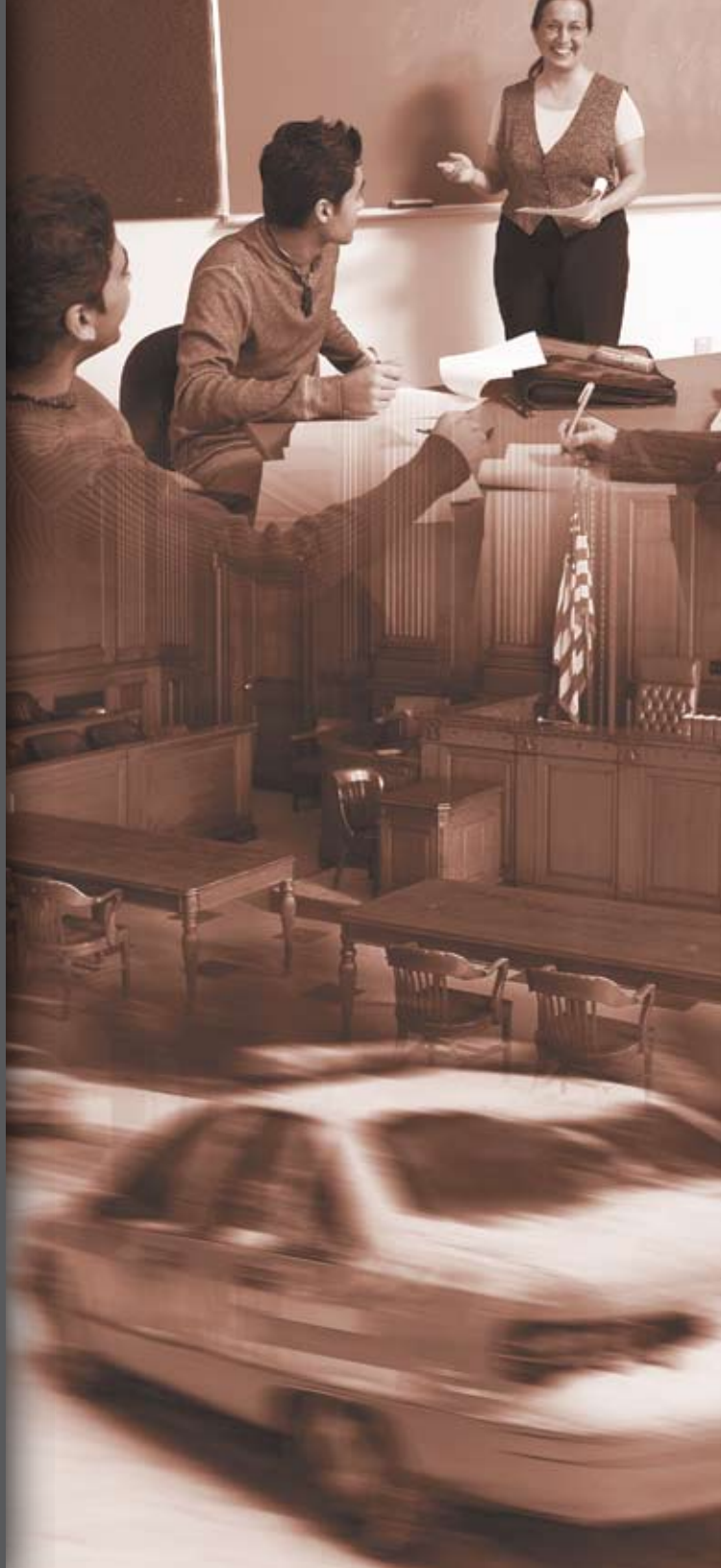


JUVENILE RIGHTS HANDBOOK

Your Rights and Responsibilities in the Schools,
with the Police, and in the Courts



This Handbook was developed as a joint project of JustChildren and the Virginia State Bar Young Lawyers Conference. The information contained in this Handbook is general legal information in order to give juveniles a brief overview of their rights. It is not intended to be a precise statement of law. It does not establish an attorney-client relationship and should not be construed as a legal opinion or legal advice. If you have a question about how this applies to you or a specific factual situation, you should consult with an attorney. The Virginia State Bar provides a lawyer referral service, which can be reached at (804) 775-0808 or toll-free at 800-552-7977.

As part of the Legal Aid Justice Center, JustChildren helps make sure that young people in Virginia have access to the services and supports necessary to live successfully in their communities. JustChildren's work consists of direct representation, community education, a statewide foster care project, and other statewide advocacy addressing important issues impacting all of Virginia's children.

The Young Lawyers Conference (YLC) is part of the Virginia State Bar, the state agency charged with regulating lawyers licensed to practice in Virginia. The mission of the YLC is to allow young lawyers to participate in Virginia State Bar activities and serve the legal profession and the public.

For additional information, please contact:

JustChildren
(800) 578-8111
<http://www.justice4all.org/programs/justchildren>

Offices of JustChildren are located at:
1000 Preston Avenue, Suite A
Charlottesville, VA 22903
(434) 977-0553

101 West Broad Street, Suite 111
Richmond, VA 23220
(804) 643-1086

8 Bollingbrook Street
Petersburg, VA 23803
(804) 862-2205

Virginia State Bar Young Lawyers Conference
www.vayounglawyers.org
Virginia State Bar
Eighth and Main Building
707 E. Main Street, Suite 1500
Richmond, VA 23219-2800

TABLE OF CONTENTS

PART I

Right To An Education	2
School Discipline.....	2
Searches At School.....	6
Freedom Of Expression	7
Free Speech:	
What You Can Say (Or Not Say) In School.....	8
School Papers & Publications:	
What You Can Write In School.....	9
Dress Codes: What You Can Wear In School	10
School Transfer Rights.....	11
Education Duties	12

PART II

Your Rights And The Police	14
Rights With The Police On The Streets	14
Rights And Police Searches	15
Rights At The Police Station	16

PART III

The Virginia Juvenile Justice System	17
Entering The Juvenile Justice System	17
Obtaining An Attorney.....	18
The Court Process	19

PART I

Education

You have the right to an education. In fact, Virginia law requires that everyone between 5-18 years old attend a public, private or religious school or receive home instruction. However, when you are in school, you still have to follow the rules.

School Discipline

Q: What can get you suspended or expelled?

A: Lots of things can get you suspended or expelled. Some reasons for suspension or expulsion include:

- Having unexcused absences or late arrivals;
- Insulting teachers or other students;
- Threatening teachers or other students;
- Damaging school property;
- Associating with gangs;
- Throwing objects;
- Fighting;
- Committing indecent exposure (for example, nudity);
- Possessing or using drugs, look-alike drugs, or tobacco (including dip);
- Spitting;
- Smoking;
- Engaging in sexual conduct including harassment; or
- Possessing weapons.

At the beginning of each school year, school staff will review the code of student conduct with all students. The code of student conduct will tell you exactly what the rules are, and what you have to do to stay out of trouble. You and your parents have to sign that you received and reviewed the code of student conduct.



Q: What if I am suspended from school?

A: There are two types of suspensions, short-term and long-term.

Short term Suspensions (10 school days or less):

You have a right to explain your side of the story before being suspended. If you are suspended anyway, you and your parents have a right to a written notice describing (1) reasons for suspension, and (2) length of suspension. It must also include: (1) information about other options for education during your suspension, and (2) explain that you have the right to return to school once the suspension ends. If you don't agree with the version of events in the notice or with the punishment you have received, you and your family have the right to appeal the decision to the superintendent of the school system and potentially to the school board. If you still don't agree with the decision, you can appeal to the local circuit court. You should file the Appeal right away.

Long-term Suspensions (more than 10 school days):

You have a right to explain your side of the story before being suspended. If you are suspended anyway, you and your parents have a right to a written notice describing (1) reasons for suspension, (2) length of suspension, and (3) information about your right to appeal the decision. Long-term suspensions are generally ordered by the superintendent of the school system upon the recommendation of a school administrator. If you don't agree with the decision, you may appeal to school board and then to the local circuit court.

NOTE: If a school administrator believes you are a danger to yourself or to others, he or she may remove you from school grounds without written notice. The school administrator must, though, give you notice as soon as reasonably possible after you are removed.

Q: Do I need a lawyer to appeal a suspension to the superintendent or school board?

A: No, but lawyers can be very helpful. If you or your family cannot afford an attorney, you should contact your local Legal Aid Office right away. You can also bring people (such as coaches, ministers, employers, or family members) to speak on your behalf and explain why you should not be suspended.

Q: What are my rights if I am expelled from school?

A: Expulsion is when the school board removes you from school for an entire year and requires that you apply for re-admission the next year. The school

must provide written notice of the intent to expel, stating the reasons for expulsion, identifying available alternative community-based educational programs, expectations for you while you are out of school and advising you of your right to appeal. **IF YOU ARE FACING EXPULSION, YOU SHOULD ALWAYS CONSIDER APPEALING THE CASE. THERE IS NOTHING TO LOSE.**

Q: Can I still receive an education when I am suspended or expelled?

A: Yes. The school board should allow you to receive educational services at home or in an alternative school. If they don't, you should call a lawyer and appeal.

Q: What should I do while I am suspended or expelled?

A: You should try to continue your education. You should also stay out of trouble and use the time well by working or volunteering. If you have been expelled, these steps may help you in applying for re-admission.

Q: What is “zero tolerance”?

A: “Zero tolerance” is a phrase referring to rules that, if broken, result in automatic consequences without regard to the circumstances. For example, many schools have zero tolerance programs for drug and alcohol abuse, violence, and harassment.

Q: What does my school mean by “weapon”?

A: Schools define “weapons” broadly. Weapons can include anything used to threaten or hurt others. This includes knives, pen knives, screwdrivers, blades, or firearms. “Look-alike” weapons, including plastic knives and water guns, are considered weapons. For your safety and the safety of others, you should keep any object that could be seen as a weapon away from school grounds.

Q: What happens if I bring a weapon to school?

A: If you possess a weapon on school property, while traveling to and from school (including weapons in personal cars parked on school property) or at school events, you could be suspended or expelled from school.

WARNING: A 17-year-old high school student was expelled after school officials saw a toy gun under the driver's seat of his car in the school parking lot.

Q: What happens if I bring drugs, alcohol, or tobacco to school?

A: Possessing illegal drugs, alcohol, or tobacco products on school grounds (or at school-sponsored events) violates the law and the code of student conduct. You may be suspended or expelled if you possess these items.

Possessing prescription or over-the-counter medication without permission might also violate school rules and the law. If you need prescription or over-the-counter medicine during the school day, you should talk to school officials before bringing the medicine to school.

Do not bring any of the following items to school:

- Drugs, alcohol, or anything that could be mistaken for drugs or alcohol;
- Prescription drugs or over the counter drugs unless you have school permission;
- Drug paraphernalia (such as pipes or rolling paper); or
- Tobacco (including dip, snuff, and chew).

WARNING: A middle school student gave a classmate a tablet of Midol and was suspended for 13 days.

Q: Can I get punished at school for what I do outside of school?

A: Yes. You are expected to follow the rules in the code of student conduct at all times. For example, if you are convicted of a serious juvenile offense outside of school, you may also be punished by your school. Serious offenses include gun possession, assault, sex offenses and drug offenses. To protect your right to an education, you should always avoid conduct that violates school rules or the law.

Q: As a student with a disability, what are my rights if I am suspended or expelled from school?

A: If you are a student with a disability, you may be punished the same way and have the same rights as students without disabilities. But you also have some other rights.

You have the right to a free appropriate public education at a different site than your home school.

If you receive special education services, the school must conduct a meeting called a Manifestation Determination Review before giving you a long-term suspension or expulsion. The meeting is meant to determine the cause of the misconduct. You can remain at your home school if the misconduct was primarily caused by your disability or the school's failure to provide an appropriate education (unless the misconduct is related to weapons, drugs, or violence). On the other hand, if the misconduct was not primarily caused by your disability or the school's failure to provide an appropriate education, then you can be removed from school but still must receive the education services provided for in your Individualized Education Plan (IEP).

Searches At School

Q: Who can search me?

A: If the principal, teacher, or resource police officer has a reason to suspect that you violated a school rule or that you possess a banned item, they can search you and your possessions.

Q: Can the school search the entire student body just because they suspect one student?

A: No. School officials may not search the entire student body. School officials must have reason to suspect you to search you. This means they must suspect that you are violating a school rule or have something — like drugs — that you cannot have.

Q: What should I do if school officials attempt to search me?

A: You should tell them you do not want to be searched. But if they still want to do it, do not resist or talk back.

Q: Can the school require that I take a drug test?

A: Yes, but only as a condition for doing sports or other school activities. You are allowed to object to taking a drug test. Schools cannot keep you out of school if you refuse, but they can keep you out of sports, clubs and other activities.

Q: Can they search my locker?

A: Yes. Lockers are school property; they belong to the school, not to the students. School officials can search your locker at any time for any reason without a search warrant and without your knowledge or approval.

Freedom Of Expression

“First Amendment rights, applied in the light of the special characteristics of the school environment, are available to teachers and students. It can hardly be argued that either students or teachers shed their constitutional rights to freedom of speech or expression at the schoolhouse gate.”

Tinker v. Des Moines Independent Community School District, 393 U.S. 503 (1969)

Introduction

Q: What is the First Amendment and the freedom of expression?

A: The First Amendment to the Constitution provides:

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

The First Amendment protects your right to think and say what you believe. This protection—freedom of expression—extends to every type of view: political, personal, social, religious, and others. For example, the government generally may not stop you from writing a letter to the editor in your local newspaper, speaking out about issues you believe in, joining a club or organization that shares your views, or worshiping in the religion of your choice. Likewise, the government cannot force you to think a certain way, say or write something you disagree with, or join a religion or organization you do not believe in.

This does not mean you can say whatever you want at school, whenever you want to say it. The school can still set some limits.

Q: Can schools restrict my freedom to express myself?

A: Yes, they can if what you are saying, or how you are saying it, interferes with the education of other students.

The rest of this section gives examples of when schools can and cannot put limits on your speech.

Free Speech: What You Can Say (Or Not Say) In School

Q: Do I have a right to express my opinions in school?

A: Yes. You have a right to express your opinions in school, even if they are unpopular. This includes sharing your religious or political beliefs with your friends. But schools may have rules about the way you express yourself. For example, you can be punished for using vulgar or obscene language. You can also be punished if you disrupt class activities or disrespect, harass, or attack others. The First Amendment protects your right to distribute information expressing your views, but your school can tell you how and when you can do so, as long as the same rules apply to everyone.

Q: Do I have the right to form a club or organization that expresses a political or religious view?

A: If your school allows extracurricular clubs and organizations that are not directly related to the school curriculum, then it cannot stop you from forming one. This does not mean that your school has to provide you with a faculty sponsor or funding.

If your club or organization's activities will disrupt the school, the school may shut it down. For example, if a club expresses views that discriminate against other people, the school can prohibit it.

Q: Do I have a right to challenge decisions to ban books from my school library?

A: Absolutely. Even though schools are in charge of picking books for the library, you have the right to challenge the decision to ban a book.

Q: How do I challenge these decisions?

A: You can write letters to your political leaders or your local newspaper, attend school board meetings, talk to other students, and express yourself in any other manner that does not interfere with the conduct of the school.

According to the American Library Association, the following books were the subject of the most attempts in 2005 to be removed from school libraries:

- It's Perfectly Normal" by Robie H. Harris
- Forever by Judy Blume
- The Catcher in the Rye by J.D. Salinger
- The Chocolate War by Robert Cormier
- Whale Talk by Chris Crutcher
- Detour for Emmy by Marilyn Reynolds
- What My Mother Doesn't Know by Sonya Sones
- Captain Underpants series by Dav Pilkey
- Crazy Lady! by Jane Leslie Conly
- It's So Amazing! A Book about Eggs, Sperm, Birth, Babies, and Families by Robie H. Harris

Q: Do I have to salute the American flag or stand during the Pledge of Allegiance?

A: No. Your school cannot force you to salute the flag or stand during the Pledge of Allegiance. Your school also cannot force you to say the Pledge of Allegiance. Your school can, however, require you to remain quiet and respectful during the Pledge of Allegiance.

School Papers & Publications: What You Can Write In School

Q: Can I be punished for what I write in a school assignment?

A: Yes. You should be careful about what you write in your school assignments. Your school may be able to punish you for using obscene words or violent images. You should check with your teacher before submitting an assignment that contains obscenity or describes violent activities.

Q: Do I have the right to write what I want in the school newspaper, magazine, or yearbook?

A: No. Schools can decide what can be published in school newspapers and yearbooks because those publications bear the reputation of the school. The principal has the authority to stop controversial stories from being

printed. A school's rules regarding its publications must be applied evenly to all student organizations. In other words, a school cannot single out one organization or publication for censorship or prior review of material that will be printed.

If you print untruthful information, you may face a lawsuit for "libel." Libel is a civil court action where a person who publishes false and damaging information about another person can be required to pay money damages to that other person.

Q: What can I write in the school newspaper, magazine, or yearbook?

A: As a general matter, you should not print any obscene, disruptive, untruthful, or attacking material.

Q: What about publications produced by students but not sponsored by a school?

A: You are entitled to express your opinions in publications you produce independent of the school. Schools may have rules on how and when you can distribute such publications at school in order to ensure that school activities are not disrupted, but they do not have the same censorship authority they have over school-sponsored publications. Again, you should be careful not to publish any untruthful information, as you could be sued for "libel."

Dress Codes: What You Can Wear In School

Q: Do I have the right to wear whatever I want in school?

A: No. Schools can impose dress codes restricting what you wear. Clothing that distracts others from class activities or poses health and safety risks can be banned. For example, schools can prohibit clothes that are physically revealing, promote drugs, tobacco or alcohol, or contain obscene words or pictures. Dress codes must be applied evenly to all students or they are unlawful.

Q: Can the school ban my hairstyle?

A: It depends. The law in this area is not settled. You should check your school's code of conduct for guidance before you try a radical hairstyle. However, like dress codes, rules on hairstyles must be applied evenly to all students or those rules are unlawful.

Religion In School

Q: Can religion be taught and discussed in school?

A: Yes. There is a difference between teaching about religion and imposing religious views. Schools may not force you to believe in certain religious views.

Q: Can my school impose a mandatory moment of silence?

A: Yes. But your school cannot force you to use that time to pray or to participate in a religious activity. A moment of silence simply means time where speaking and other activities are prohibited.

Q: Am I allowed to pray in school?

A: Yes. A school may not prohibit you from praying, but a school may have rules to make sure that prayer does not disrupt a school's operation.

Q: Am I allowed to lead a prayer at graduation or another school function?

A: It depends. The law on this issue is unsettled. A prayer that is entirely student-organized and student-led, without any involvement by the school is probably allowed. However, the First Amendment prohibits schools from supporting any one religious view. Since a student prayer at a school function may be seen as endorsing a religious viewpoint, schools may be able to limit student-organized or student-led prayer.

School Transfer Rights

No Child Left Behind: Your Right To A Quality Education

Q: What is the No Child Left Behind Act?

A: The No Child Left Behind Act (NCLB) is a federal law that requires states and school districts to make sure schools meet certain quality standards each year. Students in schools that fail to make "adequate yearly progress" have a right to transfer to another school if there are schools making adequate yearly progress in the same school district.

Q: How does NCLB work?

A: Students are required to take standardized tests each year. In Virginia, these are called the Standards of Learning exams. Schools are measured for adequate yearly progress based on student performance on these tests.

If your school does not make adequate yearly progress two years in a row, you have a right to transfer to a school that is making adequate yearly progress if there is such a school in your school district. You do not have to pay for transportation. If you remain in your school and it fails to make adequate yearly progress three years in a row, you may be entitled to receive tutoring and other educational services at no cost.

Q: How do I know if my school makes adequately yearly progress?

A: The Virginia Department of Education maintains results of annual performance tests on its website: www.pen.k12.va.us/VDOE. Search under

“Adequate Yearly Progress and “School Report Cards.” You can also ask an administrator at your school.

Q: How do I take advantage of the rights NCLB gives me?

A: If your school failed to make adequate yearly progress two years in a row or more and you believe you are entitled to a school transfer or extra support services, you should put your request for a transfer in writing to your school principal.

Education Duties

Diplomas And The Virginia Standards of Learning

Q: What are the Standards of Learning?

A: The Standards of Learning (“SOLs”) are established by the Virginia legislature. You are required to take SOL tests in grades three (3) through twelve (12). The tests cover practically every subject, including math, science, English, history, social science, and computer technology.

In order to earn a standard or advanced diploma, students must pass their SOL exams. Failure to pass the SOLs in elementary or middle school can lead to students being held back from advancing to the next grade.

Q: What do I have to do to earn a high school diploma?

A: Virginia confers three types of high school diplomas. To earn a Standard Diploma, you must pass six (6) high school-level SOL tests and earn twenty-two (22) high school course credits. To receive an Advanced Studies Diploma, you must pass nine (9) high school-level SOL tests and earn twenty-four (24) high school course credits. To earn a Modified Standard Diploma, which is only available to students with disabilities (who are also allowed to pursue a standard diploma), a student must earn twenty (20) high school course credits and pass the eighth (8th) grade English and math SOLs.

Q: What happens if I do not pass a SOL test?

A: You are allowed to receive extra help—called “remediation”—which can come in the form of after-school or summer school programs. You also may be able to retake the test you failed. Often students who prepare more and retake a test are able to pass the second time around. If you fail an SOL, you should talk to your guidance counselor.

Q: What if I do not pass enough SOL exams to graduate?

A: If you do not pass enough SOL tests to graduate from high school but you complete the required coursework, you may receive a Certificate of Completion. Most four-year colleges will not admit students with a

Certificate of Completion, but you can still go to community college. If you believe you are in danger of failing a SOL test, you should reach out to your teachers and school counselors for help.

PART II

Your Rights And The Police

To protect yourself when you are questioned by the police, you need to know about your rights and what to do. Our United States Constitution gives you certain rights, and the first 10 Amendments to the Constitution are called “The Bill of Rights.” The Fourth Amendment says the police cannot search you or take your belongings without a good reason. The Fifth Amendment gives you the right not to say anything that might make you seem to be guilty of a crime.

When you are dealing with the police, you have the right to (1) say nothing, (2) refuse to consent to a search, and (3) ask for a lawyer.

Rights With The Police On The Streets

Q: What are my rights if I am stopped on the street?

A: You have the right to remain silent. You have the right to a lawyer.

Q: Do I have the right to not talk to the police?

A: Yes. You do not have to tell them anything except basic identifying information such as your name and address. If requested, you must produce identification.

Q: If a police officer starts to ask me questions, what should I do?

A: Ask the police officer: “Am I free to leave?” If the police officer says “yes,” then you can leave. If the police officer says “no,” then he or she must read you your Miranda rights.

Q: What are my Miranda rights?

A: You have the right to remain silent. Anything you say can and will be used against you in a court of law. You have the right to speak to an attorney, and to have an attorney present during any questioning. If you cannot afford a lawyer, one will be provided for you at government expense.

Q: Do I have to talk after a police officer reads the Miranda rights to me?

A: No. You have the right to remain silent. You cannot be punished for not talking.

Miranda: Know vs. Use?

Virtually all Americans know or at least have heard of their Miranda rights. But how many people use their Miranda rights? Very few, actually do. Studies have shown that approximately 80% of suspects waive their Miranda rights and talk to the police.

Rights And Police Searches

Q: What is a search?

A: A search by the police can be looking through your personal belongings (such as your locker, purse, backpack, car), asking you to empty your pockets, or performing a pat-down or a strip search. A search must be “reasonable” under the facts and circumstances. One way to know if a search is reasonable is what is being searched for.

Q: When are the police allowed to search me and/or my personal belongings?

A: The police need a warrant or a good reason (“probable cause”) before they can search you. Probable cause exists when a police officer has reason to believe that you probably committed a crime. This belief must be based on fact and circumstance, not on suspicion. The police can search you without a warrant in order to prevent harm or the destruction of evidence. The police can also search you without a warrant if they place you under arrest. Finally, the police can “stop and frisk” you if they have a reasonable suspicion that you are breaking the law and that you have a weapon.

Q: What can I do if the police ask to search me and/or my personal belongings or ask me to agree to be searched?

A: You have the right to be free from unreasonable searches and seizures, and therefore, you have the right to refuse to agree to a search if the police do not have a search warrant or probable cause. If you agree to a search, it becomes legal even if the police did not have a search warrant or probable cause.

Q: If I refuse to agree to a search but the police still want to search, what should I do?

A: Do not physically resist a search even if you think it is illegal and do not attempt to run away. Resisting or running will probably get you into trouble and may lead to criminal charges against you.

Q: Can the evidence found during an illegal search be used against me in court?

A: Probably not. If you believe that the evidence was obtained by the police in an illegal search, you should tell your lawyer exactly what happened so that your lawyer can challenge the search in court.

Rights At The Police Station

Q: What can I do if the police take me to the police station?

A: You can ask for a lawyer and your parents and you can refuse to say anything else.

Q: Can the police lie to me or make up evidence against me just to try to get me to talk?

A: Yes. The police can lie and use other “tricks” such as pretending that other evidence exists. Regardless of what the police say, you can invoke your right to remain silent. The police may say:

- “If you tell the truth, you can go home;”
- “If you tell on your friends, you will not get into trouble;”
- “If you tell the truth, you do not need a lawyer;”
- “If you do not confess, you will be tried as an adult.”

The police have no control over what, if any, crimes you are charged with. You can ask for a lawyer and then use your right to remain silent and refuse to talk to the police.

Q: Can I have my parent(s) present when the police question me?

A: You can ask to have your parents present during questioning, but the police can refuse to allow it.

Q: What can I do if my parents tell me to talk to the police?

A: You can invoke your right to remain silent. If you talk to the police, anything that you say can and will likely be used against you. You should also be careful about what you tell your parents because they can be forced to repeat anything that you tell them in court.

PART III



The Virginia Juvenile Justice System

The Virginia Juvenile Justice System deals with suspected criminal offenses by persons who are eighteen (18) years and younger. Understanding the juvenile justice system and your rights will protect your interests.

There are some serious charges against juveniles which can result in a juvenile case being transferred to the Circuit Court, which is also often called “adult” court. This handbook does not address that situation.

Entering The Juvenile Justice System

Q: How do you enter the juvenile justice system?

A: Ordinarily, you enter the juvenile justice system when a person says that you did something that would be considered a crime if you were an adult. You will also enter the system if you have been arrested by the police.

Q: What happens if someone says that I committed a crime or if I am arrested?

A: If an accusation is made against you or if you are arrested, you will probably be referred to an intake officer. The purpose of intake is to determine whether you might have any connection to an alleged crime and, if so, how best to address your involvement—through counseling or criminal charges. Intake is not a court proceeding. The intake officer will interview you, the person who made an accusation against you (if any), the police officer who arrested you (if any), and persons familiar with your home situation.

After completing these interviews, the intake officer will decide how to handle your situation. The intake officer has three options: (1) take informal action, such as referring you to counseling; (2) take formal action by filing a paper (a “Petition”) charging you with a crime; or (3) take no action at all.

Q: What should I tell the intake officer?

A: You should tell the truth to the intake officer. The intake officer will use the information you provide to decide how to handle your situation. Anything you tell the intake officer cannot be used as evidence against you in a criminal case. If you refuse to talk with the intake officer or lie, he or she may have no choice but to file a petition against you. Communicating and telling the truth may help you avoid criminal charges altogether and instead obtain services that will help you.

Q: What happens if the intake officer decides to file a petition?

A: The intake officer will decide whether you should be released to your parents or guardian(s) or whether you should be kept in a detention facility for juveniles.

Q: What happens if the intake officer decides to detain me?

A: If the intake officer decides to put you in a detention facility, a detention hearing will be held within 3 days in the Juvenile and Domestic Relations District Court. At that time, the court will decide whether you should continue to be held and whether there is enough evidence for the petition to go forward.

Q: What happens at a detention hearing?

A: If you do not already have a lawyer, you can have a lawyer appointed to represent you. At the hearing, the judge will decide whether or not you should remain in detention.

Q: How does the judge decide who to detain and who to release?

A: The judge will consider whether the individual is a danger to himself, herself, or the community. The judge will also consider whether the individual will appear in court when told to. You can have people such as your parents or guardians speak on your behalf at the hearing.

Obtaining An Attorney

Q: Do I have a right to an attorney?

A: Yes. If you do not have an attorney the first time you go to court, the judge will ask you whether you want one appointed for you. Your right to an attorney is guaranteed under the Constitution. If you or your parents cannot afford to pay an attorney, the court will appoint and pay an attorney to represent you.

Q: What should I tell my attorney?

A: Before you tell your attorney anything, listen first. Your lawyer will explain the charges against you, the possible consequences, and your rights. Your lawyer will then probably ask you questions. Answer your attorney's questions truthfully and fully. Almost everything you tell your lawyer is confidential and cannot be revealed to anyone, even your parents.

Q: What should I do if I do not get along with my attorney or if we have difficulty communicating?

A: You should first talk with your attorney to let him/her know how you feel. After that, if you do not believe your attorney is doing a good job representing you, you can ask the court to appoint a new lawyer for you. Getting a new lawyer appointed is difficult though. You have to explain why you think your lawyer is not doing a good job. Not liking your attorney is not a reason to obtain a new one, and the court is unlikely to appoint a new lawyer for that reason.

The Court Process

Q: What happens in a case in juvenile court?

A: Generally, there are three steps to each case in juvenile court:

- (1) the first appearance (also sometimes called the detention hearing);
- (2) the adjudication (also called the trial); and
- (3) the disposition (also called the sentencing).

Decisions are made at each part of the case, so it is important to understand what should occur at each step.

Q: What is the first appearance?

A: The first appearance is a hearing in court where the judge reads the charges against you and asks you how you plead to the charges. If you plead not guilty at the first appearance, you can always change your plea later. The judge will also ask you whether or not you want a lawyer. You have the right to a lawyer. After your first appearance, the next court hearing will be the trial.

Q: What is the adjudicatory hearing?

A: The adjudicatory hearing is a trial where the court determines innocence or guilt. In juvenile cases, the adjudicatory hearing takes place in front of the judge. The adjudicatory hearing takes place after the first appearance. If

you are detained, it must take place within 21 days after the date you were detained.

Q: What happens at the adjudicatory hearing?

A: At the adjudicatory hearing you have the choice of entering a guilty plea or going to trial. If you choose to enter a plea of guilty, you are admitting to the judge that you have committed the acts that you are charged with having done.

If you decide to enter a plea of not guilty and go to trial, a lawyer representing the state (called the Commonwealth Attorney) will present evidence trying to show beyond a reasonable doubt that you committed the offense you are charged with. The evidence will be presented through testimony from witnesses. There could be physical evidence, such as documents or items used to commit the crime. You and/or your lawyer will have a chance to question the witnesses who are testifying against you and to call witnesses and offer evidence on your behalf.

After all the evidence is presented, the Commonwealth Attorney and you and/or your lawyer will be able to make a closing argument. The judge will then decide whether the Commonwealth has proven beyond a reasonable doubt that you are guilty of the charged crime.

Q: Do I have to testify at the trial?

A: No. The Constitution says that you do not have to testify at a trial when you are the defendant.

Q: What happens if I am found not guilty?

A: You are free to leave, or if you have been detained, you will be released the day you are found not guilty.

Q: What happens if I am found guilty or if I plead guilty?

A: Typically, the judge will set the case for a disposition (or sentencing hearing) and ask the probation officer assigned to your case to provide the court with a social history report describing your life, your involvement with the court, if any, and your current situation. The judge will also decide whether you should be detained until your dispositional hearing.

Q: What is a dispositional hearing?

A: A dispositional hearing is when a juvenile is sentenced for an offense. To help the judge decide the consequence for committing the offense, a social history report is often prepared. This report is based on interviews with you, your family, other people who know you, and persons involved in the offense, as well as information contained in education and other records.

The judge uses the information contained in the report to decide how to decide your case.

Q: What are the consequences for committing a juvenile offense?

A: The judge has a variety of options, which can and are often used in combination, including:

- Placing you on probation and imposing conditions such as curfews, regular meetings with a probation officer, no further criminal law violations, regular attendance at school, and participation in counseling or other services;
- Making your parents participate in certain activities or services;
- Making you participate in community service;
- Placing you on house arrest or electronic monitoring;
- Giving your legal custody to another relative or guardian if the court finds that it is not in your best interests to remain at home;
- Placing you in a residential treatment program or group home;
- Making you pay restitution for any damage you have caused; or
- Committing you to the Department of Juvenile Justice, which means that you will live in a juvenile detention center for a period of time.

Q: If I am found guilty, can I appeal?

A: Yes. You have a right to appeal the court's determination that you are guilty and to appeal the consequences that are imposed. You must file an appeal within 10 days of your dispositional hearing.