THINGS YOU SHOULD KNOW IF YOUR CHILD IS ARRESTED

VISITING A MINOR WHO IS BEING HELD IN JUVENILE HALL

Who May Visit: Parents or legal guardians. All visitors must bring ID and any visitor other than parent must be cleared by Probation Officer prior to visiting. All Authorized attorneys and clergymen may visit at times, but must call and clear date and time with shift Institutional Supervisor.

Number of Visitors: Minors will be allowed a maximum of two (2) visitors at any one time

Special Visits: Prior to a minor's departure to institutional placement, arrangements may be made for all the immediate family to visit at one time. If, because of work, illness, etc., you cannot visit at regular visiting times, special visiting arrangements may be made in advance by calling your minor's Probation Officer.

Visiting Schedule:

UNIT	DAY	TIME
A Unit	Wednesday	7:30 p.m. to 8:30 p.m.
A Unit	Sunday	1:30 p.m. to 2:30 p.m.
B Unit	Tuesday	7:30 p.m. to 8:30 p.m.
B Unit	Saturday	1:30 p.m. to 2:30 p.m.

For security purposes staff may assign a minor's visitors to visit on a certain day.

Phone: Institutional Supervisor Desk – 831 454-3812 or Reception Desk – 831-454-3800

GETTING A LAWYER

Every minor who is brought into Juvenile Court has a right to be represented by a lawyer. If a minor appears at his/her first hearing without a lawyer, the judge will appoint a lawyer from the Public Defender's Office or another lawyer to represent the minor.

Parents that can afford to hire a private lawyer to represent their child are free to do so. If a minor or his/her parents do not know a lawyer, the Santa Cruz County Bar Association has a referral service.

The referral service can be reached at 831-425-4755 and operates Monday through Friday, from 8:30 a.m to 4:30 p.m.

If the judge appoints a lawyer to represent the minor, then the parents or legal guardians of the minor may have to pay the court for the cost of this legal representation if the judge finds that they are financially able to do so.

INTRODUCTION

WHAT IS THE JUVENILE COURT?

The Juvenile Court is set up to resolve the legal problems of minors--people eighteen years or younger. Persons who hear cases in Juvenile Court are either Superior Court judges or referees. The Juvenile Court does not exist merely to punish minors who commit crimes, or merely to protect the public from criminal activity by minors. The Juvenile Court aims to provide to minors who are under its jurisdiction the kind of discipline that should be provided by parents. The Juvenile Court seeks to do what is in the best interests of minors who come before it, by trying to educate them and to help them become responsible adults.

The purpose of this publication is to describe and explain what may happen from the time the minor is arrested until a case is dismissed or a court decides what is in the best interests of the minor.

TWO KINDS OF CASES IN JUVENILE COURT

Two very different kinds of cases are heard in Juvenile Court -- (1) dependency cases; and (2) juvenile delinquency cases. This publication discusses only juvenile delinquency cases.

In a juvenile delinquency case, the Juvenile Court is asked to decide whether a minor has broken a criminal law, such as burglary, drug sales, auto theft, robbery, assault, or murder. A minor who has refused to obey a court order is also treated as a juvenile delinquent.

A minor who is sixteen years old or older may be treated as an adult and tried in the Adult Court under certain circumstances--if he/she is charged with having committed a very serious crime.

One of the major differences between the Juvenile Court and the Adult Court is that in the Juvenile Court, the court process is expedited. A minor who is arrested and held in custody will have his/her first hearing within a few days of his/her arrest. Within a month, he/she may already have had their trial and find out the court decision.

Another major difference between the Adult and the Juvenile Court is the Juvenile Court sets no bail and has no juries. However, if the minor is being held in custody, the court at the minor's first hearing will decide whether to release the minor or continue their detention. (See Part II--The Arraignment).

PART I of this publication describes what happens in the first five days after a minor is arrested. **PART II** describes all the hearings that a minor may have.

PART III describes the possible disposition that may be imposed on a minor who is found to have committed a crime.

PART IV describes the costs and potential liabilities that may be imposed upon a parent or guardian of a minor who has committed a crime, or who has caused injury to another person.

PART I

All minors who come to Juvenile Court have been arrested on suspicion of having committed a crime. Once the police detain a minor, any one of five things can happen:

1. The police office may speak with the minor and his/her guardian(s) and let the minor go. This may happen if the offense was not serious and the minor has never been arrested before.

2. The officer may release the minor but hand him/her a notice (citation) explaining the reasons why the minor was arrested and directing him/her to appear before a probation officer. A minor who is handed this kind of notice must appear once he/she receives an appointment notice from the probation officer. If he/she does not, he/she can be arrested and, this time, held in custody in Juvenile Hall.

3. The police officer may hold the minor in custody and refer the case to the Probation Department. The Probation Department will assign a deputy probation officer to read the minor's arrest report, speak to the minor, his/her guardians, and the police officer, and look into the minor's past record, if any. After the probation officer makes the investigation, if the offense was not serious, and if the minor has no past record, the probation officer may counsel and release the minor without further proceedings, or he/she may offer the minor the opportunity to go on "informal probation". Informal probation usually involves six months of counseling or participation in a voluntary program designed to solve any personal, family, or other problems that might have caused the minor to be suspected of breaking the law. After a successful probationary period, the charges will be dismissed.

4. The probation officer will refer the minor's case to the District Attorney's office. While the case is being reviewed by the District Attorney's office, the probation officer may release the minor, but require him/her or his/her guardian to sign a written promise to appear before the probation officer at a particular time and place. The minor may also be required to sign a written promise that he will obey

certain conditions of release--for example, attending school regularly and/or stay away orders.

If he/she does not release the minor, the probation officer may order the minor to be held in Juvenile Hall while the District Attorney is reviewing the case. This is likely if:

a) The probation officer determines that the minor must be kept in custody for his/her own protection or for the protection of others; or

b) The probation officer determines that the minor is likely to run away and be out of the court's jurisdiction; or

c) If the parents cannot be located or if they refuse to take the minor back home.

5. If the case is referred to the District Attorney's office by the probation officer, the District Attorney will decide to do one of three things:

a) If the minor is sixteen years old or older and is either charged with a very serious crime (for example: murder, rape, kidnapping, assault with a deadly weapon, etc.) the District Attorney may ask the Juvenile Court Judge to find the minor unfit for processing by the Juvenile Court. If a minor is found unfit, he/she will be tried as an adult in the Adult Criminal Court. A Juvenile Court Judge decides whether a minor is unfit at a special hearing, called a Fitness Hearing, which will be described in Part II of this publication.

b) If the minor is under sixteen years old or is not charged with a very serious offense, the District Attorney may file a "Wardship Petition" concerning the minor. This petition asks a judge to declare the minor a ward of the Juvenile Court. It is comparable to the filing of criminal charges in Adult Court. What happens if a minor is declared a ward of the Juvenile Court will be explained in Part III of this publication.

c) The District Attorney may decide that there is not enough admissible evidence that a crime has been committed, and notify the probation officer that no proceedings against the minor will be filed. If the minor is being detained, the probation officer must then release him/her.

WHAT ARE A MINOR'S RIGHTS ONCE HE/SHE HAS BEEN ARRESTED?

Any time a minor is arrested and kept in custody, the law requires:

1. That the police notify the minor's parents, guardian, or a responsible relative immediately;

2. That the minor him/herself be allowed to telephone his/her parents, guardian, responsible relative, or his/her employer; and

3. The minor be allowed to call a lawyer.

HOW LONG CAN A MINOR BE HELD IN JUVENILE HALL BEFORE HE/SHE HAS A HEARING?

If a minor is held in Juvenile Hall for a felony arrest or a misdemeanor arrest involving violence, the threat of violence, or possession of or use of a weapon, the District Attorney must file a wardship petition within two "judicial days", or release the minor. A judicial day is a weekday other than a holiday. This means that if a minor is arrested on a Monday, for example, and held in Juvenile Hall, the District Attorney's office has until Wednesday at 5:00 p.m. to file a petition.

Once the District Attorney's office has filed a petition, a minor who is charged with a serious offense (a felony) may be kept in custody for up to one more judicial day before he/she has a first hearing. A minor who is held in custody after being charged with a less serious offense (a misdemeanor not involving violence, the threat of violence, or possession of or use of a weapon) must have his/her first hearing within 48 hours or during the next judicial day after his/her arrest or detention or be released. For example, if a minor is arrested on Friday, he/she must have his/her first hearing on the next judicial day, Monday.

CAN A MINOR WHO IS BEING HELD IN JUVENILE HALL BE RELEASED ON BAIL?

A minor held in custody by the Juvenile Court has no right to bail (major differences between the Adult and Juvenile Court are there is no bail and there are no juries). However, if the minor is being held in custody, at the minor's first hearing, the judge will decide whether to release the minor or continue his/her detention (see Part II--The Arraignment).

PART II

THE HEARINGS

A minor who is arrested will have from two to six types of hearings. The various hearings that a minor may have are:

1. The Detention/Arraignment Hearing
2. The "Dennis H." Hearing
3. The Fitness Hearing
4. The Pretrial Hearing
5. The Jurisdictional Hearing
6. The Dispositional Hearing

THE DETENTION/ARRAIGNMENT

This is the first hearing for all minors whether detained or not detained. At this hearing, the minor can request a lawyer if he/she has not retained a private lawyer, be advised of his/her constitutional rights and the charges against him/her, and a date will be assigned for the Pretrial or Jurisdictional hearing (trial). If the minor is detained, the judge will make a further inquiry and decide whether the minor should be detained until the trial or whether he/she should be released to his/her parents' custody. The judge will order the minor released or to remain released to his/her parents' custody unless he/she finds that:

1. The minor has previously disobeyed an order of the Juvenile Court; or
2. The minor has escaped from a place where he/she was sent by order of the Juvenile Court; or
3. It is necessary for a minor's own protection or for the protection of others that he/she be held in custody; or
4. The minor is likely to run away and be out of the court's jurisdiction.

A minor has the right to have his/her guardians present at this hearing. If a minor's guardians are not present, and the reason they are not present is that they were not notified of the hearing, they may file a sworn statement, telling the court clerk that they

were not notified of the hearing and were not present. When the clerk receives this statement, he/she will schedule a rehearing for the next judicial day.

THE PRETRIAL HEARING

At the pretrial hearing, the District Attorney and the minor's attorney inform the court if the matter has been settled. Settlement means that the charges and the petition are to be admitted by the minor or changed by the District Attorney and then admitted, or dismissed (in Adult Court, this process is called "plea bargaining"). If the case is settled, the judge will take the minor's admission, and set a date for the Disposition Hearing. If the case is not settled, the judge will set or confirm a previously set date for a Jurisdictional Hearing.

THE "DENNIS H." HEARING

If the judge orders a minor kept in Juvenile Hall, the minor or his/her lawyer can demand a "Dennis H." hearing. This hearing allows the minor to challenge the judge's decision to detain him/her until the date of his/her adjudication hearing. At this hearing, the minor's lawyer can question the police officers and anyone else who wrote the reports that the judge relied on in deciding to order the minor kept in Juvenile Hall. The second hearing must be held within five judicial days. It is called a "Dennis H." hearing because a minor named Dennis H. was the first person to win the right to such a hearing.

THE FITNESS HEARING

If a minor is between sixteen and eighteen years of age at the time of the offense, he/she may be declared unfit for trial by the Juvenile Court, and be tried as an adult in the Adult Criminal Court. Before a minor can be declared unfit, he/she must have a hearing on the issue. At this hearing, the Juvenile Court Judge will consider the following factors:

1. Does the minor appear to be a very sophisticated criminal?
2. Is it likely that the minor can be rehabilitated before he reaches age twenty-five?
3. Does the minor have a serious delinquent history?
4. Have the juvenile authorities tried before to rehabilitate the minor and failed?
5. Is the charged offense serious?

THE JURISDICTIONAL HEARING (TRIAL)

Because the Juvenile Court is not a criminal court, and because a minor who is declared a ward of the Juvenile Court is not treated as a criminal, a Juvenile Court adjudication is not called a "trial". It is like a trial, however, and the minor has most of the same rights in Juvenile Court adjudication that an adult has in a trial, including:

1. The right to be represented by a lawyer.

2. The right to see and have his/her lawyer ask questions of the witnesses against him/her.

3. The right not to be required to testify against him/herself or say anything at all that may incriminate him/her.

4. The right to have all charges dismissed and to be released unless the prosecution proves beyond a reasonable doubt that the minor committed the crime of which he/she is accused.

5. The right to subpoena witnesses to testify for him/her.

The one right that an adult has in the Adult Court that the minor does not have in the Juvenile Court is the right to be tried by a jury. All Juvenile Court adjudications are heard by a judge or referee only.

If the minor is found beyond a reasonable doubt to have committed the act charged in the wardship petition, the petition will be "sustained" and the minor declared a ward of the court.

DISPOSITION HEARING

This is the hearing to determine what will happen to a minor whose charges have been sustained at an adjudication. A "disposition" is the placement of a minor either at home on probation with terms and conditions to comply with, to a 24-hour residential placement, or to some other facility. The next section of this publication will describe the possible dispositions that a Juvenile Court judge may order for a minor.

PART III

DISPOSITIONS

There are four possible kinds of dispositions that the Juvenile Court may order:

1. Home on Probation or Wardship
2. 24-hour Placement
3. Ranch Camp
4. Department of Juvenile Justice

HOME ON PROBATION OR WARDSHIP

If the act the young person committed was not serious, and if the youth has no past record, he/she may be placed on probation and allowed to remain in his/her own home or that of a responsible relative or adult. Probation involves certain conditions--for example, attending school regularly. In addition he/she may be required to pay back any money stolen, or to repair any damage done, and may be required to participate in a counseling program. He/she may be required to pay a fine or perform some type of community service work.

24-HOUR PLACEMENT

If the court decides that the youth will not receive or is not receptive to proper guidance and supervision from his/her guardian, he/she may be placed in a foster home, a group home, or a residential treatment program. Residential drug rehabilitation programs are also an option of the court in this category.

RANCH CAMPS

The Probation Department contracts with other counties to place minors in ranch/camp settings where educational and vocational programs are emphasized. The court may choose this option in cases where the ward has failed in a 24-hour placement by reoffending.

THE DEPARTMENT OF JUVENILE JUSTICE

State programs ran by the Department of Juvenile Justice (DJJ) are for minors with very bad records or very serious offenses and/or minors who have been tried as adults. Like minors in camp, wards in DJJ work, attend school, learn trades, and receive counseling. Minors sent to DJJ can remain there until they are twenty-five years old. The Juvenile Court judge sets only the maximum time a minor may be detained. The Department of Juvenile Justice itself decides when a particular minor is ready to be released.

SUPPLEMENTAL PETITIONS

The District Attorney may file a supplemental petition if a minor violates a condition of probation or wardship. When such a petition is filed, and found true, the court is able to change the original disposition. For example, if a minor is sent home on probation and is discovered to be truant or committing violations of law or conditions of probation, the judge can change the minor's original disposition of home on probation to suitable placement or camp.

PART IV

COSTS AND LIABILITIES

As already stated, if the judge appoints a lawyer to represent the minor, the parents or guardians of the minor may have to pay the court for the cost of the legal services (see section "GETTING A LAWYER"). In addition, if the judge ordered that the minor be placed under the supervision of a probation officer, the judge can also order that the parents or guardians of the minor pay for cost of the probation supervision.

If the parents or guardians fail to pay these expenses, as ordered by the judge, then a judgment could be entered by the court against the property or income of the parents or guardians.

All parents and guardians of minors who are adjudged wards of Juvenile Court and who the court finds appear to have the financial ability to reimburse the courts for costs, may be required to submit a financial statement to Santa Cruz County Collections Department.

If the parents or guardians honestly feel that they are not able to pay for any of the costs of legal representation, or of probation supervision as ordered by the judge may write to County Collections stating why they are unable to pay, and include the case number of the action for which the request is made. The court will then investigate this claim and will determine whether the parents or guardians are financially able to pay some, or all of these costs.