

# ACLU files lawsuit over handcuffing of Kentucky school children

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On August 3, the American Civil Liberties Union filed a federal lawsuit against the Kenton County, Kentucky Sheriff's Office for handcuffing two elementary school children. The children both have learning and behavioral disabilities.

Kenton County Sheriff's Deputy Kevin Sumner, listed as a defendant in the lawsuit, works as a school resource officer at Latonia Elementary School in the Covington Independent Public Schools District. Covington is a city in northern Kentucky, just south of Cincinnati, Ohio.

In a cell phone video obtained by the ACLU, Sumner is seen talking to an eight-year-old boy, who is handcuffed, seated in a plastic chair. The small child is handcuffed not around the wrists, but above his elbows around his biceps. He is sobbing and pleading with Sumner as the police officer demands his compliance.

The boy stood about three-and-a-half feet tall and weighed 52 pounds at the time of the video in November 2014. The release of the video has generated outrage by viewers around the world, but what it documents is hardly an isolated incident in American public schools, which are overcrowded, underfunded and understaffed.

The spread of police state measures over the past few years extends into the public schools, creating an environment not of nurture but of fear. Behavioral and emotional problems present in large numbers of American children—intimately associated with poverty, malnutrition, and insecure housing and parental unemployment—are met with disciplinary and legal repression.

The boy is referred to by the initials S.R. in the ACLU lawsuit. S.R. has disabilities including attention deficit hyperactive disorder (ADHD) and post-traumatic stress disorder (PTSD). Because of his

disorders, he has difficulty staying focused, controlling behavior or following instructions.

According to the ACLU complaint, on November 3, 2014, S.R. was removed from the classroom and sent to the vice principal's office after he "experienced disability-related difficulties complying with directives." In the vice principal's office, S.R. tried to leave the room, saying he had to use the bathroom. He was physically restrained twice by the vice principal and a special education teacher. After speaking to his mother on the phone, he calmed down. He was permitted to use the bathroom, and Sumner accompanied him there.

According to a school report by Sumner, when they returned from the bathroom, the boy attempted to hit him with his elbow, which Sumner blocked with his hand. "You don't get to swing at me like that," the cop can be heard saying in the video as the child cries. "You can do what we've asked you to, or you can suffer the consequences."

Between sobs, S.R. can be heard saying, "My arm! Oh God. Ow, that hurts!"

Sumner can be seen pushing on the chain of the handcuffs to force the child into the chair, saying, "Now sit down like I asked you to." S.R. responds with a pained "please!"

"If you want the handcuffs off, you're going to have to behave and ask me nicely," Sumner says. "And if you're behaving, I'll take them off, but as long as you're acting up, you're not going to get them off."

The handcuffs were removed after about 15 minutes, according to school records. Just before the end of the video segment, a school official can be heard saying, "Stop the video."

The boy's mother issued a statement explaining the emotional trauma he suffered. "It is heartbreaking to

watch my little boy suffer because of this experience,” she said. “It’s hard for him to sleep. He has anxiety, and he is scared of seeing the officer in the school. School should be a safe place for children. It should be a place they look forward to going to. Instead, this has turned into a continuing nightmare for my son.”

Although there is no video documentation of the other incidents described in the ACLU complaint, the details are just as disturbing. A girl, referred to as L.G., weighed only 56 pounds and was also diagnosed with ADHD. According to the ACLU, on August 21, 2014, Sumner took her from the in-school suspension room and put her in the back of his police cruiser. He took L.G. to her home, where they waited for more than an hour.

On October 3, L.G. was taken to an isolation room in the school, then handcuffed behind her back around her biceps. She was kept this way for twenty minutes, according to Sumner’s “investigation report.” As a result, the ACLU states, the girl “experienced a severe mental health crisis. She cried and struggled physically against the handcuffs. Defendant Sumner contacted a medical crisis team.” The girl was taken by ambulance to the hospital for psychiatric treatment.

On October 23, Sumner handcuffed the girl again. “On that day,” the ACLU states, “in the morning prior to the start of the school day, L.G. was walking on the stairs and through the hallways when she was supposed to be in the cafeteria. The Principal encouraged L.G. to go to the cafeteria, and L.G. proceeded in that direction.” With the principal looking on, L.G. stood outside the cafeteria as Sumner approached her and ordered her to go inside.

“This encounter triggered L.G., who was still traumatized by her prior encounters with Defendant Sumner,” the ACLU complaint details. When the girl tried to run from him, Sumner and the principal restrained her and put her in handcuffs, again placed above the elbows around her biceps. She was left on the floor for half an hour. When her mother arrived, the ACLU states, Sumner was “holding L.G.’s hands over her head while handcuffed in a shoulder hyperextension position.”

“On no occasion was there an imminent danger of physical harm to the child or to anyone else that required Defendant Sumner to handcuff the child behind the back above the elbow,” the ACLU

complaint states. The children suffered fear, pain, emotional trauma, and “an exacerbation of their disabilities.” The ACLU adds, “The only basis for the handcuffing was Defendant Sumner’s desire for compliance.”

Both children are supposed to be protected by the Individuals with Disabilities Act (IDEA). Disorders like ADHD are common among public school children, especially in poorer areas. The US Department of Education classifies 12 percent of the student population nationwide as children protected by IDEA; at Latonia Elementary School, 20 percent of the students have IDEA disabilities. According to the most recently available federal data, the IDEA protected children account for 75 percent of the students who are physically restrained by adults in their schools.

Both Sumner and the Kenton County Sheriff’s Office acknowledge the handcuffing of both children. Kenton County Charles Korzenborn, who is also named as a plaintiff in the lawsuit, has defended the practice as necessary to protect the safety of the staff. In a statement to the British *Guardian* newspaper, Korzenborn said Sumner handcuffed the children “after school administrators’ efforts to de-escalate and defuse a threat to others had proven unsuccessful.”

Korzenborn maintained that Sumner had done nothing wrong. He did “what he is sworn to do and in conformity with all constitutional and law enforcement standards.” He added, “I steadfastly stand behind deputy Sumner who responded to the school’s request for help. Deputy Sumner is a highly respected and skilled law enforcement deputy, and is an asset to the community he serves.”

Sumner’s attorney, Robert Sanders, told the *Lexington Herald-Leader* that the cop had no choice but to use force because the children “were placing themselves and other people in danger of harm, and that’s what the book says to do.”

“Kevin Sumner is one of the best and most highly trained school resource officers in Kentucky,” Sanders added.



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