

# Texas Juvenile Probation Commission

## Disqualifying Criminal History Matrix<sup>1</sup> and Reference Guide

Since 1999, the Texas Juvenile Probation Commission has passed several administrative rules (i.e., standards) governing the specific disqualifying criminal history events which shall prohibit the hiring, certification and recertification of individuals as a "juvenile probation officer" and/or a "juvenile detention officer". This matrix reconciles the various effective dates under these standards and organizes the disqualifying events based upon the date of employment.

Disqualifiers for New Hires <sup>2</sup>				Disqualifiers for Certification or Recertification of Officers <sup>3</sup>			
Probation Officers		Detention Officers		Probation Officers		Detention Officers	
<b>A</b>	<b>New Employees Hired Before 9/01/2001</b>	<b>D</b>	<b>New Employees Hired Before 3/31/1999</b>	<b>H</b>	<b>Current Employees Hired Before 9/1/2001<sup>4</sup></b>	<b>K</b>	<b>Current Employees Hired Before 3/31/1999</b>
Standards required a background investigation be conducted according to county policy		Standards required a background investigation be conducted according to county policy		Felony conviction within previous 10 years for offense committed on or after 9/1/2001		No disqualifying criminal history events for offenses committed prior to 3/31/1999 Use Box L for all employees.	
<b>B</b>	<b>New Employees Hired On or After 9/01/2001<sup>5</sup> But Before 9/1/2003</b>	<b>E</b>	<b>New Employees Hired On or After 3/31/1999<sup>6</sup> But Before 9/30/2002</b>	Felony deferred adjudication within previous 10 years for offense committed on or after 9/1/2001		<b>L</b>	<b>Current Employees Hired On or After 3/31/1999 But Before 9/30/2002<sup>7</sup></b>
Felony conviction within previous 10 years		Currently on community supervision or parole or serving a sentence for a criminal offense <sup>8</sup>		Currently on probation or parole for a felony offense committed on or after 9/1/2001		Currently on community supervision or parole or serving a sentence for a criminal offense committed on or after 3/31/1999	
Felony deferred adjudication within previous 10 years		<b>F</b>	<b>New Employees Hired On or After 9/30/2002<sup>9</sup> But Before 9/1/2003</b>	Currently required to register as a sex offender under Chapter 62, Texas Code of Criminal Procedure for offense committed on or after 9/1/2001		Felony conviction within previous 10 years for offense committed on or after 9/30/2002	
Currently on probation or parole for a felony offense		Felony conviction within previous 10 years		Jailable misdemeanor conviction within previous 5 years for offense committed on or after 9/1/2003		Felony deferred adjudication within previous 10 years for offense committed on or after 9/30/2002	
Currently required to register as a sex offender under Chapter 62, Texas Code of Criminal Procedure		Felony deferred adjudication within previous 10 years		Jailable misdemeanor deferred adjudication within previous 5 years for offense committed on or after 9/1/2003		Currently on probation or parole for a felony offense committed on or after 9/30/2002	
<b>C</b>	<b>New Employees Hired On or After 9/1/2003<sup>10</sup></b>	Currently on probation or parole for a felony offense		Currently on probation for a jailable misdemeanor offense committed on or after 9/1/2003		Currently required to register as a sex offender under Chapter 62, Texas Code of Criminal Procedure for offense committed on or after 9/30/2002	
Felony conviction within previous 10 years		Currently required to register as a sex offender under Chapter 62, Texas Code of Criminal Procedure		<b>I</b>		<b>Current Employees Hired On or After 9/1/2001 But Before 9/1/2003<sup>11</sup></b>	
Felony deferred adjudication within previous 10 years		<b>G</b>	<b>New Employees Hired On or After 9/1/2003<sup>12</sup></b>	Felony conviction within previous 10 years		Jailable misdemeanor deferred adjudication within previous 5 years for offense committed on or after 9/1/2003	
Currently on probation or parole for a felony offense		Felony conviction within previous 10 years		Felony deferred adjudication within previous 10 years		Currently on probation for a jailable misdemeanor offense committed on or after 9/1/2003	
Currently required to register as a sex offender under Chapter 62, Texas Code of Criminal Procedure		Felony deferred adjudication within previous 10 years		Currently on probation or parole for a felony offense		<b>M</b>	
Jailable misdemeanor <sup>14</sup> conviction within previous 5 years		Currently on probation or parole for a felony offense		Currently required to register as a sex offender under Chapter 62, Texas Code of Criminal Procedure		<b>Current Employees Hired On or After 9/30/2002 But Before 9/1/2003<sup>13</sup></b>	
Jailable misdemeanor deferred adjudication within previous 5 years		Currently required to register as a sex offender under Chapter 62, Texas Code of Criminal Procedure		Jailable misdemeanor conviction within previous 5 years for offense committed on or after 9/1/2003		Felony conviction within previous 10 years	
Currently on probation or parole for a jailable misdemeanor offense		Jailable misdemeanor conviction within previous 5 years		Jailable misdemeanor deferred adjudication within previous 5 years for offense committed on or after 9/1/2003		Felony deferred adjudication within previous 10 years	
		Jailable misdemeanor deferred adjudication within previous 5 years		Currently on probation for a jailable misdemeanor offense committed on or after 9/1/2003		Currently on probation or parole for a felony offense	
		Currently on probation for a jailable misdemeanor offense		<b>J</b>		<b>Current Employees Hired On or After 9/1/2003</b>	
				Same disqualifying criminal history events as new employee hired on or after 9/1/2003		Jailable misdemeanor conviction within previous 5 years for offense committed on or after 9/1/2003	
						Jailable misdemeanor deferred adjudication within previous 5 years for offense committed on or after 9/1/2003	
						Currently on probation or parole for a jailable misdemeanor offense committed on or after 9/1/2003	
						<b>N</b>	
						<b>Current Employees Hired On or After 9/1/2003</b>	
						Same disqualifying criminal history events as new employee hired on or after 9/1/2003	

**NOTE: The first step in using this matrix is to determine the employee's date of hire. The date of hire will guide the reader to the appropriate box indicating the disqualifying criminal history.**

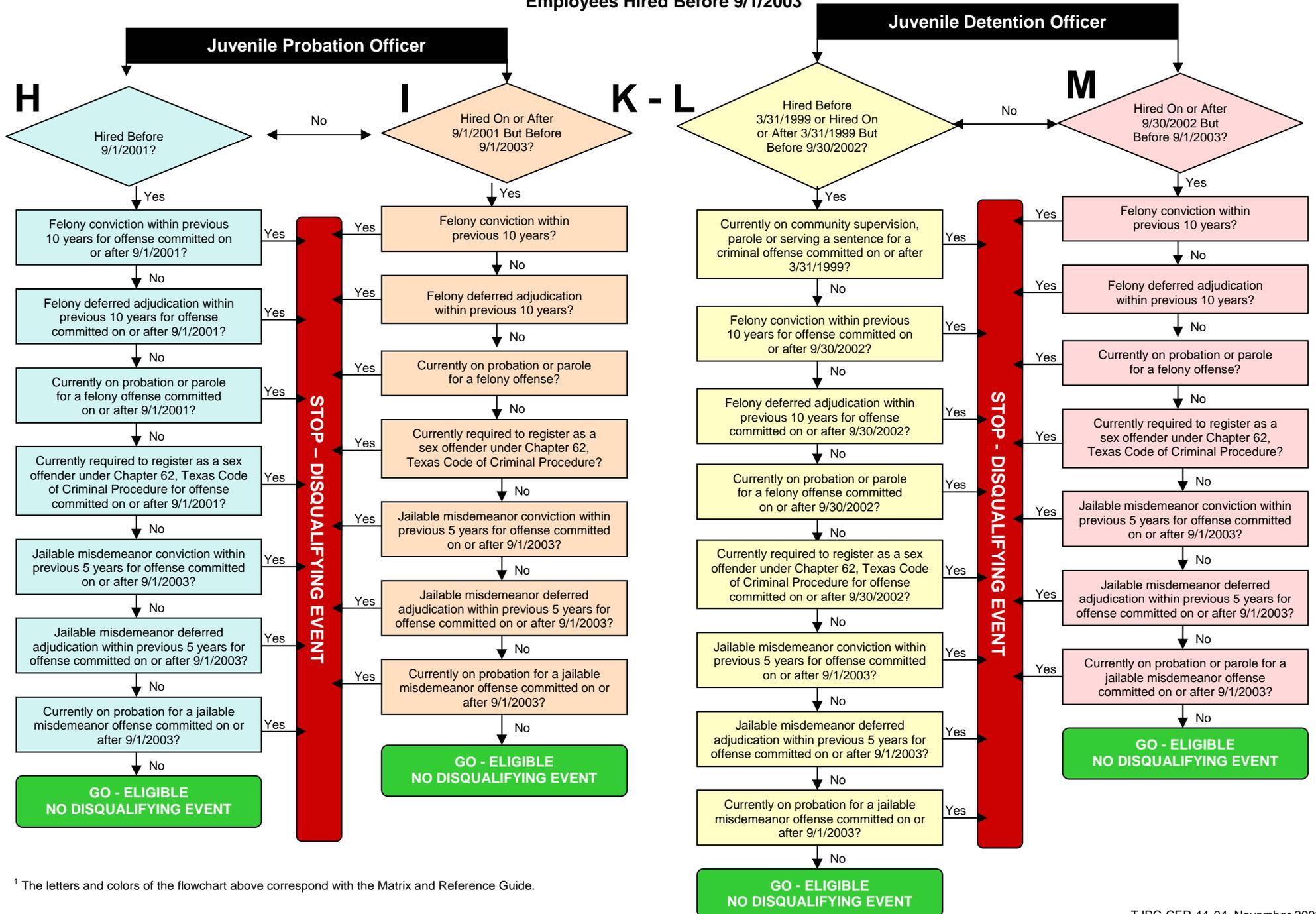
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## Matrix Reference Endnotes:

- <sup>1</sup> All offenses refer to offenses against the laws of the state of Texas, another state or the United States. Generally, juvenile adjudications should not be considered disqualifying criminal history as set forth in Family Code Section 51.13 because these adjudications are not considered criminal convictions. However, there are certain circumstances in which an unsealed juvenile adjudication will appear in a criminal history background check. Disqualifying juvenile history includes: 1) a current determinate sentence probation that has been transferred to adult community supervision (i.e., adult probation) under Family Code Section 54.051; 2) a determinate sentence offense for which the individual was transferred to current TDCJ parole; and 3) a current juvenile sex offender registration. A juvenile sex offense adjudication for which the period of registration has expired is not a disqualifying event, but should be strongly considered in the hiring decision. It is important to be aware that restricted access juvenile history may also appear in TCIC since disclosure of these records is authorized for a "criminal justice purpose" under Chapter 411 of the Government Code. A non-public sex offender registration may also appear in TCIC for the same reason. A current non-public registration arising from a juvenile sex offense is a disqualifying event. It is not a disqualifier if the check reveals that the non-public registration period has expired.
- <sup>2</sup> The disqualifying criminal history events listed in this section apply to individuals being considered for employment. Commission standards prohibit the hiring of an individual for the position of a juvenile probation officer and/or a juvenile detention officer if the individual has certain disqualifying criminal history. If the county juvenile probation department, program or facility hires an individual in violation of the hiring requirements standard, this individual will not qualify for certification from the Commission. The Commission will not require the termination of an employee who was hired with a disqualifying criminal history and the department, program or facility may retain the employee. However, the employee may not function as a juvenile probation officer or a juvenile detention officer, may not hold the title of a juvenile probation officer or juvenile detention officer and will not be able to be certified as such.
- <sup>3</sup> An individual is disqualified from becoming certified or recertified by the Commission if any of the disqualifying criminal history in this section exists when the application for certification or recertification is submitted to the Commission. If the certification of a juvenile probation or detention officer is allowed to expire for any reason, the disqualifying criminal history applicable to individuals hired on or after 9/1/2003 applies regardless of the individual's original date of employment in any position with the juvenile probation department, program or facility (i.e., including both public and private facilities).
- <sup>4</sup> Employees (i.e., certified juvenile probation officers) who were employed prior to 9/01/2001 (i.e., the effective date of the standard) were given the benefit of a grandfather clause which allows them to remain employed as a juvenile probation officer and be recertified as such regardless of their criminal history existing for offenses committed prior to 9/1/2001.
- <sup>5</sup> Beginning 9/1/2001, any individual being considered for employment as a juvenile probation officer was subject to the requirements of the new criminal history standard which was effective 9/1/2001. All of the disqualifying criminal history events listed in this section applied to any person being considered for employment in the position of a juvenile probation officer.
- <sup>6</sup> Beginning 3/31/1999, any individual being considered for employment as a juvenile detention officer was subject to the requirements of the new criminal history standard which was effective 3/31/1999. All of the disqualifying criminal history events listed in this section applied to any person being considered for employment in the position of a juvenile detention officer.
- <sup>7</sup> Employees (i.e., certified juvenile detention officers) who were employed prior to 9/30/2002 (i.e., the effective date of the standard) were given the benefit of a qualified grandfather clause which allows them to remain employed as a juvenile detention officer and be recertified as such regardless of their criminal history existing for offenses committed prior to 9/30/2002 subject to the disqualification for being on community supervision or parole or serving a sentence (i.e., confinement) for a criminal offense (i.e., misdemeanor or felony) on the date of hire or on the date the certification or recertification application was submitted to the Commission.
- <sup>8</sup> This standard applies to both misdemeanor offenses and felony offenses for which the individual was currently serving on probation, parole or jail time as the disposition of the offense. Deferred adjudication is a form of community supervision under the Texas Code of Criminal Procedure Article 42.12 and is included in this standard.
- <sup>9</sup> Beginning 9/30/2002, any individual being considered for employment as a juvenile detention officer was subject to the requirements of the new criminal history standard which was effective 9/30/2002. All of the disqualifying criminal history listed in this section applied to any person being considered for employment in the position of a juvenile detention officer.
- <sup>10</sup> Beginning 9/1/2003, any individual being considered for employment as a juvenile probation officer is subject to the requirements of the newest criminal history standard which was effective 9/1/2003. All of the disqualifying criminal history listed in this section applies to any person being considered for employment in the position of a juvenile probation officer.
- <sup>11</sup> Employees (i.e., certified juvenile probation officers) who were employed prior to 9/01/2003 (i.e., the effective date of the standard) were given the benefit of a grandfather clause related to misdemeanor offenses which allows them to remain employed as a juvenile probation officer and be recertified as such regardless of their criminal history existing for conduct committed prior to 9/01/2003.
- <sup>12</sup> Beginning 9/1/2003, any individual being considered for employment as a juvenile detention officer is subject to the requirements of the newest criminal history standard which was effective 9/1/2003. All of the disqualifying criminal history listed in this section applies to any person being considered for employment in the position of a juvenile detention officer.
- <sup>13</sup> Employees (i.e., certified juvenile detention officers) who were employed prior to 9/1/2003 (i.e., the effective date of the standard) were given the benefit of a grandfather clause related to jailable misdemeanor offenses which allows them to remain employed as a juvenile detention officer and be recertified as such regardless of their misdemeanor criminal history existing for conduct committed prior to 9/1/2003.
- <sup>14</sup> Jailable misdemeanor offenses are those offenses that carry a penalty that may include confinement in jail. Upon discovering a misdemeanor conviction, a department, facility or program should first refer to the provisions of the Texas Penal Code or other applicable codes such as the Transportation Code, Parks & Wildlife Code, Government Code, etc. that describe prohibited conduct to determine whether the conduct is classified as jailable. An individual seeking employment, certification and/or recertification will be disqualified for jailable offenses such as Class A or B misdemeanors that are punishable by confinement in jail. There may also be situations when an officer has been charged with a jailable misdemeanor but the actual disposition of the case does not include jail time. For example, a situation where an officer is charged with a first-time DWI, a Class B misdemeanor and is given a disposition of probation but was not sentenced to jail time. Based on the statutory punishment scheme for a Class B misdemeanor that is punishable by up to 6 months in jail, this offense is still considered a disqualifying jailable misdemeanor. In addition, if a criminal history search reveals an out-of-state offense, an officer shall be disqualified if the offense is classified as jailable in that state. Class C misdemeanors are classified as fineable only offenses and are not associated with a period of confinement. However, under certain circumstances Class C misdemeanors may be enhanced to a jailable misdemeanor. Section 12.43(c) of the Texas Penal Code authorizes jail time as an enhancement or penalty for repeat and habitual conduct arising from Class C misdemeanor offenses. For example, an officer convicted on three separate occasions with the Class C misdemeanors of Public Intoxication or Disorderly Conduct within a two-year period would be subject to punishment that includes a period of confinement of up to 6 months. Other Class C misdemeanor offenses may also include a punishment scheme that contains a specific enhancement provision increasing the punishment to include jail time. A Class C Contempt under Government Code Section 21.002 would be one example. The Commission recommends that the department, facility or program consult with the local county or district attorney to review disqualifying criminal histories that include these categories of jailable and fineable offenses.

**NOTE:** The benefit of any grandfather clause referenced in this matrix attaches only to certified probation and detention officers who were employed as a certified officer on the effective date of the standard. Additionally, the benefit of the grandfather clause follows an individual to whom it attaches so long as the individual is employed in the same department. For example, if a detention officer was given the benefit of a grandfather clause and that individual later becomes a probation officer in the same department, the officer would retain the benefit of the grandfather clause. The benefit of the grandfather clause also is portable and follows an individual to any other juvenile probation department, program or facility in Texas so long as the individual's certification does not lapse.

**Texas Juvenile Probation Commission**  
**Determining If An Individual Has a Disqualifying Criminal History**  
**for Certification and Recertification Purposes<sup>1</sup>**  
**Employees Hired Before 9/1/2003**



<sup>1</sup> The letters and colors of the flowchart above correspond with the Matrix and Reference Guide.

## Hypothetical Examples:

1. Detention officer was hired December 2, 1998. On November 2, 1996, the officer was given a disposition of 2 years probation for an offense committed on November 1, 1995. The officer applied for certification from the Commission on April 10, 1999. Was the officer hired properly according to Commission standards and can the officer be certified by the Commission? **Hint: Box K**

**Answer:** The officer was hired on December 2, 1998 which was prior to the Commission's first disqualifying criminal history standard so the hiring of the individual was not a violation of Commission standards. However, local county policy could have prohibited the hiring. The officer was eligible to be certified on April 10, 1999.

2. Detention officer was hired on March 31, 1999. The officer had an arrest for a Class A misdemeanor offense. The arrest date was January 1, 1999 and the officer was pending court disposition of the offense on the date of hire. The offense was disposed of on May 1, 1999 and the officer was given 2 years probation and a fine. The officer applied for certification from the Commission on June 10, 1999. Was the officer properly hired according to Commission standards and can the officer be certified by the Commission? **Hint: Box L**

**Answer:** The officer was hired on March 31, 1999 which was the effective date of the new standard which prohibited the hiring of an individual who was currently on community supervision or parole or serving a sentence for a criminal offense committed on or after March 31, 1999. At the time of hire, the individual was not disqualified under Commission standards from being hired. However, local county policy could have prohibited the hiring. The officer was not disqualified from being certified at the time of the submission of the certification application even though the officer was currently on probation for the offense since the offense occurred prior to March 31, 1999.

3. A probation officer was hired on August 1, 2001. The officer's criminal background checks revealed a felony conviction for an offense committed on December 2, 1999 for which the officer was given 3 years probation on June 2, 2001. The officer also had a felony conviction for an offense committed on December 25, 2001 for which the officer was given 2 years probation on May 30, 2002. The officer applied for an initial certification on December 1, 2001 and applied for a recertification on December 1, 2003. Was the officer properly hired according to Commission standards and can the officer be certified and recertified by the Commission? **Hint: Box H**

**Answer:** The officer was hired on August 1, 2001 which was prior to the Commission's first disqualifying criminal history standard for probation officers, so the hiring did not violate Commission standards even though the individual had a felony offense in TCIC. However, local county policy could have prohibited the hiring. The officer could receive an initial certification from the Commission. The officer would not be eligible for recertification from the Commission because of the felony conviction for an offense committed after September 1, 2001 which was the effective date of the Commission's disqualifying criminal history standard for probation officers.

4. A probation officer was hired on September 1, 2001. The officer's criminal background checks revealed a felony conviction in 1990 with a 5 year probation term assigned and a conviction for a Class A misdemeanor on October 1, 2001 with a 3 year probation term assigned. The officer applied for initial certification on November 1, 2001. Was the officer properly hired according to Commission standards and can the officer be certified by the Commission? **Hint: Box I**

**Answer:** The hiring of the officer did not violate Commission's standards since the felony was older than 10 years and the term of probation was expired. However, local county policy could have prohibited the hiring of the individual. The officer was eligible for certification since the misdemeanor offense was committed prior to September 1, 2003.

5. Detention officer was hired on September 1, 2003. The criminal records check revealed an arrest for a felony offense committed on August 1, 1997 and disposed of on December 30, 1997 with a disposition of 6 years probation. Was the officer properly hired according to Commission standards and can the officer be certified by the Commission? **Hint: Box N & G**

**Answer:** This individual was hired in violation of Commission standards because the officer had a previous felony conviction within the last 10 years and was currently on probation for the offense on the date of hire. The individual would be disqualified from being certified due to the felony conviction within the last 10 years as well.

6. A probation officer was hired on September 1, 2003. The TCIC check showed an arrest for a Class B misdemeanor offense committed on June 24, 2003 and a conviction was entered for the offense on December 4, 2003 wherein the officer was given deferred adjudication for 6 months. The individual applied for certification from the Commission on June 7, 2004. Was the officer properly hired according to Commission standards and can the officer be certified by the Commission? **Hint: Box J and C**

**Answer:** The hiring of the officer did not violate Commission standards since there was no misdemeanor conviction within the previous 5 years. In this case, the county or department's hiring policy and practice should be cautious of the hiring since at the time of hire, there was certainly the possibility of a conviction forthcoming. The officer would be ineligible for certification since at the time of certification, the officer had a misdemeanor deferred adjudication within the previous 5 years.

7. A detention officer was hired on June 2, 2001. A TCIC check revealed the officer had an arrest for a felony offense with a conviction date of September 2, 1995 and a disposition of 5 years probation. The officer was certified by the Commission on August 30, 2001. On September 1, 2002, the detention officer completed his college program and was promoted to a juvenile probation officer. A certification application for the position of "juvenile probation officer" was submitted to the Commission on December 1, 2002. Was the officer properly hired according to Commission standards and can the officer be certified by the Commission as a probation officer? **Hint: Box L**

**Answer:** The hiring of the officer did not violate Commission standards since the offense for which the officer was on probation occurred prior to March 31, 1999. However, county hiring policies could have prevented the hiring. The detention officer was properly certified since this officer was given benefit of the qualified grandfather clause for the offense committed in 1995. Since the grandfather clause attaches to a person and follows the person, the detention officer could be certified as a probation officer also. The grandfather clause would allow the probation officer to transfer his or her certification to any other juvenile probation department in Texas as well.