

Defining a Referral

A referral (also called a formal referral) occurs when all four of the following conditions exist:

1. Delinquent conduct, conduct indicating a need for supervision or violation of juvenile court order was allegedly committed;
2. The juvenile probation department has jurisdiction and venue;
3. Face-to-face contact occurs with the office or official designated by the department or juvenile board; and
4. The alleged offense has been discussed at the time of the contact.

Particular troubles have been noted with the concepts of *jurisdiction* and *venue*.

Jurisdiction

Jurisdiction is defined as the power and authority of a court to hear and determine a judicial proceeding. A probation department/juvenile court has *jurisdiction* over a child's case only if 3 conditions are met:

Jurisdiction Over The Person

- The child is of juvenile age as defined in Family Code Section 51.02(2);

Subject Matter Jurisdiction

- There is subject matter jurisdiction (i.e., the county has the authority to prosecute because it is conduct indicating a need for supervision (CINS) or delinquent conduct as defined by Family Code Section 51.03 as opposed to a traffic offense, etc.);

Venue

- Venue relates to the county where judicial authority may be exercised.
- *Venue* for juvenile cases is found in Texas Family Code § 51.06, which states:

§ 51.06. Venue.

- (a) A proceeding under this title shall be commenced in
 - (1) the county in which the alleged delinquent conduct or conduct indicating a need for supervision occurred; or
 - (2) the county in which the child resides at the time the petition is filed, but only if:
 - (A) the child was under probation supervision in that county at the time of the commission of the delinquent conduct or conduct indicating a need for supervision;
 - (B) it cannot be determined in which county the delinquent conduct or conduct indicating a need for supervision occurred; or
 - (C) the county in which the child resides agrees to accept the case for prosecution, in writing, prior to the case being sent to the county of residence for prosecution.

Counting a Referral

Consider the following examples. Assume face-to-face contact occurs and the child is of juvenile age in all cases. In the following scenarios, the term "contract/courtesy detention" means any detention where the detaining county either 1) has no jurisdiction over the offense or 2) has jurisdiction but is choosing not to exercise that jurisdiction but is detaining the child as a courtesy to another governmental entity (i.e., TYC, another state, federal government) or for a fee (i.e., contract with another county, state, or federal government)

General Rule #1: The county with jurisdiction counts the referral.

1A. Child commits a burglary in County A.

County A counts the offense as a formal referral.

1B. Child lives in County A and commits a theft in County B.

County B counts the formal referral. If prior to disposition County B chooses to do so and County A accepts in writing, they may transfer jurisdiction to County A and both County A and County B would count this as a formal referral. However, County B would enter a disposition of either "dismissed/withdrawn" (if done by probation) or "refused and non-suited" (if done by the prosecutor). [Please note that this situation results in referral numbers being double counted. TJPC plans to suggest future changes to the Electronic Data Interchange (EDI) standards to create a new code that will be used to more accurately identify and record this situation without double counting the referral. However, until such time as the EDI standards are changed, please continue to double count in both County A and County B.]

1C. A TYC parolee commits a new offense in County A. County A intends to prosecute the child for the new offense.

County A counts the formal referral.

General Rule #2: Contract/courtesy detentions do not count as formal referrals.

Juvenile probation departments that operate detention facilities have other considerations. While it is understood that a unit of work is conducted when the facility contracts with another department, TYC or another state, the unit of work CANNOT be considered a formal referral because the detaining department does not have jurisdiction over the offense. The facility is simply being authorized to detain the child by the entity that does have jurisdiction. Departments that operate a detention facility and use the CASEWORKER program can track these cases using the referral type "CD" (contract/courtesy detention). This referral type is not included in the total count of formal referrals for the department and is not submitted to TJPC in the monthly folder extracts.

2A. Child commits a burglary in County A. County A sends child to County B to be detained.

County A counts the formal referral. County B may count the child as a contract/courtesy detention, but not a formal referral. County B does not have jurisdiction over the offense committed.

2B. A TYC parolee commits a new offense in County A and is detained in County A. County A intends to prosecute the child for the new offense.

County A counts the formal referral.

2C. A TYC parolee commits a new offense in County A and is detained in County A. County A does not intend to prosecute the child for the new offense but is holding the child for a TYC administrative hearing.

County A is choosing not to prosecute the child for the offense and is merely holding the child for TYC administrative action. The department can only count the child as a contract/courtesy detention.

2D. County A picks up a child on a Directive to Apprehend from TYC (i.e., technical parole violation), and the child is detained in the facility operated by their department.

County A is simply holding the juvenile for TYC and cannot count it as a formal referral. They may count the case as a contract courtesy detention only.

2E. County A issues a Directive to Apprehend for an offense committed in County A, and the child is picked up in County B.

If the child is detained by County B, County A counts a formal referral at the time of the detention. If the child is merely being held for up to 6 hours in a processing office awaiting pickup by County A, then County A counts a formal referral when they see the child face-to-face. No offense occurred in County B, so they do not have a formal referral.

General Rule #3: For the offense of runaway, the county where the juvenile resides has jurisdiction and counts the referral.

3A. Child who lives in County A runs away and is located and held in a juvenile processing office in County B.

County A counts the formal referral when County B returns the child back to the child's home county. County B in this scenario does not have a formal referral.

3B. Child who lives in County A runs away and is located and detained by County B until the child is returned home.

Because a runaway counts as a referral for the jurisdiction where the child resides, County A counts the formal referral. County B does not have a formal referral in this scenario. County B could only count this as a contract/courtesy detention since they held the child in their detention facility.

3C. A child who lives out-of-state runs away and is located in County A. County A has a detention center and detains the child there pending arrangements to return the child home.

Because a runaway counts as a referral for the jurisdiction where the child resides, no formal referral is counted for Texas in this case. County A could only count this as a contract/courtesy detention since they held the child in their facility.

Ancillary Considerations and Issues

A final consideration regarding referrals relates to Case Management Standards requirements for formal referrals. The definition of a formal referral allows a department to count a juvenile as a formal referral when they provide written or verbal authorization to detain. This means that in the instance when a juvenile is detained in another jurisdiction, the juvenile may be counted as a formal referral prior to making a face-to-face contact with the department. The Case Management Standards require that the initial assessment instrument shall be completed for all formal referrals. The standards state, "The assessment instrument shall be administered at the formal intake interview." If a child is detained and released without ever having a face-to-face contact with the juvenile probation department, the department would be out of compliance with Case Management Standards §346.2. The only way to comply with the standard would be to bring the juvenile back to the department to administer the assessment instrument or to administer the instrument in the detention facility.