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Unlocking a terrible secret of education: Isolation rooms and restraints

3:07 pm December 9, 2009, by Maureen Downey

Today, U.S. Reps. George Miller (D-CA) and **Cathy McMorris Rodgers** (R-WA) introduced legislation limiting and regulating the use of restraint and seclusion in schools. Connecticut Sen. Chris Dodd introduced companion legislation in the Senate.

It is long overdue.

(The two U.S. members have co-written a powerful op-ed on the issue at CNN.com.)



Jonathan King hanged himself at age 13 in November 2004 in a psycheducational school in Gainesville.

According to Miller's office:

A U.S. Government Accountability Office report released last spring exposed hundreds of cases of schoolchildren being abused as a result of inappropriate uses of restraint and seclusion, often involving untrained staff. In some cases, children died. A disproportionate number of these victims were students with disabilities.

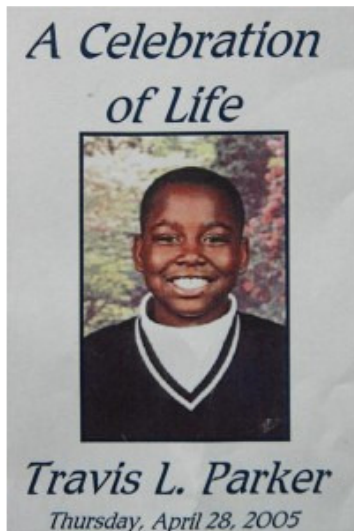
"Something is very wrong when our children are at risk in their own classrooms," said Miller, the chairman of the House Education and Labor Committee who requested the GAO's investigation. "In some cases, the abuses these kids are suffering are nothing short of torture inflicted at the hands of the very staff we entrust with their safety."

In some of the cases GAO investigated, ropes, duct tape, chairs with straps and bungee cords were used to restrain or isolate young children.

The Preventing Harmful Restraint and Seclusion in Schools Act (H.R. 4247) would establish the first federal standards to protect students from misuse of restraint and seclusion and ensure the safety of everyone in the classroom. It would apply to public schools, private schools and preschools receiving federal education support.

Restraint and isolation are dangerous and can be deadly. In 2005, six counselors at a state of Georgia camp for troubled youth restrained 13-year-old Travis Parker for about 90 minutes in what was called the “full basket” hold. Travis died after his body reached a point of physical exertion in which his heart couldn’t function normally and kicked into a lethal rhythm that didn’t supply blood to his other organs.

In 2007, murder charges were dismissed against the six counselors because the judge ruled that the counselors were acting as they had been trained, and consequently could not have known their actions could result in a crime



Travis Parker, 13, died in 2005 after being restrained by six counselors at a state camp.

Then, the AJC reported this heartbreaking story in July. (I am printing most of the story as AJC investigative reporter Alan Judd did a remarkable job.)

Tina King always asked her son Jonathan about his day at the Alpine Program, a public school in Gainesville for students with behavioral problems. Jonathan would answer with the indifferent shrug of adolescence. “It was school, ” he would say.

Jonathan, 13, never mentioned the stark 8-by-8 “time out” room where he spent hours locked up for misbehaving: No windows. No furniture. No bathroom. No food. No water.

On Nov. 15, 2004, as was his habit, Jonathan came to school not wearing a belt. A teacher gave him a multicolored rope to keep his pants from drooping. Soon, teachers placed Jonathan in the time-out room and, although he had twice threatened suicide, allowed him to keep the rope — the rope he then used to hang himself.

Jonathan's death called attention to a little-known component of Georgia's public school system: "psychoeducational" facilities such as Alpine that teach only students who are emotionally disturbed, autistic or so brain-injured that regular schools can't control their behavior.

Nationally, more and more such children are being taught in regular classrooms, educators say. Georgia, however, continues to provide a separate education to about 5,600 students with disabilities through its network of 24 psychoeducational schools.

State education officials describe the psychoeducational schools as one of many programs that provide services to students with behavioral disorders and other disabilities. The schools, officials said, offer an alternative to far more expensive residential treatment institutions.

"It allows these students to be educated in their communities," said Kim Hartsell, director of special education supports for the Georgia Department of Education. "It also is a cost-effective way of educating students with severe emotional disorders."

But some parents and the Education Department's own inspectors have questioned the schools' disciplinary tactics, especially physical restraint and seclusion.

Georgia is one of 19 states that do not regulate restraint and seclusion in schools, a recent federal study found. Unlike jails, for instance, or psychiatric hospitals, Georgia schools don't have to report when they subject students to those techniques, or why.

"As isolated centers, they're just archaic," said Jonathan Zimring, an Atlanta lawyer who has represented families of students at psychoeducational schools. "They're essentially lawless."

And, as Jonathan King's parents have learned, no one seems to be accountable for how the schools treat students.

Teachers placed Jonathan in the time out room 19 times over 29 days in the fall of 2004. His average confinement: 94 minutes.

The Kings, who live in Murrayville, sued the Education Department and the Pioneer Regional Educational Service Agency, a government body that operates Alpine for 14 Northeast Georgia school districts, alleging they violated Jonathan's civil rights by failing to protect him during his confinement.

Through its lawyer, Phil Hartley, Pioneer contends it was "not responsible or negligent in any way." In court papers, both the state and regional agencies denied liability, asserting they had no "affirmative duty" to prevent Jonathan's suicide.

A judge in Hall County Superior Court agreed. But even as he dismissed the lawsuit, the judge suggested school employees acted with negligence. The Kings have asked the state Court of Appeals to overturn the dismissal.

Complaints about Georgia's psychoeducational schools emerge from reports of inspections by the Education Department and legal challenges filed by parents: inadequate classroom instruction, abusive treatment by teachers and other school employees, and an over-reliance on restraint and seclusion as disciplinary techniques.

In April, state inspectors visited Harrell Learning Program, the psychoeducational school in Waycross. The school's policies, inspectors reported, call for placing students in seclusion only for physical attacks, self-injury or property destruction.

In reality, inspectors said, Harrell locked up students for “far less severe” behaviors, such as “throwing milk and spitting” and “avoiding work.” One student was placed in seclusion for two days, records show, “until he decides he is ready to try and change his behaviors that got him in trouble.”

In Atlanta, Zimring represented the parents of a 10-year-old with autism who attended the North Metro psychoeducational school. Suspecting that their son, who can't speak, was receiving little instruction and was being mistreated, the parents sewed a tape recorder into his shirt one day last October. The boy came home with torn pants and marks from an apparent spanking. He also had a recording that confirmed his parents' fears.

At one point, an unidentified adult asked the boy, “Do you want a hit, a be-quiet hit?”

An adult told another student, “Sit down, stupid.”

The classroom teacher could be heard on the tape — now part of a court record — discussing how to mix martinis, describing her boyfriend's penis and ridiculing the boy for eating pizza out of the trash.

A judge ordered the Atlanta Public Schools to pay the boy's tuition at a private school.

Jonathan King's behavioral problems began early. In kindergarten, he was diagnosed with attention deficit hyperactivity disorder and began a regimen of prescription medications.

“They couldn't keep him in his desk,” Tina King, his mother, said. “He would talk out in class. He would get in fights.”

By the sixth grade, Jonathan's teachers and counselors decided it was time for another approach: the Alpine school.

At Alpine, school officials told Tina that classes were small, meaning fewer distractions to tempt Jonathan from completing his work and more one-on-one time with teachers. Disruptive students, Tina says she was told, went to a “time-out room.” She thought of the time-outs she imposed at home, making Jonathan sit still for five or 10 minutes when he misbehaved.

“I had no idea,” she said recently, “that it meant being locked in a room, hours on end, where you can't get out. I never could have dreamed that.”

Jonathan was in eighth grade in the fall of 2004. He never complained about school, his parents say, never told them anything other than he had occasionally gone to “time out.”

The Kings' lawyers, though, eventually learned the extent of Jonathan's understatement.

A log book for Alpine's seclusion room showed Jonathan was confined part or all of 15 school days between August and November, sometimes twice in one day. Over two consecutive days in October, Jonathan spent 15 hours in seclusion. The first day, Jonathan ripped the hem from his shirt and wrapped it around his neck in a suicidal gesture. The next day, the log says, he was “threatening to kill himself.”

Rather than using the seclusion room only as a last resort to get the boy under control, the log suggests it became a place where teachers sometimes placed Jonathan for minor infractions. On Oct. 26, 2004, for instance, Jonathan was “cussing, argumentative and disruptive during testing;

demanding water bottle be filled; swearing; [and refusing] to follow instructions," the log says. He spent seven hours, 10 minutes in the seclusion room that day.

Ten days later, on Nov. 5, Jonathan was locked up for five hours, 50 minutes after he "refused to accept feedback." Alpine never told Jonathan's parents about any of the seclusions. It didn't have to. In court papers, Alpine contends the state's lack of regulation gave it implicit authority to use seclusion as it saw fit.

While Georgia has no laws or rules governing seclusion and restraint in public schools, 31 states and the District of Columbia have restricted the practices, according to the Government Accountability Office, the investigative arm of Congress. Arkansas and Maryland, for example, require a school employee to watch a student in seclusion at all times. Illinois and Tennessee ban locking doors to seclusion rooms. North Carolina allows seclusion only to prevent imminent harm.

"You can't lock up an adult without due process of law," said one of the Kings' lawyers, Wyc Orr of Gainesville. But in Georgia, "schools have utterly unregulated power to lock up a child seven to eight hours a day without even notifying the parents."

Jonathan hated belts. When he played football with friends, his father recalls, he used one hand to carry the ball, the other to hold up his pants.

So it was not unusual when Jonathan arrived at Alpine without a belt on Nov. 15, 2004. A teacher handed him a rope and told him to wear it.

About 9:25 that morning, school records show, Jonathan fought with another student. He was "cussing, combative, out of control," a school employee noted. Jonathan was small for his age: 4-foot-10, 84 pounds. But it took two teachers to escort him to a familiar destination: the seclusion room

When they closed the metal door, Jonathan still had the rope around his waist.

The only portal to the outside was a small square window in the door, covered by paper on the exterior and a metal grille inside. Graffiti covered the door: vulgar messages scratched into the paint by previous occupants. Pencil drawings and scuff marks marred the walls.

During his first 15 minutes in seclusion that day, school records show, Jonathan beat on the door, yelled, cursed and sang. A teacher sitting outside the seclusion room told him he had to stay calm for 15 minutes before he could be released. After 35 minutes, the teacher noted that Jonathan had become "quiet" and "non-threatening."

On the other side of the door, Jonathan had removed the rope from his pants. He looped one end through the metal grille bolted into place over the window.

In the middle of the rope, he tied a slip knot, fashioning a noose.

When they saw the results of investigations of Jonathan's suicide by the Gainesville police and their lawyers, the Kings were shocked by what they had not known: that "time out" meant confinement in a locked room, that Jonathan had missed days of instruction while in seclusion, that he had threatened to take his life just three weeks before he actually did so.

"People send their kids to school thinking they're going to be safe," Don King said. "Apparently, you don't know whether they're going to be safe or not."

Almost five years after Jonathan died, Alpine still operates in the rear of an old school building on Gainesville's south side. State school officials have developed non-binding guidelines for the seclusion and restraint of special education students, and may impose regulations later this year.

For the Kings, life without Jonathan remains difficult and filled with reminders. In recent weeks, the couple attended a court hearing on their lawsuit and sat for a long interview. On July 13, they marked what would have been a milestone in Jonathan's life.

His 18th birthday.

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