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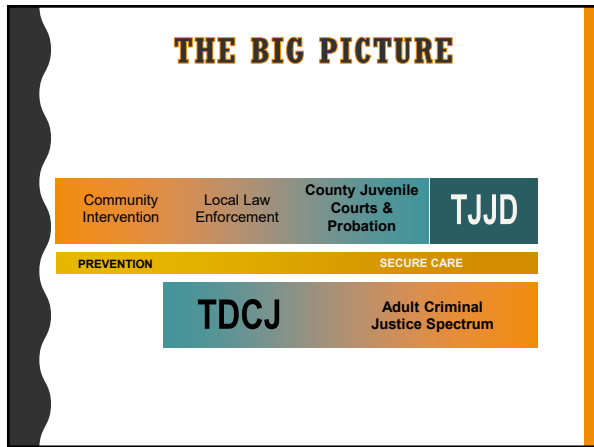
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- JUVENILE PROBATION DEPARTMENTS**
- 166 probation departments
  - 48 secure detention facilities
  - 35 post-adjudication correctional facilities
  - 6 non-secure facilities

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## TEXAS JUVENILE JUSTICE DEPARTMENT

- Operates 5 Secure Facilities
- Operates 7 Halfway Houses
- Provides Funding to Juvenile Probation Departments
- Adopts Standards for Probation Departments and Facilities
- Monitors and Inspects Probation Departments and Facilities
- Certifies Juvenile Probation, Supervision, and Community Activities Officers

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## CASE LAW HISTORY

- ***Kent v. U.S.*** (1966) - Established due process rights for juveniles facing transfer to adult system
- ***In Re Gault*** (1967) - Established that the due process clause of 14<sup>th</sup> amendment applies to juveniles as well as adults

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## CASE LAW HISTORY

- ***Roper v. Simmons*** (2005) - No death penalty for juveniles (under 18)
- ***Graham v. Florida*** (2010) - No life without parole for non-homicide offenses committed by juveniles (under 18)
- ***Miller v. Alabama*** (2012) - No mandatory life without parole for juveniles (under 18)

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## SYSTEMS COMPARISON

### ADULT

Criminal  
Public  
Punishment-Based  
Right to Counsel  
Beyond a Reasonable Doubt  
*Miranda* applies

### JUVENILE

Civil  
Confidential  
Rehabilitation-Based  
Right to Counsel  
Beyond a Reasonable Doubt  
*Miranda* + additional protections

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## TERMINOLOGY COMPARISON

### ADULT

Warrant  
Arrested  
Jailed  
Bail/Bond  
Defendant  
Criminal Offense  
Indictment/Information  
Trial  
Guilty/Not Guilty  
Conviction  
Sentence

### JUVENILE

Directive to Apprehend  
Taken Into Custody  
Detained  
Released to Parent  
Respondent  
Delinquent Conduct or CINS  
Petition  
Adjudication Hearing  
True/Not True  
Adjudication  
Disposition

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## RELEVANT STATUTES

- Family Code
- Rules of Civil Procedure
- Code of Criminal Procedure
- Penal Code
- Health and Safety Code
- Transportation Code
- Education Code
- Human Resources Code

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## WHO IS A CHILD?

- “Person who is 10 years of age or older and under 17 years of age” or
- “Person who is 17 years of age or older and under 18 years of age who is alleged or found to have engaged in delinquent conduct or CINS as a result of acts committed before becoming 17 years of age”
- For TJJD, includes person up to 19 who was committed to TJJD.

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## AGE LIMITATIONS

<b>10</b>	Minimum Age for Juvenile Court Jurisdiction
<b>14</b>	Minimum Age for Certification as Adult - Certain Offenses <i>Capital, 1st Degree, Aggravated Controlled Substance Felony</i> <i>Exception: Age 10 for capital felony or murder if post-18 certification</i>
<b>15</b>	Minimum Age for Certification - All Other Felonies
<b>17</b>	Age at Which Criminal Court Jurisdiction Begins <i>Exceptions: Fine Only and Local Ordinances - age 15 (rebuttable presumption incapable of committing between 10 and 14); Perjury. No limit if understands nature and obligation of oath</i>
<b>18</b>	Maximum Age for Juvenile Court Jurisdiction <i>Exceptions: TPC §§ 51.041; 51.0411; 51.0412; 54.02; 54.051</i> <i>(Appeal, Transfer/Release Hearing, Incomplete Proceedings, Post-18 Certification)</i>
<b>19</b>	Maximum Age for TJJD Jurisdiction Maximum Age for Juvenile Court Jurisdiction (Det. Sentence Probation) <i>TPC §§ 54.04; 54.0451; HRC § 245.151</i>

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## DELINQUENT CONDUCT

- Jailable misdemeanors
- Felonies

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## **CONDUCT INDICATING A NEED FOR SUPERVISION (CINS)**

- Non-traffic fine-only that has been referred to juvenile court
- Runaway
- Huffing
- School violation that results in expulsion
- "Sexting" (43.261, PC)
- Prostitution

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## **STATUS OFFENSES**

- Conduct that would not be a violation if committed by an adult
  - Runaway
  - Curfew violations
  - MIP

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## **PROCESS: FROM POLICE CONTACT TO COURT**

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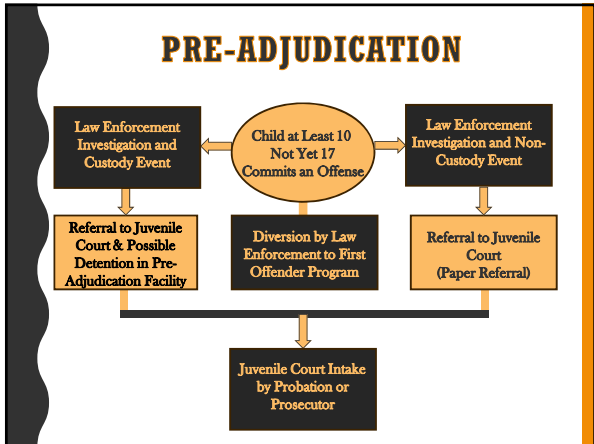
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### JUVENILE DETENTION

- Must release unless intake finds:
  - Child is likely to abscond or be removed from jurisdiction of court
  - Suitable supervision not being provided
  - No parent/guardian/other person able to return child to court when required
  - Child may be dangerous to self or public if released
  - Prior finding of delinquent conduct or conviction (MB or higher) and child likely to commit offense if released
- Judge must make probable cause finding within 48 hours of detention

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### MANDATORY DETENTION

- Detention mandatory if alleged to have used, possessed, or exhibited firearm in commission of offense
- Only judge can release

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## DETENTION HEARING

- Hearing - entitled to attorney
  - no later than 2<sup>nd</sup> business day after detention (except Friday detention, hearing due Monday)
  - Supreme Court rule says next business day (acknowledges exception)
  - subsequent hearings every 10 days (or 15 in certain circumstances)

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## NON-COURT DISPOSITION

- Supervisory Caution (Counsel and Release)
  - Can include referral for services
- Deferred Prosecution
  - Includes supervision and services
  - If successful, case dismissed

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## JUVENILE COURT

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## **CERTIFICATION**

- Transfer case to adult criminal court for prosecution
- Eligibility based on age and offense

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## **ADJUDICATION HEARING**

- Jury Trial or Bench Trial
- Determine if allegations True or Not True

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## **DISPOSITION HEARING**

- Jury only for determinate sentence
- No disposition unless child is in need of rehabilitation or protection of the public or child requires that disposition be made
- Court considers social history and risk and needs assessment

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## **DISPOSITION OPTIONS**

- Probation (regular or determinate sentence)
- TJJD Commitment (determinate or indeterminate)
- Restitution
- Drivers License Suspension (certain offenses)

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## **REGULAR PROBATION**

- At home or in a placement
- Set period of time
- Conditions
- Extension through Motion to Modify
- Must end by age 18

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## **DETERMINATE SENTENCE PROBATION**

- For sentence 10 years or less
- Can be for any period up to 10 years
- Discharged or transferred to adult probation at 19
  - Hearing required to transfer
  - Can discharge at hearing
  - If no hearing, automatic discharge at 19

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## SEVERITY RATING

Based on Committing Offense (most serious)

	Weapon Used, Sex Felony, Crime Against Person?	
	YES	NO
HIGH	Capital Offense, All 1st Degree Felonies, 2nd Degree Murder, Manslaughter, or Sexual Assault	N/A
MODERATE	All Other 2nd Degree Felonies, All 3rd Degree and State Jail Felonies	1st Degree Felonies
LOW	N/A	2nd Degree, 3rd Degree, and State Jail Felonies

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## ASSESSMENT FACTORS

- Total Number of Misdemeanor and Felony Arrests and Referrals **HIGH**
- Number of Felony Arrests or Referrals for Offenses Against a Person
- Number of Misdemeanor and Felony Convictions and Adjudications **MEDIUM**
- Age at Commitment
- Whether Youth had Residential Placements Prior to Commitment **LOW**

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## COMPUTING MLOS

		SEVERITY RATING		
		HIGH	MODERATE	LOW
ASSESSMENT RATING	HIGH	24 MONTHS	15 MONTHS	12 MONTHS
	MEDIUM	18 MONTHS	12 MONTHS	9 MONTHS
	LOW	15 MONTHS	12 MONTHS	9 MONTHS

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## RELEASE

- Completion of MLOS and Program = Parole
- Release Review Panel
  - Can extend stay only if clear and convincing evidence in need of rehabilitation and TJJD best place for that
- Will be discharged at age 19 if not earlier

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## TJJD DETERMINATE SENTENCE

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## MINIMUM PERIOD OF CONFINEMENT

- 10 years: Capital Murder
- 3 years: First Degree Felony or Aggravated Controlled Substances Felony
- 2 years: Second Degree Felony
- 1 year: 3<sup>rd</sup> Degree Felony
- Credit for time served

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### **POSSIBLE TRANSFER TO TDCJ-CID**

- At least 16
- At least six months spent in high-restriction facilities
- Meet at least one of the following:
  - Committed felony or Class A misdemeanor while at residential facility
  - Had major rule violations found true at Level 2 Hearing at least 3 times
  - Had 5 security admissions/extensions in one month (10 in 3 months)
  - Demonstrated unwillingness to progress in his/her rehabilitation program due to persistent non-compliance
- Alternative interventions tried without success
- Conduct indicates welfare of community require transfer

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### **POSSIBLE RELEASE TO TJJD PAROLE**

- Program complete, including completion of MPC

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### **COMPLETES MPC BUT NOT RELEASED TO TJJD PAROLE**

- TJJD decides whether to request transfer hearing or not
- If no hearing, youth transfers to TDCJ parole at age 19
- If hearing, court decides if youth will transfer to TDCJ - CID

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## UNABLE TO COMPLETE MPC

- TJJD always requests hearing
- Whether to recommend TDCJ-CID or not is based on:
  - Length of stay at TJJD
  - Progress in rehabilitation program
  - Behavior and offense history
  - Risk and protective factors
  - Welfare of community

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## TJJD PAROLE AND DISCHARGE

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## PAROLE: RE-ENTRY AND REINTEGRATION

- Re-entry planning begins when a youth arrives at TJJD
- During a youth's stay, a home evaluation is conducted by a parole officer
- Positive contacts with parents, family members, and other significant persons enhance a youth's successful re-entry into the community

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## **PAROLE: MONITORING YOUTH**

- Parole officers verify a youth's location, daily schedule, and required activities
- Youth on parole have regularly scheduled office appointments with their parole officer plus unscheduled visits by staff at school, work, and home
- Failure to comply with conditions of parole, including committing new offenses, can result in parole revocation

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## **DISCHARGE**

- Discharged after successful completion of parole
- All youth discharged by age 19

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## **QUESTIONS?**

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## ADDITIONAL INFORMATION

**Juvenile Law Section, State Bar of Texas**  
[www.juvenilelaw.org](http://www.juvenilelaw.org)

**TJJD Legal Help Desk**  
512-490-7121 [legalhelp@tjtd.texas.gov](mailto:legalhelp@tjtd.texas.gov)

**Jenna Reblin**  
512-490-7619 [jenna.reblin@tjtd.texas.gov](mailto:jenna.reblin@tjtd.texas.gov)

**Kaci Singer**  
512-490-7623 [kaci.singer@tjtd.texas.gov](mailto:kaci.singer@tjtd.texas.gov)

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