

Litigation Advisory: Managing Police Investigations When They Impact Your Adolescent

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By [Robert Delahunt, Jr.](#)

It's one of a parent's worst nightmares: a call or visit from police, resulting from something your child may have done. With kids home from college, summer approaching, and prom season upon us, every parent should know what to do if the situation presents itself.

These guidelines are not meant to serve as legal advice, but may help as you assess your situation.

- **Does my child need a lawyer?** If you are concerned, call one. A good attorney can quickly tell you whether you can manage a situation yourself or if you need counsel.
- **Don't say anything until you know what is going on.** Put off any substantive discussions until you understand your rights and what your lawyer advises. Politely demur, and get contact information from the investigating officer.
- **How do police investigate?** Generally, they interview those they know were involved and collect names of others. They measure what each witness tells them and try to reconstruct what occurred. Then, they seek search warrants and rely on forensics, security cameras, telephone and text records, postings on sites like Facebook, and physical evidence.

Remember: *anything* that your child says to police, *or to any other person*, can be used to establish guilt. It's natural for kids to talk openly to everyone involved, but text messages, cell phone calls, social networking sites, and even oral statements to friends must all be avoided.

- **Consider a parent-police meeting.** Counsel may advise you to meet in person with the detective or juvenile officer handling the investigation. Set a respectful tone from the start. The goal is to demonstrate a strong support network at home, and to assure the police that your child won't reoffend.

Avoid the natural instinct to talk too much; instead, ask questions, listen, and take notes. Can you tell me what this is all about? Is my child a target of this investigation or a witness? Do you intend to pursue criminal charges?

If the discussion turns to resolving the case against your child, take it *slowly*. Never make an agreement with police without first speaking with counsel.

- **Police interviews of juveniles are restricted.** In Massachusetts, juveniles under the age of 14 can't waive Miranda rights or be interviewed without a parent or "interested adult" present. For juveniles between 14 and 17, a "meaningful consultation" with a parent, interested adult, or attorney is required. An "interested adult" must be acting in the juvenile's best interests and not in an antagonistic or disinterested capacity. (An actual consultation need not occur; police only have to offer the opportunity.)

Your son or daughter **always** has the right to respectfully decline to speak with police and refer them to legal counsel. Your lawyer can arrange an interview with police or prosecutors once an informed decision can be made.

- **Your child can be held responsible for the acts of others.** In Massachusetts, your child can be charged with a violent felony even if he or she did not strike the fatal blow. Legal theories allow prosecution for being present at the scene of a crime. Knowledge that companions intend to commit a crime need only be evident for a fleeting moment before the crime occurs. Readiness to lend aid can be proven by inferences and by circumstantial evidence.
- **"Diversion" is an option.** In Massachusetts, the District Courts are empowered to screen juveniles for admission into a diversion program of community service and support. To be eligible, your child must be aged 17-22, have no prior criminal record after attaining age 17 or outstanding warrants, and be approved by the court's probation department. Once community service is completed, no record criminal charges exist.

Finally, recent events in the news demonstrate how fortunes can unravel so very quickly and offer cautionary notes for all juveniles and their families. When families are aware that bad things **can** happen to otherwise good kids, being prepared by knowing how to respond can greatly affect the outcome.

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