

Ethical Considerations in Juvenile Proceedings

Texas Judicial Commission on Mental Health

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TEXAS FAMILY CODE, TITLE 3. JUVENILE JUSTICE CODE, CHAPTER 51. GENERAL PROVISIONS



Sec. 51.01. PURPOSE AND INTERPRETATION. This title shall be construed to effectuate the following public purposes:

- (1) to provide for the protection of the public and public safety; AND
- (2) consistent with the protection of the public and public safety:
 - (A) *to promote the concept of punishment for criminal acts;*
 - (B) *to remove, where appropriate, the taint of criminality from children committing certain unlawful acts; and*
 - (C) *to provide treatment, training, and rehabilitation that emphasizes the accountability and responsibility of both the parent and the child for the child's conduct;*

TEXAS FAMILY CODE, TITLE 3. JUVENILE JUSTICE CODE, CHAPTER 51. GENERAL PROVISIONS



Sec. 51.01. PURPOSE AND INTERPRETATION. This title shall be construed to effectuate the following public purposes:

- (3) to provide for the *care, the protection, and the wholesome moral, mental, and physical development of children* coming within its provisions; AND
- (4) to protect the *welfare of the community* and to *control the commission of unlawful acts* by children; AND
- (5) to achieve the foregoing purposes *in a family environment* whenever possible, *separating* the child from the child's parents *only when necessary* for the *child's welfare* or in the *interest of public safety* and when a child is removed from the child's family, to *give the child the care that should be provided by parents*; AND
- (6) to provide a *simple judicial procedure* through which the provisions of this title are executed And enforced and in which the parties are assured a *fair hearing* and their *constitutional and other legal rights recognized and enforced*.

Kent v. United States and In re Gault



Kent v. United States, (1966) – Child in juvenile justice system entitled to procedural due process, and to representation by counsel.

In re Gault, 387 U.S. 1 (1967) – Other constitutional protections applicable to adult also apply to a child in the juvenile justice system.

- adequate notice
- confrontation of witnesses
- representation by counsel, appointed if necessary
- privilege against self-incrimination

TFC 51.01 requires a viewpoint shift



Points of Impact:

Pretrial Publicity

Use of Child's Name

Allegations

Press Conferences

Video hearings

Siblings or Parents as victims

TFC 51.01 requires a viewpoint shift



Points of Impact:

Dual-status/Crossover youth: Juvenile Justice *and* Child Welfare systems involved

Mental Health:

Juvenile brain development

Psychological evaluation and diagnosis

Mental health issues in the household

Mental health education for the family

TFC 51.01 requires a viewpoint shift



Importance of working together.

Prosecution

Defense

Juvenile Department

CPS

MHMR

Importance of a full Investigation from all of the above.

Importance of all cards being on the table.

Importance of pointing each other in the right direction so that the requirements of TFC 51.01 can be met.

TFC 51.01 requires a viewpoint shift



Importance of doing all of the above so that appropriate Determinate Sentence and Certification / Waiver decisions can be made.

Determinate Sentence decisions should not be made lightly:

- Lengthened sentences

- Inability to seal records

- Exposes a child to possible incarceration in TDCJ

Certification / Waiver of Jurisdiction decisions have numerous impacts, including:

- Permanent criminal record

- Lifelong disabilities of a convicted felon

- Loss of rehabilitative opportunities available through services in the JJ system

Fact Patterns



Dual Status Youth and Multi County Representation w/ IDD placements (Kameron)

Aggravated Assault on a Family Member – youth v. parent (Riley)

Sexual Assault with delayed outcry Certification – offense within the family (Kameron)



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