

## **GUIDELINES FOR LAW ENFORCEMENT AGENCIES**

### **I. INTRODUCTION**

In conformity with the Juvenile Justice Code, Section 53.01 (d) and other relevant statutes, the Harris County Juvenile Board, hereinafter called "Board" approves the following guidelines for use by law enforcement agencies within Harris County, Texas.

These guidelines are intended to supplement, not supplant, the provisions of the Juvenile Justice Code and are applicable to those children with whom the department is involved because they are alleged to have engaged in delinquent conduct or conduct indicating a need for supervision.

Unless otherwise noted, statutory references refer to the Juvenile Justice Code found in Title III of the Texas Family Code.

### **II. DEFINITIONS**

- A. Authorized "Officer" or "Official of the Juvenile Court": A certified officer of The Harris County Juvenile Probation Department or HCJPD.
- B. Juvenile Offender Tracking (JOT) System: The electronic data system used in Harris County to facilitate both the filing of charges by the District Attorney's Office and the referral of the offense to the Harris County Juvenile Probation Department for juveniles taken into custody in Harris County, Texas. This system is maintained by the Harris County Justice Information Management System (JIMS).
- C. Referral to Juvenile Court: Occurs when law enforcement sends the JOT to the Harris County Juvenile Probation Department and the Harris County District Attorney's Office.
- D. Approved Juvenile Detention Facility: The Harris County Juvenile Detention Center is designated as the approved, primary detention facility for juveniles in Harris County who are charged with delinquent conduct. It is located at 1200 Congress, Houston, Texas. The Burnett-Bayland Rehabilitation Center (BBRC)

has also been approved as a holding facility for up to thirty-two (32) pre-adjudicated youth. It is located at 6500 Chimney Rock, Houston, Texas.

Neither the Harris County Juvenile Detention Center nor detention beds at BBRC shall be utilized for the detention of juveniles who are being charged with a Class C Misdemeanor or a violation of a penal ordinance of a political subdivision.

Any ward of the Texas Juvenile Justice Department (TJJD) under the age of 18 may be placed in the Harris County Juvenile Detention Center regardless of the nature or level of the offense, pursuant to Section 61.037 of the Human Resources Code.

- E. Approved Juvenile Detention Release Site: The Harris County Juvenile Detention Center located at 1200 Congress Street, Houston, Texas is the approved release site in Harris County, Texas for children accused of delinquent conduct including those charged with Class B or above Misdemeanors or Felony grade offenses.
- F. Alternative site for release: The Youth Services Center or YSC, 6300 Chimney Rock, Houston, Texas is an approved site for the release of children charged with Class C Misdemeanors or those accused of conduct indicating a need for supervision (CINS), with the exception of youth charged with the offense of Prostitution. Youth charged with the CINS offense of Prostitution shall be brought to the Juvenile Detention Center.
- G. Juvenile Processing Office:
  - 1. The following locations are hereby designated as Juvenile Processing Offices pursuant to Section 52.025 of the Texas Family Code:
    - a. All rooms located in law enforcement facilities in Harris County where the Automated Fingerprint Identification System (AFIS) is located.
    - b. The office of any magistrate of Harris County or any location where a magistrate delivers warnings required or permitted by Title III of the Texas Family Code.
    - c. All offices or rooms approved by the Harris County Juvenile Board shall be Juvenile Processing Offices.
    - d. The Juvenile Court Manager shall be the custodian of records and shall maintain the list of Juvenile Processing Offices approved by the Board in an electronic database.

- H. Custodians: Shall stand in "loco parentis" for any child in their care and shall be allowed to act for the parent or guardian in their absence.
- I. Taken into Custody: The terms "arrest" and "taken into custody" shall have equal meaning.
- J. AFIS Number: Automated Fingerprint Identification System generated number identifying an offense specific live scan transaction.
- K. SO Number: A Sheriff's Office generated number identifying a person in AFIS.
- L. Directive to Apprehend: The District Attorney's Office shall prepare all directives to apprehend. Directives to apprehend shall have the same force and effect as an arrest warrant.

### **III. PROCEDURES**

- A. Investigations Prior to Arrest:
  - 1. Prior to the release of a juvenile who is detained on pending charges to the custody of a law enforcement officer for the purpose of being interviewed as a suspect in another criminal offense, the juvenile's attorney shall be contacted for consent. If consent is given, the law enforcement officer shall immediately take the child before a Magistrate to receive the warnings required by Section 51.095 of the Texas Family Code. If the juvenile with pending charges has not yet had an attorney appointed, the Juvenile Court Judge with jurisdiction shall be contacted. If no court assignment has been made, the Administrative Judge shall be contacted for appointment of an attorney.
  - 2. Prior to the release of a juvenile who is detained on pending charges to the custody of a law enforcement officer to be interviewed solely as a witness, the juvenile's attorney shall be contacted for consent. If consent is given, the law enforcement officer is not required to immediately take the juvenile before a Magistrate to receive the warnings required by Section 51.095 of the Texas Family Code unless the juvenile's statements give rise to a belief that the juvenile is a suspect in the case. If the juvenile with pending charges has not yet had an

attorney appointed, the Juvenile Court Judge with jurisdiction shall be contacted. If no court assignment has been made, the Administrative Judge shall be contacted for appointment of an attorney.

3. If a juvenile is in the custody of the Chief Juvenile Probation Officer and in a post adjudicated facility after his case has been disposed and police wish to interview him/her as a suspect or interview him/her solely as a witness in another criminal offense, the Juvenile Court Judge with jurisdiction or the Administrative Judge shall be contacted so that an attorney can be appointed for the juvenile.
4. The above restrictions do not apply in the instance of a juvenile being released to a law enforcement officer for completion of AFIS, case filing processing or for an appearance before a Magistrate.

B. Physical Line-Up

A juvenile aged child may appear in a physical line-up for purposes of identification.

1. If the juvenile is in the custody of the Chief Juvenile Probation Officer or is in a HCJPD facility, the attorney shall be contacted and informed of the date and time of the line-up; or if the child does not have an attorney, a Juvenile Court Judge shall be contacted.
2. The line-up may not take place in a Harris County Juvenile Probation Department facility.
3. Under no circumstances shall any participant in a physical line-up be an adult offender.
4. Juveniles in the custody of the Harris County Juvenile Probation Department shall not be used as fill-in participants for a physical line-up.

C. Referral to Juvenile Court

1. A juvenile may be referred to the Juvenile Court only if probable cause for delinquent conduct or conduct indicating a need for supervision is established by the District Attorney's Office, via telephone or in person, and thereafter

appropriate entries made into the JOT system, including the SO and AFIS numbers.

2. Referrals of offenses of Class B Misdemeanors or above as well as any conduct that violates a lawful order of a Municipal court or Justice of the Peace court under circumstances that would constitute contempt of that court shall be made via the Harris County "Juvenile Offender Tracking" system.
3. The referral must be made within ten (10) days of the date the juvenile is detained or taken into custody by the law enforcement agency.
4. No juvenile shall be referred to the Juvenile Court without first being physically taken into custody, fingerprinted and photographed via the AFIS unless approval is obtained beforehand from the District Attorney or their designee or the District Attorney's Office Juvenile Division Chief. The law enforcement agency taking the child into custody shall submit to the Department of Public Safety the information currently required on the Department of Public Safety forms "DPS CR43J" and any subsequent requirements pertaining to compliance with Juvenile Justice Information System.

E. Special Harris County Rules:

1. Harris County law enforcement agencies are not authorized to dispose of cases without referral to the court as provided for under Section 52.03 of the Texas Family Code.
2. The Harris County Juvenile Board has not established a "First Offender Program", as defined in Section 52.031. In the event such a program is established, separate specific guidelines and procedures will be developed with the various agencies involved. Thus, the exception allowed for those categories of youth under Section 58.001 (c) of the Texas Family Code shall not be applicable.
3. HCJPD shall not accept for admission to detention a juvenile who appears to be seriously injured, in need of medical attention, seriously ill, under the obvious influence of a controlled substance or a youth who has been tased while being taken into custody. Once rejected for admission, the juvenile shall not be admitted to the detention center without a written statement from a physician attesting to the stability of the juvenile's health. It will be the responsibility of the transporting police agency to acquire that documentation.

#### **IV. EVIDENCE**

- A. Property/Clothing: If the child is in the custody of the Chief Juvenile Probation Officer or is in a HCJPD facility and the property sought is in the physical custody of the facility, the property may be released to law enforcement authorities without a search warrant. In such a case, facility personnel shall document the release of the property in the appropriate location and manner.
- B. Buccal Swab Samples:
  - 1. If the juvenile does not consent to the taking of a buccal swab, a search warrant is required.
  - 2. The buccal swab may be obtained without a juvenile's permission with a search warrant.
- C. The arresting law enforcement agency shall have a continuing responsibility for a juvenile if after a juvenile is accepted at an approved Juvenile Detention facility, evidence of an additional offense is discovered. If upon review of admission to YSC, the youth is discovered to have a juvenile delinquency case or a warrant, law enforcement shall transport the juvenile to 1200 Congress after contacting Harris County Juvenile Probation personnel.

#### **V. FILES AND RECORDS**

- A. The Harris County Juvenile Probation Department is hereby designated as the proper agency in Harris County to receive, catalog, and maintain files on all juveniles handled by municipal courts and justice courts of Harris County as well as those juveniles referred for delinquent conduct or conduct indicating a need for supervision, and shall also receive for record purposes, all Class C Misdemeanors, status offense referrals and violations of penal statutes of political subdivisions.
- B. Offense reports containing names of juveniles are not to be considered files and records of a juvenile, but are to be considered "reports of crimes". All index references that can lead to an inquiry into an offense report based on the name of a particular child shall be considered files and records.
- C. A law enforcement agency is authorized to promulgate its own guidelines regarding release of information concerning a suspect in a case in which the person making the inquiry is a complainant in pursuing a civil cause of action

against the child and/or his parents as authorized by Chapter 33 of the Texas Family Code.

This document constitutes the guidelines to be followed by the law enforcement agencies within Harris County, Texas under Title III of the Texas Family Code.

Approved on the 28 day of October, 2015 upon motion of Judge Devlin and seconded by Judge Bradley.



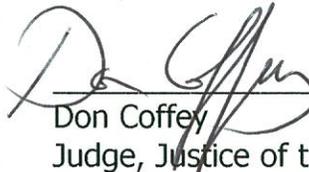
Ed Emmett  
Harris County Judge



Denise Bradley  
Judge, 262nd District Court



Bill Burke  
Judge, 189th District Court



Don Coffey  
Judge, Justice of the Peace  
Court, Precinct 3, Place 2



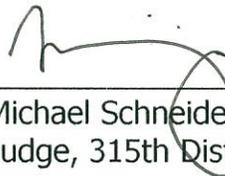
Glenn Devlin  
Judge, 313th District Court



Lisa Millard  
Judge, 310th District Court



John Phillips  
Judge, 314th District Court



Michael Schneider  
Judge, 315th District Court