

When you take a plea you also give up your **right to remain silent**. This is your right not to say anything in court if you decide to go to trial. In a trial, it is the prosecutor's job to prove that you did what is charged. The prosecutor must prove the charges **beyond a reasonable doubt** without making you say anything in court. That means, the judge or the jury, after listening to the witnesses, would have to be certain that you did what was charged before they could find you guilty.

After the judge explains the rights that you are giving up, s/he will try to make sure that you are giving up your rights voluntarily, of your own free will.

#### **Will the judge explain anything else?**

Yes. If you agree that you still want to give up your right to a trial, the judge will then tell you that, if you are not a United States citizen, taking this plea may affect whether you can stay in the United States, whether you can come back into the United States if you visit another country, or may prevent you from becoming a United States citizen in the future.

#### **Will I have to admit anything to the judge?**

Yes. After the judge believes that you want to give up your rights, the judge will ask the prosecutor to read the police report out loud. After hearing the police report, the judge will ask you whether there are enough correct facts in the police report that the court could find you delinquent of the charges against you.

If you say yes, the judge can accept the plea you and your attorney have offered or the judge may suggest other terms that the judge is willing to accept. If the judge wants to change any of the "terms" you and your attorney have suggested on the Tender of Plea Form, you will have the right to decide whether or not you want to accept those new terms.

Remember that if you do not want to accept what the judge is suggesting, you can take back your plea and have a trial.

#### **For more information call:**

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PO Box 710  
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Lynn, MA 01901

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#### **Phone Assistance Hours**

Tuesday & Thursday 1:00 p.m. to 3:00 p.m.  
Toll Free  
1-888-KID-LAW8  
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**And**

**UNITED WAY  
of Massachusetts Bay**

## **TAKING A "PLEA" IN JUVENILE COURT**



**CHILDREN'S LAW CENTER  
OF MASSACHUSETTS**

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**United Way**  
of Massachusetts Bay

## WHAT HAPPENS WHEN I “PLEAD OUT”?

You are in Juvenile Court because you have been charged with committing a crime. Today, you and your attorney are trying to work out a solution to your case without having a trial.

That solution is called a **Plea**.

### What is a Plea??

A plea is a “deal” that your attorney works out with the prosecutor. After you agree on a plea, your attorney fills out a **Tender of Plea Form**. The Tender of Plea Form explains to the judge what your attorney and the prosecutor think is a good solution for your case. They will list all the “terms” that they are proposing. The terms listed on the form are the things that you will have to do if you want to resolve your case without going to trial. You will be asked to read that form and then you and your parent or guardian must sign the form.

### Does the Judge have to Agree to the Plea?

No, the judge does not have to accept the solution your attorney or the prosecutor suggests on the Tender of Plea form. But, if the judge does not accept your plea, you have the right to take back the plea and have a trial.

### What happens if the Judge Accepts the Plea?

Before the judge can accept the plea, the judge must make sure you are agreeing to the “deal” written on the Tender of Plea Form because YOU want to do it, not because anyone has forced you or threatened you to make you accept the deal. The judge must also be sure that you understand that you are giving up the right to a trial when you offer a plea. In order to make sure you understand what you are doing today, the judge will ask you some questions such as:

- *What is your name?*
- *How old are you?*
- *What grade are you in at school? (if you don't go to school, you may tell the judge the last grade you were in when you were going to school.)*
- *Have you taken any drugs, alcohol or medicine in the last 24 hours (that is since yesterday morning)? If you have taken any medicine, drugs, or alcohol since yesterday, does it interfere with you ability to understand what is happening here today?*
- *Do you understand the charges against you?*
- *Has your attorney explained the charges to you and the consequences that could result from those charges?*
- *Have you had enough time to talk to your attorney?*
- *Has anyone promised you anything, threatened you, or forced you to offer this plea today?*

### What else happens when the Judge accepts my plea?

Then the judge needs to make sure that you know what rights you are giving up when you want to have a plea. The judge will explain these rights to you.

### What rights am I giving up when I take a plea?

When you take a plea, you must give up your right to a **trial** and your right to **remain silent**.

### What is a trial?

At a **trial** the prosecutor will have to prove that you are guilty of the charges. There are two types of trials: a **jury** trial and a **jury-waived** trial.

- A **jury trial** means that adults from the community who do not know anyone involved in the case come to court, listen to the evidence, and then decide if you are guilty or not.
- A **jury-waived trial** is a trial that is only before a judge and the judge listens to the evidence and then decides if you are guilty or not.

When you give up the right to a trial, you give up all the things that go along with a trial, including the right to hear what the witnesses against you would say in court. You are also giving up the right to have your attorney cross-examine the witnesses against you. Cross-examination means your attorney would question the witnesses who are against you in the case. You are also giving up the right to tell your side of the story by having your own witnesses come in to court.