



Why should schools choose to address student misbehavior with appropriate graduated sanctions instead of routinely falling back upon exclusionary discipline practices and juvenile court prosecution?

The negative impact of exclusionary school discipline, including prosecuting children for misbehaviors may be more effectively addressed at school

Cost

- The annual costs to taxpayers for a child in the detention system is more than \$97,000 per year.
- The cost to society for a life of crime of a high risk youth is \$3.8 million dollars. Investing in the future of our youth through education and treatment results in lower costs and greater benefits.
- The annual cost of after-school programs is \$3800, a public university education is \$22,000 and Jobs Corp Training is \$39,000.
- The benefit to society through the lifetime tax contributions of a four year degree holder is \$1,000,000.
- Community based treatment programs can yield benefits of up to \$13 for every dollar spent as well as reducing recidivism by up to 22 % [1][2]
- Students who experience out-of-school suspension and expulsion are far more likely to drop out of high school, which has a detrimental economic effect on society as a whole. A high school dropout will earn \$400,000-\$485,000 less over a lifetime than a high school graduate. The loss in tax revenue to state and federal governments is in the billions of dollars. Healthcare is also affected by higher dropout rates as dropouts have poorer health and lower life expectancies. It is beneficial to society to find alternatives to exclusionary discipline practices for both economic and healthcare reasons. [3][4][5]

Parental Responsibility

- Parents whose actions or neglect contribute to the child's misbehavior should be held accountable. Kentucky statutes allow for parents of children adjudicated as public offenders to be fined if the court finds that the guardian has failed to exercise reasonable parental control and this failure is the proximate cause of the act the child was adjudicated for. (KRS 610.180).
- The court may also order parents or guardians to participate in treatment or social service programs ordered for the child. (KRS 610.160).

- It is also possible for the court to assess detention costs of a child to parents if a child is adjudicated guilty as habitual truant or public offender and;
 1. The child has previously been adjudicated guilty as a habitual truant or public offender or is now being considered for transfer as a youthful offender,
 2. Failure of neglect of the parent to exercise control substantially contributed to the adjudicated act; and
 3. The parent has the ability to pay the fees ordered. (KRS 610.295)

Negative Effects of Exclusionary Discipline on Children

- Exclusionary Discipline policies which separate children from the educational environment have a large impact on the achievement gap and graduation rates, significantly impacting youth of color at a disproportionate rate. [6]
- The incarceration of children removes them from home and places children with other young people, many of whom have committed more serious, violent offenses.
- In Kentucky, as in many other states, all children charged with status or public offenses or offenses qualifying for transfer to adult court are incarcerated together in Kentucky's Juvenile Justice Detention Centers and if committed to the Department of Juvenile Justice are placed together in Kentucky's Youth Development Centers. [7]
- In that environment, children learn from their peers and model even more anti-social and oppositional behavior.
- Children then identify themselves as *criminals or gang members*.

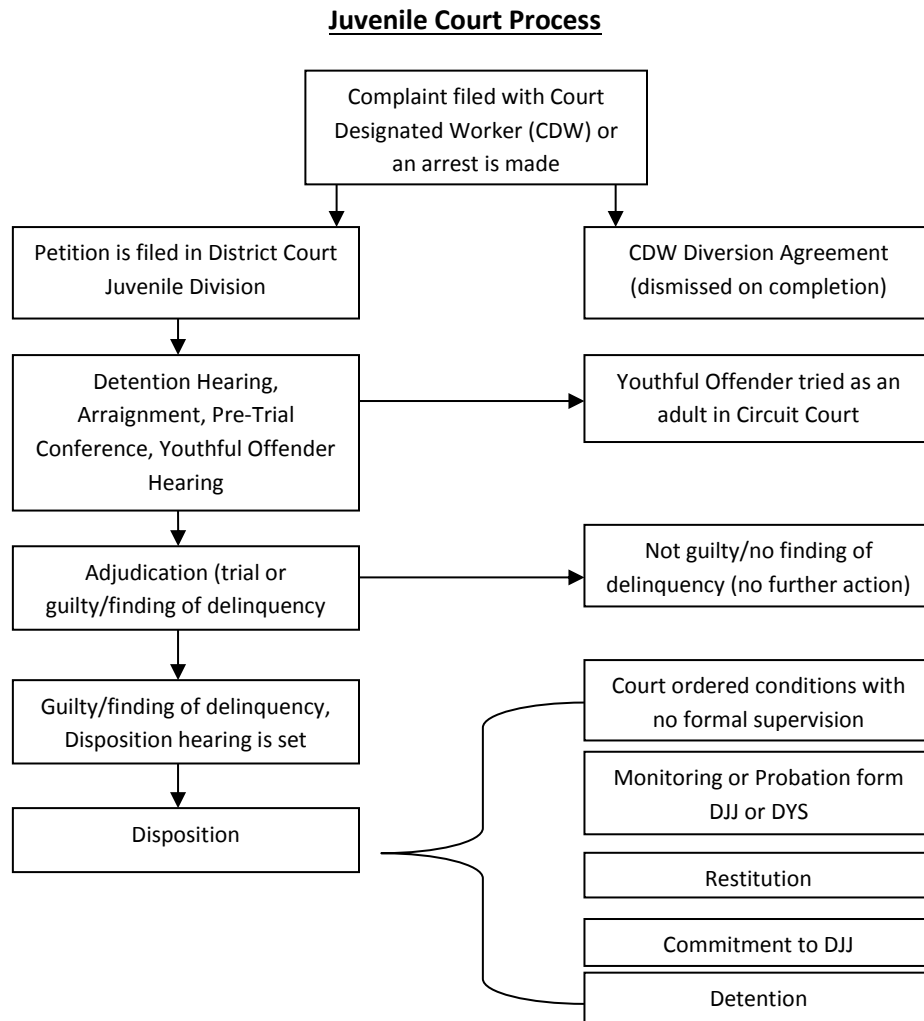
School Responsibility

- Charging children in court with offenses that could be addressed within the school environment disempowers the school because it reduces the school's capacity to assume its rightful position of authority towards the child. [8]
- Studies indicate that many schools fail to implement the full range of services available to address school discipline and often employ exclusionary discipline without thought to a more systemic approach to changing school culture. More intentional and innovative school districts have chosen to adopt systemic approaches designed to address behavior with the goal of improvement and education to ensure greater educational progress within a positive school climate. [9][10]

Juvenile Court Process

- The Juvenile Court Process is designed to protect a child's constitutional rights, not to ensure that the child is held accountable for all misbehavior.
- Criminal charges require proof beyond a reasonable doubt.

- Criminal charges mandate Sixth Amendment protections that invoke attorney-client privilege and protect children from the natural consequences of their actions.
- Criminal charges mandate Fifth Amendment protections that invoke the right to remain silent and deter open acceptance of responsibility and thus a move towards accountability.



Negative Effects of Charging a Child

- Charging a child with a **status** offense removes a child who is in foster care through a dependency, neglect or abuse process from the interventions and supports of child protective services and into a role where the child will only receive services if committed to the Cabinet for Health and Family Services (CHFS) as a status offender.
- CHFS does not routinely provide pre-adjudicative services to children charged with status offenses.

- In KY, a child charged with a status offense can be held in juvenile detention for periods of time before and after adjudication for the violation of a valid court order.
- The child will be held in the same detention facility that houses children charged in juvenile and adult court with misdemeanor and felony offenses.
- Charging a child with a **public** offense who is in foster care through a dependency, neglect or abuse (DNA) process can result in that child being removed from the custody of CHFS and placed in the custody of the Department of Juvenile Justice (DJJ).
- As separate state agencies, in separate Cabinets, the two government organizations compete for limited dollars and frequently are both trying to divest themselves of children placed in their care.
- DJJ is not designed to meet the needs of dependent, neglected or abused children.
- DJJ does not have the same range of mental health services that are intended to be present for a child in the system because of findings of DNA.

Long Term Effects of the Juvenile Justice System

- National studies indicate that children pushed more deeply into the Juvenile Justice System are more likely to end up with Adult Criminal records, fail to graduate high school and fail to find employment.[11][12]
- Alternatively, national studies indicate that if student misbehavior is addressed with consequences close in time to the event and at the community level, students can develop more empathy for those they have harmed, assume more responsibility for their misbehavior and have a greater chance of conforming their behavior to reasonable adult expectations. [13]

“In the classroom, it’s about getting to a state where we can work, rather than seeing how much punishment we can heap on a student. The more kids understand that, the more they’re willing to own their actions and become productive members of their class. This is different from the model that says, ‘You’re going to get a detention and a suspension, whether it’s going to help you or not,’ over and over and over again. Now the kids have the authority to make their own corrections. We didn’t really believe that we could get our kids to the point where they could express remorse, sympathy and respect. Now the kids have embraced restorative practices even more than the adults.”

—Saliyah Cruz, principal

“Before implementing restorative practices, we had a lot of issues of violence, fires, and kids misbehaving in class, disrespect. What restorative practices does is change the emotional atmosphere of the school. You can stop guns, but you can’t stop them from bringing fists or a poor attitude. A metal detector won’t detect that.”

—Russell Gallagher, assistant principal

- Research shows that there is a negative relationship between the use of suspension and expulsion and school-wide academic achievement.
- The use of out-of-school suspension and expulsion policies hurts, not only those who are punished, but also those students the policies are supposedly designed to protect.
- “The Zero Tolerance Task Force of the American Psychological Association determined that schools with higher rates of suspension tend to have lower academic quality, pay less attention to school climate (social, cultural, academic, ethical), and receive lower ratings on school governance measures.” [14][15][16]

Supports

Positive Behavioral Interventions and Supports (PBIS):

PBIS is a three tiered targeted intervention approach to school discipline that ranges from school wide to child focused interventions. The system rewards positive behavior and provides the possible consequences of problem behavior so the student is aware of expectations and consequences. This addresses the issue of many students not having the knowledge of what the good behaviors that are expected are whereas as simply punishing a student does not inform them of what they should do differently. The three tiers are:

1. The first tier targets the whole student population. It involves clearly defining and teaching behavioral expectations.
2. The second tier targets students at risk of problem behavior and uses interventions consistent with school behavior expectations.
3. The third tier targets students with serious behavioral problems. It offers intense, individualized intervention and may include family or community involvement.

Studies have shown links between the implementation of PBIS and reductions in behavior problems and discipline, and improved academic performance and social behavior.

Student Response Teams (SRT):

The SRT is a resource to help improve student behavior and willingness to learn. It is comprised of school-based teams with support provided by district staffed Academic Achievement SRTs for students that are struggling the most. In addition, the district regularly convenes to examine data and address concerns to determine when additional supports are necessary.

Individualized Education Plan (IEP):

An IEP is implemented to ensure a student with a disability gets special education and related services as needed. Parents, teachers, school administrators and staff work together to address an individual child’s needs and develop a specific plan to provide accommodations, modifications and services as needed. Progress on IEP identified areas is monitored and the IEP can be altered as progress is or isn’t made.

Behavioral Intervention Plan (BIP):

A BIP is a behavioral plan developed by the IEP team for disabled children with behavioral problems. The plan is developed for an individual child after a Functional Behavioral Assessment is completed and the behavioral problem is identified. The plan identifies the problem and ensures that the behavior is dealt with appropriately and consistently throughout the school environment. The BIP should set behavioral goals, monitor the child's progress and be adjusted upon review, if needed.

Restorative Justice (RJ):

RJ focuses on the needs of both the victim and the offender and emphasizes individual accountability, healing and mediation. It encourages the offender to take responsibility for their actions by repairing the harm done to the victim. RJ relies on the theory that offenders will choose more positive behaviors once they are aware of the true impact of their actions. It encourages community involvement and open communication among parties involved.

Student Assistance Team (SAT):

The SAT is a school team that works with parents to implement a positive intervention process for a student. There is an emphasis on cooperation between the school, family and the community to ensure the student's success. The team meets to develop strategies to best meet the needs of the child. They consider strengths, concerns and possible interventions when developing a plan. The progress of the student is tracked so adjustments can be made.

Response to Intervention (RtI):

(RtI) is a multi-tiered approach to help students having academic difficulty. Areas of concern are identified and analyzed so an intervention plan can be developed. Once implemented, the student's progress is closely monitored at each stage to determine the need for further research-based instruction and/or intervention. RtI is used in both general and special educations in an effort meet the needs of all students and close the achievement gap.

Family Resource and Youth Services Center (FRYSC):

The FRYSC is a school based group that integrates community, school and family resources to strengthen families and remove learning barriers. The goals of the FRYSC are to improve attendance, decrease behavior/suspension issues, increase academic support, improve physical/mental health and improve parent relations. Services provided may include training, childcare, health and social services referrals, career development services and counseling.

Glossary

Department of Community Based Services (DCBS):

Department within the Cabinet for Health and Family Services, serving families and children through nine regional offices across the Commonwealth. Case Managers within the agencies manage cases dealing with neglect, abuse, child support, and custody. Referrals can be made by family members, lawyers, or judges. The ultimate goal of DCBS is keeping the family together with separation as a last resort.

Department of Juvenile Justice (DJJ):

DJJ is a department within the Department of Justice that specifically manages youth up to the age of eighteen. DJJ oversees management of youth in custody or being detained in Juvenile Detention Centers or jails within the Commonwealth. DJJ also assists in determining the most effective ways to work with families raising struggling youth in school, home, and public environments. The ultimate goal is a balance of the best interest of the public and that of the youth.

Exclusionary Discipline:

Exclusionary discipline practices tend to be more punitive than rehabilitative. The intentions are to fix a problem occurring in a child's life, but in most cases they make matters worse. Such practices are disproportionately enforced against struggling African American children than Caucasian children. Examples of such discipline are suspension, expulsion, write-ups, and requested detention by the school.

Impact:

Impact is a statewide program that coordinates services for children with severe emotional disabilities and their respective families. It has Service Coordinators and Local Resource Coordinators serve children through 18 Regional Interagency Councils. It has resources that include school support, in-homes services, respite, and therapeutic foster care. The client must be under 18 and have a diagnosed psychiatric disorder along with being "severely limited" in at least two of the following to be eligible: self-care, interpersonal relationships, family life, self-direction, education, risk, and service-coordination.

EPSDT Services:

Children of low income are entitled to Medicaid Services under the Early Periodic Screening, Diagnosis and Treatment mandates of Congress. These services include community based, wrap around case management to help children who have complex behavioral healthcare needs. Where in the past, children received these services in Kentucky through Impact Plus if they met certain conditions, those preconditions have been removed. All children with significant emotional disabilities are entitled to EPSDT services that include crisis management, individual and family based therapy, wrap around case management and other necessary services. How to secure these services can be found at <http://chfs.ky.gov/dms/epsdt.htm>.

Public Offense (PO):

Actions a child is accused of committing relating to firearms and weapons or a public offense which, if committed by an adult, would be a crime.

KRS § 600.020. "Public offense action means an action, excluding contempt, brought in the interest of a child who is accused of committing an offense relating to firearms and weapons or a public offense which, if committed by an adult, would be a crime, whether the same is a felony, misdemeanor, or violation, other than an action alleging that a child sixteen (16) years of age or older has committed a motor vehicle offense"

Status Offense (SO):

A crime a youth is accused of committing that they would not be cited for if they were an adult. Examples are truancy, running away, or smoking .

Resources

1. http://www.justicepolicy.org/images/upload/09_05_REP_CostsofConfinement_JJ_PS.pdf
2. http://blueprintky.org/documents/12pub_Ending-the-use-of-Incarceration-for-Status-Offenses-in-Kentucky.pdf
3. American Academy of Pediatrics, **“Out-of-School Suspension and Expulsion”**, February 23, 2013 <http://pediatrics.aappublications.org/content/131/3/e1000.full#sec-5>
4. Shore R, Shore B. **“Kids count indicator brief: reducing the high school dropout rate,”** Baltimore, MD: The Anna E. Casey Foundation; 2009.
5. National Institutes of Health. **“Pathways linking education to health,”** Washington, DC: National Institutes of Health; 2003. www.federalgrants.com/PATHWAYS-LINKING-EDUCATION-TO-HEALTH-4663.html
6. **Breaking Schools’ Rules: A Statewide Study of How School Discipline Relates to Students’ Success and Juvenile Justice Involvement** located at <http://justicecenter.csg.org/resources/juveniles/report>
7. **Final OJJDP Report on Very Young Offenders** located at <https://www.ncjrs.gov/pdffiles1/ojjdp/186162.pdf>
8. <http://www.ncsc.org/sitecore/content/microsites/future-trends-2012/home/Other-pages/SchoolToPrison-Pipeline-In-Texas.aspx>
9. **National Study of Delinquency Prevention in Schools**, Gottfredson Associates, Inc, November 2000.
10. http://www.pbis.org/swpbs_videos/pbs_video-creating_the_culture.aspx
11. National Juvenile Justice Network, ***The Truth About Consequences, Studies Point Toward Sparing Use of Formal Use of Juvenile Justice System Processing and Incarceration, A National Juvenile Justice Network Research Summary.***
12. Holman, B., and Ziedenberg, J. (2006). ***The Dangers of Detention: The Impact of Incarcerating Youth in Detention and Other Secure Facilities.*** Justice Policy Institute. Available at http://www.justicepolicy.org/images/upload/0611_REP_DangersOfDetention_JJ.pdf. Accessed April 2012.
13. ***Improving School Climate: Findings from Schools Implementing Restorative Practices,*** located at <http://www.iirp.edu/pdf/IIRP-Improving-School-Climate.pdf>
14. American Academy of Pediatrics, **“Out-of-School Suspension and Expulsion”**, February 23, 2013 <http://pediatrics.aappublications.org/content/131/3/e1000.full#sec-2>

15. ***“Opportunities Suspended: The Devastating Consequences of Zero Tolerance and School Discipline Policies.”*** Cambridge, MA: Civil Rights Project, Harvard University; 2000.
16. Sundis J, Farneth M. **“Putting kids out of school: what’s causing high suspension rates and why they are detrimental to students, schools and communities.”** Open Society Institute-Baltimore’s Student Attendance Series Policy Paper #2. Baltimore, MD: Open Society Institute; September 2008:2