

Seclusion and Restraint in Alabama Schools

A Report By
The Alabama Disabilities Advocacy Program

On May 19, 2009, the House Education and Labor Committee held a hearing on the use of seclusion and restraint in our nation's schools.

Investigators from the U.S. Government Accountability Office (GAO), parents, and education officials shared testimony about hundreds of schoolchildren who have been abused by the use of seclusion and restraint in U.S. classrooms. Practices used disproportionately on children with disabilities. Practices which have led to physical and emotional injuries...even death.

Are you thinking that this kind of thing doesn't go on in Alabama?

Think again.

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The Alabama Disabilities Advocacy Program (ADAP) has advocated on behalf of students with disabilities since its designation as the state's federally-funded protection and advocacy (P&A) agency in the mid-seventies. Most schools know ADAP through the legal advocacy it provides to children to ensure they receive an education designed to meet their disability-related needs. Traditionally, schools have not dealt with ADAP outside this context and may not be aware of its authority as the state's P&A agency to investigate complaints regarding the abuse and neglect of individuals with disabilities, including schoolchildren who have been subjected to seclusion and restraint.¹

In the last three years, ADAP has investigated more than a dozen reports of children being secluded or restrained in Alabama schools.

Here are some of the chilling incidents ADAP has investigated:

- DD² is a 5 year old boy diagnosed with autism, attention deficit hyperactivity disorder (ADHD), oppositional defiant disorder (ODD), and a mood disorder. DD was restrained in a Rifton Seating System and left unattended in a school hallway. During ADAP's investigation, one teacher stated that the chair had been used to help students with autism remain on task and that it had also been used as a form of punishment. She stated some students, "don't like the chair but they are given a choice before being placed in the chair for punishment."
- RB is a 7th grade girl with a progressive genetic disorder that affects her brain and nervous system. RB was physically restrained by three school staff members in an effort to calm her down. When that restraint proved unsuccessful, one of the staff members sent a student to retrieve a long tube-like piece of fabric. The staff used it to tie RB to a plastic student chair, where it was estimated she remained for about 2 1/2 hours. When she went home that afternoon, RB reportedly stated to a group home worker, "They tied me to a chair and...laughed at me."
- BA is a 2nd grader in foster care. She has autism and is not verbal. BA's foster parent picked her up after school and discovered many bruises covering her body. She took the child to the county Department of Human Resources and then to the hospital. An investigation subsequently revealed that BA's teacher told a classroom aide to restrain BA in a chair because she was screaming. The chair was located in a nearby bathroom. No one was in the bathroom to supervise BA while she was restrained. After some time passed, an aide checked on BA. The child had flipped the chair over and was hanging by the restraints. BA had also urinated on herself.

¹ Adopting the definitions used by the Centers for Medicare and Medicaid Services (42 C.F.R § 482.13(e)(1)(i)-(ii)), seclusion is defined as the involuntary confinement of an individual alone in a room or area from which the individual is physically prevented from leaving. Restraint is any manual method, physical or mechanical device, material, or equipment that immobilizes or reduces the ability of an individual to move his or her arms, legs, body, or head freely.

² To protect the identity of the children whose stories are presented in this report, the children's real initials are not used.

- TH is a 7 year old girl who has autism, a seizure disorder, heart arrhythmia, and asthma. TH's mother reported to ADAP that TH's teacher placed her inside a large box - comparable in size to a large refrigerator - in her classroom as a form of punishment. Witnesses indicate that the little girl was placed inside a large box for behavior such as talking. TH reported being placed inside the box through a side entrance and instructed to sit on her knees.
- TA is a 12 year old girl with Asperger Syndrome and bipolar disorder. When TA became agitated at school, a staff member restrained her with a "bear hug." TA struggled and ended up kicking the school employee on the leg, leaving a welt. The young girl was referred to juvenile court as a result of this incident where she was placed on probation for six months.
- PK is a 14 year old boy with multiple disabilities, including an anxiety disorder, depression, and an intellectual disability (ID or mental retardation). PK became agitated in school, throwing books and papers. As he tried to run from his classroom, teaching staff grabbed him by his legs and arms and carried him down the hallway. While this restraint may have kept him from running out of the class, it also fueled his already existing anxieties and fears about attending school.
- AE is a 7th grade boy diagnosed with Asperger Syndrome, anxiety disorder and social phobia disorder. During a manifestation determination meeting, school staff members described an incident where the boy was placed in a wheelchair and handcuffed to it for 25 minutes by a school resource officer.
- CR is a 7 year old kindergarten student who is diagnosed with a congenital heart defect, a chromosomal disorder, asthma and acid reflux. She is non-verbal and primarily communicates by pointing and reaching. CR's mother made an unannounced visit to the school and found CR laying her back on the floor during rest time with several weighted bags placed on top of her daughter. Education records provided to ADAP by the school system revealed that "hugs" or weighted lap pads were regularly used to discourage CR from leaving her mat during rest time. School documentation indicated that the weighted pads were used to discourage the child from pinching, pulling hair and hitting peers and adults.
- SL is a 9 year old boy in 4th grade diagnosed with ADHD and depressive disorder. SL was being placed in a supply closet of the school library with no supervision for extended periods for disciplinary measures. ADAP was contacted by the mother of an 8 year old boy named CJ. CJ has autism. CJ's school was restraining him almost daily.
- HN is a 12 year old boy in the 6th grade diagnosed with Aspergers Syndrome, ODD and ADHD. HN was being regularly restrained in school.
- LB has autism and is in 2nd grade. LB was being restrained in school regularly.

- IL is in 6th grade and has autism and an ID. In addition to be sent home from school regularly for behavioral problems, IL's school was physically restraining the child.

What do these incidents have in common?

While the child-victims were known to have behavioral problems, interventions developed by school staff were nonexistent or not thorough enough to address the children's needs. In a few cases, there were appropriate behavioral intervention plans but they were not rigorously or consistently implemented by school staff.

Children were hurt -- emotionally and/or physically -- through the use of these degrading and potentially dangerous and counter-productive practices. Less appreciated is the fact that school staff can be injured during seclusion or restraint incidents; indeed, research shows that staff are injured at more than twice the rate children are during seclusions and restraints.³

Teachers and other school staff were not given the tools and support they needed to proactively and positively address children's challenging behaviors. Staff received minimal training in the use of positive behavioral supports, de-escalation techniques and crisis management, which, if provided, could have made it unnecessary to resort to these drastic interventions.

The school districts in which these incidents occurred had no policies to guide school staff in when such practices could be used, by whom, and how they were to be administered.

None of the schools required any type of review or debriefing after a restraint or seclusion incident so staff could examine how its practice could have been improved and to revisit and revise the child's behavior management plan.

It's Time for Alabama to Act

After listening to the sobering reports of seclusion and restraint at the House Education and Labor Committee hearing, including the testimony of one mother whose son died as a result of a restraint, Education Secretary Arne Duncan said he would be asking state school chiefs from around the country to address the use of seclusion and restraints.

"Children's safety has to be our number one concern before we begin to think about educating them and doing other things," Duncan told lawmakers. "I want to make sure that as we go into next school year that every state has a real clear plan as to how to do this in a way that makes sense and doesn't jeopardize, doesn't endanger children."⁴

³ *Best Practices in Behavior Support and Intervention: National Evaluation Quarterly Report Card*. Child Welfare League of America (Vol. 2. No. 3 April 2004). This research was underwritten by the federal Substance Abuse Mental Health Services Administration (SAMHSA).

Alabama is one of nineteen states that have NO laws concerning the use of seclusion or restraint in schools. Now is the time for Alabama to ensure the safety and well-being of our children and teachers. ADAP calls upon Alabama to:

1. Ban school use of a) seclusion, b) prone restraints (or any other restraint that can suffocate an individual), and c) all other types of restraint except those applied by highly trained individuals when the immediate physical safety of the student, staff, or others is clearly threatened.
2. Require the state-wide use of School-Wide Positive Behavioral Support (SWPBS)⁵ and/or other evidence-based practices in behavioral management planning (including in the implementation of Individualized Education Plans (IEPs) developed for students receiving special education services) so teachers have the skills and resources they need to help children with challenging behavioral problems.
3. Require teacher, school administrator, counselor, and para-professional certification standards to require extensive education and training in the use of SWPBS, crisis reduction and management, de-escalation techniques, and other best practices.
4. Require extensive training in the use of SWPBS, crisis reduction and management, de-escalation techniques, and other best practices for all individuals in contact with children in a school setting, including school resource officers.
5. Require the prompt reporting of the use of seclusion and restraint to a child's parents, the Alabama State Department of Education (ALSDE) and ADAP and develop a protocol for using reported data for program improvement purposes at the local and state level.
6. Strengthen and clarify the investigatory authority of law enforcement and the Department of Human Resources to investigate allegations of abuse and neglect (through the use of seclusion and restraint) in schools.
7. Enhance the state's background check system for school personnel and to establish a statewide directory of individuals who have lost their licenses, been convicted of abuse or neglect in any setting, or been found to have committed abuse or neglect by any the state agency investigating restraint or seclusion.

⁴ <http://edlabor.house.gov/newsroom/2009/05/secretary-duncan-announces-pla.shtml>

⁵ "Evaluation data ... indicate that implementation of SWPBS is associated with reduction in the number of instances in which intensive interventions (including seclusion and/or restraint) are perceived as needed, increases the effectiveness of comprehensive interventions, and improvement in the maintenance of behavior support gains." *Considerations for Seclusion and Restraint Use in School-wide Positive Behavior Supports*, George Sugai and Robert Horner, Co-directors. OSEP Technical Assistance Center on Positive Behavioral Interventions and Support (4-29-09). http://www.pbis.org/common/pbisresources/publications/Seclusion_Restraint_inBehaviorSupport.pdf

Follow-Up for Parents, Educators and Policymakers

- Has your child ever been secluded or restrained in school?
- Does your child need more support in school to address his or her behavioral needs?
- Do you want to learn how training in positive behavioral interventions can help you as a teacher?
- Do you want to learn how to fund and expand the use positive behavioral interventions in your school through the use of Medicaid or Federal stimulus funds?
- Would you like more information about national and state advocacy activities regarding positive behavioral supports and the elimination of seclusion and restraint?
- Other?

Please contact ADAP at 1-800-826-1675 or via email at adap@adap.ua.edu.

Resources for Further Study

Examining the Abusive and Deadly Use of Seclusion and Restraint in Schools. A hearing of the House Committee on Education and Labor. (May 19, 2009). <http://edlabor.house.gov/hearings/2009/05/examining-the-abusive-and-dead.shtml>

Seclusions and Restraints: Selected Cases of Death and Abuse at Public and Private Schools and Treatment Centers. United States Government Accountability Office. (May 2009). (Publication No. GAO-09-719T). <http://www.gpoaccess.gov/gaoreports/index.html>.

Considerations for Seclusion and Restraint Use in School-wide Positive Behavior Supports. Sugai, G. and Horner, R., OSEP Technical Assistance Center on Positive Behavioral Interventions and Support. (April 29, 2009). http://www.pbis.org/common/pbisresources/publications/Seclusion_Restraint_inBehaviorSupport.pdf

Positive Behavior for Safe and Effective Schools Act. H. R. 2597, a bill to amend the Elementary and Secondary Education Act of 1965 to allow State educational agencies, local educational agencies, and schools to increase implementation of school-wide positive behavior supports. http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=111_cong_bills&docid=f:h2597ih.txt.pdf

School is Not Supposed to Hurt: Investigative Report on Abusive Restraint and Seclusion in Schools. National Disability Rights Network (NDRN). (January 2009). <http://www.ndrn.org/index.htm>.

Unsafe in the Schoolhouse: Abuse of Children with Disabilities. Council of Parent Advocates and Attorneys, Inc. (COPAA). (May 2009). http://www.copaa.net/pdf/UnsafeCOPAAMay_27_2009.pdf.

Restraint and Seclusion: Can They Become Obsolete Practices? Jovanovic, G. and Johnsen, M., Center for Mental Health Services Research, University of Massachusetts Medical School, Vol. 3, Issue 2 (February 2006) (See bibliography) <http://www.ndrn.org/issues/an/rs/brief22SR.pdf>

Establishing and Sustaining Research-Based Practices at Centennial School: A Descriptive Case Study of Systemic Change. Miller, D., George, M. and Fogt, J., Psychology in the Schools, Vol 42(5) (2005) http://www.lehigh.edu/~insch/article_5.pdf

State policies concerning the use of seclusion timeout in schools. Ryan, J.B., Peterson, R.L., & Rozalski, M.E., Education and treatment of Children, 30(3), 215-239 http://www.accessmylibrary.com/coms2/summary_0286-33536962_ITM

Learning from Each Other: Success Stories and Ideas for Reducing Restraint and Seclusion in Behavioral Health. American Psychiatric Association, American Psychological Association, American Psychiatric Nurses Association (2003) <http://www.naphs.org/rscampaign/Learning.pdf>

Use of Seclusion is Not Evidence-Based Practice. Finke, L.M., Journal of Child and Adolescent Psychiatric Nursing (Oct-Nov 2001) http://findarticles.com/p/articles/mi_qa3892/is_200110/ai_n8993463/?tag=content;coll

Restraint and Seclusion – A Risk Management Guide. Haimowitz, S., Urff, J., and Huckshorn, K. (September 2006) http://www.nasmhpd.org/general_files/publications/ntac_pubs/R-S%20RISK%20MGMT%2010-10-06.pdf

Positive Behavior Supports: A Wise Investment of Economic Stimulus Funds. http://www.pbis.org/pbis_resource_detail_page.aspx?PBIS_ResourceID=838

Medicaid Coverage of School-Based Mental Health Services. Bazelon Center for Mental Health Law. <http://www.bazelon.org/issues/education/index.htm>

The Alabama Disabilities Advocacy Program (ADAP)

ADAP is part of our nation's protection and advocacy (P&A) system for persons with disabilities. Collectively, the P&A system is the largest provider of legally-based advocacy services to people with disabilities in the United States. Congress created the P&A system in the mid-seventies in response to the horrific abuse and neglect of people with disabilities in our country. Governor George Wallace designated ADAP as Alabama's P&A agency in 1975. Under federal law, ADAP is authorized to pursue legal, administrative, and other appropriate remedies to protect and advocate for the rights of Alabamians with disabilities. It is empowered to investigate allegations of abuse and neglect of persons with disabilities in facility and community settings. Housed at The University of Alabama, ADAP provides individual advocacy services to approximately three thousand persons annually. The agency impacts the lives of thousands of other persons with disabilities through the systemic litigation and policy work it undertakes.



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