



# S.B. 1769 REPORT

## *Fingerprint Advisory Committee*

A REPORT ON JUVENILE FINGERPRINTING PRACTICES IN TEXAS

MAY 1, 2014



TEXAS  
JUVENILE ★ JUSTICE  
DEPARTMENT

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# S.B. 1769 REPORT

## *Fingerprint Advisory Committee*

A REPORT ON JUVENILE FINGERPRINTING PRACTICES IN TEXAS  
MAY 1, 2014

*This report provides an overview of the findings and recommendations of the SB 1769 Fingerprint Advisory Committee regarding juvenile fingerprinting practices in Texas and the maintenance of juvenile files and records of certain misdemeanants.*



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# EXECUTIVE SUMMARY

## SENATE BILL 1769

*“...The Texas Juvenile Justice Board shall appoint an advisory committee to develop a plan to end the practice of fingerprinting children referred to a juvenile probation department for delinquent conduct, other than felony conduct. The plan must ensure that public safety and due process rights are protected.”*

## **S.B. 1769**

*Relating to the creation of an advisory committee to examine the fingerprinting practices of juvenile probation departments.*

## FINDINGS AND RECOMMENDATIONS

The Fingerprint Advisory Committee has conducted a comprehensive examination of fingerprint practices in the Texas juvenile justice system and makes the following findings and recommendations:

1. The current practice of fingerprinting juvenile misdemeanor offenders is an essential component to achieving the state’s public safety objectives and should continue.
2. Biometric fingerprinting serves as a foundation for the computerized juvenile justice information system database, expedites case tracking, provides reliable evidence of adjudication, functions as a crime-solving repository of latent prints, facilitates research of statistical data and assists practitioners in meeting other recordkeeping objectives.
3. The Juvenile Justice Information System (JJIS) should continue as a complete and comprehensive repository record of decisions made in all juvenile felony and jailable misdemeanor cases that are referred to juvenile court. The absence of misdemeanor information from statewide databases would hinder this objective.
4. Unadjudicated misdemeanor offenses contained in the JJIS should be disseminated by the Department of Public Safety (DPS) only to criminal justice agencies, the Texas Juvenile Justice Department, and the Texas Department of Family and Protective Services.
5. Certain JJIS programming changes will be required in order to flag and designate unadjudicated misdemeanor records to ensure they are disseminated by the Department of Public Safety only to criminal justice agencies, TJJD and DFPS.
6. If enacted, the recommended statutory and procedural changes may assist youth with low-level unadjudicated offenses to avoid many of the detrimental effects of delinquency history.
7. There will be no impact on the ability of criminal justice entities, courts, prosecutors, juvenile service providers, and DFPS from exchanging needed records and information for interagency sharing, prosecution, supervision and related programs and services under other applicable laws.

## BACKGROUND

In 2013, Senate Bill 1769, 83<sup>rd</sup> Legislature, Regular Session, established a Fingerprint Advisory Committee to study and develop a plan to end the practice of fingerprinting juvenile misdemeanants.<sup>1</sup> The legislation directed the Texas Juvenile Justice Department (TJJD) governing board to appoint an advisory committee from a cross-section of juvenile justice stakeholders, including chief juvenile probation officers, prosecutors, defense attorneys, peace officers, representatives of the Texas Department of Family and Protective Services, juvenile justice advocates and members of the public.<sup>2</sup> The appointee list was expanded by the TJJD board to include representatives from the Department of Public Safety and a local juvenile probation department court administrator to ensure broader expertise regarding statewide delinquency history databases and the practical aspects of recordkeeping at the local level.

The Texas Juvenile Justice Board<sup>3</sup> adopted a resolution on August 30, 2013, to comply with the December 2013 statutory deadline for identifying appointees.<sup>4</sup> Each appointee was selected on the basis of professional experience in the juvenile justice system and involvement with juvenile records and other juvenile justice information system initiatives. The committee appointees were charged with the task of conducting a systematic review of the legal and practical aspects of fingerprinting. In accordance with the legislation, participants were not paid or reimbursed for expenses associated with service on the committee. This report has been submitted in advance of the due date required under the original legislation.<sup>5</sup> The responsibilities of the committee will expire on January 1, 2015.<sup>6</sup>

The Fingerprint Advisory Committee convened a series of meetings on December 12, 2013, March 4, 2014, and May 1, 2014, to conduct an examination of the relevant system procedures and to consider the implications of ending the practice of fingerprinting juvenile misdemeanants.<sup>7</sup> After review and deliberation, the committee determined that fingerprinting was vital to offender identification, case tracking, statistical data collection and other recordkeeping objectives for the varied entities that hold juvenile justice information at every stage of proceedings. The committee concluded that the underlying objective of diminishing the long-term collateral consequences of certain delinquency conduct may instead be achieved by limiting the dissemination of unadjudicated misdemeanor conduct of juveniles handled under informal guidelines, placed on deferred prosecution, with charges that were discharged, dropped or never pursued, or with offenses found by the court to be “Not True”.<sup>8</sup> The committee envisions that the dissemination of unadjudicated misdemeanor records will be limited to criminal justice agencies (including juvenile justice agencies), the Texas Juvenile Justice Department, and the Department of Family and Protective Services, which need the information to properly place children and juveniles.<sup>9</sup>

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<sup>1</sup> S.B. 1769, 83<sup>rd</sup> Legis. Sess. (2013).

<sup>2</sup> A list of participants is located in Appendix C.

<sup>3</sup> The Texas Juvenile Justice Board is established under the TJJD enabling legislation. [Human Resources Code §203.001].

<sup>4</sup> Texas Juvenile Justice Board Resolution, August 30, 2013.

<sup>5</sup> S.B. 1769, 83<sup>rd</sup> Legis. Sess. requires the advisory committee to submit a report no later than December 1, 2014 .

<sup>6</sup> Ibid.

<sup>7</sup> The Fingerprint Advisory Committee meeting agendas are located in Appendix D.

<sup>8</sup> Unadjudicated conduct refers to circumstances when: 1) a juvenile case has been processed and disposed by law enforcement informally or through a first offender program as provided by Sections 52.03 or 52.031, FC; 2) deferred prosecution has been granted under Section 53.03, FC; 3) the charge is dropped or never pursued for reasons other than lack of probable cause; 4) the case is pending final adjudication under Section 54.03, FC; or 5) the offense is found by the court to be “Not True.”

<sup>9</sup> The term “criminal justice agency” is defined in Section 411.082(a)(3) of the Government Code. Similarly, the definition of “criminal justice purpose” is contained in Subsection (a)(4) of that provision.

## NAVIGATING THE COLLATERAL CONSEQUENCES OF JUVENILE RECORDS

In 1995, the Texas Legislature enacted Senate Bill 327 [74<sup>th</sup> R.S.]. Among the sweeping changes contained in this legislation, fingerprinting of juveniles referred for felony conduct and misdemeanors punishable by confinement in jail was authorized.<sup>10</sup> Over the past twenty years, use of the juvenile justice information system (JJIS), the statewide repository database of fingerprint-based delinquency summary information, has become the norm. Under the current law, the referral of an offense to juvenile court under Section 58.001 of the Family Code triggers the transmission of fingerprints and other information to the Department of Public Safety (DPS) for inclusion in the statewide juvenile justice information system (JJIS).<sup>11</sup> JJIS information becomes part of the Federal Bureau of Investigation's (FBI) nationwide computerized database and is governed in accordance with federal law.<sup>12</sup>

Although juvenile records are afforded protection, the dissemination of information beyond the bounds of the local jurisdiction has, in many respects, diminished the expectation of true confidentiality. In recent years, juvenile justice practitioners and advocates have proposed initiatives aimed at curtailing the unintended consequences of juvenile history for low-level offenders.<sup>13</sup> Most notably, practitioners and stakeholders alike have recognized the need to balance the longstanding system purpose of removing (where appropriate) the taint of criminality<sup>14</sup> with the state's interest in maintaining comprehensive data on juvenile activity. In response to these initiatives, the Texas Legislature enacted S.B. 1769 in order to re-examine conceptually whether the practice of fingerprinting negatively contributes to the collateral consequences for individuals with juvenile delinquency records.

In FY 2013, 38,648 misdemeanor cases were referred to juvenile probation departments.<sup>15</sup> Youth who are taken into custody by law enforcement and referred to juvenile court are fingerprinted upon initial contact with law enforcement.<sup>16</sup> Fingerprints or thumbprints are required at other points in the proceedings. Statewide statistics suggest that most low-level misdemeanor offenders do not remain in the system and are generally not eligible for commitment to a state institution unless they are adjudicated for subsequent felony conduct. As such, system practitioners have questioned the need to make information relating to unadjudicated misdemeanor conduct widely accessible. Across the state, there are anecdotal accounts of individuals who are transitioning to adulthood who have been haunted by a history of delinquent conduct. Many have been rehabilitated in the juvenile justice system and have faced uncertainty when applying for employment, college, vocational licensure and housing requiring background searches. Specifically, unadjudicated misdemeanants with no subsequent history arguably deserve to move past the burden, fear, and unintended consequences of widespread disclosure. Moreover, if the recommendations of the committee are implemented, criminal justice entities will have the information and data needed for supervision, programs and services as well as for public safety purposes.

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<sup>10</sup> H.B. 327, 74<sup>th</sup> Legis. Sess. (1995).

<sup>11</sup> Texas Family Code §58.001.

<sup>12</sup> Texas Family Code §58.102(a)(2).

<sup>13</sup> Senate Criminal Justice Committee Hearing on S.B. 1769 (April 23, 2013).

<sup>14</sup> The purpose clause contained in Title 3 of the Family Code states that the juvenile justice system strives to remove the taint of criminality, where appropriate, from children committing certain unlawful acts. [Texas Family Code §51.01(a)(2)(B).

<sup>15</sup> Information provided the Texas Juvenile Justice Department.

<sup>16</sup> In 2012, 61,655 juveniles between the ages of 10 and 17 were arrested for committing misdemeanor offenses. (DPS Arrest Data).

## UNDERSTANDING ACCESS LEVELS: Juvenile Delinquency and Criminal History

Section 58.106(a) of the Family Code restates the confidentiality of the information contained in the JJIS. This statutory provision also carves out a number of exceptions for certain persons and entities to which the Department of Public Safety (DPS) is authorized to disclose confidential delinquency information. DPS has established four access level designations.<sup>17</sup> Only three are applicable to juvenile records. Level 1 describes the scope of information available to criminal justice agencies. Criminal justice agencies are entitled to access all juvenile arrests, dispositions, non-disclosures (as applicable) and restricted juvenile records. Level 2 applies to nearly 40 public and private non-criminal justice agencies and organizations authorized by statute to receive criminal history record information.<sup>18</sup> Level 2 non-criminal justice agencies with modified access under Section 411.081 of the Government Code are authorized to receive all juvenile arrests, dispositions and non-disclosure information. Level 3 non-criminal justice agencies with standard access under 411 of the Government Code may receive all juvenile arrests and disposition information subject to non-disclosure. Criminal history information in the Level 4 category, which applies to all adult convictions and deferred adjudications<sup>19</sup>, may be disclosed to the public, all public entities and any entity not listed in Chapter 411. Juvenile delinquency history information contained in the JJIS is excluded from Level 4 access. In addition to DPS' current statutory disclosure authority, the advisory committee's proposal would limit disclosure of unadjudicated juvenile misdemeanor conduct to Level 1 Criminal Justice Agencies, TJJD and DFPS. See Appendix E for additional information on Criminal History Access Levels.

## DPS STATISTICAL DATA

The Department of Public Safety compiled statistical data that contains a list offenses and related codes. This data facilitated a useful evaluation of trends relating to the commission of misdemeanors by juveniles. Juvenile recidivism data was made available in a report on statewide recidivism rates.<sup>20</sup>

### JUVENILE STATISTICS

SOURCE: DEPARTMENT OF PUBLIC SAFETY

|                     | Offense Type  | Arrests |  | Offense Type (Restricted Access) | Restricted | Percentage |
|---------------------|---------------|---------|--|----------------------------------|------------|------------|
| <b>2012 Arrests</b> |               |         |  |                                  |            |            |
|                     | Misdemeanor A | 22,275  |  | Restricted Misdemeanor A         | 7,433      | 33.37%     |
|                     | Misdemeanor B | 16,248  |  | Restricted Misdemeanor B         | 6,610      | 40.68%     |
|                     | Felony        | 16,198  |  | Restricted Felony                | 5,163      | 31.87%     |
| <b>2013 Arrests</b> |               |         |  |                                  |            |            |
|                     | Misdemeanor A | 18,746  |  | Restricted Misdemeanor A         | 2,089      | 11.14%     |
|                     | Misdemeanor B | 13,352  |  | Restricted Misdemeanor B         | 1,979      | 14.82%     |
|                     | Felony        | 13,483  |  | Restricted Felony                | 1,590      | 11.79%     |

December 2013

<sup>17</sup> *Department of Public Safety Criminal History Access Levels*, December 2013. (See Appendix E)

<sup>18</sup> Texas Government Code §411.090, et.seq. or with modified access by §411.081.

<sup>19</sup> This includes arrests, deferred prosecutions, not guilty dispositions or other information that has not been expunged or subject to non-disclosure.

<sup>20</sup> *Statewide Criminal Justice Recidivism and Revocation Rates*, Legislative Budget Board, January 2013, [http://www.lbb.state.tx.us/Public\\_Safety\\_Criminal\\_Justice/RecRev\\_Rates/Statewide%20Criminal%20Justice%20Recidivism%20and%20Revocation%20Rates2012.pdf](http://www.lbb.state.tx.us/Public_Safety_Criminal_Justice/RecRev_Rates/Statewide%20Criminal%20Justice%20Recidivism%20and%20Revocation%20Rates2012.pdf) (last accessed April 17, 2014).

## JUVENILE OFFENSES OVER 5 YEARS

SOURCE: DEPARTMENT OF PUBLIC SAFETY

| Offense Code | Level  | Offense                           | 2009 | 2010 | 2011 | 2012 | 2013 |
|--------------|--------|-----------------------------------|------|------|------|------|------|
| 20           | FELONY | ARSON                             | 327  | 259  | 294  | 265  | 260  |
| 20           | MISD   | ARSON                             | 1    | 2    | 1    | 1    | 1    |
| 13           | FELONY | ASSLT                             | 3161 | 3109 | 3025 | 2877 | 2838 |
| 13           | MISD   | ASSLT                             | 8245 | 8098 | 7832 | 7381 | 7271 |
| 51           | FELONY | BRIBERY                           | 3    | 3    | 1    | 0    | 1    |
| 22           | FELONY | BURGL                             | 4119 | 3627 | 3322 | 3269 | 2995 |
| 22           | MISD   | BURGL                             | 1613 | 1396 | 1194 | 1121 | 1017 |
| 56           | FELONY | CIVIL RIGHTS                      | 0    | 0    | 0    | 1    | 0    |
| 40           | FELONY | COMMERCIAL SEX                    | 0    | 1    | 0    | 1    | 2    |
| 40           | MISD   | COMMERCIAL SEX                    | 36   | 26   | 34   | 17   | 20   |
| 62           | FELONY | CONSERVATION                      | 2    | 3    | 5    | 0    | 3    |
| 62           | MISD   | CONSERVATION                      | 14   | 7    | 10   | 2    | 5    |
| 29           | FELONY | DAMAGE PROP                       | 1528 | 1306 | 1018 | 923  | 785  |
| 29           | MISD   | DAMAGE PROP                       | 2911 | 2664 | 2434 | 2200 | 2024 |
| 35           | FELONY | DANGEROUS DRUGS                   | 1960 | 1991 | 1726 | 1456 | 1332 |
| 35           | MISD   | DANGEROUS DRUGS                   | 9135 | 9720 | 8708 | 9515 | 9439 |
| 59           | FELONY | ELECTION LAWS                     | 1    | 0    | 0    | 0    | 0    |
| 38           | FELONY | FAMILY OFFENSE                    | 16   | 29   | 27   | 31   | 35   |
| 38           | MISD   | FAMILY OFFENSE)                   | 6    | 2    | 2    | 2    | 5    |
| 25           | FELONY | FORGERY                           | 57   | 44   | 36   | 52   | 33   |
| 25           | MISD   | FORGERY                           | 7    | 14   | 1    | 7    | 4    |
| 26           | FELONY | FRAUD                             | 183  | 180  | 184  | 170  | 167  |
| 26           | MISD   | FRAUD                             | 67   | 71   | 34   | 61   | 51   |
| 39           | MISD   | GAMBLING                          | 1    | 0    | 3    | 0    | 0    |
| 55           | MISD   | HEALTH-SAFETY                     | 4    | 8    | 6    | 3    | 6    |
| 09           | FELONY | HOMICIDE                          | 67   | 54   | 50   | 50   | 38   |
| 57           | FELONY | INVADE PRIVACY                    | 1    | 4    | 8    | 2    | 1    |
| 57           | MISD   | INVADE PRIVACY                    | 2354 | 2193 | 2087 | 1795 | 1619 |
| 10           | FELONY | KIDNAP                            | 24   | 8    | 11   | 10   | 13   |
| 10           | MISD   | KIDNAP                            | 0    | 0    | 0    | 1    | 0    |
| 23           | FELONY | LARC                              | 843  | 683  | 783  | 742  | 747  |
| 23           | MISD   | LARC                              | 9200 | 8648 | 7591 | 7591 | 7102 |
| 41           | MISD   | LIQUOR                            | 32   | 25   | 18   | 28   | 15   |
| 16           | FELONY | TERRORISTIC THREAT                | 36   | 34   | 25   | 51   | 54   |
| 16           | MISD   | TERRORISTIC THREAT                | 970  | 842  | 802  | 871  | 848  |
| 30           | MISD   | HARMFUL ACCESS COMPUTER<br>DAMAGE | 0    | 0    | 1    | 0    | 0    |

| Offense Code | Level  | Offense               | 2009 | 2010 | 2011 | 2012 | 2013 |
|--------------|--------|-----------------------|------|------|------|------|------|
| 49           | FELONY | ESCAPE                | 45   | 62   | 35   | 46   | 31   |
| 49           | MISD   | ESCAPE                | 56   | 63   | 48   | 50   | 33   |
| 70           | FELONY | CRIMES AGAINST PERSON | 123  | 122  | 100  | 113  | 129  |
| 70           | MISD   | CRIMES AGAINST PERSON | 91   | 44   | 55   | 64   | 54   |
| 71           | FELONY | PROPERTY CRIMES       | 1    | 0    | 2    | 0    | 0    |
| 71           | MISD   | PROPERTY CRIMES       | 4    | 1    | 0    | 3    | 0    |
| 72           | FELONY | MORALS-DECENCY CRIME  | 1    | 1    | 2    | 5    | 3    |
| 72           | MISD   | MORALS-DECENCY CRIME  | 100  | 91   | 84   | 115  | 119  |
| 73           | FELONY | PUBLIC ORDER CRIMES   | 965  | 703  | 621  | 568  | 470  |
| 73           | MISD   | PUBLIC ORDER CRIMES   | 319  | 341  | 267  | 272  | 277  |
| 37           | FELONY | OBSCENE MATERIAL      | 23   | 27   | 27   | 16   | 25   |
| 37           | MISD   | OBSCENE MATERIAL      | 36   | 40   | 24   | 18   | 25   |
| 48           | FELONY | OBSTRUCT POLICE       | 319  | 302  | 278  | 320  | 310  |
| 48           | MISD   | OBSTRUCT POLICE       | 5510 | 5178 | 4404 | 4434 | 4023 |
| 50           | FELONY | OBSTRUCT              | 13   | 12   | 11   | 3    | 2    |
| 50           | MISD   | OBSTRUCT              | 382  | 521  | 714  | 390  | 423  |
| 53           | FELONY | PUBLIC PEACE          | 164  | 191  | 167  | 146  | 161  |
| 53           | MISD   | PUBLIC PEACE          | 503  | 464  | 416  | 443  | 430  |
| 12           | MISD   | ROBBERY               | 1097 | 900  | 768  | 753  | 867  |
| 12           | MISD   | ROBBERY               | 2    | 2    | 0    | 1    | 0    |
| 11           | FELONY | SEX ASSLT             | 812  | 769  | 841  | 949  | 888  |
| 11           | MISD   | SEX ASSLT             | 3    | 1    | 0    | 2    | 0    |
| 36           | FELONY | SEX OFFENSE           | 428  | 454  | 465  | 522  | 558  |
| 36           | MISD   | SEX OFFENSE           | 78   | 57   | 64   | 59   | 70   |
| 58           | FELONY | SMUGGLING             | 0    | 12   | 12   | 6    | 10   |
| 28           | FELONY | STOLEN PROP           | 1    | 0    | 0    | 1    | 0    |
| 28           | MISD   | STOLEN PROP           | 2    | 3    | 3    | 4    | 2    |
| 54           | FELONY | TRAFFIC OFFENSE       | 44   | 41   | 36   | 26   | 24   |
| 54           | MISD   | TRAFFIC OFFENSE       | 315  | 257  | 236  | 241  | 253  |
| 24           | FELONY | VEHICLE               | 842  | 767  | 695  | 785  | 724  |
| 24           | MISD   | VEHICLE               | 2    | 9    | 7    | 5    | 6    |
| 52           | FELONY | WEAPON OFFENSE        | 700  | 654  | 587  | 525  | 470  |
| 52           | MISD   | WEAPON OFFENSE        | 514  | 431  | 363  | 317  | 328  |

## JUVENILE DISPOSITIONS OVER 5 YEARS

SOURCE: DEPARTMENT OF PUBLIC SAFETY

| Arrest<br>Offense<br>Code | Arrest<br>Level &<br>Degree | Arrest Offense Code Literal | 2009 | 2010 | 2011 | 2012 | 2013 |
|---------------------------|-----------------------------|-----------------------------|------|------|------|------|------|
| 09                        | FELONY                      | HOMICIDE                    | 67   | 54   | 50   | 50   | 38   |
| 10                        | FELONY                      | KIDNAP                      | 24   | 8    | 11   | 10   | 13   |
| 10                        | MISD                        | KIDNAP                      | 0    | 0    | 0    | 1    | 0    |
| 11                        | FELONY                      | SEX ASSLT                   | 812  | 769  | 841  | 949  | 888  |
| 11                        | MISD                        | SEX ASSLT                   | 3    | 1    | 0    | 2    | 0    |
| 12                        | FELONY                      | ROBBERY                     | 1097 | 900  | 768  | 753  | 867  |
| 12                        | MISD                        | ROBBERY                     | 2    | 2    | 0    | 1    | 0    |
| 13                        | FELONY                      | ASSLT                       | 3161 | 3109 | 3025 | 2877 | 2838 |
| 13                        | MISD                        | ASSLT                       | 8245 | 8098 | 7832 | 7381 | 7271 |
| 16                        | FELONY                      | TERRORISTIC THREAT          | 36   | 34   | 25   | 51   | 54   |
| 16                        | MISD                        | TERRORISTIC THREAT          | 970  | 842  | 802  | 871  | 848  |
| 20                        | FELONY                      | ARSON                       | 327  | 259  | 294  | 265  | 260  |
| 20                        | MISD                        | ARSON                       | 1    | 2    | 1    | 1    | 1    |
| 22                        | FELONY                      | BURGL                       | 4119 | 3627 | 3322 | 3269 | 2995 |
| 22                        | MISD                        | BURGL                       | 1613 | 1396 | 1194 | 1121 | 1017 |
| 23                        | FELONY                      | LARC                        | 843  | 683  | 783  | 742  | 747  |
| 23                        | MISD                        | LARC                        | 9200 | 8648 | 7591 | 7591 | 7102 |
| 24                        | FELONY                      | VEHICLE                     | 842  | 767  | 695  | 785  | 724  |
| 24                        | MISD                        | VEHICLE                     | 2    | 9    | 7    | 5    | 6    |
| 25                        | FELONY                      | FORGERY                     | 57   | 44   | 36   | 52   | 33   |
| 25                        | MISD                        | FORGERY                     | 7    | 14   | 1    | 7    | 4    |
| 26                        | FELONY                      | FRAUD                       | 183  | 180  | 184  | 170  | 167  |
| 26                        | MISD                        | FRAUD                       | 67   | 71   | 34   | 61   | 51   |
| 28                        | FELONY                      | STOLEN PROP                 | 1    | 0    | 0    | 1    | 0    |
| 28                        | MISD                        | STOLEN PROP                 | 2    | 3    | 3    | 4    | 2    |
| 29                        | FELONY                      | DAMAGE PROP                 | 1528 | 1306 | 1018 | 923  | 785  |
| 29                        | MISD                        | DAMAGE PROP                 | 2911 | 2664 | 2434 | 2200 | 2024 |
| 30                        | MISD                        | BREACH OF COMPUTER SECURITY | 0    | 0    | 1    | 0    | 0    |
| 35                        | FELONY                      | DANGEROUS DRUGS             | 1960 | 1991 | 1726 | 1456 | 1332 |
| 35                        | MISD                        | DANGEROUS DRUGS             | 9135 | 9720 | 8708 | 9515 | 9439 |
| 36                        | FELONY                      | SEX OFFENSE                 | 428  | 454  | 465  | 522  | 558  |
| 36                        | MISD                        | SEX OFFENSE                 | 78   | 57   | 64   | 59   | 70   |

| <b>Arrest<br/>Offense<br/>Code</b> | <b>Arrest<br/>Level &amp;<br/>Degree</b> | <b>Arrest Offense Code Literal</b> | <b>2009</b> | <b>2010</b> | <b>2011</b> | <b>2012</b> | <b>2013</b> |
|------------------------------------|--|------------------------------------|-------------|-------------|-------------|-------------|-------------|
| 37                                 | FELONY                                   | OBSCENE MATERIAL                   | 23          | 27          | 27          | 16          | 25          |
| 37                                 | MISD                                     | OBSCENE MATERIAL                   | 36          | 40          | 24          | 18          | 25          |
| 38                                 | FELONY                                   | FAMILY OFFENSE                     | 16          | 29          | 27          | 31          | 35          |
| 38                                 | MISD                                     | FAMILY OFFENSE                     | 6           | 2           | 2           | 2           | 5           |
| 39                                 | MISD                                     | GAMBLING                           | 1           | 0           | 3           | 0           | 0           |
| 40                                 | FELONY                                   | COMMERCIAL SEX                     | 0           | 1           | 0           | 1           | 2           |
| 40                                 | MISD                                     | COMMERCIAL SEX                     | 36          | 26          | 34          | 17          | 20          |
| 41                                 | MISD                                     | LIQUOR                             | 32          | 25          | 18          | 28          | 15          |
| 48                                 | FELONY                                   | OBSTRUCT POLICE                    | 319         | 302         | 278         | 320         | 310         |
| 48                                 | MISD                                     | OBSTRUCT POLICE                    | 5510        | 5178        | 4404        | 4434        | 4023        |
| 49                                 | FELONY                                   | ESCAPE                             | 45          | 62          | 35          | 46          | 31          |
| 49                                 | MISD                                     | ESCAPE                             | 56          | 63          | 48          | 50          | 33          |
| 50                                 | FELONY                                   | OBSTRUCT                           | 13          | 12          | 11          | 3           | 2           |
| 50                                 | MISD                                     | OBSTRUCT                           | 382         | 521         | 714         | 390         | 423         |
| 51                                 | FELONY                                   | BRIBERY                            | 3           | 3           | 1           | 0           | 1           |
| 52                                 | FELONY                                   | WEAPON OFFENSE                     | 700         | 654         | 587         | 525         | 470         |
| 52                                 | MISD                                     | WEAPON OFFENSE                     | 514         | 431         | 363         | 317         | 328         |
| 53                                 | FELONY                                   | PUBLIC PEACE                       | 164         | 191         | 167         | 146         | 161         |
| 53                                 | MISD                                     | PUBLIC PEACE                       | 503         | 464         | 416         | 443         | 430         |
| 54                                 | FELONY                                   | TRAFFIC OFFENSE                    | 44          | 41          | 36          | 26          | 24          |
| 54                                 | MISD                                     | TRAFFIC OFFENSE                    | 315         | 257         | 236         | 241         | 253         |
| 55                                 | MISD                                     | HEALTH-SAFETY                      | 4           | 8           | 6           | 3           | 6           |
| 56                                 | FELONY                                   | CIVIL RIGHTS                       | 0           | 0           | 0           | 1           | 0           |
| 57                                 | FELONY                                   | INVADE PRIVACY                     | 1           | 4           | 8           | 2           | 1           |
| 57                                 | MISD                                     | INVADE PRIVACY                     | 2354        | 2193        | 2087        | 1795        | 1619        |
| 58                                 | FELONY                                   | SMUGGLING                          | 0           | 12          | 12          | 6           | 10          |
| 59                                 | FELONY                                   | ELECTION LAWS                      | 1           | 0           | 0           | 0           | 0           |
| 62                                 | FELONY                                   | CONSERVATION                       | 2           | 3           | 5           | 0           | 3           |
| 62                                 | MISD                                     | CONSERVATION                       | 14          | 7           | 10          | 2           | 5           |
| 70                                 | FELONY                                   | CRIMES AGAINST PERSON              | 123         | 122         | 100         | 113         | 129         |
| 70                                 | MISD                                     | CRIMES AGAINST PERSON              | 91          | 44          | 55          | 64          | 54          |
| 71                                 | FELONY                                   | PROPERTY CRIMES                    | 1           | 0           | 2           | 0           | 0           |
| 71                                 | MISD                                     | PROPERTY CRIMES                    | 4           | 1           | 0           | 3           | 0           |
| 72                                 | FELONY                                   | MORALS-DECENCY CRIME               | 1           | 1           | 2           | 5           | 3           |
| 72                                 | MISD                                     | MORALS-DECENCY CRIME               | 100         | 91          | 84          | 115         | 119         |
| 73                                 | FELONY                                   | PUBLIC ORDER CRIME                 | 965         | 703         | 621         | 568         | 470         |
| 73                                 | MISD                                     | PUBLIC ORDER CRIME                 | 319         | 341         | 267         | 272         | 277         |
| 99                                 | MISD                                     | CLASS C                            | 0           | 1           | 0           | 0           | 1           |

## STATUTORY USES OF JUVENILE FINGERPRINTS & COLLECTION PRACTICES

Various provisions in Title 3 of the Family Code and other applicable laws outline the statutory uses of fingerprint and thumbprint information in the juvenile justice system. Since 1995, the Family Code has contemplated a booking intake process for juvenile offenders who have been taken into custody by law enforcement. Within 10 days of the custodial event, the law enforcement agency is required to refer the case to the juvenile court, if it intends to do so.<sup>21</sup> The child's identifying information, the CR-43J<sup>22</sup> reporting form and related case information are submitted to DPS so that the information can be entered into the statewide juvenile justice system. Similarly, Section 58.002(a) outlines four circumstances under which children in custody may be fingerprinted: 1) with the consent of the juvenile court; 2) for inclusion in the missing children clearinghouse; 3) when a child is taken into custody for a felony or jailable misdemeanor; and 4) when a paper referral of the child has been forwarded to juvenile court.<sup>23</sup> Thumbprints are also authorized as evidence of adjudication under Section 54.04 of the Family Code.<sup>24</sup> In Texas, biometric fingerprint information is utilized for juvenile offender identification, prosecution, investigation, evidence of adjudication, and delinquency history summaries (i.e., "rap sheets"), as well as research and statistical data. The following list outlines the relevant provisions that authorize fingerprinting of juvenile offenders in Texas.

### SYSTEM PROCESS

Case Referral and Identification  
Investigative and Comparative Purposes  
Law Enforcement Reporting  
Evidence of Adjudication at Disposition  
Subsequent Adult Prosecution  
Juvenile Justice Information System  
Research and Statistical Data

### STATUTORY AUTHORITY

Texas Family Code §58.001  
Texas Family Code §§58.002, 58.0021, 58.0022  
Texas Family Code §§58.001, 58.110  
Texas Family Code §54.04  
Code of Criminal Procedure Art. 37.07  
Texas Family Code §58.104  
Texas Family Code §58.102

## COLLECTION PRACTICES & DATABASES THAT CONTAIN FINGERPRINT INFORMATION

The statistical data contained in the JJIS is also utilized for research purposes. In particular, a number of state agencies such as the Texas Juvenile Justice Department (TJJD), Legislative Budget Board (LBB), Bureau of Justice Assistance (BJA), universities, and the Office of Court Administration (OCA) rely on comprehensive data for operational, fiscal, legislative and academic purposes. The following state and local databases and repositories contain juvenile fingerprint information:

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<sup>21</sup> Texas Family Code §58.001.

<sup>22</sup> The CR-43J is a form used to report criminal and juvenile justice information for inclusion in the Computerized Criminal History (CCH) maintained by the Department of Public Safety. CJIS and JJIS Reporting, [http://www.txdps.state.tx.us/administration/crime\\_records/pages/cjisJJISReporting.htm](http://www.txdps.state.tx.us/administration/crime_records/pages/cjisJJISReporting.htm), (Last Accessed 4/17/2014).

<sup>23</sup> Texas Juvenile Law, 8<sup>th</sup> ed. (2012), pp. 394-395.

<sup>24</sup> Texas Family Code §54.04.

## REPOSITORY

Texas Computerized Criminal History (CCH)  
Juvenile Justice Information System (JJIS)  
Automated Fingerprint Identification System (AFIS)  
National Crime Information Center (NCIC)  
Interstate Identification Index (Triple I)  
Juvenile Case Management System (JCMS)  
Local Juvenile Information System Repositories

## AGENCY OR ENTITY

Department of Public Safety  
Department of Public Safety  
Federal Bureau of Investigation  
Federal Bureau of Investigation  
Federal Bureau of Investigation  
Texas Juvenile Justice Department  
County-Regional Entities under §58.303, FC

## RECOMMENDED STATUTORY CHANGES

A referral<sup>25</sup> to juvenile court under Section 58.001 of the Family Code initiates the transmission of fingerprints and other information to the Department of Public Safety (DPS) for inclusion in the statewide JJIS database. Under current law, the transmission of the records collected by law enforcement officers and juvenile justice personnel under this provision is authorized for conduct constituting a felony or misdemeanor punishable by confinement in jail. Although the information contained in the juvenile justice information system is confidential, there are certain criminal justice and non-criminal justice agencies that have specific statutory authority to obtain criminal history information under Chapter 411 of the Government Code. The proposed statutory change would amend Section 58.106 of the Family Code to clarify that DPS may only disseminate unadjudicated misdemeanor information in JJIS to criminal justice agencies, TJJD and DFPS. Unadjudicated conduct refers to circumstances when: 1) a juvenile case has been processed and disposed by law enforcement informally or through a first offender program as provided by Sections 52.03 or 52.031, FC; 2) deferred prosecution has been granted under Section 53.03, FC; 3) the charge is dropped or never pursued for reasons other than lack of probable cause; 4) the case is pending final adjudication under Section 54.03, FC; or 5) the offense is found by the court to be “Not True.” The proposed statutory amendment to implement the recommendations of the Fingerprint Advisory Committee is contained in Appendix F of this report.

## JUVENILE JUSTICE INFORMATION SYSTEM PROGRAMMING CHANGES

The committee recognizes that certain JJIS programming will be required to implement the recommended changes. Specifically, juvenile records associated with unadjudicated misdemeanor contact events that have been reported through the CR-43J or other means will require a flagged entry or designation to limit dissemination only to criminal justice agencies, TJJD or DFPS. The Department of Public Safety must, however, determine its capacity to make the corresponding programming changes. In connection with this process, DPS will not need to generate additional notifications as it does for other protective mechanisms, such as restricted access. The flagged or designated entry on the record will be removed when the court adjudicates a finding of “True” and disposition information has been reported<sup>26</sup>. The protected designation will remain for a “Not True” finding.

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<sup>25</sup> In the context of cases under Title 3 of the Family Code, a referral occurs when law enforcement identifies and forwards information to the juvenile court relating to the commission of delinquent conduct by a child who has been taken into custody. For non-custodial events, law enforcement transmits a paper referral of the case.

<sup>26</sup> Texas Family Code §58.110(c) require the clerk of the court (or other alternative reporting entity) exercising jurisdiction over a juvenile offender’s case to report the disposition of the case to DPS. Arrangements for alternative reporting are authorized under Subsection (d).

## BIG PICTURE ISSUES: JUVENILE RECORDS -- CHAPTER 58, FAMILY CODE

In addition to examining fingerprinting practices, the advisory committee concluded that it was important to identify other issues pertaining to juvenile records and Chapter 58 of the Family Code. Specifically, the advisory committee strongly recommends that a practitioner workgroup be convened to conduct a comprehensive examination of Chapter 58 of the Family Code in order to:

1. bring statutory authority in the Family Code and other applicable provisions in line with technological advances;
2. consider the capacity of all record holding entities to exchange needed information and to protect the confidentiality of information while a youth is under the jurisdiction of the juvenile court and after exit from the system;
3. streamline and/or consolidate the protected status procedural mechanisms such as sealing and restricted access; and
4. sustain statutory fidelity to the goals of removing the taint of criminality as set forth in the purpose provisions in Chapter 51 of the Family Code.

## CONCLUSION

The Fingerprint Advisory Committee collectively agreed that the current practice of fingerprinting juvenile misdemeanor offenders is an essential component to achieving the state's public safety objectives and should continue. The documentation of biometric fingerprints serves as a foundation for the computerized juvenile justice information system database (JJIS), expedites case tracking, provides reliable evidence of adjudication, functions as a crime-solving repository of latent prints, facilitates research of statistical data and assists practitioners in meeting other recordkeeping objectives.

The committee's work culminated with the development of findings and recommendations for statutory and procedural changes in fulfillment of the legislative charges of S.B. 1769. Specifically, the Chapter 58 subgroup presented a proposed draft of the statutory changes relating to S.B. 1769 to the full advisory committee at the May 1, 2014 meeting. The language amends Section 58.106 of the Texas Family Code<sup>27</sup>.

Substantively, the committee proposes to amend Family Code Section 58.106 relating to Confidentiality contained in Chapter 58, Subchapter B - Juvenile Justice Information System. Under existing law, information collected and maintained in the JJIS is confidential and may only be disseminated to the specific persons and entities enumerated under that provision. Although the information in the JJIS is confidential, there are certain criminal justice and non-criminal justice agencies that have specific statutory authority to obtain criminal history information under Chapter 411 of the Government Code. As amended, Section 58.106 of the Family Code would clarify that DPS may only disseminate unadjudicated misdemeanor information in JJIS to criminal justice agencies, TJJD and DFPS and makes other non-substantive corrective changes.

Finally, the committee contends that the underlying objective of diminishing the long-term collateral consequences of certain delinquency conduct can be achieved by limiting dissemination of unadjudicated

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<sup>27</sup> A complete copy of the committee's draft legislation is included in Appendix F.

misdemeanor conduct of juveniles handled under informal guidelines, placed on deferred prosecution or whose cases are discharged without adjudication. Unadjudicated misdemeanor information in the JJIS would remain available to criminal justice agencies. Other records would be exchanged by juvenile service providers under interagency sharing and other applicable laws that ensure the continuity of prosecution, supervision, programs and services.

# APPENDICES

- A: S.B. 1769 LEGISLATION (83RD R.S., 2013)
- B: TJJJD BOARD RESOLUTIONS
- C: FINGERPRINT ADVISORY COMMITTEE MEMBERS
- D: MEETING AGENDAS
- E: DPS CRIMINAL HISTORY ACCESS LEVELS
- F: PROPOSED AMENDMENT

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APPENDIX A:  
S.B. 1769 LEGISLATION (83<sup>RD</sup> R.S, 2013)

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# **SB 1769**

## **AN ACT**

relating to the creation of an advisory committee to examine the fingerprinting practices of juvenile probation departments.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. FINGERPRINTING ADVISORY COMMITTEE. Not later than December 1, 2013, the Texas Juvenile Justice Board shall appoint an advisory committee to develop a plan to end the practice of fingerprinting children referred to a juvenile probation department for delinquent conduct, other than felony conduct. The plan must ensure that public safety and due process rights are protected.

SECTION 2. APPOINTMENTS; PRESIDING OFFICER. (a) In making appointments to the advisory committee, the board shall include members who are interested parties, including:

- (1) chief juvenile probation officers;
- (2) juvenile prosecutors;
- (3) juvenile defense attorneys;
- (4) peace officers;
- (5) representatives of the Department of Family and Protective Services;
- (6) juvenile justice advocates; and
- (7) members of the public.

(b) The board shall designate one of the members as presiding officer of the advisory committee.

SECTION 3. REPORT. Not later than December 1, 2014, the advisory committee shall submit to the board the plan developed under Section 1.

SECTION 4. COMPENSATION. Members of the advisory committee serve without compensation and are not entitled to reimbursement for expenses.

SECTION 5. APPLICATION OF LAWS GOVERNING ADVISORY COMMITTEES. The advisory committee is not subject to Chapter 2110, Government Code.

SECTION 6. EXPIRATION DATE. The advisory committee is abolished and this Act expires January 1, 2015.

SECTION 7. EFFECTIVE DATE. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2013.

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## APPENDIX B: TJJD Board Resolutions

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**Texas Juvenile Justice Department  
RESOLUTION**

**A RESOLUTION APPOINTING THE MEMBERS OF THE FINGERPRINT ADVISORY COMMITTEE AND  
AUTHORIZING THE PERFORMANCE OF OTHER ACTS NECESSARY TO ACCOMPLISH  
THE INTENT OF THIS RESOLUTION**

On this 30th day of August 2013, a duly called and lawfully convened meeting of the Texas Juvenile Justice Board was held in the City of Austin, Texas, pursuant to the Texas Open Meetings Act. A quorum of the Members was present, to wit:

| Member Name          | Present | Absent                | Yes | No | Abstain |
|----------------------|---------|-----------------------|-----|----|---------|
| Scott W. Fisher      | ✓       |                       | ✓   |    |         |
| John Brieden III     | ✓       |                       | ✓   |    |         |
| Joseph Brown         | ✓       |                       | ✓   |    |         |
| Carol Bush           | ✓       |                       | ✓   |    |         |
| Becky Gregory        | ✓       |                       | ✓   |    |         |
| Jane A. King         | ✓       |                       | ✓   |    |         |
| Scott Matthew        | ✓       |                       | ✓   |    |         |
| MaryLou Mendoza      |         |                       | ✓   |    |         |
| Rene Olvera          | ✓       |                       |     | ✓  |         |
| Laura Parker         | ✓       |                       |     | ✓  |         |
| Jimmy Smith          | ✓       |                       |     | ✓  |         |
| Calvin Stephens      |         |                       | ✓   |    |         |
| Melissa Weiss        | ✓       |                       |     | ✓  |         |
| Motion: <i>Weiss</i> |         | Second: <i>Parker</i> |     |    |         |

where, among other matters, came up for consideration and adoption the following Resolution:

**WHEREAS**, the Fingerprint Advisory Committee is established pursuant to Senate Bill 1769, an Act of the 83rd Texas Legislature, Regular Session and in accordance with the provisions of the Act, the members of the Fingerprint Advisory Committee shall be appointed not later than December 1, 2013; and

**WHEREAS**, the Fingerprint Advisory Committee will assist the Texas Juvenile Justice Department and statewide juvenile justice stakeholders with, among other things, the task of studying and developing a plan to end the practice of fingerprinting misdemeanants in the juvenile justice system; and

**WHEREAS**, the Act requires that the members of the Fingerprint Advisory Committee shall represent a cross-section of juvenile justice stakeholders, including, chief juvenile probation officers, prosecutors, defense attorneys, peace officers, Department of Family and Protective Services representatives, juvenile justice advocates and members of the public; and

**WHEREAS**, the charge of the committee will impact fingerprint-based crime records maintained in the Juvenile Justice Information System (JJIS) statewide database, the Texas Juvenile Justice Board deems it necessary and essential to include and appoint representatives from the Department of Public Safety and juvenile probation departments responsible for processing juvenile fingerprints and related information; and

**WHEREAS**, the Act further vests the Texas Juvenile Justice Board with the authority to appoint the presiding chair and members the Juvenile Fingerprint Advisory Committee; and

**NOW, THEREFORE BE IT RESOLVED THAT** the Texas Juvenile Justice Board hereby makes, subject to the provisions of Senate Bill 1769, the following appointments to the Juvenile Fingerprint Advisory Committee:

**PRESIDING CHAIR**

**Mark Williams**  
Chief Juvenile Probation Officer  
Tom Green County

**CHIEF JUVENILE PROBATION OFFICERS**

**William Carter**  
Chief Juvenile Probation Officer  
Lubbock County

**Homer Flores**  
Chief Juvenile Probation Officer  
Nueces County

**Lisa Tomlinson**  
Chief Juvenile Probation Officer  
Johnson County

**JUVENILE PROSECUTORS**

**Riley Shaw**  
Chief Prosecutor, Juvenile Division  
Tarrant County

**Jill Mata**  
Assistant District Attorney, Juvenile Division  
Bexar County

**JUVENILE DEFENSE ATTORNEY**

**Larry McDougal**  
Juvenile Defense Attorney  
Richmond, Texas

**PEACE OFFICERS**

**Sgt. Erik Grasse**  
Georgetown Police Department

**Kirby Warnke**

Chief of Police  
Corpus Christi Independent School District

**DEPARTMENT OF FAMILY & PROTECTIVE SERVICES**

**Larry Burgess, MSSW, LCSW**  
DFPS Juvenile Justice Liaison

**DEPARTMENT OF PUBLIC SAFETY**

**Angie Kendall**  
Crime Records Division

**JUVENILE ADVOCATE**

**Lauren Rose**  
Texans Care for Children

**JUVENILE PROBATION DEPARTMENT**

**Kaci Sohrt**  
Director of Courts Administration  
Travis County Juvenile Probation Department

**MEMBER OF THE PUBLIC**

**Tamara L. Brown, Ph.D.**  
Dean, College of Juvenile Justice and Psychology  
Prairie View A & M University

The foregoing Resolution was lawfully moved, duly seconded and adopted by the Texas Juvenile Justice Board.

Signed this **30th day of August 2013**.

**Texas Juvenile Justice Board**



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Scott W. Fisher, Chairman



**Texas Juvenile Justice Department  
RESOLUTION**

**A RESOLUTION GRANTING CONTINUING AUTHORITY TO  
CONVENE THE FINGERPRINT ADVISORY COMMITTEE**

On this 30th day of May 2014, a duly called and lawfully convened meeting of the Texas Juvenile Justice Board was held in the City of Austin, Texas, pursuant to the Texas Open Meetings Act. A quorum of the Members was present, to wit:

| Board Member     | Present | Absent | Yes | No | Absent |
|------------------|---------|--------|-----|----|--------|
| Scott W. Fisher  | ✓       |        | ✓   |    |        |
| John Brieden III | ✓       |        | ✓   |    |        |
| Joseph Brown     | ✓       |        | ✓   |    |        |
| Carol Bush       | ✓       |        | ✓   |    |        |
| Becky Gregory    | ✓       |        | ✓   |    |        |
| Jane A. King     | ✓       |        | ✓   |    |        |
| Scott Matthew    | ✓       |        | ✓   |    |        |

  

| Board Member         | Present | Absent               | Yes | No | Absent |
|----------------------|---------|----------------------|-----|----|--------|
| MaryLou Mendoza      | ✓       |                      |     | ✓  |        |
| Rene Olvera          |         | ✓                    |     |    |        |
| Laura Parker         | ✓       |                      | ✓   |    |        |
| Jimmy Smith          | ✓       |                      | ✓   |    |        |
| Calvin Stephens      | ✓       |                      | ✓   |    |        |
| Melissa Weiss        | ✓       |                      | ✓   |    |        |
| Motion: <i>Weiss</i> |         | Second: <i>Smith</i> |     |    |        |

where, among other matters, came up for consideration and adoption the following Resolution:

**WHEREAS, WHEREAS**, the Fingerprint Advisory Committee was established pursuant to Senate Bill 1769, an Act of the 83<sup>rd</sup> Texas Legislature, Regular Session and in accordance with the provisions of the Act, the Fingerprint Advisory Committee has completed its primary legislative charge and submitted the Senate Bill 1769 Report; and

**WHEREAS**, the Fingerprint Advisory Committee's responsibilities are set to expire on January 1, 2015 and the committee is seeking continuing authority to convene to identify other statutory issues pertaining to juvenile records and Chapter 58 of the Texas Family Code;

**NOW, THEREFORE BE IT RESOLVED THAT** the Board grants the Fingerprint Advisory Committee authority to convene until its responsibilities expire on January 1, 2015.

The foregoing Resolution was lawfully moved, duly seconded, and adopted by the Texas Juvenile Justice Board.

Signed this 30th day of May 2014.

**Texas Juvenile Justice Board**

*Scott W. Fisher*  
 \_\_\_\_\_  
 Scott W. Fisher, Chairman



**Texas Juvenile Justice Department  
RESOLUTION**

**A RESOLUTION APPROVING THE FINGERPRINT ADVISORY COMMITTEE REPORT**

On this 30th day of May 2014, a duly called and lawfully convened meeting of the Texas Juvenile Justice Board was held in the City of Austin, Texas, pursuant to the Texas Open Meetings Act. A quorum of the Members was present, to wit:

| Board Member           | Present | Absent              | Yes | No | Absent |
|------------------------|---------|---------------------|-----|----|--------|
| Scott W. Fisher        | ✓       |                     | ✓   |    |        |
| John Brieden III       | ✓       |                     | ✓   |    |        |
| Joseph Brown           | ✓       |                     | ✓   |    |        |
| Carol Bush             | ✓       |                     | ✓   |    |        |
| Becky Gregory          | ✓       |                     | ✓   |    |        |
| Jane A. King           | ✓       |                     | ✓   |    |        |
| Scott Matthew          | ✓       |                     | ✓   |    |        |
| MaryLou Mendoza        | ✓       |                     | ✓   |    |        |
| Rene Olvera            |         | ✓                   |     |    |        |
| Laura Parker           | ✓       |                     | ✓   |    |        |
| Jimmy Smith            | ✓       |                     | ✓   |    |        |
| Calvin Stephens        | ✓       |                     | ✓   |    |        |
| Melissa Weiss          | ✓       |                     | ✓   |    |        |
| Motion: <u>Matthew</u> |         | Second: <u>King</u> |     |    |        |

where, among other matters, came up for consideration and adoption the following Resolution:

**WHEREAS, WHEREAS**, the Fingerprint Advisory Committee was established pursuant to Senate Bill 1769, an Act of the 83<sup>rd</sup> Texas Legislature, Regular Session and in accordance with the provisions of the Act, the members of the Fingerprint Advisory Committee are required to submit a report no later than December 1, 2014; and

**WHEREAS**, the Fingerprint Advisory Committee has fulfilled its primary legislative charge and has submitted findings and recommendations contained in the *Senate Bill 1769 Report: A Report on Juvenile Fingerprinting Practices in Texas*;

**NOW, THEREFORE BE IT RESOLVED THAT** the Board approves the Senate Bill 1769 Report and authorizes its distribution.

The foregoing Resolution was lawfully moved, duly seconded, and adopted by the Texas Juvenile Justice Board.

Signed this 30th day of May 2014.

**Texas Juvenile Justice Board**  
  
 \_\_\_\_\_  
 Scott W. Fisher, Chairman

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## APPENDIX C: Fingerprint Advisory Committee Members

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# FINGERPRINT ADVISORY COMMITTEE CONTACT ROSTER (May 1, 2014)

## **PRESIDING CHAIR**

### **Mark Williams**

Chief Juvenile Probation Officer  
Tom Green County Juvenile Probation  
Department  
1253 W. 19th  
San Angelo, TX 76903-3112  
325.655.2323  
Email: mark.williams@co.tom-green.tx.us

## **CHIEF JUVENILE PROBATION OFFICERS**

### **William Carter**

Chief Juvenile Probation Officer  
Lubbock County Juvenile Probation  
Department  
2025 N Akron Ave  
Lubbock, TX 79415-1118  
806.775.1800  
Email: wcarter@co.lubbock.tx.us

### **Homer Flores**

Chief Juvenile Probation Officer  
Nueces County Juvenile Probation  
Department  
2310 Gollihar  
Corpus Christi, TX 78415  
361.855.7303  
Email: homer.flores@co.nueces.tx.us

### **Lisa Tomlinson**

Chief Juvenile Probation Officer  
Johnson and Somervell County Juvenile  
Probation Department  
1102 E. Kilpatrick, Suite C  
Cleburne, TX 76031  
817.556.6880  
Email: ltomlinson@johnsoncountytexas.org

## **JUVENILE PROSECUTORS**

### **Riley Shaw**

Chief Prosecutor, Juvenile Division  
Tarrant County District Attorney's Office  
401 W. Belknap  
Fort Worth, TX 76196  
817.838.4613  
Email: rshaw@tarrantcounty.com

### **Jill Mata**

Assistant District Attorney, Juvenile Division  
Bexar County  
235 East Mitchell Street  
San Antonio, TX 78210  
210.335.1965  
Email: jmata@bexar.org

## **JUVENILE DEFENSE ATTORNEY**

### **Larry McDougal**

Juvenile Defense Attorney  
809 Houston Street  
Richmond, TX 77469  
281.725.6025  
Email: mcdougal-law-larry@comcast.net

## **PEACE OFFICERS**

### **Sgt. Erik Grasse**

Georgetown Police Department  
809 Martin Luther King Jr.  
Georgetown, TX 78626  
512.930.2594  
Email: erik.grasse@georgetown.org

### **Kirby Warnke**

Chief of Police  
Corpus Christi Independent School District  
Police Department  
801 Leopard Street  
Corpus Christi, TX 78401  
361.695.7200  
Email: kirby.warnke@ccisd.us

## **DEPARTMENT OF FAMILY & PROTECTIVE SERVICES**

### **Larry Burgess, MSSW, LCSW**

DFPS Juvenile Justice Liaison  
Post Office Box 149030  
Austin, TX 78713-9030  
512.438.5320  
Email: lawrence.burgess@dfps.state.tx.us

## **DEPARTMENT OF PUBLIC SAFETY**

### **Angie Kendall**

Deputy Administrator  
DPS Crime Records Division  
PO Box 4143  
Austin, TX 78765-4143  
512.424.2471  
Email: angie.kendall@dps.texas.gov

## **JUVENILE ADVOCATE**

### **Lauren Rose**

Texans Care for Children  
811 Trinity, Suite A  
Austin, Texas, 78701  
512.473.2274  
Email: lrose@txchildren.org

## **JUVENILE PROBATION DEPARTMENT**

### **Kaci Sohrt**

Director of Court Administration  
Travis County Juvenile Probation  
Department  
2515 S. Congress Ave.  
Austin, TX 78704-5594  
512.854.5528  
Email: kaci.sohrt@co.travis.tx.us

## **MEMBER OF THE PUBLIC**

### **Tamara L. Brown, Ph.D.**

Dean, College of Juvenile Justice and  
Psychology  
Prairie View A & M University  
Post Office Box 519, MS 2600  
Prairie View, TX 77446  
936.261.5205  
Email: tlbrown@pvamu.edu

## **LEGISLATIVE STAFFERS**

### **Darrell Frost**

Office of State Representative James White  
P.O. Box 2910  
Austin, TX 78768  
512.463.0490  
Email: darrell.frost@house.state.tx.us

### **Sushma J. Smith**

Office of State Senator Jose' R. Rodriguez  
P.O. Box 12068  
Capitol Station  
Austin, Texas 78711  
512.463.0129  
Email: sushma.smith@senate.state.tx.us

## **TEXAS JUVENILE JUSTICE DEPARTMENT**

P.O. Box 12757  
Austin, Texas 78711-2757

Linda Brooke, Interim Executive Director  
512.490.7130  
Email: linda.brooke@tjjd.texas.gov

### **Nydia D. Thomas -- FAC Liaison**

Special Counsel, Legal Education & Technical  
Assistance  
512.490.7783  
Email: nydia.thomas@tjjd.texas.gov

### **Katrena Plummer**

Executive Projects & Activities Coordinator  
512.490.7248  
Email: katrena.plummer@tjjd.texas.gov

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## APPENDIX D: Meeting Agendas

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# Fingerprint Advisory Committee

## Texas Juvenile Justice Department

Thursday, December 12, 2013

TJJD Central Office

Lone Star Room

11209 Metric Boulevard, Building H - Austin, Texas

### Agenda

- 9:00 a.m. Welcome & Introductions
- 9:20 a.m. Goals for Today's Meeting
- 9:30 a.m. SB 1769 Requirements & Timelines
- 9:45 a.m. Background & 83<sup>rd</sup> Legislative Session Initiatives
- 10:00 a.m. DPS Statistical Overview
- 10:15 a.m. Break
- 10:30 a.m. Additional Topics for Consideration (Group Discussion)
  - Common Misdemeanors and Impacted Code Provisions
  - Process Implementation and Technology Issues
  - Potential Obstacles and Unintended Consequences
- 11:00 a.m. Discussion of Ideas, Recommendations and Plan Development (Group Discussion)
- 11:45 p.m. Next Steps & Upcoming Meeting Dates (Mark Williams)
- 12:00 p.m. Adjourn



# **Fingerprint Advisory Committee**

## **Texas Juvenile Justice Department**

Tuesday, March 4, 2014

9:00 a.m. – 12:00 p.m.

Williamson County Juvenile Justice Center

Training Room

200 Wilco Way, Georgetown, Texas

## **Agenda**

- 9:00 a.m. Welcome (Mark Williams) (Scott-Matthew or designee)
- 9:10 a.m. Goals for Today's Meeting (Mark Williams)
- 9:15 a.m. Review of DPS Access Levels and Offense Data (Angie Kendall)
- 9:20 a.m. Sub-Group Reports (All Participants)
- 10:30 a.m. Break
- 10:45 a.m. Discussion & Feedback (All Participants)
- 11:00 a.m. Development of SB 1769 Recommendation Statement (Group)
- 11:30 a.m. Process Mapping Sub-Group
- 11:45 a.m. Next Steps & Meeting Dates
- 12:00 p.m. Adjourn



# **Fingerprint Advisory Committee**

## **Texas Juvenile Justice Department**

Thursday, May 1, 2014

9:00 a.m. – 12:00 p.m.

Texas Juvenile Justice Department

Central Office - Lone Star Room

11209 Metric Boulevard, Austin, Texas 78711

## **Agenda**

- 9:00 a.m. Welcome
- 9:10 a.m. Goals for Today's Meeting
- 9:15 a.m. Sub-Group Report: Review of the SB 1769 Report
- 9:45 a.m. Report Recommendations and/or Presentation for Approval
- 10:00 a.m. Break
- 10:15 a.m. Sub-Group Report: Chapter 58 Recommendations
- 10:45 a.m. Discussion & Feedback
- 11:30 a.m. Next Steps
- 11:45 a.m. Adjourn

*Times approximate*

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## APPENDIX E: DPS Criminal History Access Levels

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# **CRIMINAL HISTORY ACCESS LEVELS**

SOURCE: Department of Public Safety

## **Level 1: Criminal Justice Agencies**

- All Arrests (adult and juvenile)
- All Dispositions (adult and juvenile)
- All Non-Disclosures
- All Restricted Juveniles

## **Level 2: Non- Criminal Justice Agencies modified access by 411.081 GC**

- All Arrests (adult and juvenile)
- All Dispositions (adult and juvenile)
- All Non-Disclosures

## **Level 3: Non-Criminal Justice Agencies with standard 411 GC access**

- All Arrests (adult and juvenile)
- All Dispositions (adult and juvenile)

## **Level 4: Public Entities (all public and any entity not listed in 411 GC)**

- All Convictions (adults only)
- All Deferred Adjudications (adults only)

**LEVEL 2 CRIMINAL HISTORY ACCESS:**

The access for these entities is modified by 411.081 GC to allow access to criminal history record information that is the subject of an order of nondisclosure.

1. State Board of Educator Certification
2. School district, charter school, private school, regional education service center, commercial transportation company, or education shared service arrangement.
3. Texas Medical Board
4. Texas School for the Blind and Visually Impaired
5. Board of Law Examiners
6. State Bar of Texas
7. District Court (Legal Name Change – fingerprints only)
8. Texas School for the Deaf
9. Department of Family and Protective Services
10. Texas Youth Commission
11. Department of Assistive & Rehabilitative Services
12. Department of State Health Services; local mental health services, local mental retardation authority, community center (providing services to persons with mental illness or retardation)
13. Texas Private Security Board
14. Fire Departments (municipal or volunteer)
15. Texas Board of Nursing
16. Safe Houses (providing shelter to children in harmful situations)
17. Hospitals or Hospital Districts (public or non-profit)
18. Texas Juvenile Probation Commission
19. Securities Commissioner, Banking Commissioner, Savings & Mortgage Lending Commissioner, Credit Union Commissioner
20. Texas State Board of Public Accountancy
21. Texas Department of Licensing & Regulation
22. Health and Human Services Commission
23. Department of Aging & Disability Services
24. Texas Education Agency
25. Department of Information Resources (only regarding an employee, applicant for employment, contractor, subcontractor, intern, or volunteer who provides network security service under Chapter 2059 to: the Department of Information Resources; or a contractor or subcontractor of the Department of Information Resources).
26. Texas Department of Insurance
27. Court Reporters Certification Board
28. Guardianship Certification Board
29. A County Clerk's Office in Relation to a Proceeding for the appointment of a guardian under Chapter XIII, Texas Probate Code.

**LEVEL 3 CRIMINAL HISTORY ACCESS:**

This level includes all other entities listed in 411 GC that are **not** modified by 411.081 GC.

1. Texas Alcoholic Beverage Commission
2. Department of Licensing and Regulation
3. Texas Racing Commission
4. Texas Commission for the Blind
5. Texas Workforce Commission
6. Texas Lottery Commission
7. Texas Comptroller of Public Accounts
8. Texas Commission for the Deaf and Hard of Hearing
9. State Preservation Board
10. Adjutant General
11. Texas Veterans Commission
12. Texas Board of Architectural Examiners
13. Texas Board of Chiropractic Examiners
14. State Board of Dental Examiners
15. Texas Board of Professional Geoscientists
16. Texas State Board of Dietitians
17. Texas State Board of Examiners of Marriage and Family Therapists
18. Midwifery Board
19. Texas State of Perfusionist Advisory Committee
20. Texas State of Examiners of Professional Counselors
21. Texas State Board of Social Worker Examiners
22. State Board of Examiners for Speech-Language Pathology and Audiology
23. Advisory Board of Athletic Trainers
24. State Committee of Examiners in Fitting and Dispensing of Hearing Instruments
25. Texas Board of Licensure for Professional Medical Physicists
26. Texas Board of Orthotics and Prosthetics
27. Texas Board of Professional Land Surveying
28. Texas Department of Licensing and Regulation
29. Texas Commission on Environmental Quality
30. Texas Board of Occupational Therapy Examiners
31. Texas Optometry Board
32. Texas State Board of Pharmacy
33. Texas Board of Physical Therapy Examiners
34. Texas State Board of Plumbing Examiners
35. Texas State Board of Podiatric Medical Examiners
36. Texas State Board of Examiners of Psychologists
37. Texas Real Estate Commission
38. Texas Department of Transportation
39. State Board of Veterinary Medical Examiners
40. Texas Department of Housing and Community Affairs
41. Secretary of State
42. State Fire Marshal
43. Department of Agriculture

44. Texas Department of Motor Vehicle
45. Texas Commission on Fire Protection
46. Office of the Attorney General
47. State Auditor
48. Texas State Library and Archives Commission
49. State Securities Board
50. State Commission on Judicial Conduct
51. Employees Retirement System of Texas
52. Court Reporters Certification Board
53. Credit Union Department

# APPENDIX F: Proposed Amendment

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**FINGERPRINT ADVISORY COMMITTEE**  
**Proposed Statutory Changes**

**Subsection Sec. 58.106, Family Code**  
**Confidentiality of Information in the Juvenile Justice Information System**

Sec. 58.106. CONFIDENTIALITY OF INFORMATION IN JJIS.

(a) Except as otherwise provided by this section, information contained in the juvenile justice information system is confidential information for the use of the department and may not be disseminated by the department except:

(1) with the permission of the juvenile offender, to military personnel of this state or the United States;

(2) **to a criminal justice agency as defined by Section 411.082, Government Code to a person or entity to which the department may grant access to adult criminal history records as provided by Section 411.083, Government Code**

(3) to a juvenile justice agency;

(4) **to the Texas Juvenile Justice Department Youth Commission and the Texas Juvenile Probation Commission for analytical purposes;**

(5) to the office of independent ombudsman of the Texas Juvenile Justice Department Youth Commission; and

(6) to a county, justice, or municipal court exercising jurisdiction over a juvenile, including a court exercising jurisdiction over a juvenile under Section 54.021.

(7) **to the Department of Family and Protective Services as provided by Section 411.114, Government Code.**

**(a-1) The department may disseminate information, other than information relating to an unadjudicated misdemeanor offense, to a non-criminal justice agency or entity not listed in subsection (a) that may access adult criminal history records as provided by Section 411.083, Government Code.**

~~(a-1)~~ (a-2) Information disseminated under Subsection (a) remains confidential after dissemination and may be disclosed by the recipient only as provided by this title.

(b) Subsection (a) does not apply to a document maintained by a juvenile justice agency that is the source of information collected by the department.

(c) The department may, if necessary to protect the welfare of the community, disseminate to the public the following information relating to a juvenile who has escaped from the custody of the Texas Juvenile Justice Department Youth Commission or from another secure detention or correctional facility:

(1) the juvenile's name, including other names by which the juvenile is known;

(2) the juvenile's physical description, including sex, weight, height, race, ethnicity, eye color, hair color, scars, marks, and tattoos;

(3) a photograph of the juvenile; and

(4) a description of the conduct for which the juvenile was committed to the Texas ~~Juvenile Justice Department Youth Commission~~ or detained in the secure detention or correctional facility, including the level and degree of the alleged offense.

(d) The department may, if necessary to protect the welfare of the community, disseminate to the public the information listed under Subsection (c) relating to a juvenile offender when notified by a law enforcement agency of this state that the law enforcement agency has been issued a directive to apprehend the offender or an arrest warrant for the offender or that the law enforcement agency is otherwise authorized to arrest the offender and that the offender is suspected of having:

- (1) committed a felony offense under the following provisions of the Penal Code:
  - (A) Title 5;
  - (B) Section 29.02; or
  - (C) Section 29.03; and
- (2) fled from arrest or apprehension for commission of the offense.

#### **Commentary**

*A referral to juvenile court under Title 3 of the Family Code triggers the transmission of fingerprints and other information to the Department of Public Safety (DPS) for inclusion in the statewide Juvenile Justice Information System (JJIS). Under current law, the transmission of the records collected by law enforcement officers and juvenile justice personnel under this provision is authorized for conduct constituting a felony or misdemeanor punishable by confinement in jail. Although the information contained in the juvenile justice information system is confidential, there are certain criminal justice and non-criminal justice agencies that have specific statutory authority to obtain criminal history information under Chapter 411 of the Government Code. The amendment to 58.106, FC authorizes disclosure of JJIS information to criminal justice agencies, the Texas Juvenile Justice Department for any purpose (not just statistical analysis) and to the Department of Family and Protective Services for child placement. As proposed, Section 58.106 of the Family Code would clarify that DPS may only disseminate unadjudicated misdemeanor information in JJIS to criminal justice agencies, TJJD and DFPS. Unadjudicated conduct refers to circumstances when: 1) a juvenile case has been processed and disposed by law enforcement informally or through a first offender program as provided by Sections 52.03 or 52.031, FC; 2) deferred prosecution has been granted under Section 53.03, FC; 3) the charges are dropped or never pursued for reasons other than lack of probable cause; 4) the case is pending final adjudication under Section 54.03, FC; or 5) the offense is found by the court to be "Not True."*