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TESTIMONY OF

THE SOUTHERN POVERTY LAW CENTER

regarding

ENDING THE SCHOOL-TO-PRISON PIPELINE

Hearing Before the Senate Judiciary Subcommittee on the
Constitution, Civil Rights, and Human Rights

December 12, 2012

INTRODUCTION

The Southern Poverty Law Center respectfully submits the following testimony regarding “Ending the School-to-Prison Pipeline” to the Senate Judiciary Subcommittee on the Constitution, Civil Rights, and Human Rights. Founded in 1971, the Southern Poverty Law Center (“SPLC”) is a nonprofit civil rights organization dedicated to fighting hate and bigotry, and to seeking justice for the most vulnerable members of society. SPLC is based in Montgomery, Alabama, and has offices in Atlanta, Georgia, New Orleans, Louisiana, Miami, Florida, and Jackson, Mississippi.

At the SPLC, we work to break the cycle of juvenile incarceration by making schools and juvenile justice systems more responsive to the needs of children, families and the communities in which they live. SPLC has represented, and continues to represent, youth who are subject to unlawful arrest and excessive force at school. We challenge the over-reliance on school suspension and zero-tolerance discipline policies that disproportionately affect African-American and Latino students. We seek reform through public education, community organizing, litigation, legislative advocacy, training and technical assistance. We commend the Subcommittee for recognizing the crisis that is pushing children out of the classroom and into the criminal justice system and for its willingness to hear from advocates, parents, and the students who experience this problem directly.

There is still much work to be done to end the school-to-prison pipeline, particularly in the Deep South.

The School-to-Prison Pipeline Begins with Inequities in Public Education

There are higher rates of children living in poverty in the Deep South than anywhere in the United States. Approximately one in four children in Alabama, Florida, Georgia, and Louisiana live in poverty with even higher rates in Mississippi.¹ Poverty in our communities seeps into our schools and classrooms. Of the twenty states that spend the least amount per pupil, ten are in the South.² This leads to fewer resources and qualified teachers and professionals. In Alabama, less than 10 percent of four-year-olds are served in state-funded pre-kindergarten.³ Mississippi is the only state in the country with no state-funded pre-kindergarten program.⁴ Studies have repeatedly shown that children without access to pre-kindergarten are less prepared for school and fall behind academically.⁵

A father recently shared with us that his son, who attends a majority African-American school in Alabama, does not have a qualified eighth grade math teacher, and has not had one all year. That his son is failing math comes as no surprise. When this father expressed his concern to the principal, the principal said he had to choose between hiring an eighth grade math teacher and hiring a librarian. The principal chose the librarian. Administrators should not have to make such choices. The amount that Alabama spends per pupil per year has decreased by more than

¹ Demographics of Poor Children from the National Center for Children in Poverty, Mailman School of Public Health, Columbia University, <http://www.nccp.org/profiles/demographics.html> (select desired state from dropdown menu; then select “All Children: Poor” from the profile dropdown menu) (last visited Dec. 10, 2012).

² Public Education Finances: 2010, Table 11: States Ranked According to Per Pupil Public Elementary-Secondary School System Finance Amounts: 2009-2010, U.S. Census Bureau, available at http://www.census.gov/newsroom/releases/pdf/cb12-113_table11.pdf.

³ *Preschool for Y'all*, Preschool Matters Today, National Institute for Early Education Research, www.preschoolmatters.org (last visited Dec. 10, 2012).

⁴ *Id.*

⁵ Eileen M. O’Brien & Chuck Dervarics, *Pre-kindergarten: What the research shows*, The Center for Public Education, (March 2007), available at <http://www.centerforpubliceducation.org/Main-Menu/Pre-kindergarten/Pre-Kindergarten/Pre-kindergarten-What-the-research-shows.html>.

\$1300 since 2008—the largest decrease in per pupil spending in the country.⁶ Students who are struggling academically, and whose academic needs are not being addressed, are more likely to act out to avoid embarrassment. Without proper spending, schools lack the protective interventions, like reading specialists and paraprofessionals, to ensure these students get the help they need. In poor school districts, where classrooms are packed, needs are great, and resources are scarce, students who misbehave are often either suspended or referred to law enforcement.

Each year, Mobile County Public Schools in **Mobile, Alabama** suspends and expels thousands of students—disproportionately students of color and students with disabilities—for minor misbehavior such as tardiness, skipping, and uniform violations. In 2010-2011, 74 percent of all school suspensions were for nonviolent, non-drug related offenses. In Mobile, long-term suspensions can last anywhere from 11 days to the end of the semester. Many students receive back-to-back long-term suspensions. These students fall behind academically, are repeatedly retained and eventually age out and are often encouraged to drop out of school. This “push out” of students occurs against a backdrop of zero tolerance discipline policies, unlimited principal discretion to suspend, and a denial of due process protections for students facing exclusion. In 2010, the SPLC initiated a campaign in Mobile to reform exclusionary school disciplinary practices and empower parents to become advocates for their children and community. In partial fulfillment of this goal, we filed a federal lawsuit on behalf of students who were suspended for months at a time over minor misbehavior and who were denied any due process to defend themselves against the removal.

⁶ Phil Oliff, et al., *New School Year Brings More Cuts in State Funding for Schools*, Center on Budget and Policy Priorities (Sept. 4, 2012), <http://www.cbpp.org/files/9-4-12sfp.pdf>.

In **North Florida**, African-American students are subjected to harsh discipline practices at a much higher rate than white students. African-American students are frequently written up for vague and minor offenses. In Bay County, Florida, one student was written up for defiance because he refused to take his book out and work during class. Another student in Bay County was suspended for three days for classroom disruption because he was tapping his pencil on a desk. In Escambia County, Florida, African-American students number 14,730 or 36 percent of the school population yet account for 65 percent of students receiving out-of-school suspensions. These harsh discipline practices push students, disproportionately African-American students, out of school and into the school-to-prison pipeline. The school districts' ambiguous policies result in vastly disparate disciplinary activity, high levels of subjectivity on the part of teachers and administrators, the overuse of justice system involvement, and dramatically reduced educational opportunities for African-American children. In summer of 2012, the SPLC filed a series of civil rights complaints to challenge these discriminatory disciplinary practices in North Florida.

These harmful zero tolerance policies and practices occur in school districts all across the South. For every student that our campaigns will reach, there are thousands more that will be left unreached. There is still much work to be done particularly here in the Deep South.

Brutal School Disciplinary Tactics Fuel the School-to-Prison Pipeline

The school-to-prison pipeline is fueled by brutal disciplinary practices where children are literally pulled out of their classrooms, placed in handcuffs or other restraints, maced, and arrested for minor misbehavior.

In **Birmingham, Alabama**, nearly every high school has one or more police officers permanently stationed in the school. These officers are routinely called to handle minor disciplinary problems, and once they appear, the school administrators consider the situation a police matter. Students are arrested—and sometimes maced—for normal, adolescent misbehavior such as swearing, horseplay, and disrespectful conduct. While the physical effects of this punishment are horrific—injury to the eyes, temporary loss of vision, burning and discoloration of the skin, loss of breath and, in some cases, respiratory arrest—the impact goes far beyond that. When a child is maced, that child is arrested, taken to the juvenile lock-up, strip searched, and then left in a cell to wait for a parent to come. Although Birmingham schools and police have signed an agreement with the family court that children should not be arrested for this low-level misbehavior, the arrests and the trauma it causes the children continue. In December 2010, the SPLC filed a federal lawsuit on behalf of students who were subjected to the use of chemical weapons, primarily mace, by police officers acting as school resource officers in Birmingham City Schools.

Students at **Jackson, Mississippi's** Capital City Alternative School are regularly disciplined for minor infractions by being shackled for hours at a time to fixed objects like railings, desks, and chairs. These students are left unsupervised in isolated rooms and are denied access to classroom instruction. In June 2011, the SPLC filed a complaint against Jackson Public Schools to stop this practice and recently reached a comprehensive agreement that bars the use of fixed restraints by all District staff on any student.

In **Jefferson Parish, Louisiana**, school officials have given armed police “unfettered authority to stop, frisk, detain, question, search, and arrest schoolchildren on and off school

grounds” in violation of the children’s civil rights and school district policy.⁷ Students are often arrested for minor misbehavior—often not involving criminal misconduct—that should be handled by school personnel rather than police officers. In fact, 70 percent of the school arrests over the past two years were “dismissed, refused, or diverted by the courts.”⁸ We filed a civil rights complaint on behalf of African-American school children in Jefferson Parish who are disproportionately subjected to the overuse of arrests and seizures.

These campaigns challenge incidents of school arrests and uses of force, but the impact to the students and their communities extend far beyond these incidents. Not surprisingly, studies show that being arrested has detrimental psychological effects on children. An arrest nearly doubles the likelihood that a child will eventually drop out of school. Coupled with a court appearance, an arrest nearly quadruples the odds of dropping out and increases the likelihood of future interaction with police. School arrests and uses of force fuel the pipeline by pushing students out of classrooms and into jails, detention centers, and prisons.

The Prison End of the Pipeline

The Walnut Grove Youth Correctional Facility (“WGYCF”) is a youth prison in **Leake County, Mississippi**. WGYCF is operated by a private prison company. It houses over 1,200 young men between the ages of 13-22 nearly all of them African-American. All of the youth at WGYCF were tried and convicted in the adult criminal justice system. Nearly eighty percent of the youth at WGYCF are incarcerated for non-violent offenses. Many of the youth at WGYCF had similar experiences in school: they struggled academically, started acting out, and

⁷ Q.B., et al. v. Jefferson Parish Public School System, Office of Civil Rights, Department of Education, Jan. 11, 2012, http://cdna.splcenter.org/sites/default/files/downloads/case/011112_JeffParish_Arrest.pdf.

⁸ *Id.*

eventually got kicked out. Their arrests followed soon thereafter. Mississippi's criminal laws allows children as young as 13 to be tried as adults for any criminal offense. Once imprisoned, these youth are subjected to horrific abuse and mistreatment, and for years were denied any educational opportunities. If released, they face the uphill battle of living as convicted felons. In 2010, we filed a lawsuit challenging the abuse, dangerous conditions and lack of medical care and educational services and recently reached a comprehensive agreement to rectify these harms.

In **Meridian, Mississippi**, youth are routinely arrested and transported to the juvenile detention center for minor classroom misbehavior. In addition, if a student is on probation and suspended from school, it can be considered a probation violation in which case the student is sent to the detention center to serve the length of the suspension. At the detention center, children are subjected to additional abuse, including the use of mace and other restraints. Recently, the Department of Justice (DOJ) filed a lawsuit to stop these illegal practices. We are very pleased at DOJ's actions yet urge Congress to remember there are many more "Meridians" across the South.

STPP Contributes to the Re-segregation of the South

The school-to-prison pipeline excludes a disproportionate number of African-Americans from the classroom and subjects them to harsh discipline, excessive use of force, and increased criminal justice involvement. Essentially, it pushes youth, particularly African-American youth, out of schools and into the juvenile justice and criminal justice systems.

The 2009-2010 Department of Education Civil Rights Data Collection survey, the most expansive of its kind, covered 85 percent of the nation's students and was the first release of this

crucial federal data since 2006. The results from the schools surveyed show public school systems in the Deep South where Black students represented 18 percent of students but 46 percent of those suspended more than once and 39 percent of those expelled. One in five Black boys and more than one in 10 Black girls received an out-of-school suspension compared to one in 14 White boys and one in 33 White girls. Arrests and police interactions also disproportionately affect low-income schools with large African-American and Latino populations. Black and Latino students represented more than 70 percent of those involved in school-related arrests or referrals to law enforcement--an astonishing number that requires rigorous examination of the reasons why and action to change unfair racial practices in the application of discipline.

CONCLUSION

The school-to-prison pipeline consists of the policies and practices that pull students out of classrooms, science labs, and libraries and push them into abusive and violent jails and prisons. It is a crisis that disproportionately impacts African-American and Latino children, their families and communities. We hope to protect our children by bringing an end to the zero tolerance policies and over-policing that push children out of school, and to refocus public resources toward evidenced-based disciplinary practices that keep children in school.

RECOMMENDATIONS

To truly end the school-to-prison pipeline, we urge Congress to encourage, and school districts to implement, the following reforms:

1. Increase the use of research-based alternatives to suspension, such as positive behavior interventions and supports, in order to remedy not simply punish misconduct;
2. Require annual reports on the total number of in-school suspensions, out-of-school suspensions, extended or long-term suspensions, expulsions, and arrests disaggregated by race, poverty, and gender;
3. Create agreements between the schools, police departments and court systems in districts with high arrest rates to limit school-based arrests and the use of restraints like mace and handcuffs;
4. Provide simple explanations of infractions and due process procedures in the student code of conduct to ensure consistency in application and limit unfettered administrator discretion that has historically operated to the detriment of children of color; and
5. Create appropriate limits on the use of law enforcement officers in the public school setting.

Thank you for the opportunity to be heard on these important matters.

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