

# Chapter 1: *The Punitive Generation*

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## THE SCHOOL-TO-PRISON PIPELINE

School districts and juvenile courts in the United States were never intended to operate in a collaborative paradigm. Unfortunately, over the past 30 years, a partnership between schools and courts has developed through a punitive and harmful framework, to the detriment of many vulnerable children and adolescents. This phenomenon is often referred to as the “school-to-prison pipeline” (Kang-Brown, Trone, Fratello, & Daftary-Kapur, 2013) or “school pathways to the juvenile justice system” (Marsh, 2014). This pipeline is best understood as a set of policies and practices in schools that make it more likely for students to face criminal involvement with the juvenile courts than to attain a quality education (Advancement Project et al., 2011).

Most of the young people involved in these harsh discipline systems among the schools and juvenile courts need not be involved, for they are minimal safety risk concerns. In other words, most students pose little to no threat of harm to other students, their schools, or their communities. However, those students involved in the pipeline, and in particular those who are suspended or expelled from school or subsequently held in juvenile justice facilities, have complicated problems and poor long-term outcomes (Advancement Project et al., 2011). These problems, though, are often part of the explanation for the children’s and adolescents’ initial involvement in the discipline systems: poverty, trauma, mental health difficulties, and/or developmental and cognitive deficits, among others (Mallett, 2013). For those students ultimately disciplined within the school-to-prison pipeline, it is a system that is difficult to escape from (American Psychological Association Zero Tolerance Task Force, 2008).

The school-to-prison pipeline is a recent phenomenon, for punitive policies have not always existed within schools or juvenile courts. During the 19th and most of the 20th centuries, schools in the United States focused primarily on academic and learning needs while training students for postsecondary vocational occupations. On the other hand, juvenile courts were not even established until the late 19th century, and they dedicated the first 80 years of their effort to the rehabilitation of offenders, truants, and other wayward young people (Mallett, Williams, & Marsh, 2012; Steeves & Marx, 2014). This separation of duties and responsibilities between schools and the juvenile justice system shifted over the past 30 years, with simultaneous movements toward punitive policies. This resulted in policy changes from rehabilitation to a “tough on crime” approach in the juvenile courts and from education to increasing discipline within the schools, often in response to extreme school violence incidents (Marsh, 2014; Muschert & Peguero, 2010). These shifts were both independent and interdependent, resulting in the school-to-prison pipeline (Nocella, Parmar, & Stowell, 2014).

In school systems, and particularly in those schools that are overburdened and underfinanced, many students have been increasingly suspended and expelled due to criminalizing both typical adolescent developmental behaviors and low-level-type misdemeanors: acting out in class, truancy, fighting, disobedience, and other similar offenses (U.S. Department of Education, 2014a). The increased use of zero-tolerance policies and significant expansion of police (safety resource officers) in the schools have exponentially increased arrests and referrals to the juvenile courts (Advancement Project, 2005). While impacting many, these changes disproportionately ensnare a small subset of at-risk and already disadvantaged children, adolescents, and their families (Carter, Fine, & Russell, 2014; Justice Policy Institute, 2011).

Similarly, in the juvenile justice system, a movement toward harsher penalties and the tough-on-crime approach more than doubled the number of adolescents adjudicated delinquent and brought under court supervision (Scott & Steinberg, 2008). It is increasingly recognized that when truant or low-level offenders enter the juvenile courts, often referred by the school systems, their chances of both spending time in and recidivating to detention or incarceration facilities are due in large part to how the juvenile justice system operates (Petrosino, Turpin-Petrosino, & Guckenburger, 2010).

### *Punishment Pathways*

Harsh school discipline policies lead to large numbers of primary and secondary school-aged students who experience suspension, arrests, and for some, school expulsion. Within this student group, a small number are most at risk for being captured within the school-to-prison pipeline, sometimes targeted by authority figures, and prone to recidivism (Drakeford, 2006). It is this group who often ends up staying in the pipeline, placing the young person at significant risk for school failure (U.S. Department of Education, 2014a). These school punishments, in turn, are direct student referrals for juvenile court involvement (Advancement Project, 2005).

When these school discipline actions lead to juvenile court referrals, it may result in adjudication and probation supervision. If the pipeline is not disrupted and the young person does not do well while on probation or while supervised by the court, additional harm often ensues, including detention and/or incarceration placement. Youthful offenders who are held in detention centers—these centers being a significant risk factor for incarceration—and those placed in longer-term juvenile jail facilities include many young people whose difficulties began in the schools; thus, this results in a cycle that becomes self-sustaining (Mallett, 2014). Time spent in these juvenile justice institutions is at best difficult and at worst significantly harmful for most adolescents. These facility placements impede adolescents' development into young adulthood, exacerbating social, educational, and mental health difficulties (Scott & Steinberg, 2008; Steinberg & Scott, 2003). More than half of the adolescents released from these institutions recidivate to juvenile or adult prisons within 3 years (Loughran et al., 2009; Winokur, Smith, Bontrager, & Blankenship, 2008). For those released from these institutions, their chances of completing school and finding quality vocational options are limited, and their risk of mental health problems and homelessness is significantly increased (Dmitrieva, Monahan, Cauffman, & Steinberg, 2012; Irwin & Owen, 2005). Many juvenile justice system stakeholders across jurisdictions and states are working to limit institutional placement, whereas the shift away from punishment often proves difficult, thus leaving those young people with the most complex problems in the detention and incarceration facilities (Nelson, 2008).

### *Prevalence of the Problems*

The impact of the school-to-prison pipeline is substantial, involving millions of young people. Of the 49 million students in the United States

who enrolled in the 2011 to 2012 academic year, 3.5 million students experienced in-school detention, 1.9 million students were suspended for at least 1 day, 1.6 million students were suspended more than once, and 130,000 students were expelled (U.S. Department of Education, 2014a). The extent of these problems is probably underestimated because the survey utilized samples of fewer than 3,000 of the more than 98,000 schools nationwide, making the findings projections (Fuentes, 2014; U.S. Department of Education, 2013b). Even so, this represents 2.4% of all elementary-aged students and 11.3% of all secondary school-aged students who were suspended during the 2011 to 2012 academic year (Burke & Nishioka, 2014). Comparatively, in this same academic year, only 40% more students (3.2 million) graduated from high school than those who were suspended (U.S. Department of Education, 2013a).

These annual suspension rates, which do not include in-school suspensions, are more than double the number of suspensions from the mid-1970s (Losen & Martinez, 2013). However, this increase in suspension rates is fully accounted for by increases in suspensions for minority groups, but not for Caucasians (Losen & Skiba, 2010), making it three times more likely today that a minority student is suspended compared to a Caucasian student (Losen, 2012). When reviewed longitudinally, only up to 5% of all students are suspended in any given year, whereas it is estimated that between 30% and 50% of students experience suspension between kindergarten and 12th grade, with reports as high as 60% in some middle and high schools, and, based on location, suspension is as high as 70% for certain minorities of color. To be poignant, every 2 seconds, a student is suspended from school: African American students every 4 seconds, Caucasian students every 5 seconds, Hispanic students every 7 seconds, and Asian/Pacific Islander students every 2 minutes (Children's Defense Fund, 2014). There are wide disparities across school districts, as well as a disproportionate impact on certain student populations, beyond minority status (Losen, Hewitt, & Toldson, 2014).

The juvenile justice system involves equally large numbers of adolescents as part of the school discipline systems. In 2010, more than 2.1 million young people less than 18 years of age were arrested, leading to the juvenile courts handling almost 1.3 million delinquency cases involving youthful offenders charged with criminal offenses, a 17% increase since 1985 (Hockenberry & Puzanchera, 2014; Majd, 2011; Puzanchera & Robson, 2014). In addition, the juvenile courts processed nearly 150,000 status offense cases, acts that were only illicit for minors and not for adults, representing a slight increase since the mid-1990s (Salsich & Trone, 2013). The largest number of status offense violations

were for truancy (36%), followed by liquor law violations (22%), ungovernability (12%), running away (11%), curfew violations (10%), and others (9%) (Puzzanchera & Hockenberry, 2010; Salsich & Trone, 2013).

From this population, upward of 80,000 adolescents remain confined each day in the United States by order of a juvenile court, either in a detention center, residential facility, or incarcerated in a youthful offender prison—with the most common being a locked, long-term placement. Each year, an additional 10,000 adolescents are transferred to adult courts and held in adult jails or prisons. In total, nearly 400,000 adolescents experience some form of incarceration every year, with an additional 200,000 adolescents below the age of 18 tried in adult courts (Annie E. Casey Foundation, 2009; Campaign for Youth Justice, 2010; Hockenberry, 2014; Mendel, 2012; National Juvenile Justice and Delinquency Prevention Coalition, 2013).

### *Disproportionate Impact*

The young people caught in the pipeline and in the juvenile courts' detention and incarceration facilities share a number of vulnerabilities. Thus, these punishment policies disproportionately involve certain at-risk groups. The first group includes children and adolescents who are poor, an experience that disproportionately involves families of color—African American, Hispanic American, and Native American minorities, depending on the community location (Mallett, 2013). In the juvenile justice system, disproportionate numbers of minority youthful offenders are found at every juvenile court processing point. This long-standing problem is referred to as “disproportionate minority contact,” and when held in institutions, “disproportionate minority confinement,” though more recently, it has been titled “racial and ethnic disparities” (National Council on Crime and Delinquency, 2007; Piquero, 2008). Within the schools, similar disparity problems exist with the use of suspensions, and for some expulsions, with 1 out of 4 African American secondary school students suspended every year, compared to only 1 out of 16 Caucasian students (Center for Civil Rights Remedies, 2013).

The second group includes child and adolescent victims of abuse or neglect, and those who have witnessed violence, most often, domestic violence (Cuevas, Finkelhor, Shattuck, Turner, & Hamby, 2013; Yun, Ball, & Lim, 2011). Within the pipeline, it is likely that more students who have past or current involvement with children's services are involved, compared to their nonpipeline cohort. A total of 25% to 30% of detained youthful offenders in the juvenile court systems are past

victims of maltreatment; this percentage increases to 50% to 60% for those held in long-term incarceration facilities (Mallett, 2014).

The third group includes students with special education disabilities. Within the schools, one out of five students with disabilities is suspended ever year, many times greater than their nondisabled peers (Center for Civil Rights Remedies, 2013). The same impact is found in the youthful offender incarceration facilities where nearly 40% of prisoners have been identified in need of special education services—primarily learning disabilities or emotional disturbances (Holman & Ziedenberg, 2014; U.S. Department of Education, 2014a).

The fourth group includes young people who identify as lesbian, gay, bisexual, or transgender (LGBT), found disproportionately in the pipeline and throughout the juvenile justice system (Himmelstein & Bruckner, 2011; Hunt & Moodie-Mills, 2012; Muschert & Peguero, 2010; National Juvenile Justice and Delinquency Prevention Coalition, 2013). The impact within the LGBT adolescent population may also be disproportionately involving minorities and girls within both the schools and juvenile courts (Mitchum & Moodie-Mills, 2014).

### *The Divergence of Youth-Caring Systems*

Why do these punitive school and juvenile justice policies disproportionately impact certain identified child and adolescent groups? Part of the explanation is that these commonalities are often risk factors for related school problems, delinquency behaviors, or both (Children's Law Center, 2003; Wiggins, Fenichel, & Mann, 2007). In some ways, this situation is not surprising. For example, both the child welfare and juvenile justice systems have disproportionate numbers of children and adolescents of color involved, and there is a strong link between being a victim of maltreatment and later being involved with the juvenile courts (Fluke, Harden, Jenkins, & Ruchrdanz, 2011). In addition, many maltreated children and adolescents suffer from difficult to serious mental health problems, with many not having access to effective treatment, often impacting school abilities and exacerbating academic deficits (Mallett, 2013). These multifaceted difficulties related to childhood trauma and maltreatment also increase the risk for special education disabilities and subsequently, an increased risk for involvement with the pipeline (Mears & Aron, 2003; Scarborough & McCrae, 2009).

Most of the traumatized young people who become involved with the juvenile courts and detention or incarceration facilities have at least one diagnosed mental health disorder (Schubert & Mulvey, 2014; Teplin, Abram, McClelland, Mericle, Dulcan, & Washburn, 2006). And of most

concern within this institutionalized adolescent population is a smaller subset that had been identified as children who have severe emotional disturbance—the most difficult mental health disorder (Cocozza & Skowrya, 2000). Almost all children with these most difficult problems invariably end up in juvenile justice incarceration facilities. So in many ways, because of child- and youth-caring system dysfunction, overlap, and few preventative or coordinated efforts, the juvenile justice institutions have become today’s child and adolescent psychiatric hospitals. These institutions have disturbingly high suicide risk rates (Hayes, 2009; Sedlak & McPherson, 2010), which the juvenile justice facilities are wholly ill-equipped to handle from a medical aspect.

### *Authority Through Effective Rehabilitation*

There are effective ways to change the future for these children and adolescents. The pipeline can be dismantled without reducing school or community safety (Muschert, Henry, Bracy, & Peguero, 2014). There are evidence-based practices and policy changes to move from punitive to rehabilitative paradigms in schools and juvenile courts. In some states and jurisdictions, there have been significant changes, modifications to policies, and much improved outcomes for these disenfranchised children and adolescents (Davis, Irvine, & Ziedenberg, 2014; Kim, Losen, & Hewitt, 2010; U.S. Department of Education, 2014b).

## **A COMPREHENSIVE ASSESSMENT**

Today’s punitive paradigm across schools and juvenile courts is significant cause for concern not only because of the grave impact that tough-on-crime juvenile justice policies and zero-tolerance–focused schools have on the health and well-being of young people but also because of the secondary and tertiary problems affiliated with these policies and the poor long-term outcomes for many students. This book provides a comprehensive assessment of the difficulties encountered with these policies and explains the convoluted reasons for schools and courts arriving at a policy tipping point. Although there is limited movement away from these punishment-focused policies, ongoing and increased action within school districts and juvenile courts must be pursued. Otherwise, another generation of at-risk children and adolescents will be significantly harmed. For many, this damage is permanent.

The school-to-prison pipeline is complicated. This book analyzes the multifaceted problems that led to the establishment of the pipeline;

explains how the schools and juvenile justice system became punitive paradigms, reinforced and exacerbated through discipline pathways; identifies the most vulnerable groups of children and adolescents who are disproportionately impacted; shows how the youth-caring systems are often dysfunctional in addressing these problems; and highlights how stakeholders in the schools, juvenile justice system, and policy arenas can find effective rehabilitative alternatives to solve the pipeline problems—though these solutions have extensive barriers to successful implementation.

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