

# **TEXAS COMMISSION ON JAIL STANDARDS**



## **Report on the Restraint of Pregnant Inmates**

**March 2024**

# Background

According to the American College of Obstetricians and Gynecologists, the shackling or restraint of pregnant inmates can be harmful to both the mother and the child for several reasons. Restraints make it more difficult for medical personnel to assess the condition of their patient; nearly impossible to conduct diagnostic tests to determine a source of abdominal pain resulting from pregnancy; difficult or impossible to perform necessary procedures, such as a cesarean-section, or address serious complications during delivery such as preeclampsia; during labor restraints make it more difficult for a woman to move and change positions as needed, research shows that movement during labor can decrease both duration and pain; and during the second and third trimester of pregnancy, restraining one's hands behind their back increases the risk of falling and makes it nearly impossible for the falling woman to catch herself due to her handcuffs. For any pregnancy, and especially for one designated high-risk, a fall can cause serious health complications or miscarriage. (Jensen; 2021) In order to address this issue, H.B. 1651(86R) was enacted. HB 1651 amended Government Code 511, creating 511.0104 and 511.0105, which in turn required TCJS to adopt administrative code 269.50. Texas Administrative Code 269.50 prohibits the use of restraints on pregnant inmates, and inmates who have given birth 12 weeks prior, unless:

1. The use of restraints is necessary to prevent an immediate and credible risk that the prisoner will attempt to escape; or
2. The prisoner poses an immediate and serious threat to the health and safety of the prisoner, staff, or any member of the public; or
3. A healthcare professional responsible for the health and safety of the prisoner determines that the use of restraints is appropriate for the health and safety of the prisoner and, if applicable, the unborn child of the prisoner.

H.B. 1651(86R) also requires that all instances of restraint be reported to the Commission on Jail Standards (TCJS).

# Methodology

Per section 511.0105, the Texas Commission on Jail Standards created and distributed a form to each county jail to fill out each time a pregnant inmate was restrained. Instructions on how to complete the form were distributed to each county via a Technical Assistance Memorandum and posted on the Commission's website. On February 1st, the counties returned their forms to the Commission, and the data was entered into an Excel spreadsheet by agency staff. Incidents were categorized by threat to others, threat to self and unborn child, and escape threat. Examples of inmates presenting a threat to others were inmates attempting to assault jail staff, medical staff, and other inmates. An example of an inmate being a threat to themselves, their unborn child, and others, is assaulting staff members after staff tried to prevent the inmate from committing self-harm. Examples of

threats to self and unborn child include self-harm and inmates placed on detoxification protocols. Examples of instances in which an inmate posed an escape threat are prior escape attempts or the inmate actively attempting escape.

Once the reports were entered, staff reviewed the forms to ensure each form was complete and filled out correctly. If a form was incomplete, filled out incorrectly, or there was a possible violation, TCJS staff contacted the county to request clarification and further documentation such as incident reports, criminal history, verification of pregnancy, and or the county's policy regarding pregnant inmates. The data was then evaluated and analyzed for trends and violations.

## Analysis

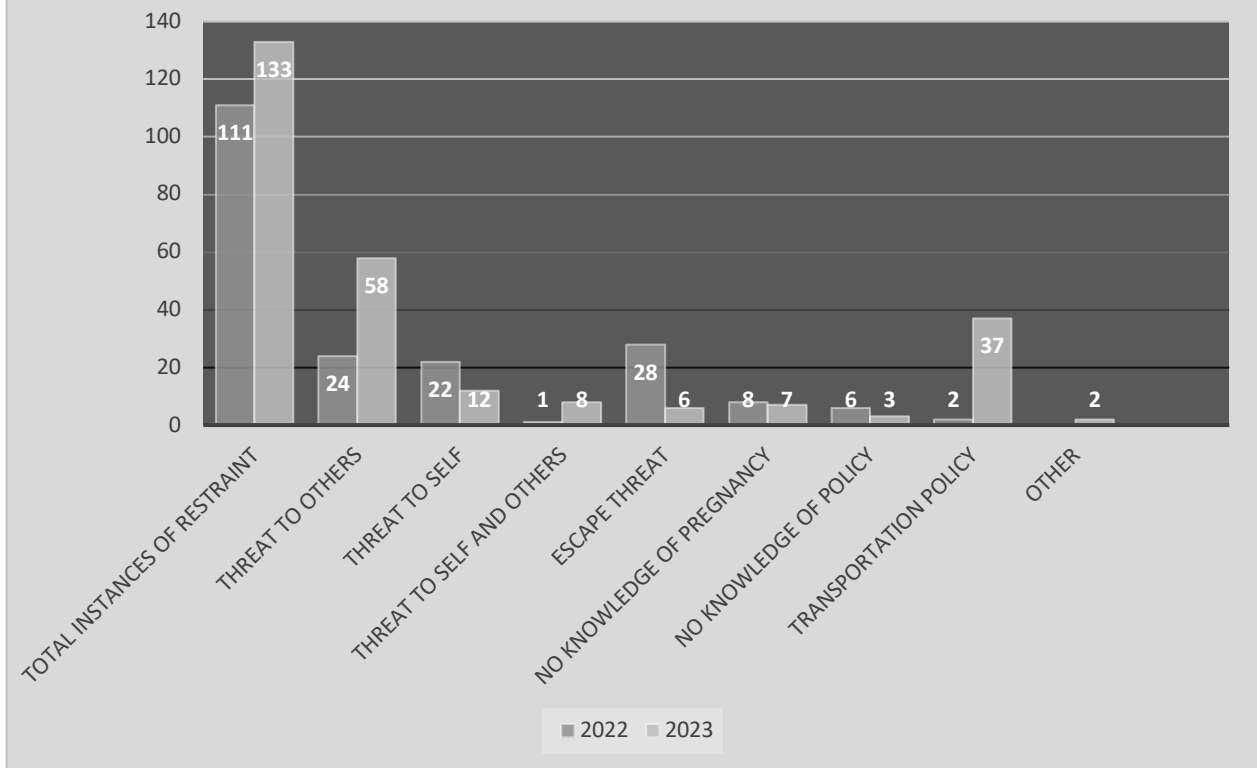
Throughout 2023, there were 4,853 pregnant inmates held in Texas's county jails and 133 instances reviewed in which restraints were utilized. These incidents occurred amongst 33 counties and 66 different inmates; thus, only 2.74% of pregnant inmates were restrained. 115 incidents of restraint in 2023 occurred while the inmate was pregnant, and 18 cases occurred within twelve weeks after the inmate gave birth.

Restraints were used within the jail in 116 cases, followed by the hospital with 12 instances, at a clinic in 3 instances, and 2 instances at a courthouse. In 90 cases, hand restraints were used, which was the most common form of restraints used. Hand restraints and leg restraints together were used in 12 instances. In 7 cases, hand restraints and a restraint chair were used. Leg restraints alone were used in 6 cases. An inmate was restrained in a restraint chair in 5 instances. Hand restraints and a belly chain were used in 3 cases. There were 3 instances of soft restraints utilized. Hand restraints, leg restraints, and a belly chain were used in 3 instances. A restraint chair and soft restraints were used in 2 cases. Hand restraints, leg restraints, and a restraint chair were used in 1 instance. Soft restraints and leg restraints were used in 1 case.

### **Reason for Restraint**

Restraints were applied in 61 instances due to being transported. Of those 61 instances, 37 were due to the county's transportation policy. There were 7 instances of the officers not knowing the inmate was pregnant. There were 3 instances of the officers not knowing the policy. There were 6 cases where the inmate was an escape threat. There was 1 instance of restraint due to the hospital's policy, and 1 instance with no reason other than transporting to the hospital. There were 8 instances of the inmate being a threat to self and others. There were 12 instances of the inmate being a threat to self, and 58 instances of being a threat to others.

## Pregnant Inmate Restraint Comparison 2022 and 2023



## Potential Violations

### Transportation Policies

There were 3 counties in 2023 that restrained pregnant inmates due to a transportation policy. In 2022, 1 county restrained pregnant inmates due to a transportation policy. In 2022, 2 cases of restraint were due to transportation policies, and 109 were due to other reasons. In 2023, 37 cases of restraint were due to transportation policies, and 96 cases were due to other reasons.

### Other Potential Violations

In 2023, other than transportation policies, there were 9 other potential violations. There were 3 instances where the officer didn't know the inmate was pregnant. There were 3 instances where the officer didn't know the policy. There was 1 instance of the officer not having confirmation of pregnancy, 1 instance of no reason other than transporting to the hospital, and 1 instance where the officer failed to notice the armband indicating pregnancy.

## Conclusion

To remedy the potential violations and barriers to accurate reporting, TCJS has taken several different corrective actions, such as:

1. Encouraging counties to keep all records, reports, and documentation regarding the restraint of pregnant inmates.
2. Reviewing counties that reported potential violations regarding pregnant inmate restraint procedures and policies during on-site inspections.
3. Providing training on H.B. 1651(86R) at conferences.
4. Follow up with all counties that reported potential violations.
5. Provision of Technical Assistance to counties where violations or potential violations were identified.

## References

HB 1651, 86(R) Texas Legislature. (2019) (enacted).

<https://capitol.texas.gov/BillLookup/Text.aspx?LegSess=86R&Bill=HB1651>

Jensen, R. (2021). Pregnancy During Incarceration: A "Serious" Medical Need. *Brigham Young University Law Review*, 2021(2), 542-543. Retrieved from:  
<http://web.b.ebscohost.com.proxyau.wrlc.org/ehost/detail/detail?vid=5&sid=78884ec5-9319-42b4-8feb-272a4e889f30%40pdc-v-sessmgr01&bdata=JnNpdGU9ZWwhvc3QtbGl2ZSZzY29wZT1zaXRl#db=aph&AN=149326344>