

Unit Goal: Conducting investigations involving juveniles.

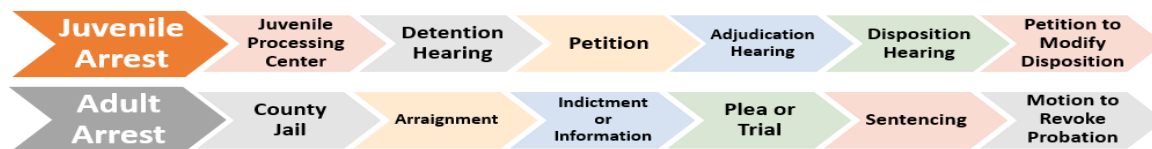
33.1. Identify the purpose of Title III, Juvenile Justice Code, as it relates to juvenile investigations.

- A. Purpose and interpretation – Family Code Chapter 51.01

33.2. Define specific terms relating to juvenile proceedings.

- A. Definitions – Family Code Chapter 51.02:
 - i. Child
 - ii. Custodian
 - iii. Guardian
 - iv. Judge or Juvenile Court Judge
 - v. Juvenile Court
 - vi. Non-offender
 - vii. Parent
 - viii. Referral to Juvenile Court
 - ix. Secure Correctional Facility
 - x. Secure Detention Facility
 - xi. Status Offender
 - xii. Traffic Offense
 - xiii. Valid Court Order
- B. The court process and paperwork are similar to adult investigations.
- C. Adult Case Terminology vs. Juvenile Case Terminology
 - i. Criminal Offense vs. Delinquent conduct
 - ii. Code of Criminal Procedure vs. Family Code
 - iii. Arrest Warrant vs. Directive to Apprehend
 - iv. Indictment/Information vs. Juvenile Petition
 - v. Defendant vs. Respondent
 - vi. Conviction vs. Adjudication
 - vii. Sentencing Hearing vs. Disposition Hearing
 - viii. Guilty/Not Guilty Plea vs. Plea of True/Not True

The Juvenile Court Process



33.3. Define delinquent conduct; conduct indicating a need for supervision.

- A. Delinquent conduct; conduct indicating a need for supervision – Family Code Chapter 51.03
 - i. Define delinquent conduct, and conduct indicating a need for supervision

Instructor Note: See Penal Code Chapter 49.04, Penal Code Chapter 49.05, Penal Code Chapter 49.06, Penal Code Chapter 49.07, Penal Code Chapter 49.08 and Alcoholic Beverage Code

Chapter 106.04 as these are specifically mentioned within Delinquent Conduct or CINS.

- B. Jurisdiction – Family Code Chapter 51.04: “Each County has a juvenile board. That board shall designate 1 or more district, criminal district, domestic relations, juvenile, county courts, county courts at law as the juvenile court.”
 - i. Who handles juveniles can be changed by authorized boards or judges.
 - ii. Must be a Juvenile Court designated for each county at all times.
 - iii. If a judge/ alternate of juvenile court is not available, any magistrate may make detention release determination (Family Code Chapter 53.02) or Conduct detention hearings (Family Code Chapter 54.01)
 - iv. There can also be a “referee” to conduct detention release/ hearings. Shall be licensed attorney in Texas.

33.4. Identify the legal requirements pertaining to a waiver of rights and requirements for admissibility of statements given by Family Code 51.09 and Family Code Chapter 51.095.

- A. Legal requirements for waiver of rights and admissibility:
 - i. Waiver of rights – Family Code Chapter 51.09
 - 1. Unless a contrary intent clearly appears elsewhere, any right granted to a child by Title 3, the constitution or the laws of Texas or U.S. may be waived IF:
 - a. Waiver is made by child and attorney for the child
 - b. Child and attorney waiving the right are informed of and understand the right & possible consequence of waiving it
 - c. It’s Voluntary, and
 - d. Made in writing or in court proceedings that are recorded
 - ii. Admissibility of a statement of a child – Family Code Chapter 51.095 statements by a child are admissible in future proceedings if:
 - 1. For WRITTEN statements:
 - a. Written Statement was given AFTER being given magistrate warnings by a Magistrate (think Miranda warning – but they must be given by a Judge, not an officer)
 - b. That written statement is signed in the presence of the Magistrate, with no law enforcement officer present.
 - c. The magistrate is fully convinced that the child understands the nature & contents of the statement & is signing voluntarily.
 - d. The child knowingly, intelligently, and voluntarily waives the rights before & during making of the statement and signs in presence of the Magistrate.
 - e. Magistrate certifies that the magistrate has examined the child independently from law enforcement or prosecutor and determined that child understands the nature of the statement.
 - 2. For ORAL statements:
 - a. Statements made orally and the statement is of facts or circumstances that are found to be true & tend to establish the child’s guilt, such as finding of secreted or stolen property, or the instrument with which the child states the offense was

- committed.
- b. Res Gestae statement of the Delinquent conduct or Conduct indicating a need
- c. for supervision.
- d. Statement made in open court at child's adjudication hearing or before a Grand jury considering a petition or in a preliminary hearing.
- 3. For Audio/Video Statements:
 - a. Magistrate warnings (same as for written) BUT the warnings MUST be a part of the recording and the child must waive each right stated in warning on the recording.
 - b. Each voice/person must be identified.
 - c. And not later than 20th day before the date of the proceeding, the defense attorney is entitled to a copy of this recording.
- iii. If the child isn't in custody and is not being interrogated, then FC 51.095 and previous court rulings look to "Voluntariness". Courts will look at the totality of the circumstance including the child's age, maturity, experience, background, intelligence and education.
- iv. If a child isn't in "custody", an Officer can interview and take statements from a child without needing a Magistrate. Think a consensual encounter – like talking with a child at school and allowing them to go back to class. Talking with them outside a crime scene and allowing them to leave.
- v. Courts have consistently held that a Child is NOT in custody when:
 - 1. The child is notified that he/she is NOT in custody and
 - 2. The child is notified that he/she is free to leave at any time and
 - 3. The child is actually allowed to leave after taking of statement (written or audio/video)
- vi. Therefore, if an Officer is still conducting an investigation, has not placed the child into custody, and is able to speak with the child they can provided they explain to the child that he/she isn't in custody (has voluntarily come to the agency, or the SRO officer, etc.), is free to leave (door unlocked, no handcuffs) and is allowed to return home or to class.
- vii. Additionally:
 - 1. Important considerations for juvenile statements – the Juvenile Justice Code has jurisdiction until a person is 18 years of age. However, in Texas, a person becomes an "adult" at 17 years of age. Therefore, there exists a gray area where Officers must consider carefully when an offense occurred, what type of offense it was, and how old the person is when they wish to speak/interview them.
 - a. If crime occurs after 17 – all the rules will follow adult rules
 - b. If the crime occurred when person was under 17, but not yet 18, then juvenile rules apply.
 - c. If crime occurred when person was under 17, but they are over 18, adult rules apply meaning Officers must follow CCP 38.22 and CCP 2B.0202
 - d. If a suspect's age can't be accurately determined and a possibility

exists that the suspect is a juvenile, it's safer to conduct interrogation pursuant to juvenile procedures as compliance with those will satisfy CCP 38.22, but not vice versa (if you went with adult procedures and they turned out to be adult).

2. CCP 2B.0202 - Statements that MUST be recorded – Officers must always electronically records statements/interviews of suspects in the following adult case types:
 - a. Murder/Capital Murder
 - b. Kidnapping/Aggravated Kidnapping
 - c. Trafficking/Continuous Trafficking
 - d. Sexual Assault/Aggravated Sexual Assault
 - e. Continuous Sexual Assault of a child
 - f. Sexual Performance of a Child
 - g. Indecency of a Child
 - h. Improper Educator/Student relationship
 3. In situations where the offense was committed while the person was a juvenile (under 17), but they are now 18 or older, Officers must remember that adult rules will apply, but the crime would, at least initially, be handled by juvenile probation and prosecutors that work with juvenile cases.
 4. Written statements vs. Audio/Video statements (Magistrated) – pay careful attention to the forms that the jurisdiction uses. Both types of statements may require the juvenile to be brought back before the Magistrate to ensure voluntariness before certification of the statement by the Magistrate. That includes video! Officers must allow Magistrate to review, if requested or the statement may be deemed inadmissible. Pros and cons to both are listed below:
 - a. Texas Courts have held that video/audio files must be one “continuous” file containing the Magistrated warnings and the questioning of the child. This means that the Magistrated warnings should be recorded and if doing an audio/video interview, the device cannot be turned off – it must continue to run. This could prove difficult in some jurisdictions.
 - b. Written statements – handwriting is difficult to read and most don't put as much detail within a handwritten statement.
 - c. Language barriers – audio/video will show and allow defense to hear and perhaps employ their own interpreter.
- B. Effect of Guardian Ad Litem – Family Code Chapter 51.11
- C. Adjudication or Disposition – Family Code Chapter 51.13
- i. Order of Adjudication or disposition in NOT a conviction of a crime
 - ii. No civil disability or disqualification in any civil service application or appointment
 - iii. Can only use disposition when:
 1. When still a juvenile and child is a party to new stuff
 2. Civil Commitment under Health and Safety Code Chapter 841

33.5. Identify the legal requirements on places and conditions of detention.

- A. Legal requirements on places and conditions of detention:
 - i. Place and conditions of detention – Family Code Chapter 51.12
 - ii. Designation of juvenile processing office – Family Code Chapter 52.025
 - iii. Responsibility for transporting juvenile offenders – Family Code Chapter 52.026

33.6. Identify the legal restrictions on fingerprinting and photographing a child and administering a polygraph examination.

- A. Legal restrictions of fingerprinting and photographing a child:
 - i. Collection of records of children – Family Code Chapter 58.001
 - 1. Law enforcement shall forward information (reports and fingerprints/photographs) relating to child taken into custody, if the child is referred to Juvenile on or before the 10th calendar day after the date the child is taken into custody (this includes weekends and holidays in the 10 days).
 - 2. If that doesn't happen, law enforcement shall destroy all info including the fingerprints, photos and reports and case won't proceed forward.
 - ii. Photographs and fingerprints of children – Family Code Chapter 58.002
 - iii. Fingerprints or photographs for comparison in investigation – Family Code Chapter 58.0021
 - iv. Fingerprints or photographs to identify runaways – Family Code Chapter 58.0022
 - v. Legal restrictions of polygraph examinations – Family Code Chapter 51.151

33.7. Identify the legal requirements for taking a child into custody.

- A. Legal requirements for taking a child into custody:
 - i. Taking into custody; issuance of warning notice – Family Code Chapter 52.01 – Juveniles may be taken into custody under the following authority:
 - 1. Pursuant to order from Juvenile Court
 - 2. Pursuant to the laws of arrest
 - 3. By a law enforcement officer, including a school district peace officer commissioned under Education Code 37.081, 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
 - b. Delinquent Conduct or CINS
 - c. Conduct that violates a condition of probation imposed by the juvenile court
 - 4. By a probation officer if there is probable cause to believe that the child has violated a condition of probation imposed by the juvenile court or a violation of the condition of release.
 - 5. Pursuant to a directive to apprehend
 - ii. Directive to apprehend – Family Code Chapter 52.015
 - iii. Child taken into custody – Code of Criminal Procedure Art. 45A.453 – Procedures for release of Juveniles who are taken into “custody” for Class C violations include:

1. Releasing to parent, guardian custodian or other responsible adult
 2. Writing a citation (except Public Intoxication cases – citation and MUST release to parent)
 3. Taken directly before the Justice or Municipal Court
 4. Or, is released under Family Code 52.02 (a) (1) – (the same procedures for taking child into custody for offenses that carry confinement as a punishment)
- iv. Non secure custody – unlocked, multi-purpose area like a lobby, office or interview room if these are not used as a secure detention area. It can be a Juvenile Processing Office if it is not locked when used as nonsecure custody area.
1. While juvenile is in nonsecure custody, procedures include:
 - a. Don't secure the juvenile physically to a cuffing rail, chair, desk, or stationary object.
 - b. Held only long enough to identify them, investigate, process, release to parent, arrange transportation, etc.
 - c. Residential use of the "non secure" area is prohibited.
 - d. Juvenile shall be under continuous visual supervision by law enforcement of facility staff.
 - e. Not held in non-secure custody for more than 6 hours
- B. Civil vs. Criminal Incidents regarding child custody
- i. Many custody disputes are civil and in many cases:
 1. Officers can only intervene if:
 - a. It is apparent that a crime is about to or is taking place; or
 - b. If the child/juvenile is in apparent immediate danger
 2. Consider if a crime regarding child custody has been committed:
 - a. Penal Code Chapter 25.03 Interference with Child Custody
 - b. Penal Code Chapter 25.031 Agreeing to Abduct a Child from Custody
 - c. Penal Code Chapter 25.04 Enticing A Child
 - d. Penal Code Chapter 25.06 Harboring Runaway Child
 - e. Penal Code Chapter 25.10 Interference with Rights of Guardian of the Person
 3. An officer must call CPS to file a report and document the CPS report number in an incident report when there is cause for concern for the child's health or safety (Family Code Chapter 261.101) even when the circumstance dose not:
 - a. Meet the elements of any criminal offense.
 - b. Justify taking possession of the child in an emergency.
 4. Role and authority of CPS at a scene
 - a. CPS does not have any greater authority, without a court order in hand, to enter a premise than LE.
 - b. Scenario – CPS calls for a LE assist to go talk to a child at a house. What if the no one answers the door? Can LE go in with CPS? If there isn't a court order, specifically about entry and taking emergency custody, probably not. Caution LE not to forget all that

they have learned about legal entry into a house.

C. Juvenile Interviews and Interrogation

i. School administration

1. Penal Code Chapter 38.05 Hindering Apprehension or Prosecution
2. Penal Code Chapter 38.15 Interference with Public Duties

ii. Non-Custodial Interview

1. An officer does not have to contact a parent/legal guardian prior to conducting a non-custodial interview.
2. Preferred Location – School
 - a. The preferred time/location to do a non-custodial follow-up interview with a juvenile is while that juvenile is at school.
 - b. Contact the school administrators or ISD Police to:
 - c. Set up a time and location.
 - d. Locate the juvenile and bring them to the location for the interview.
 - e. Do not arrest the juvenile after the interview, allow the juvenile to go back to class.
 - f. For this to remain “non-custodial”, remember the juvenile must be allowed to leave regardless of what they tell you.
3. Remember to audio/video a non-custodial interview.

33.8. Identify the legal requirements for release or delivery to court.

A. Release or delivery to court – Family Code Chapter 52.02

- i. Release to the parent/guardian, or
- ii. Bring before the office or official designated by Juvenile Board (Juvenile Probation officer if no Juvenile detention in your county)
- iii. Bring to a designated detention facility
- iv. Bring to a secure detention facility (alternatives for remote, limited resources areas)
- v. Bring to a medical facility
- vi. Dispose of case under FC 52.03 – Disposition without Referral
- vii. Take child to school (if in session)

B. Juveniles and intoxication offenses – see FC 52.02 (c) and (d) – juveniles can be asked to provide a breath specimen without an attorney, but the request and response must be videotaped and maintained as evidence in the case. Requests for blood require consent of attorney or the court; therefore, those would be rare.

Instructor Note: Discuss with students the difference between DUI-Minor and DWI and the importance of conducting a thorough investigation and charging appropriately. DUI – Minor is a detectable amount of alcohol, while DWI is driving with mental and physical faculties impaired. Juveniles can be charged with a crime under the same code and in the same manner as adults. The officer’s decision/investigation could be the opportunity the juvenile needs for help.

C. Waiver of Jurisdiction and Discretionary Transfer to Criminal Court – Family Code Chapter 54.02 (j)

- i. Example: Suspect commits sexual assault at the age of 15 on victim who is 11

years of age. Victim does not tell anyone for three years. Suspect is now 17 years old, almost 18 and is technically an adult; but offense was committed when they were a juvenile. This statute allows the case to be transferred to the adult court system since the suspect is an adult. However, the state, including officers, must have done due diligence to investigate as quickly as possible before the 18th birthday. That depends on a few things like whether the officer had enough to establish probable cause.

- D. Referral to juvenile court; notice to parents – Family Code Chapter 52.04 – whenever an officer refers a case to office or official designated by the juvenile board the following shall accompany that referral (Remember referral also refers to custodial arrests – it's any way a case gets to Juvenile officials):
- i. All identifying information on child & witnesses & child's current whereabouts
 - ii. Complete statement of circumstances of Delinquent Conduct or CINS
 - iii. If taken into custody, statement of circumstances
 - iv. Complete statement of all prior contacts with child by Officer's agency

33.9. Identify the legal requirements for the release of a child brought before the court or delivered to a detention facility.

- A. Release from Detention – Family Code Chapter 53.02 – When a child is brought before the court or delivered to detention, the intake or authorized officer (intake at detention or juvenile probation officer if not detention) of the court Shall:
- i. Immediately make an investigation and
 - ii. Release unless detention warranted
 - iii. There may be conditions of release imposed (think similar to conditions of bond in adult cases)
 - iv. Considerations used to detain:
 1. Is the child likely to abscond or be removed from jurisdiction?
 2. No suitable supervision, care or protection for child in real world
 3. No parent able to return child to court when required
 4. The child is dangerous to him/herself or public if released
 5. The child was previously found Delinquent or convicted of jailable or prison offense and likely to re-offend if released
 6. If the child is accused of delinquent conduct and is alleged to have used, possessed, or exhibited a firearm - ** Judge MUST see these cases
 - v. Absent the above conditions – a juvenile will be released back to parent and not detained. It doesn't mean you have no case, but instead, that the child isn't going to be kept confined while the case is progressing through the system.

33.10. Identify the legal requirements for a detention hearing without a jury if the child is not released.

- A. Detention Hearing – Family Code Chapter 54.01– if a child is detained (see above FC 53.02 for the reasons a child would be detained), then a detention hearing without a jury SHALL be held no later than second working day after the child is taken into custody. (Unless brought in on a Friday/Saturday, then hearing held first working day)
- i. Parents have to have notice of hearing
 - ii. Court shall appoint attorney if one not retained prior to detention hearing

- iii. At hearing Court will consider written reports from probation officers, professional court employees and witnesses – rarely is a Peace Officer called to testify in these hearings. However, all the other witnesses based their testimony on the Officer's full & complete report of their investigation. Therefore, it is best practice to have all reports, statements, etc. completed prior to taking a juvenile into custody.
 - iv. Unless Judge can justify the considerations from FC 53.02, the Court shall order the child released. (But, again, it just means the child won't be confined. The case is still viable and moving through the system)
 - v. If child ordered detained, then another detention hearing will be held in 10 days and so on for as long as child is held in detention.
- B. Detention Hearing for Status Offenders and Non-offenders; Penalty – Family Code Chapter 54.011

33.11. Identify the legal requirements for disposition without referral.

- A. Disposition without referral to court – Family Code Chapter 52.03
 - i. This pertains to Class C's
 - ii. Can dispose of case without referring to Court or charging the child if:
 - 1. Guidelines for this have been adopted by the juvenile board in county of disposition
 - 2. Disposition is authorized by guidelines
 - 3. Officer makes written report of disposition to his/her agency and specifies the grounds for believing that the taking into custody or accusation of criminal conduct was authorized
 - iii. No disposition can keep the child in law-enforcement custody or require periodic reporting of the child to law enforcement officer, agency of other agency
 - iv. Dispositions under this section may involve referring the child to an agency other than juvenile court, briefs conference with child and parent/guardian/custodian, or referral of child & parent for services
- B. First offender program – Family Code Chapter 52.031 – established by the Juvenile Board for the referral & disposition of children taken into custody or accused of CINS offense, Class C's, other than traffic, or Delinquent Conduct
 - i. Not to be used for 1st, 2nd, 3rd or Capital felony offenses or for aggravated controlled substances or SJF/misdemeanor crimes involving violence to persons or use/possession of firearm, knife, club or prohibited weapon.
 - ii. Must have guidelines in place from Juvenile Board
 - iii. Child & parent must consent to participate
 - iv. If successful completion, then case is closed without referral to court system.
- C. Informal Disposition Guidelines – Family Code Chapter 52.032

Instructor Note: See also Family Code Chapter 264, Code of Criminal Procedure Chapter 45A.507 (Youth Diversion Plan)

33.12. Identify the rights and duties of parents.

- A. Rights and duties of parent – Family Code Chapter 151.001
- B. Limitations on State Agency Actions – Family Code Chapter 151.003

C. Rights and duties during period of possession – Family Code Chapter 153.074

33.13. Identify the legal requirements for investigation of report of child abuse or neglect.

- A. Definitions – Family Code Chapter 261.001
 - i. Abuse
 - ii. Neglect
 - iii. Person responsible for a child’s care, custody or welfare
- B. Persons required to report; time to report – Family Code Chapter 261.101
- C. Matters to be reported – Family Code Chapter 261.102
- D. Report made to appropriate agency – Family Code Chapter 261.103
- E. Contents of report – Family Code Chapter 261.104
- F. Referral of report by department or law enforcement- Family Code Chapter 261.105
- G. Immunities – Family Code Chapter 261.106
- H. False report; penalty – Family Code Chapter 261.107
- I. Failure to report; penalty – Family Code Chapter 261.109, PC 38.17
- J. Privileged communication – Family Code Chapter 261.202
- K. Investigation of report – Family Code Chapter 261.301; Code of Criminal Procedure Chapter 2A.057
- L. Conduct of investigation – Family Code Chapter 261.302
- M. Colocations of Investigators – Family Code Chapter 261.3126
- N. Interference with Investigation: Criminal Penalty – Family Code Chapter 261.3032
- O. Agency Investigation – Family Code Chapter 261.401
- P. Investigations in juvenile justice programs and facilities – Family Code Chapter 261.405

33.14. Identify the legal requirements relating to medical treatment and medical examination of a child.

- A. Consent by non-parent – Family Code Chapter 32.001
- B. Consent to treatment by child – Family Code Chapter 32.003
- C. Examination without consent of abuse or neglect of child – Family Code Chapter 32.005

33.15. Identify the legal requirements for taking possession of a child in an emergency.

- A. Civil liability – Family Code Chapter 262.003
- B. Accepting voluntary delivery of possession of child – Family Code Chapter 262.004
- C. Possession and delivery of missing child – Family Code Chapter 262.007
- D. Taking emergency possession without a court order – Family Code Chapter 262.104, Code of Criminal Procedure Chapter 2A.051, Code of Criminal Procedure Chapter 63.00905(b)
- E. Unacceptable facilities for housing child – Family Code Chapter 262.108

- F. Taking possession of child in emergency with intent to return home – Family Code Chapter 262.110

33.16. Discuss Child Advocacy Centers (CACs)

- A. Interagency Memorandum of Understanding – Family Code Chapter 264.403
- B. Use of Information and Records; Confidentiality and Ownership – Family Code Chapter 264.408

33.17. Identify law enforcement's legal requirement to notify schools upon arrest and/or referral to juvenile court.

- A. Notification to schools required – Code of Criminal Procedure Chapter 15.27

Instructor Note: In this section, please identify notification to schools as it relates to law enforcement's initial notice to the school and what happens if a juvenile tries to transfer.

Unit Goal: Conducting investigations involving missing children, and missing persons.

33.18. Explain the legal definitions for a missing person or a missing child.

- A. Definitions - Code of Criminal Procedure Chapter 63.001
 - i. Child – person under 18
 - ii. Missing child (#3 and #4 as it applies to child only)
 - iii. Missing child report
 - iv. Legal custodian of a child
 - v. Clearinghouse
- B. Presumption regarding parentage - Code of Criminal Procedure Chapter 63.0015

33.19. Identify the function of the State Missing Persons Clearinghouse (SMPC) and the required report forms.

- A. Missing children and missing persons information clearinghouse - Code of Criminal Procedure Chapter 63.002
- B. Function of clearinghouse - Code of Criminal Procedure Chapter 63.003

33.20. Describe law enforcement requirements once the child is reported missing to law enforcement.

- A. Law enforcement requirements - Code of Criminal Procedure Chapter 63.009; Code of Criminal Procedure Chapter 63.00905
 - i. After receiving report of a missing child, a law enforcement agency, SHALL:
 - 1. Immediately start investigation, but not later than two hours after receiving report, enter child into the clearinghouse and NCIC with all available identifying features as well as all available information

describing any person reasonably believed to have taken or retained the missing child

2. Immediately, but not later than two hours after receiving report, enter the applicable information into TLETS.
 3. Not later than 48 hours after receiving the report, electronically submit to each municipal or county law enforcements agency within 200 miles the report and information that may help determine the present location of the child.
 4. Not later than the 30th day after receiving report, enter the name of child into National Missing & Unidentified Person System.
 5. Inform the person who filed the report of the steps the agency has taken.
- ii. Upon agency receiving report of a child taken or retained without permission of the custodian (unless taking or retention was prompted because of family violence), for a period of not less than 48 hours, the agency shall immediately make a reasonable effort to locate the child and determine the well-being. If, upon locating, agency has reason to believe child is a victim of abuse or neglect, the agency shall notify DFPS and may take possession of child.
 - iii. DFPS, upon this notice, may initiate an investigation into the allegation of abuse & neglect and take possession of the child.
 - iv. Information which becomes available after initial report, shall be entered it into National Missing & Unidentified Person System as a supplement as soon as possible.
 - v. If agency investigating missing child report obtains a warrant for the arrest of a person for taking or retaining the missing child, the agency shall immediately enter name & descriptors into NCIC, et al and make sure it's cross referenced between missing child and wanted person in connection with missing child.
- B. Law Enforcement Requirements Regarding Reports of Certain Missing Children CCP 63.0091 – A law enforcement agency who receives a missing child report who is at high risk of human trafficking, sexual assault, exploitation, abuse or neglectful supervision or for any reason the agency considers to be high risk including because the missing child:
- i. Disappeared while in a dangerous environment
 - ii. Has mental or behavioral needs
 - iii. Previously exhibited signs of mental illness
 - iv. Has an intellectual or developmental disability or
 - v. If known to have been last seen or communicating with an adult unknown to child's family
- ** If situation is one of those enumerated above, the agency shall:
- vi. Reasonably escalate the response and
 - vii. Immediately but not later than two hours, notify all law enforcement agencies within 100 miles including from other states of the high-risk designation.

33.21. Identify the steps to take in a missing child investigation.

- A. Take a report – there is NO waiting period.
- B. Determine all descriptors possible & circumstances of child being missing.

- C. Obtain photo and secure other items like medical/dental records and/or hairbrush that could assist in the investigation.
- D. Enter into NCIC, TCIC and NamUS.
- E. Missing children investigations - Code of Criminal Procedure Chapter 63.011
- F. System for flagging records - Code of Criminal Procedure Chapter 63.021
 - i. Upon notification by law enforcement of missing child younger than 11, the entities will maintain records and if records are requested by anyone, notify law enforcement.
- G. Duty of schools & other entities to flag missing children records CCP 63.020
 - i. If child under 11 years of age is reported missing, law enforcement agency shall immediately notify each school and day care that child attended or was enrolled as well as vital stats if child born in the state that child is missing. Entities that receive this notice shall flag the child's records.
- H. Removal of flag from records - Code of Criminal Procedure Chapter 63.022
 - i. If/when child is returned, law enforcement shall notify entities to remove flags. And these entities may request from law enforcement, confirmation of whether child has been found. If no response within 45 days, entities may remove flag.
- I. School records system - Code of Criminal Procedure Chapter 63.019
 - i. Any child younger than 11 years of age, enrolling in a school for the first time shall provide the name of the previous school and either get or verify the records from that previous school. Additionally, the person enrolling the child must provide a certified copy of child's birth certificate or other reliable proof of child's identity and age within 30 days (90 if born outside US). If the person enrolling child does not provide within 30 days, school will notify appropriate law enforcement agency. Law enforcement shall check with clearinghouse and if reported missing work with the jurisdiction reported missing from.

Instructor Note: Instructor should mention resources available such as Child Abduction Response Team (C.A.R.T.), Internet Crimes Against Children (I.C.A.C.) and Interdiction for Protection of Children (I.P.C.)

33.22. Identify when records are confidential under the Texas Missing Persons and Missing Children's Act.

- A. Confidentiality of certain records - Code of Criminal Procedure Chapter 63.017

33.23. Identify the proper steps to activate the Statewide AMBER Alert System.

- A. Definitions – Government Code Chapter 411.351
- B. AMBER alert system for abducted children - Government Code Chapter 411.352
- C. Activation - Government Code Chapter 411.355
- D. Termination - Government Code Chapter 411.358

Unit Goal: Juvenile issues related to youth involvement in gangs.

33.24. Identify the five domains of risk factors for youth joining gangs.

- A. Individual
- B. Family
- C. School
- D. Peers
- E. Community
 - i. Individual- problem behavior/acting out, negative life events, victimization.
 - ii. Family – disrupted family structure (death, divorce), poor supervision, inconsistent discipline, lack of parental interest/involvement
 - iii. School – poor academic performance, low attachment, poor school environment, learning disabilities.
 - iv. Peers (one of the strongest factors) – normalize anti-social behavior, alienation from mainstream.
 - v. Community – poverty, environmental instability, neighborhood disorganization

33.25. Discuss three important points associated with youth gang involvement.

- A. The presence of multiple domains in a youth's life increases the likelihood of gang involvement.
- B. Most youth are not forced to join.
- C. Joining a gang is not a permanent decision.
- D. Needs met by gangs for juveniles:
 - i. Status
 - ii. Self-worth/esteem
 - iii. Acceptance
 - iv. Fun/excitement/risk
 - v. Credibility/notoriety
 - vi. Protection
 - vii. Recognition of identity
 - viii. Bonding
 - ix. Substitution for boredom
 - x. Obtain wealth and materialism.
 - xi. Survival
- E. Underlying societal strains that give rise to gangs:
 - i. High unemployment
 - ii. Lack of primary groups for bonding
 - iii. Atmosphere of discrimination/abuse/criticism
 - iv. Community seen as uncaring.
 - v. Youth's lack of self-control development and respect for self and others
 - vi. Environment that uses intimidation and aggression to solve problems.
 - vii. Illegal activity is profitable.

CHAPTER RESOURCES

How to find what county has a detention facility:

<https://www2.tjtd.texas.gov/publications/other/searchfacilityregistry.aspx>

Texas AG Juvenile Justice Handbook

<https://www.texasattorneygeneral.gov/divisions/criminal-justice/gangs-juvenile-justice>

Recent important caselaw regarding Juvenile Magistration

NUMBERS 13-20-00101-CR & 13-20-00102-CR

COURT OF APPEALS

THIRTEENTH DISTRICT OF TEXAS

CORPUS CHRISTI – EDINBURG

THE STATE OF TEXAS, Appellant,

v.

SEBASTIAN TORRES, Appellee.

On appeal from the 398th District Court

of Hidalgo County, Texas.

(State v. Torres, 639 S.W.3d 791)

And on 4/19/2023 – Court of Criminal Appeals in Texas AFFIRMED lower court's judgment. (PD-0018-22 and PD -0019-22