

# Frequently Asked Questions (FAQ's)

## The Role of Juvenile Defense Counsel

These FAQ's are intended to clarify the role and obligations of the juvenile defender in juvenile court. For further reading, see the *Role of Juvenile Defense Counsel in Delinquency Court* and the *National Juvenile Defense Standards*, available at [www.njdc.info](http://www.njdc.info). Please contact the National Juvenile Defender Center at 202-452-0010 or [inquiries@njdc.info](mailto:inquiries@njdc.info) with any questions.



### What are the key components of the attorney-client relationship in a delinquency matter?

Youth in delinquency court have a constitutional right to a lawyer. In 1967, the US Supreme Court decided *In re Gault*, a landmark decision that afforded children fundamental legal rights—most notably, the right to counsel. Attorneys in delinquency court are ethically bound to represent the expressed interests of the child, and that means listening to their stories, elevating their voices in the court process, and providing opportunities for youth to be active participants in their court experience. The key components of the attorney-client relationship in a delinquency matter largely mirror those of attorneys who represent adults in criminal matters, such as maintaining confidentiality and building a strong defense based on facts and evidence.



### Are the duties and obligations of juvenile defense counsel the same or different from an adult criminal defense attorney?

Juvenile defense includes all of the duties and obligations of adult criminal defense, and more. Juvenile defenders are required to develop unique skills and knowledge of the law that demand additional training and specialization related to delinquency terminology, procedures, timelines, statutes, and caselaw. They must be versed in the growing body of research on adolescent development and be able to apply it in a legal context; communicate complex legal principles to youth in developmentally appropriate ways; engage and work with the families of their clients; have a thorough understanding of other child-serving systems, such as the education, child welfare, and mental health systems; and understand the direct and collateral consequences of juvenile court involvement that can continue well into adulthood.



### What if the client's "expressed interests" are not in their best interests?

Defenders must advise and counsel youth to empower them in making fully informed decisions throughout the entirety of their cases. Guidance from attorneys must be given in age-appropriate language and be rooted in the strengths and weaknesses of the legal case, as well as the circumstances of a child's life: education, family, community involvement, mental health, and others. If a child makes a decision in conflict with the advice of his or her attorney, the attorney is still required to represent the client's expressed interests.



## What role does the parent\* play in a delinquency case? What if the parent is paying an attorney?

Families play an invaluable role in the success of a child's case. However, the attorney represents the child, not the parent, regardless of who pays for legal counsel. Laws and rules of ethics determine what information can or cannot be shared with family members. There is no exception for parents to the rule on attorney-client confidentiality—that means certain subjects are kept private from family, including legal strategy and discussions between the attorney and the child. But some information should be shared and defenders should empower families to participate in their child's case by informing them of the courtroom process, the steps in a delinquency case, how to navigate the system, and insight into the roles of other actors in court. Families, too, are resources for defenders. They can share the child's strengths and characteristics, as well as challenges a child may face. And, importantly, families can provide support for their child throughout each stage of the court process, from appearing in court to helping a child meet probation requirements to visiting them in secure custody—an often lonely and isolating experience for youth.



## How is the juvenile defender's role different from the guardian ad litem (GAL), the probation officer, a social worker, or family members?

Juvenile defenders serve a separate and unique role from all other court actors in the juvenile justice system. They are obligated to represent the "expressed" interests of youth. In other words, the defender functions as the voice of the child throughout the case. But defenders must also educate clients about their legal rights and the workings of the juvenile court system, provide them with case information and possible outcomes, and advise their clients to make informed decisions at each stage of the court process. Even when a child makes choices that appear contrary to his or her best interests, the defender can offer alternative guidance but ultimately must act on the wishes of the youth. Most other stakeholders are required to do the opposite: represent children's "best interests" despite what the young person thinks will be most effective. Listening to children's stories and elevating their voices is essential to defenders meaningfully fulfilling their legal obligations in juvenile court and to empowering youth to participate in the process of their own defense.



## How often should the defender speak with their client?

Defenders should stay in contact with clients throughout the entirety of their court cases. Children must be informed of all case-related developments, and the defender should ensure their clients understand the meaning and consequences of those developments. Youth should also be aware of any obligations to the court, such as upcoming court dates and expectations or orders of judges and probation officers. Equally as important, when defenders check in with clients—whether at home, in school, or in custody—they should ask children if they feel safe, if they're treated with kindness and respect, and assess whether their rights are being upheld. In all communications, the attorney must use age-appropriate language.

\*The term parent is used generally to be inclusive of guardians and families.



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