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When Your Child Is Behind Bars

A Family Guide to Surviving the Juvenile Justice System



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INTRODUCTION

Dear Family Member/Caregiver:

When youth are arrested, detained or otherwise caught up in the justice system, it can be a frightening and confusing time for the child, parent and caregiver. Understanding and fighting for your child's rights and care can improve this troubling situation.

Since most families and caregivers have had limited experience in dealing with the juvenile justice system, this booklet was written to assist you if your child is behind bars. It describes how to get the best care (for example, education, mental health treatment and other services) and advocate for your child when he or she is in the custody of the justice system. The booklet provides answers to frequently asked questions about what to do for your child during the various stages of the juvenile system and offers a glossary of terms.

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Remember, you are not alone. Each year millions of our nation's youth come into contact with the juvenile justice system and hundreds of thousands of these youth are put into correctional facilities, yet only a very small number of them have committed serious offenses. It is estimated that up to three-fourths of these youth have a diagnosable mental health disorder and, in many cases, these youth also have substance abuse problems. Moreover, youth of color are over-represented in the juvenile justice system. African-American youth account for 26 percent of juvenile arrests and 46 percent of juveniles committed to secure institutions.

Many juvenile justice systems, however, do not know how to care for young people, especially those youth with special needs. As a caregiver, you play an important role in advocating for individualized services that are specifically designed for your child and challenging the juvenile justice system to better meet the mental health and substance abuse treatment needs of all our nation's young people behind bars.

WHEN YOUR CHILD HAS BEEN ARRESTED

When my child is picked up by the police, where do they take him or her? Law enforcement officials must decide whether to release your child to you, the guardian, or take your child into custody. If held in custody, your child will be brought to the police station or to a processing center. In some communities, police may take your child to a juvenile assessment center for processing.

An officer who has taken a child into custody may handle that child's case without referring it to juvenile court if the case meets certain criteria. In these cases, the officer may decide to refer the child to a social service agency or to a community program, have a conference with the child and the child's parents or guardians, or refer the family to the child protective services agency.

Additionally, some officers can refer the child to an organization that runs a first-offender program. First-offender programs are for children who have not previously been in court. These programs may require that you and your child attend classes or counseling, complete community service or make voluntary restitution (paying the victim back). If your child successfully completes the program, his or her case will be closed and will not be referred for court action.

How long can the police wait before they call and notify me that my child has been picked up or arrested? Most policies say the police should do this immediately. However, most states allow police to hold a child at the processing center for several hours before releasing him or her or taking the child to a detention facility.

Do the police or does anyone else have the right to talk to my child without me being present? Yes. However, your child can ask that a parent or attorney be present during questioning. Most children in custody don't know this, but this is one of their rights. Inform your child of this right ahead of time in the event of such a situation.

Will my child have to go to court? What are the differences between handling a case formally or informally? If your child's charge is fairly minor, then a decision may be made either by the intake officer or the prosecutor's office to handle the case informally, either by dismissing the case, sending your child for treatment or recommending deferred prosecution. Deferred prosecution or deferred adjudication is generally reserved for children who commit less serious offenses and who have not been in trouble repeatedly. It prevents the child from going to court. The parents or caregivers, and the child make an agreement with the juvenile justice department to enter a period of informal probation and sometimes counseling or other services. The child may be able to avoid a juvenile record if he or she does not violate the conditions of this informal probation. Sometimes a monthly fee is attached to deferred adjudication.

How long will it be before my child goes to court? Some states have an arraignment process before a magistrate within several hours after a child is arrested, during which the child is informed of his or her formal charges and an attorney is appointed. Some states also make bail available to youth. Even if a state doesn't offer bail, usually the child can only be held in detention for a day or two without being seen by a judge for a detention hearing. A



detention hearing is held to decide whether the child should stay in detention or if the child can be released to your care until the next hearing. You should attend this hearing with your child and with your child's attorney if one has been appointed or hired.

Each state's Juvenile Code or Family Code is different, but there are generally a number of criteria used to justify placing a child in a detention facility:

- ◆ If the child is likely to run away
- ◆ If the child is dangerous to himself or herself or threatens the safety of the public
- ◆ If the child has been in court before for delinquent conduct and is likely to commit another offense if released

If your child is returned to your care rather than kept in a detention facility, the court may put restrictions on him/her to help structure your child's time in the community. The judge may order home detention, counseling or mentoring programs, for example.

How and when do I get an attorney for my child? The sooner your child gets an attorney the better. The attorney should be on board early to advocate that your child's case be handled informally if possible, to try to get the case dismissed at intake and to argue against your child being removed from home and detained.

If you cannot afford a private attorney for your child, a public defender or a private attorney will be assigned to your child's case by the court, generally before or at the first hearing. Unfortunately, attorneys are often appointed too late in the process to get your child's case dismissed early.

What should I tell the attorney? Attorneys are very busy with full case-loads and may not get a chance to contact you or meet with you before you see them in court on the day of your child's hearing. So, you must call the attorney's office to set up a time to share information on the phone or in person. You want your child's attorney to know as much as possible about your child. The attorney is working on behalf of your

child. He or she will only use information that will help your child's case. Be sure to tell the attorney both the positive and negative things that have occurred in your child's life. Anything that you can tell the attorney will be helpful. If you have your child's school records and achievement papers, psychiatric/psychological records, etc., be sure to inform your child's attorney. If your child has been hospitalized or has received medical attention in the past, be sure to let the attorney know. Serious medical histories may include stitches, head injuries, severe cases of the flu and pneumonia.

When will my child's case be heard? Within a certain number of days or weeks (depending on your state's laws) the prosecutor must file a petition for an adjudication process (formal hearing before the court on the charges) in the juvenile court. In the case of very serious offenses, the prosecutor may file for a certification, waiver or transfer hearing to be held to determine if your child's charges may be waived or if he or she will be transferred to adult court to be tried as an adult. Children with more serious charges are almost always held in a locked detention setting until the time of the hearings.

Will I get to speak in court about my child? Be sure to discuss this question with your child's attorney before you enter the courtroom. Attorneys have different opinions on whether or not you should say certain things to the judge. Remember that the attorney is representing your child, not you.

What if I think that my child's attorney is not doing a good job? Can I ask for a new attorney to be assigned to my child's case? If you are not happy with the way the attorney is working on your child's case, you may want to speak directly with the attorney and express your concerns. Give specific examples of what you agree and disagree with. Try to work through your differences with the attorney before asking the court to appoint a different attorney. If you feel that the attorney is not the best advocate for your child, be sure to explain your reasons to the judge. Remember that the attorney is supposed to be your child's advocate and may not always agree with what you—the parent or caregiver—think is best.

WHEN YOUR CHILD HAS BEEN DETAINED

What happens when my child is detained in the juvenile justice system? When a child is placed in detention, the law provides protections in the form of post-detention hearings and legal representation. A guardian ad litem (who may also be the child's attorney) may be appointed by the court to look after the child's interests. Until your child's case is heard before a judge, hearings must be held on a regular basis to determine whether there are sufficient grounds for continuing to detain your child.



Every child is assigned a caseworker or probation officer when he or she is placed in the custody of the juvenile court. However, until your child is fully processed, he or she may not have been assigned to a specific caseworker or probation officer. If you are unable to find out who your child's caseworker is, ask to speak with the assignment officer or a supervisor in the detention facility.

What should I ask the caseworker or probation officer in the detention facility?

Ask if the caregiver will be assigned to your child's case for the remainder of his or her court involvement. If the answer is yes, then find out this person's full name and office number, and supervisor's name and office number. If the person that you are speaking with is not going to be permanently assigned to your child's

case, ask when your child is expected to receive a permanent caseworker and when you should call back to find out this important information. Once the assignment is definite, the caseworker will usually contact you to set up an appointment to obtain important information about your child. Be sure to tell the caseworker if your child has any special needs, takes medication or is enrolled in special education.

What else should I expect of the caseworker? The probation officer or caseworker is there to assist you and your child and answer any questions that you may have, and is expected to be the person who is the go-between for your child and the juvenile justice department. The caseworker will also be the person expected to report your child's progress to the juvenile judge and to make any recommendations for placement, and to set up appointments for mental health or other needs. *(It is best, however, for you and your child not to discuss the specifics of your child's arrest, charges and case with this person. Conversations with your child's probation officer are not confidential.)*

When will I be able to visit or speak to my child? Ask the caseworker about visiting hours. Some juvenile justice departments transport parents to and from detention facilities. Ask the juvenile counselor/caseworker if transportation can be provided or if there is a bus line that will travel to the facility.

Most facilities have set hours for when children can call their parents. It is rare that a parent will be able to call a detention facility to speak with their child. Many detention facilities do not allow children to accept incoming calls except in cases of emergency. In most cases, you need to ask when the children are given access to the phones to make free local calls to their families. Many facilities allow a certain number of free phone calls per child per week and then allow the children to call their families collect at other times during the week.

Remember that while your child is detained, he or she will have little to look forward to. Visiting times are few and far between and every child looks forward to seeing someone who cares for them.

What should I expect when I visit my child in detention? This is going to be a difficult time for you and your child. When you approach the facility, you may find that there is barbed wire surrounding the building or campus. Electronic gates with metal detectors may also be at the entrance of the facility.

Be prepared to see youth in shackles and handcuffs. Some facilities transport children this way. Most youth will be allowed to visit with you without wearing any restraints. Regardless, it is very upsetting to see your child or any child in handcuffs and shackles.

In addition, most detention facilities require children to wear detention clothing.

During this time, your child will be confronted with many mixed emotions. He or she may be depressed, scared, confused and angry. Your child may take this out on you even though he or she will be happy to see you. Try to be supportive and stay positive. Focus on how your child can follow staff directions while detained and stay away from other youth that they may not be getting along with. When your child returns to court, the detention facility may send a progress report to the judge. It is best that this report only show how your child cooperated while he or she was detained. Again, the most important thing that you, as a parent or guardian, can do is to show your child how much you love and care about him or her no matter what may have happened that caused him or her to be detained.

Can I bring my child any personal belongings? Most detention facilities will not allow the youth to have any personal belongings. They will be given personal hygiene supplies, paper and pencil to write letters and other school supplies that might be needed. Youth are generally not allowed to have a Walkman, jewelry, money or other personal items.

While my child is detained, what services will he or she receive? Most detention centers do not have a lot of services available. They are set up to care for children for only a matter of days or weeks—until their court

hearings are finished. Every child receives a brief physical examination upon admission to a detention facility. Many detention facilities are now screening youth for mental and emotional disorders and substance abuse, using brief questionnaires. Typically, these questionnaires only tell the staff whether or not your child should be referred for services once he or she is discharged or whether or not the staff needs to be alert for suicidal or high-risk behavior.



Your child usually will not receive any counseling while detained. If there is an emergency and your child should need psychiatric services, then he or she would be taken to the nearest hospital for care. You should receive a call from either the facility or the caseworker if an emergency should arise.

What about the medications that my child takes? Do I bring them to the detention center? Do they have to be prescribed by the doctor at the detention center? You will need to check with the facility where your child is detained because each facility has different rules. If your child is on medication, you will need to notify detention healthcare staff immediately. Some facilities allow your child to continue taking their medication if a consent is signed by the parent and medical records are forwarded by the prescribing doctor. Some detention facilities do not allow outside medication to be brought in. In this case, once notified, the doctor at the detention center will reexamine your child and write a new prescription.

What if my child has a medical appointment or an appointment with a psychiatrist or specialist while he or she is detained? Most appointments will be broken while your child is detained. Unless special arrangements have been pre-approved by the judge, a detention facility will not normally allow your child to leave the facility. If an appointment has been set up that cannot be broken and the judge feels that it is important enough to keep, then your child's probation officer will be informed of this. Either detention staff or your child's probation officer will be called upon to transport your child to the appointment. You may meet your child at the appointment.

Will my child continue to attend school while he/she is detained? Your child is entitled to an education while he or she is detained and the facility must see that this is provided. If your child is receiving special education, the detention center must implement the individualized education program (IEP) from your child's school district to the extent possible and schedule a meeting to include you—the parent or guardian—and your child to determine if the IEP needs to be changed to better meet your child's needs.

Who has access to my child while he or she is in the detention center? Most state statutes only allow officers of the court, including probation personnel, detention personnel and juvenile department personnel (including psychologists and doctors) and your child's attorney to have access to your child. The court can authorize other people access such as police who are completing follow-up investigations related to the arrest. Remember to caution your child not to speak to anyone about his or her case without his or her attorney present.

If my child gets moved to another facility, will I be notified? Your probation officer/caseworker is responsible for letting you know when and if your child is moved to another facility. It would be a good idea for you to contact your child's caseworker from time to time to check on the progress of your child's case.

WHEN YOUR CHILD GOES BEFORE THE JUDGE

What is the difference between an adjudicatory hearing and a waiver or certification hearing? An adjudicatory hearing is like a trial. Depending on the preferences of your child and your child's attorney, sometimes it is held only before a judge. At this hearing, the judge will determine whether or not your child is guilty or innocent of committing the offense. This hearing is held in juvenile court. If your child is referred for a waiver or certification hearing, then the case will go to court to determine if he or she should stay in the juvenile justice system or be tried in adult court due to the severity of the criminal charges. Waivers to adult courts are sometimes automatic, depending on the state you are in and the nature of the offense your child is accused of committing.

If my child is found guilty of the charges that he or she was arrested for, what can I do now to help? Before going into court for the dispositional hearing, in which the judge will determine the sentence for your child, be sure to speak with your child's probation officer/case manager. Ask what plan the case-worker will be recommending in court to the judge at the disposition. Then you should speak to your child's attorney about this plan. It may be the best alternative for your child or it may be an inappropriate placement. If you feel that the recommendation is not



in the best interest of your child, tell the attorney and then ask about other professionals who may be able to testify in court on behalf of your child. Below is a short list of what may be recommended. These alternatives differ from state to state.

- ◆ **Community Detention**—Your child will live at home and a probation officer will be responsible for visiting with you and your child on a regular basis. There are usually curfews and specific times that are worked out with the worker when your child may or may not leave the house. Some programs work very closely with the family and can make referrals for services. Other programs just monitor your child's whereabouts.
- ◆ **Community Detention with Electronic Monitoring**—An electronic monitoring anklet or bracelet will be attached to your child and it will not be removed until he or she has completed the stated time frame. This program is usually for children awaiting court appearances or awaiting placements for which there are long waiting lists. Some states will allow children to be placed on this program so that they can continue with their education, employment and family life while awaiting placement.
- ◆ **Day Reporting Centers/Evening Reporting Centers**—Not all states or counties have these centers, and each state runs its centers differently. Your child will live at home and report to the center everyday. Some centers are open all day long until 9:00 p.m. and some are only open after school. Your child will receive intensive supervision while he or she is enrolled. Some centers may offer educational support, recreational support, informal counseling and life skills programming. Transportation is also offered many times.
- ◆ **Family Preservation, In-Home Intervention Services, Wrap Around Services, Multi-systemic Therapy**—Not all communities offer these programs, but many do. These services and supports are generally offered to children who are on formal probation and involve intensive work with other family members as well as the child. Services are rendered in the child's home, school or community setting and may

involve family members and other people in assisting or monitoring the youth through informal arrangements.

- ◆ **Fines, Community Service and Restitution**—These alternatives are frequently recommended for children who have committed minor or first-time offenses. They are also frequently recommended for a child being placed on probation.
- ◆ **Intensive Supervision or Intensive Probation**—These plans offer the same type of monitoring and supervision to children who are on regular probation except that the child has much more regular contact with the probation officer—at least several contacts per week in the home, school or office.
- ◆ **Group Homes and Foster Homes**—These living situations are houses where a small number of juveniles live together under the close supervision of adults who are available around the clock. Your child will attend school in the community or hold a job while living there. While your child is in this home, he or she will learn life skills and work on relationship building and sharing. Specialized therapeutic foster homes are sometimes available for youth who have special emotional or behavioral problems.
- ◆ **Youth Centers and Youth Camps**—A judge may order a child to a youth center, youth camp or wilderness program for a certain length of time. These are residential programs designed to help build the child's interpersonal skills and sometimes to teach trades or skills as well.
- ◆ **Residential Treatment Centers**—If your child has been diagnosed with a serious emotional or behavioral disorder and this is presented to the court, then the judge may ask that the juvenile justice officials place your child in a residential treatment center. There may be a waiting list for these centers, and the process of approving a child for such a center can take a long time. If your child is accepted into a residential program, then he or she will live at this center until meeting the goals of the treatment contract. Regular counseling, medication monitoring, education and socializing activities should be offered.

WHEN YOUR CHILD IS RELEASED FROM A FACILITY

Will I be expected to pay all the court costs? In some states, families will be expected to pay some or all of the court costs associated with their child's case. The court may look at each family individually and decide on their ability to pay. Sometimes, if your family can contribute to the court costs or for an appointed attorney, the judge may assign a fee.



Will my child be able to go back to public school after leaving the detention center or state facility?

Though children have the right to return to school, there are often barriers that keep your child from re-enrolling. Some school districts, depending on the charge, may make your child attend an alternative education program rather than return to the regular classroom.

What services will be available for my child after he or she is released?

This will vary greatly from community to community.

Some facilities have aftercare workers and programs, but many do not. Before your child is discharged from a facility, make sure you speak with your child's caseworker or counselor about the services they recommend for your child. These workers should help you to connect with services in your community. If your child is placed on probation, ask the probation officer to assist you in finding the services you and your child need.

GLOSSARY OF TERMS

Adjudication—This is a court hearing where the judge decides whether or not your child has committed a delinquent offense or if he or she is innocent.

Arraignment—This is the first hearing that your child will go to where he or she will be charged with the offense.

Attorney—A lawyer hired to represent your child. If you cannot afford an attorney, the court will appoint a public defender for your child. A public defender is an attorney who will help you for less money or for no charge at all.

Commitment—If the court finds your child guilty/delinquent, then legal custody will be turned over to the state. Your child will then be referred to placement for treatment or rehabilitation.

Deferred Prosecution—This is an alternative to formal juvenile court handling of a child's case. This option is usually reserved for children who commit less serious offenses and are not repeat offenders.

Delinquent—This word describes a juvenile who the court finds has committed an act that would be a crime if he or she had been an adult.

Detention Center—This is a locked facility where youth wait for their next court hearing or placement.

Detention Hearing—This is a hearing before a judge to determine whether there are sufficient grounds for continued detention.

Disposition—This is the court hearing that takes place after the judge finds your child is guilty. Here the judge will decide your child's sentence.

District Attorney/State's Attorney/Prosecutor—This is the person who charges your child and tries your child's case in court, opposite your child's attorney.

Felony—This is a more serious criminal offense. Some of these offenses may include grand theft auto, rape or murder.

First Offender Program—These are programs for juveniles who have not been previously found guilty by a judge for having committed a delinquent act.

- ◆ **Boot Camps**—These camps are residential programs set up in a military-style environment. They usually emphasize discipline and physical conditioning, rather than rehabilitation or treatment, and they are frequently used as alternatives to longer terms of confinement. These programs are generally not suitable for younger children or children with emotional and behavioral disorders.
- ◆ **Confinement in a State Facility**—These facilities are reserved, most times, for children who have committed multiple or serious offenses. They are youth prisons where children are housed for months or years with other children from around the state who have also committed serious offenses. The environments are strictly regulated. Some facilities offer counseling and other therapeutic services, but many do not. They are required to offer educational services to all children in their care, as well as special education services to those children who are eligible. They are also required to offer medical care and mental health care, exercise or recreation, access to legal counsel and contact with family members.

Is there anything I can do while my child is at a placement or on probation? Yes, you can help ensure that your child receives the services the court ordered. While your child is at his or her placement, be sure to keep in close contact with the probation officer and your child's direct caseworker at the placement. Ask about your child's progress and ask that you be contacted if an incident of a positive or negative nature should arise. Also, ask the probation officer to contact you when he or she is putting together your child's aftercare plan. Make sure that a plan is in order at least a month before your child is released. Be sure to give your opinion on issues such as your child returning to school, finding a job or receiving mental health counseling.

Guardian Ad Litem—Sometimes the court will appoint an adult (usually an attorney) to help represent the best interests of the child in court.

Intake Decision—This is the decision made at the beginning of your child's case that results in the case either being handled informally out of court or being scheduled for a court hearing.

Juvenile Assessment Center (JAC)—This is a place that provides a 24-hour centralized point of intake and assessment for juveniles who have come or are likely to come into contact with the juvenile justice system. It provides comprehensive assessments. Juvenile justice practitioners and community-based youth service providers affiliated with the JAC make initial broad-based and, if necessary later, more in-depth assessments of juveniles' circumstances and treatment needs.

Magistrate—This person is a local court official who has limited jurisdiction especially in criminal cases.

Misdemeanor—This is a less serious criminal offense.

Petition—This is a document filed by the prosecutor's office alleging that a child is delinquent and asking the court to assume jurisdiction over the child.

Placement—This describes a situation when your child is removed from home and placed in a residential facility.

Probation—If the court finds that your child does not need to be in a residential environment outside of the home, but he or she does need some extra supervision, he or she will be placed on probation. The court order will give the details of what is expected of your child while he or she is on probation and how long the probation will last.

Staffing—When the Juvenile Justice Department meets to discuss your child's case to decide where he or she will best be served, this meeting is referred to as a staffing.

Waiver—Children who commit very serious offenses are sometimes waived or transferred out of the juvenile system into adult court for proceedings. A waiver or transfer hearing to debate the move is usually held unless the law requires automatic waiver for certain types of offenses.

*For more information about mental health
and juvenile justice issues, contact us.*



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