

RESTRAINT ISSUES

INTERSECTING WITH THREAT AND MANIFESTATION DETERMINATION

Diana Browning Wright

1. Case One: Threat and Restraint

Question emailed from a school psychologist: How could we have avoided the restraint?: “I was recently involved in a very high profile case involving some verbal (“terrorist”) threats made by a student at the high school. A team of psychologists (including myself, a clinical psychologist, and two other school psychologists) conducted a manifestation determination and it was our recommendation that the conduct in question WAS a manifestation of the student's disability. AS has Asperger's Syndrome. He misunderstood the context of a class assignment, and responded to being laughed at by threatening to kill everyone in the room and stating that he had a list. We all thought everyone knew he was being sarcastic, but some students told their parents, who alerted the media and everything got completely blown out of proportion (AS is still in juvenile detention because both locked and unlocked firearms belonging to the father were found in the home, along with sadomasochistic literature supposedly belonging to the parents).

When the police came to pick him up at school the next day, he was verbally aggressive, and threatened everyone present verbally. It ultimately resulted in staff persons physically restraining him, because they didn't want the police to do so, and the police were making a move in that direction. AS has no history of ever harming anyone, and peers state he always responds like this when teased or bullied but they know he is just trying to make it stop. In fact, in the process of this investigation it was discovered that there is a film of students bullying and “flicking” things at AS posted on the internet. These students are now up for expulsion. AS had been leaving home every day at 6 am to avoid bullies on the way to school.

2. Case Two-Restraint during a Fight

Question emailed from a site administrator: Was the restraint appropriate? There was a behavior plan for a target behavior of fighting and harassing for our student, ED, but the staff forgot to distribute it. The plan called for continuous adult supervision during passing period. We had several times when this was not provided but the student had no problems. Now, we have a recent situation where ED was restrained during a fight that occurred. Was restraint an appropriate response? He would not stop when verbally asked to stop. The student is up for expulsion, now. Can we proceed when the plan wasn't implemented at that time? He very seriously injured the other student (broke a wrist, damage to the spleen) and I need to set some standards on behavior at my school!

3. Case Three-Restraints as Routine Intervention

Question emailed from a teacher: Can I restraint before the problem is fully present to prevent the situation from escalating to self injury? I work with students with self injurious behavior. Sometimes we can see the behavior escalating before the student becomes self injurious. For example, SI will begin rocking, muttering swear words, and attempt to leave the work area. This often results in falling to the floor and head banging. Can we restrain early in the cycle to keep this from happening? The parents want us to do that.

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Annotated by Diana Browning Wright

1. Case One: Threat and Restraint

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When the police came to pick him up at school the next day, he was verbally aggressive, and threatened everyone present verbally. It ultimately resulted in staff persons physically restraining him, because they didn't want the police to do so, and the police were making a move in that direction. AS has no history of ever harming anyone, and peers state he always responds like this when teased or bullied but they know he is just trying to make it stop. In fact, in the process of this investigation it was discovered that there is a film of students bullying and “flicking” things at AS posted on the internet. These students are now up for expulsion. AS had been leaving home every day at 6 am to avoid bullies on the way to school.

DBW Response: Restraints should be used only to protect the safety of the student or others when lesser interventions are not working. In this case, it would have been better to turn to the police officers and ask them to let you verbally deescalate the young man first. Lack of a threat assessment and response team resulted in a variety of errors in this situation. When a team exists that follows the guidelines described in the “Safe School Initiative,” the police and school authorities can act in unison to protect the rights of everyone involved. See: www.pent.ca.gov/threat

OTHER ISSUES: Also, many students with autism are reaching their teenage years and beyond. Effective response to these individuals' problematic behaviors requires community and law enforcement training.

See: www.iidc.indiana.edu/irca/Videos/DisComInfo.html for community training resources. “Autism Awareness Video for Law Enforcement/ Community Service

Personnel” (1998) 23 minutes. Is available at Autism Society of North Carolina (919) 743-0204 and may be used to address the problem of noncompliant individuals and law enforcement. The bullying and teasing was of a severe nature and therefore was protected under title nine, anti-harassment provisions. School staff must respond to this situation. Bully prevention information and training is recommended. See: <http://youthviolence.edschool.virginia.edu/> for anti-bullying material.

2. Case Two-Restraint during a Fight

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There was a behavior plan for a target behavior of fighting and harassing for our student, ED, but the staff forgot to distribute it. The plan called for continuous adult supervision during passing period. We had several times when this was not provided but the student had no problems. Now, we have a recent situation where ED was restrained during a fight that occurred. Was restraint an appropriate response? He would not stop when verbally asked to stop. The student is up for expulsion, now. Can we proceed when the plan wasn't implemented at that time? He very seriously injured the other student (broke a wrist, damage to the spleen) and I need to set some standards on behavior at my school!

DBW Response: It would appear that a restraint was justified in this description of the fight. Staff attempted to verbally stop the fight, and only restrained when lesser options did not suffice. Hopefully staff had been trained, and responded with approved restraint techniques. I sense from your comments that it is quite likely that lack of implementation of the behavior plan probably resulted in the situation rising to a physical fight and the restraint.

OTHER ISSUES: In terms of Manifestation Determination for a student with an IEP, regardless of the direct and substantial relationship of the behavior to the disability (prong one), the second prong in Manifestation Determination, when carefully considered, does suggest that failure to implement the IEP (the behavior plan portion) did have a direct relationship to the problem. Therefore, expulsion proceedings have been stopped if this is the team's conclusion.

Since a serious injury occurred, there may be legal action on the part of the victim that would result in preventing ED from returning to the campus. He will be in a 45 school day placement as a result of serious assault if the behavior was serious enough to damage an organ and break a limb. I would recommend consideration of what is the Least Restrictive Environment to meet his needs when the 45 days are completed. It could be that the IEP team will agree that an intensification of services, at another site, to address his needs is in order. This is not an involuntary placement change if the IEP team makes that conclusion. If the reason for change is LRE, and the parents disagree, regular resolution proceedings occur, and the student stays in the 45 day placement until resolved. Be sure there is a behavior plan being implemented in the 45 day placement. This is to “be sure the behavior does not reoccur.”

3. Case Three-Restraints as Routine Intervention

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DBW Response: NO! Restraints are only to be used when the student is risking safety of self or others at that moment, when lesser interventions have not been effective. Other interventions need to be put in place to distract, terminate task, or provide some other stimulus change to alter the chain of behavior when you see the problem beginning. Restraint can be readily abused when we use it frequently, and in lieu of effective programming.

It is important to know what SI is communicating with his behavior. Most frequently there are positive programming components missing that can be addressed as an effective response to escalating behavior. Self injury is well over 90% associated with programming needs and SI needs the attention of skilled behavior analysts to help identify the supports you may need to put in place for him.