

# Your Child Is In Trouble? Call An Attorney First - Respond To Authorities Later: How The Juvenile Justice System Works In New Jersey

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May 12, 2011 | by Einhorn Barbarito

There is nothing more upsetting to a parent than receiving a call from the Police or school officials with the news that their child may have committed some criminal offense.

At this point many parents often make critical mistakes when their child is confronting a potential Juvenile Delinquency Charge. The key mistake is permitting your child to talk to authorities without obtaining the advice of an attorney. Too often parents simply tell their child “just tell the truth”. Unfortunately, the truth “*can and will be used against*” your child in legal proceedings - quite often with negative and devastating effects on your child’s future.

These mistakes can be avoided if an attorney is immediately consulted before your child is interviewed either by the school or Law Enforcement Officials. Although the Juvenile Justice System in New Jersey is designed to rehabilitate rather than punish a juvenile, making incorrect decisions can negatively impact your child’s future.

## **REHABILITATION NOT PUNISHMENT - THE FOCUS IN NEW JERSEY**

The Juvenile Justice System in New Jersey is far different than the Criminal Justice System. It seeks to remove children from circumstances which would lead to future criminal delinquent behavior. As a result, Juvenile cases are civil in nature. They are not criminal at all, but are heard in Family Court. That is consistent with the System’s underlying focus of rehabilitation and reform, rather than the Adult System’s focus on punishment. The system works to keep your child in your home and only requires their detention when it is necessary to protect the community at large.

## WHO HAS AUTHORITY OVER JUVENILES?

Generally, the Juvenile Court has exclusive authority over a child until the age of 18. However, there is a procedure which permits the State of New Jersey to remove Juvenile Delinquency Charges to Adult Court, particularly if they see the need to protect the public's safety.

The Juvenile Justice System has a number of steps or tiers to provide for various types of action when a Juvenile allegedly commits an offense, which, if committed by an adult would constitute a crime.

Those procedures are as follows:

Station House of Adjustment: This is an “unofficial” approach to Juvenile Delinquency matters. When a Complaint is lodged against a child, the Juvenile Officer in the Local Police Department views the matter and determines whether or not a formal Complaint should be filed and the matter be referred to the Court System. However, in many communities, the Juvenile Officer will decide to make a Station House adjustment, which would require the Juvenile and his parents to sit with the Officer, discuss the charge and determine whether or not the Juvenile would admit involvement. If the Juvenile admits involvement, the Officer may keep the matter outside of the Court system.

For example, if a Juvenile is charged with some minor form of vandalism (e.g. minor graffiti), the Officer may suggest that restitution (payment) for damage is made, together with an apology to the victim. After this, no further action would be taken. Or, the Officer might also consider “holding” the Complaint in “abeyance”, which is they would not do anything at this time, and as long as your child does not get in trouble again, the matter would be dropped. Just be aware that the Officer always maintains the ability to refer the matter to the Juvenile Court System.

Juvenile Conference Committee: If a Juvenile is a first-time offender, the matter can be referred to a Conference Committee, consisting of local citizens who meet with Juveniles charged with minor offenses. That Committee then prepares a plan of rehabilitation. For example, a Juvenile Conference Committee might well recommend that a Juvenile charged with vandalism write an apology to the victim, make restitution, serve some sort of community service or engage in some other rehabilitative activity.

Probation In-Take Screening Conference: If the offense is not appropriate for a Juvenile Conference Committee, it may be sent to the Local County Probation Office. There a Probation Officer meets with the Juvenile and discusses the matter and its consequences. If the Juvenile is willing to admit guilt on the underlying offense, the Probation Officer will then hear the case, make recommendations and impose rehabilitative measures. Although not an in-court event, this is a formal delinquency proceeding.

Formal Calendar: If the matter is too serious for Juvenile Conference Committee or Probation In-Take, it will be referred to the Court Calendar. A full adversarial proceeding is then held before a Family Court Judge. the Prosecution presets its case, just like adult court, but without a jury. The Juvenile then cross-examines the state witness and calls witnesses in defense. The Judge hears the evidence and decides whether the prosecution has proven its case beyond a reasonable doubt. If so, the Juvenile is subject to punishment which may include incarceration at a youth facility or probation. If guilt is not found, and the case is dismissed.

Although a Juvenile proceeding is civil in nature, your child is still entitled to all of the constitutional safeguards guaranteed to an adult criminal Defendant (except for the right to Trial by Jury or the Right to Bail).

Specifically, your child will have:

1. The right to an attorney;
2. The right to have the State prove the allegations against him/her beyond a reasonable doubt;
3. The right to exercise other Constitutional Rights including:
  - a. The right to suppress confessions obtained by violations of the Miranda Rule (the Miranda Rule is the reading of the rights to remain silent as well as the right to an Attorney);
  - b. The right to suppress evidence unlawfully seized in violation of either the Federal or State Constitution;
  - c. Protection against double jeopardy

## **POTENTIAL FOR INCARCERATION (going to jail)**

Under New Jersey law, your child may be taken into custody where there exists probable cause to believe he or she is a delinquent. Although, such custody is not considered an arrest, you child can still be taken into custody and placed in a County Detention Facility. Under those circumstances, the parents or guardians must immediately be notified.

If your child is placed into custody, the Probation Department must immediately determine where a Juvenile should be placed. A Hearing will be held where both you and your child are present. If no Complaint has been filed, then your child is entitled to be released immediately. However, if a

Complaint has been filed, the Court must consider whether your child committed the alleged offense. The Court then considers the nature and circumstances of the offense, the age of your child and your child's ties to the community. Additionally, the Court considers whether your child has a prior record.

Your child may not be placed in Detention unless it is necessary to make sure that he or she will be available to answer the charges in the future and, in addition, to protect the physical safety of the persons or property of the community. Juveniles will not be released where it would adversely impact the Juvenile's health, safety or well-being. If a Juvenile is detained, a Hearing must be held within thirty (30) days to review the matter.

There are alternatives to detention, which include release to parents, other guardians or custodians and release with the imposition of restrictions (house arrest).

As you can see, the Juvenile Justice System in New Jersey is complicated. Children who are charged with committing an offense or crime deserve to be represented by a competent attorney – one who is familiar with aspects of both Juvenile and Adult Criminal defense work.

## **YOUR CHILD DOES HAVE RIGHTS**