

Chief Judge Directive 15-01

USE OF RESTRAINTS IN JUVENILE DELINQUENCY MATTERS IN THE COURTROOM

Evidence based studies have shown that shackling¹ 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.²

The policy of the 11th 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.

¹For 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.

²This 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