

## **Chapter 6: Texas Juvenile Justice Process**

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### **Introduction**

This chapter provides a brief but thorough walk through of the juvenile court system and proceedings in the state of Texas. Cox, Conrad, Allen and Hanser (2008) provide a general overview but this chapter will provide an understanding of Texas juvenile court proceedings, reforms and rights of youth and their guardians.

### **Arrests, Investigatory Stops, and Searches**

In Texas, a juvenile can be taken into custody for any offense or in any situation for which an adult can be arrested. In Lane v. State (1989), the Texas Court of Criminal Appeals held that the same constitutional protections for adults also apply to arrests and detentions of juveniles. Section 52.01 of the Texas Family Code provides:

the taking of a child into custody is not an arrest except for the purpose of determining the validity of taking him into custody or the validity of a search under the laws and constitution of this state or of the United States.

These authorities make it clear that like adults, juveniles are entitled to constitutional protections when arrested or detained (Dawson, 2004). Evidence resulting from an illegal arrest or search is, therefore, not admissible in an adjudicatory hearing (Dawson, 2004). Probable cause is also required for an arrest, or “taking into custody,” which is the terminology used by the Texas Family Code, and reasonable suspicion is required for a temporary stop for investigation. As long as probable cause is present, a juvenile can be taken into custody without an arrest warrant (Dawson, 2004).

There is no Texas case on whether a juvenile may be randomly searched as a condition of probation. However, the Supreme Court has lowered the standard for searches in a school setting to less than probable cause. The Supreme Court in New Jersey v. T.L.O. (1985) held that a search on school property can result from a reasonable suspicion as long as a school official requests or initiates the search. The Supreme Court concluded that a student’s privacy interest is limited in a public school environment where the State is responsible for maintaining discipline, health, and safety.

### **Custody**

A child may be taken into custody for several reasons. Section 52.01<sup>1</sup> of the Texas Family Code provides that custody can be initiated pursuant to a juvenile court order, laws of arrest, probable cause, a lawful warrantless arrest, probation violations, an arrest warrant, and for a TYC escape. Taking a child into custody pursuant to a juvenile court order may happen under several circumstances. First, section 52.01(a) provides that if a juvenile is released from detention and fails to appear before the juvenile court as required by conditions of his or her release the juvenile court may issue an order to take the child into custody. This is the equivalent to an adult forfeiture of bond (Dawson, 2004).

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<sup>1</sup> Sections referenced throughout this chapter refer to the Texas Family Code unless otherwise specified.

Second, pursuant to Texas Code of Criminal Procedure, a law enforcement officer may take a child into custody when the child has witnessed an offense. Under this circumstance, failure to appear authorizes the issuance of an attachment which requires a peace officer to find the child witness and bring him or her before the court to testify (Tex. Code. Crim. Proc. Ann. Art. 24.11-12). Also, when a child is on probation, he or she may be ordered before the court to answer a motion to modify probation if such a motion has been filed. A child can also be taken into custody pursuant to ordinary laws of arrest. This is so because it is often impossible to tell prior to an arrest whether a person is an adult or a child (Dawson, 2004).

Furthermore, a child can be taken into custody if there is probable cause to believe that the child has engaged in delinquent conduct or conduct indicating the need for supervision (CINS). Section 52.01(a)(3) provides that powers of arrest extend to school district peace officers. In Matthews v. State, probable cause arrests have been extended to arrest for truancy. A child can also be taken into custody for curfew violations pursuant to both daytime and nocturnal ordinances (In the Matter of C.R.).

Section 14.04 of the Texas Code of Criminal Procedure provides that arrest on probable cause does not require an arrest warrant. "Where it is shown by satisfactory proof to a peace officer, upon the representation of a credible person, that a felony has been committed, and that the offender is about to escape, so that there is no time to procure a warrant, a peace officer may arrest an offender without a warrant for any offense committed in his presence or within his view." (Art. 14.04(b)). However, custody of a juvenile can also be made pursuant to an arrest warrant.

Furthermore custody of a child can be had due to probation violations under section 52.01(a)(4). A warrant in this instance is not required. Lastly, section 52.015 provides that a juvenile can be taken into custody under a directive to apprehend if there is probable cause to believe that a child has engaged in delinquent conduct or CINS. A directive to apprehend can also be issued for probation violation, failure to appear for a hearing or violation of release conditions (Dawson, 2004).

### **Intake and Release Decisions**

Police have six options for juvenile dispositions when juveniles are taken into custody, pursuant to section 52.02:

1. release the child to a responsible adult. This release is totally on the judgment of the police based on a credible promise of the adult to bring the child to court.
2. Bring the child to the "office or official designated by the juvenile board." This option allows the juvenile board in each county to create its own intake system.
3. Take the child to the designated juvenile detention facility pursuant to section 52.02(a)(3). A child must be brought to a juvenile processing office without unreasonable delay. In Roquemore v. State, a police officer, at the child's request, took the child to a place where stolen property was hidden. The Court of Criminal Appeals held that the recovery of the stolen property should have been suppressed as section 52.02(a) was violated. Section 52.02(a) clearly mandate that a juvenile be first brought to the juvenile processing station. The establishment of processing stations was mandated by the legislature after the case of Comer v. State, (1989). Comer was arrested and taken before a magistrate for warnings and then to the police station, where, after two hours of interrogation, he confessed to murder. He was, thereafter, returned to the magistrate where he signed a written confession. The Court of Appeals upheld the admissibility of the written confession on the grounds that it complied with section 51.095. After Comer,

- the legislature enacted section 52.025 which authorized each juvenile court to designate a juvenile processing station for juveniles to receive warnings.
4. Under very restricted circumstances, take the child to a secure adult detention facility until the initial detention hearing.
  5. Take the child to a medical facility for treatment of a serious physical condition or illness per sec. 52.02(a)(5).
  6. Informal Disposition or First Offender Program:
    - Informal Disposition is authorized by Section 52.03 and provides that there shall be no referral to juvenile court and disposition will terminate quickly. It typically involves a conference with parents or a referral to a social agency. There is no detention and no periodic reporting to a law enforcement agency (Dawson, 2004).
    - The First Offender Program is quite similar to informal disposition. Children taken into custody for a third degree felony or higher are not eligible, nor are children who have committed misdemeanors or state jail felonies involving violence or weapons. Also a previous adjudication disqualifies a child who would otherwise be eligible. The First Offender Program may involve continuing contact between the law enforcement agency.

If a child is referred to Juvenile Court instead of released, the police must physically take the child to the detention facility designated by the juvenile board for that area (Dawson, 2004). Section 53.02(a) requires the intake officer to release a child unless detention is required, otherwise. Reasonable conditions can be attached to the release.

### **Confessions**

The term child shall mean a person who is ten years or older and under age 17, or 17 years of age and under 18 years old who is alleged or found to have engaged in delinquent conduct or conduct indicating a need for supervision as a result of acts committed before becoming 17 years of age (Section 51.02(2)). Any confession by a child must be voluntary (Sec. 51.095). If the child was threatened, coerced, promised something in exchange for the confession, or not informed of his or her rights before the confession, the confession is considered involuntary and the trial court must exclude it (Diaz v. State, (2001)). Oral confessions may only be admitted if the child makes a statement of facts or circumstances that are found to be true and tend to establish the child's guilt, and the statement suggests delinquent conduct or conduct indicating a need for supervision or of the arrest (Sec. 51.095). Furthermore, section 51.095 provides that the oral statement must be in open court at an adjudication hearing, or before a grand jury considering whether or not the child engaged in delinquent conduct; or at a preliminary hearing concerning the child held in compliance with the Family Code, other than at a detention hearing (Dawson, 2004).

A written statement is admissible if before the statement is made, the child is taken before a magistrate and given the following warnings:

1. the child may remain silent and if any statement is made it may be used against the child.
2. the child has the right to have an attorney present to advise the child before or during questioning.
3. the child has a right to have an attorney appointed if he or she cannot afford an attorney before or during any interviews with peace officers or attorneys representing the state; and
4. the child has a right to terminate the interview at any time (Sec. 51.095).

Along with these warnings, the code also provides that the written statement must be signed in the presence of the magistrate by the child with no law enforcement officer or prosecuting attorney present. The magistrate must also be fully convinced that the child understands the nature and contents of the statement and that the child is signing the statement voluntarily. The child must knowingly, intelligently, and voluntarily waive the above rights before and during the making of the statement. Lastly, the magistrate must certify that the magistrate has examined the child independent of any law enforcement officer or prosecuting attorney.

### **Detention Hearings**

If a child is not released, section 53.02(c) requires that the intake office shall promptly request and a detention hearing shall be promptly held (Dawson, 2004). Typically, the child must receive a hearing by the close of the second working day after being taken into custody. However, if a child is detained on a firearms charge or if detained in an adult facility, a detention hearing must be held within 24 hours excluding weekends and holidays (sec. 54.01(p)). Although the Texas Supreme Court established guidelines for the disposition of juveniles which state that hearings are to be held on the next business day after admission, these guidelines are non-mandatory and the Texas Family Code governs (Dawson, 2004).

Section 54.01(b) provides that notice of the detention hearing should be given to the child's parents or guardian. This notice must state the time, place, and purpose of the hearing. Oral notice is sufficient and, therefore, service of citation is not required.

The initial detention hearing may not be waived; however, subsequent hearing may be waived pursuant to section 51.09

### **Interrogation**

A juvenile taken into custody has rights similar to those of an adult with respect to interrogation. A child is in custody if a reasonable child of the same age would believe that his or her freedom of movement is restricted to the degree of a formal arrest (Garza, 2007). A child has the right not to answer questions that can be used against him according to the Fifth Amendment and Texas law. The police officer should advise the child that a decision to remain silent will not be an indication of guilt (Cox, 2006). Full Miranda<sup>2</sup> warnings should be given to the child by the arresting police officer and again by the intake officer, however, section 51.095 makes it highly unlikely that any statements made by a child will be admissible in court (Dawson, 2004). However, a child can be asked non-incriminating information such as his or her name, parents' names and address, where he or she is attending school, or other identifying information. In any event, a child may not be detained in a juvenile processing office for longer than six hours (Garza 2007).

### **Right to Attorney**

If a police officer or an intake officer does not release a child soon after being taken into custody, the child is entitled to a detention hearing to determine whether the child should be detained. A child has a right to an attorney at a detention hearing. This right can be waived but only if joined in by the attorney of the child (Sec. 51.09). Because the hearing is to be held

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<sup>2</sup> *Miranda v. Arizona*, 384 U.S. 436 (1966).

promptly, an attorney for the child may be appointed at the detention hearing and a financial evaluation of the family can be had a later time. Section 51.10(c) authorizes a detention hearing to be held without counsel if an attorney cannot be obtained before the hearing, however, a child cannot jeopardize his or her defense by statements made at a hearing without counsel as those statements are inadmissible in evidence (Dawson, 2006). If a hearing is held without counsel and the child is detained then the appointed attorney may request, no later than 10 days of the appointment, a denovo detention hearing (sec. 51.10(c)).

Section 51.10(a) of the Texas Family Code provides that a juvenile has a right to counsel “at every stage of proceedings.” It prohibits waiver of counsel at certain stages such as adjudication proceedings, disposition proceedings, proceeding dealing with mental illness, and medication of disposition proceedings in which commitment to the Texas Youth commission is sought. (Dawson, 2004). Notice of the right to counsel is required at several stages of the process (Dawson, 2004). Section 54.01(b) requires the court to notify the parties of the child’s right to counsel and to appoint counsel if the family is determined to be indigent. Section 54.03(b)(5) requires the court to notify the persons before it at the beginning of an adjudication hearing of the child’s right to an attorney. In In re K.J.O. (2000), the Texas Appeals Court of Dallas also held that there is a requirement that counsel be effective.

### **Bail**

The Juvenile Justice code is silent on whether a juvenile has a right to bail (Dawson, 2004). The Court of Appeals has rejected an argument made in Ex parte D.W.C. (1999) that the right to bail in Texas was violated when a juvenile was detained and bond was refused. The Court of Appeals noted that based on the doctrine of *parens patriae*, juveniles do not have an absolute constitutional right to bail (Dawson, 2004).

### **Decision to Prosecute**

A decision to prosecute can only be made if there has been a preliminary investigation conducted as required by Section 53.01(a) of the Texas Family Code. This investigation must confirm that the person referred to the court is a child and that there is probable cause to believe the he or she has committed delinquent conduct or conduct indicating a need for supervision (Dawson, 2004). The prosecutor is then authorized to file a petition in cases in which he or she finds probable cause even where the intake officer found no probable cause (sec. 53.01(a)). When the decision to prosecute is made, the petition should be filed “as promptly as practicable” (sec. 53.04(a)).

### **Transfer to Criminal Court**

The age of the child at the time of the offense controls whether a juvenile court can waive jurisdiction and the case can be transferred to criminal court. A juvenile, under the age of 18 may be transferred to criminal court if:

1. he is alleged to have violated a penal law of the grade of felony;
2. he was 14 or older at the time he is alleged to have committed the offense, if the offense is a capital felony; an aggravated controlled substance felony; or a first degree felony and no adjudication hearing has been conducted concerning that offense.
3. he was age 15 or older at the time of the offense and the offense is a second or third degree felony or a state jail felony and no adjudication hearing has been held.

4. after a full investigation and hearing, the juvenile court determines that the seriousness of the offense alleged or the background of the child warrants criminal proceedings (Dawson, 2004).

A juvenile over the age of 18 can be certified as an adult for offenses committed while under the age of 18. Certification and transfer to the adult criminal court can occur if:

1. the child is currently 18 years or older
  - a. he committed a capital felony or murder between the ages of 10 and 17,
  - b. he committed an aggravated controlled substance felony or a first degree felony other than murder between the ages of 14 and under 17, or
  - c. he committed a second or third degree felony or a state jail felony at age 15 or older and under 17
2. no adjudication concerning the alleged offense has been made or no adjudication hearing concerning the offense has been conducted.
3. the juvenile finds from a preponderance of the evidence that
  - a. for a reason beyond the control of the State, it was not practicable to proceed before the person's 18<sup>th</sup> birthday, or
  - b. after due diligence of the State, it was not practicable to proceed before the person's 18 birthday because
    - i. the State did not have probable cause to proceed and new evidence has been found since the person's 18<sup>th</sup> birthday;
    - ii. the person could not be found; or
    - iii. a previous transfer order was reversed on appeal or set aside by a district court; and
4. the juvenile court determines that there is probable cause to believe that the person before the court committed the offense alleged.

Certifications for Capital Murder and Murder: A 1999 amendment to the Family Code allows for certification of juveniles who committed a murder before the age of 14 and who was not certified until after age 18. Ordinarily, a juvenile would have to be certified by the juvenile court before the age of 18. However, if for whatever reason certification could not take place before the age of 18, then the juvenile court could not handle the case because the person is 18 and the criminal justice system cannot handle it because the murder took place before the juvenile was age 14. In order to deal with this gap, the 1999 amendment allows for certification as an adult by the criminal justice system after the person turned 18 years of age. This is the legislature's attempt to fill in this gap and still hold the person accountable (Dawson 2004), (sec. 54.02(j)(2)(A)).

### **Adjudicatory Hearing**

Adjudication hearings are the juvenile equivalent of criminal trials in the adult system. The adjudication hearing must be separate from the disposition hearing and cannot be waived (Dawson, 2004). Only after an adjudication hearing has been held may a child be found to have engaged in delinquent conduct or conduct indicating a need for supervision (sec. 54.03(a)). A decision of the juvenile court may not be appealed by the State (C.L.B. and L.J.B v. State (1978)). The juvenile must be present in court before the adjudication hearing can proceed. However, once the proceedings begin, they will continue in the absence of the juvenile. In In the Matter of C.T.C., the San Antonio Court of Appeals held that if the juvenile is voluntarily absent, the juvenile court is not required to consider whether the trial might be delayed until the juvenile is present.

## **Admonitions Required**

The Texas Family Code requires admonitions at the beginning of every juvenile adjudication hearing and when the State and the juvenile have entered into a plea agreement (Dawson, 2004). Admonitions must be personally explained by the judge per the appeals court holding in In the Matter of N.S.D. (1977). Before the adjudication hearing, the juvenile and his parent or guardian should be advised by the court of:

1. the allegations against the juvenile,
2. the nature of the charge and possible consequences of adjudication hearing,
3. the privilege against self incrimination,
4. the right to a trial and to confront witness,
5. the right to have an attorney, and
6. the right to trial by jury (sec. 54.03(b)).

In a plea agreement, the State shall inform the court of the agreement with the juvenile and the Court shall, in turn, inform the child that the Court does not have to accept the agreement (sec. 54.03(j)). In admonishing the juvenile as to the “allegations made against” him, the Court must make plain the charges against the juvenile and explain that lesser included offenses which may also be made against him (A.E.M. v. State (1977)). Failure to comply with admonitions may result in the reversal of adjudication (D.L.E. v. State (1975)). The juvenile may waive admonishments, however, if the waiver is made in writing or in open court proceedings that are recorded. Furthermore, the waiver must be made by the child and the attorney (sec. 51.09).

## **Trial by Jury**

In McKeiver v. Pennsylvania (1971), the U.S. Supreme Court held that states are not required to provide a jury trial in juvenile cases, but they are free to do so if they choose. The State of Texas, under section 54.03(c) of the Family Code provides that a juvenile trial must be by jury unless it is waived in writing or in open court by the child and his or her attorney (Dawson, 2004) (sec. 51.09). The right to a jury trial only applies to adjudication hearings; however, it does extend to dispositional hearings when cases are brought under the determinate sentence act.<sup>3</sup> The juvenile may separately exercise the right to jury at either hearing. A unanimous verdict is required (sec. 54.03(c)). Like a defendant in a criminal trial, charges made against a juvenile must be proved beyond a reasonable doubt (sec. 54.03(f)). The Supreme Court has held that the Constitution requires proof of delinquency beyond a reasonable doubt and the Texas legislature also requires it (Dawson, 2004).

## **Dispositional Hearing**

Section 54.04(a) provides that “the dispositional hearing shall be separate, distinct and subsequent to the adjudication hearing.” It may be held on the same day as the adjudication hearing or scheduled for a different day; however, guidelines issued by the Supreme Court provide that the dispositional hearing should be held no later than 15 days after the adjudication hearing (Dawson, 2004). At an adjudication hearing, the question is whether the respondent

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<sup>3</sup> The Determinate Sentence Act provides that instead of transferring a juvenile to criminal court, the juvenile court retains the case but all the procedural protections of an adult court is provided to the juvenile. It provides for an extended control of the case for up to 40 years. The rehabilitative programs and opportunities in the juvenile system gives the juvenile one last opportunity to demonstrate change.

engaged in conduct alleged in the petition. At the disposition hearing, the question is what to do with a juvenile who has been adjudicated (Dawson, 2004).

### **Social History Report**

Section 54.04(b) provides at a disposition hearing, witnesses may testify and a social history report may be given. Section 54.03(b) provides that:

At the disposition hearing, the juvenile court may consider written reports from probation officers, professional court employees, or professional consultants in addition to the testimony of witnesses.

However, in determinate sentence cases, a social report is not given and witness testimony is the only evidence presented. Section 54.03(d) further prohibits a social history report to be considered at the adjudication hearing or before the adjudication decision is made. Any interview for dispositional purposes must be preceded by Miranda warnings as the juvenile has a privilege against self incrimination (In the Matter of J.S.S. (2000)). However, the Texas Appeals court in In the Matter of A.N.M. (1976) held that the dispositional court may consider evidence offered at the adjudicatory hearing without having to re-introduce it.

Not only may the court consider reports made for the purpose of the dispositional hearing, it may also consider reports from probation officers, professional court employees, and professional consultants (sec. 54.04(b); In the Matter of J.A.W. (1998)).

### **Findings Required**

Section 54.04(c) provides:

No disposition may be made under this section unless the child is in need of rehabilitation or the protection of the public or the child requires that disposition be made. If the court or jury does not so find, the court shall dismiss the child and enter a final judgment without any disposition.

Thus, one of the above findings must be made for a disposition to be had. Section 54.04(c) does not violate due process of law by not providing whether the disposition must be shown beyond a reasonable doubt, by clear and convincing evidence, or by a preponderance of the evidence. Due process is satisfied so long as the juvenile is represented by counsel, has an opportunity to present and cross examine witness, and is aware of the nature of the proceedings (In the Matter of J.T.H (1989)).

Where a child is placed on probation outside his or her home, findings must be made by the court or jury that the child, in the child's home, cannot be provided with the quality of care, supervision, and support that the child needs to meet the probation conditions (sec. 54.04(c)). This finding is also required when the child is being placed in the Texas Youth Commission (TYC). Additional findings that must be made when placing a child in TYC include findings that (1) it is in the child's best interest to be placed outside the home, and (2) reasonable efforts have been made to prevent the child from being removed from the home and for the child's return to the home. These findings must be recited in the probation or commitment order and they may be based on evidence presented in the adjudication hearing (Dawson, 2004). Once these findings are made, the juvenile court may employ its dispositional powers of probation, commitment to TYC, suspension of operator's license, orders affecting parents and others, orders for restitution, sex offender registration, and HIV testing (sec. 54.04).



## **Reforms of Senate Bill 103**

Senate Bill 103 changed how juveniles are committed to TYC and how they are treated once they arrive (Garza, 2007). A primary aim of the bill was to reduce the number of commitments to TYC by lowering the age limitations of commitments from 21 to 19 years of age (sec. 50(a); 61.079). Furthermore, the bill amended section 54.04 to disallow commitments to TYC without a determinate sentence of the grade of misdemeanor. Modifications of a misdemeanor disposition to commit a child to TYC are no longer allowed but felony adjudications can be modified. The Bill no longer allows children to be committed to TYC for misdemeanors. Any current commitments to TYC for misdemeanor offenses must be discharged no later than the juveniles 19<sup>th</sup> birthday (see sec. 65).

## **Juvenile Records**

Amendments to the Family Code in 1995, made juvenile records less confidential than they had been previously, however, juvenile records still much more inaccessible than adult records (Dawson, 2004). Juvenile records are not public and not available on the World Wide Web as are criminal records. However, Texas Government Code provides that juvenile sex offender registration records as well as photographs are public records and can be accessed through the Department of Public Safety database (sec. 411.135(a)(1)). In addition, the Family Code gives access of juvenile records to professional staff or consultants of an agency having custody of a child or treating a child, judges, probation officers, the juvenile court, attorneys for the child, and state agencies for the purpose of maintaining statistical records (<http://www.tjpc.state.tx.us>). Juvenile records may be sealed or destroyed even if the juvenile was adjudicated but has since been rehabilitated (sec. 58.003). The Court of Criminal Appeals held in Ruth v. State (1975) that the juvenile record of a witness may not be used to impeach him at a trial as dispositions against juveniles are not considered convictions of crimes, however, it can be used for other purposes such as to show bias. Section 51.13(b)(2) allows evidence of an adjudication to be admitted in criminal court sentencing proceedings if the violation is a felony or a misdemeanor punishable by confinement in jail. Evidence of unadjudicated conduct may also be admitted at the penalty phase of a criminal trial if it is relevant to sentencing (Tex. Code of Crim. Proc. Art. 37.07, Sec. 3(a)).

## **Parental Rights and Responsibilities**

In juvenile proceedings, the Family Code provides that a “party” means the state, a child who is the subject of the proceedings or the child’s parent, spouse, guardian, or guardian ad litem (sec. 51.02(10)). Service of the petition and summons must, therefore, be directed to one of the above. A court may order a parent to appear in court with the child (sec. 53.06(c)). Furthermore, section 51.115 prescribes a penalty for a parent’s failure to appear. The power to consent to certain proceedings is mostly given to the child or his or her attorney and not to the parent (sec. 51.09).

A parent has the right to basic information about their child’s case (Dawson, 2004) (sec. 61.102(a)). The parent should be informed of:

1. the name, date and time of the offense;
2. the date the child was taken into custody;
3. the type of property taken or damaged and the type of weapon used;
4. whether there is reason to believe the offense was gang related or if it was related to consumption of alcohol or other illegal substance;

5. physical injuries to any victims;
6. the names of any other adults or juveniles that the child was taken into custody with;
7. the aspects of the juvenile court process that applies to the child;
8. the visitation policy of the detention facility where the child was placed;
9. the child's right to be represented by an attorney and the policies and procedures for determining if the parent qualifies for representation by an attorney; and
10. the methods by which the parent can assist the child with the legal process (Dawson, 2004)(sec. 61.102(a)).

Section 61.103 further provides that the parent has a right to access the child while he or she is in custody. A delay in notifying the juvenile's parent, upon taking the juvenile into custody may invalidate the confession. Because the purpose of juvenile processing is to achieve limited objectives the legislature imposed a six hour rule on the length of time a child may be detained in a juvenile processing office (sec. 52.025(d)).

Senate Bill 103 provided that TYC should develop a parent's bill of rights for distribution to a parent or guardian of a child committed to TYC (sec. 61.0763). The bill of rights must include the following:

1. a description of the commission's grievance policies and procedures
2. a list of possible incidents that require parental notification
3. visitation and telephone conversation policies
4. a description of commission caseworker responsibilities
5. a statement that the commission caseworker assigned to a child may assist the child's parent or guardian in obtaining information and services from the commission and other resources concerning
  - a. counseling, including substance abuse and mental health counseling
  - b. assistance programs, including financial and travel assistance for visiting a child at TYC
  - c. workforce preparedness programs
  - d. parenting programs; and
  - e. commission seminars
6. information concerning the indeterminate sentencing structure, an explanation of why a child's sentence might be extended, and an explanation of the review process for a child committed without a determinate sentence

Furthermore, the commission shall provide to the parent or guardian on a quarterly basis a report of the child's progress at TYC.

### **Summary**

The juvenile court system plays a vital role in protecting both youth and society. The Texas Youth Commission attempts to provide care and rehabilitation for juveniles culminating in a functional reintroduction into society once oversight by the juvenile court system is completed. However, juvenile crime prevention is essentially a local effort and requires community concern and involvement. Rights of the juvenile and his or her parents are also essential in handling and preventing juvenile crime. Proper procedure and protocol for police, intake and probation officers as well as judges and attorneys are necessary in order to ensure a fair and impartial system with that bears the rehabilitative objective in mind.

## Critical Review Questions

1. In Texas is a juvenile entitled to a trial by jury?
2. How can the delivery of services to juveniles in the State of Texas be enhanced by legislation reform?
3. What are some positives of lessening the confidentiality of juvenile records? What are some of the negatives?
4. How does informal adjudication strengthened the juvenile's ties to the community?
5. What are the rights of parents in juvenile justice proceeding?

## Bibliography

### Cases

Lane v. State, 767 S.W.2d 789, 800-01 (Tex.Crim.App. 1989)

New Jersey v. T.L.O., 469 U.S. 325 (1985).

Matthews v. State, 677 S.W.2d 809 (Tex.App.—Fort Worth 1984, pet.ref'd).

In the Matter of C.R. UNPUBLISHED, No. 04-98-00389-CV, 1999 WL 15963, 1999 Tex. App.Lexis 135.

Comer v. State, 776 S.W.2d 191(Tex.Crim.App.---1989).

In A.E.M. v. State, 552 S.W.2d 952 (Tex.Civ.App.---San Antonio 1977).

Diaz v. State, Tex.App. LEXIS 5319, No. 04-00-00025-CR, (Tex.App.---San Antonio 2001).

In re K.J.O., 27 S.W.3d 340 (Tex.App.---Dallas 2000, review denied)(holding that the constitutional right to counsel in juvenile cases includes the right to effectiveness of representation).

Ex parte D.W.C., 1 S.W.3d 896 (Tex.App.—Beaumont 1999)

In the Matter of N.S.D., 555 S.W.2d 807 (Tex.Civ.App.---El Paso 1977)

C.L.B. and L.J.B v. State, 567 S.W.2d 795 (Tex. 1978).

In the Matter of C.T.C., 2 S.W.3d 407 (Tex.App---San Antonio 1999) (where the juvenile appeared for jury selection and failed to appear thereafter).

In the Matter of N.S.D., 555 S.W.2d 807 (Tex.Civ.App.---El Paso 1977)

D.L.E. v. State, 531 S.W.2d 196 (Tex.Civ. App.---Eastland 1975).

McKeiver v. Pennsylvania, 403 U.S. 528, 91 S.Ct. 1976(1971),

In the Matter of J.S.S., 20 S.W.3d 837 (Tex.App.---El Paso 2000, pet. denied) (holding that privilege against self incrimination was violated when juvenile revealed having committed two other offenses and that information was used against him in the dispositional hearing).

In the Matter of J.A.W., 976 S.W.2d 260 (Tex.App.---San Antonio 1998).

In the Matter of J.T.H., 779 S.W.2d 954 (Tex.App---Austin 1989).

Ruth v. State, 522 S.W.2d 517 (Tex. Crim.App. 1975), Hall v. State, 745 S.W.2d 579 (Tex.App.--Fort Worth 1988, pet. ref'd).

## **Books and Reports**

Dawson, Robert O., Texas Juvenile Law, 6<sup>th</sup> Ed., (2004).

Cox, Juvenile Justice Procedures (2006).

Garza, Police Interactions with Juveniles: Arrest, Confessions, Waiver of Rights, & Searches and Seizure (2007).

## **Statutes**

Tex. Fam. Code Ann. § 51.09

Tex. Fam. Code Ann. § 51.095

Tex. Fam. Code Ann. § 51.10(a)

Tex. Fam. Code Ann. § 51.115

Tex. Fam. Code Ann. § 52.01(a)(2),(3),(b)

Tex. Fam. Code Ann. § 52.02(a)(5), (10)

Tex. Fam. Code Ann. § 53.07

Tex. Fam. Code Ann. § 54.01(b),(p)

Tex. Fam. Code Ann. § 54.03(b)(5),(c), (e), (j)

Tex. Fam. Code Ann. § 54.04(b),(c)

Tex. Fam. Code Ann. § 61.102(a)

Tex. Fam. Code Ann. § 61.0763

Tex. Fam. Code Ann. § 61.103

Tex. Code. Crim. Proc. Ann. art. 24.11-12

Tex. Code. Crim. Proc. Ann. art 37.07

Tex. Code Crim. Proc. Art. 14.04.

Tex. Gov't Code Ann. § 411.135(a)(1)