

*why it's important to*

# *Know Your Rights*



A Guide to Young People's Rights  
in Juvenile Delinquency Court

*A Gault at 40 Campaign Publication*



*Artwork by Leslie J. Sharp*

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A Guide to Young People's Rights  
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Written by:  
Rashida Edmondson-Penny

Designed by:  
Erin Haskell


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[www.njdc.info](http://www.njdc.info)  
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# *Why It's Important to Know Your Rights In Juvenile Court*

**Have you ever said or thought something like this?:**

- *Learning about legal rights is boring. And it isn't important because I'm not going to get in trouble.*
- *I know all I need to know about my rights- the police on "Law & Order" always read those rights to people.*
- *If I do get into trouble, my parents and I will figure out how to handle it.*
- *If I do get in trouble, it will be no big deal. Juvenile charges have light sentences and when I get older, my record will be confidential.*

Lots of people think those types of things, but you should know that learning about your legal rights is very important. As you try to figure it all out, it can be confusing. That's okay. Lawyers are trained to know all the complicated legal pieces of your Constitutional rights, and they are trained to help you. But, since most of us do not have lawyers on our speed dials, it is important that you know your basic rights and have some easy pointers on how to act with law enforcement and court officials.

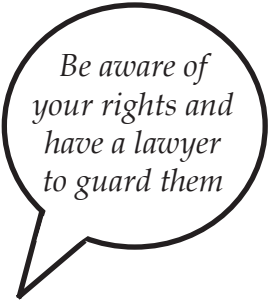


*What happens  
if the police  
don't tell you  
your rights?*

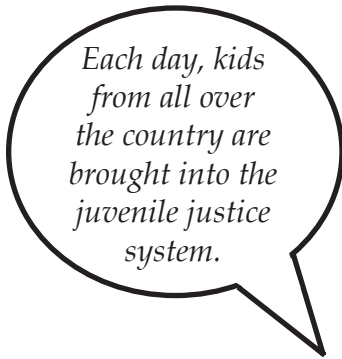
Television shows and movies have made it so most of us can recite our *Miranda* warnings. On the screen, cops always say them as they handcuff the guy on the street. But do you know what those rights really mean? Do you know how to use them? Do you know when the police are supposed to say that warning to you, and when they don't have to? What happens if

the police don't tell you those things? If you don't know the answers to these questions, then taking a little time to learn the basics about your legal rights could be one of the most important things you do.

Coming into the juvenile justice system is a serious matter. You can be detained after you are arrested while waiting to have your case heard. This means spending time in detention, which is like jail. If you plead guilty or a judge finds you delinquent, you could spend more time in jail. Even if you're not sent to jail as part of your disposition (sentence), the court can stay involved in your life until you become an adult – in some states until you are as old as 25. You can have your right to drive taken away, you can be made to take random drug tests, wear monitoring bracelets, forbidden from leaving the house except to go to school, and even forced to stop hanging out with some of your friends. Once you are an adult, you may be excluded from getting financial aid to go to college, barred from joining the military, or kept out of some housing. Because of these types of results of a juvenile record, and because the law can be so confusing, it is best to be aware of all your rights and to have a lawyer to guard



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*Each day, kids from all over the country are brought into the juvenile justice system.*

them. Your parents may love you and mean well, but that does not mean that they will be able to fix this for you.

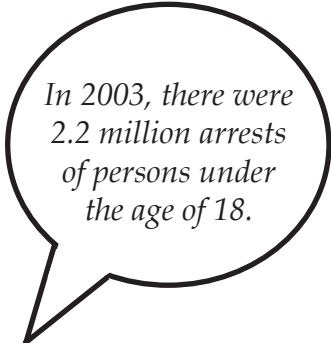
Each day, kids from all over the country are brought into the juvenile justice system, for all different kinds of offenses. Sometimes kids do things that would be called a crime if they were done by an adult. Other

times, kids are brought to the court for doing or failing to do things that they would not get in trouble for if they were not young people, like staying out past curfew or skipping school.

Here are some statistics<sup>1</sup> to demonstrate that lots of kids that do not expect to end up in trouble do, and that if you do, the consequences could be serious:

- In 2003, there were 2.2 million arrests of persons under the age of 18.
- 136,500 of these arrests were for curfew and loitering laws. A curfew law is a good example of a law that only applies to you because of your age.
- 20% of those who were brought to delinquency court in 2003 were detained for the time between being referred to the court and final disposition of their case.
- 92,000 juveniles were held in residential commitment facilities in 2003. These facilities vary greatly and can look like adult prisons or like traditional homes.

- Even though they make up only 16% of the youth population, Black youth account for 27% of all juvenile arrests. Black youth account for a disproportionately high amount of the arrests for certain serious crimes: robbery (63%), murder (48%), auto theft (40%), and aggravated assault (38%). The harsher treatment of youth of color in the juvenile justice system goes beyond the arresting decision, but also affects the rate at which youth of color get detained and the severity of their sentences.
- As of 2003, girls account for 29% of all juvenile arrests. While this is a relatively low percentage compared with the total percentage of girls in the population, it represents a 45% increase in arrests of girls over a period of approximately twenty years. Most of the growth was concentrated in the early 1990s.
- Statistics of abuse and mistreatment in youth correctional facilities can be hard to measure. However, in 2004 there were 2,821 reports of sexual violence against youth and 26 deaths of youth in facilities. In the beginning of 2007, news of the conditions in the facilities of the Texas Youth Commission served as a vivid example of the abusive treatment many youth endure while held in state custody.<sup>2</sup>



1 All statistics are taken from the Office of Juvenile Justice and Delinquency Prevention "Juvenile Offenders and Victims: 2006 National Report"

2 See Sylvia Moreno, *In Texas, Scandals Rock Juvenile Justice System: Hundreds to Be Released as State Looks At Abuse Allegations and Sentencing Policies*, Wash. Post, April 5, 2007 at A3

# *Know Your Rights*

## *Frequently Asked Questions*

*Please note that states may interpret laws differently. A lawyer can tell you how this advice applies in your state. For information on obtaining a lawyer, please contact the National Juvenile Defender Center at 202-452-0010.*

### ***The police stopped me when I was driving. Can they search my car?***

The legal rules that tell police when they can or cannot search your car are very complex and often depend on the specific facts of each case. Additionally, states may have different interpretations of the law or rules which govern their police searches. Generally, however, the police will often ask you for consent to search your car. You have a right to refuse consent. The police cannot use your refusal to consent as a basis to obtain a warrant or as a basis to conduct a warrantless search. If the police have a reasonable articulable (able to be explained) suspicion, they can search the areas of the car that could be reached by you or your passengers.

### ***The police came to my school. Can they search my locker? Can the teachers or principal search my locker?***

As long as the teachers or principal have a reasonable suspicion of criminal activity, they can search



your property at school. Reasonable suspicion is a lower standard than probable cause, which is necessary for the police to search your property, inside or outside of school. It is also important to note that many school systems do not consider lockers to be your property at all, and so school officials may be able to search them under less strict rules.

***I want to play football at school, but they want me to take random drug tests. Can the school make me do this?***

Yes, the school can make you submit to random drug tests as a prerequisite of engaging in sports. If you feel that the collection of samples is done in an inappropriate manner or that the results are shared with inappropriate people, you may be able to challenge the procedures used to conduct the testing.

***What do I do if the police want to talk to me?***

If the police ask you for identifying information (like your name), you should answer them. If the police attempt to ask you questions about criminal activity, ask them if you are free to go. If they answer, “yes,” you can walk away without answering their questions. If the police tell you that you are not free to go, or if they physically restrain you, by, for example, putting a hand on your shoulder, they are detaining you. Aside from identifying information, you do not have to



answer any questions the police ask you. You should ask to call your lawyer. You should be very clear once you ask for your lawyer, and use the words, "I want a lawyer. I will not answer any questions without my lawyer." Then you should remain silent, even if the police keep trying to talk to you, until you have had a chance to talk to your lawyer. Your lawyer will not only help you with the police interrogation, but he or she will also guide you through all the phases of the court process, and make sure that your rights are protected and your interests are advanced.

### *What do I do if I don't have a lawyer?*

Even if you do not already have a lawyer, you still have the right to talk to one. If you ask to speak with a lawyer and you do not have one, one will be provided for you.

### *What do I do if I can't afford a lawyer?*

If you cannot afford a lawyer, a lawyer will be appointed for you. This lawyer could be a public defender or lawyer who contracts with the court to represent people who cannot afford to hire lawyers.

### *Will that lawyer be as good as a lawyer who charges me money?*

Although many people think that public defenders and court appointed attorneys do not work as hard as private attorneys, or that they are really working with the government instead of for the client, this is not true. Public defenders, court appointed



attorneys, and private attorneys are all lawyers that have gone through legal training and passed legal exams to be able to represent you. These different types of lawyers work equally hard to protect their client's interests and rights in the justice system. A lawyer's skill is more directly related to their experience, dedication, and natural talent, than to the type of attorney he is.

***But if I talk to my lawyer and tell her what happened, will the courts find out?***

No. Your lawyer must keep the things that you tell her confidential. There is a privilege between you and your lawyer that protects your conversations. The government cannot force her or you to reveal what the two of you discuss, unless you agree.

***But I'd rather just go home quickly. Won't having a lawyer make it harder?***



Some court processes do take longer when lawyers are fighting for you. Cases usually end quickly without lawyers, because your side of the story is not being told at all. Decisions that are reached without a lawyer to support you usually do not take all sides of the situation into consideration. It may take longer with a lawyer, but you are more likely to get a positive outcome. Legal proceedings in juvenile and criminal court are serious,

and the consequences could follow you for the rest of your life. A lawyer will help you through the court process and treat your case like the serious matter that it is.

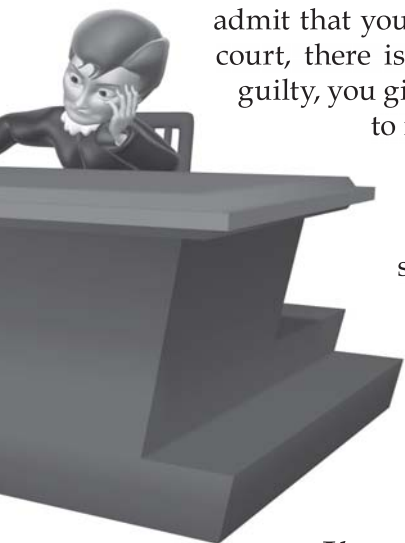
*Won't police, judges, prosecutors and probation officers be nicer to me and think I'm a better person if I just cooperate with them without the hassle of a lawyer?*



There is no guarantee that you will be treated more leniently without an attorney. In fact, it is highly unlikely. Having a lawyer is your right, and the government cannot treat you badly because you chose to exercise your right. Without an attorney, it may be very hard to tell if you are being treated fairly. With an attorney, the other rights that you are guaranteed will be protected. Do not let anybody convince you that you don't need a lawyer or that your outcome will be better without one.

*People are telling me I should plead guilty. Should I?*

This is an important question that defense attorneys are specially trained to deal with. Your lawyer will give you advice on how to plead to a charge based on the facts of your case. You have a right to a trial. But your plea takes the place of a trial. This makes sense: the purpose of the trial is for the judge or the jury to figure out whether or not you did the things the government is accusing you of doing; if you



admit that you did those things to the judge in open court, there is no need for a trial. Once you plead guilty, you give up a lot of rights, including the right to remain silent, and the right to confront your accusers. Pleas are final. In most cases, it is extremely difficult to take back a plea. So, because pleading is such an important decision, if you do not want to plead guilty, nobody can force you to – not parents, police, prosecutors, judges, or even your own lawyer – and you should not feel pressured to do so.

*I've decided to go to adjudication (trial). What are some things that my lawyer should do?*

There are many things that a lawyer will do to prepare for a trial and while a trial is being conducted. Lawyers should file motions, which are ways of requesting that the court takes action in your favor. Motions should be filed before adjudication, and sometimes they will need to be filed during adjudication, as well. Based on the results of the motions and the investigation, your lawyer will put on evidence on your behalf, and challenge the evidence of the prosecutor. In order to do this, your lawyer will make arguments to the judge, as well as object to the arguments and evidence of the prosecutor.



## ***I went to adjudication and the judge has ruled that I'm delinquent. What happens now?***

Now you go to the disposition (sentencing) phase. It may feel like all the important parts of the trial are over and that you have “lost” your case. However, disposition is key to how long your case will continue in court. Your right to a lawyer extends to the disposition phase, and it is important that you take advantage of this right. Your lawyer will argue for conditions from the judge that are fair to you and take your needs and wants into account. A juvenile court judge has a wide range of sentences she can impose, so it is important that you have a lawyer to advocate for you.

## ***The judge has just sentenced me and I don't think it was fair. What can I do?***

You may be able to take an appeal. If you went to trial, an appeal is your right. However, if you plead guilty, appealing is one of the rights that you gave up. This means that you cannot appeal your guilty plea, but if the judge sentenced you illegally, you still have the right to appeal the sentence. A lawyer can help you to understand whether or not you can or should take an appeal. Some states provide a lawyer to you for an appeal if you cannot afford one, but others do not.

If you take an appeal of your case, and it is successful, it is important to know that this does not automatically end your case. You could be re-tried. It is also likely that you will remain under the court's supervision while appeals are pending and in the event of any retrials. Therefore, it is important that you abide by any rules or conditions the court has imposed on you while you are waiting for your appeals to finish. Also, you should be aware that anything you say about the case while you are on appeal or waiting

for retrial can be used against you, so you should be sure to continue and exercise your right to remain silent about the charges against you.

## *Remember: YOU HAVE RIGHTS*

*At every stage – from interrogation, through arrest, through adjudication or plea, and up to disposition and beyond – you have certain rights that are guaranteed:*

- You have the right to a lawyer. If you cannot afford a lawyer, one will be provided for you. It is important that you demand your lawyer and do not let anyone convince you to waive that right. A lawyer will fight for you and make sure that all of your other rights are protected.
- You have the right to notice of the charges against you. This means that you must be told why you are being arrested by the police and why you are being brought to the court so that you and your lawyer can prepare to defend against the allegations. You must be told in advance when your court dates are scheduled.

- You have the right to present evidence in your defense and to challenge the evidence that is brought against you. This means that your lawyer can cross-examine witnesses that testify against you and must have a chance to review and respond to any documents or other evidence that the judge will consider in reaching her decision.
- You enjoy a privilege against self-incrimination. Not only does this mean that you can remain silent during police interrogation, but you do not have to testify during your trial, either. That means that you do not have to try and explain your situation, and this cannot be used against you when the judge makes his decision. If you decide that you want to testify, that is your right, as well. This is a good example of a decision that a lawyer is specifically trained to help you make.
- Most states do **not** give youth the right to trial by jury. A few states do. Your lawyer will be able to tell you if you have the right to a jury trial in your state. However, if you are being charged as an adult in criminal court, no matter what your age, you have the right to a jury trial.

Links for other resources about your rights:

[www.aclu.org](http://www.aclu.org)  
[www.njdc.info](http://www.njdc.info)  
[www.flexyourrights.org](http://www.flexyourrights.org)  
[www.streetlaw.org](http://www.streetlaw.org)

# Know Your Rights

## Glossary of Legal Terms

**Adjudication** - The part of a court case when evidence is given to the judge. The judge uses this evidence to decide if you are delinquent or not. In adult court, this is called the trial.

**Appeal** - The process of asking a higher court to change the result of your case.

**Arrest** - The moment when you are taken into custody.

**Competence** - The ability to understand your rights and how to exercise them and the ability to help your lawyer in preparing your defense. A person who is not competent cannot be brought to trial.

**Confrontation** - The right to see those who are testifying against you, in order to make objections and cross-examine them.

**Counsel** - Lawyer. Attorney. Juvenile defender. Public defender.

**Custody** - Power and control over. Being brought into custody means you are held at the state's will, often in a jail or detention hall.

**Defense Attorney** - Your lawyer. Your advocate who represents your wishes and interests to the court.

**Detention** - Being housed in a juvenile facility without the freedom to leave on your own will.

**Disposition** - Sentencing.

**Due Process** - The guarantees of fairness and justice in your interactions with the courts

**Notice** - Making you aware of the charges against you and the date and time of court appearances

**Petition** - The document that contains the specifics of the charges against you. It will tell you what you are accused of doing with enough detail for you to be able to defend against the charges.

**Plea** - Your response to the charges against you. A guilty plea acts as an adjudication of delinquency and you proceed to disposition without making the government prove the charges against you. A not guilty plea means you want the government to prove beyond a reasonable doubt that you are guilty of the charges against you.

**Probable Cause Hearing** - A hearing where the government proves that a crime took place and it likely that you were involved. This is not a trial and much less evidence is needed to find probable cause than to find your guilt.

**Proceedings** - All the steps in your court case, the form and process of coming before the court.

**Prosecutor** - The attorney for the state. This lawyer puts on the evidence against you.

**Self-Incrimination** - Anything you say or do that can be used to prove you are guilty or delinquent.

**Transcript** - The record of what happens in court appearances.

**Waiver** - The decision to give up a right. Most rights, once waived, will not be given back.

**Zealous advocacy** - When a lawyer does everything she can to defend you, protect your rights, and make sure that your voice is heard in court.



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