

ATTEND SCHOOL DAILY:

An Examination of How Court-Involved Youth Navigate the School-to-Prison Pipeline

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INTRODUCTION

The current crisis in K-12 public education caused by the COVID-19 pandemic resembles education for children in the delinquency system every day in this country. It is an educational system that is chaotic, inconsistent, and periodically nonexistent. Hardly a week goes by without an article or news story lamenting the lack of educational services available for children who were unexpectedly ripped from their brick and mortar schools during the months of March and April as the pandemic started to bear down on the United States.[2] Concerns range from anxiety around the quality and frequency of educational services and grading standards, to the number of hours children are expected to engage in online learning and whether teaching will be high quality or be compromised and children will fall behind.[3] These are completely rational concerns for any parent or community to have. Yet, there are tens of thousands of children in the United States for whom the COVID-19 educational landscape is a constant

reality.

Children who are ensnared in the juvenile delinquency and adult criminal legal systems in this country face an educational experience that is fraught with interruption, uncertainty and lack of quality curricula.[4] Multiple factors play into the problems with education for these young people, but the result remains the same. The vast majority of these children end up behind their peers in every meaningful life domain.[5] As a result, they experience longer and deeper entanglement in these deeply inequitable systems.[6] Those whose dispositions, or sentences, place them in the community face probation violations for failing grades or being late to school. Those who are placed in out-of-home delinquency placements or jail must navigate a maze of patchwork educational services, which may or may not bear any resemblance to the child's home school program.

The Education Law Clinic at the Duquesne University School of Law in Pittsburgh, PA in 2016 began with the goal to help

all children, from kindergarten to grade 12, navigate these issues.

The Clinic represents children in school discipline and special education matters. The Education Law Clinic's companion clinic, the Juvenile Defender Clinic, represents children in delinquency matters. The two clinics work together in order to dismantle the school-to-prison pipeline, which is the set of both formal and informal rules and policies that push primarily black and brown children out of school and into juvenile and criminal courts around the country.

In May 2020, the clinics merged their work under one umbrella and are now known as the Youth Advocacy Clinic. The Youth Advocacy Clinic includes a holistic representation model. It seeks to serve not just the immediate legal problem that brings the young person to the doors of the clinic, but to provide support and advocacy for other problems that may keep the child from thriving in the community. For example, the clinic may help a child who is experiencing homelessness get connected with housing

or provide a bus pass for a child to get to work in order to pay court costs that are causing him to languish in the system.

The holistic representation model (HRM) creates legal teams that are comprised of law students, masters-level social work students (University of Pittsburgh School of Social Work) and doctorate-level school psychology students (Duquesne University School of Education) who work together under the legal umbrella to provide expressed-interest representation to clients. In that spirit, this article is an interdisciplinary piece written by the clinic's supervising attorney, supervising social worker and supervising school psychologist.

This article will examine the problems with educational attainment that children who are involved in the juvenile and legal systems face. It will describe the historical context in which this current problem sits, the current state of educational barriers for these young people, and then provide a look forward about what meaningful work to destroy these

barriers might entail. While not exclusively Pennsylvania-focused, it does make extensive references to Pennsylvania statutes and practice, and uses case examples from the Youth Advocacy Clinic.

Part I - History and Context

"Mass incarceration is the most pressing racial justice issue of our time"

– Michelle Alexander, Author

Education is a key factor to the successful re-entry of young people involved in the legal system.[7] Yet, many young people who leave detention centers, residential placements, and jails struggle to return to school.[8] Part of the reason young people struggle involves a variety of practical barriers they face when attempting to return to school – untimely transfer of records, lack of documents required for registration, lack of transportation, and, more generally, schools that are reluctant to allow them to return. Despite the importance of education for successful re-entry, these barriers pose significant challenges to young people.

Another part of the reason young people struggle returning to school is directly connected to the history and context of mass incarceration and institutional racism that fueled the pipeline of youth out of schools and communities into the juvenile legal systems.[9] This history and context continues to shape how we perceive of and act toward young people and requires us to think both backward and forward if we wish to dismantle this school-to-prison pipeline and pursue holistic possibilities for youth development. In this section, we briefly review the historical context regarding mass incarceration and race and how this history continues to facilitate the movement of youth into the legal systems.

As has been well documented, beginning in the 1970s the United States embarked on an experiment of mass incarceration that saw jail and prison populations surpass 2.2 million individuals with jail and prison populations exceed 700 people per 100,000.[10] The number of people incarcerated today represents a dramatic increase from the 1970s by both rate and absolute number.[11] Millions of other people were on probation and parole, and millions of others had a

felony record.[12] The reach of the “war on crime,” however, was not evenly distributed throughout the population. Individuals of color are overrepresented in all aspects of the system at high rates and this overrepresentation is not explained by differential crime rates or legal factors.[13] This reality is true for juveniles as well as adults.[14]

Some of this increase in incarceration and other forms of criminal system control was the result of increases in violent crime that occurred during the 1980s and early 1990s.[15] Yet, decreases in both violent and serious crime since the mid-1990s corroborated scholars who argued that other dynamics fueled and maintained these high and stubborn rates of incarceration.[16] Scholars have attributed increases in incarceration and other forms of involvement to policy and practice changes focused on punishment and control.[17] Some scholars argued that the policies and practices that led to mass incarceration were a backlash to the gains of the civil rights and other movements during the 1960s.[18] In particular, Michelle Alexander argues that mass incarceration served as the vehicle to create a new racial caste system, what she terms as “the new Jim Crow.”[19] Scholars have also linked race to the rise of mass incarceration as part of the neoliberal project to enact control and insure a steady flow of workers for the market.[20] These accounts have challenged the idea that mass incarceration is about crime control and focused attention on its role in promoting racial and social control.

The tentacles of mass incarceration did not only extend to adults. Beginning in the 1980s and accelerating in the 1990s, state legislatures across the country passed laws that criminalized youth.[21] State laws took a variety of forms. Some opened up records and proceedings whereas others enacted mandatory or determinate sentencing structures in the juvenile court. Another focus of state legislatures was to increase the number of juveniles who could be tried as adults and facilitate the process through which would move from the juvenile to the criminal legal system.[22] Some states removed young people entirely out of the juvenile courts jurisdiction while others provided decision-making authority to prosecutors and criminal court

judges.[23]

In Pennsylvania, young people continue to face direct-filing (i.e., being immediately charged as an adult from the moment of arrest) if they are age 15 or older and charged with committing an enumerated list of serious felonies while armed or if they have a previous juvenile court adjudication for the same enumerated list, whether armed or not.[24] Any child who is within the age of jurisdiction of delinquency court – ten years old – is direct-filed as an adult upon the charge of murder in any degree. [25] These children are eligible for immediate admission to the local county jail and treated as an adult for all proceedings. Through counsel, they may move to return to back to juvenile court, but they bear the burden of proving they are amenable to juvenile court treatment.[26]

This effort to criminalize youth led to increases in the number of children entering the juvenile and criminal courts. Juvenile caseloads surged in the 1990s, peaking in the late 1990s with over 1.85 million cases.[27] The share of girls entering the system increased from the 1980s to the mid- 2000s and youth of color continued to be overrepresented in the juvenile system.[28] As would be expected, the number of youth detained and entering residential placements increased during this period. Similarly, the number of youth pushed out of schools and into the juvenile court through zero tolerance policies increased as well.[29] Unsurprisingly, these policies have had a disproportionate effect on young people of color.

The number of youth tried and convicted as adults also increased from the 1980s to mid-2000s.[30] Justified by the racialized myth of the young “superpredator,” increases in juveniles tried and convicted as adults included young people receiving life without the possibility of parole or other extreme sentences as well as probation, jail and short prison sentences.[31] The fact remains, however, that the majority of youth treated as adults are not sentenced far into adulthood and many young people cycle through jails without ever receiving an adult sentence.[32] Many who are sentenced are placed on probation and/or spend small periods of time in jails.[33] Again, unsurprisingly, young people of color are overrepresented among



juveniles treated as adults.[34]

Consistent with the overall rise of mass incarceration, scholars and advocates have argued that race played a central role in the creation and implementation of policies and practices that criminalized youth.[35] The increase in young people entering the juvenile and criminal systems were also met with a range of concerns – school pushout through exclusionary discipline, harms of juvenile and criminal legal system contact, efficacy of the treatment model for positive child outcomes, and questions about whether and how their developmental needs are being met in the criminal system, among others. These increases also directly contradicted arguments in the 1970s that the juvenile system was not a youth development system and youth development should occur in communities and other youth-serving systems like schools.[36]

Unlike the adult system, some of the trends noted above were reversed over the last several decades and juvenile caseloads are now at levels observed in the 1970s.[37] Residential placements and detention caseloads have dropped and the number of young people entering the criminal legal system has decreased.[38] These are positive developments yet it is unclear the degree to which this is the result of changes in approach or in declining juvenile crime rates.[39] In 2018, juvenile arrests were less than 30% of their peak in 1996.[40] Nonetheless, significant questions remain about whether there are still too many young people, who would be better served and supported in communities, entering the juvenile system.

Changes in policy and practice were not limited to the juvenile legal system but also included youth-serving systems. In particular, the Gun Safe Schools Act (1994) ushered in what are often referred to as zero tolerance policies.[41] These policies mandate the exclusion of youth who commit certain infractions from schools. While justified on the basis of improving safety, zero tolerance laws cast a wide net that moved primarily Black and Latinx children out of schools and into the juvenile system. These results are not attributable to more serious behaviors being committed by children of color.[42] Zero tolerance policies and statutes have become a catalyst for the way that many urban schools look for children today. Primary school children are being placed into handcuffs even they are too young to arrest.[43] Police, security guards, and other law enforcement-types roam the hallways of schools and often become the replacement for the school's discipline mechanism. These environments are the antithesis of one that is conducive to learning and healthy child

development.[44] Indeed, evidence shows that police in schools and zero tolerance policies affirmatively cause harm to educational environments.[45]

Other critically important concerns remain as well. Racial disproportionality continues and efforts to address it disproportionately focus on minor system reforms as opposed to understanding racialized policies and practices. Most so-called reforms fail to face the reality that race operates, implicitly and explicitly, at multiple levels throughout the system and society to produce these disparities.[46] Moreover, as scholars begin to examine these issues through an intersectional lens, ever more red flags are raised about how the intersections of race, gender, sexual orientation, gender identity and disability impact these disparities.[47]

Despite the fact that the juvenile system is supposed to be focused on the rehabilitation and treatment of the child, there remains considerable concern that the “treatments” available in the system fail to address the needs of young people or, even worse, cause some harm. Although there has been a movement to identify evidenced-based assessments and treatments, questions remain about both the treatments used and the validity of decisions that follows from their use.

Additionally, despite decreases in children under 18 entering the criminal system many still do. Policies and practices that served to expand the net of young people treated as adults have largely been shown to be counterproductive yet many still exist and young people regularly enter the criminal system raising considerable questions about whether their needs, especially their educational needs, are being met. While some statutory reform has begun, too many states still have laws on the books that allow for the direct-filing of children into the criminal legal system.

Finally, questions also abound about whether schools have internalized zero tolerance approaches. Many school handbooks prescribe exclusionary and punitive disciplinary actions without consideration for context. Low-level disciplinary issues that do not pose a serious threat to the safety of others are used, often inconsistently, to suspend children from school in the name of ensuring a safe environment. Multiple recurrences of low-level offenses can even lead to expulsion or indefinite placement in alternative education settings. Youth still move regularly from schools to the juvenile system and there is often little consideration of the effects this has on young people and their educational

trajectory.

The brief history and context presented here raises important critiques that are too often ignored in discussions of juvenile justice reforms. In the next several sections, we turn specifically to the intersection of education and the juvenile and criminal legal systems. The goal in these sections is to identify specific issues affecting the education of youth in the legal system. We return to the history and context of juvenile justice in the final section to argue that while reducing the barriers to education for youth in and returning from the juvenile and criminal systems is important, we also need to consider that many of these youth are not in the system for “crime control” reasons. Instead, they are there because mass incarceration is part of the neoliberal project of social and racial control. Addressing education issues in the legal systems will require practical reforms, but will also require attacking the logics of mass incarceration itself.

Part II – Education and Juvenile Court: “Attend School Daily”

“A lot of times, there are issues that keep you from going to school: heat, water, your clothes are dirty and you can’t wash them.”

– *System-involved child, Allegheny County, PA* [48]

In most jurisdictions, the juvenile delinquency system is, ostensibly, about rehabilitating children.[49] The system attempts to show its commitment to helping over-punish youth in different ways. One way is to use different language for procedural steps in the prosecution of children than that used in criminal court. Saying adjudicatory or petition hearings, for example, instead of the word trial; “Admission” rather than guilty plea; “Disposition” rather than sentencing.[50] The change in terminology contributes to an atmosphere that something different than a normal prosecution is happening, although many have noted that difference to be one without a distinction in many juvenile courts around the country.[51]

Education is another area where juvenile court claims to be different from its adult counterpart. It is axiomatic that school attendance, or participation in some educational programming, is required in order to maintain compliance with juvenile court conditions of pretrial release or supervision. Compulsory education laws make it easy for judges to require daily school attendance. Everyone can agree that children should be in school. Moreover, there is irrefutable evidence that educational attainment leads to a variety of improved life outcomes.[52] But the court order to maintain school attendance often becomes yet another pathway to the criminalization of adolescence that comes with juvenile court prosecution.[53]

“Attend[ing] school daily,” as the court order usually states, is much easier said than done for many poor children, and children of color. The order fails, in any meaningful way, to recognize the environment to which the child is being ordered. Six million American students attend schools with police officers but no school psychologists.[54] Many school districts chronically lack the support staff necessary to deal with normal developmental behaviors of the children they serve and have instead replaced them with police or security guards. Ushered into America’s schools through metal detectors, pat-downs, and bag searches, African-American and Latinx children are particularly harmed in the public school system in this country.[55] They are

disproportionately pushed out of schools through exclusionary discipline.[56] They are more harshly punished than their white peers for the same or similar offenses.[57] They are subject to teachers and administrators who lack the cultural competence to communicate with them effectively.[58] As a result, they are more often accused of being “disruptive” or “disrespectful.” In some states, this failure of cultural competency on the part of the adults in the system leads to children being charged with nebulous crimes like “school disruption” or “disorderly conduct.”[59] Black children with disabilities are also more likely to be punished even with the extra due process protections afforded to them.[60] In some school districts, every time a student is sent to the principal’s office (even if no actual discipline results), a “referral” is tallied against them. Unless a child is suspended for more than 10 days or expulsion proceedings are initiated against him, no meaningful due process protections exist.[61] Building principals have nearly unchecked power to exclude children from school for 1-7 days at a time, for weeks or months on end.

Beyond the power of exclusionary school discipline, public schools actively engage in the referral of children to police agencies for prosecution in juvenile court. For example, recent data from the City of Pittsburgh shows that Pittsburgh Public Schools is the number one source of court referrals for Allegheny County Juvenile Court.[62] Similar to the pattern with exclusionary discipline, these schools disproportionately prosecute black and brown children, and children with disabilities.[63] Prosecution has become so entrenched in the fabric of schools that codes of conduct list it as part of the continuum of punishments that can be meted out for school-based offenses.[64]

When one overlays the daily trauma that poor, Black and Latinx children face just to sit in a (probably) failing school for eight hours with the specter of a judicial order to “attend school daily,” it becomes clear that, for children ensnared in the juvenile legal system, school becomes a direct path to incarceration. Children can be deemed to have violated conditions of release or disposition for missing one class in one school day or arriving a few minutes late for school. Normative adolescent behavior, like skipping class to laugh and joke with friends, becomes a basis for a probation violation. A violation of a condition of release can then, in turn, lead to restrictions on the child’s liberty, including: home detention, earlier curfews, electronic ankle monitors, detention in the local juvenile facility or even complete removal from the home. For many children under

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supervision, they are subject to the stigma of having to check in with a school-based probation officer. In Pennsylvania, the Juvenile Act requires probation officers to inform the school that a child is on probation, no matter how minor the offense. Other courts may require a child to carry an “attendance card” to be signed by each teacher and turned into a probation officer or judge in order to prove school attendance. It is no surprise, then, that learning becomes stifled and children begin to drop out or choose alternative (often lesser) forms of education rather than face the harrowing day-in, day-out slog of the school-to-prison pipeline. All of this is done, with the imprimatur of the American legal system, in the name of “rehabilitating” the child.



The delinquency court can override a parent and/or student’s discretion to stay home for medical or health reasons.[65] And in the age of wellness and mindfulness, the court can veto the parent who wants to give her a child a “mental health day” because of the serious health issues that can come with continued exposure to the racism associated with the criminalization of adolescence in school buildings. Indeed, both the City of Pittsburgh and Allegheny County (which includes both the city and the surrounding suburbs) recently declared racism to be a public health crisis within the city, including in the area of education.[66] Despite this official acknowledgment of the deleterious effects that racism has on people, it is still standard fare for courts to order that children must attend school every day, must attend every class in the school day, and must not be suspended or expelled. One judge in Allegheny County who presides over a YAC case, for example, explicitly prohibits a parent from exercising her discretion to keep her sick child home, noting that only a medical excuse from a valid medical doctor may excuse the child from school. No inquiry is made into whether the family has insurance that will allow them to see a medical doctor without paying out of pocket or having a substantial co-pay. No inquiry is made into whether any discipline meted out has legitimacy or is the result of the machinations of a racist school code of conduct, or individual actor within the system. The purpose of the court order to “attend school daily,” allegedly, is to ensure school attendance and therefore for the child to be in receipt of all of its attendant benefits. But the court appears to be unconcerned about the days of school that a student will miss while waiting in detention for a violation hearing because he skipped class or decided to stay home from a toxic environment for a day or two. The cognitive dissonance between the intent of “attend school daily” orders and the realities of the educational landscapes poor children, children of color, and children with disabilities face is laid bare through these kinds of harmful court practices.



Black and brown children with disabilities face the gauntlet of the school-to-prison pipeline in an even more harrowing way. Children who have been identified under the Individuals with Disabilities Education Act (IDEA) as in need of special education services have identified teams of teachers and other school professionals to help implement and monitor their Individualized Education Program (IEP).[67] That team is tasked with meeting at least annually (but often meet more frequently in practice) to develop a measurable plan that is unique to the individual child’s needs.[68] Parents are a required member of the team and have an equal vote as the school in crafting the student’s educational needs.

When students with IEP’s are subjected to significant school discipline they have special legal protections.[69] The IEP team must convene and determine whether the behavior at issue was a result of the student’s disability.[70] If it was, then the discipline is off the table (with limited exceptions) and the team must

review and make changes to the child's IEP to provide additional supports that can ameliorate the behavior.[71] Special education law requires this collaborative approach in order to avoid children being punished for behaviors that are disability-based. This approach appears to be both reasonable and correct. It also appears to be encourage consensus-building among the team.

One important requirement of IDEA is the affirmative duty for school teams to *find* (i.e., identify, locate and evaluate) all children (birth to 21 years) with disabilities to determine their need for specialized services to promote their learning.[72] However, large gaps in identifying those in need of educational support services emerge when children are judged to be purposeful in their rule breaking. That is, when there is a mismatch between the student's expressed needs and teacher or administrator understanding of those needs, students' access to prevention and other mental health services become secondary, and are superseded by, disciplinary actions.[73] Instead, juvenile justice referrals are used to manage the behavior of marginalized groups, including children of color *and* children with disabilities, and these juvenile court-involved youth are left largely untreated at school.[74]

As one might imagine, all of the collaborative, consensus-building work done during IEP meetings is dashed when the school members of that same team show up in court weeks later to prosecute the child for that same behavior. But that is what happens in juvenile courts around the country on a daily basis. While the school may have been unable to discipline the student due to his disability, there are no legal prohibitions on those individual team members becoming witnesses or alleged victims in a delinquency court proceeding against the child.[75] There is no legal prohibition that keeps those team members from coming to court and asking the judge to place the child in detention or in a long-term delinquency placement because of the same exact behavior that was found to be a manifestation of the child's disability during an IEP meeting.[76] Indeed, the Youth Advocacy Clinic has represented a number of children whose sole involvement in the delinquency system was a result of school-based incidents that were clear manifestations of that child's disability.

There is no viable legal defense in Pennsylvania based on the child's disability. But the disability may be taken into account at disposition, if raised to the court.[77] So courts and schools engage in a farce that allows disabled children to be held quasi-criminally accountable for their behavior in the same way as their non-disabled peers, despite the fact that an educational finding has already been made that they are not. There is no reasonable way for parents and students to be able to trust these systems under such a troubling set of circumstances.

The intersection of juvenile and education systems coalesce to create a harrowing reality for Black and Latinx children in the United States. School districts unwilling to learn to be culturally competent for the children they serve instead refer children to court for prosecution in massive numbers and fuel juvenile court prosecutions. By doing this, schools destroy relationships with students, parents and communities. Once these children are pushed into the juvenile legal system, courts continue to fail them by refusing to acknowledge the toxic educational environments that these children face. Zero tolerance school attendance court orders create trauma for children who cannot stay home without a doctor's excuse or other reason that the court finds to be legitimate. Children who engage in normative adolescent behavior like skipping class or talking back to an adult are faced with the hammer of spending the night in a cell as punishment. Instead of schools being a sanctuary where kids can learn to highlight their natural gifts and find ways to excel in our society, urban schools have allowed themselves to become another tentacle in the juvenile and criminal legal systems.

Part III – Education of Youth in Carceral Settings

"He who opens a school door, closes a prison"

–Victor Hugo

No matter the setting where the educational programming takes place, schools have an obligation to support all children in their learning and achievement. For children who are system-involved there are two major ways that schools fall short on this obligation. The first is in failing to identify those who need special education to progress in school and

instead use the legal system to address problematic behavior. The second is when youth are in custody, and schools are delivering instruction that may meet the letter of the law, but not the spirit of the law. That is, the instruction provided may technically cover grade level material but it is not systematic, explicit, and cumulative. These three best practice techniques are what connects old learning to new material. When there is a mismatch between known to unknown material, learning is too cumbersome, there is little motivation to persist, and students give up. However, when new material is explicitly and systematically connected, the learning becomes cumulative and there is a sense of academic success which helps children to persist even when material is uninteresting.

The majority of youth in custody do not have access to the same type of educational materials as youth in the community. As noted, instruction may be technically adequate but there is little effort to connect curricula in a facility to that in the child's home school. It is an open secret that only 26 percent of states say that they even try to match the educational services of a committed child to their community school.[78] One reason for this is that there is no infrastructure in place to ensure that juvenile correctional facilities are meeting the much broader state education accountability system standards much less have the ability to tailor curricula from individual schools. In fact, almost 40 percent of facility schools do not claim to meet the broadest national education accreditation standards that delineate basic grade level skills (CSG Justice Center, 2015).[79] As such, there is very limited check on the content of instruction.

Youth in detention centers report receiving the fewest total hours of instruction.[80] Nationally, only 50 percent of incarcerated children spend a typical six hour day in school.[81] This is also true for children requiring special education while in a correctional setting, they report to receive 7 to 7.5 hours compared to the same child receiving 19 to 19.5 hours a week in their home school.[82] Of course, there are also fewer educational opportunities overall (e.g., specials, after school clubs, job training, etc.).[83] Youth are aware of the substandard education; only half of youth surveyed thought they had access

to a good education program in their facility.[84] Asking children to put forward their best effort when it is clear that minimum attention is afforded to their educational experience by the justice system is a glaring hypocrisy for these youth. They are quick to call out busy work, a lack of care or personal connection with teachers, and use of the detention guards by the school staff to exert power over them which is disruptive to a positive school climate. For these students their charges, true or not, lead in informing teacher perceptions of them. They often feel misunderstood and misrepresented by the legal system in their self-concept as a student.

When special education students are in juvenile facilities, IDEA requirements continue to apply.[85] Yet, schools often remain on the sideline as Free and Appropriate Education (FAPE) violations occur (i.e., ensuring education is delivered in the least restrictive environment, discipline that is consistent with disability status, and there is access to qualified teachers).[86] Some specially designed instruction (SDI), the hallmark of what makes an IEP individualized to the student, that is allowed and encouraged in a community school may be prohibited because of the rules of the justice facility. For example, for children with behavioral disruptions increasing self-control is often an IEP goal. One common SDI is to teach a child to self-identify when they need to take a break. This is often accomplished by helping them identify situations that are stressful to them, and then managing their stress response by allowing the child to get a drink of water or take a walk in the hall while they collect themselves to return ready for instruction. This SDI is unlikely to be allowed in a justice facility. First, children may not be allowed to move freely in a facility at all, or at their own discretion determine when to take a break. In a justice facility, staff and community safety is prioritized over an individual child's safety needs and, as such, an SDI like that may not be used. Of course, breaks scheduled by detention staff do not teach the self-awareness kids need to learn those skills. Once this kind of SDI is removed, then the students are to rely on the adults to monitor and manage their behaviors. In secure placements, the hovering detention staff provide a constant visual reminder that vigilance is needed, because it portends that chaos perpetuated by children is likely imminent and the safety of the staff and teachers at the facility is at constant risk. This kind of fear indoctrination can become a perpetual cycle. In this way, the system, comprised of rules that compete with promoting normative adolescent development or the needs of the individual child, regularly fails to create a positive growth-focused educational environment for the children who are supposed to be rehabilitated.

Data is limited on youth entering school in adult jails and prisons. Yet, it is difficult to imagine that there is any conclusion that would differ from those observed in children in juvenile facilities. Given that teenagers are highly susceptible to peer and social pressures, exposure to the adult system (e.g., rules for compliance, guards, policies regarding movement, health, mental health, etc.) is likely to worsen all problematic actions and the contributors of those actions, even if they are kept (mostly) away from the adults: "Teenagers in prisons are often either victims or protégés of older prisoners—and neither situation is likely to reduce reoffending. At a minimum, high-risk juveniles who are punished as adults should be separated from other prisoners and provided with intensive services." [87] Being involved with the juvenile legal system decreases the odds of

graduating high school. A finding that is likely replicable were it tracked. School success is critical because students who have higher rates of education achievement during incarceration are more likely to enroll in school post release.[89]

In summary, there is a clear need for school staff to have more training on how to support the distinct developmental needs of these youth within and outside of special education. The erosion of their relationship with their home school, exposure to the legal system and the interruptions to their education and service continuum place these children at high-risk for school dropout.[89] Poor academic progress is an unacceptable norm in juvenile justice facilities.[90]

Part IV – Holistic Model and Education Representation

"If you want to go fast, go alone. If you want to go far, go together."
–African Proverb

Almost all youth attend school, and will return to school after detention, juvenile delinquency placements, and adult jails. The school setting offers the opportunity to deliver a wide range of support services including: universal prevention programs that are aimed at all youth in the school building (Tier 1 supports), targeted support for at-risk youth (Tier 2 support), and tailored individual treatments (Tier 3 often include 504 or special education IEPs) that can be coordinated with community and family supports. Providing services in school is especially important because mental well-being also fosters academic success and the overall health needed for educational attainment.[91] Positive academic performance is associated with positive employment outcomes and under representation in psychiatric and substance abuse populations.[92] On the other hand, academic failure is associated with school dropout, and subsequent legal trouble.[93] Simply put, schools offer the best setting to find youth in need and deliver targeted services.

When schools fail to deliver what is required for students, then legal representation becomes necessary. Educational legal representation via the holistic representational model includes the work of the school psychologist. The school psychologist is dedicated to helping to negotiate the school system in accessing relevant supports for individual clients. Internal to the HRM team, the school psychologist can assess the educational programming and supports routinely offered in the school building, read any formal psychoeducational reports or other relevant academic or mental health documents, evaluate the progress monitoring techniques used to track success, and track the decision-making processes that led to the conclusions made by the school team. When needed, the psychologist will make recommendations for additional assessment procedures, including areas to consider for special education eligibility determinations, as well as how to seek services in the school's tiered service system and where to coordinate community services with the school's student assistance program (SAP), the types of accommodations to include in 504 plans, and specially designed instruction in IEPs. In coordination with the social worker, school psychologists will review the academic transcript and credit transfers to help determine the need for any specialized programming. Alongside the attorney, the school psychologist will review discipline records, student handbook requirements and how to appropriately address problematic behaviors.

Importantly, this facet of HRM can provide help directly to the school teams via individual or whole school in-service training. Teachers can appreciate recommendations for behavioral plan development or trauma-informed teaching practices that will aid their student. Counselors can appreciate recommendations for school social-emotional interventions. The school team will appreciate opportunities to build a partnership with the family that is in service of the client's school success. Whole school or grade level professional development addressing the impact of trauma and its impact in the classroom, how to use restorative justice practices and other alternatives to suspensions, expulsions, and arrests, and how to develop school reentry protocols (including adult and peer mentoring) to facilitate school attendance. Administrators can benefit from changing their use of emotionally-charged language (e.g., actor was non-compliant after direct instruction) to descriptive language (e.g., student did not follow instruction immediately [# of prompts given after initial request was 0]) in incident reports because these practices can improve school-family relationships. In short, the purpose is to help to build a school team that allows the client to become engaged in school.

Immediate engagement after leaving a correctional system is critical because those who are positively engaged in work and/or school tend to remain positively engaged in the community.[94] To that end, social workers on the holistic legal team facilitate school re-entry. Social workers assist with records transfer, gathering required documents for registration, and may even physically walk the student into his or her home school to advocate during the registration process. Additionally, social workers can help clients create habits that ensure regular school attendance (e.g., remembering to set an alarm, learning how to check a bus schedule, etc.) and help facilitate resources for the returning student (e.g., school supplies, school clothes, etc.).

Where schools are not willing to engage with these students and parents to create an effective learning plan, then the legal team can and will consider all litigation options to protect the child's rights.

Part V – The Future

“Education is the most powerful weapon you can use to change the world.”

-Nelson Mandela

This article focuses on the myriad threats to education that young people face when they come in contact with the juvenile and criminal legal systems. If the goal is to rehabilitate or treat youth, it is a hollow one without a strong commitment to meaningful, culturally-competent youth development. Instead of creating barriers, a commitment to youth development requires that education is prioritized, and systems work together to not only ensure that youth are in school but that supports are in place to maximize their

educational experience. In reality, however, we are far from meeting this commitment to our children, and, in fact, make it incredibly difficult for system-involved young people to even receive a bare minimum education.

The focus on education is even more important when considered within the history and context of mass incarceration. The juvenile system has never lived up to the ideals of the rehabilitative model yet we continue to move youth into the system through the guise of treatment who do not need to be involved in the legal system. Once these youth are in state and local juvenile legal systems, then approximately 70 percent are identified with a mental health need.[95] Yet when you examine the school records of court-involved youth, only about 33 percent are reported to qualify for special education and receive an IEP from their school.[96] If students with IEPs for an Emotional Disturbance -- the category in special education most often used to indicate that unmet mental health needs are interfering with the child's ability to succeed in school -- matched mental illness prevalence estimates, the rate of those identified would be closer to 8 percent instead of less than 1 percent.[97] It is this type of autonomy in disciplinary decisions that result in some children in some districts receiving services while other children do not.[98] School

pushout, combined with lack of investment in communities and families, increases the likelihood of system involvement despite considerable evidence that it does not work. The rise of a racialized system of crime and social control exacerbates the flow of youth into the system instead of investment in young people, families and communities.

In light of these realities efforts are needed on multiple fronts. The holistic legal model presented above serves two important purposes. First, it is a model focused on advocating for youth at the multiple decision making points through which they are moved from schools and communities and into the legal systems. As schools seek to push out students, it is important that advocates push back and the Holistic Model serves that function. Second, the model is also intended to help identify the supports and resources that children and families need. It is no surprise that the majority of youth who enter the system come from lower income families. Notably, a growing body of research is showing that many jobs in the U.S. do not pay enough for families to meet their needs and this has effects on child development.[99] Thus, many young people need support and resources, not punishment and control. The holistic legal model recognizes that young people are the experts on their own lived experiences. The goal of the holistic model is to center the youth voice and to carefully consider all aspects of a youth's context and advocate to meet his or her stated needs.

Another front is the dismantling and rethinking of the role of the legal systems. Instead of being a regular occurrence in the lives of many kids of color and kids from lower income families, it should be a rare occurrence. The Holistic Model

can be part of this effort but this requires transformation at multiple levels. Practical reforms tinkering with the system can be beneficial but true reform requires broader based challenges to racialized structures and income and other forms of inequality.

Schools have potential to be groundbreaking spaces of reform and change instead of continuing to perpetuate the school-to-prison pipeline. By ending referrals to law enforcement in all but the most serious cases, they can significantly lower the number of children who suffer the effects of trauma from the legal system and institutionalized racism. By re-appropriating funding from school police to guidance counselors, psychologists and social workers, schools can focus on restorative practices and developmentally-appropriate consequences. By advocating for community schools, districts can ensure that children have their needs met that may be preventing them from thriving in the classroom. In order to have this level of change, school boards, administrators, and classroom teachers must all be intentional about their decision to bend the arc of the moral universe toward justice, toward love, and toward a better tomorrow for all of our children.



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[2] MEGAN BRENNAN, *42% OF PARENTS WORRY COVID-19 WILL AFFECT CHILD'S EDUCATION GALLUP.COM (2020)*, [HTTPS://NEWS.GALLUP.COM/POLL/305819/PARENTS-WORRY-COVID-AFFECT-CHILD-EDUCATION.ASPX](https://news.gallup.com/poll/305819/parents-worry-covid-affect-child-education.aspx)(LAST VISITED JUN 1, 2020); JULIANA MENASCE HOROWITZ, *LOWER-INCOME PARENTS MOST CONCERNED ABOUT THEIR CHILDREN FALLING BEHIND AMID COVID-19 SCHOOL CLOSURES PEW RESEARCH CENTER (2020)*, [HTTPS://WWW.PEWRESEARCH.ORG/FACT-TANK/2020/04/15/LOWER-INCOME-PARENTS-MOST-CONCERNED-ABOUT-THEIR-CHILDREN-FALLING-BEHIND-AMID-COVID-19-SCHOOL-CLOSURES/](https://www.pewresearch.org/FACT-TANK/2020/04/15/LOWER-INCOME-PARENTS-MOST-CONCERNED-ABOUT-THEIR-CHILDREN-FALLING-BEHIND-AMID-COVID-19-SCHOOL-CLOSURES/) (LAST VISITED JUN 1, 2020); LAURA ISENSEE, *PARENTS, EDUCATORS WORRY DIGITAL DIVIDE DURING COVID-19 PANDEMIC WILL WIDEN LEARNING GAPS HOUSTON PUBLIC MEDIA (2020)*; [HTTPS://WWW.HOUSTONPUBLIC MEDIA.ORG/ARTICLES/EDUCATION/2020/04/27/367491/PARENTS-EDUCATORS-WORRY-DIGITAL-DIVIDE-DURING-THE-PANDEMIC-WILL-WIDEN-LEARNING-GAPS/](https://www.houstonpublicmedia.org/articles/education/2020/04/27/367491/parents-educators-worry-digital-divide-during-the-pandemic-will-widen-learning-gaps/) (LAST VISITED JUN 1,2020).

[3] *ID.*

[4] A REPORT ON EDUCATION EXPERIENCES OF CHILDREN IN RESIDENTIAL TREATMENT FACILITIES, (2011), [HTTPS://WWW.ELC-PA.ORG /WP-CONTENT/ UPLOADS/2013/08/ACCESS MOVING THE DIAL STYER.PDF](https://www.elc-pa.org/wp-content/uploads/2013/08/access-moving-the-dial-styer.pdf)(LAST VISITED JUN 1, 2020); SETTLEMENT AGREEMENT, *U.S. V. LEFLORE*

COUNTY, MISSISSIPPI,NO. 4:15-CV-00059-DMB-JMV (N.D. MISS); U.S. DEPARTMENT OF JUSTICE FINDINGS ON THE PENDLETON JUVENILE FACILITY, INDIANA (AUG. 22,2012); U.S. DEPARTMENT OF JUSTICE FINDINGS ON THE INDIANAPOLIS JUVENILE CORRECTION FACILITY (JAN.29, 2010); STATEMENT OF INTEREST, *G.F., ET. AL, V. CONTRA COSTA COUNTY, ET.AL.*, 3:13-CV-03667-MEJ (N.D. CAL.); MARK KEIERLEBER, *THE LOST KIDS: NEW REPORT EXPOSES STARTLING LACK OF EDUCATION STANDARDS AT JUVENILE JUSTICE FACILITIES THE 74 THE LOST KIDS NEW REPORT EXPOSES STARTLING LACK OF EDUCATION STANDARDS AT JUVENILE JUSTICE FACILITIES COMMENTS (2015)*, [HTTPS://WWW.THE74 MILLION .ORG/ARTICLE/THE-LOST-KIDS-NEW-REPORT-EXPOSES-STARTLING-LACK-OF-EDUCATION-STANDARDS-AT-JUVENILE-JUSTICE-FACILITIES/](https://www.the74million.org/article/the-lost-kids-new-report-exposes-startling-lack-of-education-standards-at-juvenile-justice-facilities/) (LAST VISITED JUN 1, 2020); HAILLY T. N. KORMAN & LISA PILNIK, *HOW DOES EDUCATION IN THE JUVENILE- JUSTICE SYSTEM MEASURE UP? IT DOESN'T.* EDUCATION WEEK (2019), [HTTPS://WWW.EDWEEK.ORG/EW/ARTICLES/2018/10/26/HOW-DOES-EDUCATION-IN-THE-JUVENILE -JUSTICE-SYSTEM.HTML](https://www.edweek.org/ew/articles/2018/10/26/how-does-education-in-the-juvenile-justice-system.html)(LAST VISITED JUN 1, 2020).

[5] PETER E. LEONE & CANDACE A.CUTTING, *APPROPRIATE EDUCATION, JUVENILE CORRECTIONS,AND NO CHILD LEFT BEHIND*, 29 *BEHAVIORAL DISORDERS* 260–265 (2004); *YOUTH INVOLVED WITH THE JUVENILE JUSTICE SYSTEM|YOUTH.GOV*,[HTTPS://YOUTH.GOV/YOUTH- TOPICS/JUVENILE-JUSTICE/YOUTH- INVOLVED-JUVENILE-JUSTICE-SYSTEM](https://youth.gov/youth-topics/juvenile-justice/youth-involved-juvenile-justice-system) (LAST VISITED JUN 1,2020).

[6] *ID.*

[7]HEATHER GRILLER CLARK& DEANNE UNRUH, *TRANSITION PRACTICES FOR ADJUDICATED YOUTH WITH E/BDS AND RELATED DISABILITIES*, 36 *BEHAVIORAL DISORDERS* 43–51(2010); ALEXANDRA A.MILLER, WILLIAM J. THERRIEN & JOHN ELWOOD ROMIG, *REDUCING RECIDIVISM: TRANSITION AND REENTRY PRACTICES FOR DETAINED AND ADJUDICATED YOUTH WITH DISABILITIES*, 42 *EDUCATION AND TREATMENT OF CHILDREN* 409–438(2019)

[8] A BETTER PATH, A BETTER FUTURE: THREE FEDERALLY-FUNDED PROJECTS SUPPORTING COMMUNITY REENTRY OF YOUTH WITH DISABILITIES LEAVING JUVENILE JUSTICE FACILITIES.,[HTTPS://ICI.UMN.EDU/PRODUCTS/ REPORTS/A-BETTER-PATH/](https://ici.umn.edu/products/reports/a-better-path/) (LAST VISITED JUN 1,2020)..

[9] *SEE MICHELLE ALEXANDER,THE NEW JIM CROW:MASS INCARCERATION IN AN ERA OF COLORBLINDNESS(2012)FOR A DISCUSSION OF THE RACIALIZED HISTORY OF MASS INCARCERATION. SEE ALSO MONIQUE MORRIS, PUSHOUT: THE CRIMINALIZATION OF BLACK GIRLS IN SCHOOLS FOR A DISCUSSION OF RACE AND THE SCHOOL TO PRISON PIPELINE.*

- [10] *SEE* PRISON POLICY INITIATIVE, MASS INCARCERATION:THE WHOLE PIE 2020 FOR A BREAKDOWN OF PEOPLE IN IN JAILS AND PRISONS AND OTHER FORMS OF CONFINEMENT([HTTPS://WWW.PRISONPOLICY.ORG/REPORTS/PIE2020.HTML](https://www.prisonpolicy.org/reports/pie2020.html)).
- [11] ALEXANDER, *SUPRA* NOTE 9.
- [12] *ID.*
- [13] *ID.*
- [14]*SEE* NATIONAL RESEARCH COUNCIL AND INSTITUTE OF MEDICINE, JUVENILE CRIME, JUVENILE JUSTICE(2001).
- [15] *SEE* THE SENTENCING PROJECT, INCARCERATION AND CRIME: A COMPLEX RELATIONSHIP(2005)FORA DISCUSSION OF THE RELATIONSHIP BETWEEN CRIME AND INCARCERATION.
- [16] *SEE* ALEXANDER, *SUPRA* NOTE 9. *SEE ALSO* JOE SOSS, RICHARD C. FORDING AND SANFORD F. SCHRAM, DISCIPLINING THE POOR: NEOLIBERAL PATERNALISM AND THE PERSISTENT POWER OF RACE(2011); LOIC WACQUANT, PUNISHING THE POOR: THE NEOLIBERAL GOVERNMENT OF SOCIAL INEQUALITY(2009).
- [17] *ID.*
- [18] *ID.*
- [19] *SEE* ALEXANDER, *SUPRA* NOTE 9.
- [20] *SEE* SOSS ET. AL, *SUPRA* NOTE 16; WACQUANT, *SUPRA* NOTE 16.
- [21]*SEE* BARRY C. FELD, BAD KIDS:RACE AND THE TRANSFORMATION OF THE JUVENILE COURT(1999).
- [22] *SEE* JEFFREY J. SHOOK, *CONTESTING CHILDHOOD IN THE U.S. JUSTICE SYSTEM: THE TRANSFER OF CHILDREN TO THE ADULT CRIMINAL COURT*, CHILDHOOD: A GLOBAL JOURNAL OF CHILD RESEARCH 12(461-478).
- [23] *ID.*
- [24] 42 PA CS 6302.
- [25] *ID.*
- [26] *ID.*
- [27] OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION, STATISTICAL BRIEFING BOOK.
- [28] *SEE* FRANCIS T. SHERMAN AND ANNIE BALCK, *GENDER INJUSTICE: SYSTEM LEVEL JUVENILE JUSTICE REFORMS FOR GIRLS (2015)* ([HTTP://WWW.NATIONALCRITTENTON.ORG/WP-CONTENT/UPLOADS/2015/09/GENDER_INJUSTICE_REPORT.PDF](http://www.nationalcrrittenton.org/wp-content/uploads/2015/09/GENDER_INJUSTICE_REPORT.PDF)); NATIONAL RESEARCH COUNCIL AND INSTITUTE OF MEDICINE, *SUPRA* NOTE 14.
- [29] CIVIL RIGHTS DATA COLLECTION (CRDC) FOR THE 2013-14 SCHOOL YEAR, HOME (2020), [HTTPS://WWW2.ED.GOV/ABOUT/OFFICES/LIST/OCR/DOCS/CRDC-2015-16.HTML](https://www2.ed.gov/about/offices/list/ocr/docs/crdc-2015-16.html) (LAST VISITED JUN 1, 2020).
- [30] SHOOK, *SUPRA* NOTE 23; *SEE ALSO* JEFFREY J. SHOOK, *LOOKING BACK AND THINKING FORWARD: EXAMINING THE CONSEQUENCES OF TREATING JUVENILES AS ADULTS IN THE JUSTICE SYSTEMS*, JOURNAL OF EVIDENCED BASED SOCIAL WORK, 11 (392-403).
- [31] *ID.*
- [32] *ID.*
- [33] *ID.*
- [34] *ID.*
- [35] SHOOK, *SUPRA* NOTE 23. *SEE ALSO* FELD, *SUPRA* NOTE 21.
- [36] MARGARET K. ROSENHEIM, *PURSUING JUSTICE FOR THE CHILD* (1976).
- [37] OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION, STATISTICAL BRIEFING BOOK.
- [38] *ID.*
- [39] *ID.*
- [40] *ID.*
- [41] KATHLEEN M. CERRONE, *THE GUN-FREE SCHOOLS ACT OF 1994: ZERO TOLERANCE TAKES AIM AT PROCEDURAL DUE PROCESS*, 20 PACE LAW REVIEW 1, 131-188(1999).
- [42] [HTTPS://WWW.GAO.GOV/ASSETS/700/690828.PDF](https://www.gao.gov/assets/700/690828.pdf)(LAST VISITED JUN. 1,2020).
- [43] PUBLIC SOURCE, JULY 31, 2017, *FROM SCHOOL TO JAIL: HOW HUNDREDS OF KIDS GET ARRESTED IN PITTSBURGH SCHOOLS EVERY YEAR*
- [44] *ARE ZERO TOLERANCE POLICIES EFFECTIVE IN THE SCHOOLS?: AN EVIDENTIARY REVIEW AND RECOMMENDATIONS*.63 AMERICAN PSYCHOLOGIST 852-862 (2008).
- [45] AMERICAN CIVIL LIBERTIES UNION, *BULLIES IN BLUE: THE ORIGINS AND CONSEQUENCES OF SCHOOL POLICING*, (2017).
- [46] TAMMY L. HUGHES, ET. AL., *SCHOOL PATHWAYS TO THE JUVENILE JUSTICE SYSTEM, POLICY INSIGHTS FROM BEHAVIORAL AND BRAIN SCIENCES*(2020).
- [47] JASON A. OKONOFUA & JENNIFER L. EBERHARDT, *TWO STRIKES*, 26 PSYCHOLOGICAL SCIENCE 617-624 (2015); CIVIL RIGHTS DATA COLLECTION (CRDC) FOR THE 2013-14 SCHOOL YEAR, HOME (2020), [HTTPS://WWW2.ED.GOV/ABOUT/OFFICES/LIST/OCR/DOCS/CRDC-2015-16.HTML](https://www2.ed.gov/about/offices/list/ocr/docs/crdc-2015-16.html)(LAST VISITED JUN 1, 2020).
- [48] THE PITTSBURGH FOUNDATION, *A QUALITATIVE STUDY OF YOUTH AND THE JUVENILE JUSTICE SYSTEM*,11(2015).
- [49] *SEE, E.G.*, 42 PA. C.S. §6301; *ALSO SEE*

NATIONAL CENTER FOR JUVENILE JUSTICE, PURPOSE CLAUSES FOR JUVENILE JUSTICE SYSTEMS, 2016, [HTTPS://WWW.OJJDP.GOV/OJSTATBB/STRUCTURE_PROCESS/QA04205.ASP?QADATE=2016](https://www.ojjdp.gov/ojstatbb/structure/process/QA04205.asp?QADATE=2016)(LAST VISITED JUN 1, 2020).

[50] *SEE GENERALLY*, 42 PA. C.S. §6301, ET. SEQ.; JUVENILE COURT TERMINOLOGY, NJDC, [HTTPS://NJDC.INFO/JUVENILE-COURT-TERMINOLOGY/](https://njdc.info/juvenile-court-terminology/) (LAST VISITED JUN 1, 2020).

[51] ARTICLE: RETHINKING THE SHAME: THE INTERSECTION OF SHAMING PUNISHMENTS AND AMERICAN JUVENILE JUSTICE, 16 UC DAVIS J. JUV. L. & POLY'9 3; COMMENT: WHAT TO DO WITH THE SHEEP IN WOLF'S CLOTHING: THE ROLE OF RHETORIC AND REALITY ABOUT YOUTH OFFENDERS IN THE CONSTRUCTIVE DISMANTLING OF THE JUVENILE JUSTICE SYSTEM, 148 U. PA. L. REV. 1303; COMMENT:WHAT TO DO WITH THE SHEEP IN WOLF'S CLOTHING: THE ROLE OF RHETORIC AND REALITY ABOUT YOUTH OFFENDERS IN THE CONSTRUCTIVE DISMANTLING OF THE JUVENILE JUSTICE SYSTEM, 148 U.PA.L.REV.1303

[52] JILL ADAMS, J.D. & AMBER FARN, M.S. ED., EDUCATION AND INTERAGENCY COLLABORATION: A LIFELINE FOR JUSTICE-INVOLVED YOUTH. WASHINGTON, DC: CENTER FOR JUVENILE JUSTICE REFORM, GEORGE TOWN UNIVERSITY MCCOURT SCHOOL OF PUBLIC POLICY.(2016).

[53] WENDY SAWYER, YOUTH CONFINEMENT: THE WHOLE PIE 2019 YOUTH CONFINEMENT: THE WHOLE PIE 2019| PRISON POLICY INITIATIVE, [HTTPS://WWW.PRISONPOLICY.ORG/REPORTS/YOUTH2019.HTML](https://www.prisonpolicy.org/reports/youth2019.html)(LAST VISITED JUN 1, 2020).

[54] COPS AND NO COUNSELORS, AMERICAN CIVIL LIBERTIES UNION, [HTTPS://WWW.ACLU.ORG/REPORT/COPS-AND-NO-COUNSELORS](https://www.aclu.org/report/cops-and-no-counselors) (LAST VISITED JUN 1,2020).

[55] BILLIE GASTIC & DOMINIQUE JOHNSON, *DISPROPORTIONALITY IN DAILY METAL DETECTOR STUDENT SEARCHES IN U.S. PUBLIC SCHOOLS*, 14 JOURNAL OF SCHOOL VIOLENCE 299–315 (2014).

[56] MORIAH BALINGIT, RACIAL DISPARITIES IN SCHOOL DISCIPLINE ARE GROWING, FEDERAL DATA SHOW THE WASHINGTON POST (2018), [HTTPS://WWW.WASHINGTONPOST.COM/LOCAL/EDUCATION/RACIAL-DISPARITIES-IN-SCHOOL-DISCIPLINE-ARE-GROWING-FEDERAL-DATA-SHOWS/2018/04/24/67B5D2B8-47E4-11E8-827E-190EFAF1F1EE_story.html](https://www.washingtonpost.com/local/education/racial-disparities-in-school-discipline-are-growing-federal-data-shows/2018/04/24/67B5D2B8-47E4-11E8-827E-190EFAF1F1EE_story.html)(LAST VISITED JUN 1, 2020); BLACK PRESCHOOLERS FAR MORE LIKELY TO BE SUSPENDED, NPR (2014), [HTTPS://WWW.NPR.ORG/SECTIONS/CODESWITCH/2014/03/21/292456211/BLACK-PRESCHOOLERS-FAR-MORE-LIKELY-TO-BE-SUSPENDED](https://www.npr.org/sections/codeswitch/2014/03/21/292456211/black-preschoolers-far-more-likely-to-be-suspended)(LAST VISITED JUN 1, 2020); TAMAR LEWIN, BLACK STUDENTS FACE MORE DISCIPLINE, DATA SUGGESTS THE NEW YORK TIMES (2012), [HTTPS://WWW.NYTIMES.COM/2012/03/06/EDUCATION/BLACK-STUDENTS-FACE-MORE-HARSH-DISCIPLINE-DATA-SHOWS.HTML](https://www.nytimes.com/2012/03/06/education/black-students-face-more-harsh-discipline-data-shows.html)(LAST VISITED

JUN 1, 2020).

[57] *ID.*

[58] PAMELA FENNING & JENNIFER ROSE, OVER REPRESENTATION OF AFRICAN AMERICAN STUDENTS IN EXCLUSIONARY DISCIPLINE THE ROLE OF SCHOOL POLICY- PAMELA FENNING, JENNIFER ROSE, 2007 SAGE JOURNALS (1998), [HTTPS://JOURNALS.SAGEPUB.COM/DOI/ABS/10.1177/0042085907305039](https://journals.sagepub.com/doi/abs/10.1177/0042085907305039) (LAST VISITED JUN1, 2020); GWENDOLYN CARTLEDGE & EVETTE A. SIMMONS-REED, *SCHOOL DISCIPLINED IS PROPORTIONALITY: INTERVENTIONS FOR AFRICAN-AMERICAN MALES*, 4 INTERDISCIPLINARY JOURNAL OF TEACHING AND LEARNING 95– 109(2014);

[59] CLIO CHANG, *HOW BLACK GIRLS ARE LOCKED OUT OF AMERICA'S SCHOOLS*, THE NEW REPUBLIC, 2016, [HTTPS://NEWREPUBLIC.COM/ARTICLE/131482/BLACK-GIRLS-LOCKED-AMERICAS-SCHOOLS](https://newrepublic.com/article/131482/black-girls-locked-america-s-schools)(LAST VISITED JUN 1, 2020); AMANDA RIPLEY, *HOW AMERICA OUTLAWED ADOLESCENCE*, THE ATLANTIC, 2016, [HTTPS://WWW.THEATLANTIC.COM/MAGAZINE/ARCHIVE/2016/11/HOW-AMERICA-OUTLAWED-ADOLESCENCE/501149/](https://www.theatlantic.com/magazine/archive/2016/11/how-america-outlawed-adolescence/501149/)(LASTVISITEDJUN1,2020); ANTHONYLFISHER,LOCKEDUPFORTHECRIMEOF'DISTURBINGSCHOOL'THEDAILYBEAST(2017), [HTTPS://WWW.THEDAILYBEAST.COM/LOCKED-UP-FOR-THE-CRIME-OF-DISTURBING-SCHOOL?REF=SCROLL](https://www.thedailybeast.com/locked-up-for-the-crime-of-disturbing-school?ref=scroll)(LAST VISITEDJUN1, 2020).

[60] BLACK STUDENTS AND STUDENTS WITH DISABILITIES REMAIN MORE LIKELY TO RECEIVE OUT-OF-SCHOOL SUSPENSIONS, DESPITE OVER ALL DECLINES, CHILD TRENDS, [HTTPS://WWW.CHILDTRENDS.ORG/PUBLICATIONS/BLACK-STUDENTS-DISABILITIES-OUT-OF-SCHOOL-SUSPENSIONS](https://www.childtrends.org/publications/black-students-disabilities-out-of-school-suspensions)(LAST VISITED JUN 1, 2020); KATHERINE REYNOLDS LEWIS, *WHY SCHOOLS OVER-DISCIPLINE CHILDREN WITH DISABILITIES*, THE ATLANTIC, 2015, [HTTPS://WWW.THEATLANTIC.COM/EDUCATION/ARCHIVE/2015/07/SCHOOL-DISCIPLINE-CHILDREN-DISABILITIES/399563/](https://www.theatlantic.com/education/archive/2015/07/school-discipline-children-disabilities/399563/)(LAST VISITED JUN 1, 2020).

[61] *SEE GOSS V. LOPEZ*,419 U.S. 565 (1975).

[62] JUNIA HOWELL, SARA GOODKIND, LEAH JACOBS, DOMINIQUE BRANSON, AND ELIZABETH MILLER, *PITTSBURGH'S INEQUALITY ACROSS GENDER AND RACE*, GENDER ANALYSIS WHITE PAPERS (CITY OF PITTSBURGH'S GENDER EQUITY COMMISSION)(2019).

[63] *ID.*

[64] *SEE, E.G.*,6-12 CODE OF STUDENT CONDUCT 2019-2020, 6-12 CODE OF STUDENT CONDUCT 2019-2020,[HTTPS://WWW.PGHSCHOOLS.ORG/SITE/DEFAULT.ASPX?PAGETYPE=3&MODULEINSTANCEID=1326&VIEWID=C9E0416E-F0E7-4626-AA7B-C14D59F72F85&RENDERLOC=0&FLEXDATAID=12690&PAGEID=48&COMMENTS=TRUE](https://www.pghschools.org/site/default.aspx?pagetype=3&moduleinstanceid=1326&viewid=C9E0416E-F0E7-4626-AA7B-C14D59F72F85&renderloc=0&flexdataid=12690&pageid=48&comments=true)(LAST VISITED JUN 1,2020).

- [65] FOR EXAMPLE, IN ONE CLINIC CASE, *IN RE:A.W.F.*, CP-02-JV-2589-2017, THE MOTHER OF THE YOUTH INQUIRED OF THE COURT AS TO WHETHER SHE MIGHT BE ABLE TO USE HER DISCRETION KEEP THE YOUTH HOME FROM SCHOOL BECAUSE THE CHILD HAS A HISTORY OF VERY PAINFUL MENSTRUAL CRAMPING. THE COURT SUMMARILY DENIED THE REQUEST, INDICATING THAT ONLY A DOCTOR'S NOTE COULD EXCUSE THE CHILD FROM SCHOOL.
- [66] BRENTIN MOCK & CITY LAB, HOW RACISM BECAME A PUBLIC HEALTH CRISIS IN PITTSBURGH CITY LAB (2020), [HTTPS://WWW.CITYLAB.COM/EQUITY/2020/01/PITTSBURGH-RACISM-HEALTH-POLLUTION-ENVIRONMENTAL-JUSTICE/603775/](https://www.citylab.com/equity/2020/01/pittsburgh-racism-health-pollution-environmental-justice/603775/) (LAST VISITED JUN 1, 2020); ASHLEY MURRAY, ALLEGHENY COUNTY COUNCIL RECOGNIZES RACISM AS 'PUBLIC HEALTH CRISIS' GAZETTE (2020), [HTTPS://WWW.POST-GAZETTE.COM/NEWS/POLITICS-LOCAL/2020/05/05/ALLEGHENY-COUNTY-COUNCIL-RACISM-PUBLIC-HEALTH-CRISIS-RICH-FITZGERALD-BOND-BILL/STORIES/202005050149](https://www.post-gazette.com/news/politics-local/2020/05/05/alleggheny-county-council-racism-public-health-crisis-rich-fitzgerald-bond-bill/stories/202005050149) (LAST VISITED JUN 1,2020).
- [67] 20 U.S.C. §1414(D)(1)(B)(2004).
- [68] 20 U.S.C. §1414(D)(3)(2004).
- [69] *SEE, GENERALLY* 20 U.S.C. §1415(2004).
- [70] 20 U.S.C. §1415(K)(1)(E)
- [71] *Id.*
- [72] 20 U.S.C. §1412(A)(3)(2004).
- [73] PAMELA ORPINAS & ARTHUR M HORNE, *A TEACHER-FOCUSED APPROACH TO PREVENT AND REDUCE STUDENTS AGGRESSIVE BEHAVIOR*, 26 AMERICAN JOURNAL OF PREVENTIVE MEDICINE 29–38 (2004).
- [74] LEONE, P. & WEINBERG, L. (2012). ADDRESSING THE UNMET EDUCATIONAL NEEDS OF CHILDREN AND YOUTH IN THE JUVENILE JUSTICE AND CHILD WELFARE SYSTEMS. WASHINGTON, DC: CENTER FOR JUVENILE JUSTICE REFORM, GEORGETOWN UNIVERSITY MCCOURT SCHOOL OF PUBLIC POLICY.
- [75] 20 U.S.C. §1415(A)(6)(A)(2004).
- [76] *SEE, E.G.*, PA. J.C.R.P. 512(A)(2)(2019).
- [77] PA. J.C.R.P. 512(A)(1)(2019).
- [78] COUNCIL OF STATE GOVERNMENTS JUSTICE CENTER, *LOCKED OUT: IMPROVING EDUCATION AND VOCATIONAL OUTCOMES FOR INCARCERATED YOUTH*, (2015).
- [79] *Id.*
- [80] KARLA MCPHERSON, PH.D. & ANDREA SEDLAK, PH.D., *SURVEY OF YOUTH IN RESIDENTIAL PLACEMENT: YOUTH'S NEEDS AND SERVICES*, (2010).
- [81] *Id.*
- [82] REGINA M. FOLEY, *ACADEMIC CHARACTERISTICS OF INCARCERATED YOUTH AND CORRECTIONAL EDUCATIONAL PROGRAMS*, 9 JOURNAL OF EMOTIONAL AND BEHAVIORAL DISORDERS 248–259(2001).
- [83] MCPHERSON, *SUPRA*.
- [84] *Id.*
- [85] 71. 20 U.S.C. § 1412(A)(1)(A); 34 C.F.R. § 300.2 (B)(iv)(2004).
- [86] JUST LEARNING: THE IMPERATIVE TO TRANSFORM THE JUVENILE JUSTICE SYSTEM, SOUTHERN EDUCATION FOUNDATION, [HTTPS://WWW.SOUTHERNEDUCATION.ORG/PUBLICATIONS/JUSTLEARNING/](https://www.southerneducation.org/publications/justlearning/)(LAST VISITED JUN 1, 2020).
- [87] JENNIFER L. SKEEM, ELIZABETH S. SCOTT & EDWARD PMULVEY, *JUSTICE POLICY REFORM FOR HIGH-RISK JUVENILES: USING SCIENCE TO ACHIEVE LARGE-SCALE CRIME REDUCTION*, SSRN ELECTRONIC JOURNAL(2014).
- [88] THOMAS G. BLOMBERG ET AL., *INCARCERATION, EDUCATION AND TRANSITION FROM DELINQUENCY*, 39 JOURNAL OF CRIMINAL JUSTICE 355–365 (2011).
- [89] CATHERINE FOLEY GEIB ET AL., *THE EDUCATION OF JUVENILES IN DETENTION: POLICY CONSIDERATIONS AND INFRASTRUCTURE DEVELOPMENT*, 21 LEARNING AND INDIVIDUAL DIFFERENCES 3–11(2011).
- [90] SOUTHERN EDUCATION FOUNDATION, *SUPRA*.
- [91] STEVEN A. HAAS & NATHAN EDWARD FOSSE, *HEALTH AND THE EDUCATIONAL ATTAINMENT OF ADOLESCENTS: EVIDENCE FROM THE NLSY 97*, 49 JOURNAL OF HEALTH AND SOCIAL BEHAVIOR 178–192(2008).
- [92] ADAMS, *SUPRA*.
- [93] *Id.*
- [94] MICHAEL BULLIS ET AL., *LIFE ON THE "OUTS"—EXAMINATION OF THE FACILITY-TO-COMMUNITY TRANSITION OF INCARCERATED YOUTH*, 69 EXCEPTIONAL CHILDREN 7–22 (2002).
- [95] CRIMINAL AND JUVENILE JUSTICE, SAMHS A.GOV, [HTTPS://WWW.SAMHSA.GOV/CRIMINAL-JUVENILE-JUSTICE](https://www.samhsa.gov/criminal-jvenile-justice) (LAST VISITED JUN 1, 2020).
- [96] LEONE, *SUPRA*; MARY MAGEE QUINN ET AL., *YOUTH WITH DISABILITIES IN JUVENILE CORRECTIONS: A NATIONAL SURVEY*, 71 EXCEPTIONAL CHILDREN 339–345(2005).
- [97] MENTAL HEALTH IN AMERICA- ACCESS TO CARE DATA, MENTAL HEALTH AMERICA, [HTTP://WWW.MENTALHEALTHAMERICA.NET/ISSUES/MENTAL-HEALTH-AMERICA-ACCESS-CARE-DATA](http://www.mentalhealthamerica.net/issues/mental-health-america-access-care-data)(LAST VISITED JUN 1, 2020).
- [98] CRIMINAL AND JUVENILE JUSTICE, SAMHSA.GOV, [HTTPS://WWW.SAMHSA.GOV/CRIMINAL-JUVENILE-JUSTICE](https://www.samhsa.gov/criminal-jvenile-justice) (LAST VISITED JUN 1, 2020).
- [99] JEFFREY SHOOK, ET.AL., *MOVING BEYOND POVERTY: EFFECTS OF LOW-WAGE WORK ON INDIVIDUAL, SOCIAL, AND FAMILY WELL-BEING, FAMILIES IN SOCIETY*(2020).