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What happens when children commit crimes?

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Juvenile violence is an ongoing concern in our community. All too often, my office prosecutes serious violent acts committed by juveniles including car thefts, shootings, and murders. Due to legally required confidentiality when minors are involved, and the uncertainty of terms of confinement in the juvenile system (these issues are explained below), some in the community may fear that violent juveniles are not being dealt with appropriately.

This article aims to provide concerned citizens with additional insight on how a juvenile case is charged and prosecuted here in Madison County, and the various methods we use at the State's Attorney's Office to ensure our community is protected from juvenile violence, while also keeping in mind that when children are involved, the law gives them special attention and consideration.

Background

In 1899, the Illinois Juvenile Court Act (JCA) took effect, and Illinois became the first state to create a separate court for juveniles. Prior to this Act, children accused of a crime were charged, jailed, and punished as if they were adults. The JCA aims to strike a balance between holding juvenile offenders accountable for their unlawful conduct and attempting to rehabilitate those juveniles, while also protecting the community from juvenile crime. The JCA also made juvenile court proceedings confidential, so that rehabilitated juveniles could have a chance at a successful future without the stigma of a criminal record.

What Happens When a Minor is Taken into Custody?

When a minor is taken into custody, the police department has the option to either release the minor and send a juvenile referral to the State's Attorney's Office for charges, or to detain the minor. If the police department chooses to detain the minor, they must contact the Juvenile Detention Center. The Juvenile Detention Center utilizes a screening process to determine whether the minor qualifies to be detained. In the event a minor is detained, the court must hold a detention hearing within 40 hours of a minor being brought to the detention center.

For a minor to remain in custody, the State must demonstrate probable cause that the minor is delinquent (has committed a delinquent act); and that detention is a matter of immediate and urgent necessity for the protection of the minor or of the person or property of another, or that the minor is likely to flee the jurisdiction of the court. This is decided on a case-by-case basis, and the court considers several factors, including: the nature and seriousness of the offense, the minor's record of delinquency, the minor's record of willful failure to appear, and the availability of a non-custodial alternative to provide supervision and care for the minor. There is no bond or bail given to the minor. It is up to the judge to determine whether, or for how long, the minor will remain detained in juvenile detention.

Nothing about this process has changed under the recently-enacted SAFE-T Act. We routinely seek detention of dangerous minors in our Madison County Juvenile Detention Center, but due to the confidentiality associated with juveniles, many of their names cannot be released. Currently, there are about 20 juveniles detained in our detention center, charged with crimes ranging from domestic battery to first-degree murder.

Juvenile Court Jurisdiction vs. Adult Jurisdiction

Proceedings under the JCA may be instituted concerning any minor who, prior to his or her 18th birthday, has violated or attempted to violate any federal, state, county, or municipal law or ordinance. All juveniles must be represented by an attorney. If a family cannot afford an attorney to represent the minor, an attorney will be appointed.

Under the JCA, minors who commit crimes are not called “defendants.” They are called “delinquent minors.” Delinquent minors are charged with committing “delinquent acts” and not with committing a crime. Juveniles do not have a right to a jury trial if the case is in juvenile court, and they are not facing an adult sentence. The judge will decide whether the juvenile is adjudicated delinquent after a bench trial. An adjudication of delinquency is the equivalent of a conviction in adult court. However, these are not considered “convictions” in the legal sense. For example, even if the crime for which the juvenile was adjudicated delinquent was a felony, that juvenile is not considered a “convicted felon” and will therefore not be subject to the same restrictions that result from a felony conviction as an adult.

However, when the alleged acts are serious enough and the juvenile is within certain age ranges, the juvenile may be tried as an adult in the adult criminal court. Some cases involve the automatic transfer of a minor to adult court, such as when a minor is at least 16 years of age and is charged with first-degree murder, aggravated criminal sexual assault, or aggravated battery with a firearm, where the minor personally discharged the firearm. Illinois law also provides for discretionary transfers. These cases are for minors who are at least 13 years old. In such cases, if we wish to try them as an adult, the State’s Attorney’s Office must file a petition to transfer to adult court, and have a hearing held on that petition. In a discretionary transfer hearing, the State must prove by clear and convincing evidence that there is probable cause to believe that the allegations in the motion are true and that it is not in the best interests of the public to proceed under the Juvenile Act. By statute, the court is required to weigh factors such as the age of the minor, the minor’s criminal history, previous abuse or neglect of the minor, the circumstances of the offense, the advantages of remaining within the juvenile system, and whether the security of the public requires sentencing under the adult criminal sentencing laws.

Many minors have been tried and convicted as adults in Madison County based on the seriousness of the offenses. Here are some examples from just the past two years: Jacob Godoy (16 at the time of the crime) was convicted of first-degree murder as an adult, Nicholas Rickman III (16 at the time of the crime) was convicted of first-degree murder as an adult, Don Miller (15 at the time of the crime) was convicted of possession of a stolen motor vehicle and aggravated battery as an adult, Deandre Richardson (17 at the time of the crime) was convicted of first-degree murder as an adult, Russean Hollis (16 at the time of the crime) was convicted of first-degree murder as an adult, and Rashad Estelle (16 at the time of the crime) was convicted of involuntary manslaughter as an adult.

Juveniles transferred to adult criminal court are entitled to the same protections as adults, including the right to a jury trial, which is not afforded to them in juvenile courts. If convicted and sentenced to a term of incarceration, they remain confined to a juvenile facility until they turn 18, and then are sent to prison in the Illinois Department of Corrections with other adults.

For cases that remain in the juvenile system, the law requires the focus be more on rehabilitation rather than punishment. Most juveniles are assessed and ordered to participate in treatment options that assist the juvenile in recognizing and accepting responsibility for his or her delinquent behavior, utilizing community-based interventions when possible. These services include mental health treatment, anger management, family counseling, and more.

Expungement or Sealing of Juvenile Records

Due to the law's mandated confidentiality for juvenile cases, even the disposition of juvenile cases often remains hidden from the general public. Once the case is closed, juvenile court records either remain sealed or are expunged. "Expungement" means all records related to the case, including the court record, are destroyed. "Sealing" means the record still exists, but it cannot be accessed by the general public or anyone outside of law enforcement and a select few agencies and employers, without a court order. It is important to note that if a juvenile is tried as an adult, his or her records are not automatically sealed or expunged but are treated as normal criminal records.

A Sentence in the Juvenile System is Indeterminate

Some juveniles may be sentenced to a period of confinement in the Illinois Department of Juvenile Justice (IDJJ), which operates various secure confinement facilities for juveniles. Unlike adult sentences, where a defendant is sentenced to a specified number of years of confinement, the juvenile court judge does not have the authority to determine the length of stay in IDJJ. The juvenile court judge only determines whether the juvenile will be sentenced to an IDJJ facility. It is then solely at IDJJ's discretion how long he or she will remain there. This is known as an indeterminate sentence. The maximum length of time a juvenile may remain at an IDJJ facility under the law is until his or her 21st birthday.

This uncertainty of juvenile sentences often causes confusion and anger in the public because a known violent delinquent minor may be sentenced to IDJJ but soon be released (without input from local law enforcement) and returned to the community. Meanwhile, the records of the disposition of the juvenile case remain confidential. This can give the impression that nothing was done in the case, when in fact, all available legal processes were followed. This unpredictable juvenile release system remains a serious concern for my office.

Conclusion

The bottom line is this: Although our legal system mandates unique rules for juvenile justice, we are doing our very best to fairly navigate these rules to support public safety. By knowing more about how this system works, I hope the public can be empowered to understand the implications and repercussions of juvenile crime for both victims and perpetrators. Together, we need to continue working to reduce this ongoing tragedy of juvenile violence, which all too often wreaks havoc on the lives of the victims of these crimes, as well as the life and family of the juvenile perpetrator.