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# **Interrogating Sanctioned Violence: A Survey of Parents/Guardians of Children with Disabilities about Restraint and Seclusion in Manitoba's Schools**

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## **Abstract**

There is increasing concern that restraint and seclusion are being misused in schools, most often with students with disabilities. This issue is silent at the provincial level in Manitoba, with no regulation from the Ministry of Education. In order to examine the extent to which restraint and seclusion were being used in schools in Manitoba with children/youth with disabilities, an anonymous online survey involving a convenience sample of parents/guardians of children/youth with disabilities was conducted. The 48-item questionnaire was disseminated through disability advocacy organizations in this province. Parents/guardians reported a high frequency of the use of restraint and seclusion, limited consent to the use of these practices, and an absence of written notification that they had occurred. Of great concern, some parents reported that their child was subjected to mechanical restraint and practices known to have a higher risk of causing death (e.g. supine and prone holds, being left in rooms that were locked from the outside etc.). A majority of parents reported their child had suffered trauma, and signs of physical injury also were noted. The results of this study indicate that restraint and seclusion are being misused as behaviour management techniques, especially with students with disabilities. These practices contravene Canada's commitment to international standards regarding the rights of children and youth with disabilities, and change is required. The implementation of regulatory standards, legitimizing the voice of parents of children and youth with disabilities, and training for educators in positive behaviour interventions and supports are proposed.

## **Keywords**

Human Rights, Disabilities, Physical Restraint, Seclusion, Inclusive Education, Policy Guidelines

## **Introduction**

The issue of physical restraint and seclusion in Canadian schools is controversial and until recently, it has not received the attention it requires. Physical restraint includes the use of physical procedures by one or more individuals to limit another person's freedom of movement. For example, holding an individual in an immobile position for a period of time (Council for Children with Behavior Disorder [CCBD], 2009a). While seclusion is defined as placement in an isolated area for an extended time and the prevention from leaving the area. For example, placing a student in a locked room, or having a person in a position of authority block a student from exiting a space (CCBD, 2009b). The purpose of physical restraint and seclusion in schools is generally defended on the grounds that it can be used to ensure safety in an emergency in order to prevent immediate harm. However, there is concern that restraint and seclusion are being misused in school-based settings, most often with students with disabilities (CCBD, 2009a, 2009b; Inclusion BC, 2017; Inclusion Alberta, 2018; Simonsen et al., 2014). A report issued by the U.S. Department of Education Office for Civil Rights (2016) found that in 2013-14, students with disabilities made up 12% of the public-school student population and comprised 67 % of the students who experienced restraint or seclusion. There is a tension between the use of physical restraint and seclusion in schools, and the basic human rights of children and youth with disabilities. Regrettably, in contemporary schools there continue to be normative beliefs and practices, which perpetuate inequality and enable the rights of children and youth with disabilities to be regularly violated. Valentine (2001) affirms this point and describes how children with disabilities, as well as their parents/guardians, are often denied the basic rights and protections that are afforded to other individuals.

As a signatory to the *United Nations Convention on the Rights of Persons with Disabilities* (CRPD) (United Nations, 2006), and the *United Nations Convention on the Rights of the Child* (CRC) (United Nations, 1989), Canada has affirmed its commitment to equality, inclusion, and to protections from cruel and inhuman treatment. However, the use of restraint and seclusion in many Canadian schools is largely unregulated (Bartlett & Ellis, in press), and undermines international commitments to these fundamental protections, especially for children and youth with disabilities (McCarthy, 2017; Weissbrodt et al., 2012).

### **Convention on the Rights of Persons with Disabilities**

Restraint and seclusion are not specifically referenced in the CRPD (United Nations, 2006). Notwithstanding, it is important to draw attention to the rights of children and youth with disabilities within this convention that are violated when practices like restraint and seclusion are used. To illustrate, Article 24 of the CRPD (United Nations, 2006) establishes the right for individuals with disabilities to an inclusive education. However, the removal of students from the learning environment and placement in seclusion constitutes a denial of this fundamental right (Scheuermann et al., 2016). Article 24 further describes the obligation of schools to accommodate the individualized needs of student with disabilities and provide, "the support required, within the general education system, to facilitate their effective education" (United Nations, 2006, p. 17). When educators are insufficiently trained to teach to the diversity in their classrooms, they may not provide necessary accommodations, and default to the use of restraint and seclusion to "manage" a student's behaviour (Inclusion Alberta, 2018; Inclusion BC, 2017). According to McCarthy (2017),

If used to manage behaviours directly arising from a student's disability, seclusion arguably amounts to a failure to provide necessary and reasonable accommodations and deprives the student of education opportunities in breach of the CRC and CRPD. (p. 207)

Moreover, Article 4 of the CRPD (United Nations, 2006) requires States "To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices that constitute discrimination against persons with disabilities" (p. 5) The absence of regulatory frameworks regarding the use of restraint and seclusion in Canadian schools, and the disproportionate misuse of restraint and seclusion with children with disabilities provides evidence of the discriminatory nature of these practices (CCBD, 2009a, 2009b; Inclusion BC, 2017; Inclusion Alberta, 2018; Simonsen et al., 2014).

### **Convention on the Rights of the Child**

The CRC (United Nations, 1989) establishes an international standard for the protection of children's rights. It outlines the need for special safeguards to protect children and specifically references school discipline. For example, Article 28 of the CRC draws a distinction between the use of force to protect a student or others, and the use of force to punish, with the latter regarded as an unacceptable practice. This distinction is less clear in some schools and has resulted in the misuse of restraint and seclusion for punitive purposes, including minor non-compliance (Scheuermann et al., 2016), property damage (Weissbrodt et al., 2012), and as punishment (Butler, 2019). Moreover, Article 23 of the CRC (United Nations, 1989) describes the rights of children with disabilities to special care and support in order to live full and independent lives. Despite the fact that physical restraint and seclusion are cruel and inhuman as they disrespect a person's dignity, and lead to psychological trauma, physical injury, and even death (National

Disability Rights Network [NDRN], 2012; U.S. Government Accountability Office, 2009), there has been little action by Canadian educational jurisdictions to establish protections for children and youth with disabilities from such practices. These protections should include identifying, regulating, and ultimately eliminating restraint and seclusion in Canadian schools, which to date has not been an educational priority.

### **Restraint and Seclusion in Canada**

Recently, there has been mounting concern from parents/guardians of children with disabilities and disability advocacy organizations regarding the use of physical restraint and seclusion in Canadian schools (Inclusion Alberta, 2018; Inclusion BC, 2017). A report produced by Inclusion BC, a British Columbian advocacy organization, entitled: *Stop Hurting Kids II: Restraint and Seclusion in BC Schools—Survey Results and Recommendations* (2017), and a report produced by a similar advocacy group called Inclusion Alberta entitled: *Use of Seclusion and Restraints in Schools September 2018 Survey Results Summary* (Inclusion Alberta, 2018), based on surveys of parents/guardians of children with disabilities indicated that students were being physically restrained and secluded at schools in these provinces. The reports further describe the psychological trauma and physical injury that students had experienced as a result of these practices. Parents/guardians often had not sanctioned the use of restraint and seclusion, and many were not informed in writing that it had occurred. While the length of time that students were secluded varied, there were reports that students had been secluded for up to 3 hours. The students most often restrained and secluded included in these provinces included students with Autism Spectrum Disorder, most often between the ages of 6-11 years (Inclusion BC, 2017; Inclusion Alberta, 2018).

A consistent theme that emerged from these reports was the concern that there were no or inconsistent policies, guidelines, and accountability structures to regulate the use of restraint and seclusion in each province's schools (Inclusion Alberta, 2018; Inclusion BC, 2017). In order to address this issue, parents/guardians of children and youth with disabilities and disability advocacy organizations in these provinces have been instrumental in "drawing back the curtain" on harmful practices commonly used in schools and creating an impetus for change. Specifically, they have called for the development of protections including regulations, reporting requirements, and increased staff training (Inclusion Alberta, 2018, Inclusion BC, 2017).

In response to this advocacy work, the Ministry of Education in British Columbia enacted voluntary provincial guidelines, *Provincial Guideline – Physical Restraint and Seclusion in School Settings* on restraint and seclusion, which have subsequently been amended to clearly state that "that boards of education/independent school authorities/schools, in which physical restraint or seclusion may potentially be used, have in place a physical restraint and seclusion policy [sic.]" (British Columbia Ministry of Education, 2015, p. 5). In Alberta, the Minister of Education signed a ministerial ban on the use of seclusion rooms in schools on March 1<sup>st</sup>, 2019, which has recently been lifted due to debate over whether an outright ban on seclusion spaces would compromise the ability of schools to ensure safety in the event of an immediate threat or crisis (Giovannetti, 2019). While the outright ban on seclusion spaces was lifted, Alberta has developed a *Ministerial Order on Restraint and Seclusion in Schools, and Time out in Schools Standards* (Government of Alberta, 2019), which mandates school divisions to comply with standards on the use of restraint and seclusion, as well as establishes mechanisms to monitor and ensure compliance with this regulation. The changes in these provinces demonstrate that advocacy can shape policy and enhance the protection of the rights of children with disabilities.

## **The Current Study**

In the province of Manitoba, which is the focus of this study, there are no ministerial policies, guidelines, or accountability mechanisms in place regarding the use of restraint and seclusion in schools. Given the absence of regulation and requirements to report incidents of restraint or seclusion, little is known about the scope and nature of physical restraint and seclusion in schools in this province. Motivated by a rights-based theoretical approach to disability, a survey was conducted to obtain the perspectives of parents/guardians of children and youth with disabilities about the use of restraint and seclusion in Manitoba's schools. The purpose of this study was to gain insight into the perspective of parents/guardians regarding the use of restraint and seclusion with children and youth with disabilities, as well as the nature and impact of such practices as communicated to parents/guardians. According to Gatens (1995) "...by questioning past practices and by revealing present practices, one causes a shift or tremor in the web" (p. 53). We draw on the perspectives of parents/guardians of children with disabilities to create such a narrative, and to promote institutional and structural changes in schools that align with the tenets of our commitments to the rights of children and youth with disabilities.

## **Methods**

After institutional ethical approval was granted, a convenience (non-random) sample of parents/guardians of children and youth with disabilities, whose children and youth have experienced physical restraint and/or seclusion at school in the last three years were recruited for this study. A mixed methods design was used that included an anonymous on-line quantitative survey, with the opportunity to provide additional comments to specific questions. The additional



comments were gathered, “to generate depth data,” from participants (O’Cathain & Thomas, 2004, p.1).

### ***Data collection***

SurveyMonkey was used to support the on-line data collection and data management process. The survey was available from July 10<sup>th</sup>, 2019 until October 16<sup>th</sup>, 2019. The data collection through SurveyMonkey was anonymous, as a feature in SurveyMonkey was enabled to ensure that participants' identities were not revealed when they logged in and completed the survey. The principal investigator recruited participants by emailing an established network of disability advocacy organizations in the province of Manitoba, and asked them to share the invitation to participate, which included a URL link to the survey and consent form. The disability advocacy organizations were asked to share the invitation to participate on their websites, through email, newsletters, and through social media (e.g., Facebook, Twitter). Two additional emails also were sent to the disability advocacy organizations asking them to share the invitation approximately 10 days and 21 days following the initial email, in case they may have forgotten.

### ***Informed Consent***

An informed consent letter was posted on the first page of the on-line survey. A definition of physical restraint and seclusion as outlined by Council for Children with Behavior Disorders were provided in both the informed consent letter, and in the introduction to the survey to ensure the participants understood the concepts before completing the survey (CCBD 2009a, 2009b). Participation in the on-line survey was regarded as informed consent. Participants were reminded in the consent form, and in the introduction to the survey, not to include any identifying information in their additional comments.

### ***Questionnaire Design***

The on-line survey used in this study was adapted from a survey created by *TASH: Equity, Opportunity and Inclusion for People with Disabilities* a disability advocacy organization from Washington D.C. The principal investigator received permission from TASH to adapt the survey for research purposes in the province of Manitoba. The original 23-item questionnaire created by TASH was administered in the United States with 837 parents/guardians of children and youth with disabilities (Westling et al., 2010). The current survey differs from the survey used by TASH in that it did not specifically ask about aversive procedures, and instead focussed on the use of physical restraint and seclusion. The survey created by TASH was selected for this research because it also was adapted by Inclusion BC (2017) and Inclusion Alberta (2018) and administered with parents/guardians of children and youth with disabilities in those provinces. The current survey is similar to the surveys conducted in British Columbia and Alberta, however some changes to the questions posed and the terminology used were made to reflect the Manitoba context. For example, references to categorical funding of students with disabilities were removed given that Manitoba has largely eliminated categorical funding for students with disabilities (Manitoba Education & Training, 2018).

The current survey consisted of 48 multiple choice questions that included single answer and multiple answer options. Some questions also provided an "other" option, and in those instances, participants were asked to provide a comment to explain their answer. If participants preferred not to provide additional information related to the "other" response they were invited to type "no comment." The 48 questions were divided into 3 sections. Section 1 included 5 general questions about the gender of the child, location (urban, rural, northern), and a question confirming that the participant is the parent/guardian, and that restraint and/or seclusion had

occurred for their child at school within the last 3 years. Section 2 consisted of 23 questions about restraint. If the participant's child had not experienced restraint, they were invited to skip this section. Section 3 consisted of 20 questions about seclusion, and if the participant's child had not experienced seclusion, they were invited to skip these questions.

### ***Participants***

A convenience sample of 64 parents/guardians logged into the survey. Given that the survey was online and anonymous, it is impossible to be certain that all of the participants met the inclusion criteria (e.g., parent/guardian of a child who had been restrained and/or secluded at school in the last 3 years). Based on some of the comments made in qualitative responses, we know that some parents/guardians of children who had experienced restraint and seclusion outside of the last three years completed the survey. Since those respondents did not meet our inclusion criteria their data was not included in our analysis.

### ***Data analysis***

The survey data analysis functions in SurveyMonkey were used to summarize the results. On average, 33 participants responded to the follow-up questions related to restraint, and 39 responded to the follow-up questions related to seclusion. Additional comments also were invited in several questions.

### **Results**

A report of the results is also available at (Bartlett & Ellis, 2020). The majority of the participants who accessed the survey were located in an urban area in Manitoba (43, or 70.49%), followed by rural (17, or 27.87%), and northern (1, or 1.64%). Of the 61 participants who began the survey, 56 (91.80%), participants identified as the parent/guardian of a child with a disability

who had been restrained or secluded. However, 57 participants proceeded through the remaining questions in the survey. A majority of the parents/guardians identified their child as male (47, or 78.33%), and a much smaller percentage were identified as female (12, or 20.00%), and only (1, or 1.67%) identified as other.

The results of the survey are presented descriptively and include a discussion of the following: (a) the age of the of the students who experienced restraint, (b) the primary educational setting where the restraint occurred, (c) the nature of restraint and seclusion, (d) its frequency and duration, (e) the identification of the participants in the process, (f) the impact on children and youth, (g) reporting to parents/guardians, (h) parental consent and the incorporation of restraint and seclusion in individualized planning, (i) parents/guardians' responses, and (j) the disability and mode of the children and youth who experienced restraint and seclusion

### ***Age of the Child***

The most common age of the individuals who experienced restraint included children between the ages 5-10 (19, or 61.29%). This finding is consistent with the findings of the surveys of parents/guardians of children with disabilities conducted in British Columbia, Alberta, and the United States which indicated that younger students are more likely to be restrained and/or secluded (Inclusion BC, 2017, Inclusion Alberta, 2018; Westling et al., 2010). However, in this study, the use of restraint was not limited to early childhood. One third of respondents (10, or 32.26%) indicated that the use of restraint was pervasive throughout their child's schooling from early childhood through adolescence.

### ***Educational Setting where Restraint Occurred***

Participants were asked about the location where their child was restrained, and the results were highly variable. Some students were restrained in a general education classroom (10,

or 32.26%), others in the resource room (7, or 22.58%), and some in segregated classrooms (4, or 12.90%). Some of the additional comments by participants indicated that restraint occurred in all of the aforementioned settings, which was not a response option in the survey. Some participants (10, or 32.26%) also indicated that restraint occurred in “other” settings, and they were invited to provide additional comments to describe these settings. The comments indicated that for some students, restraint occurred equally in both segregated and inclusive settings, as well as in locations like a “quiet room”, “the hallway”, “in the gym”, and “at recess”. This finding of the use of restraint across multiple educational contexts, is similar to the findings in British Columbia (Inclusion BC, 2017), but differs from the findings in Alberta (Inclusion Alberta, 2018), where it was reported that students in inclusive settings were less likely to experience restraint and seclusion, and the findings in the United States where students who were restrained or secluded were most often were found to be in special education settings (Westling et al., 2010).

### ***Nature of Restraint and Seclusion***

When asked about the type of restraint that was used the most frequent response from parents/guardians was that they were unsure about the form of restraint that was used with their child (10, or 32.26%). This response is affirmed in subsequent questions where parents/guardians indicate receiving little or no information about the use of restraint and seclusion from the school. These findings are also similar to the findings in both Alberta and British Columbia, where information sharing with parents/guardians about the use of restraint and seclusion were limited (Inclusion Alberta, 2018; Inclusion BC, 2017). Some of the forms of restraint that were identified included, a seated hold (3, or 9.68%), a vertical hold (6, or 19.35%), prone (lying face down) (1, or 3.23%), and supine (lying face up) (3, or 9.68%). One parent/guardian reported that

their child had been “held to the floor, held in seated position, physically forced to walk while being held, physically picked up and carried (sometimes by one adult, sometimes by more than one adult).” Of serious concern, one parent/guardian also reported that their child was mechanically restrained using Posey Cuffs, and another parent/guardian reported their child had been tied to a chair and left secluded in a hallway. This extreme form of mechanical restraint procedure was unexpected by the researchers, hence the primary focus on physical restraint. Similar to the survey conducted in Alberta, which did not specifically ask about the use of aversive procedures, the use of mechanical restraints were noted in the participants’ comments (Inclusion Alberta, 2018).

When asked about the nature of seclusion that was used a majority of participants indicated that an authority figure prevented their child from leaving a space (22, or 59.46%) and some indicated that a locked door was used to prevent their child from exiting a space (5, or 13.51%). Some participants indicated that their child was prevented from leaving a space through “other” means (10, or 27.03%). Some of the additional comments indicated that both an adult authority figure and a locked door were used to prevent a student from leaving a space, which was not a response option in the question. One parent/guardian commented, “Authority plus the door doesn’t have a proper doorknob on the inside and is very very difficult to open.” Similar descriptions of adults blocking or locking a student in a space also were noted in the surveys conducted in Alberta and British Columbia (Inclusion Alberta, 2018; Inclusion BC, 2017). In the present study, comments regarding the modification of a doorknob to prevent the student from exiting a space also was noted and indicate what also may be a violation of fire code regulations.

### ***Frequency and Duration of Restraint and Seclusion***

When asked about the frequency and duration of restraint and seclusion most participants reported that their child was restrained between 5-30 minutes (12, or 40.00%), and some participants indicated the restraint occurred for less than 5 minutes (7, or 23.33%). However, some of the respondents indicated their child was restrained for between 1-3 hours (2, or 6.67%), and some for in excess of 3 hours (2, or 6.67%). The frequency of restraint in the last year varied from daily (4, or 13.33%), to monthly (5, or 16.67%), with a majority of participants choosing to provide comments about the frequency of restraint (20, or 66.67%). For example, one parent/guardian shared that their child, “has not attended school during 2018-19 due to fear and anxiety and trauma from prior year restraints and seclusion events” and therefore could not respond to the frequency question that was posed.

When asked about the length of time that their child had been secluded, the largest number of respondents indicated that they were unsure about the duration of seclusion (11, or 29.73%). Of the respondents that indicated a time period, the next most frequent responses were 30 minutes to 1 hour (10, or 27.03%), and 1-3 hours (8, or 21.62%). However, some parents/guardians also reported that their child had been secluded for more than 3 hours (3, or 8.11%). Evidence of prolonged restraint and seclusion in excess of 3 hours, also were noted in Alberta and British Columbia, and the United States (Inclusion Alberta, 2018; Inclusion BC, 2017, Westling et al, 2010). When asked how frequently their child had been secluded in the past school year, the responses for monthly, weekly, and daily were almost equal at (8, or 21.62%), (7, or 18.92%), and (6, or 16.22%) respectively.

### **Knowledge of and Participation in Restraint and Seclusion**

When asked about who participated in and/or had knowledge of the use of restraint and seclusion the participants could identify more than one individual. The individuals identified most frequently as having knowledge of and/or participating in the restraint and seclusion respectively included the school administrator (18, or 60.00%), (19, or 51.35%), special education/ resource teacher (19, or 63.33%), (26, or 70.27%), followed by the classroom teacher (15, or 50.00%), (18, or 48.65%) and teaching assistants (15, or 50.00%), (19, or 51.35%), and to a lesser degree the school counselor and clinical staff. The same question was posed in the survey conducted in British Columbia and the primary stakeholders involved were the same as the individuals identified in this study (Inclusion BC, 2017).

### **The Association of Restraint and Seclusion with Emotional and Physical Harm**

Most parents that were surveyed indicated an association between their child's experience with restraint and seclusion at school and trauma. When asked about the impact of the restraint, almost all of the participants indicated that their child had suffered emotional trauma (26, or 89.66%), others indicated their child had suffered physical injury (9, or 31.03%), as well as obvious signs of physical pain (6, or 20.69%). One parent/guardian commented,

Child hit head on the floor while being restrained (bruising occurred), sore arms and hands/fingers, crying, saying 'you're hurting me' in the moment but was ignored, nightmares happened after, school refusal daily.

The effects of seclusion also were described as highly detrimental to children and youth. More than half of the participants (21, or 63.64%) indicated that their child also had suffered emotional trauma because of seclusion. The next most frequent response (10, or 33.33%) was that their



child had experienced other adverse reactions. One parent/guardian described the impact of seclusion,

Fingers and hands were pinched in the door as it was closed, fear for personal safety in case of fire or emergency evacuation (also his shoes were also often removed, adding additional anxiety as he is aware of school rules around always wearing shoes for safety reasons), crying, nightmares, school refusal, increasing anxiety in all areas not just school, fear of being touched/held, debilitating pervasive fear of being abducted/taken away.

One parent/guardian also shared that their child attempted suicide and attributed the suicide attempt to experiences of restraint, while another reported the onset of self-injurious behaviour that they too attributed to being restrained. Similar concerning relationships between physical restraint and seclusion and emotional trauma and physical harm were identified in Alberta, British Columbia, and the United States (Inclusion Alberta, 2018; Inclusion BC, 2017; Westling et al., 2010).

### **Information Sharing and Reporting**

Similar to the results in both Alberta and British Columbia, significant gaps and inconsistencies in reporting practices to parents/guardians about the use of restraint and seclusion were found. When asked how frequently they were informed that their child had been restrained, half of the parents/guardians indicated that they were rarely (8, or 26.67%), or never informed (7, or 23.33%). Nearly half of the parents/guardians also indicated that they were rarely (11, or 30.56%) or never informed (6, or 16.67%) about the use of seclusion. In addition, 90% of parents/guardians reported that they had not received written documentation about the use of

restraint, and 86.49% (32) for seclusion. If the parent/guardian was informed about the use of restraint or seclusion, some reported receiving the information from the principal, or the teacher. One parent/guardian commented that they learned about the use of seclusion from school staff, but it was infrequent, and often well after the event. To illustrate,

Very rarely I would hear from the case manager or resource teacher, usually well after the event. At some points, it was happening multiple times daily, and I would hear about it at the next IEP meeting (weeks later) that it had been going on.

Half (10) of the parents/guardians reported that they learned about the use of restraint from their child and (16, or 72.73%) for seclusion. One parent/guardian commented,

Most often, my child was the one who told me. I sometimes was told by the case manager or resource teacher, but not right away usually as a ‘oh by the way this happened the other day.’

Other sources of information included other parents/guardians, other students, and siblings who attended the same school.

### **Parental Consent to Restraint and Seclusion in Individualized Plans**

Participants also were asked about whether they had provided consent for the use of restraint or seclusion to be used with their child, and whether the use of restraint and seclusion was incorporated into a behaviour support plan and/or an Individualized Education Plan (IEP). A majority of the parents/guardians indicated that they had not consented to the use of restraint (24, or 73.33%), (24, or 64.86%) or seclusion. A majority of the parents/guardians who responded to the questions regarding restraint indicated that their child had a behaviour support plan at the school that was based on an individual assessment (25, or 83.33%), and (25, or 67.57%) for

seclusion. If a behaviour support plan was in place, the participants were asked if the plan contained a restraint or seclusion action agreed to by them. More parent/guardians reported the existence of a seclusion action agreed to by them in a behaviour support plan (12, or 36.36%), and IEP (9, or 28.13%), as compared to the number of parents/guardians who reported agreeing to a restraint action in a behaviour support plan (6, or 20.00%) or IEP (7, or 29.17%). However, overall parental consent to the use of restraint and seclusion was minimal. This finding demarcates the disconnect between parental wishes and actions taken at the school.

### **Parental Responses to the Use of Restraint and Seclusion**

When asked if they had raised concerns with the school about restraint a majority of parents/guardians indicated they had raised concerns (22, or 73.33%). A significant number also indicated they had raised concerns about the use of seclusion (25, or 67.57%). If the participants indicated that they had raised concerns, a follow-up question about whether they were satisfied with the response of the school also was posed, and more half of the parents/guardians indicated that they were unsatisfied with the response of the school regarding restraint (15, or 65.22%), (20, or 76.92%) for seclusion. The parents/guardians also were asked if they had contacted any outside individuals, agency, or organization for support (e.g. an advocacy body, lawyer, or government representative), and over half indicated they had contacted an outside organization. However, when asked if they had taken their child out of school due to the use of restraint or seclusion more than half of the parents/guardians indicated they had not taken such measures.

### **Most Prevalent Disabilities and Mode of Communication**

When asked to identify their child's disability, the participants could identify more than one. The most frequently reported disabilities for students who experienced restraint and seclusion respectively were the same, and included Autism Spectrum Disorder (18, or 56.25%; 21, or 56.76%), intellectual disabilities (12, or 37.50%; 12 or 32.43%), learning disabilities (11, or 34.38%; 11, or 29.73%), emotional and behavioural disorders (9, or 28.13%; 9, or 24.32%), and mental health disorders (7, or 21.88%; 8, or 21.62%). Most parent/guardians (19, or 59.38%; 24, or 64.86%), indicated that their child communicated verbally, some indicated their child had limited verbal communication (5, or 15.63%; 6, or 16.22%), and a much smaller percentage indicated their child used augmentative and alternative communication or gestural communication.

## **Discussion**

The results of this exploratory study align with the findings in other Canadian provinces (Inclusion BC, 2017, Inclusion Alberta, 2018,) and the United States (Westling et al., 2010), which indicate that students with disabilities, in particular those with Autism Spectrum Disorder, who are male, and between the ages of 5-10 are disproportionately restrained and secluded at school (Inclusion Alberta, 2018; Inclusion B.C; Westling et al., 2010). The findings in this study also demonstrate that extremely unsafe procedures are being employed, such as supine or prone physical holds, and mechanical restraint. There is further evidence that students are being physically and emotionally harmed by these procedures, with one parent/guardian indicating that their child had attempted suicide because of the trauma of being secluded in school. These findings are also consistent with the findings in Alberta and British Columbia (Inclusion Alberta, 2018; Inclusion BC, 2017), as well as related research which has found that physical restraint

and seclusion have led to “long term psychological problems such as fear, anxiety, or impaired trust as a result of cumulative re-traumatisation” (McCarthy, 2017, p.204). The extent of harm that was reported by the parents/guardians in this study suggests that students with disabilities are being mistreated in ways that contravene articles in both the CPRD (United Nations, 2006) and CRC (United Nations, 1989), including protection from discrimination, the right to an inclusive education, and safeguards against cruel and unusual treatment. Similar to the findings in Alberta and British Columbia, limited information sharing with parents/guardians, nearly non-existent written reporting, and the absence of parental consent to the use of restraint and seclusion are also highly problematic, and indicative of the ongoing marginalization of parents/guardians of children with disabilities (Inclusion Alberta, 2018; Inclusion BC, 2017). Addressing the issue of the physical restraint and seclusion of children and youth with disabilities in schools is complex and requires a multifaceted approach. In order to support the process of reform we propose the following: (a) establishing regulatory frameworks and accountability mechanisms regarding restraint and seclusion, (b) legitimizing the voice of parents/guardians of children with disabilities in the education of their children, and (c) educating school staff in the use of proactive SW-PBIS and preventative evidence-based approaches (Freeman, & Sugai, 2013).

### **Regulatory Frameworks**

The wide-range of physical restraint and seclusion that were reported in this study, along with inconsistent and uneven reporting, indicate a need for regulatory guidance that is consistent with human rights standards. Nelson (2017) affirms this point and argues that human rights protections from violence and abuse for individuals with disabilities have largely focussed

on monitoring institutions, community programs, medical settings, and detention centres, and have not adequately focussed on the need for similar oversight of the practices in schools. Provincial guidelines and reporting may not be a panacea for the misuse of restraint and seclusion; however, they represent an important step towards protecting children with disabilities from undue harm in schools.

In the United States there has been federal guidance through legislation such as the *Preventing Harmful Restraint and Seclusion in Schools Act* (2009), and more recently the *Keeping all Children Safe Act* (2018), which outlines restrictions on the use of restraint and seclusion in all U.S. schools. In addition to legislation, a seminal resource document also has been developed entitled, *Restraint and Seclusion: Resource Document* (United States Department of Education, 2012), which provides 15 guiding principles that should be followed to proactively prevent and address the use of restraint and seclusion in schools. This direction at the Federal level in the United States has contributed to a significant increase in state level policies to regulate, monitor, and in some instances ban restraint and seclusion in schools. (Butler, 2019). While education in Canada is a provincial and territorial responsibility, and no similar federal guidance exists, the regulations, accountability mechanisms, and reporting practices in some States may serve as exemplars for the development of regulatory frameworks in the province of Manitoba.

### **Bans on Restraint and Seclusion**

The issue of an outright ban on the use of restraint and seclusion in schools is highly contested. Some argue that a ban on restraint and seclusion is necessary to ensure the emotional and physical safety of children with disabilities (The Alliance to Prevent Restraint, Aversive

Interventions, and Seclusion [APRAIS], 2005). Amnesty International (2016) shares a similar stance and has recommended the following inclusion in General Comment No. 4, Article 24 of the CRPD,

States prohibit the use of restraints, seclusion and aversive interventions as part of their inclusive education policies. The Committee should also emphasize the use of positive behaviour supports developed within a comprehensive, professionally developed plan of behavioural accommodations and interventions (p. 9).

Others have argued that a ban on restraint and seclusion impedes the ability of schools to maintain a safe environment (American Association of School Administrators, 2012), which also was the argument that was used to rationalize the recent repeal of the ban on seclusion spaces in Alberta (Giovannetti, 2019). While there may be a debate about the need for an outright ban of restraint and seclusion, there were examples of mechanical restraint (e.g. being strapped to a chair), and prone restraints (e.g. being held face down) that involve a high degree of physical force, as well as seclusion in spaces with modified doorknobs that prevented students from exiting that were identified in this study that warrant explicit prohibition. These forms of restraint and seclusion have been implicated in some deaths caused by factors such as restraint related asphyxia and being trapped in a space without a means of getting out in the event of an emergency (e.g., fire or other natural disaster) (Barnett et al., 2016; Butler, 2019; CCBD, 2009a). All of the aforementioned actions constitute a violation of CRPD and protection from cruel, inhuman treatment. This study also has drawn attention to the need for an environmental scan of schools in the province of Manitoba to assess the kinds of spaces, doorknobs, and locks that are being used in schools, given that there is evidence that fire codes and other safety regulations are being violated.

## **Reporting Practices**

Given that approximately 10% of parents/guardians indicated they had received written notification of the restraint and/or seclusion of their child, and more than half indicated they learned about the practice from their child indicates the need for comprehensive reform. In the United States, a majority of States mandate reporting to parents/guardians about the use of restraint and seclusion for a child with a disability in either a law, statute or regulation. Some States require same-day parental notification, and more than half of the States require a detailed written follow-up about the use of restraint and seclusion, and a debriefing meeting to review the incident and engage in behaviour support planning to prevent its reoccurrence (Butler, 2019). Debriefing of any incident has been described as a critical step to support prevention of future incidents and to focus on positive, proactive alternatives (Couvillon et al., 2019). In addition to reporting to parents/guardians, almost half of the States require state-level data collection in order to monitor the prevalence of restraint and seclusion in schools (Butler, 2019). Transparency about the prevalence of restraint and seclusion is intended to support concrete action to reduce, and ultimately eliminate its use, as well as identify sites where positive behaviour interventions and supports are effective in preventing the use of restraint and seclusion so that they might be replicated in other settings. This study highlights the need for similar regulatory guidelines for reporting to parents/guardians, as well as the need for transparent data collection at the provincial level to create accountability, and to support changes in practice (Gagnon et al., 2017).

## **Individualized Planning**



Some parents/guardians indicated that their child had a restraint action or seclusion action in their individualized plan to which they had agreed. There is a concern that incorporating a restraint and/or seclusion action in a student's individualized plan may convey the message that these practices are strategies that may be regularly employed with a student, as opposed to interventions that may be used in a crisis, when there is an immediate threat to safety. Evidence in this study of the daily use of restraint and seclusion, as well as comments from parents/guardians indicating that when information about restraint and seclusion was shared it was long after the incident had occurred, and that it was shared in a lackadaisical, informal manner reveals that the use of restraint and seclusion may have become normalized in some settings. According to APPRAIS (2010),

There is a double standard of accountability when restraint and seclusion can be considered either emergency or "planned." Emergency restraint or seclusion must be taken more seriously and reported quickly and thoroughly to parents and the state agency; restraint or seclusion written into an IEP or behavior plan is permitted for ongoing and routine use while exempted from similar visibility and reporting. This double standard creates a strong, inevitable, and dangerous incentive for schools to place restraint and seclusion into students' routine plans and avoid responding to their use as the emergency it is. (p. 2)

When restraint and seclusion are a part of an individualized plan it may prevent further exploration of the conditions that may be contributing to escalated behaviour and lessen the sense of urgency on the part of the school to collaborate with multiple stakeholders in the identification of alternative, positive, proactive responses (LeBel et al., 2012). This study also indicates that in the development of regulatory frameworks regarding the use of restraint and

seclusion, it is important to guard against the inclusion of restraint and seclusion in a student's plan as it may become a sanctioned practice that educators regard as necessary.

### **Legitimizing the Voice of Parents/Guardians**

There are additional ethical issues raised by the inclusion of a restraint and/or seclusion action in a student's individualized plan. To illustrate, even though a majority of parents/guardians raised concerns about the use of restraint and seclusion as they had not consented to its use and indicated that they were dissatisfied with the response of the school, most had not removed their child from the school where these actions had occurred. Parents/guardians of children with disabilities may have limited options, and as a result, may feel powerless to formally challenge the treatment of their children in schools. The Schools of Choice regulations (Manitoba Education and Training, 2016) in Manitoba restrict the enrolment of students outside of their designated local school and can be used in order to restrict the movement of students with disabilities between schools. This legislation provides school administrators with a great deal of control over which students from outside of their catchment area they admit. Since children with disabilities may require additional resources from a school their freedom to choose an agreeable school setting may be limited.

This creates a power imbalance in which parents/guardians of children with disabilities may feel coerced within the paradigm of the Individual Education Planning process to accept certain less than ideal measures with which they do not agree (APPRAIS, 2010). Individual Education Planning processes have already been noted in prior research to involve a certain degree of professional coercion by school personnel (Hammond et al., 2008), and may be especially true for parents/guardians from communities who may not share the prevailing

cultural attitudes of school personnel (Harry, 2002). Within this paradigm, parents/guardians could be indicating that they felt that they were left with a choice between a poorer education, which includes sanctioned violence and the social isolation of their child, as better than no education, which may be the only alternative when a child has become stigmatised due to having previously engaged in challenging behaviours. Discriminatory legislation that limits the ability of parents/guardians of children with disabilities to ensure their child receives equal access to a quality inclusive education that is free from violence also must be explored in tandem with regulations regarding restraint and seclusion.

### **Education and Training**

In addition to regulatory frameworks, there must be a significant focus on the education and training of all school-based staff in positive, proactive and preventative approaches to behaviour. The findings of this study indicated there was broad-based knowledge and/or participation in the use of restraint and seclusion by school administrators, resource teachers, educational assistants and classroom teachers, and therefore education and training must address all of these likely enforcers of these practices. One way to achieve this goal is through the implementation of PBIS, as a part of a comprehensive school-wide framework, referred to as SW-PBIS. SW-PBIS is a framework that includes: (a) defining, teaching and reinforcing behaviors; (b) using data to guide support and decision making; (c) monitoring implementation fidelity; (d) prioritizing evidence-based practices; and (e) creating organizational structures that build and support the capacity of school-based staff (Center on Positive Behavioral Interventions and Supports, 2010; Freeman & Sugai, 2013).

In several studies, SW-PBIS has been found to reduce the use of restraint and seclusion (Peterson et al., 2009; United State Department of Education, 2010). Moreover, there is evidence to indicate that training in de-escalation strategies similarly reduces the use of restraint and seclusion (Couvillon et al., 2010; Ryan et al., 2007). Incorporating SW-PBIS as a component of restraint and seclusion guidelines is a requirement in some States in order to support the development of positive, proactive structures along with guidelines on the use of restraint and seclusion (Freeman & Sugai, 2013). Since SW-PBIS has been implemented in a patchwork way in the province of Manitoba, incorporating SW-PBIS as a part of restraint and seclusion guidelines may enable a more comprehensive province-wide shared approach to this important issue.

### **Limitations**

This study has several limitations that must be identified. First, given the small sample size we cannot indicate that the sample is representative of all parents/guardians of children and youth with disabilities in Manitoba. Second, because the survey was administered online, and it was anonymous we cannot identify who received the survey, and thereby determine a response rate. In addition, because this survey was online and anonymous, we were unable to ensure that all participants met the inclusion criteria. Through our analysis of the participants' comments, we noted that two parents/guardians indicated that the restraint and seclusion of their child occurred outside of the past three years. While we sought to learn about restraint and seclusion in the past three years, the comments of parents/guardians whose children experienced restraint and/or seclusion outside of our timeline may indicate how important the issue is to them, and how they felt a need to share the experience of their child.

Online surveys have a further limitation in that they do not allow the researcher to clarify, and or expand upon a question to ensure participants' comprehension. There was no compensation for participating in the survey, and therefore it is reasonable to conclude that the participants were motivated to complete the survey because they had information about restraint and/or seclusion of a child in their care that they felt was important to share. To illustrate, the survey was structured to allow parents/guardians to skip questions that were not relevant to their child's experience. This means that there is some variability in the number of participants who responded to each question. For example, at the outset of the survey, a higher percentage of parents/guardians indicated that their child had been restrained and/or secluded than completed the remaining questions related to these practices. The ability to skip questions may have affected the degree to which the participants completed the questions. Given that the survey asked about issues of a sensitive nature, it is also unknown what role the participant's emotional state effected whether they answered a question or chose to skip over it in the survey. We also acknowledge an oversight on our part, which included not asking participants the age of their child when they were secluded. Given these limitations, this research is exploratory in nature.

## **Conclusion**

The findings from this study paint a rather bleak picture of the treatment of children and youth with disabilities in Manitoba's schools. However, the information obtained through this survey about the use of restraint and seclusion may create a sense of urgency to address this critical issue. The creation of mandated provincial guidelines and accountability structures will provide much needed guidance to school divisions, school administrators, and school staff about acceptable practices in schools. We hope this research will bring the issue of restraint and

seclusion to the fore, and prompt policy leaders to take action to protect the rights of children and youth with disabilities. In this process, it is important to legitimize the voices of parents/guardians of children and youth with disabilities and their right to an inclusive education. This should not have to be an issue for which parents/guardians must advocate. Rights to freedom from harm, and cruel and unusual treatment are guaranteed, therefore the practices that contravene these rights must be challenged and prevented.

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