Enhancing School Safety: Appropriate Use of Restraint & Seclusion

Joseph B. Ryan, Ph.D.
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Why is Seclusion & Restraint Important Now?

- Concern for time away from instruction in increased with No Child Left Behind and IDEA 04.
- Many students with more serious behavior problems may now be in less restrictive settings where these procedures are now being used more frequently—sometimes without documentation or staff training.
- Concern for the overrepresentation of some minorities in various punishments—timeout may be one additional instance.
- Risk of serious injury or death in inappropriate or unsupervised seclusionary timeout settings.

Hasmig Tempesta removed her 3-year old autistic son, Zachary, from Red Apple Elementary School’s early childhood program after she learned that his special education teachers had been restraining him in a chair with belts without her knowledge or consent. …
Wisconsin girl, age 7, killed when restrained and secluded

from "School is Not Supposed to Hurt", NDRN, 2009

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• 13-year-old Georgia boy hanged himself while secluded in a concrete-walled, locked room. He had previously pleaded not to be locked in the room. He had also previously threatened suicide in school.

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A little history

1998 Hartford Courant investigative series "Deadly Restraint"


2000 Child Welfare League of America Behavioral Management and Children in Residential Care

2000 Children’s Health Act of 2000

2008 National Association of Protection and Advocacy Systems
A little history, continued

January, 2009
National Disability Rights Network
“School is Not Supposed to Hurt”

May, 2009
U.S. House Committee on Education and Labor Regarding the Use of Restraints and Seclusion

May, 2009
U.S. GAO Report
“Seclusions and Restraints”

June, 2009
CEC-sponsored Congressional briefing
“Enhancing School Safety: Appropriate Use of Restraint and Seclusion Procedures”

July, 2009
Secretary Duncan letter regarding use of restraint and seclusion in schools

What are Restraints?

**Mechanical**
Use of any device (tapes, tie downs) to limit an individual’s body movement.

**Chemical**
Use of medication to control behavior or restrict a patient’s freedom of movement.

**Physical** (Ambulatory)
Use of one or more people using their bodies to restrict another’s movement.

History of Restraint

- Originated in France’s psychiatric hospitals during the late 18th century.

- Developed by Philippe Pinel & Jean Baptiste Pussin to prevent patients from injuring themselves or others (AACAP, 2000; Fisher, 1994; Weiner, 1992).
History of Restraint (continued)

- Restraints have been used for children with ED since the 1950s, and was included in a list of "techniques for the antiseptic manipulation of surface behavior" compiled by Redl & Wineman (1952).

- Authors stated explicitly that physical restraint should not be used as, nor be associated with physical punishment.

Dangers of Restraint

- 142 restraint-related deaths in U.S. over a 10-year period (Weis, Hartford Currant, 1998)

- GAO concluded more than 24 patients died from restraint or seclusion related incidents in 1998 (GAO/HEHS, 1999)

- CWLA estimated 8 - 10 children in the U.S. die each year due to restraints, while numerous others suffer injuries ranging from bites, damaged joints, broken bones and friction burns (CWLA, 2002).

Risks Associated with Restraint

- Positional Asphyxia
  - Predisposed when in prone (face down) position

- Aspiration
  - Predisposed when in supine (face up) position

- Blunt Trauma to the Chest
  - Cardiac arrhythmia leading to sudden death

- Catecholamine Rush
  - Result of escalating agitation producing heart rhythm disturbances
  - Many medications inhibit body's cooling mechanisms

- Psychotropic Medications
  - Neuroleptics increase risk of sudden death (2.39 times)
  - Antidepressants increase QT interval associated with Sudden Death

- Rhabdomyolysis
  - Break down in muscle cells due to strenuous exertion.

- Thrombosis
  - Fatal pulmonary embolism due to being immobile for long periods of time

- Psychological Trauma

- Physical Injury (Staff & Students)
  (Moore, Petti & Mohr, 2003)
**Researcher’s Findings of Interest**

- Restraints more common among younger children. (possibly due to possessing fewer coping mechanisms for frustration.)

- Male staff members more likely to initiate restraints than females (Miller, Walker & Friedman, 1989).

**Causal Factors for Restraints**

- Debrief of staff and clients following 81 incidents of restraint in a psychiatric hospital setting resulted.
  
  - Staff reported 65% of restraints initiated due to perceived safety threat, while 19% were for patient noncompliance.
  
  - Patients reported that a staff member threatening time-outs were a causal factor for escalated levels of aggressive behavior (Petti, et al., 2001).

**Efficacy of Restraints**

- Massachusetts' law addressing restraints effectively reduced the number of chemical restraints and seclusionary procedures within a juvenile psychiatric facility, but increased the number of physical restraints (Swett, Michael and Jonathan, 1989).

- Study in psychiatric inpatient unit (children 5 - 12 yrs) found using therapeutic holds (e.g., ambulatory restraints) slightly reduced duration of behavioral episodes, and was effective in reducing the number of restraints by 15.9% (Berrios and Jacobowitz, 1998).
Prevalence of Restraints

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- Reported 107 restraints overall with males slightly more likely to be restrained than females
- No linear relationship with age, but noted the onset of adolescence brought about an abrupt increased level of restraints administered.
- In direct contrast of earlier findings, study found female staff initiated larger numbers of restraints than male counterparts.

Prevalence of the Use of Physical Restraint

- Survey of childcare workers from psychiatric facilities found restraints were frequently used, with 34% of staff reporting to have used these procedures more than twice per week (Hunter, 1989).
- Study conducted at adolescent psychiatric unit found 23% of population experienced at least one restraint during an 18 month period.
- Higher occurrences of restraints on Monday and Friday due to what the authors called weekend anxiety.
Types of Timeout

- Inclusion in the classroom (Not generally a problem)
- Exclusion outside the classroom
- Seclusion in a special room or location & prevented from leaving

Risks Associated with Seclusion

- Procedure May Not be Therapeutic & Might Actually Escalate Behavior:
  - Students consistently perceived timeout procedures as punishment, especially when used as a threat for "bad" behavior (Miller, 1986).

- Potential Legal Issues for Excessive/Inappropriate Use:
  - Peters v. Rome City School District (2002), jury awarded $75,000 for a school's false imprisonment & violation of a 2nd grade student's 4th Amendment rights by inappropriately using a timeout room (e.g., excessive periods).

- Potential Disparity of Treatment:
  - Disproportionate number of African Americans (67%) separated from class (Vacc & Siegel, 1980).
  - General/Special education teachers were more likely to use punishment & exclusion with Asian-American students (Ishii-Jordan, 2000).

Implementation of Timeout Procedures:

- Found it is ill advised to threaten students with timeout. When no warnings were provided to students their rate of immediate compliance to teacher demands increased.

- When teachers threatened timeouts prior to administering them, student compliance was reduced (Twyman, Johnson, Buie & Nelson 1994).
Duration of Timeout

- Professionals frequently promote the idea that duration of timeout procedures should vary depending upon student age.
  - Popular recommendations suggest duration of timeout should be one minute for each year of the student's age (e.g., 8 yr old = 8 minutes).
- Self-imposed timeout duration was as effective as teacher-imposed durations at reducing disruptive behaviors (Pease & Tyler, 1979).
- Demonstrated differential schedule of timeout was effective in reducing maladaptive behaviors (Barton, Srull & Repp, 1997).

Efficacy of Inclusion Timeouts

- Timeout Ribbon (n = 7)
  - Effectively Reduced Maladaptive Behaviors:
    - Elementary General Education / SPED / MR
- Planned Ignoring (n = 3)
  - Effectively Increased Prosocial Behaviors:
    - Preschool students
- Sit & Watch (n = 3)
  - Effectively Reduced Maladaptive Behaviors:
    - Elementary Gen Ed / EBD / MR
- Contingent Observation (n = 2)
  - As Effective as Exclusion Timeouts for Students with EBD

Efficacy of Exclusion Timeouts

- More effective at reducing noncompliance than guided compliance technique with preschool children using guided hand over hand movement (Handen, Parrish, McClung, Kerwin & Evans, 1992).
Efficacy of Seclusion Timeouts

- Demonstrated large decrease in aggressive behaviors with single student with EBD (Webster, 1976).
- No affect at reducing maladaptive behaviors for several students with EBD and MR (Smith, 1981).

Efficacy of Restrained Timeouts

- Reduced self-injurious behaviors (SIB) in a students with EBD in residential setting (Rolider & Van Houten, 1985).

Teacher Views of Timeout Procedures

- Both general and special education teachers reported timeouts are a complex intervention to perform due to the requirements of the teacher, but were acceptable for destruction of property and use of obscene language (Elliott, Witt, Galvin & Peterson, 1984).
- BD teachers were likely to assign timeout for: aggression (63%), destruction of property (51%), refusal to work (47%), and inappropriate language (43%) (Zabel, 1986).
- BD teachers reported timeout procedures were typically incorporated into students behavior management plans for: physical aggression toward others (84%), verbal aggression (70%), self-injurious behaviors (64%), and physical aggression toward self (54%) (Ruhl & Hughes, 1985).
- While many BD teachers have timeouts as an official part of their behavior management plan, Esquivel & Pine (1983) procedure was more commonly used among general education teachers than their special educator counterparts.
- Zabel (1986) reported use of timeouts appears to decrease with age. Survey of BD teachers, reported how many teachers at different grade levels used timeouts:
  - Preschool Teachers (88%)
  - Elementary Teachers (78%)
  - junior high teachers (65%)
  - High school teachers (51%)(Zabel, 1986).
- Researchers found gen ed & sped teachers were less likely to use isolation timeout procedures or other forms of aversive punishments if they are aware a student may be misbehaving due to a difficult family or personal situation (Alderman & Nix, 1997).
Student Views of Timeout Procedures

- 40 students with EBD drew a picture and described their experiences of a seclusion timeout.

- Students consistently perceived timeout procedures as punishment, emphasized by its use as a threat (Miller, 1986).

Disparity of Treatment

- Potential disparity of treatment in that 67% of students separated from class were African American students, while school was only 23% African American (Vacc & Siegel, 1980).

- Survey of 692 general and sped teachers found greater likelihood of using punishment and or exclusion with Asian American students, and less likely to use same aversive procedures with Hispanic American students (Ishii-Jordan, 2000)

Seclusion & Restraint Frequently Used for Other than Emergency Procedures (Ryan, et al., 2007)

<table>
<thead>
<tr>
<th>Staff Reasons Stated for Using Restraint</th>
<th>Staff Reports</th>
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<tbody>
<tr>
<td>1. Noncompliance</td>
<td>48.4%</td>
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<tr>
<td>2. Leaving Assigned Area</td>
<td>19.4%</td>
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<tr>
<td>3. Disrespect</td>
<td>7.3%</td>
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<td>4. Property Misuse</td>
<td>7.3%</td>
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<tr>
<td>5. Disrupting Class</td>
<td>6.5%</td>
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<tr>
<td>6. Physical Aggression</td>
<td>3.2%</td>
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<td>7. Threats</td>
<td>3.2%</td>
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<tr>
<td>8. Horseplay</td>
<td>0.8%</td>
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**Does Physical Restraint & Seclusion Violate a Student's Individual's Rights?**

- Plaintiffs typically argue seclusion & restraints violate an individual's rights under:
  - *Eighth Amendment*, which prohibits administering cruel or unusual punishment, and
  - *Fourteenth Amendment*, which provides for an individual's liberty interests in freedom of movement and personal security.

- Courts ruled institutions must take into account a patient's rights at all times, and that any restrictions to individual liberties must be in their best interest.

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**Individual Rights**

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<td><em>Jackson v. Bishop</em> (1968)</td>
<td>Interventions not professionally indicated and unnecessarily restrictive may violate a patient's 14th Amendment liberty interest.</td>
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<tr>
<td><em>Bell v. Wolfish</em> (1979)</td>
<td>Supreme Court stressed that innocent persons have a right to be free from punishment.</td>
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<tr>
<td><em>Youngberg v. Romeo</em> (1982)</td>
<td>Supreme Court ruled students have the right to safe conditions. Established precedent of &quot;Professional Judgment&quot; to determine if a staff member's use of punishment was considered reasonable.</td>
</tr>
<tr>
<td><em>Converse v. Nelson</em> (1995)</td>
<td>Mass Superior Court ruled inappropriate behavioral programs that constitute punishment disguised as treatment should be subject to analysis under Eighth Amendment standards.</td>
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**Parental Options for Filing a Complaint**

- The Office for Civil Rights (OCR) in the U.S. Department of Education serves as the primary administrative enforcement mechanism for Section 504 and the Americans with Disabilities Act (ADA) in relation to schools.

- Additionally, educational cases are frequently handled by the State Education Agency (SEA), which resolves disputes regarding the IDEA using impartial due process hearings, and at the state's option, a second-tier impartial administrative review.

- All OCR and SEA Hearing Officer Reports may also be appealed to federal court.
Court Rulings on Mechanical Restraint

- Preponderance of rulings by the Courts, SEA and OCR found the use of any type of mechanical restraint other than a time out or tray chair to be unacceptable, and in clear violation of a student’s individual rights.

 Federal Court

        Jefferson v. Yelta Independent School District (1987) Teacher and principal did not have qualified immunity from liability for tying a second grade student to a chair.

        Ronnie Lee S. v. Mingo County Board of Education (1997) Elementary school did not have qualified immunity from liability when restraining a child with autism to chair by means of a vest.

 SEA

        Portland (ME) School District (1987) Teacher’s strapping down of a student with profound retardation violated his Sec. 504 rights.

 OCR

        Oakland (CA) Unified School District (1993) Student’s Sec. 504 and ADA rights had been violated when his mouth was taped shut.

        Aiken County (SC) School District (1995) Student’s Sec. 504 and ADA rights had been violated when his mouth was taped shut.

Ambulatory Restraints

- Courts, SEA, and OCR have consistently found ambulatory restraints may be used without violating an individual’s rights or threatening their safety.
Federal Court

Restraining a child with autism engaged in aggressive and self-injurious behavior was not considered to be excessive or violate the child’s constitutional protection from cruel and unusual punishment.

SEA

Florence (SC) County No. 1 School District (1987)
School personnel had not violated student’s Sec. 504 rights restraining him to prevent harm, despite language in the IEP forbidding corporal punishment.

OCR

Ohio County Public Schools (1989)
Did not find evidence to support parent’s claim that a teacher used excessive force in restraining a student.

Wells-Orgonquit (ME) County Schools (1990)
School district did not violate a student’s Sec. 504 rights when using a physical restraint to control violent behavior.

Gateway (CA) v. Unified School District (1995)
Determined a student’s behavior modification plan permitted the use of physical restraint.

Professional Training

Wyatt v. King (793 F. Supp 1058, 1992), U.S. Circuit Court determined staff working with mentally ill required specific training regarding interventions germane to their unique care.

Training should include psychopharmacology, psychopathology, psychotherapeutic interventions, as well as interviewing and assessment procedures for determining a patient’s mental status.

Professional training programs

Representative Examples- No endorsement is implied

- Handle With Care Behavior Management System, Inc.
  - http://www.handlewithcare.com
- JKM Training, Inc.
  - http://www.jkmtraining.com
- The Mandt System®
  - http://www.mandtsystem.com
- Crisis Prevention Institute, Inc. (CPI)
  - http://www.crisisprevention.com
- Professional Assault Response Training (PART)
- Professional Crisis Management
  - http://www.pcms.com
- Therapeutic Crisis Intervention (TCI)
  - http://www.therops.com
Crisis Intervention Training Has Consistently Demonstrated Efficacy in Reducing S & R

- Restraints reduced 43% & Seclusion reduced two-thirds in special day school for students with EBD (Ryan, Peterson, Tetreault, & Van der Hagen, 2007).
- Assaultive incidences reduced by 80% and disruptive incidents by 77% (CPI, 2002).
- Restraints reduced 40% & 75% in two residential centers for students with EBD (Timbers & Jones, 2003).
- Reduced seclusion timeouts by two-thirds in special day school (Ryan et al., 2007).
- Reduced seclusion by 69% & 84% respectively in 2 residential facilities for students with EBD (Jones & Timbers, 2003).

States Have Now Begun to Establish Policies or Guidelines for Using S & R in Schools

- 31 states have either official policy or suggested guidelines for use of Restraint.
  - 7 designate responsibility to individual school districts
- 24 states have either official policy, or suggested guidelines for use of Seclusion.
  - Policies exist in 17 states
  - Guidelines exist in 7 more states

CCBD Recommends Restraint Only be Used if the Following Criteria have Been Met:

1. Student’s actions pose a clear, present and imminent physical danger to himself/herself or others.
2. Less restrictive measures have not effectively de-escalated the risk of injury.
3. Restraint should only last as long as necessary to resolve the actual risk of danger or harm.
4. Degree of force applied may not exceed what is necessary to protect the student or other persons from imminent bodily injury.
**CCBD Recommends "Banning" Specific Restraint Procedures Including:**

- Mechanical Restraints
- Prone (face down) and supine (face up) floor restraints
- Medications should never be used as chemical restraints or solely by school personnel to manage student behavior.
- Restraint should never be administered in such a manner that prevents a student from breathing or speaking.
- Restraint procedures should never be used for: (a) "punishment", (b) non-compliance, or (c) responding to running away unless there is imminent risk of injury related to that flight.

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**CCBD Recommends Seclusion be Used Only When the Following Criteria are Met:**

1. Student’s actions pose a clear, present and imminent physical danger to himself/herself or to others.
2. Less restrictive measures have not effectively de-escalated the risk of injury.
3. Seclusion should only last as long as necessary to resolve the actual risk of danger or harm, or while awaiting arrival of law enforcement or crisis intervention personnel such as when student possessed a weapon or committed a crime.

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**CCBD Recommendations for Seclusion Rooms**

- All seclusion environments should be inspected regularly, not only by fire or safety inspectors, but for programmatic implementation of detailed state regulations, with violations affecting school accreditation.
- Seclusion environments should:
  - Be of reasonable size permitting students to lie down.
  - Have adequate ventilation including heat and air conditioning as appropriate.
  - Have adequate lighting.
  - Be free of any safety hazards (electrical outlets, equipment, breakable glass, etc.).
  - Permit direct continuous visual and auditory monitoring of the student.
  - Permit automatic release of any locking device if fire or other emergency in the school exists.
CCBD Recommended Guidelines for Seclusion

- Any student in seclusion must be continuously observed by an adult both visually and auditorily for the entire period of the seclusion.
  - At the student request, s/he must be permitted to go to the rest room.
  - Any signs of medical distress should result in immediate action.
  - Student should be permitted water to drink if requested.

CCBD Recommends Staff That Utilize S & R Procedures Receive Training That:

- Results in some form of certification / credential for each individual staff member, as well as for the school district, agency or school.
- Be recurrent with at least annual updates.
- Includes de-escalation & conflict prevention
- Includes content and skills on the use of positive, instructional, preventive methods for addressing challenging behavior.
- Includes information about effects of medications.
- Includes methods for monitoring student safety during restraint
- Includes certification in CPR & First Aid.

CCBD Recommends Documentation & Notification Procedures for S & R

- S & R procedures along with names of staff members involved & any other circumstances surrounding use of these procedures must be documented immediately, with a copy placed in child’s records.
- Program supervisor or administrator should be informed ASAP after each use.
- Parents or guardians should be informed ASAP, following every instance, & be provided a copy of all documentation.
CCBD Recommends Staff De-Briefing Occur After Every Use of S & R

- Staff de-briefing should occur as soon as possible after every incident of restraint, but no later than 48 hours after incident.
  - De-briefing should include all the participants, and should also include an administrator and at least one other staff member not involved in the restraint procedure.
  - Parents or guardians should be invited to participate in this de-briefing if they are able to do so.
  - Debriefing should focus on how situation could have been handled in such a way as to prevent the need for the use of S & R, and on how a similar event could be avoided in the future.
  - A report of the finding of this de-briefing should be included in the student’s file, and a copy sent to the parent or guardians.

CCBD Recommends Guidelines for Schools that Incorporate S & R Procedures

- Repeated use of S & R for any one student, or multiple restraints across different students should be viewed as a failure of educational programming & likelihood that supports, educational methodologies, & other interventions for the student are inadequate & should be modified.
- Any school district which employs S & R procedures should have a written positive behavior support plan, which includes the use of positive behavior interventions & de-escalation techniques, as well as the training of all school personnel on how to implement positive behavior supports, and documentation procedures.
- Senior Administrators (i.e., the school principal or designee) must ensure the implementation of these policies.
- School wide or general safety plans or policies should clearly identify if S & R might be used in emergency situations within a school setting.

Final Thoughts Regarding S & R

1. Numerous instances of S & R procedures being abused in schools today nationwide.
2. Little research available to support the use of these interventions.
3. More uniformed policies are needed across states and school systems to ensure these procedures are used in a safe & efficacious manner.
4. Require data and reporting procedures to monitor efficacy of S & R procedures.
5. Educators need training in de-escalation strategies & appropriate emergency uses of these procedures.
References


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- In direct contrast of earlier findings, study found female staff initiated larger numbers of restraints than male counterparts.

Prevalence of Restraints (continued)

A study of EBD teachers in public schools found that many used restraints as part of a planned behavioral intervention, or as a spontaneous reaction to aggressive behavior.

- Prevalence Rate among Public School EBD Teachers
  - 71% of EBD teachers used restraint with their students if they displayed aggression toward others,
  - 40% to prevent self-abuse, and
  - 34% to prevent destruction of property (Ruhl & Hughes, 1985).

Prevalence of the Use of Physical Restraint

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- Study conducted at adolescent psychiatric unit found 23% of population experienced at least one restraint during an 18 month period.
- Higher occurrences of restraints on Monday and Friday due to what the authors called weekend anxiety.
### Types of Timeout

- **Inclusion** in the classroom (Not generally a problem)

- **Exclusion** outside the classroom

- **Seclusion** in a special room or location & prevented from leaving

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### Risks Associated with Seclusion

- **Procedure May Not be Therapeutic & Might Actually Escalate Behavior:**
  - Students consistently perceived timeout procedures as punishment, especially when used as a threat for “bad” behavior (Miller, 1986).

- **Potential Legal Issues for Excessive/Inappropriate Use:**
  - Peters v. Rome City School District (2002), jury awarded $75,000 for a school’s false imprisonment & violation of a 2nd grade student’s 4th Amendment rights by inappropriately using a timeout room (e.g., excessive periods).

- **Potential Disparity of Treatment:**
  - Disproportionate number of African Americans (67%) separated from class (Vacc & Siegel, 1980).
  - General/Special education teachers were more likely to use punishment & exclusion with Asian-American students (Ishii-Jordan, 2000).

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### Implementation of Timeout Procedures:

- Found it is ill advised to threaten students with timeout. When no warnings were provided to students their rate of immediate compliance to teacher demands increased.

- When teachers threatened timeouts prior to administering them, student compliance was reduced (Twyman, Johnson, Buie & Nelson 1994).
Duration of Timeout

- Professionals frequently promote the idea that duration of timeout procedures should vary depending upon student age.
  - Popular recommendations suggest duration of timeout should be one minute for each year of the student's age (e.g., 8 yr old = 8 minutes)
- Self-imposed timeout duration was as effective as teacher-imposed durations at reducing disruptive behaviors (Pease & Tyler, 1979).
- Demonstrated differential schedule of timeout was effective in reducing maladaptive behaviors (Barton, Brulle & Repp, 1987).

Efficacy of Inclusion Timeouts

- Timeout Ribbon (n = 7)
  - Effectively Reduced Maladaptive Bxs:
    - Elementary General Education / SPED / MR
- Planned Ignoring (n = 3)
  - Effectively Increased Prosocial Bxs
    - Preschool students
  - Ineffective at Reducing Maladaptive Bxs:
    - Students with EBD / MR
- Sit & Watch (n = 3)
  - Effectively Reduced Maladaptive Bxs:
    - Elementary Gen Ed / EBD / MR
- Contingent Observation (n = 2)
  - As Effective as Exclusion Timeouts for Students with EBD

Efficacy of Exclusion Timeouts

- More effective at reducing noncompliance than guided compliance technique with preschool children using guided hand over hand movement (Handen, Parrish, McClung, Kerwin & Evans, 1992).
Efficacy of Seclusion Timeouts

- Demonstrated large decrease in aggressive behaviors with single student with EBD (Webster, 1976).
- No affect at reducing maladaptive behaviors for several students with EBD and MR (Smith, 1981).

Efficacy of Restrained Timeouts

- Reduced self-injurious behaviors (SIB) in a students with EBD in residential setting (Rolider & Van Houten, 1985).

Teacher Views of Timeout Procedures

- Both general and special education teachers reported timeouts are a complex intervention to perform due to the requirements of the teacher, but were acceptable for destruction of property and use of obscene language (Bilott, Witt, Galvin & Peterson, 1984).
- BD teachers were likely to assign timeout for: aggression (63%), destruction of property (61%), refusal to work (47%), and inappropriate language (43%) (Zabel, 1986).
- BD teachers reported timeout procedures were typically incorporated into students behavior management plans for: physical aggression toward others (84%), verbal aggression (79%), physical aggression toward objects (64%), and physical aggression toward self (37%) (Ruhl & Hughes, 1985).
- While many BD teachers have timeouts as an official part of their behavior management plan, Esquivel & Pine (1983) procedure was more commonly used among general education teachers than their special educator counterparts.
- Zabel (1986) reported use of timeouts appears to decrease with age. Survey of BD teachers, reported how many teachers at different grade levels used timeouts:
  - Preschool Teachers (88%)
  - Elementary Teachers (79%)
  - Junior high teachers (65%)
  - High school teachers (51%) (Zabel, 1986).
- Researchers found gen ed & sped teachers were less likely to use isolation timeout procedures or other forms of aversive punishments if they are aware a student may be misbehaving due to a difficult family or personal situation (Alderman & Nix, 1997).
Student Views of Timeout Procedures

- 40 students with EBD drew a picture and described their experiences of a seclusion timeout.

- Students consistently perceived timeout procedures as punishment, emphasized by its use as a threat (Miller, 1986).

Disparity of Treatment

- Potential disparity of treatment in that 67% of students separated from class were African American students, while school was only 23% African American (Vacc & Siegel, 1980).

- Survey of 692 general and sped teachers found greater likelihood of using punishment and or exclusion with Asian American students, and less likely to use same aversive procedures with Hispanic American students (Ishii-Jordan, 2000)

Seclusion & Restraint Frequently Used for Other than Emergency Procedures (Ryan, et al., 2007)

<table>
<thead>
<tr>
<th>Staff Reasons Stated for Using Restraint</th>
<th>Staff Reports</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Noncompliance</td>
<td>48.4%</td>
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<tr>
<td>2. Leaving Assigned Area</td>
<td>19.4%</td>
</tr>
<tr>
<td>3. Disrespect</td>
<td>7.3%</td>
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<tr>
<td>4. Property Misuse</td>
<td>7.3%</td>
</tr>
<tr>
<td>5. Disrupting Class</td>
<td>6.5%</td>
</tr>
<tr>
<td>6. Physical Aggression</td>
<td>3.2%</td>
</tr>
<tr>
<td>7. Threats</td>
<td>3.2%</td>
</tr>
<tr>
<td>8. Horseplay</td>
<td>3.2%</td>
</tr>
<tr>
<td>9. Harassment</td>
<td>0.8%</td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Staff Reasons Stated for Using Seclusion</th>
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</tr>
</thead>
<tbody>
<tr>
<td>1. Leaving Assigned Area</td>
<td>32.6%</td>
</tr>
<tr>
<td>2. Noncompliance</td>
<td>31.9%</td>
</tr>
<tr>
<td>3. Disrupting Class</td>
<td>11.2%</td>
</tr>
<tr>
<td>4. Property Misuse</td>
<td>10.1%</td>
</tr>
<tr>
<td>5. Disrespect</td>
<td>4.5%</td>
</tr>
<tr>
<td>6. Physical Aggression</td>
<td>2.8%</td>
</tr>
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<tr>
<td>8. Threats</td>
<td>2.0%</td>
</tr>
</tbody>
</table>
Does Physical Restraint & Seclusion Violate a Student's Individual's Rights?

- Plaintiffs typically argue seclusion & restraints violate an individual's rights under:
  - **Eighth Amendment**, which prohibits administering cruel or unusual punishment, and
  - **Fourteenth Amendment**, which provides for an individual's liberty interests in freedom of movement and personal security

- Courts ruled institutions must take into account a patient's rights at all times, and that any restrictions to individual liberties must be in their best interest.

<table>
<thead>
<tr>
<th>Federal Court</th>
<th>Rulings</th>
</tr>
</thead>
<tbody>
<tr>
<td>Jackson v. Bishop (1968)</td>
<td>Interventions not professionally indicated and unnecessarily restrictive may violate a patient's 14th Amendment liberty interest.</td>
</tr>
<tr>
<td>Bell v. Wolfish (1979)</td>
<td>Supreme Court stressed that innocent persons have a right to be free from punishment.</td>
</tr>
<tr>
<td>Youngberg v. Romeo (1982)</td>
<td>Supreme Court ruled students have the right to safe conditions. Established precedent of &quot;Professional Judgment&quot; to determine if a staff member's use of punishment was considered reasonable.</td>
</tr>
<tr>
<td>Converse v. Nelson (1995)</td>
<td>Mass Superior Court ruled inappropriate behavioral programs that constitute punishment disguised as treatment should be subject to analysis under Eighth Amendment standards.</td>
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</tbody>
</table>

Parental Options for Filing a Complaint

- The Office for Civil Rights (OCR) in the U.S. Department of Education serves as the primary administrative enforcement mechanism for Section 504 and the Americans with Disabilities Act (ADA) in relation to schools.

- Additionally, educational cases are frequently handled by the State Education Agency (SEA), which resolves disputes regarding the IDEA using impartial due process hearings, and at the state's option, a second-tier impartial administrative review.

- All OCR and SEA Hearing Officer Reports may also be appealed to federal court.
Court Rulings on Mechanical Restraint

- Preponderance of rulings by the Courts, SEA and OCR found the use of any type of mechanical restraint other than a time out or tray chair to be unacceptable, and in clear violation of a student’s individual rights.

“...entitled to a public education and you’ll get one even if it kills you.”

<table>
<thead>
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<tbody>
<tr>
<td>Jefferson v. Ysleta Independent School District (1987)</td>
<td>Teacher and principal did not have qualified immunity from liability for tying a second grade student to a chair.</td>
</tr>
<tr>
<td>Ronnie Lee S. v. Mingo County Board of Education (1997)</td>
<td>Elementary school did not have qualified immunity from liability when restraining a child with autism to chair by means of a vest.</td>
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</tbody>
</table>

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<thead>
<tr>
<th>SEA</th>
<th>Rulings</th>
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</thead>
<tbody>
<tr>
<td>Portland (ME) School District (1987)</td>
<td>Teacher’s strapping down of a student with profound retardation violated his Sec. 504 rights.</td>
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</table>

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<thead>
<tr>
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<th>Rulings</th>
</tr>
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<tbody>
<tr>
<td>Oakland (CA) Unified School District (1993)</td>
<td>Student’s Sec. 504 and ADA rights had been violated when his mouth was taped shut</td>
</tr>
<tr>
<td>Aiken County (SC) School District (1995)</td>
<td>Student’s Sec. 504 and ADA rights had been violated when his mouth was taped shut</td>
</tr>
</tbody>
</table>

Ambulatory Restraints

- Courts, SEA, and OCR have consistently found ambulatory restraints may be used without violating an individual’s rights or threatening their safety.
Federal Court Rulings

Restraining a child with autism engaged in aggressive and self-injurious behavior was not considered to be excessive or violate the child’s constitutional protection from cruel and unusual punishment.

SEA Rulings

Florence (SC) County No.1 School District (1987)
School personnel had not violated student’s Sec. 504 rights restraining him to prevent harm, despite language in the IEP forbidding corporal punishment.

OCR Rulings

Ohio County Public Schools (1989)
Did not find evidence to support parent’s claim that a teacher used excessive force in restraining a student.

Wells-Orgunquit (ME) County Schools (1990)
School district did not violate a student’s Sec. 504 rights when using a physical restraint to control violent behavior.

Gateway (CA) v. Unified School District (1995)
Determined a student’s behavior modification plan permitted the use of physical restraint.

Professional Training

- *Wyatt v. King* (793 F. Supp 1058, 1992), U.S. Circuit Court determined staff working with mentally ill required specific training regarding interventions germane to their unique care.

- Training should include psychopharmacology, psychopathology, psychotherapeutic interventions, as well as interviewing and assessment procedures for determining a patient’s mental status.

Professional training programs

Representative Examples- No endorsement is implied
- Handle With Care Behavior Management System, Inc. [http://www.handlewithcare.com](http://www.handlewithcare.com)
- JKM Training, Inc. [http://www.jkmtraining.com](http://www.jkmtraining.com)
- The Mandt System [http://www.mandtsystem.com](http://www.mandtsystem.com)
- Crisis Prevention Institute, Inc. (CPI) [http://www.crisisprevention.com](http://www.crisisprevention.com)
- Therapeutic Crisis Intervention (TCI) [http://www.therops.com](http://www.therops.com)
Crisis Intervention Training Has Consistently Demonstrated Efficacy in Reducing S & R
- Restraints reduced 43% & Seclusion reduced two-thirds in special day school for students with EBD (Ryan, Peterson, Tetreault, & Van der Hagen, 2007).
- Assailtive incidences reduced by 80% and disruptive incidents by 77% (CPI, 2002).
- Restraints reduced 40% & 75% in two residential centers for students with EBD (Timbers & Jones, 2003).
- Reduced seclusion timeouts by two-thirds in special day school (Ryan et al., 2007).
- Reduced seclusion by 69% & 84% respectively in 2 residential facilities for students with EBD (Jones & Timbers, 2003).

States Have Now Begun to Establish Policies or Guidelines for Using S & R in Schools
- 31 states have either official policy or suggested guidelines for use of Restraint.
  - 7 designate responsibility to individual school districts
- 24 states have either official policy, or suggested guidelines for use of Seclusion.
  - Policies exist in 17 states
  - Guidelines exist in 7 more states

CCBD Recommends Restraint Only be Used if the Following Criteria have Been Met:
1. Student’s actions pose a clear, present and imminent physical danger to himself/herself or others.
2. Less restrictive measures have not effectively de-escalated the risk of injury.
3. Restraint should only last as long as necessary to resolve the actual risk of danger or harm.
4. Degree of force applied may not exceed what is necessary to protect the student or other persons from imminent bodily injury.
CCBD Recommends "Banning" Specific Restraint Procedures Including:

- Mechanical Restraints
- Prone (face down) and supine (face up) floor restraints
- Medications should never be used as chemical restraints or solely by school personnel to manage student behavior.
- Restraint should never be administered in such a manner that prevents a student from breathing or speaking.
- Restraint procedures should never be used for: (a) "punishment", (b) non-compliance, or (c) responding to running away unless there is imminent risk of injury related to that flight.

CCBD Recommends Seclusion be Used Only When the Following Criteria are Met:

1. Student's actions pose a clear, present and imminent physical danger to himself/herself or to others.
2. Less restrictive measures have not effectively de-escalated the risk of injury.
3. Seclusion should only last as long as necessary to resolve the actual risk of danger or harm, or while awaiting arrival of law enforcement or crisis intervention personnel such as when student possessed a weapon or committed a crime.

CCBD Recommendations for Seclusion Rooms

- All seclusion environments should be inspected regularly, not only by fire or safety inspectors, but for programmatic implementation of detailed state regulations, with violations affecting school accreditation.
- Seclusion environments should:
  - Be of reasonable size permitting students to lie down.
  - Have adequate ventilation including heat and air conditioning as appropriate.
  - Have adequate lighting.
  - Be free of any safety hazards (electrical outlets, equipment, breakable glass, etc.).
  - Permit direct continuous visual and auditory monitoring of the student.
  - Permit automatic release of any locking device if fire or other emergency in the school exists.
CCBD Recommended Guidelines for Seclusion

- Any student in seclusion must be continuously observed by an adult both visually and auditorily for the entire period of the seclusion.
  - At the student request, s/he must be permitted to go to the rest room.
  - Any signs of medical distress should result in immediate action.
  - Student should be permitted water to drink if requested.

CCBD Recommends Staff That Utilize S & R Procedures Receive Training That:

- Results in some form of certification / credential for each individual staff member, as well as for the school district, agency or school.
- Be recurrent with at least annual updates.
- Includes de-escalation & conflict prevention
- Includes content and skills on the use of positive, instructional, preventive methods for addressing challenging behavior.
- Includes information about effects of medications.
- Includes methods for monitoring student safety during restraint
- Includes certification in CPR & First Aid.

CCBD Recommends Documentation & Notification Procedures for S & R

- S & R procedures along with names of staff members involved & any other circumstances surrounding use of these procedures must be documented immediately, with a copy placed in child’s records.
- Program supervisor or administrator should be informed ASAP after each use.
- Parents or guardians should be informed ASAP, following every instance, & be provided a copy of all documentation.
CCBD Recommends Staff De-Briefing Occur After Every Use of S & R

- Staff de-briefing should occur as soon as possible after every incident of restraint, but no later than 48 hours after incident
  - De-briefing should include all the participants, and should also include an administrator and at least one other staff member not involved in the restraint procedure.
  - Parents or guardians should be invited to participate in this de-briefing if they are able to do so.
  - Debriefing should focus on how situation could have been handled in such a way as to prevent the need for the use of S & R, and on how a similar event could be avoided in the future.
  - A report of the finding of this de-briefing should be included in the student's file, and a copy sent to the parent or guardians.

CCBD Recommends Guidelines for Schools that Incorporate S & R Procedures

- Repeated use of S & R for any one student, or multiple restraints across different students should be viewed as a failure of educational programming & likelihood that supports, educational methodologies, & other interventions for the student are inadequate & should be modified.
- Any school district which employs S & R procedures should have a written positive behavior support plan, which includes the use of positive behavior interventions & de-escalation techniques, as well as the training of all school personnel on how to implement positive behavior supports, and documentation procedures.
- Senior Administrators (i.e., the school principal or designee) must ensure the implementation of these policies.
- School wide or general safety plans or policies should clearly identify if S & R might be used in emergency situations within a school setting.

Final Thoughts Regarding S & R

1. Numerous instances of S & R procedures being abused in schools today nationwide.
2. Little research available to support the use of these interventions.
3. More uniformed policies are needed across states and school systems to ensure these procedures are used in a safe & efficacious manner.
4. Require data and reporting procedures to monitor efficacy of S & R procedures.
5. Educators need training in de-escalation strategies & appropriate emergency uses of these procedures.
References


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