

**Texas Juvenile Probation Commission**  
**Title 37 Texas Administrative Code**  
**Chapter 341. Texas Juvenile Probation Commission**

**Subchapter A. DEFINITIONS**

**§341.1. Definitions.**

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

- (1) Alleged Victim--A juvenile alleged as being a victim of abuse, exploitation or neglect.
- (2) 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.
- (3) Commission--The Texas Juvenile Probation Commission.
- (4) Juvenile Justice Program--A program or department 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 that serves juveniles under juvenile court jurisdiction or juvenile board jurisdiction. The term includes a juvenile justice alternative education program and a non-residential program that serves juvenile offenders under the jurisdiction of the juvenile court or juvenile board jurisdiction and a juvenile probation department.
- (5) Referral--A referral to the juvenile court for conduct defined in Texas Family Code §51.03 that results in a face-to-face interview between the juvenile and the authorized staff of the juvenile probation department.

**Subchapter B. JUVENILE BOARD RESPONSIBILITIES**

**§341.2. Administration.**

- (a) Local Juvenile Probation Services Administration.
  - (1) The juvenile board shall employ a chief administrative officer for each autonomous juvenile probation department.
  - (2) The juvenile board shall specify the responsibilities and functions of the juvenile probation department as well as the authority, responsibility, and function of the position of the chief administrative officer.
  - (3) When probation services for adult and juvenile offenders are provided by a single probation office, the juvenile board shall ensure that the juvenile probation department policies, programs, and procedures are clearly differentiated.
- (b) Referral Ratio. The juvenile board shall employ at least one certified juvenile probation officer for each 100 referrals made to the juvenile probation department annually.
- (c) Participation in Community Resource Coordination Groups.

(1) Juvenile boards shall participate in the system of community resource coordination groups and the procedures in the memorandum of understanding adopted in §349.69 of this title.

(2) The chair of the juvenile board, or the chair's designee shall serve as representative to the interagency dispute resolution process described in the memorandum of understanding.

(d) Notice of Complaint Procedures. The juvenile board shall post the sign provided by the Commission relating to complaint procedures in a public area of:

(1) the juvenile probation department; and

(2) any facility operated by the juvenile board, or operated by a private entity through contract with the juvenile board.

**§341.3.Policy and Procedures.**

(a) Personnel Policies. The juvenile board shall adopt written personnel policies. These personnel policies shall include but not be limited to:

(1) a salary scale for all juvenile probation officers; and

(2) the provision for juvenile probation officers to receive all applicable benefits and allowances given to county employees.

(b) Department Policies. The juvenile board shall adopt written department policies and procedures. These policies shall include but not be limited to:

(1) Deferred Prosecution. The deferred prosecution policy shall at a minimum include the following policies:

(A) The maximum supervision fee for deferred prosecution cases is \$15.00 per month.

(B) The monthly fee shall be determined after obtaining a financial statement from the parent or guardian.

(C) The fee schedule shall be based on total parent/guardian income.

(D) The chief administrative officer, or the chief administrative officer's designee shall approve in writing the fee assessed for each child including any waiver of deferred prosecution fees.

(E) A deferred prosecution fee shall 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 has or develops a volunteer or internship program, the juvenile board at a minimum shall adopt the following policies for the volunteer and internship program:

(A) a description of the authority, responsibility and accountability of volunteers and interns who work with the department;

(B) a requirement for criminal history searches in accordance with the requirements set forth in <\*>344.300 of this title;

(C) selection and termination criteria including disqualification based on criminal history;

(D) orientation and training requirements including training on reporting abuse, exploitation and neglect;

(E) a requirement that volunteers and interns meet minimum professional requirements; and

(F) a provision for a volunteer and intern sign in log.

(3) Experimentation. The policy shall at a minimum prohibit a department or juvenile justice program from using juveniles for medical, pharmaceutical, or cosmetic experiments.

***§341.4. Waiver or Variance to Standards.***

Unless expressly prohibited by another standard, the juvenile board, or chief administrative officer may make an application for waiver and the juvenile board may make an application for variance of any standard or standards adopted by the Commission in accordance with §349.2 of this title.

**Subchapter C. CHIEF ADMINISTRATIVE OFFICER RESPONSIBILITIES**

***§341.9. Policy and Procedure Manual.***

(a) The chief administrative officer shall maintain and enforce a policy and procedure manual for the juvenile probation department, which shall include the policies, procedures, and regulations of the juvenile probation department as adopted by the juvenile board.

(b) The chief administrative officer shall provide all employees with a copy of or access to the policy and procedure manual, review the manual on an annual basis and update it as necessary.

***§341.10. Participation in Community Resource Coordination Groups.***

The chief administrative officer or his/her designee shall serve as the liaison to the community resource coordination group in accordance with the memorandum of understanding adopted in §349.69 of this title.

**Subchapter D. TREATMENT AND SAFETY**

***§341.15. Treatment and Safety.***

(a) Serious Incidents. The chief administrative officer or his/her designee shall report to the Commission within 24 hours the escape, death, attempted suicide, and any serious injury, including youth on youth assaults, that require medical treatment by a physician or physician's assistant, that occurs in a juvenile justice program or juvenile probation department.

(b) Abuse, Exploitation and Neglect.

(1) Any employee, volunteer or intern of a juvenile probation department or juvenile justice program shall report to the Commission and local law enforcement any allegation of abuse, exploitation or neglect of a juvenile that occurs in or involves an employee, volunteer or intern of a juvenile justice program, juvenile probation department, pre-adjudication secure detention facility, short-term juvenile detention facility, post-adjudication secure correctional facility, or juvenile justice alternative education program.

(2) Any allegation of abuse, exploitation or neglect involving a juvenile under the jurisdiction of the juvenile court that is not alleged to have occurred in a juvenile justice program or facility under the jurisdiction of the juvenile board shall be reported as required in Texas Family Code §261.101.

(3) A report of the alleged abuse, exploitation or neglect under subsection (1)(A) of this section shall be made within 24 hours from the time the allegation is made.

(c) Internal Investigation.

(1) An internal investigation shall be conducted for all allegations of abuse, exploitation or neglect in the juvenile probation department or any juvenile justice program.

(2) All employees, volunteers and interns shall fully cooperate with any investigation of alleged abuse, exploitation or neglect.

(3) Until the conclusion of the internal investigation, any person alleged to be a perpetrator of abuse, exploitation or neglect shall be placed on administrative leave or reassigned to a position having no contact with the alleged victim's family, and individuals under supervision by the juvenile probation department, participating in a juvenile justice program or under the jurisdiction of the juvenile court.

(4) At the conclusion of the internal investigation, the chief administrative officer shall take appropriate measures to provide for the safety of the juveniles.

(5) The chief administrative officer or his/her designee shall submit a copy of the internal investigation to the Commission within five calendar days following the completion of the internal investigation.

(d) In the event the chief administrative officer is alleged to be a perpetrator of abuse, exploitation or neglect, the juvenile board shall:

(1) conduct the internal investigation or appoint an individual who is not an employee of the juvenile probation department to conduct the internal investigation;

(2) until the conclusion of the internal investigation place the chief administrative officer on administrative leave, or ensure the chief administrative officer has no contact with the alleged victim's family and individuals under supervision by the juvenile probation department, participating in a juvenile justice program or under the jurisdiction of the juvenile court; and

(3) submit a copy of the internal investigation to the Commission within five calendar days following the completion of the internal investigation.

(e) The chief administrative officer shall ensure that juveniles under supervision of the juvenile probation department or participating in a juvenile justice program shall not be subjected to abuse, exploitation or neglect as defined in Chapter 261, Texas Family Code.

#### ***§341.16. Testing.***

The chief administrative officer shall make available testing for sexually transmitted diseases including HIV for any juvenile designated as a victim by the Commission in an investigation conducted under Chapter 349 of this title, if the Commission determines the victim was sexually abused in a manner by which HIV or any other sexually transmitted disease may be transmitted.

#### **Subchapter F. REQUIREMENTS FOR JUVENILE PROBATION OFFICERS**

##### **<\*>341.28. Certification of Staff.**

(a) Individuals required to maintain an active certification as a condition of employment are:

- (1) Chief administrative officers;
- (2) Facility administrators;
- (3) Supervisors in the direct chain of command over juvenile probation officers or juvenile supervision officers;
- (4) Juvenile probation officers;
- (5) Juvenile supervision officers;
- (6) Youth activities supervisors; and
- (7) Any staff, excluding certified physical education teachers, who participates in the administration of intensive physical activity in a Juvenile Justice Alternative Educational Program (JJAEP).

(b) Additional individuals who may maintain an active certification is limited to those whose primary responsibility and essential job function is:

- (1) Quality assurance officer;
- (2) Juvenile probation and supervision officer trainer; and
- (3) Staff member responsible for supervision of youth in a Juvenile Justice Alternative Educational Program (JJAEP).

(c) Juvenile Supervision Officers and Juvenile Probation Officers may be dually certified as both Juvenile Supervision Officers and Juvenile Probation Officers if they meet all criteria required for certification and employment for both positions and their job description is consistent with either a Juvenile Supervision Officer or Juvenile Probation Officer as defined in <\*>344.100 of this title.

***§341.29. Duties of Certified Juvenile Probation Officers.***

(a) In addition to any duties, responsibilities or powers granted by Title III of the Texas Family Code, the following duties and responsibilities shall be performed only by certified juvenile probation officers:

- (1) dispositional recommendations in formal court proceedings;
- (2) final approval of written social history reports;
- (3) acting as the primary supervising officer for all court ordered and deferred prosecution cases;
- (4) writing and administering case plans in accordance with the Commission's case management standards; and
- (5) if authorized by the juvenile board under Texas Family Code §53.01, conducting intake interviews, investigations, and making release decisions.

(b) An individual hired as a juvenile probation officer, who is not yet certified as a juvenile probation officer may perform the duties under (a) so long as the individual:

- (1) has not worked for the probation department for more than 6 months from the individual's date of hire;

- (2) has received training on each duty listed under (a); and
- (3) has received training in recognizing and reporting abuse, exploitation and neglect.

### **Subchapter G. CASE MANAGEMENT STANDARDS**

#### **§341.35. Definitions.**

The following words or terms, when used in this subchapter, shall have the following meanings unless the context clearly indicates otherwise.

- (1) **Case Plan**--A written document that sets out actions and goals for a juvenile to follow while under the supervision of the juvenile court in order to make changes necessary to best meet the juvenile's status and circumstances over time. The case plan is developed for each adjudicated juvenile and addresses a juvenile's needs (e.g. educational, family, substance abuse, mental health, etc.), risks of re-offending, level of supervision, strengths and weaknesses, any appropriate intake information, strategies for juvenile supervision findings if any, preliminary investigation information, and victim impact statements utilizing all appropriate resources.
- (2) **Case Plan Review**--A written document that reviews and measures the initial case plan's goals for progress, including the reassessment and reevaluation of the juvenile's status, circumstances and resources.
- (3) **Courtesy Supervision**--A request from one Texas county (sending county) to another Texas County (receiving county) requesting supervision for an adjudicated juvenile who is or will be residing in the receiving county.
- (4) **Exit Plan**--The exit plan is the written document developed for each juvenile that identifies the juvenile's needs for post-supervision reintegration and specifies the community resources available to meet those needs. The purpose of the exit plan is to facilitate a continuum of community services to the juvenile and the juvenile's family after probation supervision ends.
- (5) **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.
- (6) **Formal Referral**--Occurs and should be counted when all three of the following conditions exist:
  - (A) delinquent conduct, conduct indicating a need for supervision or violation of probation was allegedly committed;
  - (B) the juvenile probation department has jurisdiction and venue; and
  - (C) either a face-to-face contact occurs with the office or official designated by the juvenile board or written or verbal authorization to detain is given by the office or official designated by the juvenile board.
- (7) **Residential Placement**--Supervision ordered by a juvenile court in accordance with Texas Family Code §54.04(d)(1)(B) where the juvenile is placed on probation outside the child's home in either a foster home, or a public or private institution or agency.
- (8) **Substitute Care Provider**--A foster home, public or private institution or agency that provides residential services to juveniles.
- (9) **Supervision**--Supervision involves the case management of a juvenile by the assigned juvenile probation officer or designee through contacts (face-to-face, telephone, office, home, collateral) with the juvenile, juvenile's family, and other case planning participants.

(10) TJPC Standard Screening Tool--An instrument provided by the Texas Juvenile Probation Commission to assist in identifying juveniles who may have mental health needs.

**§341.36.Screening.**

(a) TJPC Standard Screening Tool. The TJPC Standard Screening Tool shall be completed for all juveniles who receive a formal referral to the juvenile probation department. If the TJPC Standard Screening Tool has been completed within the previous two weeks and is contained in the juvenile's case record, the department is not required to complete an additional screening.

(b) Time of Screening.

(1) Referrals Without Detention. The TJPC Standard Screening Tool shall be administered no later than 14 calendar days from the first face-to-face contact between the juvenile and a juvenile probation officer.

(2) Referrals With Detention.

(A) The TJPC Standard Screening Tool shall be administered to each juvenile admitted into detention.

(B) The TJPC Standard Screening Tool shall be administered within 48 hours from the time the juvenile is admitted into detention.

(c) Administration of Instrument. The TJPC Standard Screening Tool shall be administered by an individual trained to administer the instrument.

(d) Reports to the Commission. The summary scores of all juveniles screened using the TJPC Standard Screening Tool and any other information required by the Commission shall be electronically reported to the Commission on a monthly basis under §341.49 of this chapter (CASEWORKER counties), §341.54 of this chapter (non-CASEWORKER counties), or through a separate database provided by the Commission.

**§341.37.Case Planning.**

In accordance with §341.38 or §341.39 of this chapter, a written case plan shall be developed and implemented for juveniles assigned to progressive sanctions levels three through five and any juvenile given determinate sentence probation under Texas Family Code §54.04(q).

**§341.38.Field Supervision.**

(a) Initial Case Plan. The initial case plans for juveniles placed on field supervision shall be:

(1) developed in consultation with the juvenile's parent, guardian or custodian, the juvenile and the supervising juvenile probation officer and any other interested parties;

(2) developed within 60 calendar days from the date of the juvenile's disposition;

(3) signed and dated by the juvenile, the juvenile's parent, guardian or custodian, supervising juvenile probation officer and any interested parties; and

(4) maintained in the juvenile's case file with copies provided to the juvenile and the juvenile's parent, guardian or custodian.

(b) Case Plan Review.

- (1) Case plans shall be reviewed and updated:
  - (A) at least every six months;
  - (B) within 15 calendar days after a juvenile's probation is modified by a court order; and
  - (C) within 15 calendar days after acceptance of a juvenile's case from another county for courtesy supervision.
- (2) The juvenile and at least one parent, guardian or custodian and the supervising juvenile probation officer shall participate in the review process.
- (3) The case plan review shall document the following:
  - (A) appropriateness of the juvenile's current level of supervision and services;
  - (B) extent of the juvenile's compliance with the individualized case plan;
  - (C) extent of the juvenile's compliance with the conditions of probation;
  - (D) extent of progress toward the goals outlined in the case plan;
  - (E) a projection of a likely date the juvenile is expected to complete probation; and
  - (F) services assessed, offered or provided to the juvenile and family to address identified risks and needs.
- (4) All case plan reviews shall be signed and dated by the juvenile, the juvenile's parent, guardian, or custodian and the juvenile's supervising juvenile probation officer.
- (5) Copies of every case plan review shall be maintained in the juvenile's case file with copies provided to the juvenile and the juvenile's parent, guardian or custodian.

**§341.39. Residential Placement.**

- (a) Initial Case Plan. The initial case plans for juveniles placed in residential placement shall:
  - (1) be developed and implemented within 30 calendar days of the juvenile's initial date of placement;
  - (2) be developed in consultation with the juvenile's parent, guardian or custodian, the juvenile, the substitute care provider and the supervising juvenile probation officer;
  - (3) contain specific behavioral goals using the nine domains outlined in Title 1 Part 15 Texas Administrative Code §351.13;
  - (4) be signed by the juvenile and the juvenile's parent, guardian or custodian and the juvenile's supervising probation officer; and
  - (5) be retained in the juvenile's case file with copies provided to the juvenile, the juvenile's parent, guardian or custodian and the substitute care provider.
- (b) Case Plan Review.
  - (1) Case plans shall be reviewed and updated at least every 90 calendar days.

(2) The juvenile and at least one parent, guardian, or custodian shall participate in the case plan review with the substitute care provider and the juvenile's supervising juvenile probation officer.

(3) The case plan reviews shall measure the juvenile's progress toward meeting his/her goals using the six point scale outlined in Title 1 Part 15 Texas Administrative Code §351.13.

(4) The outcome of the substitute care provider's service delivery shall be assessed based on whether the child is progressing in fifty percent or more of identified goals.

(5) Case plan reviews shall be signed by the juvenile, the juvenile's parent, guardian, or custodian and the supervising juvenile probation officer.

(6) Copies of every case plan review shall be retained in the juvenile's case file.

**§341.40. Level of Supervision.**

(a) The juvenile probation department shall adopt written criteria the department will use to determine a juvenile's level of supervision, while under field supervision.

(b) The level of supervision shall be included in the juvenile's written case plan, written under §341.35 of this chapter.

(c) A minimum of one face-to-face-contact per month with the juvenile is mandatory unless otherwise noted in the case plan.

**§341.41. Exit Plan.**

(a) A written exit plan shall be developed prior to the juvenile's scheduled release from probation.

(b) An exit plan is to be provided at a date no later than the date the juvenile successfully completes probation, unless the juvenile was committed to the Texas Youth Commission.

(c) The written exit plan shall be developed in consultation with the juvenile, the juvenile's parent, guardian or custodian, and the supervising juvenile probation officer.

(d) The exit plan shall be signed and dated by the juvenile, the juvenile's parent, guardian or custodian and the supervising juvenile probation officer.

(e) The original exit plan shall be placed in the juvenile's case file.

(f) Copies of the exit plan shall be provided to the juvenile and the juvenile's parent, guardian, or custodian.

**Subchapter H. DATA COLLECTION STANDARDS**

**1. CASEWORKER SYSTEMS**

**§341.47. Definitions.**

The following words or terms, when used during Division 1 of this subchapter shall have the following meanings unless the context clearly indicates otherwise.

(1) CASEWORKER--A personal computer-based tracking and case management system, developed and supported by the Commission, that provides juvenile probation officers a systematic method to track and manage juvenile offender caseloads.

(2) Data Coordinator--A person employed by a juvenile probation department who is designated by the juvenile board to serve and function as the primary contact with the Commission on all matters relating to data collection and reporting.

(3) TJPC Monthly Folder Extract--An automated process to extract and submit modified case records from the department's CASEWORKER system to the Commission. The extract created by CASEWORKER follows in accordance with the Electronic Data Interchange Specifications.

(4) Comprehensive Folder Edit--A report generated in CASEWORKER that performs an extensive edit of the folder information. This report identifies incorrectly entered data, unrecoverable files, and questionable data that impact the accuracy of the reports and programs.

(5) Electronic Data Interchange Specifications--Document developed by the Commission outlining the data fields and file structures that each department is required to follow in submitting the TJPC monthly folder extract. The Electronic Data Interchange Specifications are published in Subchapter I, §341.60 of this chapter.

**§341.48.Data Coordinator.**

(a) Training Requirements.

(1) The data coordinator shall have a thorough understanding of the Commission reporting requirements and shall be trained in CASEWORKER by the Commission.

(2) Within 90 days from date of a new designation as data coordinator, the new data coordinator shall attend CASEWORKER training provided by the Commission.

(b) Duties.

(1) The data coordinator is responsible for ensuring that all data submitted to the Commission by the local juvenile probation department is accurate, timely, and consistent with the Commission reporting requirements.

(2) The data coordinator shall ensure that the TJPC Monthly Folder Extract is received on or by the applicable due date.

**§341.49.TJPC Monthly Folder Extract.**

(a) The TJPC Monthly Folder Extract shall be sent to the Commission via the Internet.

(b) The extract is due to the Commission on the tenth day of each month following the reporting period.

**§341.50.Accuracy of Data.**

(a) Required Fields. The probation department shall fill in all applicable data fields for each referral in their CASEWORKER system to minimize missing information.

(b) Comprehensive Folder Edit. Probation departments shall run the Comprehensive Folder Edit on a monthly basis.

(c) Errors. Errors detected by the Comprehensive Folder Edit, a Commission monitoring visit, or the Commission Research and Planning Division upon analysis shall be corrected prior to the next submission of the TJPC Monthly Folder Extract.

**§341.51. Security of Data.**

(a) Passwords.

(1) Passwords shall be assigned by the CASEWORKER administrator or management information systems administrator for each individual user and should not be shared by employees or other persons.

(2) Each department shall have a limited number of employees that are authorized to delete information contained within CASEWORKER.

(3) Access to the department's CASEWORKER system shall be removed concurrent with the termination of the person's employment.

(b) Backup and Restoration.

(1) All juvenile probation departments shall adopt and follow a written policy for the backup and restoration procedures relating to data, requiring, at a minimum, a system backup once per week.

(2) Departments must maintain at least five generations (copies) of data backups.

(c) Off-Site Storage.

(1) All juvenile probation departments shall store a system backup off-site to be accessible in case of a disaster at the department (fire, tornado, etc).

(2) An updated backup for off-site storage must be run at a minimum of once a month, in addition to the five generations of backup.

**2. NON-CASEWORKER SYSTEMS**

**§341.52. Definitions.**

The following words or terms, when used in Division 2 of this subchapter, shall have the following meanings unless the context clearly indicates otherwise.

(1) Data Coordinator--A person employed by a juvenile probation department who is designated by the juvenile board to serve and function as the primary contact with the Commission on all matters relating to data collection and reporting.

(2) TJPC Monthly Folder Extract--An automated process to gather data relating to all case files in the case management system designed to analyze crime and juvenile trends, program success, and profiling of juvenile offenders. The extract shall be submitted in the format specified by the TJPC Electronic Data Specifications.

(3) Electronic Data Interchange Specifications--Document developed by the Commission outlining the data fields and file structures that each department is required to follow in submitting the TJPC Monthly Folder Extract. The Electronic Data Interchange Specifications are published in Subchapter I, §341.60 of this chapter.

**§341.53. Data Coordinator.**

(a) Training Requirements. The data coordinator shall attend training, as required and deemed necessary by the Commission, relating to updates on statistical and research-based information and requirements.

(b) Duties.

(1) The data coordinator is responsible for ensuring that the data submitted to the Commission by the local juvenile probation department is accurate, timely, and consistent with the Commission reporting requirements.

(2) The data coordinator shall ensure that the TJPC Monthly Folder Extract is received on or by the applicable due date.

***§341.54. TJPC Monthly Folder Extract.***

(a) The TJPC Monthly Folder Extract data shall be sent to the Commission via the internet and shall include all data fields required by the TJPC Electronic Data Interchange Specifications.

(b) The extract is due to the Commission on the tenth day of each month following the reporting period.

***§341.55. Accuracy of Data.***

(a) Required Fields.

(1) Departments shall fill in all applicable fields as specified in the CASEWORKER Extract File Layout.

(2) If the Commission requires additional fields, each department shall update their case management system to include such information.

(b) Maintaining Accuracy.

(1) Each department shall have a written policy and procedure to maintain accuracy of data submitted and methods of correcting errors.

(2) Each department shall report data elements that are consistent with the Commission definitions.

(c) Errors. Errors detected by the department during daily operation, or by the Commission during the annual monitoring visit or by the Commission Research and Planning Division analysis shall be corrected prior to the next submission of the TJPC Monthly Folder Extract.

***§341.56. Security of Data.***

(a) Passwords.

(1) Department users shall be required to obtain a password to their case management system.

(2) Each department shall have a written policy and procedure to ensure secured access and to limit the number of employees that have access to delete information from the case management system.

(3) Access to the department case management system shall be terminated for people no longer employed by the department.

(b) Backup and Restoration. All juvenile probation departments shall adopt and follow a written policy for backup and restoration.

## **Subchapter I. ELECTRONIC DATA INTERCHANGE SPECIFICATIONS**

### ***§341.60. TJPC Monthly Folder Extract.***

The TJPC Monthly Folder Extract data shall include all data fields required by TJPC Electronic Data Interchange Specifications found in the figure below.

Figure 1: 37 TAC §341.60 (.pdf format)

Figure 2: 37 TAC §341.60 (.pdf format)

## **Subchapter J. RESTRAINTS**

### ***§341.65. Definitions.***

The words and terms when used in this subchapter shall have the following meanings unless the context clearly indicates otherwise:

(1) Approved Physical Restraint Technique ("physical restraint")--A professionally trained 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. The approved physical restraint technique shall be approved for use by the Commission and adopted by the juvenile board.

(2) Approved Mechanical Restraint Devices ("mechanical restraint")--A professionally manufactured mechanical device to aid in the restriction of a person's bodily movement. The approved mechanical restraint shall be approved by the Commission and adopted by the juvenile board. The following are Commission approved mechanical restraint devices:

(A) Ankle Cuffs--Metal, cloth or leather band designed to be fastened around the ankle to restrain free movement of the legs;

(B) Anklets--Cloth or leather band designed to be fastened around the ankle or leg;

(C) Handcuffs--Metal devices designed to be fastened around the wrist to restrain free movement of the hands and arms;

(D) Plastic Cuffs--Plastic devices designed to be fastened around the wrist or legs to restrain free movement of hands, arms or legs;

(E) Waist Band--A cloth, leather, or metal band designed to be fastened around the waist used to secure the arms to the sides or front of the body; and

(F) Wristlets--A cloth or leather band designed to be fastened around the wrist or arm which may be secured to a waist belt.

(3) Restraints--Physical or mechanical restraint.

### ***§341.66. Requirements.***

The use of restraints shall be governed by the following criteria:

(1) restraints shall only be used by juvenile probation officers;

(2) prior to participating in any restraint juvenile probation officers shall be:

(A) certified in the use of the approved physical restraint technique; and

(B) trained in the use of all approved mechanical restraint devices;

(3) restraints shall only be used in instances of threat of imminent self-injury, injury to others, or serious property damage;

(4) restraints shall only be used as a last resort;

(5) only the amount force and type of restraint necessary to control the situation shall be used;

(6) restraints shall be implemented in such a way as to protect the health and safety of the juvenile and others; and

(7) restraints shall be terminated as soon as the juvenile's behavior indicates that the threat of imminent self-injury, injury to others, or serious property damage has subsided.

**§341.67.Prohibitions.**

Restraints that employ a technique listed below 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 privileges, water, food and clothing;

(3) restraints that are intended to inflict pain;

(4) restraints that put a juvenile face down with sustained or excessive pressure on the back or chest cavity;

(5) restraints that put a juvenile face down with pressure on the neck or head;

(6) restraints that obstruct the airway or impair the breathing of the juvenile;

(7) restraints that restrict the juvenile's ability to communicate;

(8) restraints that obstruct the view of the juvenile's face;

(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.

**§341.68.Documentation.**

Documentation. Except as provided by §341.71(a) of this chapter, all restraints shall be fully documented and maintained. Written documentation regarding the use of restraints shall require at a minimum:

(1) name of juvenile;

- (2) staff member(s) name and title(s) who administered the restraint;
- (3) date of the restraint;
- (4) duration of the restraint including notation of the time the restraint began and ended;
- (5) location of the restraint;
- (6) description of preceding activities;
- (7) behavior which prompted the restraint;
- (8) type of restraint applied;
- (9) efforts made to de-escalate the situation and alternatives to restraint that were attempted; and
- (10) any injury that occurred during the restraint.

**§341.69. Physical Restraint.**

In addition to the requirements found in §341.66, §341.67, and §341.68 of this subchapter, juvenile probation officers shall be re-certified in the approved physical restraint technique at least every two years.

**§341.70. Mechanical Restraint.**

In addition to the requirements found in §341.66, §341.67, and §341.68 of this subchapter, the use of mechanical restraint, shall be governed by the following criteria:

(1) Requirements.

- (A) mechanical restraints shall only be used in a manner consistent with their intended use; and
- (B) there shall be provisions for the inspection and maintenance of mechanical restraint devices.

(2) Prohibitions.

- (A) mechanical restraint devices shall not be altered from the manufacturer's design;
- (B) a juvenile shall not be placed face down while restrained in any mechanical restraint for a period of time longer than necessary to apply the restraint devices;
- (C) a mechanical restraint shall not secure a juvenile in a prone position with his or her arms and/or hands behind the juvenile's back and secured to the juvenile's legs;
- (D) mechanical restraint devices shall not be secured so tightly as to interfere with circulation nor so loosely as to cause chafing of the skin;
- (E) mechanical restraint devices shall not be secured to a stationary object;
- (F) a juvenile in mechanical restraints shall not participate in any physical activity; and
- (G) plastic cuffs shall only be used in emergency situations.

**§341.71. Transporting.**

- (a) Mechanical restraints used during routine transportation in a vehicle, or the taking of a juvenile into custody are not required to be documented as a restraint.
- (b) During transportation of a juvenile in a vehicle the juvenile may not be affixed to any part of the vehicle.
- (c) During transportation in a vehicle a juvenile may not be secured to another juvenile.

**Subchapter K. Carrying of Weapons.**

**<\*>341.80. Definitions.** The following words and terms, when used in this subchapter, shall have the following meanings unless the context clearly indicates otherwise.

- (1) Draw--To un-holster a weapon in preparation for use against a perceived threat.
- (2) Empty-Hand Defense--Defensive tactics through the use of pressure points, releases from holds, blocking and striking techniques using natural body weapons such as an open hand, fist, forearm, knee, or leg.
- (3) Intermediate Weapons--Weapons designed to neutralize or temporarily incapacitate an assailant. 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 for escaping from a physical confrontation. For the purposes of this subchapter, intermediate weapons include only electronic restraint devices, irritants and impact weapons.
- (4) On-Duty--An officer is engaged in the actual discharge of the officer's duties when the officer is within the course and scope of his/her employment and is actually authorized to engage in the work being performed. Being on-call is not considered as being engaged in the actual discharge of the officer's duties unless or until the officer is actually called into service.

**<\*>341.81. Applicability and Authorization.**

- (a) Applicability. This subchapter applies only to actively certified juvenile probation officers who are authorized to carry a firearm pursuant to 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 officer possesses a certificate of firearms proficiency issued by the Texas Commission on Law Enforcement Officer Standards and Education (TCLEOSE) under <\*>1701.258 of the Texas Occupations Code verifying successful completion of the TCLEOSE Juvenile Probation Officer Firearms Certification Course;
    - (B) The chief juvenile probation 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 has been employed for at least one year by the juvenile probation department described in subparagraph (B) of this paragraph.
  - (2) This subchapter does not authorize a juvenile probation officer to carry a firearm while not on-duty.
  - (3) A license obtained under Chapter 411, Subchapter H of the Texas Government Code (i.e., Concealed Handgun License), does not enable a certified juvenile probation officer to carry a firearm in the course of the officer's official duties and shall not satisfy, or be accepted in lieu of, the requirements contained in this subchapter.

**<\*>341.82. Requirements to Qualify for a Firearms Proficiency Certificate.** Prior to obtaining a firearms proficiency certificate from TCLEOSE, a juvenile probation officer seeking authorization to carry a firearm during the course of his/her official duties shall provide proof to the Texas Juvenile Probation Commission of the following required qualifications:

(1) current employment as a juvenile probation officer for at least one year by the county juvenile probation department;

(2) active certification in good standing as a juvenile probation officer by the Texas Juvenile Probation Commission;

(3) appropriate documentation from each chief juvenile probation officer who has authorized the applicant's participation in the juvenile probation officer firearms proficiency training program and that the applicant has been subjected to a complete search of local, state and national records to disclose any criminal record or criminal history;

(4) written documentation from each chief juvenile probation officer who has authorized the applicant's participation in the juvenile probation officer firearms proficiency training program that the applicant has been examined by a psychologist, selected by the current employing department and licensed by the Texas State Board of Examiners of Psychologists; and

(5) a written declaration from the examining psychologist that the officer possesses the requisite psychological and emotional health to carry a firearm in the course of the officer's official duties.

**<\*>341.83. Responsibilities of a Juvenile Probation Officer Authorized to Carry a Weapon.** A juvenile probation officer authorized to carry a firearm in accordance with this subchapter shall:

(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 a firearm or other weapons are prohibited;

(3) immediately report to the chief juvenile probation officer and the Commission any criminal arrests, charges or convictions;

(4) satisfy the firearms proficiency requirements in accordance with <\*>221.1(b) of this title at least once every 12 months;

(5) successfully complete all sections of the TCLEOSE training course for juvenile probation officers in accordance with <\*>221.35(b) and (c) of this title, including the classroom training and range qualification;

(6) utilize TCLEOSE approved forms for the documentation of the requirements of paragraphs (4) and (5) of this section and provide copies to the Commission;

(7) maintain the firearm and all other authorized weapons in proper working order at all times;

(8) be responsible for the safe handling of the firearm and all other authorized weapons; and

(9) store the firearm and other 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.

**<\*>341.84. Use of Force Continuum.**

(a) A juvenile probation officer who satisfies the requirements of this subchapter is justified in using force for the protection of persons pursuant to Chapter 9 of the Texas Penal Code.

(b) Prior to carrying a firearm in the course of the officer's duties, a juvenile probation officer authorized to carry a firearm in accordance with this subchapter shall:

(1) receive a minimum of 20-hours of training in the use of an empty-hand defense tactics; and

(2) receive adequate training in the use of at least one intermediate weapon prior to carrying a firearm in the course of the officer's duty.

(c) Carry at least one intermediate weapon at all times when the officer carries a firearm.

**<\*>341.85. Chief Juvenile Probation Officers or Other Supervising Officer.**

(a) The chief juvenile probation officer, or the supervising officer of a juvenile probation officer who is authorized to carry a firearm, shall be subject to the same requirements as an officer authorized to carry a firearm in accordance with this subchapter. This requirement does not mandate the chief juvenile probation officer or the other supervising officer carry a firearm or other weapon in the course of their duties.

(b) The chief juvenile probation officer, or designee, shall notify TCLEOSE and the Commission within 24 hours if the department's authorization of a juvenile probation officer to carry a firearm is rescinded.

(c) The chief juvenile probation officer, or designee, shall submit the requisite forms to TCLEOSE and the Commission within 24 hours if an officer who is authorized to carry a firearm separates from the department.

(d) The chief juvenile probation officer, or designee, shall submit to the Commission the department's approved policies and procedures regarding a juvenile probation officer's authorization to carry a firearm in accordance with this subchapter.

(e) The chief juvenile probation officer, or designee, shall submit to the Commission within five working days copies of all requisite training certificates and forms submitted to the TCLEOSE in accordance with this subchapter.

(f) The chief juvenile probation officer, or designee, shall conduct an internal investigation in all incidents in which a juvenile probation officer uses an empty-hand defense tactic, draws or utilizes an intermediate weapon, or draws or discharges a firearm.

(g) The chief juvenile probation officer, or designee, shall immediately place on administrative leave or reassign the person to a position having no contact with juveniles or relatives of the juveniles, a juvenile probation officer, who uses an empty-hand defense tactic, utilizes or draws an intermediate weapon, or draws or discharges a firearm until the conclusion of the internal investigation.

**<\*>341.86. Written Policies and Procedures.** Each chief juvenile probation officer who authorizes a juvenile probation officer to carry a firearm in accordance with the requirements contained this subchapter shall have written policies and procedures that:

(1) define which juvenile probation officers within the department are authorized to carry firearms;

(2) stipulate whether the firearm is to be purchased and maintained by the department or the individual officer;

(3) require that the firearm and all other authorized weapons remain under the control of the officer authorized to carry the firearm and weapon;

(4) require that the firearm be fully loaded when carried or worn on-duty;

- (5) require that the officer display credentials identifying the officer as a certified juvenile probation officer while carrying a firearm in accordance with this subchapter;
- (6) describe the circumstances and limitations under which the officer is justified to use force (i.e., self-defense and defense of a third party pursuant to Chapter 9 of the Texas Penal Code);
- (7) specify the firearms to be carried, including the type of firearm, manufacturer, model and caliber;
- (8) specify the type of ammunition authorized for use in the firearm;
- (9) prescribe whether the firearm will be carried in plain view or concealed;
- (10) require that the firearm be encased in an appropriate holster and be worn or carried in such a manner that is appropriate to the situation;
- (11) define the process for reporting and investigating use of force incidents;
- (12) define the process for rescinding or suspending the authorization to carry a firearm;
- (13) prohibit the consumption of alcohol while carrying a firearm or intermediate weapon;
- (14) define the process for conducting an internal investigation of each incident involving a juvenile, in which a juvenile probation officer uses an empty-hand defense tactic, draws or utilizes an intermediate weapon or draws or discharges a firearm; and
- (15) 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 juveniles until the conclusion of an internal investigation of a use of force as defined in this subchapter.

**<\*>341.87. Reporting and Investigating Use of Force Incidents.**

(a) The chief juvenile probation officer, or designee, shall report to the Commission, each incident involving a juvenile, in which a juvenile probation officer uses an empty-hand defense tactic, draws or utilizes an intermediate weapon or draws or discharges a firearm.

- (1) The initial report shall be made to the Commission immediately, but no later than four (4) hours from the time of the use of force incident;
- (2) The initial report shall be made using the toll-free number as designated by the Commission; and
- (3) Within 24 hours of the report by phone, the completed Use of Force form shall be submitted to the Commission via fax or e-mail.

(b) The chief juvenile probation officer, or designee, shall report to local law enforcement any discharge of a firearm by a juvenile probation officer immediately, but no later than one (1) hour from the time of discharge.

**<\*>341.88. Records.**

(a) The personnel file of each juvenile probation officer authorized to carry a firearm in accordance with this subchapter shall contain a copy of the:

- (1) Firearms Proficiency for Juvenile Probation Officers Application;
- (2) PID Assignment (TCLEOSE C-1);

(3) Criminal history checks conducted pursuant to the requirements of this subchapter;

(4) Licensee Psychological and Emotional Health Declaration (TCLEOSE L-3); and

(5) Proof of annual firearms proficiency.

(b) Juvenile probation departments shall allow TCLEOSE, other law enforcement agencies and the Commission access to records pertaining to firearms and use of force incidents for auditing and investigation purposes.

**<\*>341.89. Training and Qualification Requirements.**

(a) No juvenile probation officer shall be authorized to carry a firearm in the course of their duties unless the officer has:

(1) Completed the TCLEOSE approved firearms training program;

(2) Received a certificate of firearms proficiency from TCLEOSE as provided in <\*>221.1 of this title; and

(3) Completed the training requirements in accordance with <\*>341.84 of this subchapter.

(b) All training received pursuant to the requirements of this subchapter shall be received from a TCLEOSE approved instructor.

(c) All training received pursuant to the requirements of this subchapter shall be designed with the intent to prepare juvenile probation officers to carry and utilize firearms, intermediate weapons and empty-hand defense tactics in the context of self-defense and in defense of a third party.

(d) In addition to the training requirements contained in Chapter 344 of this title relating to maintaining an active certification as a JPO, a juvenile probation officer authorized to carry a firearm in accordance with this subchapter, shall successfully complete 20 hours of continuing education every two years. The continuing education shall be specially designed to enhance the officer's skills and knowledge relating to the proficient and legal use of a firearm, empty-hand defense and intermediate weapon as authorized by this subchapter. The training shall include, but not be limited to:

(1) Use of Force;

(2) Weapons Retention; and

(3) Crisis Intervention.

(e) Upon completion of each training requirement, the chief juvenile probation officer or designee, shall submit proof of the successful completion of the training to the Commission within five working days of completion of the training.

**<\*>341.90. Disqualifying Conduct.** Pursuant to <\*>142.006(b) of the Texas Human Resources Code, a juvenile probation officer is disqualified from seeking authorization to carry a firearm if the officer has been assigned the role of designated or sustained perpetrator in a TJPC abuse, neglect or exploitation investigation.

**<\*>341.91. Prohibited Conduct.** A certified juvenile probation officer authorized to carry a firearm during the course of the officer's official duties is strictly prohibited from engaging in the following conduct:

(1) firing warning shots;

(2) shooting at fleeing vehicles; and

(3) using a striking weapon as an intermediate weapon.