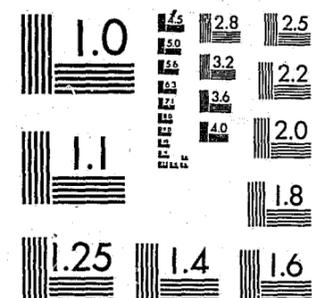


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National Institute of Justice
United States Department of Justice
Washington, D. C. 20531

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112/28/81

LEGAL RIGHTS FOR NATIVE AMERICAN TEENAGERS AND FAMILIES.



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National Institute of Justice

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*We search our ways through the time
As seasons become the many reasons
Of our lives in the winds of hope
Going ever forward as generations of grass.*

*We sing and hear the great thunder
Sound beyond the mountains of ancestors
Which brought forth our families
From the ancient wisdom of the sky.*

*Remember in your days as yet to come
That brave warriors and maidens are your kin
And hold high your heads into the sun
Of your being our youth to right our history.*

INDIAN FAMILIES CARE

People in a family care about each other. Sometimes it might be hard to tell, but no one cares more about you than your family. Because you're an Indian, other Indian people care about you, too. If everything is going good, or if you are in trouble, there is always someone in your immediate family or in your larger Indian community family that cares.



MICHAEL D. DIXON

WHY CAN'T I DO WHATEVER I WANT?

In California you are considered a "juvenile" or a "minor" if you are under the age of 18. As a minor, you can be stopped or arrested by the police if you violate any state or federal law, any city or county ordinance, or if you don't obey an order from the Juvenile Court.

Even if there is no arrest warrant, you can get caught up in the Juvenile Court system. For instance,

- If authorities have "reasonable cause" to believe that your parents or guardian can't control you, or
- If you have no home or place to stay, or
- If authorities think that you are physically dangerous to the public, or
- If you are being abused or neglected in your home, or
- If you are found in a street or public place and are sick and in need of medicine, a hospital or other care, or
- If you constantly refuse to obey your parents, guardian or school authorities, or
- If you don't go to school.

The Juvenile Court system is easy to get into but hard to get out of. There are rules and boundaries that can't be broken or crossed. Personal freedom is sacrificed and your choices become limited. You always have the choice to stay away from it.

WHAT IF PEOPLE IN MY FAMILY FIGHT WITH EACH OTHER?

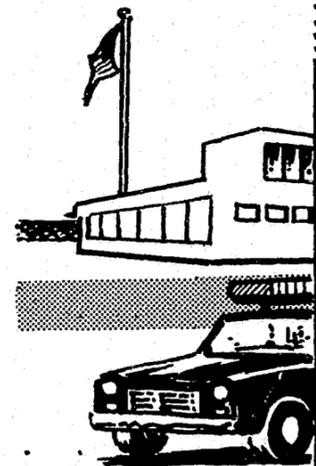
Being around family fights can be upsetting. Family fights can happen when someone doesn't get what is important to them, when someone feels they don't have enough freedom or privacy, or if someone is upset and you get in their way. It may be hard, but try to understand the reasons behind the fights. Fights often result because family members care and worry about each other and are scared when things, like bills or drinking, threaten to disrupt the family.

Family fights can make you feel like running away. Instead of running, it's always better to try to talk with your family. If no one knows how angry or sad you are, changes are unlikely.

You have alternatives. If family fighting upsets you, you can help yourself and your family by talking to someone who can help find solutions. If you feel that you can't talk with someone in your family, you can always talk to a friend, or someone your trust at a community agency or at school.

DO I HAVE TO GO TO SCHOOL?

California state law says that everyone under the age of 18 has to be enrolled in some type of school. Attendance records are kept in public schools and if you are absent often, or never attend, the school will eventually contact your parents or guardian to try to find out why you don't go to school. There may be several reasons for this, but it is important for you and your parents to talk to the people at school about it. If you and your family don't talk to them, they may think that no one cares about you and that you should be reported to authorities for your own well being.



There are alternatives and solutions to whatever school problems you may have. School problems won't go away if you ignore them and the school could eventually report you to authorities for truancy or behavior problems. If you are:

- Truant from school,
- Not enrolled in school,
- Having problems with teachers, or involved in school fights,

and want help, there are Indian people who understand the school system. They can work with you and your family to help solve school problems.

**WHAT COULD HAPPEN IF I
RAN AWAY FROM HOME?**

Everyone has felt like running away. If you feel like no one understands you or that you're not very important, running away can appear to be an attractive and easy solution.

Running away can be exciting and scary. The excitement may help you temporarily forget why you left home. The scary part comes later when you don't have any place to sleep or anything to eat, and you think about going home.

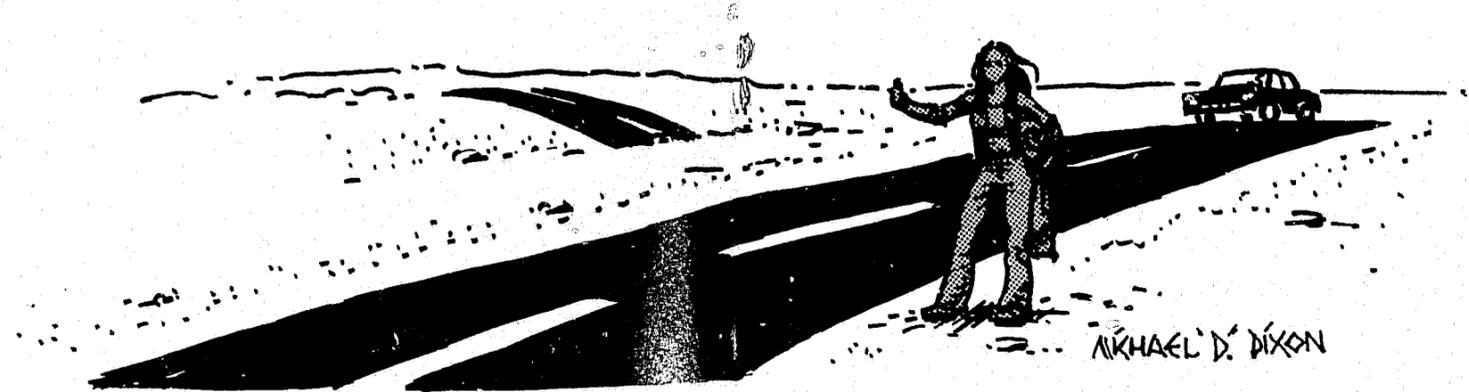
When you run away your family is also scared about what went wrong. They hope you won't be hurt, and often they'll look for you and call your friends. If they can't find you, they could call the police and report

you missing. The police will take a description, and if they find you, they will pick you up and hold you until your family comes.

If you run away from home more than once, it is obvious that things are not going too well. If you and your family aren't able to work things out or talk with each other, you can choose to get help from someone at a community agency. If you continue to run away and the problem doesn't get better, your family can ask the police or the Juvenile Court system for help. These authorities have the power to get involved even if not requested. The best choice is to try to work things out without involving the police or the court system.

**SUPPOSE I LIVE WITH A
RELATIVE?**

If your family feels that it would be better for you to live with a relative, and if everyone agrees, living with relatives can be an alternative to some family problems. All states have laws about school attendance, so wherever you go you will have to attend school. You also have to obey all laws and obey your relative, just as you would your parents. If you move and are on probation, your probation officer should be informed.



WHAT HAPPENS IF I GET ARRESTED?

The police can arrest you for breaking any law or if there is a warrant out for you.

When you are arrested a policeman has the power to do just about anything to you if he feels it is necessary for his or your protection. After you are arrested you will be taken to a holding cell. These holding cells are not known for their comfort — in other words, they are very small, confining rooms. You definitely know you're in jail. Police can hold you here for up to 24 hours.

It is important you understand that after arrest by the police, you have the right to be represented by a lawyer. If you can't afford one, a public defender or a private attorney will be appointed by the court. The law also says that if you ask to see your parents, no one can question you until your parents are present.

Minors must be informed of their constitutional rights if the police want to ask questions other than

your name, your parents' name, and your address. Before anyone can question you, they must read you the following rights and make sure that you understand them:

“You have the right to remain silent and do not have to say anything about your actions;

You have the right to have an attorney with you during all questioning;

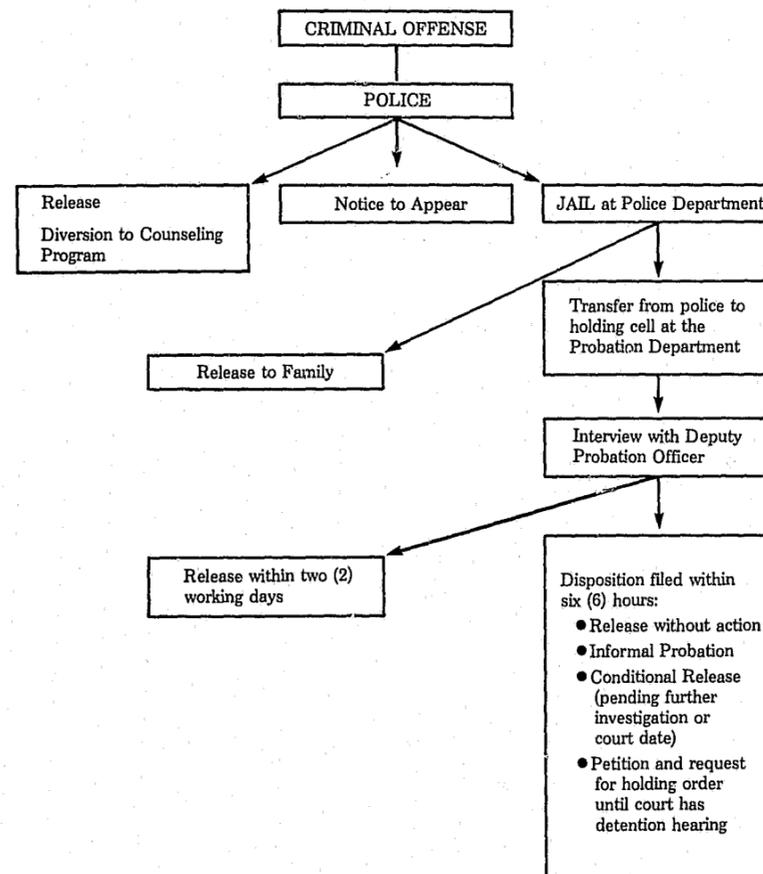
If you cannot afford an attorney, the court will appoint a public defender (a juvenile court public defender is a licensed attorney who has specialized in juvenile law);

Any statement you make, can and will be used against you in court.”

Considering how upset you would be if you were arrested and put in jail, it is usually best to sign nothing or say nothing beyond your name, address, and parent's name until your parents or an attorney are with you. You have the right to say “I don't want to talk without an attorney present.”



WHAT HAPPENS IF I GET ARRESTED?



WHAT IF THEY PUT ME IN JAIL?

If you are ever put in jail, remember your right to:

- Make two complete phone calls, one to a parent, guardian, relative or employer; and one to an attorney.
- Be advised of your rights.

After you are put in the holding cell the police will question you. The police can then:

- Release you to your parents or a relative.
- Refer you to a youth counseling program and then release you.
- Issue you a Notice to Appear in court later and then release you. A Notice to Appear goes on your record as an arrest.

If the police do not release you, you will be taken into the custody of the Probation Department.

THEN WHAT?

The juvenile court process starts once you are taken to the probation department. A probation officer will be assigned to write a **Juvenile Court Report** about you. This report will include facts about your case from the police report and information about family. This report is very important because the juvenile judge will make many of his decisions based on this report.

The first time you go into the court room will be for the **Detention Hearing**. This hearing is only to decide if you should be released to your family or if you should remain in custody until the next

court hearing. Your parents will be notified when and where the detention hearing will be and it is very important for them to be there. If no family member is present at this hearing you will probably not be released. If your family can't make it to the hearing, they can call the court clerk to reschedule the detention hearing for the next day.

Two weeks after the detention hearing, the **Juvenile Court Hearings** will begin. The juvenile judge will make two decisions at these court hearings. First, the judge will consider all the evidence and decide whether he thinks you are guilty or innocent. Secondly, he will decide what should happen to you. The judge will make his decision based on the evidence, your Juvenile Court report, and whatever your probation officer recommended. The court could decide to:

Put you on six months probation without wardship. This means that you will have a probation officer and you will be allowed to live at home. If you don't get into any further trouble, your case will be automatically dismissed after six months. They could also require you to attend a drug counseling school or the Weekend Training Academy (working for the county without pay). You will be given some specific rules to follow called **Conditions of Probation**. If you violate these rules, your probation officer could take you back to court and recommend something harsher than six months probation.

The court could also decide to:

Declare you a ward of the court. If you are declared a ward of the court they could:

- Let you return home, but have a probation officer supervise your school attendance and your whereabouts; or
- Place you in a foster home, group home, or a private institution; or
- Commit you to a county facility — such as Chabot Ranch, Senior Boys Camp, or Las Vistas — for three or more months; or
- Commit you to the California Youth Authority, the state juvenile correctional system, until you are 21 years old.

YOUR RIGHTS

Everyone who lives in the United States, regardless of cultural or ethnic background, is guaranteed certain legal and ethical rights:

- The right to a good education. You should be able to read and write. If you can't read or write well, or if you are behind in other subjects, the public school should be able to help you.
- The right to have your parents or an attorney present during any police questioning, including anytime the police want to question you at school. You also have the right to have an attorney present during any juvenile court hearing.
- The right to housing and shelter. No one has to live on the street. If you can't live at home, some alternatives are relatives, emergency shelters, group homes, or a foster home.

- The right to have your relatives and tribe notified if the Juvenile Court is considering placing you in a foster home. This is a federal law (PL 95-608) that was enacted to keep Indian children with their family, tribe, or with other Native American people. This law does not apply to all situations, so it is wise to ask someone from an Indian community agency to help you make sure that the Juvenile Court follows this law.

- The right to be free from physical, sexual, or emotional abuse. If you are often being physically hit, or if you are subjected to sexual advances that you know aren't right, a community social service agency can help you. Such agencies can also help if you feel that you are being emotionally abused. That is, if you are constantly being put down or yelled at by family members, it can be considered emotional abuse. If it continues, it can effect your mental health.

You also have the right to a reasonable amount of privacy in your home.

These rights are yours and guaranteed to every person. You also have the responsibility to respect the rights of others.

USEFUL INFORMATION FOR YOU AND YOUR FAMILY:

Urban Indian Child Resource Center (CRC)..... 832-2386
290 Euclid Avenue — Oakland

CRC offers four specialized programs to the Native American community. These programs include a social service program that deals with child abuse and neglect, a foster care program that recruits Indian foster families, a mental health program that offers counseling to families, and a juvenile justice program. The juvenile justice program staff are trained counselors who work with the juvenile court and school systems.

Intertribal Friendship House..... 452-1235
523 East 14th Street — Oakland

The Intertribal Friendship House has many programs and staff available to the Indian community.

SOME USEFUL PHONE NUMBERS IN ALAMEDA COUNTY

Police

Oakland Police Department
Youth Services Division..... 273-3641

Juvenile Probation System

Juvenile Arrest Information and Delinquency Investigation

Northern Alameda County — Boys and Girls..... 874-6061
After 5:00 p.m., weekends, and holidays 874-5266

Southern Alameda County — Boys and Girls..... 577-1266
After 5:00 p.m., weekends, and holidays 577-1277

Juvenile Hall 577-1270
After 5:00 p.m., weekends, and holidays 577-1277

Juvenile Court

Oakland..... 874-5375
San Leandro..... 577-1220
Hayward 577-1220

Juvenile Record Sealing..... 577-1292

Juvenile Public Defenders

Oakland..... 874-5735
San Leandro..... 577-1097

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The Indian Nurses of California, Inc. serve as the Board of Directors for the
Urban Indian Child Resource Center.

END