

# **UNDERSTANDING THE JUVENILE JUSTICE SYSTEM**

## **Information for parents from the office of Juvenile Justice and Delinquency Prevention**

The juvenile justice system is difficult for most parents to understand and navigate. This article provides an introduction to the basic organization of the system. For each of the six stages there are suggestions on how parents can help themselves and their children cope with the juvenile justice and associated systems.

### **ARREST**

The process usually begins with an arrest by a law enforcement officer. Juveniles may be taken to the police station for questioning. If there is probable cause to believe they were involved in the offense, they will be booked. Sometimes, police take suspected offenders to the court or detention center and turn them over to court intake workers (probation agents) to begin the court process.

Youths taken to a police station for interrogation have the right to be informed that they can have a lawyer present during questioning. Depending on the jurisdiction, a youth might also have a right to talk to a parent or have a parent present during the interrogation. In many cases, however, youth are taken into custody for questioning as witnesses, in which case they are not entitled to a lawyer.

Because a child with mental health problems is particularly vulnerable in the context of questioning at a police station, it is very important for parents to go there and demand that they be present when their child is questioned. If police do not honor this request, many courts will not allow incriminating statements to be admitted at the adjudication hearing. If parents are permitted to be present, they should also make sure that the youth's rights are protected.

### **INTAKE**

Intake workers may divert the youth, release the youth to his or her parents with a summons to return to court for an initial hearing, or detain the youth pending a judicial hearing. In many cases, intake workers also file the formal charges, usually called a petition.

In other jurisdictions, information on the case is turned over to the prosecutor's office for the decision on what charges to bring against the youth. Prosecutors have the authority to dismiss the case, divert the youth to a diversion program, file formal charges in juvenile court. Cases will be dismissed if the prosecutor finds that there is insufficient evidence or that the case hinges on evidence/statements that were taken under circumstances that violate rights guaranteed by the U. S. Constitution.

## **DETENTION HEARING**

The detention hearing is a very critical stage of the process, because youth who are detained are more likely to be incarcerated if they are found guilty of the offense. Detention also makes it more difficult to develop the defense case.

That's why it's important for parents to provide information to the child's lawyer and the court on how the youth will be supervised if released, and how they will cooperate with any conditions of release pending the adjudication hearing. The presence of parents at the detention hearing is **ABSOLUTELY ESSENTIAL**.

A juvenile who is formally charged and detained or who comes to court for the first time after being released on a summons is entitled to a lawyer. The lawyer may be hired by the parents or appointed by the court, if the parents are eligible for a court-appointed lawyer. Parents should not waive this right or allow their child to waive this right, even if the youth will plead guilty. A competent lawyer can have a significant impact on the outcome of the disposition by developing and advocating for a dispositional plan. Parents should insist that the lawyer develop such a plan with their input. It may also be necessary to meet with service providers to develop the plan.

## **ADJUDICATION**

At the adjudication hearing, the youth is again entitled to be represented by a lawyer, to call witnesses, to cross examine the prosecution's witnesses and to introduce any relevant evidence that may establish innocence. The youth is not required to testify at this hearing. Whether he or she does should be based on the lawyer's assessment of all of the circumstances of the case.

## **DISPOSITION**

If after this adjudication hearing the youth is found guilty of the offense, the court generally sets a date for a dispositional hearing. Prior to this hearing, the probation staff will develop a pre-dispositional report which provides background information on the youth and makes a recommendation to the court. It is very important that the youth's lawyer and the parents develop a dispositional plan and that they both advocate for the youth at this hearing. They should be prepared to provide information on their willingness to work with both the child and juvenile probation so that the child can receive the least restrictive disposition.

The judge's decision will be based on the severity of the offense, the offense history and the youth's response to prior placements if there have been some. The judge can place the youth on probation, order the youth to do community service or pay restitution to the victim, place the youth in a nonresidential, community-based residential program, or commit the youth to the division of juvenile services. The judge may also order the youth to undergo treatment if a substance abuse or mental health problem exists. Parents should participate in any and all treatment planning and advocate for the appropriate treatment services. They should also participate in treatment to assist with the youth's process towards making changes. Since many jurisdictions lack services, this can be one of the most frustrating aspects of the juvenile justice system. Lack of cooperation or

coordination between juvenile justice, mental health, substance abuse and other providers can also hinder treatment. Moreover, many jurisdictions still rely on out-of-state placements for children with special needs. This makes it very difficult for parents to participate in the child's treatment.

## **PLACEMENT**

When juveniles are placed in a residential facility or secure facility, planning and managing their reentry into the community is critical. Parents should insist on being involved in the planning process and enlist community-based agencies that can provide services to the youth. At the very least, parents should work with the aftercare workers to identify helpful community-based agencies that can address specialized needs such as substance abuse treatment, mental health services, special education, or employment training and placement. In addition, parents should take advantage of opportunities to learn better parenting skills so they can foster a better relationship with their child and apply more effective discipline.

A parent's willingness to work with and supervise a youth may make all the difference when it comes to the decision on detention or out-of-home placement. Parents should not have to do this alone; they should have the support of advocates, community-based agencies and mental health and substance abuse agencies who are working in concert in the best interests of the child.

## **KEY POINTS FOR FAMILY INVOLVEMENT**

- Go to the police station if your child is arrested or is an alleged witness. Demand to participate in any interrogation of your child.
- Be present at the detention hearing and be prepared to let the court know how you will supervise your child and cooperate with the court to meet release requirements set by the court.
- Cooperate with the lawyer on all aspects of the case.
- Insist that the lawyer develop an alternative dispositional plan and participate in the development of that plan if your child is an adjudicated delinquent.
- Cooperate with any placements and insist on being a part of the planning for treatment.
- Work closely with aftercare authorities and community-based agencies to assure a positive transition of your child back into the community. Participate in aftercare planning.
- Take advantage of skills training that will improve your ability to work with your child's mental health and/or disability related needs.

## **DEFINITIONS**

- **Adjudication:** The hearing at which a judge hears witnesses, receives evidence, and makes a finding about whether the youth was involved in the offense.
- **Aftercare:** Aftercare is the period after out-of-home placement where a juvenile is still under the jurisdiction of the juvenile justice system. A youth on aftercare is generally supervised and may have several requirements that he or she must meet (e.g., attending school, staying away from delinquent peers).

- **Delinquent Offense:** A delinquent offense is an offense that if committed by an adult would constitute a crime under the laws of that jurisdiction.
- **Disposition:** This term can be used to refer to how a case is resolved. However, for the purposes of this article the term is used to refer to a court's sanctions placed on a youth found to be involved in a delinquent offense.
- **Diversion:** Diversion is a process that may take place at the arrest, intake, prosecutorial, or court level. It refers to the youth's movement out of the system, avoiding further penetration into the juvenile justice system. It may or may not include referrals for treatment and it may or may not have requirements for treatment associated with the process.
- **Incarceration:** Refers to the court's commitment of a juvenile to a secure community-based or juvenile correctional facility.
- **Parents:** In the context of this issue, this term is used broadly and includes non-parental caregivers.
- **Residential facility:** A residential facility is usually a staff secure community-based facility where a juvenile is placed by court order. The juvenile resides there and in many cases receives educational and other services. Many jurisdictions place juveniles in out-of-state residential facilities when they have special needs of when the jurisdiction does not have sufficient residential beds.