A TO A: FROM ARREST TO APPEAL NUTS AND BOLTS OF THE JUVENILE JUSTICE SYSTEM

PRESENTED BY THE:





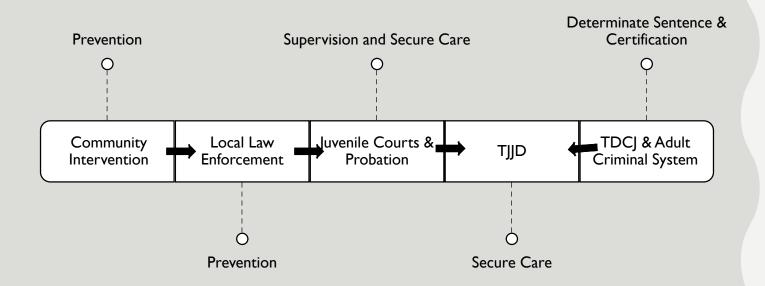
Sam Smith
15 years old
Arrested for Aggravated Robbery

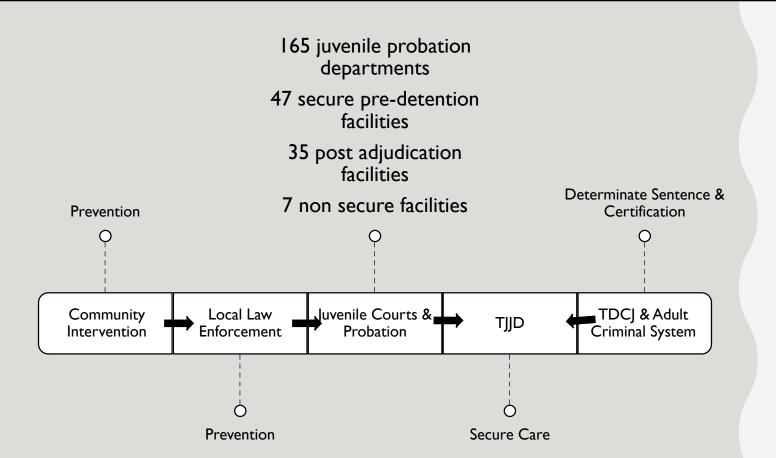


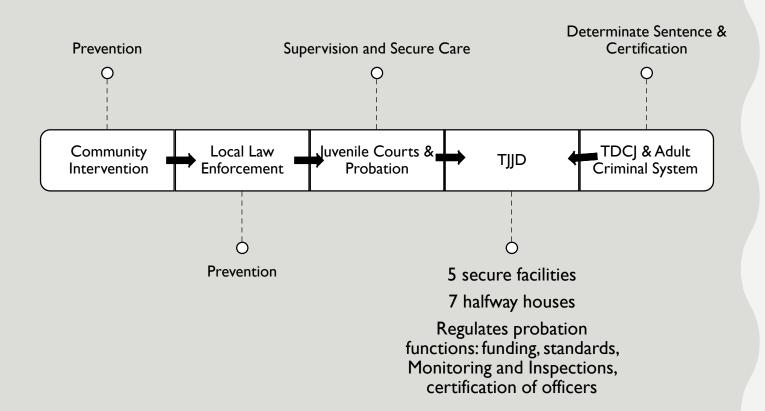


WHAT IS THE PURPOSE?

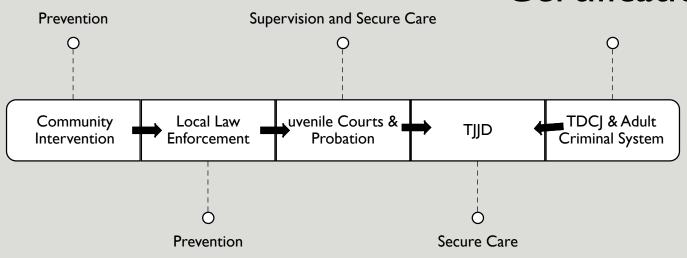
The primary purpose of the Juvenile Justice Code is "(1) to provide for protection of the public and public safety; (2) consistent with protection of the public and public safety...(C) to provide treatment, training and rehabilitation that emphasizes the accountability and responsibility of both the parent and the child for the child's conduct. FC 51.01

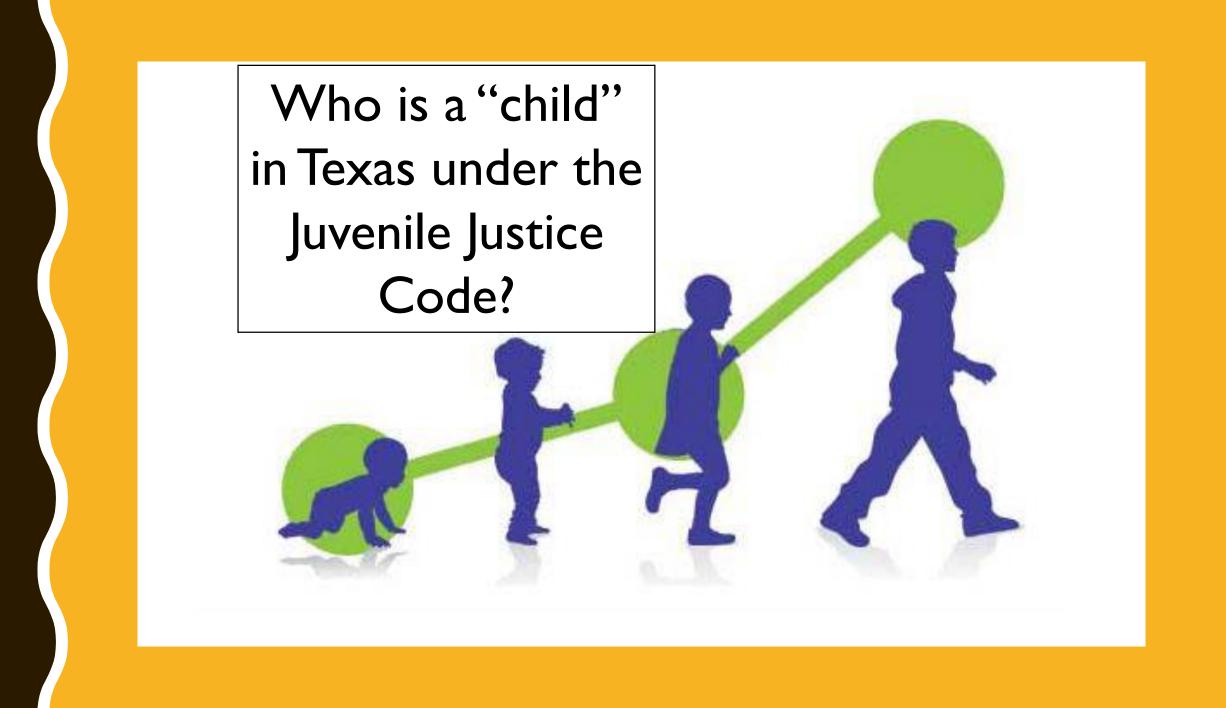






Determinate Sentence & Certification





WHO IS A CHILD?

Under Texas Family Code 51.02(3), child means a person who is:

- "10 years of age or older and under 17 years of age" or
- "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. [Human Resources Code 201.001(2)].

AGE LIMITATIONS

| 10 | Minimum Age for Juvenile Court Jurisdiction | | |
|----|--|--|--|
| 14 | Minimum Age for Certification as Adult – Certain Offenses Capital, 1st Degree, Aggravated Controlled Substance Felony Exception: Age 10 for capital felony or murder if post-18 certification | | |
| 15 | Minimum Age for Certification - All Other Felonies | | |
| 17 | Age at Which Criminal Court Jurisdiction Begins 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 | | |
| 18 | Maximum Age for Juvenile Court Jurisdiction Exceptions: TFC § 51.041; 51.0411; 51.0412; 54.02; 54.051 (Appeal, Transfer/Release Hearing, Incomplete Proceedings, Post-18 Certification) | | |
| 19 | Maximum Age for TJJD Jurisdiction Maximum Age for Juvenile Court Jurisdiction (Det. Sentence Probation) TFC §§ 54.04; 54.0451; HRC § 245.151 | | |



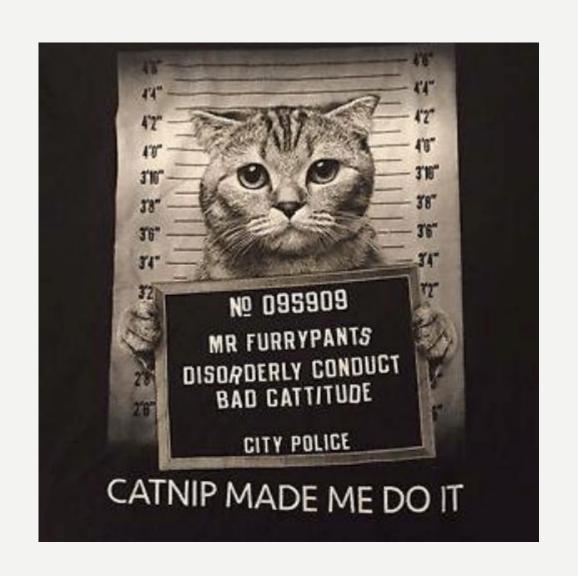
| ADULT | SAME | JUVENILE |
|--------------------------|---------------------------|------------------------------|
| CRIMINAL | | CIVIL |
| PUBLIC | | CONFIDENTIAL |
| | RIGHT TO COUNSEL | |
| | BEYOND A REASONABLE DOUBT | |
| | MIRANDA | PLUS ADDITIONAL PROTECTION |
| WARRANT | | DIRECTIVE TO APPREHEND |
| ARRESTED | | TAKEN INTO CUSTODY |
| BAIL / BOND | | RELEASE / DETENTION HEARINGS |
| DEFENDANT | | RESPONDENT |
| INDICTMENT / INFORMATION | | PETITION |
| GUILTY / NOT GUILTY | | TRUE / NOT TRUE |
| TRIAL / CONVICTION | | ADJUDICATION |
| SENTENCE | | DISPOSITION |

TYPES OF JUVENILE CONDUCT AND STATUS

Delinquent Conduct FC 51.03(a) Conduct
Indicating a Need
for Supervision
FC 51.03(b)

Status Offender FC 51.02(15)

Non-Offender FC 51.02(8)



DELINQUENT CONDUCT

Misdemeanors the child can go to jail for

Felony Offenses

CONDUCT INDICATING A NEED FOR SUPERVISION

- Non-Traffic fine-only offense that has been referred to juvenile court
- Runaway
- Huffing
- School violation that results in expulsion
- Sexting PC 43.261
- Prostitution

STATUS OFFENSES

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

NON-OFFENDER

Under jurisdiction of court for abuse, dependency or neglect

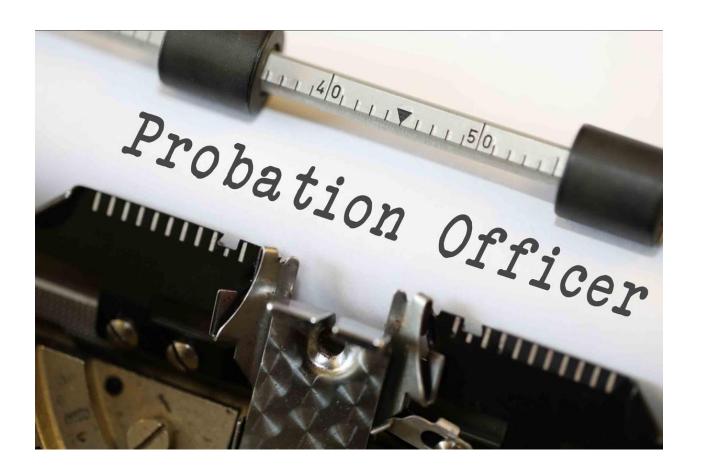
Taken into custody and held solely for deportation

JUVENILE JUSTICE ADVOCATES

- Juvenile Probation
- Prosecution
- Defense Counsel
- Juvenile Courts







PROBATION DEPARTMENT

Assessments

Informal diversion

Formal probation

Services

PROSECUTION

- Case Discretion
- Justice for the Victim
- Community Safety
- Restitution



DEFENSE COUNSEL

- Protects and advocates for the rights of the Juvenile
- Confers with client before hearings, maintains purposeful attorney-client relationship
- Consults with educators, mental health professionals, caseworkers, and other experts



JUVENILE ADVOCACY PROCESS

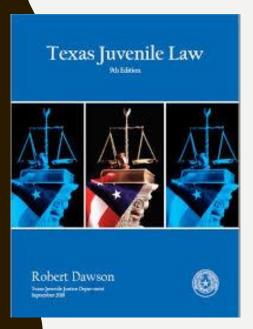
- Arrest / Offense
- Court Proceedings
- Supervision / Placement
- Appeals



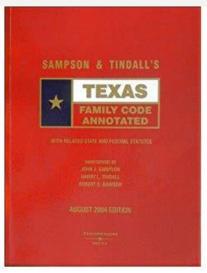
RELEVANT STATUTES

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









RESOURCES & REFERENCES

- Robert Dawson, (2018). Juvenile Law. Texas Juvenile Justice Department.
- Sampson, J., Tindall, H., & England, A. (2018) Texas
 Family Code Annotated. Thompson Reuters
- 2018 Juvenile Justice Handbook. Office of the Texas
 Attorney General. Retrieved from
 https://www.texasattorneygeneral.gov/sites/default/fil
 es/files/divisions/juvenile justice/JuvenileJusticeHandbook.pdf.

PENAL CODE SEC. 29.02 ROBBERY

- (a) A person commits an offense if, in the course of committing theft as defined in Chapter 31 and with intent to obtain or maintain control of the property, he: (1) intentionally, knowingly, or recklessly causes bodily injury to another; or (2) intentionally or knowingly threatens or places another in fear of imminent bodily injury or death.
- (b) An offense under this section is a felony of the second degree.

PENAL CODE SEC. 29.03 AGGRAVATED ROBBERY

- (a) A person commits an offense if he commits robbery as defined in Section 29.02, and he:
- (I) causes serious bodily injury to another;
- (2) uses or exhibits a deadly weapon; or
- (3) causes bodily injury to another person or threatens or places another person in fear of imminent bodily injury or death, if the other person is:
 - (A) 65 years of age or older; or
 - (B) (B) a disabled person.
- (b) An offense under this section is a felony of the first degree.
- (c) In this section, "disabled person" means an individual with a mental, physical, or developmental disability who is substantially unable to protect himself from harm.



NARRATION: CYNDI PROSECUTOR: JOHN

DEFENSE: PATRICK

PROBATION: JILL



PRESUMPTION IN FAVOR OF RELEASE



GROUNDS FOR A JUVENILE TO BE TAKEN INTO CUSTODY FC §52.01

- Juvenile Court Order
- Laws of Arrest
- Pursuant to a Directive to Apprehend
- By Law Enforcement if there is Probable Cause (PC) to believe that the Child has committed a crime or violated a condition of probation.
- By Juv. Probation Officer if there is PC to believe that the Child has violated a condition of probation or a condition of release
- Law Enforcement if Child is in violation of compulsory attendance law and return to Child's school campus to ensure compliance with law.

ARREST

If a child is taken into custody, the officer does not release the child, and the case is referred to juvenile court, the child must be physically taken to the detention facility designated by the juvenile board.

DETENTION CRITERIA § 54.01(E)

Must be released unless:

- might abscond from the jurisdiction of the court; or,
- no suitable supervision being provided to them by a parent or other guardian;
 or
- they would have no parent or guardian able to return them to court; or,
- they would be a danger to themselves or threaten the safety of the public; or,
- they have previously been adjudicated and would likely commit a new offense if released. TFC §54.01

DETENTION TIMELINES § 54.01 (H)

The initial detention hearing CANNOT be waived.

Each Subsequent Detention Order extends for not more than 10 working days, or end of disposition hearing whichever occurs first.

EXCEPTION: in a county without a certified juvenile detention facility cannot more than 15 working days.

DETENTION HEARINGS

What is the role of the:

Judge?

Probation Officer?

Prosecutor?

Defense Attorney?

SAM'S DETENTION HEARING

DEFERRED PROSECUTION FC 53.03

Who is eligible?

When?

Who makes the decision?

How long can it be?

PROSECUTOR'S OPTIONS FOR PROCEEDING SAM'S CASE

Petition?

Determinate Sentence?

Certification?

DETERMINATE SENTENCE

Grand Jury Referral

FC 53.035

Offenses Eligible for Determinate Sentence FC 53.045

CERTIFICATION (AKA WAIVER OF JURISDICTION AND TRANSFER TO CRIMINAL COURT) FC 54.02

PETITION FC 53.04

Who files?

Can more than one offense be included?

Time Set for Hearing FC 53.05

Summons FC 53.06

Service of Summons FC 53.07

BEFORE THE ADJUDICATION HEARING FC 54.03

The summons has been served or service of the summons has been waived (by any party but the child)

Court date is set (or reset)

Sam and his defense attorney come to an agreement with the prosecutor for 18 -month probation intensive supervision to plea true to robbery

MAY SAM WAIVE THE ADJUDICATION HEARING?

ADJUDICATION HEARING 101

Plea: True or Not True

Stipulation of Evidence

Required Admonishments

ADJUDICATION HEARINGS

What is the role of the:

Judge?

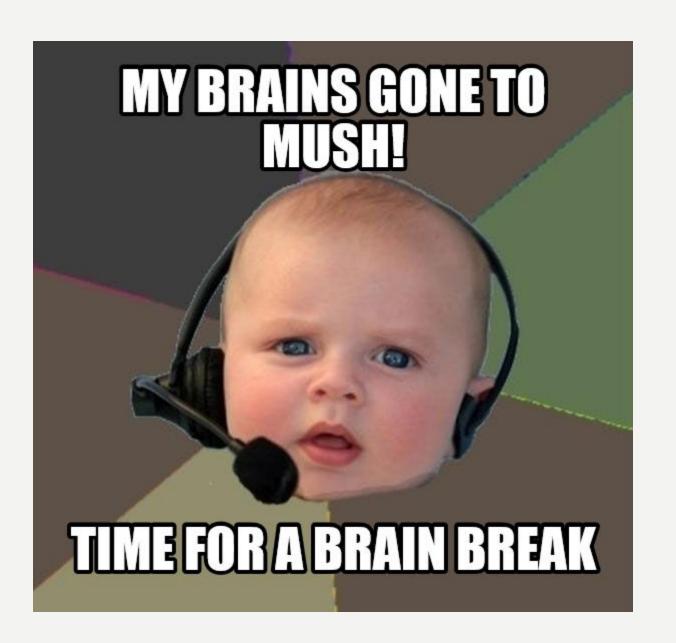
Probation Officer?

Prosecutor?

Defense Attorney?

SAM'S ADJUDICATION HEARING





DISPOSITIONS & MOTIONS TO MODIFY

NARRATION: CYNDI

PROSECUTOR: KIM

DEFENSE: TERRANCE

PROBATION: JILL



DISPOSITION HEARING FC 54.04

- Adjudication decides whether the child engaged in delinquent conduct or conduct indicating a need for supervision
- Disposition determines what will happen to the adjudicated child
- MUST be separate, distinct and subsequent from the adjudication hearing FC 54.04(a)

CAN DISPOSITION BE TRANSFERED TO ANOTHER COUNTY?



CANAJURY DECIDE IN THE DISPOSITION HEARING?

SOCIAL HISTORY REPORT & EVIDENCE

Social history report can only be reviewed after adjudication FC 54.03(d)

Can the jury see the social history report in a determinate sentence jury disposition hearing?

Evidence from the adjudication hearing is allowed

Child's attorney must be given access to the materials reviewed in the disposition hearing. FC 54.04(b)

REQUIRED FINDINGS IN DISPOSITION HEARING AND TYPES OF CONDITIONS

The Child is in need of rehabilitation.

Placed outside of the home - requirements

FC 54.04(i)(1)

DISPOSITION HEARINGS

What is the role of the:

Judge?

Probation Officer?

Prosecutor?

Defense Attorney?

DISPOSITION HEARING

6 MONTHS LATER SAM TESTS POSITIVE FOR MARIJUANA AND STOPPED GOING TO SCHOOL

MOTION TO MODIFY DISPOSITION HEARINGS

What is the role of the:

Judge?

Probation Officer?

Prosecutor?

Defense Attorney?

MOTION TO MODIFY DISPOSITION FC 54.05

COMPLETION OF PROBATION:

After the motion to modify hearing, Sam successfully completes his probation supervision.

- What is required by probation when he is done?
- When can he get his record sealed?
- Will it affect him as an adult?



APPEALS AND JUVENILE RIGHTS

PRESENTED BY: ELIZABETH HENNEKE

FC 56.01 RIGHT TO APPEAL

An appeal may be taken:

- (I) except as provided by Subsection (n), by or on behalf of a child from an order entered under:
- (A) Section 54.02 respecting transfer of the child for prosecution as an adult;
- (B) Section 54.03 with regard to delinquent conduct or conduct indicating a need for supervision;
 - (C) Section 54.04 disposing of the case;
- (D) Section 54.05 respecting modification of a previous juvenile court disposition; or
- (E) Chapter 55 by a juvenile court committing a child to a facility for the mentally ill or intellectually disabled; or
- (2) by a person from an order entered under Section 54.11(i)(2) transferring the person to the custody of the Texas Department of Criminal Justice.

A CHILD HAS THE RIGHT TO:

(1) appeal, as provided by this subchapter; (2) representation by counsel on appeal; and

(3) appointment of an attorney for the appeal if an attorney cannot be obtained because of indigency.

LEARN MORE ABOUT YOUR ROLE AS JUVENILE ADVOCATES IN YOUR CAUCUS

Judges: Mike / Pat Garza / Cyndi

Prosecutor: John / Kim / Robin/ Jana

Defense: Terrance / Patrick / Bill / Elizabeth

Probation Services and Law Enforcement: Kaci / Jenna/ Jill

THANK YOU

Actually, keep calm and call or email the TJJD Help Desk

legalhelp@tjjd.texas.gov 512-490-7121

