Texas Health and Human Services Commission
Child-Care Licensing
Investigation Report

[redacted]

Based on the information obtained from the interviews and records reviewed, I determined there were evidence to support the allegation of excessive force during the restraint. The findings are based on:

-Mr. [redacted] admitted to being informed by A during the restraint he performed on Ca at the house. Mr [redacted] said he immediate loosen his grip on the hold as soon as he was told that Ca complaining of having pain in his arms.

-Four residents interviewed stated they observed Mr [redacted] leaning over C while C was lying on the bench with his knee hanging over the edge of the bench. They reported seeing Mr. [redacted] used his hand to push up C's chin during the restraint. Children reported seeing C spitting blood during the restraint or blood on his lips or swollen lips when he arrived at school.
Four residents also confirmed seeing Mr [redacted] using his knee to pin C's legs down to prevent him from kicking.
Three residents confirmed hearing C screaming of having pain in his legs during the restraint. Residents also confirmed hearing Mrl telling both staffs that they needed to let C go as he was having pain and the way they restrained him was excessive in force.

-Both Mr. [redacted] provided different version of what happened and how C was restrained. Mr. [redacted] denied C complaining of his legs being hurt. Yet, he completed the restraint report and documented C told him that his legs were hurt as a result of the restraint. His credibility is questionable.

Based on the information obtained from the interviews and records reviewed, I determined

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there was a preponderance evidence to support the allegation. The findings are based on:

-C reported that both Mr. and Mr. restrained him in a prone position for more than 10 minutes on the van. C said put his hand on C's chin and pushed it up causing a cut to his lip. C reported used his legs to pin C's legs down during the restraint causing pain to his legs.
-The incident report completed by staff indicated C received injuries to his leg as a result of the restraint; however, he did not require medical attention for this injuries.
-T reported witnessing the restraint performed by both Mr and Mr. while standing outside of the van (door to the van was opened during the incident.) T stated he observed Mr. put C on his back on the seat of the van during the restraint. T said he observed Mr. ushed C's head down with his hand. He also said he observed Mr. used his legs to hold C's legs down because C was kicking. He reported hearing C complained his legs were hurting during the restraint. He said staffs were in the van for about 30 minutes before letting the residents returned to the van.
-M reported witnessing Mr. putting C on his back during the restraint. He confirmed seeing Mr leaned on C to keep him from moving and used his left hand to keep C's hand down and his right hand to keep C's head from but heading him by pushing the chin area. M said Mr. went to the van to assist with the situation but he did not seeing the rest of the restraint as he went inside the house. He reported the residents had to wait for 30 minutes before being allowed to get back to the van for school.
-Mrl reported he stayed in the van during the restraint. Mrl said he observed Mr had C on his back during the restraint. He reported seeing Mr. used one hand to keep C's hand from moving and his other hand to push C's chin up to prevent C from butting his head against Mr. He said Mr pushed his knee against C's legs to keep C from kicking. Mrl said C was complaining of pain from his legs but neither staff responded to his complaint. He reported seeing blood on C's lip after the restraint. Mrl stated the restraint lasted about 10-15 minutes in total.
-E reported observing C being restrained by Mr on the van. He said C was on his back during the restraint. E stated Mr. used his hand to push C's head down by pushing against his throat. He said Mr. used his knee against C's knee to keep him from kicking. E also reported he heard C complained his legs were hurting from being kneed down by Mr. . He said the restraint lasted about 15 minutes.

The restraint performed by Mr in the classroom was found to be appropriate. A admitted to flipping the table before being restrained. There were other students in class and his action could cause harm to them. A said Mr spoke to him during the restraint and told him he needed to calm down before being released from the restraint. He denied receiving injuries from the restraint.

The restraint performed by Mr. on Ca at the house was found to be inappropriate as followed:

-Mr. [redacted] said Ca was having a bad day and he did not want Ca going in and out of other peer's room. He said Ca was standing in the hallway when the restraint occurred. Mr. [redacted] reported Ca wanted to go to the living room but he blocked his way causing Ca to push him. He said Ca also made a verbal threat against him regarding he would hurt Mr. [redacted] when Mr. [redacted] goes to sleep. Mr. [redacted] reported he restrained Ca due to being pushed and the verbal threat. (Mr. [redacted] admitted he did not lose balance when he was pushed.)
-Mr. [redacted] reported Ca was restrained for refusing to return to his room. He said Mr. [redacted] followed Ca around the house asking Ca to return to his room which Ca refused. He said Ca was restrained for refusing to comply by being escorted to his room by [redacted]

-E reported observing Ca being restrained by M[redacted] He reported Ca complained his arms were hurting and he relayed this information to Mr. [redacted] as he did not speak Spanish.
-Restraint report indicated Ca was restrained when he refused to return to his room by going and out of his peer's room and going to the front of the house and pushing staff.
-There was not an emergency situation that warranted a restraint as staff was using restraint to get a child to comply.

The allegation of staff member (Mr [redacted] trying to shower resident (C) with gifts and personal items cannot be validated due to:
-Mr. [redacted] denied the allegation.
-Mr. Clay Hill reported supervisor has been assigned to take residents out shopping for personal items when needed. Mr. [redacted] is a supervisor.
-Mr. Clay Hill reported the agency conducts inventory once a month and staff will identify what items a resident is needed. The list is then submitted to the supervisors who will transport children to make the purchase. Mr. Hill reported C was on the lst in 10/13 and personal items purchased for Ca were from agency's fund. Receipts were provided by Mr. [redacted] showing C received a new pair of tennis shoes, socks, several shirts, pants, and underwear.

Contact List:

Type	Date	To:/With
Phone Call	***12/05/2013***	***Ms. W***

Ms. W, an attorney was spoken to over the phone.

Ms. W reported she received complaints from residents regarding several recent incidents involving residents being held with excessive force during the restraint.

Ms. W stated other than the information provided in the report regarding C, A, and Ca, she has no other additional information.

Inspection	***11/21/2013***	***Mr. Clay Hill/ Owner***

I spoke to Mr. Clay Hill, owner, at the facility on 11/21/13.

Mr.. Hill reported Mr. [redacted] has been employed with agency for many years and is currently working

as shift supervisor. He said supervisors are assigned the task of purchasing items for residents in care based on their needs. He stated inventory is done once a month by staff and submitted it to supervisor for review. The list is turned over to management staff to approve. Once it's approved, the supervisor can either take residents out to make the purchase or shop on their own. He reported C's name was on the list in 10/13 showing he needed some shoes, shirts, and underwear. Mr. Hill stated Ca and O were taken on a shopping trip by Mr.. [redacted] and purchased receipt were provided to the agency for record. He said all of the purchases were made using company's credit card.

Mr.. Hill said he does not have any issues with Mr. [redacted] and believed the kids got together and lied on him because they did not like being told what to do. Mr.. Hill stated the kids can be very manipulative and will make up stories to get staff in trouble.

Mr.. Hill reported staff are trained every quarterly on EBI and they do their best in assessing the situation before putting a child in restraint. He stated he trusts his staff in doing the right thing and he felt residents are being well cared for and their needs are fully met at the facility.

He said he also has no concerns with Mr. [redacted] and Mr.. [redacted] regarding the restraint or the way they care or supervise the residents.

Inspection ***11/21/2013*** [redacted] ***/ Direct Care Staff***

Mr [redacted], direct care staff, was interviewed at the facility on 11/21/13.

[redacted]