

THE SUPREME COURT OF THE STATE OF ALASKA

ORDER NO. 87

Promulgating the Rules
of Juvenile Procedure

IT IS ORDERED:

That the Rules of Juvenile Procedure numbered one through 32, attached hereto, are hereby promulgated as rules of this court, effective December 1, 1966.

DATED this 2nd day of November, 1966.

/s/ Buell A. Nesbett
Chief Justice

/s/ John H. Dimond
Associate Justice

/s/ Jay A. Rabinowitz
Associate Justice

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RULES OF JUVENILE PROCEDURE

RULE 1.

TITLE OF RULES - SCOPE - PURPOSE, CONSTRUCTION -
SITUATIONS NOT COVERED BY RULE.

(a) Title. These rules shall be known and cited as the Rules of Juvenile Procedure.

(b) Scope. The procedure in juvenile matters shall be governed by these rules.

(c) Purpose, Construction. These rules shall be construed so as to secure for each minor the same care, correction and guidance that he should receive from his parents. The principle of reformation and the need for protecting the public shall be given equal weight.

(d) Situations Not Covered by Rule. Where no specific procedure is prescribed by these rules, the court may proceed in any lawful manner, not inconsistent with juvenile statutes or these rules, which appears most likely to achieve the aims and purposes of such statutes and these rules.

RULE 2.

RESPONSIBLE JUDGE - MAGISTRATE AUTHORITY AND RESPONSIBILITY.

(a) Responsible Judge. In a multi-judge court the same judge, whenever possible, shall hear a juvenile matter from its inception to termination. Any order entered during the unavailability of the responsible judge shall be given the earliest practicable review by the responsible judge.

(b) Magistrate Jurisdiction. If in the absence or during the unavailability of a juvenile judge, a juvenile is in a condition or surrounding dangerous or injurious to the welfare of the juvenile or others, which requires immediate corrective action, a magistrate has the following emergency

authority and duty:

(1) Informal Adjustment. To make an informal adjustment. Informal adjustment or disposition may consist of a discussion of the problem with the juvenile, his parents, guardian, or custodian or a responsible official or a person or persons concerned with community welfare. No detention, formal supervision, or punishment may be ordered by a magistrate as a part of any informal adjustment or disposition.

(2) Emergency Authority. The magistrate may order the juvenile into temporary detention where his own welfare and that of the public so requires. Where informal adjustment or disposition is not feasible or not appropriate in regard to the juvenile matter, it is the duty of the magistrate to transfer the matter to the juvenile court in the most expedient manner possible.

(3) Transfer to Competent Court. Where a juvenile has been detained in connection with a juvenile matter and where continued detention clearly appears necessary to the magistrate to protect the juvenile or others, it shall be the duty of the magistrate to immediately notify the juvenile court of the facts and to make arrangements for an expeditious transfer of the juvenile and his file to such court.

RULE 3.

WAIVER OF JURISDICTION - WAIVER HEARING PROCEDURE - RIGHT TO COUNSEL - REVIEW.

(a) Hearing. Where a petition alleges a juvenile to be a delinquent under the juvenile laws of Alaska and it appears to the juvenile judge from the petition or upon testimony heard in connection therewith that there may be probable cause for believing that the juvenile is a delinquent as defined by law and not amenable to treatment, the juvenile court must

determine at a hearing if that court shall waive juvenile jurisdiction and transfer the case to the superior court for further disposition as provided by applicable statute.

(b) Notice of Waiver Hearing. Notice of the waiver hearing must be given by summons served upon the interested parties, as defined under these rules, including a representative of the state Department of Health and Welfare. Service of summons shall be made in the manner provided in these rules. The summons must state that at the hearing it may be determined that the proceedings against the juvenile shall be conducted in the same manner and may result in the same disposition as an adult criminal proceeding.

(c) Right to Counsel. Unless counsel was theretofore retained or appointed to represent the juvenile, the court shall advise the juvenile and his parents or guardian of his right to the representation of counsel at this hearing. To the extent applicable Rules 14 and 15 herein shall govern.

(d) Access to Social Reports. Counsel is entitled to full access to all social reports, police reports, juvenile court records, and all other reports and records not privileged by statute, relevant to the juvenile and to the facts alleged in the petition or developed by testimony.

(e) Waiver Hearing Procedure. The provisions of these rules concerning witnesses, testimonial privileges, and admissibility of evidence for the adjudicative phase of juvenile hearings shall be applicable to the waiver. The court shall not rely on any reports, information, or recommendation not made available to counsel. A continuance shall be granted, at counsel's request, if any report, information, or recommendation, not theretofore available, is introduced or developed at the hearing, and the interests of justice require a continuance.

(f) Waiver Order. If the court finds probable cause to believe that the juvenile is delinquent and not amenable to treatment it shall issue a waiver order and transfer to the superior court all files and records relative to the juvenile.

(g) Written Statement. The waiver order must be accompanied by the written statement of the court which need not be drafted in the style of formal findings, but which must clearly demonstrate:

(1) That the court has made a full inquiry into the allegations of the petition;

(2) That the question of waiver of juvenile jurisdiction and related issues were given careful consideration by the court, and

(3) That all statutory conditions for waiver of juvenile jurisdiction were established.

The statement must be sufficiently specific to permit a meaningful review by the superior court of the basis for the waiver order.

(h) De Novo Review by Superior Court. Upon the transfer of a juvenile matter to the superior court in the manner hereinabove provided, the superior court shall immediately order a de novo hearing to determine whether there is probable cause to believe that the juvenile is delinquent and not amenable to treatment under the juvenile laws of Alaska. Where the superior court finds that there is probable cause for believing that the juvenile is delinquent and not amenable to treatment under the juvenile laws of Alaska, the juvenile may be charged, prosecuted, and sentenced as though he were an adult. If the petition referred to in (a) of this rule is dismissed, the case shall be returned to the juvenile court for further proceedings consistent with the juvenile laws and these rules.

RULE 4.

PRELIMINARY INQUIRY - REPORT - ACTION REQUIRED ON REPORT.

(a) Preliminary Inquiry. Whenever a person presents to a juvenile court facts which bring a juvenile within the court's jurisdiction, the court shall appoint a competent person or agency to make a prompt preliminary inquiry for the purpose of reporting to and advising the court whether the interests of the public or of the juvenile require that the court exercise its juvenile jurisdiction.

(b) Report on Investigation. The report made under (a) of this rule must be in writing and transmitted to the court without delay.

(c) Action Required on Report. Upon receipt of the report provided for under (a) and (b) of this rule the court may:

(1) File the report without further action if it appears from the report that the court is without jurisdiction; or

(2) Informally adjust or dispose of the matter without hearing where the facts are admitted and the consent of at least one parent or the guardian or custodian has been obtained for such informal adjustment or disposition; or

(3) By written order direct a person having knowledge of the facts establishing juvenile jurisdiction to file a petition for adjudication.

RULE 5.

TEMPORARY CUSTODY ON COURT ORDER.

If at any time it appears to the court that a juvenile is in such condition or surroundings that his welfare requires the immediate assumption of his custody by the court, upon the filing of a petition for adjudication the court may

immediately issue a summons to the person having custody or control of the juvenile, directing him to appear at a time and place certain, and endorse thereon a direction that a peace officer or other person authorized by the court shall immediately take the juvenile into custody and make such temporary placement of the juvenile as the court directs.

RULE 6.

TEMPORARY CUSTODY WITHOUT COURT ORDER - NOTIFICATION OF COURT
AND INTERESTED PARTIES - RECORD OF NOTIFICATION
TO BE MADE AND PRESERVED.

(a) When Temporary Custody May Be Assumed Without Court Order. A juvenile may be taken into temporary custody by any peace officer without an order of the court only when:

- (1) A lawful arrest is made.
- (2) The juvenile violates a law or ordinance in the presence of the peace officer.
- (3) The peace officer reasonably believes the juvenile to be a fugitive from justice.
- (4) The peace officer reasonably believes the juvenile is evading the person having legal custody of him.
- (5) The peace officer continues a lawful arrest made by a private citizen.

(b) Notification of Court and Interested Parties. A peace officer taking a juvenile into custody under the provisions of this rule shall immediately notify the juvenile court, the parents, guardian, or custodian of the juvenile and the Department of Health and Welfare, Division of Youth and Adult Authority, of the fact of such custody.

(c) Record of Notification. A written record of the names of the persons notified and the times of notification shall be made and preserved.

RULE 7.

DETENTION OR RELEASE PENDING HEARING - ORDER REQUIRED - INQUIRY -
RELEASE PENDING HEARING - DETENTION - POWER TO DISMISS -
AUTOMATIC RELEASE.

(a) Order Required for Detention or Placement. Any detention or placement in a foster home or shelter pending proceedings under these rules and the statutes must be based upon a court order providing therefor and setting forth the grounds that support such detention or placement.

(b) Detention Inquiry - Reasons for Detention or Placement. No juvenile shall be detained nor may any detention be continued prior to a first hearing of the case unless the court finds at a detention inquiry, which must be held not more than 48 hours after the juvenile has been taken into custody, not excluding weekends and holidays, that:

(1) Detention is necessary to protect the juvenile from others; or

(2) The juvenile will not be available for subsequent court proceedings; or

(3) The juvenile will cause harm to himself or to others if he is not detained.

(c) Subject Matter of Detention Inquiry Limited. The subject matter of a detention inquiry shall be limited solely to the legality of the detention or of the continued detention of the juvenile. The testimony of the juvenile or others on the merits of the petition for adjudication or on therapeutic proposals shall not be heard in connection with the subject matter of the detention inquiry.

(d) Release from Custody Pending Hearing. If after a detention inquiry no reason appears to warrant continued detention under (b) of this rule the juvenile shall be released to the person having lawful custody or to a responsible person,

organization, or agency approved by the court in its order, upon the written promise of the person, agent, or representative of the organization or agency to produce the juvenile before the court at a time specified by the court.

(e) Detention - Placement - Shelter Facilities. Where the juvenile is not released as provided in (d) of this rule, he shall be taken without unnecessary delay to a place of detention, foster home, or shelter designated by the court in its order. Any juvenile taken into custody who requires care away from his home but who does not require restrictive detention shall be given temporary care in a foster home or other shelter facility designated by the court in its order.

(f) Power to Dismiss Always Exists. The juvenile court is not precluded from dismissing a juvenile matter at this or any other stage of the proceedings if the interests of justice and the welfare of the juvenile dictate such action.

(g) Automatic Termination of Detention After 30 Days. Where a juvenile has been detained for a period of 30 days, such detention shall automatically be terminated and the juvenile shall be released forthwith unless at or prior to the expiration of such period the court has made written findings supporting an order for continued detention. The findings shall state the reasons for delaying final adjudication or disposition of the juvenile matter. These findings and the order provided for herein shall be forwarded to the presiding judge of the superior court not later than five days after entry for review and approval.

RULE 8.

THE ADJUDICATION PROCESS - METHODS OF DISPOSITION -
COMMENCEMENT OF FORMAL PROCEEDINGS - PETITION - AMENDMENT.

(a) Methods of Disposition. Juvenile matters are disposed

of by informal adjustment or disposition or, alternatively, by the filing of a petition for adjudication, the holding of a hearing on the petition, and the rendering of an adjudication, which is the basis for a judgment. Where matters are informally adjusted or disposed of such disposition precludes any detention, placement, or physical restraint of the juvenile excepting reasonable and sensitive parental supervision and discipline pursuant to the terms of such informal adjustment or disposition.

(b) Commencement of Formal Proceedings for Adjudication.

Matters not disposed of by informal adjustment or disposition are formally commenced by the filing of a verified petition for adjudication. The petition may be verified on information and belief.

(c) Style of Petition for Adjudication.

The petition and all subsequent proceedings shall be styled as follows: "In the Matter of _____, date of birth _____." It shall contain a caption setting forth the title of the court, the number of the judicial district, and the location of the court.

(d) Contents of Petition for Adjudication. The petition shall include:

(1) The name, address, and occupation of the petitioner, together with a statement of his relationship to the juvenile and of his interest in the matter.

(2) The name, age, and address of the juvenile, and the names and addresses of his parents, guardian, or custodian, if known.

(3) A brief statement of the facts which bring the juvenile within the court's juvenile jurisdiction. Mere conclusions or the reiteration of statutory language are not sufficient.

(4) If any of the facts which are required to exist under these rules or applicable statutes are unknown to the petitioner he shall so state in the petition.

(e) Amendment of Petition. At any time prior to the disposition of a juvenile matter the court may allow a petition to be amended. Amendment shall be freely permitted in the interests of justice and the welfare of the juvenile. The provisions of these rules relating to notice to parties shall be observed when amendment is permitted.

RULE 9.

COURT RESPONSIBLE FOR CAUSING PETITION FOR ADJUDICATION TO BE FILED - WHERE JUVENILE IS IN TEMPORARY CUSTODY - BY DEPARTMENT OF HEALTH AND WELFARE - WHERE JUVENILE NOT DETAINED.

(a) Where Juvenile in Temporary Custody. Where a juvenile has been taken into custody by a peace officer without court order under the provisions of Rule 6 and no petition for adjudication was concurrently filed, the court, upon notification of the detention, may direct any responsible person having knowledge of the facts to immediately file a petition for adjudication.

(b) Petition by Department of Health and Welfare. Where the court has not directed the filing of a petition pursuant to (a) of this rule, the Department of Health and Welfare, Division of Youth and Adult Authority, shall file a petition for adjudication with the court within 24 hours after being notified of the detention, excluding weekends and holidays.

(c) Where Juvenile Not Detained. Where a juvenile matter has not been closed by informal adjustment or disposition and where the juvenile has not been detained, or, if detained, has been released prior to adjudication, it shall be the duty of the court to order the filing of a petition for

adjudication by a competent person or agency without undue delay. Nothing in this rule shall preclude the court from ordering dismissal of the juvenile matter without requiring the filing of a petition if the interests of justice and the welfare of the juvenile so dictate.

RULE 10.

SUMMONS - SUBPOENA.

(a) Issuance of Summons and Order for Hearing. Upon the filing of a petition for adjudication, the court shall order a hearing by the issuance of a summons.

(b) Contents of the Summons. The summons shall require the person to whom it is directed to appear for hearing at a time and place specified by the court therein. It shall contain a statement that the juvenile, as well as his parents, guardian, or ~~custodian~~, have the right to be represented by counsel. A copy of the petition shall be attached to and be incorporated by reference in the summons. In cases where the proceedings could result in the termination of parental rights and the juvenile might be committed to the Department of Health and Welfare for adoption, such possibilities shall be stated. If, after service of summons, it shall appear to the court at any stage of the proceedings that termination of parental rights, not previously considered a possibility and so stated in the summons, may become a possibility, the court shall order an appropriate amendment of the petition and re-summon the appropriate party or parties.

(c) Persons to Whom Directed. The summons shall be directed to the following persons:

- (1) The juvenile.
- (2) The parents or guardian of the juvenile.
- (3) Any actual custodian of the juvenile.

(4) A guardian ad litem, where one has been appointed under these rules.

(d) Subpoena. At the time of issuing the summons, or at any other time, the court may subpoena the parent, guardian, custodian, or any other person whose testimony may be desired by the court.

(e) Compulsory Process. A parent, guardian, custodian, or guardian ad litem appointed by the court hereunder shall be entitled to the issuance of compulsory process for the attendance of witnesses.

(f) Service.

(1) Personal Service. Summons, subpoena, or other process issued under these rules and applicable statutes shall be served within the state by a person authorized to effect service under Rule 4(c), Rules of Civil Procedure.

(2) Service by Registered or Certified Mail. Where prejudicial delay may result from requiring personal service under Civ. R. 4(c), the court may authorize service by registered or certified mail directed to the residence of the person required to appear where such residence is located within the state.

(g) Service by Publication. In cases where termination of parental rights might be ordered, where it appears in an affidavit of due and diligent inquiry that personal service as provided for in (1) and (2) above cannot be effected, the court may by order direct that notice to the person to whom the process is directed be published once weekly during four consecutive weeks in a newspaper of general circulation published in the locality nearest the last known residence of the party to whom it is directed. Prior to the last publication, a copy of the notice and the petition for adjudication shall be sent by registered or certified mail,

with postage prepaid, to the unserved party, addressed in care of such party's residence or the place where such party receives his mail, unless it shall appear by affidavit that such residence or place is unknown and cannot be ascertained after inquiry.

RULE 11.

GUARDIAN AD LITEM - COUNSEL FOR ABSENT PARTIES.

(a) Appointment of Guardian Ad Litem. A guardian ad litem shall be appointed where, in the opinion of the court, the welfare of the juvenile so requires. The petitioner shall not be appointed guardian ad litem.

(b) Appointment of Counsel for Absent Parties. At any hearing in which the severance of the parental relationship between the juvenile and his natural parents is or may be in issue, and the parent or parents, guardian, or custodian have failed to appear after proper service of notice, and it appears to the court that a continuance is not likely to result in the attendance of the non-appearing party, the court shall appoint counsel to represent the absent party or parties. The court shall also appoint a guardian ad litem for the juvenile. The above requirement shall also be applicable in those cases where service by publication was effected under these rules but failed to produce the attendance of the persons to whom it was directed.

RULE 12.

THE JUVENILE HEARING - DELINQUENCY OR DEPENDENCY - PARTIES
TO BE PRESENT - PLACE AND CONDUCT OF HEARING -
ELECTRONIC RECORDING REQUIRED.

(a) Phases of Hearing. The juvenile hearing consists of two phases---the adjudicative phase and the dispositive phase.

(1) Adjudicative Phase. The adjudicative phase determines the issue of delinquency or dependency, or both, according to allegations of the petition for adjudication. These issues may be determined either by the admission or confession of the party or by the taking of evidence.

(2) Dispositive Phase. The dispositive phase consists of the measures taken and the orders issued by the court with respect to the juvenile or his parents, guardian, or custodian, designed to correct any undesirable situation found in the adjudicative phase.

(b) Delinquency or Dependency. The subject of inquiry at the juvenile hearing will be whether the juvenile is delinquent or dependent or both delinquent and dependent.

(c) Parties Whose Presence Is Required. The presence of the following parties is required at the juvenile hearing:

(1) The juvenile.

(2) All persons to whom summons are required to be directed under these rules unless the court in its discretion determines that a continuance for the purpose of securing the attendance of such persons will not be productive of their attendance.

(3) The guardian ad litem, if one was appointed.

(4) Counsel for the juvenile or other parties, if counsel was retained or was appointed.

(d) Place and Conduct of Hearing.

(1) Atmosphere. The court in its discretion may conduct the hearing in the courtroom or in chambers. The atmosphere should be dignified but may be informal and unhurried.

(2) General Public Excluded. Juvenile hearings shall not be open to the general public. The court may, however, in its discretion after due consideration for the welfare of the juvenile and of the public interest, admit particular individuals to the hearing.

(3) Limitations on Court's Power to Exclude Parties.

No party to the hearing shall be excluded from the court during the hearing, except that the court, in the exercise of its discretion and having due regard to the psychological effect of such testimony upon the juvenile, may exclude the juvenile during testimony regarding a parent, guardian, or custodian, or exclude the parent, guardian, or custodian during testimony regarding the juvenile if in the court's opinion the psychological effect of such testimony would be such as to do material harm to the welfare of the juvenile or others. For the purpose of this paragraph testimony shall be taken to include reports and recommendations proffered subsequent to adjudication.

(e) Order of Proceedings.

(1) Opening Address. The hearing shall commence with an informal address during which the petition is read by the judge to the juvenile and the other parties present. The court shall then advise the juvenile, his parents, guardian, or custodian of the nature of the proceedings and the type of disposition that could result.

(2) Right to Counsel Explained. The court shall explain to the juvenile and to his parents, guardian, or custodian their respective rights to counsel as provided for in Rules 14 and 15.

(3) Privilege Against Self-Incrimination Explained. The court shall explain the privilege against self-incrimination as it applies to the juvenile, his parents, guardian, or custodian.

(4) Request for Admission or Denial. If it appears to the court that the juvenile adequately understands the meaning of the privilege against self-incrimination the court may inquire of the juvenile in a delinquency case whether he

admits or denies all or part of the allegations in the petition for adjudication. The judge shall not by his demeanor, conduct, or otherwise convey any indication of how the juvenile should answer.

(f) Electronic Recording Required. An electronic recording of the entire hearing shall be made.

RULE 13.

TESTIMONY TO BE UNDER OATH - EXCEPTIONS - PHYSICIAN-PATIENT
PRIVILEGE INAPPLICABLE.

(a) Testimony to Be Under Oath - Exceptions. All testimony in the juvenile court shall be given under oath or affirmation subject to the following exceptions:

(1) In its discretion the court may permit the introduction of a verified statement prior to hearing concerning the existence of a juvenile matter, the jurisdiction of the court to entertain the matter, or the temporary detention or release therefrom of a juvenile.

(2) In its discretion the court may admit the testimony of a child under the age of 12 years without the imposition of a formal oath or affirmation where the court has reason to believe that the solemnities attending an oath may have an adverse psychological effect upon the child witness. In such cases the court shall first determine that the child knows the difference between truth and falsehood and that he will be guided by his duty to tell the truth.

(b) Physician-Patient Privilege Inapplicable. The testimony of a treating physician or nurse concerning the physical, mental, or emotional state of a juvenile, his parents, guardian, or custodian shall be admitted into evidence, in the court's discretion, where such testimony appears to the court to be relevant to the proper exercise of the court's jurisdiction.

RULE 14.

RIGHT TO COUNSEL - WAIVER OF RIGHT TO COUNSEL -
COURT'S DUTY TO ADVISE.

(a) Right to Counsel. Where a juvenile matter has not been closed by informal adjustment or disposition, the juvenile, his parents, guardian, or custodian shall, upon the filing of a petition for adjudication, be informed of their respective rights to be represented by counsel in all subsequent stages of the proceedings. The court shall advise the juvenile, his parents, guardian, or custodian on the record, of their right to court appointed counsel provided their circumstances qualify them under the provisions of Rule 15.

(b) Waiver of Right to Counsel. If the right to counsel is waived and the court is satisfied that the waiver was intelligently and understandingly made, it shall be accepted. If the court is not satisfied that the waiver was intelligently and understandingly made and the interests of justice appear to so require, it shall appoint counsel unless specifically requested not to do so by the party concerned.

RULE 15.

COURT APPOINTED COUNSEL - WHEN COUNSEL SHALL BE APPOINTED -
DETERMINING FINANCIAL INABILITY - ASSESSING COST OF
PROVIDING COUNSEL.

(a) When the Court Shall Appoint Counsel. The court shall appoint counsel to represent the juvenile, his parents, guardian, or custodian, when the assistance of counsel is desired, as follows:

(1) For the juvenile when he and his parents, guardian, or custodian are financially unable to employ counsel to assist him.

(2) For the juvenile when his parents, guardian, or custodian are financially able but refuse to employ counsel to assist him and it appears to the court that the interests of justice require such appointment.

(3) For his parents, guardian, or custodian when they are financially unable to employ counsel to represent themselves and the issues are complex or have serious consequences.

(4) For the juvenile, his parents, guardian, or custodian in any situation where, in the opinion of the court, the interests of justice and the nature of the case warrant providing the assistance of counsel at the taxpayer's expense.

(b) Procedure When Counsel Requested. Where the juvenile, his parents, guardian, or custodian advise the court that they are financially unable to employ counsel and request the court to appoint counsel to assist them, the court shall conduct the examination and make the determination provided for in (c) of this rule. If the court determines that the one requesting counsel is in fact financially unable to employ counsel and that he qualifies for the appointment of counsel under (a) of this rule, the court shall appoint counsel to represent him.

(c) Determining Financial Inability to Employ Counsel - Examination - Criteria.

(1) Examination as to Assets and Liabilities. For the purpose of determining whether a party is financially unable to employ counsel the court shall examine him under oath and on the record with respect to his real and personal assets and liabilities, including cash, accounts receivable, accounts payable, income from salary, wages and other sources, ability to convert assets into cash or credit which could be utilized, directly or indirectly, for the payment of counsel fees and as to any other relevant aspect of his economic status.

(2) Criteria for Making Determination. If it appears to the court that the party does not have the money to employ counsel, or does not have assets which could be liquidated or pledged to raise the money to employ counsel, or, that the obtaining of money by the liquidation or pledge of assets or the use of income would result in depriving the party or his dependents of food, clothing, or shelter, then the party may be adjudged to be financially unable to employ counsel.

(d) Costs of Counsel May Be Assessed. Where the court appoints counsel under the provisions of (a)(2) of this rule it may, where appropriate, assess as costs against the parents, guardian, or custodian, the cost to the state of providing such counsel.

RULE 16.

ADMISSIONS ADMISSIBLE IN EVIDENCE.

Uncoerced extra-judicial admissions of parties or witnesses are admissible in evidence but are to be received with caution.

RULE 17.

HEARSAY EVIDENCE NOT ADMISSIBLE IN ADJUDICATIVE PHASE - MAY BE ADMISSIBLE IN THE DISPOSITIVE PHASE.

(a) Adjudicative Phase. Hearsay evidence is not competent to establish the act of delinquency or the condition of dependency in the adjudicative phase of the hearing unless admissible under a recognized exception to the hearsay rule. Written social agency reports and police reports are hearsay and shall not be admitted or submitted prior to the judge's written finding of the act of delinquency or condition of dependency.

(b) Dispositive Phase. In the dispositive phase such

evidence and reports may, in the discretion of the court, be employed to accomplish a fair and proper disposition of the matter.

RULE 18.

CERTIFIED COPIES OF COURT ORDERS OR JUDGMENTS ADMISSIBLE.

Certified copies of court orders or judgments shall be admissible as competent evidence of the facts contained therein.

RULE 19.

ABANDONMENT.

A finding of abandonment of a juvenile as defined by statute may be made by the court only after the court has determined that adequate notification was given and only upon receipt of an affidavit of due and diligent inquiry where personal service upon the proper parties was not effected. If the court is not fully satisfied that the proof of inquiry is sufficient under the circumstances of the case it may by order direct that further action be taken to effect adequate notification.

RULE 20.

EXAMINATION AND DISCOVERY BY COURT.

Where in any phase of a proceeding the court believes that the evidence has not been fully developed and is insufficient to support a disposition or adjudication, it may, in its discretion, inquire by direct or cross-examination, or re-inquire of any witness, or subpoena additional witnesses, or order the discovery of any other evidence, or it may grant

an appropriate continuance, pursuant to Rule 22(b), for the purpose of effectuating any of the foregoing purposes.

RULE 21.

STANDARD OF PROOF - ORDERS ON ADJUDICATION OF DELINQUENCY,
DEPENDENCY, AND FAILURE OF PROOF.

(a) Standard of Proof. The fact of delinquency and dependency shall be proved by a preponderance of the evidence.

(b) Delinquency. Where, after hearing, the court finds the juvenile to have committed one or more of the acts alleged in the petition the court may in its discretion:

(1) Issue an order that the matter be held in abeyance for a stated period of time not to exceed one year and may at the expiration of this period of time dismiss the case if the interests of the public and the welfare of the juvenile will thereby be promoted.

(2) Issue a judgment of delinquency based upon and accompanied by written findings of fact.

(c) Dependency. Where, after hearing, the court finds the juvenile to be dependent, it shall issue a judgment of dependency based upon and accompanied by written findings of fact.

(d) Failure of Proof. Where, after hearing, the court finds that the allegations of the petition alleging delinquency or dependency have not been proved by a preponderance of the evidence, the court shall dismiss the case, seal all files and records thereof, delete all reference to the case from any docket, register, or index, and forward by certified or registered mail such sealed files and records to the presiding judge of the superior court for the appropriate judicial district. Thereafter no person or agency shall have access to such

sealed files or records, or names connected therewith, except upon the order of the presiding judge upon good and sufficient cause shown upon a hearing on the record.

RULE 22.

DISPOSITION ORDERS - FINDINGS OF FACT - EXAMINATION OF PARTIES -
TERMS AND EXPENSE OF DISPOSITION.

(a) Immediate Order. Where, upon conclusion of the adjudicative phase of the hearing, the court finds that it has sufficient information available upon which to predicate an effective disposition of the case it shall order such disposition in the manner provided for in this rule.

(b) Deferred Order. Where the court finds that it does not have sufficient information upon which to predicate an effective disposition of the case it shall continue the hearing for the purpose of acquiring additional information through reports of social agencies or otherwise. The hearing may be continued for a reasonable time not to exceed 30 days.

(c) Temporary Order. Detention Thereunder. Where a continuance of the dispositive phase of the hearing is ordered as provided for in (b) of this rule, the court may enter such temporary order as in its discretion seems proper under the circumstances, having due regard for the welfare of the juvenile. Detention in a security institution may be provided for under a temporary order as provided herein only where such detention appears as a matter of record to be necessary for the protection of the juvenile or others.

(d) Findings of Fact. In all orders of disposition, including temporary orders, the court shall provide written findings of fact supporting the disposition ordered.

(e) Medical, Psychiatric or Psychological Examination.

If, after an adjudication of delinquency or dependency it appears necessary to the court, in determining a proper disposition, to have before it the findings or reports of a qualified medical, psychiatric, or psychological practitioner, the court may order the required examination of the juvenile and may also order the examination of any non-juvenile party to the proceeding consenting thereto.

(f) Terms, Conditions, Duration of Placement. Every order of the court placing the physical custody of the juvenile in any person or agency other than his parent, guardian, or custodian shall specifically state the terms, conditions, and duration of such placement.

(g) Expense of Disposition. Every commitment or placement of a juvenile delinquent or dependent shall, where practicable, be at the expense of the parent, guardian, or custodian of the juvenile according to the ability of such persons to assume said expense. The court shall by order provide for the payment of such expense and where feasible obtain a written recognition of this obligation from said persons.

RULE 23.

ADJUDICATIONS, ORDERS, AND DISPOSITIONS INADMISSIBLE.

No adjudication, order, or disposition of a juvenile case shall be admissible in a court not acting in the exercise of juvenile jurisdiction except for use in a presentencing procedure in a criminal case where the superior court, in its discretion, determines that such use is appropriate.

RULE 24.

RESTRICTION ON FINGERPRINTING, PHOTOGRAPHING.

No juvenile shall be fingerprinted or photographed

while in custody except with the consent of the juvenile court upon good cause shown. Such cause exists where the juvenile is in custody for a serious offense against persons or property or where identification of the juvenile appears necessary for the safety of the juvenile or others.

RULE 25.

LIE-DETECTOR TESTS.

No lie-detector test shall be administered to any juvenile unless authorized by a court order reciting the circumstances which appear to justify such order. No court shall issue such order unless good cause therefor has been shown and the written consent of the juvenile and his parent, guardian, or custodian has first been obtained.

RULE 26.

NAMES AND PICTURES OF JUVENILES NOT TO BE MADE PUBLIC.

The name or picture of a juvenile under the jurisdiction of the juvenile court shall not be made available to the public unless authorized by court order accompanied by a written statement reciting the circumstances which support such authorization.

RULE 27.

JUDGE'S RESPONSIBILITY CONCERNING CONDITIONS OF DETENTION -
VISITATION - CLOTHING - EXERCISE - RESTRICTIONS ON CONFINEMENT -
PRIVACY FOR CONSULTATION WITH COUNSEL.

(a) Responsibility. It shall be the duty of every judge exercising juvenile jurisdiction to ascertain to the fullest extent possible that the following conditions of detention of juveniles are observed by the appropriate authorities:

(b) Visitation. Where necessary, jail regulations should be relaxed to enable the parents, guardian, or custodian of a detained juvenile to unhurriedly visit the juvenile through personal contact without the intervention of physical barriers and without the immediate presence of an officer of the detention facility. A juvenile should not, however, be forced to visit his parents, guardian, or custodian in the absence of a court order so requiring. Parents, guardian, or custodian should be permitted to visit the juvenile immediately after his apprehension, regardless of the hour, when accompanied by an officer of the detention facility.

(c) Clothing. The wearing of prison clothing shall be confined to the detention facility. Otherwise normal attire shall be worn.

(d) Exercise. Detained juveniles shall be given reasonable opportunity to participate in healthful physical activity and shall have access to suitable reading matter including school books.

(e) Confinement. Two juveniles shall not be placed in a room or cell apart from others. Punitive segregation in solitary confinement shall not be employed.

(f) Private Visitation for Counsel. Counsel for the juvenile shall have the right of visitation and private consultation at any reasonable time.

RULE 28.

REVIEW OF JUVENILE ORDERS BY COURT - ANNUALLY - ON APPLICATION -
PRESENCE OF JUVENILE - ORDER AFTER REVIEW.

(a) Annual Review. Excepting orders terminating parental rights the juvenile court shall annually review its effective orders. The court may review its orders more frequently to determine whether such orders continue to be in the best interest of the juvenile or the public.

(b) Review Upon Application. For good cause shown the juvenile, his parents, guardian, or custodian are entitled to review at any time upon application therefor.

(c) Presence of Juvenile. The juvenile has the right to be present at such review if his substantial rights may be affected.

(d) Orders on Review. The court shall enter an appropriate order upon the completion of each review.

RULE 29.

APPELLATE REVIEW - GOVERNED BY MAGISTRATE RULES OF CIVIL PROCEDURE -
GROUNDS NOT SPECIFIED MAY BE CONSIDERED - BAIL NOT REQUIRED -
FINDING THAT ACTS OF DELINQUENCY NOT COMMITTED NOT APPEALABLE.

(a) Magistrate Civil Rules Govern. An appeal from or review of an adjudication or order of disposition may be taken by the juvenile, his parent, guardian, custodian, or any party to a proceeding in the manner provided in Part III of the Magistrate Rules of Civil Procedure.

(b) Grounds Not Specified May Be Considered. The appellate court may, in its discretion, consider any ground for appeal coming to its attention even though not specifically urged by the appellant.

(c) Bail or Supersedeas Not Required. No bail, supersedeas, or cost bond shall be required of any party to a juvenile proceeding or appeal.

(d) Finding That Delinquent Acts Not Committed Not Appealable. Neither the petitioner nor an agency of the state may appeal from a finding that the juvenile did not commit the act or acts of delinquency alleged in a petition for adjudication.

RULE 30..

STAY OF EXECUTION OPTIONAL.

Pending appeal or review the court may enter an order staying execution of its disposition if the need or desirability of a decision on appeal appears to outweigh the need for immediate execution of the court's disposition. The welfare of the juvenile concerned shall be the persuasive factor in determining whether to grant a stay of execution on appeal.

RULE 31.

CITIZENS ADVISORY BOARD - PRESIDING JUDGE OF JUVENILE COURT
TO APPOINT - BOARD'S FUNCTION - JUVENILE JUDGE TO WORK WITH BOARD.

(a) Presiding Judge to Appoint. The presiding judge of the court exercising juvenile jurisdiction shall appoint citizens to serve as members of a citizens advisory board on juvenile matters.

(b) Board's Function. The board shall serve as friend of the juvenile court in making studies of individual or group cases of anti-social behavior referred to it by the juvenile judge and shall determine in such cases what factors produced the attitudes, conduct, or behavior complained of. It shall give its advice on plans or programs to curb delinquency or dependency of juveniles and to train juveniles in good citizenship.

(c) Juvenile Judge to Work With Board. The judge shall work with the board in the study, development, and guidance of appropriate public programs to prevent the existence of factors creating delinquency or conditions of dependency among juveniles.

RULE 32.

LEGAL EFFECT OF RULES - STATUTES SUPERSEDED.

These rules are promulgated pursuant to constitutional authority granting rule making power to the supreme court. To the extent that they are inconsistent with any procedural provisions of any statute not enacted for the specific purpose of changing a rule, these rules shall supersede such statute to the extent of such inconsistency.