

## ***“One of the Worst:” The School-to-Prison Pipeline in Richmond, Virginia***

Cassie Powell

*Jasmine, \* fourteen, did not mean to start the fight at school. She had PTSD, along with a barrage of other emotional disabilities, and the loud noises at the school penetrated her mind, causing her to lash out in uncharacteristic ways. During the fight, she shoved a police officer who was trying to intervene. As a result, she was suspended, and was charged with assaulting a police officer.*

*Alex, \* eighteen, had been in and out of homelessness for most of his life. He smoked marijuana, he said, as a means of escaping his chaotic home life. He, like Jasmine, had an emotional disability, as well as a learning disability. He took the drug to school, where an officer smelled it on him. He was suspended and charged with possessing marijuana.*

*Rory, \* sixteen, often skipped school to hang out with her friends. Her home life was traumatic, and she had suffered abuse at the hands of her father’s friends when she was twelve. Because she skipped school, she was referred to court on a truancy charge and given probation, along with an ankle monitor. However, after she cut the ankle monitor, she was charged with a felony.*

*\*Not their real name. These stories represent a composite of actual people and events in the metro Richmond area.*

Each of these stories implicates the school-to-prison pipeline, or, as defined by the ACLU, “a disturbing national trend wherein children are funneled out of public schools and into the juvenile and criminal justice

systems.”<sup>1</sup> According to a report issued in April of last year by the Center for Public Integrity,<sup>2</sup> Virginia tops the nation in the rate of referrals of students to law enforcement, at three times the national average. As the report noted, students with disabilities and children of color are far more likely to be referred. In Virginia, 33.4 students with disabilities were referred for every 1,000, and 25.3 black students were referred for every 1,000—both more than the second state with the highest number of referrals, Delaware.

The impact of this trend on the achievement gap in public education is stark. According to a new study published in the journal *Social Problems*,<sup>3</sup> school suspensions

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<sup>1</sup> ACLU, “School-to-Prison Pipeline,” at <https://www.aclu.org/issues/racial-justice/race-and-inequality-education/school-prison-pipeline> (Retrieved February 21, 2016).

<sup>2</sup> Chris Zubak-Skees & Ben Wieder, “A State-by-State Look at Students Referred to Law Enforcement,” *Center for Public Integrity* (April 10, 2015), Retrieved from: <http://www.publicintegrity.org/2015/04/10/17074/state-state-look-students-referred-law-enforcement>

<sup>3</sup> Edward Morris & Brea Perry, “The Punishment Gap: School Suspension and Racial Disparities in Achievement,” *Social Problems* (January 8, 2016). For a summary of the study, see Alia Wong, “How School Suspensions Push Black Students Behind,” *The Atlantic* (February 8, 2016) Retrieved from:

<http://www.theatlantic.com/education/archive/2016/02/how-school-suspensions-push-black-students-behind/460305/>

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account for roughly one-fifth of the white-black achievement gap. Nationwide, black students are suspended at nearly three times the rate of their white peers, and this disparity is even worse in Virginia. The authors of the study, Morris and Berry, describe the discipline patterns of public schools as “hidden inequality embedded within routine education practices.”

The metro-Richmond area has not escaped this state-wide and national trend. In Chesterfield, Richmond Magazine reported that over the course of course of three years, from 2011-2014, more than 3,500 students were arrested in connection with incidents that occurred on school grounds.<sup>4</sup> In 2014, Henrico County Police filed 369 complaints against students.<sup>5</sup>

Richmond, however, has some of the highest rates of suspension and expulsion in the state, according to two local advocates, Jason Langberg with the JustChildren Program at the Legal Aid Justice Center (LAJC) and Julie McConnell with the Children’s Defense Clinic at UR Law. LAJC recently gathered data from across the state for a report on school policing and a forthcoming issue brief about school suspension. According to Jason Langberg with LAJC,<sup>6</sup> Richmond City Public Schools in the 2014-2015 school year:

- Short-term suspended (i.e., excluded for 1-10 school days): 3,203 students at least once;
- Short-term suspended: 16.3% of Black students and 2.9% of White students, which equates to a Black-White risk difference of 13.4% and the 7th highest risk difference in Virginia;
- Short-term suspended: 23.8% of students with disabilities (SWD) and 11.4% of students without disabilities (SWOD), giving it a SWD-SWOD risk difference of 12.4% and the 5th highest risk difference in Virginia;
- Had 1.9% of Virginia’s public school students, but gave out 15.7% of the Commonwealth’s long-term suspensions;
- Had 1.9% of Virginia’s public school students, but gave out 9.0% of the Commonwealth’s expulsions;
- Referred 183 students with disabilities in 2011-2012 to law enforcement (97.8% Black) and 601 students without disabilities to law enforcement (91.2% Black), for a total of 784 referrals to law enforcement.
- Boushall Middle and George Wythe High, both public schools in

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<sup>4</sup> Mark Robinson, “Dubious Distinction,” *Richmond Magazine* (October 23, 2015) Retrieved from: <http://richmondmagazine.com/news/news/dubious-distinction/>

<sup>5</sup> Id.

<sup>6</sup> Jason Langberg, Attorney with JustChildren at the Legal Aid Justice Center, personal communication, February 10, 2016.

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For additional information on Virginia’s school-to-prison pipeline, see the Legal Aid Justice Center’s report *Protecting Childhood: A BluePrint for Developmentally Appropriate School Policing in Virginia* (January 2016), Available at: <https://www.justice4all.org/wp-content/uploads/2016/01/School-Policing-Report-Full.pdf>

Richmond, suspended over 30% of their students;

- Three schools suspended over 44% of Black students with disabilities: Boushall Middle (55.0%); Elkhardt Middle (47.0%); and Albert Hill Middle (44.6%);
- Two elementary schools suspended more than a quarter of their students: Woodville (30.1%), including 15 kindergarten students; and Fairfield Court (26.6%), including 14 kindergarten students.

Mr. Langberg further noted that for the past five years for which data are available, RCPS has been among the top 15 divisions with the highest suspension rates. Additionally, in 2015, RCPS had the 9th lowest on-time graduation rate and the 1st highest high school dropout rate among all Virginia school divisions. However, stated Mr. Langberg, other issues beyond school discipline come into play here, such as poverty, resource starvation, and segregation.

Julie McConnell, the Director of the Children's Defense Clinic at UR Law, also stated that the school to prison pipeline in Richmond is "severe."<sup>7</sup> She provided anecdotal evidence, stating, "I have had so many clients who were suspended, expelled, administratively removed from school, and/or sent to alternative school for things that could have been resolved without an out of school placement." These referrals and school changes have a long-term impact on the children's education, she noted. "Once a child has been removed from traditional school, [their] chances of graduating are greatly reduced. We don't have alternative

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<sup>7</sup> Julie McConnell, personal communication, February 4, 2016.

Richmond that are providing a first class education."

However, some area school districts and local government leaders are taking steps to counteract this trend. In Henrico, School Superintendent Dr. Patrick Kinlaw announced an end to the locality's zero tolerance policy for one that gives principals more discretion in handling incidents.<sup>8</sup> This announcement came just weeks after the Center of Public Integrity released its report, and after TIME Magazine highlighted the case of a 10-year-old Henrico student who was threatened with jail time after "horseplaying."<sup>9</sup> Zero tolerance policies are being condemned across the country by juvenile justice advocates as "too harsh" and at odds with how children and adolescents' brains function. New research suggests that adolescent brains are still developing long after previously thought, and that teenagers are especially vulnerable to reward functions in the brain. According to the Center for Law, Brain, and Behavior at Harvard Medical School, adolescents can often recognize risks, but "incomplete development of brain mechanisms related to modulation of impulsive behavior reduces their tendency to heed those risks."<sup>10</sup>

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<sup>8</sup> Chris Thomas, "Henrico Schools Drops Zero-Tolerance Policy," *NBC12* (May 11, 2015), Retrieved from: <http://www.nbc12.com/story/29036880/nbc12-investigation-henrico-schools-drop-zero-tolerance-policy>

<sup>9</sup> Susan Ferriss, Center for Public Integrity, "How Does Your State Rank on Sending Students to Police?" *TIME Magazine* (April 10, 2015), Retrieved from: <http://time.com/3818075/student-police-ranking/>

<sup>10</sup> Center for Law, Brain, and Behavior, "Juvenile Justice and the Adolescent Brain,"

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Dropping zero tolerance policies recognizes the decreased ability of teenagers to regulate their behavior by giving them, in essence, another chance. Dropping zero tolerance policies has proven successful in other localities; Fairfax County saw a drop in the length of the average time of suspensions, from 11.84 days to 7.01 days, after suspending their policy last year.<sup>11</sup>

Richmond, too, is taking steps to counteract the pipeline, with another approach. At the beginning of the 2015-2016 school year, Richmond Police Chief Alfred Durham approached Dana T. Bedden, the Superintendent of Richmond Public Schools, to discuss the school-to-prison pipeline in Richmond City Schools.<sup>12</sup> Together, their offices created the LIFE (Law enforcement Intervention Focused on Education) program, designed to mitigate the effects of the pipeline on those charged with minor offenses. Those eligible for the program can apply and be diverted to a nine-week class that focuses on skill-building. If the student does not complete the class, they can still be charged with the original offense.

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Massachusetts General Hospital, Harvard Medical School, Retrieved from:

<http://clbb.mgh.harvard.edu/juvenilejustice/>

<sup>11</sup> Max Smith, "Fewer Students Expelled After Henrico Ends Zero-Tolerance Policy," *WTOP* (May 6, 2015) Retrieved from:

<http://wtop.com/virginia/2015/05/fewer-students-expelled-fairfax-county-ends-zero-tolerance-policy/>

<sup>12</sup> Louis Llovio, "Richmond Hopes Life Program will keep Kids out of Jail, in Class," *Richmond Times Dispatch* (January 1, 2016) Retrieved from:

[http://www.richmond.com/news/local/city-of-richmond/article\\_8ec3f2eb-f8b5-5a18-9781-c15301b0bb15.html](http://www.richmond.com/news/local/city-of-richmond/article_8ec3f2eb-f8b5-5a18-9781-c15301b0bb15.html)

This program is a critical first step in shutting down the pipeline, but more action is needed from Richmond's local government. Local governments can play an especially strong role in reducing the effects of the school-to-prison pipeline in their area. According to Jason Langberg with JustChildren at LAJC, "the biggest things local governments can do is increase funding for prevention and positive alternatives, and promote socio-economic diversity. Beyond that, there are a variety of "best practices" in codes of student conduct and memorandums of understanding between school divisions and law enforcement that should be adopted by localities." Dropping the zero-tolerance policy is also critical. According to Julie McConnell, Director of the Children's Defense Clinic at the University of Richmond School of Law, "the most important step schools can take is to adopt a trauma-informed approach to school discipline and only refer children to law enforcement when absolutely necessary."

Local judges, too, can affect the school-to-prison pipeline, and many times do so in positive ways. Julie McConnell stated that the judges in Richmond "really try to help the kids that come before them. They want them to stay in school and in their communities and they try to provide the necessary support for kids to succeed."

The state legislature is also tackling this issue. For example, Delegate Jennifer L. McClellan of Richmond introduced HB 486, a bill that would make it permissible, rather than mandatory, for commonwealth attorneys to prosecute cases against a juvenile under the compulsory attendance laws. This bill is designed to rectify the lack of uniformity in place around how truancy and attendance laws are enforced in

individual cases. As Delegate McClellan stated in her Richmond Times Dispatch op-ed<sup>13</sup> on the issue,

“In some localities, truancy cases are handled by intake officers, recognizing that the student of interest is not a criminal, but a child in need of services to address underlying issues, such as family stability, abuse, neglect, mental health, or school achievement. Inserting the commonwealth attorney into all cases without regard to the underlying facts adds a level of prosecution that in many cases is not only unhelpful, but starts that child down a path towards detention.”

Delegate McClellan has also sponsored some additional legislation aimed at the school-to-prison pipeline. HB 487 would eliminate the requirement that school resource officers “enforce school board rules and codes of student conduct” to avoid compelling them to intervene on disciplinary issues. Additionally, HB 488 would eliminate detention as an option for children who violate a court order or probation agreement to attend school.<sup>14</sup>

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<sup>13</sup> Jennifer L. McClellan, “Let’s Shut Down the School to Prison Pipeline,” Richmond Times Dispatch (January 23, 2016)

Retrieved from:

[http://www.richmond.com/opinion/their-opinion/guest-columnists/article\\_5b22b801-56c4-5774-b4f9-2b2ce4213960.html](http://www.richmond.com/opinion/their-opinion/guest-columnists/article_5b22b801-56c4-5774-b4f9-2b2ce4213960.html)

<sup>14</sup> For a full list of school-to-prison pipeline bills before the Virginia General Assembly, see the JustChildren legislative guide on Bills to Improve School Discipline and Climate at <https://www.justice4all.org/wp-content/uploads/2016/02/Bills-to-Improve-School-Discipline-Climate-2016.pdf>. To

Additionally, the Governor has begun to look at the school-to-prison pipeline, through his Classrooms not Courtrooms initiative.<sup>15</sup> A major part of this initiative will include a new standardized joint training program for school resource officers and school administrators. Additionally, the Department of Education, as part of this effort, will expand the use of Positive Behavioral Interventions and Supports, a program that works to support positive behavioral outcomes in public schools.

These efforts demonstrate willingness on the part of local, state, and national governments to address this issue, but continued advocacy is needed in order to implement the best practices that will disrupt the pipeline. Trauma-informed approaches that take into account the experiences of children in poverty and adolescent brain development is crucial to tackling the pipeline. Additionally, we must minimize the zero-tolerance, harsh disciplinary approach that many schools take, like many in Richmond. School resource officers must be trained to recognize biases and discriminatory practices, and to develop an understanding of the behavior of children with disabilities. Finally, communities and parents must hold local governments and schools accountable for disrupting the pipeline, through local advocacy and grassroots efforts.

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follow bills, visit the LIS website at <https://lis.virginia.gov/>. As of this writing, HB 486 and HB 488 died in committee, and HB 487 is being considered by the Senate.

<sup>15</sup> Steven R. Staples, Virginia Department of Education, “Governor’s Classrooms not Courtrooms Initiative,” Superintendent’s Memo #277-15 revised November 17, 2015, Retrieved from:

[http://www.doe.virginia.gov/administrators/superintendents\\_memos/2015/277-15.shtml](http://www.doe.virginia.gov/administrators/superintendents_memos/2015/277-15.shtml)

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If children are suspended less, expelled less, and referred to law enforcement less, then students will be more likely to succeed academically, socially, and developmentally. The school-to-prison pipeline has become a major civil rights issue of our time.<sup>16</sup> Let's shut it down.

*Interested in tackling this issue? Write to your state legislator, school board representative, or City Council Member. For a list of upcoming school board and City Council meetings in Richmond, Virginia, see <http://www.rvagov.com/>*

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<sup>16</sup> Dr. Artika R. Tyner, "Disrupting the School-to-Prison Pipeline," Huffington Post (January 24, 2016) Retrieved from: [http://www.huffingtonpost.com/dr-artika-r-tyner/disrupting-the-school-to-b\\_9061680.html](http://www.huffingtonpost.com/dr-artika-r-tyner/disrupting-the-school-to-b_9061680.html)

