



**Hearing before the  
Senate Committee on the Judiciary  
Subcommittee on the Constitution, Civil Rights and Human Rights**

**on  
“Ending the School to Prison Pipeline”  
Wednesday, December 12, 2012  
Dirksen Senate Office Building, Room 226  
2:00 p.m.**

**Testimony from the Coalition for Juvenile Justice  
Nancy Gannon Hornberger, Executive Director**

Thank you for the opportunity to submit testimony on ending policies and practices that cause students to be referred to law enforcement and the courts for non-delinquent school infractions, known collectively as “the school to prison pipeline.” I am submitting this written testimony as executive director of the Coalition for Juvenile Justice. The Coalition has, for 28 years, served as the nonpartisan, national association representing state juvenile justice advisory groups in all states, territories and the District of Columbia, and our state/local allies. Since 1974, state advisory groups (or “SAGs”) have been chartered under the federal Juvenile Justice and Delinquency Prevention Act (or JJDP A) and appointed by governors or chief executives to serve as citizen volunteers with the charge and legal duty to plan and implement the programs and requirements of the JJDP A, including supporting, monitoring and reporting on compliance with four core protections that are fairly well known in juvenile justice: the deinstitutionalization of status offenders (DSO); the timely removal of juvenile offenders from adult jails; the sight and sound separation of juveniles and adults in lock-ups, and the reduction of disproportionate minority contact (DMC). Our

constituency embodies several thousand public and private sector juvenile court professionals, practitioners, community service providers, parents, youth and advocates. It is on their behalf that I submit this testimony today.

In recent years, we have witnessed an unprecedented conflation of school discipline policy and sanctions traditionally reserved for the juvenile justice system. In fact, the connection between school discipline and the juvenile court has become so close that it led to the coining of the phrase “school-to-prison pipeline.” The pervasive use of exclusionary discipline and zero-tolerance policies have created this pipeline effect, which funnels youth out of the school system and into the juvenile justice system. The pipeline impacts a broad swath of youth across lines of race, ethnicity, gender and sexual orientation, and leads to poor outcomes for the youth themselves, their families, schools and communities, ultimately denying educational and emotional support to those who may need it the most.

The Coalition joins many others in applauding the efforts of this Administration to address the school-to-prison pipeline through projects like the Supportive School Discipline Initiative jointly spearheaded by the Department of Education and Department of Justice. Yet, clearly, much more work remains to be done. For example, recent data from the U.S. Department of Education Office of Civil Rights (“OCR”) indicate that exclusionary discipline and zero tolerance policies are disproportionately applied to youth of color, an outcome that is directly at odds with the JJDPa mandate to reduce disproportionate minority contact with the juvenile justice system.

According to the latest data, collected from schools across the country during the 2009-2010 academic year, African American students were three and a half times more likely to be suspended or expelled than their white classmates and comprised 46 percent of those students who were suspended more than once. During the 2009-2010 school year 39 percent of all expulsions were of African American students even though they represented only 18 percent of enrolled students.

These disparities in suspension and expulsion rates were not accounted for by socioeconomic status or by higher rates of misbehavior among African American students. According to the OCR data, 96,000 students were arrested and 242,000

referred to law enforcement by schools during the 2009-2010 school year; 70 percent were African American or Hispanic.<sup>1</sup>

Additionally, the American Academy of Pediatrics, Committee on School Health reports that suspension and expulsion can lead to, or worsen, academic problems, delinquency, crime and substance abuse, also noting that the children most likely to be suspended are those who most need the assistance and supervision of professionals.<sup>2</sup>

In recognition of the counterproductive nature of the policies that feed the pipeline, many jurisdictions have taken the initiative to implement reforms to address this problem with youth-, family- and community-focused approaches. In Clayton County, Georgia for example, Judge Steven Teske, a witness at this hearing and longstanding member of our Coalition, successfully led a collaborative that reduced school discipline referrals by 73 percent between 2003 and 2011.<sup>3</sup> At the same time, community safety improved; Clayton County also saw a 51 percent reduction in juvenile felony rates during that period. The strategy employed in Clayton County, and increasingly around the country, involves a collaborative approach that diverts youth charged with in-school infractions away from the juvenile courts altogether and toward holistic, community-based solutions that focus on addressing root causes and unmet needs rather than imposing court sanctions. Judge Teske is one of nine judges profiled for their ground breaking work to support improved outcomes for children, youth, families and communities in a 2012 Coalition for Juvenile Justice publication, *Positive Power: Exercising Judicial Leadership to Prevent Court Involvement and Incarceration of Non-Delinquent Youth*.

In 2009, the Coalition for Juvenile Justice Council of State Advisory Groups (composed of state advisory group chairs, nationwide) unanimously approved a formal organizational position on *Ensuring School Engagement and Success vs. Exclusion for Youth at Risk of Delinquency*. The text follows:

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<sup>1</sup> U.S. Department of Education, Office of Civil Rights, Civil Rights Data Collection (CRDC) accessed at: <http://www2.ed.gov/about/offices/list/ocr/data.html>.

<sup>2</sup> The Committee on School Health, 2003. "Out of School Suspension and Expulsion." *Pediatrics: Official Journal of the American Academy of Pediatrics*: 112(5), 1206-1209.

<sup>3</sup> Coalition for Juvenile Justice, "Positive Power: Exercising Judicial Leadership to Prevent Court Involvement and Incarceration of Non-Delinquent Youth", Washington D.C. (2012)

The Coalition for Juvenile Justice envisions partnerships between educators, school resource officers and other law enforcement representatives, parents and students as essential to meet the varied needs of individual students. All share a common vision of ensuring school engagement and success for all children and youth, yet for some youth—particularly those vulnerable to involvement in the justice system—it may be challenging to achieve this vision.

The Coalition sees a primary goal of partnerships to ensure school engagement as emphasizing and supporting inclusion and effective responses to youth at risk, versus exclusion or responses that seek to remove rather than resolve problems generated by students who may disengage, become disruptive or experience academic and/or social failure in school.

Related to this goal, we would ask communities and schools to:

- ensure that all means are taken within a positive school environment to ensure that students experience high levels of school engagement and success;
- strive to keep students in school, to involve parents, families and other responsible adults in assisting in this effort;
- guard against any bias in school discipline or policy that may adversely and disproportionately affect students of color and students of linguistic, ethnic and racial minority backgrounds;
- provide school-based and family-connected services for students who are struggling to learn and those who have emotional and behavioral health needs and other disabilities.

The Coalition shares the goal of every school environment being safe, secure, welcoming to students and families, and designed for student success. With this in mind, we are concerned that some attempts to increase school safety, such as zero tolerance and other school disciplinary policies and practices have had negative results for students, especially students from racial/ethnic minority groups and those with special needs and other disabilities. In some cases, such policies exclude students from schools and push them into juvenile justice systems.

To effect real change in this area, it is important to understand problems that occur as a result of overly-broad application of zero tolerance and other school disciplinary practices, including:

- high rates of out of school suspensions and expulsions;
- school disengagement and failure among students subject to harsh policies;
- punishments too extreme to fit student infractions;
- over-representation of youth of color adversely affected by school discipline;
- over-representation of students with disabilities, particularly behavioral/emotional disabilities and special needs, adversely affected by school discipline.

Furthermore, the Coalition for Juvenile Justice supports approaches for ending the school to prison pipeline that integrate the following principles:

- **Demand for evidence-based approaches.** There is now ample evidence to support the position that policies that exclude youth from schools lead to detrimental outcomes for them, their families and communities. Any approach to stem the school to prison pipeline should take into account the best evidence we have of what works, including reducing referrals to the juvenile justice system, and for those youth referred, reduction in the use of out-of-home placement and an increase in community-based interventions that focus on addressing unmet needs. For instance in 2008, the Denver Public Schools revised the disciplinary policy to state that law enforcement should only be involved when there is a serious or immediate threat to individual or school safety, and to encourage alternatives to suspension, expulsion, and referral to law enforcement, such as family group conferencing, victim-offender mediation and classroom peace circles.
- **Balancing of interests.** The Coalition for Juvenile Justice supports the use of approaches that balance needs for the fair administration of justice, community safety and the health and well-being of youth who come into contact with the juvenile justice system. Our experience and the evidence shows that these interests are not at odds with one another. For instance, one key component of an improved approach is to eliminate school exclusion for disciplinary infractions – specifically long-term suspension and expulsion practices. In-school interventions and alternative services and support produce better outcomes and avert future problems. The National Coordinating Committee on School Health and Safety reported that suspension and expulsion lead to or worsen academic problems, delinquency and substance abuse. They also noted that children most likely to be

suspended are those who most need the assistance and supervision of professionals.<sup>4</sup> Additionally, suspension or expulsion has been shown to be a primary reason for dropping out of school<sup>5</sup> and high school drop-outs are 3.5 times more likely than high school graduates to be incarcerated.<sup>6</sup>

- **Reliance on partnerships.** The strategies that work best—examples from the field collected over our decades’ experience—are those that rely on a mix of public-private partnership and support, broad-based involvement from system actors and community stakeholders including families and youth. In the Coalition’s 2001 report to the President, the Congress and the Office of Juvenile Justice and Delinquency Prevention, *Abandoned in the Back Row: New Lessons in Education and Delinquency Prevention*, we pinpointed specific strategies and qualities of supportive school settings serving low income and at-risk populations. Such supportive schools and educational settings involve parents and family members, seek to develop children’s/youths’ strengths and personal assets, and create positive environments for communication and learning, including:
  - Beacon Schools/Centers: <http://www.sfbeacon.org/BeaconCenters/>
  - Families and Students Together (FAST): <http://www.familiesandschools.org/>
  - Communities in Schools: <http://www.communitiesinschools.org/>

**Specific strategies to resolve disproportionate minority contact (“DMC”) and racial/ethnic disparities.** Both the efficacy and integrity of the juvenile justice systems are threatened if school and juvenile justice sanctions are disproportionately applied to specific races and ethnic groups. In addition to the steps supported by our Coalition’s position paper (above), we support the following recommendations for improved policies and practices to safeguard the civil rights of students and create more effective and equitable learning environments:<sup>7</sup>

- Educators should routinely collect, reflect upon, and publicly report data on school disciplinary removal. Reports at the state, district, and school level (where permissible) should include data disaggregated by race/ethnicity, gender, and

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<sup>4</sup>The Committee on School Health, 2003. *Out of School Suspension and Expulsion*. Pediatrics: 112(5), 1206-1209.

<sup>5</sup> DeRidder, Lawrence M. *How Suspension and Expulsion Contribute to Dropping Out*, The Education Digest, February 1991.

<sup>6</sup> Martin, N., & Halperin, S. *Whatever It Takes: How Twelve Communities are Reconnecting Out-of-School Youth*. Washington, DC: American Youth Policy Forum, 2006.

<sup>7</sup> Daniel Losen, Civil Rights Project, National Education Policy Center, October 2011. Online at: <http://civilrightsproject.ucla.edu/research/k-12-education/school-discipline/discipline-policies-successful-schools-and-racial-justice>

disability status in terms of numbers of each group disciplined. These reports should also include the percentage of each group that experiences suspension and expulsion, as well as disaggregated incidence data on the type of infraction and the number of days of missed instruction that results from such removals.

- Civil rights enforcement agents should use the disparate impact standard of legal review as grounds to pursue remedies for the unjust and unnecessary removal of children from school.
- Federal and state policy should specify the rate of out-of-school suspensions as one of several factors to be considered in assessments of school efficacy, especially for low-performing schools.
- Researchers should investigate connections between school discipline data and key outcomes such as achievement, graduation rates, teacher effectiveness, and college and career readiness.
- System-wide improvements should be pursued through better policies and practices at all levels—including an effort to improve teachers' skills in classroom and behavior management.

For more information, please feel free to contact us at the Coalition for Juvenile Justice: 202-467-0864 and on email [info@juvjustice.org](mailto:info@juvjustice.org) or on the Web: [www.juvjustice.org](http://www.juvjustice.org). Many thanks for your consideration of this topic and exploration of changes that will re-emphasis student inclusion and school success for all.

Respectfully submitted,



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December 10, 2012