

**OKLAHOMA COMMISSION ON CHILDREN AND YOUTH
OFFICE OF JUVENILE SYSTEM OVERSIGHT**

Name and Location of Facility: L.E. Rader Center
Sand Springs, Oklahoma

Date of Visit: October 20, 21, 22, 23, 26, and November 19, 2009

Oversight Reviewers: Anthony Kibble, Oversight Specialist
Joanne Verity, Programs Manager

Focus of Visit: Second Biannual Visit, 2009

Date: March 30, 2010

Introduction

The Office of Juvenile System Oversight (OJSO) began an unannounced visit on October 20, 2009, at the L.E. Rader Center (LERC) located in Sand Springs, Oklahoma. The OJSO resumed the oversight on October 21, 22, 23, 26, and completed the visit on November 19, 2009. The focus of the visit was to assess the facility's completion of caretaker conduct reviews (CCRs); response to resident grievances; use of mechanical restraints; and use of solitary confinement.

The facility is a secure rehabilitation program for male juveniles adjudicated Delinquent or Youthful Offender who are in the custody of the Office of Juvenile Affairs (OJA). On the initial day of the visit, as well as on the additional days of the visit that occurred in October, the LERC was licensed by the division of Oklahoma Child Care Services (OCCS) of the Oklahoma Department of Human Services (OKDHS) for 215 juveniles. However, Senate Bill 595, which became effective November 1, 2009, charged the OJA with certification responsibilities for all secure juvenile facilities. On the initial day of the oversight, emergency certification rules had not been established. Subsequent to the last day of the oversight visit, the OJSO was informed that emergency certification rules had been adopted by the Board of the Juvenile Affairs. The facility census was 123 on the initial day of oversight.

Interviews Conducted

- Three administrators
- One juvenile security officer supervisor (JSOS)
- Eleven juvenile security officers (JSO)
- Exit conference with the facility superintendent and an OJA State Office representative

Documents Reviewed

- Ten Resident files
- LERC Institutional Daily Census Log dated October 20, 2009
- OKDHS OCCS Residential Child Care Facility Inspection report dated September 10, 2009
- Tulsa Health Department Inspection report dated October 12, 2009
- Office of the Oklahoma State Fire Marshal report dated July 23, 2009
- LERC Use of Physical Force Log from June 1, 2009, through October 11, 2009
- LERC Use of Mechanical Restraints Report (RC-86)
- LERC Solitary Confinement Log from May 23, 2009, through October 1, 2009
- LERC grievance log from May 18, 2009, through October 1, 2009
- LERC Caretaker Conduct Review (CCR) log from June 3, 2009, through October 6, 2009
- Six OKDHS Office of Client Advocacy (OCA) investigative reports
- OJA in-service training attendance record “investigations protocol” dated September 23, 2009
- LERC crisis log from May 27, 2009, through October 12, 2009
- Eleven completed CCR reports
- Care, Custody and Management System (CCMS) executive committee meeting minutes dated August 26, 2009
- LERC memo dated September 2, 2009
- LERC memo dated August 27, 2009
- Electronic correspondence between OJA State Office and institutional superintendents dated July 13, 2009
- Electronic correspondence between a JSO supervisor and a JSO dated October 16, 2009
- United States Department of Justice, Civil Rights Division, correspondence with OJA State Office dated February 3, 2009
- Oklahoma Statute, Title 10, Section 7302-8.2
- Relevant Oklahoma Administrative Code provisions

Findings

JSO Interviews

The OJSO interviewed eleven JSOs. The questions pertained to the JSOs perceptions of the use of mechanical restraint policies and procedures and other behavior management policies. The OJSO noted:

- Nine of the eleven JSO interviewees reported that they had not received any training on how to apply mechanical restraints when a resident was in a standing, non-compliant position.
- Seven of the eleven JSO interviewees reported knowing about a memo that directed all JSOs to apply mechanical restraints whenever a juvenile had been assaultive

toward staff or peers, regardless of whether the juvenile was calm at the time of arrival by the JSO.

- When shown a copy of the Memo dated September 2, 2009, regarding Use of Mechanical Restraints-Revised, nine of the eleven JSO interviewees reported that they thought the Memo was not consistent with OJA policy 377:10-1-4(b)(2).
- Four of the eleven JSO interviewees reported that any JSO could check out mechanical restraints.
- Three of the eleven interviewees reported that all JSOs carried mechanical restraints on their person.

Administrator Interviews

The OJSO interviewed three administrators. The interview questions pertained to the administrators' perceptions concerning the use of mechanical restraints and the Memo dated September 2, 2009, regarding Use of Mechanical Restraints-Revised. The OJSO noted:

- One of the three administrators interviewed noted that the memo dated September 2, 2009, appeared to be inconsistent with current OJA policy and the Care, Custody, and Management System (CCMS).
- Two of the three administrators interviewed reported that none of the JSOs had received training on how to use mechanical restraints when a juvenile was in a standing, non-compliant position. One of these two administrators interviewed indicated that no mechanical restraint training would be provided prior to the next CCMS executive committee meeting.
- One of the administrators interviewed reported that any JSO could check out mechanical restraints at the beginning of the shift. This administrator also reported that although in the past only the JSOS carried mechanical restraints on their persons, mechanical restraints had been ordered for all JSOs.
- One of the administrators interviewed reported that he had not received any information that indicated the current mechanical restraints policy would be changed.
- One of the administrators interviewed reported that he had no knowledge whether the current mechanical restraint policy would be changed.
- One of the administrators interviewed reported that he understood that OJA mechanical restraints policy would be amended sometime this year and become effective July 1, 2010. This administrator also reported that the CCMS training materials would be amended to include the use of mechanical restraints while a juvenile was in a standing, non-compliant position.

Electronic Communication

The OJSO reviewed an electronic communication sent from the OJA State Office to the OJA institutional superintendents, dated July 13, 2009. The electronic communication stated, "videos and reports indicate that when a juvenile has been assault [sic] it is the practice for the juvenile not to be handcuffed when being escorted across facility grounds, and/or the restraints being removed before the juvenile has calmed down which sometimes requires an additional physical restraint." The electronic communication further noted, "in the future, please ensure that if a juvenile is being

assaultive, [mechanical] restraints should be applied as soon as possible and not removed until the juvenile has calmed down and the situation is under control. If the incident requires the juvenile to be escorted to another area the restraints should not be removed until the juvenile has been escorted and is calm and physical restraints are no longer needed.”

CCMS Executive Committee Meeting Minutes

The OJSO reviewed the CCMS executive committee meeting minutes for a meeting that occurred on August 26, 2009. The OJSO noted:

- According to the minutes, the committee reviewed the electronic communication that had been sent to the institutional superintendents by the OJA State Office on July 13, 2009. The committee discussed issues regarding placing assaultive youth in mechanical restraints when a youth was not in a prone restraint at the time of the JSOs arrival on the unit. The committee minutes note that “after much deliberation, it was decided that clarification on the directive was needed.” The minutes noted that after consulting with the OJA State Office, “it was detailed that if a juvenile who has assaulted a peer or staff member and has not been placed in the relaxed prone restraint, they shall still be handcuffed before being escorted from the location of the incident. If the juvenile physically resists being mechanically restrained, they are to be physically restrained. If the juvenile is taken to the floor and restrained in the relaxed prone restraint, then the handcuffs are to be applied and the escort may proceed.”

LERC Memos

The OJSO reviewed two LERC memos. The OJSO noted:

- The first memo dated August 27, 2009, was issued by the LERC Administrator of Programs in regard to the use of mechanical restraints. The memo stated that “mechanical restraints are to be utilized on all juveniles who have committed an Assault and Battery, and continue to remain assaultive and/or combative.” The memo noted that the restraints were to remain on the juvenile until transported to the crisis management unit, and the JSOs have determined that the juvenile is calm. The memo also noted, “if security responds, and the juvenile is calm and cooperative, there isn’t a need to use [mechanical] restraints. . . .”
- The second memo dated September 2, 2009, was issued by the LERC Administrator of Programs in regard to the use of mechanical restraints. The memo noted that it was a “revised” memo in regard to the use of mechanical restraints. The memo noted the “previous memo indicated that if the juvenile is compliant or calm upon the arrival of security that there wasn’t a need to apply [mechanical] restraints. This is no longer the case. This means any physical contact by a juvenile requires placement in mechanical restraints, and removal from the unit.” The memo dated September 2, 2009, stated, “please destroy previous memo regarding this subject dated 27 August 2009.”

Resident File Review

The OJSO reviewed ten resident files. The OJSO noted:

- Two of the ten resident files reviewed did not contain the Prison Rape Elimination Act document.

LERC Crisis Log

The OJSO reviewed the LERC crisis log for May 27, 2009, through October 12, 2009. Incidents entered on the LERC crisis log indicated that the crisis management unit had been accessed as a result of the incidents. There were a 109 incidents entered on the crisis log. The OJSO noted:

- Twelve incidents logged did not have the Administrator of Programs (AOP) signature approving the use of the crisis management unit.
- Five incidents logged did not indicate the date and time the juvenile was released from the crisis management unit.

The OJSO did not note any additional issues.

LERC Solitary Confinement Log

The OJSO reviewed the LERC Solitary Confinement Log from May 23, 2009, through October 1, 2009. According to the log, solitary confinement had been used a total of three times during the approximately four month time period reviewed. The OJSO noted that solitary confinement had been used thirty-eight times during the time period reviewed in the previous OJSO visit (also approximately four months). The OJSO commended the LERC on the significant decrease in the use of solitary confinement.

LERC Caretaker Conduct Review (CCR) Log

The OJSO reviewed the LERC CCR log from June 3, 2009, through October 6, 2009. There were a total of fifty-four CCRs assigned to the facility during the period being reviewed. The OJSO noted that twenty-two of the CCRs were resolved; however, the resolution dates were outside of the thirty day time frame. The OJSO also noted that thirty-two of the fifty-four CCRs remained pending and unresolved on the date of the visit. The OJSO addressed the concerns in regard to the CCR process with the LERC superintendent. The LERC superintendent reported that investigative training had been provided to eighteen additional staff members, and these staff members who attended the training would begin to assist with completion of CCR investigations.

Exit Conference

The OJSO held an exit conference on November 19, 2009, with the LERC superintendent and an OJA State Office representative. The OJSO inquired with the LERC superintendent and the OJA State Office representative in regard to the status of emergency rules for certifying secure facilities pursuant to Senate Bill 595. The OJA State Office representative reported that emergency rules had not been issued as of the

date of the exit conference. Subsequent to the visit, emergency rules for certifying OJA secure facilities were adopted by the OJA board of directors.

The OJSO also informed the LERC superintendent and the OJA State Office representative that the JSO interviewed during this oversight visit reported concerns in regard to the Memo dated September 2, 2009, regarding the Use of Mechanical Restraints-Revised. The LERC superintendent informed the OJSO that a revised memo would be issued clarifying when mechanical restraints were to be used by JSO. The OJSO requested a copy of the new memo when it was written. As of the writing of this oversight report, the OJSO had not received a revised memo.

Areas of Concern

1. The current facility procedures for using mechanical restraints as stated in the Memo dated September 2, 2009, appear to allow for use of mechanical restraints even if a juvenile has become calm and compliant.
2. Nine of eleven JSO interviewees reported that they had not received training on how to apply mechanical restraints when a resident was in a standing, non-compliant position. Two of the three administrators interviewed reported that none of the JSO staff had received training on how to apply mechanical restraints when a resident was in a standing, non-compliant position, and one of these two administrators interviewed reported that the training would not be provided until after the next CCMS executive committee meeting.
3. One of the three administrators interviewed reported that mechanical restraints had been ordered for all JSOs to carry on their persons although in the past only the JSOS carried mechanical restraints on their persons.
4. Nine of the eleven JSO interviewees reported that they thought that the Memo dated September 2, 2009, regarding the Use of Mechanical Restraints was not consistent with OJA policy, 377:10-1-4(b)(2), Use of physical force and/or mechanical restraints.
5. Two of the ten resident files reviewed were missing the Prison Rape Elimination Act documentation.
6. Twelve critical incidents logged did not have the administrator on call (AOC) signature approving the use of the crisis management unit. Five critical incidents logged did not indicate the date and time the juvenile had been released from the crisis management unit.

Violations

1. The LERC memo dated September 2, 2009, directs JSO to apply mechanical restraints on all juveniles that commit Assault and Battery regardless of whether the juvenile is compliant or calm at the time of arrival by the JSO. OJA policy, 377:10-1-4, Use of physical force and/or mechanical restraints, (b), Use of mechanical restraints, (2), states, in part, "Mechanical restraints may be employed only in the following situations: . . .within OJA institutions, to transport a violently out-of-control juvenile to a place of confinement, but only after less restrictive methods of control

have failed. When the restraints are employed in this situation, the restraints shall be removed as soon as the juvenile regains control or is confined, whichever occurs first. . . .”

2. The OJSO noted that thirty-two of the fifty-four CCRs assigned to the facility between June 3, 2009, and October 6, 2009, were unresolved on the dates of the OJSO visit. The additional twenty-two CCRs were resolved outside of the thirty day time frame. LERC Procedure Number RC30400.03, Juvenile Rights, III, Internal Investigative Process – CCR, B and C, state, “If OCA has referred the investigation to the Institutional Superintendent, the Administrative Programs Officer shall begin the investigative process. . . . The Administrative Programs Officer shall ensure the investigation begins within 24 hours of the OCA referral. The CCR report must be completed within thirty (30) working days to include a written report of the findings and a resolution from the Administrative Programs Officer.”