

Overview of Statement by Daniel Crimmins, Ph.D.
Hearing on
Beyond Seclusion and Restraint: Creating Positive Learning environments for All Students
United States Senate Committee on Health, Education, Labor, and Pensions
Thursday, June 28, 2012

My testimony addresses four issues related to the hearing topic.

First, I provide brief definitions of seclusion and the different forms of restraint (chemical, mechanical, and physical) that are included in S.2020.

Second, I provide background in support of the need for federal legislation related to restraint and seclusion – the use of restraint and seclusion is widespread with nearly 40,000 children physically restrained during the 2009-2010 school year with 70% of those students being students with disabilities and a disproportionate number being African American and Hispanic students; schools are the only setting in which these techniques are not already regulated by federal law and only 16 states have laws limiting restraint to emergencies involving an immediate risk of physical harm; and there are numerous evidence-based alternatives to restraint and seclusion. Federal minimum standards for the use of restraint and seclusion are necessary to create consistency and ensure that students across the nation are afforded baseline protections.

Third, I discuss the adoption of a rule by the Georgia State Board of Education in July 2010 that banned the use of seclusion and restricted the use of restraints in *all* schools. I note some of the events that lead to the adoption of the rule and the early experience of schools in complying with it.

Fourth, I reiterate that eliminating seclusion and restraint will require a commitment to staff training in positive behavior supports, de-escalation strategies, and crisis management; these are the positive alternatives to restraint and seclusion. I also emphasize that, within the broader area of positive behavior supports, training must focus on the development of individualized solutions that are likely to be needed by students who have historically been subjected to seclusion and restraint.

S. 2020 is an important step toward the goal of providing states with consistent standards toward the elimination of seclusion, mechanical and chemical restraint, physical restraint that restricts breathing or is contraindicated by the student's disability or health condition, and aversive interventions that compromise health or safety. The bill also prohibits the use of physical restraint as a planned intervention in a student's education plan. It requires that school personnel who implement physical restraint in emergencies be trained and certified and that they continuously monitor the student. Finally, S. 2020 requires that parents be notified if physical restraint is used and calls for a meeting with family and school personnel to identify ways to prevent the future need for restraint.

**Statement of Daniel Crimmins, Ph.D.
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Introduction

Good morning Chairman Harkin, Ranking Member Enzi, and Members of the Committee. I am truly honored to have this opportunity to speak with the Committee about the very important issue of restraint and seclusion in our nation's schools. I am the Director of the Center for Leadership in Disability at Georgia State University. Our Center is part of a national network of University Centers for Excellence in Developmental Disabilities (UCEDDs) that work with people with disabilities, their families, schools, state and local government agencies, and community providers to provide training, technical assistance, service, research and information sharing.

I am a psychologist by training who has spent a significant portion of my career working with families and teachers in developing solutions to children's persistent behavior problems. Briefly, the answer to problem behavior is a threefold approach based on *understanding* why it occurs, *preventing* it from happening through changes in the way we interact with the child, and *replacing* it by teaching more appropriate and acceptable behaviors. This is not always easy, but it is effective, safe, and respectful of all. This approach represents the alternative to the use of restraint and seclusion. And, in what is now a more-than-30-year career, I have had the opportunity to see this approach implemented in hundreds of classrooms and schools.

My testimony today will focus on the importance of federal legislation to eliminate seclusion and limit the use of restraint in schools. I will refer to the adoption of a rule by the Georgia State Board of Education in July 2010 that banned the use of seclusion and restricted the use of restraints in *all* schools; I will also note briefly some of the events that led to the adoption of the rule and the early experience of schools in complying with it.

Definition of Restraint and Seclusion

I want to share with you, briefly, what restraint and seclusion are, and why federal legislation is needed to limit these practices in schools. Seclusion is the isolation of a child in a room or space from which the child is prevented from leaving. Seclusion should be distinguished from *time out*, which may involve separating the student from a group in a non-locked setting.

Restraint can be of several types. Chemical restraint involves using prescribed medication to stop behavior by slowing a child's movements or dulling the ability to think. Mechanical restraint involves the use of straps, tape, cuffs, wraps, helmets, or other devices to prevent movement or sense perception, often by pinning a child's limbs to a chair, bed, wall or floor. The term does not include positioning devices or restraints used for safety when traveling, such as seatbelts. The third type of restraint is physical restraint, which occurs when an adult physically holds the child and prevents him or her from moving. The child is kept in the restraint position by one or more staff person's arms, legs or body weight.

Restraint and seclusion are not evidence-based techniques. The vast majority of professionals agree that these techniques have no therapeutic value and are not effective means of changing student behavior. In fact, restraint and seclusion can escalate a child's arousal, deepen negative behavior patterns, and undermine the child's trust and capacity for learning. Moreover, the danger presented by these techniques is well documented – children have been traumatized, injured, and even killed after being restrained, and children in seclusion have harmed themselves and even committed suicide.ⁱ Tragically, many of these students were not exhibiting behaviors that presented a risk of harm to themselves or others. All too often, restraint and seclusion are used for non-dangerous behaviors, to force compliance or for convenience.

And the children themselves are not the only ones being hurt; school personnel are frequently injured when restraining, and the other students in the classroom can be traumatized by witnessing these techniques. This was evidenced by recent stories about "scream rooms" in Connecticut – the term refers to the screams students heard coming from seclusion rooms where their classmates were being held. The dangers speak to the need for federal legislation to limit these practices in schools.

The Need for Federal Legislation to Limit Restraint and Seclusion

Federal legislation is needed to address restraint and seclusion for several reasons.

First, restraint and seclusion use is widespread. New data from the U.S. Department of Education shows that nearly 40,000 children were physically restrained during the 2009-2010 school year, with 70% of those students being students with disabilities and a disproportionate number being African American and Hispanic students.ⁱⁱ These techniques are not limited to a handful of schools or even a handful of states. They are being used widely by school personnel who too often are not trained to use them safely and who are not adequately trained in positive strategies to guide behavior.

Secondly, schools are the only setting in which these techniques are not already regulated by federal law. Restraint and seclusion are regulated by either federal statute or regulation in nursing homes, hospitals, psychiatric facilities, and group homes. While some states have passed laws to regulate their use in schools, only 16 have laws limiting restraint to emergencies involving an immediate risk of physical harm.ⁱⁱⁱ Furthermore, 26 states have no legal requirements that schools inform parents that their child was restrained or secluded.^{iv}

Third, there are numerous, evidence-based alternatives to restraint and seclusion. Through the use of Positive Behavioral Interventions and Supports, de-escalation techniques, conflict management, and other positive strategies, the use of dangerous and dehumanizing restraint and seclusion techniques can

be virtually eliminated. School personnel need training in these positive strategies, which are much more effective at guiding behavior while also maintaining a safe and supportive educational environment.

Federal minimum standards for the use of restraint and seclusion are necessary to create consistency and ensure that students across the nation are afforded baseline protections. Legislation has been proposed to this Senate, as well as in the House of Representatives, that would strengthen protections in *every* state.^v Congress should enact legislation that echoes widely accepted professional opinion – that restraint and seclusion should only be used rarely in emergencies to prevent physical injury to the student or others.

It Can Be Done – The Georgia Experience

You are likely to hear that restraint and seclusion are necessary procedures to maintain discipline in the schools. I would like to speak briefly about a rule adopted by the Georgia State School Board in July 2010 that prohibited the use of seclusion and most forms of restraint in our schools.

But first, let me speak briefly to the impetus for that regulation, which unfortunately was grounded in tragedy. In 2004, a boy named Jonathan King hung himself in a seclusion room in a Georgia school. I use his name because it has appeared in the press many times since his death, and his parents were staunch and very public advocates for the adoption of the rule in Georgia.

Jonathan was 13 years old at the time of his death. He attended an alternative school because he had a history of challenging behaviors. He had attended the program for only 29 days, but during that time he was secluded 19 times for an average of almost 90 minutes each time. Records also show that on two different occasions, Jonathan was kept in seclusion for more than seven hours.^{vi} The seclusion room measured 8 feet by 8 feet and had dark paper covering the window. Jonathan's parents never knew he spent hours at a time in seclusion, because at that time in Georgia, schools were not required to notify parents when these techniques were being used on their children.

Shortly thereafter, the Georgia Department of Education (GaDOE), which provides administrative oversight to the regional alternative education programs, directed those programs to not allow unmonitored use of seclusion, begin the process of phasing out seclusion in its entirety, and limit the use of restraints. Over the course of the next two years, GaDOE provided technical assistance and monitoring to ensure that the programs were complying with the department's directive.

In October 2008, based on the successful elimination of seclusion and reduced use of restraints in the regional programs, GaDOE finalized *Guidelines on the Use of Restraint and Monitored Seclusion*, which were disseminated to school systems throughout the state. In 2009, the Georgia Department of Education began work to develop a State Education Rule that would regulate the use of seclusion and restraint for all students. This rule went through a series of modifications based on feedback from stakeholders, was presented at multiple public meetings across Georgia, was considered by the State School Board at regular public meetings in May 2010, and was adopted in July 2010.^{vii}

Throughout this time, educators in public school programs serving children with the most significant behavioral challenges learned alternative ways to support these students, while keeping them, their peers, and their teachers safe.

The Need for Training and Technical Assistance

I view restraint and seclusion of students as harmful and dangerous practices that lack empirical evidence to support their continued use. I believe their use is particularly problematic as there is an alternative, the approach called positive behavior supports which is supported by a large and growing base of empirical evidence showing effectiveness with students in schools across Georgia and the nation.

I also recognize that the shift away from using seclusion and restraint as behavior control strategies will take time, and schools will need support in this process. Statewide training efforts in positive behavioral supports, de-escalation, and crisis management will be needed; these are the positive alternatives to restraint and seclusion. Currently, more than 14,000 schools in the United States, including nearly 300 schools in Georgia, use PBS with excellent outcomes. The benefits of PBS include reduction in problematic and disruptive behaviors, increased academic achievement scores, and improved school climate and morale.

It is also important to recognize that physical restraints as emergency interventions for a student's dangerous behavior are too often used repeatedly with repeated incidents of student disruptiveness. When used this way, the intent of the restraint is disciplinary, and restraint has become a *de facto* component of a behavior plan. While S. 2020 prohibits the use physical restraint as part of a student's education program, school personnel will require training to ensure that they are able to break the cycle of reacting to a behavior with physical restraint. Behaviors that result in restraint are often quite predictable, and, as such, many behavioral incidents are avoidable if the time is taken to understand the situations that tend to trigger them. With this knowledge, trained personnel can use de-escalation techniques to prevent most incidents from becoming dangerous. This is a more humane and eminently safer method of handling difficult behaviors for all.

I do wish to strongly recommend that training and technical assistance reflect the need for intensive and individualized supports for students with more persistent and challenging behaviors. These supports are based on a two step process – the first is understanding the challenging behavior by conducting a functional behavioral assessment, which documents triggers and contexts for behaviors in the school environment. The second step is the development of a behavior intervention plan, which identifies strategies to prevent problem behavior and to teach positive alternatives such as social-skills and self-regulation as replacement skills. It is critical that school personnel receive training and support in providing individualized positive behavior supports.

Senate Bill 2020

S. 2020 is an important step toward the goal of providing states with consistent standards toward the elimination of seclusion, mechanical and chemical restraint, physical restraint that restricts breathing or is contraindicated by the student's disability or health condition, and aversive interventions that compromise health or safety. The bill also prohibits the use of physical restraint as a planned

intervention in a student's education plan. It requires that school personnel who implement physical restraint in emergencies be trained and certified and that they continuously monitor the student to ensure the student's safety. Finally, S. 2020 requires that parents be notified if physical restraint is used and calls for a meeting with family and school personnel to identify ways to prevent the future need for restraint.

Because of the inherent dangers posed by restraint and seclusion, the lack of evidence to support their continued use, and the availability of safe alternatives, I believe that legislation containing the protections outlined in S. 2020 is long overdue.

ⁱ United States Government Accountability Office, Seclusions and Restraints, Selected Cases of Death and Abuse at Public and Private Schools and Treatment Centers (2009), <http://1.usa.gov/gaors7>. National Disability Rights Network, School Is Not Supposed to Hurt (2009), <http://bit.ly/ndrn2009>; School is Not Supposed to Hurt (2012), <http://bit.ly/xL8b89>.

ⁱⁱ U.S. Dept. of Educ., Office for Civil Rights, Civil Rights Data Collection, Revealing New Truths About Our Nation's Schools (March 2012), <http://1.usa.gov/crdcsum>.

ⁱⁱⁱ J. Butler, How Safe is the Schoolhouse, An Analysis of State Seclusion and Restraint Laws & Policies (Autism National Committee 2012), <http://bit.ly/RSstatelaw>.

^{iv} Id.

^v Keeping All Students Safe Act (S. 2020, H.R. 1381)

^{vi} Goodmark, C. (2010). A tragic void: Georgia's failure to regulate restraint and seclusion in schools. *John Marshall Law Journal*, 3(2), 251-285. Retrieved from http://www.johnmarshall.edu/academics/LawJournalPublications/A_Tragic_Void.pdf

^{vii} Georgia Code 160-5-1-.35, Seclusion and Restraint for All Students. Retrieved from <http://archives.gadoe.org/documents/doe/legalservices/160-5-1-.35.pdf>