

Practice in juvenile delinquency cases is unique and challenging, requiring specialized skills and knowledge to assure the best legal representation of clients. Do not assume that because you are experienced in criminal or civil trial practice, you are automatically ready to defend a juvenile delinquency matter. Although there are many similarities between criminal and juvenile court practice, there are also many differences. In order to best represent your juvenile client, you should be aware of these. To that end, a partial list highlighting some of these similarities and differences follows.

Comparing juvenile delinquency and criminal practice

Similarities

1. *The juvenile justice system is an adversarial system that procedurally and substantively parallels the criminal system.* Children are prosecuted in juvenile court for alleged violations of the same misdemeanor and felony statutes that adults face in superior court. For the most part, the same rules of procedure and evidence govern.
2. *The need for zealous pre-trial and appellate advocacy is the same.* Juvenile defenders need to be competent and professional tacticians and advocates just like their criminal counterparts.
3. *The standard of proof is beyond a reasonable doubt.* Although there is no right to a jury trial in juvenile court, the state still must prove their case beyond a reasonable doubt.
4. *The juvenile defender must balance the client's short and long term interests.* While the immediate outcome of an adjudication is usually the greatest concern to juvenile clients, there are now many serious long-term consequences which a defender must consider as well. A wide range of both criminal and non-criminal collateral consequences and disabilities may attach. The increasing abrogation of traditional juvenile record secrecy may limit educational and career options. Adjudications may constitute predicate offenses in any future consideration of designated felon application or transfer to superior court and may impact on adult sentencing guidelines. Additionally, evidence from a juvenile court delinquency proceeding may be used as a similar transaction in a subsequent criminal proceeding in superior court.

Differences

1. *The purpose of the juvenile justice system, in spite of recent punitive reforms, remains rehabilitation, whereas the purpose of the criminal justice system is punishment.* While recent "get tough" legislation has increased the number of children who are tried as adults and those who face longer stays in detention, the primary purpose of the juvenile justice system remains rehabilitation.
2. *Parents play a much greater role in the juvenile justice system.* Because children by definition do not have the rights and responsibilities of adults, their parents have a role in the juvenile justice system unlike in the criminal justice system.
3. *Juvenile delinquency proceedings are generally not considered to be criminal in nature.* In juvenile court the child is called the respondent rather than the defendant. Furthermore, a child is adjudicated delinquent, not found guilty in

juvenile court. In order to adjudicate a child delinquent, the court must find that the child did commit the delinquent act and is in need of treatment and rehabilitation.

4. *There is a greater focus on dispositions in juvenile court and juvenile justice dispositions, unlike criminal dispositions, aim to meet the needs of the individual children in the least restrictive environment possible.* Most defenders traditionally spend more time and have more interest in preparing for trial. But in juvenile court, preparing for dispositional or transfer hearings is often the most critical stage of representation. Who the child is, why he or she got into trouble, what treatment he or she needs and what treatment is safely available are issues that need to be fully explored and presented. It is a challenge to reorder these priorities, to find the time and to obtain the resources necessary to conduct these inquiries and present them competently to the court.
5. *The juvenile justice system has greater range of pre-trial, diversion, treatment and placement programs than the criminal justice system.* Considering the rehabilitative focus of the juvenile court, there are often more varied and innovative programs in the juvenile court than in the superior court. It is a challenge to keep abreast of what works and what doesn't in juvenile programming. It is a more critical challenge to track clients and to get good information about the programs they are in. Juvenile defenders need to know if clients are getting hurt and if they are getting the treatment ordered. Follow up is problematic, but must be done if attorneys are to protect clients and keep the system honest and improving.
6. *There are related legal issues in the juvenile justice system absent from the criminal justice system.* Juvenile defenders must not only concern themselves with delinquency representation, but also with related legal or administrative proceedings such as special education hearings, welfare proceedings, school disciplinary hearings, social security disability hearings, abuse and neglect proceedings, and conditions of confinement lawsuits. These proceedings may provide opportunities to supplement your discovery and investigation in the pending delinquency hearing.
7. *Communicating with a child or adolescent client can present a challenge.* It takes special skills, patience and time to communicate with child clients. Many come from different cultures, are mentally ill or are distrustful of adults, lawyers and the system. But juvenile defenders still need to know who this child is, what he or she wants and what he or she needs. Juvenile defenders must be able to explain, in a developmentally appropriate manner, what the options are and what is going to happen. This takes time, patience, developed skill and a keen interest in children.