

Defining a Referral

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A referral (also called a formal referral) occurs and should be counted when all three of the following conditions exist:

- (1) Delinquent conduct, conduct indicating a need for supervision, or violation of probation was allegedly committed;
- (2) The juvenile probation department has jurisdiction and venue; and
- (3) Either
 - a. Face-to-face contact occurs with the office or official designated by the department or juvenile board and the alleged offense has been presented as the reason for this contact; or
 - b. Written or verbal authorization to detain is given by the office or official designated by the juvenile board.

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.

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Counting a Referral

Consider the following examples. Unless otherwise stated, assume face-to-face contact occurs and the child is of juvenile age in all cases. Also assume that the child does not have a pending Paper Complaint referral at the time the juvenile probation department is made aware of this new charge. 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, and is detaining the child as a courtesy to another governmental entity (i.e., TJJD, 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” or “Non-Suited” (if done by the prosecutor). Please note that this situation results in referral numbers being double counted.

1C. A TJJD 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 detains a child for another department, state or agency, 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 CASEWORKER or JCMS can track these contract/courtesy detentions as Contract Detention (CD) referral types. Contract Detention referrals are not included in the total count of formal referrals for the department.

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

County A counts the formal referral. County B may count the child as a Contract Detention referral, but not a formal referral. County B does not have jurisdiction over the offense committed.

2B. A TJJD 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 TJJD 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 TJJD administrative hearing.

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County A is choosing not to prosecute the child for the offense and is merely holding the child for TJJD administrative action; therefore, County A cannot count this offense as a formal referral. County A can only count the child as a Contract Detention referral.

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

County A is holding the juvenile for TJJD and cannot count this detention as a formal referral. County A may count the detention as a Contract Detention referral.

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 County B detained the juvenile in their facility, County B may count the detention as a Contract Detention referral.

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 County B does 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 A has face-to-face contact with the juvenile. County B in this scenario does not have a formal referral.

3B. Child who lives in County A runs away and is located in County B. County B detains the juvenile in their detention facility until the child is returned home.

Because a runaway counts as a formal 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 may count this as a Contract Detention referral since they detained 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 facility and detains the child 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 in Texas in this case. County A may count this as Contract Detention referral since they detained the child in their facility.

3D. A child who lives in County A runs away and is located in County B. County B does not have a detention facility, so they detain the juvenile in County C's detention facility.

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. Because County B doesn't operate the detention facility, County B cannot count this as a Contract Detention referral type. County B can create a Non-Jurisdiction referral type (NJ) to show that they coordinated the detention of a juvenile from County A into County C's facility. County C may count this as a Contract Detention referral since they detained the child in their facility.

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General Rule #4: Face-to-face contact must be made by the juvenile probation department or an official designated by the department or the juvenile board.

- 4A. The department receives paperwork alleging that a child committed an offense. This offense is entered as a Paper Complaint referral because neither the department nor their designee has seen the child regarding this offense. The child meets with the prosecutor without having first met with the probation department.**

The prosecutor is considered an official designee in this instance. This referral becomes formalized on the date the child meets with the prosecutor regarding this offense.

- 4B. The department receives paperwork alleging that a child committed an offense. This offense is entered as a Paper Complaint referral because neither the department nor their designee has seen the child regarding this offense. The child does not meet with the probation department or prosecutor until court.**

The child's appearance in court becomes the face-to-face contact event. This referral becomes formalized on the day of court.

- 4C. The on-call probation officer receives a call at 9:00pm that a child was arrested. The child is detained in a County B's detention facility. The probation officer visits the child the following morning.**

County B's detention facility is considered an extension of the child's probation department. The referral is formalized at the time the child is detained; not the following morning when the JPO meets with the child.

General Rule #5: If the Municipal Court or JP Court waives jurisdiction of an offense and transfers jurisdiction to JPD, the referral is a formal referral to the juvenile probation department.

- 5A. The Municipal Court waives jurisdiction of a MC offense to the juvenile probation department. The child does not have prior convictions in the Municipal Court or JP Courts.**

Because the juvenile probation department has jurisdiction, this offense is entered as a Paper Complaint. The referral type will be changed to Paper Formalized when face-to-face contact occurs by the probation department or their official designee. This is **not** a Municipal Court/Justice of the Peace (MJ) referral.

- 5B. A child has three previous convictions in a Municipal Court or JP Court. He commits a new offense that is initially sent to the Municipal Court. Because the child has three previous convictions in Municipal or JP Court, this new charge must be transferred to the juvenile probation department.**

This is **not** a Municipal Court/Justice of the Peace (MJ) referral. JPD will enter this offense as a Paper Complaint. The referral type will be changed to Paper Formalized when face-to-face contact occurs by the probation department or their official designee.

- 5C. A Municipal Court charges a child with Contempt of Court and transfers this offense to the juvenile probation department.**

Because the juvenile probation department has jurisdiction, this offense is entered as a Paper Complaint. The referral type will be changed to Paper Formalized when face-to-face contact occurs by the probation department or their official designee. This is **not** a Municipal Court/Justice of the Peace (MJ) referral.

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- 5D. A child commits an offense that is disposed in the Municipal Court or JP Court. The Municipal or JP Court sends notice of this offense and its disposal to the juvenile probation department.**

Notices of offenses that have been disposed by the Municipal Court or JP Court are not formal referrals to juvenile probation. If a probation department chooses to keep track of a child's convictions in Municipal Court or JP Court, they will create a Municipal Court/Justice of the Peace (MJ) referral.

General Rule #6. The probation department should create a referral for an offense even if the department knows the offense will be dropped or dismissed.

- 6A. A child commits an offense. The prosecutor meets with the child and chooses to drop the charge.**

The department will create a formal referral and enter the appropriate disposition (i.e., No Probable Cause/Dismissed).