Jennifer Woolard, Chair
Tyren Frazier, Vice-Chair
Dana G. Schrad, Secretary
Michael N. Herring
David R. Hines
Scott Kizner
Robyn Diehl McDougle
Quwanisha Hines Roman
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COMMONWEALTH *of* VIRGINIA

Board of Juvenile Justice

BOARD MEETING

January 8, 2019

Main Street Centre, 600 East Main Street, 12th Floor, South Conference Room

Richmond, VA 23219

AGENDA

9:30 a.m. Board Meeting

1. **CALL TO ORDER and INTRODUCTIONS**

2. **APPROVAL of November 7, 2018, MINUTES** (Pages 3-28)

3. **PUBLIC COMMENT**

4. **DIRECTOR'S CERTIFICATION ACTIONS** (Pages 29-59)

5. **OTHER BUSINESS**

   A. Periodic Review Recommendations - 6VAC35-30 (State Reimbursement Regulations); 6VAC35-60 (Delinquency Prevention Regulations); 6VAC35-150 (Regulations for Nonresidential Services); and 6VAC35-180 (Regulations Governing Mental Health Service Transition Plans) – Kristen Peterson, Regulatory and Policy Coordinator, Dept. of Juvenile Justice (Pages 60-67)

   B. Review of Mechanical Restraint and Restraint Chair Provisions, 6VAC35-101 (Regulations Governing Juvenile Secure Detention Centers) – Kristen Peterson, Regulatory and Policy Coordinator, Dept. of Juvenile Justice (Pages 68-109)

6. **DIRECTOR REMARKS AND BOARD COMMENTS**

7. **2019 MEETING DATES:** April 17, 9:30 a.m., Main Street Centre (600 East Main Street, 12th Floor Conference Room)

8. **ADJOURNMENT**

GUIDELINES FOR PUBLIC COMMENT

1. The Board of Juvenile Justice is pleased to receive public comment at each of its regular meetings. In order to allow the Board sufficient time for its other business, the total time allotted to public comment will be limited to thirty (30) minutes at the beginning of the meeting with additional time allotted at the end of the meeting for individuals who have not had a chance to be heard. Speakers will be limited to 5 minutes each with shorter time frames provided at the Chair's discretion to accommodate large numbers of speakers.

2. Those wishing to speak to the Board are strongly encouraged to contact Wendy Hoffman at 804-588-3903 or wendy.hoffman@djj.virginia.gov three or more business days prior to the meeting. Persons not registered prior to the day of the Board meeting will speak after those who have pre-registered. Normally, speakers will be scheduled in the order that their requests are received. Where issues involving a variety of views are presented before the Board, the Board reserves the right to allocate the time available so as to insure that the Board hears from different points of view on any particular issue. Groups wishing to address a single subject are urged to designate a spokesperson. Speakers are urged to confine their comments to topics relevant to the Board's purview.

3. In order to make the limited time available most effective, speakers are urged to provide multiple written copies of their comments or other material amplifying their views. Please provide at least 15 written copies if you are able.

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COMMONWEALTH OF VIRGINIA

Board of Juvenile Justice

DRAFT MEETING MINUTES

November 7, 2018

Main Street Centre, 600 East Main Street, 12th Floor, South Conference Room
Richmond, Virginia 23219

Board Members Present: Michael Herring, David Hines, Scott Kizner, Robyn McDougle, Dana Schrad, and Jennifer Woolard

Board Members Absent: Tyren Frazier, Quwanisha Roman, and Robert "Tito" Vilchez

Department of Juvenile Justice (Department) Staff Present: Diane Abato (Attorney General's Office), Dhara Amin, Ken Bailey, Andrew "Andy" K. Block, Jr., Valerie Boykin, Carol Brown, Ken Davis, Greg Davy, Lisa Floyd, Joyce Holmon, Russell Jennings, Joanna Laws, Mark Murphy, Charisse Mullen (Attorney General's Office), Shaun Parker, Kristen Peterson, Deron Phipps, Maurice Sessoms, Romilda Smith, Lara Todd, James Towey, and Angela Valentine

Guests Present: Jaime Bamford (Commonwealth Center for Children and Adolescents), Asif Bhavnagri (Office of the Secretary of Public Safety and Homeland Security), Marilyn Brown (Chesterfield County Juvenile Detention Center), Kerry Chilton (disAbility Law Center of Virginia), Kelly Dedel (One in 37 Research, Inc.), Will Egen (Commission on Youth), Jason Houtz (Fairfax County Juvenile Detention Center), Monica Jackson (Department of Criminal Justice Services), Hal Johnson (Williams Mullin), Adele McClure (Office of the Lieutenant Governor), Cathy Roessler (Blue Ridge Juvenile Detention Center), Michael Umpierre (Georgetown University), Carla White (Rappahannock Juvenile Detention Center), Tom Woods (Annie E. Casey Foundation), and Amy Woolard (Legal Aid Justice Center)

CALL TO ORDER

Chairperson Jennifer Woolard called the meeting to order at 9:44 a.m.

INTRODUCTIONS

Chairperson Woolard welcomed all who were present and asked for introductions.

APPROVAL of September 5, 2018, MINUTES

The minutes of the September 5, 2018, Board meeting were provided for approval. On motion duly made by David Hines and seconded by Robyn McDougle, the Board approved the minutes as presented.

PUBLIC COMMENT PERIOD

There was no public comment.

DIRECTOR'S CERTIFICATION ACTIONS

Ken Bailey, Certification Manager, Department

Included in the Board packet were the individual audit reports and a summary of the Director's certification actions completed on October 1, 2018. Mr. Bailey did not review each action to save time for the restraint panel discussion.

Anchor House received 100% compliance on its audit. The audits for Aurora House, Henrico Juvenile Detention Home, and Northern Virginia Juvenile Detention Home and Post-dispositional Program found deficiencies. The Certification Team conducted follow-up monitoring visits, and all programs were determined to be 100% compliant with the regulations. All three programs were certified for three years.

FISCAL YEAR 2018 HUMAN RESEARCH REPORT

Dhara Amin, Research Analyst, Department

As required by regulations, the Department must present an annual report to the Board on the human research studies conducted with the residents in the Department. Ms. Amin provided a summary of the information contained in the report. In fiscal year 2018, the Human Research Review Committee received eight research proposals. Of those, the Director approved six proposals and two projects are pending approval. This is in addition to the 15 research studies approved in previous years that remain active.

One such study conducted by Sarah Jane Brubaker and Hayley Cleary of Virginia Commonwealth University evaluated the Community Treatment Model, which was valuable to the Department. The research was completed 18 months ago during the Beaumont Juvenile Correctional Center closure period. Despite all the changes the Department experienced during that time, over 90% of the residents reported feeling safe in the facility and during activities led by the facility. The residents also reported having positive perceptions of staff. The Committee is currently working on a follow-up study to examine the Community Treatment Model in the new fiscal year.

Director Block noted that Child Trends, a national research organization, recently received a grant from the Office of Juvenile Justice and Delinquency Prevention (OJJDP) to study the

Department's reentry reforms. The Department welcomes this involvement in order to learn what is and is not working in the reentry program.

Chairperson Woolard noted this was a huge accomplishment because those grants are not easy to obtain, and observed that it is a testament to the work of the Department that OJJDP is willing to invest money with Child Trends to conduct an evaluation.

ADDITIONAL AMENDMENTS TO REGULATION GOVERNING JUVENILE SECURE DETENTION CENTERS, CONTRACTS WITH SEPARATE ENTITIES

Kristen Peterson, Regulatory and Policy Coordinator, Department

Ms. Peterson presented additional proposed amendments to the Regulations Governing Juvenile Secure Detention Centers. At the September 5 Board meeting, the Board approved an amendment to this regulation to address contracts between secure juvenile detention centers and separate entities in which detention centers agree to house residents under the custody of the separate entity. The approved amendment will require contracts entered into by juvenile detention centers to contain certain provisions that will give the Department additional monitoring authority and correct the oversight gap currently in existence. The amendments include:

- A provision requiring such programs operated within juvenile detention centers to be subject to the Department's applicable regulations, and
- A provision allowing the Department the same access to the residents, their records, and reports as is authorized currently for all the residents in postdispositional and predispositional programs within the juvenile detention centers.

An issue left outstanding at the September 5 meeting was whether these contracts should be required to be written. Department staff asserted that if the contracts are not written, the Department may not be able to prove a facility has complied with the regulatory requirement. There is also a concern the parameters of the agreement would not be clearly established if the contract is not written. Therefore, the Department recommends including a requirement in the proposed language that the agreement be written.

An additional question that arose at the previous Board meeting dealt with whether the Department has access to these contracts and is notified when juvenile detention centers and separate entities enter into such agreements. The Department recommends adding a requirement that once these agreements are entered into, the Department must be notified immediately, and a copy of the written agreement must be provided to the Department immediately. The text for these additional proposed amendments is highlighted in yellow on page 73 of the Board packet.

Ms. Peterson reminded the Board that the amendments approved at the September 5 meeting were submitted through the fast-track regulatory process. Since that meeting, the fast-track

regulation has undergone review by the Office of the Attorney General, the Department of Planning and Budget, and the Secretary of Public Safety and Homeland Security and is currently undergoing Governor's Office review. A public comment period will follow the Governor's Office review.

If the Board approves the two additional recommended changes, these provisions will be incorporated into the overall comprehensive packet that the Board approved at the June 13 Board meeting. The comprehensive packet would advance to the Proposed Stage of the regulatory process. Once effective, this amendment would replace the fast-track regulation.

On motion duly made by Jennifer Woolard and seconded by Robyn McDougle, the Board approved the additional amendments to proposed 6VAC35-101-45, Contracts between detention centers and separate entities, as agreed upon at the November 8, 2018, Board meeting, and granted the Department permission to incorporate the amendment into the comprehensive package for advancement to the Proposed Stage of the standard regulatory process.

REGULATORY UPDATE
Kristen Peterson, Regulatory and Policy Coordinator, Department

The regulatory update can be reviewed in the Board packet on pages 74-75.

MECHANICAL AND PHYSICAL RESTRAINT PANEL DISCUSSION

At the September 5 Board meeting, Director Block presented an update and overview of the investigation the Governor's Office directed the Department to conduct at Shenandoah Valley Juvenile Center (SVJC). The Department discussed the need for the fast-track regulation to address an oversight gap, which was corrected. The Department also reviewed the regulations for juvenile correctional centers and juvenile detention centers on the use of mechanical and physical restraints, specifically the restraint chair, which garnered attention during the SVJC investigation. Director Block noted this was an information session on mechanical and physical restraints; the Board will not be asked to vote at this meeting on any changes to regulations concerning the restraint chair. The regulatory review will come at the January meeting.

Director Block introduced five panel speakers who provided different perspectives and areas of expertise.

- Jason Houtz, Superintendent, Fairfax Juvenile Detention Center, and Cathy Roessler, Director, Blue Ridge Juvenile Detention Center. Mr. Houtz has been a juvenile justice professional with Fairfax County for 24 years. Ms. Roessler has worked in the Blue Ridge system since 2010 and served children in other capacities in prior years.
- Dr. Jaime Bamford is the Medical Director for the Commonwealth Center for Children and Adolescents. Dr. Bamford is a board-certified psychiatrist and pediatric psychiatrist.

- Michael Umpierre is the Deputy Director for Juvenile Justice System Improvement and Communication at Georgetown University.
- Dr. Kelly Dedel is a psychologist and court-appointed monitor of federal government cases involving conditions of confinement practices in juvenile detention centers and correctional centers across the country.

The speakers provided PowerPoint presentations, which are attached to these minutes. The following is a summary of the speakers' presentations.

THE USE OF THE MOBILE RESTRAINT CHAIR IN VIRGINIA'S JUVENILE DETENTION CENTERS

Jason Houtz, Superintendent, Fairfax County Juvenile Detention Center
Cathy Roessler, Director, Blue Ridge Juvenile Detention Center

Mr. Houtz began the two-part presentation by noting that he and Ms. Roessler are speaking on behalf of their respective juvenile detention centers as well as the Virginia Juvenile Detention Association, which represents the 24 detention centers across the Commonwealth. Mr. Houtz and Ms. Roessler surveyed other detention facilities regarding their use of restraint chairs.

Background

Youth are placed in juvenile detention centers (JDCs) for the public's safety or for the safety of the juvenile by a judge, magistrate, or intake officer. JDCs do not have the option of turning away juveniles despite the severity of their needs or the JDC's ability to meet those needs. Many of the residents are not known to the JDCs, or if they are known, they have changed while in the community. Thus, the therapeutic rapport takes time to build.

Virginia's JDCs are faced with managing youth who are physically aggressive toward other residents and staff or are a danger to themselves. JDCs are responsible for maintaining a safe, secure environment, which requires a quick response to behaviors. Generally, the initial response is to intervene physically using an appropriate restraint technique. JDCs do not use mace, pepper spray, tasers, or weapons.

Mechanical restraints, such as handcuffs and leg irons, limit but do not absolutely restrict movement. Most youth in a physical restraint quickly calm down, and the physical restraint ends. On those occasions when youth do not regain composure, however, JDCs must look at other methods of maintaining control for the safety of staff and residents.

Juvenile Detention Population

Any of the JDCs' youth can present with a number of issues including behavioral or conduct disorders, suicidal ideation, past suicide attempts, self-abusive behavior, poor anger management, and limited coping skills. Many use physical aggression as a means to resolve conflict. Therefore, when they are faced with real or perceived conflict in detention, physical aggression often is their first response.

The Larger Problem

As many as two-thirds of the youth in detention centers meet the criteria for having a mental health disorder. Detention often has become a dumping ground for the courts when dealing with criminogenic behavior or criminal conduct because of the inability to manage mental health issues in the community. Until the courts can determine the best placements for these youth, they are placed in detention based on their criminal conduct. The JDCs are left to address mental health issues that may not have received attention while the youth was in the community. One detention center administrator told Congress, "we are receiving juveniles that five years ago would have been in an inpatient mental health facility. We have had a number of juveniles who should no more be in our institution than I should be able to fly."

Risk of Self Harm

One of every ten newly detained youth has a history of attempted suicide. Past suicide attempts are a powerful predictor of future attempts. Detained youth are at greater risk than youth in the general population.

Youth in detention may respond to their situations either by self-abuse or thoughts of self-harm. JDCs are faced with managing these situations. Every facility has some level of mental health attention or care, and treatment is provided through therapeutic programs. JDCs seek to manage these issues while the youth are detained, and then try to link them to services once they return to the community. JDCs are managing these situations by using rapport and therapeutic interventions, but when a youth is self-abusive, a JDC's first response is to stop that behavior and hope it does not escalate.

Keeping our Kids Safe

Detention's responses are not focused solely on physical responses. All programs are built on care. Many JDCs in the Commonwealth incorporate the ideas noted in this slide to try and create an environment that deters physically acting out or self-abusive behavior. JDCs have recreational programs, structured daily activities, incentive-based behavior programs, mental health treatment, and crisis intervention. JDCs try to create a positive and welcoming environment. They train staff in evidence-based programming, focus on nutrition and education, and try to create an environment that deters behavior that could lead to a physical intervention and use of a physical restraint.

Mr. Houtz then turned the presentation over to Ms. Roessler.

Physical Interventions

Physical interventions in detention centers are authorized for the following: self-defense; the defense of others; to prevent an escape; to protect someone from self-harm; to prevent the commission of a crime; and to prevent property damage. Only when other alternatives have failed may the JDC employ physical force, and only the minimal amount of physical force necessary may be used.

Mobile Restraint Chair

There are 24 detention centers in Virginia, and 13 of them have a mobile restraint chair. The restraint chair is regulated, used only in situations of imminent danger, and only as a last resort. It is never used for punishment, behavior modification, or as a disciplinary measure.

Ms. Roessler then discussed use of the restraint chair at the Blue Ridge Juvenile Detention Center, noting that each time the restraint chair is used at Blue Ridge, it initiates a call and immediate referral to the Region Ten Community Services Board for an emergency evaluation.

Blue Ridge has used the mobile restraint chair six times for four difference residents since opening in 2002. The situations were all precipitated by an act of self-harm, active suicide attempt, or suicidal ideations. Blue Ridge has never been cited for improper use, and no resident injuries were sustained during its limited use. The last time the facility used the mobile restraint chair was in 2013.

Of the 13 facilities that have a mobile restraint chair, some have had it for a long time, while others recently acquired it. The use of the restraint chair varies in these facilities from seldom to never. None of the JDCs reported frequent or routine use of the restraint chair, and it is always the last option available. Programs that reported a higher frequency of use attributed it to the occasional individual resident. No programs reported incidents of injury as a result of using the restraint chair.

Those that possess the chair but have reported no use have cited specific historic cases that led them to acquire the restraint chair without similar situations presenting afterward.

Research Studies and Findings

Listed on the slide are research studies and findings about the dynamics of the population. The research shows that with well-established protocols, the restraint chair can be used effectively and safely. The legal cases that focused on the use of the restraint chair stem from inappropriate use of the chair and deviation from established protocols, not harm by the device itself.

SureGuard Medical Chair and SureGuard Correctional Chair

These slides show an example of the medical chair and the correctional chair. There are a few companies that make the mobile restraint chair.

In the medical chair, there is a head rest with no hole cut out in the back. The correctional chair has a cut out in the back with no headrest. The cut out is for transitioning a resident with handcuffs into the mobile restraint chair; the hole allows movement for the resident.

Research Studies and Findings Continue

The slide shows researchers who compared three methods of seclusion and restraint and found that restraint chairs are no more likely to cause injury than four-point mechanical restraints. Blue Ridge does not use four-point mechanical restraints.

The restraint chair resulted in a lower chance of staff injury compared to four-point mechanical restraints.

The study aimed to contribute to the overall goal of identifying the unique needs of psychiatric patients and reducing the use of more intrusive methods of de-escalation.

In Blue Ridge's experience, the mobile restraint chair was utilized when it was considered the safer option. The residents are in a sitting position, their breathing is not restricted, and staff can look them in the eye and have conversation. Staff help de-escalate the situation face-to-face rather than having a resident face down on the floor with several staff trying to control their movement. Ms. Roessler finds it a safer option in extreme cases. Blue Ridge does not use the chair often, but when they have, it has been a useful tool.

Restraint episodes can be shortened when residents are sitting up or talking with staff whereas, if residents are on the ground, the situation can be extended or escalated.

Considerations for Enhanced Regulation

JDCs considered the following potential enhancements to the current regulations regarding the chair: (i) require constant monitoring of residents in restraint chairs by staff; (ii) require an immediate mental health referral and a serious incident report to the Department whenever the chair is used; and (iii) require aggregate records be maintained of incidents in which the chair is utilized. Currently, JDCs are not required to submit a serious incident report to the Department when the restraint chair is used, but Ms. Roessler would support this amendment. Furthermore, incident reports are completed and remain in the resident's legal file, but aggregate records of the use of the chair are not maintained.

USE OF EMERGENCY RESTRAINT CHAIR AT COMMONWEALTH CENTER FOR CHILDREN AND ADOLESCENTS

Dr. Jaime M. Bamford, Medical Director, Commonwealth Center for Children and Adolescents

What is the Commonwealth Center?

The Commonwealth Center for Children and Adolescents (CCCA) is located in Staunton and is the only state psychiatric hospital for children. Psychiatric hospitals for children used to be located across the Commonwealth; however, through the years they have gradually closed.

The Commonwealth Center has 48 beds with 4 units of 12 beds each: three adolescent units and one unit for children 12 years of age and younger. There is a mix of male and female patients.

The "bed of last resort" legislation in 2014 provides that if any person in this state needs psychiatric hospitalization, the state hospitals are the last resort. This has caused the state hospitals' census to increase 300% including adult and children patients. The Commonwealth Center is the only hospital for children in the state; there are multiple hospitals for adults.

Last year, the Commonwealth Center received 36% of all temporary detaining orders (TDO) issued for children and adolescents, which equates to 1,000 admissions, the highest in its history. The facility historically receives 25%.

Who comes to CCCA?

Most admissions to the Commonwealth Center result from severe aggressive behavior, either to self or to others. The context of conflict is in the community, at home, or in school.

The average age is 14; 65% are male, 35% are female, 47% are white/Caucasian, and 53% are minorities. This speaks highly to disparities in mental health care. Forty percent are African American, 10% are Hispanic or Asian, and 3% are Alaskan, Native American, or unknown.

Sadly 30% have autism, intellectual disability, and developmental disability. These individuals are mixed within the units. The Commonwealth Center does not have a specific forensic or autism unit. Ten percent are forensic referrals from detention and courts, 10% are under Department of Social Services custody, and 17% are from group homes and residential centers. The length of stay for youth has dropped considerably to seven days. Eight years ago, the average length of stay was approximately 30 days. The Commonwealth Center does not have a lot of time to establish a relationship with a child who only stays for one week.

What do we do at CCCA?

The Commonwealth Center's mission is to provide a safe, high quality psychiatric evaluation and crisis stabilization in order to return the child to the community as quickly as possible, strengthening their hope, resilience, and self-esteem.

The Commonwealth Center believes it should be collaboration- and relationship-based and trauma-focused. The facility perceives all children as traumatized individuals and tries not to re-traumatize them, recognizing some of the Center's behaviors and practices can be traumatic to the children.

The Commonwealth Center recently trained 25 staff in dialectical behavioral therapy. Even though the facility only has the child for seven days, they have begun work on aggression and self-harm behaviors on an inpatient basis.

Where do they go after CCCA?

Sixty-eight percent of CCCA patients return home to family or guardians; 30% return to a detention center, group home, foster care, or residential treatment center, which is high for a psychiatric hospital and is problematic. The Commonwealth Center is sending more children to out-of-state residential centers, meaning these children have exhausted all other options and are being transitioned to Texas, Arizona, Florida, and Pennsylvania.

Use of Emergency Restraint Chair (ERC) at CCCA

The Commonwealth Center has always used seclusion, physical restraints, and mechanical restraints, and previously the facility used bed restraints. The Commonwealth Center changed in 2014; it has only been four years since the facility started using the chair. The decision to move to the restraint chair was based on trauma associated with bed restraints and the desire to make beds a safe place for patients. Also, there were safety issues related to transporting individuals to restraints. Facility staff would pick up children and carry them to their rooms, and while in transport, patients and staff were sometimes injured.

There is a high risk of injuries in a physical restraint. Facilities see more patient and staff injuries related to long physical restraint, such as staff being bitten, spat on, or bruised.

Another benefit of the restraint chair is that it is difficult to move individuals to a restraint, but staff can bring the chair to them, which involves a less dramatic, drawn-out situation.

Steps taken to implement ERC

Once the Commonwealth Center decided to implement the restraint chair, they looked at other facilities and adult state hospitals that used the restraint chair. The Commonwealth Center also reviewed the data related to the emergency restraint chair and children; presented to their local human rights committee, which approved implementation; developed policies and procedures; trained staff before implementation, retrained them at six months, then at 12 months, and now train annually. The Commonwealth Center uses the Therapeutic Options of Virginia as its training method for restraints. They evaluated adherence and reviewed incidents with the chair to determine if staff followed procedure and gave feedback. This was not a punitive process but a learning process to keep all involved individuals safe.

Seclusion and Restraint Policy

The Commonwealth Center may use seclusion and restraints only if there is immediate danger of a child physically harming himself or others. The Commonwealth Center uses physical restraints, where hands are on the patient, and mechanical restraints, such as the restraint chair. The facility also has four-point mechanical restraints.

The Commonwealth Center requires physician orders for seclusion and restraint immediately before or after the incident. Dr. Bamford indicated if she is present with a patient and can see the incident, she can authorize the use of seclusion or restraint. She can also authorize it immediately after the incident because the facility does not have physicians on call 24 hours a day; they are only present during the day. Adult state hospitals have 24-hour coverage. The Commonwealth Center has very few child analysts and psychiatrists. A nurse or physician can also authorize seclusion and restraint.

A direct care staff can initiate a physical restraint or seclusion in an emergency situation but must consult with a physician or nurse immediately afterwards. Mechanical restraints, including four-points or the chair, must be authorized by a nurse or a physician. A direct care staff may not put a patient in the chair without medical oversight.

CCCA Policy on ERC

CCCA's current policies allow for an initial order (for time in the chair) of up to two hours and a maximum time of four hours. The adult hospitals have struggled with prolonged use of the chair with issues like deep vein thrombosis. Although children may be healthier, the facility sets a cap of four hours to reconsider its options at that point.

There is no variation in how the chair may be used. No extra straps and no use of towels or blankets is permissible. The chair must be used as directed and only staff trained in the use of the chair may use it.

Once the patient is in the chair, the patient is moved to a private area, either a seclusion room or a room away from other patients. Staff continuously monitor the situation. The Center for Medicaid Services requires the facility to report on children every five minutes. While in the chair, the patient is also under constant observation; there is always a staff person sitting with them.

The facility abides by the guidelines from the chair manufacturer. The patient must be at least 80 pounds and their feet must lie flat on the floor.

The facility offers fluids and meals with bathroom use at least every two hours or as needed; however, it is very rare for the facility to restrain a child in a chair for that long. Offering the patient something to drink is important because getting them to the chair involves adrenaline; the child gets hot and agitated.

Assessment while in ERC

A direct care staff remains with the restrained child during the entire restraint, talking with him or her and helping the child refocus. The nurses conduct checks every hour for psychological trauma and physical response and determine whether the seclusion or restraint should continue. Checks generally are conducted more frequently than once per hour, but this

is the minimum requirement under the facility's policy. If any changes are noted in the child's condition, staff notifies the physician immediately.

Release from ERC

The facility's general release criteria are that the patient is non-threatening to themselves or to others, is calm, and is re-directable. There are, however, situations where an individual appears calm and redirectable, and is aggressive once released from the chair. The facility will set different criteria for repeated patterns of behavior. For example, if a patient has assured a physician that he is calm and will not hurt anyone, and then immediately assaults staff upon release, the facility will set individual release criteria for that person; however, these situations are rare.

The Commonwealth Center does not seclude or restrain patients longer than is necessary to address the issue.

Advantages of ERC

The Commonwealth Center's goal is never to use physical restraints on any child at any point; however, some dangerous situations require restraints. Most children hate seclusion. Many of them have been traumatized and locked in rooms and will tell staff they do not want to be in their room by themselves where someone looks at them through a small window. They do not know when they are getting out, and there is no human interaction. This can be terrifying for children. Sometimes, the children may request the chair instead of seclusion if they are not calming or if they feel the need to hurt someone and cannot control themselves.

The facility does not use the chair all the time, but some children cannot control themselves. Hands-on restraint could result in more injuries.

Dr. Bamford provided an example of a female child who was too small for the chair, so staff physically restrained her for 15-20 minutes. It was a miserable experience for her, and she asked to be put in the chair. The female child was sexually traumatized and being held down was more traumatic than being in the chair. Unfortunately, her feet did not fully touch the floor, so the facility needed special approval from the patient, the human rights group, and her family to make sure the facility could put something under her feet while in the chair. The female child had been with the facility before and had multiple holds and restraints because she wanted to harm herself. The chair is not ideal, but for some children they have requested it, and it is safe.

When you have a patient who is psychotic or attacking others, it is hard to rationalize with them in that moment and to use the tools of establishing a relationship, engagement, and making them feel safe and calm. Having the ability to restrain in a manner that is safe is an advantage.

The chair avoids a prolonged physical hold, which has the greatest risk of injury or death. When the facility looked at transitioning to the chair, there was a study through a joint commission

that looked at deaths related to restraints; a third of those deaths were adults, a third were children, and a third were geriatric. All of the deceased children had been placed in a hold, either in a prone or supine position, with something compressing their airway or chest. These deaths resulted from physical restraints rather than mechanical restraints.

The facility focuses on engaging with individuals while they are in the chair. This includes face-to-face conversations about what happened and a walk through the chain of analysis so staff can understand how it started and how they could intervene at a different point. This level of engagement is difficult during seclusion because staff is trying to talk through a door with a small window and is not getting a good sense of who the patient is and what he is doing.

The chair provides secure containment for children who are banging their heads, punching walls, or feeling overwhelmed because they are totally out of physical control.

Disadvantages of ERC

Any restraint is traumatic to watch or to take part in and can diminish the patient/doctor relationship.

Sometimes it takes many well-trained staff to use the chair. For a patient weighing 250 pounds, more than four staff are necessary to get the resident into a chair. A leader is necessary to help direct which limb goes into the restraint at which point. When injuries occur related to placement in the chair, they usually result either from inexperienced staff or from staff's failure to adhere to the applicable policies. Sometimes these injuries result from poor training.

Dr. Bamford explained that sometimes patients view time in the chair as a punishment, and while staff know the patients are at the facility for treatment, they still might use the chair as a threat. This is a training issue. In a perfect world, the facility would be restraint free, but that would require highly trained staff.

Impact of ERC

The facility had a reduction of workers' compensation claims as a result of moving to the chair restraint. There were more staff back and limb injuries related to the bed restraints, requiring them to be put on long- and short-term disability.

The facility saw less time in a physical restraint.

The facility had one serious patient injury of a broken wrist. During the investigation, the facility could not determine if it was related to the restraint itself, the placement in the chair, or the aggression beforehand (the patient punched a wall).

Parting Thoughts and Until Then….

Last year, the Commonwealth Center used the restraint chair 400 or 500 times.

Reduction in seclusion and restraint comes from recognizing high-risk, violent patients, screening for aggression, and having a plan. It also requires ensuring development of individualized plans and that intervention strategies are in place. If a child does not handle the transition back from school to the unit well, how will staff handle that transition differently? Would it be better for the child to go to the playground first, or does the child not get along with the other children in the unit and need to be separated? This is what is meant by recognizing aggression.

Facilities also should have the staff available to do the work; and if staff are running around putting out fires, then more incidents of aggression, physical restraints, and seclusion will occur.

It is also important to remember that most injuries happen when new staff have not developed the face-to-face relationships necessary to talk a patient down or are not familiar with the facility's policies and procedures.

The environment must work and be calm. Facilities should have open air, open spaces, room to move, and structured situations. The patients should have productive activities; otherwise, they get bored. There should be engagement with people.

USE OF THE RESTRAINT CHAIR IN JUVENILE FACILITIES

Michael Umpierre, J.D., Deputy Director, Juvenile Justice System Improvement and Communications, Center for Juvenile Justice Reform, Georgetown University

Mr. Umpierre provided the board with his background information. He is from the Center for Juvenile Justice Reform (CJJR), a research organization housed in the McCourt School of Public Policy at Georgetown University. CJJR conducts juvenile justice research and provides training and technical assistance to juvenile justice staff and stakeholders around the country.

Mr. Umpierre's presentation focused on the state of national practice with respect to the use of the restraint chair as well as relevant national standards of the practice. He advised that any facility-based practice should begin with a commitment to safety. The time a young person spends in a detention center or a long-term treatment facility is an opportunity for growth, development, and rehabilitation. In order for young people to grow and develop, they need to feel physically, emotionally, and psychologically safe. This also applies to staff that serve young people in the facilities. Staff must feel safe in order to do their jobs well.

Mr. Umpierre advised the Board, when considering restraint chair practices, to keep in mind Maslow's Hierarchy of Needs, maintaining a focus on safety with the understanding that foundational needs must be met before moving into a higher level of goal achievement.

The other theme to consider when thinking of the restraint chair is CJJR's research in juvenile justice. This research shows that juvenile justice approaches, including what happens at the

facility, must be rooted in a developmental therapeutic approach. CJJR's practices, services, and approaches are designed to promote positive youth development, including youth skill development, as well as to facilitate connections to prosocial, positive adults who will support the youth throughout their lives.

Mr. Umpierre highlighted the conclusion of the meta-analysis of juvenile justice studies conducted by Mark Lipsey and his colleagues: outcomes are significantly improved if the focus is on programs that embrace the therapeutic developmental approach. This was also the central theme of the National Research Council's publication "Reforming the Juvenile Justice Developmental Approach."

Mr. Umpierre discussed the foundational dimensions of a high quality facility approach and environment. Any particular practice relates to the overall culture and environment trying to be achieved within the facility. The research and experience say operating these programs are central and critical dimensions of any facility practice, whether it be opportunities for education and programming; comprehensive medical and behavioral health services; and safe physical and social environment, including prioritizing family engagement, elevating voices of youth in the facilities, and encouraging positive staff-youth relationships.

Behavior motivation systems allow young people to receive incentives for positive behavior and to recognize them for their positive decisions. At the same time, responses to undesired behavior should allow for skill development and restorative justice features. It is not sufficient to have a response for the sake of response; youth need to be taught to behave differently. This cannot be accomplished without a highly trained and supported workforce.

Even in the best facilities critical incidents will occur. It is incumbent on facility staff to be prepared and have approaches to address situations. Facility practices recommended in the Youth and Custody Practice Model should be part of the discussion as the Board thinks about the use of the restraint chair.

Mr. Umpierre advised starting with de-escalation and focusing on ways to stem incidents from increasing in intensity using non-verbal and verbal strategies. Non-verbal strategies may include maintaining eye contact, gestures, and expressions. Para-verbal refers to the notion of altering speech, such as the rate of speech, the tone of voice, and the volume. All can make a difference in terms of de-escalation of youth and preventing incidents.

Facilities should also provide youth with space in order to calm down. Some jurisdictions use a voluntary time-out process where young people are removed from a physical area until they are able to calm down.

When physical force is absolutely necessary, it is incumbent on staff to exercise it in a way that is safe, proportional, well timed, and well executed.

CJJR promotes physical force techniques that are safe, minimize risk of injury to youth and staff, are careful about airway restriction, and do not subject young people to undue joint manipulation.

Proportionality is also a key component. The facility should use only the amount of force necessary to control the situation. As soon as the young person shows signs they are complying and calming down, the level of force should be reduced proportionally.

Well timed means staff is using physical force only when necessary.

Well executed means the facility has an approved set of physical force techniques, and staff execute them in the way intended. This is where a commitment to training, to supervision, and to ongoing quality assurance becomes absolutely essential. In a situation where a practice is rarely used, training is especially important to ensure staff are able to address the situation.

Most professional standards in the juvenile justice field govern facility-based practices and explicitly prohibit the use of fixed restraints, particularly the restraint chair, or limit its use significantly.

The Annie E. Casey Foundation has a set of juvenile detention facility assessment standards produced through the Juvenile Detention Alternative Initiative (JDAI). These standards prohibit the use of fixed restraints. Annie E. Casey Foundation has operated JDAI for over twenty years and is implemented in upwards of 300 counties across the country. The JDAI standards are widely considered to be the most comprehensive the field has to offer.

The American Correctional Association (ACA) Juvenile Detention Standards also address the use of these types of restraints including four- or five point-restraints. They are limited to "extreme instances" and require superintendents to sign off before used. The ACA standards also state they should only be used when other restraints have been ineffective, when the continuum of alternatives has been exhausted, or the safety of the youth is in jeopardy. The standards require facilities to notify the health authority to assess whether the youth's medical and mental health condition warrants a transfer to a mental health unit. If the youth is not transferred to a mental health unit, the ACA standards require continuous direct visual observation of the youth before getting approval from the health authority, subsequent visual observation every 15 minutes, that all restraint procedures are approved by the health authority, and that the facility document every use of the restraint.

Performance Based Standards (PBS) is an initiative developed in 1995 by the Council of Juvenile Correctional Administrators with the support of the OJJDP. It provides a way for juvenile facilities, both detention and correctional facilities, to compare data on key practices with similarly situated facilities around the country. PBS establishes a set of facility-based practice standards as well as indicators and works with the facility and agencies to collect data on those

key indicators, all in an effort to lead a facility improvement process. The PBS staff track the data and work with facilities to improve practices.

PBS does track data on the use of the restraint chair and beds. PBS believes the restraint chair is permissible only as a last resort with supervisor approval and the engagement of health and mental health staff with protocols governing its use.

The National Commission on Correctional Health Care (NCCHC) offers another set of standards. NCCHC permits the use of restraint devices including four-point restraint and the restraint chair. The NCCHC standards are difficult to follow because they have different standards for restraints ordered by custody staff and clinicians. The standards caution against the use of restraints noting "serious injuries and deaths are rare occurrences as a result of the process of applying restraints and many programs choose not to use fixed restraints."

Standards developed by the National Advisory Committee for Juvenile Justice and Delinquency Prevention in 1980 also prohibit their use.

In 2003, the OJJDP conducted a survey of over 7,000 young people in residential placements, representing 205 facilities nationwide, including detention, correction, community–based facilities and camps. Young people were asked whether they were ever subjected to placement in the restraint chair or bed. Only 4% of the surveyed respondents indicated they were put in the chair. This is consistent with the notion that this practice is rarely used.

A 1994 study on conditions of confinement that looked at nearly 1,000 facilities found 5% of juvenile facilities surveyed indicated using fixed restraints.

PBS looked at two months (April and October) of data in no particular year at a participating facility. In April 2006 across 89 correctional facilities, there were 34 incidents in which the restraint chair or bed was used. It was used one time across 45 detention facilities. In April 2018, it was used once across 117 correctional facilities and five times across detention facilities.

Many juvenile justice agencies either exclusively prohibit the use of the restraint chair or in practice just do not use it. Mr. Umpierre noted that Connecticut, Massachusetts, and Missouri never use the restraint chair, but have yet to update their policies. The District of Columbia and Florida have policies that explicitly prohibit the use of the practice.

When developing the Youth and Custody Practice Model and putting together CJJR guidance for sites that use fixed restraints, CJJR ultimately concluded that they would not recommend the use of fixed restraints. The reasons include potential harm to young people and staff. There have been legal cases involving young people who have suffered injuries. The youth and custody population has experienced trauma, and CJJR thinks about what impact a practice like that might have on a young person with a trauma history.

The national data and CJJR's experience nationally shows the vast majority of juvenile justice facilities, both detention and correctional centers, are not resorting to this practice. These are agencies and facilities handling the highest risk, highest need youth in their jurisdictions. They are figuring out alternatives to keep staff and youth safe and achieve positive outcomes.

There have been several legal cases on this practice, including cases brought by the Department of Justice, and CJJR is concerned about legal liability.

OBSERVATIONS ON THE USE OF THE RESTRAINT CHAIR
Kelly Dedel, One in 37 Research, Inc.

Dr. Dedel works as a court appointed monitor and subject matter expert in conditions of confinement cases. Those cases are brought primarily by the Justice Department, although increasingly by groups like the ACLU, Legal Aid Society, and people concerned about the level of safety in detention and correctional facilities.

Over the past 20 years, Dr. Dedel worked with approximately 20 jurisdictions and visited 100 different facilities across the country. Dr. Dedel helps to adopt and promote practices that she sees throughout the country.

Dr. Dedel is not brought in to work in high functioning systems. Rather, she assists systems that are struggling and have high rates of youth injuries, staff injuries, and self-harming behavior. Much of what she sees is a product of failures of full systems at different levels.

Dr. Dedel works with Mr. Umpierre and the Youth in Custody Practice Model, which is built on systems wanting to change and improve. Through her travels across the country, Dr. Dedel understands facilities have the same problems but solve them differently and with different resources. Fundamentally, all are concerned with the safety of the youth and staff, positive outcomes, staff morale, and retention.

Dr. Dedel focused her presentation on two jurisdictions that used the restraint chair and have been subject to litigation. The practice is infrequent; even in places that permit it, the restraint chair is not used often.

Each of these places had policies that resemble the ones discussed today that require engagement, focus on de-escalation, and restraint being the last resort. For various reasons and at various points in time, all of the oversight mechanisms for otherwise well-written policies failed. There were opportunities onsite to ensure the policy was followed, as well as opportunities immediately after the incident and oversight bodies such as the Board; however, none was sufficient to ensure the practices conformed to the policies, which was brought to the attention of the Department of Justice.

The use of the chair is not the starting point. There are things that happen in the moments before the chair is used. The use of the chair is a narrow sliver of what goes on in the facility and during a crisis.

Relationships between youth and staff are essential to preventing and reducing crises. The youth seeing the staff as a source of comfort rather than a source of stress is important to that relationship. This is consistently absent in many facilities. The staff are not seen as someone to help the youth. Promoting these relationships and helping staff figure out how to engage with youth are essential.

Facilities also must have well-trained staff who are present in the moment of crisis; otherwise, no technique will be implemented safely or well.

Because of the prevalence of youth with mental health issues in juvenile justice facilities, there has been a great focus on mental health issues. Many youth escalate quickly due to their trauma experiences. In addition, many of the staff share those same traumatic experiences by virtue of either their pasts or the stressful nature of their work in the facilities. Those two cycles together can spiral out of control in unproductive ways. It is essential to have mental health services working with youth and good staff support in place to understand their experience with trauma in order to create a safe facility.

Dr. Dedel explained that her experience with other jurisdictions is that the use of force and conditions of confinement are always central factors in what draws the attention of the Justice Department. The Justice Department is focused on harm youth experience at the hands of staff through excessive and unnecessary uses of force; at the hands of other youth; and at their own hands through self-harming behaviors and lack of treatment services. The Justice Department also is focused on how staff engaged or chose not to engage in a crisis.

One of the mottos in the Youth and Custody Practice Model involving the use of force is that when it is used, it should be safe, proportional, well-timed, and well-executed.

It is an acceptable and well-embraced philosophy that there should be a continuum and that the least restrictive option necessary for controlling the youth and creating safety should be used. The use of force continuum starts with non-physical measures by giving the youth time, choices, and distance to de-escalate and change staff interaction with the youth. If those steps fail and staff must apply physical restraints, they must follow another continuum and must consider how restrictive those physical holds should be, how many people are involved in implementation, whether the youth is sitting, standing, or lying down supine, and whether other restraint devices are used. These are not linear; they depend upon the youth's level of resistance and their level of control. Once the youth's level of control is restored or begins to be restored, the use of physical force should be scaled back.

It is important to recognize that the chair is one moment in this use of force continuum. There are other options available, but facilities need to determine the best-case scenario to prevent the crisis from escalating and to ensure no one is hurt.

If the chair is not an option, what else can be used? One of the other options to consider is a team restraint. If the chair is used, the device is doing the work and there may be fewer injuries. On the other hand, in a team restraint, the staff are doing the work. An uncontrolled large child with unlimited energy is strong and has adrenaline coursing through his body. A team physical restraint is an exhausting experience for both the youth and staff. In those situations, it is the staff, not the device, exerting the effort, the power, and the control over the youth.

The slide showing the restraint chair and the team restraint depicts a device-powered immobilization and a human-powered immobilization. There are some differences in staff contributions. With the device, once the child is in the chair, staff does not have a physically active role; the device is doing the work. With a team restraint, the staff is doing the work, and more staff are needed to facilitate the immobilization of arms, legs, and head. If the restraint is prolonged, staff will get tired and need replacements. Substitutes must be on hand.

When the Justice Department brings a lawsuit, it submits a findings letter saying the department observed certain incidents that contribute to a pattern or practice where the child's civil rights are being violated by virtue of these practices.

Dr. Dedel looks at the staff and how they respond to the child, the outcomes of the situations for the child and staff, and how the problems evolved. It is useful for quality oversight to videotape incidents via a stationary camera or a handheld camera. Observing this footage can show what staff could do differently with the youth and what the staff needed in order to implement this practice safely. The facilities Dr. Dedel visited had this built in as part of their protocol and policies. Dr. Dedel was able to watch these incidents and did not have to be present at the facility to see things happen.

The two jurisdictions that Dr. Dedel visited were a detention facility and a long-term commitment facility. These were all juvenile justice youth, not mental health or child-welfare placements. One facility used the chair as its deep end use of force continuum. On paper, the facility had a system of lesser restrictive measures, and if one was not sufficient, they moved to the next measure in order to control the youth. The other facility predominately used the chair in situations where the youth was self-harming. Interestingly, the problems clustered around the same themes. The facility had not exhausted the lesser restrictive options but instead dropped to the deep end and used the most extreme without attempting the other options on the continuum. The other piece is the long-duration. Some of the self-harming youth were in the chair for hours. Even though it appeared that the youth had regained control, staff required that they remain in the chair for long periods, well beyond when they appeared to be in control.

Dr. Dedel shared an example dealing with the lack of engagement by staff with restrained residents. The children were monitored with staff physically present, but there was no interaction or engagement. One video showed a child pleading with staff to talk to them. The staff were following their policies and conducting the required checks but were doing nothing in between those checks to calm the child. They had videos but were not using them constructively. The videos would have shown that staff needed more training and better interaction with the child so that staff could know how to address these situations.

The use of the restraint chair had an appearance of punishment due to staff's failure to follow the continuum, the extended duration of the restraint, and the lack of staff engagement with residents during restraint.

Dr. Dedel noted that she has seen similar problems with physical restraint. Terminating the restraint chair, OC spray, or seclusion will not resolve the situation without ensuring that these important values and practices are observed.

In the two facilities Dr. Dedel visited, these concerns were less prevalent when the facilities switched to a team physical restraint. Both jurisdictions resorted to physical restraint when all other alternatives failed. Unlike the chair, staff were engaged with the child and talked him through the physical de-escalation. None of this happened in a vacuum; the facilities talked about the misuse of the chair and how to improve. Things did improve after they started using the physical restraint. It was difficult for those facilities to move away from the use of the chair. Staff were resistant to the idea of losing a tool like the chair due to fear that they might get hurt, or hurt the child, and not be able to control the situation. The staff do not like being under such close scrutiny. Staff need to be trained adequately on the use of alternative methods; otherwise, they or the child will get hurt. While none of these tools are foolproof, through good training and timelines, whether using the chair or transitioning to something else, facilities must ensure they have enough staff with the proper skills to execute these techniques safely.

Dr. Dedel closed with a few things to keep in mind. First, with regard to the message, she encouraged facilities that plan to prohibit the use of any restraint to own the change and openly discuss with staff why the change is necessary, rather than using the DOJ, or other oversight authorities, as the "fall guy."

Second, she encouraged facilities to understand the circumstances in which the chair is used, such as for self-harm or for force situations. Those behaviors have different precursors, different ways to prevent them, and different responses to situations.

Third, she emphasized the importance of providing skill development to staff by giving them enough training, opportunity for drill practice, staff feedback, and other resources, such as videotapes. This is particularly important in situations where the tool is used infrequently.

Fourth, she encouraged facilities to use a reasonable timeline for employing any changes. Facilities may be required by regulation or DOJ mandate to make huge changes in very short periods. Both of the facilities Dr. Dedel visited had 90 days to eliminate the use of the chair and hundreds of staff to train. She advised developing a reasonable and achievable timeline that allows for gradual implementation and constructive use of the implementation period.

She also advised facilities that are eliminating the chair to listen to staff and invite their input regarding what problem the chair solves, why staff feel they need it, and what other alternatives have been effective. These conversations should occur throughout the implementation process as staff input is important, and changes cannot be accomplished without a properly trained workforce.

QUESTION AND ANSWER PERIOD

All the Board members thanked the speakers for their presentations and the varying points of view.

Board Member Hines said the panel probably has seen more mental health issues in the facilities than ever before, and the pattern is playing out throughout the nation in both juvenile and adult facilities. Board Member Hines asked Mr. Umpierre if much of the research shows the chair should never be used, what restraint device should be used.

Mr. Umpierre answered, that based on his research and experience at a DC juvenile facility, in those rare situations when it was needed, the facility used the team restraint approach. There are considerations such as appropriate staffing, a strong influence of mental health professionals in the facility, and a commitment to the therapeutic environment. It did not mean problems did not arise.

Board Member McDougle asked about the team restraint, when there is a four- or five-person team addressing the needs of one child, what that means for the staff ratio and staff resources, particularly since this is not prescribed ahead of time, and extra staff may not be on call when this happens. How should a facility balance the other children's needs while addressing the situation?

Dr. Dedel responded that in the places she worked, certain staff are identified as responders and are part of a crisis team. If there were no incidents, these staff were in the units interacting with the children and running programs. If they were called to leave, there were still sufficient staff on the units to satisfy the ratio requirements and ensure resident safety. Dr. Dedel also indicated some places keep children locked in their rooms while staff responds to an emergency, which is not advisable.

Mr. Houtz responded that Fairfax County Juvenile Detention Center does not use the chair because they have never truly considered it; however, they always managed in those situations.

Regarding staff resources, Mr. Houtz is fortunate to have a facility with a full staff that meets the staff ratios, mostly due to population trends and hiring practices. When events occur that require a staff response, Fairfax places other residents in their rooms to prevent remaining staff from the threat of attack. He acknowledged that these approaches do disrupt case programming until a plan is devised to bring the remaining population back. Regarding the team restraint, Mr. Houtz's facility does Handle with Care training. There are other restraint devices such as soft restraints, which are not reliable and could be slipped off by residents and used as a weapon if they are too loose. This may cause the resident to be re-restrained, which may cause the highest risk of injury to the resident or to staff.

Board Member Kizner said that years ago he worked in a residential school for children with emotional disabilities and does not recall receiving training but remembered being involved in restraints. Board Member Kizner saw many of the issues the presenters talked about when staff do not receive training. He asked whether the Commonwealth Center's seven-day average length of stay is a therapeutic decision or a funding decision.

Dr. Bamford responded that it is a therapeutic decision. At the Commonwealth Center, once the crisis or conflict has abated and the facility has stabilized the child, they are discharged. This is partially due to the facility's mission to serve every child that comes in on a TDO. If the facility does not move them out, they would have 50 or 60 children. This is a significant shift in the Commonwealth Center's mission, which used to be longer term stabilization. The outcome in data does not show that acute hospitalization reduces suicide rates, aggression, or anxiety.

Board Member McDougle asked if the longer term stabilization had an impact on those rates.

Dr. Bamford said she saw a decrease in seclusion and restraint, since the longer a facility has patients, the better the staff can understand their behavior, develop a plan specific for their needs, and intervene prior to a physical intervention. The best practice is to be able to learn by establishing a relationship, but right now, that is challenging.

Board Member Schrad said she has heard from law enforcement officers about the inability to find a bed at the Commonwealth Center when they are on a court- ordered transport and asked, when patients are released, whether they must be released to an aftercare program.

Dr. Bamford responded that the adult system of mandatory outpatient treatment is very weak compared to other states where there are some teeth to a mandatory outpatient court order. Dr. Bamford cannot think of a single child that was court-ordered for treatment. It is all voluntary.

Board Member Schrad recalled Dr. Bamford's comment that the chair was often better received than being under physical restraint and asked how much research there is on the impact of physical restraints on a child? The presenters talked about staffing, resources, and in an ideal world never having to restrain a child.

Dr. Bamford responded that in preparing for this presentation, she could not find anything relating to the child's perspective. When the facility implemented the chair, some negative feedback followed. Regarding the earlier example of the sexually assaulted patient, it took the facility employing four separate physical restraints before they understood that she did not like being physically restrained.

Board Member Schrad said that Dr. Dedel's comments were helpful because the failings had not just been about a piece of equipment, but whether there was proper supervision, interaction, training, and length of time to be successful.

Dr. Dedel said the policies looked fine on paper; it was the implementation that was troubling. If facilities had been following their policies faithfully, they would not have come under the oversight of the Department of Justice. The restraint chair is not an unconstitutional practice, nor is the use of pepper spray, but the misuse of it and the pattern of practice tends to surround those types of tools when facilities are not functioning well, which is why they get the attention of the courts.

Ms. Roessler said the Blue Ridge Juvenile Detention Center videotapes every time the chair is used. The facility requires one or more staff to sit with the youth and talk with them for the duration of the restraint. They are not locked in a room and left there. When the youth starts to show signs of calming down, de-escalating, or being able to follow instruction, they are gradually released from the chair. Blue Ridge follows some of the recommendations presented at this meeting, which may explain why the chair has been a useful tool that has kept some youth more safe.

Dr. Dedel said the places she has worked used videotapes as a tool for staff and addressed Board Member Schrad's question about how the child is experiencing the restraint. Dr. Dedel encouraged gathering information and asking the child about their experience, including what calmed them down and which intervention worked better.

Mr. Umpierre said it is equally important to recognize staff for their good work when they do things the right way and keep youth and staff safe.

Mr. Houtz noted with randomly based aggression there is no time to grab a video camera, but almost every program does have surveillance cameras. The Fairfax County Juvenile Detention Center makes it a practice to review tapes with almost every physical restraint to learn about precipitating events that led up to the incident and what staff did right and wrong. It is equally important to process episodes that went extremely well where staff responded correctly as events that did not go well. Mr. Houtz noted the common themes in the literature that address using the chair according to the manufacturer's directions/instructions and the complexity of training for something that is used rarely.

Dr. Bamford noted there is adrenaline flowing for the patient and the staff. Sometimes staff need to step away to take care of themselves before returning to work with the patients. The staff are heightened and on edge, so the facility is focusing more on the debriefing process.

Director Block asked Dr. Bamford how many staff it takes to transition a child to the chair safely.

Dr. Bamford responded that generally it takes an average of four or five staff members (one staff person for each limb and personnel to manage the straps). It has been done with three staff persons if the facility had a good plan. .

Director Block followed up by asking whether staff are trained generically on the use of the chair or whether there is specific training.

Dr. Bamford responded they do not do specific limb training; nurses are the leaders and they direct the restraint. A nurse is on every unit in addition to nurse managers. All staff is trained in general, and all sit in the chair, feel the straps, and strap them on themselves so they have a sense of what it is like to sit in the chair. For big patients, it may take six or seven staff members to safely move the child into the chair. They can be strong.

Director Block asked Dr. Dedel, while recognizing that all kinds of restraints are susceptible to misuse, whether the chair is uniquely susceptible to certain kinds of bad practices because the chair allows staff to disengage.

Dr. Dedel responded that this is true of all the deep end types of restraints and pepper spray. That is not to say that team restraints are not misused. Once the child is in the chair, the amount of staff involvement is decreased and five staff members are not needed to continuously hold the child. There might be ten staff needed to get the child in the chair, but once in the chair, there is one staff member to supervise and de-escalate the child, whereas in physical restraint throughout the time that child is escalated there are four or five staff exerting physical and emotional energy to maintain that child's position on the floor. While that is problematic in one way, it is also a silver lining in other ways because they cannot hold that position forever. Dr. Bamford indicated that she saw unnecessarily extensive periods of restraint with the chair, and this was not prevalent with the team restraint. People get tired, absent the child who is being triggered by the amount of physical contact by other people; therefore, team restraints generally were brought under control faster. Dr. Dedel thinks what it takes to get the child in the chair, is a point worth considering, and that is where staff sustain the most injuries.

Director Block asked whether it is a more complicated maneuver then having a prone restraint.

A panelist responded that one child has died from a supine restraint in a residential facility. There are unsafe practices around restraints and the staff need to be aware of these practices. No restraint is ideal or 100% safe.

Board Member Schrad asked if the child's medical condition and the child's medication are taken into consideration during restraint situations.

Dr. Bamford answered that as part of the Commonwealth Center's admission orders, they screen for contraindications to the chair such as an unstable medical condition or uncontrolled seizures. The process includes documenting why staff used the restraint if the patient had a contraindication, how the risk outweighed the contraindication, and what staff used to monitor the contraindications.

Dr. Dedel said that one of the jurisdictions she worked in performs the same review of medical contraindications and recently expanded to looking at traumatic experiences.

DIRECTOR'S COMMENTS
Andrew K. Block, Jr. Director, Department

Director Block discussed the transformation report, which was released the previous week. This report has been submitted annually since 2016 and documents specific enumerated items of the Department's transformation efforts. Director Block promised to send the report to the Board and encouraged them to read the executive summary, which has key data points. Some highlighted outcomes experienced in FY 18 included a decrease in the use of isolation, the number of incidents, and the number of staff injured. Last year the Department hit an all-time low in the number of youth placed in juvenile detention centers and the number of new cases coming into the system.

Director Block reminded the Board that they will be asked to vote on the use of the restraint chair in the detention centers and the juvenile correctional centers. The Board will vote on either maintaining the status quo, permitting the restraint chair under much more specific conditions, or eliminating the chair in state and local facilities. These proposals will be discussed in January.

BOARD COMMENTS
There were no Board comments.

NEXT MEETING
The next Board meeting is scheduled for January 8, 2019, at Main Street Centre, 600 East Main Street, Richmond.

ADJOURNMENT
Chairperson Woolard adjourned the meeting at 12:18 p.m.

DEPARTMENT CERTIFICATION ACTIONS
November 28, 2018

DEPARTMENT CERTIFICATION ACTION November 28, 2018: Certified Chesapeake Juvenile Services and Post-dispositional Program until November 8, 2021.
Pursuant to 6VAC35-20-100C.2, if the certification audit finds the program or facility in less than 100% compliance with all regulatory requirements and a subsequent status report, completed prior to the certification action, finds 100% compliance on all regulatory requirements, the director or designee shall certify the facility for a specific period of time, up to three years.

DEPARTMENT CERTIFICATION ACTION November 28, 2018: Certified the Lynchburg Youth Group Home until September 7, 2021.
Pursuant to 6VAC35-20-100C.2, if the certification audit finds the program or facility in less than 100% compliance with all regulatory requirements and a subsequent status report, completed prior to the certification action, finds 100% compliance on all regulatory requirements, the director or designee shall certify the facility for a specific period of time, up to three years.

DEPARTMENT CERTIFICATION ACTION November 28, 2018: The Andrew B. Ferrari Argus House age range of 13-17 remains effective for the general population of the facility. A stipulation is added to the current certification certificate stating; "Residents in the Transitional Living Program can be accepted through age 20 and will be counted in the certified capacity of 12."

DEPARTMENT CERTIFICATION ACTIONS
December 6, 2018

DEPARTMENT CERTIFICATION ACTION December 6, 2018: Issued a conditional certification to Summit Transitional Living Program valid to June 7, 2019.
Pursuant to 6VAC35-20-100 B. A conditional certification for up to six months will be issued to a new program or a newly opened facility that:
1. Demonstrates 100% compliance with (i) all critical regulatory requirements and (ii) any physical plant regulatory requirements;
2. Demonstrates at least 90% compliance with all noncritical regulatory requirements and has an acceptable corrective action plan; and
3. Has no unresolved health, welfare, or safety violations.

CERTIFICATION AUDIT REPORT
TO THE
DEPARTMENT OF JUVENILE JUSTICE

PROGRAM AUDITED:
Chesapeake Juvenile Services
420 Albemarle Drive
Chesapeake, VA 23320
(757) 382-6364
Mary Riley, Interim Superintendent
mriley@cityofchesapeake.net

AUDIT DATES:
June 4-5, 2018

CERTIFICATION ANALYST:
Mark Ivey Lewis

CURRENT TERM OF CERTIFICATION:
November 9, 2015 – November 8, 2018

REGULATIONS AUDITED:
6VAC35-101 Regulation Governing Juvenile Detention Centers

PREVIOUS AUDIT FINDINGS June 6, 2015:
6VAC35-51-810.E – Medication (Mandatory)
6VAC35-51-930.C – Religion
6VAC35-140-560.B – Room Confinement and Isolation
6VAC35-140-560.C – Room Confinement and Isolation

CURRENT AUDIT FINDINGS – June 5, 2018:
99.10% Compliance Rating

No repeated deficiency from previous audit.

6VAC35-101-80 (A). Serious incident reports. CRITICAL
6VAC35-101-80 (D). Serious incident reports.
6VAC35-101-990 (A). Tuberculosis screening. CRITICAL
6VAC35-101-1030 (A). Residents' health care records. CRITICAL

DEPARTMENT CERTIFICATION ACTION: Certified Chesapeake Juvenile Services and Post-dispositional Program until November 8, 2021.
Pursuant to 6VAC35-20-100C.2, if the certification audit finds the program or facility in less than 100% compliance with all regulatory requirements and a subsequent status report, completed prior to the certification action, finds 100% compliance on all regulatory requirements, the director or designee shall certify the facility for a specific period of time, up to three years.

TEAM MEMBERS:
Mark Ivey Lewis, Team Leader
Shelia Palmer, Central Office
Clarice Booker, Central Office
Deborah Hayes, Central Office
Mario Woodward, Richmond Juvenile Services
Lorenzo Case, Newport News JDC

Gina Mingee, Merrimac JDC
Justin Ford, Prince William County
Nina Joyner, Central Office
Tommy Clark, Norfolk JDC
Joseph Barton, VA Beach JDC
John Adams, Central Office

POPULATION SERVED:
Chesapeake Juvenile Services (CJS) is a 100-bed regional facility located at 420 Albemarle Drive, Chesapeake, Virginia 23322 and is a division of Chesapeake Human Services. The facility serves the cities of Chesapeake, Portsmouth, Suffolk, Franklin and the counties of Isle of Wight and Southampton. CJS provides services to residents in the following programs: Pre-Disposition, Post-Disposition, Community Placement Program (CPP) and Detention Re-entry.

The Chesapeake Juvenile Services has ten (10) beds designated for Post-Disposition, ten (10) beds for CPP, and ten (10) flexible beds that are used for Detention Re-entry or other programs as needed. The remaining 70 beds are generally utilized for Pre-Dispositional residents. Included in that 70-bed count is one female unit and four male units.

PROGRAMS AND SERVICES PROVIDED:
CPP, Detention Re-entry and Post-Disposition residents receive assessment and case management services. They have assigned staff that work closely with their parent/legal guardians, probation officers and other involved professionals. They receive services in anger management, substance abuse education/treatment, conflict resolution, life skills and independent living skills.

CJS currently provides staffing and operates by a team approach. There are four teams consisting of juvenile service specialists and supervisors who provide direct care security services and handle daily operations. The facility has support services staff which consist of education, medical, mental health, food services, housekeeping, laundry and maintenance. The goals of the program are to re-integrate juveniles with their families and into the communities in such a way that they have the best opportunity to create positive and productive lives as juveniles and adults. Services offered to youth in the Post- Dispositional program include anger management, substance abuse education/treatment, conflict resolution, life skills, and independent living skills groups.

- Direct:
  - Security
  - Education
    - Educational Assessment
    - Regular and Special Education Curriculum
    - GED Preparation and Testing
    - Post-graduate certification education services
  - Medical/Physical Assessment
  - Onsite Nursing Care
  - Mental Health Assessments
  - Recreational Programming
  - Community Services
    - Fatherhood Initiative Program
    - Aggression Replacement Therapy (ART)
    - Substance Abuse group services

  - Religious programming
  - Chesapeake Sheriffs and Police Mentoring program
- Service accessed in the community:
  - On-site religious services twice per week
  - Guest speakers
  - Community Leaders – community leaders, organizations, and agencies
  - Local entertainment representatives and group performances
  - Career Fair Representative presentations
  - Resident assistance in conduct of City of Chesapeake's Annual Plant Sale

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CORRECTIVE ACTION PLAN
TO THE
DEPARTMENT OF JUVENILE JUSTICE

FACILITY/PROGRAM: **Chesapeake Juvenile Services**

SUBMITTED BY: **Mary Riley, Interim Superintendent**

CERTIFICATION AUDIT DATES: **June 4-5, 2018**

CERTIFICATION ANALYST: **Mark Ivey Lewis**

Under Planned Corrective Action indicate; 1) The cause of the identified area of non-compliance. 2) The effect on the program. 3) Action that has been taken/will be taken to correct the standard cited. 4) Action that will be taken to ensure that the problem does not recur.

6VAC35-101-80 (A). Serious incident reports. CRITICAL
A. The following events shall be reported, in accordance with department procedures, within 24 hours to (i) the applicable court service unit; (ii) either the parent or legal guardian, as appropriate and applicable; and (iii) the director or designee:

1. Any serious incident, accident, illness, or injury to the resident;
2. The death of a resident;
3. Any suspected case of child abuse or neglect at the detention center, on a detention center-sponsored event or excursion, or involving detention center staff as provided in 6VAC35-101-90 (suspected child abuse and neglect);
4. Any disaster, fire, emergency, or other condition that may jeopardize the health, safety, and welfare of residents; and
5. Any absence from the detention center without permission.

Audit Finding:
One of five randomly selected Child Protective Services (CPS) incidents had not been reported (entered into BADGE) in accordance with department procedures. Further investigation revealed that between 7/15/15 and 12/4/16 no serious incidents including two additional CPS allegations had been entered into BADGE in accordance with department procedures.

Two of five serious incident reports reviewed either did not have documentation that the court service unit was notified about the incident or did not have documentation of the date and time that notification was made to the CSU and parent.

Program Response

Cause:
Under the previous administration, there was no oversight or reporting mechanism to ensure all BADGE reports were completed in a timely manner.

Effect on Program:
Caused us to be in noncompliance and DJJ did not receive required data in a timely manner.

Planned Corrective Action:
All internal incident reports will continue to be reviewed by administrators. All BADGE reports will be reviewed by administrators to ensure appropriate reports are completed and sent to DJJ within the prescribed 24-hour window. We are broadening the scope beyond Administrators to include leaders as designees who can enter BADGE reports. This ensures someone is on sight 24 hours a day who has BADGE access. Training will take place on June 21, 2018 to ensure all leaders are formally trained.

Completion Date:
June 21, 2018

Person Responsible:
Mary Riley, Interim Superintendent
Tara Alexander, Assistant Superintendent-Detention

Current Status on September 25, 2018: Compliant
No Child Protective Services (CPS) incidents had occurred since the last audit on June 4-5, 2018. Therefore, it could not be determined that CPS incidents were being reported (entered into BADGE) in accordance with department procedures.

Seven of seven serious incident reports reviewed were entered into BADGE in accordance with department procedures. Seven of seven serious incident reports reviewed included documentation that the incidents had been communicated to the applicable court service unit within 24 hours.

6VAC35-101-80 (D). Serious incident reports.
D. The facility shall (i) prepare and maintain a written report of the events listed in subsections A and B of this section and (ii) submit a copy of the written report to the director or designee. The report shall contain the following information:

1. The date and time the incident occurred;
2. A brief description of the incident;
3. The action taken as a result of the incident;
4. The name of the person who completed the report;
5. The name or identifying information of the person who made the report to the applicable court service unit and to either the parent or legal guardian, as appropriate and applicable; and
6. The name or identifying information of the person to whom the report was made, including any law-enforcement or child protective service personnel.

Audit Finding:
Five of five Serious Incident Reports (SIRs) reviewed did not have the name or identifying information of the person who made the report to the applicable court service unit and to the parents.

Program Response

Cause:
There was an assumption that if no other person was identified, the author of the report made all notifications.

Effect on Program:
Not all elements of 6VAC35-101-80 (D) were completed leading to non-compliance with this regulation.

Planned Corrective Action:
Because all data is transferred to BADGE from the internal incident report, we met with SoftTec representatives on June 6, 2018 and again on June 8, 2018 to discuss and submit a revision of our report to specifically require the parallel data requirements. Additionally, all leaders received an email on June 13, 2018 with BADGE instructions and a follow-up training is scheduled for June 21, 2018.

Completion Date:
BADGE instructions were forwarded by email to leaders on June 13, 2018. Training of leaders will take place on June 21, 2018. We are awaiting action from SoftTec to revise our database.

Person Responsible:
Mary Riley, Interim Superintendent
Tara Alexander, Assistant Superintendent-Detention

Current Status on September 25, 2018: Compliant
Seven of seven serious incident reports reviewed included documentation that the reports were communicated to the applicable court service unit and to the parents.

6VAC35-101-990 (A). Tuberculosis screening. CRITICAL
A. Within five days of admission to the facility each resident shall have had a screening assessment for tuberculosis. The screening assessment can be no older than 30 days.

Audit Finding:
One of 15 medical files reviewed did not have a screening assessment for tuberculosis.

One of 15 medical files reviewed had a screening assessment for tuberculosis that was completed later than five days after admission to the facility.

Program Response

Cause:
CJS experienced a period of time when a temporary RN was employed while we negotiated a contract with Correct Care Solutions (CCS). This was pursued as a measure to ensure excellent medical services for residents. We had previously been unable to compete for reliable staff due to the salaries offered by the city.

Effect on Program:
Anytime a resident is not screened for TB, this creates a potential health concern. These two files were not in compliance with the corresponding DJJ regulation because one test was not performed and a second file reflected the test was conducted 5 days after the prescribed five day regulation.

Planned Corrective Action:
On February 15, 2017, CJS began our contract with CCS. With a full understanding of the DJJ regulations required of the medical program, we adopted a practice of a compliance checklist, monitored by the nursing supervisor and checked daily, to ensure that all residents in the facility have been screened for TB. The compliance checklist includes the name of the resident, date of admission, the date of the TB assessment, the date of the Physical Assessment and type of follow-up care (if applicable). This practice has been in place since the inception of the CCS contract with CJS.

Completion Date:
February 15, 2017

Person Responsible:
Christina Wilder, RN

Current Status on September 25, 2018: Compliant
Ten of ten medical files reviewed had documentation that a screening assessment for tuberculosis had been completed within five days of admission to the facility.

6VAC35-101-1030 (A). Residents' health care records. CRITICAL
A. Each resident's health record shall include written documentation of (i) the initial physical examination, (ii) an annual physical examination by or under the direction of a licensed physician including any recommendation for follow-up care, and (iii) documentation of the provision of follow-up medical care recommended by the physician or as indicated by the needs of the resident.

Audit Finding:
One of 15 medical files reviewed did not have documentation of an initial physical examination on a resident who was admitted to CJS on February 9, 2018 and discharged from the facility on February 19, 2017.

Program Response

Cause:
CJS experienced a period of time when a temporary RN was employed while we negotiated a contract with Correct Care Solutions (CCS). This contract was pursued as a measure to ensure

excellent medical services for residents. We had previously been unable to compete for reliable staff due to the salaries offered by the city.

Effect on Program:
The absence of this resident's physical exam created a potential health concern. This file did not comply with the corresponding DJJ regulation because this exam did not take place.

Planned Corrective Action:
On February 15, 2017, CJS began our contract with CCS. With a full understanding of the DJJ regulations required of the medical program, we adopted a practice of a compliance checklist, monitored by the nursing supervisor and checked daily, to ensure that all residents in the facility have been screened for TB. The compliance checklist includes the name of the resident, the admit date, the date of the TB assessment, the date of the Physical Assessment and type of follow-up care (if applicable). This practice has been in place since the inception of the CCS contract with CJS.

Completion Date:
February 15, 2017

Person Responsible:
Christina Wilder, RN

Current Status on September 25, 2018: Compliant
Eight of eight applicable medical files reviewed had documentation that an initial physical examination had been conducted.

CERTIFICATION AUDIT REPORT
TO THE
DEPARTMENT OF JUVENILE JUSTICE

PROGRAM AUDITED:
Lynchburg Youth Group Home
1404 Florida Avenue
Lynchburg, VA 24501
Phone 434 455- 4060
Danny W. Fallen, Assistant Director of Human Services
danny.fallen@lynchburgva.gov

AUDIT DATES:
April 9-10, 2018

CERTIFICATION ANALYST:
Shelia L. Palmer

CURRENT TERM OF CERTIFICATION:
August 23, 2016 – September 7, 2018

REGULATIONS AUDITED:
6VAC35-41 Regulation Governing Juvenile Group Homes

PREVIOUS AUDIT FINDINGS - August 19, 2016
100% Compliance (New Facility)

CURRENT AUDIT FINDINGS – April 9-10, 2018:
95.89% Compliance Rating
6VAC35-41-90 (A) Serious incident reports (Critical)
6VAC35-41-165 (A) Employee tuberculosis screening and follow-up
6VAC35-41-165 (B) Employee tuberculosis screening and follow-up
6VAC35-41-170 Physical examination
6VAC35-41-180 (A). Employee and volunteer background checks (Critical).
6VAC35-41-310.B Personnel records
6VAC35-41-1210 (A). Tuberculosis screening (Critical)
6VAC35-41-1240 Suicide prevention (Critical)
6VAC35-41-1280. (E) Medication (Critical)
6VAC35-41-1280. (F) Medication
6VAC35-41-1280. (H) Medication (Critical)

DEPARTMENT CERTIFICATION ACTION: Certifed the Lynchburg Youth Group Home until September 7, 2021.
Pursuant to 6VAC35-20-100C.2, if the certification audit finds the program or facility in less than 100% compliance with all regulatory requirements and a subsequent status report, completed prior to the certification action, finds 100% compliance on all regulatory requirements, the director or designee shall certify the facility for a specific period of time, up to three years.

TEAM MEMBERS:
Shelia L. Palmer, Team Leader
Clarice Booker
Deborah Hayes
Mark Lewis
John Adams
Tom Keating
Patrick Hines

Michelle Justiniano

POPULATION SERVED:
Lynchburg Youth Group Home (LYGH) provides residential shelter or long term services for at-risk adolescent males and females, between the ages of 12 and 17, who are DSS or Court ordered into the program. It has a capacity of 28 residents (16 male and 12 female). The youth may be referred to two main programs as outlined below:

FACILITY DESCRIPTION:
The City of Lynchburg, since the mid – 70's have provided services in a residential setting to youth and families. Originally, the names of the facilities were Crossroads House, a co-ed short-term shelter facility, Opportunity House, a long-term program for males and SPARC House (Support Promote Adolescent Residential Care), a long-term program for females. In the year 2000, Juvenile Services devised a program called Single Point of Entry, which worked with assessments, Shelter Care and Truancy. All of these programs were housed in historical homes that were not conducive to the environmental needs of the youth we served.

In 2014, through a proposal by our Director of Juvenile Services and approved by City Council, funds were appropriated for the Lynchburg Youth Group Home (LYGH). The LYGH is an 18,000 square foot facility co-located on a 10-acre parcel with the Lynchburg Regional Juvenile Detention Center (LRJDC) at 1404 Florida Avenue, Lynchburg, VA (Juvenile Services Complex). LYGH staff, community agencies, CSU and other advocates for the facility had a hand in the design and features of the facility. In an effort to maximize resources of Juvenile Services and being co-located with the Lynchburg Regional Juvenile Detention Center a variety of service costs were reduced. LRJDC provide food service and medical services to the youth at the group home. Staffs are being cross-trained in an effort to have a better staffing ratio and to incorporate a seamless system.

The living area is called a "suite." One and two person bedrooms provide youth with the space needed. The suite also contains two bathrooms, with showers in each one, washer and dryer, audio/visual equipment, an open "quiet area" equipped with a gliding chair where a resident may move to when there is a potential crisis and a "cool down" time is need and double locked medicine closets.

LYGH is privileged to have a half court indoor gym, a cafeteria (which doubles as a visiting area for families), a medical examining room, two separate meeting/training rooms, a video arraignment room, which has TTY capabilities, and PREA contact area. The facility has a Direct Care work area that is equipped with computers for communication purposes and an intake area for obtaining pertinent information from all new intakes. The front lobby is equipped with a full standing metal detector and restrooms for visitors. LYGH has three fully equipped classrooms that are used for groups and the administrative offices provide work space for the Casework Supervisors, Caseworker's, PREA/Certification Analyst, and Assistant Director of Human Service/Juvenile Division. The administrative area also has a large meeting room, kitchen, restrooms, filing room and copy area.

Finally the facility has video, and in some areas audio/visual capabilities. The outside of the facility is beautifully manicured, and at the lower level of the grounds, there is a full basketball court. Our entrance sign notes the area as being Juvenile Services Complex.

PROGRAMS AND SERVICES PROVIDED:
The Lynchburg Youth Group Home is designed to assist youths who are placed in a staff secure environment in an effort to assist the youth and family during this stressful period. LYGH staff

focuses on the here and now problems that a youth brings to the program and makes every effort to maximize the community resources during the residents stay and when they complete the program. LYGH's goal is to stabilize and provide the youth and family with alternate ideas for future reference.

SERVICES PROVIDED:

- Health Care – a full time nurse is on the Complex site Mon-Friday and is available for on-call questions. On Wednesdays, a physician is on site for any pertinent health care needs.
- Staff provide pertinent groups and assignments to the youths.
- Staff offers guidance in life skills, i.e., washing clothes, cleaning living area, eating etiquette, hygiene, etc.
- AMS (Anger, Moral Reasoning and Skills Streaming) is a short version of ART.
- Caseworkers provide individual and group meetings to discuss pertinent issues.
- Caseworkers meet with families to discuss pertinent behaviors that the youth is exhibiting and to discuss what resources the family needs to be successful.

COMMUNITY:

- Horizon Mental Services
- Krises Mobile Unit
- Lawyers Missionary
- Jubilee Center
- Liberty University Law Students (Street Law)

CORRECTIVE ACTION PLAN
TO THE
DEPARTMENT OF JUVENILE JUSTICE

FACILITY/PROGRAM:	Lynchburg Youth Group Home
SUBMITTED BY:	Dan Fallen, Program Manager
CERTIFICATION AUDIT DATES:	April 9-10, 2018
CERTIFICATION ANALYST:	Shelia L. Palmer

Under Planned Corrective Action indicate; 1) The cause of the identified area of non-compliance. 2) The effect on the program. 3) Action that has been taken/will be taken to correct the standard cited. 4) Action that will be taken to ensure that the problem does not recur.

6VAC35-41-90 (A). Serious incident reports. CRITICAL
A. The following events shall be reported within 24 hours to: (i) to the placing agency, (ii) to the parent or legal guardian, or both, as applicable and appropriate, and (iii) the director or designee:

1. Any serious incident, accident, illness, or injury to the resident;
2. Any overnight absence from the facility without permission;
3. Any runaway;
4. Any fire, hostage or emergency situation, or natural disaster that jeopardizes the health, safety, and welfare of the residents; and

5. Any suspected case of child abuse or neglect at the facility, on a facility event or excursion, or involving facility center staff as provided in 6VAC35-41-100 (suspected child abuse or neglect).

The 24-hour reporting requirement may be extended when the emergency situation or natural disaster has made such communication impossible (e.g., modes of communication are not functioning). In such cases, notice shall be provided as soon as feasible thereafter.

Audit Finding:
One of five serious incident reports reviewed was not reported within the 24-hour reporting requirement.

Program Response

Cause:
Information was not received by DJJ in a timely manner as per regulatory requirement.

Effect on Program:
No residents were adversely affected by this issue.

Planned Corrective Action:
The Compliance Manager, or designee for the Group Home, will notify the Certification Unit telephonically, at the time of the incident. Group Home Staff will then follow up with the completed Serious Incident Report to DJJ within 8 hours or the next business day by the facility.

Completion Date:
April 11, 2018.

Person Responsible:
Facility Administrative Staff.

Current Status on July 9, 2018: Non-Compliant
One of five serious incident reports reviewed was not reported within the 24-hour reporting requirement.

Current Status on October 9, 2018: Compliant
Twenty of 20 serious incident reports reviewed were reported within the 24-hour reporting requirement.

6VAC35-41-165 (A). Employee tuberculosis screening and follow-up.
On or before the employee's start date at the facility each employee shall submit evidence of freedom from tuberculosis in a communicable form that is no older than 30 days. The documentation shall indicate the screening results as to whether there is an absence of tuberculosis in a communicable form.

Audit Finding:
Two of five new employee case files reviewed did not have documentation that the employee had submitted, prior to or on their start date, evidence of freedom from tuberculosis in a communicable form that is no older than 30 days.

Program Response

Cause:
Due to oversight of the Group Home Administrative Staff, they did not notify the facility nurse to coordinate this initiative at the time of hire.

Effect on Program:
No impact on the program or residents at the facility. The two individuals have had a TB screening completed as of April 11, 2018.

Planned Corrective Action:
TB Screening will be conducted at the time of hire.

Completion Date:
April 11, 2018

Person Responsible:
Group Home Administrative Staff will have TB screening completed at the time of the pre-employment physical exam with Health Works.

Current Status on July 9, 2018: Not determined
There were no new employees hired during the status review period of May 1, 2018 through July 3, 2018.

Current Status on October 9, 2018: Not determined
There were no new employees hired during July 4, 2018 and October 9, 2018.

6VAC35-41-165 (B). Employee tuberculosis screening and follow-up.
B. Each employee shall submit evidence of an annual evaluation of freedom from tuberculosis in a communicable form.

Audit Finding:
Two of three employee's files did not have documentation of an annual evaluation of freedom from tuberculosis in a communicable form.

Program Response

Cause:
Due to an oversight, Group Home Administrative Staff did not coordinate with the facility nurse to schedule annual TB screenings on all staff.

Effect on Program:
None.

Planned Corrective Action:
TB Screening will be conducted by the facility nurse on all staff semi-annually effective April 11, 2018.

Completion Date:
April 11, 2018.

Person Responsible:
Group Home Administrative Staff in coordination with the facility nurse.

Current Status on July 9, 2018: Compliant
Three of three employee's files had documentation of an annual evaluation of freedom from tuberculosis in a communicable form.

6VAC35-41-170. Physical examination.
When the qualifications for a position require a given set of physical abilities, all persons selected for such positions shall be examined by a physician at the time of employment to ensure that they have the level of medical health or physical ability required to perform assigned duties. Persons hired into positions that require a given set of physical abilities may be reexamined annually in accordance with written procedures.

Audit Finding:
Two of five new employees did not have documentation of a physical examination.

Program Response

Cause:
Due to oversight by the Group Home Administrative Staff.

Effect on Program:
None.

Planned Corrective Action:
All new hires will be required to go to Health Works Wellness for a physical exam prior to starting employment with Lynchburg Youth Group Home.

Completion Date:
April 11, 2018.

Person Responsible:
Group Home Administrative Staff and referral to Health Work Wellness Service.

Current Status on July 9, 2018: Not determined
There were no new employees hired during the status review period of May 1, 2018 through July 3, 2018.

Current Status on October 9, 2018: Not determined
There were no new employees hired during July 4, 2018 and October 9, 2018.

6VAC35-41-180 (A). Employee and volunteer background checks. CRITICAL

A. Except as provided in subsection B, all persons who (i) accept a position of employment at, (ii) volunteer on a regular basis and will be alone with a resident in the performance of their duties, or (iii) provide contractual services directly to a resident on a regular basis and will be alone with a resident in the performance of their duties in a juvenile residential facility shall undergo the following background checks, in accordance with § 63.2-1726 of the Code of Virginia, to ascertain whether there are criminal acts or other circumstances that would be detrimental to the safety of residents in the facility:

1. A reference check;
2. A criminal history check;
3. A fingerprint check with the Virginia State Police and Federal Bureau of Investigations (FBI);
4. A central registry check with Child Protective Services; and
5. A driving record check if applicable to the individual's job duties

Audit Finding:
One of five new employees files reviewed did not have documentation that a central registry search by Child Protective Services was checked to ascertain whether there were criminal acts or other circumstances that would be detrimental to the safety of residents in the facility.

Program Response

Cause:
Oversight by the Group Home Administrative Staff.

Effect on Program:
None.

Planned Corrective Action:
New employees will not start work at the facility prior to receipt of positive background information results.

Completion Date:
April 11, 2018.

Person Responsible:
Administrative Staff and Administrative Assistant.

Current Status on July 9, 2018: Not determined
There were no new employees hired during the status review period of May 1, 2018 through July 3, 2018.

Current Status on October 9, 2018: Not determined
There were no new employees hired during July 4, 2018 and October 9, 2018.

6VAC35-41-310 (B). Personnel records.
B. The records of each employee shall include:

1. A completed employment application form or other written material providing the individual's name, address, phone number, and social security number or other unique identifier;
2. Educational background and employment history;
3. Documentation of required reference check;
4. Annual performance evaluations;
5. Date of employment for each position held and date of separation;
6. Documentation of compliance with requirements of Virginia law regarding child protective services and criminal history background investigations;
7. Documentation of the verification of any educational requirements and of professional certification or licensure if required by the position;
8. Documentation of all training required by this chapter and any other training received by individual staff; and
9. A current job description.

Audit Finding:
Two of five relief staff files reviewed were missing documentation of an evaluation in 2017.

Program Response

Cause:
Unclear communication to supervisors from the Group Home Administrative Staff.

Effect on Program:
None.

Planned Corrective Action:
Effective April 11, 2018, all assigned staff will receive an annual evaluation.

Completion Date:
April 11, 2018.

Person Responsible:
Group Home Administration and Supervisors.

Current Status on July 9, 2018: Compliant:
Five of five relief staff files reviewed had documentation of an evaluation in 2018.

6VAC35-41-1210 (A). Tuberculosis screening. CRITICAL
A. Within seven days of placement, each resident shall have had a screening assessment for tuberculosis. The screening assessment can be no older than 30 days.

Audit Finding:
One of 15 applicable case files reviewed had documentation of a tuberculosis screening that was older than 30 days.

Program Response

Cause:
Oversight on facility's intake procedures.

Effect on Program:
None.

Planned Corrective Action:
TB screening will be conducted within 3 days of resident's admission.

Completion Date:
April 11, 2018

Person Responsible:
Group Home Administration and facility nurse.

Current Status on July 9, 2018: Compliant:
Two of two applicable case files reviewed had documentation of a tuberculosis screening within seven days of placement.

6VAC35-41-1240. Suicide prevention. CRITICAL
Written procedure shall provide (i) for a suicide prevention and intervention program, developed in consultation with a qualified medical or mental health professional, and (ii) for all direct care staff to be trained in the implementation of the program.

Audit Finding:
There was no documentation that the suicide prevention plan was developed in consultation with a medical or mental health professional.

Program Response

Cause:
The local mental health services provider has refused to sign off on the facility's mental health policy and procedures; stating that they are mandated to provide services our facility.

Effect on Program:
None.

Planned Corrective Action:
Lynchburg Youth Group Home's Suicide Prevention and Intervention Plan was developed in consultation with and signed by Dr. Petry, our medical services provider. All staff have been trained in the implementation of this program.

Completion Date:
April 11, 2018.

Person Responsible:
Administrative Staff.

Current Status on July 9, 2018: Compliant:
There was documentation that the suicide prevention plan was developed in consultation with a

medical or mental health professional.

During the Status Visit, Lynchburg Youth Group Home presented their previous suicide prevention plan, dated April 22, 2015, that was developed in consultation with a medical or mental health professional.

6VAC35-41-1280 (E). Medication. CRITICAL
E. A program of medication, including procedures regarding the use of over-the-counter medication pursuant to written or verbal orders signed by personnel authorized by law to give such orders, shall be initiated for a resident only when prescribed in writing by a person authorized by law to prescribe medication.

Audit Finding:
Two of seven applicable Medication Administration Records (MAR) reviewed had documentation that residents were administered over-the counter medication not listed on the standing orders or for reasons not listed on the standing orders.

Program Response

Cause:
Oversight on staff administering the medication.

Effect on Program:
None.

Planned Corrective Action:
To ensure the over-the-counter medication are on the approve list and used for the reasons they were deemed for.

Completion Date:
April 11, 2018.

Person Responsible:
Group Home Administrative Staff and facility nurse.

Current Status on July 9, 2018: Compliant:
Two of two applicable Medication Administration Records (MAR) reviewed had documentation that residents were administered over-the counter medication as listed on the standing orders.

6VAC35-41-1280 (F). Medication.
F. All medications shall be administered in accordance with the physician's or other prescriber's instructions and consistent with the requirements of § 54.2-2408 of the Code of Virginia and the Virginia Drug Control Act (§ 54.1-3400 et seq. of the Code of Virginia).

Audit Finding:
In four of ten applicable resident's medical files reviewed, the residents were not administered medications as prescribed.

Program Response

Cause:
Lack of attention to detail by Group Home Staff.

Effect on Program:
None.

Planned Corrective Action:
Med aide trained staff will receive additional medication training to ensure all resident's medications are administered as prescribed.

Completion Date:
May 24, 2018.

Person Responsible:
Group Home Administrative Staff in consultation with the facility nurse.

Current Status on July 9, 2018: Compliant:
In three of three applicable resident's medical files reviewed, the residents were administered medications as prescribed.

6VAC35-41-1280 (H). Medication. CRITICAL
H. In the event of a medication incident or an adverse drug reaction, first aid shall be administered if indicated. Staff shall promptly contact a poison control center, pharmacist, nurse, or physician and shall take actions as directed. If the situation is not addressed in standing orders, the attending physician shall be notified as soon as possible and the actions taken by staff shall be documented. A medical incident shall mean an error made in administering a medication to a resident including the following:
(i) a resident is given incorrect medication;
(ii) medication is administered to an incorrect resident;
(iii) an incorrect dosage is administered;
(iv) medication is administered at a wrong time or not at all; and
(v) the medication is administered through an improper method.
A medication error does not include a resident's refusal of appropriately offered medication.

Audit Finding:
In four of four applicable medication incidents reviewed there were no medication incident reports documenting actions taken by staff.

Program Response

Cause:
Staff oversight of completing required documentation indicating actions taken by staff.

Effect on Program:
No residents were adversely affected by this issue.

Planned Corrective Action:
Med trained staff will be retrained in the appropriate way to complete the medical incident reports

and document the actions taken by staff in each incident.

Completion Date:
April 11, 2018.

Person Responsible:
Nurse and medication aid trained staff to include Group Home Administration Staff, will ensure that the actions of the staff are documented in each medication incident.

Current Status on July 9, 2018: Not-determined
There were no medication incidents for the status review period of May 1, 2018 through July 3, 2018.

Current Status on October 9, 2018: Not determined
In five of five applicable medication incidents reviewed there were medication incident reports documenting actions taken by staff.

ANDREW K. BLOCK, JR.
Director

ANGELA C. VALENTINE
Chief Deputy Director

COMMONWEALTH OF VIRGINIA
Department of Juvenile Justice

P.O. Bo
Richmond, VA
(804) 37
Fax: (804) 37

November 8, 2018

MEMO

TO: Andrew Block, Director

FROM: Kenneth Bailey, Certification Manager

RE: The Andrew B. Ferrari Argus House

The City of Arlington/ The Andrew B. Ferrari Argus House has submitted a request to change the program and expand the age range allowing for better utilization of the facility. Argus House is a 12-bed facility containing two separate wings. One wing with six beds will be designated for the general population and one wing with six beds will be designated for the Transitional Living Program. Below is documentation of the request and a description of the proposed Transitional Living Program.

The Andrew B. Ferrari Argus House Transitional Living Program (TLP) is a community-based residential program with a philosophy of personal accountability and self-determination that provides a unique opportunity for male youth ages 17-20 to gain the skills and education necessary to make a healthy transition into the responsibilities of adulthood. The program helps youth develop age-appropriate independent-living skills in a nurturing environment that offers stability, consistency and safety. While in the program, these young men acquire transferable life skills, to include: educational development, employment/career planning, financial literacy, health and wellness, leisure activities, and housing. The program is designed to respond to the needs of adolescent and young adult males while also teaching them to be contributing members of society.
The Andrew B. Ferrari Argus House TLP serves residents in a supported independent living environment. The target population 17 to 20 year old males who require additional support to transition to complete independence. The facility is staffed 24 hours a day. The residents receive daily monitoring and coaching so they can successfully identify and achieve realistic and measurable individualized goals. Case managers offer clients opportunities for personal development, values clarification, and goal setting within a therapeutic environment that emphasizes gainful employment and independent living skills.

The TLP believes that each resident is capable of being a responsible and active agent in his own life. The program's design allows for a more gradual transition to adulthood for young men who still need to mature and make better choices regarding peers, finances, and work. The Transitional Living Program uses a point system as a tool for daily feedback, goal setting and accountability. Daily and weekly points, along with individualized coaching from staff, help clients process both their achievements and challenges according to each client's goals and the program's expectations. As residents advance in the program, they will increase their independence, gaining the abilities and resources that will shape their lives as adults.

The TLP is based on the successful completion of distinct levels. Each level has a major focus. Prior to obtaining Level I, the resident must successfully complete the Orientation process. Four weeks is the expected length of time for a resident to spend on Orientation. During the Orientation phase, residents will get acquainted with the program and the local community. In addition, the resident will start with up to 25 community service hours and must complete the majority of them prior to obtaining Level I.

The focus for the remaining levels is as follows:
Level I (6 weeks): Pre-Employment (Obtaining employment)
Level II (8 weeks): Employment (Maintaining employment)
Level III (6 weeks): Independence (Securing post-TLP Plans)

The goal is for each resident to successfully complete Level III and graduate from the TLP into true independence and adulthood. Once this occurs and the resident returns to the community, he will be on aftercare for approximately two months. During aftercare residents will continue to be monitored by the assigned case manager to support the transition in the community. Clients will communicate with this staff member via phone/in person meetings once a week. Additional requirements, will vary depending on the individual and his situation. An aftercare plan will be put in place one month prior to their graduation from TLP. While progressing through the levels, each resident will actively participate in their individualized treatment, including individual counseling sessions, unit groups, weekly house meeting(s)and level treatment plans.

GOALS & PURPOSES OF TLP

1. To provide a local alternative to distant residential and therapeutic placements for Arlington males. Our placement keeps the youth his own community and fosters social integration, gainful employment, and productive relationships.
2. To teach residents the skills they need to live productive, independent, and law abiding lives in the community: employment, finances, education, transportation, and shopping, housing, driving, personal and social development.
3. To enhance each clients' socialization skills in order to have positive interactions with their family, peers, co-workers, staff and authority figures. Further, to build a positive peer support network in their community.
4. To increase clients' self-awareness and self-confidence by exploring their strengths, engaging in problem solving and learning to meet their own daily needs.
5. To support residents in their job search for full-time employment, and help them positively maintain their employment, save, and budget their earning.
6. To enhance future security, by completing their high school education, exploring higher education, obtaining their driver's permit and/or license, securing long-term housing, and saving a minimum of $3,000.00 in their savings account.
7. To provide residents with skills needed to maintain a positive attitude and motivation while volunteering at their community service site, working at their job site, and/or attending school.
8. To provide a supported independent living experience for youth who need more intensive services and who are not ready for less supervised environments such as apartment living.

Assessment of Needs and Service Planning:

Within 14 days of placement, the Transitional Living Program's policy is to administer the Ansey-Casey Life Skills Assessment or (CLS). Casey Life Skills (CLS) is an evidence-based tool that assesses the behaviors and competencies youth need to achieve their long-term goals. It aims to set youth on their way toward developing healthy, productive lives. Areas included in the assessment of the resident's life skills strengths and needs are as follows:

1. *Money management and Consumer Awareness*- Informed by his initial assessment, the resident will learn to shop wisely, open and successfully maintain a savings account, learn to set up and follow a budget, and save a set amount in preparation for his return to the community.

2. *Food management*- Informed by his initial assessment, the resident will learn to explore local grocery stores to learn about nutritional labels and comparison shopping, as well as to plan and safely cook nutritious meals without assistance.

3. *Personal Appearance*- Informed by his initial assessment, the resident will learn how to take care of bodily and hygiene needs. They learn how to clean laundry, dress appropriately, observe their weight, keep a neat appearance, and choose appropriate hygiene products.

4. *Social Skills*- Informed by his initial assessment, the resident will learn about etiquette, good manners, active listening skills, and reading and using non-verbal communication such as gestures and eye contact. The program will train the client in problem solving and negotiation to meet his own needs.

5. *Health/Sexuality*- - Informed by his initial assessment, the resident will develop his knowledge base and competencies regarding healthy choices, especially in regard to intimate relationships. Residents will visit the Arlington County Health Center to gather information about their health and sexuality. They will also learn valuable insights to maintain good health practices, understanding their medications, how to prevent diseases, and how to take care of oneself when ill.

6. *Housekeeping*- Informed by his initial assessment, the resident will learn skills needed to keep his room clean, complete daily chores and weekly major chores, and to work with others to keep house. Chores will be consistent with resident's abilities.

7. *Transportation*- Residents receive and assessment to assess their understanding of public and private transportation options. The resident will learn how to use public transportation, how to plan and complete a trip on his own, review options for personal transportation, and, if appropriate, pursue getting a driver's license.

8. *Educational and Career planning*- If needed, the resident will continue and/or complete his high school education (i.e. obtain GED, attend night classes, or attend public school full/part-time). He will also explore and familiarize himself with local vocational schools and/or colleges. The resident will participate in any local job fairs or career assessment opportunities.

9. *Job seeking*- The resident will learn how to look for a job, fill out applications, develop a resume, actively participate in a job interview, and acquire part-time or full-time employment.

10. *Job Maintenance*- The resident will learn skills need for employment sustainability such has keep a job by being punctual, dressing professionally and appropriately, completing job tasks, communicating regularly with employers on areas such as expectations, performance, and handling absences as a result of illness.

11. *Emergency and Safety Skill*- Residents will learn about our building's emergency and safety management plan. He will learn about the functions of the Arlington police, EMT, fire department, and how to contact them in an emergency. He will learn how to check a smoke alarm and replace batteries. He will have the opportunity to earn first aid certification.

12. *Knowledge of Community Resources*- Resident will learn about pertinent community resources such as Community Mental Health, Social Services, Housing, Employment Resources, Medical, Fire and Rescue, Social Security Office, Library, and Public Transportation.

13. *Interpersonal Skills/Social Relationships*- Residents will learn and enhance personal and interpersonal skills including self-esteem, acceptance of others, and open mindedness. Clients will develop awareness about their own thinking, learning styles, and emotional regulation. They will have opportunities to develop self-confidence, self-discipline, self-motivation, resourcefulness. and empathy toward others.

14. *Legal Skills*- Residents will learn how to best utilize attorney services and understand their legal rights. They will learn about facility grievance procedures, the legality of their actions, the meaning of contracts/leases, civic requirements such as selective service registration and jury duty, as well as the penalties for certain crimes.

15. *Leisure Activities*- Residents will learn the importance of leisure and a healthy work- life balance. Residents will have the opportunity to seek out leisure activities, hobbies, and social and spiritual activities that interest them.

16. *Housing*- The resident will prepare for, search for, and acquire suitable and affordable housing for prior to completion of the program.

SERVICE PLAN:

The resident's service plan shall include goals, strategies and objectives addressed during the assessment phase and will focus on all 16 domains identified above. Service plans will be developed with the input of the Group Home Manager, Residential Supervisor, Argus Therapist, Case Manager, Resident and any other team members deemed appropriate. In the Transitional Living Program, client plans are client-centered and client-directed.

STAFF TRAINING:

All direct care staff shall be trained within 14 days of employment on the Transitional Living program procedures, curriculum, assessment tools, TLP materials, and required documentation. These training records will be maintained in the employee's personnel record. This training will be refreshed annually.

MEDICATION:
Staff will be responsible for administering and managing medications for Transitional Living Program Residents under the age of 18. Only Medication management trained staff will store and distribute medication.
Residents who are over the age of 18 will share in the responsibility of their own medication administration. Residents in TLP who fit these criteria will be trained in:

1.) Medication self-administration, including learning about the side effects of their prescribed medication.
2.) Methods of storage and safe-keeping of medication.
3.) Steps to obtaining approval for the resident to self-administer medication from a person authorized by law to prescribe medication; and
4.) Methods for documenting the administration of medication.

MEDICAL NEEDS:
Residents will be responsible for their own medical needs with staff support. They will schedule their own appointments, be responsible for transportation, and be responsible financially. Staff will teach this as part of the curriculum. Exceptions may occur on a case by case basis. Once residents turn 18 staff will assist with applying for Medicaid where appropriate.

STAFF SUPERVISION:
The Andrew B. Ferrari Argus House has the necessary resources and facility design to create, adequately staff, and supervise residents who are successfully placed in the TLP. The goal for TLP residents will be for them to maximize their productive time in the community in areas such as employment, education, and community service. They will additionally be able to earn recreation time outside the facility. TLP residents will have their own assigned dinner time that is separate from the younger residents of the residential program. Should time and space require shared dinner times, staff will be present to supervise the residents of the both programs to ensure resident safety and as much separation as possible.

MEALS:
Residents of the TLP will be responsible for planning and preparing their own meals. They may eat meals off-site depending on their schedule. Staff will support residents early on in this process in order to develop appropriate nutritional habits and a healthy lifestyle.

THERAPEUTIC COMPONENT:
The Andrew B. Ferrari Argus House has an on-staff licensed therapist and certified addictions counselor who can provide individual therapeutic intervention and individual treatment for TLP residents during their stay. This clinician will also participated in TLP client treatment teams. To maintain a consistent milieu, staff receive specialized paraprofessional training in techniques such as Motivational Interviewing and Trauma Informed Care, which enhance clinical services.

EDUCATION/EMPLOYMENT:
Residents are expected to be gainfully employed and enrolled in the appropriate educational or trade programs such as GED, high school continuation, Northern Virginia Community College, or other vocational school during their stay at the program in preparation of independence. The program will assist the resident in the appropriate educational placement if needed. School, Employment, and/or Vocational School.

Argus House was last October 24, 2017 for a three year period. The Certification Unit has reviewed this request and supports the additional service and modification of the age range.

DEPARTMENT CERTIFICATION ACTION:

The Andrew B. Ferrari Argus House age range of 13-17 remains effective for the general population of the facility. A stipulation was added to the current certification certificate stating; "Residents in the Transitional Living Program can be accepted through age 20 and will be counted in the certified capacity of 12."

ARLINGTON COUNTY, VIRGINIA

JUVENILE AND DOMESTIC RELATIONS DISTRICT COURT SERVICES UNIT

THE ANDREW B. FERRARI ARGUS HOUSE
527 CLARENDON BLVD
ARLINGTON. VIRGINIA 22209

GEORGE D VAROUTSOS
CHIEF JUDGE

ROBIN LL ROBB
JUDGE

EARL J CONKLIN
DIRECTOR OF COURT
SERVICES (703) 2284600
CHRISTOPHER EDMONDS
GROUP HOME MANAGER
(703)-228-3944

September 10, 2018

Clarice Booker, Certification Analyst
Department of Juvenile Justice
1601 Old Bon Air Road
Richmond, VA 23235

Dear Ms. Booker,

The purpose of this communication is to formally request that The Andrew B. Ferrari Argus House's service age range be changed from thirteen to seventeen years old to thirteen to twenty years old as we are proceeding with a regulatory request to the Department of Juvenile Justice to certify the program as meeting the requirements of independent living in accordance with 6VAC35-41-960 — WAC-41-980. Thank you in advance for your consideration. If you should have any questions, please feel free to contact me at 703-228-0422 or cedmonds@arlingtonva.us.

Sincerely,

Christopher Edmonds
Group Home Manager

CERTIFICATION AUDIT REPORT
TO THE
DEPARTMENT OF JUVENILE JUSTICE

PROGRAM AUDITED:
The Summit Transitional Living Program
3400 Newby's Bridge Road
Chesterfield, Virginia 23832
(804) 726-8692
Natalie Elliott, Senior Director of Program Development
nelliott@interceptyouth.com

AUDIT DATES:
November 19, 2018

CERTIFICATION ANALYST:
Mark Ivey Lewis

CURRENT TERM OF CERTIFICATION:
New Program

REGULATIONS AUDITED:
6VAC35-41 Regulation Governing Juvenile Group Homes and Halfway Houses

PREVIOUS AUDIT FINDINGS
New Program

CURRENT AUDIT FINDINGS – November 19, 2018:
100% Compliance Rating

DEPARTMENT CERTIFICATION ACTION: Issued a conditional certification to Summit Transitional Living Program valid to June 7, 2019.
Pursuant to 6VAC35-20-100 B. A conditional certification for up to six months will be issued to a new program or a newly opened facility that:
1. Demonstrates 100% compliance with (i) all critical regulatory requirements and (ii) any physical plant regulatory requirements;
2. Demonstrates at least 90% compliance with all noncritical regulatory requirements and has an acceptable corrective action plan; and
3. Has no unresolved health, welfare, or safety violations.

TEAM MEMBERS:
Mark Ivey Lewis, Team Leader
Ken Bailey, Central Office
Clarice Booker, Central Office
Shelia Palmer, Central Office
Deborah Hayes, Central Office
John Adams, Central Office
Spring Johnson, Piedmont Juvenile Detention Center

POPULATION SERVED:
The Summit Transitional Living Program facility is a 3,000 sq. ft. residential home situated on 11-acres. This two-level home includes seven (7) total bedrooms (six single and 1 double), four (4) bathrooms, kitchen, living room, dining area, recreation room, access to laundry facilities and staff office. The property also has an

additional 2,000 sq. ft. building, which contains for a career/resource room with a computer lab, space for family visitation and multi-use area for recreation and community meetings.

The Summit Transitional Living Program accepts males, ages 17.5 to 21 with a minimum IQ of 65, who are being discharged from a Department of Juvenile Justice commitment. Youth referred to and placed at the transitional living home will demonstrate various levels of risk to reoffend and commonly display the following behaviors and criminogenic and non-criminogenic needs:

1. Criminal history and propensity to commit crimes
2. History of running away from home, foster care, and/or residential placements
3. History of association with anti-social companions
4. Pro-criminal, risky thinking)
5. Antisocial personality such as impulsivity, poor emotional regulation and inadequate decision-making skills
6. Limited coping skills and low frustration toleration
7. Low educational achievement and history of poor school performance
8. History of low family affection/history of poor supervision
9. History of substance abuse
10. History of self-destructive behavior
11. History of mental health diagnoses (such as post-traumatic stress disorder, depression, Oppositional Defiance Disorder, and Attention Deficit Hyperactivity Disorder)
12. Low or limited functioning youth with a minimum IQ of 65
13. Lower levels of job readiness and independent living skills
14. Need for focused intensive transition and community reintegration services
15. History of trauma and exposure to violence
16. Impaired social functioning

PROGRAMS AND SERVICES PROVIDED:

The Summit Transitional Living Program provides the following services to the residents:

- Direct:
  - Aggression Replacement Training (ART)
  - Casey-Life Skills
  - YASI screening
  - Cognitive Behavioral Interventions (CBI)
  - Core Correctional Practices (CCP)
  - Motivational Interviewing
  - The Risk, Need, Responsivity (RNR) Model,
  - Understanding of the Youth Assessment & Screening Instrument (YASI),
  - DJJ's Assessment-Driven Case Planning Practices (Comprehensive Re-Entry Case Plan – CRCP)
  - DJJ's Community Model Utilized in the JCCs,
  - Behavioral Intervention
  - Video conferencing for external services and communication (court, family visitation, telehealth)
  - Resource lab with computers and internet access
  - Individual and Family counseling
  - Supervision
  - Treatment planning

- Psycho-educational groups on independent living skills, substance abuse education, AIDS and sexually transmitted diseases, victim sensitivity, self-esteem, parenting, decision making, anger management, and more
- Career assessment
- Employment skills
- Education skills/support (Not to be confused with teaching. Courses can be accessed in the Resource center, but are NOT offered through/by The Summit)
- Nutrition/Meal Planning
- Community engagement
- Identifying/strengthening relationships with natural supports
- Facilitating visitation with family and natural supports
- Transportation support

- Community:
    - Enrichment activities and programs – Various professional and community groups
    - Spiritual programs – Various local spiritual groups
    - AIDS and sexually transmitted disease – Various organizations and community groups such as, Planned Parenthood
    - Transportation
    - Parenting skills – Mentoring; Various community groups
    - Dental/Vision Care – Local provider of choice
    - Medical Care – Local provider of choice (assuming Medicaid or resident private insurance is accepted)
    - Literacy and Math - Local educational institutions; tutors; PennFoster
    - Social Skills (Program and Community service)
    - Independent Living Skills – Programs identified on an as-need basis
    - Experiences/Exposure
    - Community: (Services offered by community agencies and resources)
    - Out Patient Service – Additionally purchased service available through Intercept or identified provider of choice
    - ABEL Assessment Sexual Interest (AASI) Screen
    - Affinity 2.5 Sexual Interest Screen
    - Anger Management Intervention
    - Clinical Group
    - Crisis Stabilization
    - Dialectical Behavior Therapy Group
    - Face to Face Surveillance
    - Therapeutic Mentor
    - Family Centered Treatment
    - Gang Intervention
    - GPS Electronic Monitoring
    - Home-Based Services
    - Individual, Group and Family Therapy and relapse prevention for Substance Abuse
    - Individual, Group and Family Therapy for youth and relapse prevention with sexualized Behaviors
    - Intensive In-Home Services

- Mental Health Skill Building
- Multi-Systemic Therapy
- Non Clinical Group
- Parenting Group
- Psychological Services
- Psycho-Sexual Evaluation
- Restorative Justice
- Seven Challenges Group for Substance Abuse
- Strengthening Families Program
- Substance Abuse Intensive Outpatient Program

Andrew K. Block, Jr.
Director

COMMONWEALTH OF VIRGINIA

Department of Juvenile Justice

P.O. Box 1110
Richmond, VA 23218
(804) 371.0700
Fax: (804) 371.6497

TO: State Board of Juvenile Justice

FROM: Virginia Department of Juvenile Justice

SUBJECT: Request Authorization to Proceed with Recommendations to Amend Several Regulatory Chapters Pursuant to the Periodic Review Process

DATE January 8, 2019

I. SUMMARY OF ACTION REQUESTED

The Department of Juvenile Justice (the department) respectfully requests permission from the State Board of Juvenile Justice (the board) to proceed with completing the reports mandated as part of the periodic review process pursuant to § 2.2-4007.1 of the *Code of Virginia.* The reports will include a general recommendation to amend several regulatory chapters currently under the periodic review process. The regulatory chapters include:

- Regulations Governing State Reimbursement of Local Juvenile Residential Facility Costs (6VAC35-30);
- Minimum Standards for Virginia Delinquency Prevention and Youth Development Act Grant Programs (6VAC35-60);
- Regulation for Nonresidential Services (6VAC35-150); and
- Regulations Governing Mental Health Service Transition Plans for Incarcerated Juveniles (6VAC35-180).

II. BACKGROUND

Pursuant to *Code of Virginia* § 2.2-4007.1, state agencies must conduct a periodic review of their regulations every four years to determine whether the regulatory provisions included under each chapter should be retained, amended, or repealed. Before an agency may begin its periodic review process, the agency must publish notice of the regulatory review in the Virginia Register of Regulations and post notice of the review on the Town Hall. The agency must allow for a minimum 21-day public comment period, after which, the agency has 120 days to post a report on its findings as to whether to retain, repeal, or amend the regulation chapter.

As part of the regulatory review, state agencies must consider the following:

- The continued need for the rule;
- The nature of complaints or comments received from the general public regarding the regulation;
- The complexity of the regulation;
- The extent to which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and

- The length of time since the agency last evaluated the regulation or the extent to which technology, economic conditions, or other factors have changed in the area affected by the regulation.

Currently, the four-year deadline for review has lapsed for five of the department's twelve existing regulatory chapters. In an effort to bring the department into compliance with the statutory mandate for periodic reviews, the department began posting notices of its intent to conduct periodic reviews in October 2018. Based on the publication dates for these notices, the department's recommendations for retaining, amending, or repealing the chapter will come due for four of the five regulations before the April 2019 board meeting. The department is seeking the board's approval to proceed with completing the report and including a recommendation to amend each regulatory chapter, as discussed below.

III. RECOMMENDATIONS AND RATIONALE

Regulations Governing State Reimbursement (6VAC35-30):
Recommendation: **Amend**
Report due date: April 11, 2019

This chapter establishes a process for localities to obtain state-funded reimbursement for costs of construction, enlargement, purchase, or renovation of local juvenile residential facilities. Current law makes localities eligible for reimbursement equal to one-half the cost of such projects. Despite the current legislative moratorium on these reimbursements, the regulations continue to be mandatory in accordance with § 16.1-309.5 of the *Code of Virginia*, which requires the board to promulgate regulations, including criteria for evaluating requests for such reimbursements and to ensure that such funds are allocated equitably. Therefore, the department does not recommend repealing this chapter.

The department last reviewed and updated the regulation in 2011. Since that time, several localities have begun the process of replacing and renovating their old detention and other residential facilities. In addition, the department believes a provision in the current regulation requiring localities that are not seeking reimbursement now or in the future to comply with all of the chapter's requirements exceeds the scope of the board's authority in conflict with the governing statute.

The department did not receive any public comments on this regulation; however, given the significant time that has passed since the last review, the number of local facilities currently under renovation, and the current language in conflict with the governing statute, the department recommends amending this chapter to address these concerns.

Minimum Standards for Virginia Delinquency Prevention (6VAC35-60)
Recommendation: **Amend**
Report due date: April 11, 2019

This chapter, last reviewed and updated in October 2011, establishes requirements for recipients of grant funding under the Delinquency Prevention and Youth Development Act (the Act) established in Chapter 3 of Title 66 of the *Code of Virginia*. The Act requires the director to develop and supervise delinquency prevention and youth development programs and authorizes him to make grants to counties and cities in support of these programs. Under § 66-28 of the *Code of Virginia*, the board must prescribe policies governing applications for such grants and standards for the operation of programs developed and implemented under these grants. Localities adopting

these programs must apply to the director for grants and must create youth services citizen boards to formulate a comprehensive plan for development, coordination, and evaluation of these delinquency programs.

The current regulations contain detailed requirements regarding the appointment, terms, restrictions, and responsibilities of the Youth Services Citizen Board. Additionally, they establish provisions regarding the operation of Offices on Youth. These provisions were borne from language in the 2000 Appropriations Act, which required the department to develop standards involving the establishment of goals, quantifiable objectives and measures for the evaluation of program effectiveness for each Office on Youth receiving state funding.

Although the General Assembly has not funded the Act since 2002, the board has preserved these regulatory provisions in part to remain compliant with statute and partly to ensure that, should the General Assembly reinitiate funding in the future, grant recipients have a detailed process in place for obtaining grant funding.

The department did not receive any public comments regarding this chapter. Based on a reading of the current provisions, however, the department believes that clarifying certain terms and requirements within the chapter would enhance compliance if the General Assembly reinitiates grant funding. In addition, the regulation contains extensive cross references to specific regulatory provisions that may be amended in the near future. Therefore, the department recommends amending this chapter.

Regulations for Nonresidential Services (6VAC35-150)
***Recommendation*: Amend**
Report due date: March 28, 2019

This chapter establishes the structure, responsibilities, duties, and function of staff in the 32 state-operated and two locally operated court service units in Virginia. The regulation establishes rules for the operation of programs, services, and facilities authorized or funded in part by the Virginia Community Crime Control Act (VJCCCA). These regulations are mandatory in accordance with § 16.1-233 of the *Code of Virginia*, which requires the board to establish minimum standards for court service staffs and related supportive personnel and to promulgate regulations pertaining to their appointment and function "to the end that uniform services insofar as is practical, will be available to juvenile and domestic relations district courts throughout the Commonwealth." Section 16.1-309.9 of the *Code of Virginia* also requires the board to regulate the "development, implementation, operation, and evaluation of the range of community-based programs, services, and facilities authorized by VJCCCA." Because of these statutory mandates, the department does not recommend repealing this chapter.

The department last reviewed and updated the regulation in 2011. Since that time, court service units have undergone a number of changes that render some of the existing regulatory provisions infeasible. As an example, the current regulations require CSUs to convey certain information regarding residents admitted to the department to the Reception and Diagnostic Center (RDC) before transporting the juvenile to the RDC. The department closed the RDC in 2015. Juvenile detention centers now carry out many of the department's intake processes previously handled at the RDC. Additionally, the current regulatory provisions do not include all of the applicable legislative changes enacted since 2011, including changes regarding truancy diversions.

The existing regulation also fails to reflect the recent rules adopted by the Virginia Code Commission prohibiting state agencies from incorporating into their regulations documents of the agency's creation. The regulations contained in this chapter rely heavily on provisions in department-developed procedures and guidelines in violation of this 2016 directive.

The department received one comment from the disAbility Law Center of Virginia (dLCV) urging amendment of this chapter to restrict the purposes for which and types of restraints that may be utilized in nonresidential programs and services.

The department recommends amending this chapter to address these concerns.

Regulations Governing Mental Health Service Transition Plans (6VAC35-180)
Recommendation: **Amend**
Report due date: March 28, 2019

This chapter provides the framework for creating a mental health services transition plan for the provision of mental health, substance abuse, or other therapeutic needs for juveniles who are returning to the community following commitment to a juvenile correctional center or postdispositional detainment. These regulations are mandatory in accordance with § 16.1-293.1 of the *Code of Virginia*, which requires the board to promulgate regulations that address planning and provision of post-release services for such individuals. Therefore, the department does not recommend repealing these provisions.

The department last reviewed and updated this regulation in 2008 and has not conducted any subsequent reviews. Since that time, the agency has engaged in numerous efforts aimed at transforming its approach to juvenile justice. One initiative involved creating a model reentry system that integrates and accelerates reentry planning and seeks to ensure that families play a greater role in the resident's reentry planning. The provisions of this chapter should be amended to align with the department's transformation efforts.

Additionally, the regulation contains terms and concepts no longer utilized by the department.

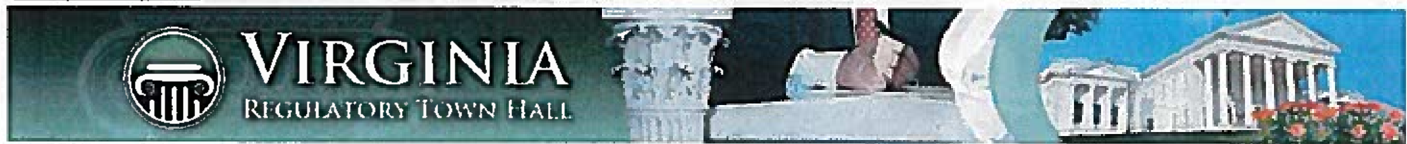
The department received one comment from the disability Law Center of Virginia (dLCV) requesting amendments to provide explicit authority for family members and caregivers to invite others to participate in the development of the mental health service transition plan.

The department recommends amending the regulation to address these concerns.

IV. ACTIONS FOLLOWING BOARD APPROVAL

Contingent upon the board's approval of the recommendations contained in this memorandum, the department will complete a separate report that contains recommendations to amend each of the regulatory chapters named in this memorandum. The department is not making any recommendations as to the content of these amendments. Recommendations regarding proposed amendments will be made to the board according to the department's existing process for regulatory actions. Once the department has included a recommendation in a periodic review to amend a regulation chapter, there is no deadline for amending the regulation.

Virginia.gov Agencies | Governor



Logged in as
Kristen Peterson

Agency Department of Juvenile Justice

Board Department (Board) of Juvenile Justice

Chapter

Standards for Nonresidential Services Available to Juvenile and Domestic Relations District Courts [6 VAC 35 - 150]

Back to List of Comments

Commenter: disAbility Law Center of Virginia 11/28/18 12:38 pm

dLCV Public Comment

November 28, 2018

Kristen Peterson, Regulatory Coordinator

Department of Juvenile Justice

PO Box 1110

Richmond, VA 23218-1110

RE: Regulations for Nonresidential Services

Dear Ms. Peterson,

The disAbility Law Center of Virginia (dLCV), the Commonwealth's federally mandated protection and advocacy system, respectfully submits the following public comment in relation to the Department of Juvenile Justice's (DJJ's) periodic review of its *Regulations for Nonresidential Services*. We strongly urge DJJ to amend these regulations to better protect the health, safety, and welfare of children receiving nonresidential services throughout Virginia. Amendments should:

- Prohibit the use of restraint that is used for avoiding "extreme destruction of property." Use of restraint under these regulations should be limited to instances that pose a risk to the safety of the resident, others, or the public.
- Prohibit the use of prone restraint or any other type of restraint that restricts breathing.
- Align the reporting requirements in section 6VAC35-150-210 (B) with those already required in section 6VAC35-150-575 (A)(2).

Currently the *Regulations for Nonresidential Services* allow nonresidential programs and services to physically restrain children for the purpose of "avoid[ing] extreme destruction of property." The Department of Behavioral Health and Developmental Services (DBHDS) also has regulations on the use of restraint by DBHDS service providers. The focus of the use of restraint and seclusion under the DBHDS regulations is solely to prevent self-injurious behaviors or behaviors that are dangerous to others. 12VAC35-115-110 (C)(1) (Providers must document in an individual's service record what interventions may be used when a behavior becomes a danger to the individual or others); 12VAC35-115-110 (C)(7) (Providers shall not use restraint unless less restrictive techniques did not or would not succeed in reducing or eliminating behaviors that are self-injurious or dangerous to other people). Restraint is a harmful practice that can result in trauma and physical harm to both the restrained individual and those conducting the restraint. Similar to DBHDS services, the focus of nonresidential services and programs is treatment. As such, the *Regulations for Nonresidential Services* should also only allow for restraint when there is a risk to safety in an individual or others.

Additionally the *Regulations for Nonresidential Services* should be amended to prohibit the use of prone restraint or any other type of restraint that restricts breathing. Prone restraint or any restraint that restricts breathing are high-risk and can cause positional asphyxiation and death. Such restraints are a dangerous practice and many laws and regulations ban their use. For example, DBHDS regulations prohibit service providers from using prone restraint. 12VAC35-115-110 (C)(6).

The recent death of a teenager proximate to restraint at North Spring Behavioral Healthcare, a provider licensed under the DBHDS's *Regulations for Children's Residential Facilities,* serves as an important reminder of the very real risks associated with restraint use. The teenager, died from positional asphyxiation. This past summer another teenager suffered spinal injuries resulting from an improperly executed restraint at North Spring Behavioral Healthcare.

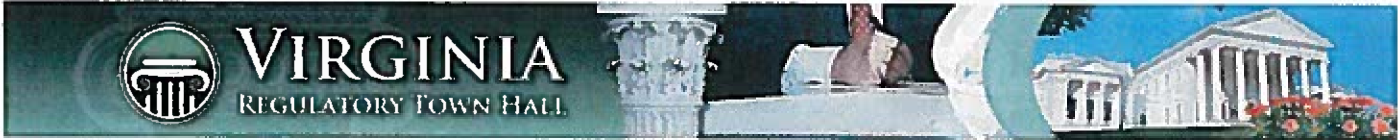
Detailed documentation of restraint incidents is vital in allowing staff to debrief and learn how to reduce restraint use. The *Regulations for Nonresidential Services* currently provide different standards for reporting and documenting restraint use for Court Service Units (CSU) and for nonresidential services and programs. CSU are only required to report use of physical force in writing to the CSU director. 6VAC35-150-210. Programs and services however are required to fully document physical restraint in the juvenile's record including the staff involved, justification for the restraint, and less restrictive interventions attempted. 6VAC35-150-575. Physical force used at CSUs should be documented in the manner required under section 6VAC35-150-575.

DJJ should promptly amend the *Regulations for Nonresidential Services* to better protect the health, safety, and welfare of children being served by these services and programs throughout Virginia. Thank you for your thoughtful consideration of dLCV's public comment.

Sincerely,

Colleen Miller

Executive Director



Agency Department of Juvenile Justice

Board Department (Board) of Juvenile Justice

Chapter
Regulations Governing Mental Health Services Transition Plans for Incarcerated Juveniles.
[6 VAC 35 - 180]

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Commenter: disAbility Law Center of Virginia 11/28/18 12:36 pm

dLCV Public Comment

November 28, 2018

Kristen Peterson, Regulatory Coordinator

Department of Juvenile Justice

PO Box 1110

Richmond, VA 23218-1110

RE: Regulations Governing Mental Health Services Transition Plans for Incarcerated Juveniles

Dear Ms. Peterson,

The disAbility Law Center of Virginia (dLCV), the Commonwealth's federally mandated protection and advocacy system, respectfully submits the following public comment in relation to the Department of Juvenile Justice's (DJJ's) periodic review of its *Regulations Governing Mental Health Services Transition Plans for Incarcerated Juveniles* (Regulations). We strongly urge DJJ to retain these regulations, with one amendment made to 6VAC35-180-80. (Participants in facility case review).

Currently the Regulations require a juvenile's "family members, caregivers, legal guardian, or legally authorized representative" to be invited to the facility case review. Additionally, any other person who has a "legitimate interest in the development of the plan for the purpose of providing treatment or services" may be invited to participate in the meeting to develop the plan. However, the Regulations do not allow for family members and caregivers to invite others to the facility case review. Those who are knowledgeable about the juvenile or may have special expertise regarding the juvenile may be able to provide valuable input at the facility case review. For example, a

juvenile's prior service provider would be able to put forth information about a juvenile's needs in the community setting. Such needs may be different than their current needs during incarceration. dLCV urges DJJ to amend the Regulations regarding facility case reviews to allow "others who are knowledgeable about the juvenile or may have special expertise regarding the juvenile" to be invited to the facility case review either by the facility or by the juvenile's family members, care givers, legal guardian, or legally authorized representative.

dLCV is in support of retaining these Regulations. Accessing mental health services in Virginia can be difficult and complicated. While many resources exist, they are siloed, and require interface with various agencies. Families often do not know what resources are available or how to access them. Even when a family connects with one state agency, that agency many not have knowledge of what services other agencies offer. Mental health services transition planning provides a forum for people who are familiar with a juvenile's case and those who know what resources are available, to identify needs, services that will meet those needs, and sources of funding for those services.

dLCV applauds the Regulations' focus on creating timelines that are sufficient to "ensure continuity" of treatment and services. Gaps in provision of medications and services can lead to detrimental health effects and put individuals at risk of crisis. Continuity of services is especially crucial during a juvenile's transition back to the community, which can be an emotionally challenging time. Measures such as timely filing of applications and assigning case management responsibilities helps to reduce the risk of medication or service gaps.

The current Regulations require that the team develop a comprehensive plan for juveniles in need of mental health services transition planning. This includes identifying sources of funding and applications that will need to be submitted for services and funding. Understanding the service needs of an induvial is not on its own sufficient. The Regulations recognize this and work to ensure that children will be connected to and receive services upon release.

Provision of proper mental health services can drastically improve the quality of life for an individual. In addition, such services can help reduce rates of recidivism and more costly crisis interventions. The Regulations' proactive approach improves a juvenile's access to these vital services.

DJJ should retain the *Regulations Governing Mental Health Services Transition Plans for Incarcerated Juveniles*, but amend them to allow others to participate in the facility case review. Thank you for your thoughtful consideration of dLCV's public comment.

Sincerely,

Colleen Miller

Executive Director

Andrew K. Block, Jr.
Director

COMMONWEALTH OF VIRGINIA

Department of Juvenile Justice

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Richmond, VA 23218
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MEMORANDUM

TO: State Board of Juvenile Justice

FROM: Virginia Department of Juvenile Justice

SUBJECT: Request Board Action on Four Alternatives for Amendments to the Regulation Governing Juvenile Secure Detention Centers (6VAC35-101) Regarding Mechanical Restraints and Restraint Chairs

DATE January 8, 2019

I. SUMMARY OF ACTION REQUESTED

The Department of Juvenile Justice (the department) respectfully requests the State Board of Juvenile Justice (board) to consider four separate options for proposed amendments to the Regulation Governing Juvenile Secure Detention Centers (6VAC35-101) to address the use of restraint chairs and other mechanical restraints in these facilities. The department presents the following four options for proposed amendments in accordance with the board's directive at the November 7, 2018, meeting:

- Option 1 - Retain the proposed amendments to the Regulation Governing Juvenile Secure Detention Centers (Chapter 101) as approved by the board at the June 13, 2018, meeting;
- Option 2 - Amend the above-named chapter to impose additional parameters on the use of restraint chairs, mechanical restraints, and "protective devices" in detention centers;
- Option 3 - Amend the above-named chapter to impose an absolute prohibition on the use of mechanical restraint chairs in juvenile secure detention centers; and
- Option 4 – Amend the above-named chapter to impose an absolute prohibition on the use of spit guards and similar devices on residents in juvenile secure detention centers.

The department convened a committee consisting of representatives from secure juvenile detention centers, juvenile correctional centers, and internal department staff primarily to develop provisions for Option 2. This memorandum provides a description and summary of each option.

II. OPTION 1 – AMENDMENTS APPROVED BY BOARD, JUNE 2018

Option 1 reflects the amendments approved by the board at the June 13, 2018, meeting. Under this option, mobile restraint chairs are included expressly in the definition of mechanical restraints and are subject to the provisions governing mechanical restraints in each of these chapters. Among the parameters, staff may not apply mechanical restraints as a punishment or sanction, use of mechanical restraints requires facility administrator notification, staff must be trained prior to applying mechanical restraints, and face-to-face checks must be conducted on mechanically-restrained residents every 15 minutes or more often if the situation warrants. Spit guards and helmets are not among the all-inclusive list of items covered under the mechanical restraint definition, and the regulation and proposed amendments are silent regarding any restrictions on their use.

The department has not made any substantive changes to this language since the board's approval on June 13.

II. OPTION 2 - NEW RESTRICTIONS ON MECHANICAL RESTRAINTS AND RESTRAINT CHAIRS

Definitions (Section 10): The proposal amends the board-approved definition of mechanical restraints and adds five new terms, as follows:

- *Mechanical restraints and restraint chairs* - Although the board-approved amendments provide a definition for mechanical restraints, the committee has identified several potential enhancements to this definition. First, the list of permissible mechanical restraints in the definition is all-inclusive. To the extent these items evolve in the near future or new items are developed that are safer or less restrictive, facilities will not be subject to the restrictions imposed on other restraints if they implement use of the new items in their facilities. Similarly, the all-inclusive list does not contain restraining belts and straps or anti-mutilation gloves, items that are not used in most juvenile detention centers currently but may be implemented in the future. Finally, although mechanical restraint chairs are included under the current definition, the committee recommends separating them so that a new section can be established that will impose greater restrictions on their use.
- *Mental health clinician and qualified mental health professional*: Qualified mental health professionals (QMHPs) are responsible for assessing a resident's mental health condition and determining whether the application of restraints on residents in secure facilities is appropriate. Under the *Code of Virginia*, §54.1-3500, a QMHP is professionally qualified and registered by the Board of Counseling to provide collaborative mental health services for adults or children. This definition is sufficient to encompass the community service board providers that are responsible for conducting mental health assessments for residents in secure juvenile detention centers. The definition does not cover every correctional center employee authorized to conduct these assessments. To address this issue, the committee recommends adding a definition for mental health clinicians that includes individuals with a master's degree or higher in psychology, counseling, or social work with an emphasis on mental health treatment. Where reference to mental health professionals is made under this option, the proposal includes mental health clinicians, as well as QMHPs.
- *Protective device*: The board-approved definition for mechanical restraints in the detention center regulation does not include spit guards or helmets, though detention centers currently use both items. The committee agreed that these items do not meet the definition of mechanical restraints because neither device restricts a resident's freedom of movement or voluntary bodily functioning. Rather, they

serve a protective function and prevent the resident's bodily movement from harming the resident or staff. The proposal adds a separate definition for protective devices, under which spit guards and protective helmets will be classified. Under the proposal, many of the restrictions imposed on mechanical restraints also apply to protective devices.

- *Spit guard or similar device*: The proposal adds a definition for spit guard to clarify that these devices are placed over a resident's mouth for safety purposes to prevent the resident from spitting on or biting staff or others.

Serious incident reports (Sections 80, 1153(7)): The existing regulation requires facilities to report specified incidents, such as resident deaths, accidents, or illnesses to the director or his designee, either the parent or legal guardian, and the applicable court service unit within 24 hours of the event. The committee recommends expanding the list of events subject to serious incident reporting to include any placement of a resident in a mechanical restraint chair, regardless of the purpose or duration of the use. This will ensure the department is aware of each application of the restraint chair and can monitor and advise facilities that are using the chair.

Training and retraining (Sections 190, 200, 1130): The committee recommends amending the training and retraining provisions to require staff authorized to apply the mechanical restraint chair to receive training specifically on restraint chairs. This is a conforming amendment as the current regulation requires training on mechanical restraints in general.

Additionally, Section 1130 requires staff authorized to use mechanical restraints to obtain training on such use, including how to check the resident's circulation and to check for injuries. The committee asserts that health-trained staff are best equipped to conduct these checks and proposes striking this subject as a required topic for training. Note the new language in Section 1140 requiring a health-trained staff to conduct these checks at 15-minute intervals during the restraint.

Mechanical restraints and protective equipment (Section 1130): Currently, facilities must follow approved written procedures regarding mechanical restraint use. The existing regulation sets out parameters for these written procedures but omits several important areas. First, the only express restriction regarding the purpose of mechanical restraint use is that facilities may not use these items as a punishment or sanction. Second, the current regulation does not require a mental health professional's involvement or intervention in the restraint process until after the resident has been restrained for two hours cumulatively or exhibits self-injurious behavior. This could be problematic, particularly if a resident is in a mental health crisis, and the symptoms are not manifested through self-injury. Third, the regulation does not address how or by whose authority mechanical restraints may be terminated.

In order to address the first concern, the proposal adds language (*subsection A)* that permits mechanical restraint use only: (i) to control residents whose behavior imminently threatens the safety of the resident or others; (ii) for controlled movement within or outside the facility; and (iii) to address emergencies. This gives secure juvenile facilities in Virginia clear guidance as to when it is appropriate to utilize mechanical restraints and prevents excessive or arbitrary use of these devices. Another new provision requires staff to release the resident from the restraint once the risk is abated, the resident reaches his destination onsite or returns from an offsite location, or the emergency is resolved.

With regard to the second concern, the proposal adds a provision (*subsection D)* requiring staff to notify a mental health clinician or QMHP whenever a mechanical restraint is used to control a resident whose behavior

threatens safety if staff believes continued use is necessary to maintain security after the risk is abated. Under the proposal, the continued restraint would be due to the resident's ongoing credible threat to injure himself or others after the initial risk is abated.

As to the third issue, the proposal adds new language authorizing a mental health clinician, QMHP, or qualifying licensed medical professional to order termination of the restraint if he determines it poses a health risk to the resident. This is consistent with current practices across facilities and ensures that provisions are in place to prevent the facility from continuing a restraint once the proper medical authorities determine it is unsafe.

Because the proposal excludes protective devices from the mechanical restraints definition, the committee proposes adding language making each provision in this section applicable to protective devices. In order to ensure that these devices are used sparingly, the committee also proposes new language authorizing the use of protective devices only in connection with the use of a restraint. Once staff releases the resident from the restraint, they must remove the protective device.

Finally, the use of spit guards or similar devices that prevent residents from biting or spitting have been a topic of discussion in juvenile justice. These items can be harmful to the resident if applied carelessly or if staff are not properly supervising residents wearing them. Facilities must balance these concerns against the duty to protect staff from communicable diseases or other injury resulting from being spit on or bitten. The committee recommends adding new provisions that deter excessive, negligent, or unsafe use of such devices. The proposal prohibits staff from using a spit guard on residents who have not previously or currently spit on or bitten a staff member. Additionally, facilities may not use spit guards that inhibit the resident's ability to see or breathe, nor may they apply spit guards in a manner that will prevent the resident from seeing or breathing. While the guard is in place, staff must provide for the resident's comfort and ensure access to water and meals. Staff must employ constant supervision to ensure residents are not exhibiting signs of respiratory distress, which would necessitate immediate removal of the guard. Finally, the proposal prohibits staff from using a spit guard on unconscious, vomiting, or other residents in need of medical attention.

<u>Monitoring residents placed in mechanical restraints (Section 1140)</u>: The existing regulation requires staff to conduct periodic checks on mechanically-restrained residents at 15-minute intervals, but does not prescribe the level of staff and resident interaction during these checks. The proposal directs staff to attempt to engage verbally with the resident during these checks and provides examples of permissible approaches.

The department's health services unit recommends new language requiring health-trained personnel to check the residents for injuries and signs of circulation as part of the periodic checks. The board-approved regulation defines "health-trained personnel" as individuals trained by a licensed health care provider to administer health screenings, review screening forms for follow-up care, respond to medical concerns, help implement medical orders, and perform other duties. Health-trained personnel are best equipped to assess a resident's medical condition.

Additionally, this provision addresses residents who self-injure while mechanically restrained. Among other requirements, staff must monitor the resident according to established protocols that comply with the regulation addressing restraints for medical and mental health purposes (discussed below). Because the proposal recommends repealing that section, the reference to that section also must be stricken.

Restraints for medical and mental health purposes (Section 1150): This section requires facilities to follow written procedures that address the authorization, duration, and other restrictions on applying restraints for medical and mental health purposes. The changes proposed under this option render this section unnecessary. The proposal repeals this section.

Written procedures regarding mechanical restraints and protective devices (Section 1145): Several sections in this article require the facility to have written procedures specific to certain sections or requirements and not to others. In order to avoid confusion, the proposal removes all individual requirements for written procedures contained in this article and replaces these provisions with a new section that requires detention centers that use mechanical restraints to have written procedures that reflect the requirements of this article.

Mechanical restraint chair; general provisions (Section 1153): Apart from the restrictions on mechanical restraints in general, the current regulations do not restrict restraint chair use. The committee has proposed new provisions that seek to limit restraint chair use, ensure proper approvals are obtained prior to use, involve medical and mental health staff to assess whether the restraint chair is safe for the resident in question, and ensure that the department has the proper information to monitor these incidents. These provisions will apply regardless of the purpose or duration of the restraint chair use. To avoid repetition, this summary does not address the restraint chair provisions that mirror the mechanical restraint and protective device provisions.

The proposal requires approval from the facility administrator or his designee before staff may place a resident in the chair and directs staff, immediately upon such placement, to notify the facility's designated health authority, who will assess whether the resident's condition necessitates transfer to a medical or mental health unit for emergency treatment. If a resident volunteers to be placed in the chair as a means of self-regulation and such use is part of an approved plan of care by a QMHP or mental health clinician, the health authority notification requirement would not apply.

The proposal grants the same individuals authority to terminate the restraint due to a health risk to the resident as the provisions for other mechanical restraints, except that the health authority will also have termination authority.

The proposal requires the facility to document the restraint chair use in the resident's case file or a central logbook. The documentation must include most of the elements required to document physical restraints under Section 1190, except that staff must have documentation demonstrating that the applicable required approvals were obtained and must explain why, for controlled movement, the chair is the least restrictive intervention.

Finally, the proposal requires staff to conduct a debriefing after releasing the resident from the chair. This will ensure that all facilities that use the chair are assessing their practices to determine what areas require improvement.

Mechanical restraint chair use for controlled movement (Section 1155): In addition to the general provisions, the committee recommends new sections to address restraint chair use for controlled movement of residents from one area of the facility to another. Under the proposal, the chair may be used for controlled movement only if: 1) the resident's refusal to move to another area directly and immediately threatens the resident or others or interferes with required facility operations; and 2) use of the chair is the least restrictive intervention available to ensure the resident's safe movement. The proposal requires staff to remove the resident from the restraint chair immediately upon reaching the intended destination and requires consultation with a clinician or

QMHP if the facility believes continued restraint is necessary due to the resident's ongoing credible threat to injure himself or others.

Mechanical restraint chair use for purposes other than controlled movement (Section 1156): The committee also has proposed a new section to address use of the mechanical restraint chair for purposes other than controlled movement. In order to utilize the restraint chair for these purposes: 1) the resident's actions must directly threaten himself or others; 2) less restrictive alternatives must have been attempted but failed to abate the threat or control the resident; and 3) the resident is removed from the chair once the threat is abated or the resident gains self-control. If staff believes continued restraint is necessary after the threat is abated due to the resident's ongoing credible threat to injure himself or others, staff must consult a clinician or QMHP to approve the continued restraint. These provisions do not apply for residents who request placement in the chair in accordance with an approved plan by a QMHP or clinician. These parameters will help facilities reduce the use of the restraint chair and limit the time residents are restrained. Finally, this provision requires one-on-one constant supervision while residents are in the chair, and staff must ensure the resident is reasonably comfortable and can access water, meals, and toilet, as applicable. Constant supervision will guarantee that staff is aware of the resident's condition and whether it is safe to release the resident from the restraint.

Monitoring residents in the restraint chair (Section 1157): These amendments are applicable to all residents in restraint chairs, regardless of the purpose of the restraint. The proposal requires staff to allow residents restrained in the chair longer than one hour to exercise each limb for a minimum of ten minutes every two hours. This is consistent with the National Commission on Correctional Health Care's Standards for Health Services in Juvenile Detention and Confinement Facilities. Additionally, under the proposal, the facility must have a video record of staff placing the resident in the chair when such use is for controlled movement and for the entire restraint period when residents are placed in the chair for purposes other than controlled movement. This will enable the department to assess whether facilities are complying with each of the requirements of this chapter.

Department monitoring visits (Section 1158): The proposal requires every use of the mechanical restraint chair to be subject to a department monitoring visit to assess compliance with this chapter.

Written procedures regarding mechanical restraint chairs (Section 1159): Finally, the proposal requires all detention centers utilizing restraint chairs to develop and implement written procedures consistent with the requirements in Sections 1153 through 1159. This eliminates the need to have separate sections within this article that require written procedures and gives detention centers clear direction on the information that must be contained in their written procedures regarding restraint chairs.

The table below summarizes the major differences and similarities between the requirements applicable to mechanical restraints, the restraint chair, and protective devices under Option 2.

	Mechanical Restraint Requirement	Restraint Chair Requirement	Protective Device Requirement
Necessary purpose for use	(i) To control residents whose behavior poses imminent risk; (ii) Controlled movement; (iii) Emergency situations	***For controlled movement*** – (i) Resident's refusal to move to another area poses a direct and immediate threat to resident or others or interferes with facility operations; (ii) Use is least restrictive intervention available for safe movement. ***For other purposes*** – (i) Resident's actions are direct threat to himself or others; (ii) Less restrictive alternatives were attempted but did not abate the threat; (iii) Resident remains in chair only as long as necessary to abate the threat or help him gain self-control.	i) To control residents whose behavior poses an imminent risk; (ii) Controlled movement; (iii) Emergency situations
Permissible to use punitively	No	No	No
Facility administrator involvement	Must be notified immediately upon using in emergencies	Must provide approval before resident placed in chair.	Must be notified immediately upon using in emergencies
Authority to order termination	Mental health clinician, QMHP, other qualifying licensed medical professional	Health authority, mental health clinician, QMHP, other qualifying licensed medical professional	Mental health clinician, QMHP, other qualifying licensed medical professional
Training	Staff authorized to use must receive initial and annual training.	Staff authorized to use must receive initial and annual training.	Staff authorized to use must receive initial and annual training.
Mental health professional/medical health professional involvement	Must notify QMHP or mental health clinician or medical professional before continuing use after initial threat abated.	Must notify health authority immediately upon placing resident in restraint chair to advise whether resident needs mental health or medical health unit.	May be used only in connection with other restraint. Requirements for applicable restraint must be observed.
Level of supervision necessary while restraint employed	Face-to-face checks at 15-minute intervals, including verbal engagement with resident and checks for signs of circulation and for injuries by health-trained staff.	***For controlled movement***: Unspecified. Staff conducts the transport of the resident, who must be removed from chair upon arrival at destination. ***For other purposes***: Constant one-on-one supervision until release.	***Spit guard*** – Constant one-on-one supervision until removed. ***Protective helmet*** – Unspecified. May use only in connection with other restraint. Requirement for applicable restraint must be observed.
Response to SIB while restrained	Stabilize threat, contact QMHP or mental health clinician, and monitor resident according to protocols.	Stabilize threat, consult with clinician or QMHP and obtain approval for continued use.	Unspecified. May use only in connection with other restraint. Requirement for applicable restraint must be observed.

Documentation requirements for use	Document in case file **or** in a central log book except when restraint used to transport a resident or during video court hearing proceedings.	Document in case file **or** central log book – date, time, staff involved, justification, less restrictive interventions attempted, duration, documenter's signature, evidence of approvals.	Document in case file or in a central log book except when device used to transport a resident or during video court hearing proceedings.
Debriefing required after	No	Yes	No
Video of restraint required	No	Yes—only placement for controlled movement and entire restraint period for all other uses of chair.	No
Restraint a serious incident?	No	Yes	No
Subsequent monitoring visit required	No – DJJ has general authority upon request per certification regulations.	Yes—every chair use will trigger monitoring visit.	No—DJJ has general authority upon request per certification regulations.
Rules for extended use	-If restrained for more than one hour, must allow resident to exercise each limb for a minimum of 10 minutes every two hours. -If restrained for more than 2 hours cumulatively in 24-hour period (except routine transportation) must consult with health care provider and QMHP or mental health clinician.	-If restrained for more than one hour, must allow residents to exercise each limb for a minimum of 10 minutes every two hours. -If continued restraint necessary after threat abated or destination reached, staff must consult with mental health clinician or QMHP for approval of continued restraint.	Unspecified. May use only in connection with other restraint. Requirement for applicable restraint must be observed.

III. OPTION 3 – PROHIBITION ON RESTRAINT CHAIR USE

Option 3 adds a new section that expressly prohibits staff from using mechanical restraint chairs, thus eliminating the need for the five provisions addressing the mechanical restraint chair set out in Article IV under Option 2. All other amendments proposed in Option 2 are included under this option.

IV. OPTION 4 – PROHIBITION ON SPIT GUARDS OR SIMILAR DEVICES

Option 4 adds a new section that expressly prohibits staff from requiring residents to wear spit guards or similar devices intended to prevent the resident from spitting on or biting staff. Option 4 excludes spit guards from the definition of protective devices and removes all the provisions imposing restrictions on spit guards that were contained in Option 2. All other provisions regarding mechanical restraints and restraint chairs set out under Option 2 are incorporated into this option.

V. RECOMMENDATION AND REGULATORY PROCESS

The department has submitted these options pursuant to the board's November 7 directive and is not recommending any one option at this time. The board may approve any of the proposed options or may elect to make additional amendments, including combining the provisions of one or several options. Regardless of which approach the board takes, any changes will be incorporated into the comprehensive regulatory package already approved for advancement to the proposed stage of the regulatory process.

REGULATIONS GOVERNING JUVENILE DETENTION CENTERS (6VAC35-101)
PROPOSED AMENDMENTS - MECHANICAL RESTRAINTS

OPTION 1 – AMENDMENTS APPROVED BY BOARD JUNE 2018

6VAC35-101-10. Definitions

"Mechanical restraint" means the use of an approved mechanical device that involuntarily restricts the freedom of movement or voluntary functioning of a limb or portion of an individual's body as a means of controlling his physical activities when the individual being restricted does not have the ability to remove the device. For purposes of this definition, mechanical restraints shall be limited to disposable plastic cuffs, handcuffs, leather restraints, leg irons, mobile restraint chairs, and waist chains.

6VAC35-101-190. Required initial training for employees.

A. ~~Each f~~Full-time and part-time employees and relief staff shall complete initial, comprehensive training that is specific to the individual's occupational class, is based on the needs of the population served, and ensures that the individual has the competencies to perform the position's duties. Direct care staff shall receive at least 40 hours of training, inclusive of all training required by this section, in their first year of employment.
~~1. Direct care staff shall receive at least 40 hours of training, inclusive of all training required by this section, in their first year of employment.~~
~~2. Contractors shall receive training required to perform their position responsibilities in a detention center.~~

B. Within 30 days following the employee's start date at the facility or before the employee is responsible for the direct care or direct supervision of a resident, all direct care staff and staff who provide direct supervision ~~-~~of the residents shall complete training in the following areas:
1. Emergency preparedness and response as provided for in 6VAC35-101-510 (emergency and evacuation procedures);
2. The facility's behavior management program as provided for in 6VAC35-101-1070 (behavior management);
3. The residents' rules of conduct and the rationale for the rules;
4. The facility's behavior intervention procedures, ~~with~~ including physical and mechanical restraint training required as applicable to their duties and as required by subsection ~~D~~ C of this section, and room restriction and disciplinary room restriction as provided for in 6VAC35-101-1100 (room restriction) and 6VAC35-101-1105 (disciplinary room restriction);

5. Child abuse and neglect and mandatory reporting as provided for in 6VAC35-101-80 (serious incident reports) and 6VAC35-101-90 (suspected child abuse or neglect);
6. Maintaining appropriate professional boundaries and relationships;
7. Appropriate interaction~~Interaction~~ among staff and residents;
8. Suicide prevention as provided for in 6VAC35-101-1020 (suicide prevention);
9. Residents' rights, including ~~but not limited to~~ prohibited actions provided for in 6VAC35-101-650 (prohibited actions);
10. Standard precautions as provided for in 6VAC35-101-1010 (infectious or communicable diseases); and
11. Procedures applicable to the employees' position and consistent with their work profiles.

C. Employees who are authorized by the facility administrator to restrain a resident, as provided for in 6VAC35-101-1090 (physical restraint) and 6VAC35-101-1130 (mechanical restraints), shall be trained in the facility's approved restraint techniques within 90 days of such authorization and ~~prior to~~before applying any restraint techniques.

D. Employees who administer medication shall, prior to such administration, as provided for in 6VAC35-101-1060 (medication), and in accordance with the provisions of § 54.1-3408 of the Code of Virginia, either (i) have successfully completed a medication management training program approved by the Board of Nursing or (ii) be ~~licensed~~ certified by the Commonwealth of Virginia to administer medication.

~~E. When an individual is employed by contract to provide services for which licensure by a professional organization is required, documentation of current licensure shall constitute compliance with this section.~~

~~F. Volunteers and interns shall be trained in accordance with 6VAC35-101-300 (volunteer and intern orientation and training).~~

G. Employees who perform the duties required in 6VAC35-101-800 (admission and orientation) shall be trained in the requirements contained therein.

6VAC35-101-200. Retraining requirements for employees.

A. Each full-time and part-time employee and relief staff shall complete retraining that is specific to the individual's occupational class, the position's job description, and addresses any professional development needs.

B. All full-time and part-time employees and relief staff shall complete an annual training refresher on the facility's emergency preparedness and response plan and procedures as provided for in 6VAC35-101-~~480~~ 520 (emergency and evacuation procedures).

C. All direct care staff shall receive at least 40 hours of training annually that shall include training on the following:
1. Suicide prevention as provided for in 6VAC35-101-1020 (suicide prevention);
2. Standard precautions as provided for in 6VAC35-101-1010 (infectious or communicable diseases);
3. Maintaining appropriate professional relationships;
4. Appropriate interaction~~Interaction~~ among staff and residents;
5. Residents' rights, including ~~but not limited to~~ the prohibited actions provided for in 6VAC35-101-650 (prohibited actions);
6. Child abuse and neglect and mandatory reporting as provided for in 6VAC35-101-80 (serious incident reports) and 6VAC35-101-90 (suspected child abuse or neglect); and
7. Behavior intervention procedures, including room restriction and disciplinary room restriction, as provided in 6VAC35-101-1100 (room restriction) and 6VAC35-101-1105 (disciplinary room restriction).

D. All staff approved to apply physical restraints, as provided for in 6VAC35-101-1090 (physical restraint) shall be trained as needed to maintain the applicable current certification.

E. All staff approved to apply mechanical restraints shall be retrained annually as required by 6VAC35-101-1130 (mechanical restraints).

F. Employees who administer medication, as provided for in 6VAC35-101-1060 (medication), shall complete an annual refresher training, which shall, at a minimum, include a review of the components required in 6VAC35-101-1060 (medication).

~~G. When an individual is employed by contract to provide services for which licensure by a professional organization is required, documentation of current licensure shall constitute compliance with this section.~~

H. Staff who have not timely completed required retraining shall not be allowed to have direct care responsibilities pending completion of the retraining requirements.

6VAC35-101-1130. Mechanical restraints.

A. Written procedure shall govern the use of mechanical restraints. ~~Such~~ The procedures shall be approved by the ~~department~~ facility administrator and shall specify:

1. The conditions under which ~~handcuffs, waist chains, leg irons, disposable plastic cuffs, leather restraints, and a mobile restraint chair~~ mechanical restraints may be used;
2. That the facility administrator or his designee shall be notified immediately upon using restraints in an emergency situation;
3. That restraints shall never be applied as punishment or a sanction;
4. That residents shall not be restrained to a fixed object or restrained in an unnatural position. For purposes of this section, securing a resident to a hospital bed or wheelchair may be permitted in an outside medical setting upon written approval by the facility administrator and in accordance with written procedures, as specified in 6VAC35-101-1150 (restraints for medical and mental health purposes);
5. That each use of mechanical restraints, except when used to transport a resident or during video court hearing proceedings, shall be recorded in the resident's case file or in a central log book; and
6. That a ~~written~~ system of accountability is in place to ensure~~record of~~ routine and emergency distribution of restraint equipment ~~be maintained~~.

B. Written procedure shall provide that (i) all staff who are authorized to use restraints shall receive training in such use in accordance with 6VAC35-101-190 (required initial training for employees) and 6VAC35-101-200 (retraining requirements for employees), including how to check the resident's circulation and how to check for injuries and (ii) only trained staff shall use restraints.

6VAC35-101-1140. Monitoring restrained residents.

A. Written procedure shall provide that when a resident is placed in restraints, staff shall

1. Provide for the resident's reasonable comfort and ensure the resident's access to water, meals, and toilet; and
2. Make a ~~direct personal~~face-to-face check on the resident at least every 15 minutes and more often if the resident's behavior warrants. ~~Such~~ The checks shall include monitoring the resident's circulation in accordance with the procedure provided for in 6VAC35-101-1130 B.

B. When a resident is placed in mechanical restraints for more than two hours cumulatively in a 24-hour period, with the exception of use in routine transportation of residents, staff shall immediately consult with a health care provider and a mental health professional. This consultation shall be documented.

C. If the resident, after being placed in mechanical restraints, exhibits self-injurious behavior, staff shall: (i) ~~staff shall~~take appropriate action to ensure the threat or harm is stabilized; (ii) ~~immediately~~ consult with ~~and document that they have consulted with~~ a qualified mental health

professional immediately thereafter and document the consultation; and (iii) monitor the resident shall be monitored in accordance with established protocols, including constant supervision, if appropriate. Any suchThe protocols shall be in compliancecomply with the procedures required by 6VAC35-101-1150 (restraints for medical and mental health purposes).

6VAC35-101-1150. Restraints for medical and mental health purposes.

Written procedure shall govern the use of restraints for medical and mental health purposes. Written procedure shall identify the authorization needed; the circumstances, location, and manner in which restraints when, where, and how restraints may be usedapplied; for how longthe permitted duration of use; and what the type of restraint that may be used.

OPTION 2 – NEW PARAMETERS ON MECHANICAL RESTRAINTS AND THE MECHANICAL RESTRAINT CHAIR

6VAC35-101-10. Definitions.

"Mechanical restraint" means an approved mechanical device that involuntarily restricts the freedom of movement or voluntary functioning of a limb or portion of an individual's body as a means of controlling his physical activities when the individual being restricted does not have the ability to remove the device. For purposes of this chapter, mechanical restraints shall include flex cuffs, handcuffs, leather restraints, leg irons, restraining belts and straps, waist chains, and anti-mutilation gloves. For purposes of this chapter, mechanical restraints shall not include mechanical restraint chairs.

"Mechanical restraint chair" means an approved chair used to restrict the freedom of movement or voluntary functioning of a portion of an individual's body as a means of controlling his physical activities while the individual is seated and either stationary or being transported.

"Mental health clinician" means a person with a master's degree or higher in psychology, counseling, or social work with an emphasis on mental health treatment who is employed in the practice of treating mental disorders.

"Protective device" means an approved device placed on a portion of a resident's body to protect the resident or staff from injury. For purposes of this chapter, protective device shall include spit guards or similar devices and protective helmets.

"Qualified mental health professional" means a person who by education and experience is professionally qualified and registered by the Board of Counseling to provide collaborative mental health services for adults or children.

"Spit guard or similar device" means a protective device placed over a resident's mouth for purposes of safety in order to prevent the resident from spitting on or biting staff or others.

6VAC35-101-80. Serious incident reports.

A. The following events shall be reported, ~~in accordance with department procedures,~~ within 24 hours to (i) the applicable court service unit; (ii) either the parent or legal guardian, as appropriate and applicable; and (iii) the director or his designee:

1. ~~Any~~ A serious incident, accident, illness, or injury to the resident;
2. The death of a resident;
3. ~~Any~~ A suspected case of child abuse or neglect at the detention center, on a detention center-sponsored event or excursion, or involving detention center staff as provided in 6VAC35-101-90 (suspected child abuse and neglect);
4. ~~Any~~ A disaster, fire, emergency, or other condition that may jeopardize the health, safety, and welfare of residents; ~~and~~
5. ~~Any~~ A resident's absence from the detention center without permission~~.~~; and
6. Placement of a resident in a mechanical restraint chair, regardless of the duration or purpose of the restraint.

B. The detention center shall notify the director or his designee within 24 hours of ~~any events detailed in subsection A of this section and all~~ any other ~~situations~~ event required by the regulatory authority of which the facility has been notified.

C. If an incident involving the death of a resident occurs at the facility, the facility shall notify the parents or legal guardians, as appropriate and applicable, of all residents in the facility provided such notice does not violate any confidentiality requirements or jeopardize any law-enforcement or child protective services investigation or the prosecution of any criminal cases related to the incident.

D. The facility shall (i) prepare and maintain a written report of the events listed in subsections A and B of this section and (ii) submit a copy of the written report to the director or his designee. The report shall contain the following information:

1. The date and time the incident occurred;
2. A brief description of the incident;
3. The action taken as a result of the incident;
4. The name of the person who completed the report;
5. The name or identifying information of the person who made the report to the applicable court service unit, the director, and ~~to~~ either the parent or legal guardian, as appropriate and applicable and the date and time on which the report was made; and
6. The name or identifying information of the person to whom the report was made, including any law-enforcement or child protective service personnel.

~~E. The resident's record shall contain a written reference (i) that an incident occurred and (ii) of all applicable reporting.~~

F. In addition to the requirements of this section, ~~any~~ serious ~~incident~~ incidents involving an allegation of child abuse or neglect at the detention center, at a detention-center sponsored event, or involving detention center staff shall be governed by 6VAC35-101-90 (suspected child abuse or neglect).

6VAC35-101-190. Required initial training for employees.

A. ~~Each f~~Full-time and part-time employees and relief staff shall complete initial, comprehensive training that is specific to the individual's occupational class, is based on the needs of the population served, and ensures that the individual has the competencies to perform the position's duties. Direct care staff shall receive at least 40 hours of training, inclusive of all training required by this section, in their first year of employment.
~~1. Direct care staff shall receive at least 40 hours of training, inclusive of all training required by this section, in their first year of employment.~~
~~2. Contractors shall receive training required to perform their position responsibilities in a detention center.~~

B. Within 30 days following the employee's start date at the facility or before the employee is responsible for the direct care or direct supervision of a resident, all direct care staff and staff who provide direct supervision of the residents shall complete training in the following areas:
1. Emergency preparedness and response as provided for in 6VAC35-101-510 (emergency and evacuation procedures);
2. The facility's behavior management program as provided for in 6VAC35-101-1070 (behavior management);
3. The residents' rules of conduct and the rationale for the rules;
4. The facility's behavior intervention procedures, ~~with~~ including physical and mechanical restraint training, protective device training, and mechanical restraint chair training required as applicable to their duties and as required by subsection ~~D~~ C of this section, and room restriction and disciplinary room restriction as provided for in 6VAC35-101-1100 (room restriction) and 6VAC35-101-1105 (disciplinary room restriction);
5. Child abuse and neglect and mandatory reporting as provided for in 6VAC35-101-80 (serious incident reports) and 6VAC35-101-90 (suspected child abuse or neglect);
6. Maintaining appropriate professional boundaries and relationships;
7. Appropriate interaction~~Interaction~~ among staff and residents;
8. Suicide prevention as provided for in 6VAC35-101-1020 (suicide prevention);

9. Residents' rights, including ~~but not limited to~~ prohibited actions provided for in 6VAC35-101-650 (prohibited actions);
10. Standard precautions as provided for in 6VAC35-101-1010 (infectious or communicable diseases); and
11. Procedures applicable to the employees' position and consistent with their work profiles.

C. Employees who are authorized by the facility administrator to restrain a resident, as provided for in 6VAC35-101-1090 (physical restraint), ~~and~~ 6VAC35-101-1130 (mechanical restraints and protective devices), and 6VAC35-101-1153 (mechanical restraint chair; general provisions) shall be trained in the facility's approved restraint techniques within 90 days of such authorization and ~~prior to~~before applying any restraint techniques.

D. Employees who administer medication shall, prior to such administration, as provided for in 6VAC35-101-1060 (medication), and in accordance with the provisions of § 54.1-3408 of the Code of Virginia, either (i) have successfully completed a medication management training program approved by the Board of Nursing or (ii) be ~~licensed~~ certified by the Commonwealth of Virginia to administer medication.

~~E. When an individual is employed by contract to provide services for which licensure by a professional organization is required, documentation of current licensure shall constitute compliance with this section.~~

~~F. Volunteers and interns shall be trained in accordance with 6VAC35-101-300 (volunteer and intern orientation and training).~~

G. Employees who perform the duties required in 6VAC35-101-800 (admission and orientation) shall be trained in the requirements contained therein.

6VAC35-101-200. Retraining requirements for employees.

A. Each full-time and part-time employee and relief staff shall complete retraining that is specific to the individual's occupational class, the position's job description, and addresses any professional development needs.

B. All full-time and part-time employees and relief staff shall complete an annual training refresher on the facility's emergency preparedness and response plan and procedures as provided for in 6VAC35-101-~~480~~ 520 (emergency and evacuation procedures).

C. All direct care staff shall receive at least 40 hours of training annually that shall include training on the following:

1. Suicide prevention as provided for in 6VAC35-101-1020 (suicide prevention);
2. Standard precautions as provided for in 6VAC35-101-1010 (infectious or communicable diseases);
3. Maintaining appropriate professional relationships;
4. Appropriate interaction~~Interaction~~ among staff and residents;
5. Residents' rights, including ~~but not limited to~~ the prohibited actions provided for in 6VAC35-101-650 (prohibited actions);
6. Child abuse and neglect and mandatory reporting as provided for in 6VAC35-101-80 (serious incident reports) and 6VAC35-101-90 (suspected child abuse or neglect); and
7. Behavior intervention procedures, including room restriction and disciplinary room restriction, as provided in 6VAC35-101-1100 (room restriction) and 6VAC35-101-1105 (disciplinary room restriction).

D. All staff approved to apply physical restraints, as provided for in 6VAC35-101-1090 (physical restraint) shall be trained as needed to maintain the applicable current certification.

E. All staff approved to apply mechanical restraints or protective devices or to utilize the mechanical restraint chair shall be retrained annually as required by 6VAC35-101-1130 (mechanical restraints and protective devices) and 6VAC35-101-1153 (mechanical restraint chair; general provisions).

F. Employees who administer medication, as provided for in 6VAC35-101-1060 (medication), shall complete an annual refresher training, which shall, at a minimum, include a review of the components required in 6VAC35-101-1060 (medication).

~~G. When an individual is employed by contract to provide services for which licensure by a professional organization is required, documentation of current licensure shall constitute compliance with this section.~~

H. Staff who have not timely completed required retraining shall not be allowed to have direct care responsibilities pending completion of the retraining requirements.

Article III – Mechanical Restraints and Protective Devices

6VAC35-101-1130. Mechanical restraints and protective devices.

A. Mechanical restraints and protective devices may be used for the following purposes, subject to the restrictions enumerated in this section: (i) to control residents whose behavior poses an imminent risk to the safety of the resident, staff, or others; (ii) for purposes of controlled movement, either from one area of the facility to another or to a destination outside the facility; or (iii) to address emergency situations.

B. A detention center that uses mechanical restraints or protective devices shall observe the following general requirements:

1. Mechanical restraints and protective devices shall be used only for as long as necessary to address the purposes established in subsection A. Once the imminent risk to safety has been abated, the resident has reached his intended destination within the facility or has returned to the facility from a destination offsite, or the emergency situation has been resolved, the mechanical restraint or protective device must be removed.

~~A. Written procedure shall govern the use of mechanical restraints. Such procedures shall be approved by the department and shall specify:~~

~~1. The conditions under which handcuffs, waist chains, leg irons, disposable plastic cuffs, leather restraints, and a mobile restraint chair may be used;~~

2. ~~That t~~The facility administrator or his designee shall be notified immediately upon using mechanical restraints or protective devices in an emergency situation;

3. ~~That~~ The facility shall not use mechanical restraints or protective devices ~~shall never be applied~~ as a punishment or a sanction;

4. ~~That residents~~ Residents shall not be restrained to a fixed object or restrained in an unnatural position. For purposes of this section, securing a resident to a hospital bed or wheelchair may be permitted in an outside medical setting upon written approval by the facility administrator and in accordance with written procedures;

5. A mental health clinician, qualified mental health professional, or other qualifying licensed medical professional may order termination of a mechanical restraint or protective device at any time upon determining that use of the item poses a health risk.

~~5~~6. ~~That each~~Each use of a mechanical ~~restraints~~restraint or protective device, except when used to transport a resident or during video court hearing proceedings, shall be recorded in the resident's case file or in a central log book; ~~and~~

~~6~~7. ~~That a~~A ~~written~~ system of accountability ~~is~~shall be in place to ensure~~record of~~ routine and emergency distribution of mechanical restraints and ~~equipment~~protective devices; and ~~be maintained.~~

~~B~~8. ~~Written procedure shall provide that (i) all~~ All staff who are authorized to use ~~restraints~~ mechanical restraints or protective devices shall receive training in such use in accordance with 6VAC35-101-190 (required initial training for employees) and 6VAC35-101-200 (retraining requirements for employees). ~~including how to check the resident's circulation and how to check for injuries~~; and ~~(ii)~~ only trained staff shall use mechanical restraints or protective devices.

B. A detention center that uses a mechanical restraint to control a resident whose behavior poses a safety risk in accordance with subdivision (A)(i) of this section shall notify a health care provider and a mental health clinician or qualified mental health professional before continuing to use the restraint, and, if applicable, the accompanying protective device, if the imminent risk has been abated, but the facility determines that continued use of the mechanical restraint is necessary to maintain security due to the resident's ongoing credible threat to injure himself or others. This may include instances in which the resident verbally expresses the intent to continue the actions that required the restraint.

C. A detention center may not use a protective device unless such use is in connection with a restraint and shall remove the device when the resident is released from the restraint.

D. In addition to the requirements enumerated in subsections A through C of this section, a detention center that uses a spit guard or similar device to control resident behavior shall observe the following requirements:

1. The spit guard or similar device may be used only on a resident who previously has bitten or spit on a staff member during the course of a restraint or who, in the course of a current restraint, threatens to spit on or bite or actually spits on or bites a staff member;
2. The spit guard or similar device must be designed and applied in a manner that will not inhibit the resident's ability to see or to breathe;
3. While the spit guard or similar device remains in place, staff shall provide for the resident's reasonable comfort and ensure the resident's access to water and meals, as applicable;
4. Staff must employ constant supervision of the resident while the spit guard or similar device remains in place to observe whether the resident exhibits signs of respiratory distress. If any sign

of respiratory distress is observed, staff shall remove the spit guard or similar device immediately; and
5. Staff may not use a spit guard or similar device on a resident who is unconscious, vomiting, or in obvious need of medical attention.

6VAC35-101-1140. Monitoring ~~restrained~~ residents placed in mechanical restraints .

A. Written procedure shall provide that ~~when~~ if a resident is placed in a mechanical ~~restraints~~restraint, staff shall:

1. Provide for the resident's reasonable comfort and ensure the resident's access to water, meals, and toilet; and

2. Make a ~~direct personal~~face-to-face check on the resident at least every 15 minutes and more often if the resident's behavior warrants. Staff shall attempt to engage verbally with the resident during each periodic check. These efforts may include explaining the reasons for which the resident is being restrained or the steps necessary to be released from the restraint; or otherwise attempting to deescalate the resident. ~~Such~~ During each ~~checks~~check, a health-trained staff shall ~~include monitoring~~monitor the ~~resident's~~ resident for signs of circulation and for injuries ~~in accordance with the procedure provided for in 6VAC35-101-1130 B~~.

B. If a resident remains in a mechanical restraint for a period that exceeds one hour, the resident shall be permitted to exercise each of his limbs for a minimum of 10 minutes every two hours to prevent blood clots.

~~B~~C. When a resident is placed in mechanical restraints for more than two hours cumulatively in a 24-hour period, with the exception of use in routine transportation of residents, staff shall immediately consult with a health care provider and a qualified mental health professional or mental health clinician. This consultation shall be documented.

~~C~~D. If the resident, after being placed in mechanical restraints, exhibits self-injurious behavior, staff shall: (i) ~~staff shall~~take appropriate action to ensure the threat or harm is stabilized; (ii) ~~immediately~~ consult with ~~and document that they have consulted with~~ a qualified mental health professional or mental health clinician immediately thereafter and document the consultation; and (iii) monitor the resident ~~shall be monitored~~ in accordance with established protocols, including constant supervision, if appropriate. ~~Any such protocols shall be in compliance with the procedures required by 6VAC35-101-1150 (restraints for medical and mental health purposes).~~

6VAC35-101-1145. Written procedures regarding mechanical restraints and protective devices

A detention center that uses mechanical restraints or protective devices shall develop and implement written procedures approved by the facility administrator that reflect the requirements established in this article.

6VAC35-101-1150. ~~**Restraints for medical and mental health purposes.**~~ **(Repealed.)**

~~Written procedure shall govern the use of restraints for medical and mental health purposes. Written procedure shall identify the authorization needed; when, where, and how restraints may be used; for how long; and what type of restraint may be used.~~

Article IV – Mechanical Restraint Chairs

6VAC35-101-1153. Mechanical restraint chair; general provisions.

A detention center that utilizes a mechanical restraint chair shall observe the following requirements, regardless of whether the chair is used for purposes of controlled movement in accordance with 6VAC35-101-1155 (mechanical restraint chair use for controlled movement; conditions) or for other purposes in accordance with 6VAC35-101-1156 (mechanical restraint chair used for purposes other than controlled movement; conditions for use):

1. The restraint chair shall never be applied as punishment or as a sanction;

2. All staff authorized to use the restraint chair shall receive training in such use in accordance with 6VAC35-101-190 (required initial training for employees) and 6VAC35-101-200 (retraining requirements for employees);

3. The facility administrator or his designee shall provide approval before a resident may be placed in the restraint chair;

4. Staff shall notify the health authority, designated in accordance with 6VAC35-101-930, immediately upon placing the resident in the restraint chair to assess the resident's medical and mental health condition, to ascertain whether the restraint is contraindicated based on the resident's physical condition or behavior or whether other accommodations are necessary, and to advise whether, on the basis of serious danger to self or others, the resident should be in a medical or mental health unit for emergency involuntary treatment. The requirements of this subdivision shall not apply when the restraint chair is requested by a resident for whom such voluntary use is part of an approved plan of care by a mental health clinician or qualified mental health professional in accordance with subsection C of 6VAC35-101-1156 (mechanical restraint chair use for purposes other than controlled movement; conditions for use).

5. If the resident, after being placed in the mechanical restraint chair, exhibits self-injurious behavior, staff shall (i) take appropriate action to ensure the threat or harm is stabilized; (ii) consult a mental health clinician or qualified mental health professional immediately thereafter and obtain approval for continued use of the restraint chair.

6. The health authority, a mental health clinician, a qualified mental health professional, or other qualifying licensed medical professional may order termination of restraint chair use at any time upon determining that use of the chair poses a health risk.

7. Each use of the restraint chair shall constitute a serious incident, to which the provisions of 6VAC35-101-80 (serious incident reports) shall apply;

8. Each use of the restraint chair shall be documented in the resident's case file or in a central logbook. The documentation shall include:

a. Date and time of the incident;
b. Staff involved in the incident;
c. Justification for the restraint;
d. Less restrictive interventions that were attempted or an explanation of why the restraint chair is the least restrictive intervention available to ensure the resident's safe movement;
e. Duration of the restraint;
f. Signature of the person documenting the incident and date;
g. Indication that all applicable approvals required in this article have been obtained; and
h. Reviewer's signature and date.

9. Detention center staff shall conduct a debriefing of the restraint after releasing the resident from the chair.

6VAC35-101-1155. Mechanical restraint chair use for controlled movement; conditions.

A. A detention center shall be authorized to use a mechanical restraint chair for purposes of controlled movement of a resident from one area of the facility to another, provided the following conditions, in addition to the requirements enumerated in 6VAC35-101-1155 (mechanical restraint chair; general provisions) are satisfied:

1. The resident's refusal to move from one area of the facility to another poses a direct and immediate threat to the resident or others or interferes with required facility operations; and

2. Use of the restraint chair is the least restrictive intervention available to ensure the resident's safe movement.

B. When the facility utilizes the restraint chair in accordance with this section, staff shall remove the resident from the chair immediately upon reaching the intended destination. If staff, upon reaching the intended destination, determine that continued restraint is necessary due to the resident's ongoing credible threat to injure himself or others, staff shall consult with a mental

health clinician or qualified mental health professional for approval of the continued restraint. The ongoing threat may include instances in which the resident verbally expresses the intent to continue the actions that required the restraint.

6VA35-101-1156. Mechanical restraint chair use for purposes other than controlled movement; conditions for use.

A. A detention center shall be authorized to use a mechanical restraint chair for purposes other than controlled movement provided the following conditions are satisfied:

1. The resident's behavior or actions present a direct and immediate threat to the resident or others;

2. Less restrictive alternatives were attempted but were unsuccessful in bringing the resident under control or abating the threat;

3. The resident remains in the restraint chair only for as long as necessary to abate the threat or help the resident gain self-control.

B. Once the direct threat is abated, if staff determines that continued restraint is necessary to maintain security due to the resident's ongoing credible threat to injure himself or others, staff shall consult a mental health clinician or qualified mental health professional for approval of the continued restraint. The ongoing threat may include instances in which the resident verbally expresses the intent to continue the actions that required the restraint

C. The detention center shall be excused from the requirements in subsections A and B of this section when the restraint chair is requested by a resident for whom such voluntary use is part of an approved plan of care by a qualified mental health professional or mental health clinician.

D. Whenever a resident is placed in a restraint chair for purposes other than controlled movement, staff shall observe the following monitoring requirements:

1. Employ constant, one-on-one supervision until the resident is released from the chair. Staff shall attempt to engage verbally with the resident during the one-on-one supervision. These efforts may include explaining the reasons for which the resident is being restrained or the steps necessary to be released from the restraint; or otherwise attempting to deescalate the resident.

2. Ensure that a health-trained staff monitors the resident for signs of circulation and for injuries at least once every 15 minutes in accordance with written procedures; and

3. Ensure that the resident is reasonably comfortable and has access to water, meals, and toilet.

6VAC35-101-1157. Monitoring residents placed in a mechanical restraint chair.

A. If a resident remains in the restraint chair for a period that exceeds one hour, the resident shall be permitted to exercise each of his limbs for a minimum of 10 minutes every two hours to prevent blood clots.

B. A detention center shall ensure that a video record of the following is captured and retained for a minimum of three years in accordance with 6VAC35-101-40 (certification):

1. The placement of a resident in a restraint chair when a resident is restrained for purposes of controlled movement; and

2. The entire restraint, from the time the resident is placed in the restraint chair until his release, when a resident is restrained in the chair for purposes other than controlled movement. The detention center may satisfy this requirement by positioning the restraint chair within direct view of an existing security camera.

6VAC35-101-1158. Department monitoring visits.

If a detention center uses a mechanical restraint chair to restrain a resident, regardless of the duration or purpose of the use, the detention center shall be subject to a monitoring visit conducted by the department pursuant to the authority provided in 6VAC35-20-60 (monitoring of programs and facilities). The purpose of the monitoring visit shall be to assess the detention center's compliance with the provisions of this article.

6VAC35-101-1159. Written procedures regarding mechanical restraint chairs.

A detention center that uses a mechanical restraint chair to restrain a resident shall develop and implement written procedures approved by the facility administrator that reflect the requirements established in this article.

OPTION 3 – PROHIBITION ON RESTRAINT CHAIRS

6VAC35-101-10. Definitions.

"Mechanical restraint" means an approved mechanical device that involuntarily restricts the freedom of movement or voluntary functioning of a limb or portion of an individual's body as a means of controlling his physical activities when the individual being restricted does not have the ability to remove the device. For purposes of this chapter, mechanical restraints shall -include flex cuffs, handcuffs, leather restraints, leg irons, restraining belts and straps, waist chains, and anti-mutilation gloves. For purposes of this chapter, mechanical restraints shall not include mechanical restraint chairs.

"Mechanical restraint chair" means a chair used to restrict the freedom of movement or voluntary functioning of a portion of an individual's body as a means of controlling his physical activities while the individual is seated and either stationary or being transported.

"Mental health clinician" means a person with a master's degree or higher in psychology, counseling, or social work with an emphasis on mental health treatment who is employed in the practice of treating mental disorders.

"Protective device" means an approved device placed on a portion of a resident's body to protect the resident or staff from injury. For purposes of this chapter, protective device shall include spit guards or similar devices and protective helmets.

"Qualified mental health professional" means a person who by education and experience is professionally qualified and registered by the Board of Counseling to provide collaborative mental health services for adults or children.

"Spit guard or similar device" means a protective device placed over a resident's mouth for purposes of safety and security in order to prevent the resident from spitting on or biting staff or others.

6VAC35-101-190. Required initial training for employees.

A. ~~Each f~~Full-time and part-time employees and relief staff shall complete initial, comprehensive training that is specific to the individual's occupational class, is based on the needs of the population served, and ensures that the individual has the competencies to perform the position's duties. Direct care staff shall receive at least 40 hours of training, inclusive of all training required by this section, in their first year of employment.

~~1. Direct care staff shall receive at least 40 hours of training, inclusive of all training required by this section, in their first year of employment.~~
~~2. Contractors shall receive training required to perform their position responsibilities in a detention center.~~

B. Within 30 days following the employee's start date at the facility or before the employee is responsible for the direct care or direct supervision of a resident, all direct care staff and staff who provide direct supervision ~~-~~of the residents shall complete training in the following areas:
1. Emergency preparedness and response as provided for in 6VAC35-101-510 (emergency and evacuation procedures);
2. The facility's behavior management program as provided for in 6VAC35-101-1070 (behavior management);
3. The residents' rules of conduct and the rationale for the rules;
4. The facility's behavior intervention procedures, ~~with~~ including physical and mechanical restraint and protective devices training required as applicable to their duties and as required by subsection ~~D~~ C of this section, and room restriction and disciplinary room restriction as provided for in 6VAC35-101-1100 (room restriction) and 6VAC35-101-1105 (disciplinary room restriction);
5. Child abuse and neglect and mandatory reporting as provided for in 6VAC35-101-80 (serious incident reports) and 6VAC35-101-90 (suspected child abuse or neglect);
6. Maintaining appropriate professional boundaries and relationships;
7. Appropriate interaction~~Interaction~~ among staff and residents;
8. Suicide prevention as provided for in 6VAC35-101-1020 (suicide prevention);
9. Residents' rights, including ~~but not limited to~~ prohibited actions provided for in 6VAC35-101-650 (prohibited actions);
10. Standard precautions as provided for in 6VAC35-101-1010 (infectious or communicable diseases); and
11. Procedures applicable to the employees' position and consistent with their work profiles.

C. Employees who are authorized by the facility administrator to restrain a resident, as provided for in 6VAC35-101-1090 (physical restraint) and 6VAC35-101-1130 (mechanical restraints), shall be trained in the facility's approved restraint techniques within 90 days of such authorization and ~~prior to~~before applying any restraint techniques.

D. Employees who administer medication shall, prior to such administration, as provided for in 6VAC35-101-1060 (medication), and in accordance with the provisions of § 54.1-3408 of the Code of Virginia, either (i) have successfully completed a medication management training program approved by the Board of Nursing or (ii) be ~~licensed~~ certified by the Commonwealth of Virginia to administer medication.

~~E. When an individual is employed by contract to provide services for which licensure by a professional organization is required, documentation of current licensure shall constitute compliance with this section.~~

~~F. Volunteers and interns shall be trained in accordance with 6VAC35-101-300 (volunteer and intern orientation and training).~~

G. Employees who perform the duties required in 6VAC35-101-800 (admission and orientation) shall be trained in the requirements contained therein.

6VAC35-101-200. Retraining requirements for employees.

A. Each full-time and part-time employee and relief staff shall complete retraining that is specific to the individual's occupational class, the position's job description, and addresses any professional development needs.

B. All full-time and part-time employees and relief staff shall complete an annual training refresher on the facility's emergency preparedness and response plan and procedures as provided for in 6VAC35-101-~~480~~ 520 (emergency and evacuation procedures).

C. All direct care staff shall receive at least 40 hours of training annually that shall include training on the following:
1. Suicide prevention as provided for in 6VAC35-101-1020 (suicide prevention);
2. Standard precautions as provided for in 6VAC35-101-1010 (infectious or communicable diseases);
3. Maintaining appropriate professional relationships;
4. Appropriate interaction~~Interaction~~ among staff and residents;
5. Residents' rights, including ~~but not limited to~~ the prohibited actions provided for in 6VAC35-101-650 (prohibited actions);
6. Child abuse and neglect and mandatory reporting as provided for in 6VAC35-101-80 (serious incident reports) and 6VAC35-101-90 (suspected child abuse or neglect); and
7. Behavior intervention procedures, including room restriction and disciplinary room restriction, as provided in 6VAC35-101-1100 (room restriction) and 6VAC35-101-1105 (disciplinary room restriction).

D. All staff approved to apply physical restraints, as provided for in 6VAC35-101-1090 (physical restraint) shall be trained as needed to maintain the applicable current certification.

E. All staff approved to apply mechanical restraints or protective devices shall be retrained annually as required by 6VAC35-101-1130 (mechanical restraints).

F. Employees who administer medication, as provided for in 6VAC35-101-1060 (medication), shall complete an annual refresher training, which shall, at a minimum, include a review of the components required in 6VAC35-101-1060 (medication).

~~G. When an individual is employed by contract to provide services for which licensure by a professional organization is required, documentation of current licensure shall constitute compliance with this section.~~

H. Staff who have not timely completed required retraining shall not be allowed to have direct care responsibilities pending completion of the retraining requirements.

6VAC35-101-1130. Mechanical restraints and protective devices.

A. Mechanical restraints and protective devices may be used for the following purposes, subject to the restrictions enumerated in this section: (i) to control residents whose behavior poses an imminent risk to the safety of the resident, staff, or others; (ii) for purposes of controlled movement, either from one area of the facility to another or to a destination outside the facility; or (iii) to address emergency situations.

~~A. Written procedure shall govern the use of mechanical restraints. Such procedures shall be approved by the department and shall specify:~~

~~1. The conditions under which handcuffs, waist chains, leg irons, disposable plastic cuffs, leather restraints, and a mobile restraint chair may be used;~~

B. A detention enter that uses mechanical restraints or protective devices shall observe the following general requirements:

1. Mechanical restraints and protective devices shall be used only for as long as necessary to address the purposes established in subsection A. Once the imminent risk to safety has been abated, the resident has reached his intended destination within the facility or has returned to the facility from a destination offsite, or the emergency situation has been resolved, the mechanical restraint or protective device must be removed.

2. ~~That the~~The facility administrator or his designee shall be notified immediately upon using mechanical restraints or protective devices in an emergency situation;

3. ~~That~~The facility shall not use mechanical restraints ~~shall never be applied as~~or protective devices as a punishment or a sanction;

4. ~~That r~~Residents shall not be restrained to a fixed object or restrained in an unnatural position. For purposes of this section, securing a resident to a hospital bed or wheelchair may be permitted in an outside medical setting upon written approval by the facility administrator and in accordance with written procedures;

5. A mental health clinician, qualified mental health professional, or other qualifying licensed medical professional may order termination of a mechanical restraint or protective device at any time upon determining that the item poses a health risk.

56. ~~That each~~Each use of a mechanical ~~restraints~~restraint or protective device, except when used to transport a resident or during video court hearing proceedings, shall be recorded in the resident's case file or in a central log book; and

67. ~~That a~~A ~~written~~ system of accountability ~~is~~shall be in place to ensure~~record of~~ routine and emergency distribution of mechanical ~~restraint equipment~~restraints and protective devices ~~be maintained.~~; and

8. ~~Written procedure shall provide that (i) all~~ All staff who are authorized to use ~~restraints~~ mechanical restraints or protective devices shall receive training in such use in accordance with 6VAC35-101-190 (required initial training for employees) and 6VAC35-101-200 (retraining requirements for employees),; ~~including how to check the resident's circulation and how to check for injuries~~; and ~~(ii)~~ only trained staff shall use mechanical restraints or protective devices.

B. A detention center that uses a mechanical restraint to control a resident whose behavior poses a safety risk in accordance with subdivision (A)(i) of this section shall notify a health care provider and a mental health clinician or qualified mental health professional before continuing to use the restraint and, if applicable, the accompanying protective device, if the imminent risk has been abated, but the facility determines that continued use of the mechanical restraint is necessary to maintain security due to the resident's ongoing credible threat to injure himself or others. This may include instances in which the resident verbally expresses the intent to continue the actions that required the restraint

C. A detention center may not use a protective device unless such use is in connection with a restraint and shall remove the device when the resident is released from the restraint.

D. In addition to the requirements enumerated in subsections A through C of this section, a detention center that uses a spit guard or similar device to control resident behavior shall observe the following requirements:
1. The spit guard or similar device may be used only on a resident who previously has bitten or spit on a staff member in the course of a restraint or who, in the course of a current restraint, threatens to spit on or bite or actually spits on or bites a staff member;
2. The spit guard or similar device must be designed and applied in a manner that will not inhibit the resident's ability to see or to breathe;
3. While the spit guard or similar device remains in place, staff shall provide for the resident's reasonable comfort and ensure the resident's access to water and meals, as applicable;
4. Staff must employ constant supervision of the resident while the spit guard or similar device remains in place to observe whether the resident exhibits signs of respiratory distress. If any sign of respiratory distress is observed, staff shall remove the spit guard or similar device immediately; and
5. Staff may not use a spit guard or similar device on a resident who is unconscious, vomiting, or in obvious need of medical attention.

6VAC35-101-1140. Monitoring ~~restrained~~ residents placed in mechanical restraints.

A. Written procedure shall provide that ~~when~~ if a resident is placed in a mechanical ~~restraints~~restraint, staff shall:

1. Provide for the resident's reasonable comfort and ensure the resident's access to water, meals, and toilet; and

2. Make a ~~direct personal~~face-to-face check on the resident at least every 15 minutes and more often if the resident's behavior warrants. ~~Such~~ Staff shall attempt to engage verbally with the resident during each periodic check. These efforts may include explaining the reasons for which the resident is being restrained or the steps necessary to be released from the restraint; or otherwise attempting to deescalate the resident. During each check ~~checks shall include monitoring~~, a health-trained staff member shall monitor the ~~resident's~~ resident for signs of circulation and for injuries.~~in accordance with the procedure provided for in 6VAC35-101-1130 B~~.

B. If a resident remains in the mechanical chair for a period that exceeds one hour, the resident shall be permitted to exercise each of his limbs for a minimum of 10 minutes every two hours to prevent blood clots.

~~B~~C. When a resident is placed in mechanical restraints for more than two hours cumulatively in a 24-hour period, with the exception of use in routine transportation of residents, staff shall immediately consult with a health care provider and a qualified mental health professional or mental health clinician. This consultation shall be documented.

~~C~~D. If the resident, after being placed in mechanical restraints, exhibits self-injurious behavior, staff shall: (i) ~~staff shall~~take appropriate action to ensure the threat or harm is stabilized; (ii) ~~immediately~~ consult with ~~and document that they have consulted with~~ a mental health clinician or qualified mental health professional immediately thereafter and document the consultation; and (iii) monitor the resident ~~shall be monitored~~ in accordance with established protocols, including constant supervision, if appropriate. ~~Any such protocols shall be in compliance with the procedures required by 6VAC35-101-1150 (restraints for medical and mental health purposes).~~

6VAC35-101-1145. Written procedures regarding mechanical restraints and protective devices

A detention center that uses mechanical restraints or protective devices shall develop and implement written procedures approved by the facility administrator that reflect the requirements established in this article.

6VAC35-101-1150. ~~Restraints for medical and mental health purposes.~~ (Repealed.)

~~Written procedure shall govern the use of restraints for medical and mental health purposes. Written procedure shall identify the authorization needed; when, where, and how restraints may be used; for how long; and what type of restraint may be used.~~

6VAC35-101-1155. Use of mechanical restraint chairs prohibited.

Staff shall be prohibited from placing a resident in a mechanical restraint chair for any purpose.

OPTION 4 – PROHIBITION ON SPIT GUARDS AND SIMILAR DEVICES

6VAC35-101-10. Definitions.

"Mechanical restraint" means an approved mechanical device that involuntarily restricts the freedom of movement or voluntary functioning of a limb or portion of an individual's body as a means of controlling his physical activities when the individual being restricted does not have the ability to remove the device. For purposes of this chapter, mechanical restraints shall include flex cuffs, handcuffs, leather restraints, leg irons, restraining belts and straps, waist chains, and anti-mutilation gloves. For purposes of this chapter, mechanical restraints shall not include mechanical restraint chairs.

"Mechanical restraint chair" means an approved chair used to restrict the freedom of movement or voluntary functioning of a portion of an individual's body as a means of controlling his physical activities while the individual is seated and either stationary or being transported.

"Mental health clinician" means a person with a master's degree or higher in psychology, counseling, or social work with an emphasis on mental health treatment who is employed in the practice of treating mental disorders.

"Protective device" means an approved device placed on a portion of a resident's body to protect the resident or staff from injury. For purposes of this chapter, protective device shall not include spit guards or similar devices.

"Qualified mental health professional" means a person who by education and experience is professionally qualified and registered by the Board of Counseling to provide collaborative mental health services for adults or children.

"Spit guard or similar device" means a device placed over a resident's mouth for purposes of safety in order to prevent the resident from spitting on or biting staff or others.

6VAC35-101-190. Required initial training for employees.

A. ~~Each f~~Full-time and part-time employees and relief staff shall complete initial, comprehensive training that is specific to the individual's occupational class, is based on the needs of the population served, and ensures that the individual has the competencies to perform the position's duties. Direct care staff shall receive at least 40 hours of training, inclusive of all training required by this section, in their first year of employment.

~~1. Direct care staff shall receive at least 40 hours of training, inclusive of all training required by this section, in their first year of employment.~~

~~2. Contractors shall receive training required to perform their position responsibilities in a detention center.~~

B. Within 30 days following the employee's start date at the facility or before the employee is responsible for the direct care or direct supervision of a resident, all direct care staff and staff who provide direct supervision ~~-~~of the residents shall complete training in the following areas:
1. Emergency preparedness and response as provided for in 6VAC35-101-510 (emergency and evacuation procedures);
2. The facility's behavior management program as provided for in 6VAC35-101-1070 (behavior management);
3. The residents' rules of conduct and the rationale for the rules;
4. The facility's behavior intervention procedures, ~~with~~ including physical and mechanical restraint training and protective device training required as applicable to their duties and as required by subsection ~~D~~ C of this section, and room restriction and disciplinary room restriction as provided for in 6VAC35-101-1100 (room restriction) and 6VAC35-101-1105 (disciplinary room restriction);
5. Child abuse and neglect and mandatory reporting as provided for in 6VAC35-101-80 (serious incident reports) and 6VAC35-101-90 (suspected child abuse or neglect);
6. Maintaining appropriate professional boundaries and relationships;
7. Appropriate interaction~~Interaction~~ among staff and residents;
8. Suicide prevention as provided for in 6VAC35-101-1020 (suicide prevention);
9. Residents' rights, including ~~but not limited to~~ prohibited actions provided for in 6VAC35-101-650 (prohibited actions);
10. Standard precautions as provided for in 6VAC35-101-1010 (infectious or communicable diseases); and
11. Procedures applicable to the employees' position and consistent with their work profiles.

C. Employees who are authorized by the facility administrator to restrain a resident, as provided for in 6VAC35-101-1090 (physical restraint) and 6VAC35-101-1130 (mechanical restraints), shall be trained in the facility's approved restraint techniques within 90 days of such authorization and ~~prior to~~before applying any restraint techniques.

D. Employees who administer medication shall, prior to such administration, as provided for in 6VAC35-101-1060 (medication), and in accordance with the provisions of § 54.1-3408 of the Code of Virginia, either (i) have successfully completed a medication management training program approved by the Board of Nursing or (ii) be ~~licensed~~ certified by the Commonwealth of Virginia to administer medication.

~~E. When an individual is employed by contract to provide services for which licensure by a professional organization is required, documentation of current licensure shall constitute compliance with this section.~~

~~F. Volunteers and interns shall be trained in accordance with 6VAC35-101-300 (volunteer and intern orientation and training).~~

G. Employees who perform the duties required in 6VAC35-101-800 (admission and orientation) shall be trained in the requirements contained therein.

6VAC35-101-200. Retraining requirements for employees.

A. Each full-time and part-time employee and relief staff shall complete retraining that is specific to the individual's occupational class, the position's job description, and addresses any professional development needs.

B. All full-time and part-time employees and relief staff shall complete an annual training refresher on the facility's emergency preparedness and response plan and procedures as provided for in 6VAC35-101-~~480~~ 520 (emergency and evacuation procedures).

C. All direct care staff shall receive at least 40 hours of training annually that shall include training on the following:
1. Suicide prevention as provided for in 6VAC35-101-1020 (suicide prevention);
2. Standard precautions as provided for in 6VAC35-101-1010 (infectious or communicable diseases);
3. Maintaining appropriate professional relationships;
4. Appropriate interaction~~Interaction~~ among staff and residents;
5. Residents' rights, including ~~but not limited to~~ the prohibited actions provided for in 6VAC35-101-650 (prohibited actions);
6. Child abuse and neglect and mandatory reporting as provided for in 6VAC35-101-80 (serious incident reports) and 6VAC35-101-90 (suspected child abuse or neglect); and
7. Behavior intervention procedures, including room restriction and disciplinary room restriction, as provided in 6VAC35-101-1100 (room restriction) and 6VAC35-101-1105 (disciplinary room restriction).

D. All staff approved to apply physical restraints, as provided for in 6VAC35-101-1090 (physical restraint) shall be trained as needed to maintain the applicable current certification.

E. All staff approved to apply mechanical restraints or protective devices shall be retrained annually as required by 6VAC35-101-1130 (mechanical restraints).

F. Employees who administer medication, as provided for in 6VAC35-101-1060 (medication), shall complete an annual refresher training, which shall, at a minimum, include a review of the components required in 6VAC35-101-1060 (medication).

~~G. When an individual is employed by contract to provide services for which licensure by a professional organization is required, documentation of current licensure shall constitute compliance with this section.~~

H. Staff who have not timely completed required retraining shall not be allowed to have direct care responsibilities pending completion of the retraining requirements.

6VAC35-101-1130. Mechanical restraints and protective devices.

A. Mechanical restraints and protective devices may be used for the following purposes subject to the restrictions enumerated in this section: (i) to control residents whose behavior poses an imminent risk to the safety of the resident, staff, or others; (ii) for purposes of controlled movement, either from one area of the facility to another or to a destination outside the facility; and (iii) to address emergency situations.

~~A. Written procedure shall govern the use of mechanical restraints. Such procedures shall be approved by the department and shall specify:~~

~~1. The conditions under which handcuffs, waist chains, leg irons, disposable plastic cuffs, leather restraints, and a mobile restraint chair may be used;~~

B. A detention center that uses mechanical restraints or protective device shall observe the following general requirements:

1. Mechanical restraints and protective devices shall be used only for as long as necessary to address the purposes established in subsection A. Once the imminent risk to safety has been abated, the resident has reached his intended destination within the facility or has returned to the facility from a destination offsite, or the emergency situation has been resolved, the mechanical restraint or protective device shall be removed.

2. ~~That the~~The facility administrator or his designee shall be notified immediately upon using mechanical restraints or protective devices in an emergency situation;

3. ~~That~~The facility shall not use mechanical restraints ~~shall never be applied as~~or protective devices as a punishment or a sanction;

4. ~~That residents~~Residents shall not be restrained to a fixed object or restrained in an unnatural position. For purposes of this section, securing a resident to a hospital bed or wheelchair may be permitted in an outside medical setting upon written approval by the facility administrator ~~and in accordance with written procedures, as specified in Section 1150~~;

5. A mental health clinician, qualified mental health professional, or other qualifying licensed medical professional may order termination of a mechanical restraint or protective device at any time upon determining that the item poses a health risk.

~~5~~6. ~~That each~~Each use of a mechanical ~~restraints~~restraint or protective device, except when used to transport a resident or during video court hearing proceedings, shall be recorded in the resident's case file or in a central log book; and

~~6~~7. ~~That a~~A ~~written~~ system of accountability ~~is~~shall be in place to ensure~~record of~~ routine and emergency distribution of mechanical ~~restraint equipment~~restraints and protective devices ~~be maintained~~.

8. ~~Written procedure shall provide that (i) all~~All staff who are authorized to use mechanical restraints or protective devices shall receive training in such use in accordance with 6VAC35-101-190 (required initial training for employees) and 6VAC35-101-200 (retraining requirements for employees)~~, including how to check the resident's circulation and how to check for injuries~~; and ~~(ii)~~ only trained staff shall use restraints or protective devices.

B. A detention center that uses a mechanical restraint to control a resident whose behavior poses a safety risk in accordance with subdivision (A)(i) of this section shall notify a health care provider and a mental health clinician or qualified mental health professional before continuing to use the restraint and, if applicable, the accompanying protective device, if the imminent risk has been abated, but the facility determines that continued use of the mechanical restraint is necessary to maintain security due to the resident's ongoing credible threat to injure himself or others. This may include instances in which the resident verbally expresses the intent to continue the actions that required the restraint.

C. A detention center may not use a protective device unless such use is in connection with a restraint and shall remove the device when the resident is released from the restraint.

6VAC35-101-1140. Monitoring ~~restrained~~ residents placed in mechanical restraints.

A. Written procedure shall provide that ~~when~~ if a resident is placed in mechanical restraints, staff shall:

1. Provide for the resident's reasonable comfort and ensure the resident's access to water, meals, and toilet; and

2. Make a ~~direct personal~~face-to-face check on the resident at least every 15 minutes and more often if the resident's behavior warrants. Staff shall attempt to engage verbally with the resident during each periodic check. These efforts may include explaining the reasons for which the resident is being restrained or the steps necessary to be released from the restraint; or otherwise attempting to deescalate the resident.~~Such~~ During each check ~~checks shall include monitoring~~, a health-trained staff member shall monitor the ~~resident's~~ resident for signs of circulation and for injuries. ~~in accordance with the procedure provided for in 6VAC35-101-1130 B.~~

B. If a resident remains in a mechanical restraint for a period that exceeds one hour, the resident shall be permitted to exercise each of his limbs for a minimum of 10 minutes every two hours to prevent blood clots.

~~B~~C. When a resident is placed in mechanical restraints for more than two hours cumulatively in a 24-hour period, with the exception of use in routine transportation of residents, staff shall immediately consult with a health care provider and a qualified mental health professional or mental health clinician. This consultation shall be documented.

~~C~~D. If the resident, after being placed in mechanical restraints, exhibits self-injurious behavior, staff shall: (i) ~~staff shall~~take appropriate action to ensure the threat or harm is stabilized; (ii) ~~immediately~~ consult with ~~and document that they have consulted with~~ a mental health clinician or qualified mental health professional immediately thereafter and document the consultation; and (iii) monitor the resident ~~shall be monitored~~ in accordance with established protocols, including constant supervision, if appropriate. ~~Any such protocols shall be in compliance with the procedures required by 6VAC35-101-1150 (restraints for medical and mental health purposes).~~

6VAC35-101-1145. Written procedures regarding mechanical restraints and protective devices

A detention enter that uses mechanical restraints or protective device shall develop and implement written procedures approved by the facility administrator that reflect the requirements established in this article.

6VAC35-101-1150. ~~Restraints for medical and mental health purposes.~~ (Repealed.)

~~Written procedure shall govern the use of restraints for medical and mental health purposes. Written procedure shall identify the authorization needed; when, where, and how restraints may be used; for how long; and what type of restraint may be used.~~

Article IV – Mechanical Restraint Chairs

6VAC35-101-1153. Mechanical restraint chair; general provisions.

A detention center that utilizes a mechanical restraint chair shall observe the following requirements, regardless of whether the chair is used for purposes of controlled movement in accordance with 6VAC35-101-1154 (mechanical restraint chair use for controlled movement; conditions) or for other purposes in accordance with 6VAC35-101-1155 (mechanical restraint chair used for purposes other than controlled movement; conditions for use):

1. The restraint chair shall never be applied as punishment or as a sanction;

2. All staff authorized to use the restraint chair shall receive training in such use in accordance with 6VAC35-101-190 (required initial training for employees) and 6VAC35-101-200 (retraining requirements for employees);

3. The facility administrator or his designee shall provide approval before a resident may be placed in the restraint chair;

4. Staff shall notify the health authority, designated in accordance with 6VAC35-101-930, immediately upon placing the resident in the restraint chair to assess the resident's medical and mental health condition, to ascertain whether the restraint is contraindicated based on the resident's physical condition or behavior or whether other accommodations are necessary, and to advise whether, on the basis of serious danger to self or others, the resident should be in a medical or mental health unit for emergency involuntary treatment. The requirements of this subdivision shall not apply when the restraint chair is requested by a resident for whom such voluntary use is part of an approved plan of care by a mental health clinician or qualified mental health professional in accordance with subsection C of 6VAC35-101-1155 (mechanical restraint chair use for purposes other than controlled movement; conditions for use).

5. If the resident, after being placed in the mechanical restraint chair, exhibits self-injurious behavior, staff shall (i) take appropriate action to ensure the threat or harm is stabilized; (ii) consult a mental health clinician or qualified mental health professional immediately thereafter and obtain approval for continued use of the restraint chair.

6. The health authority, a mental health clinician, a qualified mental health professional, or other qualifying licensed medical professional may order termination of restraint chair use at any time upon determining that use of the chair poses a health risk.

7. Each use of the restraint chair shall constitute a serious incident, to which the provisions of 6VAC35-101-80 (serious incident reports) shall apply;

8. Each use of the restraint chair shall be documented in the resident's case file or in a central logbook. The documentation shall include:

a. Date and time of the incident;
b. Staff involved in the incident;
c. Justification for the restraint;
d. Less restrictive interventions that were attempted or an explanation of why the restraint chair is the least restrictive intervention available to ensure the resident's safe movement;
e. Duration of the restraint;
f. Signature of the person documenting the incident and date;
g. Indication that all applicable approvals required in this article have been obtained; and
h. Reviewer's signature and date.

9. That detention center staff shall conduct a debriefing of the restraint after releasing the resident from the chair.

6VAC35-101-1154. Mechanical restraint chair use for controlled movement; conditions.

A. A detention center shall be authorized to use a mechanical restraint chair for purposes of controlled movement of a resident from one area of the facility to another, provided the following conditions are satisfied:

1. The resident's refusal to move from one area of the facility to another poses a direct and immediate threat to the resident or others or interferes with required facility operations; and

2. Use of the restraint chair is the least restrictive intervention available to ensure the resident's safe movement.

B. When the facility utilizes the restraint chair in accordance with this section, staff shall remove the resident from the chair immediately upon reaching the intended destination. If staff, upon reaching the intended destination, determine that continued restraint is necessary, staff shall consult with a mental health clinician for approval of the continued restraint.

6VA35-101-1155. Mechanical restraint chair use for purposes other than controlled movement; conditions for use.

A. A detention center shall be authorized to use a mechanical restraint chair for purposes other than controlled movement provided the following conditions are satisfied:

1. The resident's behavior or actions present a direct and immediate threat to the resident or others;

2. Less restrictive alternatives were attempted but were unsuccessful in bringing the resident under control or abating the threat;

3. The resident remains in the restraint chair only for as long as necessary to abate the threat or help the resident gain self-control.

B. Once the direct threat is abated, if staff determines that continued restraint is necessary to maintain security due to the resident's ongoing credible threat to injure himself or others, staff shall consult a mental health clinician or qualified mental health professional for approval of the continued restraint. The ongoing threat may include instances in which the resident verbally expresses the intent to continue the actions that required the restraint

C. The detention center shall be excused from the requirements in subsections A and B of this section when the restraint chair is requested by a resident for whom such voluntary use is part of an approved plan of care by a qualified mental health professional or mental health clinician.

D. Whenever a resident is placed in a restraint chair for purposes other than controlled movement, staff shall observe the following monitoring requirements:

1. Employ constant, one-on-one supervision until the resident is released from the chair. Staff shall attempt to engage verbally with the resident during the one-on-one supervision. These efforts may include explaining the reasons for which the resident is being restrained or the steps necessary to be released from the restraint; or otherwise attempting to deescalate the resident;

2. Ensure that a health-trained staff monitors the resident for signs of circulation and for injuries at least once every 15 minutes in accordance with written procedures; and

3. Ensure that the resident is reasonably comfortable and has access to water, meals, and toilet

6VAC35-101-1156. Monitoring residents placed in a mechanical restraint chair.

A. If a resident remains in the restraint chair for a period that exceeds one hour, the resident shall be permitted to exercise each of his limbs for a minimum of 10 minutes every two hours to prevent blood clots.

B. A detention center shall ensure that a video record of the following is captured and retained for a minimum of three years in accordance with 6VAC35-101-40 (certification):

1. The placement of a resident in a restraint chair when a resident is restrained for purposes of controlled movement; and

2. The entire restraint, from the time the resident is placed in the restraint chair until his release, when a resident is restrained in the chair for purposes other than controlled movement. The detention center may satisfy this requirement by positioning the restraint chair within direct view of an existing security camera.

6VAC35-101-1157. Department monitoring visits.

If a detention center uses a mechanical restraint chair to restrain a resident, regardless of the duration or purpose of the use, the detention center shall be subject to a monitoring visit conducted by the department pursuant to the authority provided in 6VAC35-20-60 (monitoring of programs and facilities). The purpose of the monitoring visit shall be to assess the detention center's compliance with the provisions of this article.

6VAC35-101-1158. Written procedures regarding mechanical restraint chairs.

A detention center that uses a mechanical restraint chair to restrain a resident shall develop and implement written procedures approved by the facility administrator that reflect the requirements established in this article.

6VAC35-101-1159. Use of spit guards and similar devices prohibited.

Staff shall be prohibited from requiring a resident to wear a spit guard or similar device for any period of time.

DEPARTMENT OF JUVENILE JUSTICE
REGULATORY UPDATE

January 8, 2019

CURRENT ACTIONS:

6VAC35-71 Regulation Governing Juvenile Correctional Centers

Stage: Proposed (Standard Regulatory Process).

Status: This regulation became effective on January 1, 2014. This action involves a comprehensive review of the regulatory requirements. The Notice of Intended Regulatory Action (NOIRA) was published in the *Virginia Register* on October 3, 2016. At the NOIRA stage, no public comments were submitted. The Proposed regulation has been approved by the Department of Planning and Budget (DPB) and the Secretary of Public Safety and Homeland Security (SPSHS) as part of the Executive Branch review process. The regulation is currently under review by the Governor.

Next step: Once the Governor reviews and approves the Proposed Action and the Executive Branch review is complete, the Proposed regulation will be published in the *Virginia Register*, followed by a 60-day public comment period.

6VAC35-101-45 Regulation Governing Juvenile Secure Detention Centers, Contracts between juvenile detention centers and separate entities

Stage: (Fast-Track Process).

Status: This is a new provision proposed for addition to the Regulation Governing Juvenile Secure Detention Centers, which became effective on January 1, 2014. This is a standalone action apart from the comprehensive review of the regulatory requirements in Chapter 101. The fast-track action has been certified by the Attorney General's Office and has undergone review by DPB and the SPSHS. The regulation is currently under Governor's office review.

Next step: Once the Governor reviews and approves the fast-track action, the Department will submit the action to the appropriate House and Senate committees and the Joint Commission on Administrative Rulemaking. Additionally, the Department will have 14 days to submit the action to the *Virginia Register*.

CHAPTERS UNDER PERIODIC REVIEW

6VAC35-30 Regulation Governing State Reimbursement of Local Juvenile Residential Facility Costs

Status: This regulation became effective July 1, 2011. Notice of the Periodic Review was published in the *Virginia Register* on November 12, 2018, triggering a 30-day public comment period, which ended on December 12, 2018. The periodic review report is due on April 11, 2019.

6VAC35-60 **Minimum Standards for Virginia Delinquency Prevention and Youth Development Act Grant Programs**

Status: This regulation became effective October 1, 2011. Notice of the Periodic Review was published in the *Virginia Register* on November 12, 2018, triggering a 30-day public comment period, which ended on December 12, 2018. The periodic review report is due on April 11, 2019.

6VAC35-150 **Regulation for Nonresidential Services**

Status: This regulation became effective July 1, 2011. Notice of the Periodic Review was published in the *Virginia Register* on October 29, 2018, triggering a 30-day public comment period, which ended on November 28, 2018. The periodic review report is due on March 28, 2019.

6VAC35-180 **Regulations Governing Mental Health Services Transition Plans for Incarcerated Juveniles**

Status: This regulation became effective January 1, 2008. Notice of the Periodic Review was published in the *Virginia Register* on October 29, 2018, triggering a 30-day public comment period, which ended on November 28, 2018. The periodic review report is due on March 28, 2019.