

# Texas Administrative Code

Title 37 Public Safety and Corrections  
Part 11 Texas Juvenile Justice Department

## Chapter 341 General Standards for Juvenile Probation Departments

### Subchapter A. Definitions and General Provisions

- §341.100 Definitions
- §341.102 Waiver or Variance to Standards

### Subchapter B. Juvenile Board Responsibilities

- §341.200 Administration
- §341.202 Policies and Procedures

### Subchapter C. Chief Administrative Officer Responsibilities

- §341.300 Policy and Procedure Manual
- §341.302 Participation in Community Resource Coordination Groups

### Subchapter D. Requirements for Juvenile Probation Officers

- §341.400 Duties of Certified Juvenile Probation Officers

### Subchapter E. Case Management

- §341.500 Mental Health Screening
- §341.502 Risk and Needs Assessment
- §341.504 Case Management Policies and Procedures
- §341.506 Case Plans

### Subchapter F. Data Collection

- §341.600 Data Coordinator
- §341.602 TJJJ EDI Extract
- §341.604 Accuracy of Data
- §341.606 Security of Data

### Subchapter G. Restraints

- §341.700 Applicability
- §341.702 Requirements
- §341.704 Prohibitions
- §341.705 Transport Personnel
- §341.706 Documentation
- §341.708 Personal Restraint
- §341.710 Mechanical Restraint
- §341.712 Transporting

### Subchapter H. Carrying of Weapons

- §341.800 Applicability and Authorization
- §341.802 Documentation Requirements
- §341.804 Responsibilities of a Juvenile Probation Officer Authorized to Carry a Firearm
- §341.806 Responsibilities of Chief Administrative Officers or Other Supervising Officers
- §341.808 Written Policies and Procedures
- §341.810 Reporting Use of Force Incidents to TJJJ and Law Enforcement
- §341.812 Records

# 37 TAC Chapter 341

## Subchapter A Definitions and General Provisions

### §341.100 Definitions

Effective Date: 1/1/17

The following words and terms have the following meanings when used in this chapter, unless the context clearly indicates otherwise.

- (1) **Alternative Referral Plan**--A procedure that deviates from the requirements of [Texas Family Code §53.01\(d\)](#) regarding referral of cases to the prosecutor.
- (2) **Approved Personal Restraint Technique ("personal restraint")**--A professionally trained, curriculum-based, and competency-based restraint technique that uses a person's physical exertion to completely or partially constrain another person's body movement without the use of mechanical restraints.
- (3) **Approved Mechanical Restraint Devices ("mechanical restraint")**--A professionally manufactured and commercially available mechanical device designed to aid in the restriction of a person's bodily movement. The only mechanical restraint devices approved for use are the following:
  - (A) **Ankle Cuffs**--Metal band designed to be fastened around the ankle to restrain free movement of the legs.
  - (B) **Handcuffs**--Metal devices designed to be fastened around the wrist to restrain free movement of the hands and arms.
  - (C) **Plastic Cuffs**--Plastic devices designed to be fastened around the wrists or legs to restrain free movement of hands, arms, or legs. Plastic cuffs must be designed specifically for use in human restraint.
  - (D) **Soft Restraints**--Non-metallic wristlets and anklets used as stand-alone restraint devices. These devices are designed to reduce the incidence of skin, nerve, and muscle damage to the subject's extremities.
  - (E) **Waist Belt**--A cloth, leather, or metal band designed to be fastened around the waist and used to secure the arms to the sides or front of the body.
- (4) **Case Management System**--A computer-based tracking system that provides a systematic method to track and manage juvenile offender caseloads.
- (5) **Chief Administrative Officer**--Regardless of title, the person hired by a juvenile board who is responsible for oversight of the day-to-day operations of a juvenile probation department, including the juvenile probation department of a multi-county judicial district.
- (6) **Comprehensive Folder Edit**--A report generated in the Caseworker or Juvenile Case Management System (JCMS) application that performs an extensive edit of the case file information. This report identifies incorrectly entered data and questionable data that impact the accuracy of the reports and programs.
- (7) **Criminogenic Needs**--Issues, risk factors, characteristics, and/or problems that relate to a person's risk of reoffending.
- (8) **Data Coordinator**--A person employed by a juvenile probation department who is designated to serve and function as the primary contact with TJJD on all matters relating to data collection and reporting.
- (9) **Department**--A juvenile probation department.
- (10) **Draw**--To unholster a weapon in preparation for use against a perceived threat.
- (11) **EDI Specifications**--A document developed by TJJD outlining the data fields and file structures that each juvenile probation department is required to follow in submitting the TJJD EDI extract.

## 37 TAC Chapter 341

---

- (12) **Empty-Hand Defense**--Defensive tactics through the use of pressure points, releases from holds, and blocking and striking techniques using natural body weapons such as an open hand, fist, forearm, knee, or leg.
- (13) **Field Supervision**--Supervision ordered by a juvenile court in accordance with [Texas Family Code §54.04\(d\)\(1\)\(A\)](#) where the child is placed on probation in the child's home or in the custody of a relative or another fit person.
- (14) **Formal Referral**--An event that occurs only when all three of the following conditions exist:
  - (A) a juvenile has allegedly committed delinquent conduct, conduct indicating a need for supervision, or a violation of probation;
  - (B) the juvenile probation department has jurisdiction and venue; and
  - (C) the office or official designated by the juvenile board has:
    - (i) made face-to-face contact with the juvenile and the alleged offense has been presented as the reason for this contact; or
    - (ii) given written or verbal authorization to detain the juvenile.
- (15) **Initial Disposition**--The disposition of probation issued by a juvenile court after a child is:
  - (A) formally referred to a juvenile probation department for the first time; or
  - (B) formally referred to a juvenile probation department after any and all previous periods of supervision by the department have ended.
- (16) **Inter-County Transfer**--As described in [Texas Family Code §51.072](#), a transfer of supervision from one juvenile probation department in Texas to another juvenile probation department in Texas for a juvenile who moves or intends to move to another county and intends to remain in that county for at least 60 days.
- (17) **Intermediate Weapons**--Weapons designed to neutralize or temporarily incapacitate an assailant, such as electronic restraint devices, irritants, and impact weapons. This level of self-defense employs the use of tools to neutralize aggressive behavior when deadly force is not justified but when empty-hand defense is not sufficient.
- (18) **Intern**--An individual who performs services for a juvenile justice program or facility through a formal internship program that is sponsored by a juvenile justice agency or is part of an approved course of study through an accredited college or university.
- (19) **Juvenile**--A person who is under the jurisdiction of the juvenile court, confined in a juvenile justice facility, or participating in a juvenile justice program.
- (20) **Juvenile Board**--A governing board created under [Chapter 152 of the Texas Human Resources Code](#).
- (21) **Juvenile Justice Program**--A program or department that:
  - (A) serves juveniles under juvenile court or juvenile board jurisdiction; and
  - (B) is operated wholly or partly by the governing board, juvenile board, or by a private vendor under a contract with the governing board or juvenile board. The term includes:
    - (i) juvenile justice alternative education programs;
    - (ii) non-residential programs that serve juvenile offenders under the jurisdiction of the juvenile court; and
    - (iii) juvenile probation departments.
- (22) **Resident**--A juvenile or other individual who has been lawfully admitted into a pre-adjudication secure juvenile detention facility, post-adjudication secure juvenile correctional facility, or a non-secure juvenile correctional facility.

## 37 TAC Chapter 341

- (23) **Residential Placement**--Supervision ordered by a juvenile court in which the child is placed on probation outside the child's home in a foster home or a public or private institution or agency.
- (24) **Restraints**--Personal or mechanical restraint.
- (25) **Responsivity Factors**--Factors that are not necessarily related to criminal activity but are relevant to the way in which the juvenile reacts to different types of interventions (e.g., learning styles and abilities, self-esteem, motivation for treatment, resistance to change, etc.)
- (26) **SRSXEdit**--An audit program developed by TJJD to assist juvenile probation departments not using the Caseworker or JCMS application with verifying their data prior to submission to TJJD.
- (27) **Supervision**--The case management of a juvenile by the assigned juvenile probation officer or designee through contacts (e.g., face-to-face, telephone, office, home, or collateral contacts) with the juvenile, the juvenile's family, and/or other persons or entities involved with the juvenile.
- (28) **TCOLE**--Texas Commission on Law Enforcement.
- (29) **Title IV-E Approved Facility**--A facility licensed and/or approved by the Texas Department of Family and Protective Services for Title IV-E participation.
- (30) **TJJD**--Texas Juvenile Justice Department.
- (31) **TJJD Electronic Data Interchange (EDI) Extract**--An automated process to extract and submit modified case records from the department's case management system to TJJD. The extract must be completed in accordance with this chapter.
- (32) **TJJD Mental Health Screening Instrument**--An instrument selected by TJJD to assist in identifying juveniles who may have mental health needs.
- (33) **Transport Personnel**--An employee of a juvenile probation department, other than a juvenile supervision officer, whose primary job duty is to transport juveniles.
- (34) **Volunteer**--An individual who performs services for the juvenile probation department without compensation from the department who has:
  - (A) any unsupervised contact with juveniles in a juvenile justice program or facility; or
  - (B) regular or periodic supervised contact with juveniles in a juvenile justice program or facility.

### §341.102 Waiver or Variance to Standards

Effective Date: 1/1/17

Unless expressly prohibited by another standard, an application for a waiver or variance of any standard in this chapter may be submitted in accordance with [§349.200 of this title](#).

## Subchapter B Juvenile Board Responsibilities

### §341.200 Administration

Effective Date: 1/1/17

- (a) **Local Juvenile Probation Services Administration.**
  - (1) For each autonomous juvenile probation department, the juvenile board must employ a chief administrative officer who meets the standards set forth in [Chapter 344 of this title](#).
  - (2) When probation services for adult and juvenile offenders are provided by a single probation office, the juvenile board must ensure that the juvenile probation department's policies, programs, and procedures are clearly differentiated.

## 37 TAC Chapter 341

(b) **Referral Ratio.**

The juvenile probation department must employ at least one certified juvenile probation officer for each 100 formal referrals made to the juvenile probation department annually.

(c) **Participation in Community Resource Coordination Groups.**

- (1) A person designated by the juvenile board must participate in the system of community resource coordination groups pursuant to [Texas Government Code §531.055](#).
- (2) The chair of the juvenile board or his/her designee must serve as representative to the interagency dispute resolution process required by Texas Government Code §531.055.

(d) **Notice of Complaint Procedures.**

The juvenile board must ensure the English and Spanish signs provided by TJJD relating to complaint procedures are posted in a public area of:

- (1) the juvenile probation department; and
- (2) any facility operated by the juvenile board or by a private entity through a contract with the juvenile board.

(e) **Research Studies and Experimentation.**

- (1) The juvenile board must establish a policy that prohibits participation by juveniles in research that employs an experimental design to test a medical, pharmaceutical, or cosmetic product or procedure.
- (2) Participation by juveniles in any other kind of research is prohibited unless:
  - (A) the research study is approved in writing by the juvenile board or its designee; and
  - (B) the juvenile board has established policies that:
    - (i) govern all authorized research studies;
    - (ii) prohibit studies that involve medically invasive procedures; and
    - (iii) adhere to all federal requirements governing human subjects and confidentiality.
- (3) If the juvenile board authorizes a board member or staff member to approve research studies on behalf of the board, the authorization must be in writing.
- (4) Approved research studies must adhere to all applicable policies of the authorizing juvenile board.
- (5) Before a research study approved by the juvenile board begins, the research study must be reported to TJJD in a format prescribed by TJJD.
- (6) Results of a completed study must be made available to TJJD upon request.

(f) **Alternative Referral Plans.**

If a juvenile board adopts an alternative referral plan under [Texas Family Code §53.01\(d\)](#), the board must ensure the most recent version of the plan is submitted to the TJJD general counsel.

### §341.202 Policies and Procedures

Effective Date: 1/1/17

(a) **Personnel Policies.**

The juvenile board must establish written personnel policies.

(b) **Department Policies.**

The juvenile board must establish written department policies and procedures. These policies must include, at a minimum, the following provisions, if applicable.

## 37 TAC Chapter 341

---

(1) **Deferred Prosecution.**

- (A) If the juvenile board adopts a fee schedule for the collection of deferred prosecution fees, the board must establish a written policy that includes the following requirements.
- (i) The monthly fee must be determined after obtaining a financial statement from the parent or guardian and may not exceed the maximum set by [Texas Family Code §53.03](#).
  - (ii) The fee schedule must be based on total parent/guardian income.
  - (iii) The chief administrative officer or his/her designee must approve in writing the fee assessed for each child including any waiver of deferred prosecution fees.
- (B) A deferred prosecution fee may not be imposed if the juvenile board does not adopt a fee schedule and rules for waiver of the deferred prosecution fee.

(2) **Volunteers and Interns.**

If a juvenile probation department utilizes volunteers or interns, the juvenile board must establish policies for the volunteer and/or internship program that include:

- (A) a description of the scope, responsibilities, and limited authority of volunteers and interns who work with the department;
- (B) selection and termination criteria, including disqualification based on specified criminal history;
- (C) a requirement to conduct criminal history searches as described in [Chapter 344 of this title](#) for volunteers and interns who will have direct, unsupervised access to juveniles;
- (D) a prohibition on having unsupervised contact with juveniles for volunteers and interns whose criminal history does not meet the requirements in Chapter 344 of this title;
- (E) the orientation and training requirements, including training on recognizing and reporting abuse, neglect, and exploitation;
- (F) a requirement that volunteers and interns meet minimum professional requirements if serving in a professional capacity; and
- (G) a requirement to maintain a sign-in log that documents the name of the volunteer/intern, the purpose of the visit, the date of the service, and the beginning and ending time of the service performed for the department.

(3) **Zero-Tolerance for Sexual Abuse.**

The juvenile board must establish zero-tolerance policies and procedures regarding sexual abuse as defined in [Chapter 358 of this title](#). The policies and procedures must:

- (A) prohibit sexual abuse of juveniles under the jurisdiction of the department by department staff, volunteers, interns, and contractors;
- (B) establish the actions department staff must take in response to allegations of sexual abuse and TJJD-confirmed incidents of sexual abuse; and
- (C) provide for administrative disciplinary sanctions and referral for criminal prosecution.

(4) **Pretrial Detention for Certain Juveniles.**

As required by [Texas Human Resources Code §152.0015](#), the juvenile board must establish a policy that specifies whether a person who has been transferred for criminal prosecution under [Texas Family Code §54.02](#) and is younger than 17 years of age may be detained in a juvenile facility pending trial.

## 37 TAC Chapter 341

### (5) Taking Juveniles into Custody.

The juvenile board must establish a policy that specifies whether juvenile probation officers may take a juvenile into custody as allowed by [Texas Family Code §§52.01\(a\)\(4\), 52.01\(a\)\(6\), or 52.015](#).

- (A) If the policy allows juvenile probation officers to take a juvenile into custody, the policy must specify whether the officers are allowed to use force in doing so.
- (B) If the policy allows juvenile probation officers to use force in taking a juvenile into custody, the policy must:
  - (i) address prohibited conduct, circumstances under which force is authorized, and training requirements;
  - (ii) require each use of force to be documented, except when the only force used is the placement of mechanical restraints on the juvenile.

## Subchapter C Chief Administrative Officer Responsibilities

### §341.300 Policy and Procedure Manual

Effective Date: 1/1/17

- (a) The chief administrative officer must develop, maintain, and enforce a policy and procedure manual for the juvenile probation department, which must include the policies and procedures of the juvenile probation department as established by the juvenile board.
- (b) The chief administrative officer must provide all employees with a copy of or access to the policy and procedure manual, review the manual no later than the last day of the calendar month of the previous year's review, maintain documentation of this review, and update the manual as necessary.

### §341.302 Participation in Community Resource Coordination Groups

Effective Date: 1/1/17

The chief administrative officer or his/her designee must serve as the liaison to the local community resource coordination group pursuant to [Texas Government Code §531.055](#).

## Subchapter D Requirements for Juvenile Probation Officers

### §341.400 Duties of Certified Juvenile Probation Officers

Effective Date: 1/1/17

- (a) The following duties and responsibilities may be performed only by certified juvenile probation officers, except as allowed by subsection (b) of this section:
  - (1) recommending a disposition in formal court proceedings;
  - (2) providing final approval of written social history reports;
  - (3) acting as the primary supervising officer for court-ordered and deferred prosecution cases;
  - (4) acting as the primary supervising officer in a collaborative supervision agreement under [Texas Family Code §51.075](#);

## 37 TAC Chapter 341

- (5) developing and implementing case plans in accordance with Subchapter E of this chapter;
  - (6) conducting intake interviews and preliminary investigations and making release decisions under [Texas Family Code §53.01](#), unless another staff member is designated to do so by the juvenile board;
  - (7) taking a child into custody as authorized by [Texas Family Code §§52.01\(a\)\(4\), 52.01\(a\)\(6\), or 52.015](#);
  - (8) serving as the designated inter-county transfer officer and performing the duties required by [Texas Family Code §51.072](#);
  - (9) referring a child to a local mental health or mental retardation authority as required by [Texas Family Code §54.0408](#);
  - (10) explaining to the juvenile and to the juvenile's parent, guardian, or custodian, the following, as required by [Texas Family Code §58.209](#):
    - (A) who will have access to the juvenile's record; and
    - (B) under what circumstances that record may be eligible for restricted access or sealing; and
  - (11) providing the juvenile with a written copy of the explanation in paragraph (10) of this subsection.
- (b) Subject to the application deadline established in [Chapter 344 of this title](#), an individual hired as a juvenile probation officer who is not yet certified as a juvenile probation officer may perform the duties under subsection (a) of this section if the individual has completed a minimum of 40 hours of training, which must include the mandatory topics required in Chapter 344 of this title.

### Subchapter E Case Management

#### §341.500 Mental Health Screening

Effective Date: 1/1/17

- (a) The TJJD mental health screening instrument must be completed for all juveniles who receive a formal referral to the juvenile probation department, except in the specific circumstances listed in paragraphs (1)-(2) of this subsection.
  - (1) A clinical assessment by a licensed mental health professional may be substituted for the TJJD mental health screening instrument if the assessment is completed within the time frames listed in subsection (b) of this section.
  - (2) The department is not required to complete an additional screening if the TJJD mental health screening instrument has been completed within the previous two weeks and is contained in the juvenile's case record.
- (b) If the juvenile is not admitted into detention, the TJJD mental health screening instrument must be administered no later than 14 calendar days after the date of the first face-to-face contact between the juvenile and a juvenile probation officer. If the juvenile is admitted into detention, the detention facility is required under [§343.404 of this title](#) to administer the TJJD mental health screening instrument within 48 hours after admission and to send the results to the supervising juvenile probation officer.
- (c) The individual administering the TJJD mental health screening instrument must have received training from:
  - (1) TJJD or its predecessor agency on administering the mental health screening instrument; or
  - (2) an individual who is documented to have received training from TJJD or its predecessor agency on administering the mental health screening instrument.

## 37 TAC Chapter 341

### §341.502 Risk and Needs Assessment

Effective Date: 1/1/17

- (a) A juvenile probation department must complete a risk and needs assessment for a juvenile:
  - (1) before each disposition in a juvenile's case; and
  - (2) at least once every six months.
- (b) The risk and needs assessment instrument must be:
  - (1) validated; and
  - (2) approved or provided by TJJD.
- (c) The risk and needs assessment instrument must be administered by an individual trained to administer the instrument.

### §341.504 Case Management Policies and Procedures

Effective Date: 1/1/17

Each department's case management policies and procedures must:

- (1) establish that individualized case management practices are based on a consideration of the following factors, at a minimum:
  - (A) results of the department's risk and needs assessment instrument;
  - (B) criminogenic needs;
  - (C) risk level to reoffend;
  - (D) responsivity factors; and
  - (E) involvement of the parent(s), guardian, or custodian; and
- (2) require a minimum of one face-to-face contact per month with each juvenile under supervision unless otherwise noted in the case plan.

### §341.506 Case Plans

Effective Date: 1/1/17

- (a) A case plan must be developed for each juvenile assigned to progressive sanctions level three, four, or five, as defined in [Texas Family Code Chapter 59](#), and for each juvenile given determinate sentence probation under [Texas Family Code §54.04\(q\)](#).
- (b) The case plan must be completed within 30 calendar days after the date of initial disposition. The case plan must be:
  - (1) developed by a juvenile probation officer in coordination with the juvenile and the juvenile's parent, guardian, or custodian;
  - (2) signed by a juvenile probation officer, the juvenile, and the juvenile's parent, guardian, or custodian; and
  - (3) retained, with copies provided to:
    - (A) the juvenile;
    - (B) the juvenile's parent, guardian, or custodian; and
    - (C) upon placement of a juvenile in a residential placement, staff at the residential placement.
- (c) The case plan must address:
  - (1) relevant criminogenic need(s), as determined by the department; and
  - (2) the following information for each criminogenic need addressed in the case plan:
    - (A) goal(s); and

## 37 TAC Chapter 341

---

- (B) for each goal:
  - (i) action step(s);
  - (ii) person(s) responsible for completing the action step(s);
  - (iii) time frame for completing the action step(s); and
  - (iv) status of the goal;
- (3) identification of relevant community services for the juvenile and the juvenile's parent(s), guardian, or custodian to access while the juvenile is under supervision and after supervision ends;
- (4) facility name and phone number, if the juvenile is in a residential placement; and
- (5) level of supervision.
- (d) Except as noted in subsection (f) of this section, the juvenile probation officer must complete and document the following actions each calendar month after the case plan has been developed:
  - (1) discuss progress toward meeting case plan goals with:
    - (A) the juvenile;
    - (B) the juvenile's parent(s), guardian, or custodian; and
    - (C) the residential provider where the juvenile is placed, if applicable; and
  - (2) update the status and progress toward meeting case plan goals and action steps.
- (e) If the parent, guardian, or custodian cannot be located or is unable or unwilling to participate in developing or updating the case plan as required in subsection (b) or (d) of this section, documentation of the reason the parent, guardian, or custodian did not participate must be maintained.
- (f) The requirements in subsection (d) of this section do not apply after a request for an inter-county transfer has been submitted and before the sending and receiving counties have agreed on the official start date, as described in [Texas Family Code §51.072 \(f-1\)](#).
- (g) Within 30 calendar days after the official start date for an inter-county transfer, the receiving county must:
  - (1) assume responsibility for the monthly updates described in subsection (d) of this section; or
  - (2) complete a new case plan in accordance with subsections (b) and (c) of this section.
- (h) Section 341.506 of this title does not apply to:
  - (1) juveniles on field supervision in departments that currently participate in Title IV-E reasonable candidacy;
  - (2) juveniles who have been certified or are pending certification as Title IV-E eligible; or
  - (3) juveniles who are receiving services under the Special Needs Diversionary Program administered by TJJD.
- (i) A case plan is required in accordance with subsections (b) and (c) of this section within 30 calendar days after any of the following events:
  - (1) a juvenile is discharged from the Title IV-E foster care reimbursement program or is determined to be ineligible for the Title IV-E program;
  - (2) a juvenile is discharged from the Special Needs Diversionary Program; or
  - (3) a department ceases to participate in claiming Title IV-E reasonable candidate costs.

## 37 TAC Chapter 341

### Subchapter F Data Collection

#### §341.600 Data Coordinator

Effective Date: 1/1/17

(a) **Training Requirements.**

- (1) The data coordinator must have a thorough understanding of TJJD's reporting requirements.
- (2) The data coordinator must complete training related to data reporting provided by TJJD as required.

(b) **Duties.**

- (1) The data coordinator is responsible for ensuring that all data submitted to TJJD by the juvenile probation department is accurate, timely, and consistent with TJJD's reporting requirements.
- (2) The data coordinator must ensure that the TJJD EDI Extract is submitted to TJJD on or before the applicable due date.

#### §341.602 TJJD EDI Extract

Effective Date: 1/1/17

- (a) The TJJD EDI Extract must be sent to TJJD electronically.
- (b) The extract is due to TJJD no later than the tenth calendar day of each month following the reporting period.
- (c) The TJJD EDI Extract data must include all data fields required by the [EDI Specifications](#).
- (d) TJJD staff must discuss any proposed changes to the specifications with juvenile probation departments' designated representatives before making substantive changes to the specifications.

#### §341.604 Accuracy of Data

Effective Date: 1/1/17

- (a) The juvenile probation department must fill in all applicable data fields for each referral in the department's case management system.
- (b) The juvenile probation department must run the Comprehensive Folder Edit or SRSXEdit on a monthly basis.
- (c) Errors detected by the Comprehensive Folder Edit must be corrected prior to the next submission of the EDI Extract.
- (d) Errors detected by TJJD must be corrected prior to the date provided by TJJD.

#### §341.606 Security of Data

Effective Date: 1/1/17

- (a) Each user of the juvenile probation department's case management system must obtain a password to the system. Passwords must not be shared with department employees or other persons.
- (b) The juvenile probation department must limit the number of employees who are authorized to delete information in the department's case management system.
- (c) Access to the department's case management system must be removed concurrent with the termination of a user's employment.
- (d) A juvenile probation department that does not use the Juvenile Case Management System (JCMS) must:
  - (1) establish and follow a written policy for backup and restoration procedures relating to data in its case management system; and
  - (2) maintain an off-site backup storage system.

# 37 TAC Chapter 341

## Subchapter G Restraints

### §341.700 Applicability

Effective Date: 1/1/17

This subchapter applies only to juveniles who are not residents of a juvenile pre-adjudication secure detention facility, a juvenile post-adjudication secure correctional facility, or a non-secure juvenile correctional facility.

### §341.702 Requirements

Effective Date: 1/1/17

- (a) The use of restraints is governed by the following criteria.
- (1) Personal restraints may be used only by juvenile probation officers and transport personnel who are trained in the use of the approved personal restraint technique.
  - (2) Mechanical restraints may be used only by juvenile probation officers and transport personnel who are trained in the use of all approved mechanical restraint devices.
  - (3) Except during routine transportation or when a juvenile probation officer takes a juvenile into custody under [Texas Family Code §52.01](#) or [§52.015](#), restraints may be used only in instances of threat of imminent or active:
    - (A) self-injury;
    - (B) injury to others; or
    - (C) serious property damage.
  - (4) Restraints may be used only as a last resort.
  - (5) Only the amount of force and type of restraint necessary to control the situation may be used.
  - (6) Restraints must be implemented in such a way as to protect the health and safety of the juvenile and others.
  - (7) Restraints must be terminated as soon as the juvenile's behavior no longer indicates an imminent threat of self-injury, injury to others, or serious property damage, except during routine transportation or when a juvenile probation officer takes a juvenile into custody.

### §341.704 Prohibitions

Effective Date: 1/1/17

Restraints that employ a technique listed in this section are prohibited:

- (1) restraints used for punishment, discipline, retaliation, harassment, compliance, or intimidation;
- (2) restraints that deprive the juvenile of basic human necessities, including restroom opportunities, water, food, and clothing;
- (3) restraints that are intended to inflict pain;
- (4) restraints that put a juvenile in a prone or supine position with sustained or excessive pressure on the back or chest cavity;
- (5) restraints that put a juvenile in a prone or supine position with pressure on the neck or head;
- (6) restraints that obstruct the airway or impair the breathing of the juvenile, including a procedure that places anything in, on, or over the juvenile's mouth or nose or around the juvenile's neck;
- (7) restraints that interfere with the juvenile's ability to communicate;
- (8) restraints that obstruct the view of the juvenile's face;

## 37 TAC Chapter 341

- (9) any technique that does not require the monitoring of the juvenile's respiration and other signs of physical distress during the restraint; and
- (10) percussive or electrical shocking devices.

### §341.705 Transport Personnel

Effective Date: 1/1/17

Transport personnel must maintain current certification in the following topics:

- (1) cardiopulmonary resuscitation (CPR);
- (2) first aid; and
- (3) a personal restraint technique approved by TJJD.

### §341.706 Documentation

Effective Date: 1/1/17

- (a) Restraints must be fully documented and the documentation must be maintained, except as noted in subsection (b) of this section. Written documentation regarding the use of restraints must include, at a minimum:
  - (1) name of the juvenile;
  - (2) name and title of each staff member who administered the restraint;
  - (3) narrative description of the restraint event from each staff member who participated in the restraint;
  - (4) date of the restraint;
  - (5) duration of each type of restraint (e.g., personal or mechanical), including notation of the time each type of restraint began and ended;
  - (6) location of the restraint;
  - (7) events and behavior that prompted the initial restraint and any continued restraint;
  - (8) de-escalation efforts and restraint alternatives attempted;
  - (9) type of restraint(s) applied, including, as applicable:
    - (A) the specific type of personal restraint hold applied; and
    - (B) the type of mechanical restraint device(s) applied; and
  - (10) any injury that occurred during the restraint.
- (b) The following events are not required to be documented as a restraint, except as noted in subsection (c) of this section:
  - (1) using mechanical restraints during routine transportation; and
  - (2) a juvenile probation officer taking a juvenile into custody under [Texas Family Code §52.01](#) or [§52.015](#).
- (c) The exception in subsection (b) of this section does not apply when:
  - (1) the juvenile's cooperation is compelled through the use of a personal restraint; or
  - (2) the juvenile receives an injury in relation to the restraint event or restraint devices.

### §341.708 Personal Restraint

Effective Date: 1/1/17

- (a) A juvenile probation department may not use a personal restraint technique before it has been approved for use by TJJD.
- (b) Staff members who are authorized to use personal restraints must be retrained in the approved personal restraint technique in accordance with the requirements of the technique or at least once every 365 calendar days, whichever time frame is shorter.

## 37 TAC Chapter 341

### §341.710 Mechanical Restraint

Effective Date: 1/1/17

The use of mechanical restraints is governed by the following criteria.

- (1) **Requirements.**
  - (A) Only approved mechanical restraint devices may be used by the juvenile probation department.
  - (B) Mechanical restraints must be used only in a manner consistent with their intended use.
  - (C) Mechanical restraint devices must be inspected at least once each year, no later than the last day of the calendar month of the previous year's inspection. The dates of the inspections must be documented.
  - (D) Faulty or malfunctioning devices must be restricted from use until they are repaired. Any maintenance performed must adhere to the manufacturer's guidelines.
- (2) **Prohibitions.**
  - (A) Mechanical restraint devices may not be altered from the manufacturer's design.
  - (B) A juvenile may not be placed in a prone position while restrained in any mechanical restraint for a period of time longer than necessary to apply the restraint devices.
  - (C) A mechanical restraint may not be used to secure a juvenile in a prone, supine, or lateral position with the juvenile's arms and hands behind his/her back and secured to his/her legs.
  - (D) Mechanical restraint devices may not be secured so tightly as to interfere with circulation or so loosely as to cause chafing of the skin.
  - (E) Mechanical restraint devices may not be used to secure a juvenile to a stationary object.
  - (F) A juvenile in mechanical restraints may not participate in any physical activity.
  - (G) Plastic cuffs may be used only in emergency situations.

### §341.712 Transporting

Effective Date: 1/1/17

- (a) During transportation in a vehicle, a juvenile may not be affixed to any part of the vehicle.
- (b) During transportation in a vehicle, a juvenile may not be secured to another juvenile.

## Subchapter H Carrying of Weapons

### §341.800 Applicability and Authorization

Effective Date: 1/1/17

- (a) **Applicability.**

This subchapter applies only to actively certified juvenile probation officers who are authorized to carry firearms under this subchapter.
- (b) **Authorization to Carry a Firearm.**
  - (1) In accordance with [§142.006 of the Texas Human Resources Code](#), a juvenile probation officer is authorized to carry a firearm during the course of the officer's official duties if:
    - (A) the juvenile probation officer has been employed for at least one year by the juvenile probation department described in subparagraph (B) of this paragraph;

## 37 TAC Chapter 341

- (B) the chief administrative officer of the juvenile probation department that employs the juvenile probation officer authorizes the juvenile probation officer to carry a firearm in the course of the officer's official duties; and
  - (C) the juvenile probation officer possesses a certificate of firearms proficiency issued by the Texas Commission on Law Enforcement (TCOLE) under [§1701.259 of the Texas Occupations Code](#).
- (2) A juvenile probation officer is disqualified from being authorized to carry a firearm during the course of the officer's official duties if the officer has been found to be a designated perpetrator in a TJJD abuse, neglect, or exploitation investigation, unless that designation has been overturned.
  - (3) In accordance with [§221.35 of this title](#), a juvenile probation officer must successfully complete TCOLE's current firearms training program for juvenile probation officers to be authorized to carry a firearm in the course of the officer's official duties.
  - (4) A license to carry a handgun obtained under [Chapter 411, Subchapter H, of the Texas Government Code](#) does not enable a certified juvenile probation officer to carry a firearm in the course of the officer's official duties and does not satisfy, and may not be accepted in lieu of, the requirements in this subchapter.

### §341.802 Documentation Requirements

Effective Date: 1/1/17

#### (a) Documents Required After Obtaining an Initial Firearms Proficiency Certificate.

Within 30 calendar days after receiving the initial firearms proficiency certificate from TCOLE, the chief administrative officer must ensure the following documents are provided to TJJD:

- (1) a copy of the Juvenile Probation Officer Firearms Proficiency Certificate from TCOLE; and
- (2) a completed, signed, and notarized copy of TJJD's [Verification of Eligibility for Juvenile Probation Officer to Carry Firearm form](#), including the following required attachments:
  - (A) appropriate documentation that the juvenile probation officer has been subjected to a complete search of local, state, and national records to disclose any criminal record or criminal history;
  - (B) written documentation from each chief administrative officer who has authorized the juvenile probation officer's participation in the juvenile probation officer firearms proficiency training program that the officer has been examined by a psychologist who was selected by the current employing department and who is licensed by the Texas State Board of Examiners of Psychologists;
  - (C) a written declaration from the examining psychologist that the juvenile probation officer possesses the requisite psychological and emotional health to carry a firearm in the course of the officer's official duties;
  - (D) documentation of successful completion of TCOLE's current firearms training program for juvenile probation officers;
  - (E) documentation of successful completion of the amount of training specified by the department's policies and procedures in the following areas:
    - (i) use of an empty-hand defense tactic; and
    - (ii) use of an intermediate weapon; and
  - (F) the department's current policies and procedures described in [§341.808 of this title](#).

#### (b) Documents Required After Obtaining Renewed Firearms Proficiency Certificate.

Within 30 calendar days after receiving a renewal of a firearms proficiency certificate from TCOLE, the chief administrative officer must ensure the following documents are provided to TJJD:

- (1) a copy of the renewed Juvenile Probation Officer Firearms Proficiency Certificate from TCOLE;

## 37 TAC Chapter 341

- (2) a completed, signed, and notarized copy of TJJJ's [Renewal of Verification of Eligibility for Juvenile Probation Officer to Carry Firearm form](#);
- (3) documentation of successful completion of the amount of continuing education specified by the department's policies and procedures relating to the use of a firearm, intermediate weapon, and empty-hand defense tactic; and
- (4) the department's current policies and procedures described in §341.808 of this title.

### **§341.804 Responsibilities of a Juvenile Probation Officer Authorized to Carry a Firearm**

Effective Date: 1/1/17

A juvenile probation officer who is authorized to carry a firearm in accordance with this subchapter must:

- (1) comply with the requirements of this subchapter, the officer's department policies and procedures, and the laws of this state and of the United States;
- (2) be knowledgeable of the places where firearms or other weapons are prohibited;
- (3) immediately report to the chief administrative officer if the officer is arrested for, charged with, or convicted of any criminal offense;
- (4) comply with all training, firearms proficiency, and certification requirements in [§221.35 of this title](#);
- (5) maintain the firearm and all authorized intermediate weapons in proper working order at all times;
- (6) be responsible for the safe handling of the firearm and all authorized intermediate weapons; and
- (7) store the firearm and all authorized intermediate weapons in a secure, locked location designed for secure storage of a weapon when the firearm or other weapon is not on the officer's person.

### **§341.806 Responsibilities of Chief Administrative Officers or Other Supervising Officers**

Effective Date: 1/1/17

- (a) The chief administrative officer or his/her designee must notify TJJJ within 24 hours if:
  - (1) the department rescinds its authorization for a juvenile probation officer to carry a firearm; or
  - (2) an officer who is authorized to carry a firearm separates from the department.
- (b) An internal investigation must be conducted for all incidents in which a juvenile probation officer, during the course of his/her official duties:
  - (1) uses an empty-hand defense tactic in an incident involving another person;
  - (2) draws or uses an intermediate weapon in an incident involving another person; or
  - (3) draws or discharges a firearm in any incident.
- (c) The investigation described in subsection (b) of this section must be conducted by:
  - (1) the chief administrative officer or his/her designee; or
  - (2) the juvenile board or the board's designee in cases where the chief administrative officer is the subject of the investigation.
- (d) A juvenile probation officer must be immediately placed on administrative leave or reassigned to a position having no contact with juveniles or the relatives of a juvenile involved in the incident if the juvenile probation officer, while in the course of his/her official duties:
  - (1) draws or uses an intermediate weapon in an incident involving another person; or
  - (2) draws or discharges a firearm in any incident.

## 37 TAC Chapter 341

- (e) The administrative leave or reassignment described in subsection (d) of this section must remain in effect until the conclusion of the internal investigation.
- (f) The chief administrative officer must ensure that TJJD is notified if an officer who is authorized to carry a firearm is arrested for, charged with, or convicted of any criminal offense. This notification is required within 24 hours after the chief administrative officer learns of the arrest, charge, or conviction.

### §341.808 Written Policies and Procedures

Effective Date: 1/1/17

Each juvenile probation department that employs a juvenile probation officer who is authorized to carry a firearm in accordance with the requirements in this subchapter must maintain and implement written policies and procedures that:

- (1) define which juvenile probation officers within the department are authorized to carry firearms;
- (2) specify the amount of required training hours in the following areas before a juvenile probation officer may carry a firearm in the course of the officer's duties:
  - (A) use of an empty-hand defense tactic; and
  - (B) use of at least one intermediate weapon;
- (3) specify the amount of continuing education hours required every two years for an officer to continue to carry a firearm in the course of the officer's duties;
- (4) require continuing education hours to be in areas that enhance the officer's skills and knowledge relating to the proficient and legal use of a firearm, empty-hand defense tactics, and intermediate weapons in the context of self-defense and defense of third parties, including the following topics, at a minimum:
  - (A) use of force;
  - (B) weapons retention; and
  - (C) crisis intervention;
- (5) specify the duties and training requirements of the chief administrative officer or the direct supervisor of a juvenile probation officer in cases where the following circumstances exist:
  - (A) a juvenile probation officer is authorized to carry a firearm in the course of his/her official duties; and
  - (B) the direct supervisor of the juvenile probation officer does not carry a firearm in the course of his/her official duties;
- (6) require all training described in this section to be received from a TCOLE-certified instructor;
- (7) state whether firearms and intermediate weapons are to be purchased and maintained by the department or the individual officer;
- (8) require that the firearm and intermediate weapons remain under the control of the officer authorized to carry the firearm and weapon(s);
- (9) specify whether the firearm must be fully loaded when carried or worn when the officer is in the course of his/her official duties;
- (10) specify how credentials identifying the officer as a certified juvenile probation officer must be carried and/or displayed while the officer is carrying a firearm in accordance with this subchapter;
- (11) describe the circumstances and limitations under which the officer is justified to use force, which must be consistent with [Chapter 9 of the Texas Penal Code](#);
- (12) specify the firearms to be carried, including the type of firearm, manufacturer, model, and caliber;
- (13) specify the type of ammunition authorized for use in the firearm;
- (14) specify the type(s) of intermediate weapons to be used;

## 37 TAC Chapter 341

- (15) state whether the firearm must be carried in plain view or concealed and the manner in which it must be worn or carried;
- (16) require documentation of each incident in which a juvenile probation officer, while in the course of his/her official duties, uses an empty-hand defense tactic, uses an intermediate weapon, or draws or discharges a firearm;
- (17) require the officer to carry an intermediate weapon at all times while the officer is carrying a firearm;
- (18) specify the manner in which the intermediate weapon(s) must be carried;
- (19) define the process for rescinding or suspending the authorization to carry a firearm;
- (20) prohibit the consumption of alcohol while carrying a firearm or intermediate weapon;
- (21) define the process for conducting an internal investigation when required by [§341.806\(b\) of this title](#); and
- (22) require that a juvenile probation officer be placed on administrative leave or be reassigned to a position having no contact with juveniles or relatives of the juvenile involved in the incident when required by [§341.806\(d\) of this title](#).

### §341.810 Reporting Use of Force Incidents to TJJJ and Law Enforcement

Effective Date: 1/1/17

- (a) The chief administrative officer or his/her designee must report to TJJJ each incident in which a juvenile probation officer, during the course of his/her official duties:
  - (1) uses an empty-hand defense tactic in an incident involving another person;
  - (2) draws or uses an intermediate weapon in an incident involving another person; or
  - (3) draws or discharges a firearm in any incident.
- (b) The initial report must be made to TJJJ immediately, but no later than four hours after the conclusion of the use of force incident.
- (c) The initial report must be made using the toll-free number designated by TJJJ.
- (d) Within 24 hours after the report by phone, the [Juvenile Probation Officer Use of Force Incident Report](#) form must be submitted to TJJJ via fax or e-mail.
- (e) The chief administrative officer or his/her designee must report to local law enforcement any discharge of a firearm by a juvenile probation officer immediately, but no later than one hour after the time of discharge.

### §341.812 Records

Effective Date: 1/1/17

- (a) The personnel file of each juvenile probation officer authorized to carry a firearm in accordance with this subchapter must contain a copy of the:
  - (1) PID Assignment ([TCOLE C-1 form](#));
  - (2) results of criminal history checks conducted pursuant to the requirements of this subchapter;
  - (3) Licensee Psychological and Emotional Health Declaration ([TCOLE L-3 form](#));
  - (4) proof of annual firearms proficiency;
  - (5) verification of successful completion of TCOLE's firearms training program for juvenile probation officers; and
  - (6) acknowledgment that the officer has reviewed the department's current policies and procedures specified in [§341.808 of this title](#).
- (b) Juvenile probation departments must allow TCOLE, other law enforcement agencies, and TJJJ access to records pertaining to firearms and use of force incidents for monitoring and investigation purposes.