

CODE OF CRIMINAL PROCEDURE

TITLE 1. CODE OF CRIMINAL PROCEDURE

CHAPTER 67. COMPILATION OF INFORMATION PERTAINING TO COMBINATIONS
AND CRIMINAL STREET GANGS

SUBCHAPTER A. GENERAL PROVISIONS

Art. 67.001. DEFINITIONS. In this chapter:

(1) "Administration of criminal justice" has the meaning assigned by Article 66.001.

(2) "Child" has the meaning assigned by Section 51.02, Family Code.

(3) "Combination" has the meaning assigned by Section 71.01, Penal Code.

(4) "Criminal activity" means conduct that is subject to prosecution.

(5) "Criminal information" means facts, material, photographs, or data reasonably related to the investigation or prosecution of criminal activity.

(6) "Criminal justice agency" means:

(A) an entity defined as a criminal justice agency under Article 66.001; or

(B) a municipal or county agency, or school district law enforcement agency, that is engaged in the administration of criminal justice under a statute or executive order.

(7) "Criminal street gang" has the meaning assigned by Section 71.01, Penal Code.

(8) "Department" means the Department of Public Safety of the State of Texas.

(9) "Intelligence database" means a collection or compilation of data organized for search and retrieval to evaluate, analyze, disseminate, or use intelligence information relating to a combination or criminal street gang for the purpose of investigating or prosecuting a criminal offense.

(10) "Juvenile justice agency" has the meaning assigned by Section 58.101, Family Code.

(11) "Law enforcement agency" does not include the Texas Department of Criminal Justice, the Texas Juvenile Justice Department, or a local juvenile probation department. Added by Acts 2017, 85th Leg., R.S., Ch. 1058 (H.B. 2931), Sec. 1.04, eff. January 1, 2019.

SUBCHAPTER B. INTELLIGENCE DATABASES

Art. 67.051. INTELLIGENCE DATABASES REQUIRED. (a) Subject to Subsection (b), a criminal justice agency or juvenile justice agency shall compile criminal information into an intelligence database for the purpose of investigating or prosecuting the criminal activities of combinations or criminal street gangs.

(b) A law enforcement agency in a municipality with a population of 50,000 or more or in a county with a population of 100,000 or more shall compile and maintain in a local or regional intelligence database criminal information relating to a criminal street gang as provided by Subsection (a). The agency must compile and maintain the information in accordance with the criminal intelligence systems operating policies established under 28 C.F.R. Section 23.1 et seq. and the submission criteria established under Article 67.054(b).

(c) Information described by this article may be compiled on paper, by computer, or in any other useful manner by a criminal justice agency, juvenile justice agency, or law enforcement agency.

(d) A local law enforcement agency described by Subsection (b) shall send to the department information the agency compiles and maintains under this chapter.

Added by Acts 2017, 85th Leg., R.S., Ch. 1058 (H.B. 2931), Sec. 1.04, eff. January 1, 2019.

Art. 67.052. DEPARTMENT INTELLIGENCE DATABASE. (a) The department shall establish an intelligence database and shall maintain information received from an agency under Article 67.051(d) in the database in accordance with the criminal intelligence systems operating policies established under 28 C.F.R. Section 23.1 et seq. and the submission criteria under

Article 67.054(b).

(b) The department shall designate a code to distinguish criminal information relating to a child and contained in the department's intelligence database from criminal information relating to an adult offender and contained in the database.

Added by Acts 2017, 85th Leg., R.S., Ch. 1058 (H.B. 2931), Sec. 1.04, eff. January 1, 2019.

Art. 67.053. INTELLIGENCE DATABASE USER TRAINING; RULES.

(a) The department shall enter into a memorandum of understanding with the United States Department of Justice or other appropriate federal department or agency to provide any person in this state who enters information into or retrieves information from an intelligence database described by this chapter with training regarding the operating principles described by 28 C.F.R. Part 23, as those principles relate to an intelligence database established or maintained under this chapter.

(b) A person in this state who enters information into or retrieves information from an intelligence database described by this chapter shall complete continuing education training on the material described by Subsection (a) at least once for each continuous two-year period the person has primary responsibility for performing a function described by this subsection.

(c) The department shall adopt rules necessary to implement this article.

Added by Acts 2017, 85th Leg., R.S., Ch. 1058 (H.B. 2931), Sec. 1.04, eff. January 1, 2019.

Art. 67.054. SUBMISSION CRITERIA. (a) In this article:

(1) "Family member" means a person related to another person within the third degree by consanguinity or affinity, as described by Subchapter B, Chapter 573, Government Code, except that the term does not include a person who is considered to be related to another person by affinity only as described by Section 573.024(b), Government Code.

(2) "Penal institution" means:

(A) a confinement facility operated by or under

contract with any division of the Texas Department of Criminal Justice;

(B) a confinement facility operated by or under contract with the Texas Juvenile Justice Department;

(C) a juvenile secure pre-adjudication or post-adjudication facility operated by or under a local juvenile probation department; or

(D) a county jail.

(b) Criminal information collected under this chapter relating to a criminal street gang must:

(1) be relevant to the identification of an organization that is reasonably suspected of involvement in criminal activity; and

(2) consist of:

(A) a judgment under any law that includes, as a finding or as an element of a criminal offense, participation in a criminal street gang;

(B) a self-admission by an individual of criminal street gang membership that is made during a judicial proceeding; or

(C) except as provided by Subsection (c), any two of the following:

(i) a self-admission by the individual of criminal street gang membership that is not made during a judicial proceeding, including the use of the Internet or other electronic format or medium to post photographs or other documentation identifying the individual as a member of a criminal street gang;

(ii) an identification of the individual as a criminal street gang member by a reliable informant or other individual;

(iii) a corroborated identification of the individual as a criminal street gang member by an informant or other individual of unknown reliability;

(iv) evidence that the individual frequents a documented area of a criminal street gang and associates with known criminal street gang members;

(v) evidence that the individual uses, in

more than an incidental manner, criminal street gang dress, hand signals, tattoos, or symbols, including expressions of letters, numbers, words, or marks, regardless of how or the means by which the symbols are displayed, that are associated with a criminal street gang that operates in an area frequented by the individual and described by Subparagraph (iv);

(vi) evidence that the individual has been arrested or taken into custody with known criminal street gang members for an offense or conduct consistent with criminal street gang activity;

(vii) evidence that the individual has visited a known criminal street gang member, other than a family member of the individual, while the gang member is confined in or committed to a penal institution; or

(viii) evidence of the individual's use of technology, including the Internet, to recruit new criminal street gang members.

(c) Evidence described by Subsections (b)(2)(C)(iv) and (vii) is not sufficient to create the eligibility of a person's information to be included in an intelligence database described by this chapter unless the evidence is combined with information described by another subparagraph of Subsection (b)(2)(C).

Added by Acts 2017, 85th Leg., R.S., Ch. 1058 (H.B. [2931](#)), Sec. 1.04, eff. January 1, 2019.

SUBCHAPTER C. RELEASE AND USE OF INFORMATION

Art. 67.101. RELEASE AND USE OF INFORMATION. (a) On request, a criminal justice agency may release information maintained under this chapter to:

(1) another criminal justice agency;

(2) a court; or

(3) a defendant in a criminal proceeding who is entitled to the discovery of the information under Chapter [39](#).

(b) A criminal justice agency or court may use information received under this article or Article [67.051](#)(d) or [67.052](#) only for the administration of criminal justice.

(c) A defendant may use information received under this article or Article 67.051(d) or 67.052 only for a defense in a criminal proceeding.

Added by Acts 2017, 85th Leg., R.S., Ch. 1058 (H.B. 2931), Sec. 1.04, eff. January 1, 2019.

Art. 67.102. CRIMINAL INFORMATION RELATING TO CHILD.

(a) Notwithstanding Chapter 58, Family Code, criminal information relating to a child associated with a combination or criminal street gang may be compiled and released under this chapter regardless of the age of the child.

(b) A criminal justice agency or juvenile justice agency may release information maintained under this chapter to an attorney representing a child who is a party to a proceeding under Title 3, Family Code, if the juvenile court determines the information:

- (1) is material to the proceeding; and
- (2) is not privileged under law.

(c) An attorney may use information received under this article only for a child's defense in a proceeding under Title 3, Family Code.

(d) The governing body of a county or municipality served by a law enforcement agency described by Article 67.051(b) may adopt a policy to notify the parent or guardian of a child of the agency's observations relating to the child's association with a criminal street gang.

Added by Acts 2017, 85th Leg., R.S., Ch. 1058 (H.B. 2931), Sec. 1.04, eff. January 1, 2019.

Art. 67.103. UNAUTHORIZED RELEASE OR USE OF CRIMINAL INFORMATION; PENALTY. (a) A person commits an offense if the person knowingly:

- (1) uses criminal information obtained under this chapter for an unauthorized purpose; or
- (2) releases the information to a person who is not entitled to the information.

(b) An offense under this article is a Class A misdemeanor.

Added by Acts 2017, 85th Leg., R.S., Ch. 1058 (H.B. 2931), Sec.

1.04, eff. January 1, 2019.

SUBCHAPTER D. REMOVAL OF INFORMATION

Art. 67.151. REMOVAL OF INFORMATION RELATING TO INDIVIDUAL OTHER THAN CHILD. (a) This article does not apply to information collected under this chapter by the Texas Department of Criminal Justice or the Texas Juvenile Justice Department.

(b) Subject to Subsection (c), information collected under this chapter relating to a criminal street gang must be removed after five years from an intelligence database established under Article 67.051 and the intelligence database maintained by the department under Article 67.052 if:

(1) the information relates to the investigation or prosecution of criminal activity engaged in by an individual other than a child; and

(2) the individual who is the subject of the information has not been arrested for criminal activity reported to the department under Chapter 66.

(c) The five-year period described by Subsection (b) does not include any period during which the individual who is the subject of the information is:

(1) confined in a correctional facility operated by or under contract with the Texas Department of Criminal Justice;

(2) committed to a secure correctional facility, as defined by Section 51.02, Family Code, operated by or under contract with the Texas Juvenile Justice Department; or

(3) confined in a county jail or confined in or committed to a facility operated by a juvenile board in lieu of being confined in a correctional facility described by Subdivision (1) or committed to a secure correctional facility described by Subdivision (2).

Added by Acts 2017, 85th Leg., R.S., Ch. 1058 (H.B. 2931), Sec. 1.04, eff. January 1, 2019.

Art. 67.152. REMOVAL OF INFORMATION RELATING TO CHILD.

(a) This article does not apply to information collected under

this chapter by the Texas Department of Criminal Justice or the Texas Juvenile Justice Department.

(b) Subject to Subsection (c), information collected under this chapter relating to a criminal street gang must be removed after two years from an intelligence database established under Article 67.051 and the intelligence database maintained by the department under Article 67.052 if:

(1) the information relates to the investigation or prosecution of criminal activity engaged in by a child; and

(2) the child who is the subject of the information has not been:

(A) arrested for criminal activity reported to the department under Chapter 66; or

(B) taken into custody for delinquent conduct reported to the department under Chapter 58, Family Code.

(c) The two-year period described by Subsection (b) does not include any period during which the child who is the subject of the information is:

(1) committed to the Texas Juvenile Justice Department for conduct that violates a penal law of the grade of felony; or

(2) confined in the Texas Department of Criminal Justice.

Added by Acts 2017, 85th Leg., R.S., Ch. 1058 (H.B. 2931), Sec. 1.04, eff. January 1, 2019.

SUBCHAPTER E. RIGHTS OF SUBJECT OF CRIMINAL INFORMATION

Art. 67.201. RIGHT TO REQUEST EXISTENCE OF CRIMINAL INFORMATION. (a) A person or the parent or guardian of a child may request that a law enforcement agency determine whether the agency has collected or is maintaining, under submission criteria established under Article 67.054(b), criminal information relating solely to the person or child. The law enforcement agency shall respond to the request not later than the 10th business day after the date the agency receives the request.

(b) Before responding to a request under Subsection (a), a law enforcement agency may require reasonable written verification

of the identity of the person making the request and the relationship between the parent or guardian and the child, if applicable, including written verification of an address, date of birth, driver's license number, state identification card number, or social security number.

Added by Acts 2017, 85th Leg., R.S., Ch. 1058 (H.B. 2931), Sec. 1.04, eff. January 1, 2019.

Art. 67.202. RIGHT TO REQUEST REVIEW OF CRIMINAL INFORMATION. (a) On receipt of a written request of a person or the parent or guardian of a child that includes a showing by the person or the parent or guardian that a law enforcement agency may have collected criminal information under this chapter relating to the person or child that is inaccurate or does not comply with the submission criteria under Article 67.054(b), the head of the agency or the designee of the agency head shall review criminal information collected by the agency under this chapter relating to the person or child to determine if:

(1) reasonable suspicion exists to believe that the information is accurate; and

(2) the information complies with the submission criteria established under Article 67.054(b).

(b) If, after conducting a review of criminal information under Subsection (a), the agency head or designee determines that reasonable suspicion does not exist to believe that the information is accurate, or determines that the information does not comply with the submission criteria, the agency shall:

(1) destroy all records containing the information; and

(2) notify the department and the person who requested the review of the agency's determination and the destruction of the records.

(c) If, after conducting a review of criminal information under Subsection (a), the agency head or designee determines that reasonable suspicion exists to believe that the information is accurate, and determines that the information complies with the submission criteria, the agency shall notify the person who

requested the review:

(1) of the agency's determination; and

(2) that the person is entitled to seek judicial review of the agency's determination under Article [67.203](#).

(d) On receipt of notice under Subsection (b)(2), the department immediately shall destroy all records containing the information that is the subject of the notice in the intelligence database maintained by the department under Article [67.052](#).

(e) A person who is committed to the Texas Juvenile Justice Department or confined in the Texas Department of Criminal Justice does not, while committed or confined, have the right to request review of criminal information under this article.

Added by Acts 2017, 85th Leg., R.S., Ch. 1058 (H.B. [2931](#)), Sec. 1.04, eff. January 1, 2019.

Art. 67.203. JUDICIAL REVIEW. (a) A person who is entitled to seek judicial review of a determination made under Article [67.202\(c\)](#) may file a petition for review in district court in the county in which the person resides.

(b) On the filing of a petition for review under Subsection (a), the district court shall conduct an in camera review of the criminal information that is the subject of the determination to determine if:

(1) reasonable suspicion exists to believe that the information is accurate; and

(2) the information complies with the submission criteria under Article [67.054\(b\)](#).

(c) If, after conducting an in camera review of criminal information under Subsection (b), the court finds that reasonable suspicion does not exist to believe that the information is accurate, or finds that the information does not comply with the submission criteria, the court shall:

(1) order the law enforcement agency that collected the information to destroy all records containing the information; and

(2) notify the department of the court's determination and the destruction of the records.

(d) A petitioner may appeal a final judgment of a district court conducting an in camera review under this article.

(e) Information that is the subject of an in camera review under this article is confidential and may not be disclosed.

Added by Acts 2017, 85th Leg., R.S., Ch. 1058 (H.B. 2931), Sec. 1.04, eff. January 1, 2019.

SUBCHAPTER F. GANG RESOURCE SYSTEM

Art. 67.251. ESTABLISHMENT OF GANG RESOURCE SYSTEM. The office of the attorney general shall establish an electronic gang resource system to provide criminal justice agencies and juvenile justice agencies with information about criminal street gangs in this state.

Added by Acts 2017, 85th Leg., R.S., Ch. 1058 (H.B. 2931), Sec. 1.04, eff. January 1, 2019.

Art. 67.252. INFORMATION INCLUDED IN GANG RESOURCE SYSTEM.

(a) The gang resource system established under Article 67.251 may include the following information with regard to any gang:

- (1) gang name;
- (2) gang identifiers, such as colors used, tattoos, and clothing preferences;
- (3) criminal activities;
- (4) migration trends;
- (5) recruitment activities; and
- (6) a local law enforcement contact.

(b) Information in the gang resource system shall be accessible according to:

- (1) municipality or county; and
- (2) gang name.

(c) The office of the attorney general may coordinate with the Texas Department of Criminal Justice to include information in the gang resource system regarding groups that have been identified by the Security Threat Group Management Office of the Texas Department of Criminal Justice.

Added by Acts 2017, 85th Leg., R.S., Ch. 1058 (H.B. 2931), Sec.

1.04, eff. January 1, 2019.

Art. 67.253. INCLUSION OF CERTAIN INFORMATION PROHIBITED. Information relating to the identity of a specific offender or alleged offender may not be maintained in the gang resource system.

Added by Acts 2017, 85th Leg., R.S., Ch. 1058 (H.B. 2931), Sec. 1.04, eff. January 1, 2019.

Art. 67.254. COLLECTION OF INFORMATION. (a) On request by the office of the attorney general, a criminal justice agency or juvenile justice agency shall make a reasonable attempt to provide gang information to the office of the attorney general for the purpose of maintaining an updated, comprehensive gang resource system.

(b) The office of the attorney general shall cooperate with criminal justice agencies and juvenile justice agencies in collecting and maintaining the accuracy of the information included in the gang resource system.

Added by Acts 2017, 85th Leg., R.S., Ch. 1058 (H.B. 2931), Sec. 1.04, eff. January 1, 2019.

Art. 67.255. USE OF INFORMATION. Information in the gang resource system may be used in investigating gang-related crimes. Information from the system may be included in an affidavit or subpoena or used in connection with any other legal or judicial proceeding only if the information is corroborated by information not provided by or maintained in the system.

Added by Acts 2017, 85th Leg., R.S., Ch. 1058 (H.B. 2931), Sec. 1.04, eff. January 1, 2019.

Art. 67.256. ACCESS TO INFORMATION. Access to the gang resource system shall be limited to criminal justice agency personnel and juvenile justice agency personnel.

Added by Acts 2017, 85th Leg., R.S., Ch. 1058 (H.B. 2931), Sec. 1.04, eff. January 1, 2019.

SUBCHAPTER G. TEXAS VIOLENT GANG TASK FORCE

Art. 67.301. DEFINITION. In this subchapter, "task force" means the Texas Violent Gang Task Force.

Added by Acts 2017, 85th Leg., R.S., Ch. 1058 (H.B. 2931), Sec. 1.04, eff. January 1, 2019.

Art. 67.302. PURPOSE. The purpose of the task force is to form a strategic partnership among local, state, and federal criminal justice, juvenile justice, and correctional agencies to better enable those agencies to take a proactive stance toward tracking gang activity and the growth and spread of gangs statewide.

Added by Acts 2017, 85th Leg., R.S., Ch. 1058 (H.B. 2931), Sec. 1.04, eff. January 1, 2019.

Art. 67.303. TASK FORCE MEMBERS. The task force shall consist of:

(1) a representative of the department designated by the director of the department;

(2) two representatives of the Texas Department of Criminal Justice, including a representative of the parole division, designated by the executive director of that agency;

(3) a representative of the office of the inspector general of the Texas Department of Criminal Justice designated by the inspector general;

(4) two representatives of the Texas Juvenile Justice Department designated by the executive director of that agency;

(5) a representative of the office of the attorney general designated by the attorney general;

(6) six representatives who are local law enforcement officers or local community supervision personnel, including juvenile probation personnel, designated by the governor;

(7) two representatives who are local prosecutors designated by the governor; and

(8) a representative of the Texas Alcoholic Beverage Commission designated by the executive director of that agency.

Added by Acts 2017, 85th Leg., R.S., Ch. 1058 (H.B. [2931](#)), Sec. 1.04, eff. January 1, 2019.

Art. 67.304. DUTIES OF TASK FORCE. (a) The task force shall focus its efforts on:

(1) developing, through regional task force meetings, a statewide networking system that will provide timely access to gang information;

(2) establishing communication between different criminal justice, juvenile justice, and correctional agencies, combining independent agency resources, and joining agencies together in a cooperative effort to focus on gang membership, gang activity, and gang migration trends; and

(3) forming a working group of criminal justice, juvenile justice, and correctional representatives from throughout this state to discuss specific cases and investigations involving gangs and other related gang activities.

(b) The task force may take any other actions necessary to accomplish the purposes of this subchapter.

(c) If practicable, the task force shall consult with representatives from one or more United States attorneys' offices in this state and with representatives from the following federal agencies who are available and assigned to a duty station in this state:

- (1) the Federal Bureau of Investigation;
- (2) the Federal Bureau of Prisons;
- (3) the United States Drug Enforcement Administration;
- (4) United States Immigration and Customs Enforcement;
- (5) United States Customs and Border Protection;
- (6) the Bureau of Alcohol, Tobacco, Firearms and Explosives;
- (7) the United States Marshals Service; and
- (8) the United States Probation and Pretrial Services System.

Added by Acts 2017, 85th Leg., R.S., Ch. 1058 (H.B. [2931](#)), Sec.

1.04, eff. January 1, 2019.

Art. 67.305. DUTIES OF DEPARTMENT REGARDING TASK FORCE. The department shall support the task force to assist in coordinating statewide antigang initiatives.

Added by Acts 2017, 85th Leg., R.S., Ch. 1058 (H.B. [2931](#)), Sec. 1.04, eff. January 1, 2019.