

"You've Been Arrested...?"
What the Family Needs to Know
What the Family Can Do

(This booklet was prepared for people living in Illinois but contains information valuable to people everywhere)

Introduction

When someone you love is arrested, the whole family is affected. This book is written to help you through the "system" of the legal process and, if necessary, through the transition to prison visiting.

You are not alone. Other families have survived this trauma. These families have now written portions of this book and contributed their opinions to the entire manual. Other writers are lawyers and people in prisoner and family ministry who gave their time to write because of their concern for you and their hope that this information will help and strengthen your family. You are not alone.

"I will never leave you or forsake you."

Hebrews 13:5 (NRSV)

How To Use This Book

After you have read this book, give it to a family who needs the information. The writers give their permission to print any portion or the entire book.

To Those Distributing This Book

The book may be distributed by the sheriff's department, public defenders, local clergy, or anyone who would have contact with the family of an arrested person.

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Table of Contents

Chapter 1 Arrest

1. First Police Contact
2. Miranda Warnings
3. What's Left Behind
4. Booking
5. Non-Felonies and Recog Bonds
6. Phone Calls

Chapter 2 Bail

1. Bail Versus Bond
2. Bail
3. Property Bond
4. Credit Cards
5. Assignment Of Bail
6. Felony Bail
7. Bail Determination Factors
8. Unusual Bail Options
9. Bail Restrictions
10. Bond Reductions
11. After Bond Release

Chapter 3 Courts

1. Family Involvement
2. Investigations
3. First Appearance And Public Defenders
4. Public Defender Or Private Counsel?
5. Public Defender Eligibility
6. Finding Private Counsel
7. Preliminary Hearing
8. Arraignment

9. Pre-Trial Motions
10. Negotiated Pleas
11. Trial
12. Sentencing

Chapter 4 Juvenile Court

1. Arrest
2. Detention Hearing
3. Unique Nature Of juvenile Courts
4. Legal Counsel
5. Juvenile Department Of Corrections
6. Role Of The Family

Chapter 5 What Happens Next?

1. Going To Reception And Classification Centers
2. Department Of Corrections
3. Hospitality Sites
4. Visiting At A Department Of Corrections Facility
5. Family Concerns
6. Visitation Check List
7. Searches Of Person And Car
8. Your Attitude Will Make A Difference
9. Taking Care Of Yourself
10. Spiritual - A Prayer
11. Financial
12. Visiting Expenses
13. Relationships And Prison

Chapter 6 Children And Prisons

1. Children's Concerns
2. Children And Visiting

Chapter 1 ARREST

FIRST POLICE CONTACT

Lawful arrests cannot begin with police officers simply choosing to hassle an innocent victim for no reason. Even an officer's suspicion of wrongdoing isn't enough for the police to stop a suspect, not even an articulatable suspicion (one based on more than a simple intuitive hunch, that can be explained in words) is enough. But combine an articulatable suspicion with reason, and you have all that is necessary to begin the arrest process. To stop or detain a suspect, the police must possess a reasonable articulatable suspicion that the arrestee has committed or is about to commit an unlawful act. If such a suspicion exists, next follows probable cause -- the confirmation of the suspicion, or the discovery of a criminal offense -- after the initial police contact.

If time permits, the wise officer will appear before a judge to explain his opinions regarding reasonable suspicion and probable cause to obtain an arrest or search warrant. But such warrants are not necessary in all circumstances and are not sought when the police fear that evidence, or a criminal, might vanish if time is taken to obtain a warrant.

Whether arrested by probable cause or by warrant, the next step is the beginning of police custody -- the point at which the arrestee's freedom is taken into the hands of the arresting officer and law enforcement agency. He will be handcuffed, placed alone in the back seat of a squad car, and transported to jail. It is important to understand that even during an illegal arrest, it is unlawful to disobey the arresting officer. Immediately upon his arrest, Miranda warnings are usually given.

MIRANDA WARNINGS

Many clients think they are armchair attorneys, and that they can chant "Miranda" to win a dismissal of their cases. You surely remember the line from old "Dragnet" reruns: "You have the right to remain silent. Anything you say can and will be used against you in a court of law. You have the right to legal counsel during questioning. If you cannot afford an attorney, one will be appointed to represent you at no expense to you." Miranda is a protection against custodial interrogation without the presence of legal counsel.

If the police do not need any information from the arrestee to make their case, they sometimes choose not to provide Miranda warnings at the moment of arrest. The bare absence of Miranda

warnings is not necessarily fatal to the case against the arrestee. Miranda warnings are eventually given to nearly every arrestee at some point during custody so the defendant will know that he has the right to legal counsel. If the police want to get a statement to be used against the arrestee, or if the arrestee begins talking on his own, providing information about the alleged offense, Miranda warnings are nearly always given.

So if you are at the scene of the arrest, and you see someone taken into custody without being informed of his Miranda rights -- relax. Chances are that the warnings will be read later. But it is always important that you take notice of all the aspects of any arrest, write down the names of anyone present who witnessed the arrest, and keep notes of everything that happened. Let the attorneys worry about the value of whatever information you collect.

WHAT'S LEFT BEHIND

If you're not present at the arrest, you might be given the responsibility of collecting anything the arrestee may have been required to leave behind because of his custody. Children in the care of the arrestee at the time of arrest are usually sent to a family member or responsible adult of the arrestee's choice. If no such caretakers are available, the children will be placed in the temporary custody of the Department of Child and Family Services who will attempt to locate a family member to care for the kids.

If the arrest followed a traffic stop, the arrestee's automobile will be impounded and taken to the arresting agency to be searched, or sent to the county impoundment lot to be held until towing fees are paid. Don't let the car remain at the impoundment lot any longer than necessary. If the arrestee has the legal right to the return of his automobile, and you know either he will want it returned to his possession or to the possession of someone of his choosing -- get the vehicle out of storage as soon as possible! The storage fee gets bigger each day it is impounded. Too many arrestees lose the title to cars, not because the police keep the vehicle, but because after a few weeks, the storage fee may exceed the value of the car, so owners simply abandon the vehicle.

BOOKING

The booking process, or the registration of the arrestee at the police station, is very similar to what you have seen on television. The arrestee is fingerprinted, photographed, his belongings are stored, and he is clothed in a jumpsuit and sandals.

Routinely, either at the scene of the arrest, or at the station during booking, the police will run a warrant check on the arrestee (print his name into a computer to determine if there are any unserved arrest warrants in his name). If a warrant or warrants are found, he will be held not only for the charges that arise from the arrest, but also for any charges previously filed in any other city, state, or county.

NON-FELONIES AND RECOG BONDS

If the arrest was for a non-felony offense (a misdemeanor, or petty offense) the police can either issue a notice to appear to the arrestee, or set bail based on a statutorily prescribed amount (the police look up the amount of bond required by reading a law book). Only a judge may issue a recognizance bond for a criminal offense. Recog, or I-bonds, involve a judge releasing the arrestee, upon his promise to return to court at a specific date and time, and his signature on a legal document in which he promises to pay a certain sum if he fails to appear. Such a bond requires no money to be paid for the defendant to get out of jail. Felony arrestees must appear before a judge to have bond set.

PHONE CALLS

Police will permit the defendant to make a phone call to a lawyer for legal advice, or to a family member, or friend to inform him of the arrest. Although one phone call may be all that is permitted, cooperative arrestees may be permitted several calls, at the discretion of the arresting officer. Once jailed, the defendant can only make collect calls, usually only at times of the day determined by the jailers. Don't expect to be able to call the jail to talk to the defendant. You'll have to wait for his call, so keep the line open, and expect a collect call. Be aware that anything you say on the phone to someone in jail may be overheard by the wrong person. Leave sensitive matters to be discussed with the defendant's lawyer.

Chapter 2 BAIL

BAIL VERSUS BOND

Think of it this way: "His word is his bond". A bond is a promise, a guarantee. Bail is usually thought of in a phrase such as "He bailed out of jail today." Bail is the money that must be posted, or paid, to get out of jail. Bond is the promise to pay if the defendant fails to appear at a court date.

Don't panic when you hear that is set at \$20,000. Bond is always ten times as great as the sum of cash necessary to bail out of jail. In this example, bail necessary for a \$20,000 bond would be \$2,000. Bail is 10% of bond.

BAIL

After the police have booked the arrestee, a decision as to the appropriate bail amount will be made. Technically, if the arrestee fails to appear at any court dates, he is responsible to pay the full amount to the county -- the bond -- should the State's Attorney choose to pursue the legal issue. But the full amount is seldom sought. Bail is also a prepayment of any fines and costs charged to the defendant in the case where the bail is posted.

Bail must be posted by cash. Don't expect to write a personal check, they won't accept it.

PROPERTY BOND

A property bond is posted when a defendant signs over interest in real estate or personal property, instead of posting bail. The interest signed over, though, is not bail -- it is bond. If you understand the distinction between bail and bond, you know that in the case of a \$20,000 bond, the defendant can either post \$2,000 cash bail, deposit stocks and bonds in an amount equal to the bond or unencumbered, non-exempt equity in real property equal to double the amount. But remember, if the defendant skips town and fails to appear at a court date, the property held as bond becomes the property of the county. 4 You probably shouldn't even consider property bonds except in a very unusual situations, and even then, only with the guidance of an attorney. Practically speaking, anyone with \$20,000 of property could get a loan for \$2,000 using a proportion of the property as collateral, and post the loan as bail. With the \$2,000 loan, if the defendant fails to appear, the loss of bail is only the \$2,000.

CREDIT CARDS

Yes, believe it or not, in certain counties you can use your credit card to post bail. Check with the Sheriff's office or the Circuit Clerk for details.

ASSIGNMENT OF BAIL

Should the defendant be unable to raise cash on his own, he will probably try to convince a friend, employer, or relative to provide the cash to "spring him from the joint". That person may want a guarantee that once the case is over, and the bond is released, that the bail money will return to that provider. The local law enforcement officials will be happy to arrange for the provider of bail to sign a bond assignment form. The form will lead that person to believe that he will get his cash back once this whole mess is over -- WRONG!

Think of it this way: When you sign a bond assignment agreement and post bail, you're not loaning someone money with a promise that it will be returned when the case is closed. What you are doing is depositing money into the defendant's credit account with the county for a specific case number. If the defendant owes the county money, it will come from the account in his name, no matter who actually put the money in HIS account -- it's no longer YOUR account.

If you sign a bond assignment agreement form, don't expect to get your money back unless the defendant is found not guilty. Even with a not guilty verdict, the County will keep ten percent of the posted bond as a processing fee. If after the payment of any fines, costs, restitution, and processing fees, there is any bail left after the closing of the case, the remaining money does not go to the defendant. It is returned to the signer of the bond assignment agreement.

FELONY BAIL

If the arrest was charged as a felony, bond will not be set at the police station on the night of the arrest. The arrestee will be required to spend the night in jail until sometime, usually the next day, when he will appear before a judge who will hear the facts and set bond.

At this appearance before the judge the defendant will not be given the right to court appointed counsel. He will be given the right to future court representation, but is seldom appointed a Public Defender for the first appearance process. The State's Attorney will tell the judge what crime is

alleged, tell him about the defendant's record, and the judge will choose the appropriate bond amount. If the defendant speaks up and gives the judge a reason, he might set bond lower than the amount requested by the State's Attorney. If the defendant speaks up and says the wrong thing, the State requested amount can be increased, or the defendant can be charged with contempt, or maybe further charges arising from the original incident. Anything said in court is fair game for the prosecutor to use to amend present charges or file further charges against the defendant or those who speak up in his behalf.

At the bond reduction hearing, private counsel can participate, but because no Public Defender is available, defendants usually appear without counsel. The States Attorney explains to the judge why this particular offense warrants a particular bail, and recites the defendant's criminal and arrest record to the judge. The defendant will be given a chance to respond to the recommendation, but usually the State's Attorney gets the bail he suggests.

BAIL DETERMINATION FACTORS

The judge considers the severity of the offense and the defendant's criminal record when deciding how high to set bail, but certain other factors are available to suggest lower bails. Among these are:

1.) **Defendant's period of residence in the area.** If he has been a lifelong resident of the County, his bond may be reduced based upon the expectation that the defendant is unlikely to move away during the criminal case.

2.) **Defendant's ties to the area.** If he has many family members in the area, he may be considering the effect on his family should he flee the jurisdiction, and if he does, he'll probably return sometime, and be rearrested.

3.) **Employment history.** The guy with the same job all his life is unlikely to voluntarily leave that job because of the criminal charges.

4.) **Property in the area.** Defendants with financial ties to the area can usually be depended upon to remain here to care for their property.

5.) **Financial obligations.** Defendants whose flight from the jurisdiction would result in foreclosure of a mortgage, or default on a loan, have great incentive to comply with the terms of bail.

6.) **Family dependants.** Likewise, if others depend upon the defendant for their support, flight is unlikely.

7.) **Special circumstances.** Such as family members with extraordinary medical needs or hospitalized immediate family members.

If you get the opportunity to visit with a jailed loved one before the bail hearing, go over this list with him. Remember that there will be no attorney to speak for the defendant unless private counsel has been retained and can get to court before the first appearance. If the bond amount requested by the State's Attorney is excessive, the defendant may be given the right to respond to the State's request for bond. Often, a concerned family member in the audience who respectfully asks the judge for the opportunity to address the court, might be permitted to help the defendant explain his financial predicament to the court. The judge needs information to believe that the defendant is solidly committed to the community and will not flee the jurisdiction if released on bail. Tell the judge every reason you can for him to release the defendant if you are given the opportunity to speak in the defendant's behalf -- but say nothing to incriminate him about this arrest or any other, and be respectful!

UNUSUAL BAIL OPTIONS

A few unusual bail options may be available in certain circumstances, but plan on pursuing these options with the help of legal counsel:

"Periodic imprisonment" is a plan by which prisoners are released from jail, usually to continue pre-arrest employment. The law can permit such periodic prisoners to care for family, to go to school, or to pursue other approved activities away from jail. When not involved in the approved activity, the prisoner will be required to be in jail. Transportation is not provided by the county for such activities, and if the prisoner earns a salary, he may be required to reimburse the county for his incarceration expenses.

"Home confinement" requires that the prisoner serve his jail time at his home, instead of jail. Such prisoners spend nearly 100% of their jail time in their home, and are not permitted to leave except under extraordinary circumstances.

"Electronic monitoring" is similar to home confinement, except that the prisoner is required to rent an electronic bracelet worn on the wrist or ankle. The bracelet is not removed without the permission of the court because it transmits information to the prisoner's telephone that verifies whether he is actually at home through random telephone transmissions. This plan can usually permit the prisoner to leave his home for work, school, or doctor's appointments, if approved by the court. Electronic monitoring is very expensive, and must be paid for in advance.

BAIL RESTRICTIONS

If the inmate is fortunate enough to be released from jail before his trial, certain requirements must be complied with, or he returns to jail immediately. Bailed defendants are required to keep their address current with the local Circuit Clerk, and not to leave the State of Illinois without previous permission from the court. He is required to refrain from any further violations of the law, and to appear at any scheduled court dates. If the facts of the offense so warrant, defendants may be required to abstain from drinking alcoholic beverages, spending time in bars or liquor stores, or to agree to have no contact with alleged victims of the charged offense.

BOND REDUCTIONS

When the court sets bond (and bail), the amount can be reduced later. If an attorney files the appropriate motion and can convince the court usually of information not presented when bail was originally set, the court can reduce bail. If a request for bond reduction is denied by the judge, don't expect him to change his mind later unless the defendant presents important new reasons to be released.

AFTER BOND RELEASE

The first thing you can do for your loved one upon his release from jail is to help him sit down, and write out exactly what happened during the arrest, and the events leading up to the arrest. Record all names, times, and everything that can be remembered about the incident. Your memories will never be fresher, so it is to the defendant's advantage to write everything down as soon as

possible. You never know what sort of a detail could be the straw that breaks the camel's back of the State's case.

Chapter 3 COURTS

FAMILY INVOLVEMENT

Now that you have a loved one involved in the court process, there are certain rules, written and unwritten, that apply to you, too. The number one thing to understand is that it is your obligation to do nothing that will harm the defendant's chances of success if you want him to win in court. It is usually good advice for you to remain a nameless spectator as you view the workings of justice, but your emotional involvement, and your personal stake in the outcome will drive you to the verge of decisions that could ultimately hurt the one you most want to help.

Under no circumstances -- EVER -- should you talk to the judge or prosecutor without the full knowledge and permission of the defendant's attorney! I don't care how important you feel the information is that you want to convey, or how urgent you feel the message is. Never, ever take the chance. Why, you ask? I remember one case I had years ago, when through court scheduling, my client was fortunate enough to have his charges docketed before the one judge I believed would find him innocent of all charges. As a result of a well-meaning family member who called the judge one night at home, the defendant went to prison. The judge correctly concluded that the phone call affected the judge's impartiality, so he was obligated to remove himself from the case. Next the "hanging judge" was appointed, and we lost the trial.

I have also heard of family members calling the State's Attorney's office to plead for mercy for defendants -- calls that provided the State with leads to further information that was used against the client. From beginning to end, a criminal trial is a complicated series of hundreds of decisions, that must be made by the person with the most information at her disposal -- the defense attorney. There should be one person designated to make all necessary decisions in a matter so important as one's freedom. Those decisions can and must be made as a result of the advice, input, and consultation of all interested parties. If the family or defendant doesn't like the attorney's decisions, get another lawyer, but everyone must work together with one leader.

Contacting State witnesses can result in felony charges against family members who have their intentions misinterpreted. At a minimum, even without further charges, such contacts might become an issue at trial if introduced into evidence. Don't risk providing the State with any more evidence that can be used against the one person you want to help most!

INVESTIGATIONS

One role that can be filled by anxious family members and supporters is that of investigator. Attorneys are busy, expensive resources that should be used in their most productive role, acting as lawyers. Although private investigators can be hired to discover information to help build a defense, family members are quite often the most important resource for investigations. Families are most familiar with the defendant's habits, circle of friends and movements, the many diverse items that when disclosed and woven together, create reasonable doubt, or help prepare a defense. Designate one family member or friend with the most time to talk with the defendant, solicit his permission, then ask the defense attorney if there is anything that can be done to help collect information to provide a defense.

FIRST APPEARANCE AND PUBLIC DEFENDERS

The first appearance the defendant will make before the court is called, believe it or not, the "first appearance". He will appear before a judge that day and tell the judge whether he intends to hire an attorney, intends to represent himself without an attorney, or to have an attorney appointed to represent him at no charge. If he chooses to obtain a free attorney, the judge may consider the appointment of the local Public Defender. A Public Defender is a law school graduate attorney who is salaried by your county to represent defendants who cannot afford to hire private attorneys in certain criminal matters.

The Public Defender has all the same qualifications as any other attorney. Because of the unique nature of his work, he has an extraordinary case load--a factor which can be good or bad for clients. If the case is one which will require a great amount of research, or investigative work, a private attorney may do a better job. If the case requires an attorney who has his pulse on the court system, who knows all about a particular judge and the State's Attorney, the Public Defender may be the best qualified attorney.

PUBLIC DEFENDER OR PRIVATE COUNSEL?

If the defendant is eligible for the appointment of a Public Defender, he and his family will have to make one of the most important decisions to be made in the course of the criminal proceedings: whether to spend maybe thousands of dollars of life savings on hiring an attorney, or to accept the appointment of a Public Defender. If the defendant clearly has the assets at his disposal to hire

private counsel, the Public Defender's appointment will be denied. Many families though, have financial resources available from the extended family even when the defendant has none.

Usually there is some family member that can provide the funds to hire private counsel, if the defendant and his family so choose. So how then do you decide whether to spend the money to hire an expensive attorney? There's no other way to put it than to make a dispassionate cost/benefit analysis. Coldly calculate all the variables in the decision: the appointed Public Defender's reputation, personality, experience, and views of the case; local private attorneys' similar attributes; the probability of success with private counsel and with the Public Defender (is there any reason that throwing money at the case will give your loved one a better chance of an acquittal?); will the case involve a negotiated plea that will in essence be dictated by the State's Attorney?; is the defendant clearly guilty?; is the investment in high price counsel truly a better investment than the Public Defender?

As I have suggested, you should coldly calculate these factors like an accountant, and if necessary, be guided by your rationality, and not your heart. If you invest your life savings to hire private counsel that loses the case, you might lose not only your family member to prison but also your home, retirement savings, or your children's college money. At this most important time, consult with as many people as you can. Seek counseling from those you trust.

PUBLIC DEFENDER ELIGIBILITY

Public Defenders are only appointed in criminal matters that involve the defendant being in jeopardy of jail time. If the charge involves no possibility of jail time, or if the State's Attorney waives any recommendation of jail time, no Public Defender will be appointed. In order to be appointed a Public Defender, the judge will ask the defendant if he wants to be represented by legal counsel in the case, and if he can afford to hire private counsel. If he can't afford to hire a lawyer, the judge may offer the services of the Public Defender. The judge will inquire about income, family size, and assets. If he's convinced that the defendant doesn't have enough money to pay a private lawyer, or cannot get the cash to pay an attorney's retainer, the judge will probably appoint a Public Defender. In borderline cases when the judge believes the defendant can afford to pay something for the Public Defender's work, the judge may warn you that when the case is over he may assess the defendant a fee for the Public Defender's work.

FINDING PRIVATE COUNSEL

In any criminal defense, there is one boss, and one leader -- no, it's not the attorney -- it's the defendant. Most attorneys recognize who the boss is. They work for the client, and the client has responsibility for making nearly all the significant decisions regarding the direction of the defense. Remember that when looking for an attorney. Even if it is your cash that will pay for a lawyer, the defendant is whose freedom is on the line, the defendant is who will guide the attorney, and it is the defendant who will have to spend long stressful weeks or months working with the attorney. The defendant should choose the attorney, not you.

It's seldom that a jailed defendant can contact an attorney and hire him over the phone. The defendant's support system outside the jail usually contacts an attorney, sets up a consultation with the defendant, and provides retainer payments.

There is no one perfect method to be used to choose an attorney. Depending on the facts and resources of each individual case, anyone or combination of the following methods listed below can be useful to at least narrow the field down to a handful of attorneys who are right for your loved one's case:

- 1.) **Resources** -- Decide how much money from all available sources can be invested in the defense. This decision may narrow down the field of prospective attorneys significantly.
- 2.) **Yellow Pages** -- Usually an attorney qualified and experienced in criminal defense will declare his area of specialization in the phone book.
- 3.) **Word of mouth** -- Ask around of the people whose opinions you respect, and get several names of attorneys they would recommend, and perhaps more importantly, inquire as to why they recommend those attorneys.
- 4.) **Lawyer Referral Services** -- At least to determine which attorneys practice criminal law, such services can be of use where available.
- 5.) **Enter the Legal Inner Circle** -- find a friend who works at the courthouse, works for a lawyer, or who is a friend of a lawyer, any lawyer, whether a criminal lawyer or not. Get someone

connected with an attorney either by friendship or employment to drop your name to the attorney for a referral, or an appointment with the lawyer for a referral.

PRELIMINARY HEARING

The preliminary hearing (or prelim) is a hearing to determine if based on the State's evidence, there was an offense committed, and if the defendant was sufficiently connected with the commission of that offense to be held over for trial (either in jail, or on bond). Probably 95 out of 100 prelims are won by the State. It is a sort of a mini-trial before the judge (no jury) in which usually the arresting officer reads the police report. Seldom are other witnesses called, and hearsay is permitted. Even if the prelim is won by the defense, and the defendant is released, the State still has the option to take the evidence to a grand jury for indictment based on the same evidence.

ARRAIGNMENT

At the arraignment, the defendant will appear before the court with his attorney to enter his plea of either not guilty, or guilty. Even if there will ultimately be a strategic plea of guilty, or the acceptance of a negotiated plea, seldom if ever will the defendant plead guilty at the arraignment stage. Guilty pleas can be entered at any later time in the course of the trial.

Usually at arraignment the defendant will request a jury trial. That decision too can be changed later. A jury is a group of twelve people from the community that decide whether a defendant is guilty or innocent. If there is no jury trial, a bench trial is chosen. A bench trial involves the judge only, without a jury, deciding upon the question of guilt.

After these two matters are determined at arraignment, the attorneys and the judge will set the case for its next hearing.

PRE-TRIAL MOTIONS

Depending upon the complexity of the charges and defense, there may be several hearings set before the actual trial of the case. Many cases are won or lost at the hearings before the actual trial begins. The judge may have to decide certain issues before he can determine if the defendant

is guilty, like: whether to admit certain evidence, whether to appoint a different judge, or whether to move the trial to another city.

NEGOTIATED PLEAS

Maybe the only thing everyone agrees about negotiated pleas, is that no one likes them. But that is their greatest value. Nearly everyone who accepts a negotiated plea, says they didn't commit the crime they are pleading to, but pleas are the usual end to the criminal process.

Negotiated pleas are attractive to State's Attorneys because they guarantee a conviction and usually a sentence to prison in serious cases. They are unattractive because such pleas usually involve the dismissal of charges, and never involve the defendant getting locked up as long as possible for the crimes alleged. Defense attorneys like the pleas for the same reason State's Attorneys don't like them.

Too often in the practice of law, my function is like a bookie, or oddsmaker. I must analyze the strengths and weaknesses of all possible outcomes in the criminal process, their assets and liabilities, and the probabilities of all the possible outcomes. It would be so easy if we could assign numerical values to all the variables, plug them into a computer, and be told what to do. Until that time, lawyers make such decisions.

If after all the analysis, the path of least resistance, with the least risk, and the greatest probability of cutting losses -- is the negotiated plea, it is recommended and usually accepted. Negotiated pleas are never implemented unless the defendant makes a reasoned decision to accept them. Don't let anyone kid you. No one pressures defendants to accept them, and the judge makes sure, on the record, that the defendant is pleading without any threats or promises.

By law, a negotiated plea is only an agreement between the prosecution and defense to recommend to the judge a certain sentence. It is no guarantee of what the judge will accept, it is only a recommendation by all parties, a request to be approved or denied by the judge who is always the final word for any sentence. So only half the battle is agreeing to a negotiated plea; the other half is convincing the judge to accept it.

Often clients cannot take negotiated pleas because they are not guilty. Clients think that they cannot enter a plea of guilty if they are innocent because they'd be lying. Guilt or innocence is a

court determined concept. Defendants are not the ones who determine whether they are guilty or innocent. Our court system acts based upon the court's finding of guilt or innocence, not a defendant's claims. One must analyze the case from the standpoint of the evidence against her. If one, looking at the evidence against her in an unbiased manner would conclude that she is guilty, the plea of guilty is a viable option.

Please don't read between the lines at the gloomy picture I have painted so far about negotiated pleas. If a person is not guilty, the only way to prove it is to go to trial. Criminal cases are won by defendants every day. In this country we enjoy an unbiased court system that will give one a fighting chance and force the State to prove one's guilt. If a person is not guilty, and there's evidence to prove it, and he's not interested in the negotiated plea, he should stay with the not guilty plea.

TRIAL

Dates and times for trials are available by calling the Circuit Clerk's office. If you arrive for trial and the case isn't heard, contact the defense attorney to find out what's going on. Often cases are set at certain times, but aren't actually heard until hours later. Dress like you're going to church. Don't draw attention to yourself by laughing, crying, or speaking during the hearing. Don't bring newspapers, books, drinks, or food into the courtroom. Expect to be searched, or to pass through a metal detector before entering the courtroom, or courthouse, so have no contraband on your person. The Constitution guarantees a public trial, so you will be welcome to be present as long as you don't disturb the wheels of justice.

If you are watching a jury trial, several times you will see the attorneys walk up to the judge, and talk so quietly that you won't hear them. They aren't hiding anything from you, just from the jury. If there are discussions about certain evidence that is inadmissible to the jury, simply discussing the issue within earshot of the jury will inform the jury of the evidence. So until the admissibility is ruled upon, the issue is kept quiet.

SENTENCING

If the defendant is found guilty, the judge will set a sentencing hearing for sometime in the near future. A probation officer will talk to the defendant and his family to prepare a Pre-Sentence Report. That report will be an unbiased collection of the information the court will use to determine

the proper sentence. When defendants are sentenced to prison, they stay in the county jail for days or weeks before being sent to the Department of Corrections.

Felony sentences are for a number of years, but are reduced by good behavior allowances, good time awards, educational incentives, and substance abuse counseling. A ten year sentence (or any number of years) is virtually always much less actual time served.

Chapter 4 JUVENILE COURT

If your arrested loved one is a juvenile -- under the age of 18 years -- a whole different set of procedures, laws, and a separate court will mark his entry into the criminal justice system. There are other kinds of cases heard in the juvenile courts, but in this section we will be dealing with only those charges that involve kids charged with criminal offenses.

ARREST

Do not be concerned that your son or daughter will be dealt with as other arrestees. The purpose of the entire juvenile court system is to protect the best interests of the child. Juveniles are not allowed contact with adult prisoners from the point of arrest until the day they are released from custody. They are not even permitted to be within shouting distance of adult prisoners who might traumatize the youngsters. They are only kept in adult jails for no more than a few hours at a time and are totally segregated from the adults. If your county has no juvenile detention center, the arrestee will be sent to a regional detention center for the duration of the criminal proceedings.

Detention centers are not juvenile prisons. Many are more akin to a small college with dedicated workers who are used to caring for troubled youths and are committed to insuring the safety of impressionable children. The offenders are locked in a dorm-like room when not in classes, exercising, eating, or meeting with counselors. Juvenile detention is not meant to punish but is to house a youth that cannot be left at home because of his lack of control. The stay at the center will shock the conscientious youngster into straightening out his life -- if shock can change him. The shock is not terror, it is the realization that all the stories the kid has heard about getting locked up, if he doesn't straighten up, are true. Maybe for the first time in his life the juvenile is away from all friends and family and is forced to live without the freedom he abused and with no way to run away.

Visitation with family members is permitted under the guidelines of the specific institution. You should hope to see a scared, changed child who needs your support more than ever.

DETENTION HEARING

Within 36 hours of arrest, excluding Saturdays, Sundays, and court holidays, the juvenile will be brought before a judge for what is similar to a preliminary hearing in the adult courts. The judge

will decide if there was an offense committed and if there is enough evidence to hold the juvenile over for trial for his involvement in the crime. If probable cause is found, the judge then decides whether the child should be returned to the detention center to await trial, or should be released.

If the crime committed was serious enough that the juvenile was locked in detention pending his hearing, it is unlikely that the judge will return the child to the same home where the juvenile got into trouble in the first place. The family should contact the child's attorney to fashion a plan to convince the judge that circumstances have changed, and that the child is unlikely to disobey the law and his guardians again. Oftentimes a short relocation to the home of another relative, or responsible concerned adult can provide the elimination of the bad influences that got the kid into trouble in the first place.

Contact the juvenile court, or the State's Attorney's office to determine who will be appointed as legal counsel for the juvenile. Find that attorney as soon as possible to discuss whether a change of address for the child is advisable and whom you have in mind to care for the child. The court will probably require any temporary guardian to appear in court before releasing the child to that person's custody, so you will need to call the temporary guardian immediately.

UNIQUE NATURE OF JUVENILE COURTS

1) **Courts are closed.** -- There are none of the public trials you may be familiar with when one enters the juvenile court system. Only necessary concerned parties and relatives are permitted in the courtroom during any part of the case. No spectators can be there. The court will keep the proceedings confidential, as will all the parties of the juvenile court. By statute the press does not have an absolute right to be in juvenile hearings. However, your child may appear before a judge that could allow it.

2.) **Records are sealed.** -- The charges, the juvenile's name, and the records of the trial from the beginning to end, are not public records. They are stored under lock and key in the Circuit Clerk's office and are not seen by anyone not authorized by the judge to view the file. 26 3.) There are no jury trials. -- In all but the most unusual cases, juvenile trials are held before a judge, and not a jury, to protect the confidentiality of the juvenile offender.

4.) **Special names.** -- The juvenile court calls a trial, an adjudicatory hearing, and a sentencing hearing is called a dispositional hearing.

5.) **Expungement** --One year after his twenty-first birthday, the juvenile record is expunged (eliminated, destroyed as if it never happened.) There are no juvenile convictions; findings of guilt are not findings that the child is a criminal. After an adjudication of guilt, if the child is then, or many years later during adulthood, asked if he has ever been convicted of a crime, he can legally and honestly answer, "No." But the juvenile must be made aware that his juvenile record will be used against him if he commits a later juvenile offense or criminal offense during adulthood.

LEGAL COUNSEL

All juveniles are represented by legal counsel in court. The child can hire private counsel of his family's choice at their expense, or the court will appoint an attorney to represent him or her. A lawyer who is appointed to represent a juvenile in court is called a Guardian ad Litem (G.A.L.). There is one special difference between a G.A.L. and any other defense attorney. Like the judge and prosecutor, the G.A.L. is obligated to pursue the best interest of the child.

Every accused person in America is entitled to a competent, vigorous defense against any criminal charges he faces. G.A.L.'s too are sworn to defend the child. But after a finding of guilt, the G.A.L. is obligated to recommend to the court the disposition that is in the best interest of the child. In very rare circumstances, if the G.A.L., based upon the evidence before the court, believes that counseling, detention, or incarceration is necessary to turn the child's life around -- he may help send his own client to jail.

JUVENILE DEPARTMENT OF CORRECTIONS

If after trial the juvenile is sentenced to prison, there is a separate section of the Department of Corrections to house juvenile offenders. Only juvenile offenders are in juvenile prisons. Again they are protected from adult offenders by having a totally separate prison system. Sentences to juvenile D.O.C. are usually of indeterminate length (the prison decides how soon to return the child home dependant upon how well he behaves behind bars). At any rate, no juvenile prisoner will be kept in prison longer than the sentence he would have received if he were an adult.

Occasionally juvenile offenders can be tried as adults, outside of juvenile court. If convicted, they usually remain in juvenile D.O.C. until adulthood, when they are transferred to the adult prisons.

ROLE OF THE FAMILY

In most cases, juvenile charges are not filed unless the child has some history of breaking the law or problems at school. Minor offenses might be committed by the child several times before he is ever brought before a judge. If the criminal offense is too serious to ignore, a first offender may find himself in juvenile court. The family of such children has usually been in turmoil and tried everything possible to correct the problems with no success.

As a practicing juvenile attorney, let me tell you, in no uncertain terms, that juvenile offenders come in all kinds. The old assumption that if the kid goes bad, it's the parents' fault, simply is not true in most cases. Children of broken homes, stable homes, wealthy and not wealthy, bright and not so bright, well disciplined, and not so well disciplined, all end up in court. Your child's problems with the law do not reflect on his upbringing, and the court will not assume so without sufficient evidence. The greatest reason kids go bad is because of the peers they associate with when away from home.

In many cases, after years of failure at instilling discipline in a child, there may be no other solution to end illegal behavior than to totally change the child's environment for a period of time. Hopefully, the few days in detention may be enough time for your son or daughter to change his ways. If the court chooses, your family will be reunited. But if the court believes that the child cannot be trusted at this stage in his life to avoid returning to his old ways if he returns home -- you should offer the court alternatives to detention or incarceration as soon as possible!

If your child's G.A.L. believes that your child will be required of the court to go to jail unless you can find somewhere else for him to live, get started looking for somewhere else right away. If there's a friend or family member who can provide a secure, stable temporary home for your juvenile, impress upon someone that you believe in your child, explain why things aren't working out at your home and that a short term change of address might be the point in his life that sets him off on a new direction. Detention is never a preferred alternative. Courts must be convinced that the child will not repeat inappropriate behavior. That job will be up to you, your child, and his G.A.L.

If you need the involvement of someone else to help discipline your child, find them quickly. If counseling will help you to better control your child, get it now. If you can make changes in your home to better support your child, start on it right away.

The juvenile court system uses the services of attorneys, counselors, probation officers, psychologists, Department of Child and Family Services personnel, social service agencies, and social welfare resources. Work with your child's attorney for an adjudication of not guilty, and to rectify whatever circumstances brought your child into contact with the legal system. Your denial, or antagonism, or simply giving up can and will affect your child for the rest of his life. Take advantage of the resources available to your child at this most vulnerable time in her life.

Chapter 5 What Happens Next?

Going to Reception and Classification Centers

There are three reception and classifications centers for men, one for women and one for juveniles in Illinois.

Joliet Correctional Center-Men

PO Box 515, 1125 Collins St.

Joliet, IL 60432

Telephone: 815/727-6141

Fax # 815/727-6141, Ext. 657

Menard Correctional Center-Men

PO Box 711, Kaskaskia St.

Menard, IL 62259

Telephone: 618/826-5071

Fax #618/826-5071, Ext. 2000

Graham Correctional Center-Men

PO Box 499, RR #1, Highway 185

Hillsboro, IL 62049

Telephone: 217/532-6961

Fax # 217/532-6961, Ext 276

Dwight Correctional Center- Women

PO Box 5001, Rt. 17 West

Dwight, IL 60420-5001

Telephone: 815/584-2806

Fax # 815/584-2889

Illinois Youth Center-Juvenile

39 W. 360 Rt. 38

St. Charles, IL 60174

708/584-0506

The purpose of the reception and classification center is to evaluate your loved one to determine where he will be sent. A number of tests will be given.

This is a temporary situation until the evaluation is over. He may be allowed to call you. You cannot call him. He will be separated from the general population of that institution during this time. This transition will last approximately 1-3 weeks.

Department Of Corrections

Visit <http://www.idoc.state.il.us/> to obtain specific information about facilities

Visit <http://www.idoc.state.il.us/subsections/visitationrules/default.shtml> to learn about visitation to IDOC facilities

JUVENILE INSTITUTIONS

For more information on juvenile facilities, visit <http://www.idjj.state.il.us>

HOSPITALITY SITES

Motel Ministry

Dwight Hospitality Ministry (serves Dwight Correctional Center)

c/o St. Peter's Lutheran Church

326 W. Chippewa

Dwight, IL 60430-1205

815/584-1199 or 815/584-3142

Prison Family Hospitality Group/Greenville (serves Federal Correctional Institute, Greenville)

618/664-9058

Prisoner Family Support/Marion (serves U. S. Federal Penitentiary, Marion)

P.O. Box 123

Marion, IL 62959

618/997-1227

Prisoner Family Support/Vandalia (serves Vandalia Correctional Center)

618/283-0217

House Ministry

Hospitality House/Chester (serves Menard Correctional Center, Menard Psychiatric Center, and Chester Mental Health Facility)

120 Ferry Street

Chester, IL 62233

618/826-9810

Hospitality House/Vienna (serves Shawnee Correctional Center, Vienna Correctional Center, Harrisburg Juvenile Center, Dixon Springs Work Camp)

6th & Vine

Vienna, IL 62995

618/658-2722

Visiting at a Department of Corrections Facility:

- Relax - things will get a little better for your loved one. He may not be confined to his cell as long as he was in county jail and will not be as isolated.
- He may have educational opportunities.
- There is a daily routine, so life is more predictable and he will not be as anxious after an initial adjustment.
- Visiting can be more frequent if you live close by.
- Call the facility before going to visit to find out days and times permitted. Every prison is different.
- Can we have a conjugal visit? NO. There are no conjugal visits in Illinois!

Learn more about visitation at <http://www.idoc.state.il.us/subsections/visitationrules/default.shtml>

Family Concerns

Before you visit, talk with your family about what it might be like. Both children and adults will have many questions and concerns about going into a prison. It helps to share these feelings with one another before and after your visit. Try to share your feelings about visitation and other situations in your daily life with your loved one during your visit. Protecting your loved one from your feelings and struggles separates you. Honest communication will strengthen your bond - even if it hurts to hear it. You are a family. Give your loved one in prison the chance to support you and for you to support him. (Reconciliation Ministries, Inc. PO Box 90827, Nashville, TN 37209, The Reconciliation Handbook for Families and Friends of Tennessee Prisoners, August 1990)

Sometimes visits are not wonderful. Your loved one may have had a bad week or you may have had one. Get to know each other and your concerns. Remember: most anger expressed is not toward you. He may vent his anger on you as the only one who will listen.

Visitation Check List

- _____ Dress that is modest
- _____ Proper identification (Picture ID)
- _____ Nothing that could be mistaken as a weapon in the car: nail file, scissors, screw drivers, knives, firearms, ammunition
- _____ Nothing that could be confused as an illegal drug in your car
- _____ Pills in an unmarked bottle
- _____ Residue in the car ashtray
- _____ Pipes, clips or other items that might be mistaken as drug paraphernalia
- _____ No alcohol or any alcohol containers opened, unopened or empty
- _____ No contraband on you contraband is all items listed above
- _____ Nothing larger than coins, no "green" money
- _____ Leave purses and wallets in the car trunk
- _____ Call prior to confirm that the inmate has not been transferred or is in segregation
- _____ Call prior to confirm that your name is on the prisoner's visitation list
- _____ Arrive during visiting hours
- _____ If it is a special visit, make sure there is a memo at checkpoint and bring your memo (letter) with you.
- _____ Treat prison officials with respect
- _____ Treat other visitors with respect

Anyone under the influence of drugs or alcohol will not be allowed to visit. Be prepared. If upon arrival, there is a problem with visitation, remain calm and speak politely to prison officials.

Searches of Person and Car

BEWARE - Your car may be searched and you will be searched.

You and everyone with you will be searched before going into the prison. The search is to make sure you are not carrying any contraband. Contraband items are weapons, drugs and alcohol, green money, or anything not permitted by the Department of Corrections policy.

Contraband can be weapons, narcotics, fire arms, alcohol, ammunition. Sometimes it can also be other items such as cigarettes, maps, postal stamps, any type of decal or stamps, makeup items, cologne, feminine sanitary needs, magazines, books, prescription or over the counter medication. If you have prescribed medication turn it over to staff to keep until you need it.

Items that are considered weapons include: nail file, scissors, nail clippers, ink pens, screw drivers, knives, knitting needles, some hair ornaments.

Call or write the prison you are visiting to find out what is permitted into the visiting gallery and/or the picnic grounds. If you are caught with contraband, you may be arrested and prosecuted. So be careful and read all of the rules in the waiting area.

Persons under the influence of alcohol or drugs are not allowed to visit and may be asked to leave the facility.

You will be "frisked" by an officer of the same sex. A frisk is a pat search of your body. If the officer feels there is a reason to search further, the officer will tell you that a more in depth search is necessary. You can refuse. If you refuse, you will probably be asked to leave.

Your Attitude Will Make A Difference!

Visitors' attitudes often determine how they will be treated by the staff. Dress in a modest appropriate manner. You can even be turned away if clothes are not appropriate.

Speak with respect to everyone, especially the staff. This will help your visits go smoothly. Staff may form an opinion of you based on your conduct and appearance and that opinion might stay with them the entire time your loved one is in jail or prison.

Visits may last several hours so dress comfortably! Think about the length of the visit and where you will be. Inside? Outdoors? Be comfortable but dress in a modest manner.

Taking Care Of Yourself

You are living in a prison, too, as you wait on the outside and as you visit.

You need a support system. Your parents/your immediate family members may be helpful, but they may be having their own problems dealing with the incarceration. They may also put pressure on you to leave your loved one. You have to decide what is best for you and your children. Look for support and help. Help may be found in unexpected places such as A.A. or Alanon, or church.

You are not alone. Many people have had a loved one in prison and know what it is like for you. Some places have support groups for prison visitors. Other prison visitors can be helpful. Some prison visitors have been victimized by others by carrying contraband unknowingly or by asking for money. Be cautious! Consider your own safety but also your own well being.

Women often are perceived as "fair game" if they have a husband in prison. Be careful and smart about who you talk to about your loved one. ("Who will believe her anyway because her husband is incarcerated!") People may label you as guilty also or untrustworthy. People may put you and your children down. There is no shame in having a loved one in prison, but neither is there any pride in it.

For the first few weeks or even months you may feel pressure to make a decision about staying in a relationship with your incarcerated loved one. Remember! You do not have to make any major decision now about your relationship. This is an emotional and traumatic time with many changes. You need time alone and time to communicate with your loved one to determine your future.

You may be feeling anger, shame, happiness, guilt, relief. All of these feelings are normal. You now have time to think about yourself and care for yourself. This is good. Love yourself. A healthy "you" is the best gift you can give to your children and your loved one. Do not feel guilty about happy and good days. Your loved one may be jealous of your freedom, your activities, maybe your happiness. Do not allow yourself to be emotionally incarcerated during his physical incarceration. Visits, letters, phone calls, working at open communication and honesty will allow

him to be a part of your life even though he is not with you in the free world. Your life and well being must be your priority so that when the prison time is over, you will have gained emotional strength to assist him with re-entering society. Use this time to develop a healthy, positive relationship that can continue to grow as each of you change.

Source: "Emotional Cycles of Incarceration"
Edward G. M. Woods & Michael Burkhead
University of North Carolina at Chapel Hill
and North Carolina Department of Correction
PO Box 6672, Asheville, NC 2881

Spiritual

A Prayer (A parent, spouse, brother, sister)

Lord, I come to You with a heavy heart. Lord, I need Your help in understanding why my loved one is in trouble. Am I at fault in this? Did I somehow fail? You say that You are the God of our lives, our moments, and all that matters. Make Your presence known at this time. I have a lot of guilt about this, Lord, but I turn it over to You. I know I didn't commit the crime, but I still have a lot of guilt and shame. You say that You know my words before I even say them. Give me the strength and guidance I need at this moment so that I can be there for my loved one in their time of trial. Help me to reach out and find others who will help me to go on when I feel it is just too hard to do so.

Lord, You know the hearts of Your children. You know my loved one, if he (she) knows You, let him know You more fully, if he doesn't know You, let him come to know You in this time of confinement.

In this time of deep pain and struggle all I want to do is to hide away. Now is the time I need to find someone to help me. I need a pastor/priest/rabbi/imam. I need to reach outside of myself. If I don't find someone right away, I will keep trying and be persistent until I do. I will remember that we all need each other.

Person I will contact.

(NAME) _____

(ADDRESS) _____

(PHONE) _____

Financial

If you have been able to come up with the money for bond, do not expect to get any money back. It will be used for court cost, fines, etc.

You will have to make financial decisions quickly to keep your home or you may have to find a new place to live. Think about how you will be able to pay bills without your loved one's income in the immediate future. You may have to seek public assistance. Your loved one will not be able to send you money. The opposite will be true. He may ask you for money for commissary, clothes, toiletries, cigarettes. He will be provided with food, clothes and a bed. You do not automatically have food and shelter. Make sure you and the kids have that security so you can be strong and healthy.

Phone calls are the only immediate communication for the first days or weeks in the Department of Corrections. That collect call is the fastest way to know that he is ok and for him to know you are ok.

You will have to decide if you want to limit the calls if they become too expensive, and they will. Collect calls are the most expensive kind of call. Talk about what you can afford so that you can keep your telephone. Agree to a number of calls per month or week. If you do not have a phone, you can communicate by letter or visit, if possible.

Visiting Expenses

Consider the cost of the trip before visiting.

__ Cost of travel/gas and car repair

__ Food during travel

__ Food during visit

__ Overnight lodging

__ Incidentals

One way to keep to a budget is to limit the amount of money you bring to the visit.

Relationships and Prison

(In this section, you can read how people in your situation nurture their relationships and what they suggest to keep yourself and your relationship healthy.)

If you are dating someone in prison:

You may be one of the few outside connections your friend in prison has. You are often the only bright spot in your friend's life and he may become very dependent on your visits, letters, and other forms of communication. Your courtship can be much more intense and rushed than with couples in the "free world". Move slowly! Be thoughtful about what you are doing and feeling.

Spend your visits talking and getting to know each other. Find out what your friend is in prison for and how much time is to be served. Talk about your past and your goals for the future.

Communication is the key. As one prisoner said, "This is the first woman that I have ever sat down and got to know." In early courtship, avoid sending your friend money, gifts, and having sexual interactions. Do not be pressured into doing things you do not want to do. All of these things can be distractions from really getting to know each other.

If you are engaged to, or thinking about marrying, someone in prison: Besides what is suggested above, think about what your needs are. What will you be giving up? If the sentence is a long one, how will you cope with the separation? Can your love survive the years? How will you cope with society's judgments and rejection? Family members of prisoners sometimes lose jobs or housing, or cannot get insurance because they have a loved one in prison. One woman talks about making this decision: "You enter a kind of limbo world where you're not locked up but you're not free either. The decision to marry a loved one in prison must be made thoughtfully. If you are not

thoughtful or if you are just falling into the relationship for comfort, convenience or because you feel needed, you are in trouble - it will be disastrous." Talk with those closest to you. What do your children, parents, relatives and friends think? What are the feelings and thoughts of your loved one? Talk about long-term prison marriages with men and women who are in them. Think about what it will be like to be married to this person when he is released from prison. In the end, you make the decision. Make a thoughtful one.

Here are some suggestions to get you thinking about ways to help your marriage continue to grow:

- * Read the same book or plan to watch the same TV show and talk about it during visits.*
- * Write letters daily giving honest details about your lives (what is it like living in a prison; how are you managing on the outside? Share your daily schedules in detail.)*
- * Send tapes, talk on the phone, and visit weekly if possible.*
- * Meet your spouse's friends in prison and bring your friends from the outside in to meet him.*
- * Make a budget together.*
- * Talk about your sexual feelings, fantasies, fear and needs honestly. Talk with other prison couples about creative ways of meeting sexual needs. Remember that intercourse is not the only form of sexual expression or intimacy. Keep in mind that sexual expressions are forbidden in most prisons.*
- * Share in a common spirituality and grow together in your relationship with God through prayer, Bible Study, and discussion.*
- * Make decisions together about your children, finances, jobs, housing, etc.*
- * Say no when you cannot do something for your spouse. If you are thinking of divorcing someone in prison: Prison will not solve your marriage problems. Your patterns of relating will remain pretty much the same in or out of prison. If you did not have a healthy marriage before your spouse was incarcerated, it will not get better because he is in prison. Divorce can sometimes be the most loving thing you can do for your family. Consider your own needs as well as those of your spouse*

and other family members. Talk with a counselor or minister you trust. If you do decide to divorce your spouse, remember that your children have a legal right to visit and have contact with their father. It is important for your ex-spouse and your children to continue expressing their love and support for one another even if your marriage is over. Help arrange visits if possible. Otherwise, encourage your children to write letters and support their contact with their dad.

If you are a parent of someone in prison: If you are a mother or father with a child in prison, you are likely to feel a heavy burden. Some parents feel an overwhelming sense of guilt about having a child in prison. You may feel it is your fault that your son or daughter is in prison; that you did something wrong:

** "If only I had said 'no' when he wanted to hang around with that group, everything would be O.K"*

** "He really needed drug treatment. I should have done more."*

** "I feel torn apart inside. What did I do wrong that has put him in that awful place?"*

These feelings of guilt are shared by many parents. You might need to remind yourself that every person is responsible for his own actions and that you are not responsible for your child's incarceration.

It is common for parents to become consumed or obsessed with their incarcerated child - thinking that you need to "make up for" what you think you did not do "right" in the past. It is important that you continue to live a full life of your own. If you feel guilt, begin to accept forgiveness from the Lord. If all you can think about is your incarcerated child, get involved in other activities or concentrate on your spouse or other children. To become obsessed with your child in prison will only put you in prison. It will not free your son.

If you are an older parent with physical limitations, call the prison and let the prison administration know that you need help with stairs or with long walks across the prison yard if you are going to be able to visit your child. (Reconciliation Ministries, Inc. PO Box 90827, Nashville, TN 37209, The Reconciliation Handbook for Families and Friends of Tennessee Prisoners, August 1990)

Chapter 6 Children and Prisons

Children's Concerns

Children are often very confused and feel left out when a parent goes to prison. You and your family in the "free world" are busy trying to make ends meet and supporting your loved one in prison. Children may get shuffled around in the process.

Some feelings your children might have are: abandoned, lonely, scared, confused, angry, sad, and guilty. Yes, even guilty! It may sound crazy, but you would be surprised how many kids think, "If only I was a better child, this never would have happened."

If your children don't talk about their feelings, they might act them out - sometimes in destructive ways. They might do poorly in school, wet the bed, get into fights, cry a lot for no reason, steal things, or have bad dreams. You might notice some of these or other new behaviors in your child. These changes in behavior are cries for help, they need to be heard.

When a parent goes to prison or jail, it is important to tell your children the truth about what is happening. It's more frightening for your children not to know. Then they are left to imagine what might have happened to Dad. Telling them that Dad is away at school or in the army is also dangerous. They will wonder "Why doesn't Dad ever come home to visit? Doesn't he love us anymore?" Also, when you tell your children one story to protect them from the truth, you have to keep making up more stories to answer their many questions. You are left worrying, "What will happen when the truth does come out? How will my children react? What if someone lets the secret out in a cruel way....maybe by another child on the school playground?"

Every child is different and they will react differently to the truth about his parent being in prison, having a birthday without Dad, or visiting at the prison. They have the right to feel whatever they feel. Talk with them, answer their questions honestly, and help them draw their own conclusions about the situation. You all will be healthier for it and you will learn that you can trust one another.

One way to share what is happening with your children is to say something like, "Daddy did something wrong (or broke a law). He is not a bad person because he did a bad thing. He loves you and does not like to be away from you, but he was sent to prison to be punished." Children can handle the truth. In the book, *I Know How You Feel Because It Happened To Me*, one child

says, "Just because someone breaks the law doesn't mean they're not a good parent." From here you can talk about what life is like without Dad being home, visiting at the prison, what to say to kids at school or folks in your neighborhood or anything else your children are concerned about.

Your children will continue to have questions and feelings about his parent being locked up. This first talk will be one of many. You may also notice that your children are competing with the parent in prison for your time and attention. Often this will happen when your children are feeling insecure. They need your attention, love, understanding, and honesty more than ever now. If you feel too much stress of your own to help your children deal with the situation, talk with a school guidance counselor, or call a prison ministry group in your town to look into finding a big brother or sister for your children, or hook up with other families with loved ones in prison who can help support you and your children (they understand your situation as no one else can).

Encourage your children to stay in touch with their Dad in prison, suggest that they visit their loved one with you, write letters and send holiday/birthday cards, or send school work and report cards, photos of themselves, or pictures they have drawn to their parent who is locked up.

Also, encourage and support your children to do things that help them feel better. Help them explore outside interests and special talents-like sports, painting, dancing, biking, reading. Let your children know when they have done something well and help build their confidence so that they can feel good about themselves. By helping to build your children's confidence, you will find you are building your own confidence at the same time. You can be a family - even with a loved one in prison. Your children need to know that. (Reconciliation Ministries, Inc. PO Box 90827, Nashville, TN 37209, The Reconciliation Handbook for Families and Friends of Tennessee Prisoners, August 1990)

Children and Visiting

Quantity of time in a visit is not available, so the quality of time is very important.

Q. How can children interact with the incarcerated loved one in a visit?

A. Encourage quiet play, such as counting games (objects, fingers, etc.), play I spy..., or word games (rhyming, association, spelling, etc.). Encourage children to share a song or poem they have learned, or allow them a few minutes to tell about their week or a special event, such as a birthday.

Q. What if the children do not behave in the visiting room?

A. This is to be expected at first. You must let them know what is expected of them before you arrive at the visit, that they must sit quietly, like at school or church. Insist on good behavior and hopefully each visit will be easier for them. Their behavior is a reflection on the prisoner and could get him in trouble with the staff. You could even lose a visit. If children are noisy and disturb other visitors, this can cause problems between prisoners and even between the families visiting.

Q. How should the children be disciplined?

A. Be careful. Hitting and shouting are unacceptable. If possible, walk them to the bathroom and talk to them. Perhaps you can promise to take them to a park or McDonald's Playland afterward if they are good.

Q. How can I make visiting easier for the children?

A. The children will be more comfortable in everyday clothing and shoes. Dress them in layers in case it is either too hot or too cold in the visiting room. Even if you have to cut corners in some other area try to have plenty of change for the vending machines (if available), so they can eat or drink something. This will not only keep them happy but will also occupy them.

Most visiting arrangements are "child unfriendly". Usually the child has to sit on someone's lap and cannot take toys into the visit. Children take cues from adults. If you are tense, they will respond to your tension. Try to think of ways to make visits more calm and comfortable, perhaps by visiting by yourself at first. Then you will know what to expect. Occasionally, it might be best not to take the children. Instead, plan a special family day with activities that will include both the children and the loved one you are visiting.

Most importantly, for your sake as well as the children's, take care of yourself - physically, emotionally, spiritually, and financially. Seek the support you need; find someone to talk to. Remember that incarceration tends to bring out the negative feelings in people. A bad visit or letter may throw you back into grief. A typical fear of prisoners is that they are losing their loved ones who can exist without them. Suspicion builds. The prisoner may experience guilt and feel inferior and unworthy of love or respect. Prepare yourself for these and other problems.