

# Beyond Zero Tolerance: Positive Approaches to Discipline



**MATT CREGOR, ASSISTANT COUNSEL  
NAACP LEGAL DEFENSE FUND**

**Kappa Delta Pi Webinar  
October 15, 2013**

# Today's topics



- 1. Why must we move beyond zero tolerance?**  
Exploring the causes and harms of our over-reliance on exclusionary discipline
- 2. Solutions:** Surveying the field for steps that educators, parents, students, and policymakers are taking to improve school discipline
- 3. Supporting school safety:** How the tragedy at Sandy Hook Elementary must inform our work

# What We Do



## NAACP Legal Defense & Educational Fund, Inc.:

- Works to promote a more inclusive and racially just democracy by focusing its advocacy toward:
  - Education
  - Voting Rights
  - Economic Justice
  - Criminal Justice



# Who is welcome in our schools?



# Why must we move beyond zero tolerance?



Exploring the causes and harms of our over-reliance on exclusionary discipline

# School discipline has changed



- Suspension and expulsion rates are at their all-time highs – double the rates of the 1970s.
  - 3.3 million students are suspended at least once each year
  - Over 100,000 are expelled each year
- More schools are relying on police, not just to protect school safety, but to address disciplinary issues
  - New York City Public Schools staffs more police officers than the actual police forces of D.C., Boston, or Las Vegas
- More districts are sending students to “alternative schools” for student behavior.
  - Texas sent 128,000 students into “Disciplinary Alternative Education Programs” in 2007-2008

# All students are affected



- 6-year-old Salecia Johnson was handcuffed and taken from school to the police station after throwing a temper tantrum at her school in Milledgeville, GA (2012).
- 11-year-old Alexa Gonzalez was arrested for writing “I love my friends” on her desk in erasable marker at her Queens, NY, middle school (2010).
- 15-year-old Christian Ademik hanged himself after streaking prank left him “facing expulsion and being put on sex offender registry” (2013).

# We know better



According to the American Psychological Association, the American Academy of Pediatrics, the Council of State Governments, and the Centers for Disease Control and Prevention:

Out-of-school youth are more likely to:

- Drop out of school
- Be retained a grade
- Engage in delinquent behavior
- Become a parenting teen
- Become involved in the juvenile and criminal justice systems



# We know better



## Schoolwide effects:

- Lower scores on standardized tests
- Greater teacher dissatisfaction
- No proven gains in safety

Russell Skiba et al., American Psychological Association Zero Tolerance Task Force, *Are Zero Tolerance Policies Effective in the Schools? An Evidentiary Review and Recommendations* (2006).

# Disenfranchised youth are hit the hardest



- Students with disabilities are roughly twice as likely to receive out-of-school punishment compared to their non-disabled peers.
- LGBTQ students are likely to receive harsher disciplinary punishment than their straight-identified peers.
- Students in foster care are three times more likely to be suspended or expelled than students in the care of a guardian.

# Students of color are the most affected



- African American students are three-and-a-half times as likely to be suspended or expelled as their white peers.
- Latino students are one-and-a-half times as likely to be suspended and twice as likely to be expelled as their white peers.
- ***Race is a predictive factor in who will receive a discretionary suspension***, even when adjusting for other demographic differences.  
(Council of State Governments)

# As rates rise, disparities widen



- **Growing Racial Disparities:**

- In Colorado in 2007-08, a Black student was more than twice as likely to be referred to law enforcement than a White student.
- In the same year in Texas, there were more than five times more suspensions per Black student than there were for White students.
- In Ohio, the pattern is the same, during the same year, Black students were nearly five-and-a-half times more likely to be suspended out of school than White students.
- In Connecticut in 2006-07, Latino students were nearly three times more likely to be suspended than their White classmates.
- In Texas in 2007-08, more than 128,000 students were pushed out of school and into alternative schools (called “Disciplinary Alternative Education Programs”)

# Two levels of disproportionality in discipline systems



- **Race is not Neutral:  
Disproportionality in School Discipline**  
Russell Skiba, Robert H. Horner, Choong-Geun Chung  
Karega Rausch, , Seth L. May, and Tary Tobin
  - Journal of School Psychology
- Analysis of office discipline referral data from the school-wide information system
  - 436 elementary and middle schools
  - 205,932 students who received office discipline referrals
  - Referrals organized by student ethnicity, type of problem behavior, and administrative decision.

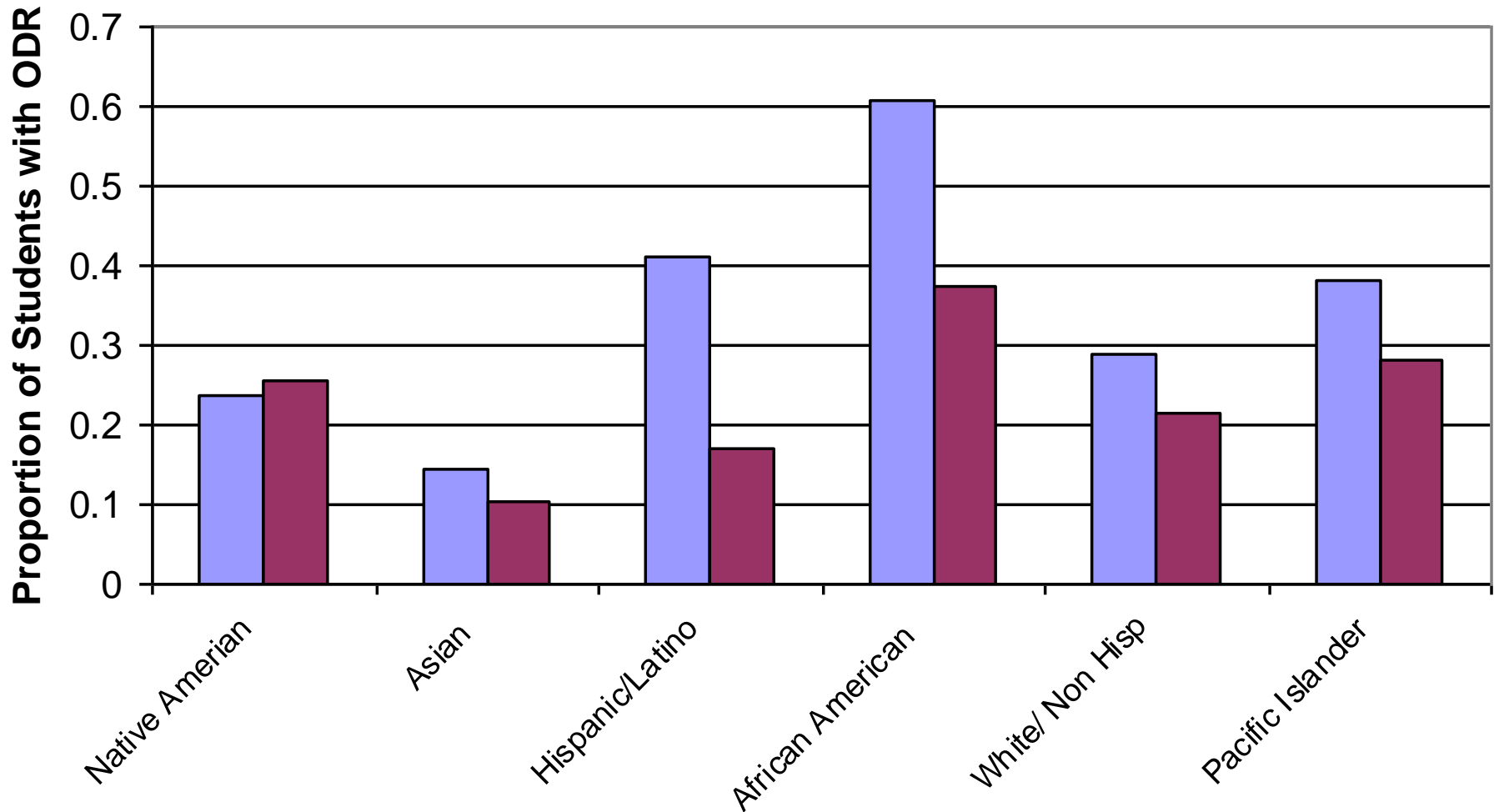
# Two levels of disproportionality in discipline systems



- ***First Finding:*** Students from Hispanic/Latino and African American backgrounds were more likely to be sent to the office than their white peers.

# Proportion of students per ethnicity with an Office Discipline Referral (436 Elem and Middle Schools 05-06)

■ Middle Schools ■ Elementary Schools



## Two levels of disproportionality in discipline systems



- ***First Finding:*** Students from Hispanic/Latino and African American backgrounds were more likely to be sent to the office than their white peers.
- ***Second Finding:*** If students from Hispanic/Latino or African American backgrounds were sent to the office, they were more likely than white students to receive a consequence that resulted in their being removed from school (suspension/expulsion)



# Two levels of disproportionality in discipline systems



	Detention	Moderate/ (Call home, Privilege)	In school suspension	Out of school suspension
Minor				
Defiance				
Disruption				
Moderate				
Major				
Use/ Possession				

# Two levels of disproportionality in discipline systems



## 2005-06 African American (Elementary and Middle) Odds Ratio with White as comparison

	Detention	Moderate	In school suspension	OSS/EXP	Unknown/Other
Minor	0.70	0.44	0.92	2.65	0.75
	1.53	2.04	4.21	2.44	0.79
Defiance	0.79	1.11	0.77	1.31	1.26
	0.52	0.65	1.36	1.15	0.83
Disruption	0.58	1.21	0.61	2.28	0.64
	0.52	0.62	1.48	1.34	0.93
Moderate	0.95	1.99	1.24	1.94	1.66
	0.63	0.57	1.22	1.43	1.04
Major	0.97	0.75	0.97	1.58	1.35
	0.63	0.68	0.99	1.22	0.70
Use/ Possession	N too small for odds ratio calculation				

# Two levels of disproportionality in discipline systems



## 2005-06 Hispanic/ Latino (Elementary and Middle) Odds Ratio with White as comparison

	Detention	Moderate	In school suspension	OSS/EXP	Unknown/ Other
Minor	1.05 <b>2.25</b>	<b>0.35</b> <b>2.78</b>	1.35 <b>3.31</b>	<b>4.68</b> <b>5.10</b>	0.45 <b>1.20</b>
Defiance	1.42 <b>1.03</b>	1.17 <b>1.11</b>	0.61 <b>1.53</b>	<b>1.52</b> <b>1.46</b>	1.24 <b>1.09</b>
Disruption	0.73 <b>1.18</b>	0.58 <b>1.17</b>	0.46 <b>1.85</b>	<b>1.58</b> <b>2.59</b>	0.99 <b>1.34</b>
Moderate	1.26 <b>1.07</b>	0.88 <b>1.05</b>	0.89 <b>1.42</b>	1.32 <b>2.17</b>	1.34 <b>0.94</b>
Major	1.50 <b>0.84</b>	1.06 <b>0.93</b>	0.75 <b>1.26</b>	<b>1.94</b> <b>2.07</b>	0.81 <b>0.78</b>
Use/ Possession	N too small for odds ratio calculation				

# Subjective vs. Objective Offenses



White students more often referred for:

- Smoking
- Vandalism
- Leaving without permission
- Obscene language

African-American students more often referred for:

- Disrespect
- Excessive noise
- Threat
- Loitering

## **The High Costs of Dropout**



**If all of the US students who dropped out of the Class of 2009 had graduated from high school instead, they would have earned an additional \$335 billion in their lifetimes.**

**Alliance for Excellent Education**

# Question: symptom or sickness?



Are our disciplinary rates caused by:

- The Gun-Free Schools Act?
- Zero tolerance policies?
- The War on Drugs?

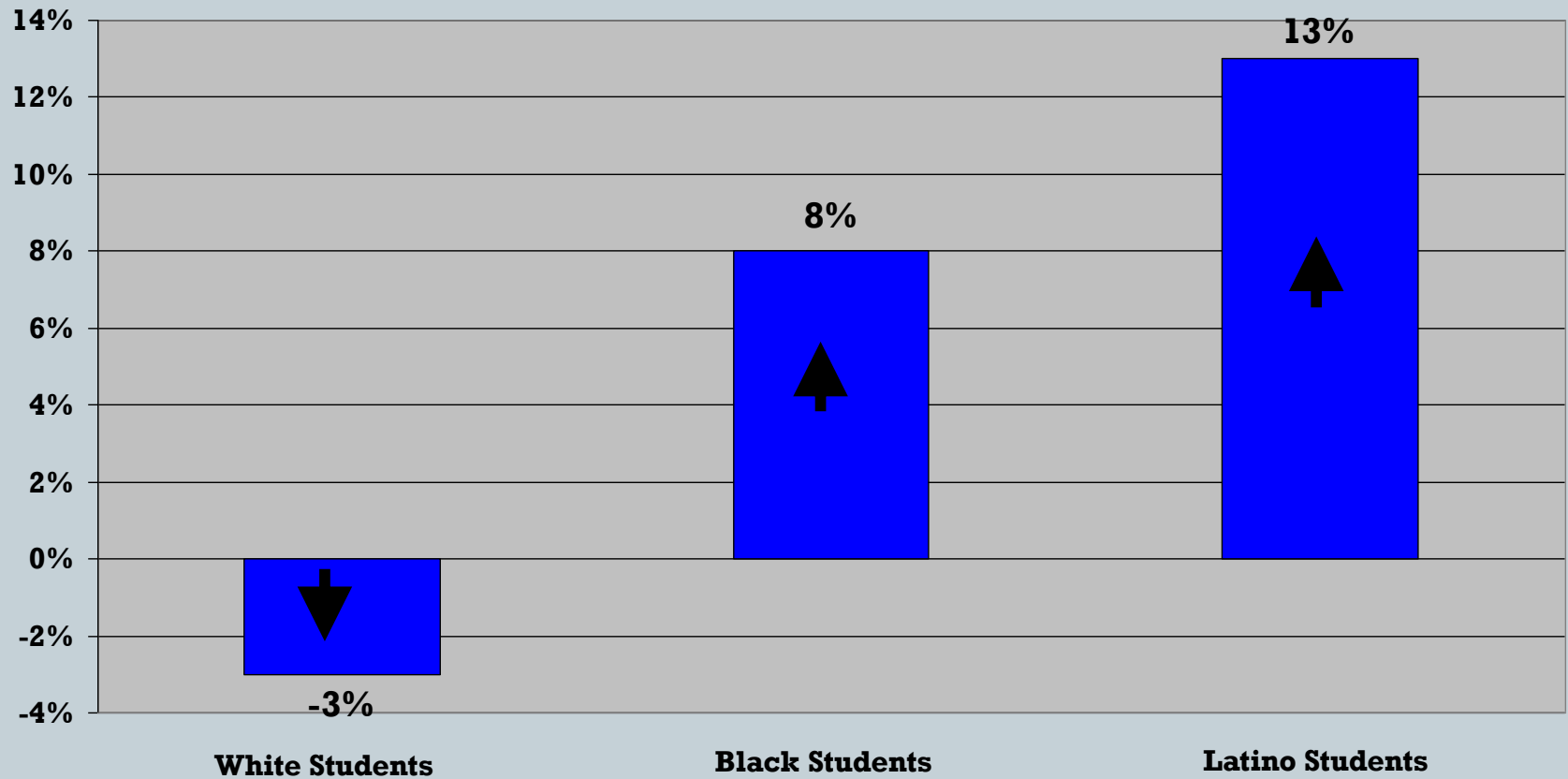
Are our disciplinary rates a side effect of:

- Teacher turnover and attrition?
- Education budget cuts?
- No Child Left Behind?

# National suspension projections post NCLB

## Out-of-School Suspensions per Student Nationwide 2002 to 2006

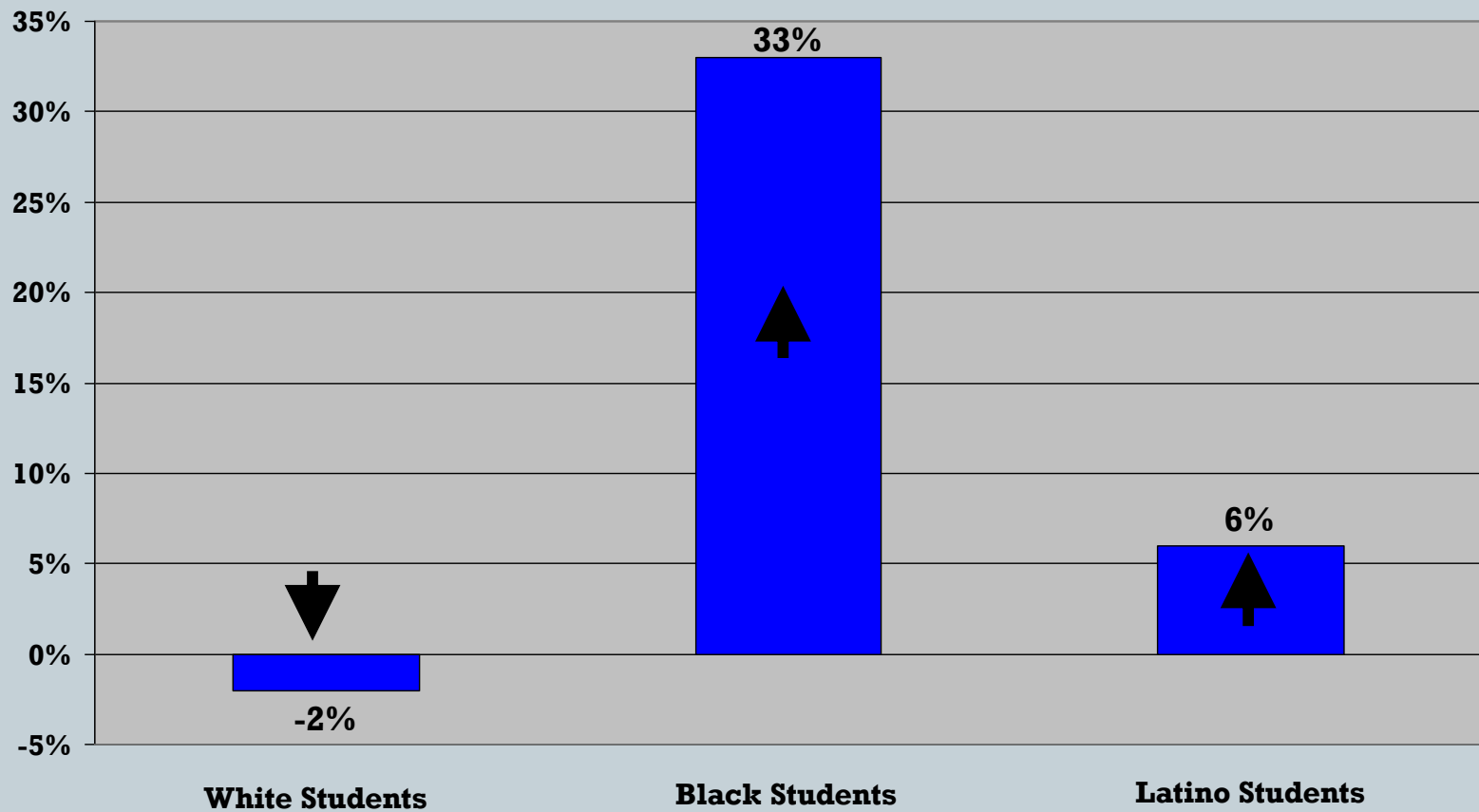
Source: U.S. Department of Education



# National expulsion projections post NCLB

## Expulsions per Student Nationwide 2002 to 2006

Source: U.S. Department of Education





# No Child Left Behind and school discipline



- **With increased accountability based on student test scores, we've seen:**
  - Limited curricula
  - Greater focus on test prep/teaching to the test
  - Insufficient class time for social and emotional learning
  - Focus on “bubble kids” whose scores may raise a school’s
  - Teachers and administrators under greater pressure
  - Students bored by “drill and kill” test preparation
  - Alarming examples of schools and districts dis-enrolling low-performing students
  - A perverse incentive to suspend or expel low-performing youth so that their scores will not bring the school down

# Question



How can we close the “achievement gap” or end the “dropout crisis” if students aren’t allowed in school?

## II. Solutions



Surveying the field for steps that educators, parents, students, and policymakers are taking to improve school discipline

# Denver

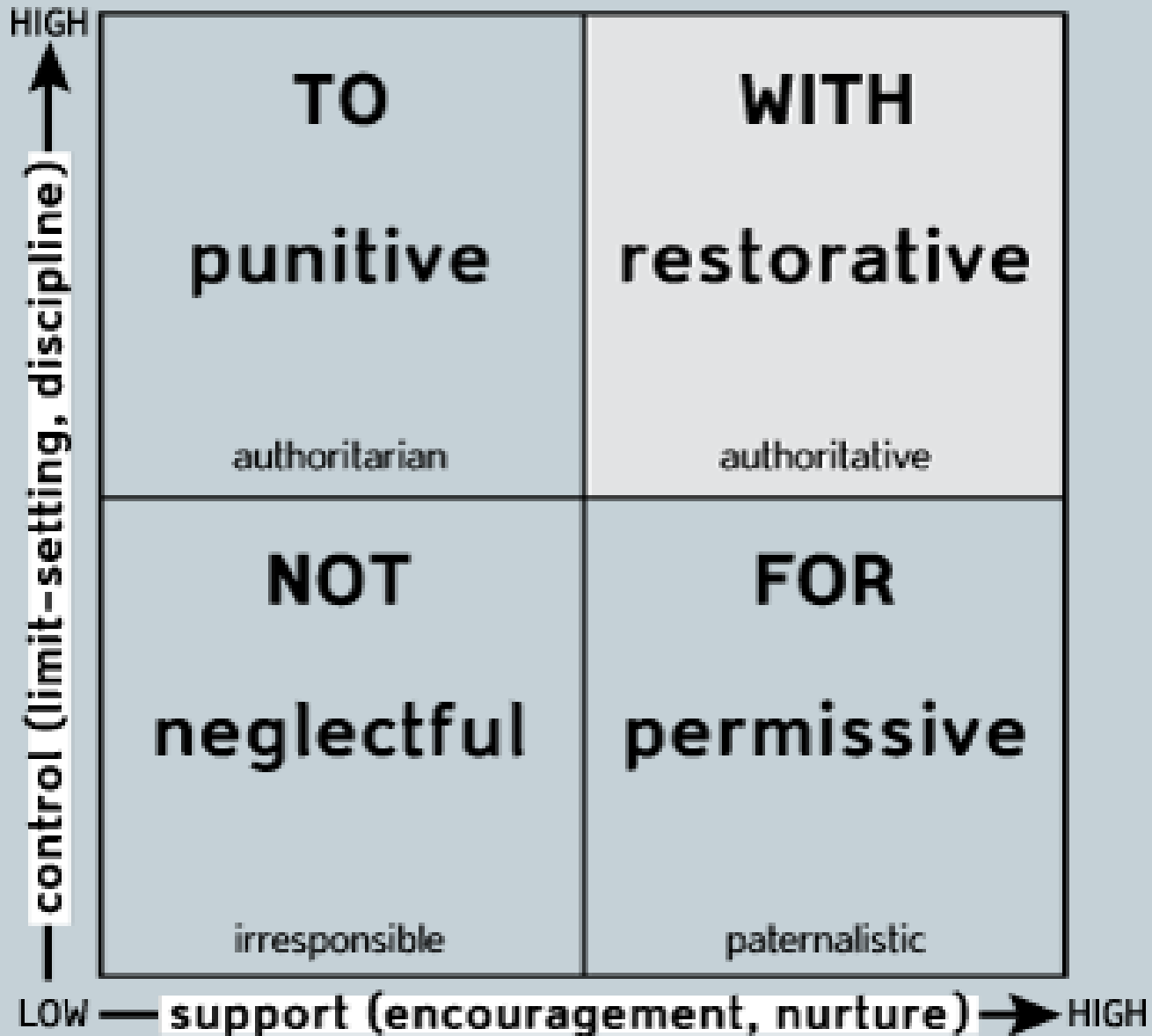


- Padres y Jovenes Unidos worked with the Advancement Project and Denver Public Schools to:
  - Revise the district's discipline code and embed the principles of restorative justice
  - Secure funding for professional development on restorative justice.
- Denver's suspension rate has dropped by over 40% while its arrest rate has dropped by 60%.
- Forthcoming study (Gonzales & Cairns, 2013): restorative justice + strong school leadership = reduced racial disproportionality in discipline.

# What is restorative justice?



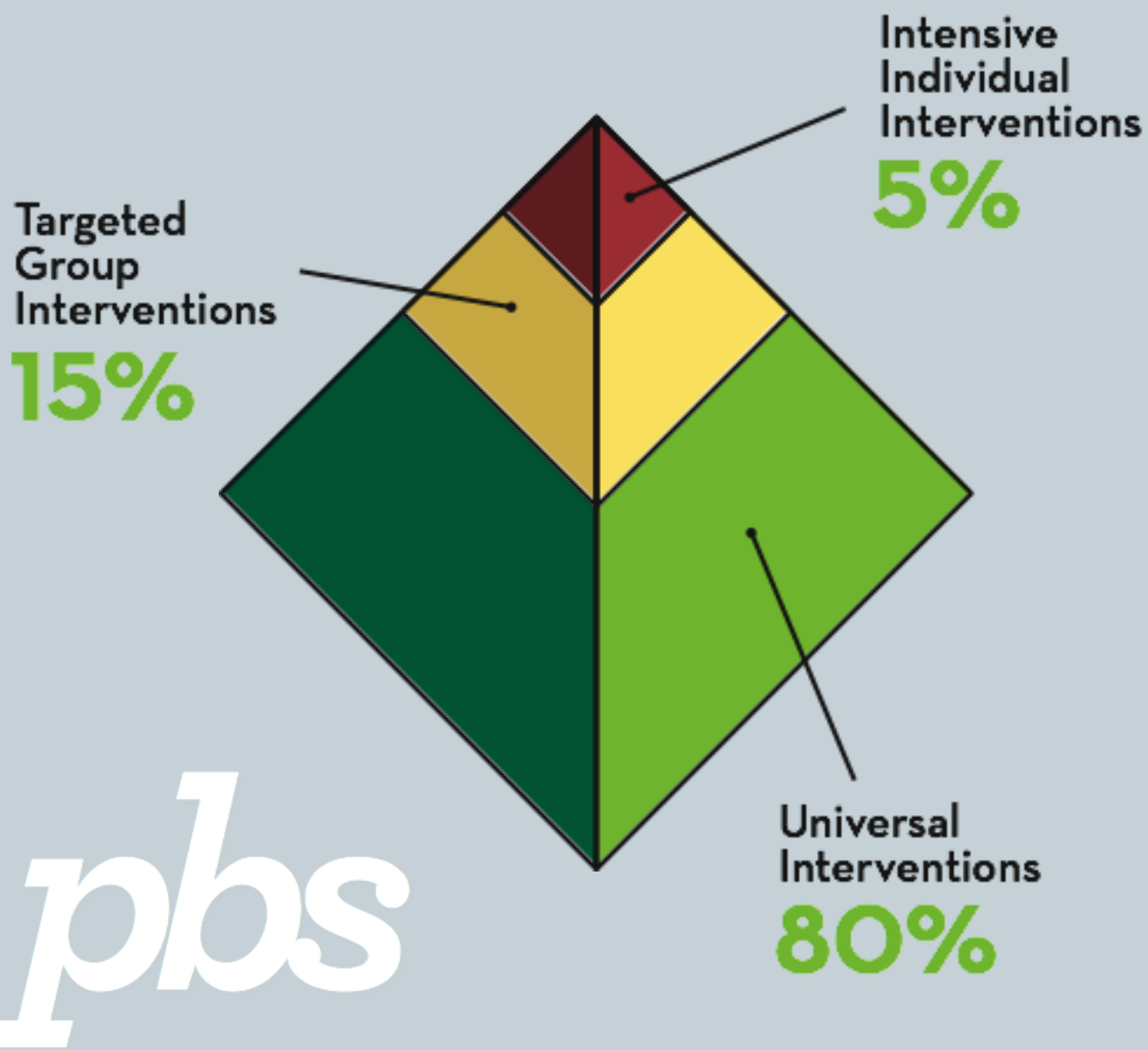
- Members of the school community affected by an incident gather to discuss the incident and:
  - Identify the harms
  - Identify solutions
  - Make the community whole
- Discussions are often called “circles” and can be large or small and run short or long
- Can be facilitated by educators, administrators, or students



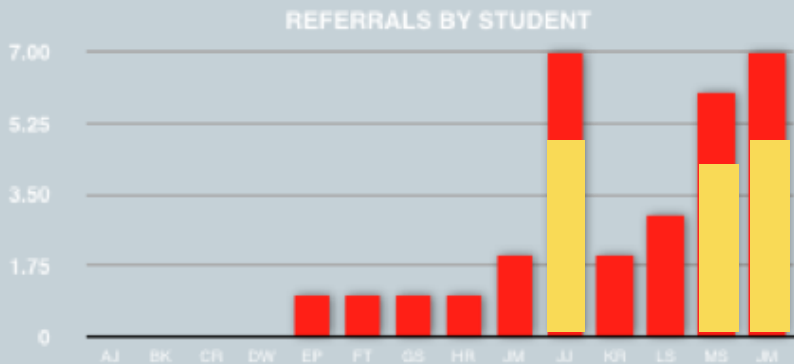
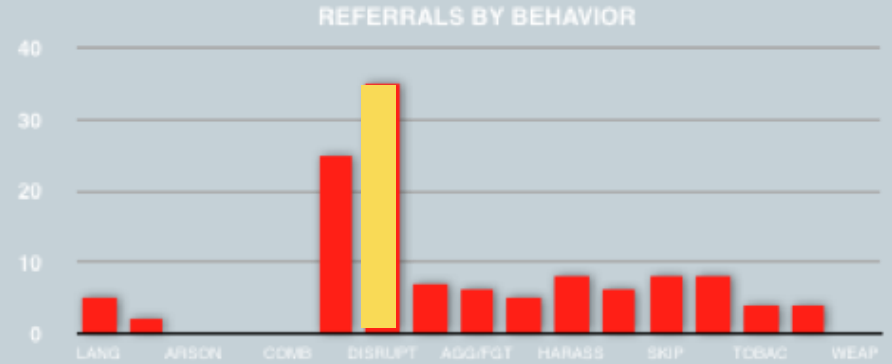
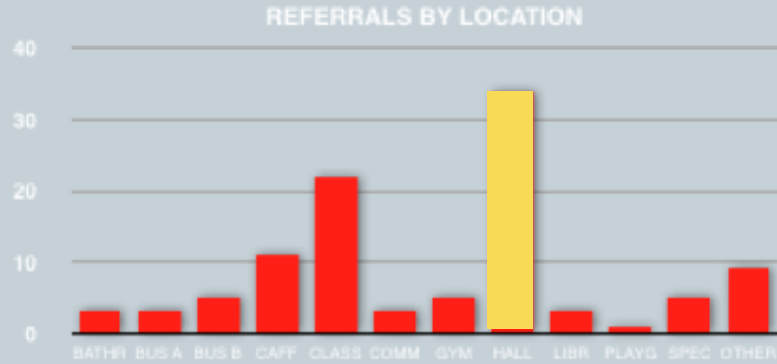
# Los Angeles



- CADRE, a parent-organizing group, worked with district, legal, and community partners to develop Los Angeles' Discipline Foundation Policy in 2006:
  - Built on human rights principles
  - Required implementation of Positive Behavior Support district-wide
  - Monitored implementation in LAUSD District 7:
    - ✦ [\*Redefining Dignity in Our Schools\*](#) (CADRE, MHAS, Public Counsel)
  - LAUSD just announced an end to suspensions for “willful defiance”







James Jones

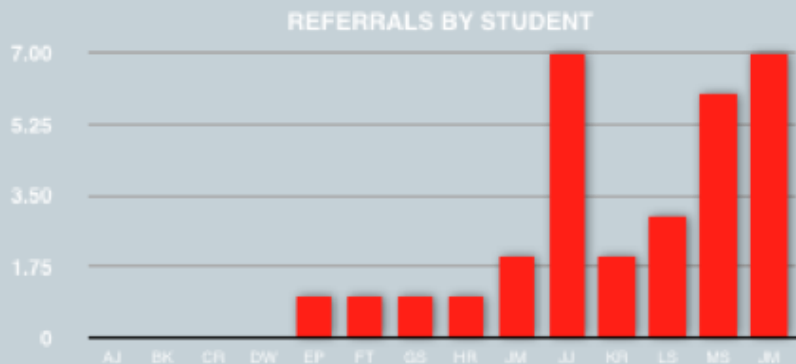
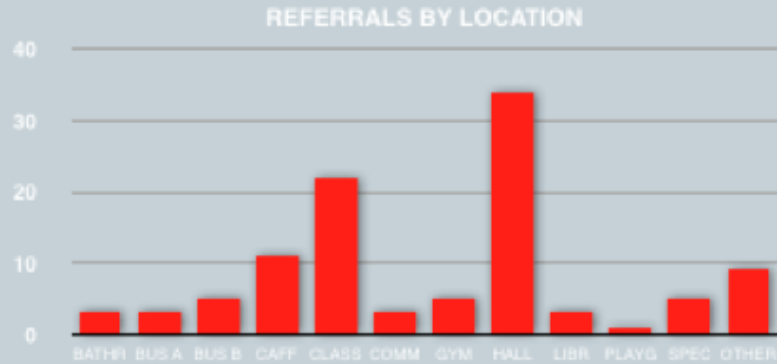
Mark Scott

Jennifer Martin

Disruptive behavior

Hallway

1:00 pm



## PROBLEM

Students are disruptive on their way back from lunch.

## SOLUTION

Place hall monitors at the beginning and end of the hall.

# Other correction strategies



- Student conference
- Re-teach behavioral expectations
- Mediate conflict and assign appropriate consequences.
- Create behavior contracts
- Require student to complete community service tasks.
- Develop a home/school communication system.
- Have students partake in reflective activities about a disciplinary incident
- Take away a student privilege for misbehavior
- Create a check-in/check-out plan for the student with an adult in the school.
- Require daily or weekly check-ins with an administrator for a set period of time.
- Refer student to counselor, social worker, interventionist or Teacher Support Team.
- Work with the student to choose an appropriate way for him/her to apologize and make amends to those harmed or offended.
- Use after-school detention or high-quality in-school suspension during which the student receives assistance with academic and behavioral issues.

# Local changes



- **Los Angeles**

- Los Angeles Unified School District (LAUSD) passes Discipline Foundation Policy (2006)
- City Council rolls back LA's costly truancy policy (2012)
- LAUSD ends suspensions for "willful defiance" (2013)

- **New York City**

- Passes the Student Safety Act to call for data reporting on school-based arrests and school suspensions (2010)

- **Philadelphia**

- Adopts new code of conduct that eliminates out-of-school suspensions for minor misbehavior (disrupting public school) and sets up a graduated approach to discipline (2012)

- **Chicago**

- Adopts new code of conduct limiting the use of suspension, reducing the maximum number of days a student can be suspended, and emphasizing corrective approaches like restorative justice (2012)

# Changes to state law and policy



- **California** (2013) ([fixschooldiscipline.org](http://fixschooldiscipline.org)) latest reform calls on districts to outline roles of adults, *including police*, in order to prevent exclusionary discipline and arrests.
- **Connecticut** (2007) disallows out-of school suspensions unless student poses “such a danger to people or property, or causes such a disruption of the educational process...”
- **Colorado** (2012) requires implementation of best practices to limit student contact with the criminal and juvenile justice system
- **Delaware** (2009) allows districts to modify the terms of expulsions and determine if expulsion is not appropriate
- **Florida** (2009) revises its zero tolerance discipline statute to better delineate between which offenses should not be referred to law enforcement
- **Louisiana** (2010) requires districts to plan for, and deliver, classroom management training for school staff

# Changes to state law and policy



- **Maryland** (2010) prohibits suspensions for attendance-based offenses
- **Massachusetts** (2012) installs greater disciplinary due process protections
- **Oregon** (2013) removes mandatory expulsion requirements from state law
- **Texas** (2013) makes it much harder for school resource officers to issue “tickets” for school discipline matters
- **Virginia** (2013) rolls back much of its zero tolerance policies

-----  
**Maryland Board of Education** (July, 2012) publishes regulations (for adoption after public comment) to restrict use of suspension and expulsion as “a last resort”

**Michigan Board of Education** (June, 2012) passes advisory resolution to urge school districts to "adopt discipline policies without mandated suspension or expulsion for issues that do not involve weapons"

# Tools for policy change



What's here now:

- The Dignity in Schools Campaign's [Model Code for Education and Dignity](#)

What's around the corner:

- Guidance on school discipline from the U.S. Departments of Education and Justice
- Recommendations from the Council of State Governments School Discipline Consensus Project

# III. Supporting School Safety



How the tragedy at Sandy Hook Elementary must inform our work





**Ending the School-to-Prison  
Pipeline Hearing  
Dec. 12, 2012**



**Sandy Hook Elementary**  
**Dec. 14, 2012**

# School safety cannot be political



- **NRA calls for arming of school personnel**  
**Dec. 21, 2012**



# Dangers of over-reliance on school policing



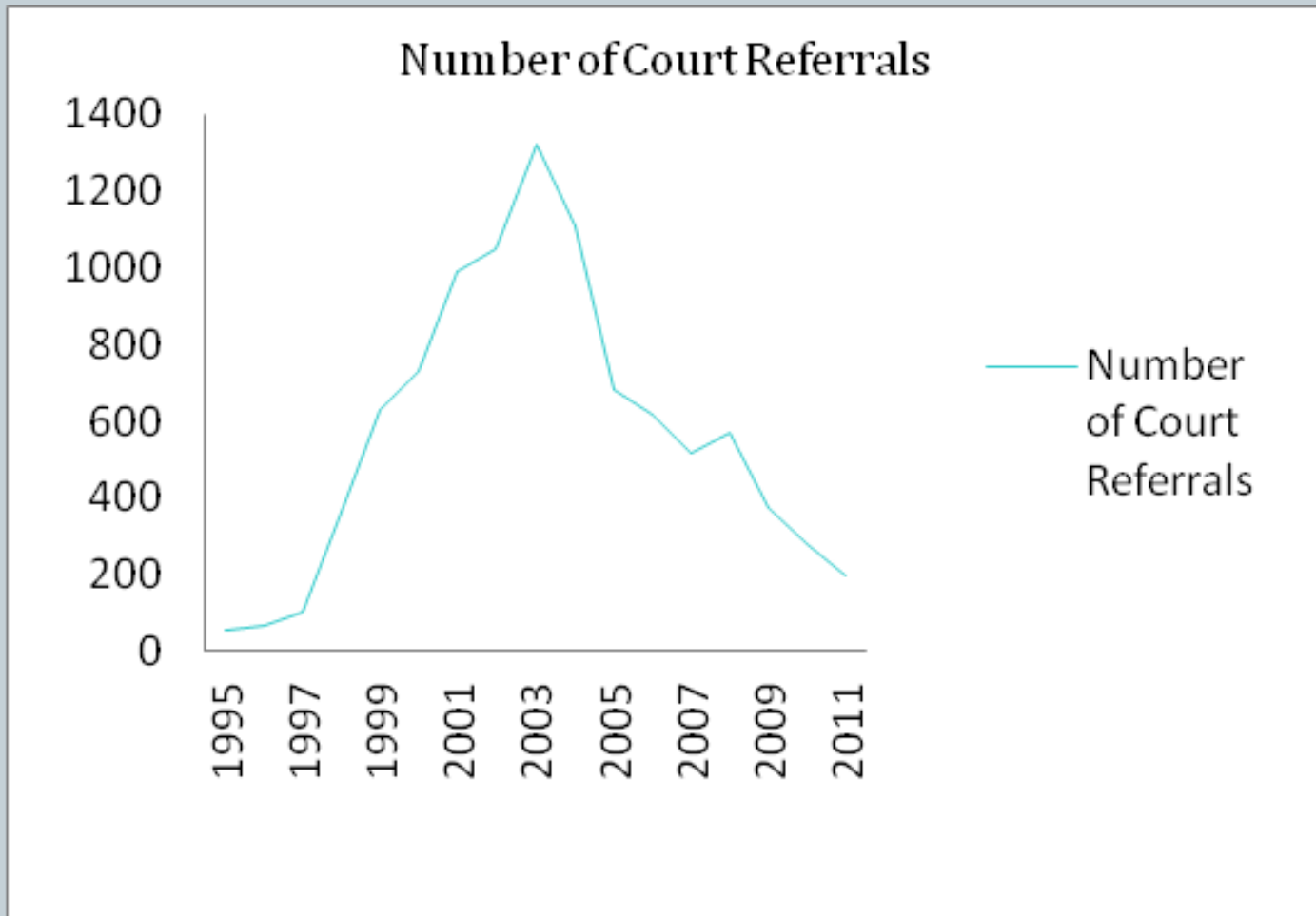
- Students far more likely to be arrested or become court involved for school disciplinary matters when police are present in schools (ACLU of Massachusetts)
- A first arrest doubles the odds of dropout, a first court appearance quadruples them (Sweeten)
- Schools can prevent violence by encouraging trust and communication between students and educators (US Secret Service, US Department of Education)
- Relying on police to address discipline can foster distrust and alienation among students (Leone & Mayer)
- There are no proven gains for school safety by placing police in schools (Gottfredson)

# Clayton County, GA



- To address a 1248% increase in court referrals from school, Clayton County Juvenile Court convened education and justice stakeholders to delineate between:
  - Discipline matters, to be handled by schools, and,
  - Safety matters, to be handled by law enforcement.
- The Protocol has led to:
  - 64% reduction in court referrals
  - 8% reduction in suspensions
  - 20% increase in graduation rates

# Clayton County Schools' Court Referrals



# School-to-court referral rates by race

<b>Year</b>	<b>Risk of Referral for African-American Students</b>	<b>Risk of Referral for White Students</b>
<b>2005</b>	1.69%	0.61%
<b>2006</b>	1.48%	0.55%
<b>2007</b>	1.25%	0.71%
<b>2008</b>	1.39%	0.31%
<b>2009</b>	0.96%	0.46%
<b>2010</b>	0.69%	0.30%
<b>2011</b>	<b>0.51%</b>	<b>0.51%</b>

## Proven & Promising Practices: School Offense Protocols



Since the implementation of the School Offense Protocol, the number of serious weapons in Clayton County schools is down by **70%**

- According to School Resource Officers (SROs) in Clayton County, the School Offense Protocol has also increased students' trust in them, making it more likely that students will confide in them about genuine safety threats.



# Resources



- National Center on Safe, Supportive Learning Environments: <http://safesupportivelearning.ed.gov>
- Technical Assistance Center on Positive Behavioral Interventions and Supports: <http://pbis.org/>
- International Institute for Restorative Practices: <http://www.iirp.edu/>
- NAACP Legal Defense Fund: <http://www.naacpldf.org/case/school-prison-pipeline>
- Dignity in Schools Campaign: <http://dignityinschools.org/>
- Advancement Project: <http://safequalityschools.org/>
- Teaching Tolerance/Teaching Diverse Students Initiative: <http://www.tolerance.org/tdsi/>

# Contact Information



**Matt Cregor**  
**Assistant Counsel**  
**NAACP Legal Defense Fund**  
**[mcregor@naacpldf.org](mailto:mcregor@naacpldf.org)**