

Preadjudication Strategies for Defending Juveniles in Status Offense Proceedings

Demand strict proof of elements that define the status offense in statute.

- Find bright-line rules in statutes and chip away at them. For example, if the truancy statute requires 10 unexcused absences, look at each one and see if the youth was in fact out of school without permission. Such clear requirements provide an obvious defense when they are not satisfied.
- Identify other statutory requirements that lend themselves to varying interpretations. For example, the statute may define running away to occur when youth are “persistently” running away “without good cause.” This definition may furnish multiple defenses relating to how the terms “persistent” and “without good cause” are defined.

Frame the facts in the broader context of the youth’s home environment and the parent-child relationship.

- Assess whether some of the responsibility should be allocated to the parent. Focus the case on the root cause of the behavior and family functioning, and not the behavior itself.

Weigh the pros and cons of contesting the adjudication after the fact.

- Be aware that many courts do not appoint counsel for the youth unless or until they face incarceration for contempt or violating a valid court order. If appointed at this stage, consider:
 - whether correcting the uncounseled adjudication may, in fact, pave the way for securely detaining the youth;

- the relative importance, to the juvenile, of avoiding adjudication and avoiding secure custody;
- the probability that a challenge to the underlying adjudication would succeed;
- the probability that the juvenile would be placed in secure custody if the challenge were to fail;
- the collateral consequences of adjudication as a status offender;
- the applicable laws regarding confidentiality and sealing or expunging juvenile records;
- the judge's views and sympathies regarding status offense cases; and
- how long the juvenile might remain in secure custody in the event of an unsuccessful challenge.

