

**Appendix J**  
**Waco Independent School District Police Department,**  
**Law Enforcement Operations Policy Section 7.26, Title – Juvenile Offender**  
**Guidelines (2012).**

**SECTION – 7.26**  
**TITLE – JUVENILE OFFENDER GUIDELINES**

Effective Date:       **08-01-2012**  
Revised Date:        **None**  
Review Date :        **Annually**  
Distribution:         **All Personnel**

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**Policy**

The Waco ISD Police Department recognizes that specialized, service-oriented policing is required at each campus to facilitate an environment conducive to learning. Officers assigned to campus duties as well as officers who respond to schools must understand the need for and provide positive interaction with students, law enforcement, a visible deterrent to crime, and active support of administrative functions.

This order establishes guidelines for identifying, preventing, and controlling juvenile delinquency, and referring juveniles to the Juvenile Justice System.

**Procedure**

**I. The Juvenile Justice System**

The Juvenile Justice System is separate from the Adult Criminal Justice System. Working within it requires an understanding of and conformance with the objectives that the Juvenile Justice System seeks to achieve.

- a) Waco ISD Police Department officers should be familiar with the problem of delinquency and handling juvenile problems, both criminal and non-criminal.
- b) All officers will comply with Texas statutes and other statutes as applicable when handling juveniles.
- c) Officers will conduct proper and thorough investigations to determine facts and gather evidence of alleged delinquent acts potentially requiring criminal action/prosecution for all offense classifications, regardless of whether a referral is made to the Juvenile Court.

## II. Status Offenders

“Status Offender” has the same meaning as set forth in Section 51.02(15) of the Texas Family Code (“FC”), i.e.: a child who is accused, adjudicated, or convicted for conduct that would not, under state law, be a crime if committed by an adult, including:

- 1) Truancy under Section 51.03 (b)(2) FC
- 2) Running away from home under Section 51.03(b)(3) FC
- 3) A fineable only offense under Section 51.03(b)(1) FC transferred to the juvenile court under Section 51.08(b), but only if the conduct constituting the offense would not have been criminal if engaged in by an adult;
- 4) Failure to attend school under Section 25.094 Texas Education Code
- 5) A violation of standards of student conduct as described by Section 51.03 (b)(5) FC
- 6) Violation of a juvenile curfew ordinance or order
- 7) Violation of a provision of the Alcoholic Beverage Code applicable to minors only; or
- 8) Violation of any other finable only offense under Section 8.07(a)(4) or (5), Penal Code, but only if the conduct constituting the offense would not have been criminal if engaged by an adult.

Status Offenders will be released to a parent, guardian, custodian, or other responsible family member, if possible, unless otherwise specified by a court order. Providing notification to a parent or guardian is the responsibility of the officer who placed the juvenile in custody. Notification will be made by telephone or in person.

If a child is taken into custody: (1) for an offense that a justice or municipal court has jurisdiction of under [Article 4.11](#)<sup>1</sup> or [4.14](#)<sup>2</sup>, Texas Code of Criminal Procedure (“CCP”), or (2) pursuant to Art. 45.059 CCP (violation of juvenile curfew), then the child must be taken only to a place

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<sup>1</sup> **Error! Main Document Only.** Art. 4.11 provides, in pertinent part, as follows:

(a) Justices of the peace shall have original jurisdiction in criminal cases:

(1) punishable by fine only or punishable by:

(A) a fine; and

(B) as authorized by statute, a sanction not consisting of confinement or imprisonment; or

(2) arising under Chapter 106, Alcoholic Beverage Code, that do not include confinement as an authorized sanction.

<sup>2</sup> **Error! Main Document Only.** Art. 4.14, provides, in pertinent part, as follows:

(a) A municipal court, including a municipal court of record, shall have exclusive original jurisdiction within the territorial limits of the municipality in all criminal cases that:

(1) arise under the ordinances of the municipality; and

(2) are punishable by a fine not to exceed:

(A) \$2,000 in all cases arising under municipal ordinances that govern fire safety, zoning, or public health and sanitation, including dumping of refuse; or

(B) \$500 in all other cases arising under a municipal ordinance.

(b) The municipal court shall have concurrent jurisdiction with the justice court of a precinct in which the municipality is located in all criminal cases arising under state law that:

(1) arise within the territorial limits of the municipality and are punishable by fine only, as defined in Subsection (c) of this article; or

(2) arise under Chapter 106, Alcoholic Beverage Code, and do not include confinement as an authorized sanction.

Art. 45.059 (violation of juvenile curfew), then the child must be taken only to a place previously designated by the head of the law enforcement agency with custody of the child as an appropriate place of nonsecure custody for children, subject to the procedures and limitations of Art. 45.058 and Art. 45.059, respectively.

### **III. Traffic and Class C Misdemeanor Offenses**

Traffic and Class C Misdemeanor offenses are exempted from the jurisdiction of the juvenile courts and officers have the following enforcement alternatives:

- 1) A resolution, such as a written warning, notifications to parents, and/or release to parents or campus administration with no further action.
- 2) Referral to Triage and/ or the Education Diversion Program through campus administration.
- 3) Referral to student court.
- 4) Referral to Municipal Court with citation.

Traffic violations will be enforced according to the Uniform Enforcement of Traffic Law Violations Directive.

Class C Misdemeanor Offenses listed in the attached chart will be enforced according to the guidelines stated therein.

### **Law Enforcement Chart of Uniform Tolerance**

Due to the age affecting criminal responsibility (as described in Sec. 8.07 of the Texas Penal Code) and in accordance with Chapter 51 of the Texas Family Code, no person below the age of ten will be issued a citation. For persons above the age of ten, the conduct listed below will result in a citation being issued under the circumstances listed in the “CITE” column. If those circumstance are not applicable then the conduct will be addressed according to the “ALTERNATIVE ACTION” column.

*NOTE:* Nothing in the Chart below or in these guidelines is intended to, nor shall it govern or control what disciplinary action a District administrator determines is appropriate (or required) for a student pursuant to the Waco ISD Student Code of Conduct and/or Federal or state law.

VIOLATION	CITE	ALTERNATIVE ACTION
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<p><b>ASSAULT RELATED</b></p>	<ul style="list-style-type: none"> <li>● MALICIOUS INTENT</li> <li>● CONTACT WAS SEXUAL IN NATURE</li> <li>● WILLFUL VIOLATION AFTER WARNING TOLERANCE</li> </ul>	<ul style="list-style-type: none"> <li>● HANDLE ADMINISTRATIVELY</li> <li>● STUDENT COURT REFERRAL (HIGH SCHOOL)</li> <li>● ADMINISTRATIVE REFERRAL TO DIVERSION PROGRAM</li> <li>● WRITTEN WARNING</li> </ul>
<p><b>DISORDERLY CONDUCT RELATED</b></p>	<ul style="list-style-type: none"> <li>● OFFENSE CREATED AN IMMEDIATE THREAT / DANGER TO THE GENERAL PUBLIC</li> <li>● WILLFUL VIOLATION AFTER WARNING TOLERANCE</li> </ul>	<ul style="list-style-type: none"> <li>● HANDLE ADMINISTRATIVELY</li> <li>● STUDENT COURT REFERRAL (HIGH SCHOOL)</li> <li>● ADMINISTRATIVE REFERRAL TO DIVERSION PROGRAM</li> <li>● WRITTEN WARNING</li> </ul>
<p><b>DAMAGE RELATED</b></p>	<ul style="list-style-type: none"> <li>● PROPERTY DAMAGED BEYOND USE</li> <li>● WILLFUL VIOLATION AFTER WARNING TOLERANCE</li> </ul>	<ul style="list-style-type: none"> <li>● HANDLE ADMINISTRATIVELY</li> <li>● STUDENT COURT REFERRAL (HIGH SCHOOL)</li> <li>● ADMINISTRATIVE REFERRAL TO DIVERSION PROGRAM</li> <li>● WRITTEN WARNING</li> </ul>
<p><b>OBSCENE DISPLAY OR DISTRIBUTION OF OBSCENE MATERIAL</b></p>	<ul style="list-style-type: none"> <li>● WILLFUL VIOLATION AFTER WARNING TOLERANCE</li> </ul>	<ul style="list-style-type: none"> <li>● HANDLE ADMINISTRATIVELY</li> <li>● STUDENT COURT REFERRAL (HIGH SCHOOL)</li> <li>● ADMINISTRATIVE REFERRAL TO DIVERSION PROGRAM</li> <li>● WRITTEN WARNING</li> </ul>

<b>VIOLATION</b>	<b>CITE</b>	<b>ALTERNATIVE ACTION</b>
<b>MINOR IN POSSESSION RELATED</b>	<ul style="list-style-type: none"> <li>● <b>CONFIRMED VIOLATION OF STATUTE</b></li> </ul>	<b>NONE</b>
<b>DRUG PARAPHERNALIA RELATED</b>	<ul style="list-style-type: none"> <li>● <b>CONFIRMED VIOLATION OF STATUTE</b></li> </ul>	<b>NONE</b>
<b>THEFT RELATED</b>	<ul style="list-style-type: none"> <li>● <b>WILLFUL VIOLATION AFTER WARNING TOLERANCE</b></li> </ul>	<ul style="list-style-type: none"> <li>● <b>HANDLE ADMINISTRATIVELY</b></li> <li>● <b>STUDENT COURT REFERRAL (HIGH SCHOOL)</b></li> <li>● <b>ADMINISTRATIVE REFERRAL TO DIVERSION PROGRAM</b></li> <li>● <b>WRITTEN WARNING</b></li> </ul>
<b>TRESPASSING ON SCHOOL GROUNDS</b>	<ul style="list-style-type: none"> <li>● <b>OFFENSE CREATED AN IMMEDIATE THREAT / DANGER TO THE GENERAL PUBLIC</b></li> <li>● <b>WILLFUL VIOLATION AFTER WARNING TOLERANCE</b></li> </ul>	<ul style="list-style-type: none"> <li>● <b>WRITTEN WARNING 1<sup>ST</sup> OFFENSE</b></li> </ul>
<b>OTHER CLASS C OFFENSES</b>	<ul style="list-style-type: none"> <li>● <b>OFFENSE CREATED AN IMMEDIATE THREAT / DANGER TO THE GENERAL PUBLIC</b></li> <li>● <b>WILLFUL VIOLATION AFTER WARNING TOLERANCE</b></li> </ul>	<ul style="list-style-type: none"> <li>● <b>ADMINISTRATIVE REFERRAL TO DIVERSION PROGRAM</b></li> <li>● <b>STUDENT COURT REFERRAL (HIGH SCHOOL)</b></li> <li>● <b>WRITTEN WARNING</b></li> </ul>

In all cases, contact with a juvenile shall be documented with an appropriate written report, written warning, or field contact. Nothing in this section prohibits any peace officer from temporarily detaining any person, regardless of age, for the purposes of investigation.

#### IV. Juveniles Charged with Criminal Offenses

1. A juvenile may be taken into custody by a peace officer under the following circumstances<sup>3</sup>:
  - a) If the juvenile were an adult, they could be arrested without a warrant.
  - b) When the juvenile court endorsement on a summons/writ of attachment/directive to apprehend, orders that the child be taken into custody and authorizes a peace officer to do so.
  - c) When a warrant exists by any competent authority.
  - d) When there is reason to believe the juvenile is an escapee or runaway from a state training school, parole placement or institution to which the juvenile was committed by a court order.
2. When any juvenile is taken into custody, with or without a warrant, the officer taking the juvenile into custody shall immediately make every reasonable effort to notify the custodial parent, a guardian or custodian of the juvenile's location. Documentation/evidence of such efforts to notify shall be kept.
3. When any juvenile is taken into custody, the officer taking the juvenile into custody shall immediately contact a police supervisor.
4. When a juvenile is taken into custody, advise the juvenile of "Miranda Rights". The parents/guardian **cannot** make the decision for the juvenile to waive his/her "Miranda Rights". If the juvenile does decide to waive his/her "rights", and make a written statement, the juvenile shall be transported to a magistrate who will administer the juvenile warning. Once a statement is made, the statement must be certified by the same magistrate that administered the juvenile warning to the juvenile in custody.

#### NOTES:

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<sup>3</sup> Other circumstances (not involving criminal charges) when a juvenile maybe taken into custody are:

1. By an authorized representative of the DFPS, a law enforcement officer, or a juvenile probation officer under the conditions set out in Family Code 262.104, relating to the student's physical health or safety; or
2. As otherwise provided by Family Code Chapter 262 (Suit by Governmental Entity to Protect Health and Safety of Child).

3. Under the applicable law and Waco ISD Board Policy FNF (Local), administrators, teachers, and other professional personnel may question a student regarding the student’s own conduct or the conduct of other students. In the context of school discipline, students have no claim to the right not to incriminate themselves.

4. Waco ISD Board Policy GRA (Local) addresses questioning/interview by a law enforcement officer:

When law enforcement officers or other lawful authorities desire to question or interview a student at school for any purpose other than a child abuse investigation, the following guidelines shall apply:

1. The principal shall verify and record the identity of the officer or other authority and request an explanation of the need to question or interview the student at school.
2. The principal ordinarily shall make reasonable efforts to notify the student’s parents or other person having lawful control of the student. If the interviewer raises what the principal considers to be a valid objection to the notification, parents shall not be notified.
3. The principal or a designee ordinarily shall be present during the questioning or interview. If the interviewer raises what the principal considers to be a valid objection to a third party’s presence, the interview shall be conducted without that person’s presence.

5. In addition to the “rights” of the juvenile, it should be understood that the Department recognizes certain rights of the parent and/or guardian. Among these are:

- a) The right, if reasonably possible, to be present during questioning of the juvenile unless a valid reason exists (as determined by a supervisor) for excluding the parent and/or guardian.
- b) The right to delay questioning of the juvenile until they arrive (or a reasonable period of time). While there is no requirement, parents or guardians should be advised on matters and officers should explain agency and juvenile justice procedures to the juvenile and parents.
- c) The right to have an attorney present during questioning of the juvenile.

6. If a juvenile “suspect” is not to be immediately arrested, the parent/guardian should be notified prior to interviewing/interrogating the juvenile (Field contact or “general fact finding” upon arrival to the incident location will not be considered interrogation).



7. Interviews should be of sufficient length to obtain a complete statement of the incident, but not so lengthy as to exceed the normal limits of bodily functions, e.g., hunger, thirst, fatigue, etc. Interviews in excess of 3 hours shall continue only with supervisory approval. No interview will exceed 6 hours in length.
8. The number of officers engaging in the interview should be limited to only those involved in the investigation. Interview teams in excess of two investigators/officers shall require supervisory approval.
9. Interviews or interrogations will cease upon request from the juvenile, the parents or his/her attorney, or if a reasonable person would believe that the setting or circumstances have become coercive.
10. Whenever a juvenile is taken into custody and being transported to the juvenile detention facility, a Detention Center Admissions Form, a Report to the Juvenile Court Form, and a Texas Department of Public Safety Juvenile Justice Reporting Form (CR-43J) shall be completed.
11. Whenever a juvenile is taken into custody and the offense is being referred to the juvenile court, a Texas Department of Public Safety Juvenile Justice Reporting Form (CR-43J) and a Juvenile Conditions of Release Form shall be completed. The Conditions of Release form must be signed by the parent of the child or the legal guardian of the child. In lieu of transport to juvenile detention, officers will refer juvenile offenders to the juvenile court for non-violent misdemeanor crimes that do not involve controlled and/or dangerous substances.
12. When a juvenile is taken into custody for any offense, the Chief of Police or designee shall notify the Superintendent of Schools and the Director(s) of Secondary/Elementary Education. The Chief of Police or designee shall also notify the City of Waco Police Department and/or the law enforcement agency having jurisdiction over the location in which the juvenile resides.
13. Prior to a juvenile being transported to a detention facility, a police supervisor shall review all custody documents for probable cause and accuracy.

## V. Illness, Injury or Intoxication

Any juvenile showing visible signs of illness, injury or intoxication must be medically screened before admission will be allowed at the juvenile detention facility.

## VI. Continued Training and Program Review

1. Continuous training will be conducted for police officers on problems related to juveniles and how to enforce juvenile laws.
2. Officers will participate in concentrated programs on current laws pertaining to juveniles and causes of delinquency.
3. At least once per year, the Department's crime prevention specialist and all certified crime prevention inspectors shall meet with the Department's Command Staff and Chief of Police for the purpose of evaluating all juvenile enforcement and prevention programs. Following such review, the Police Supervisor in charge of field operations shall submit a written report to the Chief of Police with recommendations for enhancement, modification, or elimination of any juvenile programs.