



Youth Advocacy Department

Committee for Public Counsel Services

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Frequently Asked Questions: Youth

If police stop me and ask me questions, should I talk to them?

It is important to remember that anything you say, even if it is true, can be used against you. If the police stop you, you should always remain respectful and polite to them even if you believe that they are stopping you for no reason. You should give them your true name and address, but you do not have to answer any other questions they ask you.

If I'm arrested, do I have to answer the questions police ask me?

It is important to remember that anything you say, even if it is true or you think it will help you, can be used against you. If you are arrested, you should not say anything to the police until you speak to a lawyer first. You should tell the police that you wish to have a lawyer present before you speak to them. You should give your true name and address to the police.

If I'm arrested, how do I get a lawyer?

If you are arrested, you will have to go to court. Once you are in court, a probation officer will speak to you and your guardian to determine whether a lawyer will be appointed to you. Everyone who is arrested is entitled to have a lawyer with them in court. Most people who go to court are appointed a lawyer. You will meet your lawyer in court, and he or she will talk to you about your case and represent you in court. If the court does not give you a lawyer, your parents will have to hire one. The Massachusetts Bar Association has a Lawyer Referral Service. You can call them at (800) 392-6164 or (617) 654-0400, or visit the website at www.masslawhelp.com.

How many times do I have to go to court for a case?

It depends. Sometimes you only have to go to court once or twice before the case is resolved. Other times, you may have to go to court many times. It depends on what kind of case it is. Going to court is very important so you should remember your court dates. You must go to court every time your case is scheduled. If you miss a court date, the judge could issue a warrant, and the police could arrest you and lock you up for missing court. If you forget what your court date is, call your lawyer and find out. If you lose your lawyer's telephone number, call the court to get your next court date.

What happens after I get arrested?

After you are arrested, the police will take you down to the police station. The police must notify your parents that you were arrested. Sometimes, the police will let your parents pay money (bail) to take you home from the police station. Other times, you will be held until you are taken to court later that day or the next day. If you are arrested and held on a Friday after court is closed, or over the weekend, you will be brought to court on Monday. Once you get to court, you will be appointed a lawyer.

Who does my lawyer work for?

Your lawyer works for you. It does not matter whether your parents paid for your lawyer or the Court paid for your lawyer. Your lawyer will not repeat anything you have said to anyone, including your parents and the Court, without your permission. Your lawyer will prepare your case, advise you, speak on your behalf, but will never do anything on your case that you do not want.

What is a clerk's hearing?

A clerk's hearing is a meeting at court where a clerk decides whether there is enough reason to believe that someone has committed a crime and whether a case should be brought against that person. The alleged victim and/or witnesses will be there to tell the clerk what happened. You may get something in the mail telling you to come to court for a clerk's hearing. If you receive one, you must go to court. It is a good idea to have a lawyer go with you. You can call a lawyer at YAP ((617) 445-5640) if you need a lawyer to come with you. If you do not go to the hearing and the victim is there and wants to press charges, charges could be brought against you. The person who has been accused has a right to be there but should not say anything unless a lawyer is there with him/her. If the clerk finds that there is enough reason to believe that a crime occurred and the victim wants to press charges, a case is brought against the accused person. The person who is accused must come to court on a later date and appear in front of a judge to be charged with the crime.

Who does the prosecutor, or ADA (Assistant District Attorney) work for?

The Assistant District Attorney who prosecutes the case does not work for any of the witnesses or victims. The Assistant District Attorney works for the Commonwealth of Massachusetts. Every county in Massachusetts has its own District Attorney's Office. The person in charge of each office is called the District Attorney, and is elected by the citizens of that county. The lawyers who work in the office are called Assistant District Attorneys, and are paid by the Commonwealth of Massachusetts.

Will I get locked up if I go to court?

You do not automatically get locked up if you go to court. When you go to court for the first time the judge decides whether you get locked up or not, and whether your family can pay a bail to have you released if you are locked up. The judge considers things like whether you have a prior record, whether you have other open

cases, whether you are on probation, the seriousness of your current charge(s), whether you have ever missed a court date in the past, whether a family member is in court with you, whether you are working and/or going to school, and whether you are involved in community activities. Your lawyer will tell the court all the reasons you should not be locked up. After the judge listens to your lawyer, the DA, the probation officer, and other persons, he or she will decide if you get locked up.

If you do not get locked up, the judge can let you go home, but may put conditions on you. For example, the judge can give you a curfew, tell you have to go to school on time every day, and not cause problems in school. If you do not follow any of these conditions the judge can lock you up.

What is DYS?

DYS stands for Department of Youth Services. DYS is the agency that is responsible for supervising youth who plead guilty to, or were found guilty of, a crime. DYS is also where youth go who are held on bail.

What does it mean to be committed to DYS?

If you are committed, DYS will decide where you will live until you turn 18 (or 21 - See the Youthful Offender question). You will go to a residential or a locked program when you are first committed, but may eventually live at home with rules set by DYS.

Will my cases stay on my record?

Your cases will stay on your record, even after you turn 17. However, because your juvenile record is confidential, no one should know if you have been through the juvenile system. There are some situations where someone may find out about your juvenile record. For example, if you go to court, the probation department will look up your record. Sometimes schools have access to your juvenile record. When you apply for jobs or schools, they may be able to look at your juvenile record if you give them permission.

In general, your cases will stay on your record, even after you turn 17. If you were only treated as a delinquent, your case remains confidential, which means that the general public does not have access to your record. However, there are times when someone may find out about your delinquency record. If you go to court, the probation department will look up your record and sometimes the schools may get access to your record. Also, if you were sentenced as a Youthful Offender, your record would be open to public inspection in the same way as an adult record.

Will my parents find out what I tell my lawyer?

What you tell your lawyer about your case is private between you and your lawyer. The lawyer cannot tell your parents or anyone else anything about the case without your permission. This is called "attorney-client privilege."

If I plead to a case, do I have to put that on my job application?

In Massachusetts, an employer cannot automatically ask about whether a person has had criminal cases. The outcome of the criminal charge and the seriousness of the charge determine whether an employer can ask about someone's criminal history. An "adjudication of delinquency" is not the same as an adult criminal conviction. So, you should never have to put on a job application that you were convicted of a crime if your case remained in juvenile court and you were not treated as a youthful offender. But, if you were sentenced as a youthful offender, the law is less clear.

If you have a youthful offender sentence, you should first ask your lawyer about the specifics of your case to see what answer you should put on a job application. The juvenile statute does not clearly say whether a youthful offender sentence is the same as an adult disposition. One section of the law in Massachusetts states that all proceedings against children shall not be deemed criminal proceedings, which means the dispositions are confidential and the court proceedings are not open to the public. Yet, another part of the law states that youthful offender proceedings are open to the public, like an adult case, but does not say the dispositions are to be treated as adult sentences. Yet another part of the statute states that no "...adjudication or disposition or evidence (shall) operate to disqualify a child in any future examination, appointment, or application for public service under the government either of the commonwealth or of any political subdivision..." Because the law is unclear, it is best to first talk to your lawyer who handled your case or you can call and speak with a YAP lawyer.

What is a jury trial?

At a jury trial, a group of people called a jury determines whether or not you are guilty or not guilty. The jury is made up of six people for delinquency cases or twelve people for youthful offender cases. The people are selected at random from the county where your case occurred. You and your lawyer play a role in choosing who is on your jury. The prosecutor will have witnesses testify about what they know or saw. Your lawyer will have a chance to ask the witnesses questions and can also have witnesses testify for you. You can also testify and tell your side of the story. After all the witnesses have testified, your lawyer will tell the jurors why they should decide you are not guilty. The prosecutor will tell the jurors why they should decide that you are guilty and has to prove to the jury that you are guilty. If the jurors are not convinced beyond a reasonable doubt that you are guilty then they must find you not guilty. All the jurors must agree on the decision. If they cannot agree then that is called a "hung jury", and another trial with different jurors will happen unless a deal that you agree with can be worked out.

What is a Youthful Offender?

Youth between the ages of 14 and 17 can be prosecuted as a Youthful Offender if they are charged with a felony (a serious crime) and fit into one of these 3 categories:

- already committed to the Department of Youth Services (DYS);
- charged with a crime that involves the "infliction or threat of serious bodily harm;" or
- charged with a firearm offense.

Youth convicted as Youthful Offenders can receive an adult prison or House of Correction sentence, a commitment to the Department of Youth Services (DYS) to age 21, or a combination of a commitment to DHS to age 21 and a suspended adult sentence.

What is a CHINS?

CHINS stands for "children in need of services." A judge can put you into this category if the judge is worried that certain behavior may be a sign that you are likely to become involved in delinquent or criminal activity in the future. Even if you come to court for doing something that is not a crime for adults (like running away from home or skipping school), the judge might see the behavior as a cause for concern. These "unacceptable" behaviors are called "status offenses" since the behaviors are considered unacceptable because of your age.

When a CHINS petition is filed, your family will be referred to a Juvenile Court probation officer and to the Department of Social Services. There are four types of CHINS petitions:

- Runaway - for children under 17 who keep running away from home.
- Stubborn Child - for children under 17 who do not obey their parents'/guardians' rules.
- Truant - for children under 16 who do not attend school.
- Habitual School Offender - for children under 16 who keep breaking the rules at school.

If after reviewing the petition, the judge determines that you are a child in need of services, the judge may return you home in the custody of a parent, transfer custody to a relative, or transfer custody to DHS.

What is probation?

Probation is a period of time when you have to follow rules that a judge sets for you. If you don't follow the rules that the judge sets, you can be committed to DHS. Here are some of the conditions that a judge may set:

- do not get arrested again
- go to school (or to work) on time every day
- obey the rules of wherever you are living
- report to a probation officer
- pay money (if you stole or damaged property)
- follow the conditions of your curfew

When you are placed on probation, the judge will assign you to a probation officer ("PO") who will check on you regularly to see how you are doing at home and at school. Don't talk to the PO about your case, because the PO could tell the judge what you say.

Will my case affect school?

Yes. If school officials learn that you have been charged with or found delinquent of a serious crime (a felony), you can be suspended or expelled. You can be suspended or expelled from school even if your case did not happen at school and has nothing to do with school.

In order to suspend you, you must receive a letter from your principal stating the reasons why he or she wants to suspend you. You will then go to school where there will be a hearing to decide whether you should be suspended. In order to suspend you, the principal must decide that if you stay in school it would have a "substantial detrimental effect on the general welfare of the school." If you receive a letter from the principal stating that he or she plans to suspend you, you should tell your lawyer immediately. Your lawyer has the right to be at the hearing.

If you are found delinquent or guilty of a serious crime, you can be expelled. As with suspensions, you must receive a letter stating the reasons why the principal wants to expel you. In order to expel you, the principal must decide that if you stay in school it would have a "substantial detrimental effect on the general welfare of the school." Again, if you receive a letter from the principal stating that he or she plans to suspend you, you should tell your lawyer immediately. Your lawyer has the right to be at the hearing.

If you receive special education services the principal might not be able to expel you.

Your case may also affect school because a probation officer will call your school to find out how you are doing. The probation officer will then tell the judge how many days you have missed from school, how often you have been late for school, and whether or not you have been suspended. If a judge hears that you have missed a lot of school, have been late a lot, or have been in trouble at school, the judge could order you to attend school every day, on time, and obey all school rules. If you then miss school, are late, or get into trouble at school, you could be locked up for disobeying the judge's order.

What if I don't like my lawyer?

Not everyone likes his or her lawyer. People have personality conflicts all the time, but are still able to respect each other and work together. The more important question, then, is can you work with your lawyer. Does your lawyer listen to you? Does he or she explain things to you in ways that you understand? Has he or she met with you outside of court, to review and prepare your case? If you feel that your lawyer does not listen to you, or explain things to you, or is otherwise leaving you out of the process, you should talk to your lawyer first and see if you can resolve your differences. If you still are not satisfied and feel that your lawyer is not acting in your best interest, you should ask your lawyer to withdraw from your case and request that the judge gives you a new lawyer. You will need to be prepared, however, to tell the judge exactly why you feel that your lawyer is not acting in your best interests. Simply telling the judge that you don't like your lawyer is not enough.

What should I wear to court?

You should dress for court the way that you would for a job interview, religious service, or any other event where you would want to be taken seriously and show your respect. Your clothes should be clean and neat. You

should avoid wearing anything that adults might find offensive. You should not wear hats and your shirt should be tucked in. The better you are dressed, the better impression you will make on the judge.

What happens if I don't go to court?

If you do not go to court when you are supposed to, the judge can issue a warrant for your arrest. This can happen when you miss court completely, or if you are late. A failure to show up for court is called a "default." When a judge issues a warrant for an arrest, your name and address is given to the police and they are told that they can go to your home, school, or work, and arrest you. They can also arrest you if they happen to see you on the street.

If the police arrest you for this, you will be brought to the courthouse either the same day as your arrest, or the next weekday morning. At that time, a judge will decide whether or not to let you go. Many judges will hold people on a cash bail if they have defaulted. If your parent/guardian cannot pay the cash bail, you will be held at DYS until your case is over.

If you miss a court date, you should immediately contact your lawyer and make arrangements to meet your lawyer at the courthouse to clear the default warrant. If you are unable to reach your lawyer, you can go to the court yourself to clear the default. Bring a parent or guardian with you. At that time you will be provided with a lawyer who will help you explain to the judge why you missed your court date. It is always better for you to walk into the courthouse on your own than it is for the police to bring you in. When you show up on your own, you show the judge that you have taken your obligation to come to court seriously, and stand a much better chance of being allowed to go home rather than be locked up at DYS.

Who can I talk to about my case?

The only person you should talk to about your case is your lawyer. With your lawyer's help, you may decide that there are other people who you should talk to, like your parents or a counselor. It is better to talk with your lawyer first, so that he or she can explain to you why it may not be a good idea to talk to people about your case. The main reason is that if you tell people like school officials, police officers, probation officers, DYS caseworkers, or even your friends about your case, your words can come back to cause you a problem. There are many ways that the most innocent words can get twisted around. School officials, police officers, probation officers and DYS caseworkers may report what you have told them back to the district attorney's office and the judge on your case. Your friends may use what you have told them to get them out of trouble if they get arrested. You should not talk to anyone unless you have cleared it with your lawyer first.

YAP can help you find the services and programs you need to have a positive future. For those of you who live outside of Suffolk County, YAP can also assist you in finding help in your own city and town. Email or call us with your questions.