

2015

## Re-engaging Youth with the Protective Power of Education

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### Recommended Citation

Satterberg, Daniel T.; Stringer, Violetta A.; and Lee, Carla C. (2015) "Re-engaging Youth with the Protective Power of Education," *Seattle Journal for Social Justice*: Vol. 13: Iss. 3, Article 11.

Available at: <http://digitalcommons.law.seattleu.edu/sjsj/vol13/iss3/11>

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## Re-engaging Youth with the Protective Power of Education

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Daniel T. Satterberg, Violetta A. Stringer & Carla C. Lee\*

### INTRODUCTION

Is there a more disheartening term in our modern lexicon than the “School-to-Prison-Pipeline”? The notion that school policies accelerate a young person’s path into criminality is one that we should all pay attention to. Ideally, school is the place where young people prepare for adult success, where dedicated educators teach the skills and discipline necessary to prepare students for further academic, vocational, and career attainment.

But what about the students who are disciplined for misbehavior in the classroom or campus, kicked out of school, and never get back on the track toward graduation? What are their chances for academic or career success? What are the chances that they will run out of options and hope for their future and turn to crime as a rational alternative?

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The School-to-Prison-Pipeline (the Pipeline) is kept full by school disciplinary policies that expel students who are disruptive or don't understand the norms of classroom behavior from the classroom to the streets, while their peers continue the linear path of education without them. Is there a connection between school policies that react to predictable adolescent misconduct by exclusion from campus and the chance of criminal justice system involvement? In the rush to make schools safer, have our communities escalated minor, internal disciplinary matters into juvenile court criminal cases?

In concluding that certain practices and policies accelerate the path of a student from the campus to the courtroom, the authors' intent is not to criticize the thousands of caring and compassionate teachers and administrators who accept the mission to educate our youth.

The pressures on educators to provide a school that is safe and conducive for learning are immense, as is the pressure to measure performance through test scores.<sup>1</sup> We are aware that adolescents can be challenging—defiant, difficult, profane, and disrespectful. We also know that we—teachers, administrators, and the public who invests in education—are the adults in the room, capable of turning teenage defiance into teachable moments. Our policies, shaping expectations of student conduct, should be developed with an awareness of the Pipeline, and we should presume to handle misbehavior within the school, and be reluctant to mandate the expulsion or arrest of a student.<sup>2</sup> The consequences of continuing to fill the Pipeline could not be more clear—the perpetuation of mass incarceration and racial disproportionality within the criminal justice system.

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<sup>1</sup> See generally THE EQUITY AND EXCELLENCE COMM'N, FOR EACH AND EVERY CHILD: A STRATEGY FOR EDUCATION EQUITY AND EXCELLENCE (2013), available at <http://www2.ed.gov/about/bdscomm/list/eec/equity-excellence-commission-report.pdf>.

<sup>2</sup> See generally JOHN M. BRIDGELAND ET AL., THE SILENT EPIDEMIC: PERSPECTIVES OF HIGH SCHOOL DROPOUTS (2006), available at <https://docs.gatesfoundation.org/Documents/thesilentepidemic3-06final.pdf>.

Nowhere is the protective power of education more evident than in the alarming rate of high school dropouts incarcerated in US prisons. The latest studies conducted by the US Department of Justice show that about 75 percent of state prison inmates in the United States did not graduate from high school and about 40 percent did not graduate the eighth grade.<sup>3</sup> Moreover, minority, disabled, immigrant, and low-income populations are disproportionately represented in both the rate of high school dropouts and the US prison system.<sup>4</sup> With more than 2.3 million people imprisoned in the United States today, the percentage of high school dropouts within the incarcerated population is simply staggering.<sup>5</sup>

In this article, we explore some of the policies that exacerbate the Pipeline and also highlight reasons for optimism. In some cases, leaders are slowing, if not stopping, the predictable path from school failure to criminal behavior. If we are to reverse the four-decade trend of mass incarceration and its ugly cousin—racial and ethnic disproportionality within the criminal

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<sup>3</sup> CAROLINE WOLF HARLOW, U.S. DEP'T OF JUSTICE, EDUCATION AND CORRECTIONAL POPULATIONS, BUREAU OF JUSTICE STATISTICS SPECIAL REPORT 2-3 (2003), available at <http://www.bjs.gov/content/pub/pdf/ecp.pdf>.

<sup>4</sup> AM. PSYCHOLOGY ASS'N, FACING THE SCHOOL DROPOUT DILEMMA 1 (2012), available at <http://www.apa.org/pi/families/resources/school-dropout-prevention.aspx>. The U.S. Department of Education, National Center for Education Statistics (NCES) reports that a breakdown of high school dropout rates by race in the 2008–2009 school year shows that the dropout rates of minority students were more than double than that of their white counterparts: “dropout rates were 2.4 percent for Whites, 4.8 percent for African Americans, and 5.8 percent for Latinos. . . . Students from low-income families dropped out of high school five times more than students from high-income families[.]” *Id.*; see also Bruce Drake, *Incarceration Gap Widens Between Whites and Blacks*, PEW RES. CTR. (Sept. 6, 2013), <http://www.pewresearch.org/fact-tank/2013/09/06/incarceration-gap-between-whites-and-blacks-widens/> (“In 2010 African American were six times more likely to be incarcerated as their white counterparts.”); HARLOW, *supra* note 3, at 8–9 (“66% of State prison inmates with learning disabilities . . . [and] 61% of noncitizens had not completed high school or a GED[.]”).

<sup>5</sup> BRIDGELAND ET AL., *supra* note 2, at 1 (“In 2003, 3.5 million youth ages 16-25 did not have a high school diploma and were not enrolled in school.”); WASH. ST. DEP'T OF CORR., THE CHANGING FACE OF CORRECTIONS: OFFENDER TRENDS AND POTENTIAL IMPACTS 1 (2011), available at <http://www.doc.wa.gov/aboutdoc/docs/ChangingFaceofDOC.pdf>.

justice system, which is now recognized as unsustainable by many observers—then looking at the Pipeline is where we should begin. First, we will address the policies and practices at the source of the Pipeline and the implications of the phenomenon. Second, we will discuss evidence-based practices for re-engaging youth with the education system. Finally, we will highlight some of the efforts and successes of local agencies in dismantling the Pipeline.

#### I. THE POLICIES, PRACTICES, AND IMPACTS ON THE PIPELINE

In these days, it is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education. Such an opportunity, where the state has undertaken to provide it, is a right that must be made available to all on equal terms.

—Chief Justice Earl Warren, *Brown v. Board of Education*<sup>6</sup>

An increased understanding of the Pipeline and its effects have led to the development of a rigorous body of research on the policies and practices at the source of the disengagement and on the exclusion of young people from the education process.<sup>7</sup> According to researchers, high school dropouts are more than eight times more likely to be in jail or prison in their lifetime than their counterparts with at least a high school diploma.<sup>8</sup> Traditionally, scholars and advocates identify a combination of factors at the source of the Pipeline, including exclusionary discipline practices, excessive policing in schools, and inadequate funding and resources.<sup>9</sup>

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<sup>6</sup> See generally *Brown v. Bd. of Ed. of Topeka, Shawnee Cnty., Kan.*, 347 U.S. 483, 493 (1954).

<sup>7</sup> BRIDGELAND ET AL., *supra* note 2.

<sup>8</sup> J. Bobbe J. Bridge et al., *No Single Source, No Simple Solution: Why We Should Broaden Our Perspective of the School-to-Prison Pipeline and Look to the Court in Redirecting Youth from It*, 7 J. EDUC. CONTROVERSY 1, 2 (2013).

<sup>9</sup> *Id.* at 1.

A. Exclusionary Discipline Practices

Exclusionary discipline practices and zero tolerance policies that suspend or expel young people for bad behavior were developed in the early 1990s as a response to growing public concern over school violence and the crack-cocaine epidemic.<sup>10</sup> The 1994 Gun-Free School Zones Act and the mass shooting at Columbine High School in 1999 led to increased widespread use of zero tolerance policies in the US education system.<sup>11</sup> Reliance on the use of zero tolerance and exclusionary disciplinary actions, such as expulsions, out-of-school suspensions, and law enforcement referrals, grew. Yet, within the US education system, “[r]ates of nonfatal victimizations in schools declined dramatically [over the past two decades] from nearly 200 victimizations per 1,000 students in 1992 to fewer than 50 victimizations per 1,000 students in 2011.”<sup>12</sup> Today, “nationwide, as many as 95 percent of out-of-school suspensions are for nonviolent misbehavior—like being disruptive, acting disrespectfully, tardiness, profanity, and dress code violations.”<sup>13</sup> Violations relating to weapons or drugs represent only five percent of all out-of-school suspensions.<sup>14</sup> The statistics suggest that students are losing time in the classroom and the ability to reach successful

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<sup>10</sup> APA Tolerance Task Force, *Are Zero Tolerance Policies Effective in the Schools?*, 63 AM. PSYCHOLOGIST 852, 852 (2008); Aaron Curtis, *Tracing the School-to-Prison Pipeline from Zero Tolerance Policies to Juvenile Justice Dispositions*, 102 GEO. L.J. 1252, 1252 (2014).

<sup>11</sup> Curtis, *supra* note 10, at 1252.

<sup>12</sup> *Id.* at 1255; see also SIMONE ROBERS ET AL., U.S. DEP’T OF EDUC. & U.S. DEP’T OF JUSTICE, INDICATORS OF SCHOOL CRIME AND SAFETY: 2012, 11 fig 2.1 (2013), available at <http://nces.ed.gov/pubs2013/2013036.pdf>.

<sup>13</sup> Press Release, U.S. Dep’t of Educ., Sec’y of Educ., *Rethinking School Discipline* (Jan. 8, 2014), available at <http://www.ed.gov/news/speeches/rethinking-school-discipline>.

<sup>14</sup> Jane Ellen Stevens, *Lincoln High School in Walla Walla, WA, Tries New Approaches to School Discipline—Suspensions Drop 85%*, ACES TOO HIGH NEWS, Apr. 23 2012, <http://acestoohigh.com/2012/04/23/lincoln-high-school-in-walla-walla-wa-tries-new-approach-to-school-discipline-expulsions-drop-85/>.

adulthood for violations of school policies and behaviors that are unrelated to school safety.<sup>15</sup>

Overwhelmingly, research and evidence show that the loss of learning time has a devastating and long-lasting impact on excluded students, and contributes to the Pipeline phenomenon.<sup>16</sup> Excluded students are missing instruction time, which in turn results in slowed skills acquisition, lower test scores, fewer economic and career opportunities, and increased interaction with the criminal justice system.<sup>17</sup> The intentional and prolonged removal of students from the education process through exclusionary discipline has become an acceptable and institutionalized form of disengaging youth from the school system.

A study by Washington Appleseed and TeamChild has found that in Washington State, school districts with more than one hundred exclusionary discipline incidents per one thousand students, on average, have a 24 percent lower graduation rate than school districts with fewer than 25 incidents per one thousand students.<sup>18</sup> Similar to the studies in Washington, another study conducted in Baltimore showed that over 87.4 percent of

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<sup>15</sup> Claudia Rowe, *Suspending kids doesn't fix bad behavior; schools look for answers*, SEATTLE TIMES (Dec. 5, 2014), [http://seattletimes.com/html/education/2025176296\\_edlabkentdisciplinexml.html](http://seattletimes.com/html/education/2025176296_edlabkentdisciplinexml.html). Researchers express concern over data that indicates that school discipline is often subjective and does not relate to school safety. Kate Mosehauer, author of the “Reclaiming Students” report by Washington Appleseed and TeamChild states, “That’s what we’re seeing for the first time—nearly 50,000 kids being excluded from school for things like having a cellphone in class. That’s what’s really shocking.” *Id.*

<sup>16</sup> Letter from Catherine E. Lhamon, Assistant Sec’y, U.S. Dep’t of Educ. Acting Assistant Att’y Gen. U.S. Dep’t of Just. (Jan. 8, 2014), *available at* <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201401-title-vi.html>.

<sup>17</sup> KATIE MOSEHAUER ET AL., WASH. APPLESEED & TEAM CHILD, RECLAIMING STUDENTS: THE EDUCATIONAL & ECONOMIC COSTS OF EXCLUSIONARY DISCIPLINE IN WASHINGTON STATE (2012), *available at* [http://www.teamchild.org/docs/uploads/Reclaiming\\_Students\\_-\\_a\\_report\\_by\\_WA\\_Appleseed\\_TeamChild.pdf](http://www.teamchild.org/docs/uploads/Reclaiming_Students_-_a_report_by_WA_Appleseed_TeamChild.pdf)

(While it is difficult to measure emotional connectedness to the school process, researchers and stakeholders repeatedly identify “decreased psychological engagement as a particularly concerning impact of suspensions and expulsions.”).

<sup>18</sup> *Id.*

students who dropped out had missed 20 or more school days in the prior school year.<sup>19</sup> Moreover, beyond exclusion from learning time, which already has a negative impact on academics, schools also utilize additional punitive academic sanctions on excluded students.<sup>20</sup> In some Washington counties, school districts have implemented policies that promote exclusion.<sup>21</sup> For example, some student manuals state that for “every two days missed from school beyond the first 10 days missed for the semester, the student’s grade will drop one letter grade.”<sup>22</sup> Policies that do not promote high school graduation but instead operate as a disincentive to engage in the education process are draconian and inconsistent with the goals of the education system. This means that even if a suspended student were able to continue working on their class assignments at home, regardless of the success of their efforts to keep up, their grades would suffer because of the physical exclusion from school.

Not only does prolonged exclusion from the education system interfere with the learning process of students, it leaves many students academically and socially behind.<sup>23</sup> Exclusionary discipline practices stigmatize students and cause further emotional disengagement and continued behavioral problems.<sup>24</sup> A study run by the Massachusetts Advocacy Center “found that [forty-one percent] of suspensions are represented by students who repeatedly break school rules.”<sup>25</sup> For example, a young man who grew up in the foster care system, was suspended more than 20 times while in middle school, was consistently getting in trouble at home, and eventually dropped

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<sup>19</sup> *Id.* at 7.

<sup>20</sup> *Id.* at 9.

<sup>21</sup> *Id.*

<sup>22</sup> *Id.*

<sup>23</sup> *Id.* “If exclusionary discipline results in students dropping out, not being college ready or not graduating on time, then certainly they will have a tougher time with employment and earning a living wage.”

<sup>24</sup> *Id.*

<sup>25</sup> *Id.* at 12.

out of high school.<sup>26</sup> The student stated that he was so discouraged that he completely disengaged from the education process.<sup>27</sup>

Academic failure and exclusion from the education system leaves young people on the outside of society, with little prospects of employment or legitimate activity. Intentional exclusion of students from the education process is particularly troubling when researchers suggest that for students who are academically struggling, missing as few as six days is an early warning sign that this student may be at risk for dropping out.<sup>28</sup> Evidence suggests that exclusionary discipline practices do not achieve the desired result of decreasing misbehavior, but rather have the effect of forcing the most vulnerable kids out of the academic progression and into adulthood with limited opportunities.<sup>29</sup>

Studies show that many students who are disengaged and disconnected from school become involved in delinquent activities bringing them in touch with the criminal justice system.<sup>30</sup> Studies also suggest that a single suspension can triple the likelihood of a young person coming in contact with the criminal justice system within a year.<sup>31</sup>

### *B. Excessive Policing in Schools*

Similar to exclusionary discipline practices, referral to law enforcement and involvement with the criminal justice system is a major disruption to

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<sup>26</sup> *Id.* at 7.

<sup>27</sup> *Id.*

<sup>28</sup> *Id.*

<sup>29</sup> *See generally id.*

<sup>30</sup> *See* AMANDA PETTERUTI, JUSTICE POLICY INST., EDUCATION UNDER ARREST: THE CASE AGAINST POLICE IN SCHOOL 24 (2011), *available at* [http://www.justicepolicy.org/uploads/justicepolicy/documents/educationunderarrest\\_fullreport.pdf](http://www.justicepolicy.org/uploads/justicepolicy/documents/educationunderarrest_fullreport.pdf).

<sup>31</sup> TONY FABELO ET AL., JUSTICE CTR. & PUB. POL'Y RES. INST., BREAKING SCHOOL RULES: A STATEWIDE STUDY OF HOW SCHOOL DISCIPLINE RELATES TO STUDENTS' SUCCESS AND JUVENILE JUSTICE INVOLVEMENT 70 (2011), *available at* [http://csgjusticecenter.org/wp-content/uploads/2012/08/Breaking\\_Schools\\_Rules\\_Report\\_Final.pdf](http://csgjusticecenter.org/wp-content/uploads/2012/08/Breaking_Schools_Rules_Report_Final.pdf).

the education process.<sup>32</sup> Nationally, the on-campus presence of sworn police officers known as School Resource Officers (SRO) grew in the 1990s as a response to school shootings, among other things.<sup>33</sup> The operational theory was that students and the SRO would establish a rapport and as a result, students would confide in the SRO about rumors of potential school violence or crime.

While the safety of many schools has undoubtedly improved because of uniformed police presence on campus,<sup>34</sup> some observers raise concerns that schools turn over issues to the SRO that would otherwise be handled by the school administration, thus funneling minor disciplinary matters into criminal justice matters.<sup>35</sup>

While the prevalence of SROs has declined this decade, the effects of their presence persist. The use of SROs declined due in part to the expense associated with hiring a commissioned officer, diminishing school budgets, and expired grants which underwrote the expansion of the program.<sup>36</sup> Nevertheless, the issue of school disciplinary matters escalating into criminal justice matters has been one of the unintended consequences of the SRO program.<sup>37</sup> Behaviors that were previously dealt with by school detention or a conversation with a school administrator are now being dealt

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<sup>32</sup> *See id.* at 22–24.

<sup>33</sup> PETERUTI, *supra* note 30, at 5.

<sup>34</sup> Curtis, *supra* note 10 at 1252.

<sup>35</sup> *See id.* SROs first and foremost answer to their police agency and second to the schools, and their authority to place a student under arrest for even minor misbehavior overrides the authority of school officials who may wish to seek alternative disciplinary actions. SROs have a dual role in schools, not only do they act as “trusted mentors,” they are police officers who investigate crimes. “For example, a student may think that she is talking with a mentor in the form of the SRO about an incident, but in reality she is talking to a police officer and what she is saying can later be used against her.” *Id.*

<sup>36</sup> *Id.*

<sup>37</sup> *Id.*

with as criminal offenses.<sup>38</sup> Arrests and criminal charges often result in expulsions and suspensions.<sup>39</sup>

Research indicates that SROs spend a majority of their time on law enforcement rather than preventive guidance.<sup>40</sup> Typically trained to address adult criminal behavior, police officers are not informed by extensive training in child development and psychology in their responses to student misbehavior.<sup>41</sup> Researchers observe that SROs that use a relational mentor-oriented approach are more effective in cultivating meaningful contact with students.<sup>42</sup> Experts recognize that in some cases, law enforcement presence serves to maintain a safe and orderly learning environment.<sup>43</sup> However, SROs should be required to receive training on developing adolescent social science to help officers carry out their roles in the school context. Currently, SROs receive limited training specific to the adolescent population. Reliance on untrained SROs to deal with school discipline leads not only to exclusionary discipline, but also to arrests.<sup>44</sup> The US Department of Education, Office of Civil Rights reports that in the 2012 school year, 260,000 students were referred to law enforcement by schools, and 92,000 students were subject to school-related arrests.<sup>45</sup> Yet, research shows that over half of the charges associated with these arrests were for “public order offenses such as ‘disorderly conduct,’ ‘disturbing a lawful assembly,’ and

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<sup>38</sup> *Id.*

<sup>39</sup> *Id.*

<sup>40</sup> ROBIN L. DAHLBERG, AM. CIVIL LIBERTIES UNION, ARRESTED FUTURES: THE CRIMINALIZATION OF SCHOOL DISCIPLINE IN MASSACHUSETTS’ THREE LARGEST SCHOOL DISTRICTS 10 (2012), available at [http://www.aclu.org/files/assets/maarrest\\_reportweb.pdf](http://www.aclu.org/files/assets/maarrest_reportweb.pdf).

<sup>41</sup> *Id.*

<sup>42</sup> *See id.*

<sup>43</sup> *Id.*

<sup>44</sup> *Id.*

<sup>45</sup> Gary Fields & John R. Emshwiller, *For More Teens, Arrests by Police Replace School Discipline*, WALL ST. J., Oct. 20, 2014, available at <http://csjjusticecenter.org/youth/media-clips/for-more-teens-arrests-by-police-replace-school-discipline/>.

‘violating codes of conduct,’ or assault-related charges stemming from school yard fights.’<sup>46</sup> Students who are arrested are three times more likely to drop out than their peers who are not arrested.<sup>47</sup>

Like school administrators and police officers, we as prosecutors must also recognize our role in over criminalizing youthful behavior. We must carefully assess each and every case that comes before us. We must utilize restraint in exercising our prosecutorial discretion lest we continue to act as a default system of school discipline.

Clearly, there is a need to refocus the work of SROs, school administrators, and criminal prosecutors on creating a safe and education-friendly environment, where normal adolescent behavior is not criminalized. If we are to make a change for our students and our communities, all of us involved in the criminal justice system must take the time to think critically about our role and how we contribute to the Pipeline.

### *C. Inadequate School Funding*

Inadequate education funding negatively impacts US students in much the same way as exclusionary and rigid discipline practices, all reinforcing the Pipeline.<sup>48</sup> Meaningful academic success that engages students with the education process and provides students with the skill to compete in the modern economy and successfully integrate into society depends on equitable access to education resources.<sup>49</sup> A review of the US K–12 education system, commissioned by the US Department of Education in 2013, concluded that the lack of adequate funding for schools reinforces deep inequities entrenched in the American education system and results in

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<sup>46</sup> DAHLBERG, *supra* note 40, at 9.

<sup>47</sup> *Id.* at 5.

<sup>48</sup> See generally Christopher Edley, Jr. & Mariano-Florentino Cuéllar, *Foreword to THE EQUITY AND EXCELLENCE COMM’N, FOR EACH AND EVERY CHILD: A STRATEGY FOR EDUCATION EQUITY AND EXCELLENCE* (2013), available at <http://www2.ed.gov/about/bdscomm/list/eec/equity-excellence-commission-report.pdf>.

<sup>49</sup> *Id.* at 17.

“disparities in student outcomes that are not only unfair, but socially and economically dangerous.”<sup>50</sup>

Contributing to the Pipeline are performance-based funding policies that incentivize schools to exclude bad actors or students that are academically challenged. The narrow focus on standardized testing disturbingly provides incentives for educators to push out problematic students who struggle to meet the standards of the education system.<sup>51</sup> Specifically, the enactment of the Elementary and Secondary Education Act (ESEA), also known as the No Child Left Behind Act (NCLB), has been linked to increased exclusionary discipline incidences.<sup>52</sup> Designed to hold schools accountable for student performance by focusing on students’ standardized test scores, ESEA punishes underperforming schools through financial sanctions.<sup>53</sup> However well-intentioned the Act may be, these sanctions and policies contribute to educational inequality and expansion of the Pipeline.<sup>54</sup>

Low-performing schools are particularly impacted by these inequitable policies. Many schools that cater to low-income communities and communities where students are facing significant challenges outside of school need additional funding to help students reach their full potential and to allow schools to meet their primary objective. The unintended impact of these regressive ESEA policies is that they provide incentives for low-performing schools “to meet benchmarks by narrowing curriculum and instruction and de-prioritizing the educational opportunities of many students.”<sup>55</sup> More disturbing, under enormous pressure to produce results, educators are incentivized to push struggling students out of their schools.

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<sup>50</sup> *Id.* at 9.

<sup>51</sup> Matt Cregor & Damon Hewitt, *Dismantling the School-to-Prison Pipeline: A Survey from the Field*, 20 POVERTY & RACE 5, 6 (2011).

<sup>52</sup> *Id.*

<sup>53</sup> ADVANCEMENT PROJECT ET AL., FED. POLICY, ESEA REAUTHORIZATION, AND THE SCHOOL-TO-PRISON PIPELINE 1 (2011), available at <http://www.indiana.edu/~atlantic/wp-content/uploads/2013/02/fpeseastp.pdf>.

<sup>54</sup> *Id.*

<sup>55</sup> *Id.*

As a result, these kids are pushed into the streets where they are apt to engage in behaviors that push them towards the criminal justice system.<sup>56</sup> Under these policies, schools across the United States force students to disengage from the education process or to enroll in General Educational Development (GED) programs as an alternative.<sup>57</sup>

In addition, the narrow focus on standardized testing in the US education curriculum has weakened the curricula within the United States.<sup>58</sup> Without the stimulation of more holistic, richer education, students increasingly disengage from the learning process.<sup>59</sup> Student disengagement fosters disruptive behavior in students themselves, and furthers reliance on exclusionary discipline and over reliance on law enforcement in school administrations.<sup>60</sup>

What is more, the ESEA contributes to the creation of barriers for excluded students seeking to re-enter the education process.<sup>61</sup> It is evident that the federal government has recognized the negative consequences of the incentives created by the ESEA sanctions and as a result has created waivers of ESEA requirements for states making strides in education reform.<sup>62</sup> Specifically, in September of 2011, the Obama Administration created ESEA waivers to provide State Education Agencies with:

flexibility regarding specific requirements of NCLB in exchange for college- and career-ready expectations for all students; differentiated accountability, including targeting the lowest-performing schools, schools with the largest achievement gaps, and other schools with performance challenges for subgroups; and

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<sup>56</sup> *Id.* at 3.

<sup>57</sup> *Id.*

<sup>58</sup> *Id.*

<sup>59</sup> *Id.*

<sup>60</sup> *Id.*

<sup>61</sup> *Id.*

<sup>62</sup> Press Release, U.S. Dep't of Educ., States Granted Waivers From No Child Left Behind Allowed to Reapply for Renewal for 2014 and 2015 School Years (Aug. 29, 2013), available at <http://www.ed.gov/news/press-releases/states-granted-waivers-no-child-left-behind-allowed-reapply-renewal-2014-and-2015>.

teacher and principal evaluation and support systems that take into account student growth and are used to help teachers and principals improve their practices.<sup>63</sup>

In order to gain a waiver or renew a waiver, states must demonstrate that they are:

- On track to meet current commitments and requirements under ESEA flexibility
- Have a plan for implementing ESEA flexibility through the 2015-2015 school year
- [Are m]eeting the high bar set to protect all students and support all teachers and principals under ESEA flexibility
- [Are i]dentifying schools and subgroups in need of ensuring they receive interventions and supports
- Have resolved any outstanding monitoring findings or compliance issues with ESEA flexibility or related programs.<sup>64</sup>

Today, 43 states and the District of Columbia have been granted NCLB waivers and will experience some relief from the pressure of producing results instead of providing at-risk, struggling students with an adequate education.<sup>65</sup> Unfortunately, Washington State is not among that number.<sup>66</sup> In April of 2014, the federal government revoked Washington's NCLB waiver, citing problems with Washington's teacher evaluation system as the

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<sup>63</sup> *Id.*

<sup>64</sup> *Id.*

<sup>65</sup> Allie Bidwell, *Education Department Drops New NCLB Waiver Guidance*, U.S. NEWS & WORLD REP. (Nov. 13, 2014, 5:37 PM), <http://www.usnews.com/news/articles/2014/11/13/education-department-drops-new-no-child-left-behind-waiver-guidance>.

<sup>66</sup> Niraj Chokshi, *Washington Becomes First State to Lose its Waiver from No Child Left Behind*, WASH. POST (Apr. 24, 2014), <http://www.washingtonpost.com/blogs/govbeat/wp/2014/04/24/washington-becomes-first-state-to-lose-its-waiver-from-no-child-left-behind/>.

reason for the revocation.<sup>67</sup> As a result, Washington educators are facing layoffs and cutbacks to programs that serve at-risk youth.<sup>68</sup> Until there are more substantive changes in federal policies, for now, educators in Washington will continue to face the disturbing incentive to push out low-performers.

The irony of Washington losing its waiver is that Article IX, section 1, of the Washington State Constitution has one of the strongest education provisions: “It is the paramount duty of the state to make ample provision for the education of all children residing within its borders.”<sup>69</sup>

While Washington has a constitutional mandate to provide ample funding for the education of all children residing within its borders, currently, Washington is not generating sufficient revenue to adequately fund K–12 education without cutting other critical state funded services.<sup>70</sup> During the period of 2009–2012, Washington fell to 28th out of 50 states in the nation for per-student funding.<sup>71</sup> Washington also fell to 46th out of 50 in per-person income contribution to public education, and Washington ranks in the bottom 20 percent for students entering post-high school education.<sup>72</sup> Furthermore, 54 percent of Washington’s high school graduates do not meet the core junior or technical college entry requirements.<sup>73</sup> These statistics are especially troubling when considering education’s power to increase public safety by decreasing the likelihood of incarceration during a person’s lifetime.<sup>74</sup>

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<sup>67</sup> *Id.*

<sup>68</sup> *Id.*

<sup>69</sup> WASH. CONST. art. IX, § 1.

<sup>70</sup> *See* McCleary v. State, 269 P.3d 227, 237 (Wash. 2012).

<sup>71</sup> MARK DIXON, U.S. CENSUS BUREAU, 2012 CENSUS OF GOVERNMENTS 11 (2014), available at <http://www2.census.gov/govs/school/12f33pub.pdf>.

<sup>72</sup> *Id.*

<sup>73</sup> *Id.*

<sup>74</sup> *See generally* HARLOW, *supra* note 3; *see generally* BILL CHRISTESON ET AL., FIGHT CRIME: INVEST IN KIDS, SCHOOL OR THE STREETS: CRIME AND ILLINOIS’S DROPOUT CRISIS (2008), available at <http://www.fightcrime.org/wp-content/uploads/sites/default/files/reports/fcik-dropout-il.pdf>.

However, all is not bleak. On January 5, 2012, the Washington State Supreme Court unanimously ruled in *McCleary v. State* that the legislature was in violation of Article IX, section 1 of the Washington State Constitution and must amply fund education of all K–12 students.<sup>75</sup> The court ordered the Legislature to fully fund K–12 public education by providing real and measurable appropriations that amply fund public education by the year 2018.<sup>76</sup>

The concerted efforts and strong partnerships modeled here is what is needed to eliminate the Pipeline, to provide each student with the educational tools necessary to reach their full potential, and to increase public safety in our state. The coalition for the Network for Excellence in Washington Schools—which includes 418 community groups, school districts, and education associations—filed the *McCleary* lawsuit on behalf of families and students in Washington.<sup>77</sup> Additional funding for teachers, training, academic materials, alternative programs, and more resources for dropout prevention programming would assist with putting a crimp in the Pipeline.

## II. THE IMPACT OF THE PIPELINE

The practices and policies that comprise the Pipeline disproportionately impact minority youth, youth with disabilities, youth with adverse child experiences, and youth from low-income households.<sup>78</sup> The policies and practices comprising the Pipeline have a significant and far-reaching impact on all aspects of our society. When accounting for lost wages, taxable income, healthcare, welfare, and incarceration costs, the financial cost of the

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<sup>75</sup> See *McCleary*, 269 P.3d at 261.

<sup>76</sup> *Id.*; HB 2776, 61st Leg., Reg. Sess. (Wash. 2010); E.S.H.B. 2261, 61st Leg., Reg. Sess. (Wash. 2009).

<sup>77</sup> *The Network for Excellence in Washington Schools (NEWS)*, NETWORK FOR EXCELLENCE IN WASH. SCH., <http://waschoolexcellence.org> (last visited May 25, 2015).

<sup>78</sup> See MOSEHAUER, *supra* note 17, at 26, 30.

Pipeline is estimated to be in the 300 billion dollar range.<sup>79</sup> The loss of economic opportunity associated with academic failure pushes many high school dropouts into a life of poverty and poor health, and contributes directly to delinquency and crime.<sup>80</sup> In fact, research shows that “10 percentage-point increases in graduation rates have historically been shown to reduce murder and assault rates by approximately 20 percent.”<sup>81</sup> Efforts to increase high school graduation rates and keep students within the protective power of the education system are well worth the time of not just educators and parents, but all community stakeholders—including agents of the criminal justice system—who are responsible for public safety.

However, while the Pipeline impacts our communities on the whole, the most vulnerable members of our communities experience the greatest losses.<sup>82</sup> For example, in Washington State alone, data received from 177 school districts indicates that in the 2009–2010 school year, African-American youth were 2.21 times more likely to be disciplined; Native Hawaiian/Pacific Islanders were 2.56 times more likely to be disciplined;

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<sup>79</sup> Claudio Sanchez & Linda Wertheimer, *School Dropout Rates Add to Fiscal Burden*. THE NAT'L PUB. RADIO (July 24, 2011, 8:00 AM), <http://www.npr.org/2011/07/24/138653393/school-dropout-rates-adds-to-fiscal-burden>. *see also* AM. PSYCHOL. ASS'N, *supra* note 4, at 7 (“It has been estimated that if dropouts from the Class of 2009 had graduated, the nation’s economy would benefit from nearly \$335 billion in additional income over the course of their lifetime (AEE, 2010)”); BRIDGELAND ET AL., *supra* note 2, at 2 (“High school dropouts on average, earn \$9,200 less per year than high school graduates, and about \$1 million less over a lifetime than college graduates . . . four out of every 10 young adults (ages 16-24) lacking a high school diploma received some type of government assistance in 2001, and a dropout is more than eight times as likely to be in jail or prison as a person with at least a high school diploma.”).

<sup>80</sup> BRIDGELAND ET AL., *supra* note 2, at 2; Becky Pettit & Bruce Western, *Imprisonment and the Life Course: Race and Inequality in U.S. Incarceration*, 69 AM. SOC. REV. 151, 153 (2004) (“Just as the social strain of economic disadvantage may push the poor into crime (Merton 1968; Cloward and Ohlin 1960), those with little schooling also experience frustration at blocked opportunities. . . . While a good proxy for economic status, school failure also contributes directly to delinquency.”).

<sup>81</sup> Bridge et al., *supra* note 8, at 3–4.

<sup>82</sup> *Id.*

Alaskan Indian/Alaskan Natives were 2.29 times more likely to be disciplined; and Hispanic/Latinos were 1.36 times more likely to be disciplined than white youth.<sup>83</sup> Washington studies also show that minority students are twice as likely to be excluded from school in comparison to their white youth.<sup>84</sup> Across the United States, African-American students are expelled at a rate three times greater than white students, and students with disabilities are more than twice as likely to receive an out-of-school suspension than students without disabilities.<sup>85</sup>

Additionally, while low income-students represent 47 percent of the total student population in Washington State, they account for 58 percent of the discipline incidents.<sup>86</sup> This is especially concerning when considering that a recent study by the American Institute of Research reports that in 2013, nearly 2.5 million children in US public schools experienced homelessness.<sup>87</sup> Time and time again, it appears that students who start out with fewer resources and with fewer opportunities have greater challenges to overcome. However, these students are further disadvantaged by the Pipeline. As a community, we can do better if we work together to eliminate the Pipeline.

### III. PUTTING A CRIMP IN THE SCHOOL-TO-PRISON PIPELINE

We are now faced with the fact that tomorrow is today. We are confronted with the fierce urgency of now. In this unfolding conundrum of life and history, there “is” such a thing as being too late. This is no time for apathy or complacency. This is a time for vigorous and positive action.

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<sup>83</sup> MOSEHAUER ET AL., *supra* note 17, at 26.

<sup>84</sup> *Id.*

<sup>85</sup> U.S. DEP’T OF EDUC. OFFICE FOR CIVIL RIGHTS, CIVIL RIGHTS DATA COLLECTION (2014), *available at* <http://www2.ed.gov/about/offices/list/ocr/docs/crdc-discipline-snapshot.pdf>.

<sup>86</sup> MOSEHAUER ET AL., *supra* note 17, at 30.

<sup>87</sup> ELLEN L. BASSUK ET AL., AM. INST. RESEARCH, AMERICAS YOUNGEST OUTCASTS 6 (2014), *available at* <http://www.homelesschildrenamerica.org/mediadocs/280.pdf>.

— Martin Luther King Jr.<sup>88</sup>

Widespread recognition of the existence of the Pipeline and its devastating effects has ignited a movement for change across the nation. Our communities in Washington are no exception. Parents, teachers, students, advocates, and a multitude of stakeholders are working together to keep Washington's children in schools, out of prisons, and on a path to a successful life.<sup>89</sup> Some have been ringing the alarm for years, while others are just joining the movement. We, at the King County Prosecutor's Office, have heard the alarm and we are ready to respond. While we are encouraged that we are not alone in this fight—that we are joining stakeholders and prosecutors who have already begun to work toward change—we recognize there is much work to be done. For those colleagues that have not joined the movement to eliminate the Pipeline, we invite you to join in the work for the future of our children.

As reformers, advocates, and stakeholders embark on the task of dismantling the Pipeline, it is the belief of our office that it is important to recognize that the Pipeline is an unintended consequence of policies established by the good intentions of those seeking to address school violence and create a safer school environment. In order to avoid the same pitfalls in future education reform, it is critical for reformers to rely on evidence-based solutions and practices that effectively hold students accountable, yet protect them from harm while doing so. Reformers must address the risks students pose to themselves and public safety, while providing an education that gives students the knowledge and life skills

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<sup>88</sup> *The Martin Luther King, Jr. Research and Education Institute*, STAN. UNIV., <https://kinginstitute.stanford.edu/king-papers/documents/beyond-vietnam> (last visited May 25, 2015).

<sup>89</sup> Brynn Grimley, *Tacoma Schools Announce Record Percentage of Students Receiving Diplomas in 2014*, THE NEWS TRIB., Dec. 2, 2014, <http://www.thenewstribune.com/2014/12/02/3520505/tacoma-schools-announce-record.html?rh=1>.

necessary to successfully transition into adulthood.<sup>90</sup> In these efforts, reformers should look to practices and programs that have been tested and assessed for effectiveness by scientific principles or practices that show great promise.<sup>91</sup>

#### *A. Evidence-Based Practices*

The science behind practices that best support the transition of young people from the education system to successful adulthood continually point to community-wide collaboration of cross-sector partners to engage young people in the education process.<sup>92</sup> Social science researchers conclude that “[c]ommunity involvement, investment, and ownership of tested and effective prevention and youth development interventions will generate *sustainable* local preventative interventions that work . . . [to] promote behavioral health and successful development of all . . . children.”<sup>93</sup> Stakeholders must work together to build a framework of mutually

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<sup>90</sup> STEPHEN PHILLIPPI & DEBRA DEPRATO, MODELS FOR CHANGE: SYSTEMS REFORM IN JUVENILE JUSTICE, MODEL FOR EFFECTIVE IMPLEMENTATION OF EVIDENCE-BASED PRACTICES 4 (2013), available at <http://www.modelsforchange.net/publications/494>.

<sup>91</sup> PETER W. GREENWOOD ET AL., ASS’N FOR THE ADVANCEMENT OF EVIDENCE-BASED PRAC., IMPLEMENTING PROVEN PROGRAMS FOR JUVENILE OFFENDERS 4 (2012), available at <http://www.advancingebp.org/wp-content/uploads/2012/01/AEBP-assessment.pdf> (“Evidence-based practice involves the use of scientific principles to assess the available evidence on program effectiveness and develop principles for best practice in any particular field. In delinquency prevention or intervention this includes: assessment of community and individual client needs; review and assessment of programs that could meet those needs; development and/or implementation of new programs; assignment of youth to particular programs; and monitoring of program fidelity and outcomes.”).

<sup>92</sup> J. David Hawkins et al., *Taking Effective Crime Prevention to Scale*, in THE FUTURE OF CRIMINOLOGY 178, 183 (Rolf Loeber & Brandon C. Welsh eds., 2012).

<sup>93</sup> *Id.*; see also Ross Homel & Tara Renae McGee, *Community Approaches to Preventing Crime and Violence*, in THE FUTURE OF CRIMINOLOGY 172, 174 (Rolf Loeber & Brandon C. Welsh eds., 2012) (“[agencies] need ideally to operate within a framework of integrated or collaborative practice, characterized by a blurring of the boundaries between organizations and by harmonious, mutually supportive practices in families, schools, community agencies, and other key settings.”).

supportive practices that will reduce the risk factors that lead to educational disengagement.<sup>94</sup>

Research indicates that “feeling connected to one’s school during adolescence promotes concurrent and long-term positive youth development . . . including fewer behavioral problems,” and that young people spend a majority of their time in school, system reformers should turn their efforts to school connectedness and engagement in fighting the Pipeline.<sup>95</sup> Studies show that young people who feel connected to their school are less likely to engage in delinquent behavior and are more likely to graduate from high school.<sup>96</sup>

Further studies suggest that school connectedness can “help promote positive development even in the face of other life stressors.”<sup>97</sup> For example, studies show that low-quality relationships with parents in early adolescence correlate with poor behavior.<sup>98</sup> However, those studies also show that youth with low-quality relationships with their parents but high levels of school connectedness do not exhibit similar subsequent behavior problems.<sup>99</sup> This indicates that school connectedness and engagement can act “as a buffer” against outside risk.<sup>100</sup> In light of the fact that the Pipeline disproportionately impacts young people and contributes to adverse childhood experiences, the “buffer” created by school connectedness is a powerful protective measure and a critical focus point for reform.<sup>101</sup>

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<sup>94</sup> See Hawkins et al., *supra* note 92, at 179.

<sup>95</sup> Kathryn C. Monahan et al., *Predictors and Consequences of School Connectedness: The Case for Prevention*, 17 THE PREVENTION RES. 3, 3 (2010) (Generally, school connectedness refers to an “attachment, characterized by close affective relationships with those at school and a commitment, characterized by an investment in school.”).

<sup>96</sup> *Id.*

<sup>97</sup> *Id.* at 4.

<sup>98</sup> *Id.*

<sup>99</sup> *Id.*

<sup>100</sup> *Id.*

<sup>101</sup> *See id.*

*B. Evidence-Based Practices*

Recognizing the protective power of meaningful engagement with the education system, policy makers and key stakeholders have turned to social scientists and researchers to identify the most effective means of increasing school connectedness and reducing adolescent delinquency. In August of 2014, the US Department of Justice, Office of Juvenile Justice and Delinquency Prevention, released a report indicating that only three school-based prevention programs had demonstrated that they had an effective impact on reducing offending behavior in early adulthood.<sup>102</sup> Those three programs included: The Seattle Social Development Project, the Montreal Longitudinal-Experimental Study, and the Good Behavior Game.<sup>103</sup> The common thread between all three programs is skills training, not just for students, but for parents and teachers as well.<sup>104</sup> The results from all three of the programs were based on longitudinal research that looked at the efficacy of practices in sample populations of children over the course of several decades.<sup>105</sup> All three studies reported that teaching children social skills, positive problem solving, and self-control had a positive effect on school connectedness, academic success, and delinquency prevention.<sup>106</sup> Additionally, the Seattle Social Development Project and the Montreal Longitudinal-Experimental Study both reported that training parents and teachers on child management instruction “designed to increase children’s attachment to parents and their bonding to school” significantly reduced youth involvement in at-risk behaviors.<sup>107</sup>

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<sup>102</sup> WILLIAM J. SABOL & ROBERT L. LISTENBEE, U.S. DEP’T OF JUSTICE: OFFICE OF JUSTICE PROGRAMS & JUSTICE RESEARCH, CHANGING LIVES: PREVENTION AND INTERVENTION TO REDUCE SERIOUS OFFENDING 3 (2014), *available at* <https://ncjrs.gov/pdffiles1/nij/243993.pdf>.

<sup>103</sup> *Id.*

<sup>104</sup> *See id.*

<sup>105</sup> *See id.*

<sup>106</sup> *Id.*

<sup>107</sup> *See id.*

With regard to classroom management and the school environment, researchers identify specific characteristics that have been shown to increase school connectedness.<sup>108</sup> Included in the list are the following: tolerant disciplinary practices; a physically safe environment that fosters positive and respectful adult student relationships; high academic standards coupled with positive classroom management; strong teacher support; and involvement in extracurricular activities.<sup>109</sup> Cross-sector community wide involvement is critical to the development of these characteristics within the education system.

Community involvement in education reform is particularly invaluable because research clearly indicates that at-risk youth, minority youth, youth in poverty, and youth with disabilities are disproportionately impacted by the Pipeline. Realistically, the education system cannot provide for all of the obstacles students face outside of the schoolhouse. For example, in a low-income, uninsured household, even something as simple as a need for eyeglasses can significantly impact the educational experience of a child with impaired vision.<sup>110</sup> Where a school may be able to identify but not meet the child's vision needs, organizations such as Sight for Students—that provides free vision exams and glasses to low-income, uninsured children—can meet the need of that child and support his or her educational success.<sup>111</sup> In situations such as this, the school becomes more than just an academic learning center but a critical juncture in childhood development where needs and risk factors can be identified and met with support.<sup>112</sup>

More often than impaired vision needs, research shows that at-risk children experiencing strong, frequent, or prolonged adversity “such as

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<sup>108</sup> Monahan et al., *supra* note 95, at 4.

<sup>109</sup> *Id.*

<sup>110</sup> See generally *Sight for Students*, VISION SERV. PLAN PROGRAM, <http://www.sightforstudents.org/> (last visited Feb. 26, 2015).

<sup>111</sup> *Id.*

<sup>112</sup> See generally *Every Child Cradle to Career*, STRIVE TOGETHER, <http://www.strivetogether.org/vision-roadmap> (last visited Jun. 9, 2015).

physical or emotional abuse, chronic neglect, caregiver substance abuse or mental illness, exposure to violence, and/or the accumulated burdens of family economic hardship—without adequate adult support,<sup>113</sup> can develop stress that some social scientists term, “toxic stress” because it causes disruptive behavioral responses in the student.<sup>114</sup> Toxic stress impacts the child’s behavior and overall health—it can derail healthy development and affect a child’s ability to learn.<sup>115</sup>

Recent decades of physiological, psychological, and imaging studies of neuro-function indicate that early effects of stress can have a powerful impact on brain development and function in early childhood and adolescence—functions that dictate emotional responses or social interaction.<sup>116</sup> Studies show that stress associated with childhood sexual abuse is linked to a reduction in hippocampus and amygdale volume, “leading to mood disturbance and impaired memory.”<sup>117</sup> The studies’ findings indicate that chronic exposure to poverty is linked with a reduction in volume of the prefrontal cortex, which leads to impaired executive function.<sup>118</sup>

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<sup>113</sup> *Key Concepts: Toxic Stress, Center on the Developing Child*, HARV. UNIV., [http://developingchild.harvard.edu/key\\_concepts/toxic\\_stress\\_response/](http://developingchild.harvard.edu/key_concepts/toxic_stress_response/) (last visited Mar. 27, 2015).

<sup>114</sup> Frederick P. Rivara, *The Future of Preventive Public Health: Implications of Brain Violence Research*, in *THE FUTURE OF CRIMINOLOGY* 160 (Rolf Loeber & Brandon C. Welsh eds., 2012); see also *Injury Prevention & Control: Division of Violence Prevention*, CTRS. FOR DISEASE CONTROL AND PREVENTION (May 13, 2014), <http://www.cdc.gov/violenceprevention/acestudy/>.

<sup>115</sup> *Key Concepts*, *supra* note 113.

<sup>116</sup> Rivara, *supra* note 114, at 160; *Injury Prevention & Control*, *supra* note 114.

<sup>117</sup> *Id.*

<sup>118</sup> *Id.*; *Key Concepts: Executive Function, Center on the Developing Child*, HARV. UNIV., [http://developingchild.harvard.edu/key\\_concepts/executive\\_function/](http://developingchild.harvard.edu/key_concepts/executive_function/) (last visited Mar. 27, 2015) (“Executive function and self regulation skills are the mental processes that enable us to plan, focus attention, remember instructions, and juggle multiple tasks successfully. Just as an air traffic control system at a busy airport safely manages the arrivals and departures of many aircraft on multiple runways, the brain needs this skill set to filter distractions, prioritize tasks, set and achieve goals, and control impulses.”).

Young people facing these challenges may struggle with emotional responses, social interaction, and may act out.<sup>119</sup> Research clearly indicates that exclusionary discipline practices in response to these behaviors only serve to further alienate these young people from the education system, thereby placing them at greater risk of becoming involved with the criminal justice system.<sup>120</sup> Instead, parents, educators, and criminal justice actors need the support of a multitude of community partners representing various cross-sectors.<sup>121</sup> There is a new trend in American communities—from health care to business leaders—community partners banding together in order to engage youth in the protective power of education and ensure that youth transition to a successful adulthood where they can actualize their dreams and contribute to their communities.<sup>122</sup>

Time and time again, practice and evidence indicates that meeting the needs of children and youth in the educational setting, as well as in the community setting, is substantially more cost-effective than addressing their issues once they come into contact with the criminal justice system.<sup>123</sup>

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<sup>119</sup> Rivera *supra* note 114 at 160–161. “Natural experiments in the United States, such as development of new sources of revenue for impoverished communities, demonstrate that addressing widespread poverty decreases the risk of mental, emotional, and behavioral disorders in children.”

<sup>120</sup> See generally KATIE MOSEHAUER ET AL., *supra* note 17, at 11 (While it is difficult to measure emotional connectedness to the school process, researchers and stakeholders repeatedly identify “decreased psychological engagement as a particularly concerning impact of suspensions and expulsions.”).

<sup>121</sup> Rivara, *supra* note 114, at 161 (“Future public health efforts to prevent violence at the population level must start early with prevention of toxic stress to this large group of children. The persistent social class disparities in health and educational achievement, as well as crime and violence, among individuals of different race/ethnicities and socioeconomic backgrounds have their roots in the exposure of past generations to disparate levels of adverse environmental exposures.”).

<sup>122</sup> *The StriveTogether Theory of Action*, STRIVETOGETHER, <http://www.strivetogether.org/vision/quality-collective-impact-collaboration> (last visited Feb. 26, 2015).

<sup>123</sup> See STEVE AOS ET AL., WASH. ST. INST. FOR PUB. POLICY, EVIDENCE-BASED PUBLIC POLICY OPTIONS TO REDUCE FUTURE PRISON CONSTRUCTION, CRIMINAL JUSTICE COSTS, AND CRIME RATES 2 (2006), available at [http://www.wsipp.wa.gov/ReportFile/952/Wsipp\\_Evidence-Based-Public-Policy-](http://www.wsipp.wa.gov/ReportFile/952/Wsipp_Evidence-Based-Public-Policy-)

Besides relying on established evidence-based practices recommended by researchers and advocates, education reformers must ensure that these practices are implemented in a manner that maintains the fidelity of the evidence-based practice. Research shows that evidence-based approaches are more effective when “accompanied by implementation and capacity based supports.”<sup>124</sup>

There is good news. Through the tireless efforts of reformers, academics, social scientists, and advocates, public awareness of the Pipeline and its effects has grown. Communities are looking for effective changes. Increasingly, cross-sector community stakeholders—concerned with the wide-spread and devastating impact of the Pipeline—are joining together and utilizing evidence-based practices to engage our young people and support them “from cradle to career.”<sup>125</sup>

#### *B. Successful Programs in Washington State*

Our students, parents, and educators face a multitude of challenges in their efforts to create a meaningful educational experience—to reform the policies and practices that contribute to the Pipeline phenomenon. Despite these challenges, communities across the country are beginning to see change in the education system. While there are those today who have yet to acknowledge the existence of the Pipeline, there are also those who have been working tirelessly to make a difference, and some are beginning to see success. In this struggle for change, we must take note of and recognize educators, reformers, and stakeholders who are making a difference.

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Options-to-Reduce-Future-Prison-Construction-Criminal-Justice-Costs-and-Crime-Rates\_Full-Report.pdf.

<sup>124</sup> M. Rebecca Kilburn et al., *Realizing the Potential of ‘My Brother’s Keeper’*, RAND BLOG (Mar. 2014), <http://www.rand.org/blog/2014/03/realizing-the-potential-of-my-brothers-keeper.html>.

<sup>125</sup> *The StriveTogether Theory of Action*, *supra* note 122.

## 1. The Collective Impact Approach in Washington State

In Washington State, some communities are experiencing success with re-engaging students in the education process and addressing the Pipeline through a collective impact approach.<sup>126</sup> These communities and organizations bring together cross-sector partners, align existing resources, set goals for education success, assign measures of success, and apply evidence-based practices to achieve those goals.<sup>127</sup> Collective impact organizations are a part of a national movement and belong to a national network, StriveTogether.<sup>128</sup> Members of StriveTogether share a commitment to the following goals:

- Improving and reporting on a core set of academic outcomes: Kindergarten readiness, early grade reading, middle grade math, high school graduation, post-secondary enrollment and post-secondary degree completion.

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<sup>126</sup> See, e.g., *id.* StriveTogether’s “nationally-recognized collective impact approach . . . enables communities to create local education ecosystems to support children and youth from cradle to career.” *Id.* “[It] helps local partnerships build and sustain civic infrastructure by engaging the community, eliminating disparities, focusing on continuous improvement and aligning existing resources.” *The StriveTogether Quality Approach*, STRIVETOGETHER, <http://www.strivetogether.org/node/402> (last visited May 4, 2015); see also *Project Overview*, THE ROADMAP PROJECT, <http://www.roadmapproject.org/the-project/project-overview/> (last visited Feb. 26, 2015) (“The Road Map Project is a community-wide effort aimed at improving education to drive dramatic improvement in student achievement from cradle to college and career in South King County and South Seattle.”). Another notable program, Eastside Pathways, “mobilizes our entire community to support every child step by step, from cradle to career.” *Vision, Mission, Values, & Goals*, EASTSIDE PATHWAYS, <http://eastsidepathways.org/values/> (last visited May 4, 2015). Eastside Pathways is “a partnership that includes the school district, city, and over 45 community organizations [and their] work is data driven.” *Home Page*, EASTSIDE PATHWAYS, <http://eastsidepathways.org/> (last visited May 4, 2015).

<sup>127</sup> *Id.*

<sup>128</sup> *Collective Impact*, STRIVETOGETHER, <http://www.strivetogether.org/vision/quality-collective-impact-collaboration> (last visited Feb. 26, 2015).

- Building cross-sector partnerships with early childhood, K-12, higher education, community-based organizations, business, government and philanthropy[.]
- Developing and sustaining cradle to career civic infrastructure by implementing a data-driven, quality approach to collective impact[.]<sup>129</sup>

In Washington, at least four organizations belong to the StriveTogether Network.<sup>130</sup> For example, in South King County, the Road Map Project is a StriveTogether organization implementing the collective impact approach.<sup>131</sup>

Formed in 2010, the Road Map Project is “a community-wide effort aimed at improving education to drive dramatic improvement in student achievement from cradle to college and career in South King County and South Seattle.”<sup>132</sup> Located in a region that is home to 71 percent of King County’s low-income students, 73 percent of King County’s English Language Learner students, and 60 percent of King County’s students of color, The Road Map Project is deeply committed to closing the “opportunity and achievement gaps for low-income students and children of color, and increasing achievement for all students[.]”<sup>133</sup>

Project partners operate with urgency and with the understanding that wide-scale reform requires collective community effort.<sup>134</sup> Developed by researchers at the Stanford Social Innovation Review, this collective approach theory rests on the idea that agencies and stakeholders working in

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<sup>129</sup> *Cradle to Career Network*, STRIVETOGETHER, <http://www.strivetogether.org/cradle-career-network> (last visited May 4, 2015).

<sup>130</sup> *Id.* Specific Washington programs include the following: Eastside Pathways (Bellevue), Excelerate Success (Spokane County), Graduate! Tacoma (Tacoma), The Road Map Project (South Seattle). *Id.*

<sup>131</sup> See *Project Overview*, *supra* note 126.

<sup>132</sup> *Id.*

<sup>133</sup> *Project Approach*, ROAD MAP PROJECT, <http://www.roadmapproject.org/the-project/our-approach/> (last visited Feb. 26, 2015).

<sup>134</sup> *Id.*

isolation are unable to achieve tangible education reform.<sup>135</sup> The Road Map Project partners are working to double the number of students in South King County who graduate from high school, earn a college degree, or earn career credentials by the year 2020.<sup>136</sup> Currently, The Road Map Project is serving 48.7 percent of King County students, and partners with seven King County School Districts as well as a multitude of community stakeholders.<sup>137</sup>

The Road Map Project is taking a four-step approach to achieving its goal of improving student success: (1) alignment, (2) parent and community engagement, (3) power data, and (4) stronger systems.<sup>138</sup> For Project leaders, alignment entails building strategic and influential partnerships by bringing together various sectors of the community (education, funders, youth development organizations, libraries, public health agencies, housing agencies, and juvenile justice reforms).<sup>139</sup> The Road Map Project provides support and education for parents, “in their role as their child’s first teacher,” so that parents can become strong advocates for their child.<sup>140</sup> Using this approach, The Road Map Project partners rely on the power of data—the latest research on the most effective methods that result in success.<sup>141</sup> According to current research, parent engagement is critical to student success.<sup>142</sup>

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<sup>135</sup> *Id.*

<sup>136</sup> *See id.*

<sup>137</sup> *Our Region*, THE ROADMAP PROJECT, <http://www.roadmapproject.org/the-project/our-region/> (last visited Feb. 26, 2015).

<sup>138</sup> *See Project Approach*, *supra* note 133. Road Map Partners include: Bill and Melinda Gates Foundation; Ballmer Family Giving; The Boeing Company; College Spark; Microsoft; Raikes Foundation; Social Venture Partners; The Seattle Foundation; Washington Women’s Foundation; Auburn School District; Federal Way Public Schools; Highline Public Schools; Kent Schools; Renton School District; South Seattle Public Schools; Tukwila School District; as well as other private members of the community.

<sup>139</sup> *Id.*

<sup>140</sup> *Id.*

<sup>141</sup> *Id.*

<sup>142</sup> *Id.*

Project members also utilize “power data” to create systemic change that is founded on the widespread implementation of effective practices.<sup>143</sup> While assessment of The Road Map Project successes just began in 2014, the very fact that communities are not only recognizing the serious problems facing our students, but are willing to exert significant effort to make a change to stop the Pipeline, demonstrates its success.

## 2. Highline School District

Our Promise: every student in Highline Public Schools is known by name, strength, and need, and graduates ready for college, career, and citizenship.

–2013–2017 Strategic Plan for Highline Public Schools<sup>144</sup>

Administrators at South King County’s Highline School District, a partner of The Road Map Project, have recognized the devastating impact of exclusionary discipline on students and are determined to make a change.<sup>145</sup> For starters, administrators in Highline schools are determined to get as close as possible to eliminating out-of-school suspensions by the year 2015.<sup>146</sup> According to Catherine Carbone, Chief Communications Officer for the Highline School District, the District recognizes that exclusionary discipline is robbing students of learning time and places students in a “hole they cannot get out of.”<sup>147</sup> In Highline schools, administrators and educators are committed to ensuring their students are not robbed of education but guided to a path of success.<sup>148</sup> To that effect, administrators have developed

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<sup>143</sup> *Id.*

<sup>144</sup> 2013–2017 STRATEGIC PLAN, HIGHLINE PUB. SCH. 2 (2013), *available at* <http://www.e-digitaleditions.com/i/169194/18> (emphasis omitted).

<sup>145</sup> Interview with Catherine Carbone, Chief Communications Officer for the Highline School District, and Diana Garcia, Middle School Planning Principal for the Highline School District, at the Highline School District Offices in Burien, Wash. (Dec. 5, 2014) [hereinafter Interview with Carbone & Garcia].

<sup>146</sup> *Id.*

<sup>147</sup> *Id.*

<sup>148</sup> *Id.*

a strategic plan to bring about policy, culture, and practice changes in Highline schools that will allow the diverse population of their students to achieve their full potential.<sup>149</sup>

The Highline School District strategic plan for the success of all of its students rests on four pillars: (1) equitable access to rigorous, standards-based instruction, (2) results focused professional learning and collaboration, (3) strong partnerships with families and community, and (4) culturally responsible organization.<sup>150</sup> These foundational pillars are critical to Highline educators, who work tirelessly for the success of a diverse student body.<sup>151</sup>

Collectively, Highline students speak well over 100 languages and some students have spent most of their life in refugee camps without the benefit of a formal education.<sup>152</sup> Students are coming into these schools at varying levels in their educational progression and Highline educators are utilizing the four pillars of the Highline strategic plan to meet students where they are and to achieve optimal success.<sup>153</sup> For example, Highline educators greet each student by name each class period.<sup>154</sup> Educators are encouraged not only to get to know each of their students, but to demonstrate to the students that they are known, they are valued, and they are a part of the school community.<sup>155</sup>

As part of this new approach of getting to know each student and addressing their needs, the Highline School District has initiated a complete overhaul of its exclusionary discipline system and has implemented a more positive approach to school discipline that does not compromise class

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<sup>149</sup> *Id.*

<sup>150</sup> 2013–2017 STRATEGIC PLAN, *supra* note 144, at 3.

<sup>151</sup> *Id.*

<sup>152</sup> Interview with Carbone & Garcia, *supra* note 145.

<sup>153</sup> *Id.*

<sup>154</sup> *Id.*

<sup>155</sup> *Id.*

time.<sup>156</sup> Out-of-school suspensions are now a tool of last resort.<sup>157</sup> At Highline schools, the result of ordinary adolescent “defiance” is not to be dealt with by depriving the student of much needed class time.<sup>158</sup> Instead, teachers are trained to recognize defiant behavior and utilize it “to get underneath and see what is really bothering” a student.<sup>159</sup> Teachers are trained that as adults, they must take on the responsibility of getting to know the student and of identifying the reason for the student’s defiant behavior.<sup>160</sup> Teachers are encouraged to seek alternative responses to classroom misconduct.<sup>161</sup> They are also encouraged to assess whether discipline can be handled in the classroom setting, as it is the goal to keep each student on a path of educational progression.<sup>162</sup>

In implementing this new response to student behavior, Highline has also embraced the Positive Behavior Interventions and Supports (PBIS) approach.<sup>163</sup> The PBIS model is one where “staff teach, model, and acknowledge positive behavior expectations.”<sup>164</sup> Throughout the year, students are taught behavior expectations in different aspects of school life.<sup>165</sup> Students struggling to learn the behavior expectations are “provided additional instruction in small groups or on an individual basis.”<sup>166</sup>

As well as greater efforts to understand and address misconduct in classrooms, Highline schools are replacing out-of-school suspension with in-school suspensions.<sup>167</sup> At Highline, in-school suspensions mean that

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<sup>156</sup> *Id.*

<sup>157</sup> *Id.*

<sup>158</sup> *Id.*

<sup>159</sup> *Id.*

<sup>160</sup> *Id.*

<sup>161</sup> *Id.*

<sup>162</sup> *Id.*

<sup>163</sup> See *PBIS Overview*, HIGHLINE PUB. SCH., <http://www.highlineschools.org/Page/345> (last visited Feb. 26, 2015).

<sup>164</sup> *Id.*

<sup>165</sup> *Id.*

<sup>166</sup> *Id.*

<sup>167</sup> Interview with Carbone & Garcia, *supra* note 145.

educators can limit a student's disruption to the entire class and the suspended student can continue their classwork in a more focused environment.<sup>168</sup> Named the Cascade Academy, in-school suspension is essentially a classroom, typically run by a certified teacher who supervises students and assists them in staying on track with their classwork.<sup>169</sup> Teachers across the district submit their lesson plans online, providing access to class material for students who are not physically present in the class but rather admitted to the Cascade Academy.<sup>170</sup> In some Highline schools, students are equipped with electronic tablets that function solely to allow student access to class material, thereby providing students with further opportunities to stay on track with their classwork.<sup>171</sup>

While there are challenges, Highline administrators are already seeing positive responses to Cascade Academy from both students and teachers.<sup>172</sup> Diana Garcia, a middle school principal who piloted Cascade Academy last year, shared how teachers are exhibiting a renewed effort to keep students on track.<sup>173</sup> For example, Ms. Garcia shared several stories of teachers who have referred students to in-school suspension, and have subsequently requested to pull those students out for certain projects that students are unable to complete at the Cascade Academy and are simply too difficult to make up later.<sup>174</sup>

Instead of removing students from the education process, which causes students to feel disconnected from the school community, Cascade Academy aims to keep students on track and to refocus students who misbehave.<sup>175</sup> Cascade Academy students see themselves differently; they

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<sup>168</sup> *Id.*

<sup>169</sup> *Id.*

<sup>170</sup> *Id.*

<sup>171</sup> *Id.*

<sup>172</sup> *Id.*

<sup>173</sup> *Id.*

<sup>174</sup> *Id.*

<sup>175</sup> *Id.*

feel connected to the school community.<sup>176</sup> This is no small accomplishment when you consider that experts identify school connectedness as a key component to student success and the reduction of risk factors.<sup>177</sup> Ms. Garcia also shared stories of Cascade Academy students who routinely received out-of-school suspensions as students and are now in a transformative pattern of developing their own academic life that helps them feel valued as a student.<sup>178</sup> Students have told Ms. Garcia, “I feel capable; I see myself as a student; I see a difference in how people treat me. People respect me.”<sup>179</sup> This change would not have been possible without the renewed focus of ensuring that each student is given the attention necessary to engage him or her in the education process.<sup>180</sup>

Without a doubt, the work of Highline School District administrators to eliminate the exclusion of young people from the education process is encouraging and commendable. While time will tell which methods are most effective, the fact remains that educators in this district have recognized that there is a problem, that the Pipeline needs to be addressed, and are committed to directing available resources to effective methods of change for the future of the students in our communities. Unbeknownst to the Highline leadership, their efforts to keep students in school is promoting what we believe is one of the smartest crime prevention measures. Similar efforts to keep students in school are also happening in other parts of our state.

### **3. Lincoln High School, Walla Walla, WA**

A newfound understanding of the stressors and challenges young people carry with them into the school house each day also led Lincoln High School administrators in Walla Walla, Washington to make changes in their

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<sup>176</sup> *Id.*

<sup>177</sup> *Id.*

<sup>178</sup> *Id.*

<sup>179</sup> *Id.*

<sup>180</sup> *Id.*

discipline practices.<sup>181</sup> Those changes have had a drastic impact on the students, the staff, and the school as a whole. For starters, in just one school year, Lincoln High saw a remarkable reduction in the number of days students spent in out-of-school suspensions, from 798 days in 2009–2011 to 135 days in 2010–2011.<sup>182</sup>

The new approach to discipline practices at Lincoln High School is inspired by evidence-based research on the human brain.<sup>183</sup> After 25 years in education, Principal Jim Sporleder learned of toxic stress and its effects on human brain development.<sup>184</sup> After learning that toxic stress can disrupt brain development and is associated with cognitive impairment, it became clear to Sporleder that science did not support a strictly punitive approach to school discipline and his school needed a change.<sup>185</sup>

Soon thereafter, Sporleder, in partnership with the science community, implemented a new innovative training for teachers and staff.<sup>186</sup> With training, Lincoln High School teachers and staff came to better understand the responses and behaviors of their students.<sup>187</sup> Lincoln High teachers and staff have come to understand the behaviors of some of their students through learning that students with toxic stress and students dealing with complex trauma are constantly combating “flight, fight, or freeze mode” reactions to stressful occurrences.<sup>188</sup> These students can become easily overwhelmed, often responding by exploding in rage. Teachers and staff began to realize that the trauma informed actions of some of their students should not be taken personally.<sup>189</sup> Rather, Lincoln High teachers and staff

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<sup>181</sup> Stevens, *supra* note 14.

<sup>182</sup> *Id.*

<sup>183</sup> *Id.*

<sup>184</sup> *Id.*

<sup>185</sup> *Id.*

<sup>186</sup> *Id.*

<sup>187</sup> *Id.*

<sup>188</sup> *Id.*

<sup>189</sup> *Id.*

recognized that the student having an angry outburst might be a student in need of their help.<sup>190</sup>

Among a multitude of students whose lives have been changed at Lincoln High School is sixteen-year-old Aron Wulf.<sup>191</sup> Aron transferred to Lincoln High as a withdrawn teen who had disengaged from the education process.<sup>192</sup> Aron grew up with a verbally abusive father and a withdrawn, depressed mother.<sup>193</sup> When speaking of Lincoln High, Aron shared: “[Lincoln High] was the first time I ever felt that somebody actually cared to hear my story, to know how I was feeling. My own teachers understand me better than my mom does.”<sup>194</sup> Today, Aron is no longer a withdrawn teen. Instead, he is active in his high school drama courses and sees a bright future ahead.<sup>195</sup>

Our children are in need of meaningful educational opportunities. Whether in Walla Walla or here in King County, school administrators, educators, parents, and communities are beginning to understand the Pipeline and are using evidence-based approaches to keep students engaged in the education process. Frankly, given the costs associated with the Pipeline, combined with a robust criminal justice system that is used as a default for failed systems, meaningful educational opportunities for our children is the better investment. More exciting than an understanding and acknowledgment of the Pipeline, is that there are administrators like Principal Sporleder, Cathy Carbone, and Principal Diana Garcia who are working hard to make a change.

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<sup>190</sup> *Id.*

<sup>191</sup> *Id.*

<sup>192</sup> *Id.*

<sup>193</sup> *Id.*

<sup>194</sup> *Id.*

<sup>195</sup> *Id.*

*C. The Criminal Justice System: Putting a Crimp in the Pipeline*

The buck does not stop with educators, however. As actors in the criminal justice system, prosecutors must take ownership as well and determine our role in the Pipeline. As prosecutors, we have a duty to actively engage in re-directing young people back into the education process and away from the criminal justice system. When our children are engaged in a meaningful education process, when they succeed due to the opportunities provided to them by that process and become productive members of society, we as a community are safer, healthier, and more successful. At the King County Prosecuting Attorney's Office (PAO), we have several programs dedicated to re-directing young people out of the criminal justice system to the education system and other services. These programs include: the 180 Diversion Program and the Truancy Dropout Prevention Program. Additionally, our office works with and has access to programs provided by the King County Courts including the Court Diversion Program and Juvenile Drug Court.

**1. The 180 Diversion Program**

The PAO 180 Diversion Program is a pre-filing program that targets youth facing their first or second low-level misdemeanor offense before any criminal charges are filed.<sup>196</sup> The 180 Program is a partnership between the Prosecutor's Office (PAO) and the community.<sup>197</sup> Rather than filing criminal charges against young offenders, the PAO invites the youth and their family to participate in a half-day, free of charge workshop, run by reputable community leaders.<sup>198</sup> During the workshop, community members share stories with the young people about their own personal experiences of

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<sup>196</sup> *The 180 Program: Prosecutors Help Young Offenders Make a Turnaround*, KING CNTY. PROSECUTING ATT'Y'S OFFICE (Aug. 20, 2012), <http://www.kingcounty.gov/Prosecutor/news/2012/june/180program.aspx>.

<sup>197</sup> *Id.*

<sup>198</sup> *Id.*

adversity and how they made their “180” in a positive direction.<sup>199</sup> The youth are then invited to participate by engaging in small group discussions with community leaders where they talk about the challenges in their own lives and discuss the steps they believe they need to take to overcome those challenges.<sup>200</sup> When a young person participates in and completes a workshop, the PAO does not charge the youth with the misdemeanor. Since its inception in 2011, over 1,000 juvenile offenders have been diverted out of the criminal justice system through the 180 Program.<sup>201</sup>

## 2. King County Truancy Dropout Prevention Program

In King County, the PAO has collaborated with the Center for Children and Youth Justice (CCYJ), to take a new approach to keeping kids out of the criminal justice system and re-engaging them in the education process. Under Washington’s truancy laws, if a student accumulates seven absences in a month or ten absences in a school year, the school districts are required to file a petition in superior court against the student, parent, or both.<sup>202</sup> Once a school district files a petition in juvenile court to start the petition process, the PAO sends the student a letter to inform the student and their family that the legal process can be avoided by attending a truancy workshop in their neighborhood.<sup>203</sup> For many, a letter from a prosecuting attorney’s office is a wakeup call. The letter is designed to get the attention

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<sup>199</sup> *Id.*

<sup>200</sup> *Id.*

<sup>201</sup> MICAH BATEMAN-IINO & PILAR HERRERO, MOVING FORWARD: POSITIVE EFFORTS TOWARDS REDUCING RACIAL AND ETHNIC DISPARITIES IN THE JUVENILE JUSTICE SYSTEM 32 (2014), *available at* [http://www.courts.wa.gov/subsite/mjc/docs/Juvenile\\_Justice\\_Programs\\_Report%205.15.14.pdf](http://www.courts.wa.gov/subsite/mjc/docs/Juvenile_Justice_Programs_Report%205.15.14.pdf).

<sup>202</sup> *The Overview of our State Truancy Laws*, KING CNTY. PROSECUTING ATT’Y’S OFFICE, <http://www.kingcounty.gov/Prosecutor/truancybecca.aspx> (last visited Feb. 26, 2015).

<sup>203</sup> *A New Approach to Tackling Truancy: Keeping Kids in School Is Our Best Crime Prevention Strategy*, KING CNTY. PROSECUTING ATT’Y’S OFFICE (Nov. 2009), <http://www.kingcounty.gov/Prosecutor/news/2009/november/truancy.aspx>.

of the students and the families, and to re-engage the students in the education process.<sup>204</sup> The goal is to divert students away from court into community and school-based truancy workshops, where parents, students, and school representatives will have an opportunity to sit down together to identify and address the underlying issues that are contributing to the child's truant behavior.<sup>205</sup> At the workshops, the needs of the student and family are identified, the student and their family are directed to services, and a student-to-school re-engagement plan is developed. Using the truancy law structure, the PAO is able to redirect students back into the education process and away from the court system. The truancy program is one way the PAO can put a crimp in the Pipeline.<sup>206</sup>

### **3. Court Diversion-Partnership for Youth**

Outside of the PAO, the King County Superior Court sponsors a community-run diversion opportunity through the court's Partnership for Youth Justice Program.<sup>207</sup> This program may be offered to first or second time misdemeanor offenders.<sup>208</sup> In this instance, after prosecutors review a case submitted by a law enforcement agency and find that the youth is eligible for the court diversion program, the prosecutor refers the youth to the program.<sup>209</sup> The case is then reviewed again for eligibility by the program staff and if the case is found eligible and the youth agrees to participate in the program, the youth is referred to a Community Accountability Board (CAB).<sup>210</sup> A CAB is comprised of community

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<sup>204</sup> *Id.*

<sup>205</sup> *Id.*

<sup>206</sup> *Id.*

<sup>207</sup> *Juvenile Drug Court*, KING CNTY. JUV. CT., <http://www.kingcounty.gov/courts/JuvenileCourt/juvdc.aspx> (last visited Feb. 26, 2015).

<sup>208</sup> *Diversion – Partnership for Youth Justice: Program Information*, KING CNTY. JUV. CT., <http://www.kingcounty.gov/courts/JuvenileCourt/diversion.aspx> (last visited Feb. 26, 2015).

<sup>209</sup> *Id.*

<sup>210</sup> *Id.*

volunteers that work with the youth to develop a written agreement, outlining the consequences that will be imposed for the youth's prior behavior that led to their having to appear in court.<sup>211</sup> Often these consequences are restitution to the victim, community restitution or service, a fine, counseling, or informational classes. Successful completion of the Court Diversion Program means that the PAO will not file criminal charges against the youth.<sup>212</sup> Although some assistance is available, the cost of participating in the Court Diversion is \$263.<sup>213</sup> For some youth offenders, the payment of a fee for diversion is cost-prohibitive.

#### 4. Juvenile Drug Court

Juvenile offenders with underlying drug or alcohol abuse problems may be referred to the King County Juvenile Drug Court program.<sup>214</sup> The juvenile drug program entails collaboration between prosecutors, defense attorneys, probation officers, and community treatment service providers that work under the leadership of a court judge.<sup>215</sup> The goal is to help the young person overcome their substance abuse.<sup>216</sup> Each juvenile is required to participate in the program for 9 to 24 months, which “includes early, continuous and intensive court monitored treatment.”<sup>217</sup> This treatment can include: adolescent detoxification; in-patient treatment; Multi-Systemic Therapy (a family-oriented program); Functional Family Therapy (FFT) that teaches communication and problem-solving skills; Aggression Replacement Training (ART) that teaches a range of positive reactions to stressful situations; one-on-one mentorship with well-trained mentors; as well as family centered Advocacy Team Coordination.<sup>218</sup> The goal of this

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<sup>211</sup> *Id.*

<sup>212</sup> *Id.*

<sup>213</sup> *Id.*

<sup>214</sup> *See Juvenile Drug Court, supra* note 207.

<sup>215</sup> *Id.*

<sup>216</sup> *Diversion – Partnership for Youth Justice, supra* note 208.

<sup>217</sup> *Id.*

<sup>218</sup> *Juvenile Drug Court, supra* note 207.

approach is to motivate participants to finish treatment, re-engage in school or employment, and complete all court-ordered conditions such as community service.<sup>219</sup>

The youths entering the Drug Court Program waive their right to a trial.<sup>220</sup> Those who successfully complete the program have their charges dismissed.<sup>221</sup> The cases of the youths who do not complete the program are adjudicated based on a judicial review of the police report in the youth's case.<sup>222</sup> Since 1994, when the program was established, over 1,930 people have successfully completed the Drug Court Program.<sup>223</sup>

While these programs have shown promise and have been effective in many cases, we recognize that prosecutors can do more to put a crimp in the Pipeline and we are committed to working with partners to do more to keep students in school and away from the criminal justice system.

#### CONCLUSORY REMARKS

If we want to make any progress in reversing the three-decade trend of mass incarceration in the United States, we must start by recognizing that keeping students connected to the education process is a critical element.<sup>224</sup> School engagement starts in kindergarten, but is also an essential part of school disciplinary strategies. Expelling students to the streets just makes them more likely to dropout and become a part of the criminal justice system. Successful high school students become successful adults; conversely, those who fail to complete high school face a future filled with career limitations and often, criminal temptations.

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<sup>219</sup> *Id.*

<sup>220</sup> *Id.*

<sup>221</sup> *Id.*

<sup>222</sup> *Id.*

<sup>223</sup> *King County Adult Diversion Drug Court*, KING CNTY., <http://www.kingcounty.gov/courts/DrugCourt.aspx> (last visited Feb. 26, 2015).

<sup>224</sup> FACT SHEET: TRENDS IN U.S. CORRECTIONS, THE SENTENCING PROJECT 1 (Apr. 2013), available at [http://sentencingproject.org/doc/publications/inc\\_Trends\\_in\\_Corrections\\_Fact\\_sheet.pdf](http://sentencingproject.org/doc/publications/inc_Trends_in_Corrections_Fact_sheet.pdf).

To avoid contributing to the Pipeline, we call on our community, both locally and statewide, to consider some of the practices implemented by school districts across the state that will keep our young people engaged in the education process, even when they are being disciplined. We recognize it is not only up to educators to cultivate students in our communities, but it is incumbent upon each of us to demand more of ourselves and of our schools. Simply put, keeping kids in school is our best crime prevention strategy, and one that will pay off in immeasurable ways in the health and safety of our nation. As Prosecutors we take ownership of our role in putting a crimp in the Pipeline and we hope you will join us in this effort.