The School-to-Prison Pipeline:
What are the Problems?
What are the Solutions?

A Town Hall Forum
Friday, February 6, 2015
George R. Brown Convention Center – Room 341 A/D
Houston, Texas

Joint Sponsors:
ABA Coalition for Racial and Ethnic Justice
ABA Council for Racial and Ethnic Diversity in the Educational Pipeline:
ABA Criminal Justice Section

Supporters:
ABA Criminal Justice Section
A TOWN HALL FORUM

SCHOOL-TO-PRISON PIPELINE

Friday, February 6, 2015
George R. Brown Convention Center
Room 342 A/D (Level 3)
Houston, TX

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- The Texas School-to-Prison Pipeline Fact Sheet, Texas Appleseed (Submitted by Mary Mergler)
- “Executive Summary: The School Discipline Consensus Report”, by the Justice Center at the Council of State Governments (Submitted by Mary Mergler)
- “Breaking Schools’ Rules”, by the Justice Center at the Council of State Governments and the Public Policy Research Institute (Submitted by Trey Marchbanks)
- J Caucus Page from Congressman Tony Cardenas (Submitted by Cynthia Mares)
February, 2015

Dear Colleague:

Welcome to Houston and the American Bar Association Town Hall Forum on the School-to-Prison Pipeline: What are the Problems? What are the Solutions? Your participation in this dynamic and interactive Forum is essential to the success of this significant project.

The American Bar Association Coalition on Racial and Ethnic Justice, the Council for Racial and Ethnic Diversity in the Educational Pipeline and the Criminal Justice Section bring voices and convening powers to the issue by hosting a series of Town Halls across the country. Town Halls have been held in Boston, Chicago and now Houston. Future Town Hall Forums are planned over the next year for Washington, D.C., Tempe, Arizona, New Orleans, LA., Omaha, NE and Seattle, WA.

The goal of the Town Halls individually and collectively is to bring together key individuals and organizations like you to recognize ongoing research, and to showcase local programmatic interventions. These Forums will particularly call for conversations about the role of implicit bias in the current disproportionalities and about the potential role for lawyers and law students in dismantling the school to prison exodus.

The Town Halls will offer a forum for presentations, discussion, networking, and resource sharing, as well as provide a critical opportunity for organizations who are interested in developing a collaborative plan of action.

The ABA Coalition on Racial and Ethnic Justice along with its partners, seek your assistance in identifying possible speakers, coordinating projects and programs, and developing partnerships with entities that are interested in addressing the solutions to the "School-to-Prison Pipeline."

Please contact our staff director, Rachel Patrick, Rachel.Patrick@americanbar.org if you are interested in hosting or participating in any of these Forums.
Sincerely,

Justice Michael B. Hyman  
Chairperson,  
Coalition on Racial and Ethnic Justice

Sarah Redfield  
Co-Chairperson,  
School-to-Prison Pipeline Committee

Wesley Sunu  
Co-Chairperson,  
School-to-Prison Pipeline Committee
ABA TOWN HALL FORUM  
SCHOOL-TO-PRISON PIPELINE  
Friday, February 6, 2015  
9 a.m. – 11 a.m.  
George R. Brown Convention Center  
Room 342 A/D (Level 3)  
Houston, TX

PROGRAM SCHEDULE

PART ONE: 9 a.m. – 10 a.m.

Justice Michael Hyman, Chairperson, Coalition on Racial and Ethnic Justice
- Welcome and Introductions

Professor Sarah Redfield, Co-Chairperson, School-to-Prison Pipeline Task Force
- Introductions: StPP Members and Staff
- Keynote Speaker - President Pamela J. Meanes, National Bar Association

Panelists Presentations
- Marilyn Armour, Associate Professor and Director, University of Texas Institute for Restorative Justice and Restorative Dialogue
- Miner “Trey” P. Marchbanks, Associate Research Scientist, Texas A&M University Public Policy Research Institute
- President Cynthia D. Mares, Hispanic National Bar Association
- WyKisha McKinney, Child Health Outreach Program Manager, Children’s Defense Fund Texas
- Mary Schmid Mergler, Director, School-to-Prison Pipeline Project, Texas Appleseed

PART TWO: 10 a.m. – 11:00 a.m.

Wesley Sunu, Co-Chairperson
1. Q & A of the Panelists - Professor Sarah Redfield and Wesley Sunu
2. Open Forum – Comments from the audience
3. Acknowledgement of the Supporters and Sponsors – Wesley Sunu

PART THREE: Wrap-up and Next Steps – Professor Sarah Redfield and Wesley Sunu

SPONSORS
ABA Coalition on Racial and Ethnic Justice
ABA Council for Racial and Ethnic Diversity in the Educational Pipeline
ABA Criminal Justice Section

SUPPORTERS
ABA Criminal Justice Section
A presidential Task Force on Minorities in the Justice system was created in 1992 in the aftermath of the Rodney King disturbances. Shortly thereafter, a report was issued with recommendations by the Task Force. In 1994 the Task Force was re-named the Council on Racial and Ethnic Justice (now the Coalition or COREJ). The Coalition was designed to implement the recommendations and develop partnerships among community groups, civil rights organizations, businesses, religious organizations, and bar associations for the purpose of eliminating racial and ethnic bias in the justice system. Its primary goal is to serve as a catalyst for eliminating racial and ethnic bias in the justice system with a focus on systemic change.

COREJ (1) assists with the development of educational programs; (2) provides public forums for dialogue between legal institutions and non legal groups; and (3) provides technical assistance and advice on how to implement specific programs, strategies, and partnerships that eliminate racial and ethnic bias.

Since its inception in 1992, COREJ has been on the cutting edge of social justice issues. It has focused on a number of substantive and diverse issues such as racial profiling, access to the justice system, overrepresentation of juveniles of color and “Teen Violence”, indigent defense, racial profiling and the war on terrorism, the impact of foreclosures on communities of color, voting disenfranchisement and the impact of technology, election protection, injustices and discrimination in Tulia, Texas, restoring justice and equity by providing strategies for disaster preparedness and response that reduce patterns of discrimination and unfairness in the delivery of disaster aid and services e.g. Katrina Project, and most recently, the impact of Stand Your Ground Laws on people of color.

RECENT PROGRAMS

- The School-to-Prison Pipeline: What are the Problems? What are the solutions? (Boston, MA, August, 2014)
- The School-to-Prison Pipeline: What are the Problems? What are the Solutions ? (Chicago, IL, February, 2014)
- National Stand Your Ground Task Force Public Hearing (Miami, FL, October 2013)
- National Stand Your Ground Task Force Public Hearing (San Francisco, CA, August 2013)
- National Stand Your Ground Task Force Public Hearing (Philadelphia, PA, June 2013)
- National Stand Your Ground Task Force Public Hearing (Chicago, IL, May 2013)
- National Stand Your Ground Task Force Public Hearing (Dallas, TX, February, 2013)
- Know Your Foreclosure Rights: There’s Hope (Tampa, FL, August 2012,
- Do or Die: Analysis of the Stand Your Ground Statutes (Chicago, IL, August 2012)
- Raising The Bar on Foreclosure Prevention Efforts – Implementing Pro Bono Programs To Help Michigan Homeowners, Hosted by Federal Reserve Bank of Chicago- Detroit Branch (Detroit, MI, October 2011)
- HELP! I Need A Housing LIFELINE! (Detroit, MI, October 2011)
- The War Against Foreclosures: Combating Foreclosures and Mortgage Crisis in Communities of Color (Baltimore, MD, July 2011)
- Combating Foreclosures and the Mortgage Crisis in Communities of Color (Atlanta, GA, February 2011)
SIGNIFICANT PROJECTS

- **The School-to-Prison Pipeline**
The “School-to-Prison Pipeline” has been a crucial concern of parents, educators, ministers, civil rights activists, lawyers and youth advocates for a number of years. Recently, it has become a major concern of the general public across our country due in large part to the spiraling statistics and the negative impact on children of color. Some advocates have defined the problem as a systematic way of syphoning children out of public schools and funneling them into the juvenile and criminal justice system. A number of civil rights lawyers regard the journey from “school-to-prison pipeline,” as a critical civil rights issue.

Town hall forums will bring together the experts who have developed programs and projects; advocates from diverse backgrounds who are working toward solutions to this devastating issue as well as those who have a plan of action to recommend to those who are concerned. These town hall forums will be open to parents, youth, lawyers, judges, educators, administrators, advocates, and the public.

- **National Stand Your Ground Task Force**
The Task Force will embark upon a comprehensive legal analysis of the impact of the Stand Your Ground statutes and the extent to which racial or ethnic bias impact the construction, application, and/or operation of Stand Your Ground laws.

The Task Force’s multidisciplinary study will be national in scope, incorporating criminological and social science methodology and perspectives to assess the utility and necessity of existing and proposed Stand Your Ground laws across the United States. The scope of the analysis the Task Force intends to undertake will encompass several areas that directly and indirectly impact the criminal justice system.

There are four integral components of the Task Force: (1) Four Public Hearings across the country; (2) Research and an Investigative Review of the Statutes; (3) Policies and Resolutions; and (4) Final Report.

- **Joint Project with the 10CORE Law Student Organization on Foreclosure**
The co-sponsored project is titled “Combating Foreclosures and Mortgage Crisis in Communities of Color.” This project is an outgrowth of the 10CORE Project, and it consists of a series of educational panels in key cities that have some of the highest foreclosure rates in the country, especially in communities of color.

The primary goals of the Foreclosure & Mortgage Crisis Program are to: (1) provide pro bono assistance to individuals and communities that are in the throes of the challenges of foreclosures and the mortgage crisis; (2) educate the legal community and communities of color regarding strategies and resources that are available to help save homes from foreclosure; and (3) train, educate and recruit law students and young lawyers to provide pro bono assistance to communities of color that have been plagued by foreclosures and the mortgage crisis.

- **Overrepresentation of Juveniles of Color in the Juvenile Justice System**
After an alarming number of national studies and reports revealed evidence that there is an overrepresentation of juveniles of color in the juvenile justice system and the justice system, the Coalition implemented a two-prong attack on the problems confronting juveniles of color. The first prong focuses on strategies that prevent young people of color from being trapped in the justice system; and the second prong focuses on strategies that divert young people of color and prevent their initial entrance into the juvenile justice system. A complete listing of juvenile justice programs sponsored by COREJ is available.
**Election Protection Project**

COREJ developed a partnership in conjunction with the Lawyers' Committee and five ABA sections, divisions and entities to remove barriers to the electoral process for citizens of color who sought to participate in the 2004 election. COREJ, along with the Section of Individual Rights & Responsibilities and the Election Law Committee renewed their partnerships for the 2008 Elections and broadened the scope of the Project.

The goals of the 2008 Election Protection Project were: (1) Safeguard voters’ rights before, during and after Election Day by giving voters the information and resources they needed to cast meaningful ballots; and (2) Provide a comprehensive support system for eligible voters across the country that included support for registration programs, developing voter education materials, and providing direct legal assistance to protect the rights of voters. A primary goal for COREJ was to train volunteer lawyers who worked with voters on a national and local level to monitor polling places, educate voters, facilitate dialogues with state and local election officials, provide legal support to poll monitors and help answer the Lawyers’ Committee Hotline.

The three primary ABA Partners for the Election Project developed a plan for recruiting volunteer lawyers and law students and the major activities began in June 2008. An Election Protection website was launched on the ABA website.

**Katrina Project**

The goal of the project was to educate, conduct outreach and coordinate resources and services across the country to assist those survivors that received disparate treatment in the midst and aftermath of Hurricane Katrina. These goals were accomplished by holding a national conference and three CLE programs, conducting outreach, and publishing a Report.

**NATIONAL CONFERENCES**

**Third National Conference – “Making the Invisible Visible: A Dialogue About Lessons Learned In the Aftermath of Katrina”**

*Conference Overview:* The Coalition brought together approximately 200 judges, lawyers and their clients, health care workers, social workers, doctors, psychiatrists, psychologists, high school, college and law students, community groups, religious organizations, public and private leaders, survivors, responders and others who have devoted time to assisting victims of Katrina. The primary goals of the Conference: (1) conduct a productive dialogue among the survivors, planners (commissioners), and the participants; (2) produce a Report which identifies the type of problems that might emerge due to race and ethnicity, how to avoid inequities based on race and ethnicity, and how to mitigate the problems; and (3) assist the survivors of Katrina with the rebuilding of their lives, restore justice and provide equity and respect to those victims that have been treated unjustly.

*Educational Programs:* Three successful panel presentations have been presented (1) ABA Midyear Meeting in Chicago, 2006 titled “Equity for Racial & Ethnic Survivors of Katrina;” (2) a jointly sponsored program with the National Bar Association as a Webcast Program “Hurricane Relief Seminar,” March, 2006 in Chicago; and (3) “Surviving Together; Healing Together” COREJ convened this special panel of experts in New Orleans to provide an in-depth status report of the communities that suffered disproportionately economically, legally, educationally and medically from Hurricane Katrina.

*Report:* The Final Report of the Conference contains specific recommendations from the speakers, participants and survivors. The Report titled “Making the Invisible Visible: A New Approach to Disaster Planning and Response,” contains an analysis of issues ranging from communications and language skills, to resource allocation, to pre-existing economic and social inequities. A number of
excellent recommendations were received from the Conference. The recommendations were included in the Report that was issued in August 2007

- **Second National Conference on the Impact of Race and Ethnicity on the Justice System**
  In March 2002, the Coalition held a highly successful conference in Baltimore. The conference was diverse, intergenerational, interactive and action-oriented. Recommendations from the Conference were used as blueprints for COREJ programs and projects. A report is available on the Conference.

- **First National Conference on the Impact of Race and Ethnicity on the Justice System**
  In Los Angeles, CA 1999, after holding two "think tank" meetings, COREJ convened an extraordinary conference. Two reports are available: *Report on the Impact of Race and Ethnicity on the Justice System* provides a brief overview; and the *Draft of the National Conference Proceedings with Recommendations*.

Several major follow-up projects were developed from the 1999 conference:

1. Enhancing Access to the Justice System through Technology: Would Technology Have Changed the Outcome of the Vote in Florida?
2. Data Collection Project on Color/Racial Profiling: The Tulia, Texas Project
3. Friends of the Council

Justice Michael B. Hyman, Chairperson  
Leigh-Ann Buchanan, Vice Chairperson  
Rachel Patrick, Director  
Rosemary Nash, Program Assistant  
Website: www.ambar.org/corej  
Email: corej@americanbar.org
SELECTED ACCOMPLISHMENTS

Established in 2000 by ABA President William Paul the Council for Racial and Ethnic Diversity in the Educational Pipeline (Pipeline Council) works to increase the number of diverse students who are on track to becoming lawyers and to raise awareness of the importance of the educational pipeline to the future of the legal profession by fostering new collaborations and pipeline interventions, and by highlighting successful pipeline programs. Well over a decade the term “pipeline” was associated with gas and oil. Now, through the outreach, programming and other educational efforts the legal community embrace the concept and understand the educational pipeline to mean the stream of young people being prepared – from birth, to bar passage – to enter the legal profession. Significantly, the Pipeline Council has increased our profession’s understanding of the critical impact of the educational pipeline on the diversity of the legal profession. Through programming and initiatives such as the ones listed below, the Pipeline Council works to encourage and achieve the strong, diverse, educational pipeline that is needed to ensure that the legal profession is as diverse as the country itself.

Judicial Clerkship Program
The 1998 genesis of Judicial Clerkship Program began from a controversy in which the NAACP and 18 others attempt to deliver resumes of minority law students to Chief Justice William Rehnquist. This event resulted in a study that found that minority representation in clerkship was general lower than in law schools populations, although this did vary somewhat by ethnic group. The key findings “this discrepancy did not result from a difference in the success of their applications, but rather a lower applicate rate of the minority students.” The ABA and the National Association of Legal Career Professionals commissioned the study. The program is held for three days in various sessions, and brings together minority law students from around the country with judges and former law clerks. Attendees participate in panel discussions, a research and writing exercise; experience an oral argument, and are provided numerous networking opportunities. These activities are designed to introduce and reinforce to the students the reasons and values of pursuing a judicial clerkship. Numerous students have obtained clerkships and internships as a result of their participation. The Program hosted diverse law students from law schools and from across the country. The Program is a joint effort of the Pipeline Council and the ABA Judicial Division with the generous support of LexisNexis.

The Judicial Clerkship continued its collaboration with the ABA Litigation Section’s Judicial Internship Opportunity Program, providing JCP students who met the JIOP criteria with opportunities to participate in the Section’s program and the Business Law Section, to support their internship program for students seeking clerkships. Also, the program includes a presentation by the Law Student Division and Young
Lawyer Division members, as a part of the Pipeline Council’s efforts to encourage membership in the ABA and to highlight the benefits and leadership opportunities available to ABA members.

**Stereotype Threat and Implicit Bias and Growth Mindset**
The Pipeline Council’s continues its efforts to educate on the impact of stereotype threat on students of color, and to develop tools and resources around the topic such as “Beyond Diversity: How Stereotype Threat and Implicit Bias Contribute to the Status Gap” which discussed the ways in which implicit bias and stereotype threat block access to professional education and career opportunities for women and racial, ethnic, sexual orientation, and religious minorities, which are often under-represented at each step of the educational and professional pipelines. Implicit bias can infiltrate the legal profession through the processes of partnership considerations, case assignments, guidance, and hiring. It can also infiltrate the tracking of future professionals from high school (and earlier) through law school. Stereotype threat – the experience of anxiety or concern in a situation where a person has the potential to confirm a negative stereotype about her social group – can affect both attorneys and students working to become attorneys. The Pipeline Council Focusing on Mindset: A Strategy for Promoting Educational Excellence and Achievement, featured in Diversity Voice (newsletter published by the ABA Center for Racial and Ethnic Diversity.) The article focused on the work of the Pipeline Council’s research related to theories and strategies that support educational excellence and achievement – Stereotype Threat and Growth Mindset.

**Alexander Award**
The Raymond Pace and Sadie Tanner Mossell Alexander Award established in 2009 is named in honor of Mr. and Mrs. Alexander, African American lawyers (and, for Raymond Pace, a judge) who were pioneers in diversifying the legal profession and who dedicated themselves to educational causes in addition to their legal careers. The award recognizes exemplary leadership in pipeline work by an individual or organization. It honors those demonstrating success working along the educational pipeline in a collaborative approach involving more than one segment of the continuum from K12 to high school to college to law school to the practice.

**Collaborations**
Central to the work of the Pipeline Council are collaborations with the bench, bar, legal educators, corporate legal departments, law firms, and other thought-leaders and stakeholders in other disciplines. The Pipeline Council works to spearhead pipeline diversity issues by increasing awareness of and supporting successful programs that help students of color overcome the financial, educational and cultural barriers to law school admission, graduation and admission to the bar. Collaborative efforts are a key to inspiring and empowering more students of color to pursue and successfully navigate the path to a legal career, and to promoting an understanding of the desirability and necessity of diversity in the profession that fosters public trust and confidence in the legal system and our democracy. Together, organizations focused on pipeline issues are able to connect and coordinate programs along the full extent of the pipeline.
A few 2013-14 highlights:

- Led coalition successfully opposing proposed revisions to law school accreditation standards that were anticipated to reduce the number of students of color admitted to law schools nationally. Repeatedly submitted comments addressing bar passage issues to the Standards Review Committee, ABA Section of Legal Education and Admissions to the Bar.
- Convened meeting of professors, deans and practicing lawyers to develop strategies for increased academic achievement and excellence for students of color in a post-affirmative action educational environment in higher education.
- Analyzed social science research related to academic achievement for students of color, focusing on unconscious bias, stereotype threat and growth mindset research.
- Determined most effective and appropriate use of social science research for high school and college students and created tool to bring benefits of social science research to students. Piloted tool at meeting with 200 high school students hosted by the National Organization of Black Law Enforcement Executives.
- Organized and moderated panel discussion related to strategies for managing unconscious bias in the workplace for the Commission.
- Developed tool for creating greater public awareness regarding the causes of higher attrition rates for students of color throughout the educational system, beginning with elementary education and ending with graduate school. Updated the tool and provided brief overview of the work to leadership within Section, Division, and Forums.
SCHOOL-TO-PRISON PIPELINE TOWN HALL FORUM

Keynote Speaker
Pamela J. Meanes, Keynote Speaker
President of the National Bar Association
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Marilyn Armour, Ph.D.

Dr. Marilyn Armour is a Professor, University Distinguished Teaching Professor, and Director of the Institute for Restorative Justice and Restorative Dialogue (IRJRD). Dr. Armour holds a master’s and a Ph.D. in social work from the University of Minnesota-School of Social Work. Prior to becoming an academic, she was a psychotherapist with an emphasis on violent death, trauma, and family relationships.

Dr. Armour’s work focuses on the healing of victims, offenders and the community related to crime and wrongdoing. In that regard, she has conducted studies on the effectiveness of restorative justice interventions for violent crime, in the prison system, in schools, for domestic violence and community restoration as well as the mechanisms of action in the interventions that lead to change. Dr. Armour’s research also emphasizes the experiences and healing of family members of homicide victims specific to meaning-making in the aftermath of tragedy, the impact of the offender’s sentence on survivor well-being, the remaining family members after domestic fatalities, and the process of meaning-making for Holocaust survivors during and after the war.

In addition to her research, Dr Armour is the Director of Defense-Initiated Victim Outreach (DIVO), a statewide program that provides a bridge between victim-survivors and defense teams, especially in capital cases. Dr. Armour is the author of books, journal articles and book chapters on these topics. She serves as a consultant to numerous agencies and organizations that are developing and using restorative practices. She is a founding member of and officer for the National Association of Community and Restorative Justice.
Dr. Miner Marchbanks joined PPRI in 2007 after serving on the graduate faculty of the Texas Tech University Political Science Department. While at Texas Tech, he taught graduate courses in Program Evaluation, Policy Analysis and Public Policy Theory. Previously, he served as a Research Associate for the Texas Educational Excellence Project, a fellow at the Center for Public Service, an Editorial Associate for the *American Journal of Political Science* and a Research Associate with the Project for Equity, Representation and Governance.

Dr. Marchbanks’s expertise is in the use of advanced statistical methodologies to answer public policy questions. Statistical capabilities include maximum likelihood estimation, time-series analysis and other advanced econometric techniques. In addition, he is skilled in game theoretic modeling and experimental designs. He has a doctorate in public policy with an emphasis in statistical methods and research design. Dr. Marchbanks has worked with a wide variety of entities, recently collaborating with the Council of State Governments, Texas Department of Transportation and the State of Qatar. He has presented his work before the United Nations and his work has appeared in the *Journal of Public Administration Research and Theory* and the *Review of Policy Research* and featured on National Public Radio, the *Washington Post* and the *New York Times*. 
Cynthia Mares

Cynthia D. Mares, Esq., a Denver native and current resident of Centennial, Colorado, was appointed by Governor John Hickenlooper on October 26, 2012 to serve her first term as Arapahoe County Public Trustee. The Office of the Arapahoe County Public Trustee is an independent, self-funded agency, created by statute, responsible for the administration of releases of deeds of trust and foreclosure proceedings in Arapahoe County, Colorado. Ms. Mares is a member of the Public Trustee Association of Colorado and serves on the Records Retention, Legal Counsel and Legislative committees of that organization.

Ms. Mares is a member of the American Bar Association’s Commission on Interest on Lawyer Trust Accounts, Arapahoe County Bar Association, Colorado Women’s Bar Association, Colorado Hispanic Bar Association (CHBA) and the Hispanic National Bar Association (HNBA). She is the immediate past president of the Colorado Hispanic Bar Association and has served as National Secretary and National Vice President of Sections and Committees for the Hispanic National Bar Association (HNBA). She was also the HNBA Editor-in-Chief of Noticias (the written publication of the Hispanic National Bar Association) from 2009 to 2011. Ms. Mares was sworn in as HNBA National President in September 2014 in Washington D.C. and will hold that office for one year.

As HNBA President, Ms. Mares unveiled new programming – Law School – Sí Se Puede, a program for college students interested in the law, and corporate board training for lawyers, to name a few. She is a frequent national speaker on issues that affect the Latino community as well as diversity in the legal profession.

Ms. Mares is also a member of the Colorado Supreme Court, Chief Justice Commission on the Legal Profession and the Colorado Bar Association’s Spanish Speaking
Committee. She also serves on the State of Colorado, Economic Development and International Trade Advisory Committee for the Minority Business Office. Ms. Mares volunteers many hours of her time providing legal services to those in need, through projects including Project Safeguard and CHBA legal clinics held throughout Colorado. She is also a mentor to several college and law students.

Ms. Mares holds a Bachelor’s Degree in Business Administration from the University of Colorado. She received her juris doctorate degree from the University of Denver, Sturm College of Law in 1989. Ms. Mares previously worked for the Colorado Supreme Court, Office of Attorney Regulation Counsel, as an Assistant Regulation Counsel for seven years and also as a deputy state public defender in Denver, Colorado for 15 years.
WyKisha McKinney

WyKisha McKinney joined CDF-Texas in November of 2012. As a Child Health Outreach Program Manager, WyKisha works to inform, communicate and connect Houston area children and families to CHIP and Children's Medicaid, and the Affordable Care Act (ACA) Health Insurance Marketplace. She provides community outreach, public education and trainings to community groups, school leaders, and other professionals who serve or come into contact with uninsured children and their families.

WyKisha graduated from Ashford University in Clinton, IA in 2009 with a Bachelor of Arts in Organizational Management. She brings over fifteen years of experience working in the nonprofit industry and a strong background in community relations and volunteer management. WyKisha is passionate about her work with nonprofits and holds a strong conviction for serving her community. She currently serves on the Board of Directors for three Houston-area nonprofits and organizes small volunteer projects throughout the year for herself and her family. She is a dedicated wife and mother of two beautiful children and two little dogs.
Pamela Meanes

Pamela Meanes is a partner in St. Louis’ largest law firm. She was the first African American in Thompson Coburn’s history to be elevated from associate to partner. Since joining the firm in 1996, she has represented clients such as Furniture Brands International, Metropolitan St. Louis Sewer District, Metro/Bi-State Development Agency, Monsanto Company, and many others. In addition, she played a significant role in the land acquisition for the extension of MetroLink in Illinois.

Pamela received her formal education from the East Saint Louis Public School system. She holds an earned: 1) Bachelor of Arts in English and Education from Monmouth College, Monmouth, IL; 2) Masters of Arts in African/African American Studies from Clark Atlanta University, Atlanta, GA; and 3) Juris Doctorate from the University of Iowa, Iowa City, IA. In addition, she holds an honorary Doctorate in Divinity from the New Freedom Bible College.

Pamela is the current President of the National Bar Association (NBA). She was sworn in as the organization’s 72nd President on July 31, 2014. In addition, she has served as Vice President of the NBA (2011-2013); Regional Director of Region VIII of the NBA (2007-2008 and 2009-2011); President of the Mound City Bar Association, a Missouri affiliate of the NBA (2006-2007); and co-chair of the ABA Section of Litigation Legal Service Delivery Committee (2008-2011). In addition, she serves Vice President of the Mound City Bar Foundation of Missouri. Finally, she is a former board member of the Greater East St. Louis Community Fund, Inc., Legal Services of Eastern Missouri and MERS Goodwill.

She is the recipient of numerous awards including the Award of Merit from BAMSL, St. Louis University Black Law Student Association’s 2008 Outstanding Attorney Awards, Washington University of St. Louis Black Law Student Association 2008 Outstanding Achievement in Public Service Award, St. Louis Business Journal’s “40 under 40” recipient, selection in Missouri Lawyer’s Weekly “Up and Coming Lawyers,” St. Louis Business Journal’s Most Influential Minority Business Leader, the YWCA Leader of Distinction Award, the Women of Achievement Award, 2012 Sister to Sister Award and the 2014 Missouri Lawyer’s Weekly Litigation Practitioner Award. In addition, she has received numerous NBA honors including the 2013...

Pamela is married to Reverend Doctor William M. Meanes, Sr., and they have seven wonderful children: Wilson, Ciara, Kandia, William, Jr., Anointing, Aayannah, and Divinity.
Mary Schmid Mergler

Mary Schmid Mergler is the Director of the School-to-Prison Pipeline Project at Texas Appleseed in Austin, TX, where she advocates for school discipline policies that would close the pathways to dropout and incarceration. Prior to joining Appleseed, she served three years as Senior Counsel for the Criminal Justice Program of The Constitution Project in Washington, DC, where she advocated for ensuring competent counsel and other constitutional rights for the criminally accused. Mary also spent two years in private practice at the Washington, DC office of Baker Botts LLP, as well as two years as the National Affairs Assistant for the National Association of Criminal Defense Lawyers. She received her law degree from the University of Virginia School of Law and her undergraduate degree from Wake Forest University.
Sarah E. Redfield

Professor Emeritus

Professor Sarah E. Redfield is a tenured member of the faculty at the University of New Hampshire School of Law. Her primary teaching areas are education and administrative law.

In 2004, Governor Baldacci appointed Professor Redfield to represent the State of Maine on the Education Commission of the States.

Professor Redfield is a nationally known author and presenter. Her book, Thinking Like a Lawyer: An Educator’s Guide to Legal Analysis and Research, was published in 2002 by Carolina Academic Press. She has published law review and bar articles on threatening speech, the convergence of law and education and K20 school reform. This year she will be presenting at meetings on the Education Law, including the annual national Education Law Conference, the Virginia Education Law Conference and others.

Before coming to UNH School of Law, Professor Redfield practiced civil, environmental and agricultural law for the state of Maine. She served as Assistant Attorney General in the Civil Division of the Maine Attorney General’s Office and as Associate Commissioner for the Department of Agriculture, Food Rural Resources. During this time, in addition to writing Vanishing Farmland (Lexington Books), she published articles on environmental and land use issues, with particular emphasis on farmland and pesticide use.

From this experience, she brings to her teaching an understanding of the power and limitations of legislation and agencies, and a continuing commitment to the public interest and the role of the lawyer in effectuating change.

“I’ve long been interested in social justice and social change, from my college days registering voters in the South, to my environmental work for the Maine Attorney General, to my current work with education issues. I’m particularly interested in the role the law does, can, and should (or should not) play in these arenas.
Law students and lawyers are blessed with an education that enables them to understand and analyze complex situations. I’m particularly interested in the role lawyers play in using their skills to help those individuals or groups who do not have adequate information to understand or participate fully in our system of government.

In terms of my own teaching, I strive to practice what I ‘preach,’ that is, I prefer to see myself not as the omnipotent professor, but rather as the guide to further research and education. I want, always, to allow students the opportunity to find their own voices and speak with their own strengths.”

On a personal note, she is the proud mother of two terrific children, Alex and Althea Rose.
Wesley Sunu

Wesley Sunu is an associate counsel at Sentry Insurance a Mutual Company, where he handles litigation, bad faith claims, class actions, reinsurance and cyber risk matters. Mr. Sunu has spoken at and authored articles for various insurance and reinsurance programs. He has published annual updates for the *Tort & Insurance Law Journal*. He is a chapter co-author in the *ABA Cybersecurity Handbook* and has published articles in Global Re, Mealey's Reinsurance Reports, the British Journal of the Expert and the Illinois Institute for Continuing Legal Education.

Mr. Sunu is on Council for the Tort & Insurance Practice Section and is a past chair of the Diversity in the Profession Committee, the Excess, Surplus Lines & Reinsurance Committee and the E-Commerce Committee. He is a member of the Council for Ethnic and Racial Diversity in the Educational Pipeline. He was also appointed to the ABA Cybersecurity Legal Task Force. He received his BA from the University of Wisconsin, Madison and obtained his JD from Loyola University of Chicago School of Law.
The **Texas School-to-Prison Pipeline**

The School-to-Prison Pipeline is a combination of (i) school disciplinary actions that remove students from their regular classrooms, such as suspensions, expulsions and alternative school placements, and (ii) the criminalization of student misbehavior, leading to school-based arrests and ticketing, that push Texas students—particularly students of color and special education students—out of Texas’ schools, decreasing their chances of graduating and increasing their chances of entering the juvenile justice and criminal justice systems.

### How Are Texas Children Affected?

**Suspensions & expulsions**
- Well over half (60%) of Texas public school children were suspended or expelled between grades 7 and 12 from 2000 to 2009.
- The vast majority (97%) of these disciplinary actions were at the discretion of school officials, not for offenses mandating suspension or expulsion by state law.
- African-American students were 31% more likely to receive discretionary discipline action.
- Three-quarters of special education students were suspended or expelled from 2000-09.
- When a student was suspended or expelled for a discretionary discipline action, this tripled the likelihood of juvenile justice system contact in the following school year.

**School-based arrests & ticketing**
- Over 229,000 non-traffic citations were issued to juveniles in 2012 on and off school campuses.
- Most “crime” on school campuses is minor behavior—Disruption of Class and Disorderly Conduct are commonly ticketed offenses.
- Most school-based arrests are for misdemeanor offenses, like theft, criminal mischief, and simple assault.
- African-American students are vastly overrepresented in ticketing and arrests.
- Over 100,000 Texas children were prosecuted in adult criminal court for failure to attend school in 2012.

### How Do We End the School-to-Prison Pipeline in Texas?

Proven practices can be implemented by schools to improve student behavior while decreasing reliance on suspensions, expulsions, arrests and ticketing:
- **School-Wide Positive Behavioral Interventions & Supports**
- **Social & Emotional Learning**
- **Restorative Justice**.
EXECUTIVE SUMMARY

The School Discipline Consensus Report: Strategies from the Field to Keep Students Engaged in School and Out of the Juvenile Justice System

JUSTICE CENTER
THE COUNCIL OF STATE GOVERNMENTS
EXECUTIVE SUMMARY

The School Discipline Consensus Report:
Strategies from the Field to Keep Students Engaged
in School and Out of the Juvenile Justice System

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About the CSG Justice Center: The Council of State Governments Justice Center (CSG Justice Center) is a national nonprofit organization that serves policymakers at the local, state, and federal levels from all branches of government. The CSG Justice Center provides practical, nonpartisan advice and evidence-based, consensus-driven strategies to increase public safety and strengthen communities. For additional information about the CSG Justice Center, please visit csgjusticecenter.org.

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EXECUTIVE SUMMARY

RESEARCH AND DATA ON SCHOOL DISCIPLINE practices are clear: millions of students are being removed from their classrooms each year, mostly in middle and high schools, and overwhelmingly for minor misconduct. When suspended, these students are at a significantly higher risk of falling behind academically, dropping out of school, and coming into contact with the juvenile justice system. A disproportionately large percentage of disciplined students are youth of color, students with disabilities, and youth who identify as lesbian, gay, bisexual, or transgender (LGBT).

There is no question that when students commit serious offenses or pose a threat to school safety they may need to be removed from the campus or arrested. Such incidents, however, are relatively rare, and school typically remains the safest place a young person can be during the day. In schools with high rates of suspension for minor offenses, however, students and teachers often feel they are not safe or supported in their learning environment.

Trailblazing student and parent groups, advocacy organizations, researchers, professional associations, and school districts have raised the visibility of exclusionary discipline practices across the nation. In response, individual schools, districts, and state education systems have implemented research-based approaches to address student misbehavior that hold youth accountable, address victims’ needs, and effectively improve both student conduct and adult responses. These approaches also help keep students engaged in classrooms and out of courthouses.

The federal government has also put a spotlight on these issues. As part of the Supportive School Discipline Initiative, the U.S. Departments of Education and Justice issued joint guidance in January 2014 to assist public elementary and secondary schools in meeting their obligations under federal law to administer student discipline without discriminating on the basis of race, color, or national origin.

The School Discipline Consensus Report builds on this foundation and breaks new ground by integrating some of the best thinking and innovative strategies from the fields of education, health, law enforcement, and juvenile justice. Leaders in these diverse systems agree that local and state governments must not only help schools reduce the number of students suspended, expelled, and arrested, but must also provide conditions for learning wherein all...

students feel safe, welcome, and supported. The central thesis of this comprehensive report is that achieving these objectives requires the combination of a positive school climate, tiered levels of behavioral interventions, and a partnership between education, police, and court officials that is dedicated to preventing youth arrests or referrals to the juvenile justice system for minor school-based offenses.

**Three aspects of the report distinguish it from earlier work:**

- **It is comprehensive.** The comprehensiveness of this report is unprecedented. It presents nearly two dozen policy statements to guide multidisciplinary approaches to meet the needs of both youth and educators while addressing student misbehavior, and 60 recommendations that explain how to implement these policies. The ideas offered throughout the report come from the field and demonstrate an appreciation of these interconnected goals: improving school climate; identifying and meeting students' behavioral health and related needs; tailoring school-police partnerships to mutual goals; and minimizing students' engagement with the juvenile justice system.

- **It is consensus-based.** This report reflects a consensus forged by the many professional groups with a stake in how school discipline policy is implemented. More than 100 advisors representing school administrators, teachers, behavioral health professionals, police, court leaders, probation officials, juvenile correctional administrators, parents, and youth from across the country helped to develop the recommendations and proposed collaborative processes. Approximately 500 additional practitioners, researchers, policymakers, and agents of change were consulted over the three-year project that culminated in this report.

- **It is practical.** The report's guidance is grounded in real-world approaches identified through extensive outreach to practitioners and policymakers serving youth. It is based on the latest research, takes into account the context in which policies and practices are developed, and provides examples of how communities are putting into effect proposed changes.
DISPARITIES IN DISCIPLINE RATES

Improving school discipline policy requires addressing the disparate impact that the current approach has on particular student populations:

- Black, Hispanic, and American Indian students are suspended at much higher rates than their White peers—sometimes at double the rate.7

- Twenty percent of secondary school students with disabilities were suspended in a single school year, compared to fewer than ten percent of their peers without disabilities.8

- LGBT youth are up to three times more likely to experience harsh disciplinary treatment than their heterosexual counterparts.9

Even as various jurisdictions celebrate declines in overall suspension rates, they have noted that the disparity in some cases has widened and carried forward to expulsions and arrests.10

Report recommendations do not include—or even collectively constitute—a “silver bullet” for addressing issues of bias or disproportionate impact. Nor does this report propose a sweeping mandate to address the complex underlying issues that drive disparities. At the same time, many recommendations come back to addressing the issues of race and disproportionate impact on students of color and other groups. Recognizing that students and parents alike will lack confidence in a school discipline system that is perceived to be biased or unfair, school and district officials need to hold at their respective levels difficult discussions about the disparate impact of school discipline on particular groups of students, to ensure that recommendations are carried out equitably. Quality data collection and transparent reporting to help monitor progress must support these efforts.

The policy statements and supporting recommendations in this report are organized into four main chapters: Conditions for Learning, Targeted Behavioral Interventions, School-Police Partnerships, and Courts and Juvenile Justice. Additional chapters on information-sharing and data-collection issues follow.

Conditions for Learning

Overview of the Issue

The extent to which students are safe, connected, engaged, and supported in their classrooms and schools—collectively known as the “conditions for learning”—is critical to their academic and personal success. Schools that create welcoming and secure learning environments reduce the likelihood that students will misbehave, and improve educators’ ability to manage student behavior.
Background

Everyone agrees that schools should provide an environment where students and staff feel physically and emotionally safe, connected, fairly treated, and valued. Research has demonstrated that academic achievement and positive behaviors increase when these conditions for learning are in place. Unfortunately, promoting a positive school climate often takes a back seat to educators’ and administrators’ efforts to address mandates to improve test scores and graduation rates, even though strong conditions for learning have been shown to help improve academic achievement. Where school leaders have not made school climate a priority, disciplinary approaches often rely heavily on the removal of students from school.

It is important to distinguish between efforts to improve school climate for students and educators that can come across as perfunctory—such as hanging student artwork on the walls, announcing teacher appreciation days, or convening monthly student assemblies—and the strategies that have been shown to improve attendance and student success, engagement, and behavior. Although educators, administrators, and the school community universally value a positive school climate, they do not always share an understanding of what it takes to achieve it.

Schools often lack the means to accurately assess their own climates, and to involve the school community in developing a vision and corrective plan. School administrators and staff need training and professional development opportunities, job-embedded supports, and feedback on their performance to carry out these plans. District codes of conduct should also reinforce steps to sustain a positive school climate, and be routinely assessed and revised to ensure progress.

Chapter Highlights and Questions Addressed

School leaders should work with staff, students, families, and other stakeholders to accurately assess a school’s climate, develop a shared vision for what it should be, and design a plan to address areas in need of improvement.

- What type of data should a school use to assess its existing climate and identify areas for improvement?
- How do schools ensure that student, staff, and other stakeholders’ perspectives are fully considered?
- How can it be determined whether specific groups of students are disengaged or marginalized at school?
- How should the vision for improving conditions for learning be developed and communicated among educators, parents, students, and other school community members to make certain it is embraced?
- How can school climate improvement efforts that refocus responses to student misconduct from primarily reactive approaches to prevention be integrated with a school’s other planning work, including academic achievement and safety plans?
The school district code of conduct should promote positive adult and student behaviors, and it should include a graduated system of responses to student misconduct that holds youth responsible for their actions but makes clear that removal from school is a last resort.

- What options should be available to consistently apply developmentally appropriate consequences for student misconduct; redress the harm done; and provide the necessary supports to change students’ problem behaviors and engage them in learning?

- How are students, their parents/guardians, and adults in the school engaged in discussions about how to improve the school code of conduct, and what steps can be taken to ensure they are invested in realizing the code’s goals?

**Students removed from the classroom for disciplinary reasons should continue to receive quality instruction.**

- What on-campus options exist to respond to students’ misconduct by addressing behavioral needs and permitting a cooling-off period?

- What measures can be taken to minimize any lost instructional time and help students removed from class keep pace with their assignments?

**School administrators and educators should have professional development opportunities to gain the knowledge and skills needed to create positive conditions for learning.**

- How are effective classroom management approaches integrated into the school, including how to de-escalate conflicts with students and use culturally appropriate interventions?

- How do educator preparation programs address in both coursework and clinical experiences classroom management skills and student-teacher relationship building?

- How do induction programs for new teachers incorporate training on these issues?

- What measures should be included in teacher and principal evaluations to reflect the expectation that they will help foster the conditions necessary for students to learn?

**Targeted Behavioral Interventions**

**Overview of the Issue**

Some students are repeatedly involved in their schools’ discipline systems, sometimes as a result of unmet behavioral health, academic, or other needs. Behavioral interventions must be available to target the needs of students for whom a positive school climate and the right conditions for learning are not sufficient to keep them in class, to prevent their repeated involvement in the school discipline system, and to help them achieve long-term success.
Background

Millions of children have experienced personal trauma (such as the loss of a parent) and/or exposure to violence at home or in the community, either as victims or witnesses. In addition, one in ten children has a mental illness severe enough to impair how he or she functions in school. Schools must be sensitive to the needs of these youth and recognize that some students with unmet behavioral health needs and youth with disabilities, particularly those with emotional disturbances, are more likely to experience high suspension rates and lower academic achievement.

As local, state, and federal leaders have increasingly focused on helping more youth stay in schools where they can succeed, a growing number of school districts are adopting "early-warning systems" (EWSs) to identify secondary school students who are chronically absent, failing particular courses, experiencing disciplinary actions, or engaging in risky behavior. Although the use of these systems is still in the beginning stages in many jurisdictions, and is primarily meant to improve graduation rates, the systems can be used to help identify youth in need of behavioral interventions (whether related to mental health issues or other underlying causes).

Whether or not schools employ EWSs, school staff often struggle to meet the needs of students they identify who would benefit from additional targeted supports and services. A school-based team, which ideally includes a counselor or other behavioral health specialist, can help determine the right set of responses when a student appears at high risk of involvement or reengagement with the discipline or juvenile justice system.

Many districts have campuses with school-based teams, although the teams typically focus primarily on academic progress and improving instruction. Schools also usually have teams or individuals who are responsible for developing individualized education programs (IEPs) for students with disabilities and complying with provisions in the Individuals with Disabilities Education Act (IDEA). Many schools, however, lack student support teams to identify and provide interventions that can help students achieve academic success and avoid disciplinary actions.

Establishing a student support team, or expanding the role of a preexisting team, to include addressing school discipline issues does not ensure that team's success. Support team members must be provided with quality training and access to a broad array of services for students. Because schools will often lack the internal capacity to meet students' needs, support teams should also be able to draw on a system-of-care through partnerships with various community-based organizations that can help fill gaps in services.

Even with targeted interventions and services, there are some students who will have to be removed from school for disciplinary reasons or who would benefit from being in a different learning environment altogether. There is general agreement that there should be alternative education pathways for all students who are not succeeding in traditional academic settings. There is also recognition that in many places alternative programs lack the rigor, transparency,
and quality of instruction and behavioral supports that are found in traditional schools to assist these students and prepare them for college and career.

Responding effectively to students’ behavioral health and related needs to help them succeed at school and minimize involvement with the discipline or juvenile justice system requires a comprehensive approach. Ideally, schools would have a data system to match and guide interventions for students; trained staff to help oversee these services or access to community-based service providers; quality alternative education pathways; and the ability to track students’ progress. In light of the limited capacity of most schools and communities, designing and implementing such a system may require long-term planning for even the most advanced school districts.

**Chapter Highlights and Questions Addressed**

*Districts, schools, and educators should use data-driven processes to identify and support individual students who need targeted behavioral interventions, and to guide decisions about how best to allocate limited staff and resources.*

- How should schools—and school districts—employ EWSs to identify students who might otherwise experience repeated involvement with the school discipline or juvenile justice system?

- How can school and district leaders and state officials also use EWS data to prioritize staff training, the allocation of resources for particular strategies, or the placement of behavioral health support staff in particular classrooms and schools with high rates of exclusionary disciplinary actions?

*School leaders should understand the prevalence of students’ behavioral health and related needs in each school and district, each school’s capacity to address those needs, and the community resources available to supplement school services.*

- How can data from behavioral health surveys, student IEPs, and school discipline systems be used to assess the type of services and supports needed to meet the behavioral health needs of students in a particular school or school district?

- How can gaps in services be identified through a behavioral health assessment, and how can schools and districts address those gaps to provide a comprehensive range of services?

*Each school should have a student support team (or teams) to oversee services for youth with behavioral health and related needs.*

- How do student support teams work individually and in collaboration with other school-based teams to help youth with behavioral health and related needs?

- How can student support teams use EWSs and systems that monitor the implementation of interventions to track students’ progress and determine the effectiveness of services?

- How can schools develop a system-of-care approach that involves community partners to expand the range of services and interventions for students with behavioral needs?
Students removed from campus for disciplinary reasons and students not succeeding in traditional settings should be provided with a quality alternative education placement where there is continuity of instruction and needed services.

- When students are removed from school for disciplinary reasons for short periods of time, how are they engaged in off-campus instruction and provided the necessary social, emotional, and behavioral supports?
- What improvements should be made to alternative education programs so that students removed from school for disciplinary reasons, as well as students not successful in traditional education settings, receive quality instruction from qualified educators and necessary behavioral health supports?
- What mechanisms must be in place to ensure that students in alternative education programs can, when appropriate, successfully transition back to a traditional education setting?

School-Police Partnerships

Overview of the issue

Although schools are generally safe places, the well-being of students and staff remains of paramount concern in every school across the nation. Elected officials, school leaders, and community stakeholders frequently look to local law enforcement to address this concern. At the same time, there has been increased scrutiny in recent years of the role of officers who serve schools, particularly how they address minor offenses committed by students, and how the presence of officers and their activities on the school campus impact the extent to which students and adults feel safe, secure, and welcome. For the relationship between a school and local law enforcement agency to be successful, police, students, parents, and school staff and leaders must employ a collaborative process to design, implement, and monitor the interface between officers and the school community.

Background

During more than six decades, police and school officials in many districts have formed strong partnerships in which officers have assumed a broad range of duties. How these relationships are structured varies significantly from one school district (and sometimes one school campus) to the next. In some cases, there are specially trained school-based officers who perform enforcement, educational, mentoring, and other activities. In other jurisdictions, off-campus patrol officers provide a variety of crime prevention services and enforcement responses to the school. The involvement of officers is often meant to complement other strategies for safe schools and efforts to encourage positive student and adult behaviors.

Even when there is an everyday law enforcement presence in the school, there are various approaches to overseeing such officers. They may be supervised by the municipal or county law enforcement agency that employs them—or by a police agency under the direct authority of a school district.
Just as concerns have grown about the number of students suspended or expelled from school, so too have concerns increased about the ticketing and arresting of students for minor offenses. In addition, added security measures and a greater police presence in some schools (as often happens following a violent school event anywhere in the country) have sometimes had the unintended consequence of causing some staff, students, and their families to feel the campus is less welcoming or less conducive to learning.16

Not every school in the nation will request, need, or be able to fund school-based officers. When the decision is made at the local level to assign officers to schools, careful thought must be given to what role the officers will play, and then police and school leaders will need to ensure that the officers are properly selected, trained, supervised, and evaluated.

The research on the impact of officers in schools is mixed and often lacks rigor. Police professionals generally agree, however, that when there is an effective school-police partnership, students will have more positive views of law enforcement, will make better decisions about risky behaviors, will be more often connected to the services they need, and arrests for minor offenses will be minimized.

Chapter Highlights and Questions Addressed

**School-police partnerships should be determined locally, through a collaborative, data-driven process that engages students, parents, and other stakeholders.**

- What processes should be followed to determine the best school-police partnership model for meeting the distinct needs of a school or district and the students and families it serves?
- When a school or school district is considering whether to place an officer on a particular campus, or to use a different response model, what information and data should be used to inform this decision?
- What data should be used to measure whether the school-police partnership in use is meeting its intended objectives?

**Police should not be engaged in routine classroom management, and whenever possible should use alternatives to arrest for students’ minor offenses that can be appropriately addressed through the school’s discipline system.**

- How do schools, police, and the school community determine the appropriate role for officers who are assigned to schools?
- How is information that clarifies school-based officers’ roles and responsibilities communicated to school and police agency staff, and other stakeholders?
- How can school leaders ensure that staff is following policies about when to involve officers in addressing student misconduct?
- How can police ensure that officers are adhering to policies and guidance on responding to minor offenses?
School-based officers working with students should be properly selected, trained, supervised, and evaluated. Off-campus officers should be given guidance on how to respond to students and how to access alternatives to arrest.

- What criteria and process should be used to recruit officers who have the desired qualities and experiences for working with youth in school settings?
- What training should be provided for school-based officers beyond that required of all peace officers in the state?
- What supervision and oversight of school-based officers will ensure that they are effectively supported, and will monitor their progress on shared partnership goals?

School systems and law enforcement agencies should create detailed, written memorandums of understanding when placing officers on campuses and for other school-police partnerships.

- What legal issues do school-based officers and other police personnel serving schools need to address?
- What information-sharing principles, as well as safeguards for staff compliance with privacy mandates, should be outlined in a school-police partnership agreement?
- How are other aspects of the school-police partnership formalized, and how are police and school personnel educated about its provisions?

Courts and Juvenile Justice

Overview of the Issue

Although there are youth who engage in serious delinquent behavior for which referral to the juvenile justice system is appropriate, youth who commit minor offenses at school should typically not be referred to the courts. The long-term consequences for youth who make contact with the juvenile justice system include a greater likelihood of dropping out of school and future involvement with both the juvenile and adult criminal justice systems. When youth are under juvenile corrections' supervision, they must have uninterrupted access to high-quality learning environments; provision of supports and services that meet these students' academic and special needs; and the facilitation of their seamless return to the classroom in their communities.

Background

The number of youth in correctional facilities or in court-ordered community placements has declined dramatically over the past decade in many jurisdictions, with juvenile crime rates at record lows. Even in counties and states where there have been overall reductions in juvenile crime, however, leaders are working to decrease referrals to courts further—especially for minor and status offenses. As part of these efforts, judicial leaders across the nation are increasingly

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* Status offenses are acts that are only considered criminal if committed by a juvenile (e.g., running away, truancy, curfew law violations, ungovernability or incorrigibility, and underage drinking violations).
working with schools, law enforcement, and other stakeholders to keep away from their dockets cases that can be resolved through schools' discipline systems and diversion programs.9

Although juvenile justice officials in most jurisdictions strongly believe that the number of school-based referrals to the juvenile justice system can be significantly reduced, few jurisdictions can produce an accurate tally of referred cases. Without reliable data, it is more difficult to make a compelling justification for action and to establish the potential for improvement.

Even without such data, however, evidence of successful diversion programs is emerging across the country. The structure of each state's juvenile justice system is distinct, but each has multiple points at which the police, court staff, probation officers, prosecutors, defense attorneys, and service providers can collaborate to steer students referred to the courts for minor offenses to community-based programs that stress accountability and behavioral change. These juvenile justice professionals can make better decisions for each youth when they are provided with the results of a risk and needs assessment along with information from the school and other agencies serving the student to determine what services, supports, and/or community supervision are the best match. Determining under what circumstances such information should be shared and used requires extensive conversations and written agreements among various stakeholders in the juvenile justice and education systems to ensure compliance with all privacy mandates and to uphold shared principles for the use of student and staff information.

When youth are placed in secure settings, including pre-adjudication detention and longer-term residential facilities, the quality of education services varies widely and often lacks the standards and oversight found in traditional schools.20 This puts these students at greater risk on their return to school for academic problems that can lead to disengagement and the kind of misbehavior that in turn puts them at risk for another arrest.21 The lack of coordinated transition plans for students leaving juvenile confinement makes them vulnerable to loss of academic credit, placement problems, and enrollment barriers upon reentry to school that can also contribute to recidivism.

Chapter Highlights and Questions Addressed

The frequency with which students are directed to the juvenile justice system for minor offenses at school or school-sponsored events should be routinely monitored, and guidelines and policies should minimize such referrals.

- Does data exist—and if not, how can it be assembled and analyzed—to determine the number and characteristics of students referred from schools to the juvenile justice system, as well as the types of offenses committed?

- What types of policies and guidelines should be explored to reverse trends in schools and districts where students are referred to the juvenile justice system at disproportionately high rates for minor offenses?
Whenever appropriate, students who are arrested and/or charged with minor school-based offenses should be diverted from further involvement with the juvenile justice system.

- How and in what cases can information maintained by the school be properly shared to guide courts’ diversion and disposition decisions?
- When should assessment tools that are designed to determine a youth’s risk of reoffending and treatment or service needs be used to inform whether and how a student moves through the court process?
- How can community-based programs and services be better utilized and expanded to meet youths’ needs and minimize the need for judicial supervision while addressing the needs of any victims?

Whether in short- or long-term confinement, youth should have access to high-quality educational programming that puts them on a path toward graduation and postsecondary opportunities. Each student returning to school should have a transition plan that facilitates credit transfers and continuation of services.

- How can schools within juvenile correctional facilities attract, train, and retain high-quality educators?
- How can authorities in a correctional setting create engaging learning environments that address students’ academic and special needs?
- Are state standards regarding the quality of education in public schools being effectively applied to juvenile correctional settings?
- What criteria should guide decisions regarding where a reentering youth should enroll in school?
- What can transition coordinators and/or educators do to develop an integrated service and academic plan that facilitates reentering youths’ immediate enrollment, credit transfers, and successful class placements?

Getting Started

Because the recommendations in this report are comprehensive, the breadth of issues can quickly overwhelm any reader looking for a starting point to improve the approach to school discipline by a community, district, or state.

Implementing all the recommendations in the report at once is an impossible assignment. Users of the report may therefore wonder which policies or recommendations to prioritize, but the truth is there is no right or wrong place to start.

Recognizing that no two states are alike, every school district is different, and each school has a distinct culture and characteristics, there is no one-size-fits-all approach. If there is one takeaway
point in The School Discipline Consensus Report that readers must embrace, it is that successful implementation of any recommendation in the report requires the involvement of students and parents, and of individuals serving and supervising students across multiple systems.

A working group of committed individuals—whether at the school, district, or state level—should be created or expanded to include diverse perspectives and broad expertise. This group will likely have many thoughts about where the greatest opportunities and needs exist in their jurisdiction, and, consequently, what policy areas and recommendations should be prioritized. Regardless of where the working group decides to focus its attention, there must be a plan to collect and analyze relevant data to provide a baseline establishing where things stand. This information also provides a benchmark against which progress can be measured.

As the working group looks to assemble data, members should keep in mind four steps, which are explained more fully in the Data Collection and Information Sharing chapters of the report:

1. **Determine how many students are removed from their classrooms for disciplinary reasons and identify the additional data needed to analyze these numbers thoroughly and effectively.**

   Individual schools, districts, and statewide school systems should be able to report how many students have been suspended or expelled, but this information alone is not sufficient to develop a nuanced understanding of discipline trends. To support the kind of analysis needed to develop a strategic plan, the working group will need to ask for additional data and its routine collection if not readily accessible. For example, a school may track the total number of suspensions, but not report how many of these represent multiple suspensions by the same student.

   The data should be, but often is not, sufficient to support an analysis to distinguish between in-school and out-of-school suspension, the duration of each suspension, and the type of misconduct that prompted the suspension or expulsion. Suspension and expulsion data collected at the school, district, or state level must be disaggregated, at minimum, by race, disability, age, gender, and type of offense.

2. **Examine data beyond suspensions and expulsions to inform strategies for improving school climate, behavioral interventions, and partnerships between police and the school community, and for minimizing student arrests and referrals to the juvenile justice system.**

   Equipped with existing information about school discipline actions, a working group will need to turn its attention to additional questions about data related to school safety and the learning environment. The group will need to know, for example, what data is available that measures school climate; assesses behavioral health needs; tracks school-based arrests and reported crimes; and monitors other student referrals to the juvenile justice system in a particular school or school system.
Establishing an objective assessment of current conditions and practices in each of these areas is essential. For example, if the working group is interested in increasing security measures at a school, it should first consider school climate survey results of how students and staff gauge their feelings of safety at school and whether security measures make them feel less welcome or more secure. Additional data such as the numbers of students arrested and/or ticketed and the numbers of calls for police service must also be monitored to ascertain what, if any, impact has been made by changes in security measures.

As the working group considers school climate, behavioral health issues, school partnerships with police, and the role of the juvenile justice system, it will become apparent that multiple data collection efforts need to be launched. There are several measures that can help make these efforts more manageable: the working group can identify a coordinator to facilitate data collection; work with school-based teams or individuals already engaged in data analysis and improvement planning; and ensure that surveys on school climate, behavioral health needs, safety, and other topics are efficiently administered. The assembled data can then help guide the working group’s efforts to improve policies and practices.

3. **Develop information-sharing agreements that reflect a clear understanding of privacy mandates and shared principles.**

The efforts described above may involve collecting and analyzing students’ education, health, juvenile justice, and other systems’ information. A thicket of local, state, and federal laws and regulations protect students’ privacy by controlling the release and use of that information. A working group that is assembling information from individuals and agencies serving their students will need to establish a clear understanding of what can be shared, with whom, and for what purposes.

There are still often misconceptions about what data and information can be shared within and among schools and external partners. Too often, a lack of understanding of these legal provisions leads to unnecessary barriers to sharing useful information. Although it is appropriate and necessary to protect the confidentiality of students’ information, it is possible to design agreements that spell out appropriate disclosure procedures and help address perceived barriers to information sharing. These agreements may also include guiding principles such as using information in ways that reduce the stigmatization or labeling of students, advance the best interests of identified students, promote school safety, and ensure that data is secured and used only for appropriate purposes.

4. **Define success and agree on how to measure it.**

If a working group is truly diverse in its composition, the full membership will likely develop a shared commitment to an action plan only when they are convinced that they are working toward an approach that benefits all students in the classroom. To that end, it is important
that the working group's objective not be limited to reducing the frequency with which students are removed from the classroom for disciplinary reasons. No one wants to see misconduct and disorder increase in the classroom just to lower the school's suspension rate.

For every proposed measure of success, it is important to recognize the potential for simply trading one problem for another. Researchers are testing approaches that may ultimately help working groups better understand the dynamics among multiple measures, such as how improvements in school climate indicators are related to improvements in academic achievement or reductions in disciplinary actions. These approaches may provide a good starting point for working group members as they determine which outcome measures to track that define overall success. Such an approach binds stakeholders to a common set of goals and promotes the integration of efforts that otherwise might have limited effect or even work at cross-purposes.

**Conclusion**

The broad, bipartisan support from experts and stakeholders in the education, health, law enforcement, and juvenile justice systems involved in the development of The School Discipline Consensus Report makes clear that improving school discipline systems should be a priority for local, state, and federal leaders alike.

This report is a roadmap—and essential reading—for anyone who wants to make young people feel welcome, nurtured, and safe in school; anyone who is working to close the achievement gap between White students and students of color; anyone who is focused on improving high school graduation rates; and anyone whose goal is to reduce the number of youth locked up in juvenile correctional facilities for minor offenses.

The need to achieve multiple goals is reflected in the multidisciplinary nature of the report's recommendations and underscores why such a diverse national group was needed to chart changes to school discipline policies and practices. The report is designed to be a guide for officials in education, health, law enforcement, and juvenile justice, and their partners in schools and communities across the nation who are committed to using truly collaborative approaches to provide safe, engaging learning environments for all students. Together, these critical stakeholders can engage in the strategic efforts necessary to take school safety and student success efforts to new heights, ultimately keeping more students in classrooms and out of courtrooms.

To view the full report, visit csgjusticecenter.org/youth/school-discipline-consensus-report.
EXECUTIVE SUMMARY

1. U.S. Department of Education data revealed that the national number of suspensions rose from about 1.7 million (3.7 percent of all students) in 1974 to more than 3.3 million (6.8 percent of all students) in 2005. (These numbers do not include in-school suspensions. The data represents 61 percent of public schools and 43 percent of districts.) Researchers from the UCLA Civil Rights Project estimate that well over two million middle and high school students were suspended during the 2009–10 academic year, according to their analysis of U.S. Department of Education data for districts. Suspensions increase in middle school and high school years. Skiba, R.J. and Losen, D., Suspended Education: Urban Middle Schools in Crisis (Los Angeles: Civil Rights Project at UCLA, 2010); Skiba, R.J. and Rausch, M.K., “Zero Tolerance, Suspension and Expulsion: Questions of Equity and Effectiveness,” in Handbook of Classroom Management: Research, Practice, and Contemporary Issues, eds. C.M. Everston and C.S. Weinstein (Mahwah, NJ: Routledge, 2006); Losen, D. and Martinez, T., Out of School and Off Track: The Overuse of Suspensions in American Middle and High Schools (Los Angeles: Civil Rights Project at UCLA, 2013). An analysis of 2011–12 data is forthcoming at this writing.


Supra note 3.


Himmelstein and Brückner, “Criminal Justice and School Sanctions Against Nonheterosexual Youth.”


New Freedom Commission on Mental Health, Achieving the Promise: Transforming Mental Health Care in America (Rockville, MD: Substance Abuse and Mental Health Services Administration, 2003).


Between 1997 and 2011, the total number of youth detained or committed nationally dropped by 41 percent. See “Easy Access to the Censuses of Juveniles in Residential Placements (EZACJRP),” https://www.census.gov/programs-surveys/ezacjrp.

See the National Council of Juvenile and Family Court Judges’ (NCJFCJ’s) project to engage juvenile court judges on issues related to school discipline and juvenile justice involvement at ncjfcj.org/nice-learning-nov-project/keep-kids-school-and-court. The project, Judicially Led Responses to Eliminate Pathways to the Juvenile Justice System (School Pathways Project), is a three-year effort (October 2012–September 2015) and is supported by OJJDP, The Atlantic Philanthropies, Open Society Foundations, and Public Welfare Foundation.


See e.g., “One-Page Research Summaries” of key findings from Virginia Secondary School Climate Study at www.vcu.edu/research/projects/Virginia-secondary-school-climate-study. The findings examine how schools with high levels of structure and support, as measured by Virginia’s Authoritative School Climate Survey, have reduced bullying, student aggression toward teachers, and disciplinary infractions, and increased achievement on standardized tests.
CRIME PREVENTION AND YOUTH DEVELOPMENT CAUCUS

ABOUT THE CAUCUS
WHY ARE WE HERE?

The Crime Prevention and Youth Development Caucus was founded by U.S. Reps. Tony Cárdenas and David Reichert, who were joined by charter members Judge Ted Poe and Bobby Scott, to encourage the federal government, particularly Congress, to work toward smart justice reform for at-risk youth and further efforts that encourage violence prevention and youth opportunity. Most importantly, the Caucus encourages evidence-based prevention and intervention initiatives for at-risk youth, understanding that the only effective solutions to this national problem are solutions that are systematically proven to work.

Working with youth to cut down on crime and encourage our next generation is rapidly become a popular and important topic. Too many states are seeing justice and prison budgets spiral out of control. With bipartisan reform happening in deep-red states like Texas and Georgia, the Crime Prevention and Youth Development Caucus will shine light on cost effective ways to create safer schools and communities, as well as ensuring we give our kids the opportunity to succeed.

WHAT NEEDS TO CHANGE?
WE CAN'T ARREST OUR WAY OUT OF A PROBLEM.

Currently, the United States jails more than 25 percent of the world's incarcerated criminals. 2,000,000 of these are children. 95 percent of kids who are in jail did not commit violent crimes. They are the result of a justice system that values punishment over rehabilitation and education. While there is a massive societal issue with troubled, underserved youth, America has tried to arrest our way out of the problem.

The Crime Prevention and Youth Development Caucus is committed to answering some key questions:

- Why do we put kids in jail?
- Does our justice system address the fundamental differences between kids and adults?
- Is the way we treat children the best possible way to create tomorrow's society and tomorrow's workforce?
- What happens to our children once they enter the justice system?
- Are there ways to stop crimes before they are committed?
- Once a child enters the justice system, are there ways to keep them from committing more crimes, and to bring them back to a more accepted development track?
- How can we change America to discourage the "loop of crime" that so many of our kids are getting lost in?
- How do we make schools a place of learning, not the beginning of a "school to prison pipeline"?

HOW WILL YOU MAKE THE CAUCUS MATTER?
WORKING ACROSS THE AISLE TO MAKE A DIFFERENCE

In the coming months, the Crime Prevention and Youth Development Caucus is committed to:

- Establishing bipartisan support for youth violence prevention and crime reduction initiatives;
- Helping to lead the dialogue with youth advocates and ensure that they are in touch with members of Congress;
- Creating and educating a group of Congress members who support prevention and intervention initiatives, including hosting briefings, sending out letters educating members about pending legislation, advocating for adequate federal funding for COPS and the federal Office of Juvenile Justice and Delinquency Prevention;
- Raising the profile of these issues through Membership outreach, briefings and events;
- Putting a spotlight on innovation, diversion and prevention-oriented efforts around the nation and engage local leaders in these issues through listening sessions in key parts of the country;
- Coordinating and co-hosting events with other Caucuses.

ABOUT THE CO-CHAIRS

Rep. Reichert began his public service career in the United States Air Force Reserve. He joined the King County Sheriff’s Office in 1972 and is recognized for his role as the lead detective on the Green River Task Force and bringing to justice one of the most notorious serial killers in U.S. history. Reichert, a two-time Medal of Valor recipient, was elected to the
position of King County Sheriff in 1997. In 2004, he was honored as "Sheriff of the Year" by the National Sheriffs' Association for his efforts to reduce crime and advocate for victims of domestic violence. He is recognized as a pioneer in the fight against Meth for establishing Meth Action Teams throughout the state that to this day work to combat the scourge of Meth and other drugs in our communities. In late 2004, Reichert was elected to the U.S. House of Representatives and became only the 6th Freshman Member of Congress in U.S. history to chair a House subcommittee.

Rep. Cárdenas is a national expert in juvenile justice reform with a proven track record of enacting unprecedented legislation for over 17 years. As a legislator in the California State Assembly, including his former role as Chairman of the state's powerful Budget Committee, and as a former Los Angeles City Councilmember, Tony Cárdenas has successfully worked on effective youth development and juvenile justice policy and legislation. Cárdenas also introduced HR 2669, the Community-Based Gang Intervention Act, to provide a nationwide approach to reducing youth violence and promote public safety through evidence-based community development that targets at-risk youth and their families. In 2000, Cárdenas, then a California State Assemblyman, co-authored and passed AB 1913, the Schiff-Cárdenas Juvenile Justice Crime Prevention Act which has provided local communities with approximately $120 million per year, the single largest appropriation of state funds for youth crime prevention in the history of the United States. This bill was designed to counterbalance rising incarceration costs and has provided over a billion dollars for youth development services and programming helping to drastically reduce juvenile crime throughout the state of California.

IMPORTANT DOCUMENTS TO LEARN MORE ABOUT JUVENILE JUSTICE ISSUES


A letter from Rep. Cárdenas to President Obama, discussing the importance of the President's "My Brother's Keeper" initiative.

MacArthur Foundation Juvenile Justice website

Models for Change, an organization providing research-based tools and techniques to make juvenile justice more fair, effective, rational and developmentally-appropriate.

The Hamilton Project on Crime and Incarceration Policies (at Brookings
Ten Economic Facts about Crime and Mass Incarceration in the United States
A New Approach to Reducing Incarceration While Maintaining Low Rates of Crime
Think Before You Act: A New Approach to Preventing Youth Violence and Dropout

ARTICLES
Washington Post: How the federal government could get a 270x return on a prison reform investment
Al Jazeera: Sentenced young: The story of life without parole for juvenile offenders
LA Times Editorial: Do away with doing time for 'minor' crimes
Juvenile Justice Information Exchange: Experts: Brain Development Should Play Bigger Role in Determining Treatment of Juvenile Offenders
Youth Today: White Paper: Need to Reform Mental Health Treatment for Incarcerated Youth
National Journal: The U.S. Sends 2 Million Kids to Prison Every Year. Congress Is Trying to Change That.
BREAKING SCHOOLS' RULES:
A Statewide Study of How School Discipline Relates to Students' Success and Juvenile Justice Involvement

JUSTICE CENTER
THE COUNCIL OF STATE GOVERNMENTS

PPRI
Public Policy Research Institute
EXECUTIVE SUMMARY

This report describes the results of an extraordinary analysis of millions of school and juvenile justice records in Texas. It was conducted to improve policymakers’ understanding of who is suspended and expelled from public secondary schools, and the impact of those removals on students’ academic performance and juvenile justice system involvement.

Like other states, school suspensions—and, to a lesser degree, expulsions—have become relatively common in Texas. For this reason and because Texas has the second largest public school system in the nation (where nonwhite children make up nearly two-thirds of the student population), this study’s findings have significance for—and relevance to—states across the country.

Several aspects of the study make it groundbreaking. First, the research team did not rely on a sample of students, but instead examined individual school records and school campus data pertaining to all seventh-grade public school students in Texas in 2000, 2001, and 2002. Second, the analysis of each grade’s student records covered at least a six-year period, creating a statewide longitudinal study. Third, access to the state juvenile justice database allowed the researchers to learn about the school disciplinary history of youth who had juvenile records. Fourth, the study group size and rich datasets from the education and juvenile justice systems made it possible to conduct multivariate analyses. Using this approach, the researchers could control for more than 80 variables, effectively isolating the impact that independent factors had on the likelihood of a student’s being suspended and expelled, and on the relationship between these disciplinary actions and a student’s academic performance or juvenile justice involvement.

Key findings in the report include the following:

1. Nearly six in ten public school students studied were suspended or expelled at least once between their seventh- and twelfth-grade school years.

- About 54 percent of students experienced in-school suspension, which could be as brief as one period or as long as several consecutive days. Thirty-one percent of students experienced out-of-school suspension, which averaged two days per incident.
- Of the nearly 1 million students studied, about 15 percent were assigned at least once to disciplinary alternative education programs (27 days, on average) between seventh and twelfth grade; about 8 percent were placed at least once in juvenile justice alternative education programs (73 days on average).

- Only 3 percent of the disciplinary actions were for conduct for which state law mandates suspensions and expulsions; the remainder of disciplinary actions was made at the discretion of school officials, primarily in response to violations of local schools' conduct codes.

- Students who were involved in the school disciplinary system averaged eight suspensions and/or expulsions during their middle or high school years; among this group, the median number of suspensions and expulsions was four. Fifteen percent of students studied were disciplined 11 or more separate times.

2. African-American students and those with particular educational disabilities were disproportionately likely to be removed from the classroom for disciplinary reasons.

- The great majority of African-American male students had at least one discretionary violation (83 percent), compared to 74 percent for Hispanic male students, and 59 percent for white male students. The same pattern was found, though at lower levels of involvement, for females—with 70 percent of African-American female pupils having at least one discretionary violation, compared to 58 percent of Hispanic female pupils and 37 percent of white female pupils.

- Whereas white, Hispanic, and African-American students experienced discretionary actions at significantly different rates, students in these racial groups were removed from school for mandatory violations at comparable rates.

- Multivariate analyses, which enabled researchers to control for 83 different variables in isolating the effect of race alone on disciplinary actions, found that African-American students had a 31 percent higher likelihood of a school discretionary action, compared to otherwise identical white and Hispanic students.
- Nearly three-quarters of the students who qualified for special education services during the study period were suspended or expelled at least once. The level of school disciplinary involvement, however, varied significantly according to the specific type of disability. For example, students coded as having an "emotional disturbance" were especially likely to be suspended or expelled. In contrast, students with autism or mental retardation—where a host of other factors was controlled for—were considerably less likely than otherwise identical students without disabilities to experience a discretionary or mandatory school disciplinary action.

3. Students who were suspended and/or expelled, particularly those who were repeatedly disciplined, were more likely to be held back a grade or to drop out than were students not involved in the disciplinary system.

- Of all students who were suspended or expelled 31 percent repeated their grade at least once. In contrast, only 5 percent of students with no disciplinary involvement were held back.

- About 10 percent of students suspended or expelled between seventh and twelfth grade dropped out. About 59 percent of those students disciplined 11 times or more did not graduate from high school during the study period.\(^1\)

- A student who was suspended or expelled for a discretionary violation was twice as likely to repeat his or her grade compared to a student with the same characteristics, attending a similar school, who had not been suspended or expelled.

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1. Students were followed for one to three years beyond the year they were projected to graduate when they were in seventh grade. Whether a student graduated during the study period is distinct from whether a student dropped out. A student who did not graduate may have dropped out. Or, he or she repeated a grade at least once and was still involved in the Texas public school system in some capacity when the study period concluded. Another scenario, which applied to a small subset of students, is that they left the Texas public school system, transferring out of state or into private schools or home-schooling. There is no reason to believe that the effect of prior discipline on graduation rates differs for students who left the Texas public school system than for those who remained.
4. When a student was suspended or expelled, his or her likelihood of being involved in the juvenile justice system the subsequent year increased significantly.

- More than one in seven students was in contact with the juvenile justice system (i.e., contact with a county's juvenile probation department) at least once between seventh and twelfth grade.²

- Nearly half of those students who were disciplined 11 or more times were in contact with the juvenile justice system. In contrast, 2 percent of the students who had no school disciplinary actions were in contact with the juvenile justice system.

- When controlling for campus and individual student characteristics, the data revealed that a student who was suspended or expelled for a discretionary violation was nearly three times as likely to be in contact with the juvenile justice system the following year.

5. Suspension and expulsion rates among schools—even those schools with similar student compositions and campus characteristics—varied significantly.

- Half of the 1,504 high schools analyzed had disciplinary rates consistent with what researchers had projected, based on the characteristics/risk factors of the student population and the school campus.³ The other half of the high schools, however, had actual disciplinary rates that varied greatly from what was projected: 339 (or 22.5 percent) had disciplinary rates that were significantly higher than what researchers had projected, and 409 of the schools (or 27.2 percent) had disciplinary rates that were significantly lower than what had been projected.

The findings summarized above demonstrate why it is important for policymakers everywhere to examine the school disciplinary systems in their jurisdictions. This will not be without challenges for many states and will likely include significant

² Few of those contacts with the juvenile justice system were the direct result of misconduct at school. According to the Texas Juvenile Probation Commission, in 2009–2010, of the 85,548 formal referrals to juvenile probation in Texas from all sources, only about 6 percent (just 5,349) came directly from schools. In that same year, more than one million students in the grades studied were disciplined by school officials, but the referrals from schools directly to juvenile probation represented less than 1 percent of all the disciplined students.

³ Researchers isolated the degree to which different student and campus characteristics influenced disciplinary rates in a school, and using that information, predicted rates of suspension and expulsion at the 1,504 high schools. They compared that predicted rate of discipline with the school's actual rate of discipline.
investments in state-of-the-art information systems. Having quality data available is only the first step. To produce the unprecedented level of analyses found in this report, policymakers will need to follow the example set by Texas leaders across the political spectrum that showed courage and commitment by digging deep into an issue that has received relatively little public scrutiny.

An important take-away from this study is that individual schools within a state, working with the same resources and within the same statutory framework, have the power to affect their school disciplinary rates. In communities across the country, educators, juvenile justice system officials, service providers, students and parents, and advocates are also taking steps to implement innovative approaches that yield different disciplinary results. Nationally, a growing number of advocacy organizations and membership associations are drawing increased attention for their efforts to come up with more effective and fair approaches to school discipline. And a growing body of research is supporting and expanding upon these efforts. An essential next step is to convene experts, policymakers and advocates from education, juvenile justice, health, and child welfare systems to build on the important work of these stakeholders and to begin developing a consensus around approaches that will improve outcomes for students and teachers.
INTRODUCTION

Policymakers, educators, parents, and school children nationwide understand that for schools to provide safe and positive learning environments, there must be rules that govern student conduct. To enforce schools' rules effectively, they agree that teachers must have the tools, and the discretion to use those tools, to keep order and help students be academically successful. No one disagrees that teachers face enormous challenges in the classroom, and that managing the behavior of large groups of adolescents day in and day out can be a seemingly impossible assignment. Less consensus exists, however, on the issues of how, when, and against whom schools' rules should be enforced.

The Texas study that is the subject of this report took advantage of one of the nation's most mature and comprehensive school record systems. These data were used to make sense of the millions of suspensions and expulsions that Texas students experienced in their secondary school years. This report details a rigorous analysis of who was formally disciplined in the state's approximately 3,900 public middle and high schools. The results are intended to inform state and local government officials, community leaders, and others vested in reducing student misconduct and juvenile crime while improving education environments—both within and outside of Texas. The characteristics of students who were suspended and expelled from school are outlined, as are the characteristics of the subset of students who were disciplined repeatedly. The report further explains the effects of classroom removal on misbehaving students' academic performance and on their potential involvement in the juvenile justice system.

Why should anyone outside of Texas care about the findings presented in this report? First, nearly one in ten public school children in the United States are educated in the Texas public school system. In the 2009–2010 school year alone, there were nearly five million students enrolled in more than 1,200 Texas Independent School Districts. Second, not only does Texas have the second largest public school system among the states, but the student population, which is 49 percent Hispanic, 35 percent white, and 14 percent African American, reflects a


2. The term "districts" typically includes open-enrollment charter districts. In the 2009–2010 school year, Texas had 1,050 traditional school districts and 207 open-enrollment charter districts.
diversity that increasingly typifies many school systems in the United States. Third, school discipline rates in other large states are similar to or higher than those in Texas, suggesting that the findings presented here may have relevance for other state education systems. For example, in 2010 the percentage of K–12 students in Texas receiving out-of-school suspensions or expulsions (5.7%) was considerably lower than in either California (12.75%) or Florida (8.7%), and was similar to the rate in New York (5.2%, although expulsion data were unavailable for that state).

This report is meant to provide a starting point for other jurisdictions where officials want to improve their understanding of who is being suspended and expelled from school, and what those patterns mean for juvenile justice involvement and academic performance. In addition, this report may help stimulate or advance discussions that assist educators, and communities at large, to improve outcomes for youth who routinely misbehave or engage in serious misconduct in school.

**Juvenile Justice and School Discipline Trends**

The debate about how schools should respond to student misconduct is not new, but school discipline and juvenile justice policies have changed over time. Commensurate with the trend to be “tough on crime” in the late 1980s and early 1990s to increase public safety in the community (including a focus on perceived “hardened” juveniles), was a change that took hold to make schools safer as well. During that period, state legislatures overhauled their juvenile justice laws to ease accessibility to juvenile justice records, increase opportunities for prosecutors to try juveniles as adults for serious crimes, enable local governments to enact curfews, and expand definitions of what constituted “gang involvement” and other youth-related crimes.

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In the years that followed, anxiety about and perceptions of out-of-control youth were fueled in part by frequent news stories of teachers and students being shot or killed in high school classrooms, hallways, and cafeterias. The shootings took place in towns previously unknown to most Americans: Moses Lake, Washington; Bethel, Alaska; Pearl, Mississippi; Paducah, Kentucky; Jonesboro, Arkansas; Edinboro, Pennsylvania; Fayetteville, Tennessee; Springfield, Oregon; and Littleton, Colorado.  

In response, Congress took direct action to address crime in local schools. For example, President Clinton in 1994 signed into law the Gun-Free Schools Act. Under this legislation, local schools could seek funding if they could demonstrate that when a student brought a weapon to campus, he or she would be expelled for at least one year and referred to appropriate authorities in the justice system.  

Officials in many jurisdictions went beyond these minimum standards, mandating, for example, the suspension and/or expulsion from school of any student who brought any weapon onto campus.  

Policymakers and practitioners alike, taking a page from the shift toward more stringent adult crime policy, urged stricter enforcement of disruptive or dangerous actions in schools. Calls for swift and sure punishment for students who misbehaved resulted in the adoption of “zero tolerance” disciplinary policy in districts across the nation. By 1997, at least 79 percent of schools nationwide had adopted zero tolerance policies toward alcohol, drugs, and violence.  

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8. “Many school districts have adopted more expansive variations of the policy than cover numerous other violations, such as bullying, fighting, using drugs or alcohol, and even wearing banned types of clothing.” Christopher Boccanfuso and Megan Kohfield, Multiple Responses: Promising Results: Evidence-Based Nonpunitive Alternatives to Zero Tolerance (Washington, DC: Child Trends, 2011), referencing Russell Skiba, Zero Tolerance. Zero Evidence: An Analysis of School Disciplinary Practice (Bloomington, IN: Education Policy Center Indiana University, 2009).


10. Researchers define zero tolerance as a “policy that assigns explicit, predetermined punishments to specific violations of school rules, regardless of the situation or context of the behavior.” (Christopher Boccanfuso and Megan Kohfield, Multiple Responses: Promising Results: Evidence-Based Nonpunitive Alternatives to Zero Tolerance (Washington, DC: Child Trends, 2011). The term also has come to be associated with severe punishment, such as suspension or expulsion from school, for relatively minor misbehavior. (See also, Donna St. George, "More Schools Rethinking Zero-Tolerance Discipline Stand," Washington Post, June 1, 2007, retrieved June 1, 2011, from http://www.washingtonpost.com/local/education/are-more-schools-rethinking-zero-tolerance/2011/05/26/AGSHKmCH_story.html.

many places, these policies were expanded to include a wide range of misbehavior. The specifics of strict discipline policies, often loosely packaged under the rubric of "zero tolerance," vary from state to state and even school to school. Policies also differ in terms of how expelled or suspended students are directed, following a removal. For example, 26 states, including Texas, require alternative educational assignments for expelled or suspended students; in others, a suspension or expulsion results simply in the student serving out the punishment at home. In sum, although school responses to student misconduct typically are distinct to the individual jurisdiction, and even the individual school campus, the past two decades have witnessed a widespread reliance on suspension and expulsion as swift sanctions to disruptive classroom behavior.

While this emphasis on exclusionary school discipline policies has occurred, the rate of crimes against students has also declined, by 67 percent. Despite these coinciding trends, research to date does not support the conclusion that "zero tolerance" and other efforts emphasizing suspension and expulsion are responsible for the reduction in crimes committed in schools.

12. In this respect, the policy looked to "broken windows" criminal justice theory, which recommended vigorously pursuing and prosecuting lower-level violations as a method of deterring offenders from going on to commit more serious crimes. See James Q. Wilson & George L. Kelling, "Broken Windows," Atlantic Monthly, March 1982; see also National Institute of Justice, The Appropriate and Effective Use of Security Technologies in U.S. Schools: p. 21, 1999, (stating that "if a school is perceived as unsafe [i.e., it appears that no adult authority prevails on a campus], then "undesirables" will come in, and the school will actually become unsafe. This is an embodiment of the broken windows theory...Seemingly small incidents or issues such as litter on a school campus can provide the groundwork for...a problem school").


14. Id.

15. In 1992, the rate of student-reported nonfatal crimes against students between the ages of 12 and 18 years old was 144 per 1,000 students. By 2008, the rate had fallen to 47 per 1,000 students. Simone Roberts, Jiuan Zhang, Jennifer Truman, and Thomas D. Snyder, Initiatives of School Crime and Safety: 2010, NCES 2011-117/NCJ 230812 (Washington, DC: National Center for Education Statistics, U.S. Department of Education, and Bureau of Justice Statistics, Office of Justice Programs, U.S. Department of Justice, 2010).

What is evident is that strict enforcement of schools' rules has resulted in significant overall increases in the national number of suspensions: from about 1.7 million (3.7 percent of all students) in 1974 to more than 3.3 million (6.8 percent of all students) in 2006. Although perspectives differ on whether students today misbehave more than they did two decades ago, on this point everyone agrees: Suspensions, and to a lesser degree expulsions, are common in today's school systems.

Nationwide, the large number of suspensions and expulsions has prompted state and local policymakers, people working on the front lines of schools and juvenile justice systems, parents, students, and community leaders to ask for data explaining the impact this practice is having on students. Increasingly, observers are also asking about the consequences of suspending or expelling large numbers of students, such as whether these policies contribute to high drop-out rates or to students' involvement in the juvenile justice system—particularly students of color or those who have special needs.

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The Texas Statewide Study

In 2009, Texas state leaders supported a proposed study by the Council of State Governments (CSG) Justice Center to examine school discipline data and other information maintained by the Texas Education Agency (TEA). Data collected for the resulting study relate to nearly one million public school students in Texas. The records assembled are not for a sample of Texas secondary school children, but rather pertain to every student who was in seventh grade in a Texas public school in the academic years 2000, 2001, or 2002. These students' records were analyzed for at least six years. Researchers also were given access—without identifiers for individual children—to all matching records during this time period for youths who came into contact with Texas's juvenile justice system. Analyses conducted of the millions of records within the study's datasets have enabled unique insights into school disciplinary policies and their possible link to juvenile justice involvement and other outcomes.

The Gap in Research that Texas Addresses

Researchers, responding to the concerns of both professionals in the field and policymakers about large numbers of suspensions and expulsions, have made important inroads toward determining the common characteristics of children who are disciplined. The researchers also have looked extensively at factors that appear to put children at risk of disciplinary action and juvenile justice contact.

Among the many issues studied have been those on disparities between referrals of minority and special education students, as well as the link between the drop-out rate and the rate of student suspensions and expulsions. Study after

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20. See pages 25–30 of this report for an explanation of the study period and methodology.

study has found that African-American students experience suspension and expulsion at disproportionately high rates; that socioeconomic factors increase children's likelihood of experiencing suspension and expulsion; and that boys are disciplined more frequently than girls. The American Psychological Association (APA) published a landmark study, reviewing published research related to "zero-tolerance" discipline methods, that found that these policies may negatively affect academic outcomes and increase the likelihood of students dropping out.  

National and state-level advocacy organizations also have examined disciplinary practices. Advocates approach the issue from a variety of perspectives, including civil rights problems associated with overrepresentation of minority youth in disciplinary referrals; poor academic outcomes associated with the use of punitive disciplinary policies that remove youth from the school environment; and the "School to Prison Pipeline"—a tagline created by advocates who argue that school discipline has increasingly become a gateway to the juvenile system, and, subsequently, adult prisons. Some advocates further argue that relying on suspension and expulsion policies wastes taxpayer dollars on ineffective tools, encourages overreaching government intrusion, and "overcriminalizes" youthful behavior. Educators, for their part, including those who responded in focus groups to this study's preliminary findings, have cautioned that high rates of suspension and expulsion reflect unrealistic expectations that teachers alone can change behaviors that parents and communities have had no success addressing.

In Texas, similarly, there has been no shortage of focus on the issue. At the same time that the research for this report began, the Texas Legislative Budget

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Board (LBB) undertook a qualitative examination of six school districts across the state, publishing reports that examined strengths and weaknesses in existing disciplinary practices. The LBB included recommendations for districts interested in making improvements.

This report adds to existing work by being the first to offer information gleaned from data of a quality and scale previously unavailable to researchers. This study also provides a longitudinal examination of data on school disciplinary policies and their relationship to juvenile justice involvement and other outcomes. True, multivariate analyses conducted elsewhere have established relationships between school disciplinary action and students' race or presence of a disability. But none of these previous studies has been able to draw on millions of student and school-campus records that are both comprehensive and statewide, and to match such records against a similarly extensive set of juvenile justice data.

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**Texas's Progress on School Disciplinary Policies**

*Texas Stakeholders Explore New Models for Discipline*

Texas's reliance on data-driven educational programming has given the state a distinct advantage in evaluating the success of disciplinary initiatives. Few states in the nation collect the data on disciplinary actions that Texas requires its school districts to report. Education stakeholders have already begun to use this data to explore effective options.

Initiatives have included legislative change, training and grant funding, and district-level innovations aimed at reducing disciplinary and court referrals.

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8 **BREAKING SCHOOLS' RULES**
Legislative Initiatives:

The disciplinary policies included in the Texas Education Code have been amended nearly every legislative session since 1995. While many changes have added additional behavioral violations to the list of mandatory or discretionary actions, key changes have included the following:

- repealing a statutory provision that allowed school districts to charge students with a Class C Misdemeanor for any Code of Conduct violation\textsuperscript{28}
- requiring the Texas Education Agency to develop minimum standards for Disciplinary Alternative Education Programs (DAEPs)\textsuperscript{29}
- requiring school districts to consider mitigating factors, such as self-defense, intent, disciplinary history, and a student's disability, before making a disciplinary decision\textsuperscript{30}
- eliminating "persistent misbehavior" as a reason for expulsion\textsuperscript{31}
- eliminating ticketing of students in sixth grade and younger for nonviolent misbehavior\textsuperscript{32}
- eliminating ticketing of students under age 12 for truancy, and reserving ticketing of older students as a last resort to be used only after the school has tried internal measures that failed\textsuperscript{33}

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\textsuperscript{28} Tex. H.B. 278, 80th Leg., R.S. (2007).
\textsuperscript{29} Tex. H.B. 426, 80th Leg., R.S. (2007).
\textsuperscript{33} Tex. S.B. 1489, 82nd Leg. R.S. (2011).
Texas Education Agency (TEA) Initiatives:

- TEA provides training to districts interested in learning about positive, proactive discipline methods.\(^{34}\)
- Regional Education Service Centers (ESCs) across the state offer a number of activities, trainings, and technical assistance services for member districts interested in a positive and preventative approach to discipline. The Region 4 ESC provides leadership for two additional statewide initiatives including the Texas Behavior Support (TBS) network for children with disabilities and an online training that helps districts and campuses meet legislatively mandated training that incorporates a full continuum of positive behavioral intervention strategies.
- A 2011 pilot program uses statewide data to implement systems that will document student achievement and measure the effectiveness of specific professional development programs and activities. The Positive Proactive Response for Outcome-Based Success program (PROS) focuses on student data analysis, continuous coaching, and support—meant to result in fewer discipline referrals, increased attendance and graduation rates, and greater student achievement. The program will continue through the 2011–2012 school year.\(^{35}\)
- TEA has established standards for DAEPs, and included a requirement that a DAEP student's test scores be attributed to the student's home campus for purposes of accountability.\(^{36}\) This mirrors language in the Education Code for Juvenile Justice Alternative Education Programs (JJAEPs).\(^{37}\) These provisions ensure that Texas campuses do not have an incentive to push students with low test scores out to an alternative education placement—a problem reportedly occurring in other states.\(^{38}\)


\(^{35}\) Information provided by TEA to author Tony Fabelo, June 17, 2011.

\(^{36}\) 19 Tex. Admin. Code sec. 103.1204(c)

\(^{37}\) Tla. Edu. Code 37.0271(4)

Local Initiative:

- With support from a discretionary grant provided by the Criminal Justice Division of Governor Rick Perry's office, and with technical assistance from the TEA, the Waco Independent School District has created a pilot program aimed at reducing disciplinary actions and Class C ticketing on middle and high school campuses by as much as 25 percent per year over two years. The program, scheduled to be in place for the 2011-2012 school year, includes the following:

  - increased use of “Safe School Ambassadors,” meaning students trained to offer peer support and mediation services
  
  - a Parent Education Diversion Program, offered as an alternative to a DAEP or JJAEP placement. Social workers offer parents instruction and information relating to adolescent development, positive discipline, anger management and impulse control, and additional community resources available to support children and families
  
  - additional training for teachers in classroom management

- An increasing number of districts across the state have adopted Schoolwide Positive Behavioral Interventions and Supports (SW PBIS), an evidence-based disciplinary model that has been shown to reduce disciplinary actions by more than half.

- The Bexar County Juvenile Probation Department created the Children's Crisis Intervention Training (CCIT) in 2009 as specialized training for school district police officers. This 40-hour training is offered during the summer and includes information regarding active listening and de-escalation techniques; mental, learning, and developmental disorders in children; substance abuse; and available community resources for families and children. To date, Bexar County has trained more than 70 officers.

Although no state can provide a perfect case study of school disciplinary policies to which officials in any state can relate, Texas does offer a particularly useful laboratory to examine these issues. It is highly unusual in its maintenance of individual electronic records, rich with information about each public school student. This system facilitates tracking of students over their school careers, even as they move from one school (or district) to the next. Individual electronic records also are maintained for youths who come into contact with the juvenile
justice system. What further distinguished Texas from every other state at the start of this study in 2009 was the opportunity to study at least six years’ worth of state student-level education and juvenile justice electronic records, and to benefit from broad bipartisan support for this research.

Organization of this Report

This report begins with a summary of the methodology used to analyze student, school campus, and juvenile justice records in Texas. A description of the Texas school disciplinary system follows, including the legal framework and key terms, to help readers understand which behaviors are likely to result in specific types of school action (as well as the nature and duration of those actions). The centerpiece of the report is six findings. Each finding, in turn, contains an overview of the issue that the researchers explored, and a concise description of the approach they used to analyze relevant data. Facts, figures, and tables that provide the basis for the finding are also included.

Scope of the Report

Leaders of the CSG Justice Center believed this project should be intensely focused on what the data tell us about school disciplinary outcomes related to the juvenile justice system and academic performance. Accordingly, the report provides readers with statistical information on the number and type of suspensions and expulsions made in Texas’s public secondary schools and a profile of the students affected. It defines key problems and highlights the consequences of disciplinary actions. While the study cannot account for every imaginable variable that could impact academic success, as well as juvenile justice involvement and other outcomes highlighted in the report, the multivariate analyses do control for the 83 variables listed in Appendix A.

Many aspects of school discipline that are the subject of intense debate, in Texas and nationally, are not addressed in this report. Truancy analyses and the role of local law enforcement in schools (including the practice of issuing misdemeanor “tickets” to misbehaving students who are subject to the municipal courts) were largely outside the scope of the data analysis described in this publication.

Similarly, this report does not contemplate how students’ involvement in the child welfare system relates to suspension and expulsion rates. These issues could not be properly addressed using the study’s datasets, beyond what is included in this report.
Despite the comprehensiveness of this study, it could not pinpoint to what extent student behaviors actually differed from one school to the next. A seemingly obvious metric available in the dataset that researchers could use to gauge misbehavior in a particular school would be the rate at which disciplinary actions were recorded there. Because state law mandates a student’s removal from the classroom when he or she commits certain offenses (e.g., bringing a gun to campus), the rate of those types of serious incidents occurring is one objective measure of safety at a school. As this report explains, however, the overwhelming majority of disciplinary actions taken are discretionary responses. Consequently, researchers could not rule out the possibility that when fewer disciplinary incidents were recorded at a particular campus, educators may simply have been more tolerant of misbehavior—or they may have been able to mitigate misbehavior (by engaging students more effectively, for example).

Other researchers have cautioned against using discretionary disciplinary actions as a proxy for gauging student behavior in a school. One study, for example, demonstrated that office referrals are not a pure index of student behavior but rather an index of the disciplinary systems within a school.\textsuperscript{39} There are major differences within and among schools in the processes, forms, terminology, and training they employ, each of which are factors that influence office referrals.\textsuperscript{40} For similar reasons, readers should be careful not to equate this report’s data on discretionary actions as a proxy for measures on school safety.

Readers outside Texas also are cautioned about generalizing these findings, in part because they will see differences between Texas’s practices and their own districts’ student record-keeping and school discipline or juvenile justice systems.\textsuperscript{41} Nevertheless, this report should still provide insights relevant to other jurisdictions.

This report stops short of suggesting programs and practices that may be effective in reducing suspensions and expulsions or minimizing their impact. It also does not describe individual school initiatives or approaches related to safety.


\textsuperscript{41} For example, unlike Texas, which established and maintains the Disciplinary Alternative Education Programs, nearly half the states do not require alternative educational assignments for expelled or suspended students. Civil Rights Project and the Advancement Project, “Opportunities Suspended: The Devastating Consequences of Zero Tolerance and School Discipline Policies” (paper presented at the National Summit on Zero Tolerance; Washington, DC, June 13–16, 2000).
and improving student outcomes. Other publications are dedicated to these purposes. The CSG Justice Center does plan to convene a national cross-section of innovative thinkers and opinion leaders, in follow-up to this study, to discuss recommendations for a broad spectrum of systems that address the report's themes and build on the work of experts in the field.

OVERVIEW OF THE TEXAS SCHOOL DISCIPLINARY SYSTEM AND KEY TERMS

Every state’s public school disciplinary system has its own distinct mandates, culture, and quirks. Yet all public school models share enough common elements and objectives that findings from this Texas study can direct officials in other jurisdictions to similar questions and analyses that can help determine how school discipline affects student involvement with the juvenile justice system and other related outcomes.

Like many states, Texas’s legal and policy structure is quite complex. The discussion that follows highlights key features of the system to ensure that all study results are considered in their proper context. To interpret results accurately, it is important to keep in mind the definitions that relate to the different categories of disciplinary actions, and what conduct prompts these actions. Readers also should note what kind of discretion school and other officials have when addressing students’ violations of school codes or state law.

Statutory Framework

In 1995, the Texas legislature established a statewide, legal framework to promote safety and discipline in its public school system.43 Chapter 37 of the Education Code created two categories of disciplinary actions: mandatory and discretionary. Within the mandatory category, the Code lists specific serious criminal behaviors that qualify as felony offenses (such as use of firearms on school grounds, aggravated assault, and sexual assault). These trigger mandatory removal of the individual from the school (for a full listing of mandatory offenses and the discretionary violations that follow below, see Appendix B).

Chapter 37 also identifies less severe offenses, which include conduct occurring off campus or at a school-sponsored or school-related activity, such as felony criminal mischief, misdemeanor drug, alcohol, or inhalants offenses; and fighting/mutual combat. For these offenses, school district officials have the discretion to remove a student from the classroom or school.

In addition, Chapter 37 requires each school district to adopt a student “code of conduct.” Districts have the authority to include in their codes of conduct

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additional offenses requiring disciplinary action. They thus have a great deal of leeway to enlarge upon the mandatory and discretionary offenses included in Chapter 37. These locally designed and administered rules provide written guidance to students, teachers, and parents on acceptable student behavior; describe which violations dictate mandatory or discretionary action; and outline district processes for disciplining students who break these rules.

Locally Administered “Code of Conduct”

School districts’ codes of conduct are often more than 50 pages in length, reflecting the intricacy of these frameworks. Many districts require the student and his or her parent or guardian to sign the code at the beginning of each school year, attesting that they have read and discussed it and understand the consequences it outlines. These codes typically organize violations into five levels: Level I violations are the least serious, addressing behavior such as being tardy, leaving class early, or violating the dress code. Violations that are particularly serious, and amount to criminal behavior, are Level IV or V violations, discussed in more detail below.

The level of the offense determines how broad the range of sanctions may be that are available to school administrators. Generally speaking, the lower the level of the violation, the larger the menu of potential consequences. For example, if a student's misbehavior constitutes a Level I violation, a teacher or other school employee may choose from among many sanctions that neither require referral to the principal's designee nor removal

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Truancy

Texas’s relevant state statute defines truancy as the unexcused failure to attend school for ten or more days, or parts of days, during a six-month period—or failure to attend three or more days, or parts of days, within a month. When local officials determine that a student is truant, they have two options:

1. They may refer the student to the juvenile justice system for “conduct indicating a need for supervision” (CINS)—an offense defined in Title 3 of the Family Code. The youth is typically placed on probation, with attending school as one of the terms for successful completion. The local juvenile probation department may then refer the youth to additional services.

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2. The school district’s truancy officer may issue the student a Class C misdemeanor ticket, in which case the youth is prosecuted through the municipal court system.*

In either event, state-level data regarding truancy are not comprehensive because many truancy cases are prosecuted but never recorded as a disciplinary violation in TEA’s database. Accordingly, for this study, municipal and justice court data on truancy were not addressed, and an examination of truancy issues was beyond the scope of this report.

* See page 23 for a discussion on youths who violate school rules and are charged with a Class C misdemeanor offense.

from the classroom. These might include lunch or after-school detention, Saturday school, or extra school work. Even though Level 1 offenses are less serious, a more serious consequence may be imposed, such as an in-school suspension, or even an out-of-school suspension. The higher the level of the violation, the fewer options a school administrator has for disciplining a student. For example, sanctions from which a school administrator may choose when disciplining a student who has committed a Level III violation include suspension or possible Disciplinary Alternative Education Program (DAEP) removal. A Level V violation triggers automatic referral to an available Juvenile Justice Alternative Education Program (JJAEAP). 45

The determining factor as to which disciplinary consequences are used among districts, or even from one school to another, is not so much the substantive content of the codes of conduct, the variation in the rules they establish, or even the range of consequences associated with different violation levels. Instead, the determining factor is how teachers and administrators interpret and apply these codes of conduct. What behaviors, for example, amount to “classroom disruption”? Should a student immediately be removed from the classroom for any sign of it, and, if so, which of the various possible consequences listed in the code of conduct should be imposed? How school administrators interpret these codes, and their responses to violations, varies enormously. 46

Complicating the understanding of administrators’ responses to behavioral violations is the way student discipline data are

45. Jurisdictions that are not large enough to be required to have a JJAEAP may expel students to the street.

46. See, e.g., Texas Appellee, Texa’s School-to-Prison Pipeline: Dropout to Incarceration: The Impact of School Discipline and Zero tolerance (2007); Texas Appellee, Texa’s School-to-Prison Pipeline: School Expulsion: The Path from Lockout to Dropout (2010); See also, the discussion in this report’s Finding 6.
reported and maintained. For example, data available in TEA's information systems permit a nuanced analysis of serious offenses committed in public schools, but not of low-level offenses.

Serious offenses that amount to criminal behaviors and are explicitly identified in Chapter 37 also are reported to TEA and reflected in a district's disciplinary data, but most low-level offenses, including classroom disruption, use of profanity, or involvement in a schoolyard scuffle (that does not rise to the level of an assault), are categorized generally as a "violation of the local code of conduct" and coded as such in reports to TEA. For this reason, the overwhelming majority of disciplinary violations reported to TEA appear as generic violations of the code of conduct, making it impossible to determine more precisely the behavior for which the student was disciplined.

**Explanation of Suspension, Expulsion, and Out-of-School Placement**

Although the process may vary, when a teacher or other school employee observes a student committing a violation of the code of conduct (or learns of an alleged violation), campus policy often calls, first, for the behavior to be managed through informal discipline by the classroom teacher. If a pattern of disruptive behavior continues or interferes with instruction to other students, the child may be referred to the office of the designated administrator, usually the principal or vice principal. If the administrator determines that the offense is a lower-level violation of the school code of conduct, he or she has discretion about how to respond. The administrator may decide to do nothing formal, but may instruct the teacher to take further action by contacting parents and/or organizing a team response in collaboration with behavioral specialists and colleagues who also reach the student. In this case, no violation is noted in TEA's Public Education Information Management System (PEIMS) database used for this study. The administrator also may choose from among a range of options outlined in the school code of conduct.

This report analyzes the use of the four sanctions for which school districts are required to report data to the TEA (see Figure 1): in-school suspensions (ISS),

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47. Although the study findings exclude the informal actions for which data are not kept, such as the parent-teacher or school personnel team meeting, these data may be available in local databases that were not accessible through this study.
out-of-school suspensions (OSS), Disciplinary Alternative Education Programs (DAEP), and Juvenile Justice Alternative Education Programs (JJAEP) (or expulsion to the street where unavailable). If the designated administrator determines that classroom removal is appropriate, or that state law or the local code of conduct mandates the student be taken out of the classroom or school, the removal process is begun.

**FIGURE 1: Disciplinary Actions within the Texas Public School System**

Referral
School employee refers student to designated administrator for disciplinary action.

Designated Campus Administrator
(Usually Principal or Vice-Principal)
What type of violation? Discretionary or mandatory?

Mainly student code of conduct violations and others defined as discretionary

Discretionary Violation
Administrator has discretion to remove student from classroom.

Mandatory Violation
Administrator is required to remove student from classroom.

Mainly serious violations listed in statute

Informal Disposition*

In-School Suspension (ISS)

Out-of-School Suspension (OSS)

Disciplinary Alternative Education Program (DAEP)

Juvenile Justice Alternative Education Program** (JJAEP)

Misdemeanor C Violation
"Ticket and Release"*

* Violations and dispositions not coded in the TEA student database are not part of this study.
** In counties without a JJAEP, students can be expelled to the street.


48. Chapter 37 only requires counties of 125,000 or greater population to have a JJAEP.
In-school Suspension (ISS)

A student may be placed in ISS, which requires reporting to a designated room on the school campus other than the student's assigned classroom, for as short a duration as a single class period or for as long as several days. Chapter 37 does not speak to what is required in an ISS classroom.

According to the Legislative Budget Board, documented problems with ISS programs in Texas include:

- lack of written procedures for ISS,
- inadequate training for ISS staff, and
- failure to ensure students are given academic work during their stay in an ISS classroom, which can cause students to fall behind academically—particularly when this action is coupled with lack of direct instruction.

Out-of-school Suspension (OSS)

A student may be suspended from school for no longer than three days. There is no cap on the number of OSS actions that may occur in a school year. Students who are repeatedly referred to OSS over the course of a single school year may lose a significant amount of instructional time. This may place students who are already likely to be disengaged from school, at higher risk for falling significantly behind their peers.


50. Johanna Wald & Michael Keland, Connected in School? An exploratory study of student perceptions of discipline and attachment to teachers, in Deconstructing the School to Prison Pipeline 15, 38 (New Directions for Youth Development 2013); Linda M. Raffaeli Mendez, Predictors of Suspension and Negative School Outcome: A Longitudinal Investigation, in Deconstructing the School to Prison Pipeline 37, 29 (New Directions for Youth Development 2003).
Disciplinary Alternative Education Program (DAEP)

A student who is removed for more than three days from school is assigned to an alternative education campus. Policymakers created DAEPs to require school districts to provide students with a suitable educational setting during their suspension. Chapter 37 requires these programs to include a behavioral component meant to address the problem that resulted in a student’s referral, and requires the instructional program to include the core components of English, math, science, and history.51

However, because there has been little monitoring and oversight of DAEPs, the quality of the programming and instruction varies among districts, with some students in DAEPs poorly served by under-resourced programs. The Legislative Budget Board has expressed the following concerns:52

- failure to staff the DAEP with certified teachers
- failure to provide a learning environment equivalent to mainstream campuses
- inadequate training for DAEP instructors and staff
- lack of instructional alignment between DAEP and mainstream campuses
- insufficient communication between a student’s home campus and DAEP
- absence of transitional programming upon a student’s return from a DAEP

Students may be expelled from a DAEP for “serious or persistent misbehavior,” a term that many districts define simply as two or more documented violations of the student code of conduct during the course of the student’s attendance there. Thus, a high number of expulsions are made from DAEPs for the very same behaviors that brought the student there initially. Expulsion from a DAEP for serious or persistent misbehavior is a CINS offense in the Family Code. This

means that students can be brought into direct contact with the juvenile justice system for low-level misbehavior.\textsuperscript{53}

**Juvenile Justice Alternative Education Program (JJAEP)**

In the most populous counties where this option is available, expelling a student results in removal to the juvenile justice-operated school. This consequence is generally reserved for students accused of engaging in delinquent conduct or CINS offenses under Title 3 of the Texas Family Code.\textsuperscript{54} The Texas Juvenile Probation Commission (TJPC) provides state oversight of JJAEPs, and has adopted more rigorous standards and requirements for these programs than the TEA created for DAEPs.\textsuperscript{55}

Chapter 37 does not require written notice or a conference with parents prior to disciplinary actions, including suspensions, that fall short of removal to an alternative education program. It does, however, require schools to notify parents when a student has been disciplined.\textsuperscript{56} When the principal or administrator in charge of discipline decides to impose a sanction that requires removal to a DAEP, he or she must first schedule a conference with the student and his or her parent or guardian within three days of the child’s removal from the classroom.\textsuperscript{57} If a student is expelled, a more formal hearing is required.\textsuperscript{58} Consequently, a student may spend time in an immediate ISS or OSS placement, pending a hearing, or may do so to fulfill notice requirements before being sent to one of the alternative education programs. Chapter 37 does not allow students to return to their regular classroom to await the hearing or a decision on an appeal of a disciplinary referral to the DAEP or JJAEP.

\textsuperscript{53} Aggregate data provided by the Texas Juvenile Probation Commission, on file with the author, show that 1,227 youth were referred to the juvenile justice system in 2010 for the CINS offense of expulsion for serious or persistent misbehavior while in a DAEP. See also, the sidebar on Texas’s progress on school disciplinary changes in the Introduction on pages 8–11.

\textsuperscript{54} Because juveniles are not prosecuted in the criminal justice system, “delinquent conduct” is described in the Family Code rather than the Pencil Code. Title 3 defines delinquent conduct and CINS offenses.


\textsuperscript{56} Tex. Educ. Code §37.001(6).

\textsuperscript{57} Tex. Educ. Code §37.009.

\textsuperscript{58} Id.
The Role of Law Enforcement in Texas Public Schools

Police, or another local law enforcement authority, often have some type of presence in Texas schools, and a role in the school's disciplinary system. Officers typically assume primary responsibility for enforcing the law, but there is no consensus about whether their mission includes ensuring compliance with those school rules which, when violated by students, do not necessarily amount to criminal offenses.

When law enforcement officials assigned to a Texas campus observe a student violating school rules (or learn of such behavior), they may send the student to the designated administrator. Alternately, for behavior that can be punished as a Misdemeanor C violation, officials may pursue a criminal justice response. Officers have the legal authority to issue "tickets" that are the equivalent of an "arrest and release on the spot" for offenses such as disruption of the class, disorderly conduct, failure to attend school, or a minor's possession of alcohol or tobacco. A student receiving such a ticket is not subject to jail time, but must appear before a municipal or justice court, where a judge typically imposes a fine of up to $500 and/or community service.

It is also possible to receive a Misdemeanor C "ticket" and be subject to the school's disciplinary action, in accordance with Chapter 37. The number of Misdemeanor C tickets issued annually, and the extent to which students are disciplined pursuant to a school's code of conduct, is unclear because information about Misdemeanor C tickets is not captured in a student's record within the TEA database.

Texas Appleseed issued a report studying the impact of this ticketing policy. The organization estimated the potential number of citations involving students as being well over 100,000 a year, with most citations generated in school districts that have their own police departments. The report went on to cite concerns that ticketing turns the misdeeds of a large number of students into criminal behavior at an early age. That may be one reason why the policy was under

59. Texas Appleseed, Texas School to Prison Pipeline: Ticketing, Arrest & Use of Force in Schools (2011). Texas Appleseed works with lawyers and other professionals to identify and resolve difficult systemic problems. It has focused on the impacts of in-school and out-of-school student suspension and referrals to Disciplinary Alternative Education Programs; the group documented the disproportionate impact of discretionary school expulsion on minority and special education students; and the shift of student discipline from schools to the courthouse in ticketing, arrest and use of force in schools.

60. Id. at 76-77.
scrutiny by Texas policymakers as part of an overall effort to review the state’s school disciplinary policies.\textsuperscript{61}

**School Districts’ Options for a Law Enforcement Presence**

In Texas, school districts that opt to have a law enforcement presence on school campuses may choose from two models:

- a traditional School Resource Officer model, which requires the district to contract with a local policing agency to assign officers to the district’s campuses
- an in-house school district police department, with a force commissioned by the school board and overseen by the superintendent. Chapter 37 allows school districts to commission their own police forces with licensed peace officers who have the power to arrest, issue citations, and conduct other law enforcement duties.

Within these models, roles for school officers can vary across districts or even among area schools.\textsuperscript{62} In some districts, officers are unlikely to deviate from a traditional law enforcement model. In others, officers’ duties may include mentoring and teaching, particularly in districts that use the Drug Abuse Resistance Education (D.A.R.E.) curriculum.\textsuperscript{63} Typically, a school police officer’s more traditional tasks include patrolling the campus and its surroundings, providing security for school events, enforcing traffic laws on and around campus, and issuing tickets for Class C misdemeanors, or making arrests if a more serious violation occurs.\textsuperscript{64} School police officers may also investigate crimes that occur on campus, and conduct drug sweeps or weapons searches.\textsuperscript{65}

Although Texas schools report a great deal of school disciplinary data to the TEA, school district police are not required to report any data relating to school crime, including tickets issued or arrests made.\textsuperscript{66} This makes it very difficult to get a clear picture of the level of crime that takes place on Texas’s school campuses, or the impact that school-based ticketing and arrest may have on students.

\textsuperscript{61} In preparation for the 2011 legislative session, the Senate Criminal Justice Committee issued an interim report recommending changes to this policy. Texas Senate Criminal Justice Committee, Interim Report, December 15, 2010, at http://www.senate.state.tx.us/sr/reports/interim/2011/2011criminaljustice.htm. For updates on the legislation that passed, see the sidebar about Texas legislative measures on page 9.

\textsuperscript{62} Texas Appellee, supra note 59, at 37–44.

\textsuperscript{63} Id.

\textsuperscript{64} Id. at 38.

\textsuperscript{65} Id.

\textsuperscript{66} Id. at 36–34.