

REVERSING THE PIPELINE TO PRISON IN TEXAS

How to Ensure Safe Schools
AND Safe Students

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« *Jemima Abalogu*



The Texas Criminal Justice Coalition advances solutions and builds coalitions to end mass incarceration and foster safer Texas communities.

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REVERSING THE PIPELINE TO PRISON IN TEXAS

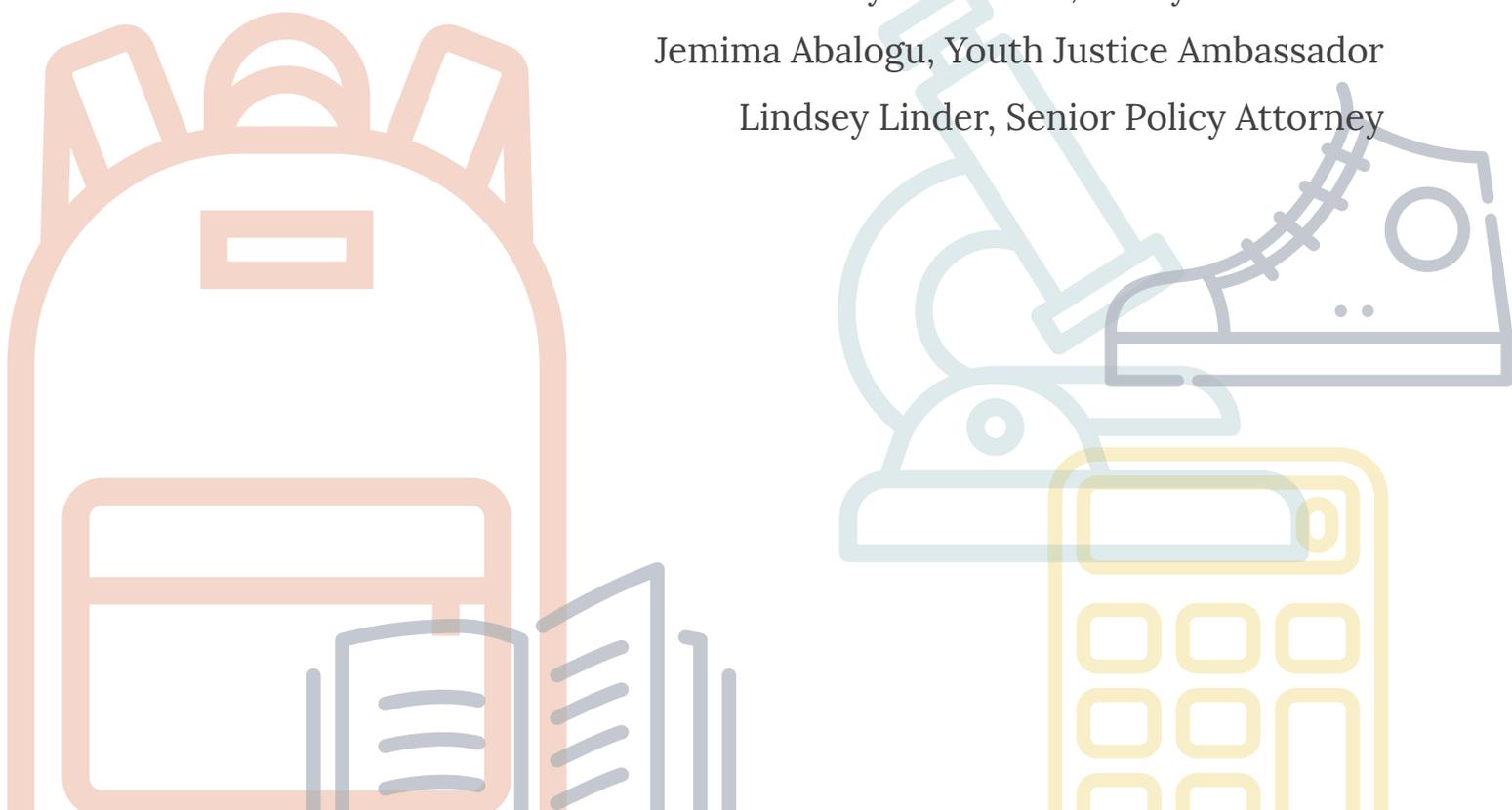
How to Ensure Safe Schools AND Safe Students

TEXAS CRIMINAL JUSTICE COALITION

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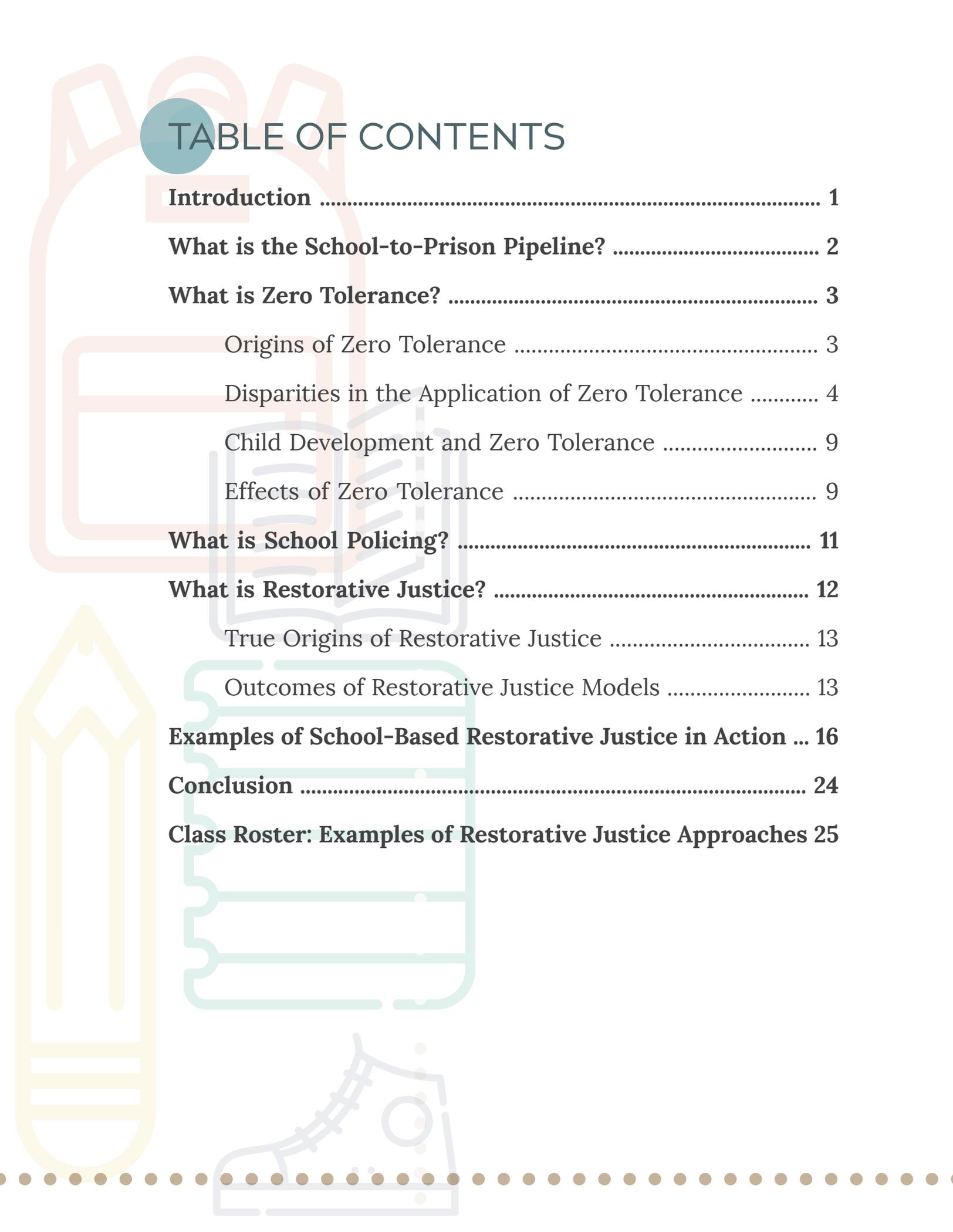


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INTRODUCTION

Today in Texas schools, students at every grade level face disciplinary methods that can land them behind bars. School administrations have implemented punitive “zero tolerance” policies and have increased on-campus policing in response to various incidents over past decades; this has led to negative, unintended consequences and has pushed many students – particularly those most vulnerable – out of the classroom, where they can be subject to criminalization.

But as the spotlight has shown more harshly on youth incarceration and the harm to children and their families, measures to reverse the “school-to-prison pipeline” are being piloted and implemented throughout Texas to ensure that, in efforts to create safe schools, we also have safe students who can reach their full potential.

The Texas Criminal Justice Coalition talked to school discipline experts and students across the state to learn more about disciplinary practices and **restorative justice, which addresses student misbehavior and holds them accountable in a safe, non-court setting, leading to better outcomes for students, victims, schools, and communities.** Throughout this report, insights from experts and students shed additional light on the need for alternatives to harsh discipline, and they ultimately provide hope that Texas can reverse the school-to-prison pipeline.



WHAT IS THE SCHOOL-TO-PRISON PIPELINE?

Experts describe the school-to-prison pipeline as the result of practices that force students out of the classroom and into the justice system.¹ Students in hundreds of school districts nationally are susceptible to zero tolerance policies and denied education for often minor misbehaviors. **Alarmingly, students of color and students with special needs are disciplined at disproportionate rates compared to the greater student population.**² This is especially problematic given that schools over-rely on police forces to maintain on-campus discipline, leading to student arrests. **With the abuses of power and significant racial disparities seen in prosecution and detention, the school-to-prison pipeline is a continuation of the most broken parts of America's justice system.**

And yet, there is no evidence to support the efficacy of these forms of discipline. Claims that zero tolerance policies are an effective approach to controlling classrooms and helping students become healthy, well-adjusted members of society fail to hold up in light of data. **Instead, such policies drive students into the justice system, creating a dangerous cycle that deprives youth of meaningful opportunities for education, future employment, and success.**



WHAT IS ZERO TOLERANCE?

Zero tolerance policies require school administrators to suspend or expel students for misconduct, regardless of the severity, circumstances, or context of the situation. No single definition exists across the American educational system, making outcomes difficult to track and compare, but such policies are prevalent throughout the nation and in Texas. Punishments often manifest as referrals to the youth justice system – the foundation of the school-to-prison-pipeline.

ORIGINS OF ZERO TOLERANCE

The now debunked “broken windows” theory, introduced in 1982, suggested that “crime is a disorder that, if not eliminated or controlled early on, increases [a person’s] likelihood of committing a more serious crime later in life.”³ The theory was based on the idea that a broken window in a neighborhood would encourage further vandalism or disorder – meaning police should focus on punishment for minor misconduct to prevent more significant infractions. The application of the theory led to an increase in arrests for nonviolent crimes, such as panhandling, disorderly conduct, and public intoxication.⁴ In schools, the ideas undergirding the theory led to harsher punishments for common misconduct.⁵

In 1994, the Gun-Free Schools Act (GFSA) inspired school districts to write zero tolerance policies into their code. The GFSA mandated that states whose schools receive federal funding must expel for at least one year any student found to have brought a firearm to school.

Also in 1994, President Bill Clinton established the Office of Community Oriented Policing Services (COPS) in the Department of Justice; since its implementation, it has become the largest contributor to increased police forces in schools, with \$300 million allocated for school policing alone.⁶

In the midst of expansions of manpower for school policing, schools were given agency to expand zero tolerance policies to fit other types of misconduct.

Terms such as “willful defiance” were included as suspendable offenses. This encompassed a wide range of subjective “offenses,” from dress code violations to “horseplay.”

Chapter 37 of the Texas Education Code outlines policies for school “discipline, law and order,” and is largely based on the Texas Penal Code – effectively creating an education system that mirrors a justice system inappropriate for children. And, as noted above, **there has been no evidence that suspensions and expulsions are an effective method of changing students’ behavior in schools.**

DISPARITIES IN THE APPLICATION OF ZERO TOLERANCE

Students of color, students with special needs, young boys, and children in foster care are consistently overrepresented in suspension and expulsion rates compared to the larger student population.

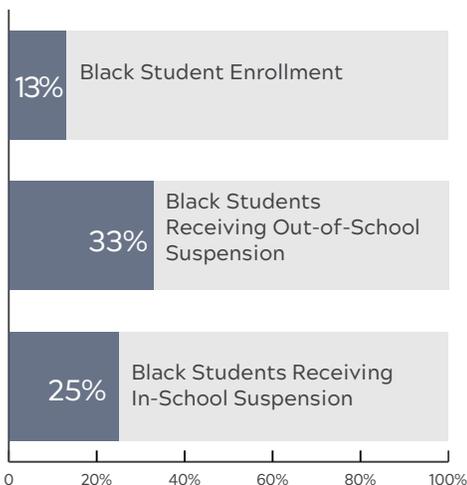
The latest civil rights data from the U.S. Department of Education shows that Black preschoolers comprised 18 percent of preschool enrollment but received 48 percent of out-of-school suspensions. Black students comprised 15 percent of the overall school population but received 39 percent of out-of-school suspensions. Black males comprised approximately 8 percent of the entire student population but received 25 percent of out-of-school suspensions and 23 percent of expulsions. Black females similarly comprised approximately 8 percent of the student population but received 14 percent of suspensions.

Rates of out-of-school suspension are similar for Latinx students, with males representing 13 percent of the student population but receiving 15 percent of suspensions.⁷

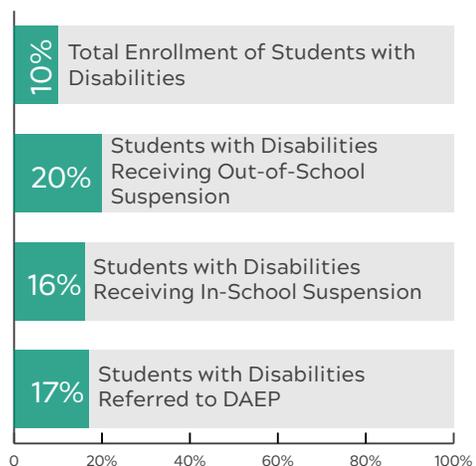
Students with special needs who are served by the Individuals with Disabilities Education Act (IDEA) are more than twice as likely to receive one or more out-of-school suspensions as other students.⁸

In Texas, the rates of disparity are no different. While Black students comprised 13 percent of the student population from 2017-2018, they represented 33 percent of all out-of-school suspensions and 25 percent of all in-school suspensions. Similarly, students with disabilities comprised only 10 percent of the Texas student population but accounted for 20 percent of all out-of-school suspensions, 16 percent of in-school suspensions, and 17 percent of referrals to disciplinary alternative education programs.⁹

Disparities in Use of Zero Tolerance in Texas: Black Students



Disparities in Use of Zero Tolerance in Texas: Students with Disabilities

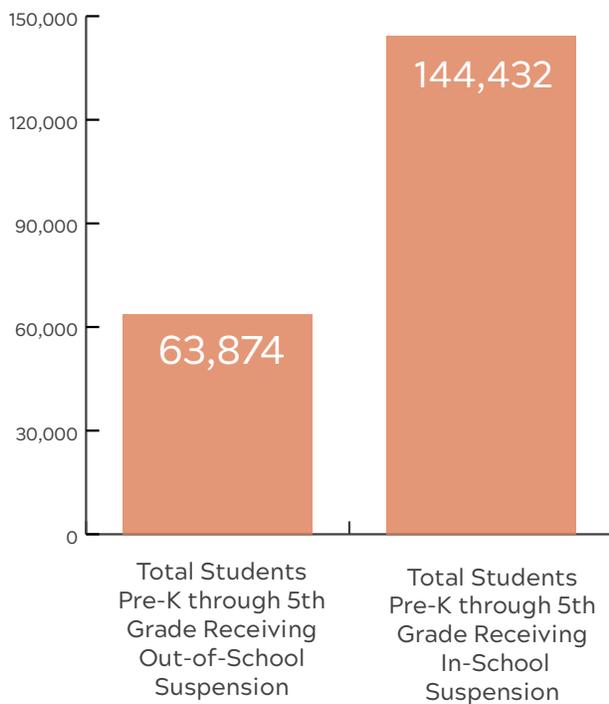


This tragic overrepresentation of certain students in disciplinary actions is seen in referrals to law enforcement and arrests as well. Black students, who comprise 15 percent of student enrollment nationally, represent 31 percent of students referred to law enforcement or arrested. Students with special needs represent a quarter of the students who are referred to law enforcement or subjected to school-related arrests, but comprise just 12 percent of the student population.¹⁰

Very young children are a large portion of students represented in these statistics. From 2015-2016 in Texas alone, 63,874 children from pre-kindergarten through fifth grade received an out-of-school suspension¹¹; 144,432 children were removed from the classroom and placed into in-school suspension. From 2017-2018, children in foster care from pre-kindergarten to second grade in Texas were three times more likely than their peers to be suspended.¹²

Disparities in Use of Zero Tolerance in Texas: Very Young Students Pre-Kindergarten Through Fifth Grade, 2015-2016

(Total Enrollment: 2.61 million)



.....

From 2017-2018, students in foster care from pre-K through 2nd grade were

3x

more

likely

than their peers to receive in-school suspension

.....

“When people get frustrated, they revert to the things they know... Most folks have only known one method of discipline.”

*Dr. Philip Carney,
Restorative Discipline
Coordinator at
North East
Independent School
District in
San Antonio, Texas*

Harsh disciplinary practices for very young children are harmful for a number of reasons:

- » Expulsion and suspension for young children leads to high rates of expulsion and suspension later in school.¹³
- » Labeling young children (as ones warranting harsh discipline) has lasting detrimental effects on their social-emotional learning; it also creates a negative lens through which teachers and administrators view students from year to year.¹⁴
- » Negative impacts on social-emotional learning in kindergarten have been shown to create negative outcomes in many areas, such as future unemployment, criminal activity, substance use, and mental and physical health issues.¹⁵

Policymakers in some states have taken action. After a report on California schools found that 15 percent of elementary school suspensions and 21 percent of middle school suspensions were for “willful defiance,” and that Black males were being suspended at four times the student average,¹⁶ California banned suspensions for “willful defiance” by students in kindergarten through eighth grade.¹⁷ In 2017, the Texas Legislature passed House Bill 674,¹⁸ banning discretionary out-of-school suspensions and expulsions for students in kindergarten through second grade. Unfortunately, due to limited oversight of the bill’s provisions, very young children have continued to be suspended and expelled at alarming rates.¹⁹

Also problematic, a 2014 federal school discipline policy that urged schools to only suspend, expel, or report students to police as a last resort was overturned in December 2018 under the Trump administration.²⁰

Professionals assert that disparities in the application of zero tolerance are the result of systematic failures in the education system.²¹ For instance, a lack of support for teachers and administrators (including funding, additional

personnel, and training and professional development) creates an overreliance on traditional discipline.²²

Other drivers of disparities in the application of zero tolerance include:

- » **LACK OF TRAUMA-INFORMED CARE:** Students experiencing trauma may have a variety of symptoms that impact their experience in the classroom and prevent them from successfully managing stress or other emotions.²³ For instance, students in foster care are more likely than their counterparts to have experienced Adverse Childhood Experiences.²⁴ The trauma associated with these experiences may cause behaviors that lead to discipline or suspension. Similarly, children with special needs may experience struggles in the classroom, leading to outbursts

that result in them being removed from class.

- » **LABELING:** In part due to teachers' lack of access to consistent, relevant training and proper resources, they may be unable to help high-needs students and instead may label them as "troublemakers" or "problem students." These labels can stay with children who adopt them as personal narratives, and they are especially problematic when communicated to a student's future teacher. This standard of labeling effectively severs students' connectedness to their learning environments and their relationships with staff and their peers,²⁵ and can create a cycle of disciplinary actions.

REC #1 | For School Districts

School districts should prioritize budgetary allocations towards trauma-informed training, bias training, other professional development, and personnel to help students and classrooms remain productive and successful. This is especially critical for vulnerable and high-needs students. School districts should STOP investing in school policing, which drives students out of the classroom and towards the justice system.



In 2012, Black girls were suspended from school

6 times more frequently than white girls.



- » **IMPLICIT BIAS:** To address the racial and needs-based disparities in traditional disciplinary approaches, teachers must be equipped with proper tools – but some have not had bias training. Implicit bias can be understood as subconscious attitudes, beliefs, or stereotypes that affect behavior and understanding; it often influences a person’s first reaction to a situation.²⁶ It is widely accepted that every person has implicit bias and mental constructs that help them interpret the world. Stereotypes, perceived social roles, and worldviews are all a part of personal schemas – the mental structures that enable categorization – that contribute

directly to an individual’s implicit bias. Implicit biases are not always harmful, but as long as there are racial and needs-based biases in place, they will negatively affect students’ lives, especially in the implementation of zero tolerance policies, and especially in light of negative perceptions created by outdated theories. Some school districts are now implementing bias training in professional development, but professionals we spoke with raised concerns about consistency and application of these trainings.

- » **“ADULTIFICATION” OF BLACK GIRLS:** Recent studies have found that Americans tend to view Black boys and girls as less innocent than their white counterparts. In a study from Georgetown Law, survey respondents were more likely to feel that Black girls in particular require less nurturing, support, comfort, and protection than white girls of the same age.²⁷ In other words, Black girls are more “adult” than white girls, which can result in disparate treatment and bias. In 2012, Black girls were suspended six times more frequently than white girls,²⁸ a potential result of adultification. Administrators and teachers must be aware of the adultification of Black children – especially girls – when developing and implementing disciplinary practices.

CHILD DEVELOPMENT AND ZERO TOLERANCE

Traditional school discipline is often at odds with findings regarding child development. For students in middle and high school, development relies on close peer relationships, autonomy, support from adults other than their parents, self-discovery, and academic self-efficacy.²⁹ As such, schools are the ideal setting to encourage and foster healthy development, especially in the social-emotional learning portion of the curriculum.

However, schools are continuing to implement zero tolerance policies, which fail to account for adolescent development; the policies disregard that adolescents display immaturity in four primary areas: poor resistance to peer influence, attitudes toward and perception of risk, future orientation, and impulse control.³⁰ Consequently, the policies stifle children's ability to flourish in and out of the classroom. Through ongoing implementation of such outdated and harmful disciplinary procedures, vulnerable children will continue to be pushed away from the education setting and stunted in their social-emotional development journey.

EFFECTS OF ZERO TOLERANCE

Zero tolerance policies have numerous ill effects that impact students, educators, administrators, and communities.

HEALTH EFFECTS:

- » The excessive punishment that accompanies zero tolerance may accelerate negative mental health outcomes by increasing feelings of alienation, anxiety, and rejection, and by destroying healthy adult bonds.³¹

EDUCATIONAL IMPACTS:

- » Removing students from the classroom has intensely adverse effects on their overall ability to succeed throughout their academic careers; it breaks important connections to teachers, peers, and their learning environment, making reintegration extremely difficult.³²
- » Removing students from school also increases the likelihood that they will repeat a grade. Thirty-one percent of students who received a suspension or expulsion between seventh and twelfth grade repeated their grade at least once.³³
- » The U.S. Department of Health and Human Services and U.S. Department of Education reported that “Young students who are expelled or suspended are as much as 10 times more likely to drop out of high school, experience academic failure and grade retention, hold negative school attitudes, and face incarceration than those who are not.”³⁴

“When 5-year-olds have been through child abuse or other trauma that affects their behavior and learning, school districts need to provide support to help them heal, manage their emotions, and improve their behavior rather than just kicking them out of class.”

David Feigen,

*Early Education Policy
Associate at Texans Care
for Children*

COMMUNITY IMPACT:

- » Estimates regarding the fiscal impact of school discipline-related dropouts and suspensions show staggering losses to the community in both social and fiscal costs. Social costs related to dropouts include lower income and higher medical costs due to poorer health outcomes. Fiscal costs include education expenditures from students repeating grades, youth and adult justice system expenses, and costs related to health and social services. One study estimated that “if policymakers could remove the entire 14 percent increase in dropouts associated with school discipline, the total lifetime savings for each student cohort would be between \$750 million and \$1.35 billion.”³⁵



WHAT IS SCHOOL POLICING?

School Resource Officers (SROs) are on-campus law enforcement officers in schools across the country; the National Association of School Resource Officers (NASRO) estimates that 14,000 to 20,000 SROs are likely in schools today.³⁶ Neither police departments nor school districts are required to register SROs in any sort of database,³⁷ so an exact count is impossible. But surveys from the National Center for Education found that, as of 2014, approximately 24 percent of elementary schools and 42 percent of secondary schools had officers on their campuses, compared to just 1 percent in 1975.³⁸

One of the earliest records of the incorporation of SROs as permanent fixtures in schools comes from 1953 in Flint, Michigan.³⁹ The goal was to create positive relationships among students and law enforcement through a program intended to improve student and police relations. In other cities, police presence was expanded in schools with the intention of protecting schools during integration. Unfortunately, along with the increased police presence came new policies to criminalize students, compounded by President Richard Nixon's 1971 declaration of the War on Drugs, which led to an immediate increase in prosecutions of low-level violations, as well as highly biased stop-and-frisk policies affecting students in and out of schools.⁴⁰

Later growth of police in schools can be partly attributed to school

safety concerns following the 1999 Columbine High School shooting. In response, more than \$750 million in federal funds were allocated to hire new officers all over the country.⁴¹ However, research on whether SROs actually increase school safety is inconclusive.

Despite the NASRO's "triad" concept, which claims that SROs are educators and informal counselors as well as law enforcement officers,⁴² no formal training is provided to SROs in the realm of counseling or teaching. On the contrary, increased police presence can feel triggering for many students from heavily policed communities who may already be carrying the trauma of negative interactions with police officers.

A body of professionals believes that SROs' disparate use of excessive force warrants elimination of police on campuses entirely.⁴³ Others feel that SROs can be the resource intended to help keep campuses safe, if given both clearly defined roles and the opportunity to integrate into a restorative campus culture.⁴⁴

Texas' Senate Bill 1707,⁴⁵ passed in 2019, is intended to help eliminate the misuse of SROs; it authorizes the respective boards of Texas public schools to outline the jurisdiction and duties of SROs, peace officers, and security personnel. While this is a step in the right direction, the bill did not incorporate NASRO's recommendation that SROs undergo a specialized 40-hour training.

“Under a traditional school discipline approach, the student is held accountable to the administrator, the district, or the police, rather than, for example, the teacher that he or she wronged. Using a restorative justice approach, the student is held responsible to the person he or she hurt.”

Dr. Philip Carney,
Restorative Discipline
Coordinator at
North East Independent
School District in
San Antonio, Texas

WHAT IS RESTORATIVE JUSTICE?

Restorative justice is a disciplinary practice that seeks to repair harm by addressing the root cause of the actor’s conduct, ultimately mitigating the likelihood of their behavior recurring.

Using methods such as group conferencing, healing circles, check-ins, and mediated victim offender dialogue (VOD), restorative justice helps the actor consider the consequences of their actions; it also encourages empathy by using age-appropriate, feeling-centered language.

In the school setting, restorative justice involves not only the misbehaving student but the person harmed and the community around them. Including the community fosters a feeling of responsibility for the student, thereby strengthening and uniting a community around their young people.⁴⁶

In schools, restorative justice serves as a disciplinary practice and a learning opportunity.

When compared to traditional disciplinary methods, restorative justice requires high levels of accountability from students. Professionals and students we spoke with repeatedly emphasized that **while restorative justice is the age-appropriate response, it is not a soft approach to discipline.**

In requiring varying levels of participation and engagement both in proactive and reactive actions, building and maintaining a restorative culture requires much of students, most of all from the student who caused harm. From the requirement of taking responsibility for the wrongdoing, to making a sincere apology, to developing a plan for restitution satisfactory to the victim, to ultimately following through on that plan, professionals and students agree: **far more accountability is required of a student making amends through a restorative justice model than one who is sent home via suspension or expulsion.**

TRUE ORIGINS OF RESTORATIVE JUSTICE

The roots of restorative justice are in the community healing practices of multiple indigenous groups. Ramon Vasquez, Male Outreach Coordinator at American Indians in Texas at the



Ramon Vasquez

Spanish Colonial Missions, talks about the importance of remembering the roots of practices that have only in recent years come to be known as restorative justice. Drawing on historical accounts of Native American conflict-resolution methods, while war was certainly an aspect of pre-colonized America, many Native American tribes sought peace and utilized violence

only as a last resort. Similar practices have historically been employed by other groups as well, from the New Zealand Maori restorative system to the African ubuntu system.⁴⁷

The work of these groups has been focused on community repair rather than retribution. According to Mr. Vasquez, “It is a colonized thought that war is the way to resolve conflict.” He parallels the historic concepts to today’s work in schools, stating, “If we’re modeling to our children that violence [via a police force] is the way to establish control, how can we expect kids to do things differently?”⁴⁸

OUTCOMES OF RESTORATIVE JUSTICE MODELS

While many restorative justice programs in U.S. schools are still in early stages of implementation, the outcomes have been overwhelmingly positive, with many empirical studies showing a decrease in exclusionary discipline and harmful behavior following implementation.⁴⁹

Qualitatively, the benefits of restorative justice are numerous:

- » Dr. Anita Wadwha, Dean of Students at Yes Prep Northbrook High School in Houston, Texas, asserts that, because misbehaving students have a voice in the disciplinary process, they experience an increased sense of control; providing that sense of ownership helps eliminate the feeling of helplessness that can contribute to further misconduct. Additionally, involving the person harmed, as well as the community, in the restorative justice process encourages accountability by showing misbehaving students that their actions affect those around them, while still giving them ample opportunity to redeem themselves. Restorative justice methods isolate and confront the harmful behavior, rather than the students themselves, which helps the students feel safe as they work to understand the underlying cause of their behavior and fix the issue. Restorative justice methods also help students become more empathetic with

their community, which improves pro-social behaviors overall, leading to a decrease in harmful behaviors and lowered recidivism rates.⁵⁰

- » **Victims are provided a safe, facilitated environment where they can express the depth of the harm they have experienced,** and where the student who caused harm acknowledges and validates the experience of the victim. Together, they work to develop a plan to address the harm in way that serves and empowers the victim directly.⁵¹ This results in the victim feeling a sense of justice while still creating a distinction between the isolated behavior and the student responsible. Victims also experience **greater healing**

as they feel a renewed sense of safety in their community, and as they experience **less victimization overall.**⁵²

- » **Restorative justice benefits the community, providing a more efficient and cost-effective means of reparation compared to the youth justice system.** Furthermore, through restorative justice programs, students who have caused harm are given the opportunity to serve and interact with their communities, creating an equitable and mutually beneficial relationship, which greatly aids the student's reintegration process. And, as mentioned above, **restorative justice programs produce lower recidivism rates, leading to greater public safety.**⁵³

A “WHOLE SCHOOL” APPROACH:

When Teachers Get on Board, They See Results

It is true that restorative justice advocates have faced pushback from their peers – teachers themselves. Advocates we spoke with said teachers expressed worry that restorative justice would add new tasks to their already significant workload, or worse, remove their ability to control a classroom by sending a disruptive student away. Their fears are not unwarranted. Advocates warn that partially or improperly implemented restorative justice may leave schools with low punishment and low accountability. Alternatively, they point to schools that continue using traditional discipline, but incorporate restorative exercises in the punitive process, negating the restorative model.

Professionals we spoke with said again and again, the goal of restorative justice is not to take tools away from teachers. Instead, when whole districts and schools adopt a restorative culture, teachers will be more supported in their goals of teaching students, and they will have additional tools to access for a productive classroom.

The WestEd Justice & Prevention Research Center provides a table of results from schools across the country that have implemented restorative justice programs:

| Publication | Reduction in Discipline | Reduction in Misbehavior | Notes |
|---------------------------------------|---|--|---|
| Armour (2013) | 84% drop in out-of-school suspensions | | Texas 6th graders |
| Augustine, et al. (2018) | 16% drop in suspensions caused by RJ | | 44 Pittsburgh, PA K-12 schools; RCT |
| Baker (2009) | 44% drop in out-of-school suspensions; overall reduction in expulsions | | Denver schools |
| Barkley (2018) | | Office referrals per student increased | Michigan schools |
| Carroll (2017) | 50% drop in full-day suspensions | | |
| DeAntonio (2015) | | No statistically significant difference between RJ and non-RJ schools on a measure combining fighting, disorderly conduct, and truancy | 38 Pennsylvania public schools (19 RJ, 19 non-RJ) |
| Fowler, et al. (2016) | 63% drop in suspension rate | | |
| González (2015) | 47% drop in suspension rate; 41% drop for Black students; 54% drop for Latino students | | Denver (CO) Public Schools |
| Goldys (2016) | | 55% decrease in office referrals | One elementary school |
| Gregory & Clawson (2016) | | 21% reduction in disciplinary referrals | Two large, diverse, East Coast high schools |
| Gregory, et al. (2018) | 51% reduction in suspension rate | | |
| Hashim, et al. (2018) | Drop in suspension rates for Black, Latino, Asian, White, disabled, English learner, and free/reduced-price lunch eligible students | | |
| Henson-Nash (2015) | | 83% lower infraction rates than during zero tolerance | |
| Katic (2017) | 40% drop in per-pupil suspension rate | | Middle school in San Bernadino, CA |
| Lewis (2009) | | Initial 52% drop in violent and serious incidents; | |
| McCold (2002) | | 58% reduction in offending | Alternative education program in Philadelphia, PA |
| Riestedberg (2003) | 35% drop in time spent in in-school suspensions; 77% drop in out-of-school suspensions | 57% drop in discipline referrals | Minnesota schools |
| Sumner, et al. (2010) Davis (2014) | Initial 87% drop in suspensions; subsequent 77% drop in two-year follow-up | | |

WestEd Justice & Prevention Research Center, *Restorative Justice in U.S. Schools*, 2019 https://jprc.wested.org/wp-content/uploads/2016/02/RJ_Literature-Review_20160217.pdf

REC #2 | For Schools

Schools that have existing School Resource Officers (SROs) and that are interested in implementing restorative justice programming should train the SROs to reinforce – rather than work against – the principles of restorative justice.



EXAMPLES OF SCHOOL-BASED RESTORATIVE JUSTICE IN ACTION

Across the nation, elementary through high schools have been making the shift towards becoming restorative campuses.

Dr. Philip Carney

*Restorative Discipline Coordinator at
North East Independent School District in San Antonio, Texas*

“When I became principal of Ed White, things needed to be done differently. I was maybe the third principal in about four years. Being the traditional teacher and coach, I came to the job with a traditional background and I took a traditional approach to discipline. I got tough. We weren’t going to stand for this or that anymore. Our discipline referrals went up, our suspensions went up, and we led the district in all the areas you don’t want to lead the district in. What I discovered at the end of the year was that while there was a bit more ‘order,’ scores weren’t improving and the climate wasn’t getting better. In some ways, it just wasn’t a fun place to be. That bothered me because I wanted to lead a school where the students wanted to come to school and the teachers wanted to come to work. Over the summer, I reflected on how what we were doing wasn’t working. Then someone I knew introduced me to restorative justice. I felt like, ‘this is something that could work,’ but I wasn’t 100 percent sure because it had never been used in a Texas public school. But I said, ‘why not.’ I tried hard to secure funding for a pilot. And honestly? The results were pretty amazing. With a 70 percent reduction in suspensions in the first year, we went from being the number one suspending middle school in the district by far, accounting for 30 percent of all middle school suspensions, to the middle of the pack and accounting for only 7 percent of all middle school suspensions. Additionally, we were able to do this in an environment where the other schools were increasing their number of suspensions. Of course, the question was, can you maintain that? The answer was, yes. The reports from the second and third years found that we did maintain that success from the initial year.

I have found that the kids actually come to this very quickly. The adults take more time. They’ve been trained to approach things in a particular way all of their lives. Some have been teachers for 25 years, so you have 25 years of training as a teacher, many years before that of training as a student...so getting adults to make that paradigm shift takes a bit more time. **The use of these practices with teachers, to build connections among the staff is really important. The research shows you need to take a whole school approach versus a targeted approach of a few kids here or there.** When you take a step back and really look at it, ‘whole school’ means the staff as well.

All of the research I have seen shows that **it’s incredibly important to have a designated Restorative Justice Coordinator.** Schools that have a coordinator have a lot more success than those that don’t. In terms of modeling, it’s important to have a designated individual **to provide an extra resource to the administrators and teachers;** it frees them to do many of the things that have been put on their plates, especially on a high-need campus. As a campus engages in restorative discipline more and more, the kids are able to lead it on their own.

It is really important to have a Restorative Justice Coordinator when possible. Because otherwise, who will you use? The counselor? Then what happens during testing time? If you give it to an administrator, what happens during the time they have to do all their evaluations and textbook audits? During those stressful times when everyone is so busy, things will fall through the cracks if the people that are in charge of doing it are all doing other

Dr. Philip Carney
Restorative Discipline
Coordinator at North
East Independent School
District in
San Antonio, Texas

“THE INCENTIVE IN A RESTORATIVE SYSTEM IS TO FIX IT AND MOVE PAST IT, SO THAT YOU HAVE HIGH LEVELS OF ACCOUNTABILITY AND THAT ACCOUNTABILITY IS BASED IN LEARNING, IN TEACHING, AND IN THE NEEDS OF THE PEOPLE THAT HAVE BEEN HARMED BEING ADDRESSED.”

things. **The biggest barrier to getting a coordinator is funding. When you have funding that is on a year-to-year basis you have an incentive to focus on year-to-year solutions, rather than long-term solutions.** I've known districts that have a lot of money for training and resources, when really what they need is to hire a coordinator, but they're hesitant to commit to a position multiple years when funding is either year-to-year or through a grant.

I've been on campuses with SROs who feel they're there to find kids doing wrong and therefore want to hunt that down. In their defense, that's what they've been trained to do, to keep the school safe. So the approach is to find the students that are doing wrong and being sure a punishment is dealt out. But my approach on working with SROs is to

include them in the process of restorative justice. **Our SRO was trained, he worked hand in hand with us, to try to work with students, be in circles, and try to flip that narrative – that the police officer is not here to 'get you,' they're here to support you. We used the SRO to reinforce the principles of restorative justice.**

We're working with kids, and they make mistakes. If you truly make things right with the individual, and the situation is restored, then we move forward. The incentive in a restorative system is to fix it and move past it, so that you have high levels of accountability and that accountability is based in learning, in teaching, and in the needs of the people that have been harmed being addressed.”

Kyle Lemere

Restorative Justice Coordinator at Austin Achieve Academy in Austin, Texas



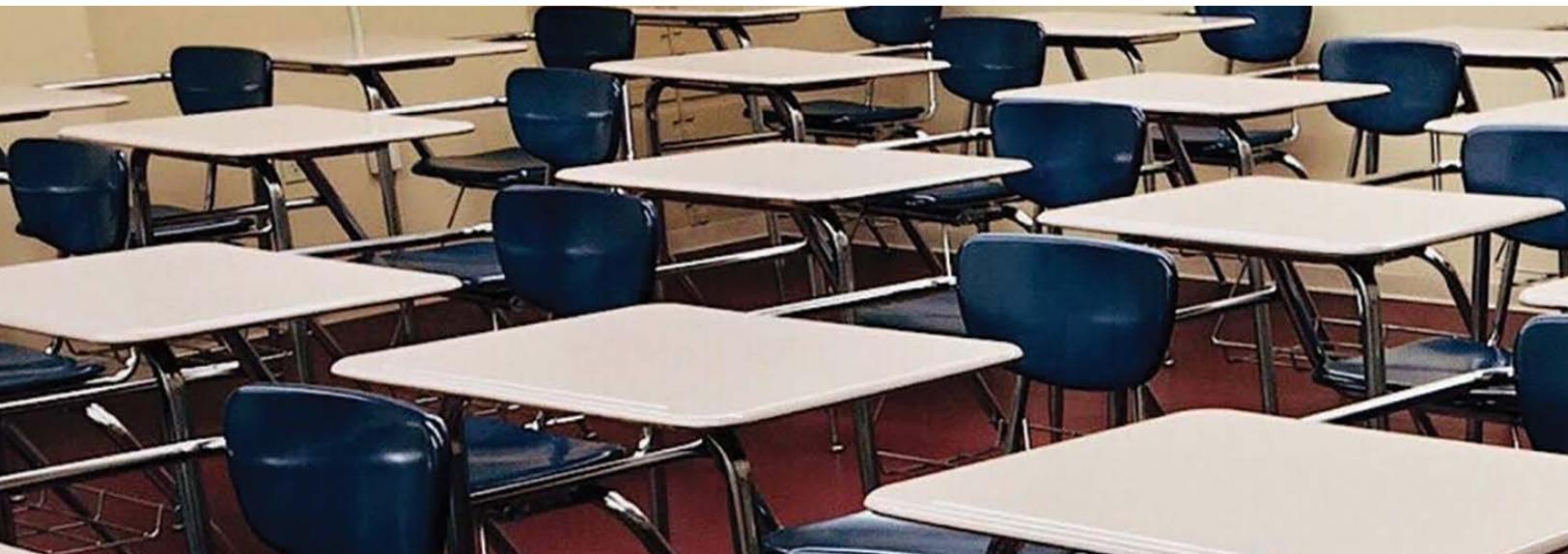
Kyle
Lemere

“In 2014 I was working at a school in Mississippi that was still using corporal punishment. To see that was traumatic. I began using restorative practices with my students before I even knew what it was so that I could avoid sending kids to the principal, where I knew what

would happen to them, and I saw that [restorative practices] worked.

If reflection is truly happening and bonds are being made between students, teachers, and administration, there is no need to involve police. It exposes kids to a system that is inappropriate for their age. I don't fear for my safety because I have a connection with my students. However, I know teachers need the ability to control their classrooms. This is why we have a system of hall monitors, 2-3 teachers every period, ready to have conversations with any students outside of the classroom to reflect and then close the loop on what disturbance or harm was done by the end of the day.

For staff, support is absolutely essential. Here, among the staff, we practice radical candor. We are open with each other and truly honest so everyone gets the support they need and no one gets their feelings hurt, because we know everything we ask of one another is for the kids. This ensures we're all accountable to each other and serves as a model for the students. We see our students holding each other accountable on issues because they build those same honest connections. That being said, I'm never doing more than my role requires and we don't ask that of teachers. If a student comes to me with a serious issue, I know to send them to our counselor, because they are trained to handle that. **If a student's behavior disrupts class, we don't ask our teachers to stop an important lesson – but we make sure someone is there to talk to them in the hall and resolve that issue by the end of the day.** The difference between us and places without a restorative model is we have these resources to be able to handle each situation appropriately. And that support is necessary for all teachers and administrators.”

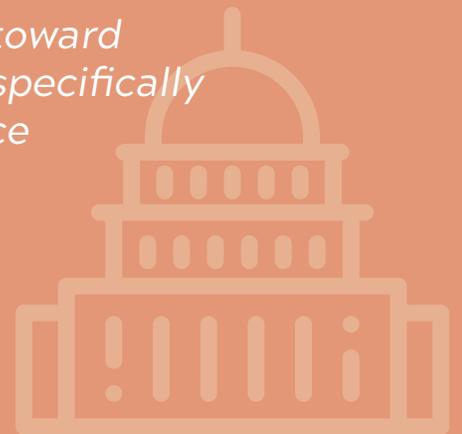


REC #3 | For The Texas Legislature

For restorative justice programming to be successfully implemented and maintained, administrators and teachers should have adequate support. Mr. Lemere, Dr. Carney (pg 16), and Dr. Wadhwa (pg 20) credit the success of their programs to the support of the administration, sufficient staff, and student leaders.

After a thorough review of restorative justice programming across Texas, it is clear that implementation of restorative justice practices will be an uphill climb for under-resourced schools; that is also the case for teachers who are sometimes single-handedly fighting to get their schools to adopt restorative justice programming because they want to see their students graduate.

The Texas Legislature should allocate funding toward restorative justice measures in Texas in 2021 – specifically for the addition of multi-year Restorative Justice Coordinators in schools.



Dr. Anita Wadhwa
Dean of Students at Yes
Prep Northbrook High
School in Houston, Texas

“WITH STAFFING AND CAPACITY,
WE CAN MAKE EVERY SPACE A RESTORATIVE SPACE.”

REC #4 | For The Texas Education Agency

In 2015, the Texas Education Agency funded a grant that provided restorative justice training to 10 education centers through the Institute for Restorative Justice and Restorative Dialogue at The University of Texas at Austin School of Social Work. It was through this grant that Dr. Philip Carney (previous) and those like him in Texas were able to begin implementing restorative programming in schools. While the results have been overwhelmingly positive, similar allocations to restorative justice in the years since have yet to be made.

The Texas Education Agency should continue to invest in school personnel by regularly allocating funding for training in restorative justice practices for both school administrators and teachers.

Dr. Anita Wadhwa

Dean of Students at Yes Prep Northbrook High School in Houston, Texas

As the coordinator behind the 6-year restorative justice program at Northbrook High School, Dr. Wadhwa is one of the top experts on restorative justice models in Texas. Dr. Wadhwa implements a restorative justice program based on the Youth Apprenticeship Model (YAM).⁵⁴ YAM promotes youth leadership, training youth to facilitate restorative circles and to train other youth. The goal of the program is to empower youth to transform themselves, their relationships, and the school system as a whole. Every student at Yes Prep attends restorative circles once a week. This allows students to build a community by getting to know each other and becoming more comfortable expressing themselves. Students interested in facilitating restorative circles can apply to enroll in the leadership class, where they are taught the principles and benefits of restorative justice and trained to conduct circles.

During the restorative circles, three questions are asked: 1) What happened? 2) What was the impact? 3) What will be done to make it right? All participants are given the opportunity to speak, share their feelings, and be part of the solution. Healing circles are the first and primary intervention used, rather than disciplinary referrals to school administration. In the event that a restorative circle is unsuccessful in holding a student accountable, the traditional disciplinary route is sought. When students were asked why they prefer restorative circles, the resounding responses were “you get to speak your truth” and “you can have

your voice heard.” **Students appreciate that circles provide a space for understanding, something that is not possible when students are removed from their peers rather than engaging in conversations to repair the harm caused.**

When asked about alternative discipline methods – such as restorative justice – as a replacement for school policing, Dr. Wadhwa said, “It’s all discipline. Restorative justice is all about helping kids by creating accountability. It allows kids to take control of their lives and their own education. It’s simply about punitive versus restorative, levels of control versus levels of support in the models. The traditional model tends to be punitive with low levels of support and high-level disciplines. But **with staffing and capacity, we can make every space a restorative space.** Basic things take a lot of work for adults, so discipline has to be youth-led. Our youth apprenticeship model means students run the program and hold each other accountable. It doesn’t work without the youth, but they need support preemptively, so **there must be administrative and teacher buy-in, from the top down.**”

Brittney, 15

Youth Ambassador at a Texas High School

“After my brother died, I had a really hard time coping. I started doing drugs and acting out. But when I came to this school, they gave me an opportunity to better myself. They get to understand why you’re doing what you’re doing. They took the time to find out about my brother and show me resources I could use to cope instead of drugs. They connected me with a counselor. They always checked in about how I was doing if they noticed I started acting different or falling behind on homework, then they would help me stay on top of my work. At the school I went to before, cops would do random searches of our bags to make sure no one had drugs. There were signs up that offered payment for anonymous tips about classmates who might be doing something wrong. They would charge anything you did wrong as a criminal offense. When something happens, they always bring the police in first. Then people would have it on their record. When I defended myself after a girl attacked me, I was almost arrested because it was her story against mine. It’s only because she decided not to press charges that I got off with a suspension. **People I knew would drop out all the time because they had previously gotten**

in trouble and felt harassed by the police and didn’t want to end up with something on their record, so they thought it was better to just stop going.

I think instead of labeling kids they should find out why we’re coping with things the way we are. We can cope with hard things in ways other than acting out, but first we need to know there are other ways. At other schools, kids like me don’t have the opportunity to choose a different route. We’re kids and we will always make mistakes, but they don’t label us forever. They understand every student has a different story that affects them, and they give us opportunities to better ourselves.”



Brittney (L) & Shania (R)

SCHOOL-TO-DEPORTATION PIPELINE

The 1982 U.S. Supreme Court decision in Plyer v. Doe affirmed that all children, documented or not, have equal rights to public education. Yet undocumented students in the U.S. face a significant threat when schools employ overly-harsh police practices. More specifically, immigrant children can be disproportionately subjected to harsh disciplinary practices due to explicit and/or implicit racial bias; they may also face arrest, which often leads to a criminal charge and court record, creating complications for students attempting to acquire or maintain immigration status. More concerning, students have been placed in the custody of U.S. Immigration and Customs Enforcement (ICE) and have been deported—sometimes for crimes they did not commit or for a fabricated gang affiliation they never had.

Like immigrant children, citizen children of immigrant parents may live in fear, face toxic stress, and miss class days due to the risks of deportation or having their—or their loved one’s—immigration status revealed at school. When schools involve law enforcement in minor campus incidents that would be better resolved with age-appropriate, restorative guidance and discipline, children from this vulnerable population are pushed out of the classroom and denied the opportunity to learn.

Shania, 17

Youth Ambassador at a Texas High School



“Restorative justice means the school doesn’t turn their back on me just because I’ve made a mistake. Here, they saw that even though I’ve made mistakes, I still have something to give. Being in the program showed me there are other ways to handle things than getting angry and popping off at a teacher. If there is something I need that I’m not getting, I know I can count on my teachers to help me. Here, we know the rules and there’s clear guidance so we even enforce

them ourselves, with each other.

There’s accountability between everyone – students to teachers, students to students, teachers to students. There’s consistency. A lot of kids come from families without support. Other schools like to label and push these kids out of school, but it’s a set up for failure when you give up on them. They can change their ways and become better students. **Restorative justice teaches us how to reflect and gives us the time we need to reflect on what happened so we can be ready to make it right and go back to the community with a fresh start.”**

Maria Arias Herrera

Mother of 7-year-old boy with autism who was handcuffed at school by police in San Antonio, Texas

In September 2019, Maria’s 7-year-old son, Joey*, was handcuffed and taken to the hospital against his father’s wishes. When he experienced an over-stimulation-based outburst in the classroom, administrators attempted to call his dad, but misdialed his number. The administrators then called the police, who asked to double-check the number dialed, and they reached Joey’s dad. Once he arrived at the school, police already had Joey in handcuffs. When Joey’s dad asked to take him home, police refused and took him to a nearby hospital for an evaluation, where he was promptly released into his dad’s custody.

This wasn’t the first time Joey had run into issues at school; a month before, Joey had come home with bruises and marks on his neck from a teacher restraint, which was not originally reported to administrators or parents. Following that event, Joey’s mom worked with administrators to get answers, but found few. The only reparations put in place were cameras for the classroom and a one-on-one aid for Joey. Ever since, Joey has expressed fears of being arrested in his future.

“Handcuffs should never be used on a small child, especially for a child with mental disabilities – they’re confused; they don’t know

what is happening when they’re placed in handcuffs and taken away in a police car.

If ever a restraint must be used for a child, particularly one this young, they have to be designed for that. I’m terrified for him. If this is what police will do to him as a 7-year-old, what will they do when he’s twelve? Sixteen? When he’s much bigger and has an interaction with police, how can I know he won’t be hurt or shot? This is a problem of labeling. Joey gets labeled as ‘emotionally disturbed,’ but Joey is the sweetest little boy in the world. **But because he struggles in a traditional environment, and there isn’t training in place for how to help a student deescalate, he gets treated a certain way based on his label.**



If a school is going to accommodate students with special needs, they need to have systems in place to serve them. I’ve looked into putting him in specialized schools – I cannot afford them. Parents don’t ask for their children to be born with these conditions. I shouldn’t have to pay to ensure he is safe in school, treated right, and getting the same education as his peers. He has a right to an education in the current public school environment but he’s being stripped of his right when he isn’t accommodated or helped in these situations. It’s frustrating, it’s horrible, and I feel like my hands are tied.”

* Some names changed to protect the privacy of the individuals in the report.

CONCLUSION

Students and administrators alike are calling for changes to school discipline practices because they agree that current systems are not working. Traditional, punitive models of student discipline are not only ineffective, but harmful to students and communities.

It is imperative for the safety of children and the outcomes of

communities that policy-makers hear the voices of people who are impacted and work toward solutions that keep children and school settings safe and productive, protect students' opportunity for educational attainment, and help them reach their full potential.



CLASS ROSTER: EXAMPLES OF RESTORATIVE JUSTICE APPROACHES

We agree with the experts that a “whole school” approach to restorative justice will most effectively achieve a restorative culture. As such, while school personnel have found the practices below to be useful in their classrooms and communities, none can be completely effective in isolation.

A RESTORATIVE ENQUIRY, AS DESCRIBED BY DR. WILLIE MCCARNEY⁵⁵

“The starting point for all restorative processes involves active, non-judgmental listening. The process can be used with one person to help them reflect on a situation and find ways forward for themselves. It is also useful before and during face-to-face meetings.

There are five key questions which need to be asked:

1. What has happened?
2. Who has been affected?
3. What needs to be done to repair the damage caused?
4. How can we involve everyone who has been affected in finding a way forward?
5. How can everyone do things differently in the future?

This is in marked contrast to a punitive mindset: I need to get to the bottom of this. I must find out who is to blame.

The five questions can again serve as the basis for effective conflict management. The intention of an exchange in such circumstances is to de-escalate the situation and seek a mutually acceptable outcome wherever possible. In such circumstances, both sides need the chance to explain how they see the situation, voice their feelings and their needs, and then enter into a negotiation as to how best to ensure that these needs are met. With practice, staff can use the restorative structure to help them stay in control of their emotions. The Restorative Enquiry frame can create the necessary time and space for a dialogue that allows both sides to calm down. Embedded in this exchange are elements of what are sometimes known as ‘I’ statements... The focus is on ‘I’ rather than you, describing and opening up from a personal point of view, rather than imputing and closing down from a superior position. The key lies in restricting one’s message to an observation about a given situation free from judgment or blame, honestly sharing one’s emotions and needs in that situation and then inviting a response.”

MEDIATION (VICTIM-OFFENDER MEDIATION/VOM)

In contrast to an enquiry, mediation occurs when a third-party is brought in to help facilitate the restorative process between the misbehaving student and the victim. Oftentimes, and in youth-led systems, the mediator may be another student who is familiar with restorative language and the process of the restorative enquiry. The mediator will play an impartial role, and may take time aside with each individual prior to the meeting, to build trust and rapport and to identify the strengths of each person in the situation. Upon meeting together, the mediator will help lead a dialogue-driven conversation that emphasizes healing for the victim and determines a path forward for both parties.⁵⁶

GROUP CONFERENCING

Some incidents of harm may require the attention of additional people from the misbehaving student's life – be that additional teachers, administrators, or parents. These moments call for conferencing. In these situations, the student is encouraged to express his or her perspectives and feelings regarding the incident, and parents, administrators, teachers, and/or other relevant personnel weigh in and help develop a plan for moving forward.

Dr. Willie McCarney lays out his steps for how this can be done:

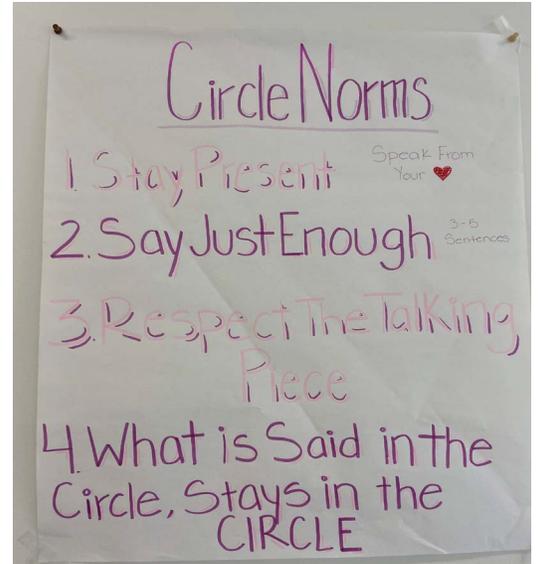
- » Stage 1: acknowledgement of the courage to choose to try and resolve the problem together; explanation of the process and discussion about key ground rules;
- » Stage 2: restorative enquiry: inviting all sides to tell their stories, express their thoughts and their feelings when the situation occurred and now;
- » Stage 3: invitation to all involved to express their needs to feel better and move on;
- » Stage 4: problem solving: how all the needs expressed can be met; and
- » Stage 5: drawing up a written or verbal contract and agreeing to review things in a day or so.

In cases of clear-cut and acknowledged wrongdoing, Stage 3 can involve an exploration of what the victim needs for the harm to be made right and what the wrongdoer can do to repair the harm caused.

Either way, the process allows for all those involved and present to be accountable and to play a part in the healing.⁵⁷

HEALING CIRCLES

Stakeholders we spoke with cited circles as one of the most important aspects of restorative justice in their schools. Circles serve as a rapport-building, preventative measure. A typical circle consists of one or two facilitators who bring a prompt and ask each participant to respond to the prompt when given a talking piece. A key component is respectful listening and thoughtful response. The community-building and connection fostered within circles mitigate much of the conflict that would otherwise arise. These circles can be used for problem-solving related to class or school concerns, and they can enable a group to become comfortable with one another and develop mutual respect, trust, and concern.⁵⁸



DAILY CIRCLE UP IN MS. FORD'S CLASSROOM

Ms. Ford, a 1st grade teacher in a high-needs San Antonio classroom, begins each morning by asking her 20 students to sit in a circle at the front of the class. She points to a hand-drawn poster on the wall that shows five hands, each with fingers displayed from one to five to indicate feelings, one for 'not good,' and five for 'fantastic.' She asks each student one by one to indicate how they're feeling by a show of fingers. After each student has the opportunity to 'check-in' with themselves, Ms. Ford talks about the social-emotional topic for the week: how to be a good teammate. To model, she says she will be a good teammate by helping her friends out before being asked this week. She asks the class how they plan to be good teammates. Each student is given the opportunity to think carefully about what they want to say when handed the talking piece (Ms. Ford's pencil pouch), and each student listens intently to their classmates speak. About halfway through the process, a few students start to fidget and wiggle. Ms. Ford apologizes for interrupting and asks for the talking piece. She asks the class to remember how it felt to be listened to when they were speaking, and to remember a time when they were interrupted and how that felt. She asks students to give their classmates respect by working hard to control their bodies and by listening to what is being said. Students continue to listen without distraction following the reminder.



STUDENT-LED CIRCLE TO HELP RESET CLASSROOM CLIMATE

Jose and Nick, youth leaders at a Texas high school, are asked to help "reset" a classroom that has been out of control since a substitute teacher arrived. Handed sheets of paper from the Restorative Justice Coordinator, with prompts for an activity each had done before, they ask the teacher and their peers to gather in a circle. The activity is called "step up, step back." They read a series of statements, each increasingly personal, prompting individuals to step up if the statement applies personally to them, then step back. Beginning statements reference likes and dislikes, but later statements become serious, regarding difficult matters and feelings that most everyone, including the teacher, have experienced. After the activity, Jose passes around a talking piece and asks everyone what they gathered from the exercise. Almost every student, in a classroom that was previously non-participatory, remarks they feel that they have more in common with one another than they originally thought.



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NOTES



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