

Ending the School-to-Prison Pipeline

“In these days, it is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunities of an education. Such an opportunity, where the state has undertaken to provide it, is a right that must be made available on equal terms.”¹

– Chief Justice Earl Warren, *Brown v. Board of Education* (1954)

The *Washington Post* featured an article in April 2017 about Luanne Haygood and her ten-year-old son John who has autism.² Haygood took John to school for standardized testing in 2016, and John spent the following night behind bars in a juvenile detention facility. John had a history of being disruptive at school and had kicked and scratched an educational assistant, resulting in an arrest warrant for battery (a third-degree felony). John and his mother (who drove him in for the testing) had no idea the warrant existed. Two school resource officers handcuffed the struggling ten-year-old while his mother filmed the arrest. John can be heard in the video telling the officers that he: “didn’t like being touched,” and yelling to his mother, “I don’t know what’s going on, Mama!”

Disabled students are the most disciplined in states across the country. A Virginia report found that black students with disabilities were nearly thirteen times as likely as nondisabled white students to be punished with short-term suspensions in the 2014–2015 school year.³ A study on California schools found that “suspensions of African American students occur at rates three to four times higher than the state average for all students.” According to that data in 17.8 percent of African American

¹ *Brown v. Board of Education of Topeka*, 347 U.S. 483 (1954)

² Lindsey Bever. “I Don’t Like to Be Touched’: Video Shows 10-Year-Old Autistic Boy Getting Arrested at School.” *The Washington Post*. April 21, 2017. Accessed August 01, 2017. www.washingtonpost.com/news/education/wp/2017/04/19/i-dont-like-to-be-touched-video-shows-10-year-old-autistic-boy-getting-arrested-at-school/?tid=a_inl&utm_term=.9fb41b2de461.

³ Tom Loveless. “Racial Disparities in School Suspensions.” *Brookings*. March 27, 2017. Accessed August 01, 2017. www.brookings.edu/blog/brown-center-chalkboard/2017/03/24/racial-disparities-in-school-suspensions/.

students were suspended out of every 100 enrolled, while white and Asian students were suspended at less than 5 percent.

John's story is also an example of the extremes of educational discipline. Police involvement takes precedence over parents and educators. This represents a major encroachment of criminal justice and in the lives of young students across the country. The embedded structure of this encroachment is horrifying in its scope and entrenchment in vast regions around the nation. The field of education has developed a symbiotic relationship with the law enforcement apparatus, and entire communities are being destroyed. The citizens of this country must engage in a targeted effort across the states to rescue education. The lives of children are being hijacked through no fault of their own, and the current system makes itself even worse without specific modernizations. The scope of the problem requires direct and sustained action in every state. We will not make criminal justice progress without taking a serious look at the state of our public schools in disadvantaged neighborhoods.

NATIONWIDE SCHOOL-TO-PRISON DATA

Across the United States, a major trend has emerged from emphasis on school safety and juvenile crime. In an effort to end much of the problems with youth misbehavior in schools there has been a convergence between criminal justice system and education. This convergence is often depicted as a school-to-prison pipeline, a metaphor the American Bar Association (ABA) and other academic sources use to describe the current issues in our education system that cause many students to leave school and enter the criminal justice system.⁴ There is a direct link between school discipline and the juvenile and adult justice system, many times because of the increased use of "zero tolerance" policies.⁵ One report claims that these policies have "had no measureable impact on school safety, but have racially disproportionate effects, increase suspensions and expulsions, elevate the dropout rate, and raise multiple legal issues of due process."⁶ The problem is an urgent one. An entire generation of youth, mainly minorities, are losing their lives and becoming a national liability, entering a cycle which leads to prison from these school discipline policies.

⁴ Sarah E. Redfield, and Jason P. Nance. "School-to-Prison Pipeline Preliminary Report." Report. February 2016. www.americanbar.org/content/dam/aba/administrative/diversity_pipeline/stp_preliminary_report_final.authcheckdam.pdf, 11.

⁵ Nancy A. Heitzeg, "Criminalizing Education: Zero Tolerance Policies, Police in the Hallways, and the School to Prison Pipeline." St Catherine University. Accessed August 17, 2016. www.hamline.edu/uploadedFiles/Hamline_WWW/HSE/Documents/criminalizing-education-zero-tolerance-police.pdf.

⁶ Heitzeg, "Criminalizing Education."

Discipline policies utilize become criminal law methods for dealing with troublesome children and teenagers. The inculcation of criminal justice methods instantly impresses these young people who are at the height of their emotional and societal identity development. While children of the middle class enjoy a carefree, inquisitively creative childhood, millions of poor minority students are being exposed to procedures that groom them to be prisoners. Rather than utilize decades of research on discipline, teachers subjectively apply zero tolerance policies toward children and leverage police to enforce discipline. When professional law enforcement is in charge of discipline at schools, common and minor social outbursts create instantly criminal and legal problems. Fighting in the lunchroom becomes a misdemeanor and trip to jail instead of a trip to the principal's office and detention. The NAACP observed that:

In the last decade, the punitive and overzealous tools and approaches of the modern criminal justice system have seeped into our schools, serving to remove children from mainstream educational environments and funnel them onto a one-way path toward prison . . . The School-to-Prison Pipeline is one of the most urgent challenges in education today.⁷

The erosion of family structure in poor communities has placed an impossible burden on the educational apparatus in the United States. Schools were not designed to raise children. Emotionally and economically disadvantaged communities have schools where the majority of the young people live troubled lives because of who they were born to. Many troubled children are harder to teach and less disciplined during the eight hours of the school day. School's delegate discipline to law enforcement. Many officers do not have training in how to discipline children, which often escalates confrontation. Law enforcement officers in school treat children as adults, when in fact they are still developing.

Children who are arrested in school are more likely to repeat offenses, be subject to suspension or expulsion, and have a lower likelihood of graduating high school. Once a student is arrested their peers and teachers view and treat them differently. If a student who has been arrested is not kicked out, many drop out because of the social stigma. These young people are treated as criminals, when in a different social class the same behavior would be characterized and responded to as a normal misbehaving teen. Criminal labels on young people in education settings permanently attach themselves to a child's self-identity, and social perception from teachers, staff, and fellow students.⁸ Many things considered youthful folly in middle-class communities land young men and women in handcuffs in the hallways in poor communities. These events are leading indicators of future criminal activity for these scarred children. A food fight or speaking out in class leads to a serious

⁷ Ibid.

⁸ Braithwaite, John. "Shame and Criminal Justice." *Canadian Journal of Criminology* 42, no. 3 (2000): 281–98.

criminal offense as if the child were an adult offender. The stigma and practical liabilities of being labeled a criminal as a youth, or spending time in jail or a juvenile detention center, has lifelong effects. Inner-city schools have been incarceration incubators of teens and young adults.

The pipeline pushes students, mostly African American out of schools at younger ages fueling urban areas as hotbeds of overcriminalization. Record high incarceration rates mirror all-time high school suspension and expulsion rates. Both urban and rural schools are segregated by race and class. One Department of Education review was forced to examine if, “black students are provided an equal opportunity to access and participate in advanced and higher-level learning opportunities.”⁹ While this task sounds outdated, it pinpoints gaps where there has not been meaningful modernization of school systems through the adoption of best practices for these vulnerable populations.

Grouping of races can indicate academic rigor: “You can . . . look in a classroom and know whether it’s an upper level class or a lower level class based on the racial composition of the classroom.”¹⁰ White middle-class students most often are the majority in the highest performing public schools. The more academically rigorous classes are, the less likely there are to be minority students. The problem is made worse by subjective discrimination; as the same article pointed out, African American students who qualify do not receive the teacher recommendations for higher level courses at the same rate their white classmates do.¹¹

Distinctions are not significant just because of class, race is a major variable. In many cases middle-class black students are tracked into lower level courses. One example cited is South Orange Maplewood district, a commutable distance to New York City and a relatively well educated middle-class population, but almost one-fourth of the school qualifies for free or reduced lunches. The total high school population is 38 percent black and 49 percent white, but the white students were much more likely to be placed in honors or advanced classes. In eighth grade at South Orange Maplewood, the class demographic was 44.1 percent white and 47 percent black, but the upper level math course for the grade was 73.2 percent white and 11.6 percent black.¹² In another school district discussed in the article was made up of 38.4 percent white students who were taking almost 70 percent of spots in advanced placement classes.¹³

⁹ www.ed.gov/news/press-releases/us-department-education-announces-resolution-south-orange-maplewood-nj-school-di.

¹⁰ Kohli, Somali. “Modern-Day Segregation in Public Schools.” *The Atlantic*. November 18, 2014. Accessed August 19, 2016. www.theatlantic.com/education/archive/2014/11/modern-day-segregation-in-public-schools/382846/.

¹¹ Kohli, “Modern-Day Segregation.”

¹² *Ibid.*

¹³ *Ibid.*

This class segregation, with racial expressions, supplies the pipeline most in places where the schools or school districts are becoming more segregated as a whole according to class as well as race. The segregation of neighborhoods is an important topic as it involves specific policing and the cycle of prison, but the schools in neighborhoods that have high minority populations, specifically high African American populations, are the most active production centers for the pipeline. The schools that have the wealthiest parents often see less arrests and punishment with suspension and expulsion. Parents are perceived as active at home, so school administrators feel the problem can be solved without involving law enforcement. One consultant in New York City said, "It's a fact of urban life that parents with means will go to great lengths to get their children into the best possible programs."¹⁴

Higher income parents have the means and influence to make sure their children avoid the problems that the poorest students fall victim to, including higher income parents of children of color.¹⁵ The influence of parents plays an important role in the advancement of the child through school. For wealthier families, especially white families in suburban schools, the influence they have over the school's treatment and placement of their children is important, and cannot be ignored. When class placement and educational tracks and opportunities for students are decided subjectively by biased and jaded teachers the child is instantly and unfairly limited in their development.

DISPROPORTIONATE SCHOOL DISCIPLINE AND ITS LASTING EFFECTS

School policing and arrests is one of the most nuanced complexities of overcriminalization. Issues surrounding school discipline and policing attract great media attention and most aggressive policy solutions, yet there is little significant change. New York City Mayor Bill de Blasio announced a ban on suspensions for students in kindergarten through second grade.¹⁶ While Mayor de Blasio's intentions are a step in the right direction, the policy is no solution to a problem broad in scope that plagues urban schools. Mayor de Blasio's proposal will slow the suspension numbers in elementary school in New York City. They will not, however, address the reasons why school districts in the city are suspending kindergarteners in the first place. Solutions for an issue of this scope across the United States need to be more

¹⁴ Ibid.

¹⁵ It is important to keep in mind that higher-income African American families tend to not experience the education outcomes with respect to the criminal justice system in the way that disadvantaged African American families do. See Forman, James, Jr. "Racial Critiques of Mass Incarceration: Beyond the New Jim Crow." *New York University Law Review* 87, no. 1 (2012): 21–69.

¹⁶ Rebecca Klein, "Keep Black Kids in School and Out of Jail." July 7, 2016. www.huffingtonpost.com/entry/new-york-city-suspensions_us_57978f5ae4b02d5d5ed2foe8.

substantial than blanket bans or policy changes, but must question the methods for discipline, the reasons for discipline, and the authority of those who decide who to discipline. For the pipeline to be effectively slowed and stopped, the solutions must address the problem. Before any solutions can be considered we must treat children as fully human.

A 2014 study by the Department of Education's Office for Civil Rights compiled much of the current research on the issue.¹⁷ The study found that black students were suspended and expelled at three times the rate of white students: 5 percent of white students were suspended compared to 16 percent of black students.¹⁸ Boys are suspended at higher rates than girls across the board, but black girls are suspended at the highest rates among girls (12 percent), even higher than white boys.¹⁹ Girls in other minority groups (Native American or Native Alaskan communities specifically) are suspended more than white boys. A student with a disability is twice as likely to be suspended as a student without any disabilities. If you combine the two demographics (students with disabilities and minority status) the compounding numbers grow higher.

As it directly relates to the pipeline, students with disabilities represent a quarter of students referred to law enforcement or arrested at school, while they represent only 12 percent of students as a whole. These facts are not just isolated in one area of the country. Only three states (New York, New Jersey, and North Dakota) reported male suspension rates for every racial/ethnic group lower than the national average

The problems surrounding the school-to-prison pipeline and its involvement in the cycle of imprisonment often starts in middle and high school. The report shows the common beliefs that poor and minority students are most likely to be the victims of the school-to-prison pipeline and found various policies and practices that force youths out of school and into the criminal justice and juvenile justice system. Black and Latino youths are the most at risk of being caught in the pipeline, and these policies create a cycle of prison that also heavily affects poor student. Many arrested youths do not finish their education and as a result remain among the poor for much of their lives.

Also highlighted by the report are the debts incurred upon release from prison that keep the poorest prisoners poor. In 1991, 25 percent of inmates owed some sort of court-imposed fee or fine after release. By 2004 the number of inmates that owed money toward these fees and fines increased to 66 percent. Today, the report estimated that 80–85 percent of prisoners leave prison with this debt.²⁰ These fines and being imprisoned can make you poor even if you are in the minority of prisoners that were not poor before prison. Between the costs of arrest and trial and the

¹⁷ "Civil Rights Data Collection Data Snapshot: School Discipline," Report. March 1, 2014. www2.ed.gov/about/offices/list/ocr/docs/crdc-discipline-snapshot.pdf.

¹⁸ "School Discipline."

¹⁹ *Ibid.*

²⁰ *Ibid.*

struggle to find a job post-imprisonment, many former prisoners become impoverished because of their arrest or time in prison. The report found that those who are arrested and not convicted may still face the time consuming and costly task of clearing their criminal record before they can find employment. Other policies the report cites include the discriminatory use of Civil Asset Forfeiture Laws, and the criminalization of homelessness. Both have obvious implications for the poor, and many of the victims of discrimination in these cases have suffered from the other problems as well. They are often former prisoners and victims of the school-to-prison pipeline.

For many it all begins with the school-to-prison pipeline, and with the high likelihood of poor and minority students to be caught in this pipeline they have increased chances of being poor for the rest of their lives. Without better school discipline, stronger family structures, and economic sustainability the poorest communities and minority populations are going to continue to be victims of these vicious cycles of prison and poverty. If we provide the right environment for children to thrive, and if parents take initiative in disciplining their children instead of relying on state employees – teachers, social workers, law enforcement officers, and the like – the cycle of imprisonment and poverty can be stifled early and permanently. Policy changes can only do so much. The change has to come at the most basic level – the family – for the pipelines and cycles to be broken. Civil-society institutions are a necessary partner in creating, establishing, and maintaining environments where children and families thrive.

The ABA found in an extensive report on the school-to-prison pipeline found that teachers view minority students view as “less intelligent and less capable of obtaining promising career prospects.”²¹ The discretion of these teachers directly places vulnerable students at a greater disadvantage to not succeed in school and begin the path to prison. Labeling and discrimination enable teachers and administrators to treat some students as if their prospect for education and career success is not worth the required investment of time and effort.

Those who are imprisoned in their teens have a higher likelihood of spending time in prison at some point in their lives. The Kirwan Institute at Ohio State University published an article titled, “The Devastating, Long-Lasting Costs of Juvenile Incarceration,” which examined how incarceration actually affects students during and after school.²²

The increased policing of schools is partially to blame with a 30 percent increase in school resource officers over the past twenty years, making school arrests more and more common. A twelve-month stay in a juvenile detention center costs

²¹ Redfield, Nance, “School-to-Prison Pipeline,” 19.

²² Danya Contractor. “The Devastating, Long-Lasting Costs of Juvenile Incarceration.” Technical paper. Ohio State University. February 2014. <http://kirwaninstitute.osu.edu/wp-content/uploads/2014/05/ki-implicit-bias-discipline-dc.pdf>.

\$148,000 a year, while the average cost to educate the same student for a year in public school is only \$10,259. The article puts that number in perspective by naming Harvard's tuition cost at \$59,959, almost \$30,000 less than a year in juvenile detention.

The punishment they receive by way of juvenile detention not only costs taxpayers dearly but also harms their future. Many cannot get jobs or continue their education with criminal records. This leads to high recidivism: 70 to 80 percent of students will be rearrested within two to three years of release. Only 12 percent are incarcerated for violent crimes while the majority are punished for minor offenses. The youth lose social opportunities, experiencing only the debilitating psychological trauma that accompanies incarceration by youth.

While the current debate surrounding overcriminalization and juvenile incarceration is often centered around the male prison population, the debate increasingly forgets to highlight the problems that girls face when caught in the pipeline to juvenile incarceration, which often includes a pattern of sexual abuse. A 2015 report published by Georgetown Law's Center on Poverty and Inequality found that girls in juvenile detention have a high likelihood of being sexual and physical abuse victims.²³ The report summarizes new data on what they call the "abuse to prison pipeline" present in the female juvenile justice system.²⁴ The report found that there is systemic criminalization of victimized girls, often disproportionately girls from minority populations.

The report highlights the fact that sexual violence against girls is a modern American tragedy, and this sexual abuse is a primary predictor today of a girl's entrance into a juvenile detention center. With juvenile detention and criminal behavior gaining media attention more each year, the sexual abuse pipeline that is a predictor for so many girls is often overlooked as a source for the school to prison pipeline. Girls that were victims of sex trafficking are often arrested on prostitution charges and put in detention centers to be punished instead of being helped to overcome the trauma of the youth sex trafficking industry. Minority girls are increasingly being incarcerated; African American girls make up 14 percent of the national population and 33 percent of girls detained and committed. Native American, African American, and Hispanic girls have the highest likelihood of being incarcerated among young women. One study found that 93 percent of girls in Oregon's juvenile detention centers had experienced some type of abuse; 76 percent had been abused by the age of 13. According the Georgetown report, a California study in 1998 found that 81 percent of incarcerated girls had been physically or sexually abused.

²³ Saada Saar, Rebecca Epstein, Lindsay Rosenthal, and Yasmin Vafa. "The Sexual Abuse to Prison Pipeline: The Girls' Story." Report. Georgetown Law. Accessed August 28, 2016. http://rights4girls.org/wp-content/uploads/r4g/2015/02/2015_COP_sexual-abuse_layout_web-1.pdf.

²⁴ Saada Saar, Epstein, Rosenthal, Vafa, "The Sexual Abuse to Prison Pipeline," 5.

The juvenile justice system is woefully inadequate at providing the support and treatment these girls need, and it exacerbates the trauma because of the harsh conditions and procedures. The report found that the girls become stuck in a cycle: reaction from trauma lands them in detention centers, which leads to trauma from incarceration, then release, and then possible rearrest. Girls that are incarcerated at a young age have a higher chance of mental health problems (80 percent) than boys (67 percent).

The report sheds an important light on an issue that is often overlooked. The sexual trafficking industry and various other sexual and physical abuses have an enormously large influence on young girls' behavior in school. Acting out in school because of sexual abuse triggers the juvenile justice system getting involved by imprisoning victims without providing the needed support. Without finding ways to prevent both the initial abuse, and especially ways to end the common movement of abused girls being placed into the justice system, this will become a lifelong cycle for many girls who have suffered so much before adulthood. For girls stuck in the abuse to prison pipeline and cycle, the same type of factors compound in their lives and leave them without the support of parents, family, teachers, and friends that are required for a stable childhood and success in adulthood.

DISCIPLINARY PROCEDURES

The biggest cause of the school-to-prison pipeline is discipline policies and procedures that lead to the rising number of suspensions and expulsions that involve law enforcement. Zero tolerance policies are used in a subjective, discriminatory, and overly punitive fashion. These policies remove children from school through suspension or expulsion and lead them down the path that ends, for an increasing amount of students, in the juvenile justice system. Zero tolerance policy has no specific definition, but was appropriately described by the ABA as a:

term [that] became widely adopted in schools in the early 1990s as a philosophy or policy that mandates the application of predetermined consequences, most often severe and punitive in nature, that are intended to be applied regardless of the gravity of behavior, mitigating circumstances, or situational context.²⁵

The policies do not just affect high school students but are often applied in pre-school and elementary classes. For many students, adults who should be helping children grow and develop are using inappropriate discipline policies by removing them from the classroom. Classroom violations of disciplinary policy are in fact for minor disciplinary infractions. The ABA report found:

²⁵ "Are Zero Tolerance Policies Effective in the Schools?" Report. December 2008. www.apa.org/pubs/info/reports/zero-tolerance.pdf.

As with referrals to law enforcement and school-based arrests, data also indicate that the majority of these suspensions and expulsions resulted from only trivial infractions of school rules or offenses, not from offenses that endangered the physical well-being of other students.²⁶

Instead of teachers doing their job as it relates to understanding and communicating effectively with students, police officers and school resource officers are utilized as enforcers of the strict discipline policies.

The enforcement of zero tolerance policies are often not uniform across public schools, and the data points to these policies as being a leading cause for the increases in school arrests and the school-to-prison pipeline. One paper found that schools often “adopted zero-tolerance policies for a variety of behavioral issues largely directed toward weapons, alcohol/drugs, threatening behavior, and fighting on school premises, and as the name implies, indicate zero-tolerance for any infractions.”²⁷ The same problems exist at white majority suburban schools, but increased police presence “have been most readily adopted and enforced in urban schools with low student to teacher ratios, high percentages of students of color and lower test scores.”²⁸

These harsh discipline policies at schools across the nation are now regularly under scrutiny from the media. Former Secretary of Education John King has criticized the zero tolerance discipline policies of many charter schools across the country. He claimed that the complicated issues surrounding school discipline were being oversimplified into a binary process at many charter schools that led to a higher number of suspensions.²⁹ The problem exists across public, private, and charter schools; minor and first-time offenses are ending education for thousands of students every year. The main problem with out-of-school suspension exists in the overabundance of suspension for minor offenses such as “disruption” or “willful defiance.” These include other minor offenses such as failure to do homework or not paying attention. Suspension as a punishment for these common acts fails to improve student behavior and increases the likelihood of dropout and delinquency.

A 2014 report from The Civil Rights Project provided excellent examples of how countermeasures to zero tolerance discipline policies in California schools benefited many students and especially minority populations.³⁰ The report’s

²⁶ Redfield, Nance, “School-to-Prison Pipeline,” 14.

²⁷ Heitzeg, “Criminalizing Education,” 15.

²⁸ *Ibid.* As noted earlier, the challenge with this data is that it does not help us distinguish enough between advantaged and disadvantaged African Americans.

²⁹ Lauren Camera. “Education Secretary to Charter Schools: Rethink School Discipline.” *US News*. June 28, 2016. Accessed August 22, 2016. www.usnews.com/news/articles/2016-06-28/education-secretary-to-charter-schools-rethink-school-discipline.

³⁰ Daniel J. Losen, Tia E. Martinez, and Valerie Okelola. “Keeping California’s Kids in School: Fewer Students of Color Missing School for Minor Misbehavior.” Report. UCLA. Accessed August 22, 2016. <https://civilrightsproject.ucla.edu/resources/projects/center-for->

findings relied on information from the California Department of Education. The data shows that schools in California are narrowing the racial divide in school discipline and the reliance on out-of-school suspension. In the 2011–2012 and 2012–2013 school years there were decreases in the number of African and Native American students suspended.³¹ African American students had the largest decline in suspensions with three less per 100 students than in previous years.³² In California, 500 school districts reported decreased out-of-school suspension rates while only 245 districts reported increases.³³ One example cited in the report is Baltimore City where decreased suspension rates actually led to increased graduation rates in the district.³⁴ This example confirms what many experts believe is a direct connection between high suspension rates and low graduation rates.

The results toward racial equality in school discipline is encouraging in California but still requires significant work. Overall, the study found that out-of-school suspension rates out of every 100 students in Los Angeles dropped from 12.1 to 7.1 for Black students; 3.1 to 1.7 for Latino students; and 2.4 to 1.0 for White students.³⁵ While the racial gap in LA is one of the lowest in the state it still points to the problems inherent in the disciplinary process. With more research coming out each year about the connections between high school suspension, expulsion, delinquency, and the school-to-prison pipeline, these reforms are important steps to take in reducing discriminatory punishment and high numbers of minority youths in juvenile and adult detention centers.

Recent school shootings and violence have prompted many school districts to have law enforcement officers on school grounds to offer protection in emergencies. This practice has led to an increase of student arrests and referrals to law enforcement, a trend some experts are referred to as the “criminalization of school discipline.” A November 2015 study by Jason Nance brought to light some of the problems with this approach to safety, school discipline, and the surrounding policies.³⁶ The number of schools using law enforcement or school resource officers (SROs) as a means of discipline has increased from fewer than a hundred in the 1970s to over 19,000 by the early 2000s.³⁷ The authority of SROs includes enforcing rules like violent behavior or disturbing the peace. Some states have

civil-rights-remedies/school-to-prison-folder/summary-reports/keeping-californias-kids-in-school/WithChange.pdf.

³¹ Losen, Martinez, and Okelola, “Keeping California’s Kids in School.”

³² *Ibid.*

³³ *Ibid.*, 3.

³⁴ *Ibid.*

³⁵ *Ibid.*, 7.

³⁶ Jason P. Nance. “Students, Police, and the School-to-Prison Pipeline.” Technical paper. 2016.

Accessed August 31, 2016. http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2577333

³⁷ Nance, “Students, Police, and the School-to-Prison Pipeline,” 946.

even passed laws criminalizing disruption of school activities or talking back to teachers.³⁸ These laws do not just affect older high school students. In one example, a five-year-old student was arrested for throwing a temper tantrum during a math class, while in another instance a six-year-old girl throwing a tantrum was arrested and handcuffed around her biceps in order to be escorted out of the school.³⁹ An SRO in every public school would cost an estimated \$3.2 billion a year.⁴⁰ The study found that while the increases in police officers and SROs is to protect schools from increased juvenile crime and school violence, no data showed it improved school safety.

As officers in schools have increased, there is evidence that school-based referrals to law enforcement have increased. In the Philadelphia Public School District school arrests increased from 1,631 in the 1999–2000 academic year to 2,194 in 2002–2003.⁴¹ Similar to increased suspensions and expulsions, the increase in school arrests were in large part for minor offenses. These policies and actions feed the school to prison pipeline, and in doing so negatively affect minority students who are disproportionately hurt by the phenomenon.

Ultimately the study found that the increased rate of SROs present in schools increased the odds of students being referred to law enforcement, and especially increased the odds of students being referred for offenses that school administrators and teachers should have addressed using other discipline methods. While school safety is of utmost concern, criminal procedures in the classroom prevent the successful education of thousands of students per year and create new criminals. If this problem is not addressed, among the many others proposed here, the crisis in school discipline will still be one of the leading causes of the school-to-prison pipeline over the next decades.

The frequent use of suspension and expulsion for minor offenses has become so commonplace in many schools across the country that Rhode Island passed a law in 2016 aimed at making it harder for schools to suspend students for minor infractions.⁴² The law creates stricter guidelines for when students can be sent home from school in order to lower the number of suspensions. It is direct and aggressive actions such as this which are required to end the criminalization of the educational environment in poor, mostly minority communities. When schools lighten policies on discipline, criminality decreases in the juvenile population.

³⁸ *Ibid.*, 948.

³⁹ *Ibid.*, 946.

⁴⁰ *Ibid.*, 947.

⁴¹ *Ibid.*, 953.

⁴² “Raimondo Signs Law Limiting School Suspensions.” *Associated Press* WJAR. July 3, 2016. Accessed September 14, 2016. <http://turnto10.com/news/local/raimondo-signs-law-limiting-school-suspensions>.

HIGH SCHOOL DROPOUT RATES AND JUVENILE DELINQUENCY

An ABA report found that when students received any type of exclusionary discipline (suspension or expulsion) they were 23.5 percent more likely to drop out of school entirely.⁴³ Juvenile justice did not successfully rehabilitate students to the point where they were able to readjust and become successful high school students again. Instead, the policies often increased delinquency rates and increased a student's chance of being involved with juvenile justice in the future. Recidivism with juveniles works the same way as with adults: juveniles, especially young teens, are impressionable. Without positive discipline and adult figures in their lives, many will end up leaving the education system and never returning. This problem can lead to a lifetime of poverty and crime. One study cited by the Justice Policy Institute found that in Texas, "31 percent of students who were suspended or expelled repeated a grade."⁴⁴ The Texas study still found that "students who had been suspended or expelled were twice as likely to drop out compared to students with similar characteristics at similar schools who had not been suspended."⁴⁵ Students who struggle academically and are expelled or suspended have a much higher chance of giving up on their education.

The number of high school dropouts in the nation is growing and the problem is heavily weighted toward minority populations. In 2007, the 6.2 million high school dropouts were made up of a majority of men (60.1 percent) of which the largest percentages were Hispanic (18.8 percent) and black (30.1 percent).⁴⁶ With the problem slowly becoming one of race as well as socioeconomic status, reports like these are becoming more common. The subjective nature of many of the zero tolerance policies are leading the dropout crisis to become a crisis of race and poverty where the most vulnerable teens are pushed away from a chance at education. A growing portion of the population is made up of high school dropouts: 16 percent of persons between age 16 and 24 did not finish high school.⁴⁷

In many cases, the high rates of juvenile incarceration and dropouts are caused by these factors and are something that can be changed and reformed by communities that care about the vulnerable populations of students at schools. Schools need to make discipline policies that help build character in young men and women, encouraging them to overcome peer pressure and outside influences to finish their education. Without the proper support that young men and women could be

⁴³ Redfield, Nance, "School-to-Prison Pipeline," 23.

⁴⁴ Nelson, Libby, and Dara Lind. "The School to Prison Pipeline, Explained." Justice Policy Institute. February 24, 2014. Accessed October 17, 2016. www.justicepolicy.org/news/8775.

⁴⁵ Nelson, Lind, "The School to Prison Pipeline."

⁴⁶ "Left Behind in America: The Nation's Dropout Crisis." Report. May 5, 2009. Accessed May 11, 2016. <http://hdl.handle.net/2047/d20000598>, 2.

⁴⁷ "Left Behind in America," 2.

receiving in mentors and teachers they resort to other influences outside of school. For many teens, the dropout crisis leads them to the prison pipeline.

One promising project by local Rotary clubs was featured in a Memphis newspaper to help reduce juvenile delinquency.⁴⁸ The goal of the Rotary Club program was to reduce delinquency by 50 percent in their community. This would be a major accomplishment that a local juvenile court judge said could have a “big impact” on the adolescent population. The leaders of Rotary clubs in the area are meeting with law enforcement, city and county officials, and forming a nonprofit to raise money and awareness about juvenile delinquency. They realize that the dysfunction of homes and relationships is often the cause of delinquency, and providing mentorship and support is a step toward helping these young men and women away from these negative trajectories. One mentor of a 17-year-old offender said, “Relationships are what get children into trouble, and relationships are what will help them stay out of trouble.”⁴⁹ The research on this topic increasingly proves this statement true. A report released in January 2015 showed that often the relationships around youths can be the cause of delinquency and recidivism later in life.⁵⁰

The study found that juveniles aged sixteen to eighteen were most likely to commit crimes, and risk factors for delinquency include low educational attainment, low aspirations, and low attachment to school.⁵¹ Without education as a priority and motivation, it is easy for high school students to drift toward peer pressured crime. Socioeconomic status often played a large role in predicting future delinquency and was often cited by teens as a reason for the crimes they committed. One theory cited by the report claims that poverty makes it less likely for youths to be able to achieve goals valued by society by a legitimate means, making them more likely to turn to crime to achieve a status they could not before. An unstable economic background was found to be a significant predictor of youth crime rates.

Relationships are incredibly important to fixing the problems in delinquency. The report found that one of the largest reasons for juvenile crime was negative influences from peers. A lack of positive role models often pushed youth into negative relationships that encourage criminal behavior. Many of the respondents to the research reported spending a majority of their time with friends, many of

⁴⁸ David Waters. “Rotary Defeated Polio, Why Not Juvenile Crime?” July 6, 2016. Accessed October 14, 2016. <http://archive.commercialappeal.com/columnists/david-waters/rotary-defeated-polio-why-not-juvenile-crime-epidemic-36837aeb-f3ba-7199-e053-0100007f1685-385749751.html>.

⁴⁹ Waters, “Rotary Defeated Polio.”

⁵⁰ Muhammad, Nisar, Shakir Ullah, Madad Ali, and Sadiq Alam. “Juvenile Delinquency: The Influence of Family, Peer and Economic Factors on Juvenile Delinquents.” Report. January 20, 2015. <http://pscipub.com/Journals/Data/JList/ScientiaAgriculturae/2015/Volume9/Issue1/6.pdf>.

⁵¹ Muhammad, Ullah, Ali, Alam, “Juvenile Delinquency,” 41.

whom had a negative impact on their lives.⁵² Family structure has one of the largest influences on a child's likelihood of delinquency. Single parenthood, especially the absence of a father in the home, is a sure predictor of juvenile deviance and criminal activity. Without the positive influence of a parent teens often look to peers instead of other positive role models (like a teacher or mentor). Instead of relationships that encourage and build teens toward career and educational goals many turned to friendships that could have a negative influence on their development.

FAILED PROGRAMS: SCARED STRAIGHT, CURFEW LAWS

There have been several prominent programs over the past several decades that have failed to help deter youth from a life of crime. Two of the biggest attempts were Scared Straight programs and juvenile curfews. Scared Straight programs have been deemed unsuccessful from almost every outlet. These programs are part of a larger group of solutions sometimes called juvenile awareness programs. The programs are discouraged by the Department of Justice because of the risks and varied results the programs receive.⁵³ When the programs began in the 1970s their goal was to discourage youth crime by visits to prison, talks by prisoners or wardens, and other presentations meant to actually scare the misbehaving youths "straight."⁵⁴ In short they "are designed to deter participants from future offending by providing first-hand observations of prison life and interaction with adult inmates."⁵⁵ Various studies cited by the Justice Department found that in some cases recidivism actually went up among youths in the program.⁵⁶ Another said that crime increased 28 percent in the group receiving the "Scared Straight" treatment over the group that did not participate. One report given in 1997 to Congress actually listed it on the "does not work" category among crime prevention policies.

One of the studies concluded that the program was "likely to have a harmful effect and increase delinquency relative to doing nothing at all to the same youths."⁵⁷ The students who participated were usually not discouraged by the program, and some were actually harmed by the experiences. The original program in the 1970s boasted that it had a 94 percent success rate, or as a fraction of its focus group, sixteen out of seventeen students avoided crime. The goal of

⁵² *Ibid.*, 40.

⁵³ "Justice Department Discourages the Use of 'Scared Straight' Programs." Department of Justice. Accessed November 2, 2016. www.ncjrs.gov/html/ojjdp/news_at_glance/234084/topstory.html.

⁵⁴ Justice Department Discourages the Use of "Scared Straight"

⁵⁵ Anthony Petrosino, Carolyn Turpin-Petrosino, Meghan E. Hollis-Peel, and Julia G. Lavenberg. *Scared Straight and Other Juvenile Awareness Programs for Preventing Juvenile Delinquency: A Systematic Review*. Report.

⁵⁶ Justice Department Discourages the Use of "Scared Straight"

⁵⁷ Petrosino, Turpin-Petrosino, Hollis-Peel, Lavenberg, *Scared Straight*, 7.

the program is deterrence, and the hope is that the shocking images and experiences will be enough to turn at-risk students away from crime. Programs offer inmates a chance to teach students how not to follow their path and are inexpensive while following the modern narrative of the “get tough” mentality. Modern programs exist around the world, identifying at-risk students and providing them prison tours or showing videos on the subject. The biggest problem, according to this report, is the policy does not seem to follow the evidence. The report used research compiled with diverse groups of students over several decades and found that overall the programs actually increased recidivism and crime among the groups studied. The programs that use fear as awareness are not the solution for the school-to-prison pipeline. They oversimplify the issue without dealing with the causes or sources of the problem. Solutions have to be multifaceted and target discipline, family issues, and discrimination to treat the underlying problems.

Another failed program to fight these issues are juvenile curfews enacted to help reduce crime. The problems are abundant, but they are most often criticized for being paternalistic or even unconstitutional. One law journal article makes the case for both of these options.⁵⁸ The author argued that the foundation of the law is paternalism as a policy to fight juvenile crime, and an invasion of privacy.⁵⁹ In one court case, the argument was made that the rule of law exists to take care of those who do offend it, but that there laws created a sort of military law in the town. The legislation was for the protection of minors and the community, to protect the streets at night. The criticism of paternalism is obvious from this sort of language, but the goal seems logical, preventing crime by not allowing youths on the street. This type of curfew is a blanket curfew, a nonemergency law to prevent crime under normal circumstances. The curfew had limitations and allowances. If a minor had work, or was attending a civic event, they were perfectly allowed to do so. The problem that the author points out is that even with the curfew exceptions there are still limitations on an innocent minor’s movements at certain times. This, to the author, seems to be an unwarranted limitation on free movement that could not survive a constitutional challenge no matter how many exceptions were added. While the laws have a compelling upside, the possibility of reducing crime, they are considered by many to be a restriction of liberty. The journal article sums up the common problems with these one-policy fixes to juvenile crime: they do not help troubled youth, they fail to address underlying family problems, and they restrict liberty in the process. Criminalizing being a teenager from a disadvantaged community will never deter juvenile delinquency.

⁵⁸ Tona Trollinger, “The Juvenile Curfew: Unconstitutional Imprisonment.” *William & Mary Bill of Rights Journal* 4, no. 3 (1996). Accessed November 2, 2016. <http://scholarship.law.wm.edu/cgi/viewcontent.cgi?article=1478&context=wmborj>.

⁵⁹ Trollinger, “The Juvenile Curfew,” 949.

CONCLUSION

Solutions to the school-to-prison pipeline will need to address the issues and causes of how children end up in the pipeline in the first place. Because the relationship between education and offending, personalism points us to the fact that caring about education reform is a necessary part of ending overcriminalization and mass incarceration as we care about the whole person. Many of those problems and solutions fall far outside of the scope of government policy because children need affectional connection and reinforcement from adults who are committed to their thriving. Real relationship, in person, because children are persons who require particular attributes and skills in order to flourish and make contributions to the common good. Without a holistic approach to reform and support, the school system, and surrounding external factors, will continue to initiate and control the cycle of crime at a young age for many youths. The effects that will continue for generations start in education, and systematic discrimination is alive in too many classrooms. The solutions cannot be blanket policies but must come from the person up, across communities, beginning with how to compensate for lack of family support that send many youths toward a life in and out of prison. The pipeline must be permanently dismantled, not simply tampered with. To start, law enforcement officers do not belong inside of schools. What is also true is that many of the children who find themselves in the juvenile justice system experience collateral damage for the breakdowns in employment opportunities and family nurturing.