

	ROSENBERG POLICE DEPARTMENT	
	General Order 7.12 Juvenile Procedures	
	Effective Date: 05-13-2013	Replaces: N/A
	Approved:  Chief of Police	
	Reference: TBP 10.02 and 10.03	

I. POLICY

This department is committed to the development and perpetuation of programs for prevention and control of juvenile delinquency. In dealing with juveniles, officers will use the least coercive methods among available alternatives, consistent with preserving public and officer safety, order, and individual liberty. Among factors to consider in making juvenile dispositions is the nature of the offense, the offender's age, circumstances and record, availability of rehabilitation programs, and juvenile probation or court recommendation for diversion.

II. PURPOSE

To establish guidelines and procedures for handling juveniles who are in need of protection, in violation of status offenses and those charged with criminal offenses.

III. DEFINITIONS

- A. Child (Juvenile): A person who is ten years of age or older and less than seventeen years of age.
- B. Conduct in Need of Supervision: Conduct, other than a traffic offense, that violates the penal laws of the state punishable by fine only, or violations of municipal ordinances, failure to attend school, and runaway.
- C. Delinquent Conduct: Conduct, other than a traffic offense (except DWI) that violates the penal laws of this state or the United States punishable by imprisonment or confinement in jail.
- D. Delinquent child: A child who has committed a delinquent act or an adult who had committed a delinquent act prior to his or her 17th birthday.
- E. Intake officer: A juvenile probation officer who is designated by law as having the quasi-judicial authority to decide probable cause, divert the juvenile from the

criminal process, or petition the court. An intake officer is normally a juvenile probation officer.

- F. Referral to Juvenile Court: The referral of a child's case to the official, including the intake officer, designated by the Juvenile Board to process children within the Juvenile Justice System.
- G. Responsible or Suitable Adult: In the absence of a juvenile's parents or legal guardian, a responsible adult is one who is responsible for the physical custodian 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.
- H. Status Offender: A juvenile who is charged with an offense that would not be a crime if committed by an adult such as curfew and runaway.

IV. PROCEDURES – General (TBP: 10.02)

A. Overview

1. All members of the department shall cooperate with juvenile justice authorities and their support activities.
2. Juveniles have all the same constitutional rights as do adults and all requirements for protection of those rights apply to juveniles as well as adults. Additional rules are prescribed by the Texas Family Code. All department personnel are responsible for following the Family Code and this order. (TBP 10.02a)
3. Officers who detain juveniles should first determine if the juvenile is alleged to have been harmed or to be in danger of harm. Those in need of immediate medical treatment will be transported to an appropriate medical facility under the same guidelines as adult prisoners. The Department of Protective and Regulatory Services is to be contacted immediately if there is an indication that the juvenile cannot safely be released to a suitable adult and the juvenile does not meet criteria for transport to the Detention Facility.
4. Children under 10 cannot be held responsible through criminal law or the juvenile justice system. If a child under 10 is found in violation:
 - a. enforcement action cannot be taken,
 - b. children under 10 cannot be detained at a police facility for criminal violations; however, children may be kept in a non-secure area of a police facility pending arrival of a suitable adult, and

- c. the officer must document the conduct of children under 10 that would ordinarily be a criminal or juvenile code violation if they were classified as a juvenile on the appropriate report form to include any applicable identifiers.

B. Handling of juvenile offenders - general

1. A juvenile offender shall be handled with firmness and respect.
2. The juvenile justice system and laws are designed to give the child a chance to mature without bearing the stigma of a criminal record. The juvenile justice system emphasizes confidentiality of records and the privacy of an adjudicatory hearing. Where appropriate, officers shall reasonably try to keep juveniles out of the criminal justice system.
3. The taking of a juvenile into custody is not an arrest except for the purpose of determining the validity of taking the juvenile into custody or the validity of a lawful search.
4. All investigative detentions and enforcement actions involving juveniles will be documented, either by use of a written warning, citation, or incident report. If a written warning or citation is issued and the circumstances of the contact are recorded on the form, no incident report is required. If no written warning or citation was issued, an incident report will be generated to document the contact and actions taken. If possible, all contacts with juveniles will be recorded as best possible on the in-car audio/video system.

C. Authority for Taking a Child into Custody

1. A juvenile may be taken into custody in the circumstances listed in 52.01 of the Family Code, by a Directive to Apprehend as outlined by 52.015 of the Family Code, or with probable cause. 52.01 of the Family Code specifies that a child may be taken into custody by a law enforcement officer when a child engages:
 - a. In conduct that violates a penal law of this state or a penal ordinance of any political subdivision of this state,
 - b. In delinquent conduct or conduct indicating a need for supervision,
or
 - c. In conduct that violates a condition of probation imposed by the Juvenile Court
2. The section also authorizes officers to release a juvenile with a warning in lieu of custody. If the child is released with a warning, the officer may forward a copy of the warning to the parent. In making the decision to handle the juvenile either informally with a warning or formally by referral to the Juvenile Court, the officer shall consider the following:
 - a. Seriousness of offenses.

- b. Prior record of child.
- c. Child's age.
- d. Cooperation and attitude of all parties (child, parent, victim) and the possibility of the offense being repeated.
- e. Degree of wrongful intent, violence, premeditation, knowledge of violation.

D. Enforcement Alternatives

1. 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 the following , listed in order of severity:
 - a. release without further action, release with verbal warning, referral to parents or responsible adult, or informal counseling with contact of parents or responsible adult;
 - b. field release with written warning or citation, limited custody and station house warning, arrest under non-secure custody, and release to parents with or without referral to Juvenile Court or First offender Program; and
 - c. arrest and secure custody, with transfer to detention and referral to Juvenile Court.
2. Enforcement criteria for the use of these alternatives is provided below.
3. Even when a juvenile is being handled informally, the juvenile has all the constitutional rights that an adult would have in the same situation.
4. In all cases where a juvenile is believed to have committed a violation, regardless of the disposition, officers shall make every reasonable attempt to notify parents or guardians and inform them of the circumstances of the contact.

V. ENFORCEMENT CRITERIA

- A. 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, release with verbal warning, referral to parents or responsible adult, or informal counseling with contact of parents or responsible adult.
 - a. Appropriate in incidents where no violation was determined or where the violation was very minor and officers explained the law and consequences.
 - i. No property damage or personal injury was involved
 - ii. No prior record

- iii. May include contact with parent if appropriate. Examples of these incidents include, but are not limited to curfew violations, minor liquor law violations, and disorderly conduct.
 - b. If a non-traffic citation is issued, the juvenile's parents may be contacted by telephone from the scene and advised of the offense and disposition. If the parents cannot be contacted, officers may make a copy of the citation and forward the copy to the Criminal Investigations Division for mailing to the parents. On it, the officer shall give a complete description of the circumstances of the contact.
 - c. If officers detain a juvenile for a non-traffic offense and decide not to issue a warning or citation, officers shall complete an incident report and forward it to the Criminal Investigations Division.
- 2. Field release with written warning or citation, or limited custody and station house warning, arrest under non-secure custody and release to parents with or without referral to Juvenile Court or First Offender Program.
 - a. Officers may elect to transport the youth home, make personal or telephone contact with the youth's parents or guardians to provide them with information and counseling on their child's actions, or take the youth into custody.
 - i. Appropriate when the nature of the incident is of a more serious or potentially serious nature than in section 1 above;
 - ii. there was property damage or minor injury not amounting to a felony;
 - iii. 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;
 - iv. the youth fails to cooperate or to positively respond to police intervention and direction;
 - v. the youth's parents or responsible adult have apparently failed to provide appropriate control and supervision.
 - b. Officers may elect to file a referral to the Juvenile Court depending on the nature of the offense and prior history of the offender.
- 3. Arrest and secure custody, with transfer to detention and referral to Juvenile Court. Officers may file delinquency charges against a juvenile when the circumstances surrounding the incident meet or exceed the seriousness of those cited as examples in section 2 above.
 - a. Officers should file delinquency charges against juveniles when they commit:
 - i. acts that if committed by an adult would be felonies;
 - ii. delinquent acts involving deadly weapons;
 - iii. serious gang-related offenses;

- iv. delinquent acts involving serious assault;
 - v. delinquent acts while on probation or parole or when they have charges pending against them;
 - vi. delinquent acts as repeat offenders or when they have refused to participate in diversion or intervention programs; or
 - vii. when it has been determined that parental or other adult supervision is ineffective.
4. Status Offenses. 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.
- a. Juveniles taken into custody for status offenses will be frisked for weapons prior to being transported and must be handcuffed or otherwise restrained at all times.
 - b. Officers shall pay particular attention to juveniles under the influence of alcohol or drugs to determine whether emergency medical services are warranted.
 - c. 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 facility.
 - d. Transportation of a juvenile in a caged vehicle is not considered secure custody.
 - e. Status offenders and other juveniles taken into temporary non-secure custody for status offenses should not be fingerprinted or photographed for purposes of record.
 - f. Status offenders in temporary custody shall not be placed in a holding area with adult suspects and shall also be under constant visual supervision; afforded reasonable access to toilets and washing facilities; provided food if in need of nourishment to include any special diets necessary for health or medical purposes; provided with reasonable access to water or other beverages; and allowed reasonable access to a telephone.

VI. JUVENILE PROCESSING

A. Searching and Transportation of Juveniles (TBP 10.02 b, c, d)

- 1. No juvenile under 17 shall be transported in the same vehicle with adults suspected of or charged with criminal acts.
- 2. Juveniles are searched and transported in the same manner as adults in compliance with Policy 7.11 Prisoner Transportation.

3. An officer transporting a juvenile should notify the dispatcher that the officer will be transporting a juvenile along with the juvenile's gender. The officer should also notify the dispatcher of the officer's location and mileage on the vehicle upon initiating the transport and the officer's ending mileage and location upon arrival at the officer's destination. The officer should monitor the prisoner during the transport for any medical issues.
4. Recording and video equipment should be activated during transport.

B. Actions when taking a juvenile into Custody

1. A person taking a child into custody shall advise the juvenile of his/her constitutional rights when appropriate.
2. Without unnecessary delay and without first taking the child elsewhere, the officer does one of the following:
 - a. Release the juvenile to a parent, guardian, custodian, or other responsible adult;
 - b. Bring the juvenile before an official of the Juvenile Court;
 - c. Take the juvenile to a detention facility designated by the Juvenile Court;
 - d. Take the juvenile to a medical facility if the juvenile is believed to be suffering from a serious physical condition or illness that requires immediate treatment;
 - e. Take the juvenile to the Intoxilyzer Room if in custody for an offense requiring a breath specimen, but the juvenile must be taken to one of the above mentioned locations upon completion of the intoxilyzer;
 - f. In cases of truancy, immediately take the juvenile to the proper school official within the appropriate public or private school;
 - g. Take the juvenile into protective custody if the officer believes the juvenile is in danger of harm; or
 - h. Release the child with no further action pending.

C. Notifications:

1. The arresting officer shall promptly notify the juvenile's parents or guardians of the fact that the child has been taken into custody. In the case of protective custody, the notice must be written as prescribed by the Texas Family Code.
2. Notification of the parents or attempts at notification shall be documented in the arrest report.

D. Designated Juvenile Processing Area: (TBP 10.02 e, and 10.03)

1. The Rosenberg Police Department does not have a Juvenile Processing Area. All detained juveniles requiring processing and detention shall be transported directly to the Fort Bend County Juvenile Detention Center.

E. Taking a Runaway into custody

When probable cause exists that a juvenile has run away from home, the officer shall perform the following:

1. Verify status as runaway
2. Take the child into custody.
3. Release the juvenile to a parent, guardian, legal custodian, or other person acting for a parent. If a parent cannot be located, take the juvenile to the juvenile processing office and make contact with the Juvenile Detention Center Intake Officer for instructions.
4. The Juvenile Processing Office may not be locked when holding status offenders. An officer will remain with the juvenile until disposition is made.
5. Notify Communications to remove the runaway report from the computer system
6. In any event, officers shall complete incident reports for any runways taken into custody.
7. Out-of-town runaways: take the child into custody and verify runaway status with the other jurisdiction. If a detention order is on file, follow the instructions for serving a detention order.
 - a. Notify the intake officer of the juvenile court of the action taken. The intake officer will then determine what the next step will be. The officer shall:
 - i. Follow the intake officer's instructions for detention or child placement.
 - ii. Notify parents that the child is in custody.
 - iii. If the child is to be released and the parents cannot respond within a reasonable period of time, then [either contact a runaway house, if appropriate in your jurisdiction, or arrange to detain the juvenile].

F. Taking a Truant into Custody

1. When custody occurs because a juvenile is a reported truant by school officials, the juvenile shall be taken into custody and delivered to the appropriate school personnel and released.
2. The officer shall complete an incident report which includes the name of the person notifying the parent of the truancy and the name of the person to whom the juvenile was released.

VII. PROTECTIVE CUSTODY

A. A law enforcement officer may take protective custody of a child without a court order for the following reasons and no others:

1. Upon discovery of a child in a situation of danger to the child's physical health or safety when the sole purpose is to deliver the child without unnecessary delay to the parent, managing conservator, possessory conservator, guardian, caretaker, or custodian who is presently entitled to possession of the child.
2. Upon the voluntary delivery of the child, by the parent, managing conservator, guardian, caretaker, or custodian who is entitled to possession of the child.
3. Upon personal knowledge of facts which would lead a person of ordinary prudence and caution to believe that there is an immediate danger to the physical health or safety of the child and that there is no time to obtain a temporary restraining order or writ.
4. Upon information furnished by another which has been corroborated by personal knowledge of facts and all of which taken together would lead a person of ordinary prudence and caution to believe that there is an immediate danger to the physical health or safety of the child and that there is no time to obtain a temporary restraining order or writ.
5. Upon personal knowledge of facts that would lead a person of ordinary prudence and caution to believe that the child has been the victim of sexual abuse and that there is no time to obtain a temporary restraining order or writ.
6. Upon information furnished by another that has been corroborated by personal knowledge of facts and all of which taken together would lead a person of ordinary prudence and caution to believe that the child has been the victim of sexual abuse and that there is no time to obtain a temporary restraining order or writ.

B. Emergency Treatment For Juveniles

1. In the absence of the responsible parent or guardian, police officers are expected to immediately take custody of any juvenile found to be in need of

emergency medical care and to see that the juvenile is taken to an emergency hospital for treatment.

C. Procedures To Take Custody Of The Juvenile

1. When it is found that a juvenile has been injured or is ill to the extent that immediate emergency care is necessary to protect the physical well-being of the juvenile and no responsible parent or guardian can be found, the below listed procedures are followed to obtain the necessary medical care in an expedient manner:

- a. The officer takes custody of the juvenile either in person or requests an ambulance and orders the juvenile taken to the nearest competent emergency hospital.
- b. The officer utilizes all available resources to immediately contact a parent or guardian (school officials, etc).
- c. The officer then causes the immediate notification of the Child Protective Services office of the circumstances at hand and furnishes the Child Protective Services office the following information:
 - i. Name, race, and date of birth of the juvenile,
 - ii. Parent's name and address if available,
 - iii. What hospital the juvenile has been taken,
 - iv. What efforts have been made to contact the child's parents or guardian,

2. Follow-Up Investigation:

- a. The officer conducts a follow-up investigation at the receiving hospital, being sure to explain the circumstances at hand to the proper hospital representative.
- b. The Criminal Investigation Division is available to take over hospital follow-up investigations when it becomes apparent that such investigations will be lengthy or complex.
- c. The Criminal Investigations Division will follow-up if it becomes apparent that the child's injury is due to criminal conduct on the part of any person.

D. Persons Who May Consent To Medical Treatment:

The Texas Family Code allows any of the following persons to consent to medical, dental, psychological, and surgical treatment of a child when the person having the right to consent as otherwise provided by law cannot be contacted and that person has not given actual notice to the contrary:

1. A grandparent, adult brother or sister, adult aunt or uncle of the child; an educational institution in which the child is enrolled that has received written authorization to consent from the person, an adult who has actual care, control, and possession of the child and has written authorization to consent from the person having the right to consent.
2. A peace officer who has lawfully taken custody of a minor, if the peace officer has reasonable grounds to believe the minor is in need of immediate medical treatment, or
3. Any court having jurisdiction over the child.

VIII. INVESTIGATIVE PROCEDURES

A. Custodial Interrogation Of Juveniles

1. Custodial interrogation of juveniles by Department employees shall adhere strictly to procedural requirements established by the Texas Family Code and relevant court rulings.
2. The custodial officer or a detective interviews the juvenile. The officer explains to the juvenile the procedures that will relate to their case. The officer or detective may, at their discretion, allow other persons to be present during the interview. An attorney representing the child is allowed if requested.
3. The interrogation of a juvenile is completed within a reasonable time or terminated if the juvenile requests the interrogation be terminated.

B. Written Confessions/Statements:

Officers will follow the procedure outlined below while taking written statements/confessions from juveniles:

1. Written confessions are taken in compliance with the Texas Family Code.
2. A magistrate, outside the presence of law enforcement officers, first warns the juvenile.
3. An officer then takes the typed or handwritten statement, leaving the statement unsigned.
4. The officer then returns the juvenile and the statement to the magistrate.
5. The magistrate will review the statement with the juvenile outside the presence of law enforcement officers.
6. The juvenile is then allowed to sign the statement in the magistrate's presence.

C. Fingerprinting And Photographing Juveniles:

1. Fingerprints and photographs of juveniles are maintained separately from those of adults.
2. Fingerprints and photographs of juveniles are destroyed as directed by the Texas Family Code.
3. Fingerprints are taken to comply with state reporting requirements. All juveniles placed in custody for cases classified as class "B" misdemeanor or higher are fingerprinted and photographed. These records are maintained at the County Juvenile Detention Center and also in the State files.
4. If latent fingerprints are found during the investigation of a case and the law enforcement officer has probable cause to believe that they are those of a particular child, unless otherwise prohibited by law, the officer may fingerprint the child regardless of the age or case for purpose of immediate comparison with the latent fingerprints.
5. Disposition of Fingerprints Taken: If the comparison is negative the fingerprint card and other copies of the fingerprints taken are destroyed immediately. If the comparison is positive and the child is referred to the Juvenile Court, the fingerprint card and other copies of the fingerprints are filed locally and with the State. If the child is not referred to the Court the fingerprints taken are destroyed immediately.

D. Required Notification of Schools

1. Officers that arrests or takes into custody an individual that, because of age, may be enrolled in a primary or secondary school, as provided by Chapter 52, Family Code shall;
 - a. Attempt to determine if the individual is a student.
 - i. If the individual is known to or believed to be enrolled in a school mentioned above, and
 - ii. The child's alleged offense is an offense under section: 19.02, 19.03, 19.04, 19.05, 20.02, 20.03, 20.04, 21.08, 21.11, 22.01, 22.011, 22.02, 22.021, 22.04, 22.05, 22.07, 28.02, 29.02, 29.03, 30.02, or 71.02, Penal Code, or
 - iii. The Unlawful Use, Sale or Possession of a Controlled Substance, Drug Paraphernalia, or Marijuana, as defined by Chapter 481, Health and Safety Code; or
 - iv. The Unlawful Possession of any of the Weapons or Devices listed in Section 46.01(1)-(14) or (16), Penal Code; or a Weapon listed as a Prohibited Weapon under Section 46.05, Penal Code; or

- v. Any felony offense.
 - b. If the individual meets these requirements the officer or detective assigned shall give oral notification to the Superintendent or the designee of the public school district within 24 hours after the arrest of detention of a child, or on the next school day.
 - c. Written notification shall be made within seven (7) days after the date of oral notification to the appropriate afore mentioned school official, marked “Personal and Confidential” on the mailing envelope.
2. The complete text of this responsibility is found in Article 15.27 Code of Criminal Procedures.

E. Juvenile Records (TBP 10.02f)

1. Family Code requires local law enforcement records and files concerning a juvenile to be kept separate from adult files and records and prohibits them from being sent to a central state or federal depository except as specified in the Family Code. Juvenile detention reports will be separated from adult arrest reports as required by the statute.
 - a. Records or files that are required or authorized to be maintained under laws regulating operation of motor vehicles and records that list a juvenile as the victim of a criminal offense are specifically exempt from the file separation requirement.
 - b. Reports of missing Juveniles are specifically authorized to be entered into TCIC and NCIC.
2. Code of Criminal Procedure authorizes information on juveniles to be included in a local system for the purpose of investigating or prosecuting the criminal activities of criminal combinations. This information may be released to another criminal justice agency, a court, or a defendant in a criminal proceeding pursuant to the discovery. The record must be destroyed no later than two years after its collection if the juvenile has not been charged with criminal activity.
3. The preservation and destruction of Juvenile Records is the responsibility of the Records Unit. Juvenile records will be kept under lock and key and access will be limited to Juvenile Investigators.
4. Fingerprints and Photographs. The Family Code prohibits taking photographs or fingerprints of a juvenile without the consent of the Juvenile Court or Juvenile Probation Officer unless the juvenile is

taken into custody for a felony or a misdemeanor punishable by confinement in jail. Only the procedures specified in this General Orders will be utilized.

5. Release of Information on juvenile offenders may only be made pursuant to:
 - A written request under the Texas Public Information Act, Government Code Chapter 552 to the Police Department as approved by the City Attorney or to the Rosenberg Municipal Court (for fine-only offenses handled there);
 - The Sex Offender Registration Act, Code of Criminal Procedures Chapter 62. The request must be made in writing and will be responded to by the Police Department.
 - Code of Criminal Procedures Article 15.27 notice to schools of specified offenses committed by students. These notices will be made by assigned investigators.