

## **What does Probation do to prevent delinquent juveniles from entering the juvenile justice system?**

Probation uses several programs designed to divert the less serious offender from formal court action when the community's safety is not in jeopardy. Some of the diversion programs include Youth Accountability Boards, Informal Probation, and a variety of other informal supervision programs to keep youngsters out of trouble including family counseling, parenting classes, substance abuse counseling, gang awareness, truancy court, mental health, referral, mentoring program and restorative justice and other skill-building activities.

## **My child was arrested by law enforcement. What can the arresting officer do?**

If the offense is not a serious violent crime that endangers the safety of others, then the Officer can use discretion in whether the minor is **released to a parent or booked into a Juvenile Detention and Assessment Center (JDAC)**. If the officer is going to question your child about what happened, the officer must also tell your child that he or she has the right to remain silent, that anything your child says will be used against him or her, that he or she has a right to be represented by a lawyer, and that the court will appoint a lawyer if your child cannot afford one. These are called *Miranda* rights. If the officer is not going to question your child, the officer will not necessarily explain these rights.

## **What happens now that the Officer decided to release my child to a parent or guardian?**

The Officer will give you and your child a citation with a future Juvenile Court date at the bottom (Notice to Appear) ordering you and your child to appear on a certain date. The police report and matter will be forwarded to the Probation Department. Based on what is in the police report, Probation will decide what the next steps will be.

If the matter is able to be handled informally, then there will not be an appearance before the Juvenile Delinquency Court. The Probation Officer may settle the matter out of Court by imposing restitution, a work sentence, counseling, and/or six months of Informal Probation. The Probation Officer can refer your child's case to the District Attorney, who will decide whether or not to file a petition.

## **How do I get a copy of the police report?**

The Probation Department does not have the authority to release police reports. To obtain a copy, you will need to go to the police department that made the arrest. They will determine when or if the police report can be released to you. You may also submit a request to the Court that the Police Department release the report.

## **What happens now that my child was arrested and booked into a Juvenile Detention and Assessment Center (JDAC), also known as Juvenile Hall?**

Shortly after the arrest, the arresting officer may book your child in the probation juvenile hall (this is called detention"). If your child is locked up or held by the Probation Officer, then your child has the right to make at least two phone calls no later than one hour after arrest. One of the phone calls must be a completed call to a parent, guardian, responsible relative, or employer. The other call must be a completed call to an attorney.

### **When will my child be released from juvenile hall?**

Children are released to a parent or guardian or kept at Juvenile Hall based on the seriousness of the crime, their criminal history, and other information about whether they pose a threat to the community, or are at risk of not showing up at their next court date. Prior to the first Court date, the JDAC Intake Probation Officer may consider release in some circumstances when the crime is not a serious, violent offense. The Probation Department only makes recommendations to the Court. It is a judicial decision as to how long children will stay in custody and under what conditions they will be released. The Judge is going to consider the seriousness of the offense, if there have been previous contacts with law enforcement agencies, and how likely they are to appear for their next court date, among other things. The Judge will also consider whether or not the minor is beyond the control of his/her parent(s) or guardian(s).

### **Does my child need a lawyer?**

Yes, your child has a right to a lawyer who is both effective and prepared. If you cannot afford to hire a lawyer for your child, the Court will appoint a lawyer to represent your child.

### **What is a Delinquency Court?**

Under the auspices of the Superior Court of San Bernardino County, there are three types of Juvenile Courts: Traffic, Dependency, and Delinquency. The purposes of the delinquency court are: to protect, to give guidance, to punish children who commit delinquent acts, and to protect the community. If your child becomes a ward of the court as a juvenile delinquent, the court will make orders for you and your child so that your child and the community will be protected. As a ward of the delinquency court: Your child may be allowed to live in your home under court supervision; or your child may be placed outside of your home in an unlocked or locked facility, depending upon your child's age, the seriousness of the offense, and your child's history of delinquency.

### **My child is out of control and needs to be "scared straight". Can I place my child in Juvenile Hall?**

Juvenile Hall no longer accepts children who have not been charged with a crime. Only those children who have committed a crime, are seen to be a danger to society, or a flight risk, are detained.

### **Will I be required to pay my child's fees?**

Yes. Unless you have been the victim of your child's crime, you will receive a bill from the county for your child's attorney's fees. You will be billed for probation department services fees (such as food and laundry while your child was in juvenile hall), and placement costs for placing your child in a state placement such as the Division of Juvenile Justice, a probation camp, or an out-of-home placement. These costs can be expensive. You will have a chance to show how much, if any, of these costs you are able to pay. The Juvenile Court and the Probation Officer do not make this determination. When you receive a bill from the county's collections department, it is important to follow the directions listed or call them for further information.

### **Am I financially liable for my child's acts?**

Yes. You may also have to pay restitution to the victim if your child is ordered to pay. Restitution is money to pay for the victim's losses caused by your child's illegal conduct. Examples of restitution might include the value of stolen or damaged property, medical expenses, and lost wages.

### **My child's probation officer told me that the district attorney will be filing a petition. What does that mean?**

A petition asks the court to become involved in your child's life. The petition says what the state believes your child did. Later, a judge will decide if what the petition says is true. There are two types of petitions. They are named after numbered sections of California law:

- **601 Petition:** A 601 Petition is filed by the probation department and says that a child has run away, skipped school, violated curfew, or regularly disobeyed his or her parents. If the court finds that the petition is true, the youth may become a "ward" of the court and is known as a "status offender."
- **602 Petition:** A 602 Petition is filed by the district attorney's office and says that a child has committed an act that would be considered against the law if an adult had done it. If the court finds the facts stated in the petition to be true, the child becomes a "ward" of the court as a delinquent. Section 602 covers any act that is against the law when an adult does it. This includes felonies such as auto theft, burglary, selling a controlled substance (drugs), rape, and murder, and misdemeanors such as simple assault and drunk driving. The penalty depends on the type of offense.

### **How will my child and I find out about the court hearings?**

If your child is locked up you should get the petition and notice of the hearing, personally or by mail, as soon as possible after the petition is filed and at least 5 days before the hearing. If the hearing is less than 5 days after the petition is filed, you will get notice at least 24 hours before the hearing. Your child has the right to get notice if he or she is at least 8 years old. If your child is not in custody, you should get notice of the petition and hearing personally or by first-class mail at least 10 calendar days before the hearing.

### **Can I be present at the hearings?**

Yes. In fact, new state law requires you to be present. One thing the judge will decide is what will be best for your child. Depending on the offense, if you can show that your child will listen to you and follow your rules, and that you will hold your child accountable and be supportive at home, the judge may order that your child be released to your custody.

### **Can I speak at the hearings?**

Generally, the public defender or your child's lawyer will speak for your child. The district attorney will speak for the state. The probation department may be called as a witness. You may speak if the judge asks you questions directly, or you may ask to speak to the judge.

### **Do we have the right to an interpreter?**

Your child has a constitutional right to an interpreter. You may also have a right to an interpreter and should ask for one if you need one.

### **What types of hearings will my child go to in Juvenile Court?**

- **The Detention Hearing:** If your child is locked up in juvenile hall for more than 48 hours, there will be a detention hearing after no more than 72 hours, counting only court business days (no Saturdays, Sundays, or holidays). At the detention hearing, the judge will decide whether or not to let your child go home before the next hearing.
- **The Pretrial or Settlement Conference:** In many counties, a court appearance is scheduled to try to resolve the matter without a trial.
- **Hearings on Motions:** There may be court appearances for the court to hear additional matters that come up before the matter is resolved.
- **The Fitness or Waiver Hearing:** If your child is at least 14 years old, the district attorney may ask that your child be tried in adult court. At the fitness hearing, the judge will decide whether your child will be tried in adult court or in juvenile court. If your child is ruled "unfit" for juvenile court, he or she will be tried in adult court. If your child is younger than 14, there will be no fitness hearing.
- **The Jurisdiction Hearing:** At the jurisdictional hearing, the judge will decide whether or not your child committed the offense. Based on this evidence, the judge will decide whether or not your child has committed the acts he or she is accused of. If the judge makes a "true finding," this means that there is enough evidence for the judge to find beyond a reasonable doubt that your child did commit the acts. After a "true finding," the judge schedules a disposition hearing to decide appropriate consequences. If there is not enough evidence for the judge to find that your child committed the act he or she is accused of, the case will be dismissed. If your child is in custody, he or she will be released.
- **The Disposition Hearing:** If the judge rules that your child committed the offense, then at the disposition hearing the judge will decide what orders should be made about your child. In this case, the matter is referred to a Probation Officer in "Investigations" to complete a Dispositional report for the next hearing date. If the judge rules that your child did not commit the offense, there is no disposition hearing. The matter is referred to a Juvenile Investigation Probation Officer for completion of a Dispositional (sentencing) report, if the allegations are found true.

### **Can the victim and his or her parents attend and speak up at the dispositional hearing?**

Yes. A crime victims' bill of rights allows them to come to the hearing. The victim and his or her parents if the victim is a child, will get notice of the hearing.

### **What is the role of the Probation Officer?**

The Probation Officer is responsible for writing a report to the juvenile court judge about your child. The report tells the judge what the probation department thinks would be best for your child if the judge determines that your child committed the crime. The report also includes your child's prior arrest record; a description of the current offense; statements from your child, his or her family, and other people who know your child well; a school report; and a statement by the victim. The PO delivers this report to the Court and Attorneys, prior to the disposition hearing.

If your child is placed on probation, the probation officer will enforce the court's orders. This means monitoring your child to make sure he or she obeys the law and follows the terms of probation. The probation officer will also encourage your child's positive involvement in school and participation in job training, counseling, and community programs. Depending on the situation, the probation officer could meet with your child as often as twice a week or as little as once a month.

If your child is in custody, and the judge decides your child should not go home right after the case is finished, the probation officer's job is to find an appropriate placement for your child. This could be with a relative, in a county-based foster or group home, or in a private institution.

### **Can my child be tried as an Adult?**

Your child must be at least 14 to be charged as an adult. The Court considers the degree of criminal sophistication; the child's potential for rehabilitation, previous criminal history, whether the minor responded to previous attempts at rehabilitation, and the circumstances and gravity of the present offense. Some offenses that would be considered include the following or attempting the following; murder, arson, robbery, sex offenses involving force or fear, kidnapping, crimes that involved the use of a weapon or resulted in great bodily injury, torture, mayhem, car jacking, voluntary manslaughter, or escape by means of force or violence.

### **Where will my child go if he or she is sent to the Department of Juvenile Justice (DJJ)?**

Your child will first go to a reception center for 30 to 90 days. After that, your child will be sent to one of nine (9) correctional facilities or one of four (4) youth camps.

### **When would my child go to the California Department of Corrections (CDC) instead of the Department of Juvenile Justice (DJJ)?**

Your child can be sentenced to adult prison (CDC) only if he or she is tried as an adult. If your child will be tried as an adult it is extremely important to talk to your child's attorney about all of the very serious consequences of your child's situation. Between the age 14 and 16, your child must stay at DJJ even if he or she is sentenced to adult prison. If your child is at least 16 years old and is tried in adult court, the judge can order your child to serve time in adult prison rather than DJJ. If your child is at least 16, he or she may serve the entire term at DJJ only if the term will end before he or she reaches the age of 21. If your child's term will last past age 21, then your child could be at DJJ until age 18, and then would automatically be transferred to CDC on his or her 18th birthday. The court could also order your child directly to CDC at age 16.

### **How long will my child be placed on Formal probation?**

Unlike the adult system, there is no set amount of time that a child can be on Formal Probation. They will remain on probation until they meet all the conditions of their probation or commit a new offense as an adult. If the client commits a new offense as an adult, often times the Juvenile Court will terminate juvenile probation. The Juvenile Court can maintain jurisdiction until the age of 21.

### **What does the term “maximum confinement time” mean?**

Maximum confinement time is the maximum time a child can be detained for a specific charge and is dictated by law.

### **Can my child's juvenile records be sealed?**

This is very important for your child, but will not happen automatically. Your child must file a petition to do this. Your child can file a petition after he or she turns 18 and is off probation. Your child can also file a petition 5 years (in some cases, 6 years) after everything connected with his or her case is over. There will be a hearing to make sure that your child was not involved in any later crime. If the petition to seal the records is granted, all records of the case or the arrest will be erased, as if they never occurred. Your local public defender may be able to help.

### **Can my child's juvenile court record be used against him or her as an adult?**

Under the three-strikes law certain serious or violent felonies committed as a juvenile can be counted as strikes and used against your child in the future. This can happen even if juvenile court record has been sealed.