Report on Use of Restraint and Seclusion in State of Ohio Programs

June 1, 2014

This report documents the policies and related procedures in place in the state agencies that administer programs where restraint and seclusion may occur. Executive Order 2009-13S, *Establishing Restraint Policies Including a Ban on Prone Restraints*, was issued by Governor Ted Strickland on August 3, 2009. The Executive Order banned the use of prone restraint and set limits on the use of transitional hold and other types of physical restraint. As described in this report, all State of Ohio agencies that are subject to the Executive Order currently have in place policies that meet the requirements of the Executive Order.

This report includes a description of the process that was used to establish Ohio's single statewide policy on restraint and seclusion, a policy statement that sets forth the expectations on the use of restraint and seclusion in State of Ohio programs, and an exhaustive review of restraint and seclusion rules, policies, guidelines, and related procedures in each program.

Process to Establish Statewide Ohio Restraint and Seclusion Policies

Executive Order 2009-13S, in addition to banning prone restraint and setting limits on other types of physical restraint, established the Ohio Policy Committee on Restraint and Seclusion. The Committee was charged with creating a single state policy on the use of restraint and seclusion, including identification of associated risks, requirements for training, requirements for tracking and reporting compliance, and a system for performance improvement. The Committee met on a number of occasions but did not complete a final policy or report during the Strickland Administration.

A review of Committee documents shows that the group struggled to develop a single, comprehensive policy applicable to the broad range of circumstances, settings and practices associated with the use of restraint and seclusion across all state administered programs. For example, restraint and seclusion policies in therapeutic settings such as behavioral health and developmental disabilities programs are very different from those in law enforcement and corrections programs. Although the Committee was not able to complete its report, individual state agencies took action to assure that all appropriate and accountable restraint and seclusion policies and related procedures are in place.

In January 2011, Governor Kasich extended Governor Strickland's original Executive Order, furthering the ban on prone restraint and limitations on other types of physical restraint. In October 2013, the Governor's office reconvened the Ohio Policy Committee on Restraint and Seclusion to review the extent to which individual agencies were in compliance with the requirements of the original Executive Order. The Committee compiled this report and concluded that all State of Ohio agencies subject to the Executive Order currently have in place restraint policies that meet the requirements of the Executive Order, including the ban on prone restraints, appropriate limits on other types of physical restraint, and procedures to train employees on these policies, track compliance, and improve performance.

Policy on Use of Restraint and Seclusion in State of Ohio Programs

Because every person served by the State of Ohio should be treated with dignity, respect and the utmost regard for physical safety and emotional and psychological well-being, the following policy on the use of prone restraint, transitional hold, and other types of physical restraint apply to and have been adopted by

the Ohio Departments of Developmental Disabilities, Mental Health and Addiction Services[1], Education, Job and Family Services, Health, Aging, Medicaid, Veterans Services, Rehabilitation and Correction, Youth Services, Public Safety, Commerce, Natural Resources, and the Board of Regents:

A. PRONE RESTRAINT: The use of the prone restraint is prohibited across all state systems. Prone restraint is defined as all items or measures used to limit or control the movement or normal functioning of any portion, or all, of an individual's body while the individual is in a face-down position for an extended period of time. Prone restraint includes physical or mechanical restraints.

B. TRANSITIONAL HOLD: Transitional hold is defined as a brief physical positioning of an individual face-down for the purpose of quickly and effectively gaining physical control of that individual in order to prevent harm to self and others, or prior to transport to enable the individual to be transported safely. Transitional hold may include the use of handcuffs or other restraints incident to arrest or temporary detention by law enforcement consistent with departmental policy.

   The use of transitional hold may be permitted only when all of the following conditions are met and as determined by departmental policy. Transitional hold may be applied:

   1. Only by staff with current training on the safe use of this procedure, including how to recognize and respond to signs of distress in the individual;
   2. Only in a manner that does not compromise breathing, including the compromise that occurs with the use of pressure or weight bearing on the back, soft devices such as pillows under an individual's face or upper body, or the placing of an individual's or staff's arms under the individual's head, face or upper body;
   3. Only for the reasonable amount of time necessary to safely bring the person or situation under control and to ensure the safety of the individuals involved; and
   4. Only with consistent and frequent monitoring during and after the intervention with every intent to assure that the person is safe and suffers no harm.

C. LIMITATIONS ON THE USE OF OTHER TYPES OF PHYSICAL RESTRAINT: Because physical restraint, in general, is not viewed as a therapeutic or beneficial intervention, other types of physical restraint are to be used only when there is risk of escape or harm to the individual or others, or by personnel within the specific guidelines of a secured facility. A secured facility is defined as any site that is designed and operated to ensure that all of its entrances and exits are locked and under the exclusive control of its staff and to ensure that, because of that exclusive control, no person who is institutionalized or confined in the facility may leave the facility without permission or supervision. Physical restraint may only be used by trained staff and under the approval, guidance, and restrictions as outlined within each department's policies.

[1] In 2013, the Ohio Departments of Mental Health and Alcohol and Drug Addiction Services were consolidated into a single agency, and Medicaid was established as a stand-alone agency. This report represents the new structure, including sections for the Department of Mental Health and Addiction Services and Department of Medicaid.

Each agency to which this single statewide policy applies is required to identify the risks associated with restraint and seclusion specific to persons served in that agency, outline required training components for staff, and specify how the policy requirements will be tracked and reported, and how performance in meeting the policy requirements will be improved.

Source: Executive Order 2009-13S

Report on Use of Restraint and Seclusion in State of Ohio Programs

Treatment, Service, and Educational Programs

1. Ohio Department of Developmental Disabilities

A. Overview of Programs
The Ohio Department of Developmental Disabilities (DODD) provides policy and regulatory oversight to services offered through the local County Boards of Developmental Disabilities and provider organizations. Restraint and seclusion practices are sometimes used in either County Board or provider operated day programs (vocational/recreational/training), residential settings that include community based homes (waiver or supported living funds), small group homes or institutional settings (Intermediate Care Facilities or state operated Developmental Centers). Aversive practices (any practice the recipient has an aversion to) including restraint may also be used in instances where staff accompany the individual to community activities or appointments in public places and the person's actions pose immediate risk to themselves or others.

B. Rules, Policies, and Guidelines for Restraint and Seclusion
Behavior Support guidelines are outlined at OAC 5123:2-1-02(J) (Behavior support policies and procedures) and OAC 5123:2-3-25 (Discipline, restraint, behavior modification, and abuse of residents). These rules list prohibited practices, provide guidance for determining when the use of aversive practices are allowable, and set standards for writing behavior support plans. Additionally, the rules assure protection of rights and appropriate use of restrictive measures by requiring that aversive behavior support plans be reviewed and approved by Behavior Support and Human Rights Committees. The membership of those committees is defined in rule and must include a service recipient/family member and other community members who have knowledge or expertise in this area. The rules also require DODD to be notified when restraint and/or seclusion are included in behavior support plans. Additionally, DODD has published Information Notices to the field that reinforce the ban on prone restraint, and is nearing completion of a new behavior support rule that will eliminate the use of restraint, seclusion, or rights restrictions except in cases where there is imminent risk of harm and only as a last resort. The new rule requires documentation to show that positive and non-restrictive measures have been employed and determined ineffective prior to any use of restraint, seclusion, or rights restrictions.

C. Training Related to Restraint and Seclusion
DODD published an Information Notice to the field in 2008 stating the Department's intention to reduce and eventually eliminate practices of restraint and seclusion through various means, including the introduction of the Positive Culture Initiative. Statewide trainings and collaborations have occurred through this Initiative, which focuses on creating a culture shift toward positive interactions and relationships, as well as promoting positive strategies to replace restraint and seclusion practices.

DODD is collaborating with the Ohio Department of Mental Health and Addiction Services on a Trauma Informed Care Initiative that will provide education, awareness and strategies for shifting organizations toward a trauma informed approach. Inherent to a trauma informed approach is the elimination of aversive practices and a shift in focus toward understanding the person's complex history and creating resiliency and healing.

DODD also has partnered with the Ohio Association of County Boards to support The Good Life training, which focuses on creating healthy relationships with people served and moving away from approaches that include power, control, or aversive practices.

D. Tracking, Reporting, and Performance Controls for Restraint and Seclusion
The current rule requires DODD to be notified within five days prior to the implementation of a behavior support plan that includes restraint and/or seclusion, while the proposed rule requires notification prior to implementation of all restrictive measures.

Additionally, DODD maintains a comprehensive major unusual incident (MUI) system and requires that unapproved behavior supports, including restraint or seclusion, be reported.

DODD tracks the incidence of restraint and time-out through an internal database (Time-Out/Restraint Notification) which allows the Department to generate reports and analyze data.

2. Ohio Department of Mental Health and Addiction Services

A. Overview of Programs
The Ohio Department of Mental Health and Addiction Services (MHAS) operates six regional psychiatric hospitals, licenses private inpatient psychiatric service providers and agency operated residential facilities, and certifies community based mental health agencies. Restraint and seclusion may be used in limited circumstances in these settings to prevent harm to an individual or others, and only in conformance with the rules and policies set out below.

MHAS licenses other types of residential facilities that are not agency operated, but those facilities are prohibited from using seclusion and restraint. MHAS also certifies providers of alcohol and other drug addiction treatment. The use of restraint and seclusion by these providers is governed by "client behavioral interventions" standards.

B. Rules, Policies, and Guidelines for Restraint and Seclusion
OAC 5122-2-17 (Seclusion and Restraint in Regional Psychiatric Hospitals) governs restraint and seclusion practices in hospitals operated by MHAS.

OAC 5122-14-10 (Patient Safety and Physical Plant Requirements) governs restraint and seclusion practices in inpatient psychiatric settings operated by private service providers.

OAC 5122-26-16 (Seclusion, restraint and time-out), OAC 5122-26-16.1 (Mechanical restraint and seclusion), and OAC 5122-26-16.2 (Physical restraint) govern restraint and seclusion in community based mental health services agencies and residential facilities that are permitted to use restraint and seclusion. Each rule prohibits the use of prone restraint, places strict limitations on transitional holds, and provides detailed requirements for training and reporting. The rules also require that

restraint and seclusion only be used as a last resort when there is imminent risk of harm to self or others, and require providers to make continuous efforts to reduce the incidence of restraint and seclusion. Other essential elements of the rules include:

- post-seclusion/restraint debriefing;
- notification to parents, guardians and/or, with adult client consent, significant others and invitation to the de-briefing;
- continuous observation of individuals; and
- utilization of these measures for the least amount of time necessary until the individual is able to regain control of his/her behavior.

The current standards for use of seclusion and restraint by alcohol and drug treatment providers are at OAC 3793:2-1-05 (Clinical management) and require agencies to have policies and procedures describing the types of client behavioral interventions that will be utilized, prohibit cruel and unusual practices, and prevent isolation from occurring in a locked unmonitored room. As part of the ongoing consolidation of the former departments of mental health and addiction services, MHAS will be proposing that alcohol and drug treatment providers be subject to the same requirements as current community mental health and residential facility providers.

Additionally, MHAS and DODD are advancing trauma informed care as a strategy to reduce restraints through a statewide Trauma Informed Care Initiative. (A recent *Columbus Dispatch* article described the link between use of a trauma-based therapeutic approach in a community treatment program and a dramatic reduction in restraints.) MHAS will provide a special focus for children's residential treatment programs within this overall Trauma Informed Care Initiative, and will ensure that each residential program has access to training on evidence-based, trauma-informed care in a focused effort to reduce the incidence of restraint and seclusion. MHAS will monitor restraint and seclusion data and other information to track progress for each residential program and to identify programs where additional focus is needed, providing additional technical assistance as needed. MHAS will coordinate with the Ohio Department of Job and Family Services in this effort.

C. Training Related to Restraint and Seclusion

OAC 5122-26-16 (Seclusion, restraint and time-out) requires annual competency based training for community providers in the following areas:

- assessing contraindications;
- safe application of all seclusion or restraint methods, including specific training in utilization of transitional holds, if applicable;
- choosing the least restrictive intervention based on an individualized assessment of the patient's behavioral and/or medical status or condition;
- recognizing and responding to signs of physical distress in clients who are being secluded or restrained;
- certification in first aid and CPR;
- taking vital signs and blood pressure, if applicable, and understanding relevance to physical safety and distress;
- assessing circulation, range of motion, nutrition, hydration, hygiene, and toileting needs;
- helping a client regain control to meet behavioral criteria to discontinue seclusion or restraint.

Hospitals also are subject to national accreditation body training requirements. In addition, state psychiatric hospital employees have received training in Trauma Informed Care that emphasizes verbal measures designed to reduce or prevent the use of seclusion, restraint and other physical interventions.

For alcohol and drug treatment providers, the training requirements are that staff employing client behavioral intervention must be direct service staff trained in the program's approved behavioral interventions policy and procedures.

D. Tracking, Reporting, and Performance Controls for Restraint and Seclusion

Private Psychiatric Inpatient Hospitals, Community Facilities, and Residential Facilities are required to report each incident when any of the following occur:

- client/patient death during seclusion/restraint, within 24 hours of seclusion or restraint or when it is reasonable to believe the death was a result of seclusion or restraint;
- client/patient injury requiring treatment unless self-inflicted;
- inappropriate use (i.e. not clinically justified or without the required authorization to employ seclusion/restraint);
- inappropriate techniques (restrict ability to communicate, airway, breathing, or vision; or mechanical restraint on an individual under age 18).

Private Psychiatric Inpatient Hospitals, Community Facilities, and Residential Facilities report the following aggregate data every six months: utilization by numbers and average duration of seclusion, physical restraint, mechanical restraint and transitional hold for each month. The data reported includes information about the client/patient (adult or child), treatment setting (inpatient, community and residential), staff injury during seclusion and restraint (if any), and applicable service utilization data (bed days, outpatient crisis, partial hospitalization and all other mental health services). MHAS makes the results of the aggregate data publically available on its website[2]:

- Inpatient Psychiatric Service Providers
- Community Mental Health Agency
- Residential Facility

State psychiatric hospitals participate in a national data benchmarking program through the National State Mental Health Program Directors and as required by the Joint Commission. The benchmarking program defines indicators and collects data to compare psychiatric hospitals on a monthly basis. Included in indicators and reports are core measures for seclusion and restraint at each of the state hospitals. The benchmarking comparisons are important tools to monitor and evaluate seclusion and restraint trends and patterns. They provide a monitoring framework to evaluate policies, practices and improvement efforts.

State psychiatric hospitals also create internal tracking of the use of seclusion and restraint, review data at the hospital and system level on a monthly basis, and subject that data to internal performance improvement and quality assurance review and analysis. State hospitals' aggregate data is included in the publically available data report for inpatient hospitals.

[2] MHAS will implement on-line data reporting July 1, 2014, to decrease the time between providers submitting data and MHAS generating public data reports on restraint and seclusion.

State psychiatric hospitals and private inpatient hospitals are also subject to the regulations and monitoring during on-site surveys of national accrediting bodies. The use of all seclusion and restraint activity by community mental health and alcohol and other drug treatment providers is monitored during on-site surveys by a national accrediting body or MHAS. The use of seclusion and restraint activity in mental health residential facilities, including children's residential facilities, is monitored during on-site surveys by a national accrediting body and/or MHAS.

Currently, there is no reporting requirement for alcohol and drug treatment providers, but MHAS will be proposing that they be subject to the same reporting requirements as current community mental health and residential facility providers.

MHAS requires the reporting of major unusual incidents and utilization data for community mental health providers, and is proposing the same requirements for alcohol and drug treatment providers. Private Psychiatric Inpatient Hospitals, Community Facilities, and Residential Facilities are required to report major unusual incidents within 24 hours of certain incident types related to the use of restraint and/or seclusion, including abuse or neglect allegations, injuries requiring treatment or resulting in death, inappropriate use of restraint or seclusion (not clinically justified or mechanical restraint or seclusion without an appropriate order), and the following inappropriate restraint techniques:

- Any technique that restricts the individual's ability to communicate, including consideration given to the communication needs of individuals who are deaf or hard of hearing;
- Any technique that obstructs vision;
- Any technique that obstructs the airways or impairs breathing;
- Use of mechanical restraint on individuals under age 18;
- A drug or medication that is used as a restraint to control behavior or restrict the individual's freedom of movement and is not a standard treatment or dosage for the individual's medical or psychiatric condition or that reduces the individual's ability to effectively or appropriately interact with the world around him/her; and
- Use of handcuffs or weapons such as pepper spray, mace, nightsticks, or electronic restraint devices such as stun guns and tasers.

Each major unusual incident is reviewed by MHAS, with follow-up as appropriate, including phone call, written letter and/or on-site investigation.

3. Ohio Department of Education

A. Overview of Programs

Restraint and seclusion may be used in very limited circumstances as a last resort and in the context of a program of positive behavior intervention and supports in Ohio's school districts and in accordance with requirements established by the Ohio Department of Education (ODE).

B. Rules, Policies, and Guidelines for Restraint and Seclusion

OAC 3301-35-15 (Standards for the implementation of positive behavior intervention supports and the use of restraint and seclusion) and a comprehensive policy document (Policy on Positive Behavior Interventions and Support, and Restraint and Seclusion) establish requirements for restraint and seclusion that must be followed in all Ohio school districts. The rule and policy

prohibit the use of prone restraint and a range of physical restraint practices, including seclusion in a locked room or area. Additionally, the rule and policy provide that restraint and seclusion occur only as a last resort and require school districts to establish an overall program of positive behavior intervention supports. The rule and policy require school districts to train staff and to report incidents of restraint and seclusion immediately to building supervision and parents.

C. Training Related to Restraint and Seclusion
ODE has developed five training modules for policy requirements and background, restraint, seclusion, tracking and reporting requirements, and monitoring and complaints. School district staff receive the training annually.

D. Tracking, Reporting, and Performance Controls for Restraint and Seclusion
All incidents of restraint and seclusion are reported by the school district to building supervision and parents and school districts must monitor the implementation of the policy. ODE has also developed a draft survey (Incident and Seclusion Reporting for School Year 2013-2014) that will be conducted at the end of the school year and will yield critical information on the incidence, duration, and outcomes of restraint and seclusion, and demographic information about the students involved. ODE will use the data from the survey to inform training and resources to reduce the need for restraint and seclusion and to inform site specific review and technical assistance. Additionally, the Office for Exceptional Children will continue to use state supervisory responsibilities and dispute resolution processes within the scope of the Individuals with Disabilities Education Act (IDEA) to investigate complaints related to restraint and seclusion of children with disabilities within the procedural and substantive requirements of IDEA.

4. Ohio Department of Job and Family Services

A. Overview of Programs
Restraint and seclusion may be used in very limited circumstances in child welfare residential facilities (i.e., residential centers, group homes, and residential parenting facilities) certified by the Ohio Department of Job and Family Services (ODJFS). Restraint and seclusion as defined in the Executive Order is essentially prohibited in child care centers licensed by ODJFS.

B. Rules, Policies, and Guidelines for Restraint and Seclusion
OAC 5101:2-9-21 (Care, supervision and discipline) prohibits the use of prone restraints and prohibits the use of restraint or seclusion as punishment in child welfare residential facilities.

OAC 5101:2-9-22 (Isolation, seclusion and restraint) limits the use of isolation in child welfare residential facilities to emergency situations for the protection of the child or another person, and contains specific requirements for monitoring and documenting isolation. The rule also places strict duration limits on isolation and provides for specific requirements for the size of isolation rooms and other characteristics. Restraint techniques must be previously approved and listed in the behavior intervention policy of the residential facility. Effective July 1, 2014, physical restraint and isolation may only be used in accordance with written approval of a certified or licensed health care professional and a certified or licensed practitioner of behavioral science, in emergency circumstances when less restrictive interventions have been determined to be ineffective and only to ensure the immediate physical safety of the child, a staff member, or others.

OAC 5101:2-12-22 (Child guidance and management for licensed child care centers) prohibits the use of prone restraint and any other form of physical restraint other than a protective hug, and also prohibits placing a child in a locked room or confining the child to an enclosed area.

C. Training Related to Restraint and Seclusion
OAC 5101:2-9-03 (Staff development and evaluation) requires specific seclusion and restraint training for any child care staff person using physical restraint, and requires annual reviews after the initial training, and documentation of training in the staff person's personnel record.

ODJFS includes information on the child care rules in its Child Care Administrator Rules training and also provides on-site technical assistance and training during inspections. Non-compliance with child care rules is monitored by ODJFS through the electronic child care licensing system and posted on the ODJFS child care website.

OAC 5101:2-9-22 (Isolation, seclusion and restraint) requires residential facilities that utilize either physical restraint and/or isolation to provide all administrators and child care staff with training in the use of restraint and/or isolation. Agencies may select training to meet programming needs. OAC 5101:2-9-22 also requires that any restraint techniques used to restrain a child be previously approved by ODJFS and listed in the behavioral intervention policy of the residential facility.

D. Tracking, Monitoring, and Performance Controls for Restraint and Seclusion
OAC 5101:2-9-35 (Additional programmatic requirements regarding behavior management) requires child welfare certified residential facilities that use isolation or restraint to establish an ongoing system for collecting and reviewing monthly aggregate data regarding the incidence of these interventions and other critical data elements. The facility administrator is required to review trends and review the agency's policies to determine how such incidents can be reduced. These reports are reviewed by ODJFS through foster care licensing inspections. Additionally, any incidents of restraint or seclusion must be reported to the foster care custodial agency.

In addition to reviewing critical incident reports, Licensing/Certification staff interview children and staff to gather additional information about the use of seclusion and restraint by certified agencies. Identified non-compliance with any seclusion and restraint rule requires corrective action. Repeat non-compliance may cause an agency to be placed on a temporary license or to have their license revoked. Between April 2011 and April 2014, 28 citations were given to certified agencies for prohibited practices related to seclusion and restraint.

5. Ohio Department of Health

A. Overview of Programs
Restraint and seclusion may be used in limited circumstances in nursing homes licensed by the Ohio Department of Health (ODH) and Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICF/IIDs) certified by ODH for participation in Medicaid. Use of restraints or seclusion is prohibited in residential care facilities licensed by ODH, and any unauthorized use identified by ODH is reported to the Office of the Long Term Care Ombudsman as (described below in section 6).

B. Rules, Policies, and Guidelines for Restraint and Seclusion
OAC 3701-17-15 (Restraints) prohibits the use of prone restraint and transitional holds in nursing homes. The rule also requires the use of restraint or isolation to be, after individualized assessment

of the resident, authorized by a physician for medical purposes, limited in duration, and not used for punishment, incentive, or staff convenience.

ODH guidelines on the use of restraints include Physical Restraints (May 2007), Restraints, Locked Units and Specialized Care Units (January 2010), and Guidelines for Restraint Use (February 2007). The Guidelines for Restraint Use is a decision tree outlining the key steps in the restraint process, which include an initial analysis, individualized comprehensive assessment, physician's order, informed consent, and plan of care. These guidelines also clarify that a restraint is not a restraint if it helps enable an individual to function to their highest physical capacity, but that all orders for restraints should follow the restraint decision tree to determine their appropriateness. Federal requirements for nursing facilities and ICFs/IIDs are generally the same as state requirements.

C. Training Related to Restraint and Seclusion

Staff are required to be trained in resident's rights, including the right to be free from chemical and physical restraints. All staff implementing proper restraint orders must be trained in the appropriate use of restraints, including the proper application of a restraint and the monitoring of residents with restraints.

D. Tracking, Reporting, and Performance Controls for Restraint and Seclusion

Each nursing home's quality assurance committee is required to conduct a monthly review of the use of restraints and seclusion and any incidents that resulted from their use, as well as incidents which resulted in the use of restraints or isolation. The review must identify any trends, increases, and problems, as well as any need for additional training, consultations or corrective action.

ODH tracks restraint use through both the federal minimum data set (MDS) Resident Assessment Instrument and Resident Census and Conditions of Residents Report. Restraint usage is tracked both quarterly and annually and benchmarked against both regional and national data. ODH continuously monitors its restraint usage to ensure Ohio is at or below the national standard. MDS data also is reviewed by the Long Term Care Ombudsman as described below in section 6.

Prior to conducting an annual survey, ODH reviews data on restraint usage in a facility. If this data shows restraint usage, ODH will implement the survey's restraint protocol, which involves review of the assessments, care plans and orders, as well as attempted interventions prior to restraint usage. ODH will also interview staff and residents regarding the restraint and prior interventions. ODH also can implement the restraint protocol if surveyors see restraint usage while on-site.

6. Ohio Department of Aging

A. Overview of Programs

The Ohio Department Aging (ODA) administers programs and services for individuals age 60 and above, including home-delivered meals, homemaker, transportation, and personal care services. There is no provision for restraint and seclusion in any ODA-administered programs. In addition, ODA administers assisted living Medicaid waiver services provided in residential care facilities licensed by ODH, and restraints are prohibited in these homes (as described above in section 5). The Office of the State Long Term Care Ombudsman follows up on any reports of unauthorized use of restraints or seclusion in residential care facilities, and also reviews data reported on restraints in nursing homes.

B. Rules, Policies, and Guidelines for Restraint and Seclusion
ODA-administered Medicaid waiver program documents require ODA to instruct case management staff and/or supervisor(s) to notify the Medicaid waiver administrative agency if staff learns of the use of restrictive interventions during an in-person visit or telephone conversation with a consumer. In cases where the agency staff has witnessed the use of restrictive interventions on a waiver recipient, agency staff must alert any involved family and/or caregiver, the agency providing services including agency management, the local adult protective services (APS) agency, and file an incident report with ODA. ODA notifies the Ohio Department of Medicaid of any use of restrictive interventions on a waiver recipient via the WIRED incident reporting system (web-based incident reporting and entry database).

C. Training Related to Restraint and Seclusion
Representatives of the Office of the State Long Term Care Ombudsman are certified and receive training for certification that includes consumer rights, including the right to be free from restraint. Ombudsmen provide in-service training to facility staff on resident rights.

D. Tracking, Reporting, and Performance Controls for Restraint and Seclusion
ODH monitors for unauthorized use of restraints or seclusion in residential care facilities and nursing homes through standard survey activities conducted at least every fifteen months and complaint surveys which may take place more frequently than the standard survey. The identification by ODH of the use of restraints or seclusion requires the development and approval of a plan of correction. ODH provides a report to the Office of the State Long Term Care Ombudsman on the outcome of survey activity. These reports are maintained on the Long Term Care Consumer Guide website and available for public review (www.ltc.ohio.gov).

The Office of the State Long Term Care Ombudsman also reviews reports on restraints in nursing homes on a quarterly basis at a statewide level compared with national data. Changes are discussed with the state's Quality Improvement Organization (KEPRO at this time). In 2012-2013, the Long Term Care Ombudsman and KEPRO partnered on an initiative to reduce the use of restraints in nursing homes. Also, technical assistance is available to nursing homes through ODA's Nursing Home Quality Initiative for restraint reduction.

7. Ohio Department of Medicaid

A. Overview of Programs
The Ohio Department of Medicaid (ODM) provides funds for services in home health programs, assisted living residential care facilities and other waiver programs, inpatient psychiatric hospitals, and children's residential treatment agencies. Restraint and seclusion is not permitted in any of the home health, assisted living or other waiver services. Use of physical restraints in nursing homes and any unauthorized use in assisted living services is monitored by ODH (described in section 5 of this report) and the Office of the State Long Term Care Ombudsman (described in section 6). Restraint and seclusion in inpatient psychiatric facilities and children's residential treatment programs are monitored by MHAS (described in section 2) and ODJFS also monitors a number of the children's residential treatment programs (described in section 4).

B. Rules, Policies, and Guidelines for Restraint and Seclusion
See sections 2, 4, 5 and 6 of this report.

C. Training Related to Restraint and Seclusion
See sections 2, 4, 5 and 6 of this report.

D. Tracking, Reporting, and Performance Controls for Restraint and Seclusion
See sections 2, 4, 5 and 6 of this report.

8. Ohio Department of Veterans Services

A. Overview of Programs
The Ohio Department of Veterans Services (DVS) operates two veterans homes in Ohio where restraint and seclusion may be used on a very limited basis in accordance with requirements applicable to nursing facilities and DVS policies applicable to veterans home police officers.

B. Rules, Policies, and Guidelines for Restraint and Seclusion
The requirements for restraint and seclusion established by ODH (described in section 5) are applicable to the DVS veterans homes. In addition, DVS has established two police procedure policies that address restraint and seclusion in veterans homes. The first procedure (Prisoner transportation) prohibits the use of prone restraint and requires monitoring to prevent positional asphyxia, and the second (Response to resistance) does not specifically address restraint and seclusion but does contain requirements related to use of force.

C. Training Related to Restraint and Seclusion
DVS requires all direct care staff (nurses, nurse aides, dietary and housekeeping) to participate in non-violent crisis intervention training, which is a way of handling situations without the need for restraint or seclusion.

D. Tracking, Reporting, and Performance Controls for Restraint and Seclusion
Restraint practices in the veterans homes are monitored and tracked through the procedures established by ODH and ODA and referenced in sections 5 and 6 of this report.

Law Enforcement, Security, and Corrections Programs

9. Ohio Department of Rehabilitation and Correction

A. Overview of Programs
Department of Rehabilitation and Correction (DRC), both institutional and field services staff, may use restraint and seclusion when necessary for the protection of DRC staff members and offenders being supervised in an institutional or community setting.

B. Rules, Policies, and Guidelines for Restraint and Seclusion
OAC 5120-9-05 (Immobilizing restraint for security or administrative purposes) and OAC 5120-9-01 (Use of force) govern the use of immobilizing security restraint in circumstances where necessary for the safety of persons and the security and good order of the institution. The provisions of these rules addressing restraint are implemented through DRC policy 63-UOF-04 (Physically Immobilizing Restraints). These rules and policies authorize the use of restraint only in the face-up position and prohibit any form of restraint linking the hands and feet behind the back. Physical restraint is only authorized in those situations where there is an imminent threat of substantial bodily harm to the inmate or others, imminent threat of substantial property damage, or creation of a substantial

security risk and less restrictive means of controlling the situation have been attempted and proven to be ineffective or failed to meet their objective. The policies also provide very detailed guidance regarding the use of transitional hold in conformance with the requirements of the Executive Order. Other policies that address appropriate staff interaction with disruptive, mentally ill or developmentally challenged inmates include 64-DCM-01 (Protection from harm and inappropriate supervision), 64-DCM-02 (Inmates with disabilities), 56-DSC-01 (Disciplinary process), and 55-SPC-02 (Protective control). These policies work in conjunction with the rules and policies related to restraint and seclusion.

There are four types of segregation governed by rules and policies:

1. *Protective Control* - Unit or area segregated from the general population for the purpose of protecting an inmate who faces a significant and verified risk of harm from a specific person, other inmate or group of inmates.
2. *Local Control* - Used for inmates who have demonstrated an inability to adjust to the general population or if the inmate's presence in the general population is likely to seriously disrupt the orderly operation of the institution. An inmate may serve up to 180 days in local control.
3. *Disciplinary Control* - Used for inmates who have been found guilty of violating institutional rules by the Rules Infraction Board. An inmate may serve up to 15 days in disciplinary control.
4. *Security Control* - Used for inmates who have a pending hearing for a rule violation, are under investigation, have a pending institutional transfer, and need to be separated from general population. An inmate may serve between 7-21 days in most circumstances.

C. Training Related to Restraint and Seclusion

DRC maintains extensively detailed Training Lesson Plans addressing Use of Force and Immobilizing Restraints. Each of these training programs is two hours for clerical staff and four hours for all other staff that have direct day to day contact with inmates or offenders. Each staff person is required to participate in annual recertification. Beginning July 1, 2014, a new curriculum will be introduced that includes four hours of specialized training for dealing with inmates in high risk circumstances as a part of the curriculum, bringing the overall total number of hours for most staff to eight.

D. Tracking, Reporting, and Performance Controls for Restraint and Seclusion

DRC policies 63-UOF-01 , 63-UOF-02, 63-UOF-03 and 63-UOF-04 require all incidents of use of force and immobilizing restraints to be reported. Incidents are reported on a Use of Force Log and Immobilizing Restraints Report prior to the end of their shift or work day. The Deputy Warden ensures all records of all use of force reports are maintained in a secure location. These records include the number of use of forces referred to the employee disciplinary process, those not requiring further action, those sent to use of force committee and those referred to the Chief Inspector's Office. Immobilizing Restraints Reports are generated once authorization has been granted to be used on inmates who require them for security or mental health reasons and who are placed in safe cells designated for utilization in dealing with restraints. All reports are reviewed by the Deputy Warden, Chief of Security, Health Care Administrator, and Mental Health Administrator within three days. Reports are uploaded monthly into an electronic database system.

10. Ohio Department of Youth Services

A. Overview of Programs

Ohio Department of Youth Services (DYS) institutions may use restraint and seclusion in the limited circumstances identified in the sections below for the protection of youth and staff. Non-secure DYS residential facilities do not use mechanical restraints or seclusion.

B. Rules, Policies, and Guidelines for Restraint and Seclusion

Community Corrections Facilities funded entirely by DYS but operated by counties have policies governed by OAC 5139-36-10 (Security and control) and OAC 5139-36-16 (Juvenile rights, control and treatment). Use of force is only used when all other appropriate non-physical behavioral techniques have been exhausted. Staff use only the force necessary to stabilize the situation. DYS Policy 301.05 (Managing youth resistance) includes provisions to manage youth resistance, including:

- *Mechanical Restraint*- used as a preventative measure on a youth as a physical response to reduce risk during the movement of the youth, control combative behavior towards others, or destructive behavior toward self;
- *Planned Use of Force*- predetermined application of approved physical interventions by staff in situations where it is necessary to establish and maintain control and minimize potential for breaches of security and injury to self or others; and
- *Seclusion*- involuntary confinement of a youth alone in his room for up to 24 hours.

SOP 301.05.01 (Use of force) addresses the use of restraints. This policy bans the use of prone restraint and promotes safeguards to avoid positional asphyxia, places limits on the use of transitional hold, and prohibits a broad range of inappropriate physical responses. It also limits the use of restraint and seclusion only to those circumstances where all other non-physical behavioral management techniques have been exhausted. The SOP clearly outlines the prohibited techniques or practices of physical response that unduly risk serious harm to the youth, including chokeholds, any method causing harm to the neck, pinning down torso with knees, and modifying mechanical restraints. If any type of force is used, personnel are to immediately report it to the Unit Manager or Operations manager, and document the incident on the Youth Intervention Report, Youth Behavioral Incident Report, Responder Report, Youth Intervention Monitoring Log, and in the Activity Management System.

SOP 303.02 (Individual response to acts of violence seclusion assessment process) and SOP 301.05.04 (Seclusion reporting, monitoring, and documentation requirements) address the use of seclusion. Seclusion, per policy, is used as a last resort after other less restrictive interventions have been used, and for no more than 24 hours (there are some extenuating circumstances under which the period of time could be extended). A youth in seclusion must be visually observed every 15 minutes, including interaction with the youth to gauge his or her behavior. While in seclusion a youth's quality of life must be maintained.

DYS has a Youth Resistance Grid that provides staff with the necessary levels of force needed to respond to a youth's behavior, ranging from "resistance no threat" to "lethal engagement."

C. Training Related to Restraint and Seclusion
Use of restraints and seclusion is addressed in DYS training programs (Management of Youth Resistance and Use of Force Training), which is provided at pre-service and annually thereafter. Focused training is provided to staff in circumstances where there is some indication that additional training is needed to ensure conformance to the policies. Staff is required to take 40 hours of mandatory in-service training each year, of which 16 hours of training in use of force is mandatory. Furthermore, staff must be certified each year to execute the youth resistance techniques. Staff also receive annual training on the medical risk factors related to seclusion and restraint.

D. Tracking, Reporting, and Performance Controls for Restraint and Seclusion
DYS has extensive requirements for the reporting and monitoring of the use of restraint and seclusion to track performance against the policies outlined above. Reports, including the ones listed above, are documented by management staff in the DYS Activity Management System (AMS). At each DYS facility, the Facility Intervention Administrator (FIA) is responsible for reviewing each use of force incident. FIA responsibilities include assessing the use of force standards, assessing the quality and accuracy of all staff written reports, reviewing the medical report, and reviewing the corresponding video. If the FIA determines further action is needed, follow up may include further review for possible investigation or additional staff training. Once the FIA completes the review, two additional reviews are completed prior to a final determination. Reviews are conducted to ensure use of force incidents, mechanical restraints, and seclusions were completed according to policies and procedures. Through a Quality Assurance process, each month Central Office reviews ten percent of use of force incidents that were reviewed at each site and provides feedback to facility management. Feedback surrounding a particular incident is given to institutional management as well as individual staff persons. Additionally, the reports and videos are used in new hire orientation training and annual staff training.

11. Ohio Department of Public Safety

A. Overview of Programs
Restraint is used in the transport of prisoners and in circumstances requiring use of force by Ohio State Highway Patrol (OSHP) Officers, including Ohio Investigative Unit (OIU) Agents. In use of force circumstances restraint is limited only to the amount necessary to ensure safety. The response is based on the actions of the offender, and must be balanced with the resistance from the offender. Seclusion is not an authorized practice for OSHP Officers or OIU Agents.

B. Rules, Policies, and Guidelines for Restraint and Seclusion
OSHP policies that address use of force and restraint include OSP-203.26 (Custodial and non-custodial care and security), OSP-203.20 (Response to resistance), OIU 200.28 (Prisoner transportation), and OIU 100.07 (Response to resistance). Essential elements of these policies related to restraint include a balanced level of response that is reasonable to effect an arrest, detention, or keeping one from harming oneself. OSHP and OIU use an *Action Response Continuum* as the guidance used for offender control. The *Action Response Continuum* has five levels of response, including officers presence, issuance of verbal commands, non-compliant/non-combative resistance, combative resistance/threat to officers or others, and lethal deadly force

Prisoners are never to be transported in a prone position. If necessary, in addition to handcuffing, combative prisoners may have a Portable Restraining Device (i.e., flex cuffs applied to the ankles). The individual is monitored to prevent positional asphyxia and neck restraints are prohibited.

C. Training Related to Restraint and Seclusion
OSP-501.02 (Division training) outlines training requirements regarding restraint. All employees are provided training during their orientation. Following orientation, all personnel receive ongoing annual in-service training commensurate with their duties. Sworn officers' annual in-service training is one full day and additional, specialized annual in-service is conducted for Investigative Services, Licensing and Commercial Standards, Motor Unit, Communications, Criminal Patrol, and Ohio Investigative Unit. Documentation for completed training hours is kept in a PeopleSoft program that updates each employee's training record. Supervisors audit training records monthly to verify training was completed and/or certified.

D. Tracking, Reporting, and Performance Controls for Restraint and Seclusion
OSP-203.20 (Response to resistance) requires all instances of response to be reported. OSHP has a *Response to Resistance Review Committee* that consists of Assistant Superintendent, Field Operations Commander, Personnel Commander, Training Commander, Risk Manager, and a trooper. The committee reviews the reports on a case by case basis to ensure the employee's response was reasonable, whether the employee violated any department directives or law, performance deficiencies, and training needs. The incidents are reviewed annually to reveal patterns or trends that could indicate training needs or policy changes. These reviews are submitted to the Superintendent of the State Highway Patrol by March 10 every year.

12. Ohio Department of Commerce

A. Overview of Programs
Ohio Department of Commerce, Division of State Fire Marshal, Fire and Explosion Investigation Bureau (FEIB) Investigators are the only Commerce employees with a statutory arrest authority. When serving the State Fire Marshal, all FEIB Investigators are appointed as Assistant State Fire Marshals (ASFMs). FEIB ASFMs are law enforcement officers (and most are also appointed as peace officers) authorized to use force that may involve restraint, but only when making arrests or taking other actions within the scope of ASFM's authority to protect the public safety. In use of force circumstances, the use of restraint must be in accordance with agency policy and all other applicable laws, rules and regulations.

B. Rules, Policies, and Guidelines for Restraint and Seclusion
The *State Fire Marshal Response to Resistance/Aggression and Firearms Policy* (effective September 23, 2008) and subsequent revisions of that policy authorize use of force only by ASFMs when it is used by a properly authorized, trained and, as applicable, certified person and such use is in accordance with Ohio law and SFM policy. Essential elements of this policy related to restraint, as a subset of the use of force, include the following:

- Force can only be used to effect an arrest, detention, or complete the agency mission (i.e., protecting public safety);
- All ASFM use of force must be based on the actions and behavior of the resisting subject and be reasonable for the known facts related to the specific situation;
- The level of force used must be balanced against the likelihood of injury to the subject, to innocent bystanders, and/or to law enforcement officers and be constantly reassessed as an incident progresses; and
- ASFMs must react to aggressors in a manner that will limit injury to themselves, the suspect, other law enforcement officers and the public.

Seclusion is not an authorized practice for ASFMs and the State Fire Marshal does not engage, except in very rare emergency situations, in any prisoner transport or detention. Specific types of force (which may include restraint) referenced in the Action-Response Use of Force Continuum section of the State Fire Marshal policy include ASFM presence, issuance of verbal commands, empty hand control, intermediate weapons, and deadly force.

C. Training Related to Restraint and Seclusion
Training requirements related to use of/ limitations on restraint for ASFMs are those established by the Ohio Peace Officer Training Commission for peace and/or law enforcement officers. The application of these requirements occurs through the State Fire Marshal's Policy for the Appointment of Assistant Fire Marshals and the State Fire Marshal Response to Resistance/Aggression and Firearms Policy (see section of XVI of that policy).

D. Tracking, Reporting, and Performance Controls for Restraint
Sections X and XI of the State Fire Marshal Response to Resistance/Aggression and Firearms Policy contains detailed reporting requirements for any use of force under an ASFM's authority as a peace officer, or any use force that causes physical harm to a person or meets the policy definition of injurious force. If injurious force is used, the State Fire Marshal's *Firearms and Force Review Board* reviews all facts and statements pertinent to the event and formulates an opinion as to whether or not the use of force was lawful and consistent with policy. These incidents are very rare and the Board has not convened since the implementation of the most recent version of the policy.

13. Ohio Department of Natural Resources

A. Overview of Programs
Law enforcement officers within the Ohio Department of Natural Resources (ODNR) Division of Watercraft and Division of Parks use restraints in circumstances related to the arrest, investigation, and transportation of prisoners. Seclusion is not an authorized practice.

B. Rules, Policies, and Guidelines for Restraint and Seclusion
An ODNR Division of Watercraft Directive (Law Enforcement Prisoner Security) and Division of Parks Policy (Restraint Devices) establish policy for the use of restraints. Each of the policies contain provisions addressing positional asphyxia and do not permit restraint in which the person is face down. Essential elements of these policies related to restraint include approved restraint devices, circumstances in which restraint is authorized, safety measures for both the subject and the officer, and guidelines for the safe transport of a restrained subject.

C. Training Related to Restraint and Seclusion
All newly hired officers receive training on prone restraint, positional asphyxia, and/or excited delirium as part of the Ohio Peace Officer Training Commission Peace Officer Basic Training (Subject Control Techniques). These subjects were also addressed in an in-service training for officers in both Watercraft and Parks Divisions in 2009 and 2010.

D. Tracking, Reporting, and Performance Controls for Restraint and Seclusion
The use of restraints is captured in incident reports and reviewed by supervising officers in both Watercraft and Parks Divisions.

14. Ohio Board of Regents

A. Overview of Programs
University police agencies use physical restraints under certain circumstances as authorized by university policy. While the Ohio Board of Regents (OBR) does not have statutory or regulatory authority to direct universities to establish policies governing restraint and seclusion, OBR is aware that the university police agencies receive training and follow use of force policies, including use of restraint, comparable to the other police agencies referenced in this report.

B. Rules, Policies, and Guidelines for Restraint and Seclusion
Each university has policies in place governing use of force and restraint that are comparable to the other police agencies referenced in this report.

C. Training Related to Restraint and Seclusion
Officers employed in university police agencies receive training in use of force and restraint comparable to the other police agencies referenced in this report.

D. Tracking, Reporting, and Performance Controls for Restraint and Seclusion
Agencies monitor and report use of force and restraint comparable to the other police agencies referenced in this report.