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“That’s the Hate They’re Giving Us, Baby, A System Designed Against Us.”\(^1\) The Restorative Justice Solution to the School-to-Prison Pipeline

Amanda D. Iocono*

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ABSTRACT

The school-to-prison pipeline is one of the nation’s biggest challenges as students of color, LGBTQIA+ students, and students with disabilities are being funneled into prisons. Thousands of articles have been written on the existence of the school-to-prison pipeline and potential solutions. Federal and state policies have shifted to combat the pipeline, but there is still a large proportion of our nation’s students being criminalized on account of their looks and behaviors. This Note argues that the school-to-prison pipeline is a systemic practice of the American education system, and the education system is functioning exactly as designed. The continued use of zero-tolerance policies and school resource officers are proof that this system exists and continues to evolve. To address the real structural inequities of the school system, it must be met with equally radical practices, such as restorative justice, that address the systemic harm. Restorative justice, when done correctly and with the right resources, can be the solution to the school-to-prison pipeline.

AUTHOR’S NOTE

*B.S., Centre College; J.D. Candidate, 2023, University of Massachusetts School of Law; M.P.P. Candidate, 2024, University of Massachusetts Dartmouth; Alumna, City Year Corps Member (2018-2020). This article is dedicated to my former students. Thank you to Professor Jeremiah Ho and Professor Hillary Farber for your endless encouragement, guidance, and patience. Thank you to my family and friends for your constant support and listening to me rant about the education system for hours. Also, a massive thank you to the *UMass Law Review* staff for your tireless work. I would be remised if I also did not thank my former AmeriCorps teams and staff at my school for everything they taught me. Words are insufficient to express my gratitude and appreciation.

INTRODUCTION

Malcolm X once said, “[e]ducation is the passport for the future, for tomorrow belongs to those who prepare for it today.” Schools should be setting students up for success, but for many, schools are setting them up for a future in prison. This phenomenon is known as the school-to-prison pipeline. The school-to-prison pipeline is a culmination of national policies and practices targeting and disproportionately impacting students of color, LGBTQIA+ students, and students with disabilities. These policies, and their trickle down effects, include: 1) zero-tolerance policies that lead to suspensions and expulsions, 2) hostile school climates, and 3) educational trauma leading to a lack of academic success. This Note argues that the school-to-prison pipeline is not just a development of these factors and policies, but is an expected byproduct of how the education system functions.

As society begins to reemerge from the COVID-19 pandemic, there is a new opportunity to redefine school discipline and end the school-to-prison pipeline. Schools have faced unprecedented challenges as students have suffered educationally, psychologically, and socially during the pandemic. The National Association of School Psychologists reported, “[u]nder normal circumstances, we would expect approximately 20% of children to experience some social–emotional and behavioral concern throughout their school trajectory—we now expect these rates to double or triple after COVID.”

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4 Skiba et al., supra note 3, at 558.
5 Id.
6 Jones et al., supra note 3, at 53.
7 Skiba et al., supra note 3, at 558.
9 Id. at 6.
This Note will first review the history of the school-to-prison pipeline and explore how the culmination of zero-tolerance policies have resulted in this systemic practice. In Part II, this Note will argue that this systemic practice is an inherent feature of our education system. The education system is functioning exactly as designed, and students of color are suffering because we are refusing to acknowledge and act on it. Without systemic change, the pipeline will continue. Part II will also argue that restorative justice practices must be implemented in schools to address the harm. Part III of this Note concludes by arguing that the concept of restorative justice practices can serve as a legal and social solution to the education system crisis.

I. THE BACKGROUND: STORIES FROM THE PIPELINE

Christian Ramirez, a child of Mexican immigrants, learned to read at sixteen years old, after being arrested at age fifteen.\textsuperscript{11} He was expelled from elementary school in fourth grade and subsequently kicked out of three more elementary schools and two middle schools.\textsuperscript{12} As Ramirez recalls:

> Having a “disruptive” reputation meant that school employees were quick to remove me from school. I acknowledged this and countered with being violent. The middle school suspensions, also known as “the only option to handle Christian,” were the most damaging. They kept me out of school at the time when I needed to catch–up academically. Since I was not in school, I began to be curious about my neighborhood where there was a heavy gang presence.\textsuperscript{13}

Ramirez then became involved in a neighborhood gang where he was later arrested on weapons charges and sentenced to twenty-seven years in prison at age seventeen.\textsuperscript{14} According to Ramirez, “I attended the public school system, but I was blatantly excluded from education.”\textsuperscript{15}

Ramirez is one of the many victims of the school-to-prison pipeline, and his story is reflective of how our education system disproportionately funnels students of color, LGBTQIA+ students, and students with disabilities into the criminal justice system and out of

\textsuperscript{11} Jones et al., supra note 3, at 54.
\textsuperscript{12} Id.
\textsuperscript{13} Id. at 55.
\textsuperscript{14} The charges were attempted murder and carrying a concealed weapon. Id. at 56.
\textsuperscript{15} Id. at 57.
schools and society. “Students who experience suspension and expulsion because of harsh disciplinary policies are three times more likely to become involved in the criminal justice system.” The history of the inequities of the school-to-prison pipeline starts with “zero-tolerance policies.”

A. The Origin and Impact of Zero-Tolerance Policies

For as long as there has been formal education, students have been punished. School discipline has traditionally been accomplished through corporal punishment (whipping and paddling), teacher-administered discipline, and administrative proceedings.

The logic behind traditional discipline has been deterrence, with corporal punishment taking place in front of the entire class to show the consequences of misconduct. As long as the teacher’s punishment of the student was reasonable, meant to promote discipline, and not done maliciously to inflict pain, the punishment was deemed acceptable by the standards set in the Supreme Court’s 1977 corporal punishment case Ingraham v. Wright. While most schools have shifted away from corporal punishment, they have embraced zero-tolerance policies and have started adopting surveillance strategies used in prisons, such as videotaping, searches and seizures of students’ possessions, and metal detectors.

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16 Skiba et al., supra note 3, at 558.
17 Jones, supra note 3, at 50; see also Tracey L. Shollenberger, Racial Disparities in School Suspension and Subsequent Outcomes, in CLOSING THE SCHOOL DISCIPLINE GAP: EQUITABLE REMEDIES FOR EXCESSIVE EXCLUSION 31, 31 (David J. Losen ed., 2015).
18 See infra Part IIA.
21 430 U.S. 651 (1977). In Ingraham, two students sued their school for incidents of disciplinary paddling, alleging that it was a violation of their Eighth and Fourteenth Amendment rights. Id. at 653. The Supreme Court of the United States upheld corporal punishment, reasoning that the Eighth Amendment only protected those who were facing charges in the criminal justice system, not for students in the public sector and that the student’s Fourteenth Amendment rights were satisfied. Id. at 661. See also Hanson, supra note 19, at 299.
22 Edward Ward, a graduate of Orr Academy on the West Side of Chicago, testified before Congress, “[f]rom the moment we stepped through the doors [of the school] in the morning, we were faced with metal detectors, X-ray machines, and uniformed security.” Melinda D. Anderson, When School Feels Like Prison, THE ATLANTIC, (Sep. 12, 2016), https://www.theatlantic.com/education/archive/2016/09/when-school-feels-like-prison/499556/ [https://perma.cc/J98L-6JU2]; see also Shollenberger, supra note 17, at 31.
Zero-tolerance policies developed in the late 1980s and early 1990s out of state and federal drug enforcement policies. Across the country, there was a mistaken perception that juvenile violence was rising, especially in urban schools, and this violence was expanding to suburban schools. John J. Dilulio’s “superpredator” myth that emerged in the 1990s helped stress this belief. According to Dilulio, superpredators were ruthless sociopaths with no moral conscience who saw crime as a rite of passage and were undeterred by any consequences or sanctions. Specifically, “Black boys were caught in the midst of this superpredator mythology, constantly represented in the media as an army of thugs that threatened the future of ‘innocent’ citizens pursuing the American dream.” Alongside the “superpredator” myth, the “broken windows theory” took off in academia, politics, and media.
The superpredator myth and the broken windows theory infiltrated the logic informing discipline in schools. The American public embraced the myth and called for harsher sanctions against children who committed crimes, specifically youths of color.\textsuperscript{29}

One of the most well-known national zero-tolerance policies was the Gun-Free Schools Act passed by the Clinton Administration.\textsuperscript{30} The Act required that any student who brought a gun to school be expelled for one year and referred to the juvenile justice system.\textsuperscript{31} Schools were forced to comply with the Act or risk losing federal funding.\textsuperscript{32} However, many states took a tougher stance and adopted stricter zero-tolerance policies for their schools.\textsuperscript{33}

Zero-tolerance policies were designed to be “administrative rules intended to address specific problems associated with school safety and discipline,” specifically issues involving weapons, drugs, and violence.\textsuperscript{34} Students received automatic expulsions for bringing in “guns, knives, or items that look[ed] like weapons onto school grounds.”\textsuperscript{35} Interestingly, these policies were modeled after laws intended to target the heads of drug cartels, further emphasizing the fact that students were meant to be criminalized from the beginning.\textsuperscript{36} Zero-tolerance policies spread quickly through the education system and continued to expand in both breadth and severity.\textsuperscript{37} Several school districts implemented policies that expelled students for bullying,

\textsuperscript{29} Id.; see also Naomi E.S. Goldstein et al., \textit{Dismantling the School-to-Prison Pipeline: The Philadelphia Police School Diversion Program}, 101 CHILD. \& YOUTH SERVS. REV. 61, 62 (2019). The broken windows theory along with the superpredator myth exacerbated the logic informing disciplines in school, which was that strict punishments were necessary to maintain the required social order in a classroom. Id. Outside the schools themselves, communities also became scared that schools were no longer safe for children, and this rising fear was further intensified by the extensive media coverage. Martinez, \textit{supra} note 24, at 153. Zero-tolerance policies were embraced as necessary to protect students from violence, and even state legislatures followed suit to not appear to be “soft on crime.” Id.

\textsuperscript{30} Scully, \textit{supra} note 25, at 969.


\textsuperscript{32} Id. § 14601(b)(1).

\textsuperscript{33} Scully, \textit{supra} note 25, at 986. For example, a 10-year-old girl found a small knife in her lunchbox placed there by her mother for cutting fruit. Although she immediately gave the knife to her teacher, she was expelled due to the zero-tolerance policies at the school. Am. Psych. Ass’n Zero Tolerance Task Force, \textit{Are Zero Tolerance Policies Effective in Schools?}, 63 AM. PSYCH. 852, 852 (2008).

\textsuperscript{34} Hanson, \textit{supra} note 19, at 301.

\textsuperscript{35} Id.

\textsuperscript{36} Martinez, \textit{supra} note 24, at 154.

fighting, drug use, swearing, or violating the dress code.\textsuperscript{38} By 1997, “more than 90% of public schools in the United States reported having zero-tolerance policies.”\textsuperscript{39} This alarming statistic endorses the notion that zero-tolerance policies have become a part of the educational public policy.\textsuperscript{40}

Zero-tolerance policies were meant to protect schools. Instead, these policies have resulted in a “near doubling of the number of students suspended annually from schools since 1974 (1.7 million to 3.1 million), an increase in the presence of police in schools, and the enactment of new laws mandating referral of children to law enforcement authorities . . . .”\textsuperscript{41} The rise in the number of school resource officers (SROs), security cameras, random searches, and zero-tolerance policies have led to higher rates of suspension.\textsuperscript{42} Despite the argument that violence has increased in schools, statistics show that violent crime has actually decreased from 1992 to 2017.\textsuperscript{43}

Today, zero-tolerance has come to refer to school or district-wide policies that mandate predetermined and harsh punishments for several broadly defined school rules.\textsuperscript{44} In implementing zero-tolerance policies in schools, administrators cast a wide net for both minor and major infractions to deter other potential violators.\textsuperscript{45}

Despite the general goal of deterrence, many student actions (or non-actions) are now being punished as criminal or delinquent acts under the guise of zero-tolerance policies.\textsuperscript{46} Schools are being treated as

\textsuperscript{39} Findlay, supra note 37, at 107 (internal citation omitted).
\textsuperscript{40} Id.
\textsuperscript{41} Johanna Wald & Daniel F. Losen, Defining and Redirecting a School-To-Prison Pipeline, 99 NEW DIRECTIONS FOR YOUTH DEV. 9, 10 (2003).
\textsuperscript{42} Edward W. Morris & Brea L. Perry, The Punishment Gap: School Suspension and Racial Disparities in Achievement, 63 SOC. PROBLEMS 68, 70 (2016).
\textsuperscript{44} Hanson, supra note 19, at 301.
\textsuperscript{45} Id. at 300-01.
\textsuperscript{46} Id. at 301-02.

Most frequently, zero-tolerance policies address drugs, weapons, violent incidents, smoking, and school disruptions . . . . The evolution of seemingly simple policies with which most reasonable persons would agree and respect has led to unintended and often absurd consequences, a path from which reasonable persons have not yet found any measurable retreat. Id. at 302.
extensions of the prison system through the hiring of SROs.47 “Nationally, the Federal Government has invested more than $1 billion to subsidize the placement of police officers in schools, resulting in more than 46,000 SROs patrolling school hallways.”48 Schools with a majority of Black and/or Latinx students are also more likely to have a police officer stationed at their school as compared to schools with majority White students.49

Research has shown that there is a direct correlation between the presence of SROs and increases in arrests, often for low-level offenses.50 Even when accounting for poverty, a study showed that “schools with a SRO had nearly five times the rate of arrests for disorderly conduct than a school without a SRO.”51 In reviewing the literature on the placement of SROs on middle and high school campuses starting in the mid-1990s, “the number of referrals to the juvenile court system increased approximately 1,248% by 2004.”52 Again, most of these referrals were for minor offenses and against students who were not considered high risk to re-offend or a public

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48 Id. In 2014, 43% of all public schools had security staff at school at least once a week, affecting over 70% of students across the country. ANLAN ZHANG ET AL., NAT’L CTR. FOR EDUC. STAT., NCES 2016-079/NCJ 249758, INDICATORS OF SCHOOL CRIME AND SAFETY: 2015, at 106 (2016), https://bjs.ojp.gov/content/pub/pdf/iscs15.pdf [https://perma.cc/F2EP-M3A5]. In the 2017-18 school year, “about 45% of schools had an SRO in place at least once a week,” and about 13% of schools reported hosting police officers who were not officially SROs in their building. Stephen Sawchuk, School Resource Officers (SROs), Explained, EDUC. WEEK (Nov. 16, 2021), https://www.edweek.org/leadership/school-resource-officer-sro-duties-effectiveness [https://perma.cc/8ZFW-CZRW]. Some states, such as Maryland and Florida, now require schools to hire school resource officers, Id. In Florida, all schools are required to hire a school resource officer or an “armed guardian,” who is a layperson who participates in a state training program. Id. To further highlight the amount of resources devoted to SROs, “the New York Police Department’s School Safety Division is larger than the entire police force of the District of Columbia, Detroit, Boston, and Las Vegas.” Thalia González, Keeping Kids in Schools: Restorative Justice, Punitive Discipline, and the School to Prison Pipeline, 41 J.L. & EDUC. 281, 288 (2012) [hereinafter Keeping Kids in Schools].


50 MENDEL, supra note 8, at 13.


safety risk.\textsuperscript{53} Between 2003 and 2011, after implementing alternative discipline programs, Clayton County, Georgia, saw a 67.4% decrease in juvenile court referrals from schools overall, with a 43% reduction for youth of color.\textsuperscript{54} In 2012, Steven Teske, Chief Judge of the Clayton County Juvenile Court, testified to Congress that “[b]y 2004, the referrals [from SROs] increased over 1,000 percent to 1,400 referrals, of which 92% were misdemeanors mostly involving school fights, disorderly conduct, and disrupting public school.”\textsuperscript{55} Teske further described his frustration with his “court system being inundated with low risk cases that consumed the court docket and pushed kids toward probation—kids who made adults mad versus those that scare us.”\textsuperscript{56}

Many students have been referred to law enforcement, yet the majority of these students have committed offenses that are not dangerous or serious.\textsuperscript{57} Most referrals to SROs were for minor, non-violent offenses such as tardiness, bad grades, and disorderly conduct; none of these are actions that significantly impact the classroom or school.\textsuperscript{58} SROs, operating under zero-tolerance policies, control

\textsuperscript{53} Id. For example, in Pennsylvania, school arrests plummeted 84% from 2013-14 to 2018-19 after police agreed to stop arresting students for routine misbehaviors and instead refer the misbehaving youths to community development agencies. Goldstein et al., supra note 29, at 62. “One such program in Philly helped to reduce student arrest rates by more than 50% in its first year and by 84% after its fifth year.” Kiley Koscsinski, ACLU finds Allegheny County Students are Arrested More Often Than Anywhere Else in Pennsylvania, 90.5 WESA (Jan. 24, 2022, 5:56 PM), https://www.wesa.fm/education/2022-01-24/aclu-finds-allegheny-county-students-are-arrested-more-often-than-anywhere-else-in-pennsylvania [https://perma.cc/4UP8-33Q7].

\textsuperscript{54} Teske, supra note 52, at 93.

\textsuperscript{55} Steven C. Teske, Testimony before Senate Subcommittee on the Constitution, Civil Rights, and Human Rights (Dec. 12, 2012), https://www.judiciary.senate.gov/imo/media/doc/12-12-12TeskeTestimony.pdf [https://perma.cc/W4FR-P774].

\textsuperscript{56} Id.\textsuperscript{57} NCAAP LEGAL DEF. & EDUC. FUND, DISMANTLING THE SCHOOL-TO-PRISON PIPELINE, (Jul. 27, 2018), https://www.naacledf.org/wp-content/uploads/Dismantling_the_School_to_Prison_Pipeline__Criminal-Justice__.pdf [https://perma.cc/3RRC-C39E]. According to the U.S. Department of Education’s Civil Rights Data Collection (CRDC), approximately 260,000 students were referred to law enforcement during the 2011-2012 school year, and approximately 92,000 students were arrested on school property during the school day or at a school sponsored event. U.S. DEP’T OF EDUC. OFF. FOR C.R., CIVIL RIGHTS DATA COLLECTION, DATA SNAPSHOT: SCHOOL DISCIPLINE 6 (Mar. 21, 2014), https://ocrdata.ed.gov/assets/downloads/CRDC-School-Discipline-Snapshot.pdf [https://perma.cc/ZY9Y-3UL7] [hereinafter Civil Rights Snapshot]. In the 2015-16 school year, at least 230,000 students were referred to law enforcement, mostly students of color.” MENDEL, supra note 8, at 8.

\textsuperscript{58} Washington & Hazelton, supra note 47. “Specifically, many of the youth subject to the harshest forms of punishment also come from communities traumatized by poverty, violence, underemployment, inadequate nutrition, health care and education, resulting in youth that are defensive, offensive and ill-equipped to deal with the structured, and often
the children who have a lapse in judgement and the children whose acts are “obviously dangerous and arguably criminal.”

These behavioral infractions trigger automatic expulsions and calls to the police, even when no actual threat exists. Clearly, this discipline is not unbiased. Black students are targeted more “for inherently subjective conduct such as ‘loitering, disrespect, threats, excessive noise,’” and “conduct interference” compared to White students who are more frequently cited for alcohol or drugs. In 2016, the American Civil Liberties Union (ACLU) filed suit against South Carolina for its “disorderly conduct law,” which prohibited students from conducting themselves in a “disorderly or boisterous manner.” The ACLU reported that Black children were four times more likely to be charged under this law than their White counterparts.

This characterization of non-violent student actions as “criminal” encourages the bypassing of student administration proceedings (which are protected by the Supreme Court in Goss v. Lopez) and directs them to the juvenile and criminal justice system instead. This expansion of zero-tolerance laws, policies, practices, and conditions “have led schools to over-discipline many students, sending them on a path that eventually ends with too many of them becoming incarcerated and disenfranchised.”

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59 Hanson, supra note 19, at 316.
60 Lydia Nussbaum, Realizing Restorative Justice: Legal Rules and Standards for School Discipline Reform, HASTINGS L.J. 583, 585 (2018). Such infractions include “insubordination,” “willful defiance,” disrupting class, violating school dress codes, or bringing contraband to campus, like alcohol, controlled substances, or a potential weapon.
61 See Wood, supra note 38, at 400.
62 Id.
63 Kenny v. Wilson, ACLU (Mar. 8, 2021), https://www.aclu.org/cases/kenny-v-wilson [https://perma.cc/UTV3-RWAT] [hereinafter ACLU]. The named plaintiff, Niya Kenny, watched her classmate forcefully pulled from her desk, dragged out on the floor, and subsequently handcuffed. Kenny tried to document the incident but was also arrested pursuant to the statute. Complaint at 18, Kenny v. Wilson, No. 2:16-cv-2794-CWH (D. S.C. 2016), 2017 WL 436016.
64 ACLU, supra note 63.
65 Hanson, supra note 19, at 301-02. In Goss, the Supreme Court held that Ohio students suspended from public school had a right to education given to them by the state constitution and were owed more procedure before being suspended. See generally Goss v. Lopez, 419 U.S. 565 (1975).
This rate of suspension and expulsion continues to increase “[b]ecause it is familiar, cheap, and convenient.” Administrators can push out “problem” students that are being disruptive, thereby helping teachers handle their full classrooms. This was seen with the added pressure of the No Child Left Behind Act, which “required schools to have students perform at certain levels” or face punishment, including loss of funding for schools and loss of teachers’ jobs. Under the Act, teachers were stripped of their professional judgment in teaching and were instead required to “teach to the test” in order to meet the high standards. For teachers, it became easier to eliminate the students who were not performing to certain standards to protect their performance evaluations rather than actually teach the students. As a consequence, more students were suspended or encouraged to attend alternative schools.

“According to the most recent data from the U.S. Department of Education’s Office for Civil Rights, 2.8 million students, from kindergarten-to-twelfth grade, received one or more out-of-school suspensions in the 2012-2013 school year and more than 130,000 students were expelled during the 2011-2012 school year.” The overwhelming majority (95%) of suspensions were issued for non-violent offenses or minor violations including dress code violations and cursing.

These suspensions are overrepresented by students of color and students with disabilities. “Black and Hispanic students are 3.6 times...
more likely to be punished—and they are punished more severely—than their white counterparts.”76 A National Longitudinal Survey of Youth study revealed that “Black boys were at the highest risk of suspension, with fully two in three (67%) suspended at some point during K-12.”77 In 2012, the UCLA Civil Rights Project found that White students have a one-in-twenty chance of being suspended at least once, while Latinx students face a one-in-fourteen chance, Indigenous students face a one-in-thirteen chance, and Black students face a one-in-six chance.78 Even within the same school, a study by Morris and Perry showed Black and Latinx students were disproportionately susceptible to suspension compared to White and Asian students.79 Various studies have also shown that Black students are punished not only at higher rates, but “are also more likely to experience severe punishment, such as court action or notification to the police.”80 A landmark study of Texas schools found 97% of suspensions were at the discretion of school administrators.81 Only the remaining 3% were in response to an offense that required suspension, such as bringing a weapon to school.82 These studies reiterate that Black and Latinx students are treated more harshly than their White peers, and that zero-tolerance policies do not apply equally to every student.83 Instead, teachers and schools appear to administer discipline based on race.84 A 2014 report from Padres and Jovenes Unidos points out:

True “zero tolerance” was largely reserved for Black and Brown youth from low-income families, and males in particular. Middle and upper-middle class White students almost never encountered zero tolerance . . . . For them, there continued to be seemingly

76 Nussbaum, supra note 60, at 597-98.
77 Shollenberger, supra note 17, at 34.
79 Morris & Perry, supra note 42, at 82.
80 Id. at 70.
82 Id.
83 Morris & Perry, supra note 42, at 82.
84 See Scully, supra note 25, at 974.
boundless tolerance for their misbehavior, usually chalked up to “youthful mistakes.”

Over the years, zero-tolerance policies have been criticized for their harmful impact on students for loss of valuable learning time in the classroom, disaffection, alienation, and increased likelihood of dropping out of school or being diverted into the criminal justice system. For instance, in Massachusetts, the average number of days of instruction missed due to school discipline is sixteen days per one hundred enrolled students. For Black students, that number is thirty-four days, more than triple the amount missed by White students. Research from the National Longitudinal Survey of Youth shows that nearly half of suspended Black boys (46%) and more than two in five (42%) Latinx boys in the study never obtained their high school diplomas by their late twenties. To place this in context, one out of every four people who are incarcerated has a high school diploma, and the states with the highest dropout rates have the highest per-capita prison populations.

With these alarming statistics, zero-tolerance policies are not worth preserving. Research has shown that zero-tolerance policies do not work; they have a negligible impact on increasing punishment consistency and improving academic achievement, and an insignificant impact on whether removing students makes the school feel safer. Furthermore, suspended students are more likely to be repeat offenders as well. Being in school is a protective factor against delinquent and

86 Nussbaum, supra note 60, at 585.
88 Id.
89 Shollenberger, supra note 17, at 36.
93 Id.
antisocial behavior. Removing a student from school for normal adolescent behavior is counterproductive and invites additional delinquent conduct once they return to school.

Ultimately, zero-tolerance policies result in under-educated and unskilled students of color who are still expected to live productive, law-abiding lives. Unfortunately, many of them may turn to a life of crime, resulting in society losing productive citizens and communities paying the price of incarceration. Even more tragically, as schools move away from zero-tolerance policies, their legacy is still felt within them. In Philadelphia, zero-tolerance policies officially ended in 2012, but their decades of implementation continue to impact school culture and disciplinary practices; this led to approximately 1,600 school-based arrests of students in the 2013-14 school year.

**B. Zero-Tolerance Policies Lead Directly to the School-to-Prison Pipeline**

Suspension is the leading predictor of whether children will drop out of school, resulting in a greater likelihood of unemployment and imprisonment. When children are expelled and/or suspended and not enrolled in any alternative educational setting provided by the state, they have limited options outside of crime. Christian Ramirez is the perfect example of a student who was shunted into the criminal justice system because he was pushed out of school. Ramirez found a community and employment in his local gang because education did not provide it for him.

It is a horrible cycle. Maguin and Loeber, in their meta-analysis of studies involving juvenile delinquency, found the use of frequent disciplinary actions that remove students from schools contributed to delinquency and perpetuated a cycle of failure. Schools push out students, and students don’t want to return to an unwelcoming and

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94 Teske, supra note 52, at 89.
95 Id.
96 Hanson, supra note 19, at 331.
97 Id.
98 Goldstein et al., supra note 29, at 62.
100 Hanson, supra note 19, at 331.
101 Jones et al., supra note 3, at 54-56.
102 Id.
103 Mendez et al., supra note 68, at 260.
hostile environment where they are perceived as nothing more than a problem student.\textsuperscript{105} When students begin to sense that the educational process will not help them—that it is unlikely that they will meet grade level expectations, graduate, attend college, or obtain a well-paying job—they have fewer reasons to behave, take school seriously, learn the material, and stay in school.\textsuperscript{106} “Instead, they disrupt classroom activities, push back against mandatory attendance policies, look for alternative (often illegitimate) ways to establish their self-worth, identity, and status among peers, or drop out of school altogether.”\textsuperscript{107}

With continued misbehavior, students continue to be suspended until they drop out or are expelled, which significantly increases the probability of becoming involved in the juvenile justice system.\textsuperscript{108}

In 2010, a report conducted by the Advancement Project concluded that punitive discipline policies led to a tripling of the national prison population from 1987 to 2007.\textsuperscript{109} In another study done by the Texas A&M Public Policy Institute, 23\% of students who had been suspended at least once had contact with the criminal justice system.\textsuperscript{110} In comparison, only 2\% of students with zero suspensions had contact with the criminal justice system.\textsuperscript{111} In 2021, a ground-breaking study by Bacher-Hicks, Billings, and Deming confirmed a correlation between suspensions and later involvement in the criminal justice system.\textsuperscript{112} In their study, they evaluated Charlotte-Mecklenburg Schools where a large and sudden change in school enrollment boundary lines resulted in half of all students changing schools in a single year.\textsuperscript{113} They compared school discipline data from different years, and evaluated

\begin{itemize}
\item \textsuperscript{105} Jones et al., supra note 3, at 54.
\item \textsuperscript{106} Nance, supra note 66, at 324-25.
\item \textsuperscript{107} Id.; see Redfield & Nance, supra note 92, at 10 (explaining that the school-to-prison pipeline “arises from low expectations and engagement, poor or lacking school relationships, and overly harsh discipline, including suspension, expulsion, referral to law enforcement, arrest, and treatment in the juvenile justice system”).
\item \textsuperscript{108} Nance, supra 66, at 318.
\item \textsuperscript{110} St. George, supra note 81.
\item \textsuperscript{111} Id.
\item \textsuperscript{112} Andrew Bacher-Hicks et al., Proving the School-to-Prison Pipeline, 21 Educ. Next (2021) (finding that students assigned to stricter middle schools were 3.2\% more likely to have been arrested and 2.5\% more likely to be incarcerated as adults. They are also 1.7\% more likely to drop out of high school and 2.4\% less likely to attend college. These disparities are more prominent for Black and Hispanic male students).
\item \textsuperscript{113} Id.
\end{itemize}
how strict school discipline impacted students in the long-term.\textsuperscript{114} “Our analysis shows that young adolescents who attend schools with high suspension rates are substantially more likely to be arrested and jailed as adults. These long-term, negative impacts in adulthood apply across a school’s population, not just to students who are suspended during their school years.”\textsuperscript{115} Furthermore, the study shows these negative impacts are largest for minority students and male students, furthering already existing educational gaps.\textsuperscript{116} These studies and statistics show what people have known for years; harsh discipline targets students of color, and the impact is long-lasting.\textsuperscript{117}

II. “THAT’S THE HATE THEY’RE GIVING US, BABY, A SYSTEM DESIGNED AGAINST US.”\textsuperscript{118}

The school-to-prison pipeline is the natural byproduct of the deep structural inequality and systemic racism in our school system.\textsuperscript{119} Systemic racism refers to the systems and practices that create and maintain racial inequality.\textsuperscript{120} The school-to-prison pipeline is a systemic practice that is designed to impose sanctions disproportionately against students of color and ultimately lead them to prison in order to maintain social order.\textsuperscript{121} As discussed, \textit{supra}, the school-to-prison pipeline is the culmination of policies that set up students of color to fail in traditional school environments because of national zero-tolerance policies, bias, and structural inequity.\textsuperscript{122}

\begin{flushleft}
\textsuperscript{114} Id.
\textsuperscript{115} Id.
\textsuperscript{116} Id.
\textsuperscript{117} Id.
\textsuperscript{118} THOMAS, \textit{supra} note 1, at 170.
\textsuperscript{119} See Kenneth J. Fasching-Varner et al., \textit{Beyond the School-to-Prison Pipeline and Toward an Educational and Penal Realism}, 47 EQUITY & EXCELLENCE EDUC. 410, 411 (2014) (“our fundamental premise is that there is no crisis because each institution—the educational system and the criminal justice system—is functioning per their design and the demands of the society”); see also Frank W. Munger & Carroll Seron, \textit{Race, Law, and Inequality, 50 Years After the Civil Rights Era}, 13 ANN. REV. L. & SOC. SCI. 331 (2017).
\textsuperscript{121} Fasching-Varner et al., \textit{supra} note 119, at 420-21.
\textsuperscript{122} Id.
\end{flushleft}
A. Since We Have Set Up Our Schools to Be Prisons, We Should Expect Prisons.\textsuperscript{123} The School-to-Prison Pipeline as a Systemic Practice.

The school-to-prison pipeline is not a new phenomenon and has drawn the attention of several organizations, including the federal government.\textsuperscript{124} Although the U.S. Department of Education cannot dictate local disciplinary policies, it released a “Dear Colleague Letter” encouraging schools to rely less on exclusionary forms of discipline and reminded them that racial discrimination has no place in schools.\textsuperscript{125} While the Trump Administration has rescinded the guidelines, citing that it caused more harm than good, the Biden Administration is now taking measures to fight against the school-to-prison pipeline through executive actions, policy guidelines, and research studies.\textsuperscript{126} Even the American Bar Association has released several guidelines, seminars, and articles on how to challenge the practices that lead to the school-to-prison pipeline.\textsuperscript{127} However, these guidelines and recommendations are nothing without concrete action; the pipeline will continue until we acknowledge the tangled historical roots and structure of our education system.\textsuperscript{128}

In the latest Department of Education Civil Rights Data Collection for the 2017-18 school year, Black students made up 15.1% of students

\begin{itemize}
\item \textsuperscript{123} Angela Y. Davis, Are Prisons Obsolete? 38-39 (2003).
\item \textsuperscript{124} Morris & Perry, supra note 42, at 71.
\item \textsuperscript{125} Id. at 71; see also Dear Colleague Letter on the Nondiscriminatory Administration of School Discipline from Catherine E. Lhamon, Assistant Sec. for C.R., U.S. Dep’t of Educ. & Jocelyn Samuels, Acting Assistant Att’y Gen., U.S. Dep’t of Just. (Jan. 8, 2014), https://www2.ed.gov/about/offices/list/ocr/letters/colleague-201401-title-vi.html?msclkid=c720d6a8b8911ec83f73a46f395055 [https://perma.cc/838M-S9XJ].
\item This guidance will help public elementary and secondary schools administer student discipline in a manner that does not discriminate on the basis of race . . . . The Civil Rights Data Collection (CRDC), conducted by OCR, has demonstrated that students of certain racial or ethnic groups tend to be disciplined more than their peers. For example, African-American students without disabilities are more than three times as likely as their white peers without disabilities to be expelled or suspended.
\item \textsuperscript{126} Id. (internal citations omitted). See generally Redfield & Nance, supra note 92.
\item See, e.g., Redfield & Nance, supra note 92.
\item See also Skiba et al., supra note 3, at 558-59.
\end{itemize}
in the United States. Starting as early as preschool, Black pre-school students were expelled at rates that were more than twice their share (38.2%) of total preschool enrollment (18.2%). Beyond pre-school, Black students were expelled at rates twice as much as total enrollment (15.1% v. 38.8%). It is the same with suspensions. In the 2017-18 school year, Black students received one or more in-school suspensions (31.4%) and one or more out-of-school suspensions (38.2%) at rates that were more than twice their share of total student enrollment (15.1%). On top of suspensions, there was a 12% increase in referrals to law enforcement, a 7% increase in expulsions with educational services, and a 5% increase in school-related arrests compared to the 2016-17 school year.

The common argument is that Black students act out more compared to their White peers, but the data does not support this. Research has consistently shown that Black students do not have higher rates of misconduct than other students. “Rather, Black students are disproportionately disciplined for more subjective offenses, such as disrespecting a teacher or being perceived as a threat, than their White counterparts. These disparities result from and perpetuate stereotypes about Black students, specifically the stereotype that they are aggressive and dangerous.”

These stereotypes lead administrators and other authority figures to see Black students as “beyond help” and thus, they may rationalize that it is okay to “dispose of” Black children through suspensions and expulsions. The rationale is simple: keep the problematic child out of the classroom to ensure that everyone else is safe and learning. It is very

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130 Id.
131 Id.
132 Id.
133 Id. This is not a new trend. Comparing the 2011-12 school year data, the Department of Education Civil Rights Data Collection showed that Black students represented 16% of the total student population but represented 32-42% of students who were suspended or were expelled. See Civil Rights Snapshot, supra note 57.
135 Id.
136 Id.; see Scully, supra note 25, at 964 (relating to the superpredator myth discussed supra, societal stereotypes about Black boys have infiltrated our collective subconscious).
137 Scully, supra note 25, at 975.
easy to place blame solely on certain teachers or schools, but the school-to-prison pipeline is the result of all school and national policies, such as zero-tolerance.\textsuperscript{138} Rather than a rigid zero-policy standard, schools must consider additional factors, such as the source of the misbehavior and what solutions will most effectively meet that child’s needs.\textsuperscript{139} Schools must adopt restorative justice principles by having a student-centered approach that integrates the school community rather than casting students aside.

\section*{III. Restorative Justice}

\subsection*{A. What is Restorative Justice?}

A potential solution to this systemic problem is found within the restorative justice movement. Restorative justice is a social justice movement and “a transformative force that addresses healing and accountability at personal and structural levels of society.”\textsuperscript{140} The modern restorative justice movement stems from a variety of practices developed in a variety of cultures, nations, and contexts.\textsuperscript{141} Because of this, there is no authoritative theory or one definition of restorative justice.\textsuperscript{142} Restorative justice is a philosophy rooted in the transformative power of relationships and is rooted in cultural heritage and community values.\textsuperscript{143}

Overall, restorative justice operates on the principle that “because crime hurts, justice should heal.”\textsuperscript{144} Restorative justice practices

\begin{itemize}
\item \textsuperscript{138} See Martinez, supra note 24.
\item \textsuperscript{139} Some students are now showing symptoms of Post-Traumatic Stress Disorder (PTSD). Schiff, supra note 58, at 122. “Specifically, many of the youth subject to the harshest forms of punishment also come from communities traumatized by poverty, violence, underemployment, inadequate nutrition, health care and education, resulting in youth that are defensive, offensive and ill-equipped to deal with the structured, and often stressful, environment of public school.” Id.
\item \textsuperscript{141} See Carolyn Boyes-Watson, Looking at the Past of Restorative Justice, in ROUTLEDGE INTERNATIONAL HANDBOOK OF RESTORATIVE JUSTICE 1, 2 (Theo Gavrielides ed., 2019) (discussing the development of the modern restorative justice movement and its indigenous roots).
\item \textsuperscript{142} Adriaan Lanni, Taking Restorative Justice Seriously, 69 BUFF. L. REV. 635, 640-41 (2021).
\item \textsuperscript{144} Renee Warden, Where is the Empathy? Understanding Offenders' Experience of Empathy and Its Impact on Restorative Justice, 87 UMKC L. REV. 953, 953 (2019) (quoting John Braithwaite, Restorative Justice and De-Professionalization, 13 GOOD SOC’Y 28, 28 (2004)).
\end{itemize}
share the view that the proper response to an offense should focus
not on punishment, but on meeting the needs of the victim, holding
the offender accountable for the harm caused, taking steps to repair
the harm suffered by the victim and the community, and addressing
the offender’s needs to prevent reoffending and promote
reintegration.  

Some restorative justice practices call for an extension of
“transformative justice” by seeking community involvement to address
the structural inequalities that lead to the harm. 

B. Restorative Justice in Schools

In schools, restorative justice aims to foster school climates and
utilize relationships to address challenging behavior. Instead of
waiting for misbehavior to occur, practitioners proactively implement
lessons that cover relational, emotional, academic, cognitive, and
physical needs. Restorative justice directly addresses the three factors
that lead to the school-to-prison pipeline. Instead of pushing students
out, restorative justice, (1) keeps the student in the classroom, (2) helps
foster relationships within the school, and (3) addresses educational
trauma.

The most comprehensive form of school-based restorative justice
“combines a proactive, conflict prevention pedagogy” with systems to
tackle conflict between students. Guided by a set of values and
principles, restorative justice practices respond to broken relationships
and systems with dignity, respect, accountability, and fairness through
nurturing healthy relationships, resolving conflict, and promoting
justice and equity. “Restorative justice allows the impacted parties to
talk about what happened, how they are feeling about it now, the impact
it had on everyone, and ultimately what can be done to make it as right

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145 Lanni, supra note 142, at 640.
146 Id. at 640-41.
148 Id.
149 Jones et al., supra note 3, at 53 (listing the three factors as “(1) zero tolerance policies that lead to suspension and expulsion . . . (2) hostile school climates . . . [and] (3) educational trauma . . .”).
150 See GREGORY & EVANS, supra note 147, at 7.
151 Nussbaum, supra note 60, at 586.
152 GREGORY & EVANS, supra note 147, at 3.
as possible.” The ultimate goal of restorative justice is to repair the harm caused by the incident, while balancing the needs and roles of the victim, offender, and community.

“Circles” are one such practice that allow students to connect with each other and learn valuable skills such as patience, empathy, active listening, and impulse control. “Schools use restorative justice circles to address school disciplinary issues.” When a harmful action occurs, participants address the harm and work together to make things right.

In an Iowa City school, “talking circles” are led by a teacher-facilitator who challenges students to develop conflict resolution skills and allows students to reflect on their actions that may have caused harm to their community. “Other restorative justice practices may include: peer mediation/jury, victim-offender mediation, and community and family group conferencing.”

Many restorative justice programs “also aim to strengthen social and emotional competencies, reduce gender and racial disparities in discipline, and increase access to equitable and supportive environments for students from marginalized groups.” In response to concerns about racial disparities and federal guidelines, several school districts have turned to restorative justice instead of zero-tolerance policies.

Restorative justice is being practiced in several school districts such as those in, Los Angeles, San Francisco, Chicago, Denver, Portland, and Iowa City.

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156 Id.

157 Id.


159 Id.; King, supra note 158.

160 Id.; Wood, supra note 38, at 404.
In Maryland, schools are also incorporating restorative justice practices in their school discipline. The Court of Special Appeals of Maryland in Gambrill v. Board of Education addressed the restorative justice approach in Maryland public schools. The Court held that student discipline is an essential component of educational policy and criticized the former suspension model that was used in Maryland because it contributed to the school-to-prison pipeline. The Court reasoned that school discipline is a part of education and is an additional learning opportunity for students, going beyond what is found in textbooks.

IV. RESTORATIVE JUSTICE AND THE SCHOOL-TO-PRISON PIPELINE

To truly dismantle the school-to-prison pipeline, the treatment of students of color as criminals and schools as prisons needs to end. What we need instead is “a change of philosophy recognizing that children make mistakes and ‘getting tough’ on them is counterproductive to their growth.” By changing the sources and practices that lead to the school-to-prison pipeline, fewer students will be sent to prison for normal, or trauma response, behaviors.

A recent report by the National Association of School Psychologists determined that an underlying factor leading to student misconduct is a lack of relationships with the school. By implementing restorative justice discipline models, schools can create environments for learning that foster meaningful relationships and promote confidence, emotional

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163 Maryland’s state code describes the restorative justice approach as:

- a student discipline model that . . . is preventative and proactive . . .
- [e]mphasizes building strong relationships and setting clear behavioral expectations that contribute to the well-being of the school community . . .
- [f]ocuses on accountability for any harm done by problem behavior; and . . .
- [a]ddresses ways to repair the relationships affected by the problem behavior with the voluntary participation of an individual who was harmed.


164 See generally Gambrill v. Bd. of Educ., 259 A.3d 144 (Md. Ct. Spec. App. 2019). Parents of a student brought due process and negligence claims against the school, alleging that their daughter was robbed of the state constitutional right to education, and the teachers were negligent in preventing harm to their daughter. Id. at 148. The daughter was involved in several altercations over several weeks with other students and was later diagnosed with two concussions. Id. at 146. The Court of Appeals upheld the summary judgment of the District Court and held that the school officials were immune under state law. Id. at 155.

165 Id. at 154-55.

166 See id. at 155.

167 Scully, supra note 25, at 995.

168 Id.

169 See generally Wood, supra note 38.

170 Id. at 407.
health, and responsible citizenship. Dr. Shelia Wilson, a fifth grade teacher in Virginia, believes that restorative justice practices “draw their strength in their ability to empower students to learn from unacceptable choices, to understand their impact, and to grow personally in their ability to make more sound decisions and resolve problems.” By addressing underlying trauma and other problems at the source of misconduct, schools can address the harm without removing students from the classroom. Learning from the harm and the problems not only increases the growth of the individual student, but also strengthens the whole community.

With a reduction in suspensions and expulsions, students are in the classroom, learning both the required curriculum and skills to be contributing members of society. This is because restorative justice models reintegrate students into the school community rather than remove them, thereby increasing the potential for separation, resentment, and recidivism. A restorative justice approach addresses the trauma resulting from the student’s behavior while embracing opportunities for growth. “Negative behavior does not define the student as a deviant, outcast, or incorrigible but [instead] creates an invaluable opportunity to reflect, learn, and grow.” This growth is evidenced by increases in “vital life skills such as: reflective listening, empathy, conflict resolution, social interactions, communication, and self-regulation.”

Restorative justice programs have helped reduce exclusionary discipline and narrow the glaring racial disparities in how discipline is meted out in schools. A variety of studies by Darren Aitchison show that restorative justice measures, when implemented with the right training and resources, have resulted in a massive reduction in the

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171 Id.
173 Teske, supra note 52, at 93.
174 Tyner, supra note 143, at 72.
175 Id. at 71.
176 Keeping Kids in School, supra note 48, at 285.
177 Tyner, supra note 143, at 71.
178 Id.
179 Id.
number of disciplinary referrals (60-70%), documented incidents of violence (70-80%), and expulsions (95%).

Aitchison’s team works with schools to develop restorative justice programs unique to their specific challenges. Even without a specialized team, these trends are possible. In 2020, fifteen Baltimore City public schools were evaluated after restorative justice was implemented in 2018. Suspensions fell 44% the first year, and the school climate improved by 72%, mutual respect among students rose to 69%, and student respect for staff rose 64%. In Oakland, California, restorative justice was implemented at a failing middle school resulting in an 87% decrease in suspensions and a corresponding decrease in violence. In a study done by Umbreit, Coates, and Vos, recidivism rates for offenders who participated in a restorative justice program dropped by 20-40%. In Pittsburgh, Pennsylvania, implementation of restorative justice improved the overall school climate (rated by teachers) and reduced the suspension rate.

A. Restorative Justice Receives an “F” From Some Critics, But Schools Haven’t Put in the Work.

Restorative justice is slowly gaining traction as an alternative to zero-tolerance policies. Restorative justice requires (and fosters) rethinking of community relationships “built upon a comprehensive conceptual justice framework” instead of the traditional retributive criminal justice model focused on punishment. As described supra, there are many ways to implement restorative justice, and that is part of the problem. There is no “plug and play model” for restorative justice; it greatly depends on the school environment, staff, and

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181 Id.
182 Id.
183 Id., supra note 8, at 15.
184 Id.
185 WeAreTeachers Staff, What Teachers Need to Know About Restorative Justice, WE ARE TEACHERS (Jul. 27, 2021), https://www.weareteachers.com/restorative-justice/ [https://perma.cc/69JS-ZR9F]. In fact, Oakland’s restorative justice program was so successful that they are expanding it after ten years of practice. Nelson & Lind, supra note 51.
186 MARK S. UMBREIT, ROBERT B. COATES & BETTY VOS, THE IMPACT OF RESTORATIVE JUSTICE CONFERENCING: A REVIEW OF 63 EMPIRICAL STUDIES IN 5 COUNTRIES, CTR. FOR RESTORATIVE JUST. & PEACEMAKING (May 1, 2002).
188 See, e.g., King, supra note 158.
189 Pavelka, supra note 154, at 2 (internal citations omitted).
190 Yusem, supra note 153.
administrators. It requires assessments, training, willingness to put in the work, and patience to implement and observe tangible results. Gregory and Evans reported in a National Education Policy Center brief that restorative justice works in schools, but only when schools avoid the common pitfalls of faulty design and implementation. In reviewing the literature, Gregory and Evans concluded that the most successful restorative justice programs: (1) use principle-based restorative justice that focuses on the entire school, not just students; and (2) implement restorative justice practices with “contextually sensitive,” “strategic,” and “long-term” plans and practices.

Legislation, regulations, and court orders mandating schools use “restorative justice” leaves undue discretion to schools without proper guidance or resources. Restorative justice has been interpreted differently when applied in various school districts. For many teachers, restorative justice is overwhelming and can be hard to implement, especially with increased violence in schools. Therefore, simply requiring schools to use restorative justice will not work. Most restorative justice programs and initiatives take three to five years to make progress. The time and energy required is indicative of the difficulty of restorative justice; it attempts to dismantle an inequitable system designed to keep students of color in this pipeline to prison.

**B. Moving from Criminalization to Restoration**

Schools are looking more and more like prisons instead of places of learning. Public school students are, “outside of prison and jail...”

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191 Id.
192 Id.
193 GREGORY & EVANS, supra note 147, at 14.
194 Id. at 14-16. Gregory and Evans suggest three to five years at a minimum as an appropriate standard for measuring the efficacy of restorative justice programming in schools. Id.
195 Nussbaum, supra note 60, at 587.
196 Id. at 614-15.
198 Nussbaum, supra note 60, at 586-87.
200 Skiba et al., supra note 3, at 558.
inmates[,] perhaps the most policed group in the country right now.”

Our current punitive criminal justice system’s reliance on retributive justice “recognizes crime as ‘a violation of the state, defined by lawbreaking and guilt. Justice determines blame and administers pain in a contest between the offender and the state directed by systemic rules.’”

The criminal justice system is what is being imposed on our public schools.

However, in contrast to the criminal justice system, restorative justice requires a radically different look at harm. Schools have a unique context in which any injury can be defined because of distinct relationships, and restitution can be formulated. Teachers have the special opportunity to develop relationships with their students and to use restorative justice as a tool to help foster relationships, prevent harm, and restore those relationships when harm occurs. “For example, the language of ‘victim’ and ‘offender’ does not adequately capture nuanced student relationships where harm often occurs among ‘friends’ and Wednesday’s offender is often Tuesday’s victim . . . . In these settings, conflict is addressed as part of an overall strategy to build, maintain and repair relationships.”

Moreover, unlike the legal system, schools have the capacity and knowledge to implement proactive strategies that can be long-term and sustainable. The criminal justice system, instead, focuses on procedure and punishment after the harm has already occurred. “This distinction between passively accepting punishment and actively assuming responsibility for behavior is at the heart of what distinguishes restorative accountability from retributive punishment.”

As restorative justice models continue to be implemented in schools, it is clear that they contribute to the original

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202 Keeping Kids in Schools, supra note 48, at 288; ADVANCEMENT PROJECT, supra note 109 at 3.
204 González, supra note 203, at 1035.
205 Keeping Kids in Schools, supra note 48, at 286.
206 “[T]he focus is on healing . . . [i]n the education system, restorative justice requires ‘a philosophical and practical shift away from punitive and retributive control mechanisms . . . to prioritize individual and community growth to support safe and healthy school culture.’” Thalia González, Restorative Justice from the Margins to the Center: The Emergence of a New Norm in School Discipline, 60 HOW. L.J. 267, 274 (2016)); see also Ferlazzo, supra note 172.
207 Schiff, supra note 58, at 122.
208 Keeping Kids in Schools, supra note 48, at 286.
209 Id.
210 Schiff, supra note 58, at 126.
goals of education by “emphasizing accountability, restitution, and restoration of a community.”

A restorative justice program that simply focuses on reducing suspensions and expulsions will fall short in capturing prevention-oriented and systemic reform of restorative justice. However, when done right, not only will schools see a reduction in the number of suspensions, but “improved social and emotional learning, accountability, and school connectedness” resulting in a better future not only for students, but all of society. If schools dedicate the time and resources to restorative justice, schools will improve and the pipeline will end.

CONCLUSION

“When children attend schools that place a greater value on discipline and security than on knowledge and intellectual development, they are attending prep schools for prison.” Our schools continue to morph into miniature prisons from the continued use of zero-tolerance policies. Instead of preparing students to wear business causal work attire, schools are prepping them to wear orange jumpsuits. To end the pipeline, restorative justice, a philosophy that addresses this systemic practice, needs to be implemented for a brighter future for all students.

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211 Keeping Kids in Schools, supra note 48, at 285. Dr. Martin Luther King, Jr. said:

The function of education . . . is to teach one to think intensively and to think critically. But education which stops with efficiency may prove the greatest menace to society. The most dangerous criminal may be the man gifted with reason, but with no morals. . . . We must remember that intelligence is not enough. Intelligence plus character—that is the goal of true education.


212 Flannery, supra note 99.

213 Nussbaum, supra note 60, at 587.

214 Gregory & Evans, supra note 147, at 14-16.