

## The Unintended Consequences of School-Justice Practices

MATT CREGOR, STAFF ATTORNEY  
LAWYERS' COMMITTEE FOR CIVIL RIGHTS  
AND ECONOMIC JUSTICE

Long Island Regional Leadership Summit on  
School-Justice Partnerships  
March 7, 2014

### School discipline has changed

- Suspension and expulsion rates are at their all-time highs – practically double the rates of the 1970s.
  - 3.3 million students are suspended at least once each year
  - Over 100,000 are expelled each year
  - A Texas study found that less than 3% of disciplinary actions were for incidents that required removal under state law.
- More schools are relying on police, not just to protect school safety, but to address disciplinary issues
  - In Pennsylvania, the number of school-based arrests almost tripled between 1999-00 and 2006-07 from 4,563 to 12,918.
  - In Florida, 69% of the state's 21,289 arrests and referrals in 2007-08 were for misdemeanors
- More districts are sending students to “alternative schools” for student behavior.

## All students are affected

- 6-year-old Salecia Johnson was handcuffed and taken from school to the police station after throwing a temper tantrum at her school in Milledgeville, GA (2012).
- 11-year-old Alexa Gonzalez was arrested for writing “I love my friends” on her desk in erasable marker at her Queens, NY, middle school (2010).
- 15-year-old Christian Ademik hanged himself after streaking prank left him “facing expulsion and being put on sex offender registry” in Huntsville, AL (2013).

## We know better

According to the American Psychological Association, the American Academy of Pediatrics, the Council of State Governments, and the Centers for Disease Control and Prevention:

Out-of-school youth are more likely to:

- Drop out of school
- Be retained a grade
- Engage in delinquent behavior
- Become involved in the juvenile and criminal justice systems

## We know better

### Schoolwide effects:

- Lower scores on standardized tests
- Greater teacher dissatisfaction
- No proven gains in safety

Russell Skiba et al., American Psychological Association Zero Tolerance Task Force, *Are Zero Tolerance Policies Effective in the Schools? An Evidentiary Review and Recommendations* (2006).

## Disenfranchised youth are hit the hardest

- Students with disabilities are roughly twice as likely to receive out-of-school punishment compared to their non-disabled peers.
- LGBTQ students are likely to receive harsher disciplinary punishment than their straight-identified peers.
- Students in foster care are three times more likely to be suspended or expelled than students in the care of a guardian.

## Students of color are the most affected

- African-American students are three-and-a-half times as likely to be suspended or expelled as their white peers.
- Latino students are one-and-a-half times as likely to be suspended and twice as likely to be expelled as their white peers.
- ***Race is a predictive factor in who will receive a discretionary suspension***, even when adjusting for other demographic differences. (Council of State Governments)

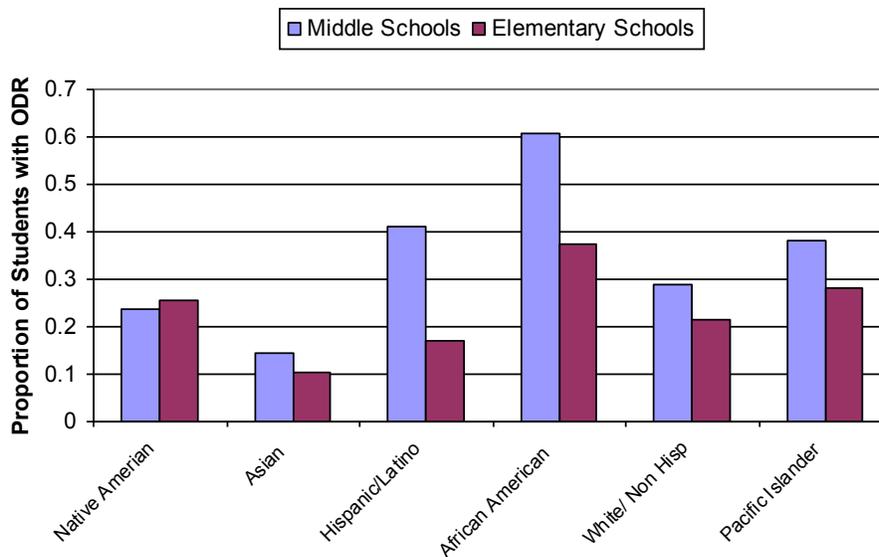
## Two levels of disproportionality in discipline systems

- **Race is not Neutral:  
Disproportionality in School Discipline**  
Russell Skiba, Robert H. Horner, Choong-Geun Chung  
Karega Rausch, , Seth L. May, and Tary Tobin
  - Journal of School Psychology
- Analysis of office discipline referral data from the school-wide information system
  - 436 elementary and middle schools
  - 205,932 students who received office discipline referrals
  - Referrals organized by student ethnicity, type of problem behavior, and administrative decision.

## Two levels of disproportionality in discipline systems

- **First Finding:** Students from Hispanic/Latino and African American backgrounds were more likely to be sent to the office than their white peers.

**Proportion of students per ethnicity with an Office Discipline Referral (436 Elem and Middle Schools 05-06)**



## Two levels of disproportionality in discipline systems

- **First Finding:** Students from Hispanic/Latino and African American backgrounds were more likely to be sent to the office than their white peers.
- **Second Finding:** If students from Hispanic/Latino or African American backgrounds were sent to the office, they were more likely than white students to receive a consequence that resulted in their being removed from school (suspension/expulsion)

## Two levels of disproportionality in discipline systems

	Detention	Moderate/ (Call home, Privilege)	In school suspension	Out of school suspension
Minor				
Defiance				
Disruption				
Moderate				
Major				
Use/ Possession				



## Two levels of disproportionality in discipline systems

### 2005-06 African American (Elementary and Middle) Odds Ratio with White as comparison

	Detention	Moderate	In school suspension	OSS/EXP	Unknown/Other
Minor	0.70 <b>1.53</b>	<b>0.44</b> <b>2.04</b>	0.92 <b>4.21</b>	<b>2.65</b> <b>2.44</b>	0.75 <b>0.79</b>
Defiance	0.79 <b>0.52</b>	1.11 <b>0.65</b>	0.77 <b>1.36</b>	1.31 <b>1.15</b>	1.26 <b>0.83</b>
Disruption	0.58 <b>0.52</b>	1.21 <b>0.62</b>	0.61 <b>1.48</b>	<b>2.28</b> <b>1.34</b>	0.64 <b>0.93</b>
Moderate	0.95 <b>0.63</b>	<b>1.99</b> <b>0.57</b>	1.24 <b>1.22</b>	<b>1.94</b> <b>1.43</b>	1.66 <b>1.04</b>
Major	0.97 <b>0.63</b>	0.75 <b>0.68</b>	0.97 <b>0.99</b>	<b>1.58</b> <b>1.22</b>	1.35 <b>0.70</b>
Use/ Possession	N too small for odds ratio calculation				

## Two levels of disproportionality in discipline systems

### 2005-06 Hispanic/ Latino (Elementary and Middle) Odds Ratio with White as comparison

	Detention	Moderate	In school suspension	OSS/EXP	Unknown/Other
Minor	1.05 <b>2.25</b>	<b>0.35</b> <b>2.78</b>	1.35 <b>3.31</b>	<b>4.68</b> <b>5.10</b>	0.45 <b>1.20</b>
Defiance	1.42 <b>1.03</b>	1.17 <b>1.11</b>	0.61 <b>1.53</b>	<b>1.52</b> <b>1.46</b>	1.24 <b>1.09</b>
Disruption	0.73 <b>1.18</b>	0.58 <b>1.17</b>	0.46 <b>1.85</b>	<b>1.58</b> <b>2.59</b>	0.99 <b>1.34</b>
Moderate	1.26 <b>1.07</b>	0.88 <b>1.05</b>	0.89 <b>1.42</b>	1.32 <b>2.17</b>	1.34 <b>0.94</b>
Major	1.50 <b>0.84</b>	1.06 <b>0.93</b>	0.75 <b>1.26</b>	<b>1.94</b> <b>2.07</b>	0.81 <b>0.78</b>
Use/ Possession	N too small for odds ratio calculation				

## Subjective vs. Objective Offenses

White students more often referred for:

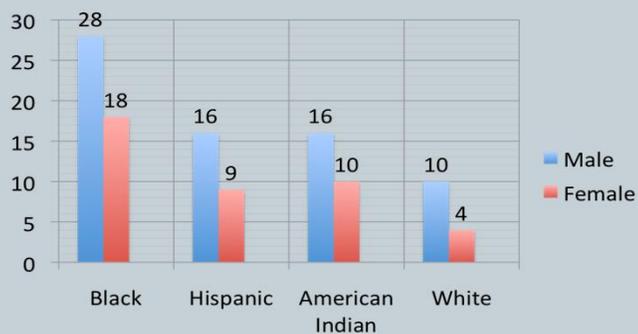
- Smoking
- Vandalism
- Leaving without permission
- Obscene language

African-American students more often referred for:

- Disrespect
- Excessive noise
- Threat
- Loitering

## Racial Discipline Gap: Middle Schools

Percent Suspended From Middle School



Slide drawn from Dan Losen (Civil Rights Project), Using Race and Gender Data to Identify Overuse of Discipline and to Effectively Drive Remedies, Civil Rights and School Discipline Conference, Sept. 2010.

## Suspended Education: Middle Schools in Crisis

- 15 of 18 urban districts (in sample) suspended more than 30% of Black male middle school students.
- 175 middle schools in the 18 districts suspended more than a third of Black males.
- 84 middle schools suspended over 50% of black males.
- Many schools had rates this high for other racial/gender groups.

Slide drawn from Dan Losen (Civil Rights Project), Using Race and Gender Data to Identify Overuse of Discipline and to Effectively Drive Remedies, Civil Rights and School Discipline Conference, Sept. 2010.

## Question

How can we close the “achievement gap” or end the “dropout crisis” if students aren’t allowed in school?

## Federal Guidance on School Discipline

On January 8<sup>th</sup>, the U.S. Departments of Education and Justice released joint policy guidance on how they are enforcing federal civil rights laws to ensure that school discipline is handled in a nondiscriminatory manner.



Photo: Guidance release in Baltimore, MD.

## A Bold and Necessary Step

- The Departments acknowledge that “**racial discrimination in school discipline is a real problem**” and **substantial racial disparities in discipline data are not explained by more frequent or more serious misbehavior** by students of color.
- The Departments acknowledge that **without change; there will continue to be long-term, serious consequences**; and a direct funnel of students into the school-to-prison pipeline.

## School Discipline Guidance Package

- **Dear Colleague Letter:** clarifies the civil rights obligations of school districts to discipline without discrimination on the basis of race, color, or national origin
- **Guiding Principles with action steps**
- **Directory of Federal Resources**
- **Compendium: State by State Database of School Discipline Laws and Regulations**  
[online and searchable]

## Breakout Session Preview

### Unpacking the Departments' of Education and Justice School Discipline Guidance Package

#### Breakout Session IA (11am)

- What's in the guidance?
- How are advocates and educators using the guidance?
- How can you use the guidance in New York?

## Who is welcome in our schools?



## Contact Information

Matt Cregor  
Staff Attorney  
Lawyers' Committee for Civil Rights  
and Economic Justice  
[mcregor@lawyerscom.org](mailto:mcregor@lawyerscom.org)