

# Supreme Court of Colorado

2 EAST 14TH AVENUE  
DENVER, CO 80203  
(720) 625-5460

NANCY E. RICE  
CHIEF JUSTICE

November 19, 2015

Members of the Colorado General Assembly,

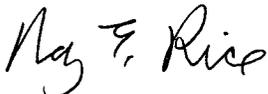
Earlier this year, and in response to the concerns raised by the General Assembly, I asked the chief judges of our 22 judicial districts to adopt policies regarding the use of restraints on juveniles in the courtroom. The policies adopted by each district are attached.

Due to the diversity of our state, it is appropriate that each district be able to adopt its own policy regarding juvenile restraints. The policies account for the physical limitations of some of our courthouses, the limited staffing in some counties and the differing values of individual communities. Although the policies are unique to each district, all of them attempt to strike a balance of public safety and the well-being of juveniles.

I thank Representative Susan Lontine and Senator Michael Merrifield for raising awareness about this important issue. Moreover, I appreciate that the Judicial Branch was afforded an opportunity to adopt policies without a mandate from the Legislative Branch.

If you have questions or comments regarding this report, or the policies enclosed here, please contact my legislative liaison, Terry Scanlon, at 720-625-5967, or by email at [terry.scanlon@judicial.state.co.us](mailto:terry.scanlon@judicial.state.co.us).

Sincerely,



Nancy Rice  
Chief Justice, Colorado Supreme Court

COLORADO JUDICIAL BRANCH

# Report to the Colorado General Assembly

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Policies for juvenile restraints in courtrooms

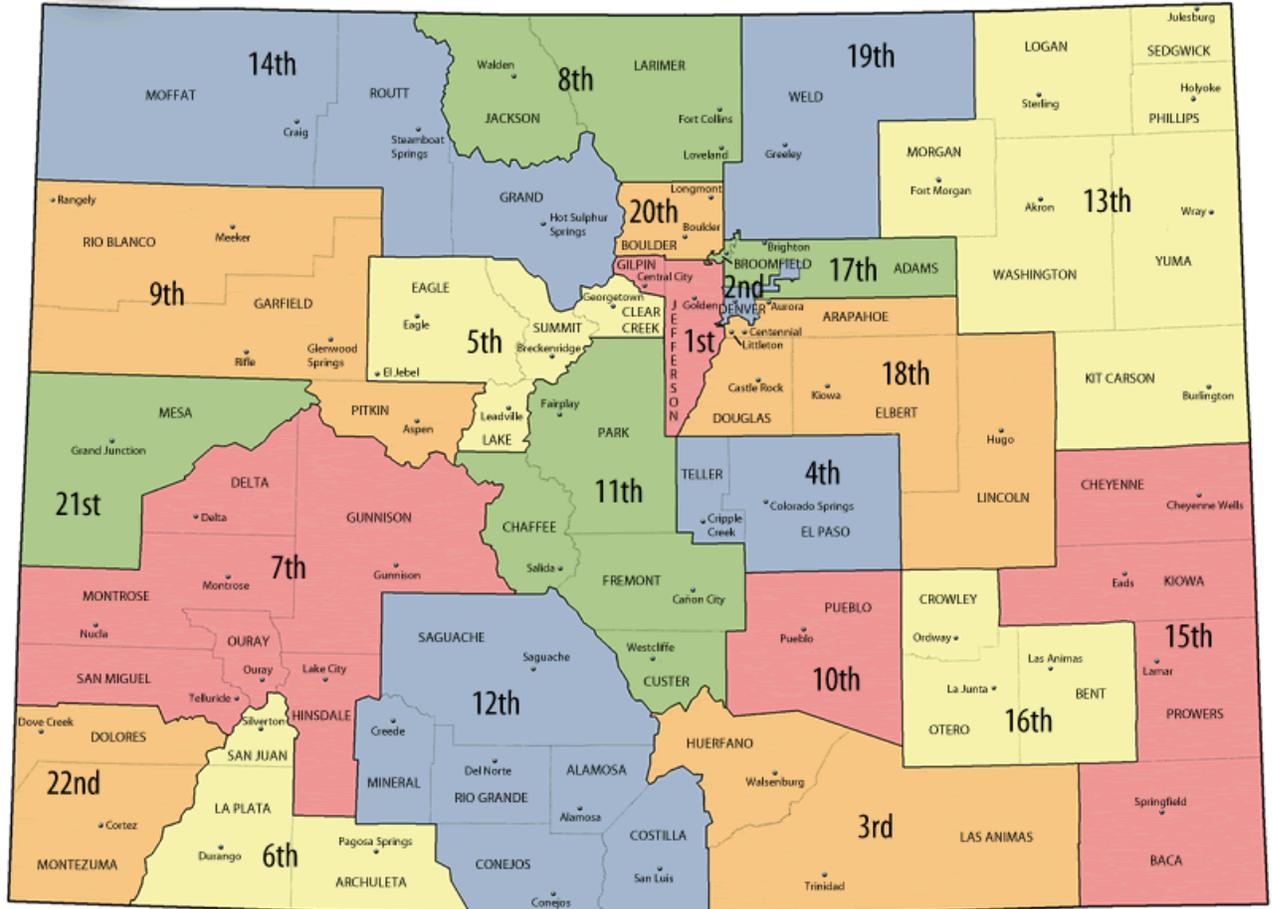
11/19/2015



# Map of Colorado Judicial Districts



## COLORADO JUDICIAL DISTRICTS





PRESIDING JUVENILE JUDGE ORDER 2014-2  
STATE OF COLORADO  
FIRST JUDICIAL DISTRICT

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**ORDER**

WHEREAS the First Judicial District Juvenile Court identified a need to establish a consistent, district-wide policy regarding the use of physical restraints on juveniles appearing in custody for court; and

WHEREAS the purpose of the juvenile justice system is to provide a rehabilitative and not solely punitive approach to juvenile delinquency; and

WHEREAS indiscriminate use of physical restraints on a juvenile undermines the rehabilitative goals of the juvenile justice system; and

WHEREAS the National Center for Mental Health and Juvenile Justice (NCMHJJ) has found the use of physical restraints on juveniles can be traumatic and psychologically harmful; and

WHEREAS several states have abandoned policies that indiscriminately restrain juveniles and adopted policies which now require individualized showing that use of restraints on a juvenile is necessary; and

WHEREAS other state appellate courts have ruled that children should not be restrained unless it is shown that they pose a danger to themselves or others in the courtroom or that they are a flight risk, and the Court finds these rulings persuasive; and

WHEREAS other Colorado Judicial Districts have recently adopted no shackling policies in relation to juveniles in court; and

WHEREAS the Court generally has the benefit of evidence based assessments that assist in determining a juvenile's risk to themselves and others; and

WHEREAS a multi-disciplinary committee of the 1<sup>st</sup> JD Best Court Practice Team consisting of representatives from judicial, law enforcement, the Public Defender's Office, and the District

Attorney's Office have reached a consensus on the most appropriate policy that would protect public safety and address the needs of the juvenile.

IT IS HEREBY ORDERED THAT:

It is the policy of the First Judicial District that juveniles will not be belted or restrained at the initial detention hearing or in subsequent hearings.

There shall be a rebuttable presumption that children who are in custody for court proceedings are not escape risks, a threat to themselves or others, or are otherwise incapable of exhibiting appropriate and respectful behavior while in open court.

Juveniles may be restrained only if one or more of the following criteria exist:

The juvenile demonstrates assaultive or combative behavior;

The juvenile makes threats toward law enforcement or staff;

There is credible information that there is an imminent plan or risk of escape;

The juvenile has mental health issues and is demonstrating bizarre, erratic, or combative behavior;

The juvenile is charged with disarming or attempting to disarm a law enforcement officer; or

There are multiple co-defendants in the courtroom at the same time.

While law enforcement has discretion to determine the level of security appropriate during transport to and from a detention facility, restraints shall be removed while the juveniles are in the courtroom unless determined otherwise by the Court.

Law enforcement shall advise the Court if they determine a juvenile who does not meet the exclusionary criteria contained within this Order nonetheless poses a risk to themselves or others, and the Court shall then determine if the juvenile shall be restrained during a court appearance.

If the juvenile has been required to wear restraints during previous court appearances, the requirement will remain in place until a Court Security Supervisor, the original requesting Court Security Deputy, and the Court approve termination of the requirements for restraint.

The Court at all times retains the authority and discretion to determine on its own motion that a specific juvenile shall be restrained during a court appearance.

DONE AND SIGNED on this 15<sup>th</sup> day of December, 2014.

  
\_\_\_\_\_  
Ann Gail Meinster,  
Presiding Juvenile Judge  
First Judicial District

Juvenile Court, City and County of Denver, State of Colorado

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Presiding Judge Order 2015-01

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WHEREAS the Chief Justice requested that the court consider a policy on the restraint of juveniles in court hearings; and,

WHEREAS the court has received input from stakeholders on the issue, considered the input and reached a conclusion.

THE COURT issues the following ORDER that will remain in effect until rescinded or modified by subsequent ORDER.

IT IS HEREBY ORDERED THAT:

It is the policy of the Denver Juvenile Court that juveniles shall not be restrained at the initial detention or subsequent hearings.

An exception to the policy is created and in-custody juveniles shall be restrained if one or more of the following criteria exist:

The juvenile is being held for a class 1 felony, class 2 felony, escape or attempted escape;

The juvenile is charged with a crime of violence, as defined in 18-1.3-406, C.R.S.;

The juvenile demonstrates assaultive behavior while in custody;

The juvenile has made threats of harm to others;

There is information that there is an imminent plan or risk of escape;

The juvenile is demonstrating self-harming or combative behavior while in custody;

The juvenile is charged with disarming or attempting to disarm a law enforcement officer;

There is information that the juvenile is a member of a criminal street gang;

The juvenile is currently housed in isolation because of dangerous behavior to self or others; or,

A CJRA score of high.

If law enforcement determines that a juvenile who does not meet the criteria for being restrained nevertheless poses a risk to themselves or others, then law enforcement shall notify the court and the court shall determine if the juvenile shall be restrained.

The factors the court shall consider when asked by law enforcement to consider restraining a juvenile who does not meet the criteria for being restrained may include, but shall not be limited to the following:

The court's obligation to maintain order and protect the safety of all in the courtroom;

The juvenile's record of contacts with the juvenile justice system and the nature of the charges pending against the juvenile;

The possibility of the juvenile making an escape attempt;

The danger the juvenile presents to himself or herself or others in the courtroom;

The juvenile's history, or lack thereof, of compliance with law enforcement, court security officers, probation and parole officers, and officers within the juvenile detention facility;

The juvenile's conduct in the matter currently before the court;

The impact upon the dignity and decorum of the court and judicial process; and,

The availability of less intrusive security measures.

The court at all times retains the authority and discretion to determine on its own motion that a specific juvenile shall be restrained or not restrained during a court appearance.

Law enforcement retains the discretion to determine the level of security appropriate during transport to and from the courtroom.

ADOPTED this 12 day of June 2015, effective July 1, 2015.

BY THE COURT:



\_\_\_\_\_  
Presiding Judge

# Screening for Juveniles to be Handcuffed and Shackled

**Name of Juvenile:**

**Date of Birth:**

**Case #:**

**Name of PYS Staff Completing this Checklist:**

It is the policy of the Denver Juvenile Court that juveniles shall not be restrained at the initial detention or subsequent hearings. **An exception to the policy is created and in-custody juveniles shall be restrained if one or more of the following criteria exist:**

Criterion	Initials
The juvenile is being held for a class 1 felony, class 2 felony, escape or attempted escape	
The juvenile is charged with a crime of violence with a crime of violence, as defined in 18-1.3-406, C.R.S.	
The juvenile has made threats of harm to others	
The juvenile is charged with disarming or attempting to disarm a law enforcement officer	
There are multiple co-defendants in the courtroom at the same time	
There is information that the juvenile is a member of a criminal street gang	
A CJRA score of high	

**Name of Juvenile:**

**Date of Birth:**

**Case #:**

**Name of GYC Staff Completing this Checklist:**

Criterion	Initials
The juvenile demonstrates assaultive behavior while in custody	
The juvenile has made threats of harm to others	
There is information that there is an imminent plan or risk of escape	
The juvenile is demonstrating self-harming or combative behavior	
The juvenile is currently housed in isolation because of dangerous behavior to self or others	

**If you checked YES for any of the above criterion, the juvenile should be handcuffed and shackled.**  
**If none of the boxes are checked, please ensure that the juvenile is not handcuffed and/or shackled upon entrance into the courtroom.**

Presiding Judge Order 2015-01

**ADMINISTRATIVE ORDER 2015-04  
THIRD JUDICIAL DISTRICT**

**JUVENILE SHACKLING**

Effective immediately the following policy regarding the shackling of juveniles shall be implemented in the Third Judicial District of Colorado.

The Court shall determine what level of security in the courtroom is necessary for each in-custody juvenile based on an individual assessment of each juvenile.

There shall be a rebuttable presumption that juveniles who are in custody for court proceedings shall not be shackled in the courtroom. The manner in which the presumption against shackling may be rebutted will be 1) if the transport deputy or other member of law enforcement informs the court clerks, in advance of the scheduled court appearance, of their recommendation of the continued use of shackling for the specific juvenile; 2) if the SB94 coordinator recommends the continued use of shackling in the courtroom for the specific juvenile; 3) if the delinquent act alleged is a crime of violence; 4) if the juvenile has a history of assaultive or suicidal behavior; or 5) if the Court decides that continued use of shackling is warranted based on the totality of the circumstances.

Law enforcement may exercise whatever level of security they feel appropriate in transporting juveniles to and from a detention facility. Law enforcement shall stage all in-custody juveniles in the jury room, if the room is available, or elsewhere based on the circumstances, prior to entering the courtroom with all shackles being removed unless otherwise directed by the Court.

Dated March 9, 2015.

BY THE COURT:



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Claude W. Appel, Chief District Judge

xc: District Attorney  
Public Defender  
Bob Kreiman  
Martin Malouff  
Hon. Leslie Gerbracht  
Hon. Bruce Billings  
Hon. Gary Stork  
Las Animas County Sheriff's Department  
Huerfano County Sheriff's Department  
Elizabeth Kreiman JSPC/SB94 Coordinator

CHIEF JUDGE ORDER 15-2

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**RE: POLICY ON USE OF PHYSICAL RESTRAINTS ON IN-CUSTODY JUVENILES APPEARING IN COURT**

**WHEREAS** the Chief Justices' Council of the Colorado Court System has identified a need to establish consistent, district-wide policies regarding the use of physical restraints on juveniles appearing in custody for court; and has requested that each District create a policy with the rebuttable presumption that restraints not be used in court;

**WHEREAS** the Chief Judge and the Presiding Juvenile Judge of the 4<sup>th</sup> Judicial District have conferred with representatives from the State Judicial Administrator's Office, law enforcement, representatives of the local juvenile detention facility, probation, the Public Defender's Office and the District Attorney's Office and a determination has been made on the most appropriate policy that would protect public safety and address the needs of juveniles appearing in our jurisdiction.

**IT IS HEREBY ORDERED THAT:**

It is the policy of the Fourth Judicial District that juveniles will not be belted or restrained in court.

There shall be a rebuttable presumption that children who are in custody for court proceedings are not escape risks, a threat to themselves or others, or are otherwise incapable of exhibiting appropriate and respectful behavior while in open court.

Juveniles shall be restrained at the recommendation of the detention facility, Senate Bill 94 representative or law enforcement personnel in the least restrictive form to address the particular security situation if one or more of the following criteria exist:

- The juvenile is being held for a class 1 felony, class 2 felony, escape or attempted escape;
- The offense alleged against the juvenile falls within 19-2-508(III), C.R.S. which creates a rebuttable statutory presumption that the juvenile is a danger to himself or herself or to the community:
  - A) The juvenile is alleged to have committed a felony which is enumerated as a crime of violence pursuant to Section 18-1.3-406 C.R.S.
  - B) The juvenile is alleged to have used, or possessed **or** threatened to use a firearm during the commission of any felony against a person.
  - C) The juvenile is alleged to have committed possessing a dangerous or illegal weapon, as described in [section 18-12-102, C.R.S.](#); possession of a defaced

firearm, as described in [section 18-12-103, C.R.S.](#); unlawfully carrying a concealed weapon, as described in [section 18-12-105, C.R.S.](#); unlawfully carrying a concealed weapon on school, college, or university grounds, as described in [section 18-12-105.5, C.R.S.](#); prohibited use of weapons, as described in [section 18-12-106, C.R.S.](#); illegal discharge of a firearm, as described in [section 18-12-107.5, C.R.S.](#); or illegal possession of a handgun by a juvenile, as described in [section 18-12-108.5, C.R.S.](#)

- There shall be no presumption under sub-subparagraph (C) that a juvenile is a danger to himself or herself or the community if the item in the possession of the juvenile is alleged to be a BB gun, a pellet gun, or a gas gun
- The respondent is 18 years of age or older pending trial or sentencing.
- The juvenile has exhibited recent assaultive behavior against detention facility staff, law enforcement or other juveniles in detention.

Law enforcement has sole discretion to determine the level of security appropriate during transport to and from a detention facility. Law enforcement, in appropriate circumstances as defined by this order, will use appropriate security as defined by law enforcement while in the Courthouse, and entering/leaving the Courthouse. Juveniles will only be unrestrained while in the Courtroom.

The Senate Bill 94 representative, the detention facility representative, or law enforcement shall timely advise the Court if they believe a juvenile who does not meet the exclusionary criteria contained within this Order nonetheless poses a substantial risk to themselves or others, and the Court shall then determine if the juvenile shall be restrained during a court appearance. Defense counsel shall also inform the court if there is cause such that a juvenile who meets one or more of the above exclusionary criteria should nonetheless be removed from restraints. It is preferred that written notice be provided to the court with a copy to opposing counsel, in order that the court may determine if a hearing is required before the next appearance. If there is not sufficient time to provide written notice prior to the next court appearance, then notice shall be provided as may be practicable and a witness shall be made available to provide information to the court at a time and date ordered. The rules of evidence shall be relaxed at such hearing at the court's discretion.

The factors the court shall consider when asked to provide an exception to the above standards shall include:

1. The court's obligation to maintain order and protect the safety of all in the courtroom;
2. The juvenile's record of contacts with the juvenile justice system and the nature of the charges pending against him or her;
3. Possibility of the juvenile making an escape attempt;
4. Danger, if any, an individual juvenile presents to himself or others in the courtroom;

5. Juvenile's history, or lack thereof, of compliance with law enforcement, court security officers, probation and parole officers, and officers within the juvenile detention facility or during transport to the courthouse or during transport to the courtroom.
6. The juvenile's conduct in the matter currently before the court;
7. The impairment, if any, upon the juvenile's ability to communicate with counsel and thus effectively assist in his defense;
8. The impact upon the dignity and decorum of the court and the judicial process;
9. Any additional mental distress and confusion that that courtroom restraints would impose upon the juvenile; and
10. Availability of less intrusive security measures, such as the posting of additional deputies.

If the juvenile has been required to wear restraints during previous court appearances, the requirement will remain in place until the juvenile is either released from detention or the Court approves termination of the requirements for restraint. If the juvenile is released from detention and must be rearrested on a bench warrant, the requirement will remain in place.

The Court at all times retains the authority and discretion to determine on its own initiative that a specific juvenile shall be restrained during a court appearance.

DONE AND SIGNED on this 11<sup>th</sup> day of SEPTEMBER, 2015. EFFECTIVE DATE OF THIS ORDER WILL BE 28<sup>TH</sup> DAY OF SEPTEMBER, 2015.



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GILBERT A. MARTINEZ  
Chief Judge  
Fourth Judicial District



CHIEF JUDGE ADMINISTRATIVE ORDER 2015-03  
STATE OF COLORADO  
FIFTH JUDICIAL DISTRICT

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**ORDER**

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WHEREAS the District Courts of the Fifth Judicial District have identified a need to establish a consistent, district-wide policy regarding the use of physical restraints on juveniles appearing in custody for court; and

WHEREAS the purpose of the juvenile justice system is to provide a rehabilitative and not solely punitive approach to juvenile delinquency; and

WHEREAS indiscriminate use of physical restraints on a juvenile undermines the rehabilitative goals of the juvenile justice system; and

WHEREAS the district court courtrooms and courthouses in the four counties encompassing the Fifth Judicial District are each different and present unique security concerns;

WHEREAS other Colorado Judicial Districts have recently adopted shackling policies in relation to juveniles in court; and

WHEREAS each district court generally has the benefit of evidence based assessments that assist in determining a juvenile's risk to themselves and others; and

WHEREAS a multi-disciplinary working group consisting of representatives from judicial, law enforcement, the Public Defender's Office, and the District Attorney's Office have reached a consensus on the most appropriate policy that would protect public safety and address the needs of juveniles.

IT IS HEREBY ORDERED THAT:

1. Policy and Rebuttable Presumption. It is the policy of the Fifth Judicial District that juveniles will not be physically restrained<sup>1</sup> while in the courtroom at the initial detention hearing or in subsequent hearings. Therefore, there shall be a rebuttable presumption<sup>2</sup> that juveniles who are in custody for court proceedings are not escape risks, a threat to themselves or others, or are otherwise incapable of exhibiting appropriate and respectful behavior, while in open court.

2. Criteria Overcoming Presumption. The presumption set forth above is a rebuttable presumption and shall be deemed rebutted if any one or more of the following criteria is met:

- a. The juvenile demonstrates or has previously demonstrated assaultive or combative behavior;
- b. The juvenile makes threats toward law enforcement personnel, court staff, staff any youth services/detention facility, or other persons who are present in the courtroom during the juvenile's court appearance;
- c. The juvenile is charged with disarming or attempting to disarm a peace officer;
- d. The juvenile has made a credible threat to harm him/herself or others within the six months prior to the appearance;
- e. There is credible information that there is an imminent plan or risk of escape;
- f. The juvenile has mental health issues and is demonstrating bizarre, erratic, or combative behavior;
- g. There are multiple co-defendants in the courtroom at the same time;
- h. The juvenile is being held for a class 1 felony, a class 2 felony, escape or attempted escape.

3. Initial Determination – Criteria Overcoming Presumption. Law enforcement staff shall, from all information available, determine whether any one or more of the Criteria Overcoming Presumption exists and may physically restrain a juvenile if any one or more criteria are satisfied. Prior to the juvenile appearing in the courtroom, the judicial officer presiding over the juvenile docket or hearing shall be advised by law enforcement, in writing, of the decision to use physical restraints on the juvenile and the reasons supporting such decision. The judicial officer may, in his or her discretion and without a hearing, override the law enforcement decision; provided, however, that the judicial officer shall make findings in writing and included in the case file or on the record in support of his or her decision.

4. Prior Use of Physical Restraints. If the juvenile has been physically restrained during previous court appearances, the requirement for physical restraint shall remain in place until the presiding judicial officer terminates the requirement for physical restraint.

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<sup>1</sup> For purposes of this administrative order only, the terms “physical restraints” and “physically restrained” means the use of handcuffs, shackles, leg cuffs, chains, restraint belts, and any other mechanical device placed upon a juvenile that restricts freedom of movement of the juvenile within the courtroom.

<sup>2</sup> The presumption established by this Order relates only to restraint of juveniles and shall not operate or be construed to establish any fact, finding, or presumption, that any juvenile court must make pursuant to Colorado law (e.g. determination of whether juvenile presents risk to himself or others at a detention hearing under C.R.S. § 19-2-508).

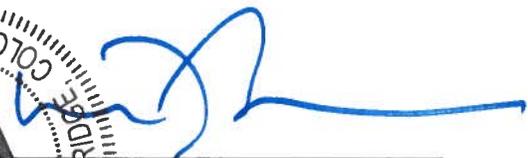
5. Additional Grounds Recommending Physical Restraint. If law enforcement staff determines that a juvenile does not meet any of the Criteria Overcoming Presumption set forth above, but nevertheless poses a risk to him/herself or others or is an escape risk, law enforcement staff shall, prior to the hearing, notify the judicial officer presiding over the juvenile docket or hearing of staff's concern and the judicial officer shall determine whether the juvenile shall be physically restrained. The judicial officer may make this determination without a hearing, but shall make findings in writing and included in the case file or on the record in support the use of physical restraints.

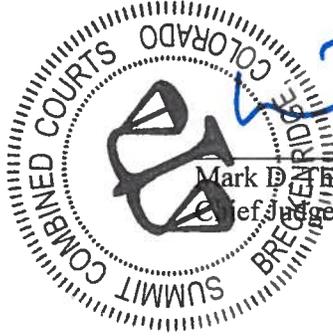
6. Removal and Reattachment and Transport. As to any juvenile who is not physically restrained in the courtroom, law enforcement staff shall remove and reattach any physical restrains either immediately before (preferred) or after entering and immediately before or after (preferred) leaving the courtroom, as deemed necessary or appropriate for security reasons and in view of the physical layout of the courthouse and/or courtroom entry. This Order does not preclude law enforcement from appropriately physically restraining any juvenile during holding and/or transport to and from the courthouses in the district or to and from the courtroom in any courthouse in the district.

7. Judicial Officer's Discretion. The judicial officer presiding over the juvenile proceeding or hearing shall at all times retain the authority and discretion to determine, including on his or her own motion, whether the juvenile should be physically restrained while in the courtroom. It is within the judicial officer's discretion to determine what information the court will consider in making this decision. A juvenile who is not initially physically restrained in the courtroom may be physically restrained during the hearing if law enforcement personnel or the judicial officer observe any disruptive, threatening, violent or combative behavior by the juvenile.

8. Effective Date. This Order shall take effect immediately upon its adoption.

Done this 30<sup>th</sup> day of October, 2015.

  
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Mark D. Thompson  
Chief Judge Fifth Judicial District



SIXTH JUDICIAL DISTRICT, STATE OF COLORADO

ADMINISTRATIVE ORDER 2014- 4

JUVENILE DISTRRAINT POLICY

It shall be the policy of the Sixth Judicial District that juvenile defendants who are in custody shall not appear in court for juvenile delinquency proceedings wearing physical restraints unless:

1. Juvenile is currently housed in isolation because of dangerous behavior to self or others;
2. Juvenile is being held for a class 1 felony, a class 2 felony, escape or attempted escape;
3. Recent threats to harm others and a CJRA classification of high.

If any of the above three conditions exist, the Juvenile shall appear in court in restraints deemed appropriate by the sheriff's office. Pretrial Services shall be responsible for determining whether a juvenile meets any of the above three criteria and informing the appropriate parties. If some reason exists to have the juvenile appear in court in restraints that is not listed above, the court shall be notified by Pretrial Services prior to the juvenile's scheduled appearance and determine if the juvenile shall appear in court wearing physical restraints.

The court shall use its best efforts to ensure that in-custody juveniles that will appear in court in restraints have their hearings scheduled at a time separate from other in-custody juveniles.

This policy does not preclude the sheriff's office from appropriately restraining juveniles during the transportation of juvenile defendants to and from the courthouses in the district.

July 10, 2014

  
\_\_\_\_\_  
Gregory G. Lyman, Chief Judge

Clerk of Court 6th Judicial District  
La Plata County Sheriff  
Archuleta County Sheriff  
San Juan County Sheriff  
Durango, Ignacio, Bayfield  
    Silverton and Pagosa  
Police Departments  
Probation  
District Attorney  
La Plata Youth Svcs.  
Public Defender  
Denier  
Pre-Trial Svcs.

ADMINISTRATIVE ORDER 2015-02

It shall be the policy of the Seventh Judicial District that juvenile defendants who are in custody shall not appear in court for juvenile delinquency proceedings wearing physical restraints unless:

1. The Juvenile is currently housed in isolation because of dangerous behavior to self or others; or
2. The Juvenile is being held for a class 1 felony, a class 2 felony, escape or attempted escape; or
3. The Juvenile, while in custody for the present arrest or present sentence has made threats to harm others and has a current CJRA classification of high; or
4. The Sheriff's Office has provided to the court, and counsel for the Juvenile , information specific to the Juvenile as to why the Juvenile should be restrained; or
5. The lay out of the courtroom or the staffing of the Sheriff's Office present an unreasonable risk of escape or other security issue, the Sheriff's Office has provided the court and counsel specific information supporting the risk, and the counsel for the Juvenile has had the opportunity to be heard.

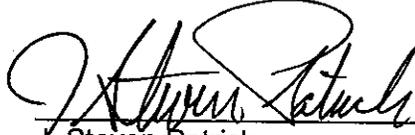
If any of the above conditions exist, the Juvenile shall appear in court in restraints deemed appropriate by the Sheriff's Office. If some reason exists to have the juvenile appear in court in restraints that is not listed above, the judge hearing the matter shall be notified by the sheriff prior to the juvenile's scheduled appearance so the judge may determine if the juvenile shall appear in court wearing physical restraints. Counsel shall be entitled to be heard at the outset of any proceeding concerning the issue of such restraint, whether prior notice has been provided or not.

Ultimately, the decision shall be within the sole discretion of the presiding judge.

The court shall use its best efforts to ensure that in-custody juveniles that will appear in court in restraints have their hearings scheduled at a time separate from other in-custody juveniles.

This policy does not preclude the Sheriff's Office from appropriately restraining juveniles during the transportation of juvenile defendants to and from the courthouses in the district.

Dated this 4<sup>th</sup> day of August, 2015.

  
\_\_\_\_\_  
J. Steven Patrick  
Chief Judge, 7<sup>th</sup> Judicial District

DISTRICT COURT, LARIMER COUNTY, COLORADO 201 LaPorte Avenue, Suite 100 Fort Collins, Colorado 80521	<hr/> Courtroom: 3A
IN RE THE RESTRAINT OF JUVENILES IN THE COURTROOM	
<b>ADMINISTRATIVE ORDER 2015-1</b>	

The 8<sup>th</sup> Judicial District recognizes a need to establish a consistent policy concerning the use of physical restraint devices on juveniles appearing in custody in the courtroom. By way of example, but not limitation, such devices include shackles, handcuffs, leg cuffs, chains and belts. There have been several evidence based studies finding that routine indiscriminate physical restraint of juveniles in the courtroom may be traumatic and psychologically harmful to the juvenile and may not significantly prevent escape or the risk of physical harm to the juvenile or others. Accordingly, there have been recommendations to eliminate the indiscriminate use of physical restraints in the courtroom. Therefore, the undersigned convened a meeting of representatives of all affected offices and agencies typically involved in proceedings in court involving in custody juveniles in delinquency matters to discuss implementing a uniform policy which would address the foregoing concerns and maintain appropriate security when juveniles are in the courtroom. The court received input from that group and a consensus decision that the policy set forth in this order would accomplish that result.

IT IS THEREFORE ORDERED THAT:

1. There shall be a rebuttable presumption that juveniles who are in custody for court proceedings are not escape risks, a threat to themselves or others, or otherwise

incapable of appropriately behaving while in the courtroom. Therefore, there shall be a rebuttable presumption that juveniles shall not be physically restrained in the courtroom.

2. The presumption set forth above shall be deemed rebutted if one of the following exclusionary criteria exists:

- a. The juvenile demonstrates assaultive or combative behavior;
- b. The juvenile has made threats toward law enforcement or staff;
- c. The juvenile has made a recent, credible threat of harm to him/herself or others;
- d. There is credible information that there is an imminent plan or risk of escape;
- e. The juvenile has mental health issues and is demonstrating bizarre, erratic, or combative behavior;
- f. The juvenile is charged with disarming or attempting to disarm a law enforcement officer; or
- g. There are co-defendants in the courtroom at the same time.

3. Law enforcement or transportation staff shall determine whether any of the above exclusionary criteria exist from all information available to them, and may physically restrain the juvenile while in the courtroom if one or more criteria exist. The presiding judicial officer shall be advised of their decision prior to bringing the juvenile into the courtroom. The presiding judicial officer retains the authority and discretion to override the determination of law enforcement or transportation staff.

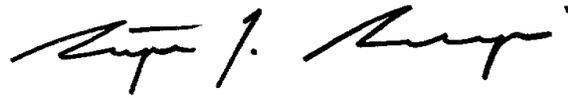
4. The within policy only applies to appearances in the courtroom, not to any other time the juvenile is being transported to and from the courtroom. Physical restraint during transport is within the discretion of transportation staff and law enforcement. As to any juvenile who is not physically restrained while in the courtroom, law enforcement and transportation staff are authorized to remove and reattach any physical restraints used for transportation either immediately before or immediately after entering the courtroom, as is deemed feasible by them for security reasons.

5. If law enforcement or transportation staff determines that a juvenile who does not meet any of the above exclusionary criteria nonetheless poses a risk to him/herself or others or a risk of escape, they shall advise the presiding judicial officer, who shall then determine if the juvenile shall be physically restrained during the court appearance.

6. The presiding judicial officer shall at all times retain the authority and discretion on his/her own motion as to whether a juvenile shall be physically restrained during a court appearance. What information the judicial officer may seek to use in making that decision and who the judicial officer allows to be heard on that question is within the sound discretion of the judicial officer.

Dated this 16<sup>th</sup> day of March, 2015.

BY THE COURT:

A handwritten signature in black ink, appearing to read "Stephen J. Schapanski". The signature is written in a cursive style with a horizontal line underneath it.

Stephen J. Schapanski  
Chief Judge, 8<sup>th</sup> Judicial District

<p>NINTH JUDICIAL DISTRICT, COLORADO  Court Address:       Garfield County Courthouse                                109 Eighth St., Suite 104                                Glenwood Springs, Colorado 81601</p> <p>Phone Number:       970-928-3065</p> <hr/> <p>ADMINISTRATIVE ORDER</p>	<p><input type="checkbox"/> COURT USE ONLY <input type="checkbox"/></p>
<p>The Honorable James B. Boyd</p>	<p>Administrative Order 15-02</p>
<p align="center"><b>JUVENILE DELINQUENCY MATTERS: USE OF RESTRAINTS</b></p>	

In creating the Colorado Juvenile Justice System, the Colorado legislature has found,

while holding paramount the public safety, the juvenile justice system shall take into consideration the best interests of the juvenile, the victim, and the community in providing appropriate treatment to reduce the rate of recidivism in the juvenile justice system and to assist the juvenile in becoming a productive member of society.

§ 19-2-102, C.R.S. The focus of the juvenile justice system is “guidance, rehabilitation, and restoration for the juvenile and the protection of society, rather than adjudicating criminal conduct and sanctioning criminal responsibility, guilt, and punishment.” Bostelman v. People, 162 P.3d 686, 691 (Colo. 2007), as modified on denial of reh'g (July 30, 2007).

A growing body of law and professional literature concludes the routine physical restraint of juveniles in the juvenile justice system impedes the rehabilitative purpose of juvenile justice and, in the long run, the public safety enhanced by rehabilitation. To address these concerns in the 9<sup>th</sup> Judicial District, representatives of the Courts, the Sheriffs of Rio Blanco, Garfield and Pitkin counties, the District Attorney and the Public Defender have conferred. This order arises from that conferral and the shared objective to balance the pursuit of juvenile rehabilitation and the preservation of public safety.

For the reasons above, the following administrative order shall apply to use of physical restraints in juvenile delinquency proceedings throughout the 9<sup>th</sup> Judicial District:

1. Juveniles in courtrooms for juvenile delinquency proceedings shall not be restrained physically absent a reason to do so as set forth in this order. A rebuttable presumption applies that juveniles shall not be restrained physically while in the courtroom. Physically

Administrative Order 15-02  
Juvenile Delinquency Matters: Use of Restraints

restrained means the use of handcuffs, shackles, leg cuffs, chains, restraint belts and any other mechanical device placed on a juvenile that restricts the juvenile's freedom of movement within the courtroom.

2. The presumption shall be deemed rebutted if any one or more of the following criteria exist:

- a. The juvenile demonstrates or has previously demonstrated assaultive behavior while in custody;
- b. The juvenile threatens or has previously threatened law enforcement personnel, detention staff, court staff, or other persons present in the courtroom;
- c. The juvenile has made a credible threat of harm to himself or herself or to others within the previous six months;
- d. The juvenile is charged with disarming or attempting to disarm a law enforcement officer or with escape or attempting to escape from a law enforcement officer or a secured facility;
- e. The juvenile has displayed unsafe, threatening, erratic, disruptive, or combative behavior;
- f. Credible information exists of an imminent plan or risk of escape;
- g. Co-defendants will be in the courtroom at the same time as the juvenile.

3. Law enforcement or detention or transportation staff may make an initial determination that one or more of the above criteria apply. If such a determination is made, a juvenile may be restrained physically in the manner deemed appropriate by law enforcement until further order of the Court. For any proceeding in which any party is proposing restraints, prior to the juvenile's entry into the courtroom, law enforcement, the District Attorney or the other party requesting restraints shall be prepared to advise the Court about the reasons for any proposed physical restraint. The presiding judicial officer shall make the decision about the propriety of restraints and the particular restraints, if any, to be used for that proceeding.

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4. The Court, on its own motion or on the request of any party, may review the propriety of physical restraints for a particular juvenile as well as the propriety of less or more restrictive alternatives.

5. For juveniles who are not to be restrained physically while in the courtroom, law enforcement is authorized to remove physical restraints immediately before entering the courtroom and to reattach physical restraints immediately after leaving the courtroom.

6. For purposes of this order, courtroom means the room where the judicial proceeding is conducted. In the 9<sup>th</sup> Judicial District, some juvenile delinquency proceedings are conducted in the chambers of the presiding judge. In this circumstance, the chambers are the courtroom to which this order applies. If a room normally designated "courtroom" is being used for another purpose such as a waiting area, the order does not apply to the "courtroom" being used for such other purpose.

7. The judicial officer presiding over individual delinquency proceedings retains the authority and discretion to determine whether a particular juvenile should be restrained physically in the courtroom in a particular case. The presiding judicial officer also retains the authority and discretion to determine the manner in which requests to review physical restraint of a particular juvenile may be raised and resolved.

8. This order applies only to the use of restraints in the courtroom. This order does not limit or affect the authority and responsibility of the agency with custody of a juvenile to make its own restraint decisions in locations outside the courtroom.

Done on October 25, 2015.

BY THE COURT



Chief Judge

**ADMINISTRATIVE ORDER REGARDING THE USE OF PHYSICAL RESTRAINTS ON JUVENILES**

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WHEREAS, representatives of the bench of the Tenth Judicial District, the District Attorney's Office, the Office of the Public Defender, and the Pueblo County Sheriff have discussed the appropriateness and the need for the use of physical restraints on juveniles appearing in custody for court proceedings; and

WHEREAS, the purpose of the juvenile justice system is to provide a rehabilitative and not solely punitive approach to juvenile delinquency; and

WHEREAS, the National Center for Mental Health and Juvenile Justice has found that the use of physical restraints on juveniles can be traumatic and psychologically harmful; and

WHEREAS, the American Bar Association has adopted Resolution 107A urging courts to adopt a presumption against the use of restraints on juveniles in court; and

WHEREAS, other state appellate courts have ruled that children should not be restrained absent a showing that they are a flight risk or that they present a clear and present danger to themselves or others in the courtroom; and

WHEREAS, other state appellate courts have determined that while it may be appropriate to consider the opinions of security personnel in determining courtroom security, the final decision should be made by the court considering the individual circumstances of each child; and

WHEREAS, the Court generally has the benefit of evidence based assessments that assist in determining the juvenile's risk to themselves and others;

NOW THEREFORE IT IS ORDERED:

It is the policy of the Tenth Judicial District that juveniles appearing in court will not be belted or restrained at the initial detention hearing or at subsequent hearings.

There shall be a rebuttable presumption that children who are in custody for court proceedings are not escape risks, a threat to themselves or others, or are otherwise incapable of exhibiting appropriate and respectable behavior while in open court.

Juveniles may be restrained only if one or more of the following criteria are met:

1. The juvenile is being held for a class one or two felony.

2. The juvenile demonstrates assaultive or combative behavior while in detention.
3. The juvenile makes threats toward law enforcement or staff.
4. There is credible information that there is an imminent plan or risk of escape.
5. The juvenile has mental health issues and is demonstrating bizarre, erratic, or combative behavior.
6. The juvenile is charged with disarming or attempting to disarm a law enforcement officer, or
7. There are multiple co-defendants in the courtroom at the same time.

Law enforcement shall advise the Court if they determine a juvenile who does not meet the criteria contained herein nonetheless poses a risk to themselves or others, and the Court shall determine if the juvenile shall be restrained during a court appearance.

If a juvenile has been required to wear restraints during a previous court appearance, the requirement will remain in place until the Court approves termination of the requirement for restraints.

The Court at all times retains the authority and discretion to determine on its own motion that a specific juvenile shall be restrained during a court appearance. Further, the Court retains the discretion to determine whether to grant a request for hearing on the issue of shackling of an individual juvenile.

This policy does not preclude the Pueblo County Sheriff's Office from appropriately restraining juveniles during transport to and from a detention facility or while in a holding cell.

Done this 14<sup>th</sup> day of April, 2015.

  
**DEBORAH R. EYLER**  
**CHIEF JUDGE**

Copies distributed to:  
Judges  
District Attorney  
Office of the Public Defender  
Pueblo County Sheriff

## Chief Judge Directive 15-01

### USE OF RESTRAINTS IN JUVENILE DELINQUENCY MATTERS IN THE COURTROOM

Evidence based studies have shown that shackling<sup>1</sup> of juveniles in the courtroom, when the juvenile does not pose a safety or flight risk, is psychologically harmful to the juvenile and may undermine rehabilitation. The Colorado Legislature considered, but did not pass, legislation in 2015 addressing this issue. The Chief Justice of Colorado, Nancy Rice, has asked the judicial districts to formulate a policy that will serve each district and each county in the district. This order is designed to meet these considerations.<sup>2</sup>

The policy of the 11<sup>th</sup> Judicial District shall be:

1. Juveniles will not be physically restrained in the courtroom, except as noted below, because the courts' experience is that juveniles generally do not pose a safety or flight risk.
2. Juveniles may be physically restrained in the courtroom if any one or more of the following criteria exist:
  - a. The juvenile demonstrates or has previously demonstrated assaultive or combative behavior;
  - b. The juvenile has threatened law enforcement personnel, persons at the jail or detention facility, court staff, or other persons who are present in the courtroom during the juvenile's court appearance;
  - c. The juvenile is charged with assaulting, disarming, or attempting to disarm a peace officer;
  - d. The juvenile has made a credible threat of harm to him/herself or others, within the past six months;
  - e. The juvenile has mental health issues and has displayed bizarre, erratic, disruptive, or combative behavior which threatens another person's safety;
  - f. There are co-defendants in the courtroom at the same time and a substantial likelihood that public safety will be threatened;
  - g. Credible information exists of an imminent plan or risk of escape; or
  - h. Credible information exists that the juvenile is a member of a street gang.

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<sup>1</sup>For purposes of this administrative order, "shackling", "physical restraints", and "physically restrained" means the use of handcuffs, shackles, leg cuffs, chains, restraint belts, and any other mechanical device placed on the juvenile that restricts freedom of movement of the juvenile within the courtroom.

<sup>2</sup>This administrative order in no way limits or prohibits a Sheriff's Office, transportation staff, or any other law enforcement agency from using physical restraints when transporting juveniles to and from the courtroom. The decision whether physical restraints are used outside of the courtroom falls within the exclusive province of the Sheriff's Office.

3. Law enforcement or transportation staff shall determine whether any one or more of the criteria set forth in ¶ 2 of this order exist from all information available, and may physically restrain the juvenile if any one or more criteria exist.

4. The judicial officer presiding over the juvenile docket shall be advised by law enforcement in writing of the decision to use physical restraints and the reasons supporting such decision, prior to bringing the juvenile into the courtroom. The judicial officer retains the authority and discretion to override the recommendation made by law enforcement to use physical restraints on the juvenile. The judicial officer shall set forth in writing the basis for overriding the decision of law enforcement, which shall be included in the case file. If the basis for using physical restraints arises without sufficient time to place the reasons in writing, it may be reported verbally.

5. If law enforcement or transportation staff determines that a juvenile does not meet any of the criteria set forth in ¶ 2 of this order, but nevertheless poses a risk to him/herself or others or is an escape risk, they shall notify the judicial officer in writing of their concerns prior to the hearing and the judicial officer shall determine whether the juvenile should be restrained. The judicial officer may make this determination without a hearing, but shall indicate in writing the reason physical restraints are necessary. The written findings supporting restraint shall be included in the file and disclosed to the parties.

6. As to any juvenile who is not physically restrained while in the courtroom, law enforcement and transportation staff are authorized to remove and reattach any physical restraints used during transportation either immediately before or after entering the courtroom, as they deem necessary for security reasons.

7. The judicial officer presiding over the juvenile proceeding at all times retains the authority and discretion to determine, on his or her own motion, whether the juvenile should be physically restrained while in the courtroom. It is within the judicial officer's discretion to decide what information the judicial officer will consider when making this decision.

8. A juvenile who is not initially restrained in the courtroom may be physically restrained during the hearing, if law enforcement personnel or the judicial officer observe any disruptive, threatening, violent, or combative behavior by the juvenile.

By the court, this 17th day of June, 2015.



Charles M. Barton  
Charles M. Barton, Chief Judge, 11th Judicial District

**ORDER  
Use of Physical  
Restraints on Juvenile  
Defendants**



**CHIEF JUDGE  
ADMINISTRATIVE ORDER  
2015-01**

The purpose of the juvenile justice system is to provide a rehabilitative and not solely a punitive approach to juvenile delinquency. Indiscriminate use of physical restraints on a juvenile undermines these rehabilitative goals.<sup>1</sup>

Therefore, it shall be the policy of the Twelfth Judicial District that juvenile defendants who are in custody shall not appear in court for juvenile delinquency proceedings wearing physical restraints unless:

1. The juvenile is being held for a class 1 felony, a class 2 felony, escape or attempted escape;
2. The juvenile has made credible threats to harm self or others; has made credible threats toward law enforcement or staff; has demonstrated assaultive or combative behavior since being detained; or has demonstrated self-harming behavior since being detained;
3. The juvenile has been diagnosed with a mental health disorder **and** the juvenile is currently demonstrating bizarre or erratic behavior;
4. There are multiple co-defendants in custody in the courtroom at the same time.

If any of the above four conditions exist, the juvenile shall appear in court in restraints as deemed appropriate by the responsible law enforcement agency. After making every effort to consult with other parties to the case (including the juvenile, the juvenile's court-appointed attorney, the juvenile's parents and/or guardian *ad litem*, and the district attorney/deputy district attorney assigned to the case), the SB94 Juvenile Services pre-trial case manager (i.e. Tyler Woods and/or Cindy Cotten) shall be responsible for determining whether a juvenile meets any of the above four criteria and informing the appropriate parties. If the pre-trial case manager believes there is a reason, other than those listed above, to have the juvenile appear in court in restraints, the pre-trial case manager shall notify the court prior to the juvenile's scheduled appearance and the judge who will preside over the appearance will decide whether the juvenile shall appear in court wearing physical restraints.

In addition, the presiding judge always retains the authority to order an individual juvenile to appear in court wearing physical restraints if the judge determines it to be necessary for public safety or the safety of the juvenile. The presiding judge also retains the authority to order an individual juvenile not to appear in court wearing physical restraints if the judge determines there are extenuating circumstances

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<sup>1</sup> See Report accompanying American Bar Association Criminal Justice Section Resolution 107A from the mid-year ABA Conference 2015 and authorities cited there.

The court shall make all reasonable efforts to ensure that in-custody juveniles who will be appearing in court in restraints shall have their hearings scheduled at a time separate from other in-custody juveniles.

This policy does not affect how the sheriff's office restrains juveniles during transportation of juvenile defendants to and from the courthouses in the Twelfth Judicial District. This policy only concerns whether the juvenile shall appear in the courtroom in restraints.

SO ORDERED this 9th day of April, 2015.



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Pattie P. Swift, Chief Judge



**Michael K. Singer**

**Chief Judge, Thirteenth Judicial District**

**110 North Riverview Road, Room 205**

**Sterling, CO 80751**

**(970)522-6565**

**CHIEF JUDGE DIRECTIVE 15-001 (JUVENILE SHACKLING)**

**THIRTEENTH JUDICIAL DISTRICT, COLORADO**

It has long been the practice of the Thirteenth Judicial District to require in-custody juveniles charged in juvenile delinquency proceedings to appear in handcuffs, waist restraints and leg restraints (shackles).

It is the duty of this Court to uphold and apply the United States Constitution, the Colorado Constitution and laws and standards set forth by the legislature of this state. It has long been the law in Colorado that juvenile defendants are not to be treated as criminals. "There is fundamental difference between a criminal proceeding and a delinquency proceeding, and in our view the clear legislative intent is that the handling of juvenile delinquents should be oriented towards rehabilitation and reformation, and not punishment as such." *People ex rel Terrell v. District Court*, 164 Colo. 437, 444-45, 435 P.2d 763 (1967). "The [children's] code was designed to benefit youthful offenders." *C.C.C. v. District Court*, 188 Colo. 437, 442, 535 P.2d 1117 (1975).

The principal goal of the juvenile justice system is to rehabilitate young offenders. In order to achieve this goal, the Court must continually evaluate its own practices and procedures to determine whether they effectuate rehabilitation. Across the country, courts and legislatures are grappling with the question of whether juvenile defendants should be restrained or

shackled when they appear in juvenile court. Some social science literature indicates that the practice of shackling juveniles is antithetical to positive growth, rehabilitation and development. In recognizing these findings, State Supreme Courts in California, Connecticut, Florida, New Mexico, New York, North Dakota, North Carolina, Massachusetts and Vermont have already ruled against the indiscriminate shackling of juveniles. Many districts in Colorado also restrict the indiscriminate use of shackles.

As against such concerns, traditional concerns regarding court security must also be taken into account. As our culture in general has grown increasingly disrespectful of authority and the institutions of civil society, security concerns have increased to the point where even younger parties to the court system can pose risks that were not even contemplated in decades past. Some juveniles are also impulsive in their behavior, especially when confronted with allegations of wrongdoing. Further, courts have a responsibility to ensure safety in the courtroom, to the degree reasonably practical. Finally, some courthouses in this District are not well-equipped to provide security without the use of restraints.

This Court has had the opportunity to review the legal and social science literature on the practice of indiscriminately shackling juveniles in court, other orders of various courts, and to consider courtroom security issues in light of the unique challenges posed within this Judicial District. The Court has also considered comments from a variety of court participants, including court staff, defense counsel, prosecutors, and law enforcement officials. Based upon this review, this Court makes the following findings:

- 1) It is critical to the rehabilitative goals of the juvenile justice system that adolescents develop a strong positive identity. In the midst of their identity and moral development, demeaning treatment by adults may solidify some adolescents' alienation, and send mixed messages about the purpose of the juvenile justice system, thereby undermining the rehabilitative goal of court intervention.
- 2) Indiscriminate shackling may brand and stigmatize juvenile defendants in ways that adversely affect how others regard them, and the manner in which they regard themselves.
- 3) The policy of subjecting all children and adolescents in the juvenile system to shackling without regard to their age, gender, mental health history, history of violence, or risk of runaway is contrary to many basic tenets of developmental pediatric practice.
- 4) The indiscriminate shackling of juveniles, many of whom do not present a danger to themselves or others during courtroom proceedings, may also offend the dignity of the judicial process.
- 5) Court security concerns must be appropriately balanced against the disadvantages of juvenile shackling. At times, such concerns override those disadvantages.

- 6) It is permissible for courts to engage in certain presumptions concerning dangerousness, even if these are adverse to juveniles in given circumstances. *People v. Juvenile Court*, 893 P.2d 81 (Colo.1995).

Based upon these findings, this Court hereby ORDERS:

In every juvenile delinquency case,

(A) There shall be a rebuttable presumption that all juveniles accused of, or adjudicated for offenses that would constitute Class One or Class Two Felonies, Crimes of Violence, offenses involving the use of firearms, knives, clubs, explosives, or dangerous or illegal weapons (as defined in Colorado Revised Statutes), or disarming a peace officer, (including Attempts or Conspiracies to commit any of the foregoing), and Escape or Attempted Escape, shall be restrained in court. This presumption shall also apply when the prosecution demonstrates, by means of written motion prior to the hearing, that any of the following circumstances exist:

(1) The Juvenile is currently housed in isolation for dangerous behaviors to self or others; or

(2) The Juvenile has made recent and credible threats of serious bodily harm to self or other persons while in a secured facility; or

(3) The Juvenile has mental health issues and has displayed bizarre, erratic, disruptive or combative behavior.

(4) The Juvenile is currently under investigation for Escape or Attempted Escape from a secured facility or Juvenile has a known current credible plan to escape from a secured facility or from court but is not charged;

(5) And there are no less restrictive alternatives to restraints that will prevent flight or physical harm to the Juvenile or other persons.

(B) In all other cases, except as provided in Section (F), there shall be a rebuttable presumption that restraints shall not be used.

(C) In the event any party, or law enforcement officials request that restraints be utilized, or not be utilized, in spite of either of the foregoing presumptions, consistent with the demands of the docket, the court shall provide the parties with an opportunity to be heard before the court orders the use of, or removal of, restraints. If restraints are ordered, the court shall make findings of fact in support of the order. The Juvenile's defense counsel may waive the Juvenile's appearance at the hearing on the use of restraints, with the consent of the Juvenile.

- (D) Should the court order restraints be used, the least restrictive form shall be used to be effective to address the security concern, consistent with sound security practices.
- (E) A finding of restraint of a juvenile is limited to that court appearance only.
- (F) The presumption against restraints shall not apply in counties where adequate means to ensure court security are lacking, due to either 1) insufficient personnel to safely supervise juveniles in the courtroom; or 2) inadequate security arrangements in the courtroom because of the physical layout of the facility; concerns with members of the audience; potential gang activity, or other security concerns representing a present threat to the proceedings, or persons in the courtroom. Under such circumstances, law enforcement officials should bring their concerns to the attention to the presiding judge as soon as practicable prior to the hearing.
- (G) Nothing shall prevent a judge or magistrate from allowing a juvenile who otherwise is shackled to have his or her writing hand free for the purpose of taking notes or signing documents.
- (H) This Order does not prevent the use of restraints that are concealed in some fashion, such as those applied under the clothing of a juvenile. Further, it does not affect the use of restraints during a jury trial, as that issue is addressed by means of existing case law.
- (I) In all events, the final determination concerning the use of restraints rests with the presiding judicial officer, who may take into account any information he or she chooses, or rule summarily if docket pressures require.
- (J) As to any juvenile who is not physically restrained while in the courtroom, law enforcement and transportation staff are authorized to remove and reattach any physical restraints used during transportation of the juvenile to and from the courtroom immediately before and after entering the courtroom, as they deem necessary for security reasons.
- (K) As used in this Order, "juvenile" means a person under the age of eighteen years at the time of the court appearance in question.

APPROVED AND ADOPTED this 26<sup>th</sup> day of May, 2015, effective June 1, 2015.

BY THE COURT:



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Chief Judge

ADMINISTRATIVE ORDER CHIEF JUDGE, FOURTEENTH JUDICIAL DISTRICT <hr/> <b>CHIEF JUDGE ADMINISTRATIVE ORDER 2015-1</b>	▲ COURT USE ONLY ▲
<b>ORDER CONCERNING THE USE OF RESTRAINTS FOR  JUVENILES APPEARING IN THE COURTROOM</b>	

Numerous states and several judicial districts in Colorado have implemented rules or policies eliminating the indiscriminate use of restraints on juveniles appearing before the court while in custody. Evidence based studies have shown that the practice of regularly restraining juveniles in the courtroom, when the juvenile does not pose a safety or flight risk, is psychologically harmful to the juvenile and may undermine rehabilitation. In an attempt to balance the safety of juveniles and the public with the rehabilitation goal of the juvenile justice system, the undersigned solicited input from several organizations throughout the Judicial District including the Grand County Sheriff’s Office, the Moffat County Sheriff’s Office, the Routt County Sheriff’s Office, the Public Defender’s Office, and the Office of the District Attorney.

For purposes of this administrative order, “physical restraints” and “physically restrained” means the use of handcuffs, shackles, leg cuffs, chains, restraint belts, and any other device placed on the juvenile that restricts, or is intended to restrict, freedom of movement of the juvenile within the courtroom. This administrative order in no way limits or prohibits any Sheriff’s Department or any other law enforcement agency from using physical restraints when transporting juveniles to and from the courtroom. The decision whether physical restraints are used outside of the courtroom falls within the exclusive province of those agencies having custody of the juvenile.

**THE COURT HEREBY ORDERS:**

1. A rebuttable presumption shall exist that the juvenile does not pose a safety or flight risk. Therefore, there shall be a rebuttable presumption that the juvenile will not be physically restrained in any courtroom.
2. The presumption set forth above shall be deemed rebutted if any one or more of the following criteria exist:
  - a. The juvenile is demonstrating assaultive or combative behavior;

- b. The juvenile has made a credible threat to law enforcement personnel, court staff, staff at the Sheriff's Department or a detention facility, or other persons who are present in the courtroom during the juvenile's court appearance;
  - c. The juvenile is charged with disarming or attempting to disarm a peace officer or committing a serious assault;
  - d. The juvenile has made a recent and credible threat of harm to him/herself;
  - e. The juvenile has mental health issues and is displaying bizarre, erratic, disruptive, or combative behavior;
  - f. There are others present in the courtroom at the time who are alleged to have engaged in criminal activities with the juvenile;
  - g. Credible information exists of an imminent plan or risk of escape.
3. Law enforcement or transportation staff shall determine whether any one or more of the criteria set forth in ¶ 2 of this order exist from all information available, and may ask permission of the court to physically restrain the juvenile if any one or more criteria exist.
4. The judicial officer presiding over the juvenile docket shall be advised by law enforcement in writing of the request to use physical restraints and the reasons supporting such decision, prior to bringing the juvenile into the courtroom. This request shall be filed in the case file. The judicial officer retains the authority and discretion to make the determination whether or not to allow law enforcement to use physical restraints on the juvenile. The judicial officer shall set forth in writing the reason(s) for denying any request of law enforcement, which shall be included in the case file.
5. If law enforcement or transportation staff determines that a juvenile does not meet any of the criteria set forth in ¶ 2 of this order, but nevertheless wish to request permission to use physical restraints, they shall notify the judicial officer in writing of their concerns prior to the hearing and the judicial officer shall determine whether the juvenile should be restrained. The judicial officer may make this determination without a hearing, but shall indicate in writing the reason(s) why physical restraints are necessary. The written findings supporting restraint shall be included in the file and disclosed to the parties.
6. As to any juvenile who is in custody but is not physically restrained while in the courtroom, law enforcement officers and transportation staff are authorized to re-attach any physical restraints used during transportation immediately after the hearing, outside of the courtroom, as they deem necessary for security reasons.
7. The judicial officer presiding over the juvenile proceeding at all times retains the authority and discretion to determine, on his or her own motion, whether the juvenile should be physically restrained while in the courtroom. It is within the judicial officer's discretion to decide what information the judicial officer will consider when making this decision.
8. A juvenile who is not initially restrained in the courtroom may be physically restrained during the hearing, if law enforcement personnel or the judicial officer observe any disruptive, threatening, violent, or combative behavior by the juvenile.

9. The judicial officer and the Sheriff's Department will confer and coordinate efforts to implement this order as quickly as practicable in each court location throughout the Fourteenth Judicial District.

Dated: September 10, 2015



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Michael A. O'Hara, III  
Chief Judge, 14<sup>th</sup> Judicial District

**JUVENILE SHACKLING POLICY**

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**WHEREAS**, it has come to the attention of the undersigned that concerns exist in Colorado regarding shackling of juveniles inside courtrooms; and

**WHEREAS**, in response to those concerns the Chief Judge convened a meeting of stakeholders at which time the issue was discussed; and

**WHEREAS**, historically in the 15<sup>th</sup> Judicial District, determination of whether a juvenile should be shackled (restrained) while in the courtroom has been left to the discretion of law enforcement. Likewise, the Court observes that in most instances, restraints have been removed in the discretion of law enforcement when possible.

**NOW, THEREFORE, IT IS ORDERED** that:

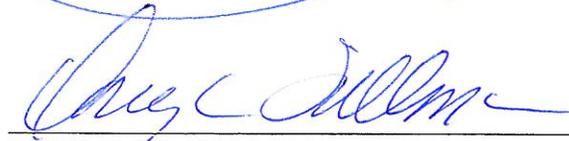
1. Restraint of juveniles inside courtrooms in the 15<sup>th</sup> Judicial District shall remain in the discretion of law enforcement; provided, however, if possible juveniles in custody of law enforcement shall enter the courtroom and remain there without restraint.
2. That if, in the discretion of law enforcement, it is believed that a juvenile should be restrained in the courtroom, law enforcement shall notify the District Attorney, defense counsel (if represented) and the Court. Thereafter, if requested by the juvenile or his/her attorney, the Court shall, prior to the juvenile's next appearance convene an *in camera* or closed courtroom hearing wherein the District Attorney, law enforcement, defense counsel, the juvenile and his/her parents shall appear either in person or by video conference. The issue should be resolved at that hearing again recognizing that unless demonstrated by a preponderance of the evidence to the contrary, the Court shall give deference to law enforcement's determination.
3. The Court shall use its best efforts to ensure that in-custody juveniles that will appear in court in restraints have their hearings scheduled at a time separate from other in-custody juveniles or adults.

4. This policy is not intended to interfere in any way with law enforcement's ability to appropriately restrain juveniles during the transportation of juvenile defendants to and from the courtrooms in this district.

**DATED this 23rd day of April, 2015, effective May 1, 2015.**

**BY THE COURT:**

  
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**STANLEY A. BRINKLEY, CHIEF JUDGE**

  
\_\_\_\_\_  
**DOUGLAS TALLMAN, DISTRICT JUDGE**

Cc: 15<sup>th</sup> Judicial District Staff/Probation  
District Attorney  
Public Defender  
Sheriffs  
Police Chiefs  
Attorneys



- f. There are others present in the courtroom at the time who are alleged to have engaged in criminal activities with the juvenile;
  - g. Credible information exists of an imminent plan or risk of escape.
3. Law enforcement or transportation staff shall determine whether any one or more of the criteria set forth in ¶ 2 of this order exist from all information available, and may ask permission of the court to physically restrain the juvenile if any one or more criteria exist.
  4. The judicial officer presiding over the juvenile docket shall be advised by law enforcement in writing of the request to use physical restraints and the reasons supporting such decision, prior to bringing the juvenile into the courtroom. This request shall be filed in the case file. The judicial officer retains the authority and discretion to make the determination whether or not to allow law enforcement to use physical restraints on the juvenile. The judicial officer shall set forth in writing the reason(s) for denying any request of law enforcement, which shall be included in the case file.
  5. If law enforcement or transportation staff determines that a juvenile does not meet any of the criteria set forth in ¶ 2 of this order, but nevertheless wish to request permission to use physical restraints, they shall notify the judicial officer in writing of their concerns prior to the hearing and the judicial officer shall determine whether the juvenile should be restrained. The judicial officer may make this determination without a hearing, but shall indicate in writing the reason(s) why physical restraints are necessary. The written findings supporting restraint shall be included in the file and disclosed to the parties.
  6. As to any juvenile who is in custody but is not physically restrained while in the courtroom, law enforcement officers and transportation staff are authorized to re-attach any physical restraints used during transportation immediately after the hearing, outside of the courtroom, as they deem necessary for security reasons.
  7. The judicial officer presiding over the juvenile proceeding at all times retains the authority and discretion to determine, on his or her own motion, whether the juvenile should be physically restrained while in the courtroom. It is within the judicial officer's discretion to decide what information the judicial officer will consider when making this decision.
  8. A juvenile who is not initially restrained in the courtroom may be physically restrained during the hearing, if law enforcement personnel or the judicial officer observe any disruptive, threatening, violent, or combative behavior by the juvenile.
  9. The judicial officer and the Sheriff's Department will confer and coordinate efforts to implement this order as quickly as practicable in each court location throughout the Sixteenth Judicial District.

Dated: September 18<sup>th</sup>, 2015

  
\_\_\_\_\_  
Mark A. MacDonnell  
Chief Judge, 16<sup>th</sup> Judicial District

**CERTIFICATE OF MAILING/DELIVERY**  
**Administrative Order 15-07**

I hereby certify that on September 22nd, 2015 a copy of Administrative Order 15-7, Order Concerning the Use of Restraints for Juveniles Appearing in the Courtroom was served on each of the following by:

First Class U.S. mail, postage prepaid:

Felix Rivera  
Rivera Bail Bonds  
121 Smithland Avenue  
La Junta, CO 81050

Bent County Sheriff  
11100 County Road GG.5  
Las Animas, CO 81054  
(also by facsimile to 719-456-0746 & 719-456-2003)

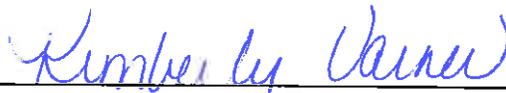
Crowley County Sheriff  
110 E 6<sup>th</sup> Street #5  
Ordway, CO 81063  
(also by facsimile to 719-267-3089)

Otero County Sheriff  
Relay box at the Otero District Court (also by facsimile to 719-384-2272)

By e-mail to the following:

James Bullock, District Attorney for the 16<sup>th</sup> Judicial District  
Raymond Torrez, Deputy Public Defender  
Clerks of Court  
Judge Vigil  
Judge Manley  
Judge Grant  
Judge Schiferl  
Wendy Larsen, Administrator  
Edward Garlington  
Mark Davis  
Phillip F. Malouff, Jr.  
Nathan Shultz  
Office of ADC  
Casey Irwin  
Cobea Becker  
Allison Ernst  
Mike Davidson  
Janet Kinniry  
Tobin Wright

By:

  
\_\_\_\_\_

Kimberly Varner, Court Judicial Assistant



**SEVENTEENTH JUDICIAL DISTRICT**  
**ADAMS COUNTY**  
**ADMINISTRATIVE ORDER OF THE CHIEF JUDGE**

2015-05

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Use of Restraints on Juveniles in Court.

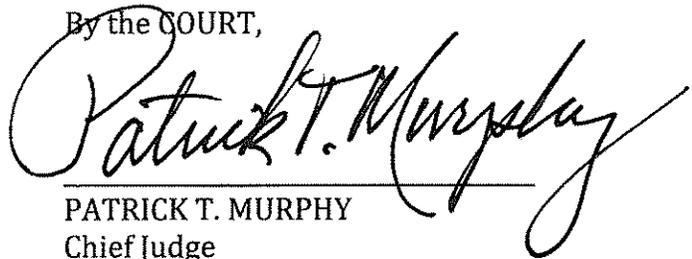
There shall be a rebuttable presumption that youth who are in custody for court proceedings are not escape risks; nor a threat to themselves or others; nor are otherwise incapable of exhibiting appropriate and respectful behavior while in open court.

- I. It is the policy of the Seventeenth Judicial District that juveniles shall not be restrained in court. Juveniles shall not be brought before the court wearing any physical restraint devices unless ordered by the court during or prior to the hearing. Instruments of restraints such as handcuffs, leg cuffs, shackles, chains, belts, irons or straightjackets, and all other devices which restrain an individual's freedom of movement shall not be used on a juvenile during a court proceeding and shall be removed prior to the juvenile's entry into the courtroom.
- II. While law enforcement has discretion to determine the level of security appropriate during transport to and from a detention facility, restraints shall be removed prior to entering the courtroom unless determined otherwise by the Court.
- III. The rebuttable presumption against the use of restraints on the juvenile may be overcome if one or more of the following factors are found to exist:
  - A. Juvenile is currently housed in isolation for dangerous behaviors to self or others; or
  - B. Juvenile has made recent and credible threats of serious bodily harm to self or others; or
  - C. There is credible information that there is an imminent plan or risk of escape; or
  - D. Juvenile demonstrates assaultive, erratic or combative behaviors; or
  - E. There are multiple co-defendants in the courtroom at the same time; or
  - F. Juvenile makes threats towards law enforcement or court staff.

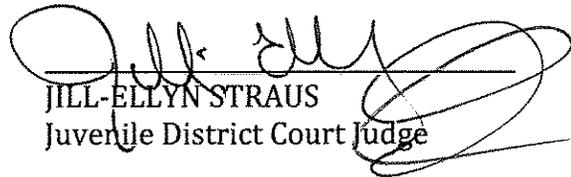
- IV. Law enforcement shall advise the Court if they have reason to believe that a juvenile who does not meet the above exclusionary factors contained within this Order poses a risk to themselves or others, and the Court shall then determine if the juvenile is to be restrained during a court appearance.
- V. In making its determination whether the rebuttable presumption against the use of restraints has been overcome, the court may give consideration to the nature of the charged or contemplated offense or offenses.
- VI. Should the court order restraints be used, the least restrictive form of restraint to effectively address the security concern shall be used.
- VII. A finding of restraint of a juvenile is limited to that court appearance only.
- VIII. The Court at all times retains the authority and discretion to determine, on its own motion, or upon the motion of a party that a specific juvenile shall be restrained during a court appearance.

EFFECTIVE this 6th day of August, 2015.

By the COURT,



PATRICK T. MURPHY  
Chief Judge  
Seventeenth Judicial District



JILL-ELLYN STRAUS  
Juvenile District Court Judge



JOHN POPOVICH  
Juvenile District Court Judge

<p><b>EIGHTEENTH JUDICIAL DISTRICT: ARAPAHOE, DOUGLAS, ELBERT and LINCOLN COUNTIES, COLORADO</b></p> <p>Arapahoe County Justice Center 7325 South Potomac Street Centennial, Colorado 80112</p> <p>Arapahoe County Court Division A 1790 West Littleton Boulevard Littleton, Colorado 80120</p> <p>Douglas County Courthouse 4000 Justice Way #2009 Castle Rock, Colorado 80109</p> <p>Elbert County Courthouse, PO Box 232 751 Ute Street Kiowa, Colorado 80117</p> <p>Lincoln County Courthouse, PO Box 128 103 Third Avenue Hugo, Colorado 80821</p>	<p style="text-align: center;"><b>•COURT USE ONLY •</b></p> <p style="text-align: center;"><b>CJO 15-06</b></p> <hr/> <p style="text-align: center;"><b>Division 201</b></p>
<p><b>CHIEF JUDGE ORDER REGARDING SHACKLING OF IN-CUSTODY JUVENILES IN THE COURTROOM</b></p>	

Pursuant to the authority granted to Chief Judges of the judicial districts of the State of Colorado by Chief Justice Directive 95-01, “Authority and Responsibility of Chief Judges,” the undersigned, in his capacity as Chief Judge of the Eighteenth Judicial District, hereby establishes a policy regarding courtroom shackling of in-custody juveniles in this judicial district.

On April 3, 2015, the undersigned held a meeting with all of the stakeholders to discuss the issue of shackling in-custody juveniles in the courtroom. Present at the meeting were: representatives from the Public Defender’s Office (“PDO”), representatives from the District Attorney’s Office (“DAO”), the Arapahoe County Sheriff’s Office, the Douglas County Sheriff’s Office, the Lincoln County Sheriff’s Office, Steven Steadman (the Administrator for Judicial Security for Colorado’s judicial

branch), Judge Bonnie McLean, Magistrate Christina Apostoli, Magistrate Beth Dumler, and the undersigned.

During the meeting, the stakeholders discussed their viewpoints and concerns. The PDO advocated for a policy that would ban this judicial district's current practice of maintaining in-custody juveniles in shackles while in the courtroom. In the alternative, the PDO argued for a rebuttable presumption against such shackling. The PDO presented research regarding the potential psychological impact of keeping juveniles shackled in the courtroom, and cited appellate decisions from other jurisdictions opposing the indiscriminate shackling of juveniles in the courtroom. The PDO also highlighted policies from counties within Colorado that have stopped the practice of shackling all in-custody juveniles in the courtroom. In response, the Sheriffs raised issues regarding courtroom safety, their potential liability, the lack of resources, and the layout of this judicial district's courtrooms as major barriers to unshackling in-custody juveniles. The DAO echoed the concerns of the Sheriffs, adding that the requested presumption would require a case-by-case analysis, which would result in further delaying already overburdened juvenile dockets. The judicial officers, while in favor of either proposed policy in principle, raised similar concerns related to safety (especially given the designs of the courtrooms), logistics, resources, the efficient management of the juvenile dockets, and the effect on other dockets that involve the Sheriffs.

The undersigned has considered all of the stakeholders' viewpoints, the materials submitted, and the specific circumstances present in the Eighteenth Judicial District. Having done so, the undersigned finds: (1) the designs of the courtrooms in the Eighteenth Judicial District are inconsistent with the safe unshackling of in-custody juveniles; (2) the safety of everyone in the courthouses, including the safety of in-custody juveniles, would be jeopardized by either of the policies proposed by the PDO; (3) requiring an individualized hearing and/or determination for every in-custody juvenile on the issue of shackling would have a severe impact on the duties and resources of each Sheriff's Office, which, in turn, would affect the majority of the dockets in this judicial district; (4) a case-by-case hearing and/or determination on the issue of shackling would hinder judicial officers' ability to efficiently manage the heavy juvenile dockets; and (5) under the current circumstances, unshackling in-custody juveniles in the courtrooms would exponentially increase the potential liability of the Sheriffs.

The undersigned recognizes that it would be ideal to avoid shackling all in-custody juveniles in the courtroom. Indeed, some of the materials presented by the PDO are persuasive. Notably, the Court is in the process of implementing a "tiered warrant" policy in truancy cases and in dependency and neglect cases. This new policy should completely eliminate the need for any "status" juvenile offenders to appear in court in custody and shackled.

Nevertheless, giving due deference to the opinions of the experts whose job it is to maintain the safety and security of this judicial district's courtrooms and courthouses, the undersigned concludes that the safety risks inherent in each policy proposed by the PDO far outweigh the benefits of the policy. Of particular concern are the current layouts of the courtrooms and the limited resources available to each Sheriff's Office. Therefore, the undersigned determines that neither a policy banning the shackling of all in-custody juvenile offenders in the courtroom nor a rebuttable presumption against such shackling is a safe, viable option at this time in this judicial district.

Accordingly, the Court orders that the current practice of maintaining all in-custody juveniles in delinquency cases shackled while in the courtroom must continue in the Eighteenth Judicial District. The Court will revisit this issue if a new justice center or the renovation of an existing courthouse is approved at some point in the future in this judicial district. Likewise, the Court will reconsider this Order if a Sheriff's Office within this judicial district receives additional resources to allow juveniles in delinquency cases to safely remain unshackled while in the courtroom.

Dated this 22nd day of May of 2015.

BY THE COURT:



\_\_\_\_\_  
Carlos A. Samour, Jr.  
Chief Judge  
Eighteenth Judicial District

DISTRICT COURT, WELD COUNTY, STATE OF COLORADO Court Address: 901 9 <sup>th</sup> Avenue, Greeley, Colorado 80631 Mailing Address: P.O. Box 2038, Greeley CO 80632-2038	
<hr/> <b>ADMINISTRATIVE ORDER 2015-08</b>	<hr/> <b>▲ COURT USE ONLY ▲</b> <hr/> Case No. 2015 JD 01 2015 CR 01  Division: 1
<b>USE OF RESTRAINTS IN JUVENILE DELINQUENCY MATTERS IN THE COURTROOM</b>	

Numerous states and several judicial districts in Colorado have implemented rules or policies eliminating the indiscriminate shackling of juveniles appearing before the court in juvenile delinquency actions. Evidence based studies have shown the practice of shackling juveniles in the courtroom, when the juvenile does not pose a safety or flight risk, is psychologically harmful to the juvenile and may undermine rehabilitation. In an attempt to balance the safety of the juvenile and public with the rehabilitation goal of the juvenile court, and to obtain input from various stakeholders working in the juvenile justice system, the undersigned established a working group consisting of members of the court, Weld County Sheriff’s Office, Public Defender’s Office, District Attorney’s Office, Weld County Attorney’s Office, Alternate Defense Counsel, guardians ad litem, SB 94, and Platte Valley Youth Services Center. This administrative order is the result of information and input provided by the working group.

For purposes of this administrative order, “physical restraints” and “physically restrained” means the use of handcuffs, shackles, leg cuffs, chains, restraint belts, and any other mechanical device placed on the juvenile that restricts freedom of movement of the juvenile within the courtroom. This administrative order in no way limits or prohibits the Weld County Sheriff’s Office, transportation staff, or any other law enforcement agency from using physical restraints when transporting juveniles to and from the courtroom. The decision whether physical restraints are used outside of the courtroom falls within the exclusive province of the Weld County Sheriff’s Office.

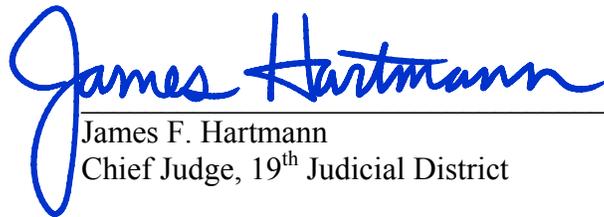
**THE COURT HEREBY ORDERS:**

1. A rebuttable presumption shall exist that the juvenile does not pose a safety or flight risk. Therefore, there shall be a rebuttable presumption that the juvenile will not be physically restrained in the courtroom.

2. The presumption set forth above shall be deemed rebutted if any one or more of the following criteria exist:
  - a. The juvenile demonstrates or has previously demonstrated assaultive or combative behavior;
  - b. The juvenile has threatened law enforcement personnel, court staff, staff at the Weld County Jail or Platte Valley Youth Services Center, or other persons who are present in the courtroom during the juvenile's court appearance;
  - c. The juvenile is charged with disarming or attempting to disarm a peace officer;
  - d. The juvenile has made a credible threat of harm to him/herself or others, within the past three months;
  - e. The juvenile has mental health issues and has displayed disruptive or combative behavior; or
  - f. Credible information exists of an imminent plan or risk of escape.
3. Law enforcement or transportation staff shall determine whether any one or more of the criteria set forth in ¶ 2 of this order exist from all information available, and may physically restrain the juvenile if any one or more criteria exist.
4. Law enforcement shall notify the judicial officer presiding over the delinquency docket in writing of the decision to use physical restraints and the reasons supporting such decision, prior to bringing the juvenile into the courtroom. The judicial officer retains the authority and discretion to override the determination made by law enforcement to use physical restraints on the juvenile. The judicial officer shall set forth verbally or in writing the reason(s) for overriding the decision of law enforcement, which shall be included in the case file or on the record.
5. If law enforcement or transportation staff determines that a juvenile does not meet any of the criteria set forth in ¶ 2 of this order, but nevertheless poses a risk to him/herself or others or is an escape risk, they shall notify the judicial officer in writing of their concerns prior to the hearing and the judicial officer shall determine whether the juvenile should be restrained. The judicial officer may make this determination without a hearing, but shall indicate in writing or verbally the reason(s) why physical restraints are necessary. The written or verbal findings of the judicial officer shall be included in the file or made part of the record, and shall be disclosed to the parties.
6. As to any juvenile who is not physically restrained while in the courtroom, law enforcement and transportation staff are authorized to remove and reattach any physical restraints used during transportation either immediately before or after entering the courtroom, as they deem necessary for security reasons.
7. The judicial officer presiding over the juvenile proceeding at all times retains the authority and discretion to determine, on his or her own motion, whether the juvenile should be physically restrained while in the courtroom. It is within the judicial officer's discretion to decide what information the judicial officer will consider when making this decision.

8. A juvenile who is not initially restrained in the courtroom may be physically restrained during the hearing, if law enforcement personnel or the judicial officer observe any disruptive, threatening, violent, or combative behavior by the juvenile.
9. The court and the Weld County Sheriff's Office will confer and coordinate efforts to implement this order as quickly as practicable; however, this order shall not take effect until the court is assured that all necessary components are in place to ensure successful implementation of the provisions herein. Notice will be provided to members of the working group and the legal community once a starting date is selected.

Dated: July 10, 2015.

  
James F. Hartmann  
Chief Judge, 19<sup>th</sup> Judicial District

**Memorandum of Understanding Between Boulder County Division of Community Justice Services,  
Boulder County Sheriff's Office, Boulder Chapter of the Colorado State Public Defender's Office,  
Twentieth Judicial District District Attorney's Office, Twentieth Judicial District Court, Colorado Center  
for Juvenile Justice, Boulder County Department of Housing and Human Services, Boulder County  
IMPACT, and the Colorado Criminal Defense Bar Concerning the Process for Juvenile Restraints in  
Boulder County**

This agreement is entered into between Boulder County Division of Community Justice Services ("CJS"), Boulder County Sheriff's Office ("BCSO"), Boulder Regional Office of the Colorado State Public Defender's Office ("PD"), Twentieth Judicial District District Attorney's Office ("DA"), Twentieth Judicial District Court ("Court"), Colorado Center for Juvenile Justice ("CJJ"), Colorado Criminal Defense Bar ("CCDB"), Boulder County Department of Housing and Human Services ("BCDHHS"), and Boulder County Impact, collectively, hereinafter the "parties" concerning the process for the use of juvenile restraints in Boulder County or the 20<sup>th</sup> Judicial District.

**WHEREAS**, the Juvenile Restraint Reform Task Force of Boulder County has developed and approved processes and procedures for the elimination of indiscriminate restraint of juveniles in Boulder County; and

**WHEREAS**, the Juvenile Restraint Reform Task Force Members include: Maria Campos Mozo, (CJS), Megan Ring, (PD), Hon. Ingrid Bakke (Court), Alec Egizi, (PD) Carole Greenwell, (CJS)M. Michael Rafik, (CCDB), Lisa A. Polansky, (CJ)Dea M. Wheeler, (CA) Sgt. Thomas McGrath (SO); and

**WHEREAS**, the parties agree that it is in the best interests of juveniles to abolish indiscriminate restraining of juveniles during court proceedings; and

**WHEREAS**, current data, Nationwide best practices, existing legislation and case law all support the elimination of indiscriminate use of restraint; and

**WHEREAS**, the parties are members of or have consulted with the Juvenile Task Force, created in October of 2013, to eliminate the practice of indiscriminate restraint of juveniles in Boulder County; and

**WHEREAS**, the parties have agreed upon criteria and processes for the determination of when the circumstances in which a juvenile may be restrained while in court proceedings; and

**NOW THEREFORE THE PARTIES AGREE:**

1. No juvenile shall be restrained indiscriminately.
2. That any party to a juvenile case shall refer to the Policy for Boulder County Limited Restraint on Children for determination of whether or not a juvenile should be restrained (Exhibit A).
3. That any party to a juvenile case shall refer to the Juvenile Assessment Center Procedures for Distributing Recommendation for Restraint (Exhibit B).

**BOULDER COUNTY I.M.P.A.C.T.**

By: [Signature] Date: 4/9/14

Susan Caskey, Executive Director

**THE BOULDER REGIONAL OFFICE COLORADO STATE PUBLIC DEFENDER**

By: [Signature] Date: 4/9/14

Megan A. Ring, Managing Deputy

**THE BOULDER COUNTY SHERIFF'S OFFICE**

By: [Signature] Date: 04/09/14

Joseph K. Pelle, Sheriff

**THE 20<sup>th</sup> JUDICIAL DISTRICT ATTORNEY'S OFFICE**

By: [Signature] Date: 4/9/14

Stanley L. Garnett, District Attorney

**THE 20<sup>th</sup> JUDICIAL DISTRICT COURT**

By: [Signature] Date: 4.09.14

Maria Berkenkotter, Chief Judge

TWENTY-FIRST JUDICIAL DISTRICT, MESA COUNTY, COLORADO

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ADMINISTRATIVE ORDER 15-07

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The Chief Justice has requested that each judicial district develop a policy regarding the physical restraint of juveniles in the courtroom. Over the past several months, a committee consisting of representatives from the local bench, district attorney's office, public defender's office, the Mesa County Sheriff's Department, the local Senate Bill 94 committee and the Grand Mesa Youth Services Center has met in an attempt to reach consensus on this issue. Unfortunately, despite their good faith efforts, they have been unable to do so. It therefore falls to me as chief judge of this district and the "administrative head of all district and county courts within" it, CJD 95-01, to announce such a policy. This policy was developed in consultation with the other judicial officers in the district.

In general, juveniles are not indiscriminately shackled in this jurisdiction. Two classes of juveniles are transported to court in restraints – detained juveniles and committed juveniles. Pursuant to § 19-2-507(1), C.R.S., and a local memorandum of understanding, juveniles taken into custody by law enforcement on suspicion of delinquent acts are promptly screened for appropriateness for continued detention. A detained juvenile is entitled to a hearing regarding continued detention within forty-eight hours. Section 19-2-508(2), C.R.S. A juvenile may be detained further only "if the court is satisfied from the information provided at the hearing that the juvenile is a danger to himself or herself or the community." Section 19-2-508(3)(a)(III), C.R.S.

A juvenile may be committed to the Division of Youth Corrections only after the court finds that out of home placement is in the juvenile's and the community's best interests and reasonable efforts to prevent or eliminate the need for out of home placement have either been made or cannot be made because of an emergency or special circumstances. Section 19-2-921(1.5)(a), C.R.S.

Nevertheless, the court recognizes that placing physical restraints on a juvenile in the courtroom may detract from the decorum and apparent fairness of the proceeding, especially for those juveniles who have not been adjudicated delinquent. The court also recognizes its responsibility to protect the safety of those who attend court proceedings.

Based on these considerations and in recognition of these duties, the court adopts this policy regarding physical restraint of juveniles in the courtroom in this district.

The following categories of juveniles shall be restrained in the courtroom unless the presiding judicial officer orders otherwise:

- a) juveniles serving a commitment to the Division of Youth Corrections;
- b) juveniles charged with a class 1 or 2 felony, escape, attempted escape, resisting arrest, vehicular eluding, assault on a peace officer, or disarming or attempting to disarm a peace officer;
- c) juveniles who are rebuttably presumed a danger to themselves or the community pursuant to § 19-2-508(3)(a)(III), C.R.S.;
- d) juveniles who have been found a danger to themselves or the community at a detention hearing;
- e) juveniles who have recently exhibited assaultive or physically aggressive behavior against detention facility staff, law enforcement, court personnel or other juveniles in detention;
- f) juveniles who have recently made threats of physical harm against detention facility staff, law enforcement, court personnel or other juveniles in detention;
- g) juveniles who, based upon credible information, may imminently attempt to escape.

No other juveniles shall be restrained in the courtroom unless the presiding judicial officer orders otherwise.

In making these determinations, the presiding judicial officer may consider all relevant, reliable information, and all relevant factors, including these:

- a) the court's obligation to maintain order and protect the safety of all in the courtroom;
- b) the juvenile's record of contacts with the juvenile justice system and the nature of the charges pending against him or her;
- c) the possibility of the juvenile making a serious escape attempt;
- d) the danger, if any, an individual juvenile presents to himself or others in the courtroom, including co-defendants;
- e) the juvenile's history of compliance with law enforcement, court security officers, probation and parole officers and juvenile detention facility staff;
- f) the juvenile's conduct in the matter before the court, including conduct at previous court proceedings;

g) the effect, if any, of restraints on the juvenile's ability to communicate with counsel and to effectively assist in his or her own defense;

h) the impact of restraints upon the dignity and decorum of the court and the judicial process;

i) any additional negative effects that restraints would have on the juvenile;

j) availability of less restrictive security measures;

k) the nature and anticipated length of the court proceeding;

l) the juvenile's age and stature;

m) information from detention facility staff, Senate Bill 94 screening and assessment team, law enforcement, prosecuting attorney, defense attorney and the juvenile's family.

The presiding judicial officer may, but need not, conduct a hearing before determining whether a juvenile will be restrained in the courtroom. After making this determination, the presiding judicial officer may, but need not, reconsider the issue at the juvenile's subsequent court appearances. A reconsideration request shall be made by written motion filed a reasonable time in advance of the court appearance unless this is impractical.

If a juvenile has been ordered restrained, this order shall remain in effect until the presiding judicial officer orders otherwise.

This administrative order has no effect outside the courtroom. It does not limit the discretion of law enforcement in transporting juveniles to and from court.

Done this 9<sup>th</sup> day of October, 2015.

BY THE COURT:



David A. Bottger, Chief Judge  
Twenty-first Judicial District

THE TWENTY-SECOND JUDICIAL DISTRICT: DOLORES AND MONTEZUMA COUNTIES

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ADMINISTRATIVE ORDER 2015-01

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CONCERNING JUVENILE RESTRAINTS IN THE COURTROOM

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Whereas, in-custody juvenile delinquency defendants frequently appear in court wearing physical restraints; and

Whereas, said physical restraints may be contrary to the restorative and rehabilitative purposes of the juvenile justice system; and

Whereas, the safety of the juvenile, other participants, or the public may call for a particular juvenile to be physically restrained while in the courtroom; and

Whereas, the Court has the inherent power and obligation to maintain a safe and orderly courtroom,

Therefore, the undersigned Chief Judge sets forth the following policy of the Twenty-Second Judicial District, effective immediately:

The judicial officer handling an in-custody juvenile delinquency case shall decide whether the juvenile is to appear in court wearing physical restraints. The judicial officer's decision shall be made on a case-by-case basis for each in-custody juvenile. The judicial officer may base his/her decision on screening assessments and reports provided by the DeNier Youth Services Center and/or the local Senate Bill 94 Coordinator, the charges and allegations of the juvenile's pending case(s), and the juvenile's history, if any. The judicial officer's decision is not subject to argument by counsel or respondent(s) and shall be relayed to the law enforcement agency

transporting the juvenile. It is presumed that most juveniles will not require the use of physical restraints while in the courtroom.

This Order is limited to whether the juvenile must wear physical restraints when entering the courtroom and while in the courtroom. The law enforcement agency transporting the juvenile maintains full discretion in determining the physical restraints necessary to safely transport the juvenile to and from the courthouses in the district.

SO ORDERED on this 10th day of March, 2015,



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Douglas S. Walker  
Chief Judge, 22<sup>nd</sup> Judicial District