

JUSTICE AND PUBLIC SAFETY CABINET

Department of Juvenile Justice (New Administrative Regulation)

505 KAR 1:210. Restraints and control methods.

RELATES TO: KRS 15A.065, 15A.0652, 15A.067, 15A.305, 200.080-200.120, Chapters 600-645

STATUTORY AUTHORITY: KRS 15A.065(1), 15A.0652, 15A.067, 15A.160, 15A.305, 605.150, 635.095, 640.120, 645.250

NECESSITY, FUNCTION, AND CONFORMITY: KRS 15A.065(1), 15A.0652, 15A.067, 15A.160, 15A.305, 605.150, 635.095, and 640.120 authorize the Justice and Public Safety Cabinet and the Department of Juvenile Justice to promulgate administrative regulations for the proper administration of the cabinet and its programs. KRS 15A.305(8) (c) requires that appropriate staff working with detained youth have controlled access to and are properly trained in the use of appropriate defensive equipment comparable to that used by the Department of Corrections, including tasers, pepper spray, and shields. This administrative regulation establishes the use of restraints and control methods for juveniles in the custody of or placed with the department.

Section 1. Definitions.

- (1) "Planned use" means the prearranged use of a chemical agent or conductive energy device to prevent loss of life, injury to staff or juveniles, damage to state property, escape, or to maintain the secure and orderly operation of the facility.
- (2) "Reactive use" means the emergency use of a chemical agent or conductive energy device in response to a specific act to prevent loss of life, injury to staff or juveniles, damage to state property, or escape.

Section 2. Restraint or Control Actions.

- (1) In addition to verbal commands and de-escalation, the restraint or control actions allowed shall include physical restraints, mechanical restraints, chemical agents, shields, and conductive energy devices including stun shields.
- (2) The restraint or control action shall not be used as punishment.
- (3) Staff shall not use any force-related equipment other than what is authorized.
- (4) Only the minimum force necessary to accomplish the control action shall be used.
- (5) Staff shall use only reasonable force to control the juvenile during a physical restraint.
- (6) A show of force may be employed if it is deemed practical and appropriate to the situation. A show of force may include maneuvering by the cell entry team or display of force and equipment available for use if the necessity arises.

Section 3. Mechanical Restraints.

- (1) Authorized mechanical restraints shall include handcuffs, flex-cuffs, leg shackles, waist chains, and other items authorized in writing by the commissioner of the department.
- (2) Mechanical restraints shall be applied with only reasonable force necessary to restrain the juvenile.
- (3) DJJ shall not use any type of mechanical restraint on a female juvenile during active labor and delivery of a child. Any exception shall require approval by and guidance on methodology from the Director of Medical Services and shall be based on documented security risks. The Director of Medical Services shall provide guidance on the use of restraints on a pregnant juvenile prior to active labor and delivery.

Section 4. Chemical Agents.

- (1) The only chemical agent authorized for use on a juvenile shall be oleoresin capsicum (OC).
- (2) Reactive use of a chemical agent shall be authorized by the trained staff being issued the chemical agent canister.
- (3) A planned use of a chemical agent shall require authorization from the Superintendent or designee. If time and circumstances reasonably permit, the juvenile's individual client record and medical file, if available, shall be examined by appropriate staff to determine if the juvenile has a significant:
 - (a) Medical problem that may be adversely affected by the chemical agent; or
 - (b) History of psychotic behavior and whether the individual may react significantly different than anticipated to chemical agents.
- (4) A juvenile shall receive a medical evaluation after being exposed to a chemical agent.
- (5) If not in use or issued to staff, chemical agents shall be stored in a secure location with controlled access.

Section 5. Conductive Energy Devices.

- (1) Conductive energy devices shall be used only after all lesser degrees of force have been tried or given due deliberate consideration.
- (2) Use of a conductive energy device shall require authorization from the Superintendent or designee.
- (3) If time and circumstances permit, the juvenile's individual client record and medical file, if available, shall be examined by appropriate staff to determine if the juvenile has a significant:
 - (a) Medical problem that may be adversely affected by the conductive energy device; or
 - (b) History of psychotic behavior and whether the individual may react significantly different than anticipated to conductive energy device.
- (4) A juvenile shall receive a medical evaluation after the use of a conductive energy device.
- (5) When not in use, conductive energy devices shall be stored in a secure location with controlled access.

Section 6. Reporting. An incident report shall be completed any time a physical restraint, chemical agent, or conductive energy device is used outside of authorized training. An incident report shall be completed any time a mechanical restraint is used on a juvenile outside of transport.

(49 Ky.R. 2434; eff. 3-5-2024.)

VICKI REED, Commissioner

APPROVED BY AGENCY: May 15, 2023

FILED WITH LRC: May 15, 2023 at 12 noon

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall be held on July 21, 2023, at 9:00 a.m. at the Justice and Public Safety Cabinet, 125 Holmes Street, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through July 31, 2023. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Amy Barker, Assistant General Counsel, Justice & Public Safety Cabinet, 125 Holmes Street, Frank-fort, Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686, email Justice.RegContact@ky.gov.