

# Pacific Standard

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## AMERICA KEEPS CRIMINALIZING AUTISTIC CHILDREN

When non-white autistic students get in trouble, schools have a track record of escalating tensions and treating it as a criminal matter. Two recent cases in Orange County, Florida, help illustrate the problem.

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Why would a school cop in Florida throw a slender, autistic fourth-grade student to the ground? You might assume that the child must have presented some kind of serious threat to himself or others, that other skilled experts had already tried de-escalating interventions, and that there was no other choice. Such was not the case for 10-year-old Seraph Jones. This spring, a school cop threw him down and held him against the ground with sufficient force to cause rug burn.

It turns out that Seraph's worst day at school—so far—happened because he was clicking a key too loudly, then ended up trapped in a situation where he had no good way to safely calm down.

By the time Seraph and I connect via Google Hangouts, the rug burn on his face has long since healed. He's a beautiful boy with light brown skin, expressive eyes, and an infectious smile. In between talking about general frustrations about school, we make up games. Most of them involve zooming our eyeballs or palms up to the camera, way too close, then laughing and laughing at the weird images on our screens. After a bit, Seraph shoos his mom, Andrea, away. She's been trying to keep him on track with the interview, but I'm at least as incorrigible as he is. I like seeing him smile. I hate breaking the mood by asking him about the time a school resource officer threw him to the ground and pinned him there.

The violence that disabled children experience in American public schools should be a national scandal. It's certainly gotten enough coverage. In 2014, ProPublica published "[Violent and Legal](#)," finding over 267,000 incidents of violent restraint in 2012. In 2015, the Center for Investigative Reporting offered a state-by-state analysis of the school-to-prison pipeline, showing that black, Latinx, and disabled children—especially those who were non-white and disabled—[were far more likely to be arrested and charged than other children](#). And, just last May, *Education Week* published [a study](#) finding that at least 70,000 students covered by the Individuals With Disabilities Education Act (IDEA) had been restrained or secluded in public schools in 2013–14. Because reporting standards vary, that's likely an undercount. Between these large-scale stories, there have been thousands of viral and semi-viral tales of abuse, restraint, arrest, and even death. [We've covered some of them here](#).

And yet, despite the media coverage, we have yet to see any coherent national response. Based on our best available information, the rates of violence at the hands of school officials and criminalization of disabled children, especially those who are multiply marginalized by factors such as race or poverty, continue unchecked. I've been following this beat for years, trying to leverage outrage over individual incidents into structural change, and often responding to families who reach out for advice. Still, it was a surprise this spring when, within the space of a few days, two different families in Orange County, Florida (in the shadow of Disney World, as one parent describes it), contacted me about the dangerously escalating experiences that their sons were having in school. I spoke with both families, read every document I could get my hands on, and reached out to the school districts and states attorneys for comment (with few results). Both families are determined. Neither is optimistic. Here are their stories.

Seraph's story, like so many of these tales, starts with something small. In his case, it was testing day. Testing is a fraught time, with students and teachers under lots of stress, even in fourth grade. After 80 minutes of being forced to sit still for the test, the warning signs should have been clear. Seraph tells me that, following the test, the teacher put on a movie, but the sound bothered Seraph, so he put on headphones at a computer. The headphones didn't drown out the sound, so he started hitting a key over and over again to make a loud noise. That, right there, was the original "offense" that ended up landing him face-down in the carpet, his skin abraded: aggressive key hitting.

## **PUNISHMENT CAN'T FORCE AN AUTISTIC CHILD TO BE TYPICAL.**

Seraph was sent from the room, with the assistant principal, dean, and school resource officer (SROs are, essentially, school cops) summoned to address the situation. Seraph made it to the media room, according to the incident report, where he struck a teacher and was thrown to the ground. As he relates the story (and as confirmed by his mother), he admits he went in without permission, looking for a good space to try and recover. Another teacher began to read a book to try to calm things down, but Seraph was upset by that noise too. Hands over his ears, he approached the teacher and struck at the book with his elbow.

This isn't good behavior, but it's also not dangerous. Try, for a moment, to hit something with your elbow while keeping both hands on your ears. It's nearly impossible to generate much force, even if you are fully grown. Seraph is a slight boy; when he hit the book with his elbow, he was quickly taken to the ground by the school cop, his face ground into the rug, his skin burned against it.

Seraph was suspended briefly before being allowed to return to school, but since then, according to his mother, things have gotten worse. She's trying to raise money to get a therapist to explicitly link his behaviors to his disability, and thus make the school write a behavior plan that might protect him. "Since the fundraiser was put up, he has moved schools in the district, but has again been restrained by school personnel and spent hours crying without anyone calling his dad or I despite my request," she says. "Until we get a decent protective behavior plan, this is going to keep happening."

Ashton Gelfand's story isn't really all that different. He's black, 14 years old, and recently diagnosed with autism, attention-deficit/hyperactivity disorder (ADHD), and bipolar disorder, according to both his father, Bryan, and local news reports. His family also lives in Orange County. Ashton attends West Orange High School, a massive school with over 4,200 students. As we spoke, Bryan wearily laid out a familiar, frustrating sequence of events: Ashton has had three different teachers and two counselors this year, not because he's been moved but because staff turnover is so high. The first counselor, Bryan tells me, "was good. Some thing her hands were tied on, but we could get ahold of her. She had special education knowledge." The new counselor didn't know much about special education, and, moreover, the parents were never able to meet with her before "everything went south."

Ashton has no individualized education plan (IEP). According to his father, he was told he'd have to flunk first to get an IEP. That's not legally true, but it's emblematic of understaffed, underfunded, big school districts that rely on parents who don't know or lack the resources to defend their rights. Ashton does, however, have what's known as a "504 Behavior Plan," precisely the document that Seraph's parents are trying to get. Such plans are often coercive—we'll get to that—but they are supposed to provide clear procedures to help children with specific behavioral needs to avoid escalation. Too often, as with Ashton, that didn't happen. His father tells me that he kept finding out about situations in which his son wasn't allowed to go cool down, especially by substitute teachers. "About two to three weeks before 'the incident,'" Bryan says, by way of example, a substitute teacher refused to allow his son to leave a too-noisy room and go to the office and cool down, despite the 504, which stipulates that "Ashton will have a cool-down pass when needed."

Ashton's parents knew things were getting worse and put in for a transfer to a smaller school (where his sister attends), but the process was slow. Weeks passed. "The incident," as Bryan calls it, "happened at 7:30 in the morning. I get the approval for his transfer at 2:30 that day." That morning, Ashton and a friend entered class, where, yet again, another substitute teacher was in charge. The kids were joking about being gangsters. According to Bryan, "They came in loud, so the sub teacher, said, 'Shut up and open up your laptops.'" When they didn't quiet down fast enough, she told Ashton to get out of the classroom. Bryan tells me: "Sub teacher said just get out, but my son went to open up his laptop. She slapped my son's hand away. As soon as she slapped his hand, zero to 100 for my son."

It's still a bit hard to piece together exactly what happened next. The incident report describes Ashton rapidly escalating, then throwing his desk. Bryan tells me that the vice principal and school resource officer were trying to remove Ashton forcibly, and he clung to his desk saying that he didn't want to leave, which is why it flipped over. At some point, Ashton got hit in the face, pepper-sprayed, and handcuffed to a gurney. Bryan says that, as they were driving over to the school, "We see an ambulance go by, fire truck go by, two cop cars go by. Joking, [I said] 'I hope this is not for Ashton.'" It was. Ashton ended up charged with five counts of assault. Like Seraph's family, Ashton's folks are now turning to crowdfunding. They've got a lawyer, and Ashton finally has an IEP. So far, according to the family, the prosecutor is showing no interest in dropping or reducing charges, even though Bryan reports that the school does not want to press charges.

The prosecutor's office told me they could not discuss the case because Ashton was a minor. The school district told me they could not discuss any individuals because of federal privacy law (namely the Family Educational Rights and Privacy Act, or FERPA), and did not respond to a follow-up email asking to discuss the conditions in the district for children with IEPs and 504 plans more generally. The Student Press Law Center notes that privacy laws are often used to protect institutions from having to comment to the press, rather than protecting individuals, and that seems to be the case here.

There's a saying in the autistic community: If you've met one autistic person, you've met *one* autistic person. The goal is to avoid assuming that knowledge of one person and their needs grants the ability to generalize. Still, there are best practices that both respect individuality and create better environments where neurodiverse children can learn and thrive. For example, [Positive Behavioral Interventions and Supports](#) offers models that reinforce positive behaviors, rather than imposing arbitrary rules, and ideally places the obligation for change on the whole school, not on the individual student. In other words, instead of responding to atypical or even aggressive behavior with punishment, you try and figure out what sparked a negative incident and address those causes, rather than force the student to suddenly stop being neurodiverse.

To better understand meltdowns, specifically those related to autism, I called up Lydia Brown and, separately, Finn Gardiner. Both are well-known figures in the autistic self-advocacy movement, each with personal experience growing up non-white and autistic. Both experienced plenty of issues in school with meltdowns at younger ages.

"When I was in fifth and sixth grade, something would happen in class that would cause a meltdown," Gardiner says. "I was never violent; I was usually verbal." He tells me that, sometimes, he was bullied or deliberately provoked, but often a teacher or some kind of classmate behavior would unpredictably just set him off, and he'd lack the words to explain it. Then he'd be punished. "The teacher would have me sent to the principal's office or an in-school suspension, where I'd sit in a different classroom, usually a second-grade classroom." Needless to say, isolating a 10-year-old child in a room with second graders is not a best practice. Punishment and exclusion can't force an autistic child to be typical.

Brown explains that meltdowns can be very scary, and that force or threats will never help. "When somebody is in a meltdown," Brown says, "that person is unable to process anything else. Every tiny stimulus can be painful and overwhelming. Even if [you] wanted to listen to what somebody said, to follow directions, you probably can't. Everything is happening too fast, too much, all at once. The important thing is not to punish somebody for something that is literally out of their control." Obviously, the most important step is to identify triggers and remove them as much as possible, or to create the conditions for children to quickly move to a safer context. "If one of the precursors to a meltdown is transition," Brown says by way of example, "then it's your responsibility for the adult to prepare the kid better. To help the kids to work step by step, to practice." Brown acknowledges that it might take years.

But schools do punish people when they are panicking, and Sam Crane, an attorney and the director of public policy at the [Autistic Self Advocacy Network](#), is afraid she knows why. Behavior intervention plans, she explains, are part of disability-rights education legislation. Once you have a plan, you have all kinds of added rights as a member of a protected class of American citizen. If you charge someone with a crime, though, schools can skip right past disability law. "Under the IDEA," Crane writes me, "[a] student would be entitled to a manifestation determination, to decide whether his behavior was a manifestation of a disability. There's no such requirement when referring a kid to law enforcement." Crane believes that, around the country, schools are pushing teachers and other staff to press charges.

Crane warns me, though, that behavior intervention plans can be problematic too. They are too often "terrible and coercive," she tells me via email, placing the blame for difficult incidents squarely on the shoulders of the kids, rather than assessing the environment. That's just what Seraph Jones has experienced. Andrea, his mother, says there's a "portion in his plan that talks about positive practice and doing role-play." When he's pulled out of class after a meltdown, though, this amounts only to forcing him "to say a phrase that could be as simple as: I accept responsibility for my role. And then he's having issues with communicating and verbalizing these things, and they think that's defiant." Andrea sent me a revised plan a few weeks ago that looks better, but she's still worried. It still allows the teachers to touch him in response to "tantrums," as they call his meltdowns, which is exactly what sets him off.

As Andrea writes in an email: "His 'physical aggression' has been near exclusive to when touched during a meltdown." He's been transferred to a new school, but the family says that staff there still touch him too often, sparking escalations. His cool-down area is the office; that office, though, is "not a place he self-directs to." Under these circumstances, forcing Seraph to go to the office to calm down could easily escalate, rather than defuse, a tense situation.

Just a few days after I talked to Seraph, [a video of a white 10-year-old autistic child in another part of Florida being arrested went viral](#). The student cried all the way to the police car as his mother kept calm and filmed the whole thing. A few weeks later, in Dallas, a seven-year-old Latino boy with ADHD and other emotional disabilities had a meltdown and [was choked, tased, and handcuffed](#) while face-down over his desk. He was incarcerated in a medical institution and kept from his parents for days. Next week there will be new stories of criminalization in schools, though whether they make a media splash largely depends on whether there's incriminating and disturbing video. What's happening to Seraph and Ashton is not a Florida story. It could take place in any school, any district, anywhere in the country.

There's no easy fix. The long-term solutions involve decriminalizing disability, decriminalizing non-white childhood, decriminalizing our schools. But there are things that any educator could choose to do tomorrow: Stop arresting disabled kids. Stop using physical force unless there's a clear threat. Prioritize de-escalation. Use meltdowns to identify triggers and try to remove them. Until that happens, parents will just have to rely on pro bono lawyers, government officials, crowd-funding, and desperate attempts to find a school where their child can learn and be safe.