

PRACTICAL APPLICATIONS IN A JUVENILE CASE

RUSTY DUNCAN ADVANCED CRIMINAL LAW SHORT COURSE

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PRACTICAL APPLICATIONS IN A JUVENILE CASE

1. Initial Conference
 1. Retained
 2. Appointed
 3. Juvenile Justice Code
 1. I put a copy in the file.
 1. Everything in a juvenile case is controlled by code.
 2. There are very few exceptions.
 3. Have it available for your use.
 4. Appellate courts adhere strictly to the code.
2. After Initial Conference
 1. Letter to Judge
 2. Letter to Juvenile Probation Office
 3. Letter to Law Enforcement Agencies
 4. Letter to Prosecutor
3. Initial Detention Hearing
 1. Notice
 2. Have to have first hearing within 72 hours
 3. Subsequent Detention hearings (each 10 days)
 1. Hearing or Waiver?
 4. What evidence is generally used by State at detention hearings?
 1. Juvenile Probation officer
 2. Testimony based on very little competent evidence
 3. Police Reports
 4. Prior involvement with juvenile authorities

5. Sometimes victim statements
 5. What can you use?
 1. Parents
 2. Relatives
 3. School counselors
 4. Witnesses to alleged offense
 5. Client
 6. Generally, no court reporter at the detention proceedings
 1. Do you want a reporter? Probably not!
 7. Anything your client says at detention hearings cannot be used against him
 8. Court will generally detain if Probation Department wants to detain.
 9. To get child released at hearing must show to the court:
 1. Child is not likely to abscond or be removed from jurisdiction; and
 2. Suitable supervision, care, or protection is being provided by parent, guardian, custodian, or other person; and
 3. Parent, guardian, custodian or other person available to return child to court; and
 4. Child not a danger to himself nor does he threaten public safety if released; and
 5. Child has not been previously found to be a delinquent child, or has not been previously convicted of a penal offense punishable by a term in jail or prison and is not likely to commit an offense if released. (Section 53.02)
 - J. Must all five or court can order detention for just one of the five being shown by prosecution.
 11. Best bet! Try to cut a deal with probation officer for another relative, parent or guardian to take the child.
 1. Have to do your groundwork early.
 2. Get relatives involved.
 12. This detention is only good for ten (10) days.
4. Subsequent detention hearings:
1. Do you want to agree to waive said hearings or have hearings each time?
 1. Considerations:
 1. Case
 2. Client
 3. Client's family
 4. Investigation by law enforcement

5. Probation department
6. Hard ball or trying to “woo a deal”

5. Adjudication Petition:

1. Go over with fine tooth comb.
 1. Look for errors in pleadings
 2. Look for errors in statement of offense
2. Always file an answer.
 1. Determine whether you want to have adjudication proceeding reported, if do then request in your answer.
 2. If you are going to demand a jury trial as to adjudication should do so in your answer.
3. Prepare for adjudication proceeding with the following:
 1. Investigation
 2. Discovery
 3. Pretrial hearings if necessary

6. Negotiations for Deals:

1. Different jurisdictions do it differently, but basically there are 2 ways to handle negotiations:
 1. With Juvenile Officer
 2. With Prosecutor
2. You have to determine which way is used in your jurisdiction.
3. Safe to say, that usually the Juvenile Officer will have the say as to final action with client.
 1. Usually if you win over the Juvenile Officer, he will have a beneficial effect on the outcome of the case.
 2. Learn what “pushes the buttons of the Juvenile Officer” for example: counseling, community service, alternative resource training, etc.
4. Get as many relatives involved as possible.
 1. Will help for possible placement in new environment away from other trouble.
 2. Will help for disposition hearing to have as witnesses.

7. Disposition hearing:

1. This is where the Court determines what is going to happen to your client.
2. Broad range:
 1. Probation
 1. Levels
 1. With parents
 1. With parent
 2. With relatives
 3. Other
 2. Private Placement
 1. Various choices here
 3. Detention in Juvenile facility
 1. Specific period up to 180 days
 4. Detention by Texas Youth Council
 1. Indeterminate sentence
 2. Determinate sentence
3. Not entitled to a jury trial as to disposition.
 1. Solely upon the court.
 2. Key is selling the Juvenile Officer on what you want to do and showing the benefit to the child and the community. If he likes it, and will recommend it to the court, most of the time the court is going to buy it.
8. Informal supervision:
 1. If you can get same you are ahead of the game.
 2. First offender program: (Section 52.031)
 1. Need to become familiar with.
 2. Can make good use in some circumstances.
9. Deferred Adjudications are available.
 1. See Section 54.032
 2. Have also cut deals for Deferred's on Sexual Offenders in some instances.
 3. Must know when available
10. Sexual Offenses
 1. See Section 54.0405

2. Be familiar with this section
11. Driver's License Suspension (Section 54.042)
 - A. Sets forth D.S. right to suspend child's licenses or to deny issuance
 - B. Mandatory in certain instances
 1. Violation of Section 521.372 (a) of Transportation Code
 3. Court can order suspension or deny issuance of license until child reaches age 19 or 365 days whichever is longer
 4. Court can set suspension or denial based as a condition of violation of probation.
 5. Can suspend or deny for truancy
 6. Court shall suspend driver's license or deny issuance if court finds at adjudication proceeding conduct violated certain alcohol -related offenses.
 12. Sexual Offender Registration:
 - A. Under Article 6252-13c(1) V.A.T.S. Juveniles who have been found to have engaged in delinquent conduct involving sexual offense or offenses come within the purview of the statute and are required to register pursuant to the statute.
 - B. Sad situation----"kids playing doctor" can have a definite effect on them rest of their lives.
 3. Best course of conduct on attorney's part-----keep away from adjudicating the case.
 1. Offer anything to try to keep from adjudicating.
 1. Counseling, moving to another state, moving to another town, etc.
 14. Age Considerations:
 1. Minimum age: 10 years of age
 2. Maximum age: under 17 years of age
 15. What is delinquent conduct? (Section 51.03)
 1. Conduct other than traffic offense that violates a penal law State or Federal

that is punishable by imprisonment or fine.

2. Conduct that violates a reasonable and lawful order of a juvenile court
3. Unexcused voluntary absence of child from school
4. Voluntary absence of child from his home without consent of parent or guardian
5. Contempt of municipal or justice court
6. Violation of Alcoholic Beverage Code

16. What is conduct indicating a need for supervision (Section 51.03)

1. Conduct other than traffic offense that violates
 1. Penal laws of the grade of misdemeanor punishable by fine only
 2. Penal ordinances of political subdivisions
2. Unexcused voluntary absence from school on 10 or more days or parts of days within a 6 month period or 3 or more days or parts of days within a 4 week period
3. Voluntary absence from home for *substantial length of time* without consent of parent or guardian without intent to return from home
4. Conduct prohibited by city ordinance or state law involving inhalation of fumes or vapors of paint, glue and certain volatile chemicals.
5. Public intoxication under certain circumstances.

17. Admissibility of a Written Statement of a Child: (Section 51.095)

1. Admissible if in writing in custody or detention or other place of confinement; and
2. Before making statement child has at *some* time received a warning from a magistrate that:
 1. He may remain silent
 2. He not required to make a statement
 3. Any statement made may be used against him
 4. Has a right to an attorney before or during any interviews with peace officers or attorneys representing the state.
 5. Can stop the interview at any time.

AND

This statement must be signed in the present of a magistrate by the child with no law enforcement officer or prosecuting attorney present.

AND

The magistrate must be fully convinced that the child understands the nature and contents of the statement

AND

That the child is signing voluntarily

AND

Magistrate must sign a written statement verifying the foregoing requisites have been met;

AND

The child knowingly, intelligently and voluntarily has waived rights before and during the making of the statement and signs the statement in the presence of the magistrate.

AND

The magistrate certifies he has examined the child independent of any law enforcement officer or prosecuting attorney and has determined that the child understands the nature and contents of the statement

AND

The magistrate certifies that the child has knowingly, intentionally, and voluntarily waived these rights.

18. Admissibility of Oral Statement of Child (Section 51.095)
- A. Child makes a statement of facts or circumstances that are found to be true, which conduct tends to establish his guilt, such as the finding of secreted or stolen property or the instrument with which he states the offense was committed; or
 - 1. Statement was res gestae of the delinquent conduct or conduct needing supervision; or
 - 2. Statement is made in open court at child's adjudication hearing; or
 - 3. Statement is made before a grand jury considering a petition that child engaged in delinquent conduct;

4. NO STATEMENT BY CHILD AT DETENTION HEARINGS CAN BE USED FOR ANY PURPOSE.

19. Final Caveat:

If parent or guardian does not appear before juvenile court with child—should have guardian ad litem appointed.

Do not let the judge appoint you as guardian ad litem.

Dangerous situation—require someone else to be appointed.

You are representing the child and child's rights which could possibly be adverse to the guardians or parents.

Will probably "tick off" the judge. But nonetheless I do not recommend being both the attorney and guardian ad litem.

APPENDIX

JUVENILE INTERVIEW SHEET

Date: _____

CHARGES: _____

NAME: _____

ADDRESS: _____ CITY: _____

BIRTHDATE: _____ SS#: _____ IN DETENTION? _____

ADJUDICATION PETITION FILED? _____ TRANSFER FILED? _____

PROSECUTOR: _____ PROSECUTOR'S PHONE: _____

PROSECUTOR'S ADDRESS: _____

COURT: _____

COURT ADMINISTRATOR: _____ PHONE: _____

PRESENT PROBATION DEPARTMENT: _____

PRESENT OFFICER: _____ PHONE: _____

PRESENT PROBATION DEPT. ADDRESS: _____

MOTHER'S NAME: _____

MOTHER'S ADDRESS: _____

MOTHER'S PHONE NO: _____ MOTHER'S WORK PHONE: _____

MOTHER'S EMPLOYER: _____

FATHER'S NAME: _____

FATHER'S ADDRESS: _____

FATHER'S PHONE NO: _____ FATHER'S WORK PHONE: _____

FATHER'S EMPLOYER: _____

SIBLINGS: _____

RELATIVE: _____

RELATIVE'S ADDRESS: _____

RELATIVE'S PHONE NO: _____ RELATIVE'S WORK PHONE: _____

RELATIVE'S EMPLOYER: _____

SCHOOL: _____ PRESENT CLASSIFICATION: _____

ALCOHOL OR DRUG INVOLVEMENT: _____

GANG INVOLVEMENT: _____ NAME OF GANG: _____

LEADER OR FOLLOWER: _____ BEST FRIEND'S NAME: _____

BEST FRIEND'S ADDRESS: _____

BOY/GIRL FRIEND'S NAME: _____

BOY/GIRL FRIEND'S ADDRESS: _____

CHILDREN: _____ NAMES & AGES: _____

PRIOR RECORD: _____

PRIOR PUNISHMENT:

20. Probation: _____
1. **Where:** _____
 1. When: _____
 2. Charges: _____
 3. Type: Formal _____ Informal: _____
 4. Length: _____
 5. Probation Officer's Name: _____
 6. Discharged? _____ Revoked: _____

21. Private placement:
1. Where: _____
 2. When: _____
 3. Charges: _____
 4. Type: _____
 5. Length: _____
 6. Probation Officer's Name: _____
 7. Completed? _____ Revoked: _____

22. TYC:
1. Where: _____
 2. When: _____
 3. Charges: _____
 4. Length: _____
 1. Parole? _____
 2. Discharge? _____

OFFENSE:

1. Date: _____

2. Charges: _____

3. Other parties to crime: _____

4. Client's version of what happened: _____

5. Possible witnesses:
1. Name: _____
Address: _____
2. Name: _____
Address: _____
3. Name: _____
Address: _____

6. COMPLAINING WITNESS:
1. Name: _____
Address: _____
Telephone: _____
(Parents' Names) _____
2. Name: _____
Address: _____
Telephone: _____
(Parents' Names) _____
3. Name: _____
Address: _____
Telephone: _____
(Parents' Names) _____

7. Law Enforcement Agencies Involved: _____

1. Names of Officers: _____
2. _____

COUNSELING? _____
3. Name: _____
Address: _____

4. Name: _____
Address: _____

THE STATE OF TEXAS

COUNTY OF _____

RELEASE

I, _____, am the _____
of the minor child, _____. I hereby authorize
the release of the following information concerning _____
to _____, Attorney at Law, of _____,
_____, County, Texas:

1. All medical records in your possession;
2. All psychological records in your possession;
3. All records of school attendance;
4. All records of grades achieved by the child;
5. All records of any disciplinary action taken against the child;
6. All records of any counseling received by the child;
7. All records of any arrest or detention of the child.

Signed this ____ day of _____, 19__.

(Parent or Guardian)

SUBSCRIBED AND SWORN TO this ____ day of _____, 19__.

Notary Public in and for
the State of Texas

REPRESENTATION LETTER:

Name & address of All
Law Enforcement Agencies
Including Juvenile Division

RE: _____, a child

TO WHOM IT MAY CONCERN:

I have been (retained/appointed) to represent the above juvenile in connection with pending criminal charges in _____ County.

This letter shall serve as notice that I will not allow any interview, discussion or any type of contact with my client, unless I have given my written permission to do so.

I may be contacted at my office during normal office hours.

Respectfully,

RANDY WILSON

Certified Mail Return Receipt Requested

REPRESENTATION LETTER

Name and Address of
County Juvenile Probation
Office

RE: _____, a child

Dear _____(Name of chief juvenile probation officer)

I have been (retained/appointed) to represent the above juvenile in connection with alleged criminal charges in _____ County, Texas.

This letter shall serve as notice to you, your agents, servants and/or employees, that I shall not allow any conversation, interview or further contact with my client, under any circumstances, without my written permission.

I may be contacted at my office during normal business hours.

Respectfully,

RANDY WILSON

Certified Mail Return Receipt Requested
CC: Prosecutor handling juvenile matters

NOTICE LETTER TO COURT

Judge of _____ Court
or

Court Administrator

_____, Texas

RE: Cause No. _____; In Re: _____, a Juvenile

Dear _____:

I have been (retained/appointed) to represent the above juvenile in proceedings filed in your court.

Please place my name as attorney of record and notify me of all settings in said cause.

I have notified the _____ Juvenile Probation Department of my status in this cause by copy of this letter.

With kindest regards, I remain

Very truly yours,

cc: _____ County Juvenile Probation Department

(CAPTION)

NOTICE OF INITIAL DETENTION HEARING

You are hereby notified that a detention hearing under the provisions of Section 54.01 of the Texas Family Code will be held on the ___ day of _____, 19___, at _____ o'clock, __.m., in the Juvenile Courtroom, _____, _____, Texas. The purpose of this hearing is to determine whether the child, _____, is to be released pending further proceedings in the juvenile court. The child will be released unless the Court or referee finds that said child is likely to abscond or be removed from the jurisdiction of the juvenile court; suitable supervision, care, or protection for him is not being provided by a parent, guardian, custodian, or other person; he has no parent, guardian, custodian, or other person able to return him to the Court when required; child is accused of committing a felony offense and may be dangerous to himself or others if released; child has previously been found to be a delinquent child or has previously been convicted of a penal offense punishable by a term in jail or prison and is likely to commit an offense if released. A release may be conditioned on requirements reasonably necessary to insure the child's appearance.

The child has a right to counsel at the detention hearing and a right to appointed counsel if the child and his parents, guardian, or custodian are indigent. The child also has a right to remain silent with respect to any allegations of delinquent conduct or conduct indicating a need for supervision.

The notice as set out above was given to the child, _____, by delivering a copy of this notice to him on the ___ day of _____, 19___, at _____ o'clock __.m.

The notice as set out above was given to the parents, guardian, or custodian of the child by reading a copy of this notice to _____ the mother of the child at _____, Texas, on the day of _____, 19___, at _____ o'clock __.m.

The notice as set out above was given to the attorney by reading a copy of this notice to _____, the attorney of the child on the telephone on the ___ day of _____, 19___, at ___ o'clock __.m.

JUVENILE OFFICER
_____ COUNTY, TEXAS

(CAPTION)

STATE'S ORIGINAL ADJUDICATION PETITION

Now comes the State of Texas, on the ___ day of _____, 19___, and by and through _____, Assistant Criminal District Attorney of _____ County, Texas, files this adjudication petition, pursuant to Section 53.04, Texas Family Code, in the matter of _____ Juvenile-Respondent, who is now alleged to have engaged in delinquent conduct, and as grounds that the Juvenile-Respondent engaged in delinquent conduct, the State would show this Court that the State has information and reason to believe and does believe the following:

I.

_____ is a _____ child _____ years of age, having been born on the ___ day of _____, 1977 and who resides at _____, _____, Texas.

II.

The mother of said child is _____, whose address is _____, Texas. The father of said child is _____, whose address is _____, Texas.

III.

That said Juvenile-Respondent engaged in delinquent conduct as follows:

COUNT I.

On or about the ___ day of _____, 19___, and before the making and filing of this petition in _____ County, Texas, said _____ did then and there _____.

Such conduct is delinquent conduct as defined in Section 51.03 (a) (1), Texas Family Code, for the reason that it violates a penal law of this State punishable by fine, confinement, or imprisonment, to-wit: Section _____ of the Texas Penal Code.

COUNT II.

On or about the ___ day of _____, 19___, and before the making and filing of this petition in _____ County, Texas, said _____ did intentionally and knowingly _____.

Such conduct is delinquent conduct as defined in Section 51.03 (a) (1), Texas Family Code, for the reason that it violates a penal law of this State punishable by fine, confinement, or imprisonment, to-wit: Section _____ of the Texas Penal Code.

COUNT III.

On or about the ___ day of _____, 19___, and before the making and filing of this petition in _____ County, Texas, said _____ did then and there intentionally and knowingly _____.

Such conduct is delinquent conduct as defined in Section 51.03 (a) (1), Texas Family Code, for the reason that it violates a penal law of this State punishable by fine, confinement, or imprisonment, to-wit: Section _____ of the Texas Penal Code. Against the Peace and Dignity of the State.

IV.

If the Court finds that the Juvenile-Respondent has engaged in delinquent conduct, the State requests that he be placed on probation for an undetermined period of time, subject to modification until he becomes eighteen (18) years of age.

V.

If the Court finds that the Juvenile-Respondent has engaged in delinquent conduct, the State requests that this Court order the Juvenile-Respondent be placed outside the home for the following reasons:

- 1) It is in the child's best interest to be placed outside the child's home;
- 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 the child's 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.

VI.

The State requests that this Court order the Juvenile-Respondent or parents, if financially able to do so, to pay probation fees up to _____ per month if this Court places the said Juvenile-Respondent on probation, pursuant to Section 54.061, Texas Family Code, and to order the Juvenile-Respondent or parents to pay court costs of _____, if financially able to do so, pursuant to Section 54.0411, Texas Family Code.

VII.

If the Juvenile-Respondent is placed on probation outside his home, the State requests the parents be ordered to pay child support, pursuant to Section 54.06, Texas Family Code, in whatever sum this Court determines to be reasonable.

VIII.

The State requests that this Court order said Juvenile-Respondent to pay all appropriate restitution.

IX.

The State requests that the Court order the parents, if the parents are financially able and after all appropriate parties have had an opportunity to be heard, pursuant to the Texas Family Code, Section 51.10 (d), to either employ an attorney for the child or to reimburse the State for all reasonable attorneys fees incurred to represent the child.

X.

The State requests after notice and hearing, the following person living in the same household with the Juvenile-Respondent participate in social or psychological counseling to assist in the rehabilitation of the Juvenile-Respondent and to strengthen the family environment of the Juvenile-Respondent: _____.

XI.

The State requests of this Court after a disposition hearing to order the Juvenile-Respondent to be placed at a suitable placement facility as recommended by the Juvenile Probation Department.

PRAYER

Wherefore, the State of Texas prays:

- (1) That this Court direct that summons be issued and served on all parties as required by Title Three (3), Texas Family Code. (2) That this cause be set down for an adjudication hearing on some date and at a place to be fixed by this Court. (3) If applicable, that this Court appoint a guardian ad litem to present the best interest of the Juvenile-Respondent. (4) That upon an adjudication hearing, the Juvenile-Respondent be found to have engaged in delinquent conduct and that such disposition of the said Juvenile-Respondent or parents, be made which this Court deems appropriate and proper, including court costs, probation, restitution, probation fees; attorney fees,
- (2) That this cause be set down for an adjudication hearing on some date and at a place to be fixed by this court.
- (3) If applicable, that this Court appoint a guardian ad litem to present the best interest of the Juvenile-Respondent.

(4) That upon an adjudication hearing, the Juvenile-Respondent be found to have engaged in delinquent conduct and that such disposition of the said Juvenile-Respondent or parents, be made which this Court deems appropriate and proper, including court costs, probation, restitution, probation fees; attorney fees, counseling and child support as prayed for in this petition.

Respectfully submitted,

Prosecutor

SUMMONS

TO: _____, 104 Pine, Suite 106, Abilene, Texas, the attorney
for _____, a child.

The accompanying State's Original Adjudication Petition has been filed in the above Court concerning the alleged conduct, as described in such Petition of the above child. You are hereby directed to appear personally before the Juvenile Court at the _____ County Juvenile Justice Center at _____, _____, Texas, on the ___ day of _____, 19___, at ___ o'clock __.m., at which time this cause has been set down for hearing.

Witness my hand seal of office at _____, County of _____, Texas, this the day of _____ 19__.

District Clerk

_____ County Juvenile Court

Deputy

CAPTION

ORIGINAL ANSWER OF JUVENILE

TO THE HONORABLE JUDGE OF SAID COURT:

Now comes, _____, a juvenile, by and through his/her attorney of record and files this his/her Original Answer to the Petition for Adjudication filed herein, and in support thereof would respectfully show unto the Court as follows:

I.

The juvenile generally and specifically denies any and all allegations contained within _____ and demands strict proof thereof.

II.

(If you do not want to waive a reporter)The juvenile specifically requests that all proceedings, including any detention hearings, pre-trial hearings, adjudication hearings, or disposition hearings be reported by a certified and licensed Court Reporter.

III.

(If you want a jury trial on the adjudication proceeding)The juvenile specifically requests that the adjudication proceeding be tried before a jury as prescribed by Section 54.03 of the Juvenile Code of the State of Texas.

PRAYER

WHEREFORE, PREMISES CONSIDERED, the juvenile prays:

1. That he/she be released from custody/supervision;
2. That all pending charges against him/her be dismissed;
3. For such other and further relief to which he/she may be entitled.

RESPECTFULLY SUBMITTED,

Attorney for Juvenile

(CERTIFICATE OF SERVICE TO PROSECUTOR)

(CAPTION)

NOTICE OF SUBSEQUENT DETENTION HEARING

You are hereby notified that a detention hearing under the provisions of Section 54.01 of the Texas Family Code will be held on the ___ day of _____, 19___, at ___ o'clock, __.m., in the Juvenile Courtroom, _____ County Juvenile Justice Center, _____, _____, Texas. The purpose of this hearing is to determine whether the child, _____, is to be released pending further proceedings in the juvenile court. The child will be released unless the Court or referee finds that said child is likely to abscond or be removed from the jurisdiction of the juvenile court; suitable supervision, care, or protection for him is not being provided by a parent, guardian, custodian, or other person; he has no parent, guardian, custodian, or other person able to return him to the Court when required; child is accused of committing a felony offense and may be dangerous to himself or others if released; child has previously been found to be a delinquent child or has previously been convicted of a penal offense punishable by a term in jail or prison and is likely to commit an offense if released. A release may be conditioned on requirements reasonably necessary to insure the child's appearance.

The child has a right to counsel at the detention hearing and a right to appointed counsel if the child and his parents, guardian, or custodian are indigent. The child also has a right to remain silent with respect to any allegations of delinquent conduct or conduct indicating a need for supervision.

The notice as set out above was given to the child, _____, by delivering a copy of this notice to him on the ___ day of _____, 19___, at ___ o'clock __.m.

The notice as set out above was given to the parents, guardian, or custodian-of the child by reading a copy of this notice to _____ the mother of the child at Abilene, Texas, on the ___ day of _____, 19___, at ___ o'clock __.m.

The notice as set out above was given by reading a copy of this notice to _____ the attorney of the child on the telephone on the ___ day of _____ at ___ o'clock __.m.

JUVENILE OFFICER
_____ COUNTY, TEXAS

(CAPTION)

ORDER OF DETENTION

On this the ____ day of _____, 19__, a hearing was conducted by the Court on the (Initial/Subsequent) Detention of the child and having examined the evidence, and argument of counsel the Court finds that (one or more of the following)

1. that said child is likely to abscond or be removed from the jurisdiction of the juvenile court;
2. suitable supervision, care, or protection for him is not being provided by a parent, guardian, custodian, or other person;
3. he has no parent, guardian, custodian, or other person able to return him to the Court when required;
4. child is accused of committing a felony offense and may be dangerous to himself or others if released;
5. child has previously been found to be a delinquent child or has previously been convicted of a penal offense punishable by a term in jail or prison and is likely to commit an offense if released.

IT IS THEREFORE THE ORDER of this Court that the child, _____, be and is hereby placed in the custody of the Juvenile Court at the detention facility previously approved by the Juvenile Board of _____ County, where said child is to remain until the conclusion of a Detention Hearing or until further order of this Court or another Juvenile Court, but in no event shall this order be effective for more than ten (10) days.

SIGNED AND ENTERED, on this the _____ day _____ 19__.

PRESIDING JUDGE

(CAPTION)

WAIVER OF SUBSEQUENT DETENTION HEARING

WE, _____, the child in the above and numbered cause and _____, his attorney, hereby waive the child's right to a Subsequent Detention Hearing, the child having first been detained after a hearing held on the ___ day of _____, 19___. The child's right to have a Detention Hearing and the purpose of a Detention Hearing have been explained to us and we understand these rights and the possible consequences of waiving these rights and knowingly, voluntarily, and intelligently waive the right to have a Subsequent Detention Hearing.

CHILD

ATTORNEY FOR THE CHILD

(CAPTION)

ORDER OF SUBSEQUENT DETENTION

On this the ___ day of _____, 19___, the above Waiver of Subsequent Detention Hearing was presented to the Court and having examined the same the Court finds that the Waiver is made by the child and the attorney for the child, that the child and the attorney for the child were informed of and understand the right and consequences of waiving the right to a Subsequent Detention Hearing and that the Waiver is voluntary.

IT IS THEREFORE THE ORDER of this Court that the child, _____, be and is hereby placed in the custody of the Juvenile Court at the detention facility previously approved by the Juvenile Board of _____ County, where said child is to remain until the conclusion of a Detention Hearing or until further order of this Court or another Juvenile Court, but in no event shall this order be effective for more than ten (10) days.

SIGNED AND ENTERED, on this the _____ day _____ 19___.

PRESIDING JUDGE
JUDGE OF JUVENILE COURT

NO. _____

IN THE MATTER OF

IN THE JUVENILE COURT

OF _____,

A CHILD

_____ COUNTY, TEXAS

**STATE'S ORIGINAL PETITION FOR
DISCRETIONARY TRANSFER TO CRIMINAL COURT**

NOW COMES the State of Texas, by and through the District Attorney of _____ County, Texas, and files this petition to transfer _____ to the appropriate adult criminal district court, pursuant to Sections 53.04 and 54.02, Texas Family Code, to stand trial on certain alleged felony offenses, and as grounds for discretionary transfer would show this Court that the State has information to believe and does believe the following:

I.

That said _____ is a male\female person _____ years of age, having been born on the _____ day of _____ 19___. Said Juvenile-Respondent resides at _____, _____ County, Texas.

II.

The parents, guardians, or custodians of said child are _____ and _____ who reside at _____, _____, Texas.

III.

FIRST COUNT

The State of Texas alleges that the said _____ did violate a penal law of the grade of felony, to-wit: Section _____ of the Texas Penal Code in that on or about the _____ day of _____ 19__ , and before the making and filing of this petition, in _____ County, Texas, said _____ did then and there _____.

SECOND COUNT

The State of Texas alleges that the said _____ did violate a penal law of the grade of felony, to-wit: Section _____ of the Texas Penal Code in that on or about the _____ day of _____ 19__ , and before the making and filing of this petition, in _____ County, Texas, said _____ did then and there _____.

*(There can be numerous counts in the petition)

Against the Peace and Dignity of the State.

IV.

No adjudication hearing has been conducted concerning these offenses.

V.

In its determination the Court should consider the following factors:

- (a) whether the alleged offenses were against persons or properties, with greater weight in favor of transfer given to offenses against the person;
- (b) the child is sophisticated and mature enough to be treated as an adult;
- (c) the record and previous history of the child; and
- (d) the lack of prospects of adequate protection of the public and the unlikelihood of reasonable rehabilitation of the child by the use of procedures, services, and facilities currently available to the Juvenile Court require him being treated as an adult.

VI.

Because of the seriousness of the offenses and the background of the child, the welfare of the community requires criminal proceedings.

VII.

The State requests that the Juvenile Court, order and obtain a completed diagnostic study, social evaluation and a full investigation of the child, his circumstances, and the circumstances of the alleged offenses, as is required by Section 54.02(d) of the Texas Family Code.

PRAYER

WHEREFORE, PREMISES CONSIDERED, the State of Texas prays:

- (1) that this Court direct that summons be issued and served on all parties as required by Title Three (3), Texas Family Code.
- (2) that the Court order and obtain a complete diagnostic study, social evaluation, and full investigation of the child, his circumstances and the circumstances surrounding the alleged offenses;
- (3) that this cause be set down for a discretionary transfer hearing on some date and at a place to be fixed by the Court;
- (4) that this Court waive its exclusive original jurisdiction and order the felony charges against the Juvenile-Respondent transferred to the appropriate criminal district court.

Respectfully submitted,

Prosecutor

CAPTION

**ORIGINAL ANSWER OF JUVENILE TO STATE'S
ORIGINAL PETITION FOR DISCRETIONARY TRANSFER
TO CRIMINAL COURT**

TO THE HONORABLE JUDGE OF SAID COURT:

Now comes, _____, a juvenile, by and through his/her attorney of record and files this his/her Original Answer to the State's Original Petition for Discretionary Transfer to Criminal Court filed herein, and in support thereof would respectfully show unto the Court as

follows:

I.

The juvenile generally and specifically denies any and all allegations contained within the State's Original Petition for Discretionary Transfer to Criminal Court filed herein and demands strict proof of all allegations contained therein.

II.

The juvenile specifically requests that all proceedings, including any detention hearings, pre-trial hearings, adjudication hearings, or disposition hearings be reported by a certified and licensed Court Reporter.

PRAYER

WHEREFORE, PREMISES CONSIDERED, the juvenile prays:

- a. That the transfer to criminal court be in all things denied;
2. That he/she be released from custody/supervision;
3. That all pending charges against him/her be dismissed;
- d. For such other and further relief to which he/she may be entitled.

RESPECTFULLY SUBMITTED,

Attorney for Juvenile

OPTIONAL BUT I ALWAYS INCLUDE WITH ANSWER

VERIFICATION

STATE OF TEXAS

COUNTY OF _____

BEFORE ME, the undersigned authority, on this date personally appeared, _____, who upon his oath deposes and states as follows:

"My name is _____. I am the juvenile in the foregoing Answer filed herein. I have read said answer and specifically deny all allegations contained within the State's

Original Petition for Discretionary Transfer to Criminal Court and demand strict proof thereof.”

JUVENILE

SUBSCRIBED AND SWORN TO this ____ day of _____, 199__.

Notary Public in and for
the State of Texas

(CERTIFICATE OF SERVICE TO PROSECUTOR)

LETTER REQUESTING DISCOVERY

Probation Officer
_____ County Juvenile Probation Department
Address

Re: Cause No. _____; In Re: _____, a Juvenile

Dear _____,

I have been retained/appointed to represent the above juvenile. This case has been set for adjudication hearing (or certification hearing) on the ____ day of _____, 19__.

This letter shall be my formal request for copies of the following documents:

1. Copy of the Social Study prepared by your department;
2. Copies of all school records of the juvenile;
3. Copies of all records of past alleged delinquent conduct;
4. Copies of all records of any detention of this juvenile;
5. Copies of all behavioral records of the juvenile while in detention;
6. Copies of all statements of any potential witness in your possession;
7. Copies of any criminal history contained in the juvenile's file;
8. Copies of all notes contained in your file concerning interviews with the juvenile or his/her parents;
1. Copies of any document that will be introduced in the trial of this cause at the adjudication proceeding, disposition proceeding, or discretionary transfer proceeding.

A copy of this request is being sent to the prosecutor and to the court. If for any reason you cannot comply with this request, a formal motion to secure said documents shall be filed.

If you have any questions, please feel free to contact me at your convenience.

With kindest regards, I remain

Very truly yours,

cc: Prosecutor
Judge