations for cases in which the juvenile

<table>
<thead>
<tr>
<th>Good Predisposition Investigation and Reporting Practices Require:</th>
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<tbody>
<tr>
<td>✓ Consensus on agency/system goals</td>
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<td>✓ Focus on information relevant to the decision</td>
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<td>✓ Training in uniformly and consistently collecting the information</td>
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<tr>
<td>✓ Time and manpower to do the job</td>
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<tr>
<td>✓ Communication and cooperation between court/probation and information-source agencies (schools, police, mental health, drug and alcohol)</td>
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<tr>
<td>✓ Criteria/guidelines for using the information collected</td>
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<tr>
<td>✓ Format for displaying, summarizing and quantifying the information</td>
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<tr>
<td>✓ Ongoing oversight that monitors the aggregate outcomes of the decision-making process and gauges its effectiveness.</td>
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</table>
either admits the charges or has already been adjudicated. If a predisposition investigation does prove necessary, it should expand and build upon the work done in the intake assessment that went before, and lay a firm foundation for the case planning that will come after.

Unfortunately, not all courts allow enough time between adjudication and disposition hearings to permit this orderly approach. Most standards-setting groups call for separate or “bifurcated” hearings on the two issues, for a variety of reasons. (See “Bifurcated Hearings.”) Nevertheless, in many jurisdictions, the judge will turn to the issue of disposition almost immediately after finding a juvenile delinquent—with perhaps only a brief recess to read the disposition report. Accordingly, at least in those jurisdictions, investigations must be conducted and reports prepared before the outcome of the adjudication hearing is known.

**Predisposition investigations must focus on facts that are pertinent to the goals of the disposition process.** Although the direction and scope of an investigation will vary with the nature of the case and the resources and dispositional alternatives available, all predisposition investigations should be designed to shed light on three basic sets of issues:

- **Public protection.** What level of security or supervision for the juvenile will be necessary in order to keep the community safe? The investigation should uncover facts relevant to immediate and long-term risks to public safety, as well as ways of managing those risks.

- **Accountability.** What sanctions or consequences will be necessary in order to hold the juvenile accountable for the offense? Investigations must focus on the nature of the harm caused to the community and the losses suffered by the victim, the current attitude of the offender with regard to his responsibility for these matters, and the steps that would be called for to repair the harm done, restore the losses, and reinforce and deepen the sense of responsibility.

- **Rehabilitation.** What measures will enable the juvenile to lead a more law-abiding, pro-social life? The investigation should assess the juvenile’s current strengths and needs, and explore possible ways to help him exit the system more capable of productive citizenship than when he entered.

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**Bifurcated Hearings**

All standards-setting groups concur in recommending that the hearing to determine whether or not an accused juvenile has committed the delinquent act charged (the adjudication) should be held separately from the hearing to determine what should be done about it (the disposition). There are two good reasons for preferring this “bifurcated” process:

- **Fairness.** Bifurcation minimizes the danger that the judge, who must make a neutral determination of the truth of the allegations in the petition at the adjudication stage, may be swayed by the sort of unfairly prejudicial information that is often found in predisposition reports. To mention one obvious example: the fact that a juvenile has a long prior record may be highly pertinent to a choice of proper dispositions, but it would be unfair to consider it at the adjudication stage.

- **Privacy.** Bifurcation is also intended to prevent broader than necessary intrusions into the privacy of the juvenile and his family. Where it is not clear that a disposition will be necessary, the reasoning goes, no “predisposition” investigation should be conducted at all.

However, in many jurisdictions—either to expedite delinquency case processing generally or to minimize periods of detention—little or no time is allowed to elapse between the adjudication and disposition stages of a juvenile case, and probation departments do not have the option of deferring predisposition investigations until after juveniles have been adjudicated. In such places, fairness and privacy considerations still require that steps be taken to ensure that the judge does not see the contents (or even the size) of the report before making the adjudication decision; that information discovered in predisposition investigations be strictly guarded; and that juveniles and their families be informed of their right to refuse consent to the disclosure of confidential information before adjudication.
Bear in mind that these are general goals of disposition decision-making. Individual state laws may specify particular factors that must be considered in making disposition decisions. Some jurisdictions use highly structured decision-making guidelines as well (see below). Obviously, probation officers conducting predisposition investigations must be sure to gather whatever information is required to be considered under local law or guidelines.

**Obtaining basic documents, checking records, conducting interviews, and making collateral contacts are standard predisposition investigation techniques.** As noted above, a predisposition investigation must start from the foundation of facts gathered at the intake assessment. The “triage” information collected at that stage may have been assembled solely to inform the intake decision, but much of it—such as offense information, court history, victim input, etc.—will be useful for predisposition purposes as well.

In addition, predisposition investigations generally involve the following steps:

1. Obtaining copies of the following documents on the juvenile:
   - birth certificate
   - social security card
   - naturalization card
   - health insurance or Medicaid card
   - immunization record
2. Interviewing the juvenile and his parents or legal guardians in the home for the purpose of:
   - Observing the juvenile’s home conditions and neighborhood
   - Filling in gaps in information regarding events surrounding the offense
   - Assessing family/parenting attributes
   - Determining where additional information can be obtained about the juvenile and getting a signed authorization to release confidential information
3. Checking the following records for prior referrals and information on prior investigations, assessments, and treatment reports:
   - Protective services records
   - Police records
   - Motor vehicle records (paying particular attention to incidents involving alcohol or drugs)
   - Court records
   - Probation, parole, and institutional records
4. Contacting the following (if not already contacted at intake):
   - Current or last attended school, requesting educational background information (attendance, behavior, performance)
   - Victim or victim’s family, requesting documentation of actual or estimated losses or damages, insurance coverage, and claims submitted
   - Additional contacts (arresting officer, prosecutor and/or petitioner, other family members, treatment providers, etc.)

**Assessing safety risks posed by a juvenile offender requires exploration of the offense itself, its circumstances and motivations, and the offender’s previous history.** The public protection goal of disposition decision-making calls for a realistic assessment of risks. What specific risk does the juvenile pose to the community? What is the community’s tolerance for this kind of risk? What can the probation department do to manage or minimize the risk?

The offense itself, along with the juvenile’s track record of offending, are the best shorthand indicators of the danger he may represent to his community. Details to be explored include not just what the juvenile did but why and how, and sometimes even where and when. The duration and seriousness of the juvenile’s offense history—especially any history of offending while under supervision or participating in community programming—are all relevant as well.

Whether or not the juvenile can be safely maintained in the community depends in part on the range and appropriateness of local dispositional alternatives available. The same juvenile might be “safe” in a community with adequate monitoring resources and effective services, but not in a
community that lacked them. In general, however, most juvenile offenders cannot and should not be “sent away.” Even from a pure public safety standpoint, and without regard to costs, all but a small proportion of serious juvenile offenders are better handled in the community—where they will have an opportunity learn and practice pro-social ways of living—than in secure institutions.

**Predisposition investigations should also bring to light the culpability of the offender and the consequences of the offense.** By the time of the predisposition investigation, the offender’s guilt should already have been established or admitted. However, particularly if the juvenile has been found delinquent as a result of a plea agreement rather than a full-blown trial, it may be impossible to hold him fully accountable without establishing the degree to which he was actually at fault, and what harm he caused.

Victim information—regarding the nature of the offense, the tangible and intangible harm suffered, the amount of restitution required, etc.—will be pertinent here. But the attitude of the offender—his acceptance of responsibility, his awareness and understanding of the consequences of his actions, his remorse—will matter almost as much.

**The rehabilitative goals of disposition decision-making call for investigation of the juvenile’s individual and family strengths and needs.** With the right supervision, services, and supports, most offenders can become productive, responsible members of society. Predisposition investigations help juvenile courts determine what measures will be “right” for individual offenders. They do it by identifying the circumstances and factors that have contributed to the juvenile’s delinquency in the past, asking what skills (or “competencies”) the juvenile needs to develop in order to break the old patterns, and assessing the juvenile’s (and his family’s) strengths, resources, and receptiveness to intervention.

The overall goal here is to help the juvenile to acquire “living, learning, working” skills, end destructive behaviors, and improve cognitive/decision-making skills. In fact, most juvenile offenders benefit from the juvenile court’s intervention and outgrow their negative behaviors because of their acquisition of such skills, their relationships with significant people, and their attachments to conventional groups and institutions. Accordingly, the investigation should establish the juvenile’s developmental age, maturity, capacity and willingness to change. It should ask what thinking or decision-making patterns or social, educational or vocational deficits contribute to the risk of persistent or escalating offending. What strengths can be built upon? What opportunities are needed to practice new skills and receive feedback? How can bonding and attachment to pro-social community entities be encouraged?

**Written guidelines give structure and consistency to recommendations.** Just as written guidelines improve the consistency and fairness of intake and detention decision-making, they can help to provide an objective, consistent framework for disposition recommendations as well. Guidelines should reflect state law and the agency’s mission and goals. They should describe the available dispositional alternatives and articulate explicit criteria for recommending among them. And they should preserve a measure of officer discretion.

Typical guidelines require the decision-maker to consider—and generally assign weighted “scores” to—the level of offense, prior convictions or adjudications, and a variety of possible aggravating and mitigating factors and conditions, such as the seriousness of the injuries inflicted or the presence or absence of premeditation. Depending on the resulting score, the juvenile can be matched with a level of disposition, or at least a range of possible dispositions.

Some states have gone to extreme lengths in this direction—legislatively imposing what are in effect criminal-style statewide sentencing guidelines on the juvenile disposition process. That is not what is being advocated here. But well-designed, thorough, flexible departmental guidelines for disposition recommendations can assure the court that disposition recommendations reflect systematic attention to each of the three primary disposition goals—public protection, offender accountability, and rehabilitation—and that factors relevant to those goals have been duly weighed in individual cases. They can also make it possible for probation departments to assemble useful data regarding the consistency and fairness of their own case-handling performance.
## Assessment Checklist

<table>
<thead>
<tr>
<th>Domains</th>
<th>Factors</th>
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<tbody>
<tr>
<td><strong>Risk Assessment</strong></td>
<td></td>
</tr>
<tr>
<td><strong>History</strong></td>
<td>• Criminal history – arrest at young age; # and type of prior referrals, placements and commitments</td>
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<tr>
<td></td>
<td>• Multiple problems (3 or more) across more than one domain in Needs Assessment</td>
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<tr>
<td><strong>Needs Assessment</strong></td>
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</tr>
<tr>
<td><strong>Family/Parenting Attributes</strong></td>
<td>• Parent/child relationship – poor or dysfunctional, disinterested or detached, inconsistent parenting or parental rejection</td>
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<td></td>
<td>• Lack of control and supervision – no knowledge of youth’s friends and activities, lack of age-appropriate limit-setting, deny responsibility for juvenile’s behavior, lack of rules enforcement, difficulty controlling behavior</td>
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<td></td>
<td>• Peer relations – delinquent friends, gang involvement or membership</td>
</tr>
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<td></td>
<td>• Behavior – poor self-control, impulsive, verbally or physically abusive</td>
</tr>
<tr>
<td><strong>School</strong></td>
<td></td>
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<tr>
<td></td>
<td>• Performance – grades, achievement levels</td>
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<tr>
<td></td>
<td>• Behavior – suspensions or expulsions, reports of disruptive classroom behavior or problems with teachers</td>
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<tr>
<td></td>
<td>• Attendance – truancies, not currently in school</td>
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<tr>
<td></td>
<td>• Assessments – results of any educational assessments</td>
</tr>
<tr>
<td><strong>Substance Abuse/Mental Illness</strong></td>
<td>• Mental illness – depressed, suicidal, mental illness diagnosis</td>
</tr>
<tr>
<td></td>
<td>• Alcohol or drugs – occasional or chronic use</td>
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<tr>
<td></td>
<td>• Substance use – linked to offense, disrupts functioning</td>
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<tr>
<td></td>
<td>• Changes in behavior – moodiness, sleep patterns</td>
</tr>
<tr>
<td><strong>Strength Assessment</strong></td>
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<tr>
<td><strong>Family/Parenting Attributes</strong></td>
<td>• Good parent/child relationship, clear expectations for and monitoring of child’s behavior</td>
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<td></td>
<td>• Interests – in school activities (clubs, chorus, band, sports), extracurricular activities (scouting, church, Y, Boys/Girls Club), personal interests or hobbies</td>
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<tr>
<td></td>
<td>• Relationships – prosocial friends, positive relationship with supportive adult</td>
</tr>
<tr>
<td></td>
<td>• Attitude – emotionally mature, receptive to help</td>
</tr>
<tr>
<td><strong>School</strong></td>
<td>• Good reading ability</td>
</tr>
<tr>
<td><strong>Accountability Assessment</strong></td>
<td>• Victim Impact Statement</td>
</tr>
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<td></td>
<td>• Restitution/community service obligation</td>
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<tr>
<td></td>
<td>• Victim willingness to interact with offender</td>
</tr>
<tr>
<td></td>
<td>• Offender remorse for crime, empathy toward victim, acknowledges harm</td>
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</tbody>
</table>
Disposition recommendations should be embodied in clear, concise, and complete reports. The probation officer uses the information gathered during the predisposition investigation and assessment—in addition to the information already compiled at intake—to prepare a report for the court’s consideration during the disposition hearing. Each jurisdiction is likely to have its own predisposition report format and requirements. It is important to follow the standard format and address all required items; a favorable reception for a disposition recommendation may well depend on the ease with which a busy judge is able to locate information in a report.

Certain general guidelines apply to all such reports:

– Be sure of facts. Clearly indicate what information has been established and how. Designate information that is known only by hearsay—that is, any information that has been learned from an absent third party whose credibility cannot be tested by cross-examination

– Include only information that has value or relevance to the decision.

– Omit details that add nothing to the assessment. However, do not omit relevant information merely because it does not support the recommendation.

– Be specific; avoid generalized descriptions (“frequently tardy”) in favor of detailed or quantifiable facts (“tardy 13 times in October.”)

– Maintain objectivity. Do not state opinions as facts. Label them as opinions and attribute them to their proper source. Confine your own opinions to the summary or assessment section of the report.

– Keep report language clear, simple and grammatically correct. Avoid jargon. Be natural in your style: refer to the juvenile by name and yourself as “I,” rather than as “the offender” and the “officer.”

– Keep the information brief, succinct, and user-friendly, so that it is capable of being quickly and easily comprehended.

The following are typical components of a predisposition report:

1. Offense Information. Again, much of this information would have been obtained at intake.

But the report could also include charges substantiated and additional facts developed at the adjudication hearing. Among other facts, this section might reflect:

– Whether the juvenile acted alone or with others

– Whether the juvenile acted as a leader or follower

– Role of participants and disposition of co-defendants

– Motivation for offense (e.g., personal gain, retribution, chemical dependency)

– Events preceding the offense

– Condition of juvenile at time of offense (drunk, on drugs, emotional/angry)

– Whether the offense was premeditated or committed on impulse

– Time the offense was committed

– Whether the offense involved a weapon

– Recommendations for disposition from the arresting officer

2. Juvenile’s Statement Regarding Offense

– Attitude about the offense (e.g., boastful or ashamed, defiant or remorseful)

– Attitude and concern toward the victim

3. Parental Statement Regarding Offense

– Their knowledge of the offense
CHAPTER 8

DISPOSITION RECOMMENDATIONS

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– Steps they have taken of a corrective or preventive nature in addressing behavioral issues with their child

– Recommendations for disposition

4. Victim Information

– Victim Impact Statement

– Injuries or losses sustained by the victim

– Restitution sought/concerns to be addressed

– Juvenile’s access to or relationship with victim; victim’s willingness to participate in disposition

– Perceived risk of being re-victimized

5. Prior Record

– A chronological summary of juvenile’s offense history, previous dispositions, and record of compliance with prior court orders or diversion agreements

– Placement history

– Stealing patterns

– Runaway patterns

Testifying Tips

■ Prepare. Come to court prepared. This not only increases your effectiveness as a witness, it helps alleviate any anxiety you may feel as a newcomer to the process. If you are unfamiliar with the courtroom in which you will be testifying, visit it beforehand. Review—but don’t memorize—written documents (statements, reports, petitions, etc.) about which you will be testifying, and familiarize yourself with the whole file. You can bring notes with you to refer to on the stand, but be aware that you may be asked to submit them to the court, and make sure you bring copies for the judge and the attorneys.

■ Relax. If you’re nervous, pay attention to the rate at which you’re breathing, and try to slow yourself down. If you know any tension-reducing tricks that you can practice without calling attention to yourself—such as pressing your toes down into your shoes, or visualizing peaceful scenes—make use of them.

■ Show respect. When you take the stand, your attire, posture, mannerisms, choice of words, and everything else about you should reflect respect for the court and its proceedings—even if other hearing participants’ don’t. So dress formally. Address the judge as “Your Honor.” Sit up straight, keep your body still, look speakers in the eye, and pay attention. Keep gestures to a minimum. Avoid using poor grammar, jargon, or slang. On the other hand, don’t “complexify” things—you will be more effective if you keep your testimony as simple and straightforward as possible.

■ Do your job. Your job as a witness is to answer the questions that are put to you. So listen until the question is finished—never interrupt. Then take a breath, answer truthfully, and stop. Don’t anticipate questions that haven’t been asked. Don’t answer on the basis of what you think the questioner really means. Don’t hesitate to ask for clarification. And don’t be afraid to say you don’t know.

■ Follow the rules. One of the most important rules in a courtroom is that you should only testify as to matters of which your have direct knowledge. If you think you are being asked to guess, speculate, or pass along what others have told you, say so, and be clear that that is what you are doing. Another important rule is that you must stop answering immediately when there is an objection, and wait until the judge says you may continue.

■ Exercise caution. Sometimes you may be asked a question that contains more than one question. Don’t try to answer a compound question all at once, and risk leaving a false impression; break it down, and answer it part by part. Likewise, don’t answer a question that assumes facts that are not true, without first correcting the false assumption. Finally, when you have finished testifying about something, a questioner will sometimes purport to “sum up” what you have said, and ask you confirm it; never acquiesce in an inaccurate summary of your testimony.

6. Family/Parenting Attributes
   - Parent-child relationships/involvement, resources, strengths/skills, ties with the community
   - Marital history
   - Educational and employment history
   - Substance abuse, mental health issues
   - Criminal history, including domestic violence disturbances
   - Control and supervision, including knowledge of child’s friends and activities
   - Discipline style, limit-setting, rules enforcement
   - Sense of responsibility for child’s behavior
   - Home and neighborhood conditions
   - Influences and social pressures of neighborhood

7. Health History
   - Physical health, serious illnesses, accidents, disabilities, or medications
   - Mental health, including results of any screening or clinical evaluations
   - Controlled substance use, including results of any drug tests, screens, or clinical assessments, treatment experiences and attitudes toward recovery

8. Educational History:
   - Schools attended and present status
   - Academic performance (grades, standardized test scores)
   - Attendance record
   - Learning problems (results of any testing or services)
   - Conduct and disciplinary actions and response to discipline
   - Participation in school or extracurricular activities
   - Awards and accomplishments
   - Educational goals

9. Employment history:
   - Work patterns/habits
   - Duration and reasons for termination
   - Attitudes toward job, work in general
   - Career goals

10. Personal characteristics
    - Developmental capacity, attention span
    - Ability to relate to peers, adults
    - Delinquent friendships/gang activity
    - Anti-social attitudes, values, beliefs
    - Self-control, impulsivity
    - Juvenile’s view of problem areas and strengths

11. Structured use of time
    - Hobbies, recreational activities, and special interests
    - Memberships in clubs, organizations
    - Community service and other volunteering

12. Summary and Assessment:
    - Public Safety Goal: Risk of harm to self and community in view of present offense, offense history, and response to prior interventions
    - Accountability Goal: Impact of crime on victim and community, including losses and juvenile’s ability to pay restitution or fines; juvenile’s level of remorse
    - Rehabilitation Goal: Factors/circumstances that contributed to the crime that must be addressed

13. Recommendations

Disposition recommendations should always specify the best possible dispositions as well as the best available ones.

Most primary dispositions fall into a few broad categories. They may include commitment to a secure institution; residential placement in a public or private facility, such as a community-based group home; referral to a nonresidential program for “day treatment” services; various forms of probation supervision; and orders to pay fines,
make restitution, or perform community service. In 1998, probation was the most serious disposition in about 58% of the more than 600,000 cases in which juveniles were adjudicated delinquent nationwide. About 26% of adjudicated cases resulted in placement outside the home. About 11% ended with orders to pay fines or restitution, perform community service, or participate in day treatment or counseling programs. And in about 5% of adjudicated cases juveniles were released without sanctions.4

Every jurisdiction has its own unique mix of primary dispositional alternatives and secondary sanctions and services. Not every mix is adequate. The probation officer should always begin by recommending whatever is the best course to be taken with a juvenile—even if it is unavailable or otherwise impractical. If the best disposition is not among the available options, the gap in needed programs or services should be noted and a secondary recommendation should be made. If nothing else, documentation of service gaps may facilitate development of needed resources in the future.

In addition to a primary disposition recommendation, the probation officer usually proposes a program of supplemental restrictions, sanctions and services that could form the basis of a case or supervision plan for the juvenile. In all cases, the proposed conditions should serve the broad goals of the disposition process. However, this matter is discussed more fully in the following chapter on Supervision.

Endnotes
3 These elements are taken largely from New Hampshire’s “Pre-Dispositional Investigation Reports,” ITEM 770(a), CYF Manual, April 1997. Additional elements are incorporated from predisposition report formats used elsewhere, including Pennsylvania and Orange County, CA.
4 Puzzanchera et al., supra, n. 2.