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U.S. Senate

Judiciary Subcommittee on the Constitution, Civil Rights, and Human Rights

224 Dirksen Senate Office Building

Washington, D.C. 20510

RE: Ending the School to Prison Pipeline

Dear Chairman Durbin, Ranking Member Graham, and Committee Members,

The Center for Community Alternatives thanks Chairman Durbin, Ranking Member Graham, and the Subcommittee on the Constitution, Civil Rights and Human for holding this critical hearing on Ending the School to Prison Pipeline hearing before the Senate Judiciary Subcommittee on the Constitution, Civil Rights, and Human Rights.

Introduction

The Center for Community Alternatives (CCA) is a not-for-profit organization that promotes reintegrative justice and a reduced reliance on incarceration in pursuit of civil and human rights. Our mission is fostered through services, research and advocacy that enhances public safety, and reduces recidivism among youth and adults involved in the juvenile and criminal justice systems. CCA works in a number of jurisdictions in New York State: New York City, Syracuse and Rochester. We are a member of the Dignity in Schools Campaign. The examples that we provide in our testimony are drawn from our work with young people who attend CCA programs.

On March 6, 2012, the Department of Education (DOE) released its most recent Civil Rights Data Collection (CRDC) information drawn from a national survey of 72,000 schools that enroll 85% of the nations students. The data show disturbing, if not alarming, trends in school discipline, including a troubling increase in suspensions and significant racial disparities in school suspensions and school-based arrests. Nationally, African American students comprise 18 percent of school enrollment but are 35 – 39 percent of students suspended or expelled. Children of color are three times more likely to be suspended than white students. Students with disabilities are suspended at a rate twice that of students without disabilities. In addition, African American and Latino youth make up more than 70 percent of all students nationwide who are referred to law enforcement or involved in school-related arrests.

By the beginning of the 21st century, school suspensions became a precursor to imprisonment. Suspended students, even those who are not arrested, are more likely to drop out of school, and dropouts are at high risk of being incarcerated at some point in their lives. Research by Harvard University sociologist Bruce Western found the lack of a high school diploma has the most profound impact on the likelihood of incarceration, with high school dropouts five times more likely to go to prison than high school graduates regardless of race. An estimated 1 in 10 young (age 22-30)

white high school dropouts and 52 percent of African American male high school dropouts have been incarcerated by their early thirties. In short, the punitive disciplinary policies embraced by one of our most cherished institutions, public schools, have become a key mechanism in the phenomenon known as mass incarceration.

The willingness of the U.S. Department of Education to collect and analyze data on school discipline is an important step underscoring the urgency to address excessive and disparate application of harsh school disciplinary processes. This hearing makes another significant contribution. The statements made by the Secretary of Education upon the release of the data well captures what is at stake: *“The undeniable truth is that the everyday educational experience for many students of color violates the principle of equity at the heart of the American promise. It is our collective duty to change that.”*

The balance of CCA’s testimony is drawn from our experiences working every day with young people suspended from school, many of whom wind up in the juvenile justice system. We share with you what the young people pushed out of school have told us, as well as promising outcomes from CCA programs that show that indeed we can dismantle the school-to-prison pipeline.

Voices from Students Pushed into the School-to-Prison Pipeline

CCA was introduced to school pushout issues through our work in the juvenile justice system. We work with courts to develop community-based program options that can be used as alternatives-to-incarceration. As regular and obedient attendance at school is typically a core condition of any alternative sentence imposed by family court, CCA soon came to learn that many of the young people in the juvenile justice system had been suspended from their mainstream school and placed in an alternative school. These alternative schools are characterized by shortened school hours (in some cases 2 hours a day), a lack of support services, and often ill-prepared teachers. For example, alternative school students in our Syracuse programs are banned from school-based extracurricular activities, and so the youth most in need of adult supervision spent are left to the streets. It should come as no surprise that students seem to cycle between the alternative school and the juvenile justice system. Much like reentry from correctional facilities, there is considerable stigma and barriers that make it difficult for students to reestablish themselves back in mainstream school once they have been suspended to an alternative school.

These practical experiences led CCA, in collaboration with the Syracuse School District, to develop the *“Strategies for Success”* to reduce school pushout. The program and its outcomes are described at the close of this testimony.

First, however, we wish to share with you the comments made by students suspended from school. These statements are drawn from our research based on interviews with young people who spent time in an alternative school. The study involved lengthy interviews with 25 students (12 boys and 13 girls), most of whom were 14 years old: 76 percent were African American and 20 percent were Latino/a. The interviews provide poignant evidence that the use of harsh punishment in addressing student misbehavior fails to address underlying problems and erodes young people’s sense of fairness and belief that adults in their lives care about them. The lessons that students take away from suspensions are counter productive, sending young people messages that they are “bad” and are indeed slated to wind up in prison.

While almost all of the young people interviewed acknowledged and took responsibility for the behaviors that resulted in their suspension, they were troubled by a sense that their actions were blown out of proportion, or that they were not given opportunity to explain the context or circumstances underlying their behaviors.

One of the young men interviewed, Carlos^{*}, when asked why he got in trouble in school, quietly shook his head and said simply: *“Bad decisions.”* He went on to describe the suspension incident: *I went with my friends....I followed them downstairs ... and the next thing I know I’m at the stairs and there’s a fire alarm. So we pulled the fire alarm and the next thing I know they were like “Carlos run!” I went upstairs with them and they caught us on camera. So that’s what I was suspended for.*

Carlos quickly admitted his involvement to the school police officer but receives a different response than he expected:

Officer Bovo [the school police officer] told me if I was to cooperate that I wouldn’t get in trouble. And I was just thinking about that the whole time - he said I wouldn’t get in trouble . . . So I thought about it when I was suspended, thinking about what happened to me. Why did I get kicked out? That messed me up right there. I didn’t feel the same about school. I was thinking about dropping out and stuff.

Carlos spent a year wasting away in alternative school. His “back story” displays the qualities that are overlooked by harsh school discipline. Carlos and his parents were heartbroken that suspension to alternative school meant he could no longer play on his high school baseball team. His parents had dutifully and enthusiastically turned out for all his games. His father, he proudly told me, had a two-year college degree and his mom worked for the local agency that advocated and served city’s small Latino population. They were hoping that Carlos might qualify for an athlete scholarship one day to help defray college tuition. The promise of his future, was not considered when Carlos was pushed out of school.

The experience of school suspension erodes students’ sense of fairness as zero tolerance policies leave no room to consider mitigating factors. Sadly, the young people feel they are powerless to create a different outcome. They believe that deck is stacked against them - the opinions of professional adults are privileged over their voices or even the words of their parents who are equally disempowered. A sense of fatalism emerges from the comments of the young people.

Roland, for example, was suspended for possession of a knife. While this indeed sounds quite serious, a careful investigation of the incident revealed Roland had taken the knife from his younger brother, who wrongly brought the knife to school to defend himself against bullying by another student. Roland explained he took the knife from his brother as they exited the bus but was apprehended before he could turn it in to school authorities. Roland’s description of his suspension incident and its aftermath is especially poignant showing a young man who took responsibility, was aware of school rules, yet was confused about why adults could not use any discretion to apply a less harsh punishment. Roland described his response when he was told that he was suspended for school for a year:

I know that they [Principal and Hearing Officer] literally had no choice but to send me to alternative school because it [the knife] was in my possession. They even said to me that they know I didn’t do nothing wrong, but if my hand touches the knife then they have no choice but to send me out.

* The names of youth and others have been changed to protect confidentiality.

But when they said that they were gonna suspend me, that's what had got me upset. I started crying because I didn't understand the fact that me getting suspended just for taking the knife away from my brother, because if I didn't take it away from him, it could have been worse. So actually I thought that, ya' know, personally myself, I thought that I was doing the right thing by taking the knife away from him.

So I think that personally, I shouldn't really have gotten, ya know, really, be serving time in the alternative school or shouldn't really have gotten suspended for something that ya' know, I really was, I thought that I was doing the right thing. They told me that ya' know, they knew I was doing the right thing, but still it's the simple fact that the knife was in my hand.

It is easy to ignore, understate or dismiss the cruelty of suspension if we learn about this only through newspaper reports or even data documenting the extent of the problem. At almost 6 feet tall, Roland did not present an image of a child who would break down crying in school. Yet at the time of his suspension, Roland was only 13 and still clinging to the belief that adults can help solve problems, listen to and care about kids. He was still a child, just entering adolescence with many developmental hurdles to jump over. It has become too easy to forget that 13 year olds are still children and instead think of them as dangerous, disruptive or “super predators” and deserving of isolation and exclusion. Yet talking to the kids, hearing the catch in their voices as they ponder why so many adults think they are “bad” readily puts a human face on the destructive zero tolerance policies.

Most of the young women interviewed were suspended for fighting over seemingly trivial issues, “he said she said” or more accurately “she said, she said” arguments over boys, reputation, and social position. Fighting makes up the single most common reason that students are suspended or expelled from school. It is difficult to tell whether these behaviors are more serious than what was once thought of as school yard scraps or whether the increase in suspensions is another manifestation of moral panic about adolescent behavior. What is clear to the young people interviewed for our study, is that in meting out suspensions, school authorities often do not learn about what caused the fight, nor are restorative justice interventions that might quell gossip and fighting offered.

Kendra's story exemplifies another lost opportunity to intervene in ways that could prevent suspension and help young people gain skills to settle disputes without resorting to physical violence. Her suspension for fighting was preceded by harassment from other girls. Both she and her mother complained about the situation without any intervention and Kendra felt she had to fend for herself:

I was telling administrators. I was telling principals, the vice principals. I was telling the teachers and nobody believed me. I would come to school crying every morning because they [other girls] would beat me up and they [school authorities] thought it was just an act.

As a result of the fight, Kendra went through a Superintendent's Disciplinary Hearing where she felt she had no opportunity to explain the circumstances:

They [the hearing officers] said, “What happened?” But when you go to stuff [the hearing] like that, you got like tell them what they want to hear. Like you got to tell them that you really did it and you are guilty. Because they don't want to hear ‘Oh, I didn't do it.’ They want to hear that you did it and now you got to be punished for it.

Another young woman interviewed, Jena was also suspended for fighting with another young woman and she too was sent to an alternative school for one-year. When asked about her suspension, she admitted she was fighting but could no longer even remember what set off the incident:

It was over something stupid. I think like she like kind of pushed me to the edge and I like I started the fight but there was a lot of stuff building up to it. I just snapped. I guess I was at the end of my rope.

As was learned later in the interview, Jena had recently gone through life experiences that might make even a mature adult “snap.” Her father had died the year before from a heart attack: in his 40s, this premature death underscores the myriad of ways that poverty, including lack of health care, is a major factor in the lives of young people pushed out of schools. Three months before her suspension, Jena’s brother was shot to death while he was attending a community “Stop the Violence Rally.” Jena described these events in a voice that was seemingly without emotion, yet with tears streaming unchecked down her cheeks:

My brother was at a Stop the Violence ceremony for his friend that had passed away and some guys came in and they were shooting and he got shot.

But when Jena was suspended for fighting because she was “at the end of her rope,” neither the teacher who broke up the fight, the principal who suspended her, nor the hearing officer who determined her year-long suspension considered whether the rope was frayed by the recent murder of her brother or premature death of her father. The story of Jena underscores the need for school-based resources that could support students through personal and family life crises.

Jena went on to describe her experience at the Disciplinary Hearing:

It was kind of scary. I’d never been to one before. It was just . . . it was just like I was in there. The lady [Hearing Officer] was nice and then they had like a recorder and they recorded everything and asked why everything happened, - why it happened and did I want to go to an alternative school? Of course I didn’t, but you know, I was scared to talk. I don’t remember much about the hearing. I know she asked me if I did want to go and finally I told her that I didn’t. And I’m not sure what happened next. I don’t remember too much but I was sent to [the alternative school]. I think they looked at my attendance and like it was my first year and I skipped a lot helping my mother deal who was stressing because of my father and brother. And so I think they looked at me and said, well she’s probably not a good kid.

As with many of the young people I interviewed, Jena concluded that her exclusion from mainstream school was a rejection of her as a person, her humanity, not just a response to a particular behavior. This underscores the harm that school push out does to the young people as explained by a young man named Rayquan who was given a one-year suspension for having a pen knife:

It makes people feel like they can’t do nothing with their life. They just drop out. ...I went to an alternative school, After I felt ain’t nobody gonna want to take me back . . . If you write alternative school on your papers, the schools you went, to they look up your record. You might not even get into college². People out hear that you been suspended to alternative school gonna doubt you.

²Rayquan’s assessment that colleges consider school disciplinary hearings is correct. The Common Application as well as an increasing number of colleges and universities ask applicants to disclose high school disciplinary records. See Weissman, M., et.al. 2010. The use of criminal history records in college admissions. .Center for Community Alternatives, Inc. website: <http://www.communityalternatives.org/pdf/Reconsidered-criminal-hist-recs-in-college-admissions.pdf>

Another young man interviewed, Kwame gave a particularly troubling answer to how he felt when he was suspended from school. He told me that he was suspended for “*persistent disobedience*,” adding, “*They just got tired of me.*” This was his reaction to his alternative school placement:

Alternative school is for kids that don't know how to make the right choices and kids who don't know what they going to do with their lives and just be bad in school for no apparent reason and get in trouble all the time and all that stuff. I don't think that I belonged there. I want to go to regular school... I know that at a regular school I have more chances of either getting scholarship so I can go to college, or going to college instead of not going to college and not try to help my family to get out of a bad place.

Damian, suspended for attempting to leave the school building without permission, had a similar reaction:

It made me feel worthless. . . . Because teachers used to tell me that and junk. Like when you feel bad already and they tell you that you need to do this or you ain't going to be nothing. You going to be like a gang member. You going to be in jail or dead. That makes you feel worse. And I think that's what makes kids drop out of school faster and start gangs and stuff. That's why a lot of young kids like my age don't care. They just want to make money and all this other dumb things, just to prove a point that they aren't worthless. I think that's what they feel.

The interviews with students suspended from their mainstream schools leaves little doubt that school suspension is an iatrogenic solution to misdiagnosed problems. The call to end school pushout should not be interpreted as a lack of concern about ensuring that schools are safe places for both students and teachers. According such researchers as Russ Skiba and professional groups including the American Psychological Association, the American Academy of Pediatrics, the Council of State Governments and the American Bar Association, there is no empirical evidence that shows that the harsh discipline and punishment is effective in improving school safety. Harsh discipline in fact seems to contribute to the further deterioration of educational outcomes regarding student achievement and drop out rates. In contrast, a growing body of research shows that schools that do not rely on law enforcement, metal detectors and harsh discipline, but instead use restorative justice practices and school-wide efforts to improve school relationships have better educational outcomes.

Finally, students interviewed were able to identify interventions and approaches that helped them. Most were grounded in adults who had time and patience to show they cared by providing both additional academic help and/or emotional support. Kwame's statement captures the essence of what makes a difference:

The principal, Ms. Lark, she mad nice. She was helping me out, like if I had a problem. I go to her and I would talk about the problem. She was just like, mad nice. She was just a nice person. [I would talk to her] Like if somebody was bothering me. I would talk to her about it. Like if I wanted to go the dance and I didn't have no money, she would pay my way to the dance. She would make sure that I would do good so that I could go to the dance. ... She cared about me. It made me feel good. Like at least somebody wanted to see me do good.

Reducing School Pushout: The Strategies for Success Program

Program Description

After many years of working with young people sent to alternative schools, seeing them cycle in and out of these schools, and often drop out of school and end up in the justice system, CCA, in partnership with the Syracuse City School District, created the Strategies for Success Program (SfS or Strategies). The program was funded by the U.S. Department of Education from 2000 -2004 in an initiative explicitly directed to reducing school suspensions. The Strategies for Success program served middle school students subjected to one-year suspensions and placement in Syracuse City School District alternative schools.

Strategies used a multifaceted, integrated approach, embedding social supports into the school environment and extending these supports into the community and family. CCA staff worked in close collaboration with school principals, teachers and staff, fostered connections to families and involved youth in comprehensive, youth development services. The program enrolled students placed in alternative schools and continued after their return to a mainstream school. During their stay at alternative school, youth compiled portfolios that documented their achievements. These portfolios accompanied students when they were allowed to return to mainstream school in an effort to accentuate the student's accomplishments and mitigate the stigma of alternative school placement. Transitional support helped students cope with their placement in an alternative school and to successfully re-engage in mainstream school and reduce the very high resuspension rates common to young people returning from long term suspension.

SfS offered after school and other youth development activities to students with few such positive opportunities. Alternative schools have no extracurricular activities that are often the glue that cements student attachment to school. They have no sports teams, no clubs, and no school newspaper. SfS made an effort to fill this gap through a range of "youth-centered" activities, designed with input from the youth that gave them opportunities to be active leaders and creators. For example, students suggested that the availability of a sound studio where youth could record hip hop music would entice after school participation even for students who were reluctant to regularly attend school. In keeping with a youth leadership approach, students established the rules governing the use of the sound studio, including avoiding content that would promote or celebrate violence. To hone their skills as song writers, students participated in a poetry writing workshop. Youth produced a CD and poetry anthology that were premiered at the annual Youth Banquet attended by youth, teachers, and parents.

The SfS program also engaged parents by serving as a liaison between the youth, parent, alternative school, and mainstream school, and by providing support to parents and youth so they could identify and resolve barriers that stand in the way school success. Staff met with parents at locations most convenient to them - home, our offices, in school and the community. The program hosted monthly parent support groups and special events where parents could see their children in active, leadership roles.

Program Outcomes

CCA conducted an outcome evaluation that looked at pre- and post-program suspension rates, attendance rates, and grades for SfS participants and a comparison group of students. We compared the status of the youth at baseline (i.e., entry into alternative school) and two years after program participation. Students in both the program and the comparison group (students enrolled in the alternative school, but not the SfS program) were predominantly male and African American. They were poor, as measured by their eligibility for free lunch (97 percent program group; 93 percent comparison group). Seventy-three (73) percent of the program group had a grade point average below 70, compared to 68 percent of the comparison group.

Key outcomes examined were resuspension rates, attendance rates and justice-system involvement for both Strategies program participants and the comparison group:

- Resuspension: SfS participants showed a 64 percent reduction in resuspension to alternative school over the two-year period compared to an 18 percent increase in resuspension among the comparison group.
- Attendance: SfS participants saw a 6 percent improvement in attendance rates, while the attendance rates for the comparison group declined by 6 percent.
- Justice System Involvement: 91 percent of SfS completers vs. 86 percent of the comparison group were convicted of a delinquent or criminal offense during the two-year evaluation period. Of those youth who were convicted of an offense, SfS participants were less likely to receive a custodial/incarceration sentence (1 percent of SfS completers compared to 5 percent of the comparison group).

Conclusion and Recommendations

The Strategies for Success is but one program that shows promise for reducing school suspensions and improving outcomes for youth who would be caught in the school-to-prison pipeline. Ending school push out is within our reach: there are models across the country that could be taken to scale and the young people interviewed indicates that they would welcome educational settings that give them opportunities to learn. Examples of programs, policies and practices include restorative justice such as practiced in Vanguard High School in Manhattan where the school's "Fairness Committee" comprised of teachers and students sort out the "she said/she said" disputes that were especially common among the girls whom I interviewed. Each party to the dispute gets a chance to tell his or her side of the story, with the facilitators asking clarifying questions and moving the discussion to solutions to the dispute. Positive Behavioral Interventions and Supports (PBIS) is an approach that has been introduced in more than 9,000 schools around the country. In 2007, pushed by a parent-led group, CADRE, the Los Angeles Unified School District passed a new district wide student discipline policy that is based on positive behavior support and developmentally appropriate discipline rather zero tolerance. In 2009, the Texas State Legislature passed a law that modifies zero tolerance policies requiring districts to take into account mitigating or extenuating circumstances when considering student misbehavior. We do not lack for models of programmatic approaches. Websites hosted by federal agencies including the U.S. Department Education (What Works Clearinghouse), and the U.S. Department of Justice Office of Juvenile Delinquency and Prevention (Model Programs Guide) have comprehensive lists and information about model programs and evidence-based practices. The Dignity in Schools Campaign has produced the Model Code on Education and Dignity that provides information and tools for schools to adapt and use to reduce school push out.

In conclusion, the Center for Community Alternatives supports recommendations to Congress put forth by the Dignity in Schools Campaign of which we are a member:

- **Annually collect and report school discipline and climate data for all schools** including the disaggregation by race, gender, special education status, socioeconomic status and English proficiency with cross tabulations for deeper analysis. The Successful, Safe, and Healthy Students Act (S. 919, Harkin) provides useful guidance on data collection under the Individuals with Disabilities Education Act, the Gun-Free Schools Act, and the Civil Rights Data Collection, Congress and the US Department of Education should be disaggregated by race, gender, special educational status, socioeconomic status, and English proficiency, and cross-tabulated to allow for more insightful review.

- **Use high disciplinary rates and disparities to trigger support – not punishment – from local and state educational agencies.** Examples of the ways to track and use data to constructively help schools improve are available in Representative George Miller’s Amendment to the Student Success Act (H.R. 3989, Kline).
- **Provide increased support for best practices in improving school discipline and climate** through legislation such as The Restorative Justice in Schools Act (H.R. 415, Cohen) and the Positive Behavior for Safe and Effective Schools Act (H.R. 3165, Davis/Platts) (federal support for training schools and teachers in the best practices) and The Successful, Safe, and Healthy Students Act (S. 919, Harkin) (calling for the use of school data on bullying, harassment, and discipline to target support for implementing these best practices as well).
- **Support the development of comprehensive local or regional strategies to reduce the use of exclusionary discipline and the number of youth entering the justice system** by Congressional funding of community-based solutions, such as the Strategies for Success program that was introduced with federal support. The Youth Promise Act (H.R. 2721, Scott) would help support this purpose.
- **Conduct an annual, universal Civil Rights Data Collection with higher reporting fidelity** by requiring more frequent collections involving all schools, making school district data reporting a requirement included in federal education grants and funding.
- **Require state and district grant and waiver recipients to address high and/or disparate rates of discipline** by making this a requirement to all Department of Education grant and waiver programs, including ED’s Elementary and Secondary Education Act Flexibility Waivers.
- **Promptly release guidance on school districts’ civil rights obligations for school discipline** through legal and technical guidance for addressing disparities in school discipline provided by Department of Education and Department of Justice including standards of liability under Title VI of the Civil Rights Act of 1964.
- **Place meaningful restrictions on federal grants for school policing** including the DOJ-funded Community Oriented Policing Services that require training on adolescent development, the impact of suspension and arrest on future outcomes of children and the emphasis on social work and mental health supports in school that would make police officer intervention the action of last resort.

We again thank the Chair, the Ranking Member and all Committee Members for your attention to this critically important issue.

Sincerely,

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