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JUVENILE LAW**

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CHAIRMAN'S MESSAGE

As chairman, I would like to welcome the many new members to the Juvenile Law Section. Due to the increased interest across the state in juvenile law, the dedicated work of the board, and the high quality CLE provided, our section has experienced a tremendous growth over the last few years. We appreciate your membership as well as our faithful returning members.

I am looking forward to this year as your chairman. The Juvenile Law Section is very interested in identifying and serving the needs of our members throughout the state. Our section has been active in sponsoring legislation to improve the juvenile system in the past and we are very receptive to your suggestions about ways that this section can work more effectively in this area. We need your input in formulating the goals of our section. Please contact any council member or officer with your suggestions.

I want to express my appreciation to our past chairman, Kris Moore, for the many hours of hard work she put in last year. I think we can all agree that last year was an exceptional year for our section. Fortunately, Kris has another year to serve on the council as Past Chair. I am pleased that Kris will continue to help guide our section. I value her experience and friendship.

Mike Brown is the Chairman-Elect of the Juvenile Law Section. Therefore, he is in charge of our annual conference. We are planning

to have our conference in February of 1994. The exact date of the conference has not yet been confirmed. Mike is selecting topics for the seminar and locating speakers. If you have a topic or speaker to recommend for our program, please contact Mike.

We have to say goodbye to two of our officers: Bill King, Past-Chair, and William W. Vance, Secretary. Their terms of service on the council have expired. They have both made many contributions to this Section and we will miss them.

Judge Darlene Whitten of Denton and Kent Ellis of Houston were elected as our new council members during the State Bar Convention in June. Welcome to the council!

I am very excited about this year and the opportunity to work with so many talented and committed people.

Jean Hudson-Boyd

EDITOR'S FOREWORD
by **Robert O. Dawson**

This is our biennial Legislation Issue. It is the fourth such issue since the Juvenile Law Newsletter begin publication in 1987.

In addition to Review of Recent Cases, this issue contains "Text of 1993 Legislation with Commentary," which seeks to explain the legislation that impacts the juvenile practitioner.

Finally, this issue contains two excellent papers from my Spring 1993 Juvenile Justice Seminar. One describes the Capitol Offender Treatment Program at Giddings State School. The other describes the Sexual Offender Treatment Program, also at Giddings.

TEXT OF 1993 LEGISLATION WITH COMMENTARY

by

Robert O. Dawson

1. DEFINITION OF DELINQUENT CONDUCT

§ 51.03. Delinquent Conduct; Conduct Indicating a Need for Supervision

(a) Delinquent conduct is:

(1) conduct, other than a traffic offense, that violates a penal law of this state **or of the United States** punishable by imprisonment or by confinement in jail;

**** [(2) and (3) unchanged] ****

COMMENTARY

Source: HB 323.

Effective Date: September 1, 1993.

Applicability: Applies to conduct occurring on or after the effective date.

Session Law Reference: Acts 1993,

73rd Leg., Reg. Sess, p. 97, ch. 46.

Summary of Changes. This bill amends the definition of delinquent conduct to include violations of the laws of the United States that are punishable by imprisonment or by confinement in jail. A purpose of this amendment is to permit juvenile misconduct that occurs on federal reservations, bases, installations and enclaves in Texas to be handled in the Texas juvenile justice system, rather than in the non-existent federal juvenile justice system.

This same bill was vetoed by the Governor in 1991.

2. JUVENILE ARREST WARRANTS

§ 51.14. Files and Records

* * * [(a) and(b) unchanged by this bill] * * *

(c) Except as provided by this subsection, law-enforcement files and records concerning a child shall be kept separate from files and records of arrests of adults and shall be maintained on a local basis only and not sent to a central state or federal depository. **The** [However, the] law-enforcement files and records of a person who is transferred from the Texas Youth Commission to the Texas Department of Corrections under a determinate sentence may be transferred to a central state or federal depository for adult records on or after the date of transfer. If a child has been reported as missing by a parent, guardian, or conservator of that child, [or a child] has escaped from the custody of a juvenile detention facility, the Texas Youth Commission, or any other agency to which the child has been committed, **or is the subject of a bench warrant or felony arrest warrant issued by a court after the child has fled the jurisdiction of the court,** any information or records concerning the child may be transferred to and disseminated by the Texas Crime Information Center and the National Crime Information Center.

COMMENTARY

Source: HB 247.

Effective Date: May 23, 1993.

Applicability: No applicability clause. Presumably, applies to warrants issued on or after the effective date.

Session Law Reference: Acts 1993, 73rd Leg., Reg. Sess, p. 557, ch. 252.

Summary of Changes. With several exceptions, section 51.14(c) of the Family Code requires that juvenile files and records be kept separate from those of adults and be maintained on a local basis only. This bill amends section 51.14(c) to permit the entry onto state or federal crime

information systems of records concerning a child who "is the subject of a bench warrant or felony arrest warrant issued by a court after the child has fled the jurisdiction of the court."

The portion of this bill dealing with "bench warrants" seems to be applicable only in cases in which a juvenile was released from detention on a promise to appear in court and has not appeared. It seems to include misdemeanors as well as felonies, CINS as well as delinquent conduct. In the event of nonappearance, a bench warrant would be issued by the juvenile court. This bill permits that warrant to be entered on state and federal computerized information systems on the theory that the child has made a fugitive of himself by non-appearance.

Probably the language "issued by a court after the child has fled the jurisdiction of the court" applies only to felony arrest warrants and not also to bench warrants. Simply by not appearing in court when required, the child has placed himself in a category in which it would not be surprising to discover that he has fled the county.

The portion of the bill dealing with a "felony arrest warrant issued by a court after the child has fled the jurisdiction of the court" would be applicable when there is reason to believe that the child has left the county before the felony arrest warrant was sought and obtained. If the child has left the county, he has created a need for departing from the principle that juvenile records should be maintained on a local basis only. In that event, the warrant could be entered on state and federal criminal information systems to facilitate apprehension.

Although the phrase, "jurisdiction of the court" is not defined by the bill, presumably it means "county" that has venue over the offense or the proceedings. The maintenance of records at the county level only is what is being departed from

by this bill, so presumably that is what the legislature had in mind with "jurisdiction of the court."

It is recommended that an affidavit for a felony juvenile arrest warrant that the affiant wishes to be entered on centralized information systems include the factual basis upon which the affiant concluded the child has fled the jurisdiction of the court. It is also recommended that the judge endorse on the warrant itself the authorization to enter it on non-local information systems.

3. RESPONSIBILITY FOR TRANSPORTING JUVENILES

§ 52.026. Responsibility For Transporting Juvenile Offenders.

(a) It shall be the duty of the law enforcement officer who has taken a child into custody to transport the child to the appropriate juvenile detention facility if the child is not released to the parent; guardian, or custodian of the child.

(b) If the juvenile detention facility is located outside the county in which the child is taken into custody, it shall be the duty of the sheriff of that county to transport the child to the appropriate juvenile detention facility if the child is not released to the parent, guardian, or custodian of the child.

(c) On adoption of an order by the juvenile board and approval of the juvenile board's order by record vote of the commissioners court, it shall be the duty of the sheriff of the county in which the child is taken into custody to transport the child to and from all scheduled juvenile court proceedings and appearances and other activities ordered by the juvenile court.

Source: SB 588.

Effective Date: August 30, 1993.

Applicability: No applicability clause but probably applies to all orders or requests for transportation made on or after effective date.

Session Law Reference: Acts 1993, 73rd Leg., Reg. Sess, p. 1715, ch. 411.

Summary of Changes. This bill was enacted in response to Opinion Attorney General No. DM-87 (2-6-92)(Juvenile Law Newsletter ¶ 92-2-10), which stated that law enforcement officers could not be compelled by the juvenile court judge to transport detained juveniles to and from juvenile court proceedings.

Section 52.026 is new. Subsection (a) places responsibility on the officer who takes a child into custody to deliver him to the juvenile detention facility if he is not released to a parent or other person. Law enforcement officers cannot under this subsection take a child to the law enforcement facility and call juvenile probation to pick up the child and transport him to detention.

If the detention facility is outside the county in which the child was taken into

custody, as will frequently be the case in rural Texas, then Subsection (b) places transportation responsibility on the sheriff of the county in which the child was taken into custody. Although Subsection (b) does not so state explicitly, it is clear from the context that a law enforcement officer taking a child into custody in a county without a detention facility ought to turn the child over to the sheriff's department for transportation by a sheriff's deputy to the out-of-county facility.

custody, as will frequently be the case in rural Texas, then Subsection (b) places transportation responsibility on the sheriff of the county in which the child was taken into custody. Although Subsection (b) does not so state explicitly, it is clear from the context that a law enforcement officer taking a child into custody in a county without a detention facility ought to turn the child over to the sheriff's department for transportation by a sheriff's deputy to the out-of-county facility.

Subsection (c) provides that upon adoption by the juvenile board and approval by the commissioners court, the sheriff of the county in which the child was taken into custody will have responsibilities with regard to a juvenile in detention to transport him to all scheduled court appearances and "other activities ordered by the juvenile court." This last clause is broad enough to include transportation of a placed probationer to the placement facility or of a committed child to the TYC. Subsection (c) goes into effect upon on order of the juvenile board and approval by the commissioners court.

4. SCHOOL DISTRICT POLICE GIVEN PEACE OFFICER POWERS

§ 52.01. Taking Into Custody; Issuance of Warning Notice

(a) A child may be taken into custody:

(1) pursuant to an order of the juvenile court under the provisions of this subtitle;

(2) pursuant to the laws of arrest;

(3) by a law-enforcement officer, **including a school district peace officer commissioned under Section 21.483, Education Code**, if there are reasonable grounds to believe that the child has engaged in delinquent conduct or conduct indicating a need for supervision, or

(4) by a probation officer if there are reasonable grounds to believe that the child has violated a condition of probation imposed by the juvenile court.

* * * [(b), (c) and (d) unchanged] * *

Education Code Sec. 21.483. School District Peace Officers [Campus Security Personnel].

(a) The board of trustees of any school district may employ **and commission peace officers** [campus security personnel] for the purpose of carrying out the provisions of this subchapter. **The jurisdiction of a peace officer commissioned under this section shall be determined by the board of trustees and may include all territory in the boundaries of the school district and all property, real and personal, outside the boundaries of the district that is owned, leased, or rented by or otherwise under the control of the school district and the board of trustees that employ the peace officer.**

(b) **In a peace officer's jurisdiction, a peace officer commissioned under this section:**

(1) **has the powers, privileges, and immunities of peace officers;**

(2) **may enforce all laws, including municipal ordinances, county ordinances, and state laws; and**

(3) **may, in accordance with Chapter 52, Family Code, take a juvenile into custody.**

(c) **A school district peace officer may provide assistance to another law enforcement agency. A school district may contract with a political subdivision for the jurisdiction of a school district peace officer to include all territory in the jurisdiction of the political subdivision.**

(d) **A school district peace officer shall perform administrative and law enforcement duties for the school district as determined by the board of trustees of the school. These duties must include protecting:**

(1) **the safety and welfare of any person in the jurisdiction of the peace officer; and**

(2) **the property, real and personal, of the school district.**

(e) **The board of trustees of the district shall determine the scope of the on-duty and off-duty law enforcement activities of school district peace officers. A school district must authorize in writing any off-duty law enforcement activities performed by a school district peace officer.**

(f) **A school district police department and the law enforcement agencies with which it has overlapping jurisdiction shall enter into a memorandum of understanding that outlines reasonable communication and coordination efforts among the department and the agencies.**

(g) [and if the board of trustees authorizes any officer to bear arms then they must commission them as peace officers. Any officer commissioned under this section is vested with all the powers, privileges, and immunities of peace officers while on the property under the control and jurisdiction of the district or otherwise in the performance of his duties.] Any officer assigned to duty and commissioned shall take and file the oath required of peace officers, and shall execute and file a good and sufficient bond in the sum of \$1,000, payable to the board of trustees, with two or more good and sufficient sureties, conditioned that he will fairly, impartially, and faithfully perform all the duties that may be required of him by law. The bond may be sued on from time to time in the name of any person injured until the whole amount of the bond is recovered. Any peace officer commissioned under this section must meet all minimum standards for peace officers established by the Commission on Law Enforcement Officer Standards and Education [within one year of his commission, or his commission shall automatically expire].

(h) **In this section, "political subdivi-**

vision" mans a county, municipality, special district, school district, junior college district, or other legally constituted political subdivision of the state.

COMMENTARY

Source: HB 323.

Effective Date: May 11, 1993.

Applicability: No applicability clause. Applies to acts of taking into custody that occur on or after the effective date.

Session Law Reference: Acts 1993, 73rd Leg., Reg. Sess, p. 264, ch. 115.

Summary of Changes. This bill rewrites the powers and duties of peace officers commissioned by school districts. As relating to juveniles, it specifically provides that school district peace officers are law enforcement officers with the power to take juveniles into custody under the "reasonable grounds" provision of Family Code Section 52.01(a).

This change handles the problem that school district peace officers were not law enforcement officers. This was discussed in connection with In the Matter of F.S., which appeared in ¶ 92-4-8 of the Juvenile Law Newsletter (December 1992).

5. COMMUNICATION BETWEEN JUVENILE JUSTICE SYSTEM AND SCHOOLS MANDATED

§ 51.14. Files and Records

(a) Except as provided by Subsection (e) of this section, **or by Article 15.27, Code of Criminal Procedure**, all files and records of a juvenile court, a clerk of court, or a prosecuting attorney relating to a child who is a party to a proceeding under this title are open to inspection only by:

*** [(1) to (4) unchanged] ***
*** [(b) and (c) unchanged by this

bill] ***

(d) **Except as provided by Article 15.27, Code of Criminal Procedure, and except** [Except] for files and records relating to a charge for which a child is transferred under Section 54.02 of this code to a criminal court for prosecution, the law-enforcement files and records are not open to public inspection nor may their contents be disclosed to the public, but inspection of the files and records is permitted by:

(1) a juvenile court having the child before it in any proceeding;

(2) an attorney for a party to the proceeding; and

(3) law-enforcement officers when necessary for the discharge of their official duties.

*** [(e) unchanged] ***

Code of Criminal Procedure Art. 15.27. Notification to Schools Required

(a) **A law enforcement agency that arrests or takes into custody as provided by Chapter 52, Family Code, an individual who the agency knows or believes is enrolled as a student in a public primary or secondary school, for an offense listed in Subsection (h) of this article, shall orally notify the superintendent or a person designated by the superintendent in the school district in which the student is enrolled or believed to be enrolled of that arrest or detention within 24 hours after the arrest or detention, or on the next school day. Within seven days after the date the oral notice is given, the law enforcement agency shall mail written notification, marked "PERSONAL and CONFIDENTIAL" on the mailing envelope, to the superintendent or the person designated by the superintendent. The written notification must have the following printed on its face in large, bold letters:**

"WARNING: The information

contained in this notice is intended only to inform appropriate school personnel of an arrest or detention of a student believed to be enrolled in this school. An arrest or detention should not be construed as proof that the student is guilty. Guilt is determined in a court of law. **THE INFORMATION CONTAINED IN THIS NOTICE IS CONFIDENTIAL!"**

(b) On conviction or on an adjudication of delinquent conduct of an individual enrolled as a student in a public primary or secondary school, for an offense or for any conduct listed in Subsection (h) of this article, the office of the prosecuting attorney acting in the case shall notify the superintendent or a person designated by the superintendent in the school district in which the student is enrolled of the conviction or adjudication. Oral notification must be given within 24 hours of the time of the determination of guilt, or on the next school day. Within seven days after the date the oral notice is given, the office of the prosecuting attorney shall mail written notice, which must contain a statement of the offense of which the individual is convicted or on which the adjudication is grounded.

(c) A parole or probation office having jurisdiction over a student described by Subsection (a), (b), or (e) of this article who transfers from a school or is subsequently removed from a school and later returned to a school or school district other than the one the student was enrolled in when the arrest, detention, conviction, or adjudication occurred shall notify the new school officials of the arrest or detention in a manner similar to that provided for by Subsection (a) or (e)(1) of this article, or

of the conviction or delinquent adjudication in a manner similar to that provided for by Subsection (b) or (e)(2) of this article.

(d) The superintendent or a person designated by the superintendent in the school district may send to a school district employee having direct supervisory responsibility over the student the information contained in the confidential notice if the superintendent or the person designated by the superintendent determines that the school district employee needs the information for educational purposes or for the protection of the person informed or others.

(e) (1) A law enforcement agency that arrests or detains an individual that the law enforcement agency knows or believes is enrolled as a student in a private primary or secondary school shall make the oral and written notifications described by Subsection (a) of this article to the principal or a school employee designated by the principal of the school in which the student is enrolled.

(2) On conviction or an adjudication of delinquent conduct of an individual enrolled as a student in a private primary or secondary school, the office of prosecuting attorney shall make the oral and written notifications described by Subsection (b) of this article to the principal or a school employee designated by the principal of the school in which the student is enrolled.

(3) The principal of a private school in which the student is enrolled or a school employee designated by the principal may send to a school employee having direct supervisory responsibility over the student the information contained in the confidential notice, for the same purposes as described by Subsection (d) of this article.

(f) A person who receives information under this article may not disclose the information except as specifically authorized by this article. A person who intentionally violates this article commits an offense. An offense under this subsection is a Class C misdemeanor.

(g) On receipt of a notice under this article, a school official may take the precautions necessary to prevent further violence in the school, on school property, or at school-sponsored or school-related activities on or off school property, but may not penalize a student solely because a notification is received about the student.

(h) This article applies to:

(1) an offense listed in Section 8(c), Article 42.18, Code of Criminal Procedure; reckless conduct, as described by Section 22.05, Penal Code; or a terroristic threat, as described by Section 22.07, Penal Code;

(2) the unlawful use, sale, or possession of a controlled substance, drug paraphernalia, or marihuana, as defined by Chapter 481, Health and Safety Code;

(3) the unlawful possession of any of the weapons or devices listed in Sections 46.01(1)-(14) or (16), Penal Code; or a weapon listed as a prohibited weapon under Section 46.06, Penal Code; or

(4) a criminal offense under Section 71.02, Penal Code.

Education Code Sec. 21.303. Reports to Local Law Enforcement; Liability

(a) The principal of a public or private primary or secondary school, or a person designated by the principal under Subsection (d) of this section, if the designation has been made, shall notify the school district police

department if one exists and the police department of the municipality in which the school is located or, if the school is not in a municipality, the sheriff of the county in which the school is located if the principal has reasonable grounds to believe that any of the following activities occur in school, on school property, or at a school-sponsored or school-related activity on or off school property, without regard to whether the activity is investigated by school security officers:

(1) conduct that may constitute an offense listed in Section 8(c), Article 42.18, Code of Criminal Procedure; reckless conduct, as described by Section 22.05, Penal Code; or a terroristic threat, as described by Section 22.07, Penal Code;

(2) the use, sale, or possession of a controlled substance, drug paraphernalia, or marihuana, as defined by Chapter 481, Health and Safety Code;

(3) the possession of any of the weapons or devices listed in Sections 46.01(1)-(14) or (16), Penal Code; or a weapon listed as a prohibited weapon under Section 46.06, Penal Code; or

(4) conduct that may constitute a criminal offense under Section 71.02, Penal Code.

(b) A person who makes a notification under this section shall include the name and address of each student the person believes may have participated in the activity.

(c) A notification is not required under Subsection (a) of this section if the person reasonably believes that the activity does not constitute a criminal offense.

(d) The principal of a public or private primary or secondary school may designate a school employee who is under the supervision of the principal to make the reports required by this section.

(e) A person is not liable in civil damages for reporting in good faith as required by this section.

Education Code Sec. 21.3031. Destruction of Certain Records. Information received by a school district under Article 15.27, Code of Criminal Procedure, may not be attached to the permanent academic file of the student who is the subject of the report. The school district shall destroy the information at the end of the academic year in which the report was filed.

COMMENTARY

Source: HB 23.

Effective Date: September 1, 1993.

Applicability: Applies to an arrest, detention, conviction or delinquent adjudication, suspected criminal activity, or street-gang-related activity that occurs on or after the effective date.

Session Law Reference: Acts 1993, 73rd Leg., Reg. Sess, p. 1852, ch. 461.

Summary of Changes. This bill mandates two-way communications between the juvenile justice system and the schools concerning delinquent conduct by school students or by any juveniles on school grounds or at school functions.

When a juvenile is taken into custody for a covered offense, this bill requires law enforcement to notify a public or private elementary or secondary school in which the juvenile is enrolled or believed to be enrolled of the fact of taking into custody. Oral notice must be provided within 24 hours or by the next school day and written notice is to follow not later than 7 days after oral notice is given. It is unclear whether any information about the nature of the offense for which the student was taken into custody may be disclosed or whether all that is permitted to be disclosed is the name of the juvenile and the fact he or she was taken into custody

and the date of the taking into custody.

When a juvenile is adjudicated delinquent for a covered offense, the prosecutor must provide the same notification within the same time-frame. However, this notification must also include the offense for which the juvenile was adjudicated.

When a juvenile on probation or parole changes schools for any reason, the probation or parole officer must notify the new school. The extent of information that may be disclosed depends upon whether the juvenile is on a pre-adjudication or post-adjudication status when entering the new school.

The information disclosed to the school is confidential and may not become part of the juvenile's academic record. Unauthorized disclosure of the information is a Class C misdemeanor. The information must be expunged by the school at the end of each academic year. The school official to whom disclosure is made may share the information with a school employee who needs the information for educational purposes or for personal protection. The school "may take the precautions necessary to prevent further violence in the school, on school property, or at school-sponsored or school-related activities on or off school property, but may not penalize a student solely because a notification is received about the student."

The bill also requires schools that have reason to believe that a covered offense was committed on school property or at a school-sponsored or school-related activity to notify the appropriate law-enforcement agency of the incident.

The offenses covered by this bill are reckless conduct, terroristic threat, murder, capital murder, aggravated kidnapping, sexual assault, aggravated assault, aggravated sexual assault, deadly assault on law enforcement or corrections officers or court participant, first degree injury to a child, arson, robbery, aggravated robbery,

first

degree burglary, use, sale, possession of a controlled substance, drug paraphernalia or marihuana, unlawful possession of a weapon or possession of a prohibited weapon, or engaging in organized criminal activity under Section 71.02 of the Penal Code.

degree burglary, use, sale, possession of a controlled substance, drug paraphernalia or marihuana, unlawful possession of a weapon or possession of a prohibited weapon, or engaging in organized criminal activity under Section 71.02 of the Penal Code.

6. REQUIRING ELECTION OF ALTERNATE JUVENILE COURT IN ADVANCE OF TRIAL

§ 51.18. Election Between Juvenile Court And [Powers and Duties of] Alternate Juvenile Court

(a) This section applies only to a child who has a right to a trial before a juvenile court the judge of which is not an attorney licensed in this state.

(b) On any matter that may lead to an order appealable under Section 56.01 of this code, a child may be tried before either the juvenile court or the alternate juvenile court.

(c) The child may elect to be tried before the alternate juvenile court only if the child files a written notice with that court not later than 10 days before the date of the trial. After the notice is filed, the child may be tried only in the alternate juvenile court. If the child does not file a notice as provided by this subsection, the child may be tried only in the juvenile court.

(d) If the child is tried before the juvenile court, the child is not entitled to a trial de novo before the alternate juvenile court.

(e) The child may appeal any order

of the juvenile court or alternate juvenile court only as provided by Section 56.01 of this code. [If a juvenile court, the judge of which is not an attorney licensed in this state, issues an order that may be appealed as provided in Subsection (c) of Section 56.01 of this code, the child shall have a right to a trial de novo before the alternate juvenile court or may appeal the order of the court as provided in Section 56.01.]

§ 51.04. Jurisdiction

*** [(a) to (c) unchanged] ***

(d) If the judge of a court designated in Subsection (b) or (c) of this section is not an attorney licensed in this state, there shall also be designated an alternate court, the judge of which is an attorney licensed in this state. [The alternate juvenile court shall rule on motions and hold hearings as provided in Section 51.18 of this chapter.]

*** [(e), (f) and (g) unchanged] ***

Government Code Sec. 23.001 Juvenile Jurisdiction

*** [(a) unchanged] ***

[(b) Action taken by a juvenile judge who is not licensed to practice law in this state is subject to a trial de novo and appeal as provided by Sections 51.04, 51.18 and 56.01 of the Family Code.]

COMMENTARY

Source: HB 793.

Effective Date: August 30, 1993.

Applicability: Applies to a trial that begins on or after the effective date.

Session Law Reference: Acts 1993, 73rd Leg., Reg. Sess, p. 322, ch. 168.

Summary of Changes. This bill changes the system for dealing with juvenile courts that are presided over by non-lawyers. Under former law, the juvenile had a right to appeal from an appealable order entered by a non-lawyer judge or the right to a trial de novo before an alternate juvenile court that is presided over by an attorney.

This bill replaces the trial de novo or appeal option with a requirement that the child elect before trial which court will hear the case. The election must be made by written motion at least 10 days before trial. Failure to elect trial before the alternate juvenile court is an election to be tried by the designated juvenile court.

It should be noted that this notification system applies only to any proceeding "that may lead to an order appealable under Section 56.01 of this code." Therefore, it, like the trial de novo procedure it replaces, does not reach detention hearings. A juvenile court presided over by a non-lawyer has the power to conduct a detention hearing just as before enactment of this bill.

7. EXPANDING SEXUAL OFFENDERS REGISTRATION TO INCLUDE OBSCENITY OFFENSES

Civil Statutes Article 6252-13c.1, Section 1

(5) "Reportable conviction or adjudication means:

(A) a conviction for violation of Section 21.11 (Indecency with a child), 22.011 (Sexual assault), 22.021 (Aggravated sexual assault), [or] 25.02 (Incest), Penal Code;

(B) a conviction for violation of Section 43.25 (Sexual performance by a child) or 43.26 (Possession or promotion of child pornography), Penal Code;

(C) the fourth conviction for a violation of Section 21.08 (Indecent exposure), Penal Code; [or]

(D) an adjudication of delinquent conduct based on a violation of one of the offenses listed in Paragraph (A) or (B) of this subdivision or for which four violations of the offenses listed in Paragraph (C) of this subdivision are shown; or

(E) a deferred adjudication for an offense listed in Paragraph (A) or (B) of this subdivision.

COMMENTARY

Source: HB 181.

Effective Date: September 1, 1993.

Applicability: Applies to adjudications occurring on or after the effective date.

Session Law Reference: Acts 1993, 73rd Leg., Reg. Sess, p. 3423, ch. 866.

Summary of Changes. In 1991, the legislature enacted a sexual offender registration statute. As applied to juvenile law, this bill merely expands the scope of offenses covered by the legislation to include Sexual Performance by a Child and Possession or Promotion of Child Pornography.

8. HIV TESTING OF ADJUDICATED JUVENILES AUTHORIZED

§ 54.033. Sexually Transmitted Disease, AIDS, and HIV Testing

(a) A child found at the conclusion of an adjudication hearing under Section 54.03 of this code to have engaged in delinquent conduct that included a violation of Sections 21.11(a)(1), 22.011, or 22.021, Penal Code, shall undergo a medical procedure or test at the direction of the juvenile court designed to show or help show whether the child has a sexually transmitted disease, acquired immune deficiency syndrome (AIDS), human immunodeficiency virus (HIV) infection, antibodies to HIV, or infection with any other probable causative agent of AIDS. The court may direct the child to undergo the procedure or test on the court's own motion or on the request of the victim of the delinquent conduct.

(b) If the child or another person who has the power to consent to medical treatment for the child refuses to submit voluntarily or consent to the procedure or test, the court shall require the child to submit to the procedure or test.

(c) The person performing the procedure or test shall make the test

results available to the local health authority. The local health authority shall be required to notify the victim of the delinquent conduct and the person found to have engaged in the delinquent conduct of the test result.

(d) The state may not use the fact that a medical procedure or test was performed on a child under this section or use the results of the procedure or test in any proceeding arising out of the delinquent conduct.

(e) Testing under this section shall be conducted in accordance with written infectious disease control protocols adopted by the Texas Board of Health that clearly establish procedural guidelines that provide criteria for testing and that respect the rights of the child and the victim of the delinquent conduct.

(f) Nothing in this section allows a court to release a test result to anyone other than a person specifically authorized under this section. Section 81.103(d), Health and Safety Code, may not be construed to allow the disclosure of test results under this section except as provided by this section.

COMMENTARY

Source: HB 2650.

Effective Date: September 1, 1993.

Applicability: Applies to conduct occurring on or after the effective date.

Session Law Reference: Acts 1993, 73rd Leg., Reg. Sess, p. 3234, ch. 811.

Summary of Changes. In 1991, the legislature added Article 21.31 to the Code of Criminal Procedure to authorize a court to order a test for HIV of a criminal defendant indicted for sexual assault or aggravated sexual assault. This bill adds indecency with a child to that list. It also enacts Section 54.033 of the Family Code to authorize similar tests of juvenile respondents. Unlike under the Code of

Criminal Procedure, the Family Code requires that the person must have been adjudicated, not merely charged, before testing may be ordered. The offenses covered under the bill are sexual assault, aggravated sexual assault and indecency with a child. Both the juvenile respondent and the victim of the offense are to be notified of the test results.

9. PLACEMENTS AND COMMITMENTS; SUPPORT PAYMENTS; PROBATION TERM

§ 54.04. Disposition Hearing

**** [(a) to (b) unchanged] ****

(c) No disposition may be made under this section unless the child is in need of rehabilitation or the protection of the public or the child requires that disposition be made. If the court or jury does not so find, the court shall dismiss the child and enter a final judgment without any disposition. **No disposition placing the child on probation outside the child's home may be made under this section unless the court or jury finds that the child, in the child's home, cannot be provided the quality of care and level of support and supervision that the child needs to meet the conditions of the probation.**

(d) If the court or jury makes the finding specified in Subsection (c) of this section **allowing the court to make a disposition in the case:**

(1) the court or jury may, in addition to any order required or authorized under Section 54.041 or 54.042 of this code, place the child on probation on such reasonable and lawful terms as the court may determine [for a period not to exceed one year, subject to extensions not to exceed one year each]:

(A) in his own home or in the custody of a relative or other fit person; **or**

(B) subject to the finding under Subsection (c) of this section on the placement of the child outside the child's home, in:

(i) a suitable foster home;

or

(ii) [(C) in] a suitable public or private institution or agency, except the Texas Youth Commission;

**** [(2) and (3) unchanged] ****

**** [(e) to (h) unchanged] ****

(i) If the court places the child on probation outside **the child's** [his] home or commits the child to the Texas Youth Commission, the court shall include in its order its determination **that** [whether]:

(1) it is in the child's best interests to be placed outside **the child's** [his] home; [and]

(2) reasonable efforts were made to prevent or eliminate the need for the child to return to **the child's** [his] home; **and**

(3) the child, in the child's home, cannot be provided the quality of care and level of support and supervision that the child needs to meet the conditions of probation.

**** [(j) and (k) unchanged] ****

(l) A court or jury may place a child on probation under Subsection (d)(1) of this section for any period, except that probation may not continue on or after the child's 18th birthday. The court may, before the period of probation ends, extend the probation for any period, except that the probation may not extend to or after the child's 18th birthday.

COMMENTARY

Source: HB 1731.

Effective Date: September 1, 1993.

Applicability: No applicability clause. Since it increases penalties, that portion eliminating the one year restriction on probation terms probably applies only to offenses committed on or after the

effective date. The other portions probably apply to process steps that occur on or after the effective date.

Session Law Reference: Acts 1993, 73rd Leg., Reg. Sess, p. 4476, ch. 1048.

Summary of Changes. This bill makes four important changes in juvenile probation law.

First, it eliminates the restriction of Section 54.04 that a probation period can be only for one year, subject to extensions not to exceed one year each. It replaces that provision with one that permits the probation period to be of any duration up to the probationer's 18th birthday. At that point, probation automatically expires. If the juvenile court uses a probation period less than the maximum allowable (to the child's 18th birthday), then it may extend the probation period for any length of time, again subject to the maximum of the child's 18th birthday. In ordering the extension, the juvenile court is required to act before the current probation period expires.

Second, the bill amends Section 54.06 to provide that when there exists a support order under Title 2 of the Family Code and a juvenile court places the child on probation outside his or her home or commits the child to the TYC, the court must order the obligee to assign his or her support rights to the probation department if the child is on probation placement or to the TYC if the child has been committed.

Third, the bill requires that if the child is placed on probation outside the home [54.04(c)] or is committed to the TYC [54.04(i)(3)], the court or jury [in a determinate sentence act case] must make a finding that "the child, in the child's home, cannot be provided the quality of care and level of support and supervision that the child needs to meet the conditions of probation." Although 54.04(c) seems to restrict the need for such a determination only to cases of probation placement, 54.04(i)(3) clearly indicates that the

determination must be made in TYC commitments as well.

Fourth, in cases of commitment or probation placement, prior law required a finding by the juvenile court "whether (1) it is in the child's best interests to be placed outside his home; and (2) reasonable efforts were made to prevent or eliminate the need for the child's removal from the home and to make it possible for the child to return to his home." That provision did not require any particular finding, only that the court make some finding. This bill replaces "whether" with "that." This has the effect of requiring an affirmative finding on both issues before a commitment to the TYC or a probation placement are authorized.

10. MONITORING SCHOOL ATTENDANCE OF CHILD ON PROBATION

§ 54.043. Monitoring School Attendance

If the court places a child on probation under Section 54.04(d) and requires as a condition of probation that the child attend school, the probation officer charged with supervising the child shall monitor the child's school attendance and report to the court if the child is voluntarily absent from school.

COMMENTARY

Source: SB 7.

Effective Date: May 31, 1993.

Applicability: Applies to conduct occurring on or after the effective date.

Session Law Reference: Acts 1993, 73rd Leg., Reg. Sess, p. 1481, ch. 347.

Summary of Changes. This bill adds section 54.043 to the Family Code to require a probation officer to monitor the school attendance of a child who has been

placed on probation on condition he attend school. This provision was part of the education finance bill.

11. CHANGES IN MANDATORY DRIVER'S LICENSE SUSPENSION

§ 54.042. License Suspension

(a) A juvenile court, in a disposition hearing under Section 54.04 of this code, shall:

(1) order the Department of Public Safety to suspend a child's driver's license or permit, or if the child does not have a license or permit, to deny the issuance of a license or permit to the child if the court finds that the child has engaged in conduct that violates a law [the laws] of this state enumerated in Section 24(a-1), Chapter 173, Acts of the 47th Legislature, Regular Session, 1941 (Article 6687b, Vernon's Texas Civil Statutes); or

(2) notify the Department of Public Safety of the adjudication, if the court finds that the child has engaged in conduct that violates a law of this state enumerated in Section 24B(b), Chapter 173, Acts of the 47th Legislature, Regular Session, 1941 (Article 6687b, Vernon's Texas Civil Statutes) [prohibiting:

(1) driving while intoxicated under Article 67011-1, Revised Statutes; or

(2) the use, possession, manufacture, or delivery of a controlled substance or marihuana under Chapter 481, Health and Safety Code].

(b) The order under Subsection (a)(1) of this section shall specify a period of suspension or denial that is:

(1) until the child reaches the age of 17 or for a period of 365 days, whichever is longer; or

(2) if the court finds that the child has engaged in conduct violating the laws

of this state prohibiting driving while intoxicated, **by reason of the introduction of alcohol into the body**, under Article 67011-1, Revised Statutes, and also determines that the child has previously been found to have engaged in conduct violating the same laws, until the child reaches the age of 19 or for a period of 365 days, whichever is longer.

* * * [(c), (d) and (e) unchanged] * * *

COMMENTARY

Source: SB 387.

Effective Date: June 15, 1993.

Applicability: Applies to offenses occurring on or after the effective date.

Session Law Reference: Acts 1993, 73rd Leg., Reg. Sess, p. 1923, ch. 491.

Summary of Changes. Under prior law, the juvenile court is required by Section 54.042(a) of the Family Code to order suspension of a driver's license upon adjudication for DWI or a violation of the Controlled Substance Act. The period of suspension is until the child reaches 17 or for 365 days, whichever is longer. This bill separates the mandatory suspension provisions into those that are restricted in duration, like prior law, and those that are potentially indefinite in duration. The bill appears to have been enacted under threat of a reduction in federal highway moneys as provided by 23 U.S.C. § 159.

If the adjudication was for DWI from alcohol, a jailable violation of the Alcohol Beverage Code, or a misdemeanor violation of the Texas Controlled Substance Act, then the period of suspension reaching until age 17 or for 365 days, whichever is longer, applies. Suspension cannot be avoided by taking an alcohol education program. However, if the adjudication was for DWI from ingestion of a controlled substance or was a felony violation of the Texas Controlled Substance Act, then the period of suspension is indefinite unless the respondent

completes a course on the dangers of drug abuse approved by the Texas Commission on Alcohol and Drug Abuse. Successful completion of the course reduces the suspension period to 180 days.

12. JUVENILE COURT SUPPORT ORDERS ENFORCEABLE BY WAGE GARNISHMENT

§ 54.06. Judgments for Support

**** [(a) and (b) unchanged] ****

(c) A court may enforce an order for support under this section by ordering garnishment of the wages of the person ordered to pay support.

COMMENTARY

Source: HB 1433.

Effective Date: September 1, 1993.

Applicability: No applicability clause as to this amendment. Presumably applies at least to any support order entered on or after the effective date and may apply to support orders previously entered.

Session Law Reference: Acts 1993, 73rd Leg., Reg. Sess, p. 3172, ch. 798.

Summary of Changes. This bill amends Section 54.06 of the Family Code by providing that support orders entered under that section can be enforced by ordering garnishment of the wages of the obligor.

13. JUVENILE AND JUSTICE COURT TRUANCY PROCEDURES; NEW OFFENSE OF TRUANCY

Family Code § 54.021. Justice Court: Truancy

(a) The juvenile court may waive its exclusive original jurisdiction and transfer a child to an appropriate justice court, **with**

the permission of the justice court, for disposition in the manner provided by Subsection (b) of this section if the child is alleged to have engaged in conduct described in Section 51.03(b)(2) of this code. **A waiver of jurisdiction under this subsection may be for an individual case or for all cases in which a child is alleged to have engaged in conduct described in Section 51.03(b)(2) of this code. The waiver of a juvenile court's exclusive original jurisdiction for all cases in which a child is alleged to have engaged in conduct described in Section 51.03(b)(2) of this code is effective for a period of one year.**

(b) A justice court may exercise jurisdiction over a child alleged to have engaged in conduct indicating a need for supervision by engaging in conduct described in Section 51.03(b)(2) in a case where the juvenile court has waived its original jurisdiction under this section. **A justice court may exercise jurisdiction under this section without regard to whether the justice of the peace for the court is a licensed attorney or the hearing for a case is before a jury consisting of six persons.**

(c) On a finding that a child has engaged in conduct described by Section 51.03(b)(2), the justice court shall enter an order appropriate to the nature of the conduct.

(d) On a finding by the justice court that the child has engaged in truant conduct and that the conduct is of a recurrent nature, the court may enter an order that includes one or more of the following provisions requiring that:

(1) the child attend a preparatory class for the high school equivalency examination provided under Section 11.35, Education Code, if the court determines that the child is too old to do well in a formal classroom environment;

(2) the child attend a special program that the court determines to be in the

best interests of the child, including an alcohol and drug abuse program;

(3) the child and the child's parents, managing conservator, or guardian attend a class for students at risk of dropping out of school designed for both the child and the child's parents, managing conservator, or guardian;

(4) the child complete reasonable community service requirements; [or]

(5) the child's driver's license be suspended in the manner provided by Section 54.042 of this code;

(6) the child attend school without unexcused absences; or

(7) the child participate in a tutorial program provided by the school attended by the child in the academic subjects in which the child is enrolled for a total number of hours ordered by the court.

(e) An order under Subsection (d) of this section is enforceable in the justice court by contempt.

(f) A school attendance officer may refer a child alleged to have engaged in conduct described in Section 51.03(b)(2) of this code to the justice court in the precinct where the child resides or in the precinct where the child's school is located if the juvenile court having exclusive original jurisdiction has waived its jurisdiction as provided by Subsection (a) of this section for all cases involving conduct described by Section 51.03(b)(2) of this code.

(g) A court having jurisdiction under this section shall endorse on the summons issued to the parent, guardian, or custodian of the child who is the subject of the hearing an order directing the parent, guardian, or custodian to appear personally at the hearing and directing the person having custody of the child to bring the child to the hearing.

(h) A person commits an offense if the person is a parent, guardian, or

custodian who fails to attend a hearing under this section after receiving notice under Subsection (g) of this section that the person's attendance was required. An offense under this subsection is a Class C misdemeanor.

Education Code § 4.25. Thwarting Compulsory Attendance Law

(a) If a parent or person standing in parental relation to a child, within the compulsory school attendance ages and not lawfully exempt or properly excused from school attendance, fails to require such child to attend school for such periods as required by law, it shall be the duty of the proper attendance officer to warn, in writing, the parent or person standing in parental relation that attendance may be immediately required. If after this warning the parent or person standing in parental relation intentionally, knowingly, recklessly, or with criminal negligence fails to require the child to attend school as required by law, the parent or person standing in parental relation commits an offense. The attendance officer shall file a complaint against him in the county court, in the justice court of his resident precinct, or in the municipal court of the municipality in which he resides or in [the] **any** municipality or justice of the peace precinct in which the school **district** is located. **The attendance officer shall file a complaint under this section in the court to which the parent's child has been referred for engaging in conduct described in Section 51.03(b)(2), Family Code, if a referral has been made for the child.** In addition, if the child has been voluntarily absent from school for 10 or more days or parts of days within a six-month period or three or more days or parts of days within a four-week period without the consent of his parents, the attendance officer shall refer the child to

the county juvenile probation department for action as conduct indicating a need for supervision under Section 51.03(b), Family Code. A court in which a complaint is filed under this subsection shall give preference to a hearing on the complaint over other cases before the court. An offense under this section is a **Class C misdemeanor** [punishable by a fine of not less than \$5 nor more than \$25 for the first offense, not less than \$10 nor more than \$50 for the second offense, and not less than \$25 nor more than \$100 for a subsequent offense]. Each day the child remains out of school after the warning has been given or the child ordered to school by the juvenile court may constitute a separate offense. **Two or more offenses under this section may be consolidated and prosecuted in a single action.** If the court probates the sentence, the court may require the defendant to render personal services to a charitable or educational institution as a condition of probation.

Education Code § 4.251. Failure to Attend School

(a) A child commits an offense if the child:

(1) is required to attend school under Section 21.032 of this code; and

(2) fails to attend school for 10 or more days or parts of days in a six-month period or three or more days or parts of days in a four-week period without an excuse as provided by Section 21.035 of this code.

(b) An offense under this section may be prosecuted in the justice court for the precinct in which the child resides or in which the school is located.

(c) An offense under this section is a Class C misdemeanor.

(d) Any person convicted of not more than one violation under this section while a minor, on attaining the

age of 18 years, may apply to the court in which he was convicted to have the conviction expunged.

(e) The application shall contain the applicant's sworn statement that he was not convicted of any violation of this section while a minor other than the one he seeks to have expunged.

(f) If the court finds that the applicant was not convicted of any other violation of this section while he was a minor, the court shall order the conviction, together with all complaints, verdicts, sentences, and other documents relating to the offense, to be expunged from the applicant's record. After entry of the order, the applicant shall be released from all disabilities resulting from the conviction, and the conviction may not be shown or made known for any purpose.

Education Code § 21.039. Powers and Duties of Attendance Officer

(a) A school attendance officer shall have the following powers and duties:

(1) to investigate all cases of unexcused absences from school;

(2) to administer oaths and to serve legal process;

(3) to enforce the provisions of the compulsory attendance law;

(4) to keep records of all cases of any kind investigated by him in the discharge of his duties;

(5) to make all reports of his work required of him by the commissioner of education; and

(6) to refer to a juvenile court or to a justice court if the juvenile court has waived jurisdiction as provided by Section 54.021(a), Family Code, any truant pupil who has unexcused voluntary absences for the amount of time specified under Section 51.03(b)(2), Family Code, or to file a complaint against any

recalcitrant person having parental control as provided in Section 4.25 of this code, **or to file a complaint against a pupil for a violation of Section 4.251 of this code.**

(b) A school attendance officer shall not invade or enter any private home or private residence or any part thereof without the permission of the owner or tenant except to serve lawful process upon a parent, guardian, or other person standing in parental relation to a child affected by the compulsory attendance law.

(c) A school attendance officer shall not forcibly take corporal custody of any child anywhere without permission of the parent, guardian, or other person standing in parental relation to the child except in obedience to a valid process issued by a court of competent jurisdiction.

COMMENTARY

Source: HB 681.

Effective Date: September 1, 1993.

Applicability: Applies to conduct occurring on or after the effective date.

Session Law Reference: Acts 1993, 73rd Leg., Reg. Sess., p. 1630, ch. 358.

Summary of Changes. This bill makes a number of changes in the way truancy cases are handled. Under 1991 legislation, the juvenile court was permitted to transfer truancy cases to justice court for its handling. This bill requires that the permission of the justice court be obtained. It appears to permit the juvenile court to waive its jurisdiction over only one cases or over all cases for a one year period. The Justice of the Peace need not be an attorney and if there is a jury trial it is before a jury of six persons.

Additional justice court dispositional powers include ordering that the child attend school without excused absences and ordering that the child participate in a tutorial program provided by the school. These and other dispositional orders are

made punishable by contempt of court.

If the juvenile court has entered a blanket one-year waiver order, the truancy officer is authorized to refer a child directly to a justice court where the child resides or where the school is located. The justice can order a parent, guardian or custodian to attend the hearing and it is a Class C misdemeanor for them not to do so if ordered.

The bill creates a new Class C misdemeanor offense of Failure to Attend School. It is defined the same way truancy is defined by the Family Code. Prosecution is in justice court in which the child resides or in which the school is located. The justice court has jurisdiction under its fineable misdemeanor jurisdiction over juveniles, enacted in 1991. Thus, no prior juvenile court waiver is required for the prosecution in justice court of a child for Failure to Attend School. The child has a right to have his record of conviction for Failure to Attend School expunged after becoming 18 if he has had only one conviction for this offense.

14. TRANSPORTATION TO TDCJ UNDER DETERMINATE SENTENCE ACT

§ 51.13. Effect of Adjudication or Disposition

*** [(a) and (b) unchanged] ***

(c) A child may not be committed or transferred to a penal institution or other facility used primarily for the execution of sentences of persons convicted of crime, except:

(1) for temporary detention in a jail or lockup pending juvenile court hearing or disposition under conditions meeting the requirements of Section 51.12 of this code;

(2) after transfer for prosecution in

criminal court under Section 54.02 of this code; or

(3) [on or after the 18th birthday of the child,] after transfer from the Texas Youth Commission under Section 61.084, Human Resources Code.

Government Code Section 499.053. Transfers From Texas Youth Commission

(a) The institutional division shall accept persons [18 years old or older] transferred to the division from the Texas Youth Commission **under Section 61.084, Human Resources Code.**

* * * [(b) and (c) unchanged] * * *

COMMENTARY

Source: HB 1493.

Effective Date: June 18, 1993.

Applicability: No applicability clause. Since it increases punishment by providing for transportation from TYC to TDCJ sooner than under prior law, it probably applies only to offenses committed on or after June 18, 1993.

Session Law Reference: Acts 1993, 73rd Leg., Reg. Sess, p. 3182, ch. 799.

Summary of Changes. This bill completes the work started by Senate Bill 303 in the 1991 legislative session that attempted unsuccessfully to require that determinate sentence act juveniles ordered transferred to TDCJ should be transferred immediately rather than returning to Giddings to await their 18th birthdays. Senate Bill 303 had amended Section 61.084 of the Human Resources Code, one obstacle to transportation before age 18, but had neglected to remove similar obstacles in Section 51.13 of the Family Code and Section 499.053 of the Government Code. This bill removes those additional obstacles.

15. FINEABLE OFFENSES IN JUSTICE COURT

Code of Criminal Procedure Art. 45.521. Community Service in Satisfaction of Fine or Costs

(a) A justice or judge may require a defendant who fails to pay a previously assessed fine or costs, or who is determined by the court to have insufficient resources or income to pay a fine or costs, to discharge all or part of the fine or costs by performing community service. A defendant may discharge an obligation to perform community service under this article by paying at any time the fine and costs assessed.

(b) In the justice's or judge's order requiring a defendant to participate in community service work under this article, the justice or judge must specify:

(1) the number of hours the defendant is required to work;

(2) the entity or organization for which the defendant is required to work; and

(3) the project on which the defendant is required to work.

(c) The justice or judge may order the defendant to perform community service work under this article only for a governmental entity or a nonprofit organization that provides services to the general public that enhance social welfare and the general well-being of the community. A governmental entity or nonprofit organization that accepts a defendant under this article to perform community service must agree to supervise the defendant in the performance of the defendant's work and report on the defendant's work to the justice or judge who ordered the community service.

(d) A justice or judge may not order

a defendant to perform more than 16 hours per week of community service under this article unless the justice or judge determines that requiring the defendant to work additional hours does not work a hardship on the defendant or the defendant's dependents.

(e) A defendant is considered to have discharged \$50 of fine or costs for each eight hours of community service performed under this article.

(f) A sheriff, employee of a sheriff's department, county commissioner, county employee, county judge, justice of the peace, municipal court judge, or officer or employee of a political subdivision other than a county is not liable for damages arising from an act or failure to act in connection with manual labor performed by a defendant under this article if the act or failure to act:

(1) was performed pursuant to court order; and

(2) was not intentional, willfully or wantonly negligent, or performed with conscious indifference or reckless disregard for the safety of others.

Source: HB 930.

Effective Date: May 27, 1993.

Applicability: No applicability clause. Because it ameliorates punishment compared to the existing alternative of laying out the fine and costs in jail, it is probably applicable to proceedings to enforce assessments of fine and costs that occur on or after the effective date.

Session Law Reference: Acts 1993, 73rd Leg., Reg. Sess, p. 1371, ch. 298.

Summary of Changes. This bill adds Article 45.521 to the Code of Criminal Procedure. It authorizes a JP to require a defendant who has failed to pay a fine or costs or who is determined to lack resources with which to pay them, to perform community service in lieu of payment. The community service must be for a governmental entity or a nonprofit organization that provides services to the general public. A defendant discharges \$50 of fine or costs for each 8 hours of community service.

COMMENTARY

SEX OFFENDER TREATMENT PROGRAM AT GIDDINGS STATE HOME AND SCHOOL

by

Caroline Dozier Merrill*

I. INTRODUCTION

Recognition of the severity of the juvenile sex offender problem and the need to treat those youth involved is a relatively recent phenomenon.¹ The magnitude of this problem has gone unnoticed for a variety of reasons. First, sex offenses committed by juveniles are drastically underreported.² Underreporting is due to a variety of factors, with two of the most common reasons being that victims are embarrassed or afraid to report the crime, or the perpetrator is a relative or an acquaintance.³ Furthermore, until recently, sex offenses committed by juveniles were dismissed as sexual experimentation or curiosity.⁴ Since it was thought that the offending juvenile was being sexually exploratory and not perpetrating a crime, charges were dropped or the juvenile was charged with a lesser offense than that for which he was originally arrested.⁵ Even when the crime is reported and the juvenile sex offender is caught and adjudicated for a sex offense, it is often discovered that he has committed one or more sex offenses for which he has not been adjudicated.⁶

In spite of the complications in accurately reporting juvenile involvement in sex offenses, evidence is surfacing that juveniles are significant contributors to the overall sexual offending problem.⁷ Furthermore, it has been found that the behavior of a significant number of serious adult sex offenders is patterned after deviant sexual behavior present in adolescence.⁸ In fact, research indicates

that a substantial percentage of adult sex offenders began their sexual offending behavior as juveniles.⁹ But until recently, most efforts to treat sex offenders have only been directed towards adults. However, in 1978, the University of Washington's School of Medicine Adolescent Clinic started the first program for juvenile sex offenders.¹⁰ Other states followed suit, and in 1985 the first juvenile sex offender program in a residential facility was established in Texas.

There are currently two residential sex offender programs available in Texas; one at the Giddings State Home and School and one at the Brownwood Reception Center. This paper focuses on the program at the Giddings facility since it is the more comprehensive of the two. First, this paper will look at a brief history of the program, its treatment goals, and the criteria a juvenile must meet in order to be eligible for the program. Then the program itself will be focused on, including the phases of the program, staffing, and the methods used to implement the program. The case of a hypothetical student will be discussed to provide an understanding of how the components of the program fit together. Data for this paper was obtained by observing group therapy, requesting information from the Texas Youth Commission (TYC), and interviewing staff and students involved in the program at the Giddings facility.

II. BACKGROUND

In October of 1985, TYC established the Sex Offender Treatment Program (SOTP) at Giddings State Home and School in Giddings, Texas. The State Home is a residential facility housing violent offenders with a current population of more than three hundred juveniles, including sixty-three sex offenders. The Program was initially set up to serve sixteen juveniles, but in 1988 it was expanded to serve thirty-two juveniles. The thirty-two juveniles in the program are segregated from all other offenders on campus. They are housed in the Tejas cottage which is divided into two halves contained in the same building. They are subject to the same rules and schedule as other students. However, the program imposes additional requirements on its participants, and privileges are tied to progression in the program.

TYC developed their program around a cognitive-behavioral approach, which focuses on changing social skills deficits and modifying beliefs, thereby modifying behavior that leads to sexual offending. This approach was chosen by the proponents of the program because programs based on the cognitive-behavioral model appear to show the most promise in treatment of sex offenders.¹¹ In practice, the program uses a diverse combination of methods and strategies to achieve its goals.

III. TREATMENT GOALS

Although the treatment goals for each student in SOTP are individualized, there are certain basic goals that are set for all students in SOTP to provide direction for the program. These goals include enabling the student to:

- (1) Accept full responsibility for his offense and understand all facets of his denial.
- (2) Understand his own sexually

abusive cycle and demonstrate the ability to break his cycle.

- (3) Develop an awareness of how his offense has affected his victim(s).
- (4) Openly discuss his life history and disclose any other sexually inappropriate behavior.
- (5) Participate in family therapy and ensure that the family is supportive of newly learned behavior.
- (6) Develop an awareness of the social implications of sexual assault and participate in skills training to improve the quality of interpersonal relationships.
- (7) Learn new coping strategies, such as anger management, to aid in their relapse prevention.

Underlying these goals are program objectives that include successful community reintegration, risk area avoidance, and recidivism prevention. Together these goals and objectives provide the infrastructure for the SOTP.

IV. ELIGIBILITY CRITERIA

IV. ELIGIBILITY CRITERIA

Juveniles committed to TYC for a sex offense and placed on the Giddings campus are not automatically admitted to SOTP. Admission to SOTP is dependent on a variety of factors. At a minimum, the juvenile must meet the following criteria for admission:

- (1) Adjudicated and committed to TYC for a sex offense.
- (2) Must have a fifth grade reading level and an IQ of at least 80.
- (3) Must not have a level of psychological impairment that would hinder the juvenile's ability to adapt to the intensive treatment program, severely limit the juvenile's ability to participate in group therapy, or diminish the juvenile's potential benefit from insight-oriented interventions.¹²

Another factor that affects admissibility to the Program is staff determination that the juvenile would be amenable to the program based on interviews with the juvenile.

Many of the juveniles adjudicated for a sex offense and placed at the Giddings State Home and School meet these requirements, yet they are not admitted to SOTP because of space limitation. Until there is space available, these juveniles are housed in other cottages on the Giddings campus. During this time, they receive no sex offender specific treatment, although they may participate in a treatment program that addresses offending in general. There is a very real possibility that these youth will be released from Giddings before a space in SOTP opens up. Approximately half of the juvenile sex offenders placed at Giddings who meet SOTP criteria will be released without ever being admitted to the program.

V. PROGRAM OVERVIEW

The Program uses a cognitive-behavioral method of treatment. This method focuses on changing behavior by identifying and modifying the deviant thinking processes of sex offenders. The Program is facilitated by using a variety of different treatment methods, including group therapy, family counseling, and journal writing.

When the program is full, there are thirty-two male juveniles enrolled. These thirty-two youth are housed in the same cottage with sixteen to each side. They are further divided into groups of eight and assigned to a caseworker. Assignments are made on the basis of space available in a group and interviews with caseworkers. Once assigned to a group, the juvenile will stay in that group for the duration of his treatment. Since the members of each group are expected to interact throughout the day, each group is housed together on one side or the other of the cottage. The program is a continuous one with no distinct beginning or ending, so the juveniles in each group are all at different phases in their treatment at any given time. As one juvenile finishes treatment or is released from Giddings, he is replaced by another juvenile who has been accepted to the program.

SOTP is peer driven with staff providing direction for treatment. Thus, it relies heavily on peer influence to modify inappropriate behavior in its participants. However, the program does not rely solely on behavior "checking" by peers and self-monitoring by the each student. Constant observation by staff provides an external check or monitor on behavior. Inappropriate behavior is intervened in by staff, and staff provide discipline when necessary. Staff has a wide variety of methods that may be used to discipline. The juvenile may be sent to security (solitary confinement), lose a level, suffer group-imposed sanctions or staff-imposed

sanctions, or be subject to numerous other restrictions.

A. Phases of the Sex Offender Treatment Program

The SOTP uses a phases system. There are four phases in the system with specific tasks to be completed in each phase.¹³ These tasks help each student in the program reach his individual goals and the overriding goals of the program. As those tasks are completed, the student has the opportunity to advance to the next phase in treatment. However, in addition to the tasks required in each phase, he must also pass a phase test. Each of the first three phases has a test that must be passed in order to advance to the next phase. Every student takes the Phase I test three months after being admitted to SOTP, and is tested every three months after that on the Phase that they are working on.

An additional requirement of Phases II-IV is that the juvenile must be on a specific level to advance to these phases. All students at the Giddings State Home and School progress through a level system while at the Giddings facility.¹⁴ The levels are freshman, sophomore, junior, senior, and pre-release. Each level has a number of privileges¹⁵ and as the juvenile is promoted to a new level s/he is awarded new privileges in addition to privileges gained at lower levels. Students in SOTP cannot advance to a higher phase without having the required level for that phase. The converse is also true to some extent; they cannot be promoted to a higher level without showing progress in treatment. In fact, if a student in SOTP does not show some progress in treatment, he can be demoted and lose privileges.

SOTP uses the phases system to track each juvenile's progress in the program. Since some students may have had some sex offender treatment before arriving at

SOTP, the phases system allows them to receive credit for phases or tasks within phases already completed. It also provides some indication as to what kind of after-care the juvenile will need when he is released from Giddings.

Within each phase, there are six specific areas on which treatment is focused. These areas are: denial, sexual abuse cycle, behavior/skills training, relapse prevention, victimization, and empathy. Different emphasis is placed on these areas at different phases in the program. All of these areas are worked through by the juvenile by completing four major tasks. These tasks are:

- (1) Committing Offense
- (2) Life Story
- (3) Offense Cycle
- (4) Recidivism Prevention

Each of these tasks is completed by using a combination of the methods employed in SOTP. The methods mentioned above are described later in the paper. The following paragraphs describe each task and what is required to complete it.

Committing Offense. The Committing Offense is the offense for which the juvenile was adjudicated and placed at the Giddings facility. Each juvenile admitted to SOTP is expected to share the story of his committing offense frequently and in detail throughout the course of the program. The primary goals to be achieved through this task are to correct denial and promote empathy for the juvenile's victim. There are many forms of denial that are to be addressed by this task. The juvenile may deny committing the crime or at a minimum try to blame his victim or minimize his involvement in the offense. The juvenile's denial is confronted in group therapy and is worked on until full responsibility for the offense is taken.

Upon first entering SOTP, the juvenile is assigned to a group who help him learn his layout.¹⁶ He then shares his offense for

the first time with his group. This account is to include the planning of the offense, and the offender's thoughts and feelings before, during and after committing the offense. After sharing his offense, his group confronts him with thinking errors used in his description of the offense. Thinking errors are distorted thought processes which allow people to justify errors and mistakes they make. Sex offenders use thinking errors in committing their offenses and then use them to justify or rationalize their behavior.¹⁷ The juvenile is then given a list of thinking errors and feeling words which he must learn and incorporate into his offense story. After sharing his offense for the first time, he then has to write out his offense in detail and use the feeling words he has learned to describe his feelings before, during, and after committing the offense and to describe how his victim must have felt. Each member of his group will read his report, request that details which are confusing be clarified, and point out any thinking errors he has used in the report. The group must be satisfied that the juvenile is writing the entire situation in an open and honest manner, and taking responsibility for committing the offense. Any thinking errors and gaps in the presentation of the offense must be corrected before the juvenile resubmits his report to the group.

Once the written report has been accepted by everyone in the group, the juvenile will again tell about his offense in group therapy. The account of the offense has to be accepted by his group before the juvenile can start working on his life story. It may take several therapy sessions before the juvenile can tell about his offense in a way that is acceptable to the whole group. The caseworker helps the group in making the determination as to whether the description of the offense is acceptable by raising issues that need to be resolved before the juvenile can move on.

Life Story. The Life Story is a detailed account of the juvenile's life, starting from birth and proceeding to the point at which he is currently. This is an important step in the youth's treatment because it sheds light on why and how he became a sex offender. The account is to include information about the juvenile's family, school, places lived, relationships, and his offenses. This process is facilitated by first giving the youth a worksheet with a list of questions. The questions are answered in writing and then shared with his group. The youth will then proceed to write his life story out by using the answers to the questions as a starting point, and filling in details where necessary. After the life story has been written out, the student passes it on to the members of his group, just as he did with his committing offense, to get their approval. Once approval is given, the life story is shared in group therapy where the members of the group and the caseworker can request additional details about certain aspects of the student's life. The student will then proceed to the next task, his offense cycle.

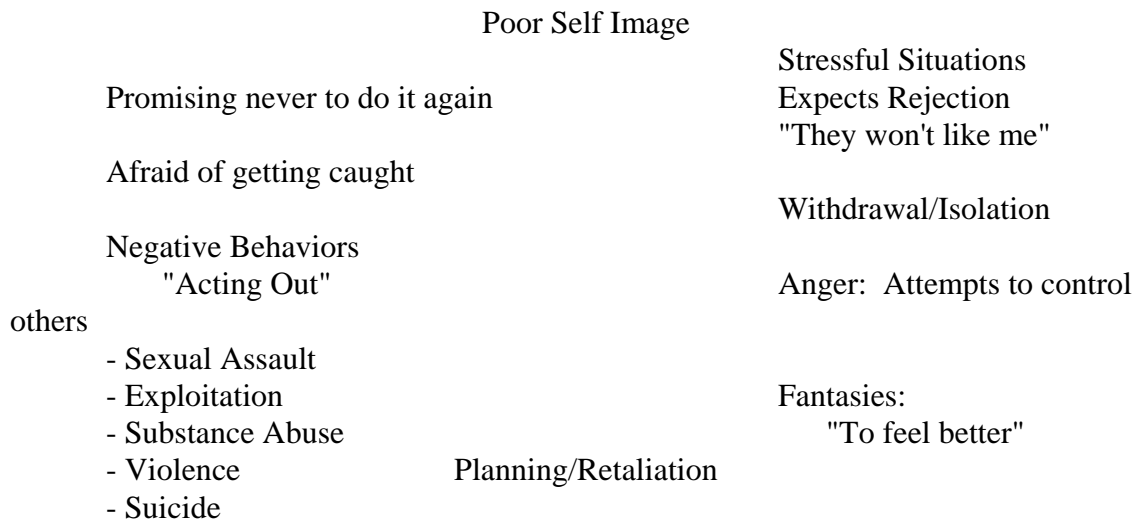
The life story provides the juvenile with insight as to why he has a poor self image, which helps him recognize the starting point of his offense cycle. It also helps the juvenile to recognize stages of his offense cycle by identifying situations that trigger his cycle and behavior that leads to him to rape or molest.

Offense Cycle. The offense cycle is the set of steps the sex offender follows when he victimizes others or himself. The offense cycle begins with a poor self-image. The first step in one's offense cycle is being subjected to stressful situations. These are situations that evoke feelings of poor self-esteem. An offender's first reaction to these situations is an expectation of rejection. Although the expectation may or may not be reasonable, the offender responds to it by

withdrawing or isolating himself from others. Once he finds himself alone, feeling rejected and powerless, he becomes angry. To compensate for his feeling of inadequacy and to regain control, the offender begins to fantasize about power. These fantasies usually center around creating a powerful self-image, usually at the expense of others. The offender wants others to feel the same negative feelings that he is feeling. He believes that if others feel inadequate or powerless that will somehow boost his own self esteem. Thinking errors are used to make the offender believe that his fantasies are appropriate and that he can act them out. The offender then begins to plan how he will act out his fantasy. This

stage can take seconds, days, or months. Once planning has taken place, the offender acts, vindicating his feelings of rejection by offending. After the offense, the offender may feel guilty, but not for what he has done. The guilt is related to his fear of getting caught and losing power he now believes he has gained. The offender promises himself or, if caught, others that he will never do it again. The thought of getting caught or actually getting caught brings the offender to the end and the beginning of his cycle—feeling bad about himself. Figure 1 depicts the SOTP sex offender cycle.

Figure 1



The cycle concept provides a framework against which the students can apply their individual feelings, thoughts, and behaviors. The cycle allows students to see themselves and their situations as unique, yet at the same time, the cycle concept allows them to identify traits they have in common with other offenders. The cycle is personalized by referring back to one's life story to look for clues as to

why one has a poor self image and to identify the situations that one finds stressful. Once a student personalizes the cycle to his own situation, he can begin to see times in his past when he acted similarly. He can also learn to identify situations that trigger his cycle or signal that he is in his cycle. Once those situations are identified, the student learns to identify his manner of thinking that

allows him to progress through the cycle. When situations that trigger the cycle and the thinking that allows continuation in the cycle are identified, the student is ready to progress to recidivism prevention. To complete the offense cycle task, the juvenile must write out a description of the offense cycle as it pertains to himself and present it to his group. He will likely rely heavily on his life story to identify the elements of his cycle. He identifies why he has a poor self image and identifies the stressful situations that signal the beginning of his cycle. Then the cycle is applied to his committing offense. Although the cycle is basically the same for all sex offenders, it needs some personalization for each offender and each offense. The student is expected to use the cycle concept during his treatment and apply it to situations in which he acts out while at Giddings. These situations may include inappropriate contact with another student or fighting with students or staff. When these situations arise, the student may become the subject of an emergency group therapy session or a cottage meeting. He will be expected to identify the behavior and thoughts which put him through his cycle and then other students will help formulate ways to break the cycle for the specific situation.

Recidivism Prevention. Once the juvenile's offense cycle has been identified, he learns new ways to respond and practices those ways to interrupt or intervene in the cycle before offending behavior occurs. Each juvenile comes up with a plan describing how he will address stressful situations while at Giddings and when out in the free world. This is a plan that is used to help begin the process of reintegration. Staff and group provide support and monitoring while at Giddings. Thus, the plan is really meant to prepare the juvenile for his release when support is not as readily accessible. Stressful situations, which may be common to all

members of group or may be unique, are identified in the offender cycle. The juvenile then formulates escape plans for each of these situations and presents them to his group. The plans are discussed in group therapy and the group usually helps create other escape plans. If any of the plans is not feasible or a juvenile has failed to show that he is capable of putting the plan into practice, his group will confront him about these problems. The group helps the student practice implementation of those plans while at Giddings. The recidivism plan must be written up and approved by group and successfully presented in group therapy.

These four tasks, Committing Offense, Life Story, Offense Cycle, and Recidivism Prevention, are worked on throughout the program and are usually not completed in one phase. Progression through the program is done by successfully completing all four phases. Completion of the phases is achieved by implementation of a variety of methods. Following a description of the staff involved in SOTP and their role in treatment, the methods used in SOTP to facilitate the juvenile's progression through the program are discussed. All of the methods are incorporated in each phase.

B. SOTP Staff

SOTP staff is made up of the program director, caseworkers, and Youth Activity Supervisors (YAS), also known as "house parents." The TYC Chief of Counseling is also involved in the design of the program, but is not directly involved in its operation. The emphasis is placed on the operational level treatment staff, YAS staff and caseworkers. That is because these individuals interact with the students in SOTP much more than the rest of the institutional staff. SOTP staff have responsibilities that are unique to the program. They are expected to observe

the behavior of SOTP students at all times, make notations as to that behavior, and enforce the rules that are unique to SOTP, in addition to the regular duties required of Giddings' staff. Their unique responsibilities are intended to further the goals of treatment and to provide internal consistencies within the program.

YAS Staff. The YAS staff is responsible for supervising the daily activities of the students in SOTP while they are in the cottage, in the cafeteria, and at all other times. These responsibilities include the discipline of the students on their side of the cottage, documenting each juvenile's daily activities, attitudes, and behavior, reading journal entries, and leading formal group when caseworkers are not available. YAS staff participate regularly in treatment by calling cottage meetings,¹⁸ evaluating each individual's performance, and by talking about each juvenile's needs in Cottage Committee meetings.¹⁹ They also participate in the entrance and exit interviews of each juvenile, conduct social skills training and reviews weekly, and participate in the monthly staffing of each SOTP student. The YAS staff works closely with the caseworkers in order to provide consistent and appropriate treatment for each student.

Caseworkers. When the program is full, there are thirty-two juveniles enrolled in SOTP and living in the Tejas cottage. The thirty-two students are divided in to groups of eight and are assigned to one of the four caseworkers. The caseworker's primary responsibility is the management of therapy and counseling with each student in his/her group. Each of the caseworkers runs formal group four times a week and provides individual counseling throughout the week. The caseworker also works with each individual in his/her group to develop an Individual Case Plan (ICP). The ICP lays out the goals for the student to work on during the stay at Giddings and provides the student with a

record of his progress. Every three months, the caseworker and the student get together to review the student's progress and to formulate a new ICP. The caseworkers also ensure that each member of his/her group is staffed at least once a month in Cottage Committee meeting, and more often if necessary.

Caseworkers have the greatest portion of responsibility in the program. They must help orient new students to SOTP, provide counseling on a personal and group level, and make sure that all documentation on students in their group is done. In order to fulfill their responsibilities, the caseworkers must maintain current knowledge of treatment methods for juvenile sex offenders.

Caseworkers have the liberty to personalize their own treatment approach; thus, they influence the personality of their group. This creates some diversity within the program, with the common strand being the treatment goals and methods used to attain those goals. Together YAS and caseworkers operate SOTP on a daily basis. They are collectively responsible for the implementation of the program.

Program Director. The Program Director is the head of the SOTP. The YAS and the caseworkers report to the Program Director, and the Program Director reports to the Assistant Superintendent of Giddings. The Director coordinates all the activities of the program, makes some treatment decisions, approves all release plans, and meets with staff at Cottage Committee meetings. The Director is also a member of the Special Services Committee, which recommends whether to send determinate sentence students out on parole or to an adult facility.

C. Methods Used to Facilitate Progression through Phases

C. Methods Used to Facilitate Progression through Phases

Cottage Committee Entrance Interview. Two weeks after arriving in SOTP, a juvenile goes before the Cottage Committee for an entrance interview. This interview is to let all of the SOTP staff know where a juvenile is in his treatment. The juvenile is first required to recite his layout. Staff then proceed to question him about his offense, his victim, other victims he may have, feelings about the offense, and his relationship with his family. The atmosphere in this interview is somewhat confrontational and may be the first time the juvenile is confronted with the thinking errors he used in committing his offense and those he uses when speaking about it.

Group Therapy. Group therapy is the key strategy employed in SOTP because it is the most effective method of motivating offenders to participate in treatment. Peer monitoring by the student's group provides the student with support and makes him accountable for his behavior. Group therapy allows the caseworkers to reach specific treatment goals while also serving as positive peer influence and group support. All of the major tasks in SOTP are discussed in group therapy by each youth. Each of these tasks is personalized and a formal report on the objective is written up and then presented to the group. The group may challenge aspects of the report that are lacking or that are the subject of thinking errors. Errors in the report must be corrected and the report must be presented again in group. The group must accept the report before the task being worked on can be completed and checked off on the juvenile's phase checklist.

All of the students in the program participate in group therapy sessions in their respective groups at least four times a

week for approximately one and a half hours a session. Each juvenile is the focus of group once every two weeks; however, the schedule may be modified when special problems arise or fewer than eight are in a group. Group attendance is required. If a student is not in attendance, his caseworker will have assignments that must be completed by the next group therapy session. Each student is expected to use group skills—observing and listening, and can be penalized for not paying attention and participating. All information brought out in group therapy is confidential. If it is taken outside of group, the student responsible will receive a consequence.

The group as a whole is held accountable for performance of its members. To facilitate accountability the group "checks" inappropriate behavior by its members. "Checking" behavior means confronting one with his inappropriate behavior. Failure by the group to hold a student accountable for his behavior may result in a loss of privileges for the entire group. As sex offenders themselves, group members easily recognize attempts by other members to deny or rationalize their behavior (offending or otherwise) and act quickly to confront such behavior in one another. Group is also used to resolve problems within the group. Peer behavior is monitored by the group and deviant tendencies managed by group confrontation; however, staff may intervene to provide appropriate discipline.

Individual Case Plan Generation.

Although SOTP relies mainly on group therapy, each juvenile has specific treatment needs which are addressed in his individual case plan (ICP). ICPs take into account staff input, offense characteristics, behavior of the juvenile, and idiosyncracies of the youth.

The juvenile and his caseworker develop an ICP within twenty five days of placement in SOTP. The juvenile is given

individual counseling to address his problems and to help him focus on the specific treatment areas that need to be included in the ICP. The ICP identifies the issues the juvenile will work on during the duration of the ICP and keeps track of the juvenile's progress. After development of the initial ICP, a new ICP is developed every three months. A copy of each ICP is sent to the juvenile's parents and his parole officer. Parents and parole officers are invited to a meeting every three months to review the juvenile's progress and performance on ICP goals and to set new goals.

Journal Writing. Each student maintains a personal journal while they are in SOTP. They are expected to write in their journals several times a day about daily activities, thoughts, and behavior. Journal entries are reviewed daily by YAS staff and weekly by the caseworker responsible for that individual to determine target areas to work on and to provide preventative therapy and counseling. Students can be demoted to a lower level for not keeping up with their journal work.

Journals provide a chronology of each juvenile's experience in SOTP and enables staff to gain insight into the juvenile's behavior and his manner of thinking. Areas of concern are discussed with the caseworker and the contents of an individual's journal may be used in group. The journal also provides a forum for self expression. It is often used as an outlet to express fantasies, identify feelings or emotions, and gauge treatment progress. It is also used as an outlet for anger or aggression rather than acting out. As part of the journal, each juvenile is expected to write a victim letter. Although the letter is usually not sent, it is an important part of treatment. It is used to promote empathy for the victim, and to help the student to accept responsibility for the crime and understand the harm done to the victim.

Social Skills Training. One of the

major problems in treating sex offenders is that they minimize or deny their crime and resist treatment.²⁰ This element of the program is used to address these deficiencies and other deficiencies the juveniles exhibit in social and interpersonal behavior. The skills taught allow the juvenile to modify inappropriate or deviant behavior and responses to others. Training involves anger management, assertiveness training, learning how to show care and concern for others, and learning group skills (listening and observing) as well as other skills. New skills that affect one's behavior are taught by YAS staff and reviewed on a weekly basis. The use of newly learned skills is monitored by SOTP staff and by the individual's group. A student's group is supposed to confront the student if he is not practicing his skills. The students are also rated by staff on their use of them. Ratings will determine whether the student is promoted to a higher level, thereby earning more privileges. It is necessary for students in SOTP to learn new social skills for successful reintegration. These skills also teach the juvenile to practice self monitoring and intervention in his offense cycle.

Family Conferences. Sex offending is a unique problem with which each juvenile and his family must learn to cope. The family conference is used to foster support for the juvenile while he is in SOTP and to prepare the family for the juvenile's release and possible return home.

Parents are sent a letter when their son is admitted to SOTP. The letter explains the purpose of SOTP. It also informs the family who their son's caseworker is and how the family can become involved in the juvenile's treatment. A booklet is enclosed with the letter that answers some of the family's questions about SOTP.

Traits inherently found in sex offenders are often exhibited by the offender's family. The family uses these

traits, such as denial, rationalization, and justification, to deal with the offense committed by their son. In order to break through these barriers, each juvenile must give their family an explanation of the details of their offense. This is to help the family understand his sex offending behavior and help them realize that he is a sex offender. It is necessary for the family to realize that their child is a sex offender in order to deal with him in a manner consistent with treatment. The family is encouraged to maintain frequent communication with their son's caseworker so that the student is given support in his treatment.

The family receives the juvenile's ICP every three months. These plans tell them the progress of the student in SOTP and the current areas being worked on. Families are also invited to ICP reviews that take place every three months. The family is encouraged to visit the student at other times as well; however, visitation is subject to the caseworker's approval. Approval may be withheld when the victim is a family member because there is the possibility that visitation between the victim and the juvenile will cause further trauma to the victim.

Family support plays a valuable role in the treatment plan. A juvenile is more likely to take responsibility for his offense when the offense is not rationalized or denied by his family. The family is used to facilitate long term behavior modification compatible with the goals of SOTP. They do this by participating in ICP reviews, communicating with the juvenile, and participating in treatment with the juvenile after the juvenile is released. This enforces treatment received by the juvenile while in SOTP and heightens family awareness of traits of sex offenders. Family participation enables juvenile and his family to take responsibility for their role in the sexual offenses.

Sex Education. Most juvenile sex offenders have difficulty understanding and participating in age appropriate relationships. They lack an understanding of intimacy, consent, and normal sexual relations. Education is used to replace the offenders' distorted sexual perceptions with acceptable perceptions and to teach them responsibility in sexual relations. All juveniles participating in SOTP are required to attend at least one sex education course. The course is made up of twelve topics including:

- (1) Male anatomy
- (2) Female anatomy
- (3) Sexual response
- (4) Birth control
- (5) Sexual orientation
- (6) Pregnancy
- (7) Sexually transmitted diseases
- (8) Childbirth
- (9) Parenting
- (10) Gender roles
- (11) Intimacy
- (12) Sexual values

Correct terminology is taught in the course and slang is not permitted to be used by SOTP students. This is in an effort to prevent arousal while describing deviant thoughts and behavior and to provide a language common to all members of the program. Knowing the correct terminology also allows the students to communicate in an acceptable manner about sex related topics.

Sex education is taught by the caseworkers twice a year. It is taught in eight sessions over a two week period. During these two weeks, sex education takes the place of formal group. The students are given homework and reading assignments and after these are completed, the students are given a pre-test. The caseworkers then show a video on the subject(s) for the day. After the video, questions regarding the homework and video are answered and a discussion is held with the group. After each topic is covered, a post-test is given

to determine how much the juvenile learned from the class.

VI. PROGRESSION OF A TYPICAL STUDENT THROUGH SOTP

To better understand the program, I will track the progress of a hypothetical student, Greg Chandler, through SOTP. Greg is sixteen years old and has been placed in the Giddings State Home and School for the rape of his nine year old female cousin. He was adjudicated for aggravated sexual assault and was given an indeterminate sentence. When Greg first arrived at Giddings, he was interviewed by the psychologists, Social Services Staff, and the SOTP caseworkers. He was eligible for SOTP because he met all of the criteria, but there was only one space available and four other juveniles who had been on campus for some time waiting for a space to open up. One of the other juveniles was placed in the opening in SOTP and Greg went to the Chemical Dependency Treatment Program for his alcohol abuse problem.

After two months, Greg was finally placed in SOTP. At the time of his placement in SOTP, Greg moved to the Tejas cottage where all sex offenders in SOTP live. His assignment to a group was based on his interview with the caseworkers when he first arrived at Giddings. One of the caseworkers, Mr. Solis, had requested that Greg be placed in his group when he was admitted to SOTP. Since his group had a space open up at the time Greg was admitted to SOTP, he was placed with that group.

Greg's first few days in the program were very confusing. He followed the same basic schedule as before, however he had additional rules of the program to learn and follow. He also had to learn the vocabulary used in SOTP. His caseworker and YAS staff helped him with these tasks by providing him with handouts and

answering his questions, but his group was expected to indoctrinate him to the program. The group was also expected to make sure he followed the rules and whenever his behavior was inappropriate, they "checked" his behavior by confronting him about it. Some members of his group helped Greg learn his layout. Greg's layout is as follows:

My name is Greg Chandler. I am sixteen years old and from Dallas. I was adjudicated for aggravated sexual assault. I raped my nine year old cousin, Jennifer Klontz, by penetrating her vagina by force with my finger and my penis. I have three other victims; Sally who is four, Matthew who is seven, and Glenda who is thirteen. I was given an indeterminate sentence and my projected release date is May 27, 1994. I am currently on sophomore level.

Greg's group also showed him how to keep a journal. He began writing in his journal the day he was placed in SOTP.

Greg began social skills training his first weekend in SOTP. On Saturday morning, the sixteen students on Greg's side of the cottage sat down with one of the house parents, Ms. Johnson, and went through the social skills training notebook. Ms. Johnson had each student read out loud to the group a skill in the notebook. The student read what the skill was and how to execute it. Then that student asked other students to demonstrate the skill or explain how to use it. The student who read the skill questioned others about what he had read. Then he would pass the notebook to the next person and that person would read the next skill and question the group about it. Occasionally, the students asked Ms. Johnson what certain things meant or how to use a

certain skill, but for the most part the training was done by the students. Each Saturday, the group sat down and went through the whole skills notebook, so for most students the skills training was a review.

Like the other groups in SOTP, Greg's group met four times a week for formal group therapy for approximately an hour and a half a session. Each student in Greg's group was assigned one day every two weeks for which he was the subject of group. If the student was not prepared for his group day, group would be awarded to another student who was ready to work on his issues. On the days group was not devoted to Greg, he was expected to attend group and participate. Group always began the same way; each student recited his layout and then told the group of any behavior problems he had since the last time group met. Then group therapy began with a student talking about the issues he had prepared for group, and the other students questioned and confronted him about the issues and thinking errors used in talking about the issues.

The first week Greg was in SOTP he reported his situation to his group during group therapy. He explained the circumstances of his offense, but tried to blame others for his actions. He said that his aunt asked him to baby-sit his cousin and that put him in a bad situation. When his cousin was supposed to take a nap, she asked him to stay in the room because she was afraid and that is what caused him to rape her. His group confronted him with the thinking errors he used when describing his situation. Since Greg had already been through one program on campus, he knew what his group meant by thinking errors; however, he had not learned all of the thinking errors used by sex offenders. At the end of the therapy session, he was given a list of thinking errors common to sex offenders and feeling words to learn. His caseworker,

Mr. Solis, told him to learn both lists and then write out his situation using the feeling words to describe his feelings before, during, and after committing his offense. He was also told to use feeling words to describe how his victim must have felt.

Greg started writing his situation the next day and finished it a couple of days later. He passed the written report around to all the members of his group for their approval. After each member of his group read the report, they either initialled it as approved or handed it back with questions that needed to be answered and thinking errors that needed to be corrected. Greg's first report was disapproved by his entire group. The members of his group found several thinking errors in it and several areas where Greg failed to express his feelings and those of his victim. Greg tried to correct the thinking errors in his second report and to express his feelings about the whole situation. His second report was a substantial improvement, but Greg's caseworker felt that Greg was being too detailed about the events leading up to his assault and not giving enough detail about the assault itself. So, Greg had to write his situation out for a third time, but this time the report was to begin thirty minutes before the assault, rather than at the beginning of the day. All of the members of his group approved this version of the report, and after a request by Greg to present his situation in formal group, the group also approved the request. It took Greg approximately two weeks to get his written situation approved.

During the two weeks that Greg was working on the written report of his situation, he went before the Cottage Committee for his entrance interview. Greg was first asked to introduce himself to any member of the committee who he did not know. He was then asked to recite his layout, which he did. The caseworkers then began asking him about his family. Greg

told them that he had good parents, but that his dad was not around a whole lot. He also told the committee that his parents seemed to fight a lot when they were together. A house parent asked Greg about his victim. Greg told him a little bit about his victim, but tried to divert the committee's attention back to himself by talking about how he never got enough attention at home. The committee confronted Greg with his attempts to avoid talking about his victim. They also asked him about the feelings his victim had when he raped her. Greg told the Committee that he only raped his victim once, but the Committee did not believe him and they told him so. They told him that all sex offenders lie about their assaults and try to minimize them. The Committee also wanted to know about Greg's other victims and when he assaulted them. The interview lasted about ten or fifteen minutes and then Greg was excused and another student was interviewed.

Greg presented his situation in formal group on his scheduled day, which was a Tuesday. Although he had written out the offense without using any thinking errors, he used a few while telling about the offense. His group confronted him with these errors and he corrected them. His group also asked for clarification of certain details about the offense. Greg found it hard to explain some of the details to the group, so instead he showed them what he meant by acting part of the offense out. He also had a hard time expressing the feelings his victim must have felt while she was being raped. His group asked him to express the feelings he was experiencing while in group, and Greg told them he was feeling confused, depressed, sad, and anxious. The caseworker told Greg that he need to work on expressing his feelings, and told him to express his feelings to his group every hour for the next three days. This was an attempt to keep Greg from isolating himself from

others. He also told Greg that he wanted him to write out his other offenses. After group was dismissed, one of the more advanced students wrote up a summary of what happened in group and gave it to Mr. Solis. This summary was placed in Mr. Solis' group notebook for future reference.

A couple of days later, Greg met with his caseworker to formulate his initial ICP. Mr. Solis set most of the goals in the initial ICP since Greg was still fairly new in the program. Mr. Solis consulted with Greg about the initial plan and included some of Greg's ideas about areas that need to be worked on. After the plan was formulated, Mr. Solis had it typed up and gave Greg a copy. He also sent a copy to Greg's parents to inform them of Greg's progress and his goals for the next three months. The ICP had the dates that Greg went through his entrance interview and initially reported his situation to his group. It noted that he was still working on his committing offense and set a date by which it was to be completed. Other goals he was to work on during the duration of the initial ICP were to start his life story, express his feelings daily, and write a victim letter.

On the following Thursday, Greg was staffed in Cottage Committee meeting. The YAS staff talked about his progress since he started SOTP. Mr. Solis also talked about Greg's participation in group. He expressed some concern over Greg's tendency to isolate himself from others, and asked YAS staff to carefully monitor Greg's behavior and have him express his feelings whenever he appeared to be isolating himself. Three other students were discussed in the meeting. Then the Committee approved or disapproved the requests made by the students, made level determinations, and reviewed restrictions placed on certain students. Of the students up for level review, two were promoted, one was demoted, and one was kept on the same level. The results of the meeting

were discussed by the YAS staff and the students in Cottage meeting held directly after the Cottage Committee meeting. Greg found out that he had not been promoted, but his request to stay up late on the weekend had been granted. Greg was staffed at least once a month for the duration of his participation in SOTP.

The next time group was devoted to Greg, he told his committing offense again, this time using feeling words throughout the description of the offense. Mr. Solis also asked him to talk about his other assaults. Greg told about the assaults on his other victims, and finally, after being confronted about inconsistencies in his initial situation, admitted to the group that he had raped his cousin, Jennifer, several other times. By admitting he had raped his cousin more than once, Greg was able to work through some of his denial. Mr. Solis told Greg to write out his other assaults on Jennifer and to get group approval on the written report. At the conclusion of group, Mr. Solis gave Greg some worksheets with questions and told him to answer the questions after writing out his other assaults. These worksheets were to help Greg get started writing his life story. He also told Greg to start writing a letter to his cousin about his treatment and what he was learning in the program. Mr. Solis did not intend for Greg to mail the letter to his cousin, he was just using it to help Greg develop empathy for his cousin.

Greg wrote out his other assaults on his cousin and got his group's approval on the report. However, he failed to finish writing the answers to the questions on the worksheets Mr. Solis had given him by his next group date. Since he was not prepared to work in group, group was awarded by his peers to another member of the group who had some issues to work on. Greg finished writing the answers to the questions the next day and then started writing his life story. He petitioned the

group to present the completed worksheet in group. His group approved his petition and allowed him to present the completed worksheet in formal group two days later even though it was not his assigned group day. The group asked Greg more details about his life after he presented the answers to the questions on the worksheet. These questions helped Greg to think about aspects of his life that need to be included in his life story.

Greg finished writing his life story over the next week and a half. He had to recopy it because as he wrote about parts of his life he would remember other things that needed to be included in it. His life story covered every aspect of Greg's life from the earliest moment he could remember up to the present. Greg included all of his victims and his assaults on them in his life story. After writing out the whole story, he passed it around to get his group's approval. A couple members of his group asked him to explain certain situations he had written about when he was younger, but most of his group approved the report. Greg fixed the report to include more detail about the confusing situations and the report was then approved by the remaining members of his group.

After three months in SOTP, Greg took the Phase I test and passed it. He also went before the Cottage Committee for another interview. In this interview, he was asked more detailed questions about his offense and he was asked about his progress in SOTP. After the interview, he and Mr. Solis met to formulate a new ICP. Greg set dates by which he hoped to complete his life story and offense cycle. He also set some other goals, which included using the social skills he had learned and working on his behavior so that he could be promoted to junior level. Greg's parents were not able to come to Giddings for the ICP review, but Greg and Mr. Solis talked to them on the phone after

the new ICP had been typed up. A copy of it was also sent to Greg's parents. Greg's parents tried to visit Greg once every couple of months, but their job situations and money problems made regular visits impossible.

Greg presented his life story in group a week later on his scheduled day. The group had a lot of questions to ask him about his parents and Greg started to get irritated because he felt the questions were too personal. He refused to answer some of the questions and Michael, one of the members of his group, confronted him about being close channelled. Mr. Solis also confronted Greg and told him that he needed to express his feelings. After expressing his feelings, the group talked about why Greg did not want to discuss his parents. During the discussion, Greg admitted that his father had sexually abused him when he was very young. Mr. Solis told Greg that he needed to include his father's sexual abuse in his life story, so after group Greg made the addition to his life story. Greg finished telling his life story on his next scheduled group date and his group approved it.

The next task Greg worked on was his offense cycle. Mr. Solis told Greg that he needed to take his committing offense and put it into the offense cycle. Greg was familiar with the basic offense cycle because it had been talked about in his other program and two of the members of his group in SOTP had been working on it while Greg was in SOTP. Mr. Solis suggested that Greg look at the written account of his life story to determine where he got his poor self image from and look at the written account of his committing offense to fill out the rest of the cycle. While Greg was working on his offense cycle, the program began its sex education courses.

Sex education was taught by all of the caseworkers over a two week period, twice a year. Mr. Solis gave his group

assignments each night that they were to read. The next day, both groups on Greg's side of the cottage met together to go over the material and ask questions. The students were given a pre-test and then the material for the day was reviewed. If a video was available for the subject, it was shown and then the students had the opportunity to ask more questions. After the discussion, a post-test was given to determine how much each student had learned from the session. Sex education took the place of formal group for two weeks. Although formal group was not held during these two weeks, Mr. Solis had his group meet twice to work on behavior problems one of his students was having. Greg continued to work on his offense cycle in his free time during those two weeks.

Greg began identifying some of the situations that led to his poor self image. He specifically identified three areas of his life from which his poor self image developed. His first poor self image developed when his father molested him at the age of four. This made him feel embarrassed, hurt, and worthless. His second poor self image was also related to his father. His father spent very little time with him, which made Greg feel that he had done something wrong to cause his father to stay away. He felt like he was the one causing his parents to fight all of the time. His third poor self image came from his other relatives. They were always telling him that he was a stupid kid, and after awhile, Greg began to believe them.

The next step in the cycle that Greg was to identify was the situations in his life which he found stressful. While he was working on this step of the cycle, Greg began having some behavioral problems. During a cottage search, one of the house parents found what appeared to be a motor for a tattoo machine in Greg's personal area. A cottage meeting was

called and Greg was confronted with the discovery. At first he denied knowing anything about it, but after being confronted by his peers and sitting in the chairs for over an hour he admitted the machine was his. The cottage meeting was interrupted for dinner, but after dinner everyone on Greg's side of the cottage had to continue the meeting. The caseworkers knew that juvenile offenders generally do not have contraband on campus without several of the students knowing about it. The cottage meeting was continued to determine who else knew about the motor. After another hour of sitting in the chairs, Greg admitted that Matthew also knew about the motor. Then Drew also confessed that he knew about it. The three students involved received a group restriction for a week. This restriction meant that for one week the students lost all of the privileges that their level gave them unless they asked their group for a privilege and the whole group approved the request. Mr. Solis also gave Greg an additional assignment. He told Greg that he wanted him to put this incident into his offense cycle and to express his feelings to his group at least twice a day.

When Greg started working on this assignment, he realized that one of the reasons he wanted a tattoo machine was to gain acceptance with his peers who had tattoos. He felt like an outsider because he did not have any tattoos and this contributed to a poor self image. Expressing his feelings twice a day helped Greg to break his cycle because it prevented him from isolating himself. After he completed the assignment, Mr. Solis read it, and then called group to discuss Greg's problems. The group confronted Greg with the fact that the only peers who had tattoos were in gangs. They asked him if he was in a gang or if he knew of any gang involvement on campus. Greg told his group that he knew some students who were in gangs, but that he

did not want to join a gang. Mr. Solis confronted Greg by telling him that it was a contradiction to say that he wanted acceptance from gang members yet he did not want to be in a gang. The group continued on that line of questioning, but Greg never admitted to wanting to be in a gang.

After the incident with the motor, Greg began regressing in his treatment. He refused to participate in group, so Mr. Solis gave him a written assignment to work on while group was being held. When asked to express his feelings, Greg replied that he did not want to. About two weeks after the motor was found, Greg and another peer who was known to be in a gang got into a fight with another student. Both students were sent to security and had to spend the night there. Greg also lost a level, which put him back to being a freshman. Mr. Solis began having individual counseling with Greg every day to try and get Greg back on track. Through these sessions, he found out that Greg's mother had been put in jail for writing bad checks and that Greg was very worried about her. Mr. Solis talked Greg into coming back to group and working on this problem with his peers.

After Greg worked through his problems with the group and began expressing his feelings again, his progress in treatment picked back up. His progress was reviewed in Cottage Committee meeting and he was promoted back to sophomore level. He went through another Cottage Committee interview and another ICP review. His parents were able to attend this ICP review, and during this meeting he told them the truth about his offense. He also told them about some of his other victims and tried to explain to them why he had committed those offenses. Greg was very anxious about the meeting, but afterwards he was very relieved to get those things off his chest. Mr. Solis noted Greg's progress in the new

ICP and set a date for the next review. Greg also took the Phase II test and passed it, however, he did not advance to Phase III because he did not have the level necessary to advance to that phase and he had not presented his offense cycle in group.

Greg started working on writing out his offense cycle again. He identified situations which were stressful for him and then started writing out his cycle for the day he committed his offense. Mr. Solis asked him to identify all of the stressful situations that occurred that day and to write out any partially completed cycles that he went through before actually completing his cycle by raping his cousin. Greg identified at least one partial cycle. He had not done his chores that morning and he was afraid that his mother was going to get mad at him. He expected rejection from her and in anticipation of her rejection he began isolating himself from others. This made him angry and he began thinking about what he could do if she yelled at him. He began fantasizing about hitting her over the head if she yelled at him. His mother never asked him about his chores that day, so Greg never completed the cycle by hitting her.

Greg also wrote out the completed offense cycle. He wrote out the different things in his life that contributed to his poor self image and then wrote out situations which were stressful for him. After that he put the events of the day into his cycle. He explained that his aunt had asked him to babysit his cousin. This put him a stressful situation because he had already raped his cousin, but he was afraid that if he refused to babysit, his aunt would get mad at him and tell his mother. He isolated himself by avoiding his mother and his aunt, and then he began to get angry because he felt like they made him feel anxious and depressed. He started to fantasize that he was superior to his mother and aunt because he knew things

that they didn't and he knew how to hurt them without them ever knowing it. To get back at them, he began planning to hurt his cousin. When she came into his room he decided to force her to have sex with him. After raping her, he told her that he would kill her if she told anyone and he showed her a knife that he kept under his bed. He began to worry about getting caught and started thinking about what he could tell his mother if his cousin told on him. When he finally was caught a couple of weeks later, he told his parents that he had only touched his cousin with his fingers and he promised never to do it again. He felt guilty about being caught and insecure about his situation, which brought him back to his poor self image. After writing out the offense cycle, his group read it and told him that he needed to clarify certain details about the offense. Once those details were clarified, the group approved the written report. Greg petitioned his group to allow him to present the cycle in formal group and they approved his petition.

Greg only got halfway through his offense cycle during formal group because his peers had a lot of questions they wanted answered. The next time he was to present the rest of his cycle, his caseworker was not there, so group was led by one of the house parents. When Mr. Solis returned, he told Greg he wanted him to go through the cycle again so that he could hear it. Greg explained how his offense fit into his cycle again and Mr. Solis and the group approved it. In Cottage meeting that week, Greg found out that he had been promoted to junior level and that he had advanced to Phase III in treatment.

Greg went through what turned out to be his last SOTP staff review in Cottage Committee a month later. Mr. Solis and Greg met to work on his release ICP. This ICP included, the dates tasks had been completed, tasks yet to be completed, and

goals relating to Greg's release. Mr. and Mrs. Chandler met with Mr. Solis and Greg to determine where Greg should be released to. After some discussion with the Chandlers, it became apparent to Mr. Solis that Greg's parents still had not fully accepted the fact that their son was a sex offender. Greg also seemed to withdraw when he was around his parents. So, after the meeting, Mr. Solis talked to Greg about the different placement options that were available. Although Greg expressed a desire to go home, Mr. Solis told him that he was going to look into an alternative placement.

Greg then began to work on recidivism prevention. The first thing he did was write out his high risk areas. He identified these areas by looking at the stressful situations in his offense cycle. He then began to formulate escape plans, ways to avoid these situations. While Greg was working on this task, Mr. Solis informed him that he would be released within the next two or three weeks. Greg had been in SOTP for approximately fourteen months and Social Services wanted his space for other sex offenders who had not received any treatment. Mr. Solis told Greg that since his cousin lived close to his home, it would be unwise for Greg to be released to his home. Instead, Mr. Solis was looking for a placement program that has room for Greg. Greg had mixed feelings about placement. He knew that it would be very stressful to go home, but he also did not want to go to placement. Over the next two weeks, he interviewed with several different places that had room in their programs, and Greg finally found one that he liked and that was not too far from his home. His release was set for the following week, so Mr. Solis asked his group to focus on Greg and his recidivism prevention plan in the hopes that Greg could finish the treatment program before being released. The group confronted Greg with several of the escape plans that

he had formulated to avoid stressful situations. They asked Greg how they would work, and confronted Greg with the fact that he had failed to use them while on campus. Greg did not get group approval on his recidivism prevention plans, but he was released as scheduled anyway. Mr. Solis did not feel that Greg had successfully completed the program, but Greg's behavior was not negative enough to justify pulling his paper work and he had to make room for new students coming to SOTP.

VII. EVALUATION OF SOTP

Since the inception of SOTP in 1985, 405 juvenile sex offenders have been assigned to the Giddings State Home and School. Of those 405 sex offenders, 179 have been treated in SOTP, including the twenty nine juveniles currently in the program. The average age at the time of admission to the program is sixteen years and one month. The distribution of ages of juveniles is:

<u>Age</u>	<u>Number</u>
13	2
14	8
15	42
16	65
17	55
18	7

To date, the program has only served male

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Of the 179 program participants, thirty-seven were given determinate sentences. Of those with determinate sentences treated, four have been discharged, eight have been paroled, one was returned to TYC with an indeterminate sentence, five have completed the Chemical Dependency Treatment Program (CDTP) but are still at Giddings and less than eighteen, one had his sentence overturned on appeal, six have been transferred to an adult facility, and twelve are still in SOTP. The remaining 142 students, who have been treated in SOTP or are currently receiving treatment, received indeterminate sentences. Of these students, one hundred have been paroled from Giddings, seven were discharged for successfully completing the program, one was discharged to adult probation, five were discharged due to reaching the age of majority,²¹ twelve have completed the SOTP but are still at Giddings, and seventeen are still in SOTP.

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Unfortunately, the number of juveniles treated in SOTP represents only a small fraction of the sex offenders in need of specialized treatment. SOTP has only been able to facilitate approximately 25% of all sex offenders placed at the Giddings campus. The staff is not large enough to expand the program and they are also subject to the constant pressure to release students to make room for new students, regardless of successful completion of the program. The consensus of staff is that

early release of a sex offender reduces the effectiveness of treatment. Recidivism statistics kept by TYC are as follows:

<u>One Year Re-Arrest Rate</u>	
Treated Sex Offender	24%
Untreated Sex Offender	34%
<u>Three Year Re-Incarceration Rate</u>	
Treated Sex Offender	32%
Untreated Sex Offender	37%

These statistics are based on a study of eighty-eight treated and one hundred and fifty-one untreated sex offenders for the one year rearrest follow-up, and sixty treated and ninety-six untreated sex offenders for the three year reincarceration follow-up. However, these statistics are somewhat misleading because they include arrests and reincarcerations for any offense, including those that do not involve sexual misconduct.

The average cost per day at Giddings State Home and School, including sex offender treatment, is \$84.50. However, the majority of the daily cost is for basic care (food, shelter, and protection). The SOTP cost is estimated to be \$11.40 per day. Thus, the cost for sex offender therapy for an average stay of 13.9 months is \$4,810.

VII. CONCLUSION

The main goal of SOTP is to keep sex offenders from perpetuating their sexual offense cycles. There is considerable support for the belief that sex offenders can be prevented from reoffending if help is received early.²² One of the main reasons for implementing a juvenile sex offender program is that young sex offenders are more open to treatment because their deviant behavior is less deeply ingrained and thus easier to disrupt.²³ Other reasons include, substantial savings in emotional harm, and legal and correctional expenditures that

result from reductions in recidivism due to treatment.²⁴ Finally treatment aimed at juveniles is important because it reduces further victimization, the most substantial harm to be dealt with.²⁵

SOTP staff expressed the belief that the program can prevent further sexual offending by many of their students, but only if the program is completed by the students. They also expressed a desire to expand the program in order to treat more of the sex offenders at Giddings. Unfortunately, budget constraints and the lack of personnel trained to treat sex offenders keeps the program from expanding to serve all sex offenders placed at Giddings. Because of the inability to expand the program, SOTP staff is constantly pressured to move students out of the program to make room for new students; thus, providing some treatment for a greater number of juvenile offenders. These constraints and pressures keep the majority of the students placed in SOTP from successfully completing the program before they are released from Giddings. The high percentage of students that are released without successfully completing the program may account for the small reduction in rearrest and reincarceration rates between treated and nontreated sex offenders. However, as mentioned before, those statistics are skewed because they include arrests or reincarcerations for any offense. Thus, SOTP may actually be much more effective than the statistics would lead one to believe. Regardless, there is a consensus among those who work with and treat sex offenders; intervention strategies designed to prevent further sex offending must be employed with juvenile sex offenders to prevent further victimization.

APPENDIX A Phases Checklists

Phase I

1. Recited layout accurately and without assistance.
2. Reported self report to group.
3. Wrote initial life story
4. Began journal work.
5. Applies living, learning, and working skills.
6. Applies group skills.
7. Completed SOTP entrance interview.
8. Passed Phase I test.
9. Knows problem areas.
10. Knows ICP goals.

Phase II

1. Is active in group.
2. Presented life story in group.
3. Wrote story of his offense.
4. Presented Offense Cycle in group.
5. Acknowledges seriousness of the impact of his offense on his victim.
6. Acknowledges deviant fantasies.
7. Identifies behavior patterns.
8. Has begun sex education.
9. Has begun assertiveness training.
10. Knows peers' life stories and layouts.
11. Leads group as requested.
12. Maintains at least a Sophomore level.
13. Successfully completed Cottage Committee interview.
14. Passed Phase II test.

Phase III

1. Discloses sexually deviant behavior.
2. Completed disinhibitor assignment.
3. Discloses deviant fantasies and planning.
4. Obtained group approval of Life Story.
5. Disclosed details of offense to family honestly.
6. Described offense pattern to family.
7. Has written out other offenses.
8. Uses appropriate fantasies.
9. Passed sex education course.
10. Completed coping skills training.

11. Is currently at or above Junior level.
12. Completed recidivism worksheet.
13. Presented Relapse Prevention Plan in formal group.
14. Disclosed openly all aspects of own victimization experience(s).
15. Acknowledges ways he victimizes himself.
16. Disclosed ways in which he victimized his family.
17. Participates in an offender/survivor group, if scheduled.
18. Successfully completed Cottage Committee interview.
19. Passed Phase III test.

Phase IV

1. Related details of offense without thinking errors, minimization, rationalization, etc.
2. Puts daily behavior in Offense Cycle.
3. Interrupts cycle consistently.
4. Obtained group approval for accuracy of Offense Cycle.
5. Consistently implements escape plans in high risk situations.
6. Maintains Senior level or better.
7. Provides leadership by example using learned skills.
8. Consistently demonstrates assertiveness skills.
9. Obtained group approval for Relapse Prevention Plan.
10. Accepts own victimization.
11. Understands link between own victimization and offense.
12. Participated in community restitution project.
13. Expresses emotional understanding of his victim.
14. Successfully completed SOTP exit interview.
15. Assisted a peer with his relapse prevention plan.

APPENDIX B

Levels Rating Scale

- 1.0 Does not exhibit skill/behavior.
- 2.0 Exhibits skill/behavior but only in front of staff.
- 3.0 Exhibits skill/behavior most of the time.
- 4.0 Exhibits skill/behavior all the time.
- 5.0 Exhibits skill/behavior all the time, plus teaches other students the skill.

Staffing Totals

Needed for Promotion

1. Freshman to Sophomore:
Need 3.0 average on both levels.
2. Sophomore to Junior:
Need 3.5 on Freshman, Sophomore, and Junior level.
Also, must have completed life story in formal group.
3. Junior to Senior:
Need 4.0 on four levels. Also, must have successfully completed sex offender cycle in formal group.
4. Senior to Pre-Release:
Need at least 4.0 on five levels.
Also, must have successfully completed recidivism prevention plan in formal group and successfully completed pre-release interview before treatment staff in cottage committee.

Needed to Maintain

1. Sophomore at least 3.0 on Freshman and Sophomore or demote to Freshman
2. Junior at least 3.0 on Freshman, Sophomore, and Junior or demote to Sophomore.
3. Senior at least 3.5 on all four levels or demote to

Junior.

4. Pre-Release at least 4.0 on all five levels or demote to Senior.

Level determinations are made once a month on the basis of scoring sheets kept by each shift of staff. Levels may be dropped for extremely disruptive behavior such as drugs, fighting, etc. without going through this procedure. Additionally, a student cannot be on one level for longer than three months. If the student has not advanced a level in three months, he will automatically drop a level.

APPENDIX C Level Privilege System

FRESHMAN Level Privileges

May use pay phone to complete calls.

SOPHOMORE Level Privileges

May go outside, with staff's permission.

May participate in athletic sports sponsored by the school and held on campus.

May stay up until 11:00 p.m. on weekends and days preceding holidays, with staff's permission.

May serve as kitchen monitor for cottage.

May participate in vocational classes.

May use pay phones to place calls.

Must accept responsibility for committing offense.

JUNIOR level Privileges (Completed Life Story)

All sophomore privileges.

Off-campus privileges, with staff, including school events.

May perform "volunteer" work, run errands for staff, etc.

May work on campus—Chapel, Cafeteria, Social Services,

Administration, Recreation.

Are eligible for election to the Student Council.

May spend time in the sleeping area of the cottage, with staff's permission.

May participate in Weight Club.

May be transferred to another state school after six months.

May stay up until 12:30 a.m. on weekends and days preceding holidays, with staff's permission.

May go to the snack shack to purchase food and personal items.

SENIOR Level Privileges (Completed Offense Cycle)

All privileges of lower levels.

May stay up until 10:30 p.m. on weekdays, 1:00 a.m. on weekends and days preceding holidays, with staff's permission.

May have an off-campus job provided they meet all other criteria and have served one-half of their minimum length of stay.

May visit with parents off campus for eight hours provided they have completed at least one-half of their length of stay.

Off-campus recreational activities include all seniors on campus whether on a senior dorm or not. Must have completed one-half of their length of stay.

May serve as escort for other students and give tours of campus.

May check out \$10 plus as much additional money as approved by caseworker for shopping trips, special events, etc.

PRE-RELEASE Level Privileges (Completed Recidivism Cycle)

Twenty-four hour off-campus visits with family.

May be eligible for early release at nine months.

* B.S., Brigham Young University, 1989; J.D., University of Texas at Austin, 1993.

1. See Allen D. Sapp and Michael Vaughn, *Juvenile Sex Offender Treatment of State-Operated Correctional Institutions*, 34 *International Journal of Offender Therapy and Comparative Criminology* 131, 131 (1990).

2. See Maria Stops and G. Larry Mays, *Treating Adolescent Sex Offenders in a Multi-Cultural Community Setting*, 17 *Journal of Offender Rehabilitation* 87, 87 (1991).

3. Mary Kay Biaggio et al., *Reporting and Seeking Support by Victims of Sexual Offenses*, 17 *Journal of Offender Rehabilitation* 33, 35, 38 (1991).

4. E.g. Roger Graves et al., *Adolescent Sex Offenders and Social Skills Training*, 36 *International Journal of Offender Therapy and Comparative Criminology* 139, 139 (1992); Lucinda A. Rasmussen et al., *Precursors to Offending and the Trauma Outcome Process in Sexually Reactive Children*, 1 *Journal of Child Sexual Abuse* 33, 34 (1992) (minimizing sexual offenses committed by juveniles as "boys will be boys").

5. See A. Nicholas Groth, *The Adolescent Sexual Offender and His Prey*, 21 *International Journal of Offender Therapy and Comparative Criminology* 249, 249-52 (1977) (finding a reluctance on the part of courts to view juvenile sexual offenses as serious or significant, which results in the dismissal in a majority of the cases).

6. See A. Nicholas Groth et al., *Undetected Recidivism Among Rapists and Child Molesters*, 28 *Crime and Delinquency* 450 (1982) (finding that it is not uncommon for sex offenders to have committed more sexual assaults than appear on their records); Groth, *supra* note 5, at 250 (finding that in almost three-fourths of sex offense cases involving juveniles, the juvenile offender was likely to have committed a previous sexual assault that was disposed of without any type of commitment).

7. See Allen D. Sapp and Michael S. Vaughn, *Sex Offender Rehabilitation Programs in State Prisons: A Nationwide Survey*, 17 *Journal of Offender Rehabilitation* 55, 56 (1991) (stating that reporting of sex offenses has increased over the last several years).

8. See Graves, *supra* note 4, at 140.

9. Stops, *supra* note 2, at 88-89.

10. Fay Honey Knopp with Sandy Lane, *Program Development*, in *Juvenile Sexual Offending* 21, 22-26 (Gail D. Ryan & Sandy L. Lane eds., 1991).

11. See Paul M. Valliant and Dan H. Antonowicz, *Rapists, Incest Offenders, and Child Molesters in Treatment: Cognitive and Social Skills Training*, 36 *International Journal of Offender Therapy and Comparative Criminology* 221, 222

(1992); Rhena L. Izzo and Robert R. Ross, *Meta-Analysis of Rehabilitation Programs for Juvenile Delinquents*, 17 *Criminal Justice and Behavior* 134, 138-141 (1990) (reporting that programs that include a cognitive component are more than twice as effective as those that do not).

12. Psychological impairment that would keep a juvenile out of SOTP includes severe emotional disorders, low IQ, or schizophrenia.

13. See Appendix A for Phase checklists.

14. See Appendix B for an explanation of how levels are achieved.

15. See Appendix C for privileges related to each level.

16. Formal layout is recited as follows:

My name is _____.

I am a (child molester/rapist)

My offense is aggravated sexual assault

 sexual assault

 attempted sexual assault

I (raped/molested) (victim's name) _____,

age _____ times by (method of assault) _____.

I have (raped/molested) _____ victims.

I have _____ total victims.

Some variation on the formal layout is allowed.

17. Thinking errors that are common to sex offenders are minimizing, rationalizing, blaming, and lying.

18. Cottage meetings involve all of the juveniles on one side of the cottage. The meetings are to discuss the results of the Cottage Committee meetings and to provide therapy for particular problems within the cottage.

19. The Cottage Committee is made up of YAS staff, the YAS staff supervisor, caseworkers, and the program director. Cottage Committee meetings are held once a week and provide SOTP staff the opportunity to discuss the demotion or promotion of individuals, and restrictions to be given to the students or group, process requests made by the students, and discuss any other problems the cottage may be having.

20. See A. Nicholas Groth et al., *Juvenile Sexual Offenders: Guidelines for Treatment*, 25 *International Journal of Offender Therapy and Comparative Criminology* 265, 267 (1981).

21. Robert O. Dawson, *Texas Juvenile Law* 15 (3rd ed. 1992) (The age of majority changed from eighteen to twenty-one in 1985).

22. See e.g. Stops, *supra* note 2, at 88.

23. Fay Honey Knopp, *The Safer Society Press No. 1, The Youthful Sex Offender: The Rationale & Goals of Early Intervention & Treatment* 12 (1985).

24. Valliant, *supra* note 9, at 221.

25. *Id.*

THE GROUP TREATMENT PROGRAM FOR JUVENILE CAPITAL OFFENDERS: The Capital Offender Group Program at Giddings State Home and School

by

Linda Brooks*

This paper is primarily based upon a five-month observation of a Capital Offender Group module (March to July 1993) in addition to interviews with staff members and students at the Giddings State Home and School. Further information was provided by literature and television programs regarding treatment programs available to juvenile offenders and the Capital Offender Group Program at Giddings. I would like to thank the staff and students at Giddings for their assistance with this project.

INTRODUCTION

Since November of 1988, the Giddings State Home and School has conducted an innovative group treatment program for juveniles who have been committed for homicide. The program is known as the Capital Offender Group. The Capital Offender Group is an intensive, sixteen-week program involving eight juveniles and two or three staff members at a time. The primary goals of the program are to promote verbal expression of feelings, to foster empathy for others, and to create a sense of personal responsibility among the juveniles in the program in order to decrease feelings of hostility and acts of aggression.¹ The Capital Offender Group Program has gained considerable state-wide and national recognition since its

inception and it is continually growing and improving. Based on student and staff evaluations, tests administered to students before and after the program, and a three year study of recidivism rates, the program has been quite successful. The students who have completed the program demonstrate increased empathy for their victims and greater assumption of personal responsibility for their own actions. Tests given to students before and after treatment have indicated a significant reduction in feelings of hostility-aggression after treatment.² Additionally, the program has had a positive effect on recidivism rates among those youth who have participated.³ The success of the Capital Offender Group Program at Giddings is significant for all involved in the juvenile justice process. It indicates that with the proper setting and treatment, juvenile offenders may be rehabilitated effectively and may return to society as law-abiding individuals.

TREATMENT OF JUVENILE OFFENDERS

The Concept of Treatment for Juvenile Offenders

The concept of treatment for criminal offenders is the contribution of the "positivist" school of criminology. Positivism originated as a reaction to the

"classical" school, which held that people become criminals through misapplication of their free will and must be controlled, humanely, through punishment and incapacitation. Positivism shifts the emphasis from failure of will to "underlying causes," generally biological, psychological or social, and seeks rehabilitation through treatment of these causes.⁴ Due to the drastic increase in juvenile crime over the past decade, the need to rehabilitate juvenile offenders seems more pressing and at the same time more promising than in the case of adult offenders.⁵ It is this idea that originally inspired and shaped a separate system of justice for juveniles.⁶ No longer would the state react to delinquents as threats to society with harsh punishments closely resembling those given to adults. Instead, juveniles were seen as needing "parenting," which would be supplied by the state, acting through the juvenile courts in the "best interests of the child."⁷ Over the years, those involved in the juvenile justice system have struggled with the best setting to use in the rehabilitation of juveniles. While the state is concerned with treatment for juvenile offenders so that they may become productive members of society, it is also concerned with protecting the public from further violence by juvenile delinquents. The Texas Youth Commission has stated these two concerns as dual responsibilities: (1) to safeguard the public from further violence by confining and controlling the aggressive behavior of the youth in its custody, and (2) to provide efforts at rehabilitation of the youth in its charge.⁸ It is with these factors in mind that institutional rehabilitation such as the Capital Offender Group Program at Giddings has developed.

Treatment Options for Juvenile Offenders

The range of treatment methods that has been identified in rehabilitating convicted serious juvenile offenders is extensive and includes guided group interaction, psychotherapy, psychoanalysis, transactional analysis, Gestalt therapy, behavior modification, milieu therapy, family therapy, career education and schooling in correctional institutions. These techniques are provided in a variety of setting ranging from secure correctional facilities or institutions to community-based programs.⁹ All of the juveniles committed to Giddings are exposed to several of these treatment methods including guided group interaction, behavior modification, career education and schooling. All of these options are based on changing behavior in juvenile offenders.

Psychotherapy (Gestalt Therapy):

The Capital Offender Group Program uses a group treatment technique which is based on psychotherapy, specifically Gestalt therapy.¹⁰ Psychotherapy is a lengthy process, requiring the development of a deep relationship between the juvenile and the psychotherapist. The process seeks to develop in the juvenile an understanding of the relationships between his internal feelings and motivations and his external behaviors. Often this understanding is both difficult and painful for the juvenile to acquire. Further, psychotherapy is a very verbal process. Juveniles must be able to define and describe their internal feelings clearly in order for the therapist to make meaningful suggestions for dealing with those internal feelings. Violent behavior is controlled through an understanding of why violent behavior occurred in the past and why it need not occur in the present and future.¹¹

The juveniles in the Capital Offender Group participate in such a psychothera-

peutic process. Through group living and participation in the Capital Offender Group, the students are expected to form deep and trusting relationships with other group members and with the staff members. The students are required to express feelings about their families, events in their lives, and the crimes they have committed, in addition to feelings about the group, other group members, and staff members. For many of the youth this is a new and difficult experience. Most of the students in the Capital Offender Group grow up without opportunities or skills verbally to express their feelings.¹² The psychotherapy used in the Capital Offender Group is designed to foster this expression of feelings.

Gestalt therapy is a specific field of psychotherapy which is used in the Capital Offender Program. Gestalt Therapy is based on the assumption that each person naturally seeks a harmonious integration between his personal needs and the demands of society, but that many people are blocked from achieving this harmony by "unfinished business" in their development that prevents them from knowing and acting upon their true feelings. The therapeutic process is directed toward achieving an intense self-awareness and ability to express present feelings clearly and directly. Psychodramatic techniques are used to enable the patient to relive and complete his unfinished business, so that he no longer engages in what is referred to as "self-interruption."¹³

The Capital Offender Group is based on a Gestalt therapy model in that it uses psychodramatic techniques in order to bring out feelings and forces the students relive and complete "unfinished business" in their lives. As will be discussed, students are required to role play significant events in their lives and their

homicidal offenses both from their own perspectives and from the perspectives of their victims. Psychodrama is particularly effective for students who are unable verbally to express their feelings. Staff members have found that when there is action involved in the group activity, students who are unable to express feelings or those who try to block out or forget feelings of the past can no longer repress their emotions as they could if the group was just a talking treatment.¹⁴ By "re-living" certain events in their lives, the feelings of the past re-emerge for the students and they are able to express them as they are acting them out. Once the students express feelings, the therapists are able to show the students the connections between the emotions expressed and the behavior patterns which followed such emotions. By identifying the violent behavior that students used in the past to deal with their emotions, therapists can show students why they acted in certain ways and how they can prevent such behavior in the future.

Group Psychotherapy: The Capital Offender Group is based on a group treatment format. Group treatment has become increasingly popular in correctional facilities primarily based on its cost-effectiveness. Given the sparse number of professional treatment staff, reliance on individual counseling would mean that few of those juveniles committed to institutions would ever receive counseling services.¹⁵ Another reason for the increased popularity of group treatment is the reported ineffectiveness of individual psychiatric and psychotherapeutic methods in treating a variety of personality disorders.¹⁶ One additional reason for the use of group techniques is the influence of the peer group on juveniles. For many juveniles, peer relationships have a much more significant impact than relationships

with family members, adults, or other authority figures.¹⁷ In the Capital Offender Group, students learn that all members must participate in order for the group to function effectively. Throughout the group, students are encouraged to help each other to express feelings, to confront each other if members are not participating, and to support each other during emotional sessions. This peer support is one of the most important elements in the success of the group. Members are prepared to receive praise or criticism from other students based on their participation in the group. The fact that the group members rely on each other for the group to succeed creates strong incentives for the students to participate. The challenge at Giddings was to design a treatment program with limited mental health professional resources, for a diverse population of juveniles committed for a capital offense. Given these limitations and the powerful influence of the peer group on juveniles, group intervention seemed to be the most feasible treatment approach.¹⁸

GIDDINGS STATE HOME AND SCHOOL

Giddings State Home and School is a facility of the Texas Youth Commission ("TYC") for the most violent of Texas' juvenile delinquents. Of the approximately 320 juveniles currently at Giddings, over 200 have been committed for the offenses of Capital Murder, Murder, Voluntary Manslaughter or Attempted Murder, all of whom are referred to as "Capital Offenders" at Giddings. The majority of the Capital Offenders are incarcerated an average of two and one-half to three years before being returned to society. The remaining juveniles at Giddings have been

committed for aggravated assault, aggravated sexual assault, sexual assault, aggravated robbery, aggravated kidnapping, arson or terrorist acts.¹⁹ The students at Giddings are classified as Type A offenders, Type B offenders, or offenders sentenced under Texas' Juvenile Determinate Sentencing Law. Type A offenders are sentenced for two to four years or until their twenty-first birthday. Type B offenders are sentenced for nine to twelve months. The majority of the youth currently at Giddings have been sentenced under Texas' Juvenile Determinate Sentencing Law.²⁰ Under this law, courts may sentence juveniles who have committed capital murder, murder, aggravated kidnapping, aggravated sexual assault, deadly assault on a law enforcement or corrections officer or court participant, or attempted capital murder to terms of up to forty years. Youth committed under the determinate sentencing law are first committed to Giddings, which cannot release them without the court's permission. There must be a release hearing thirty days before the juvenile's eighteenth birthday at which point the court may release the youth on parole, return him or her to TYC until his or her twenty-first birthday, or transfer the offender to the Texas Department of Criminal Justice ("TDCJ") to serve the rest of his or her time.²¹ Of those students at Giddings sentenced under the Determinate Sentence Act, approximately two-thirds are released on parole and the other one-third are returned to Giddings until their twenty-first birthday or are transferred to TDCJ.

Giddings uses a progressive level program in which each juvenile is classified based on one of five levels: "Freshman," "Sophomore," "Junior," "Senior," and "Pre-release." Classifications are based on the time a

juvenile has spent at Giddings and his or her behavior at the facility. Every thirty days the staff conducts reviews to determine if students are eligible to advance to a higher level. As the students move up the levels, they gain more responsibilities and privileges. In order to be released from Giddings, youth must complete their minimum stay and be on the pre-release level for a minimum of thirty days. If students do not behave in an acceptable manner, they may be required to stay at Giddings until they are twenty-one regardless of the age at which they were committed.²²

Giddings has eight dormitories, each of which consists of two wings, or "cottages." Each cottage houses sixteen to twenty juveniles. The boys at Giddings are housed in cottages according to the type of crime they committed or a special treatment program they are involved in. The girls at Giddings are all housed in one cottage.²³

Despite the violent character of the youth population at Giddings, the facility does not look like a prison or a penitentiary. The appearance of the facility reflects the dual responsibilities of the TYC. To serve the TYC's obligation to protect the public from these violent youth, there is a barbed wire fence surrounding the facility, a guard post at the entry and limited off-campus activities. Despite these protective features, the grounds at Giddings look more like a small college or high school campus than what one might think a facility for Texas' most dangerous juveniles would look like. The cottages where the students live and the rooms of the students, particularly those of the Capital Offenders, resemble college dorm rooms. The appearance of the facility at Giddings reflects the TYC's primary goal of rehabilitation for these violent offenders.²⁴ Giddings conducts

rehabilitation for all juveniles through treatment in the cottages and special treatment programs. Youth meet in their cottages at least once a day in groups of eight to ten to discuss individual and group behavior problems. The goal of these meetings is that peer influence will promote acceptable behavior. At least five times a week, students in each of the cottages meet in "formal groups" with the caseworker assigned to the cottage to discuss each student's life experiences, the origins and repetitive patterns of his or her antisocial activities, and recidivism prevention planning.²⁵ The type of treatment conducted in these formal groups depends upon the particular case worker assigned to the cottage and the type of crimes that the students in the cottage have committed.

In addition to the treatment received in the cottages, Giddings has several treatment programs which are more intensive than programs found at the other Texas juvenile facilities. In addition to the Capital Offender Program, Giddings has a Sexual Offender Program and since 1990, a Chemical Dependency Program. For juveniles who have committed the designated offenses or are chemically dependant, these programs offer more intense treatment than the routine dormitory meetings.²⁶

ORIGIN OF THE CAPITAL OFFENDER PROGRAM

In 1986, there were approximately fifty juveniles at the Giddings State Home and School who had been committed for the offenses of Capital Murder, Murder, or Voluntary Manslaughter. While there was some treatment provided for all juveniles at Giddings, the staff recognized a need to provide specialized treatment for these capital offenders. Thus, a pilot group

treatment program was developed in July of 1986. The group was conducted by Dr. Elise Orman and included ten juveniles who were committed to Giddings for killing a relative. This group met twice a week for approximately one year. While improvement of individual students varied in terms of intensity and degree of personality change, student self-reports and psychological evaluations conducted subsequent to group participation supported significant positive results from 80% of the original group members. Based on the potential effectiveness of such group intervention and having more clearly identified the critical treatment issues through the pilot group, the Texas Youth Commission recommended that all juveniles committed to Giddings for Capital Murder, Murder, or Voluntary Manslaughter successfully complete a Capital Offender Group module.²⁷

CHARACTERISTICS OF THE CAPITAL OFFENDER GROUP PROGRAM

Temporal and Structural Characteristics

Due to the large number of students requiring special treatment and the lack of professional resources available, a year-long therapy group such as the pilot group established in 1986 was not deemed practical. Therefore, in November of 1988, the more structured, intensive sixteen-week Capital Offender Group module currently in use was formed.²⁸ Each group consists of eight students and meets twice a week, for approximately three hours at each meeting. As of August 1993, thirteen structured groups serving approximately 119 juveniles have been completed. Approximately twenty-four students can complete a capital offender group each year.

The group meetings are held in a small building set away from the cottages and other buildings. The location of the building away from the other main buildings is important because it minimizes outside noise and facilitates concentration on the group activity.²⁹ The students are required to stay in the building throughout the entire group meeting. Within the building is an open area and two small connected rooms. In one of the rooms the students arrange chairs in a circle with staff members sitting at various points throughout the circle. The other small room contains a video recorder and a tape recorder system. The rooms are connected by a two-way mirror so that observers may watch group meetings and meetings may be taped.

Staff Members

In order to participate in the Capital Offender Group Program, staff members must have a Ph.D. or a master's degree in psychotherapy. Each group is led by a Ph.D.-level psychologist, a master's level co-therapist, and possibly one additional therapist. Generally, each group is lead by one of the staff members; however, all of the staff members participate throughout the sessions. Due to the intense nature of the treatment, the staff members receive extra training before participating in the Capital Offender Group Program. Participating in a capital offender group is an emotional and intense experience for the staff involved, and staff are encouraged to take breaks after conducting a group module before participating in a new group. The psychologists who participate in the group are available for individual counseling should a student have emotional reactions requiring more intensive support.³⁰

Selection of Juveniles to Participate in

the Program

Eligibility: At the inception of the Capital Offender Group Program, all students who were committed to Giddings for homicide or attempted homicide were eligible to participate in the program prior to release. However, as discussed, Giddings currently houses over 200 students who were committed for homicide or attempted homicide. Due to the large number of students at Giddings for such offenses and limited professional resources, students who are committed to Giddings for attempted homicide are no longer eligible to participate in the Capital Offender Group Program. Only students who have committed Capital Murder, Murder, or Voluntary Manslaughter are eligible to participate. However, even with the omission of those youth committing attempted homicide, there are not enough professional resources to provide for all of the students who have committed one of the homicide offenses. Thus, the staff have developed the following criteria to prioritize how and when students may enter the program:

1) Students must have been at Giddings for at least twelve months and must have at least six months remaining on their sentences or six months remaining before they are required to return to court under the Determinate Sentence Act, and

2) Students must be on Senior or Pre-release level for admission consideration. Only students who have been diagnosed as psychotic, mentally retarded, or with a pervasive developmental disorder are considered ineligible.³¹

Factors that Affect Treatment Response: Of the students who are eligible based on the foregoing qualifications, the staff evaluate each student individually to decide if he or she is a likely candidate for success in the Capital Offender Group Program. Staff

members have identified several factors that appear to be related to the probability of a juvenile homicidal offender's successful response to the program. The factors that have been listed are general guidelines and are not criteria for automatic exclusion from participation in the program.

1. *Length of stay:* The staff prefer that students spend a minimum of two years at Giddings in order to have time to work through their treatment issues. As discussed, treatment issues are addressed not only in the Capital Offender Group, but also in the dormitory-based group programs and through individual support by staff members. Due to the large number of students currently at Giddings for homicidal offenses, a student who comes to Giddings on a determinate sentence with less than one year to spend before returning to court will not have time to get into the Capital Offender Group before his transfer hearing.

2. *Delinquent history:* Students with a high number of previous referrals, especially for criminal offenses, tend to respond less favorably to the Capital Offender Group Program. They are usually not a behavior problem but staff members have found that their use of empathy throughout the treatment and the sincerity of their remorse is limited.

3. *Previous placements:* Students with a history of failed placements prior to coming to Giddings may have behavior adjustment problems which delay or prevent their entrance into the Capital Offender Group Program.

4. *Previous mental health intervention:* Students who have failed to respond or to cooperate with previous psychological or psychiatric interventions whether outpatient or inpatient tend to be more resistant to treatment than other students at Giddings.

5. *Emotional or Personality Disorders:* Students with serious emotional disturbances or personality disorders are less likely to be able to handle the emotional intensity of the Capital Offender Group and generally require much longer intervention for any significant change. Additionally, students with multiple diagnoses require more time to treat. For example, a student who also has a history of chemical dependency or sex offender behavior will need treatment for these problems in addition to participation in the Capital Offender Group Program.

The above factors are not absolute guarantees that a student who happens to fall into one of the five categories cannot or will not respond favorably to treatment. The staff members stress that the students involved in the program are individuals, not categories and as such may sometimes have remarkable responses to the Capital Offender Group Program because of the high structure of the program, the incentive for change provided by a determinate sentence, and the unique nature of this type of experiential intervention. For the staff involved in the program at Giddings, the most critical factor in even attempting to provide a student with the group treatment option is sufficient time to do so.³²

Demographic Characteristics of Students in the Program

The demographic characteristics of the Capital Offender Group generally reflect the demographic characteristics of the youth at Giddings.

Race: Approximately 45% of the juveniles at Giddings are Black, 38% are Hispanic and the remaining 17% are White.³³ The majority of the students who have participated in the Capital Offender Group have been Black, with

Hispanic students composing the next major racial group, and White students in the minority. Of the students committed to Giddings for homicide, the staff have identified patterns of the types of offenses committed based upon the race of the youth involved. Generally, Black students are most likely to be involved in drug-related homicides, Hispanic youth are most likely to be involved in gang-related homicides, and White students are most likely to be involved in killings of family members.

Sex and Marital Status: Presently there are eleven females at Giddings. Since the inception of the Capital Offender Group Program, several females have participated in the Capital Offender Group; however, the vast majority of the students in the program have been males. Many of the students who have participated in the group have children of their own and several have been married.

Family and Lifestyle Characteristics: The majority of the students who participate in the Capital Offender Group are from low-income homes and broken families. Most of the students have been exposed to alcohol, drug, and/or physical abuse by members of their families and others in their communities from a very early age until their commitment at Giddings. Two repeating patterns identified among the families of the students is the absence of a father or an abusive father or step-father, and constant family moving from one residence to the next.³⁴ Many of the students have dropped out of school and have had little exposure to education from their families or their communities. Many students in the group have no memories of their parents reading to them or trying to encourage them in school. In addition, most of the students grew up surrounded by acts of violence by family members and others around them. As an

illustration of this fact, one student interviewed who had participated in the Capital Offender Group Program said that he could not name a single school teacher that he had on one hand but he could count his friends who have died on two hands.³⁵ Finally, almost all of the students who participate in the Capital Offender Group Program have been surrounded by, and have participated in illegal activities for a majority of their lives. These activities include selling and using drugs, vandalism, assaults, drive-by shootings, prostitution, possession of weapons, and sexual assault.

Age and Offender Status: The average age of the students in the program is seventeen. The majority of the students participating in the Capital Offender Group Program in the last several years have been sentenced under Texas' Determinate Sentencing Act. As discussed, the students sentenced under this act must appear before a judge at least one month before their eighteenth birthday. Thus, during the group program several of the students involved are required to miss a group meetings if the times for their hearings conflict with the group schedule.

Recent Changes in the Program

Changes have been made to the Capital Offender Group Program based on experiences with the program over the last five years. Most significantly, a Residential Treatment Component has been added to the group program. The eight students who are participating in the Capital Offender Group Program are housed together and they remain in the capital offender treatment cottage until their release and/or return to court.³⁶ Most of the students in the program enjoy living with the other students. It gives them a chance to get to know one another and to

gain trust in each other. It also helps the students to know how others in the group react to certain situations.³⁷ Because it is extremely important that the group members trust and live comfortably with one another, any problems that occurred in the cottages are discussed in the beginning of the group meetings each week. In the cottage, students are expected to continue working on issues which were touched on but left unresolved during the Capital Offender Group experience.³⁸ Students often discuss the group sessions during the week in their cottages. Outside of the group meetings, students may commend each other on good performances in the group and/or confront each other regarding any lack of participation. If group members are nervous about having to express feelings during the group, they may ask for encouragement from other group members in the cottage. If there were problems in a group, the problems may be discussed during the formal group which is conducted in the cottage on a daily basis. Additionally, the students are required to turn in assignments at various points during the Capital Offender Group Program, which are often prepared in the cottage.

Evaluation of Juveniles in the Program

The staff members involved in the program interview each student individually in preparation for group participation. Throughout the program, the staff members evaluate the progress made by each student and the effectiveness of the treatment by administering tests that measure empathy, hostility-aggression, and each student's sense of internal versus external control. Additionally, students are asked to comment on their own progress and give their assessments of the group experience. Staff members also provide their own assessments of each

member's participation in the group and make recommendations regarding each student's readiness for release once he or she has completed his or her minimum lengths of stay. Staff members are often subpoenaed to court for transfer hearings in order to testify as to a student's participation in the Capital Offender Group Program. Thorough psychological and psychiatric evaluations of the students are also conducted prior to consideration for release.³⁹

Treatment Issues

One of the treatment issues dealt with in the Capital Offender Group Program is the reason why the juvenile committed homicide. The majority of the early work on juvenile killers focused on the presence of psychotic or severe emotional disturbances in such individuals. There is a minority of juveniles who commit homicide due to major psychiatric disorders or organic impairment. By far, however, the larger number of juvenile murderers are determined by the court to not be mentally ill.⁴⁰ Although the possible reasons for homicide are complex and varied, three very broad categories of juveniles who have committed homicide have been identified through existing research literature on the topic as well as experiences in the pilot group. These categories are:

- 1) victims of physical, emotional, and/or sexual abuse, usually chronic, who killed their abusers;
- 2) individuals raised in a larger context of violence and engaged in a conflict that resulted in the homicide;
- 3) individuals who committed homicide in conjunction with another crime such as robbery or sexual assault.⁴¹

Dysfunctional family relationships, violence and abuse are frequently

referred to as precursors of homicide regardless of the particular category of offender.⁴² Defective parent-child relationships are in fact among the most frequently cited explanations for juvenile and adult violence.⁴³ The staff at Giddings have found that the common denominator among the juvenile offenders is abuse of all types including physical and emotional abuse and neglect.⁴⁴

Through interviews, diagnostic evaluations, and observations of group interaction at Giddings, certain recurring characteristics have been identified among all three categories of juveniles who have committed homicide. While the reasons for their homicides vary, emotional detachment surrounding the crime itself, apparent lack of remorse for the victim, an inability to come to terms with personal responsibility for the crime as an act of choice, and limited ability to control aggression in a cognitive way appeared across categories.⁴⁵ Juveniles who are committed to Giddings receive a psychological evaluation upon entrance. The results of these evaluations often indicate that the juvenile showed "little or no remorse for the crime." Additionally, in interviews and group interactions, juveniles have been observed as showing little or no emotion even when they gave fairly detailed descriptions of their crimes. Although some students show remorse, a recurring theme among juveniles is the juvenile's sense of justification for the offense even when they express regret. Juveniles often repeatedly express that the victims, even where they were totally innocent, somehow bore the major responsibility for their deaths. Another characteristic which has been observed is that juveniles are often unable to identify their own feelings or the feelings of their victims during the crime.⁴⁶ These

characteristics are consistent with research regarding juvenile offenders that emphasizes failure of empathy, an external locus of control ("i.e., a belief that one's actions are determined by external forces rather than personal agency"), and a preference for action over verbal expressions.⁴⁷

Goals of the program

Based upon the characteristics commonly found among juvenile homicide offenders at Giddings and research regarding juvenile offenders in general, staff members have established certain goals which they hope to obtain through the Capital Offender Group Program. One of the primary goals of the program is to foster empathy and some remorse among the juveniles for having taken another person's life. A second goal of the program is that the juveniles accept personal responsibility and recognize an ability to identify choice points and alternative coping strategies in response to their emotions. The staff hopes that if the students gain a sense of personal responsibility or more internal locus of control, they will be able to identify alternative ways to cope with feelings when they encounter stressful situations once they are released. As a third goal, the staff members attempt to teach the juveniles how to express feelings verbally, rather than acting them out aggressively.⁴⁸ As discussed, the present group model is experientially based in order to bring out the emotions of the group members that are often buried by cognitive defense mechanisms such as denial, avoidance, projection and blocking. Rather than allow the students to edit, shape and desensitize their offenses by relying only on verbal reports, they are required to role play many aspects of their lives including family relationships and accounts of their homicidal events.⁴⁹ The three goals of the

Capital Offender Group Program are fostered by the nature of the group treatment experience, the structure and contents of the meetings, and the psychodramatic exercises that the juveniles participate in while they are in the group.

FORMAT OF THE CAPITAL OFFENDER GROUP PROGRAM

Schedule

The Capital Offender Group Program follows a schedule composed of two main sections known as Life Stories and Crime Role Plays. Each group treatment module usually lasts sixteen to seventeen weeks. If staff members have conflicting obligations, a group session may be cancelled, but any cancelled group sessions are rescheduled as soon as possible. The first part of the treatment consists of an introduction to the program and Life Stories. The second part of the treatment is composed of an introductory video and Crime Role Plays. The final portion of the Capital Offender Group is a rehabilitation section.

Capital Offender Group Schedule

Week 1: Orientation and Trust Walk
Weeks 2-10: Life Stories
Week 11: Crime of Violence Video
Weeks 12-15: Crime Role Plays
Week 15: Video: Victims' Families
Week 16: Values Clarification and Future Relationships
Week 17: Feedback Session

Process Groups

Although the staff is careful to stay with the schedule, the content of the meetings may be slightly altered based on the requirements or characteristics of a particular group. Several group meetings

in each module end up being "process groups." These groups arise because of problems that the students are having on campus or in the group. Because of the intense and emotional character of the group, it is important that all of the students get along. Additionally, it is emphasized that the group members must put the capital offender group before anything else in their lives for the entire four to five months that they are in the group. Thus, if the staff members learn about problems that group members are having, either outside or inside of the capital offender group, the meeting will be devoted to discussing and trying to resolve these problems so that the group can run smoothly. The process groups may involve students who are frustrated because not all group members are participating, or group members who feel betrayed because other members are still members of gangs and are putting their allegiance to the gang before the capital offender group. One group was devoted to discussing a fight that two of the group members were involved in on campus. The staff asked the students about the event and then made them examine their aggressive behavior. When one student told a staff member that he was angry at another group member, he was told to confront him in the group and to discuss the problems with the other student. Throughout these process groups, it is stressed that the group has to be cohesive in order to run smoothly. By making the group members discuss and work out their problems verbally, they learn how to express their feelings and to resolve problems so that the group can proceed.

Orientation

On the the first day of the program, staff members tell the students what will happen throughout the sixteen weeks that

they participate in the group and what is expected of them. The most important elements of the program that are stressed on the first day and throughout the program are trust and honesty. One student who had been through a previous Capital Offender Group remarked that "honesty is the key to the program."⁵⁰ Because the students are required to reveal intimate details about their lives, their crimes, and their thoughts, it is essential that they trust each other so that they can be honest about all of their feelings whether they are positive or negative. Having never participated in a treatment program such as the Capital Offender Group, many of the students are nervous about what to expect and how they will do. Throughout the orientation, the staff members stress cohesiveness and the importance of participation. Every member is instructed that he must be committed to the group in order for it to function. If there are ever any problems outside of the group, the students are told that they must try to talk them out so that the group can run smoothly and without conflict.

Trust Walk

At the second formal meeting of the group, members go on a "Trust Walk." The Trust Walk serves several purposes: it enables the students to gain trust in each other, it enables staff members to see certain personality traits of the group, and it serves as a symbol for the group process. The students are taken to a specific area of the campus and each student picks or is assigned to a partner. For the first part of the walk, one student is blind folded and the other student leads the blind-folded student around the designated area of the campus. For the next part of the walk, the students change places and the student who was blind-folded takes on the part of the leader. The leading partners may

choose to stay on safe parts of the campus, such as sidewalks or low inclines, or they may become more adventuresome and may lead their partners onto ledges or down steep hills.

The primary purpose of the walk is to make the students gain trust in each other. As the blind-folded partner, the student must trust his partner to lead him safely throughout the area. The Trust Walk may also foster feelings of responsibility and empathy. As the leading partner, the student takes on responsibility and the idea that he must care for the welfare of another student. A partner who was blind-folded for the first part of the walk may feel empathy when he takes on the role of the leading partner. The Trust Walk also enables staff to see personality traits of the students. Some students may show care and concern when they lead their blind-folded partners by staying in safe areas and by warning their partners to be careful at certain points of the walk. Other leaders may be more playful and may not tell their blind-folded partners about steps or steep inclines. The person being lead may show personality traits as well. Students who take small, "baby steps," while they are being lead may not be as willing to trust others, while students who take faster or larger steps may be more willing to trust other students. After the walk is completed, the students get together and discuss their experiences. Most of the students enjoy the responsibility of being the leader and were somewhat scared when they were in the blind-folded, trusting position. The students who were led generally feel safe about expressing their feelings after the walk because they gained trust in their partners on the walk and may feel that they are able to trust the students with their feelings as well. The staff members use the Trust Walk as a type of symbol for the group process: Just as

the students trusted their partners on the Trust Walk, they must trust the group to let them "step out on a ledge" with their feelings and not let them fall.⁵¹

Introduction to Group Meetings

At the beginning of every meeting, the staff members ask the students if anything important is going on outside of the group. Generally, the students will talk about any conflicts or trouble that they got into outside of the group. The staff make the students look at their conduct and try to explain why they are behaving the way they are. Other students participate in the discussion and often bring up events which have occurred if those involved do not tell the group about it. If there are conflicts between group members, the staff will make the students confront each other, discuss, and try to resolve any problems. Group members also talk about personal problems that they may be having. One student, for example, was upset because his mother never came to visit him regularly at Giddings but was planning on attending his transfer hearing. He knew he should have been grateful for her support but instead he felt angry. Another student was upset because his father had passed away before he could express his feelings to him. As the group progresses, students gain trust in each other and feel more comfortable sharing their problems with each other. By discussing personal and group problems such as these, the students are able to let out their anger through discussion rather than aggression and are better able to participate in the group sessions.

Life Stories

The first major portion of the program is known as "Life Stories." At each group meeting during the Life Stories one of the students in the group reveals the events of

his life in chronological order up to the date of his homicidal offense. This continues until that student is finished with his life story, usually by end of a second meeting. Thus, for eight students, the Life Stories usually take approximately eight to nine weeks with each group member spending two group sessions to work through his life story.

Each student starts his life story by explaining where he was born and grew up and who the members of his family were when he was born. From there the student progresses from the first memories he has through his life explaining family events and relationships, activities he participated in, schooling, and any violent and illegal events he experienced. Other group members stop the student to ask questions when the sequence of events is confusing or it seems as if the student is leaving gaps in his life story. If there are feelings about people or events in a student's life that are difficult to express, the staff will use psychodrama to role play the events or relationships. For the role plays, the student chooses other students and staff members in the group to play the people involved in the particular scene of his life. As they act out the event, staff and group members ask the student how he felt regarding family members or events at the time in his life he is acting out. The life stories are often extremely emotional and it is difficult for most of the students to relive significant events or relationships they have experienced.

The lives of most of the students are tragic. The most pathetic aspects of their lives come from their family situations. Most of the students grew up surrounded by violence from the day they were born. Because they were born into families and communities where antisocial behavior was the norm, the events in their lives do not seem unusual to the students who are

telling the stories or to the students who are listening. The students speak casually about their family lives which often include alcoholic parents and step-parents, shoot-outs among family members, mothers engaged in prostitution, parents and relatives in jail, and drug and sexual abuse by members of their families. The events that stand out in these students' minds are frightening. One student, while telling his life story, commented that everything was "going normal" during his seventh and eighth grade years when he had been shot in the leg and had shot other people, his brother was in jail for murder, he had dropped out of school to sell drugs, and he was drinking almost everyday.

One particularly tragic story was from a student who grew up in a poor family and lived with various relatives throughout his life, at times because his mother lived in a dope house and it was too dangerous for him to live there. When asked about an early childhood memory, this student remembered seeing his mother shoot his father in the front yard where he lived. As his life story continued, he told the group about his mother abusing him and telling him she hated him as early as second grade. At times when his mother was drinking she would threaten to cut his throat, causing him to stay awake for days in fear that she was going to kill him. In order to get attention from his mother, he would physically hurt himself so that she would feel sorry for him. Soon he dropped out of school and followed his brother into selling drugs and getting involved in shoot-outs. He remembered a time he had shot someone and his older brother's advice was that if he was going to shoot someone again, he had to shoot so that the person "would not come back." Another student told about his father who, unknown to him at the time, was involved in organized crime. One of his earliest

memories, when he was only one or two years old, was a drive-by shooting at his house in which some men tried to kidnap his brother from off of his family's front yard. Activities with his family consisted of his father taking him on "business" deals and to visit the woman with whom he was having an affair. At the time, the student looked up to his father and did not realize that his father was doing anything wrong. He remembered being in first grade and hugging his father who was laughing after being sentenced to jail for four years.

The violence that the students experienced in their family lives is reflected by their behavior as they grew up. Almost all of the students dropped out of school at an early age. Many started using drugs at the age of nine or ten years old. By the time they arrive at Giddings, many of the students had spent years selling and using drugs, vandalizing, stealing, and getting into violent fights. Most of the students lacked any sense of self esteem or support from those around them. This lack of support and self worth is one of the reasons why gangs are extremely prevalent among the capital offenders. Gangs provided a sense of support for students who had little or no love or attention from their families. With their gangs, the juveniles stole cars and money, robbed stores and homes, committed assaults, and participated in other illegal activities. Crime was supported by the gangs, and gang members bragged about robberies and shoot-outs. Guns and other weapons were seen as status symbols among many of the juveniles in the communities where they lived. For many of the students, guns gave them power to feel strong and independent. Several of the students have been shot and have shot others in drive-by shootings, gang fights, robberies, and other hostile situations.

The emotional part of the life stories for the students is when they are required to express feelings about the events and people in their lives. One goal of this part of the life stories is to teach the juveniles how to express feelings verbally, rather than acting them out aggressively. When they verbally discuss events or relationships in their lives, many students edit and "desensitize" their stories and block out or avoid the feelings that accompany their life stories. Thus, they often do not respond well when they are asked to verbally express the feelings they had at particular times in their lives. They often give short answers or reply that they do not remember their feelings. For this reason, the staff members often use psychodrama during the Life Stories and have the students act out particular events in their lives. For example, during his life story one student explained that he was the youngest of several children and was raised by his sister rather than his mother or his father with whom he had very little contact. He told the group about staying awake alone in his house waiting for his mother to come home from going out drinking with her friends and about the fact that his mother never came to any of his softball games. When asked to verbally express his feelings about his mother when he was younger, he said he did not really mind that she was out or that she did not come to his games. The group then conducted a role play of the student talking to his mother and his father, who were played by the staff members. During the role play, the group asked the student how he really felt about his mother and father not being there for him. As is typical for most of the life stories, the true emotions of the students come out during the role plays. This student cried as he told his "mother" that he wished that she was at his games and that he wanted her to

come home at night so she would not die and leave him all alone. He told his "father" that he always wanted his love and that he hated him and wished he had another father.

Many of the students have a very difficult time with the role plays. One student, discussed previously, was required to role play a scene of him sitting in his room alone in fear of his alcoholic mother. One of the group members whom he chose to play his mother used the language that the student's mother always used to criticize him and threaten his life. The student had a difficult time responding to his "mother" because in his real life he was afraid of her and would never have talked back to her. Many of the other students encourage students who are struggling to talk and express their true feelings. At one point, for example, the students moved in closer to a student who was having a difficult time expressing his emotions. They told him that they did not want him to have to express his anger in negative ways in the future and to bring out his feelings in the group because they cared about him and would help him. Additionally, staff members may take on the student's voice in the role play in order to ease the student into his role. Once the group supported this particular student he was able to come out with his feelings. At first he physically pushed the student who played the role of his mother and then began crying and telling his "mother" that he hated her and resented her always wanting him to be something he was not. The staff may have the student switch roles to play another person; in this role play, for example, the student switched roles with the group member who was playing his mother. As his mother, he said all of the things he thought his mother felt about him. Emotional role plays often result in the student crying and being hugged by other group

members and staff members.

Role plays may become violent when the students' true emotions are expressed. For many of the students, the Capital Offender Group is the first time in their lives that they ever had to explain how they felt about their family members. In the past, when things made them angry, they would respond with physical violence. Due to examples set by their families and communities, they are not accustomed to using verbal expression when they become angry about events or people around them. In one role play involving an abusive step-father, for example, the student involved pushed the staff member who was playing his step-father across the room. In several role plays students express their anger by getting frustrated with the group and yelling at staff members or by leaving the room for a few minutes until they are ready, and encouraged, to go on.

Each student proceeds through his life story until he gets to the day or week of his homicidal offense. At the end of each life story session, the group goes around the circle and gives feedback to the student who did his life story. The feedback begins with each group member and staff member telling the student how he did with his life story. Most of the students are not afraid to criticize one another and will tell each other whether they think that the person doing his life story did a good job expressing feelings, or if they did not seem to be trying to express feelings. Students may also comment on the other group members' participation in the life stories. Many of the students emphasize that all members must help each other to work through the emotional parts of the life stories. The staff members also critique the students' performances. If the staff members think that a student was not trying hard enough in the first part of his

life story, they will encourage him to try harder at the next group meeting. The staff members show the students how the emotions and feelings that they had in their lives lead to their homicidal offenses. Many students assume that most of their crimes occurred because of the environment that they grew up in and the peer pressure surrounding them. As discussed, many students hold their victims primarily at fault for the crime that occurred. Although these factors may compose part of the reasons for their offenses, the students often have never seen the connections between the anger that they had due to their family situations and the crimes they committed.

After the students and staff members tell the student how he did with his life story, they will tell him how they can relate to him. It is during this part of the life stories that one can see how common the capital offenders' lives are. Whereas many people have no similarities in their lives to those of the students, each group member usually has several examples of ways in which their lives are alike. A student may say that he relates to another because he grew up poor, or his mother sold drugs, or he was beaten by a family member, or used drugs at an early age, or was in a gang, or dropped out of school, or experienced almost all of the same things that the student who told his life story experienced. The students often say that listening to the life stories made them think a lot about their own lives. After critiquing the student's performance in his life story, the staff also tells the student how they can relate to his life. Although the staff do not have as many parallels in their lives to the lives of the students as the other group members, they are always able to relate some experience or relationship they have had to the lives of the students. This is appreciated greatly by the group

members. When they see that the staff can empathize with some of their life stories, it makes them trust the staff and feel more comfortable with them.

After the students critique the group member who did his life story, the student says how he feels about the comments of others and about doing his life story. Most of the students express relief in getting their feelings off of their chests. Some say that while they were extremely nervous about doing their life stories and facing their feelings, they are extremely grateful to the group for helping them to look at their feelings and to identify the reasons why they committed their crimes. After they do their own role plays, most of the students are more willing to participate and support others in the group.

Crime Role Plays

The next major portion of the program consists of crime role plays. The Crime Role Play section is the most publicized aspect of the Capital Offender Group.⁵² Each student is required to reenact the homicide he or she committed. The reenactment of the crime is done first as the perpetrator, and then from the perspective of the individual's own victim. This format is used in order to facilitate the individual's awareness of the emotions behind his or her own actions and to promote empathy for their victims. Thus far, the staff members at Giddings feel that the Crime Role Play section has been one of the most powerful components of the group.

Crime of Violence Video: In the session preceding the crime role plays, the students watch a video about the lives of six violent criminals and their victims.⁵³ The lives of the criminals often mirror the lives of the students. The lives of almost all of the criminals portrayed involve drug and alcohol abuse, gang participation,

extremely young mothers and poor male role models, in addition to a lack of attention or love from family members and previous antisocial behavior. Most of the criminals make excuses for their crimes and show little remorse or grief for the victims or their families. The victims and their families discuss their feelings about the criminals. Many of the victims are emotionally scarred for life due to the crimes that they experienced. The program concludes with advice for parents on how to prevent their children from getting into trouble.

After watching the video, the group discusses how their lives relate to the lives of the criminals. They identify methods that they have used to justify their crimes such as blaming the victim or minimizing the impact of the crime similar to the ways that the criminals on the show justified their crimes. They also discussed the lack of empathy or remorse that the criminals felt for their victims, even after seeing the effect of the crimes and the grief of the victims' families. At the end of the session, the group discusses their feelings about starting the crime role plays. The staff members stress that it will be the most difficult and emotional part of the group. Most of the students are extremely nervous about reenacting their crimes. They feel scared about the emotions that will come back when they relive their crimes and are reluctant to play the part of their victims.

Crime Role Plays: For approximately four weeks of the Capital Offender Group Program, the group conducts crime role plays. The crime role play meetings begin, as the others do, with the staff asking the students about any significant events which have occurred outside of the group. Once any outside issues are resolved, the staff members ask the student who is assigned to do his crime role play

how he is feeling. The first student to do his role play said that he felt calm because he did not know what to expect. Most of the students who are going to do their crime role plays are extremely nervous about reenacting their crimes. Several of the students said that they had gotten little sleep in the nights before they had to do their role plays. After the students express their feelings, the staff members ask them to "set the stage" at the time of their lives when their offense occurred. The students are asked about living and family situations, their age and any schooling at the time, as well as violent and illegal activities that they participated in. The student doing the role play is asked to explain an average day in his life so that the group can get an idea of what the student's life was like at the time of his offense. It is important that the group understands what the student's life was like so that they can effectively participate in his crime role play.

A major part of the discussion leading into the reenactment of the crime focuses on the criminal activity the student was participating in during the year or months surrounding his crime. In order to increase empathy and show the the students the effects of their actions, the staff members make the students figure out how many "victims" they have in addition to the victim of their homicides. Many of the students do not realize the extent of the illegal actions they participated in and try to "minimize" their lifestyles before their offense. For example, one student told the group that he had been selling crack cocaine on a regular basis before his offense. When asked how many drug deals he did a day, he said that he sold to four or five other juveniles in the neighborhood who sold the drugs to others. The staff then showed the student that by selling to four or five others, who then sell

the drugs to others, the numbers increase to the hundreds each day who are selling and abusing drugs all stemming from his actions. The staff showed how the drugs sold affect the families of the drug users as well, who may steal or use food stamps to buy drugs instead of providing for their families. One student said that he was involved in shoot-outs on a weekly basis and probably shot up to three people a week. The staff show that over several weeks, this number adds up to hundreds of victims. Another student explained that he used to vandalize cars on a weekly basis. One staff member made him realize that the victims of his vandalism are not only those whose cars were damaged and their families, but also insured car owners who have to pay higher premiums to account for insurance company payments for vandalism. The numbers quickly rise from the few people that the students thought of as "victims" to the thousands of people directly or indirectly affected by their illegal activities.

While they tell about their past crimes, most of the students say that they did not realize the effects of their violent behavior. Getting into trouble made them feel powerful and strong. Many were praised by friends for committing crimes and ignored by family members who overlooked the illegal acts that the juvenile was committing. After this portion of the meeting, the staff members ask the student doing his crime role play how he feels. Most of the students express regret at this point for affecting the lives of so many innocent people. Others feel disappointed in themselves because they are forced to realize the results of their actions.

After the scene of the student's life is set, the staff asks him about the day of his crime. The student goes through the day chronologically, explaining what he was doing and how he was feeling. Almost all

of the crimes involve drug or alcohol use on the day of the crime and almost all of the homicides were caused by guns. Once he has generally explained the situation, the student picks students and staff members to play the people involved in his crime and his victim. Many of the students have put a lot of thought into deciding who is going to play their victims. Once the student picks the characters for his crime role play, he is instructed to leave the room while the staff members direct the students regarding what to do in the role play. The student then comes back into the room and the role play begins. During the events leading up to the homicide, the staff and other members often stop the student to ask him what he was feeling at the time. Many of the crime role plays are gang-related fights or drug-related incidents that resulted in homicide. As such, the role plays often become violent, with students and staff members actually wrestling with each other.

The students are often very resistant to relive the day of their crime and other group members and staff members offer constant support. One of the most difficult times of the role play comes when the student has to "kill" his victim again. Many of them cry at this point and some feel angry that they are being forced to relive the event. Staff explain that if the student only thinks about his crime alone, he will not go far enough to heal himself. Additionally, the staff members explain that the students must see and feel why they did what they did so that such horrible crimes can be prevented in the future. When the shooting occurs, the "victim" is often pleading with the juvenile not to kill him, but the student is forced to reenact the killing over the victim's protests. One of the most significant aspects of the role play is that an innocent

victim often represents someone who had abused the student in the past. One student referred to his victim as his abusive step-father as he cried while the struggle proceeding the homicide was taking place. Another innocent victim symbolized a student's brother who had criticized him all of his life.

Once the crime is completed, the students gather around the person role playing the victim who is lying on the floor with his eyes closed. At this point the student may be required to touch the victim as staff members ask the student if he can feel the body of the victim dying. The student then says anything they want to say to the victim. They often apologize to the victim for taking his life and for taking him away from his family for no justifiable reason. Some of the students want to tell the victim about their own lives. One of the students said that he could not ask his victim for forgiveness because he himself deserved to die for his crime. The victim then "talks back" to the student, often expressing anger at the student for their deaths.

The next part of the crime role play is perhaps the most important part. The role play is reenacted with the student playing his victim. This is often extremely difficult for the students to do. The purpose of this part of the role play is so that the student feels what it is like to be a victim. Once the "victim" has been killed, he lies on the floor and the group members surround him. The staff members ask if the student can feel the life running out of him. Most of the students express feeling scared, alone and lonely when they play the parts of their victims. The student, as his victim, talks to the group member who has taken his place as the offender. Staff members often ask the "victim" what they think killer's punishment should be. Many say that they hate the offenders for taking

their lives and that the offenders had no excuse for doing what they did. At this point, the staff members turn off the lights and the students and staff leave the room for a few minutes while the "victim" lies alone in the room with his pain. Most of the students are crying during this part of their role plays. When the group comes back into the room, each group and staff member talk to the victim. Most say that they are sorry that his life was taken because of the anger of someone else.

After the role play the students get back into the circle and ask the student how he feels. The group then discusses the choices that the student made in his life which lead him to his crime. The choices include not only the choices made on the particular day of his crime, such as getting the crime weapon or using drugs, but also those made during his life leading up to his crime. Choices such as these include choosing to hurt and take advantage of people, choosing to think of themselves before others and choosing not to think about the consequences of their actions. Identifying choice points made in their lives helps the students to gain personal responsibility for their actions.

After looking at the choices made in their lives, the group gives feedback to the student regarding his crime role play. Sometimes the students and staff express pride in the student for letting his feelings out. Other times they express disappointment in the student for not showing the emotions that he should have. The staff members tell the students that they hope that they got something out of the role plays and that by empathizing and feeling the pain of their victims, they will not hurt someone else again. The staff also caution the students who seem unwilling to forgive themselves. While such students should not forget what they did, the staff warn them that they cannot continue to punish

themselves for their crimes or else they will hold anger inside that they might let out in a negative way. As in the Life Stories, the student who did his crime role play responds to the feedback and often expresses feelings of relief in completing his role play. The end of the Crime Role Play meetings often end in hugs and support from the group to the student who did his role play.

Rehabilitation Section

The final two weeks of the Capital Offender Group Program consist of videos and discussions to help the students make their transitions from Giddings into regular society.

Videos: Victims' Families: At the group meeting after the crime role plays, the students watch two videos. The first video is a broadcast of the talk show "Geraldo" which features the families of two victims of murder.⁵⁴ The stories accompanying the murders are extremely emotional and the program shows the families and the audience crying for the loss of the victims' lives. The purpose of this video is to show typical societal reactions to juvenile homicides. The audience and the guests on the show are extremely opposed to the leniency given to juvenile offenders. One of the guests on the show discussed what he referred to as a "horror story" where a juvenile offender was allowed to leave for the weekend from the facility. Another guest on the show believed that juveniles should be treated like adults and was an advocate of the death penalty for all juveniles who kill.

Opinions such as these were applauded by most of the members of the audience.

The second video, called "Stop the Madness," focuses on the rapid increase in crime among juvenile offenders.⁵⁵ It shows the group known as "SOSAD" (Saving our sons and daughters), a group

formed by parents whose children have been killed through teen violence. After the videos, the group discusses them and the reactions that society will have to them when they get out of Giddings.

Values Clarification: In the third to last meeting of the group, the group explores the values that they held before coming to Giddings and how their values have changed. By focusing on what their values are, the staff members hope to show the students the appropriate behavior to use to support such values. In the beginning of the meeting, values are defined as "guidelines for behavior." The group identified the following values that they had before entering Giddings: money, approval, respect, reputation and power. A staff member wrote the values on a board and under each value wrote the behaviors that the juveniles used to gain each value. For example, under "Money" the group members said that they sold drugs and guns. Under "Approval," the group members placed going to parties, using drugs, and getting into trouble. The staff members showed how these values, and their accompanying behaviors, got the students to Giddings. The group then identified the new values they have formed. First on the list for many was freedom, followed by love and family. The "old" values were also included on the list but what changed was the behavior the students would use to fulfill those values. Under "Approval," for example, partying and using drugs was replaced with succeeding in school and being a good parent. The guns and selling drugs previously under "Power" were replaced with education and job success. Staff members show the group that the values that they have shape their behavior and if they ever find themselves in difficult situations, they should remember their values and the proper behavior to fulfill those values.

Future Relationships: In the last substantive meeting of the group, the group discusses how future relationships that they may have will be affected by their offenses. The students are taught that they cannot act defensive or casual if they are asked about their crimes because this will scare the people around them. They must understand that most people will be scared of them if they find out about their offenses. They are taught to try to be honest and up front in telling people about their crimes while taking into consideration others' scared feelings. The staff members role play job and family situations in which people will question the students about their crimes. For example, one student was required to answer to his children when they asked about his crime. Another student was confronted by his girlfriend's father, who asked him about his offense. Trying to tell others about their offenses is very difficult for the students and many have a difficult time role playing such situations.

Feedback Session

The last session of the group consists of feedback from each member of the group about every other member of the group. Each student is picked, and then each group member and staff member tells the student how they feel about him and how they think he performed in the group. Next, each staff member receives feedback from the group. At times the group members recall comical things that went on during the role plays, but for the most part this session is very emotional. Many of the students express gratitude to the staff members and to the other students for helping them to learn how to control their anger and how to express their feelings for the first times in their lives. One student said that he felt that the group was more of a family than he had ever had, because no

one had ever been so supportive of him or interested in his welfare. The staff members tell the students that they hope they have learned from the group experience and advise them as to the specific areas in which each student still needs work. The group ends in hugs and support between the students and the staff members.

SUCCESS OF THE CAPITAL OFFENDER GROUP PROGRAM

Success of the Capital Offender Program may be evaluated from several perspectives, including tests performed on students before and after the group treatment program, staff evaluations of the program, student evaluations of their experiences in the program, and recidivism rates of those juveniles who have participated in the program.

Tests

Analysis of tests administered before and after the group treatment program indicates a significant reduction after treatment in self-reported levels of hostility-aggression which may have predisposed the students to use violence toward others. Students also demonstrate more internal locus of control or greater assumption of personal responsibility for their own actions and greater empathy for their victims after completing the group program.⁵⁶

Perceptions of Staff Members

The staff involved are very enthusiastic about the success of the Capital Offender Group Program. They stress, however that each student in the group is an individual and as such each may respond differently to the group treatment. Among the factors believed by the staff to contribute to the success of the

group are the high structure of the program, the incentive for change provided by a determinate sentence, and the unique nature of the experiential intervention used in the group.⁵⁷ One of the most important factors that may determine whether or not a juvenile returns to crime is where he goes when he leaves Giddings. Although the staff members support the idea of students returning to their families, they know that if they return to the places where their offenses were committed, they are likely to be surrounded by the same anti-social behavior which lead them to Giddings. Unless they have the strength to ignore the negative aspects of their surroundings, the students may fall into the same lifestyle patterns as they did before they entered Giddings. Despite these fears, however, the staff members are proud of the program at Giddings and hope that it will expand and affect programs at other facilities.

Opinions of Youth Involved

Many of the juveniles who have participated in the Capital Offender Group Program are extremely grateful for the opportunity to participate in the program. One student expressed that the group was the best thing that ever happened to him in his life.⁵⁸ For many students, the group experience was the first time that they ever realized why they were committing the crimes they committed. Most of the students who lacked the ability or the opportunity to express their feelings before entering the group, learned how to feel comfortable in expressing emotions about their families, their lives and the group and group members. Being required to express their feelings was extremely difficult for many of the youth involved, but once they expressed their emotions, they feel extremely relieved. For many of the group

members who have broken families, the group becomes like a family to them during the sixteen weeks they are participating. It is the first time in their lives that people around them are so supportive and willing to help and listen to them. For most of the students, it is also the first time that students have developed trust in the people around them.

Most of the juveniles are grateful to the group for teaching them how to control their anger and to express feelings in positive ways. One student expressed that the group experience has helped him to learn how to treat his family and to understand others' feelings. He learned that violence is not the way to solve problems and that there are other ways to deal with people by talking out problems instead of acting them out.⁵⁹ Through group activities, many of the students expressed learning new morals and values. Many of the students who still hold gang affiliations upon entering the group drop such affiliations in response to pressure from the group. Once they leave their gangs, the students often feel more independent and stronger. One student expressed that "the group teaches discipline, respect for yourself and others, and how to live a good life."⁶⁰

Many of the capital offenders at Giddings say that if it was not for getting caught for their homicides when they did, they would be dead or in jail. The Capital Offender Group shows these students that they do not have to live their lives as they were before they entered Giddings and that they can go on to live past their teen years. Another student expressed that the group showed him who he was and what he was capable of doing but how to keep from committing other crimes by letting out his anger in more positive ways.⁶¹

Recidivism Rates

Will these capital offenders kill again? The majority of the juveniles at Giddings leave the facility no later than their twenty-first birthdays and are free without prison records. One of the goals of the Capital Offender Group is that the therapy provided will teach the students how to deal with emotions in positive ways rather than in the negative ways they were accustomed to when they came to Giddings.⁶² Based on limited TYC studies, the Capital Offender Group Program has been fairly successful in preventing future criminal activity.

Recidivism is often considered a yardstick of the juvenile justice system's success or failure. The TYC is required by the legislature to calculate recidivism by following juveniles for three years after release from a TYC facility. According to the TYC, a recidivist is a releasee who is arrested for a new juvenile offense, replaced in a TYC facility or arrested and incarcerated as an adult during the follow-up period.⁶³ The TYC has followed juveniles released from various treatment programs, including the Capital Offender Program, and has compared the rate of recidivism for such juveniles with juveniles at Giddings who were not involved in such programs. However, because the Capital Offender Group Program is fairly new, the TYC has not been able to follow a large amount of juveniles to use as a sample size.

Overall Recidivism Rates **Overall Recidivism Rates** **(for all crimes)⁶⁴**

Adult offenders:	60-70%
Youth offenders:	50-60%
Giddings students:	app. 30%
C.O.G. members:	app. 17%

Additionally, TYC has followed some Capital Offender Group members for one and three year periods following their release to find out if any of them have been arrested for capital offenses. Of the forty-six students followed, only one student who has been through the Capital Offender Group Program has been arrested for a capital offense. The number for capital offenders who did not participate in the program is slightly higher.⁶⁵ The conclusion of the TYC based on these statistics is that specialized treatment programs such as the Capital Offender Group Program have generally significantly lowered recidivism rates for offenses overall but the Capital Offender Program has not led to measurable significant differences in recidivism for the specific offense treated.⁶⁶

The Future of the Capital Offender Group Program

Due to lack of professional resources and the rapid increase of juveniles committed to Giddings for homicide, many students are unable to participate in the Capital Offender Group Program. For this reason, staff members at Giddings hope to expand the program by training new staff members. During the last group module, a new group started and while this group is in the middle of its schedule, a new capital offender group will begin. As discussed, the program is an extremely intense and emotional experience for the staff involved so they are encouraged to take breaks before starting a new group.

Students in the group express hope that more students will be able to go through the program and that more facilities will start such treatment programs.

The Importance of the Capital Offender Group to the Juvenile Justice System

The success of the Capital Offender Group Program is important for all involved in the juvenile justice system. With juvenile homicides rapidly on the rise, new methods must be used to try to educate and rehabilitate some of the juvenile offenders. The students in the Capital Offender Group Program express hope that other facilities use the treatment that they received, so that other juveniles like them may be rehabilitated. If it was not for the Capital Offender Group Program, many of the juveniles say that they would probably return to a life of crime when they leave Giddings. What they learn in the program helps these students to live more productive lives. Although success of the treatment varies depending on the particular juvenile, it is clear that the rehabilitation of those juveniles who do learn from the program may save their own lives and the lives of others.

* B.B.A., University of Texas at Austin, 1990; J.D., University of Texas at Austin, 1993.

1. Linda S. Reyes, A Treatment Program for Juvenile Homicide Offenders: Impact on hostility-aggression, empathy, and locus of control (1990) (unpublished Ph.D. dissertation, University of Texas (Austin)), p. 36.

2. Linda S. Reyes and Nicolas Carrasco, Giddings State Home and School, Capital Offender Group Program 3 (February 1993).

3. Texas Youth Commission Report, Recidivism of Specialized Treatment Populations: One and Three Year Time Periods (prepared November 1992).

4. Paul A. Strasburg, *Violent Delinquents* 129 (1978).

5. Edgardo Rotman, *Beyond Punishment* 166 (1990).

6. *Id.*

7. Strasburg, *supra* note 4, at 1.

8. Reyes, *supra* note 1, at 1.

9. Dale Mann, *Intervening with Convicted Serious Juvenile Offenders* 11 (1976).

10. For further information regarding the type of group psychotherapy model used for the Capital Offender Group Program, See Irvin D. Yalom, *The Theory and Practice of Group Psychotherapy* (1985).

11. Mann, *supra* note 9 at 29.

12. Observation of Capital Offender Group Program and Questionnaire filled out by students of the Capital Offender Group Program at Giddings State Home and School (March-July

1993).

13. Mann, *supra* note 9 at 20.

14. *After School Special: Making It - Learning How Not to Hurt* (Television broadcast, May 27, 1993)(tape on file with the Giddings State Home and School)[hereinafter *After School Special*].

15. Mann, *supra* note 9 at 32, 33.

16. Strasburg, *supra* note 4 at 135.

17. *Id.*

18. Reyes, *supra* note 1 at 36.

19. Information received on tour of Giddings State Home and School by Mr. William Bradbury, Volunteer Coordinator at Giddings State Home and School (March 26, 1993).

20. Telephone Interview with Ms. Judy Hart, Ph.D level psychologist and current Capital Offender Program staff member at Giddings State Home and School (April 16, 1993).

21. *Juvenile Justice, Texas Crime, Texas Justice*, 1992, at 27, 34.

22. Reyes, *supra* note 1, at 42.

23. Interview with Giddings student, Giddings State Home and School (Mar. 26, 1993).

24. Adapted from *KTBC Channel 7 News Special Report: Kids Who Kill* (KTBC television broadcast, July 10-14, 1993).

25. Reyes, *supra* note 1, at 42.

26. *Id.*

27. *Id.* at 1.

28. *Id.*

29. Telephone Interview with Ms. Judy Hart, *supra* note 20.

30. Interview with Dr. Nicolas Carrasco, Director of Psychological Services, at the Giddings State Home and School (Mar. 26, 1993).

31. Reyes and Carrasco, *supra* note 2 at 2, 3.

32. *Id.* at 3.

33. Information received on tour of Giddings, *supra* note 19.

34. *After School Special*, *supra* note 14.

35. *KXAS News Special Report: Anatomy of a Teen Killer* (KXAS television broadcast, Oct. 1, 1992)(videotape on file with the Giddings State Home and School)[hereinafter *KXAS News*].

36. Reyes and Carrasco, *supra* note 2 at 3.

37. Questionnaires filled out by students of the Capital Offender Group Program at Giddings State Home and School (March-July 1993)[hereinafter Questionnaires].

38. Reyes and Carrasco, *supra* note 2, at 3.

39. *Id.*

40. Reyes, *supra* note 1 at 11.

41. Reyes and Carrasco, *supra* note 2 at 1, 2.

42. Reyes, *supra* note 1 at 15, 16.

43. Strasburg, *supra* note 4 at 56-58.

44. *After school special*, *supra* note 14.

45. Reyes, *supra* note 1, at 3.

46. *Id.* at 17.

47. *Id.*

48. *Id.* at 18, 19.

49. Reyes and Carrasco, *supra* note 2, at 2.

50. Interview with Giddings student *supra* note 23.

51. Telephone Interview with Ms. Judy Hart, *supra* note 20.

52. The Crime Role Play section has been the focus of several newspaper articles, news reports and television shows including *Eye On America*, *Sixty Minutes*, and an after-school special.

53. *Crimes of Violence: Hosted by Mr. Lou Gosset Jr.* (Television broadcast viewed in Capital Offender Group session) (tape on file with the Giddings State Home and School).

54. *Geraldo: Kids Who Kill Kids* (television broadcast) (tape on file with the Giddings State Home and School).

55. *Stop the Madness*, (video prepared by Jerome Thomas, Detroit 1988)(video on file with the Giddings State Home and School).

56. Reyes and Carrasco, *supra* note 2 at 3.

57. *Id.* at 4.

58. Questionnaire

59. *KTBC News Special* (KTBC television broadcast, July 10-14, 1993).

60. *Id.*

61. *Id.*

62. Adapted from *KTBC News* (KTBC television broadcast, Feb. 1987).

63. *Juvenile Justice*, *supra* note 21, at 38.

64. Information provided by the Texas Youth Commission (July 1993).

65. Texas Youth Commission Report: Treated Capital Offenders Arrested Within 1 Year For Capital Offense, and Texas Youth Commission Report: Treated Capital Offenders Arrested Within 3 Years For Capital Offense (1993).

66. Texas Youth Commission Report, *supra* note 3.

REVIEW OF RECENT CASES

Official Citations to Cases Previously Reported

¶ 93-2-3. **In the Matter of C.D.F.**, 852 S.W.2d 281 (Tex.App.—Dallas 1993).

¶ 93-2-4. **State v. Langley**, 852 S.W.2d 208 (Tex.App.—Corpus Christi 1993).

¶ 93-2-9. **Griego v. State**, 853 S.W.2d 664 (Tex.App.—Houston [1st Dist.] 1993).

¶ 93-2-11. **In re G.A.O.**, 854 S.W.2d 710 (Tex.App.—San Antonio 1993).

¶ 93-2-12. **In the Matter of J.K.A.**, 855 S.W.2d 58 (Tex.App.—Houston [14th Dist.] 1993).

APPEAL — MOTION FOR NEW TRIAL REQUIRED TO PRESERVE FACTUAL SUFFICIENCY CLAIM

¶ 93-3-1. **In the Matter of M.R.**, ___ S.W.2d ___, No. D-3583, 1993 WL 209179 (Tex. 1993) [*Texas Juvenile Law* 172 (3rd Ed. 1992)].

Facts: Appellant was adjudicated delinquent under the Determinate Sentence Act for murder and was given a sentence of twenty-five years by the jury. The Court of Appeals held that in juvenile proceedings, unlike in other proceedings, a motion for new trial is not necessary to preserve a claim of factual sufficiency for appeal. It also held that a motion for new trial is not necessary to preserve a juror misconduct claim if the record already shows the evidentiary basis for the claim. It then found the evidence factually sufficient and denied relief on the juror misconduct claim. In the Matter of M.R., 846 S.W.2d 97 (Tex. App.—Fort Worth 1992)(*Juvenile Law Newsletter* ¶ 93-1-6). Both parties filed an application with the Texas Supreme Court for writ of error.

Held: Writs denied.

Opinion: "Before 1973 we held that juvenile proceedings were governed 'as far as

practicable' by the rules of civil procedure. *Brenan v. Court of Civil Appeals, Fourteenth Dist.*, 444 S.W.2d 290, 292 (Tex. 1968). In 1973, with the enactment of Title 3 of the Texas Family Code, however, the legislature replaced the 'as far as practicable' limitation with the provision that 'Except when in conflict with a provision of this title, the Texas Rules of Civil Procedure govern proceedings under [Title 3].' Tex.Fam.Code § 51.17. Nothing in Title 3 conflicts with the Rules of Civil Procedure requirement of motions for new trial as a prerequisite to assert evidentiary and procedural errors, including factual sufficiency and juror misconduct challenges. Tex.R.Civ.P. 324(b). We disapprove the court of appeals' holding that juveniles appealing delinquency judgments are exempt from this procedural requirement."

DETERMINATE SENTENCING ACT — STATE'S WAIVER OF RIGHT TO PROCEED UNDER STATUTE PRECLUDES DETERMINATE SENTENCE

¶ 93-3-2. **In the Matter of A.G.G.**, ___ S.W.2d ___, No. 05-92-01610-CV, 1993 WL 261558 (Tex. App.—Dallas 1993) [*Texas Juvenile Law* 188 (3rd Ed. 1992)].

Facts: Appellant was alleged in a delinquency petition to have committed the offense of murder. The State presented the petition to the grand jury, which approved it under the Determinate Sentence Act. Later, the State filed a written waiver of its right to proceed under the Determinate Sentence Act. The waiver was filed with and acknowledged by the juvenile court. Appellant then plead true to the petition and the juvenile court found him to be a delinquent child. The juvenile court then imposed a sentence of twenty years under the Determinate Sentence Act. On appeal, appellant contended that the State had waived its right to proceed under the Determinate Sentence Act and it should be held to that waiver.

Held: Reversed and remanded for new trial.

Opinion: "Appellant correctly argues that when the State filed its written waiver of its right to proceed under the determinate sentence provision of section 53.045, it effectively nullified the action of the grand jury, as well as the authority of the trial court to enter a determinate sentence. Furthermore, sections 51.17 and 54.03 of the Family Code . . . provide that the Texas Rules of Civil Procedure will govern proceedings in juvenile cases. Texas Rules of Civil Procedure 301 provides that the judgment entered must conform to the pleadings. The judgment in this case did not conform to the pleadings after the State waived its right to proceed under the provisions of section 53.045."

[Editor's Comment: *Although the opinion is not entirely clear on this point, it appears that the Court of Appeals reversed the adjudication as well as the disposition in this case. The Court of Appeals remanded "for a new trial." Reversal of both would be the correct result if there was any showing that the appellant entered the plea of true upon which the adjudication was based because of the State's waiver.]*

ADJUDICATION PROCEEDINGS — FAILURE TO APPOINT GUARDIAN AD

LITEM REVERSIBLE ERROR

¶ 93-3-3. **In the Matter of A.G.G.**, ___ S.W.2d ___, No. 05-92-01610-CV, 1993 WL 261558 (Tex. App.—Dallas 1993) [*Texas Juvenile Law* 66 (3rd Ed. 1992)].

Facts: Appellant was adjudicated delinquent for murder and given a determinate sentence of twenty years. On appeal, he contends the juvenile court erred in failing to appoint a guardian-ad-litem for him.

Held: Reversed and remanded for new trial.

Opinion: "[P]oint of error number six complains that the trial court erred by its failure to appoint a guardian ad litem in accordance with section 51.11 of the Family Code.... We agree. The State argues that appellant's grandmother appeared in court and rendered friendly support and guidance, and further that no harm has been shown. A review of the record reflects that the grandmother not only failed to render friendly support and guidance, but was in fact called as a State's witness against the juvenile. In accordance with *Flynn v. State*, 707 S.W.2d 87, 88-89 (Tex.Crim.App. 1986), we hold that the court committed reversible error by its failure to appoint a guardian ad litem for the minor."

SUMMONS — DIRECTING SERVICE ON ONLY ONE PARENT SUFFICIENT

¶93-3-4. **In the Matter of P.C.**, ___ S.W.2d ___, No. 01-92-00900-CV, 1993 WL 196084 (Tex. App.—Houston [1st Dist.] 1993) [*Texas Juvenile Law* 78 (3rd Ed. 1992)].

Facts: A motion to certify appellant to criminal court was filed. The juvenile court ordered that a summons be served only on the appellant's mother, not his father. His mother was served and appeared at the hearing. On appeal from the transfer to criminal court, appellant contends that failing to order service on his father was error.

Held: Affirmed.

Opinion: Family Code Section 53.06(a) provides, "The juvenile court shall direct issuance of a summons to: (1) the child named in the petition; (2) the child's parent, guardian, or custodian...." "The appellant argues the juvenile court was required to direct the issuance of a summons to his father because his father was a 'parent' under the statute. While it is true his father is a parent, it is equally true his mother is a parent, and the summons was issued to her. Section 53.06(a)(2) specifically states, 'the child's parent' in the singular. It does not require both parents be issued a summons." Prior cases held the same way. See *K.M.P. v. State*, 701 S.W.2d 939 (Tex. App.—Fort Worth 1986, no writ); *In re Edwards*, 644 S.W.2d 815 (Tex. App.—Corpus Christi 1982, writ ref'd n.r.e.

ADJUDICATION PROCEEDINGS —PRESUMPTION FROM UNEXPLAINED

POSSESSION OF RECENTLY STOLEN PROPERTY APPLIED IN BURGLARY

¶ 93-3-5. **In the Matter of J.T.B.**, UNPUBLISHED, No. 05-92-02006-CV, 1993 WL 195889 (Tex. App.—Dallas 1993) [*Texas Juvenile Law* 102 (3rd Ed. 1992)].

Facts: "Tommy Peebles, the complainant, testified that he observed appellant and another juvenile standing behind his backyard fence and looking into his yard. A short time later, Peebles heard a knock on his front door, but no one was there when he opened the door. Peebles went to buy a lock for a storage shed located in his backyard because he was concerned about the security of equipment in the shed. When he returned the storage shed's doors were open and two motorcycles were missing. He then heard a motorcycle being started in a field behind his home. Peebles testified that he also heard voices stating 'that if they didn't hurry up and get the motorcycles started, they could get caught and sent to jail.' Peebles got in his truck, drove down the road, and found appellant and another juvenile pushing his motorcycles." Appellant was adjudicated delinquent for burglary and placed on probation in his own home. He appeals, contending the evidence is insufficient to support the adjudication.

Held: Affirmed.

Opinion: At the adjudication hearing, appellant testified that he and a couple of friends were riding horses when two individuals on motorcycles approached and asked them if they wanted to ride the motorcycles. He drove one of the motorcycles down the street and was coming back when Peebles stopped him. "Appellant asserts that the evidence presented at trial established only that he was in possession of the stolen motorcycles. Without any direct evidence showing that he entered the storage shed, appellant argues that the evidence is insufficient to prove beyond a reasonable doubt that he committed the burglary. When there is independent evidence of a burglary, the unexplained possession of recently stolen goods constitutes sufficient evidence to sustain a conviction for burglary. We note that appellant offered an explanation for his possession of the stolen property. We also note that a reasonable explanation for the possession of recently stolen property will refute the inference of guilt raised by the possession. However, whether the explanation is reasonable is a question of fact. The fact finder is not bound to accept an appellant's explanation for possession of recently stolen property. In this case, there is no evidence to corroborate appellant's explanation. What the evidence does show is that a burglary of a building occurred, appellant was seen near the storage shed looking into Peeble's backyard just prior to the burglary, and appellant had possession of the stolen property after the burglary. We hold that the trier of fact had sufficient evidence to conclude that appellant's explanation for possession of the stolen property was false and that appellant committed the offense of burglary.

CRIMINAL PROCEEDINGS — PENALTY PROVISION ADMITTING JUVENILE FELONY ADJUDICATIONS DOES NOT VIOLATE SEPARATION OF POWERS

¶ 93-3-6. **Jackson v. State**, ___ S.W.2d ___, No. 05-92-00508-CR (Tex. App.—Dallas

1993) [*Texas Juvenile Law* 136 (3rd Ed. 1992)].

Facts: At the penalty phase of appellant's trial on two aggravated robberies, the trial court permitted testimony by appellant's juvenile probation officer about appellant's juvenile record: that he had been adjudicated of aggravated assault and felony theft. Appellant was sentenced to twenty-one years' imprisonment. On appeal, he contended that the provision of Code of Criminal Procedure article 37.07(3)(a) is unconstitutional under the doctrine of separation of powers.

Held: Affirmed.

Opinion: Texas Constitution article II, section 1 mandates a separation of powers into the legislative, executive and judicial. "This provision is violated when (1) one branch of government assumes, or is delegated, power that is more properly attached to another branch; or (2) one branch unduly interferes with another branch so that the other branch cannot effectively exercise its constitutionally assigned powers." Jackson contends that the provision authorizing the admission of juvenile felony adjudications in adult penalty proceedings is "an evidentiary rule masquerading as a procedural rule. The legislature impermissibly encroached upon the authority of the judiciary by enacting article 37.07(3)(a) because the Texas Court of Criminal Appeals is charged with the duty of promulgating rules of criminal evidence." Government Code section 22.109(b) authorizes the Court of Criminal Appeals to promulgate criminal rules of evidence, but also provides, "The rules and amendments to rules remain in effect unless and until disapproved by the legislature." Texas Constitution art V, sec 31(c) specifically authorizes the legislature to delegate powers of promulgating rules to the Court of Criminal Appeals. "[A]rticle V, section 31 of the constitution and section 22.109 of the government code expressly reserve the legislature's right to disapprove of rules promulgated by the judiciary.... Assuming arguendo, that article 37.07(3)(a) is a rule of evidence, the legislature's action in promulgating article 37.07 is entirely consistent with the concept of limited delegation articulated in the Texas Constitution, the government code, and the rules of criminal evidence."

CRIMINAL PROCEEDINGS — MISDEMEANOR DELINQUENCY ADJUDICATION INADMISSIBLE EVEN WHEN PROBATION IS REVOKED FOR A FELONY

¶ 93-3-7. **Murphy v. State**, ___ S.W.2d ___, No. 2-93-003-CR, 1993 WL 283417 (Tex. App.—Fort Worth 1993) [*Texas Juvenile Law* 136 (3rd Ed. 1992)].

Facts: Appellant was charged with murder and convicted of voluntary manslaughter. A jury sentenced him to the maximum sentence of twenty years' imprisonment. At the penalty phase of the trial, the criminal court permitted into evidence a juvenile adjudication for a misdemeanor that had led to probation. The probation had been revoked by the juvenile court upon a finding that appellant had committed a felony while on probation. Appellant contends on appeal it was error to admit that evidence.

Held: Punishment judgment reversed and remanded for new hearing.

Opinion: Code of Criminal Procedure art. 37.07, sec. 3(a) permits a juvenile felony adjudication to be admitted into evidence. This was a misdemeanor adjudication but the juvenile court at a hearing to modify disposition had revoked probation based upon a finding that appellant had committed a felony while on probation. However, this was not the equivalent of an adjudication of a felony because none of the procedural requirements of Section 54.03 was met, including extending to appellant the right of trial by jury. Therefore, it was error to admit this adjudication into evidence. Under all the circumstances, including the nature of the juvenile felony violation (aggravated assault with a deadly weapon), the arguments of the prosecutor (juvenile record shows appellant is a violent person), and the sentence imposed (the maximum for voluntary manslaughter), the Court of Appeals concludes it cannot say beyond a reasonable doubt that the error was harmless.

ATTORNEY GENERAL — JUVENILE COURTS MAY DESIGNATE MULTIPLE JUVENILE PROCESSING OFFICES
ATTORNEY GENERAL — JUVENILE COURTS MAY DESIGNATE MULTIPLE JUVENILE PROCESSING OFFICES

¶ 93-3-8. Letter Opinion No. 93-38 (5-18-93) [*Texas Juvenile Law* 157 (3rd Ed. 1992)].

The Attorney General was asked whether under Section 52.025, added by the legislature in 1991, a juvenile court could designate more than one juvenile processing office in the county and whether more than one location in a law enforcement facility could be designated.

The Attorney General responded affirmatively to both questions. "Although section 52.025 refers to the designation and use of 'an office' or 'a room' or 'the office' we believe that the intent to expedite the process while maintaining a specific type of atmosphere supports the conclusion that a juvenile court may designate an office or a room, or more than one of each, as a juvenile processing office in each police facility and sheriff's office within the court's jurisdiction." The Attorney General also notes, "Furthermore, ... there are potential policy concerns which would lead us to the same conclusions. For example, it would be imprudent to hold juveniles who are members of opposing gangs within the same room. Similarly, overcrowded conditions which could result from the use of a single room or office within the facility pose a potential danger to the juveniles in custody, as well as law enforcement personnel."