



TYLER POLICE DEPARTMENT GENERAL ORDER: 10.100

	JUVENILES	
	EFFECTIVE DATE: 06-28-1994	
	REVISED DATE: 09-02-2020	
CALEA STANDARDS: 1.1.3; 1.2.6; 1.2.7; 44.1.1; 44.1.2; 44.1.3; 44.2.1; 44.2.2; 44.2.3; 82.1.2		

10.101 PURPOSE OF THE YOUTH CRIMES UNIT – [CALEA Standard: 44.1.1]

- A. The purpose of the Youth Crimes Unit is to provide an agency wide system so all elements of the Department can participate in and support the juvenile operations function. Because elements of the Department, other than the Youth Crimes Unit, are involved in the juvenile process, it is necessary that all elements understand and comply with their responsibilities.

10.102 FUNCTION OF THE YOUTH CRIMES UNIT – [CALEA Standard: 44.1.1]

- A. Personnel assigned to the Youth Crimes Unit are responsible for conducting initial and/or follow-up investigations on those incidents and offenses involving suspected juveniles offenders. Unit Investigators are also responsible for conducting follow-up investigations on juveniles who have been reported to the Department or necessitate some form of police action, but whose actions / conduct do not rise to the level of a criminal offense (i.e. Runaway).
 - 1. Unit personnel will also share with other elements of the department an expectation to assist in the perpetuation of programs and projects aimed at preventing juvenile delinquency.

10.103 OPERATIONAL GUIDELINES FOR THE YOUTH CRIMES UNIT – [CALEA Standard: 44.1.1]

- A. It is the intent of this Department that juvenile offenders be handled in a manner consistent with the Texas Family Code, and that each juvenile offender be treated in a way so as to best serve the interest of the child and the community.
 - 1. All components of the Department are to actively engage in agency programs designed to detect, deter, and control juvenile delinquency.

10.104 YOUTH CRIMES UNIT SERGEANT – [CALEA Standard: 44.1.2; 44.1.3]

- A. Youth Crimes Unit Sergeant shall be directly responsible to the Community Response Unit Lieutenant for:
1. Coordinating the activities of the personnel within the unit;
 2. Ensuring Youth Crimes Investigators are available to assist other Department components when necessary;
 3. Assigning cases to investigators involving juvenile offenders;
 4. Requesting elements of the juvenile justice system (e.g. Juvenile Justice Court, District Attorney's Office, local ISD police officials, educators, social services, etc.) to conduct a periodic review of this policy and its procedures for the purpose of further developing and enhances this agency's response and handling of juveniles.
 5. Completing, in conjunction of the Community Response Unit Sergeant, an annual review and evaluation of all enforcement and prevention programs relating to juveniles and youth to determine each program's effectiveness.
 - a. The evaluation should consider both the quantitative and qualitative elements of each program, lending itself to decisions and recommendations as to whether a specific program should function as is, be modified, or be discontinued.

10.105 YOUTH CRIMES UNIT INVESTIGATORS – [CALEA Standard: 44.1.2]

- A. Youth Crimes Investigators shall be responsible to the Youth Crimes Sergeant for:
1. Investigating cases involving juveniles suspected of criminal and non-criminal (i.e. Missing, Runaway, etc.) conduct.
 2. Conducting follow-up processing and distribution of required paperwork of juveniles taken into custody.
 3. Coordinating and/or preparing court cases involving a juvenile offender.
 4. The collection and dissemination of gang intelligence and gang affiliation information.
 5. Overall gang suppression and investigation.
 6. Providing assistance when requested to department personnel investigating incidents involving juveniles suspected of criminal and non-criminal (i.e. Missing, Runaway, etc.) conduct.
 7. Being available to serve in an on-call capacity as necessary.

- B. In addition, unit investigators will, if requested, provide assistance to elements of the juvenile justice system and Department in the implementation and perpetuation of programs intended to prevent and control delinquent and criminal behavior in juveniles.

10.106 AUTHORITY TO TAKE A JUVENILE INTO CUSTODY – [CALEA Standard: 44.2.1; 44.2.2]

- A. When dealing with juvenile offenders, personnel are to use the most reasonable and least coercive alternative available. However, when a situation arises that warrants the taking of a juvenile into custody, the procedures outlined below shall be followed in accordance with the [Texas Family Code: Ch. 52](#).
- B. 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 law enforcement officer, if there is probable cause to believe that the child has engaged in:
 - a. Conduct that violates a penal law of this state or a penal ordinance of any political subdivision of this state;
 - b. Delinquent conduct or conduct indicating a need for supervision; or
 - c. Conduct that violates a condition of probation imposed by the juvenile court; and
 - d. Pursuant to a directive to apprehend issued in accordance with the [Texas Family Code: Sec. 52.015](#).
 - 4. Juveniles 10 years of age through 16 years of age who commit an offense 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, are taken into custody for investigation of **Delinquent Conduct**; *to wit*:
 - a. Conduct that violates a reasonable and lawful order of a juvenile court entered under a disposition hearing ([Texas Family Code: Sec. 54.04](#)) or hearing to modify disposition ([Texas Family Code: Sec. 54.05](#)), 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 political subdivision of this state;
 - 2) The unexcused voluntary absence of a child from school; or

- 3) The voluntary absence of a child from home without the consent of the parent or guardian for a substantial length of time or without intent to return.
5. Conduct that violates a lawful order of a municipal court or justice court under circumstances that would constitute contempt of that court;
6. Conduct that violates [Texas Penal Code Secs.: 49.04 \(Driving While Intoxicated\), 49.05 \(Flying While Intoxicated\), 49.06 \(Boating While Intoxicated\), 49.07 \(Intoxication Assault\), or 49.08 \(Intoxication Manslaughter\)](#);
7. Conduct that violates the [Texas Alcoholic Beverage Code: Sec. 106.041](#), relating to driving under the influence of alcohol by a minor (**3rd** or subsequent offense).
8. Juveniles 10 years of age through 16 years of age who commit an offense other than traffic, that violates any of the following may be taken into custody for investigation of **Child In Need of Supervision (CINS)**; *to wit*:
 - a. The penal laws of this state of the grade of misdemeanor that are punishable by fine only;
 - b. The penal ordinances of any political subdivision of this state;
 - c. 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;
 - d. Conduct prohibited by city ordinance or by state law involving the inhalation of fumes or vapors of paint and other protective coatings or glue and other adhesives and the volatile chemicals itemized in [Sec. 485.001, Health and Safety Code](#);
 - e. An act that violates a school district's previously communicated written standards of student conduct for which the child has been expelled under the [Texas Education Code: Sec. 37.007\(c\)](#);
 - f. Conduct described under sub-sections (a) and (b) directly above does not constitute conduct indicating a need for supervision unless the child has been referred to a juvenile court under [Sec. 51.08\(b\), Texas Family Code](#).
9. Per [Texas Family Code, Sec. 262.104](#): a law enforcement officer may take protective custody of a child without a court order for the following reasons and no other:
 - a. On personal knowledge of facts that 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;

- b. On 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 there is an immediate danger to the physical health or safety of the child;
- c. On 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 or of trafficking under [Sec. 20A.02](#) or [20A.03, Penal Code](#);
- d. On 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 or of trafficking under [Sec. 20A.02](#) or [20A.03, Penal Code](#); or
- e. On 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 parent or person who has possession of the child is currently using a controlled substance as defined by [Ch. 481, Health and Safety Code](#), and the use constitutes an immediate danger to the physical health or safety of the child.
- f. On personal knowledge or information furnished by another, that has been corroborated by personal knowledge, that would lead a person of ordinary prudence and caution to believe that the parent or person who has possession of the child has permitted the child to remain on premises used for the manufacture of methamphetamine.

10.107 TAKING A CHILD INTO CUSTODY – [CALEA Standard: 44.2.1; 44.2.2]

- A. 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.
- B. An employee who takes a child into custody shall immediately notify the juvenile of their constitutional rights when appropriate and necessary, per [Sec. 51.095, Texas Family Code](#).
- C. Without unnecessary delay and without first taking the child to any other place other than a juvenile processing office designated in subsection 10.107 (E) below, an employee, per [Sec. 52.02, Texas Family Code](#) and outlined in [TPD Form T-099: Warning / Custody Notice to Parent or Guardian](#), shall do one of the following:
 - 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. Bring the child before the office or official designated by the juvenile court if there is probable cause to believe that the child engaged in delinquent conduct or conduct indicating a need for supervision;
 - c. Deliver the child to the Smith County Juvenile Attention Center after clearance from the Smith County Juvenile Probation Department on-call probation officer;
 - d. Bring the child to a medical facility if the child is believed to be suffering from a serious physical condition or illness that requires prompt treatment;
 - e. Deliver a child that is reported as a runaway from another state to the Smith County Attention Center.
 - 1) If the child is a reported runaway from within Texas, Child Protective Services are to be notified to take custody of the child if the child's parent, guardian or custodian cannot take possession of the runaway child within one (1) hour of being notified that the child has been detained;
 - f. If school is in session and the child is a student, deliver the child to the school campus where the child is assigned. The child is to be delivered to the principal, the principal's designee, or a peace officer assigned to the TISD police. The person agreeing to assume responsibility for the child will be required to sign the Warning/Custody Notice as the responsible adult;
 - g. Release of the child, with no further action pending.
- D. The employee shall promptly give notice to the juvenile's parent, guardian or custodian of the fact that the child has been taken into custody. If the employee is unable to reach the parent, guardian or custodian by phone and the parent, guardian or custodian reside within the City of Tyler, a unit is to be sent to the juvenile's residence to attempt notification.
- a. Should the juvenile reside outside the City of Tyler, a supervisor is to be consulted prior to requesting another law enforcement agency that has jurisdiction make an attempt at notify the parent, guardian or custodian.
- E. When a juvenile is taken into custody by an employee of this agency, the juvenile will only be detained in an area approved by the Juvenile Board and outlined in the Smith County Omnibus Order, in accordance with [Sec. 52.025, Texas Family Code](#).
- a. The specific areas for the Ferguson Police Station currently approved by the Omnibus Order are:
 - 1. Briefing Room;
 - 2. Interview rooms adjacent to the Investigative Division area;
 - 3. Crime Scene Unit area when necessary to fingerprint and photograph a child; and

4. Investigative Division conference room.
- b. The specific areas for the Faulkner Police Station currently approved by the Omnibus Order are:
 1. Juvenile Room;
 2. Conference Rooms 1 & 2;
 3. Fingerprinting Room;
 4. Interview Rooms 1 – 3; and
 5. Briefing Room
- F. A child may be detained in a juvenile processing office only for the purposes of:
- a. Returning the child to the custody of a parent, guardian, custodian, or other responsible adult;
 - b. Completing essential forms and records required by the juvenile court;
 - c. Photographing and fingerprinting a child if otherwise authorized at the time of the temporary detention;
 - d. Issuing a child their statutory warning as required by the Texas Family Code;
 - e. Obtaining the receipt of a statement by a child under [Sec. 51.095\(a\)\(1\), \(2\), \(3\), or \(5\), Texas Family Code](#).
- G. A child **SHALL** not be left unattended in a juvenile processing office.
- H. The parent of a child has the right to communicate in person and privately with the child for reasonable periods of time. The time, place, and conditions of the private, in-person communication may be regulated to prevent disruption of scheduled activities and to maintain the safety and security of the facility.
- J. A child may not be detained in a juvenile processing office for more than six (6) hours.

10.108 REFERRAL OF THE JUVENILE TO INTAKE – [CALEA Standard: 44.2.2]

- A. When a juvenile is taken into custody, the employee shall consult with the on-call Smith County Juvenile Attention Center (**JAC**) Juvenile Probation officer as to the best option available regarding the referral of the juvenile. A Juvenile Probation representative must approve the referral prior to the transport of a juvenile to the JAC.

- B. When a juvenile is taken into custody and their referral to the JAC is approved by the on-call Juvenile Probation officer, the employee shall transport the juvenile to the JAC, along with the completed paperwork listed below:
 - 1. The Tyler Police Department Incident and Arrest report;
 - 2. Warning / Custody Notice to Parent; and
 - 3. CR43J, (blue and green copies).

10.109 JUVENILE PROCESSING – [CALEA Standard: 82.1.2]

- A. Except as provided by [Ch. 63 of the Texas Code of Criminal Procedure](#), a child may not be photographed or fingerprinted without the consent of the juvenile court, unless the child is taken into custody for conduct that constitutes a felony or a misdemeanor punishable by confinement in jail.
 - 1. This does not prohibit a law enforcement officer from photographing or fingerprinting a child who is not in custody if the child's parent or guardian voluntarily consents in writing to the photographing or fingerprinting of the child.
- B. In accordance with [Sec. 58.0021, Texas Family Code](#): an officer may take a child into temporary custody to take the child's fingerprints if the officer has probable cause to believe the child has engaged in delinquent conduct, the officer has found latent fingerprints during the investigation, and the officer has probable cause to believe that the child's fingerprints will match.
 - 1. The officer shall destroy the fingerprints if they do not lead to a positive comparison and shall notify the parents of the child of the actions taken.
- C. In accordance with [Sec. 58.0021, Texas Family Code](#): an officer may take a child into temporary custody to take a child's picture if the officer has probable cause to believe the child has engaged in delinquent conduct and the officer has probable cause to believe the photograph will be of material assistance in the investigation of that conduct.
 - 1. The officer shall destroy the photographs if they do not lead to a positive identification and shall make a reasonable effort to notify the parents of the child of the actions taken.
- D. In accordance with [Sec. 58.0022, Texas Family Code](#): an officer that has taken a child into custody for runaway, and after reasonable efforts to determine the identity of the child, may fingerprint and photograph the child to aide in the identification of the runaway.
 - 1. The officer shall destroy the fingerprints and photographs of the child once the child has been identified or if the child cannot be identified by the fingerprints or the photographs.

- E. Upon arrival at the Ferguson or Faulkner station's juvenile processing room / area an employee is to check the Department's RMS system to determine if the juvenile has previously been taken into custody by this agency.
1. If previously taken into custody by this agency the RMS Master Names module containing the juvenile's information, including their unique RMS generated System Number and previous arrest photograph(s) is to be used to attach the juvenile's new arrest photograph.
 2. If the juvenile has not been previously taken into custody and is transported to the Ferguson station the employee will need to create a new person entry within the Master Names module on the computer located in the CSI Unit. Once this has been completed the juvenile's arrest photograph can be attached to the entry.
 3. If the juvenile has not been previously taken into custody and is transported to the Faulkner station the employee will need to photograph the juvenile utilizing their Department issued camera.
 - a) The media card containing the juvenile's arrest photograph is to be put in a case packet envelope and placed into the small items drop box located in the station's property room to be retrieved by CSU personnel.
 - b) Once retrieved the juvenile's photograph will then be uploaded into the RMS system and attached to the appropriate juvenile file by CSU personnel.
- F. Whether the juvenile is transported to the Ferguson or Faulkner station the employee taking custody of the juvenile shall complete the Referral / Identification portion of the Juvenile Justice Reporting Form (**CR43-J**), including the offense code, which can be found in the Uniform Offense Code notebook located at both stations.
1. Once the Referral / Identification portion of the CR43-J has been filled-out the forms attached fingerprint card shall be used to fingerprint the juvenile.
 2. After fingerprinting the juvenile the employee and juvenile should, unless circumstance dictate otherwise, sign the CR43-J's fingerprint card in their designated locations.
- G. If the juvenile is processed at the Ferguson station and referred to the Smith County Juvenile Attention Center the white copy of the CR43-J, the white copy of the CR44-J supplemental form (if completed), and the CR43-J's fingerprint card are to be placed in the Juvenile Fingerprints basket located in CSU. If the juvenile is processed at the Faulkner station the paperwork noted above is to be put in the same case packet envelope as the media card containing the juvenile's photograph and placed into the small items drop box located in the station's property room to be retrieved by CSU personnel.

1. The green and blue copies of the CR43-J and the CR44-J are to be attached to a copy of the employee's incident and arrest report to be given to the Juvenile Attention Center's in-take officer.
 2. If the juvenile is released to a parent, guardian, custodian of the child, or other responsible adult all copies of the CR43-J and CR44-J should be placed in the Juvenile Fingerprints basket located in CSU, if processed at the Ferguson station, and in the case packet envelope previously mentioned above, if processed at the Faulkner station.
 3. Once submitted / retrieved the Youth Crimes Unit Investigator designated to retrieve the forms shall be notified. The investigator shall review the forms for accuracy, complete the School Notification form, and notify the appropriate school system, via email or telephone per [Art. 15.27 of the Texas Code of Criminal Procedures](#) if the juvenile was taken into custody for a felony grade offense or other offenses listed in the aforementioned article.
 - a. The investigator will also provide the designated CSI with the form's fingerprint card for scanning and storage purposes prior to the form being forwarded to DPS for inclusion in the Juvenile Justice Information System.
- H. If a child is not referred to juvenile court on or before the **10th** day after the child was detained or taken into custody, the Youth Crimes Investigator shall destroy all information, including photographs and fingerprints, relating to the child unless the child is placed on informal disposition under [Sec. 52.03, Texas Family Code](#).

10.110 JUVENILE INCIDENT REPORTS – [CALEA Standard: 44.2.1]

- A. Employees are required to complete a Warning / Custody Notice to Parent or Guardian each time a juvenile is taken into custody, except for:
 1. Class C traffic related offenses;
 2. Alcohol related offenses listed below:
 - a. [TABC Sec. 106.02](#),
 - b. [TABC Sec. 106.025](#),
 - c. [TABC Sec. 106.04](#),
 - d. [TABC Sec. 106.05](#),
 - e. [TABC Sec. 106.07](#); or
 3. Any Class C statutory or City Ordinance Violation when the juvenile is 10 years of age or older.

- a. The juvenile may be issued a citation and released into the custody of a parent, guardian, or responsible adult for any of the aforementioned Class C misdemeanor offenses.
- 4. Runaways returned to their parent or guardian.
- B. An employee who takes custody of a juvenile must complete an Incident Report, except for:
 - 1. Traffic related offenses, unless there is a complainant or evidence;
 - 2. Alcohol related offenses, unless there is a complainant or evidence; or
 - 3. City Ordinance Violations where the officer is the complainant.
- C. An employee who takes a juvenile into custody for any of the below listed offenses shall process or ensure the juvenile is processed at either the Ferguson or Faulkner station and complete a Warning / Custody Notice to Parent or Guardian prior to their release.
 - 1. Accidents involving personal injury or death – [Transportation Code 550.021](#);
 - 2. Accidents involving damage to vehicles, punishable as a Class B misdemeanor – [Transportation Code 550.022](#); or
 - 3. Accidents involving unattended vehicles, punishable as a Class B misdemeanor – [Transportation Code 550.024](#).
- D. Employees should refrain from discussing with the offender and/or the juvenile’s family as to what action will be taken by Youth Crimes Unit / Investigator, Juvenile Probation, and/or the Juvenile Court.
- E. An employee shall complete an Incident Reports for the following:
 - 1. Runaways; and
 - 2. Any other incident that may require additional follow-up by a Youth Crimes Investigator (including protective custody cases).

10.111 CUSTODIAL INTERROGATION OF JUVENILES – [CALEA Standard: 44.2.3]

- A. A magistrate is required to administer a juvenile their statutory warning prior to any custodial interrogation of a juvenile. The custodial interrogation of juveniles by Tyler Police Department employees shall adhere strictly to procedural requirements established in [Sec. 51.095 of the Texas Family Code](#).
- B. Should an employee conduct an interrogation of a juvenile, the employee shall, during the course of the interrogation:
 - 1. Confer with the juvenile’s parent(s) or guardian(s);

2. Explain the Department's and Juvenile Justice System's procedures to the juvenile being interrogated and the juvenile's parent(s) or guardian(s);
 3. Limit the number of employees involved in the interrogation to no more than two (2); and
 4. Limit the duration of the total detention to a reasonable time, but not to exceed six (6) hours as specified by [Sec. 52.025\(d\), Texas Family Code](#).
- C. A juvenile must receive their statutory warning by a magistrate, as noted in section 10.111(A) directly above, prior to making a written statement or a statement that is recorded by an electronic recording device (audio and/or video), per [Sec. 51.095\(a\)\(5\), Texas Family Code](#).
- D. A polygraph examination may not be administered on a juvenile taken into custody without the consent of the juvenile's attorney or the juvenile court, unless the child is transferred to criminal court for prosecution under [Sec. 54.02, Texas Family Code](#).

10.112 JUVENILE FILES AND RECORDS – [CALEA Standard: 82.1.2]

- A. The Data Management Unit supervisor shall be responsible for the retention and storage of all juvenile records.
1. Paper files and records concerning juvenile offenders shall be kept separate from adult offender files and records.
 2. Electronic files and records concerning all juveniles entered into the Department's RMS system (e.g. offender, victim, and witness) shall be clearly distinguished from adult electronic files and records.
 - a. All information related to juvenile files and records will be highlighting in pink and will remain so indefinitely. In addition, the word **JUVENILE**, highlighted in blue, will be clearly displayed on each juvenile's Master Names file until the system calculates they are 17 years of age.
 3. All juvenile files and records shall be maintained locally by the Department and shall not be forwarded to a centralized state or federal repository.
- B. The files and records of an offender who is transferred from the Texas Youth Commission (TYC) to the Texas Department of Criminal Justice Correctional Institutions Division or the Texas Board of Pardons and Paroles may be transferred to a central state or federal depository for adult records on or after the date of transfer.
- C. Files and records regarding a juvenile offender may be inspected by a juvenile justice agency as defined by [Sec. 58.101, Texas Family Code](#) and a criminal justice agency as defined by [Sec. 411.082, Texas Government Code](#).

- D. Upon receipt of an order from a juvenile court to seal a juvenile offender's files and records, the Data Management Unit Supervisor shall:
1. Delete all paper and electronic references related to the juvenile offender's files and records;
 2. Provide a notarized letter on official Department letterhead or return a signed copy of the Agency Verification Form to the ordering juvenile court; or
 3. Reply to the ordering juvenile court that no file or record of the juvenile exists.

10.113 DRIVING WHILE INTOXICATED / DRIVING UNDER THE INFLUENCE – JUVENILE

- A. Should a juvenile be taken into custody for driving while intoxicated (DWI) and the case filed as such, it is to be filed with the Smith County Juvenile Probation Office, who in turn will file the case with the Smith County District Attorney's Office.
1. Arresting employee's responsibilities:
 - a. Read and provided a copy of the DIC – 24, requesting a sample of the juvenile's breath or blood.
 - 1) **Under no circumstances will the request be made without being captured on video.**
 - 2) The juvenile is **NOT** to be Mirandize, nor a custodial interrogation conducted.
 - b. Should the juvenile agree to providing a breath specimen the supervisor responding to obtain the sample will ensure the juvenile remains separated from adult inmates at all times.
 - c. If the juvenile is being charged with DWI and they refuse to provide a breath specimen the employee should contact a supervisor to discuss whether a search warrant for the juvenile's blood for analysis should be obtained.
 - 1) If it is decided that a search warrant for the juvenile's blood will be obtained the same protocol to obtain a search warrant for an adult's blood for analysis shall be followed.
 - 2) If the juvenile is being charged with DUI and they refuse to provide a breath specimen, the employee **will not** seek to obtain a search warrant for the juvenile's blood for analysis.
 - d. Once a specimen has been obtained or the juvenile refuses to provide a specimen and a search warrant to obtain the juvenile's blood is not being sought the juvenile will be transported and processed at either the

Ferguson or Faulkner stations in accordance with [Section 10.109 E-G](#) of this policy.

- e. The Smith County Attention Center does not accept intoxicated juveniles; therefore, an employee charging a juvenile with DWI will need to complete a Warning / Custody Notice to Parent or Guardian and release the juvenile to their parent(s), guardian(s) or another responsible adult. A Warning / Custody Notice to Parent or Guardian does not need to be completed if the juvenile is being charged with DUI.
 - f. If a minor is being charged with DUI, the employee will issue the minor a citation that contains a written notice of the time and place the minor must appear before a magistrate, the name and address of the minor charged, and the offense charged. For this subsection, minor means a person under 21 years of age.
 - 1) No person being charged with DUI shall be permitted to operate a vehicle in order to leave the scene at the close of the contact.
 - g. Complete all remaining documentation (i.e. Incident Report, Arrest Report, case packet paperwork, etc.) for the given offense and submit for review prior to the close of the employee's shift.
- B. If a juvenile is charged with the offense of DWI a Youth Crimes Investigator's shall be responsible for gathering all necessary reports, reviewing completed forms for accuracy, and ensuring the case is filed with the Smith County Juvenile Probation Office on or before the **10th** day after the child was taken into custody. The investigator will also ensure the juvenile's CR43-J fingerprint card is scanned and stored prior to the form being forwarded to DPS for inclusion in the Juvenile Justice Information System.

10.114 PUBLIC INTOXICATION – JUVENILE – [CALEA Standard: 44.2.1]

- A. Should a juvenile be taken into custody for Public Intoxication the arresting employee shall be responsible for:
 - 1. Issuing the juvenile a citation that contains a written notice of the time and place the juvenile must appear before a magistrate and the name and address of the juvenile charged.
 - a. As previously noted, the Smith County Attention Center will not accept intoxicated juveniles; therefore the juvenile must be released to their parent(s), guardian(s), or other responsible adult with a Warning / Custody Notice to Parent or Guardian.
 - 2. Requesting medical assistance or transporting the juvenile to a local hospital facility if the employee believes the juvenile's level of intoxication is or becoming life – threatening. At the discretion of the employee, the juvenile may be issued a citation and released to their parent(s), guardian(s), or other responsible adult with a Warning / Custody Notice to Parent or Guardian.

10.115 EMERGENCY MEDICAL TREATMENT FOR JUVENILES

- A. In the absence of a juvenile's parent(s), guardian(s), or other responsible adult, a police officer is expected to take immediately custody of a juvenile found to be in need of emergency medical care. The police officer shall ensure the juvenile receives emergency medical treatment and is transported to a local hospital facility for further emergency care if necessary.

10.116 PROCEDURES TO TAKE PROTECTIVE CUSTODY OF JUVENILES

- A. [Sec. 262.104 of the Texas Family Code](#) authorizes law enforcement officers to take possession of a child to protect the child from an immediate danger to the child's health or physical safety.
- B. 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 to be followed to obtain the necessary medical care in an expedient manner:
 - 1. The employee taking possession of a juvenile shall require the juvenile be taken to the nearest hospital by EMS transport for emergency medical care / treatment.
 - a. Should the injury and / or illness of the juvenile necessitate the immediate transport of the juvenile prior to the arrival of EMS personnel, an employee may transport the juvenile to the nearest hospital for emergency medical care / treatment.
 - b. A supervisor shall be notified of the circumstances and the transport of the juvenile by the employee.
 - 2. The employee taking possession of the juvenile shall, as soon as practical, notify the Texas Child Protective Services (CPS) of the circumstances at hand and provide that agency with the following information:
 - a. Name, race, sex, age, and date of birth of the juvenile;
 - b. Parent's name and address if available;
 - c. The hospital the juvenile was transported too; and
 - d. The steps taken to contact the child's parent(s) or guardian(s).
- C. The employee taking possession of the juvenile shall, as part of their investigation, ensure the receiving hospital and appropriate staff have been made aware of circumstances. If necessary, a supervisor shall request a Youth Crimes Unit investigator respond to assist in the investigation.

- D. The employee taking possession the juvenile shall prepare the appropriate incident report, including a full description / explanation of the incident's circumstances. The Youth Crimes Unit Sergeant shall be notified of the incident for review purposes and assignment should a follow-up investigation be necessary.
- E. All employees should be aware that in the absence of proper parental or guardian authority, medical treatment / care cannot be legally administered to a juvenile with out judicial authority, except in life-threatening situations.

10.117 PERSONS WHO MAY CONSENT TO MEDICAL TREATMENT

- A. [Sec. 32.001 of the Texas Family Code](#) allows any of the following persons to consent to medical treatment of a juvenile when the person having the power to consent, as otherwise provided by law, cannot be contacted and actual notice to the contrary has not been given by the person:
 - 1. A grandparent;
 - 2. An adult brother or sister
 - 3. An adult aunt or uncle;
 - 4. An educational institution in which the child is enrolled that has received written authorization to consent from the person having the power to consent as otherwise provided by law;
 - 5. Any adult who has care and control of the juvenile and has written authorization to consent from the person having the power to consent as otherwise provided by law;
 - 6. Any court having jurisdiction over a suit affecting the parent – child relationship of which the child is the subject;
 - 7. An adult who is responsible for the care, control, and possession of the child under the jurisdiction of a juvenile court; or
 - 8. A Peace Officer who has lawfully taken custody of a juvenile, if the employee has reasonable grounds to believe the juvenile is in need of immediate medical treatment.
- B. Upon receipt of notification from this agency, CPS personnel shall be responsible for contacting a magistrate with proper authority to obtain judicial authorization for treatment of the juvenile.

10.118 DIVERTING JUVENILE OFFENDERS OUT OF THE JUSTICE SYSTEM


[CALEA Standards: 1.1.3; 1.2.6; 1.2.7; 44.2.1]

- A. Sworn employees have an opportunity to divert juveniles less than 17 years of age concerning Class C *traffic* offenses. This is accomplished by the employee using their discretion regarding the issuance of a citation.
- B. Sworn employees have an opportunity to divert juveniles less than 17 years of age concerning Class C offenses other than traffic and alcohol. This is accomplished by the employee using their discretion regarding the issuance of a citation. Prior to making a diversion decisions an employee shall consider the factors listed below:
 - 1. The nature and circumstances of the alleged offense;
 - 2. The age of the alleged offender;
 - 3. The alleged offender's record (if any); and
 - 4. The availability of community – based rehabilitation programs.
- C. Once a juvenile case / citation is forwarded to the City of Tyler Municipal Court, the juvenile, at the discretion of the court, may have their case / citation referred to Teen Court. A function of Teen Court is to divert juvenile offenders out of the standard juvenile justice system and into a system where the offender is judge by their peers.
- D. Offenses that may be diverted from referral to the Smith County Juvenile Probation Department under the guidelines noted in the above two subsections are:
 - 1. Any Class C misdemeanor offense;
 - 2. Any minor offense against property, in which damage or loss can be adjusted with the help of Department personnel;
 - 3. Any violence between juveniles of the same size and sex, in which there is no serious injury and weapon used; or
 - 4. Any other category of offense by agreement with the Smith County Juvenile Probation Department and this agency and with approval of the Juvenile Court.
- E. No disposition authorized by this section shall involve keeping a juvenile in the custody of law enforcement personnel or require the periodic reporting of the juvenile to law enforcement personnel, a law enforcement agency, or any other agency.

10.119 PARTICIPATION IN COMMUNITY RECREATIONAL PROGRAMS

- A. The Department will participate in community recreational youth programs in conjunction with other City of Tyler departments and outside entities by providing support and security to ensure a safe recreational environment.

Approved: 09-02-2020



Jimmy Toler
Chief of Police