Address: Privacy, WA 6164
Email: Privacy
Mobile: Privacy

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Royal Commissioners the Hon Margaret White and Mr Mick Gooda
NT Child Detention Royal Commission
ChildDetentionNT@royalcommission.gov.au

SUBMISSION – RESTRAINT METHODOLOGIES

I write this submission in respect of the much publicised use of restraint chairs in the Northern Territory juvenile justice system. While there are many who are lining up to decry this use, I wish to provide an alternative perspective on these and other restraint devices.

I have had a lengthy career in corrections in Australia working in the three jurisdictions of Victoria, New South Wales and Western Australia, and since 2009 have been undertaking prison based engagements in many countries around the world with UN Office of Drugs and Crime, UN Development Programme and International NGOs. My experience includes several years as the Manager, Forensic Case Management in the Department of Justice in WA where I held responsibilities for a team of mental health practitioners working with adult prisoners who were suicidal or self-harming or experiencing other mental health problems, and including those who were violently acting out.

It is beyond question that the preferred form of restraint in detention settings as in most places is the individual's exercising of self-restraint to control emotions and behaviours in the face of temptations and impulses. Attaining self-mastery of behaviours as a goal is particularly relevant to juvenile detainees where impulse control and consequential thinking have not yet been fully developed. However, there are occasions in the institutional environment where detainees are unable or unwilling to exercise personal self-control and restraint and it is necessary that other forms of restraint be applied. It is these other forms of restraint that I provide comment on.

I contend that in addition to self-restraint there are another seven forms of restraint that might be found in places of detention:

a) Psychological restraint can include constantly telling the person not to do something, or that doing what they want to do is not allowed, or is too dangerous.
b) Physical restraint involves one or more members of staff holding the person, moving the person, or blocking their movement to stop them leaving or to otherwise gain compliance..
c) Mechanical restraint involving the use of handcuffs, body-belts, ankle restraints, etc.;
d) Chemical restraint involving the administration of drugs – major or minor tranquilisers;

e) Technological restraint involves technological surveillance is increasingly being used to alert staff that the person is trying to leave or access an area and to monitor their movement.
f) Projectile restraint involving TaSERs, capsicum spray, tranquiliser dart, ballistic projectile (bean bag round, rubber bullet, etc.); and
g) Soft restraints that involve padded cuffs and Velcro that are applied to torso and/or limbs to restrict movement.

Psychological Restraint

Psychological restraint in detention centres includes directing the detainee not to do something that is not allowed, and if they do what they have been directed not to do they will receive some form of sanction or punishment. Sanctions might include not being permitted to undertake something that they gain enjoyment from (sport, day trips, etc.) or depriving them of equipment or possessions that prize (iPod, Xbox, etc.). The intention being that the threat of the sanction provides a psychological barrier to the detainee undertaking that which they are not permitted – a psychological restraint. In the alternative, whereas sanctions are used to extinguish undesired behaviours, a system rewards and benefits is used to encourage pro-social behaviour. Use of psychological restraint is intended to develop in the detainee the much sought after 'self-restraint'.

The correct use of psychological restraint methodologies requires that all staff and centre management are comprehensively trained in this and that centre operational policy is aligned so as to support the desired outcomes of the de-escalation or avoidance of incidents.

Physical Restraint

Physical restraint is used by staff members to prevent, restrict or subdue movement of a detainee's body or part of their body by physically grappling with the detainee. It is often applied in unexpected circumstances and as a first-line restraint where there has been no opportunity to administer other forms of restraint such as reinforcing psychological restraints or encouraging self-restraint, or to apply mechanical restraints. The use of physical force as a restraint technique is an option that has a distinct likelihood that those involved may be injured, be it officer or prisoner.

As the restrictions on the physical abilities and size requirements of detention staff has been relaxed over time, and as financial pressures can result in there being only small numbers of staff available, there are increasingly occasions when the staff member involved in an incident may be undersized compared to the detainee/detainees involved. While the *Four Corners* episode "Australia's Shame" showed a quite small detainee and multiple large adult males, this is not always the case and the number of detention staff who are assaulted and who require absences from work as a result gives testimony to this.

Likewise, and as the Four Corners programme evidenced clearly, physical confrontations can also result in the detainee being assaulted and injured.

Staff who are required to supervise and interact with detainees should be trained in appropriate techniques and the avoidance of inappropriate ones – choke holds, strikes to the head, etc. More difficult perhaps, is the training of staff in the value of retreating from single staff member physical confrontations in order that better structured interventions can be developed – response teams, cool off periods, etc.

Mechanical restraint

In custodial environments there is a heavy reliance on mechanical restraints such as anke cuffs, hand-cuffs, fetters, waist belts, shackles, chains, etc. These are generally used when a detainee needs to be transported from one location to another location either within a detention facility or externally. As is the common policy in most jurisdictions, mechanical restraints should be applied for the least amount of time necessary and should never be left on a detainee when they are in a secure environment, such as a cell or place of confinement, excepting where they are necessary to stop self-harm and suicide attempts.

Mechanical restraints are often cumbersome and difficult to apply when there is no cooperation from the person being restrained and have the potential for the detainee to be injured – particularly if the restraints are over restrictively applied. Mechanical restraints are low technology instruments used to control freedom of movement and have proven largely successful over in many applications over many years and in many situations – hence their popularity of use.

Despite their success in restricting movement and popularity of use, mechanical restraints do however have considerable negative connotations in that they evoke connotations of 'master and slave', the 'powerful and the subjugated', and these have powerful messages to the detainee in terms of sub-cultural theory and the like.

Chemical restraint

Chemical Restraint is a very restrictive intervention the application of which may cause distress for the detainee, and also at times for the staff members administering the stupefying agents. Chemical restraint may only lawfully be applied when absolutely necessary, and when less restrictive interventions have been tried without success, or have been considered but excluded as inappropriate or unsuitable in the circumstances, and only then by appropriately qualified medical personnel and for medical purposes. Unintended consequences when using chemical restraints include overdoses and counter indicated responses.

Chemical restraint in detention environments gives rise to images from 'One flew over the cuckoo's nest' and has

Technological restraint

Technological restraints – such as tagging, pressure pads, closed circuit television, or door alarms[1] – are increasingly being used to monitor detainee's movements and to provide or deny access to areas and to alarm when boundaries are crossed. While not a restraint in themselves, technological restraint acts to trigger other forms of restraint, for example through physically restraining a person who is trying to leave when a door alarm sounds or by activating a response squad to perimeter breaches or when an out of bounds area is entered into.

These methods are increasingly being included in the building and construction of new facilities and being retrofitted into old ones. This application of technology is both labour saving and provides an advance warning of transgressions so as to enable a proportionate response to be assembled rather than requiring a single officer to respond.

[1] A form of technological restraint that has been condemned by both the UN Committee against Torture and the Special Rapporteur on Torture is the use of body-worn electro-shock restraint devices.

Projectile Restraint

Projectile restraints are the least likely to be encountered in juvenile facilities and should not be on general issue to staff but restricted to specially trained police and corrections response units. Projectile restraints designed to incapacitate through a combination of psychological shock (i.e. hearing a bean-bag shotgun being racked or the projectile deployed), physical shock (i.e. the *pain of a projectile hitting)* and/or sensory shock (i.e. the burning sensation to the eyes & respiratory system). The use of projectile restraints with their debilitating qualities provide a period of incapacitation during which other forms of restraint can be applied – physical, mechanical or chemical. Projectile restraints may be effective in resolving an immediate situation but, in addition to the immediate psychological and physiological consequences to the detainee, can have long-term downside effects resulting from unintended consequences such as breach of trust issues, PTSD, etc.

Soft Restraint

Soft restraint, frequently referred to as four/five or six point restraints, include such things as the restraint chair, restraint jackets and similar devices that can be applied to a detainee to prevent the detainee from causing harm to themself or to others. The devices can consist of cuffs which are wrapped around the patient's wrists or ankles, and straps that are attached to the frame of their bed or chair to make them non-ambulatory, with more recent versions using Velcro in restraint configurations that can enable partial movements including walking.

While the Don Dale restraint chair drew comments on similarities with Hannibal Lecter such analogies were misguided and failing to understand the difficulties in dealing with persons who do not wish to be controlled and who will use extreme violence to do that of their choosing. Soft restraints comprising special designed vests, belts or cuff devices are to be found in all forensic hospitals and many other health settings across Europe, the US and Australia because of the benefits they provide in safely restraining a combative or self-destructive person.

Conclusion

As can be seen, there are a number of potential systems of restraint that can be used in detention centres all of which have good and bad aspects to their use. While it would be hoped that self-restraint and psychological restraint would be sufficient to control all eventualities, in a detention centre the reality is that they can't. Juveniles being juveniles will have periods of acting out and boundary breaking that require a more forceful intervention than just talking.

Leaving aside chemical restraint and projectile restraint as being unlikely of acceptability in Australia, and recognising the limitations of technological restraints, that leaves you with physical restraint, mechanical restraint and soft restraints as possible options to utilise. Once physical restraint has resulted in a subdued detainee, what recourse is there for those who would remain combatant? Options available would be mechanical restraints and soft restraints.

It is submitted that soft restraints, carefully designed and approved in compliance with human rights standards, can provide an alternative to low technology 'metal on skin' mechanical restraints that will find acceptance with the staff of detention centres, meet the standards of human rights proponents and, importantly, meet with preference by the detainees themselves.

It ought to be possible to work with providers of soft restraints for forensic hospitals, aged care facilities and detention staff associations to develop systems of soft restraints that improve the care and control of detainees and improves the working environment of staff.

In making these comments I recognise that whatever systems of restraint are to be employed they must be prescribed in regulations, have limitations on their applications, have supporting policy and practice, include a commitment to staff training, and involve monitoring and reporting requirements.

Submitted for your consideration.

Glenn Ross

B.B, B.A. (Crim Justice Admin.), M.S.W
Grad Cert Public Sector Mgt., M.Soc.Sc. (Criminology),
M. Correctional Mgt.

Adjunct Associate Professor
Edith Cowan University