

TEXARKANA, TEXAS POLICE DEPARTMENT  
GENERAL ORDERS MANUAL

<i>Effective Date</i> <b>February 1, 2008</b>		<i>Amended Date</i> <b>February 9, 2016</b>		<i>Directive</i> <b>10.02.1</b>	
<i>Subject</i> <b>Juveniles – Arrest, Detention, and Transportation</b>					
<i>Reference</i> <b>Texas Family Code Section 52 and Code of Criminal Procedure 45.058</b>					
<i>Distribution</i> <b>All Personnel City Manager City Attorney</b>		<i>TPCA Best Practices Recognition Program Reference</i> <b>10.02.1 Juveniles – Arrest, Detention, and Transportation</b>		<i>Review Date</i> <b>January 1, 2017</b>	
				<i>Pages</i> <b>10</b>	

**This Operations Directive is for internal use only and does not enhance an officer’s civil or criminal liability in any way. It should not be construed as a creation of a higher standard of safety or care in an evidentiary sense, with respect to third party claims. Violations of this Operations Directive, if proven, may only form the basis for a complaint by this Department, and only in a non-judicial administrative setting.**

**SECTION 1 PURPOSE**

The purpose of this policy is to require that all personnel comply with all applicable laws related to the arrest of juveniles, the detention of juveniles, the transportation of juveniles, and the security and privacy of juvenile files.

**SECTION 2 POLICY**

It is the policy of the Department that all personnel will comply with all applicable laws related to the arrest of juveniles, the detention of juveniles, the transportation of juveniles, and the security and privacy of juvenile files as described in this directive. It is also the policy of the Department to use the least coercive among reasonable alternatives to prevent and control juvenile delinquency. Such alternatives shall be consistent with preserving public safety, order, and individual liberties.

**SECTION 3 DEFINITIONS**

- A. Status Offender - A juvenile who is charged with an offense that would not be a crime if committed by an adult.
- B. Responsible Adult - In the absence of a juvenile’s parents or legal guardian, a responsible adult is one who is responsible for the physical custody of a juvenile or who is another adult acquaintance of the juvenile’s parents or legal guardian who agrees and reasonably demonstrates the ability to provide supervision for the juvenile until parents, legal guardian or next of kin can assume that responsibility.
- C. Secure Custody - A condition in which a juvenile is physically detained or confined in an approved designated area, set aside or used for the specific purpose of securely detaining persons who are in law enforcement custody.
- D. Non-secure Custody - A condition under which a juvenile’s freedom of movement is controlled by members of this agency and, during such time, the juvenile:
  - 1. is held in an unlocked, multi-purpose area that is in no way designed for residential use, such as a report-writing room or an office;

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2. is at no time handcuffed to any stationary object;
3. is held only long enough to complete identification, investigation and processing and then released to a responsible adult or transferred to a juvenile facility or court; and
4. is under continuous visual supervision until released.
5. held no longer than six (6) hours per Texas CCP Article 45.058 (e).

**SECTION 4 PROCEDURES**

A. Officers should bear in mind that only a small percentage of juveniles commit the majority of juvenile crimes. While this small percentage may require secure custody, the vast majority of juvenile offenders are likely candidates for non-secure custody and positive diversion and intervention strategies. Officers shall whenever reasonable and justified under this policy, take those measures necessary to effect positive changes in juvenile offenders that are consistent with state law and the safety and security interests of the community.

B. Investigative Services will be responsible for:

1. Follow-up processing of juvenile arrests;
2. Investigate cases and gather details of offenses where a juvenile offender is involved;
3. Providing expertise in juvenile matters to other elements of the department.

C. FIELD RELEASE CITATIONS

1. In cases involving fineable only misdemeanors committed by juveniles, except Public Intoxication, police officers may issue a citation to appear in the Municipal Court of Texarkana, Texas instead of making a full-custodial arrest.
2. When a juvenile is issued a citation, the officer will write on the citation, in a conspicuous place "Juvenile – Parent Must Appear." The Magistrate will not have a trial or hearing for a juvenile without a parent or guardian present.

D. ENFORCEMENT ALTERNATIVES

Officers dealing with juveniles in enforcement capacities may exercise reasonable discretion as outlined in this policy in deciding on appropriate actions. Alternatives that may be considered include:

1. Release without further action;
2. Informal counseling to inform the youth of the consequences of his actions;
3. Informal referrals to community services;
4. Referral to parents or responsible adult;
5. Informal counseling of parents or responsible adult;

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6. Limited custody and warning;
7. Issuance of a summons or complaint;
8. Arrest under non-secure custody; and
9. Arrest under secure custody.

**E. JUVENILE SHOPLIFITING**

1. The following guidelines may be used in determining appropriate enforcement and related actions that may be taken when dealing with juveniles involved in Theft O/50 – U/500 only. Juvenile offenders may be cited for “Attempted Theft O/50 – U/500” and cited to Municipal Court. Cases involving repeat offenders will then be referred to the Bowie County Juvenile Probation Office for disposition. Juveniles may be cited for Attempted Theft O/50 – U/500 when the following circumstances exist:
  - a. The offender is a juvenile, and
  - b. The juvenile offender is detained whether inside or outside the store, and
  - c. All of the property taken is recovered intact, and
  - d. The value of the property is over \$50 and under \$500, and
  - e. The juvenile can be positively identified, and
  - f. The juvenile can be released to their parent or guardian.
2. Parental contact information must be included on the back of the citation.
3. An “Attempted Theft O/50-U/500” complaint must be completed as well as a warrantless PC affidavit for the same charge.
4. The property shall be photographed and released to the victim of the attempted theft.

**F. ENFORCEMENT CRITERIA**

The following general guidelines may be used in determining appropriate enforcement and related actions that may be taken when dealing with juvenile incidents:

1. Release without further action or following informal counseling referral to community resources or parents may be appropriate in incidents where property damage or personal injury is not involved but intervention is necessary to avoid potential delinquent actions and when the youth has had no prior enforcement contacts with the police. Examples of these incidents include, but are not limited to:
  - a. Curfew violations;
  - b. Loitering;

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- c. Minor liquor law violations; and
  - d. Disorderly conduct.
2. Officers may elect to transport the youth home or direct him to return home; make personal, telephone or mail contact with the youth's parents or guardians to provide them with information and counseling on their child's actions; refer the youth to appropriate community service agencies with or without follow-up; or detain the youth until he is released to a parent or guardian when:
- a. The incident is of a potentially more serious nature than those listed in (E) (1) above
  - b. The youth involved is fully aware of the seriousness or potential seriousness of his actions and/or is acting in alliance or collusion with others to commit such acts
  - c. The youth fails to cooperate or to positively respond to police intervention and direction
  - d. The youth has received prior informal warnings or referrals or has engaged in delinquent acts; and/or
  - e. The youth's parents or responsible adult have apparently failed to provide appropriate control and supervision.
3. Officers may file delinquency charges against a juvenile when the circumstances surrounding the incident meet or exceed the seriousness of those offenses cited in (E) (1) above. Officers should file delinquency charges against juveniles when they commit:
- a. Acts that if committed by an adult would be felonies
  - b. Delinquent acts involving deadly weapons
  - c. Serious gang-related offenses
  - d. Delinquent acts involving assault
  - e. Delinquent acts while on probation or parole or when they have charges pending against them
  - f. Delinquent acts as repeat offenders or when they have refused to participate in diversion or intervention programs, or
  - g. When it has been determined that parental or other adult supervision is ineffective.
4. An officer may also take a juvenile into custody if the youth is lost, seriously endangered or is a runaway. In all such cases, these juveniles shall be held in non-secure custody and officers shall contact the child's parents or guardian as soon as possible. Where parents or guardians cannot be contacted or refuse to accept custody, the officer shall contact the approved youth services agency for placement.
5. In cases of alleged child abuse, officers shall contact their immediate supervisor in order to conduct an investigation of the complaint unless probable cause justifies immediate action in order to protect the safety and wellbeing of the child.

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G. STATUS OFFENSES

1. Based on the seriousness of and circumstances surrounding the offense, the background and demeanor of the juvenile and other relevant factors, an officer may release a juvenile to his parents, guardian or other responsible adult.
2. Juveniles taken into custody for status offenses should normally be frisked for weapons prior to being transported and may be handcuffed or otherwise restrained at any time if, in the judgment of the officer, the juvenile poses a physical risk to the officer or others.
3. Officers shall pay particular attention to juveniles under the influence of alcohol or drugs to determine whether emergency medical services are warranted.
4. Juveniles taken into custody for status offenses shall be held in non-secure custody as provided by state law and for the briefest time necessary to conduct identification, investigation and related processing requirements to facilitate their release to a parent or responsible adult or transfer to a juvenile holding facility.
5. Transportation of a juvenile in a caged vehicle is not considered secure custody.
6. Status offenders and other juveniles taken into temporary non-secure custody for non-criminal-type offenses shall not be fingerprinted or photographed without parental consent.
7. Juveniles taken into custody as status offenders or for traffic offenses or other fineable-only offenses may not be secured physically to cuffing rails, desks, chairs, or other stationary objects.
8. Status offenders in temporary custody shall not be placed in a holding area with adult suspects and shall also be:
  - a. Under constant visual supervision;
  - b. Afforded reasonable access to toilets and washing facilities;
  - c. Provided food if in need of nourishment to include any special diets necessary for health or medical purposes;
  - d. Provided with reasonable access to water or other beverages; and
  - e. Allowed reasonable access to a telephone.

H. CRIMINAL OFFENSES

1. Juveniles taken into custody for criminal offenses are subject to the same security requirements as adults and may be handcuffed or otherwise restrained as necessary during transport and processing.
2. Juveniles accused of criminal offenses may be securely detained only for the period of time and in the manner prescribed by state law to allow for identification, investigation, processing and release to parents or a responsible adult, or transfer to the juvenile facility or court. Juveniles

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may only be detained in non-secure custody in a designated juvenile processing area and may not be held for more than (6) six hours.

3. Juveniles being held in non-secure custody for criminal offenses shall be placed in a holding area outside of sight and sound of adult suspects, and shall also be:
  - a. Under constant visual supervision;
  - b. Afforded reasonable access to toilets and washing facilities;
  - c. Provided food if in need of nourishment to include any special diets necessary for health or medical purposes; and
  - d. Provided with reasonable access to water or other beverages.
4. A juvenile in custody, prior to custodial interview or questioning, shall receive warnings from a magistrate as required by state law. A juvenile may, after the appropriate warnings have been issued, be questioned without the presence of a parent or responsible adult. However, if the juvenile expresses the desire to speak with an attorney or his parent prior to or during questioning, all questioning shall cease and shall not continue until the request is granted.
5. Interrogation of juveniles should not extend over periods of time that could be considered unreasonable or harassing and, whenever possible, should be conducted by only one officer at a time.
6. The juvenile should be informed of the procedures that will be followed with regard to custody, release, and transport to another facility or to a custody hearing.

**I. RECORD KEEPING**

1. Juveniles taken into custody for criminal-type offenses shall be subject to the same reporting requirements as adults. Such reports shall be clearly marked "Juvenile," maintained in a separate location from adult arrest records and be subject to state law regarding dissemination and access.
2. A custody record for juvenile arrests shall be maintained by the juvenile investigator in the offices of Criminal Investigation. The records shall be housed in a secure, locking filing cabinet accessible only to the juvenile investigator and his/her supervisor. The records shall remain locked at all times when not in use. At a minimum a juvenile custody record should contain:
  - a. The time the juvenile was detained in an approved and designated juvenile processing area;
  - b. The name of the officer responsible for visual inspection of the juvenile while he is being detained;
  - c. The activities of the juvenile during his non-secure detention and the time of his release.
3. A limited number of ancillary juvenile records (e.g. arrest warrants) will be maintained by the Records Section. The supervisor of the Records Section will be responsible for the collection, dissemination, and retention of these records.
4. Original records and copies of records will be physically separated from adult files.

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5. Juvenile records will be disposed of in accordance with the Texas Family Code.
  6. Juvenile records generally are not "public records" under the Texas Open Records Act, and will not be available to the public.
  7. Access to juvenile records by criminal justice personnel will be limited to a need-to-know basis, or as directed by the Juvenile Court.
- J. A child may be taken into custody:
1. Pursuant to an order of the juvenile court.
  2. Pursuant to the laws of arrest.
  3. By a police officer if there are reasonable grounds to believe the child has engaged in Delinquent Conduct such as:
    - a. Conduct other than a traffic offense that violates a penal law of this state or of the United States punishable by imprisonment or by confinement in jail.
    - b. Conduct that violates a reasonable and lawful order of a juvenile court entered under section 54.04 or 54.05 of the Family Code, except an order prohibiting the following conduct.
      1. A violation of the penal laws of this state of the grade of misdemeanor that is punishable by fine only or a violation of the penal ordinances of any subdivision of this state;
      2. The unexcused voluntary absence of a child from school
      3. The voluntary absence of a child from his home without the consent of his parent or guardian for a substantial length of time or without intent to return
    - c. Third or subsequent offense for DWI or DUID
  4. Conduct Indicating a Need of Supervision
    - a. Conduct other than a traffic offense that violates:
      1. The penal laws of Texas of the grade of misdemeanor that are punishable by fine only; or
      2. The penal ordinances of the City of Texarkana, Texas
    - b. Unexcused voluntary absence on 10 or more days or parts of days within a 6-month period or on 3 or more days or parts of days within a 4-week period from school without the consent of his parents;
    - c. Voluntary absence from home without consent of parent or guardian for a substantial length of time or without intent to return;
    - d. First or second offense for DWI or DUID; or

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- e. Inhalation of paint, glue, or volatile chemicals.
  
- K. In all cases wherein a juvenile has been taken into custody, a written report which identifies the juvenile and specifies the grounds for believing the taking into custody was authorized will be submitted by the arresting officer on a Juvenile Offense Report in addition to any other report(s) required by departmental guidelines.
  - 1. In cases wherein the juvenile will be taken to a temporary juvenile holding facility, then a "Juvenile Offense Report" will be completed and taken with the juvenile to the temporary holding facility where they are released to the custody of Bowie County.
  - 2. Any time an officer arrests a juvenile for a class B misdemeanor charge or higher, the officer will attempt to notify the parents of the juvenile. The officer will then transport the juvenile to the temporary holding facility where they are released to the custody of Bowie County.

L. FINGERPRINTING AND PHOTOGRAPHING

Any juvenile taken into custody on a Class B misdemeanor or above charge will be fingerprinted on a CJIS Form.

M. RELEASE FROM CUSTODY

- 1. A police officer taking a child into custody shall without unnecessary delay:
  - a. Release the child to a parent, guardian, custodian of the child, or other responsible adult upon that person's promise to bring the child before the juvenile court as requested by the court.
  - b. Take the child before the office or official designated by the juvenile court.
  - c. Take the child to a detention facility or temporary holding facility as designated by the Juvenile Court of Bowie County, or
  - d. Bring the child to a medical facility if the child is believed to suffer from a serious physical condition or illness that requires prompt treatment.
- 2. Juveniles arrested for non-violent misdemeanors or non-violent felonies may be released to a parent, legal guardian, or responsible adult designated by the parent or legal guardian. If a parent, legal guardian or responsible adult designated by the parent or legal guardian cannot be located within 2 hours of the detention, or, after such notification refuses to take custody of the juvenile, the juvenile will be taken to the detention facility or temporary holding facility as designated by the Juvenile Court of Bowie County.
- 3. Juveniles arrested for misdemeanors or felonies involving violence or the threat of violence to any person will be taken to the detention facility or temporary holding facility as designated by the Juvenile Court of Bowie County.

N. JUVENILE PROCESSING / HOLDING AREA



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1. The juvenile processing office for the Texarkana, Texas Police Department shall be subject to approval of the Juvenile Court. In accordance with the Texas Family Code, Section 52.025 the processing/holding areas approved by the Bowie County Juvenile Court include:
  - a. The Investigative Services Juvenile Detective's Office at 601 Main Street.
  - c. The office of the Chief Juvenile Probation Officer located at the Juvenile Probation Department at 601 Main Street.
  - d. The Intake Offices at the Stuart Nunn Center at 1324 West 7<sup>th</sup> Street.
2. A child may be detained in the juvenile processing office only for:
  - a. The return of the child to the custody of a parent, guardian, custodian of the child, representative of the juvenile court, or a juvenile probation officer.
  - b. The completion of essential forms and records required by the juvenile court or the Family Code.
  - c. The photographing and fingerprinting of the child if otherwise authorized at the time of temporary detention by the Family Code.
  - d. The issuance of warnings to the child as required or permitted by the Family Code.
  - e. The receipt of a statement by the child under Section 51.09(b) of the Family Code.
3. A child may not be left unattended in the juvenile processing office and is entitled to be accompanied by the child's parent, guardian, or other custodian or by the child's attorney.
4. A child may not be detained in the juvenile processing office for longer than six (6) hours.
5. The juvenile processing office at 601 Main Street will remain unlocked while occupied by a juvenile taken into custody for fineable only offenses, status offenses, or curfew violations. The unlocked juvenile processing office is designated as the place of non-secure custody for juveniles detained in Texarkana, Texas.

**O. DISPOSITION WITHOUT REFERRAL TO COURT**

1. A law enforcement officer authorized by the Family Code to take a child into custody may dispose of the case of a child taken into custody without referral to juvenile court, if:
  - a. Guidelines for such disposition have been issued by the law enforcement agency in which the officer works;
  - b. The guidelines have been approved by the juvenile court of the county in which the disposition is made;
  - c. The disposition is authorized by the guidelines; and
  - d. The officer makes a written report of his disposition to the law enforcement agency, identifying the child and specifying the grounds for believing that the custody was authorized.

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2. No disposition authorized by this section may involve
  - a. Keeping the child in law enforcement custody; or
  - b. Requiring periodic reporting of the child to a law enforcement agency, or other agency.
3. A disposition authorized by this section may involve
  - a. Referral of the child to an agency other than the juvenile court; or
  - b. A brief conference with the child and his parent, guardian, or custodian.
4. Statistics indicating the number and kind of dispositions made by a law enforcement agency under authority of this section shall be reported at least annually to the office or official designated by the juvenile court, or as ordered by the court.

**P. JUVENILE MAGISTRATING PROCEDURES**

1. The officer must have a Magistrate read the juvenile the first set of juvenile warnings. Unless specifically requested by the Magistrate, the officer will not be present while the juvenile appears before the magistrate.
2. After the juvenile appears before the magistrate, the juvenile may write or dictate his/her statement. The statement must be made in the Juvenile Processing Office. The juvenile must not sign the statement at this time.
3. When the juvenile is finished dictating the statement, the Magistrate must read the juvenile the second part of the juvenile Magistrate Warning.
4. After the second section of the Magistrate Warning the juvenile can sign the statement in the presence of the Magistrate.

**Q. RESPONSIBILITY**

1. All members of the Department shall know and comply with all aspects of this directive.
2. All Division Commanders and supervisory personnel are responsible for ensuring compliance with the provisions and intent of this directive.