

IN THE HIGH COURT
REPUBLIC OF THE MARSHALL ISLANDS

IN THE MATTER OF THE ADOPTION)	
)	
OF RULES OF PROCEDURE FOR)	RULES OF PROCEDURE,
)	JUVENILE DELINQUENCY
JUVENILE DELINQUENCY PROCEEDINGS)	PROCEDURES
_____)	

RULES OF PROCEDURE FOR
JUVENILE DELINQUENCY PROCEEDING

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RULES OF PROCEDURE FOR
JUVENILE DELINQUENCY PROCEEDING

In accordance with the authority granted in Article VI, Section 1 (2) of the Constitution, and Section 18 of P.L. 1983-18, the following Rules of the Procedure for Juvenile Delinquency Proceedings are hereby prescribed effective March 14, 1985, for all juvenile justice proceedings in the Republic of the Marshall Islands, subject to the right of Community Courts not situate in Majuro, Kwajalein and Ebeye to adopt more oral proceedings, if approved by the High Court (See Rule 1. R. Civ. P.).

Rule 1. **Nature and Purpose.** Juvenile delinquency proceedings are in a class by themselves. Although they are similar to criminal proceedings in some ways, they are a special type of civil proceeding in which it is not intended that there be any adversaries. The ultimate aim of all concerned should be to assist the child to become a wholesome member of the community. No fees are to be charged in connection with them, however, except to the extent authorized for criminal cases. All procedure in connection with them not expressly covered by law or rule of procedure shall be governed by the principles of civil procedure. The proceedings are not to be conducted in the manner of a prosecution, but rather as an inquiry into three things:

a. Whether the child is a delinquent as defined in the Title 15, Section 2 of the Trust Territory Code.

b. The cause of the delinquency, if any.

c. What should be done to help make the child a good member of society.

Rule 2. **Construction.** These rules shall be read with and subject to all applicable provisions of the Constitution of the Republic of the Marshall Islands and the laws in effect in the Republic of the Marshall Islands. At the present time the laws most specifically dealing with Juvenile Justice matters are 15 TTC, Sections 1 through 6. These rules apply only to Juvenile Delinquency proceedings.

Rule 3. **Commencement of Proceedings.**

a.) Juvenile delinquency proceedings shall ordinarily be commenced by a sworn complaint or affidavit by someone having personal knowledge of at least some of the essential facts involved, which complaint will be referred to the police and/or attorney general for investigation. Formal proceedings may be commenced by an information of delinquency signed by the Attorney General or someone authorized by him. The Attorney General or his representative, shall present it personally to a judge of the court in which it is to be filled.

No court may entertain jurisdiction over a juvenile case except where the misconduct charged would, in the case of an adult, be within the jurisdiction of that court. The High Court may, however, by order, refer cases involving alleged juvenile misconduct to a lower court for disposition even in cases where the misconduct alleged would, in the case of an adult, constitute an offense punishable by a term over and above the jurisdiction of the lower court to which the reference is made, if the High Court believes such referral to be in the best interests of the

juvenile and the public.

If the judge, after conferring with this person, deems that court action is in the public interest and the facts alleged in the information would constitute a crime if committed by an adult of sound mind, and which crime is within the jurisdiction of that court, the judge may issue a summons to the child and to one or both of its parents or any person having custody of the child, to appear and answer the information. If the judge deems that an informal conference with the parents or other person having custody of the child will be in the public interest before deciding on any court action, he may refer the matter to the probation officer, school authority, representative of a church the child is connected with, or other suitable person willing to undertake same, for investigation and report to the court before deciding whether or not to issue any process.

(b) If a summons to answer an information in such proceedings is issued and either the child or the person summoned as the parent or person having custody fails to comply therewith, without good cause known to the court, the court may issue either an order to show cause why either or both of them should not be adjudged in contempt, or may order the attachment of the child, that is, order that a policeman or other person designated to serve the order shall take physical custody of the child and bring him as directly as possible before the court at a time and place designated in the order or as soon thereafter as practicable.

(c) If all the essential parties appear voluntarily before the court in response to any form of notice, the court may proceed without the issuance of any process.

(d) The information may be amended at any time before adjudication in the same manner as in a criminal case.

Rule 4. **Parties.**

(a) The absolutely essential parties are the child and a representative of the Government. The persons who ordinarily represent the Government in criminal cases before the court in question shall normally represent the Government but if none of these are available or there are none who regularly represent the Government in the court in questions, the court may permit the complainant or his counsel to act for the Government. The child must be personally present to the same extent that he would be required if he were an adult accused in a criminal case.

(b) At least one parent, or person having custody of the child, shall also be present at the hearing unless the court determines that this is not practical owing to the circumstances of a particular case. The court may join and order summons issued to any persons alleged to have contributed to the delinquency of the child and may admit as parties any persons expressing interest in assisting in rehabilitating the child if the court believes their participation may be helpful.

(c) The court may permit or invite any person to act as friend of the court whom he believes will be helpful in the same manner as in a civil action.

Rule 5. **Counsel.**

(a) The child shall have the same right to representation by counsel that he would have in a criminal case and he shall be advised of that right by the court if he appears without counsel and the services of the Public Defender or his representative shall be requested by the court as a routine matter if the child so desires, in all situations where such services are regularly available to adults accused in criminal cases.

(b) All other parties may be represented by counsel in the same manner as in civil actions.

Rule 6. **Hearing.**

(a) Hearing shall be held informally in closed session, with only those present concerned with case, which may include any victim or victims of the alleged delinquency, and such other persons as the court may admit for special cause. But the court may allow open hearings if it deems it to the benefit of the child's rehabilitation, except in sex offenses.

(b) When the necessary parties are before the court, the court shall read or explain the information to all the parties present, shall inform the child of his right to counsel, if he appears without counsel, and grant any reasonable continuance necessary to enable the child to obtain counsel if he so desires.

(c) After the child has either obtained counsel or clearly indicated that he desires to proceed without counsel and the court deems it fair to proceed without counsel for the child, the court shall ask each of the parties present whether he raises any questions as to any of the facts alleged in the information. If neither the child nor his parent or person having custody of him questions any of the facts alleged, they and the child's counsel, if any, shall then be asked if they consent to the child's being adjudged a delinquent child. If they consent, the judge may then adjudge the child a delinquent child without any evidence, provided the facts alleged would constitute a crime if the child were of full age and sound mind, or clearly otherwise indicate that he is a delinquent child as defined in 15 TTC, Section 2.

(d) If either the child, his counsel, or his parent or person having custody of him does not so consent, or if any other party brings matters to the attention of the court that would indicate any serious doubt as to the truth of any of the essential facts alleged against the child, the court proceed to hear evidence on the disputed facts in the same manner that it would in the trial of a

civil action, witnesses being sworn and all parties allowed to present evidence and examine and cross-examine witnesses as at a civil trial, but all in closed session, unless open session be specifically authorized. The court then make an adjudication, either that the child is a delinquent child or that the child is not a delinquent child because of the facts alleged in the complaint or information. If the court makes this latter adjudication, that will end the proceedings. Before making an adjudication that the child is a delinquent child, other than by consent as above provided, the court must be satisfied that all facts that are necessary to constitution a ground of delinquent under said 15 TTC, Section 2, have been either admitted or proved by at least the fair weight of the evidence as clearly as is required in ordinary civil actions.

(e) After the child has been adjudges a delinquent child, the court may, and usually should, proceed very informally as at a conference to consider the causes of the delinquent and the recommendations of all concerned as to the best disposition of the child within the limits of the law, particularly with regard to the custody, supervision, and schooling or training of the child, including consideration of any thing available in the nature of a probation officer's report on the child and his history. Ordinarily the disposition of the case after adjudication can satisfactorily be made without the taking of any further testimony or formal evidence. If any serious dispute arises, however, as to any important facts involved, or the court for any other reason deems it advisable, the court should permit or request the parties to present evidence on the facts in dispute, witnesses being sworn and examined as in a civil action, but still in closed session, unless open session be authorized by the court.

(f) Every effort should be made to secure, if possible, the cooperation and agreement of the child and the parent or person having custody of the child as to the whole arrangement for

care and custody of the child. The court shall, however, make such lawful order as it deems best as to the child, after considering any objections raised.

(g) The court may also make such orders as it deems best against any other party in accordance with the authority granted by any section of Title 15 of the Trust Territory Code or other applicable laws, but before making such an order it shall give the party or parties against whom the order is proposed an opportunity to show cause why such order should not be issued and, if such party disputes any important fact on the basis of which the order is requested or proposed, all parties shall be given an opportunity to present evidence thereon as at a civil trial, but still in closed session, unless open session is specifically ordered by the court, before any such order is issued.

(h) Ordinarily there should be little occasion for argument by counsel, but the court should exercise its discretion to permit whatever argument it believes will be honestly helpful to a clear understanding of any legal questions arising and must, of course, be scrupulously fair in allowing equal opportunity for argument on either side of any question arising.

Rule 7. **Court's Decision.** In all situation not covered by law or the foregoing rules, the court may adopt the procedure it deems best suited to enable it to dispose of the case promptly, justly, and in the best interests of the child and the public, taking care to see the child is not prejudiced by his immaturity or inability to adequately protect his own interests. If the court deems it necessary to a just determination of the matter, it may appoint a suitable person to represent the child, even over the objection of the child.

Rule 8. **Amendment of Orders.** All orders issued in juvenile delinquency proceedings shall be subject to amendment, modification, and recession by the court which issued them, at any time

that the court deems the best interests of either the child or the public so require.

Rule 9. **Forms.** Attached hereto are suggested forms for use in such proceedings which are sufficient for the purposes indicated. They are merely illustrative, however, and not mandatory.

Dated: March 14, 1985.

/S/
John C. Lanham
Chief Justice, High Court
Republic of the Marshall Islands

IN THE HIGH COURT
REPUBLIC OF THE MARSHALL ISLANDS

Form No. 1

IN THE MATTER OF:) JUVENILE CASE NO. _____
)
)
_____))
(Name of Child) (Male or Female)) YOUTHFUL OFFENDER INFORMATION
)
An Alleged Delinquent Child)
_____))

The Officer of the Attorney General charges the above-named juvenile defendant namely:
_____, a male minor, age _____ years, with being a delinquent child
pursuant to Title 15, TTC, Section 2 for the following misconduct, which in the case of an adult,
would be a criminal offense:

That on or about November _____, 19____, at between the hours of _____ and
_____.M at _____, Marshall Islands, said minor child did
unlawfully break and enter the residence of _____; and did unlawfully
take from said residence cash in the amount of _____ dollars. This in the case of an
adult is in violation of Title 11, TTC, Section 351.

WHEREFORE, the undersigned prays that this Court adjudge said child a delinquent, and
to enter other such orders as justice and the best interest of the public and the child require.

Respectfully submitted:

Dated:

Name of Prosecuting Official

Title of Prosecuting Official

IN THE HIGH COURT
REPUBLIC OF THE MARSHALL ISLANDS

Form No. 2

IN THE MATTER OF _____) JUVENILE CASE NO. _____
)
)
(Name of Child) (Male or Female))
)
An Alleged Delinquent Child)
_____)

PENAL SUMMONS

To: _____ (Address)
(Name of Child)
and
_____ (Address)
parent of child (or other person having
custody of the child)

You are hereby summoned to appear before the Court at _____ on the _____
day of _____, 19____, at o'clock ___M to answer the above Information.

Failure to obey this summons may result in an order upon you to show cause why you
should not be punished for contempt or in the issuance of an attachment bringing you bodily
before the court.

Dated: _____
Judge of Above-Entitled Court

Return of Service

I, _____, a police officer of the government of the Republic of the
Marshall Islands, do hereby certify that I served a true copy of the foregoing penal summons and
(an attached Information, etc.), upon the following persons on the dates below indicated:

1. _____
2. _____
3. _____

Dated: _____
Police Officer

IN THE _____ COURT
REPUBLIC OF THE MARSHALL ISLANDS

Form No. 3

IN THE MATTER OF _____) JUVENILE CASE NO. _____
)
)
 (Name of Child)) RECORD OF HEARING
)
 AN ALLEGED DELINQUENT CHILD.)
 _____)

Held before _____ on _____, 19____, at
(name fo judge)
_____, the said child being a

("male" or "female")
of the age of ____ years, having been born on or about _____, 19____, and
now residing at _____.

Court Reporter (if any): _____

Counsel for the Republic: _____

Counsel for the Child: _____

Clerk/Interpreter: _____

Counsel for _____ : _____

This case was heard informally in _____ session. In addition
to the child _____ and his parent (s) and _____, there
were present at the hearing the child's mother brother _____,
the child's teacher _____, _____, the
storekeeper whose premises were broken into, and _____,
_____.

The child, with the approval of his counsel and his parents, consented to an adjudication being made that he was delinquent child on the basis of the acts set forth in the complaint.

_____ expressed a willingness to assume custody of the child, and the child and his parent (s) expressed a willingness that he be placed in _____'s custody.

The child agreed, with the approval of his parent and his counsel, to work for _____ in his store, performing such tasks as are assigned to him, every Saturday, between the hours of 9:00 a.m. and 5:00 p.m., for a period of one year from the date of this order, and it was agreed by all the parties that this would be considered fair and adequate restitution of the value of the articles taken by the child, which values was fixed by agreement at \$63.00.

IN THE _____ COURT
REPUBLIC OF THE MARSHALL ISLANDS

Form No. 4

IN THE MATTER OF _____) JUVENILE CASE NO. _____
)
)
 (Name of Child)) ORDER
)
 AN ALLEGED DELINQUENT CHILD.)
 _____)

_____ is adjudged a delinquent child, and ordered released in the custody of _____, whom he will obey as if _____ were his parent, for a period of one year on the following conditions:

1. _____ will work every Saturday, between the hours of 9:00 a.m. and 5:00 p.m. for _____, and will honestly and diligently perform the tasks assigned to him, for a period of one year from the date of this order.

2. For a period of one year from the date of this order, _____ will report at least once every two weeks to the Magistrate of _____, or his designated representative, giving him any information he desires as to activities and conduct. These reports are to be made on alternated Fridays during the magistrate's usual working hours, unless the magistrate designates a different time.

3. The court reserves the right to change this order at any time it considers justice and the best interests of the child will be served.

4. On any failure by _____ to carry out these conditions, either this court, or the _____ court of _____, may order him confined for a period not to exceed one year.

Date:

Judge of the _____ Court

IN THE _____ COURT
REPUBLIC OF THE MARSHALL ISLANDS

Form No. 5

IN THE MATTER OF _____) JUVENILE CASE NO. _____
)
)

(Name of Child)) RECORD OF HEARING
)
)
AN ALLEGED DELINQUENT CHILD.)

)

Held before _____ on _____, 19____, at
(name fo judge)
_____, the said child being a _____
("male" or "female")
of the age of _____ years, having been born on or about _____, 19____, and
now residing at _____.

Court Reporter (if any): _____

Counsel for the Republic: _____

Counsel for the Child: _____

Clerk/Interpreter: _____

Counsel for _____ : _____

Name and address of each witness for the Republic:

Name and address of each witness for the child:

_____	_____
_____	_____
_____	_____
_____	_____

At the first hearing, held informally in closed (or in open session pursuant to court authorization) session on January 8, 19_____, the child and his father _____ being present as well as _____, representing the Republic of the Marshall Islands, it appeared that the child denied the acts set forth in the complaint. As the child had no counsel, and he and his father stated they could not obtain one, the court appointed, _____, a suitable person, to represent the child and he agreed to do so, requesting that the hearing be continued for one week to afford him time for investigation. The hearing was continued until January 15, 19_____, and on that day resumed informally in closed session. There were present the child, his father _____, his counsel _____ representing the Republic of the Marshall Islands, and _____, alleged to have been struck and wounded with a machete by the child. The above name witnesses were brought into the hearing one at a time, were sworn, examined and cross-examined by counsel, and were further examined by the court and the child's father.

After hearing all the evidence, the court found that the child had unlawfully struck _____ with a machete on _____, 19_____, in the village of _____, _____ Atoll, inflicting a severe

wound on _____ upper left arm, and found to be a delinquent child.

The court further found that _____ had expended the sum of \$30.50 in obtaining medical treatment for his injured arm.

At this time the representative of the Republic of the Marshall Islands invited the court's attention to the fact that this was the third time that _____ had been adjudged a delinquent child.

ORDER

_____ is adjudged a delinquent child and ordered:

1. Released in the custody of the Chief of Police or any police officer, who is to confine the child in a suitable place, separated from adult offenders, for a period of six months from the date of his order under the following conditions: the child shall be released from confinement to attend school during regular school hours, or to attend regular church services if he desires to do so. Outside of school hours, but during regular working hours, the child is to perform any tasks assigned him by the Chief of Police or his designee about the child's own home, the office of the Police Chief, or other place where the child will not be brought in close contact or association with adult offenders.

2. At the end of six months from the date of this order the Chief of Police will release the child in the custody of _____, the _____ Atoll, for a period of two years from the date of the child's release from police custody. During this two years period the child shall comply with the following conditions:

- a. Obey _____ as if the latter were his father.
- b. Report to _____ at least once each week, at a time and place

to be set by the _____, and give him such information as he desires as to the child's conduct or activities.

c. Seek gainful employment, or make copra where he has the right or permission to do so, to the end that he can reimburse _____ for his medical expenses of \$30.50 and shall make such reimbursement from the first of his earnings.

3. The court reserves the right to change this order at any time it considers justice and the best interest of the child require such change.

4. On any failure by the child to carry out the above conditions this court, or the _____ Court of _____, may order him confined for a period not to exceed one year.

Dated:

Judge