

Attorney and Client Guide to

CHILDREN'S RIGHTS

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Children have rights when charged with a crime. However, it's up to their parents or guardians to make sure those rights are protected.

Many adults want to let their children "take their lumps," so they will learn their lesson. Unfortunately, there's no guarantee that a child is guilty just because he or she is charged with a crime, nor is there any guarantee that a child will be treated fairly or with respect once he or she is in the juvenile justice system.

Furthermore, a criminal conviction can follow children for the rest of their lives and affect their ability to be admitted to certain schools or to enter certain professions.

Often, the lesson minors learn from an experience in the criminal system is not the same one the parents are hoping to teach them. They may learn methods of survival or lessons about disrespecting authority or committing additional and more serious crimes.

The learning curve for children's rights is many times a very steep one for parents who are awakened in the middle of the night with a call from the local police. Some common questions and answers are:

- ***Can the police question my child without my consent?*** – Yes. Your child has no rights to a parent's presence before questioning. ***(IN RE JOHN LEWIS S. [1988] Cal. App. 3d 441)***
- ***Can the police arrest my child without informing me?*** – Yes. However, you must be immediately notified by the probation office or prosecuting attorney. ***(Welfare and Institutions Code section 630)***
- ***Should my child speak to the police?*** – Children have the right to remain silent. Many people, both children and adults, are convicted because of what they say to police. Law officers can, and do, lie when questioning suspects.
- ***Does my child have a right to bail?*** – No. There is no right to bail in a juvenile hearing. Even if a parent wants to post bail for his or her child, the law does not permit it.
- ***Can my child be released before trial?*** – Yes. Your child may be released into your custody. The decision is up to the police and the probation officer, with the presiding judge having the final say.

- ***Can my minor child be held in the county jail?*** – No. Any child under 18 years old must be housed in juvenile hall and not housed with adults. ***(Welfare and Institutions Code section 207.1)***
- ***Does my child have a right to a lawyer in court?*** – Yes. Your child has the right to an attorney. ***(IN RE ANN S. [1982] 137 Cal. App. 3d 38)*** Furthermore, it is up to the child's parents to select which lawyer to use.
- ***Does my child have the right to a jury trial?*** – No. Unless your child is tried for certain serious felonies as an adult, he or she has no right to a jury trial. ***(IN RE JAVIER A. [1984] 159 Cal. App. 3d 913)***
- ***Can the police force me to answer questions about my child?*** – No. Only a judge may force you to answer questions. When in doubt, request to speak with your attorney.
- ***Do I have a right to be present at all court hearings involving my child?*** – Yes. Generally the court clerk or the probation officer must notify the parents of all court hearings. Be sure to contact juvenile court and the probation office and to make sure they have your address and phone number.
- ***Should my child's court records be sealed?*** – Yes. Parents have a duty to ask the court to seal their children's records so they will not be made public and follow them for the rest of their lives.
- ***Do accused children have any privacy rights?*** – Yes. Minors arrested and charged with crimes have the right to have that information kept from the public and the media. Except in exceptional incidents where a minor is tried as an adult, all records relating to a child's contacts with police, probation reports, and all informal juvenile matters are confidential. ***(LORENZO P. V. SUPERIOR COURT [1988] 197 Cal. App. 3d 607)***

Remember, your child is not guilty just because he or she has been accused. Your child will need your love and support. Don't pass judgment; keep a level head, and obtain counsel from a Certified Specialist in Criminal Law.

It's important to keep in mind that police and probation officers may act as counselors and caring persons, and, indeed, they may be genuinely interested in the welfare of your child. However, ultimately, they are officers of the law, and, as such, they must use whatever you and your child say to further the prosecution.

They may imply or suggest that you are in complete control of what will happen to your child. In reality, once the case gets to court, it will be the judge who decides what happens to your child.

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