

WHAT IS MY ROLE AS THE LAWYER FOR A JUVENILE CLIENT?

First Defense Volunteers go to the Police Station on all calls involving minors, including misdemeanors. This requirement includes cases where the child is accused of a misdemeanor or is given a station adjustment (see below). The reason is simple: minors in police custody are especially prone to police abuse.

The juvenile interview is essentially the same as with an adult. Be sure to fill out all necessary paperwork, including the Declaration of Rights and Notice of Representation form. Minors can assert their own rights, even if you have concerns that they may not fully understand them at that time. If you are concerned about the child's level of understanding, be sure to note this in your paperwork. Make sure that the client understands that what they discuss with their parents can be used against them in court. In videotaped homicide investigations, make sure both parent and child know that any conversation in the interview room will be recorded unless the attorney is in the room.

WHAT ROLE DO PARENTS OR GUARDIANS PLAY WHEN THEIR CHILDREN ARE IN POLICE CUSTODY?

1. When police take a minor suspect into police custody, the law requires that Police make a reasonable attempt to contact the parents or legal guardian. Unlike adults, where police will **ONLY** give out information to the adult's lawyer, Police should tell the parents or guardian where the child is being held.

2. However, in most cases **POLICE OFFICERS CAN AND DO QUESTION CHILDREN WITHOUT THE PARENTS BEING PRESENT.** The law only requires that a "reasonable attempt" be made to locate parents. In practical terms, this typically means that police call parents only once and fail to leave a message or stop by the house and leave a business card without further information.

Police, however, are *not allowed* to question children under the age of 13 accused of Criminal Sexual Assault or Homicide without a lawyer being present. The burden is on the police to find a lawyer for the child if they want to question the child.

3. Police do **NOT** have to tell parents if their children are being viewed as witnesses or suspects. Police frequently tell parents that their children are just witnesses.

PRACTICE TIP: IS THE PARENT THE LEGAL GUARDIAN? ONLY THE LEGAL GUARDIAN FOR THE CHILD CAN ADVOCATE FOR HIM OR HER, AND HAVE THE CHILD RELEASED INTO THEIR CARE. POLICE CAN CHECK DCFS RECORDS TO DETERMINE WHO IS THE CHILD'S LEGAL GUARDIAN AND WILL ONLY ALLOW THE LEGAL GUARDIAN AND ATTORNEY TO SEE THE CHILD.

The presence of a parent or guardian at the police station during a minor's time in custody can greatly influence the Youth Officer's decision to refer the minor's case to court or make a station adjustment. Strongly advise the parent or guardian to go to the station as soon as possible.

If the parents or guardian tell you they cannot or will not go to the police station, ask if there is another adult family member that can go. Explain that if no family members show up at the station to advocate for the child, the Department of Children and Family Services (DCFS) may be contacted.

HOW DO I ADVISE A PARENT OR GUARDIAN AT THE STATION?

It is probably best to limit the amount of access a parent has to their child while in police custody. It is important that the parent be there to emotionally support the child, and this usually is the case, but some parents may feel that the child needs to be disciplined or should own up to what they did.

Parents may express feelings of anger towards their child, urging them to "do the right thing" and trying to convince the child that explaining, confessing or taking responsibility for their actions is best. Avoid this by briefly outlining the process of arrest, investigation, and charging. Explain the child's right to silence to the parent and stress the importance of avoiding an admission. Make sure the parent understands that even what the child says to the parent might lead to a conviction that could have a very serious impact on the child's future.

Explain to the parents that they cannot be present when you question the child because their presence would destroy the attorney-client privilege. It is unlikely that a parent who understands that they could be called as a witness against their own child will insist on being in the interview room. Instead, have the parent come into the room, hug their child, tell them that they love them, explain that you are a lawyer who is there to help them, and then step out so you can conduct your interview.

HOW LONG CAN POLICE HOLD A MINOR IN CUSTODY?

Minors under 12 can only be detained at the police station for 6 hours.

Minors between 12 and 17 can be detained for up to 12 hours for non-violent offenses and up to 24 hours for violent offenses.

It does NOT matter that a minor could be charged with a crime where they will be tried as an adult.

CAN MINORS EVER BE IN THE PRESENCE OF ADULT DETAINEES WHILE IN POLICE CUSTODY?

Yes and no. Although there is a general “Sight and Sound” separation rule between adult and juvenile detainees – juveniles **cannot** be held in a cell with adults - juveniles **can** be placed in a line-up with adults provided they are under the constant supervision of a youth officer. Be sure to note any violation of these requirements.

WHAT’S A STATION ADJUSTMENT?

In cases involving non-serious offenses, such as curfew violations, gang loitering, fighting in school, or theft, police may release juveniles with station adjustments rather than referring them to court. This usually happens when there is not enough evidence to bring formal charges or when the police decide not to pursue the case further because the child has little or no criminal history. A station adjustment that is satisfactorily completed is an arrest that shows up on the juvenile’s record, but it is not a conviction. If a juvenile fails to abide by the terms of a station adjustment, the case may still be referred to court.

There are two types of station adjustments, Formal and Informal:

Informal Station Adjustment (nothing in writing)	Formal Station Adjustment
Juvenile officer determines there is probable cause that minor committed the act	Juvenile officer determines there is probable cause that minor committed the act AND <u>admission by the minor of involvement in the offense</u>
	Minor and parent, guardian or legal custodian must agree in writing to the formal station adjustment and must be advised if the consequences of violation of any term of the agreement
	Minor and parent, guardian or legal custodian must be provided with copy of formal station adjustment agreement including: <ul style="list-style-type: none"> • Presenting offense • Acknowledgement that the terms and consequences have been explained • Acknowledgement that formal station adjustment record may be expunged (under Section 5-915) • Acknowledgement that minor understands his/her admission of involvement in offense may be admitted in future court hearings
	Statement that all parties understand terms and conditions of formal station adjustment and agree to the process
Conditions: <ul style="list-style-type: none"> • Curfew • Conditions restricting entry into designated geographic areas • No contact with specified people • School attendance • Up to 25 hours of community service work • Community mediation • Teen court or peer court • Restitution limited to 90 days 	Conditions: <ul style="list-style-type: none"> • Limited to 120 days • Minor shall not violate any laws • Juvenile officer may also add the following conditions: <ul style="list-style-type: none"> ○ Attend school ○ Abide by set curfew ○ Pay restitution ○ Refrain from possessing a firearm ○ Report to a police officer at designated times and places ○ Including reporting that minor is at home at designated hours ○ Up to 25 hours of community service work ○ Refrain from entering designated geographical areas ○ Community mediation ○ Teen court or peer court ○ Refrain from contact with specified persons
If minor refuses or fails to abide by conditions, juvenile officer may impose formal station adjustment or refer case to State's Attorney	Formal station adjustment does not constitute an adjudication of delinquency or criminal conviction. Record of formal station adjustments is to be kept by Illinois State Police.
Informal station adjustment does not constitute an adjudication of delinquency or criminal conviction. Informal station adjustments for felony offenses are to be recorded by Illinois State Police, may record misdemeanor offenses	Minor or parent, guardian or legal custodian or both the minor, parent, guardian or legal custodian may refuse formal station adjustment and have the matter referred to court. (Also may, within 30 days, revoke their consent and have matter referred to court.)

	Admission by minor is admissible at further court hearings as long as the statement would be admissible under the rules of evidence.
	<p>If the minor violates any term or condition, the juvenile officer must provide written notice of the violation to the minor and parent, guardian or legal custodian. After consultation with the minor and parent, guardian or legal custodian, the juvenile officer may take any of the following actions:</p> <ul style="list-style-type: none"> • Warn the minor of the consequences of continued violations and continue the formal station adjustment • Extend the formal station adjustment for up to a total of 180 days • Extend community service hours to up to a total of 40 hours • Terminate the formal station adjustment unsatisfactorily and take no further action • Terminate the formal station adjustment unsatisfactorily and refer the case to court

If it seems reasonable, ask the Youth Officer to release the child with a warning rather than a station adjustment. If the Youth Officer is not amenable to this, advocate for an informal station adjustment rather than a formal adjustment.

Formal station adjustments require the child to sign a written admission – a confession – regarding his involvement in the offense. If the child fails to comply with the conditions of the formal adjustment, their case could be referred to Juvenile Court, and the written admission may be used as evidence against the child.

While there may be no room to negotiate whether the child will receive a formal or informal adjustment, you may be able to negotiate the conditions of the formal adjustment. Make sure that completion of the conditions is reasonably certain given the child’s living situation. For example, if the youth officer refers the child to a counseling program, is there such a program? Does the child have reliable, safe transportation to get to the program and money for fees? Does the child have other responsibilities such as babysitting younger siblings or relatives that might prohibit the child’s completion of the program?

Be sure that the family and child understand what is expected of the child and that failure to complete the conditions could result in the case being referred to court.

CALLS REGARDING JUVENILES BEING HELD IN THE DETENTION CENTER

The Public Defender's Office represents most juveniles being held at the Juvenile Temporary Detention Center (JTDC) while their cases are pending. On occasion, police investigate juveniles held at the JTDC in connection with other alleged crimes for which they have not yet been charged. Because a judge may only appoint the Public Defender once a case has been formally charged, the Public Defender's Office cannot represent its own clients during police investigations. FDLA has an agreement with the JTDC to represent detainees during police investigations, and with Public Defender's Office to represent its clients during police investigations prior to formal charging.

The JTDC is located at 1100 S. Hamilton Ave., near Ogden & Taylor. The phone number is 312-738-8200. The number for the Juvenile Justice Division of the Public Defender's Office is 312-433-7046.

MINORS RELEASED TO CHICAGO POLICE FOR INVESTIGATION

When police want to remove a minor from the JTDC for investigation, there is a court hearing on the State's Attorney's "Request for the Minor Respondent's Temporary Release to Law Enforcement." The Juvenile Justice Division of the Public Defender's Office represents its client at those hearings. The judge usually agrees to release the minor to police that day, and an Assistant Public Defender calls the FDLA Hotline to obtain representation for the minor during the police investigation. The Assistant Public Defender will provide the FDLA attorney with at least the minor's name, date of birth, and police facility to which the minor is being taken. Usually, the Assistant Public Defender can also provide the name of the officer or detective investigating the minor and the offense being investigated. The FDLA attorney must proceed to the police station where the minor is being taken as quickly as possible and request to visit with the minor as soon as the minor arrives.

FDLA policy regarding a station visit under these circumstances is generally the same as for any other station visit (see the section entitled "FDLA Procedure When A Call Is Received," beginning at page 35). You should advise the minor regarding her/his rights to remain silent and to assistance of counsel, describe the tactics that police can use to obtain confessions, and complete the Declaration of Rights (DOR) form. You should then notify the investigating officer that the minor is invoking his rights and serve the DOR on the officer. You should ask the minor for his guardian's contact information, as well as ask the minor whether he consents to having you update his guardian and/or the Public Defender's Office on the status of the investigation.

CHICAGO POLICE INVESTIGATIONS AT THE DETENTION CENTER

When JTDC staff requests that law enforcement respond to an incident alleged to have occurred in the JTDC, the Chicago Police Department may investigate the incident at the detention center. In cases where a minor resident will be

investigated by police at the JTDC, staff or an Assistant Public Defender will call FDLA to obtain representation for the minor. The FDLA attorney on call should go to visit the minor at the JTDC.

When you enter the court facility at 1100 S. Hamilton Ave. to visit a minor resident, you must walk upstairs on the east side of the building (facing the parking deck). Check in with JTDC staff at a front desk; tell the JTDC staff member the name of the resident you are there to see. If there is any confusion as to who you are because you are not on the resident's visitors list, tell the staff member that you were called by another member of the JTDC staff or by the Public Defender's Office.

A supervisor will approve your visit. Request a private room for your meeting with the resident, if one is available. You should advise the minor of his rights as a custodial suspect and help him invoke his rights to remain silent and to assistance of counsel. Complete the DOR and serve it on a member of the Chicago Police Department who has responded to the JTDC. If the CPD has not yet arrived, you should wait a reasonable amount of time to see them. (Call the FDLA Staff Attorney on back-up to determine what is reasonable.) The JTDC staff may bring officers back to the room where you are meeting with your client. Have the minor invoke his rights in front of the police. If it is impossible for you to see a member of the CPD at the JTDC, call the back-up. You will decide whether it is appropriate to leave a copy of the DOR with JTDC staff or whether you should proceed to the police station to serve it there.

FDLA PAPERWORK

FDLA paperwork on clients who are charged is forwarded to the client's defense lawyer and some has been introduced as evidence in past cases. Your paperwork may be used in court proceedings. Please keep this in mind when completing paperwork.

CALL SHEET

The Call Sheet contains general information regarding the call, crucial information about the client and their arrest, and a record of all conversations and activity you have on the case. Please provide as much information as possible, including the names and star numbers of any police officers you speak to.

A CALL SHEET SHOULD BE COMPLETED FOR EVERY CALL, WHETHER OR NOT THERE WAS A STATION VISIT.

DECLARATION OF RIGHTS FORM (DOR)

The DOR establishes that FDLA is representing the client, and that the client wishes to exercise his/her constitutional rights to remain silent and to counsel.

A DOR FORM SHOULD BE COMPLETED DURING EVERY CLIENT VISIT, PROVIDED THE CLIENT ASSENTS.

PRACTICE TIP: IT IS NOT NECESSARY FOR AN OFFICER TO SIGN THE DOR, BUT IT IS IMPERATIVE THAT YOU ASK. IF YOU ASK AND THE OFFICER OR DETECTIVE REFUSES, FILL IN THE OFFICER'S NAME AND STAR NUMBER IN THE APPROPRIATE SPACES AND PRINT "REFUSED" ON THE OFFICER'S SIGNATURE LINE.

IF YOU ARE SEPARATED FROM YOUR CLIENT BY GLASS AND THEY AGREE TO THE DOR, WRITE THEIR NAME ON THE "DETAINEE" LINE AND NOTE THAT THEY COULD NOT SIGN BECAUSE OF THE GLASS.

IF THE DETECTIVE OR OFFICER REFUSES TO ACCEPT A COPY OF THE DOR, ASK THAT THE CLIENT BE REMIRANDIZED AND PERMITTED TO ASSERT THEIR RIGHTS ORALLY IN YOUR PRESENCE. IF THAT REQUEST IS DENIED, DOCUMENT THE DENIAL.

INJURY LOG

The injury log contains important details regarding any allegation of injuries suffered while in police custody, or otherwise related to the case, as well as any treatment received.

AN INJURY LOG SHOULD BE COMPLETED DURING ANY CLIENT VISIT WHERE THE CLIENT REPORTS INJURY.

Log all injuries that the client reports, regardless of if they are visible or not. If you cannot see a particular injury, please do not write that you do not see it; just that the client reports the injury.

KNOW YOUR OFFICERS: A GUIDE TO THE PLAYERS

PLAYER	IDENTIFIERS	LOCATED AT	INVESTIGATES	OTHER
Beat Officer	Blue shirt, marked squad car	District Stations	Mostly misdemeanors and non-forcible felonies	
Sergeant/Station Supervisor	White shirt, Marked squad car	Usually at front desk of district stations	Generally do not investigate, oversee beat cops	Go to them if you can't get info from other officers
Special Units Officer	Jeans & bullet proof vest, unmarked Ford Crown Victoria	Homan Square Police Facility 3340 West Fillmore	Special investigations of gangs & narcotics, i.e. sting operations	People often mistake them for detectives
Tactical Officer	Jeans & bullet proof vest, unmarked Ford Crown Victoria	Office at District, ask for Tac office	Concentrates on vice & narcotics arrests	Can be used by detectives to find & arrest suspects

Youth Officer	Slacks, shirt & tie, unmarked Ford Crown Victoria	Mainly offices at Area Headquarters, some District offices	All youth crimes, child abuse & neglect, missing persons	Provide final determination for juveniles arrested
Detective	Slacks & blazer, shirt & tie, unmarked Ford Crown Victoria	Area Headquarters, 2nd floor	Serious felonies, violent & property crimes	If suspect is held at District, Dets. might go there
Assistant State's Attorney Felony Review	No official uniform, sloppy business casual, often wear khakis or sweatpants	Depends on location of suspect	Approve charges in felony cases	Might lie to suspect about who they are
FBI/DEA	Business casual or jeans	219 S Dearborn	Federal crimes	Refer to Federal Defender 312-621-8300