

ALBUQUERQUE CRIMINAL LAWYER BLOG

PUBLISHED BY
COLLINS & COLLINS, P.C.
ATTORNEYS AT LAW

November 4, 2010

Second Chance for First Time Juvenile Criminal Offenders

The juvenile criminal justice system's philosophy is treatment based rather than detention or punishment based. In Albuquerque and Rio Rancho in particular, the juvenile justice system tends to be more liberal toward first time non-violent criminal offenders.

In fact, minor first time offenses such as minor misdemeanor cases are often resolved informally with the juvenile probation office through informal probation. In these cases, the file is not even forwarded to the prosecutor. If the case is sent to the prosecutor, there is still a chance on first time non-violent offenses to resolve the case early in the process.

In the interest of rehabilitation, the District attorney or prosecutor will often give the child a break on a first time non-violent offense. This break typically comes in the form of a Time Waiver. The Time Waiver is a document which is unique to the juvenile justice system. Under the United States Constitution, all those charged with a crime including children are entitled to a speedy trial. The Time Waiver is a document that waives an individual's right to a speedy trial. It basically tolls the case for a period of 6 months. So long as the child stays out of trouble and complies with all conditions of the Time Waiver during the 6 month period, the District Attorney will dismiss the case.

By entering a Time Waiver, the State is allowed to sit on the case for 6 months without the threat of dismissal on speedy trial grounds. Essentially, the Time Waiver allows the District Attorney to maintain some level of supervision over the child without a conviction or formal probation. Outside of an outright dismissal of the charges, which is very rare, a Time Waiver is the most favorable resolution that a child may expect.

There is of course no guarantee that a child will get a Time Waiver. There are a number of factors the district attorney will consider in the offer of a Time Waiver. The most immediate is of course the seriousness of the charges. Other factors include the child's prior contacts with law enforcement, criminal background, gang affiliation, school attendance and grades.

Perhaps the most important factor is the parental support and supervision of the child. Prior to criminal charges, the juvenile probation officer will meet with the child and the parents during a preliminary inquiry to find out how the child

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is doing in school and at home. The juvenile probation officer will seek to determine whether or not there is a good home environment with strong parental support. If the parents are supportive, the child is doing well in school and the charges are for a first time non-violent offense, then there is ,at least in Albuquerque and Rio Rancho (other jurisdictions will vary), the possibility of Time Waiver.

The Time Waiver is a very favorable outcome. It is hoped by all in the juvenile justice system that the Time Waiver is sufficient to get the child back on track. If it does not, then the next go around is likely to be significantly more unpleasant for the child.

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