

TEXAS COMMISSION ON JAIL STANDARDS



Report on the Restraint of Pregnant Inmates

March 2025

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.

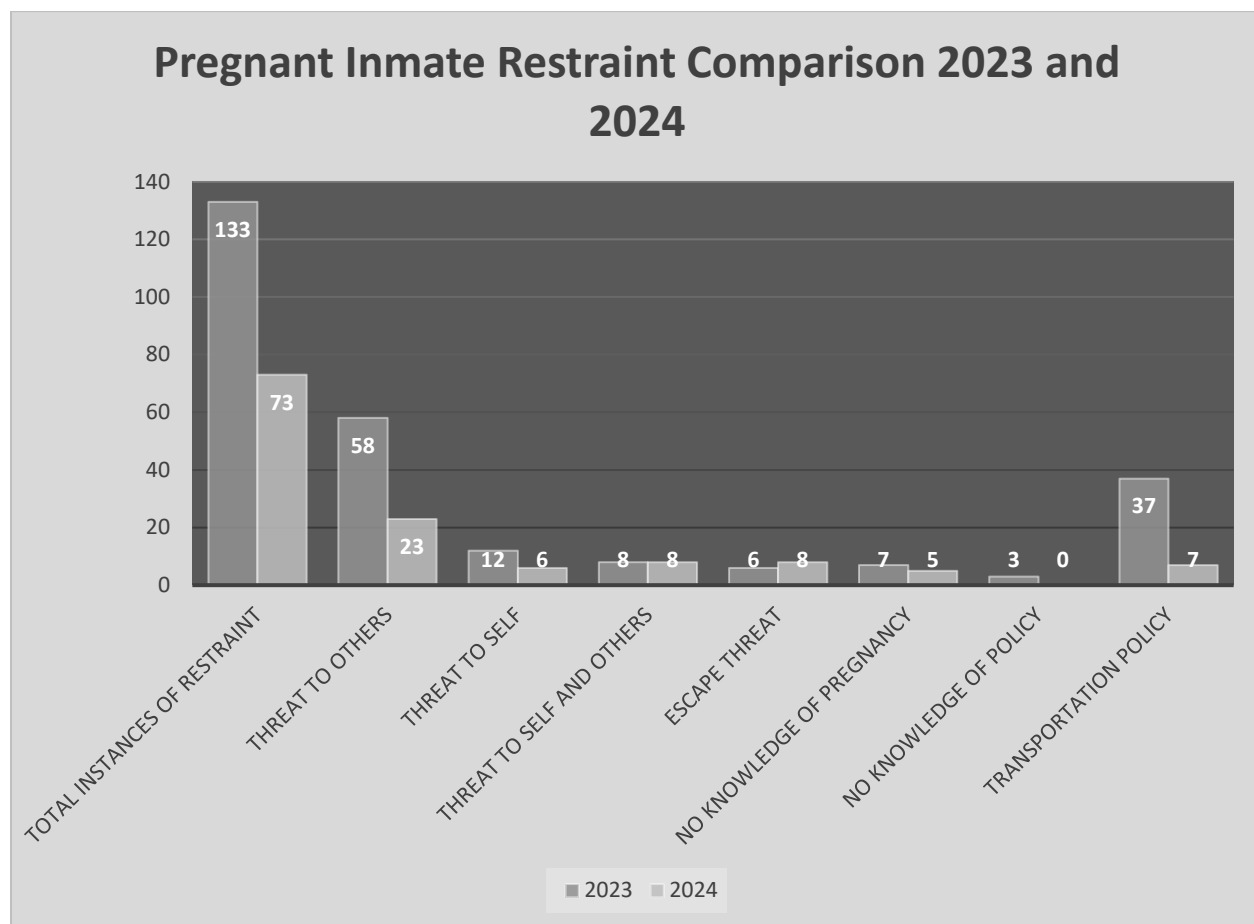
Analysis

In 2024, there were 73 instances reviewed in which restraints on pregnant inmates or inmates that had given birth within 12 weeks were utilized. These incidents occurred amongst 22 counties and 40 different inmates. 61 incidents of restraint in 2024 occurred while the inmate was pregnant, and 12 cases occurred within twelve weeks after the inmate had given birth.

Restraints were used within the jail in 56 cases, followed by the hospital with 13 instances, at a clinic in 3 instances, and 1 instance at a courthouse. In 27 cases, hand restraints were used, which was the most common form of restraints used. Hand restraints and leg restraints together were used in 22 instances. In 3 cases, hand restraints and a restraint chair were used. Leg restraints alone were used in 2 cases. An inmate was restrained in a restraint chair in 7 instances. There was 1 instance of soft restraints utilized. Hand restraints, leg restraints, and a belly chain were used in 2 cases. Hand restraints, leg restraints, and a restraint chair were used in 3 instances. Hand restraints, belly chain, and restraint chair was used in 1 instance. Hand restraints, leg restraints, and a restraint chair was used in 1 instance. In 1 instance, a transport belt and leg restraints were used. A shield and chemical restraints were used in 2 cases. Hand restraints, a shield, and chemical restraints were used in 1 instance.

Reason for Restraint

Restraints were applied in 16 instances due to being transported. Of those 16 instances, 7 were due to the county's transportation policy. There were 5 instances of the officers not knowing the inmate was pregnant. There were 8 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 6 instances of the inmate being a threat to self, and 23 instances of being a threat to others. There was one case of restraint due to non-compliance, 4 due to disruptive behavior, and 5 due to history of combative behavior.



Potential Violations

Transportation Policies

There were 3 counties in 2023 that restrained pregnant inmates due to a transportation policy. In 2024, 1 county restrained pregnant inmates due to a transportation policy. In 2024, 7 cases of restraint were due to transportation policies, and 66 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 2024, other than transportation policies, there were 10 other potential violations. There were 5 instances where the officer didn't know the inmate was pregnant or had given birth within 12 weeks. There was 1 instance of the inmate being transported to the hospital and the inmate knew of the transport. There was 1 case of the inmate refusing to comply with

orders, and 1 instance of the inmate kicking the cell door. There was 1 case of the inmate's current charge, history of aggression, and no report was submitted. There was 1 case of the inmate attempting to walk out of the hospital room, but no report was submitted.

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>