

## **Some Other Recent Cases of Inappropriate Police Involvement in Oregon Special Education Classrooms**

1. The mother of a 16-year old with Asperger's Syndrome (which typically features compulsive behaviors) could not obtain a reasonable IEP (Individualized Educational Plan) with a non-punitive behavior plan for her son. After many "time outs" and calls to remove her son from school for his involuntary obsessive behaviors, he was suspended for a sexual incident with another female student in his program. The mother unsuccessfully objected to the school's plan to again place her son in the same class with the same girl in September.

When fall came, program staff called police because they suspected another sexual incident with the same girl had taken place off campus and after school. The student was questioned by police at school before being arrested and incarcerated. Without notice to parents, the district conducted an after-the-fact hearing where they found that his behavior was unrelated to his disability and expelled him. When OAC became involved, the district informed us that the student was no longer their responsibility because he was now incarcerated out of district.

The student was indicted on adult Measure 11 charges and incarcerated for many months while Oregon Youth Authority (OYA) and his attorney searched for an appropriate treatment program to facilitate an eventual juvenile plea bargain.

Now at McLaren, the student is doing well with a good IEP and appropriate treatment. His 24-hour per day supervision and education are now the responsibility of OYA.

2. A 15-year old student with Mental Retardation, PTSD (Post Traumatic Stress Disorder), Tourette's Syndrome, and other emotional issues arisen out of a history of abuse was placed in a self-contained program at a large high school. He lived in a foster home as part of a juvenile probation based on his theft of items that were rewards in his educational program's token economy. Despite repeated requests to review or consider an extensively developed behavioral program that had been developed by the foster program and county Developmental Disability (DD) services, the district failed to do so. Among other things, this plan described known triggers and danger signs, and would have alerted the district to the student's extensive history of throwing objects and destroying property when inappropriately confronted by authoritative males or given consequences within rigid points and levels systems.

After increasingly destructive telltale outbursts and multiple IEP meetings at which the district insisted that its program and plan were appropriate, the student exploded and began to destroy his classroom. Police were called when he failed to respond to his male teacher, (eventually revealed to be the object and cause of his anger.) Armed police officers took positions at the front door of the classroom and stopped the foster parent from coming to the room even though the principal had called him because of his known ability to calm the boy down. The emergency plan in place had not

considered the need to cover the program's second door, safely apply restraint, or secure dangerous objects. The student continued throwing objects including a scissors that had been left on the desk. When he broke a door window with his hand; the police tasered him out of fears that he would attack other students if he "escaped" out the uncovered rear door into another hallway. Police then took student away in a squad car.

The district finally agreed to an expensive but appropriate day treatment program. However, because of highly increased anxiety related to the incident," the student was given a much higher dose of medication that in turn contributed to serious health problems. The result was an approximately 4-month hospitalization for life-threatening painful conditions that required surgery. During this time, the student had to be restrained 24-hours per day due to his inability to understand his condition or what was happening to him. It is not certain whether or not this incident will impact his juvenile court status.

3. A 17-year old student with autism and great difficulty with transitions and change was the subject of many frustrating IEP meetings. At those meetings, his mother was unable to win a Functional Behavioral Assessment (FBA), a non-punitive BSP (Behavioral Support Plan), or the expert input she thought necessary to moderate her son's behaviors so that he could be educated.

At the beginning of the school year, following 5 or more changes in the aides who worked with him, the boy became steadily and predictably more aggressive. The school police liaison officer and security were called frequently by staff. The aggressive behavior was typical of many students with autism and consisted of uncoordinated flailing of hands and arms when people tried to move or touch him. In a final yet otherwise unremarkable incident, the boy was handcuffed "to calm him down," dragged into a room where he was futilely interrogated about behaviors that, as part of his disability, were well-documented in his file.

The County DA subsequently charged this student with 9 counts of assault and harassment based on the reports of the liaison officer and school personnel. Coupled with the possibility of press attention and after much intervention by OAC, a criminal attorney, and others; the charges were eventually dismissed by a juvenile court judge. In a subsequent meeting, the DA revealed that he had not known what an IEP, an FBA, or BSP were, or that the school had apparently used his office to circumvent its own responsibilities.

Following 3 more years of frustration that followed this incident, the mother decided to let her son live with his father in another state where she felt that there was a better attitude toward special education students.

4. The mother of an 8-year old 1st-grader with an emotional disability contacted OAC because she was constantly called to remove her son from school for behaviors that were not being addressed by his IEP. Since the beginning of his first (of two) years of kindergarten, he had been removed from class 3 times and placed in an ESD behavioral class where he thrived for months at a time. Following each of these temporary 1-3 month placements, the district again returned him to more mainstream classrooms where his behavior escalated quickly. Within one week of receiving OAC's initial request for records, the district had the boy removed from his classroom by a police officer who

detained him until the mother came to pick him up. The precipitating incident involved the boy kicking his teacher when he was lifted off of the ground by his belt for refusing to move when asked. Juvenile delinquency assault referrals are pending and the district defended its decision to call for police with reference to his “crimes.”

At a subsequent IEP meeting, the district proposed a BSP that called for police to remove the boy (approximately 60 lbs.) when other rudimentary and historically ineffective control measures failed. Although the district finally dropped that provision in response to a threat of legal action and agreed to long-term placement at the more intense and historically successful behavioral program, it is still possible that the boy will face juvenile assault charges.

5. In researching the case of another Oregon special education student who was routinely sent home from school because the program he had been placed in was inadequate, an OAC advocate came across a note written by a building principal that read "if B. acts up, the police will be called and charges will be filed".

6. In the fall of 2005, an 8th-grade student with well-documented ADHD, ODD, and a possible bipolar condition was suspended pending expulsion for threatening another student and allegedly threatening to blow up his school. Although the boy’s mother had been asking for special education since 5th grade, the district had not found him eligible despite his known disabilities and the fact that he had failed all of his classes during the previous school year. At 9:30 p.m. on the day he was sent home, police came to his house, awoke him from a medication-enhanced sleep, and took him to a county juvenile facility in handcuffs. He was released to his parents at 2:30 a.m. because the juvenile facility determined that he was not a risk to anyone.