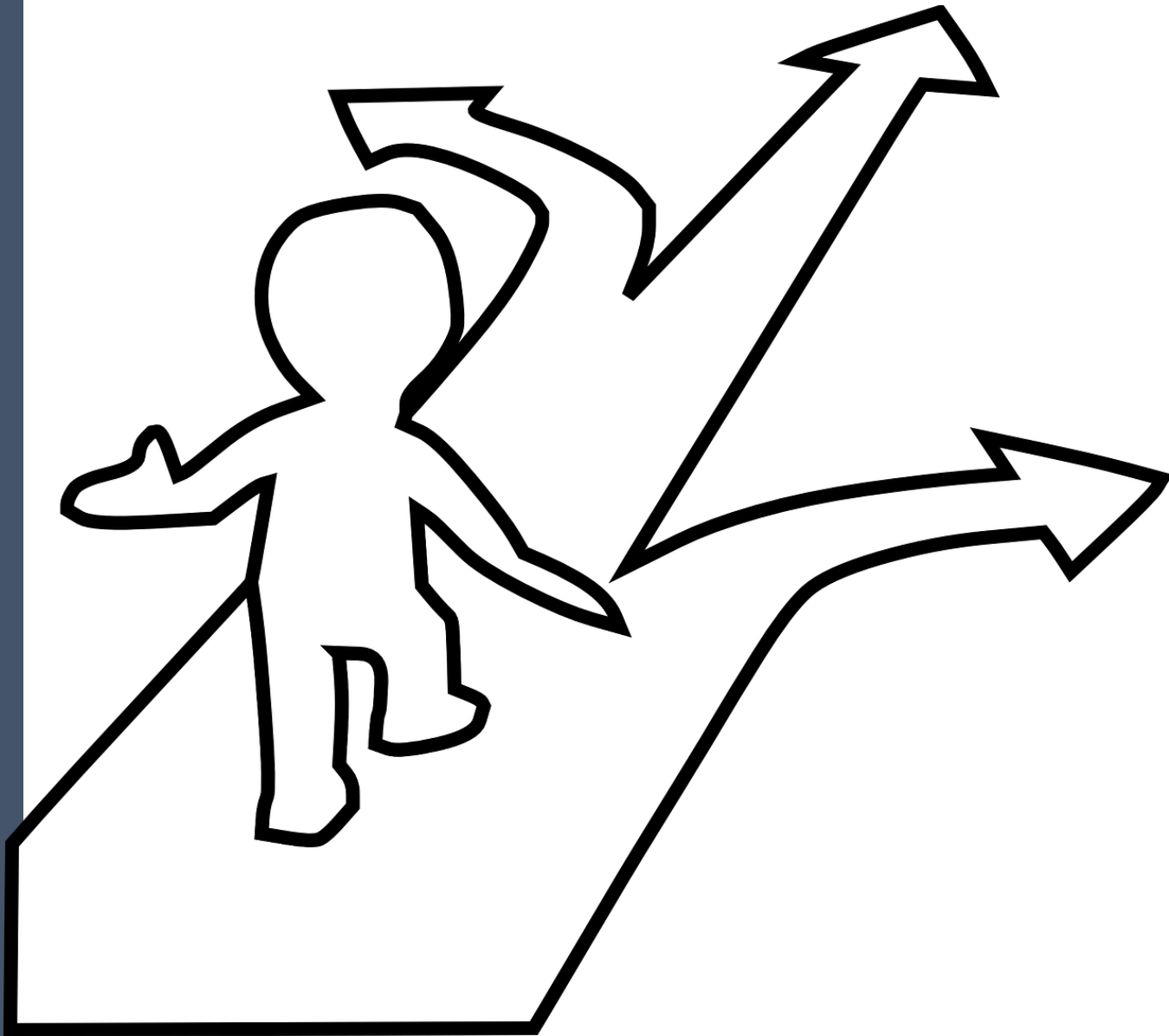# PREADJUDICATION – WHAT HAPPENS BEFORE COURT?

Juvenile Delinquency: A Course for District Court Judges

November 13, 2023

Intake Services

Determining the pathway for each complaint

Article 17. Screening of Delinquency and Undisciplined Complaints

Preliminary inquiry
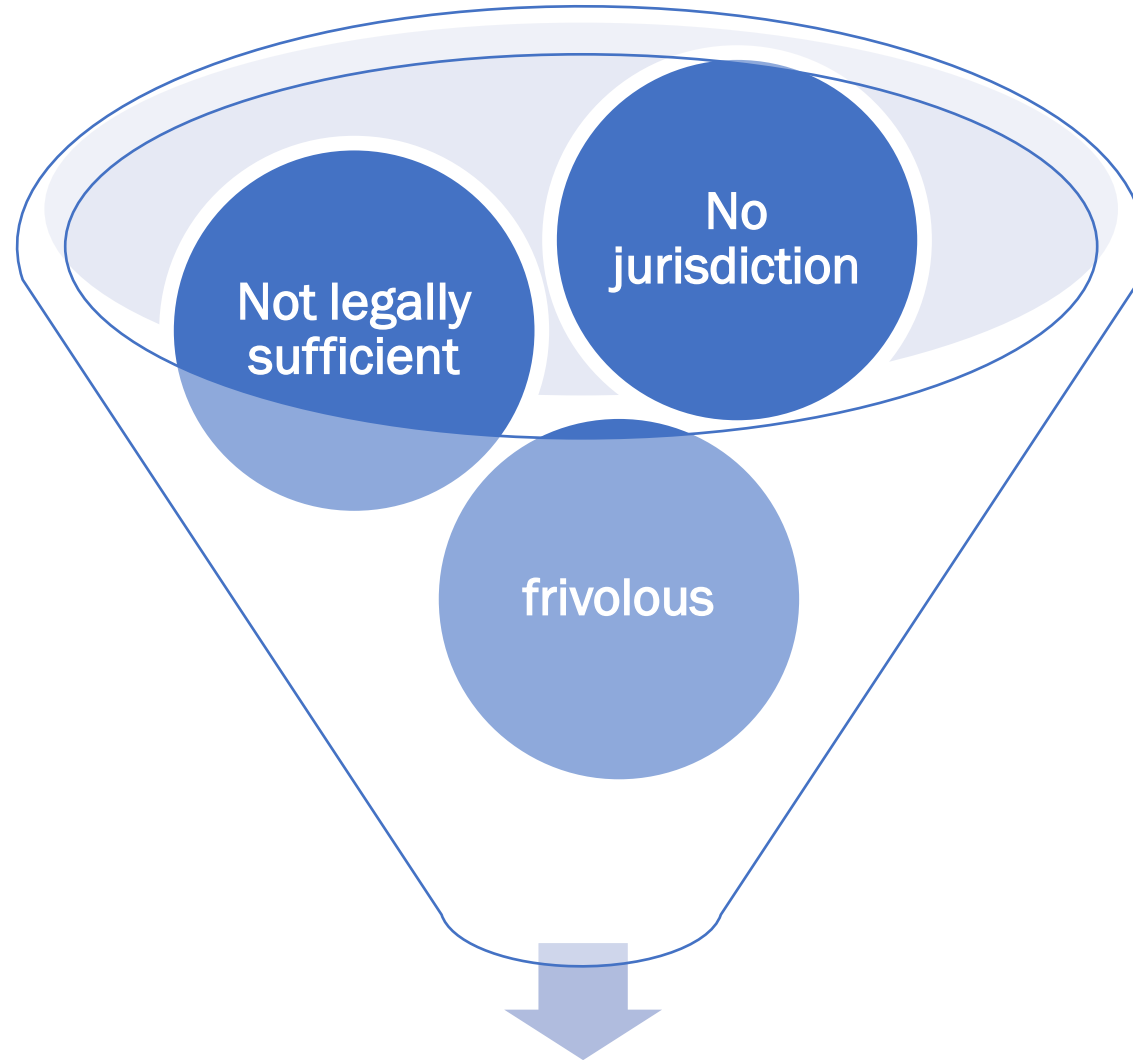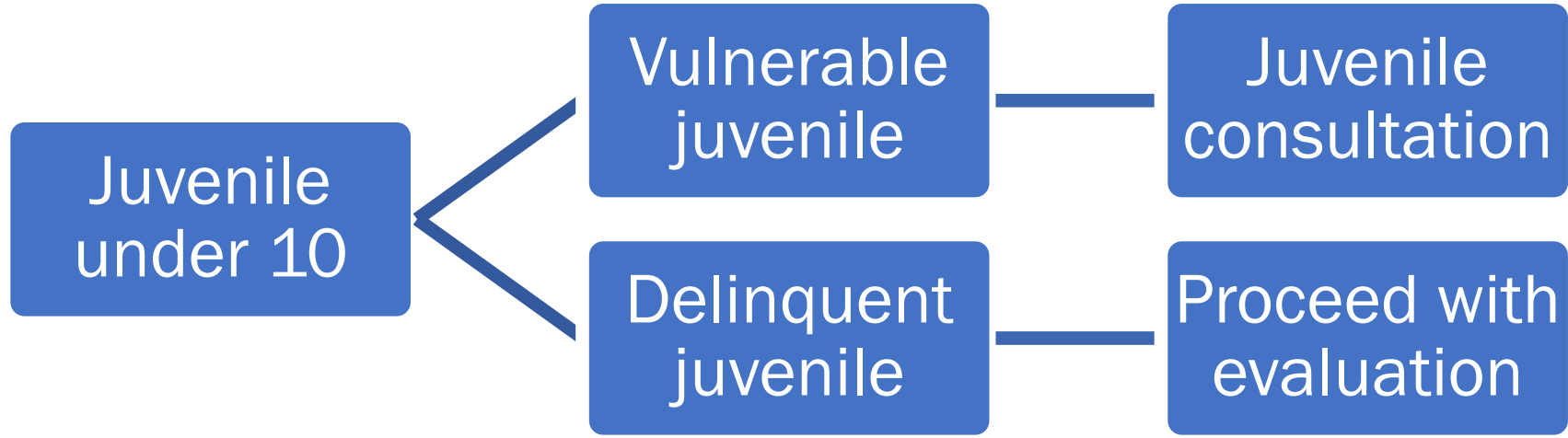
Evaluation and decision

Prosecutor review

Diversion

Preliminary Inquiry
G.S. 7B-1701

Not legally sufficient

No jurisdiction

frivolous

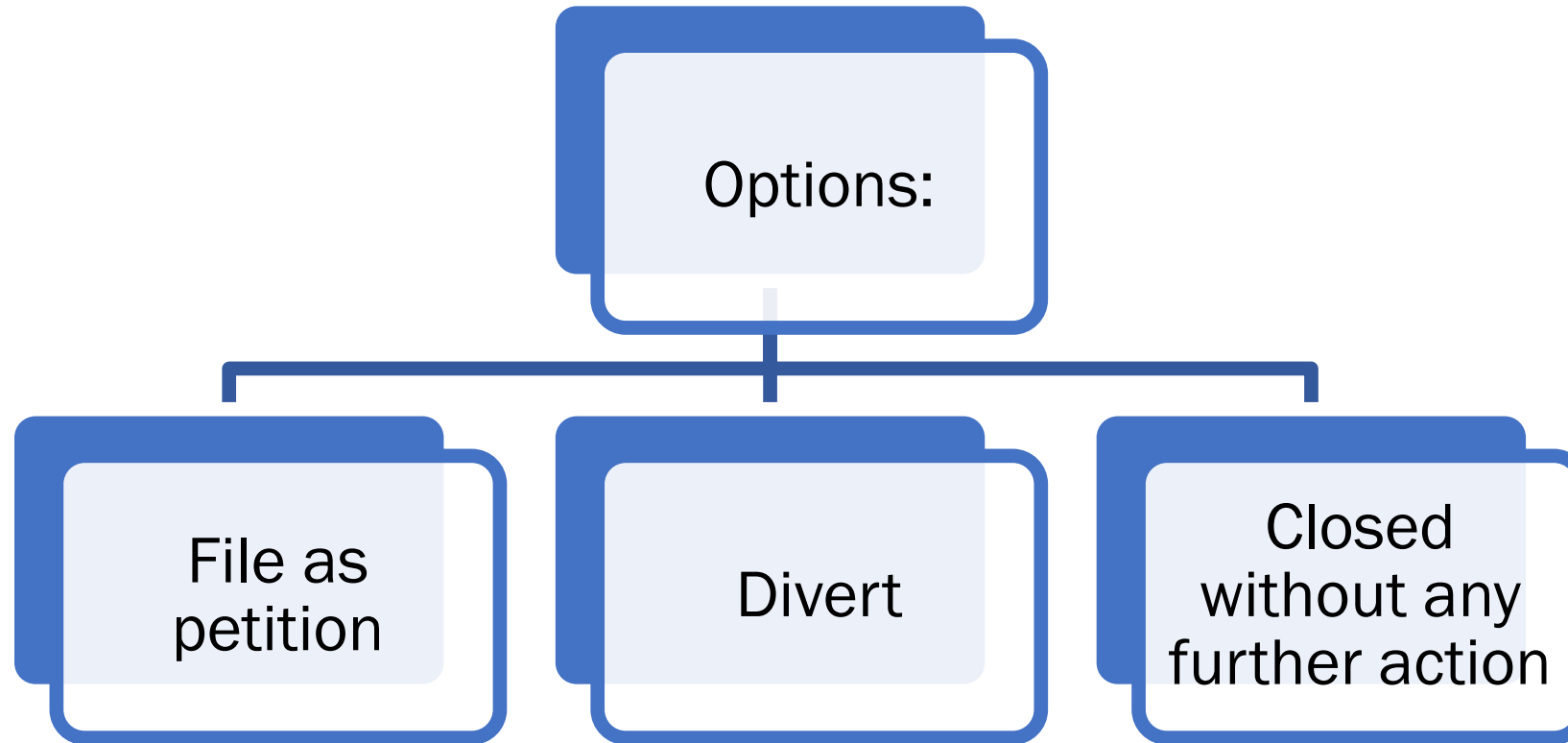Refuse authorization to file
as a petition

Nondivertible Offenses

MUST file petition if there are reasonable grounds to believe the juvenile committed:

- *Murder;*

- *First-degree or second-degree rape;*

- *First-degree or second-degree sexual offense;*

- *Arson;*

- *Any violation of <u>Article 5, Chapter 90</u> of the General Statutes that would constitute a <u>felony</u> if committed by an adult;*

- *First degree burglary;*

- *Crime against nature;*

- *Any felony which involves the <u>willful infliction of serious bodily injury</u> or was committed by <u>use of a deadly weapon.</u>*

Evaluation – G.S. 7B-1702

Options:

- File as petition
- Divert
- Closed without any further action

Evaluation Process (G.S. 7B-1702)

- If practicable, interviews with:
  - *The complainant and the victim,*
  - *The juvenile and their parent, guardian, or custodian,*
  - *People known to have relevant information about the juvenile or their family*
- GAIN-Short Screener (GAIN-SS) for youth 12 and older
- Youth Assessment & Screening Instrument (YASI)
- Gang assessment for age 12 and older

Intake Decision Criteria

- Protection of the community;

- The seriousness of the offense;

- The juvenile's previous record of involvement with the legal system, including previous diversions;

- The juvenile's behavior at home, in school, and in the community.

- The ability of the juvenile and the juvenile's family to use resources;

- Consideration of the victim;

- The juvenile's age; and
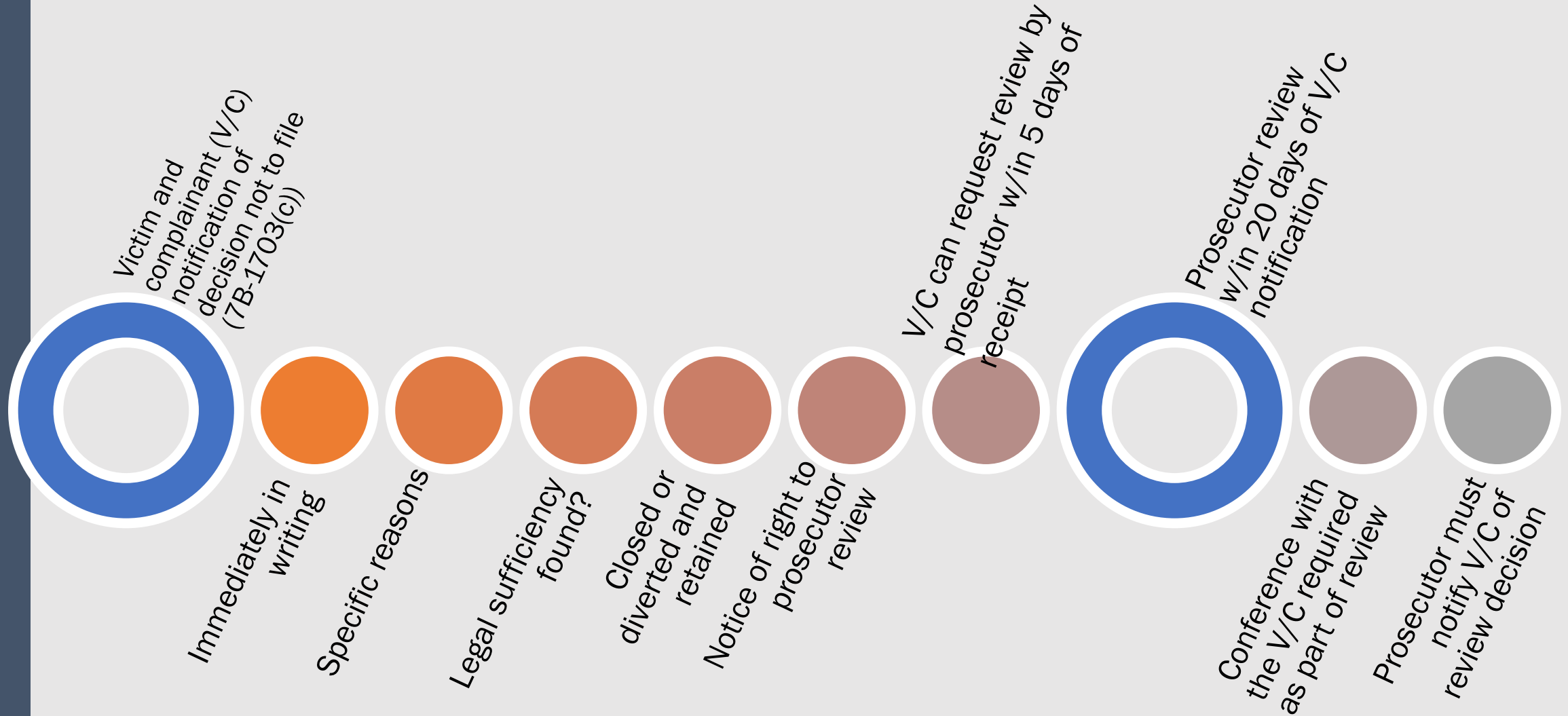
- The juvenile's culpability in the alleged complaint.

Evaluation Timeline
G.S. 7B-1703

- Complete within 15 days of receipt of complaint

- Chief court counselor can extend for 15 more days

- Same timeline applies to filing a petition

Prosecutor Review of Decision Not to File a Petition (G.S. 1703(c), -1704, -1705)

- Victim and complainant (V/C) notification of decision not to file (7B-1703(c))
- Immediately in writing
- Specific reasons
- Legal sufficiency found?
- Closed or diverted and retained
- Notice of right to prosecutor review
- V/C can request review by prosecutor w/in 5 days of receipt
- Prosecutor review w/in 20 days of V/C notification
- Conference with the V/C required as part of review
- Prosecutor must notify V/C of review decision

Diversion (G.S. 7B-1706)

Can last up to 6 months

Noncompliance at any time may result in the filing of a petition

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Diversion Contracts /Plans

■ A Diversion is an opportunity for the youth to correct behaviors without court intervention.

■ A Diversion Plan or Contract may include:

- – *use of community resources including mental health services;*

- – *restitution;*

- – *community service;*

- – *victim-offender reconciliation;*
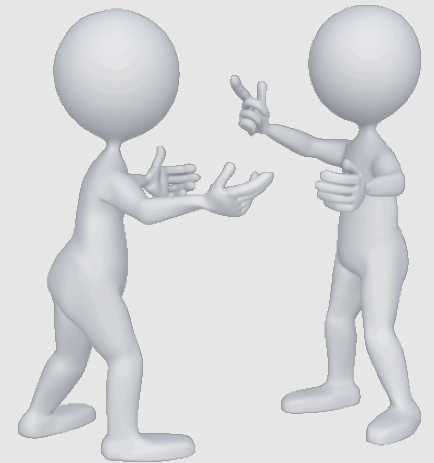
- – *teen court; etc.*

Diversion, cont.

- A court counselor may enter into a "diversion contract" with the juvenile and the parent, guardian or custodian when it is determined that a higher degree of accountability is required

- A Diversion Contract is a written agreement

Diversion Follow-Up

- ■ Within 10 days, counselor must determine whether juvenile and parent are complying with diversion conditions

- ■ Counselor may monitor the diversion for up to six months maintaining regular contact at least every 30 days

- ■ Must retain the contract until juvenile is 18 years old or out of the court's jurisdiction, whichever is later

- ■ Petition may be filed if juvenile does not comply with conditions

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Pre-Court Ordered Services

- Preparation of the Court Reports

- Facilitation of Court Hearings

- Facilitation of Secure Custody Services

- Provision of Alternative to Detention (ATD) services

- Case tracking and case management as needed

Vulnerable Juvenile (G.S. 7B-1501(27b))

At least 6 and under 10

Commits a crime or infraction

Is NOT a delinquent juvenile

Juvenile Consultation Services
(G.S. 7B-1706.1)

6 months, with possible 3-month extension

Case management services

- Screenings
- Assessments
- Community resources
- Programming

For juvenile and the parent, guardian, or custodian

reminders.......

- Juvenile Justice is part of the NC Executive Branch

- Serves a separate purpose

- Functions Independently of the Prosecutor

- Use the JCC as a resource

- Everyone has a different role, but we are all working in the best interest of the juvenile, family, and community