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Section: Online Main

Special needs and legal limbo

January 15, 2012

**CORRECTION:** » Blake Bailey was arrested after throwing a pen at a behavior coach at Bellview Middle School. A front page story that ran Sunday reported that he was arrested after throwing a pencil at a guidance counselor.

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When the news broke last week that a speech therapist filed felony battery charges against an autistic student, the incident sparked discussion about whether the legal system is the best way to handle special-needs children when they act out.

Some said Ferry Pass Middle School speech therapist Kathy Roupe, 57, was right to do what she believed was necessary to feel safe when 13-year-old Conner Brown hit her in the head "with so much force, it felt like my skull cracked."

Others were appalled and asked "Who would file charges against an autistic child?"

For Kristen Bailey, the incident hits close to home.

Her 14-year-old son, Blake, was arrested after throwing a pencil at a guidance counselor at Bellview Middle School in October, she said.

Blake recently was diagnosed with Asperger syndrome, which is similar to autism.

"Some of these schools need to educate teachers on autistic behaviors," Bailey said. "If you are going to work with children who are mentally and physically disabled, you know you are taking that chance. The first step is not to call the police."

Here's what deputies say happened in Roupe's classroom:

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Roupe said Conner struck her with a set of headphones on Dec. 6 during a group activity with several other special-needs children.

"Conner was sitting to my left," she said, according to an Escambia County Sheriff's Office incident report. "I turned to help the student on my right when I was hit with the headphones (Conner was wearing). I would like to pursue charges."

Conner was booked and fingerprinted Jan. 2 at the Sheriff's Office on a charge of battery on a public or private education employee, a third-degree felony.

He pleaded not guilty to the charge on Wednesday during his arraignment in circuit court. On March 6, he will undergo an evaluation to see if he is competent to stand trial.

Conner's mother, Kathy Pack, said last week that her son was throwing the headphones at another student who was annoying him with loud noises, which triggers Conner's autism symptoms.

Autism is a developmental disorder that affects the brain's normal development of social and communication skills.

Pack refused to talk to the News Journal for this story, citing her son's ongoing case.

But she said last week that her son's developmental disorder makes him incompetent to stand trial. She said the legal system is not the way to deal with autistic children and that she hopes what her son is going through leads to some awareness.

Susan Watson, regional director of the American Civil Liberties Union, said the group has been closely watching the December incident.

"The ACLU of Florida is heavily invested in protecting the rights of all students and making sure that the first reaction to difficulties in the classroom is not involving the criminal justice system," Watson said.

Not uncommon

We don't often hear about incidents like these in the Pensacola area.

Assistant State Attorney Greg Marcille said his office rarely sees cases like this one, but it is not uncommon for juveniles and adults with mental disabilities to be charged with crimes.

"This exact circumstance would be unusual," he said.

But nationally, it's not rare for an autistic students to get arrested.

"It's not an isolated incident," said Lydia Brown, who works with the Autistic Self Advocacy Network in Washington, D.C. "It's not uncommon."

In Livonia, Mich. last May, 11-year-old autistic student Victor Sleta was arrested after he bolted from school. In Hamilton, Ala., in October, nonverbal autistic student Emily Holcomb, 14, was charged with first-degree felony assault after allegedly hitting and pushing her special education teacher.

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While school district employees have the right to file charges against a student, advocates like Brown — who is autistic — say the legal system is not the proper way to punish students with autism.

She said students and teachers should be taught ways to cope when outbursts happen.

"When charges are pressed on autistic students in school, I believe it's almost always wrong," Brown said. "In the vast majority of these cases, an autistic student is provoked by somebody. As an autistic person, when people touch me unexpectedly, my reaction is to hit them."

She said when an autistic person lashes out or has a tantrum, it's usually not maliciously.

"If school officials and resource officers knew that this is something very common in autistic people, they'd know it would be wrong to take it to the criminal justice system," she said

Bill Vincent, spokesman for the Escambia Education Association, said he gets frequent phone calls from teachers who regularly deal with violent behavior from students.

Vincent, a former teacher, said teachers' rights in these situations are sometimes put aside.

"When I was young, I got hit by a student and ended up going to the emergency room," Vincent said. "I chose not to file charges because I thought I'd let the school deal with it. In my later years, if the same thing had happened to me, I might have filed charges."

Crossing the line

Teri Szafran, director of exceptional student education in Escambia County, said speech therapists are certified to work with special-needs children.

There are nearly 7,000 children with disabilities — ranging from mild to severe — out of the 40,400 students in the School District, she said.

In Escambia, disabled children are placed in regular classrooms as much as possible, depending on the severity of their disabilities, Szafran said. This is referred to as "inclusion."

Some attend regular class full time and others attend with an aide. Students with more-severe disabilities spend most of the school day in an ESE classroom, but might attend classes like art or music in a regular classroom.

"We don't want to (put) students in an environment that's so restricted it's not within a typical school setting," Szafran said.

Conner was not in an inclusion situation when he hit Roupe with the headphones, Szafran said.

Szafran said training opportunities are frequently offered to teachers who want to learn more about working with children with special needs.

Schools Superintendent Malcolm Thomas said it is a rare occurrence for an employee to press charges on a special-needs student.

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Thomas knows what it is like to teach students with special needs and the challenges that come with it — he began his career as an ESE teacher at Tate High School.

"There's a level to which you can tolerate," he said. "There's also a line. You have to know the child. Sometimes, you can plan and have it all figured out and something unexpected occurs. That is the nature of special education."

#### BREAKOUT BOX

##### Helpful terms

- » Autism: A developmental disorder that affects the brain's normal development of social and communication skills.
- » Asperger syndrome: Often considered a high-functioning form of autism. People with this syndrome have trouble interacting socially, repeat behaviors and often are clumsy. It differs from other autism spectrum disorders because linguistic and cognitive development are not affected.
- » Mainstreaming/Inclusion: Including special-needs children in general education classrooms.
- » ESE: Stands for "exceptional student education." In Escambia County, students with disabilities fall under ESE, as well as students considered to be gifted.

#### PULL QUOTE

"Sometimes, you can plan and have it all figured out and something unexpected occurs. That is the nature of special education."

Malcolm Thomas

Escambia County schools superintendent

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