

IMPORTANT!

- Ask for a attorney (also called a lawyer or legal counsel).
- Do not talk about your case to anyone except your attorney.
- Remember — your attorney works for you.



401 NE 19th Avenue
Suite 200
Portland, Oregon 97232
Helpline: 1-866-608-1212

www.jrplaw.org

WHAT YOUR ATTORNEY WANTS YOU TO KNOW ABOUT YOUR JUVENILE DELINQUENCY CASE

You are involved in a juvenile delinquency case, and it is important that you understand the juvenile court process and your rights— this booklet will help answer some of your questions. You should discuss your questions with your attorney.

Your Attorney is:



Prepared by:
Juvenile Rights Project, Inc.
401 NE 19th Avenue, Suite 200
Portland, OR 97232
503-232-2540
www.jrplaw.org
July 31, 2009

ABOUT THIS BOOKLET

This Booklet covers OREGON LAW. It was written in July of 2009, and does not include changes in the law made after that date.

There is a **GLOSSARY OF LEGAL TERMS** at the end of this booklet to help you understand some of the legal terms used in this booklet and in court. The words and phrases in **bold** in this booklet are defined in the glossary of legal terms.

We have done our best to ensure the accuracy of this booklet, but you should always talk to your lawyer, if you have one, to get answers to questions about the information found in the booklet. This booklet is meant to inform you, **not give you legal advice.**



*Sexual Abuse, 1st Degree—6 yrs., 3 mos.

*Sodomy, 1st Degree—8 yrs., 4 mos.

*Sexual Penetration with a Foreign Object, 1st—8 yrs., 4 mos.

*Sexual Penetration with a Foreign Object, 2nd Degree—6 yrs., 3 mos.

*Sodomy, 2nd Degree—6 years, 3 mos.

*Compelling Prostitution—5 yrs., 10 mos.

*Using a Child in a Display of Sexually Explicit Conduct—5 yrs., 10 mos.

Plea—the answer to a charge of criminal conduct—generally “guilty” or “not guilty”.

Plea negotiation— also called plea bargaining, where your attorney and the district attorney work out a guilty plea to a charge that is agreeable to and benefits you, and is acceptable to the district attorney because it settles the case and there is no need for a trial.

Police — It is a police officer’s job to protect the public, which means they are supposed to protect you too. It is also the officer’s job to catch people who break the law. When an officer picks you up, they can either 1) let you go; 2) give you a warning or a citation and let you go; or 3) take you to juvenile detention.

When talking to a police officer, remember:

- Never say anything except to identify yourself. **ANY-THING YOU SAY WILL BE USED AGAINST YOU.**
- Ask to talk to your attorney.
- Be polite and respectful.
- Stay calm and in control of your emotions. Do not argue.
- Keep your hands where the police can see them.
- Do not run away, resist, or touch the police officer.
- You can ask the police officer for his name and badge number. Try to remember this information.

Public defender—an attorney employed by a public defender agency which only represents adult and juvenile defendants (delinquents).

Sentence—the punishment set by the judge after conviction for a criminal act—usually incarceration, probation or a fine.

Suspect—a person the police believe committed or is involved in a crime.

Electronic Monitoring—may be used instead of detention—an electronic anklet monitors your whereabouts.

Evidence—proof presented in court, can include testimony of witnesses and exhibits.

Expungement of Record—a way to erase your record and be able to say you do not have a record.

Formal Accountability Agreement—like diversion, an agreement to deal with your charge(s) without a conviction.

Guilty plea—saying in court that you committed a crime you are charged with and do not want a trial.

Informal Resolution—handling your case without a trial, conviction or sentence.

Judge—Also called a referee. The judge makes most of the final decisions in your case, including whether you are guilty, what the sentence will be and when you can be released. ALWAYS show the judge respect—even if you are angry or don't agree with what the judge says. Call the judge "your honor." Look the judge in the eye.

Juvenile Court Counselor—Also called JCC, probation officer or PO, the JCC is an employee of the county assigned to your case to promote the safety of the community and to help you with services you need to be rehabilitated.

Law School—three years of schooling after college in which attorneys receive legal training.

Measure 11—If you are 15 or older and have been charged with a Measure 11 offense, you will face trial as an adult. If you are over 16 and charged with a Measure 11 crime, you can be held in an adult jail. Conviction of a Measure 11 offense will require you to complete a severe mandatory minimum sentence. A Measure 11 conviction is very serious and will result in a lengthy prison sentence. These are the Measure 11 crimes and minimum sentences:

*Arson, 1st Degree—7 years, 6 mos.

*Assault, 1st Degree—7 yrs., 6 mos. *Assault, 2nd Degree—5 yrs., 10 mos.

*Kidnapping, 1st Degree—7 yrs., 6 mos. *Kidnapping, 2nd Deg.—5 yrs., 10 mos.

*Attempted Murder, 7 yrs., 6 mos.

*Attempted Aggravated Murder—10 yrs.

*Manslaughter, 1st Degree—10 yrs. *Manslaughter, 2nd Degree—6 yrs., 3 mos.

*Murder—25 yrs.

*Rape, 1st Degree—8 yrs., 4 mos. *Rape, 2nd Degree—6 yrs., 3 mos.

*Robbery, 1st Degree—7 yrs., 6 mos. *Robbery, 2nd Degree—5 yrs., 10 mos.

TABLE OF CONTENTS

ABOUT THIS BOOKLET	2
HOW DO I FIND THE JUVENILE COURT?	4
YOU HAVE RIGHTS!	5
YOU HAVE BEEN CHARGED WITH A CRIME	6
WHAT ARE CHARGES?	7
WHEN WILL I GET AN ATTORNEY?	8
WHAT IF I CANNOT AFFORD AN ATTORNEY?	8
WHAT DOES AN ATTORNEY DO?	9
WILL THE JUDGE, PROSECUTOR, POLICE OR MY PARENTS BE ABLE TO FIND OUT WHAT I SAID TO MY ATTORNEY?	9
IS A COURT APPOINTED ATTORNEY AS GOOD AS AN ATTORNEY WHO CHARGES ME MONEY?	10
I WANT TO GO HOME QUICKLY. WON'T AN ATTORNEY MAKE IT HARDER?	11
WON'T IT GO EASIER ON ME IF I COOPERATE AND DON'T ASK FOR AN ATTORNEY?	11
WHAT IF THE POLICE, DISTRICT ATTORNEY OR JCC WANT TO TALK TO ME ABOUT THE CHARGE(S)?	11
WHAT IS THE ROLE OF A JCC?	11
WHEN WILL I GET OUT OF DETENTION?	12
WHAT HAPPENS BEFORE THE DETENTION HEARING?	13
WHAT WILL MY ATTORNEY DO BEFORE THE DETENTION HEARING?	13
WHAT HAPPENS AT THE DETENTION HEARING?	14
WHAT IS PROBABLE CAUSE?	15
WHAT IS THE RAI?	16
WHAT IS CONDITIONAL RELEASE?	16
WHAT OTHER PLACEMENTS COULD I BE SENT TO?	17
HOW WILL THE JUDGE DECIDE IF I SHOULD BE RELEASED?	17
HOW SHOULD I PREPARE FOR THE DETENTION HEARING?	17
WHAT IF I AM ASKED TO DO A GUN ASSESSMENT?	18
WHAT IF I AM RELEASED FROM DETENTION?	18
WHAT IF I AM HELD IN DETENTION?	19
WHAT ARE THE NEXT STEPS IN MY CASE?	20
PEOPLE ARE TELLING ME I SHOULD PLEAD GUILTY; SHOULD I?	20

WHAT YOUR ATTORNEY WANTS YOU TO KNOW

Page 4

JUVENILE RIGHTS PROJECT, INC.

WHAT IS AN INFORMAL RESOLUTION?	20
I'VE DECIDED I WANT A TRIAL. WHAT ARE SOME THINGS MY ATTORNEY SHOULD DO?	21
I WAS ACQUITTED! WHAT HAPPENS NOW?	21
I PLED GUILTY OR THE JUDGE FOUND ME GUILTY. WHAT HAPPENS NOW?	22
OUT OF HOME PLACEMENT	23

GLOSSARY OF LEGAL TERMS	24
-----------------------------------	----

HOW DO I FIND THE JUVENILE COURT?

In Multnomah County (Portland and surrounding areas), the Juvenile Courthouse is located at 1401 NE 68th Avenue. It is between Glisan and Halsey Streets, and there is a 68th Avenue freeway exit off I-84 that goes into the Juvenile Court. Sometimes hearings in juvenile **delinquency** cases are held at the downtown courthouse, which is located at 1020 SW Fourth Avenue.



JUVENILE RIGHTS PROJECT, INC.

Page 25

can be dismissed.

Constitution—the fundamental law adopted when our country was founded to guarantee rights and freedoms to the people.

Consult—talking with your attorney to get advice about your case.

Conviction—the result of a trial or plea where you are found guilty. In juvenile cases this is called adjudicated.

Contract—an agreement, usually in writing, that commits the signers to performance of acts set out in the contract, ie. providing representation and paying the attorney.

Court-Appointed Attorney—an attorney who contracts with and is paid by the government to provide representation for youth accused of crimes

Crimes—an act or failure to act that is in violation of a criminal law.

Criminal Law—the law identifying crimes.

Cross-Examination—questioning of a witness by the attorney for the opposing side.

Degrees of Crimes—conduct that is punished to a greater or lesser extent depending on listed factors.

Delinquency—a juvenile delinquency case is when a person under eighteen is charged with a crime in juvenile court.

Detention—the juvenile equivalent of jail, short-term incarceration before trial or for short periods.

Detention Hearing—the hearing before a juvenile can be held in detention until his/her trial.

Detention Staff—Detention staff are responsible for supervising youth in juvenile detention. They must provide you with a safe, secure, and clean facility. Detention staff may also discipline youth.

Disposition—the sentence or consequence in a juvenile case is called the disposition. See "sentence".

District Attorney—also called the DA or the prosecutor. The DA is an attorney who represents "the people." The DA's main goal is to prove that you did the crime you are charged with. Often, the DA will try to get the most serious possible charge or sentence. In some limited cases, the DA has the power to decide if you should be tried as an adult. The DA also has the power to drop or reduce the charges against you.

Diversion—being kept out of juvenile court by agreeing to requested conditions. With diversion, you will not have a record.

GLOSSARY OF LEGAL TERMS

Acquittal—when you are found not guilty after a trial.

Arrest—when the police assert that you have committed a crime and take you into custody for that crime—you may be released or taken to detention after an arrest.

Attorney—Also called lawyer, legal counsel, counselor at law, attorney at law—a person trained and licensed to provide legal advice and representation.

Attorney-Client Privilege—the right to keep your attorney from disclosing or being forced to disclose confidential communications from you, the client.

Bail—an amount of money that can be given to get an adult out of jail. The money assures that the adult will appear for his/her trial and if s/he does not, the money is lost to the state.

Charge—an accusation that you have committed a crime.

City or County Ordinances—most crimes are found in state statutes passed by the legislature, but cities and counties can also pass ordinances prohibiting certain behaviors and imposing criminal penalties—jail time, probation, fines, etc. An example of a city ordinance is the ordinance forbidding harboring (hiding) a run-away.

Civil Compromise—For some less severe crimes, the victim of the crime can agree to have the charge dismissed in exchange for money from the defendant to settle the matter.

Classes of Crimes—crimes are divided into classes—Class A, Class B, Class C and Class D. Class A is the most serious and Class A offenses carry a longer sentence (time in jail or prison) than a Class B offense, etc. Both felonies (more serious crimes) and misdemeanors (less serious crimes) are divided into classes.

Client—a person who has hired or had appointed an attorney to give them advice and representation.

Community Detention—a program of the juvenile department, whose staff monitor youth released from detention before their trials to assure that they do not commit new crimes and to assure that they show up for their trials.

Community Service—work you do in the community for no pay, in order to pay back the community for the expense of having you involved with the juvenile court.

Conditional Postponement—a postponement of your trial during which you follow conditions, so that the petition against you

YOU HAVE RIGHTS!

You have rights that are guaranteed by the **Constitution** in every part of your case:

- when you are questioned
- when you are arrested
- when you have a trial or plead guilty
- when you are sentenced (called disposition in juvenile cases)

Juveniles have the same rights as adults when they are accused of a crime, except the right to post **bail** and the right to a **jury trial**. Here are your rights:

- You have the right to an **attorney**. If you cannot afford an attorney, one will be provided for you. It is important that you demand your attorney and do not let anyone convince you to waive that right. An attorney will fight for **you** and make sure that all of your other rights are protected.
- You have the right to **notice** of the charges against you. This means that you must be told why you are being arrested by the police and why you are being brought to the **juvenile court** so that you and your attorney can work to prepare to defend against the charges. You will be given notice of the charges against you in writing and you will also be told what your charges are by the judge and your attorney. You must be told in advance when your court dates are scheduled.

You have the right to present **evidence** in your defense and to challenge the evidence that is given against you. This means that you can require people who have information that can help your case to come to court and be a witness for you. Witnesses are **subpoenaed** and must come to court or face legal penalties. This also means your attorney can **cross-examine** witnesses who testify against you, and that your attorney must have a chance to review and

WHAT YOUR ATTORNEY WANTS YOU TO KNOW

Page 6

JUVENILE RIGHTS PROJECT, INC.

respond to any papers or other evidence that the judge will consider in reaching her/his decision.

- You have the right to not be forced to **incriminate** yourself (say that you are guilty). Not only does this mean that you have the right to remain silent and refuse to answer questions during police questioning, but you also do not have to testify during your trial, either. That means that you do not have to try to explain your situation, and this cannot be used against you when the judge makes her/his decision. If you decide that you want to testify, that is your right, as well. This is a good example of a decision that a lawyer is specifically trained to help you make.

YOU HAVE BEEN CHARGED WITH A CRIME.

You have received this booklet because you have been **charged** with one or more crimes in the Multnomah County Juvenile Court. You will receive a **Petition**, which is the legal document that gives you notice that you have been charged with one or more crimes, and a **Summons**, which tells you when you must appear in court on the charge(s). If you were allowed to go home at the time you were **arrested**, you may not have a **detention hearing**, and you can skip to page 20 for an explanation of what will happen next in your case.

In many cases, when you have been charged with a crime, you will be arrested and taken to **detention** (juvenile jail), or allowed to go home and asked to come back to court on the next weekday, for a hearing to decide whether you will be held in detention until your case is resolved.

JUVENILE RIGHTS PROJECT, INC.

Page 23

- Remaining in contact with your JCC.
- Not running away from home or placement.
- Restitution—repaying money to the victim for personal injury or damages or loss of the victim's property.
- Fines—payment of a judge imposed penalty.
- Written letter of apology to the victim.
- Drug and alcohol or mental health evaluations.
- Restrictions on who you may associate with.
- Complete compliance with school attendance rules.
- Obeying curfew laws, or having a special curfew.
- Often, when you are on probation you have a "**search condition**." A "search condition" means that the police or your JCC can search you, your house, or your car, at any time, without reason or warning, and without a warrant.
- While on probation, you may have to take **drug tests**, attend drug or alcohol treatment, or participate in mental health **counseling**.
- **Community Service.** The judge may give you **community service**, which means you will complete uncompensated labor for the good of the community. This work is basically a volunteer position with an organization that does good work. Ask your JCC to help you find a job or volunteer position.

You must comply with all the conditions of your probation. If you break any of these rules of probation you can be punished, resulting in time in juvenile detention, out-of-home placement, or even commitment to a juvenile correctional facility. If you are committed to a juvenile correctional facility, ask for the JRP booklet on juvenile correctional facilities: **What Your Attorney Wants You to Know About Being in a Juvenile Correctional Facility**. You cannot be kept on juvenile probation past your 23rd birthday.

OUT OF HOME PLACEMENT

If the judge thinks you have problems that won't be helped at home, the judge may send you to a foster home or group home. If you have a problem with your foster home, call your attorney, or another adult who can help you. If you run away from your foster home, a warrant can be issued for your arrest. When you are caught, you will be brought to juvenile detention.

I PLED GUILTY OR THE JUDGE FOUND ME GUILTY. WHAT HAPPENS NOW?

First, your attorney will talk to you about your right to **appeal** the judge's decision. If you want an appeal, your attorney is required to file it for you, although an attorney who does appeals will probably represent you on your appeal. **IMPORTANT: YOU ONLY HAVE 30 DAYS TO GET YOUR APPEAL FILED.**

Even if you decide to appeal, the judge will go ahead with the **sentencing hearing**—called the **disposition hearing** in juvenile court. Very often this hearing happens the same day, right after your trial or plea hearing. In the disposition hearing, the judge will hear from your JCC, the District Attorney, your Attorney and your parents about what punishments or consequences you should have for the crime(s) you have been found guilty of.

The judge can use one or more of these options when imposing consequences for you:

- The judge can just give you a warning.
- The judge can dismiss the charges in the **interests of justice**.
- The judge can give you **bench probation**.
- The judge can let you live at home while on **formal probation**.
- The judge can put you on formal probation, but require you to live elsewhere, such as in **foster care**, a **group home** or a **residential treatment facility**.
- The judge can require you to spend some time in detention.
- The judge can commit you to a juvenile correctional facility where you will be incarcerated for a number of years.

If you are placed on probation, the judge will generally give you rules to follow in order to be allowed to stay on probation and not be sent to a juvenile correctional facility. Ask for a copy of the JRP probation booklet: **What Your Attorney Wants You to Know About Being On Probation**.

There are standard conditions, which apply to all probations. Some of the standard probation conditions include:

WARNING! Because you have been charged with a crime, you may face some very serious consequences. You never, ever have to talk to anyone you don't want to (including police officers or probation officers) about what you did or did not do that led to the charges against you. You have an absolute right to refuse to talk. Your attorney is the only person you should speak with about your charges!

WHAT ARE CHARGES?

You can be arrested if you are charged with breaking any **criminal law** or violating the **motor vehicle code** or **city or county ordinances**. At the beginning of your case you will officially be given (this is called being **served**) with a petition which states the charges against you. The petition should state the name of the crime and its number in the Criminal Code, Vehicle Code or City of County Ordinances. If someone uses a number or term you don't understand, ask what it means.

Crimes fall into three categories: **felonies**, **misdemeanors**, or **violations**.

- Felonies are the most serious crimes—an adult **convicted** of a felony may receive a sentence ranging from one year to life in prison. As examples, joyriding, assault, rape, and some drug crimes are felonies. A person convicted of a felony as a juvenile may be committed to a juvenile correctional facility for the maximum period an adult could be sent to prison for the same crime, but not beyond the juvenile's 25th birthday.

There are three "**classes**" of felonies. Class A felonies carry a maximum term of imprisonment of 20 years. Class B felonies carry a 10-year maximum term of imprisonment and Class C felonies carry a 5-year maximum term. Felonies are also split into **degrees**—1st Degree, 2nd Degree and 3rd Degree. 1st Degree is the most serious.

- Misdemeanors are lesser crimes for which an adult can be sentenced up to one year in jail. As examples, prostitution, theft, and some drug crimes are misdemeanors. A person convicted of a misdemeanor as a juvenile may be committed to a juvenile correctional facility for the maximum period an adult could be sent to jail for the same crime. Misdemeanors also have classes and come in degrees like felonies.
- Violations are the least serious crimes. Traffic offenses are examples of violations.

Measure 11 crimes are particular felonies that allow the DA to charge juveniles over 15 as adults. If you are charged with a Measure 11 offense, you may be held in juvenile detention, but the procedures in this booklet will not apply. See the Glossary of Legal Terms for more information about Measure 11.

WHEN WILL I GET AN ATTORNEY?

You can hire an **attorney** to represent you at any time. If you know you are a **suspect** in a crime, it is to your advantage to **consult** with an attorney before you talk to police or give consents for searches. You have a right to have an attorney—even before the charges have been filed.

WHAT IF I CANNOT AFFORD AN ATTORNEY?

If you cannot afford an attorney, an attorney will be appointed for you. This attorney could be a public defender or an attorney who **contracts** with the juvenile court to represent juveniles who cannot afford to hire attorneys. When the judge appoints an attorney s/he determines whether you or your parents can afford to pay. You will not have to pay your

- **Formal Accountability Agreement**—is like diversion, but there is a more formal agreement (a **contract**), it is only available in non-felony cases. You will be required to follow rules like the rules of probation, but no judge is involved, you will not have an attorney, and you cannot go to detention. If you fail to comply with your FAA, your JCC may end the FAA and bring charges against you.
- **Conditional Postponement**—where a petition is filed and you admit that you did one or more of the acts you are charged with. You are put on conditions that are similar to conditions of probation. If you successfully complete your conditions, the petition is dismissed—if you fail to comply with your conditions, you are convicted of the charges based on your prior admission

I'VE DECIDED I WANT A TRIAL. WHAT ARE SOME THINGS MY ATTORNEY SHOULD DO?

There are many things that an attorney will do to prepare for a trial and while a trial is being conducted. Attorneys should file motions, which are ways of requesting that the judge takes action in your favor. Motions should be filed before the trial, and sometimes they will need to be filed during the trial, as well. Based on the results of the motions and the investigation, your attorney will present evidence on your behalf, and challenge the evidence of the district attorney. In order to do this, your attorney will make arguments to the judge, as well as object to the arguments and evidence of the district attorney. Your attorney will discuss with you what will happen at your trial. If you have questions, be sure to ask him/her so that you are prepared for what is happening.

I WAS ACQUITTED—WHAT HAPPENS NOW?

If you are **acquitted** (found not guilty) after a trial, your case is over and you may not be tried on the same charge again. If the charge was dismissed before you got to a trial, it may be filed again in the future. Ask your attorney about getting the record of your arrest **expunged**.

WHAT ARE THE NEXT STEPS IN MY CASE?

First, it is important that you meet with your attorney as soon as possible, so your attorney is able to help you and defend you. Without your help, your attorney can't do a good job for you. Your attorney will discuss your case with you and help you to decide what to do next.

PEOPLE ARE TELLING ME I SHOULD PLEAD GUILTY. SHOULD I?

This is an important question that attorneys are specially trained to deal with. Your attorney will give you advice on how to plead to a charge based on the facts of your case. You have a right to have a trial. But your guilty plea takes the place of a trial. This makes sense: the purpose of the trial is for the judge to figure out whether or not you did the acts the government is accusing you of doing: if you admit that you did those things to the judge in open court, there is no need for a trial. Once you plead guilty, you give up a lot of rights, including the right to remain silent, and the right to confront your accusers. Guilty pleas are final. In most cases, it is extremely difficult to take back a guilty plea. So, because the guilty plea is such an important decision, if you do not want to plead guilty, nobody can force you to—not your parents, not the police, not the district attorney, the judge or even your own Attorney—and you should not feel pressured to do so.

WHAT IS AN INFORMAL RESOLUTION?

An **informal resolution** allows you to take care of charges without having the charges formally on your record. If it is likely that you would be found guilty of a charge, taking an informal resolution can be advantageous because you may never be held in detention on the charge, and you may never have a formal **trial** on the charge. There are several types of informal resolutions used in juvenile cases:

- **Diversion**—is usually done before a petition is ever filed. You will be asked to admit what you did; you may also be asked to pay restitution, write a letter of apology to the victim or take other action. Diversion is often offered to first time offenders.

attorney in advance for your representation, but you or your parents may have to pay for some of the costs eventually, if the judge determines you are able to pay.

WHAT DOES AN ATTORNEY DO?

An attorney advises her/his **client** about the law. Attorneys have to go to **law school** and be licensed by the state in order to have a job as an attorney. Your attorney is required to give you legal advice and to take action to help you with your case. HOWEVER, the final decisions on how to proceed are ALWAYS yours. Your lawyer works for you and only you—not the judge, not the system and not your parents. Your attorney must be loyal to you.

Your attorney must meet with you in person soon after the beginning of your case, answer your questions and return your calls. Your attorney works on your case, which can include:

- Taking your case to trial and trying to get you **acquitted** (found not guilty).
- Negotiating dismissal of some of the charges in exchange for guilty pleas on other charges (**plea negotiation**).
- Negotiating or convincing the judge to give you a less severe **disposition** (**sentence**). For a list of possible sentences, go to page 22.
- Trying to get **diversion**, **civil compromise**, or a **Formal Accountability Agreement** (FAA).

WILL THE JUDGE, PROSECUTOR, POLICE OR MY PARENTS BE ABLE TO FIND OUT WHAT I SAID TO MY ATTORNEY?

No, your attorney must keep the things that you tell him/her confidential. You have an **attorney-client privilege** with your attorney, which means that everything you tell your attorney must be kept confidential, unless you agree to use the information in defending your case. When you talk to your attorney, no one else should be in the room. Police, prosecutors the juvenile court counselor and your parents do not have the right to keep information you give them confidential like your attorney does. They can be required to report what you tell them and they can be forced to testify against you in court.

IS A COURT APPOINTED ATTORNEY AS GOOD AS AN ATTORNEY WHO CHARGES ME MONEY?

Although some people think that **public defenders** and **court appointed attorneys** do not work as hard as private attorneys, or that they are really working with the government instead of for the client, this is not true. Public defenders, court appointed attorneys, and private attorneys have all gone through legal training and licensing to be able to represent you. These different types of attorneys work equally hard to protect their client's interests and rights in the juvenile justice system. An attorney's skill is more directly related to their experience, dedication and natural talent than to the type of attorney s/he is. The attorneys of the Juvenile Rights Project represent youth in these cases every day, so they have a lot of experience. Your JRP attorney will fight for your rights and give you the best defense s/he can.

I WANT TO GO HOME QUICKLY. WON'T AN ATTORNEY MAKE IT HARDER?

Some court processes do take longer when an attorney is fighting for you. Cases usually end quickly without attorneys because your side of the story is not being told at all. Decisions that are reached without an attorney to support you do not take all sides of the situation into consideration. With an attorney, you are more likely to have a positive outcome. Legal proceedings in juvenile court are serious, and the consequences could follow you for the rest of your life. An attorney will help you through the juvenile court process and treat your case like the serious matter it is.

WON'T IT GO EASIER ON ME IF I COOPERATE AND DON'T ASK FOR AN ATTORNEY?

There is no guarantee that you will be treated more leniently without an attorney. In fact, it is highly unlikely. Having an attorney is your right, and the government cannot treat you

must return for all of your court dates. If you fail to return for a court date, the judge may issue a warrant for your arrest and hold you in detention until your case is resolved. You might also have to follow some other rules such as going to school, taking drug tests, and making it home before curfew. It is VERY important that you follow these rules. Breaking these rules may result in spending more time in juvenile detention. Also be sure that you:

- Meet with your attorney as soon as possible so that your attorney is able to help you and defend you. Without your help, your attorney can't do a good job for you.
- **Don't talk about your case** with anyone except for your attorney – including teachers, parents, brothers and sisters and friends.
- If anyone, including your JCC or the police want you to talk about your charge(s), politely tell them that you have an attorney, who has told you not to discuss the charge(s).
- Don't talk to, or ask your friends to talk to, the witnesses (the people who are saying you did something illegal). You could be charged with another crime (witness tampering) if you do.
- Go to school every day on time. Be on your best behavior at school, at home and in the community. Don't go out after curfew. Don't get in any kind of trouble, or the judge may put you in detention until your case is resolved.
- Follow any other release conditions.

WHAT IF I AM HELD IN DETENTION?

If the judge keeps you in juvenile detention until your trial, the trial should be held no later than 28 days after your detention hearing (excluding weekends and holidays), unless you and your attorney ask for a later hearing. Every 10 days, you also have the right to have the judge reconsider whether you should be held in detention. Be careful of your behavior in detention and don't get into fights – it will be reported to the JCC and the court, and it may keep you from getting out of detention or result in more punishment for you. A good report on your behavior in detention can help you – a bad report can hurt you. If you have problems in detention, call your attorney and let him/her know what is going on.

WHAT YOUR ATTORNEY WANTS YOU TO KNOW

Page 18

JUVENILE RIGHTS PROJECT, INC.

other adults to support you. Talk with your attorney to determine the best way to demonstrate to the judge that you should be released from juvenile detention. Tell your attorney:

- **About School:** What grade you are in, who your teachers are, your attendance record, and whether you have any learning disabilities.
- **About your Family:** Positive and negative things, responsibilities and rules you have at home; who supervises you. Discuss all family members, including brothers and sisters. Tell your attorney if your family wants you home. Also tell him/her if anyone in your family has been convicted of a crime.
- **About Your Work:** If you are currently working, had a job in the past, or are looking for work.
- **About Your Other Activities:** Your extracurricular activities including sports teams, clubs, religious groups and other activities.
- **If You Have Gone To Counseling:** If you have seen a therapist or counselor (such as a psychologist, drug counselor, sexual abuse counselor, or any other type), tell your attorney that person's name. Your lawyer may want your permission to talk to the counselor to provide a better defense for you.
- **About Any Medical Conditions:** Medications you need; other conditions and the name of your doctor.
- **If You Have Ever Gone To A Foster Home, Foster Group Home, Or Other Placement:** About any of your past placements and whether you have ever been arrested before or are on probation now.

WHAT IF I AM ASKED TO DO A GUN ASSESSMENT?

If your charge involved the use of a gun, you may be asked to do an interview, called an assessment, concerning the gun. IT IS VERY IMPORTANT that you do not participate in a gun assessment without your attorney.

WHAT IF I AM RELEASED FROM DETENTION?

If the judge lets you go home after your detention hearing, you

JUVENILE RIGHTS PROJECT, INC.

Page 11

badly because you choose to exercise your right. Without an attorney, it may be very hard to tell if you are being treated fairly. With an attorney, the other rights that you are guaranteed will be protected. Do not let anybody convince you that you don't need an attorney, or that your outcomes will be better without one.

WHAT IF THE POLICE, DISTRICT ATTORNEY OR JUVENILE COURT COUNSELOR WANT TO TALK TO ME ABOUT THE CHARGE(S)?

You need to provide identifying information (like your name), but if asked questions about your charge(s), you should say that you are not going to talk without your attorney present. Ask to call your attorney and stick to what you have said and remain silent, even if you are coaxed. It is important that you talk to your attorney before you answer any questions. Your attorney will be able to advise you about the questions you are being asked and the consequences of giving information. Your attorney can make sure that your rights are protected and that your interests are advanced.

WHAT IS THE ROLE OF A JCC?

The **Juvenile Court Counselor**, also called the JCC, the probation officer or PO, plays a lot of different roles in the juvenile justice system, and the type of communications you have with your JCC will change depending on what is happening with your case. A JCC is assigned to your case when your charge is sent to the juvenile court. In some cases the JCC actually decides whether to file a petition and what to charge you with.

- **JCC's Role Right After Arrest.** After being arrested, you will talk with your JCC. Your JCC may make recommendations about whether you should be held in detention until your trial, or released. The JCC may question you just as the police officer did. REMEMBER, you should talk to your attorney before you say anything to your JCC about your charge(s) because anything you say to the JCC can be used against you in

court. After talking to your lawyer, you might decide that you should tell certain things to your JCC, because your JCC has a lot of power over what happens to you.

- **JCC's Role When You Are In Detention.** Whenever you are in the juvenile justice system—in detention or not—your JCC is supposed to provide support to you and your family. The JCC authorizes who can visit you if you're in detention. The JCC also authorizes getting health care and medicine if you need it.

- **JCC's Role After a Guilty Plea or Trial.** The JCC will recommend a **disposition (sentence)** or a placement to the judge after talking to you and your family about how things are going at home, at school, etc.

- **JCC's Role After Disposition (sentence).** After you have had your **disposition hearing**, you may get a new JCC, or you may keep the JCC who made the recommendations to the judge. Your JCC's role is now that of a **probation officer**, who monitors your compliance with **probation** and reports violations of the probation rules to the judge. Your JCC should meet with you regularly and talk to your family about your progress. Your JCC will continue to have a lot of power over you. If you break any rules, or if you commit a crime, your JCC's recommendation will be heard by the judge. As an example, your JCC can recommend that you be sent to a **juvenile correctional facility** (juvenile prison) or placed in the custody of the Oregon Youth Authority (OYA), or sent to a placement, such as foster care or a group home.

WHEN WILL I GET OUT OF DETENTION?

When you are brought into detention, you will meet with an **intake worker**, who can make a decision to release you from detention. If you are not released at that time, you will have a detention hearing usually the next day after you are brought into detention (but no more than 36 hours, not including week-ends and holidays). At the detention hearing, a judge will decide if you will remain in detention or can be released.

WHAT OTHER PLACEMENTS COULD I BE SENT TO?

If you are released from detention, but the judge does not allow you to return to your home, you may be placed in a temporary shelter home (that is like a foster home), or you may be placed in a group home or a hospital or treatment facility if you need specific treatment.

HOW WILL THE JUDGE DECIDE IF I SHOULD BE RELEASED?

The judge will consider whether:

- You have a responsible parent, guardian, or relative over 18 who can take care of you and "exercise control" of you.
- You will likely obey that person's rules and directions.
- Your family or guardian can give you the basic necessities (like food and shelter).
- Your home is a stable place free of abuse.
- You don't need to be locked up for the protection of anyone else.
- You will appear for all future court dates if released.
- You haven't violated any other court orders.
- You aren't dangerous to the public.
- You need to go to work if you are employed.
- You have good school attendance, and do not run away from home.

HOW SHOULD I PREPARE FOR THE DETENTION HEARING?

The judge is more likely to let you go home if the judge believes you, thinks you are trying to do the right thing, thinks your home is stable, and believes you will get the services you need at home. Contact your attorney, parent, guardians, or

WHAT IS THE RAI?

The **Risk Assessment Instrument (RAI)** is a score you are given by the juvenile department. Your score will determine whether the juvenile court counselor will recommend that you be held in detention until your trial or released. The RAI gives you points for things that might indicate you could get in trouble if you are released or might not show up for your court hearings. Points are added to your score for things like the seriousness of the offense you are charged with, whether you are picked up on a **warrant**, have prior failures to appear or a prior history of committing new offenses while released, or a history of running away. You can get points subtracted for things like regular school attendance, employment and the availability of a responsible adult to supervise you. Someone from your attorney's office should go over your RAI score with you to see if it is accurate.

WHAT IS CONDITIONAL RELEASE?

If you could be held in detention until your trial, but the judge decides to give you a chance to be released, you will probably be released on the condition that you follow certain rules. These rules may include:

- **Community Detention**— you are monitored by staff and have to keep them informed of what you are doing at all times. You will have to make 4 check-in calls a day. Community detention staff will pay surprise visits to your home and school to make sure you are where you are supposed to be.
- **Electronic Monitoring**— you will be required to wear an electronic ankle bracelet that will tell staff if you leave your house. You may be allowed to leave your house to attend school and for other appointments with your juvenile court counselor's permission.
- **House Arrest**— you will be required to remain in your home and not leave except under very limited circumstances.
- **Safety Plan**—you will have some specific rules to follow— you may not be allowed to be unsupervised with younger children, not allowed to leave home except in the company of a parent, etc.

Rules of conditional release may be removed if your compliance is excellent.

WHAT HAPPENS BEFORE THE DETENTION

Juvenile court staff or your juvenile court counselor (JCC) will talk to you and your parent(s) about your home situation, check school attendance and behavior, and check your prior record of arrests or juvenile court cases. You should not talk about the current charge(s) against you to your JCC or juvenile court staff, but you should provide information about your home situation, other possible places you could live, school attendance and work if you are employed. It will help you to be polite and cooperative with the JCC, as the judge almost always goes along with the recommendations of the JCC.

If your parent(s) has been frustrated with your behavior at home, the juvenile court counselor may recommend that your parent say that you should remain in detention—and the judge is likely to go along with that. You should let your parent(s) know that you will improve your behavior and agree to comply with additional rules if they will agree to your being released to them.

Before the hearing the judge, the juvenile court counselor, the district attorney and your attorney will receive the petition, police reports, your prior record, the **RAI** (the Risk Assessment Instrument, see page 15 for explanation of the RAI) score and other information about you.

WHAT WILL MY ATTORNEY DO BEFORE THE DETENTION HEARING?

Before the **detention hearing**, someone from your attorney's office will also try to meet with you or talk to you on the phone about what your attorney can say about your home and school situation to help get you released from detention. Your attorney will review the police reports and determine whether there is an argument that there is not **probable cause** for you to be held in detention on the charge(s). Your attorney will also review the information about your situation and form arguments for you to be released.

At 11:30 a.m., there will be a meeting with the juvenile court

WHAT YOUR ATTORNEY WANTS YOU TO KNOW

Page 14

JUVENILE RIGHTS PROJECT, INC.

staff, the district attorney and someone from your attorney's office to discuss the **RAI score**, **placement options** and the recommendations the juvenile court counselor and district attorney will make about you being held in detention or released to go home or to another place. They will also discuss **special conditions** they will be requesting for your release. Your attorney's representative at this meeting will advocate for you to be released from detention. The final decision about whether you will be released from detention will be made by the judge at your detention hearing.

WHAT HAPPENS AT THE DETENTION HEARING?

At 1:30 p.m. each week day there are detention hearings at juvenile court. The detention hearing is not a hearing at which there will be evidence of whether you are guilty of what you are charged with—it is only a hearing to determine whether you will be held in detention until there is a trial on the charges.

If you are in detention, you will be brought up to the courtroom. If you were released and told to come back for a detention hearing, you need to come to the juvenile courthouse and ask what room the detention hearings are in that day. Your parents will be notified and are expected to be present at the detention hearing with you. Also in the courtroom will be the judge, the district attorney, clerks who help the judge, staff from the juvenile department, defense attorneys and other youth and families with detention hearings.

You and your parents will sit at the table in front of the judge and the judge will tell you what you have been charged with and what your rights are. You will be handed the petition, with the charges, and a summons, which tells you the next time you need to be in court. The judge will ask you if you want to exercise your right to have an attorney to represent you on the charge(s) and will appoint an attorney to represent you. After the detention hearing, your attorney will help you decide what to do about the charges.

Usually next the judge will ask if your attorney has any arguments about whether there is **probable cause** for you to be held in detention. If the judge decides there is probable cause, s/he

JUVENILE RIGHTS PROJECT, INC.

Page 15

will next decide whether you should be released or stay in detention until your case is resolved. To do this, the judge will get information and recommendations from the juvenile court counselor (JCC). This information will include your **Risk Assessment Index (RAI)** score, which the JCC has determined by obtaining information about your history and current activities. Next the judge will hear from the district attorney. The judge may hear from your parent(s) next, or wait until after your attorney has spoken.

Your attorney will speak on your behalf and argue for your release. Generally, you are discouraged from making any statements in court at this time, due to the concern that you may reveal some information that could prejudice your case. If you feel you want to make a statement at this hearing, talk to your attorney first about what you want to say.

Your attorney will tell the judge positive things about you, such as the lack of a delinquency record, your positive behavior at home, employment, employment plans, school attendance, grades, and your involvement in sports and other activities.

After listening to the JCC, the district attorney, your attorney and your parent(s), the judge may ask a few questions, and will then make a decision about whether you will remain in detention, return home or be placed in another placement. The judge will determine what special rules you will have to follow if you are released. You will be given papers with any special conditions.

WHAT IS PROBABLE CAUSE?

In order to be held in detention until you have a trial, there must be enough evidence that you committed the crime you are charged with, to justify you being deprived of your freedom. This level of evidence is called "probable cause" - it means that there is more evidence that you did commit the crime than that you did not. Whether you are held in detention or released until your trial, the amount of evidence the district attorney has against you must meet a higher level of proof for you to be found guilty—this is called "proof beyond a reasonable doubt."