

Zero Tolerance for the School-to-Prison Pipeline in Wake County: Magnitude of the Crisis

by Jason Langberg and Cary Brege

Advocates for Children's Services (ACS) is a statewide project of Legal Aid of North Carolina, Inc. ACS' mission is to advocate for the idea that at-risk and/or court-involved children are rights-bearing citizens who are entitled to safe, permanent homes and should receive the medical and educational services promised by law.

ACS conducts the following activities to achieve its mission:

- Provides free legal advice and representation to children who need education, mental health, special education, or foster care services;
- Partners with community groups to educate children, parents, and advocates about their rights and how to enforce them effectively; and
- Educates the broader community through public advocacy when systems fail the children they are supposed to serve.

ACS is staffed by one managing attorney, four staff attorneys, and a paralegal.

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Abstract

Many people in Wake County, North Carolina have never heard the phrase "the school-to-prison pipeline." They know that many children in Wake County receive an excellent education and go on to be immensely successful. They know that the Wake County Public School System (WCPSS) has received numerous awards and accolades for being a "national model"¹ and "beacon of hope"² in the rubble of America's failing urban districts.³ They might have heard that WCPSS is the number one school district in the nation for certified teachers.⁴ They believe that Wake County is "a great place to live, work, play, and learn"⁵ for all residents. Yet the devastating phenomenon of the school-to-prison pipeline (STPP) takes place every day in WCPSS and affects thousands of children each year. So, what is the STPP? How do you recognize it? Why is it a problem?

The STPP is a system of "education and public safety policies that pushes students out of school and into the criminal justice system."⁶ These policies mean that frequently schools are no longer nurturing and forgiving places where students can learn from their childish mistakes. Instead, schools funnel these children—both directly and indirectly—into the court system. Directly, "schools send their students into the pipeline through zero tolerance policies, and involving the police in minor discipline incidents."⁷ Indirectly, "schools push students towards the criminal justice system by excluding them from the learning environment and isolating them from their peer groups through suspension, expulsion, ineffective retention policies, transfers, and high-stakes testing requirements."⁸

Data from the Department of Juvenile Justice and Delinquency Prevention, as well as the Department of Public Instruction, shows that North Carolina has an enormous statewide STPP problem. During the state fiscal year 2008-2009, there were 16,499 school-based delinquency complaints which accounted for 43.0% of all delinquency complaints filed in juvenile court.⁹ In addition, North Carolina's suspension rate is 56% higher than the national average.¹⁰ One out of every ten North Carolina public school students receives an out-of-school suspension each year.¹¹ That ratio rises to one out of every six when considering high school students.¹² During the 2007-2008 school year, North Carolina's public schools handed down 308,010 short-term suspensions (i.e., suspensions lasting one to ten days) and 5,225 long-term suspensions (i.e., suspensions lasting more than ten days).¹³ On average, students who were long-term suspended missed over eight weeks—two months—

Abstract Continued...

of school.¹⁴ “[M]ale students, Black and American Indian students, ninth graders, and students receiving special education services are among the groups that continue to be disproportionately represented among suspended students.”¹⁵

However, this article focuses specifically on WCPSS for two reasons. First and foremost, WCPSS has built and feeds the largest, most invidious STPP of any school district in North Carolina. Second, while statewide approaches are certainly critical to STPP reform, each school district carries out their day-to-day business so differently that analysis is more accurate and reform is more practical on a district-by-district basis. Therefore, this issue brief describes the magnitude of the STPP catastrophe in WCPSS and its associated consequences. A follow-up article detailing a blueprint for reform is forthcoming.

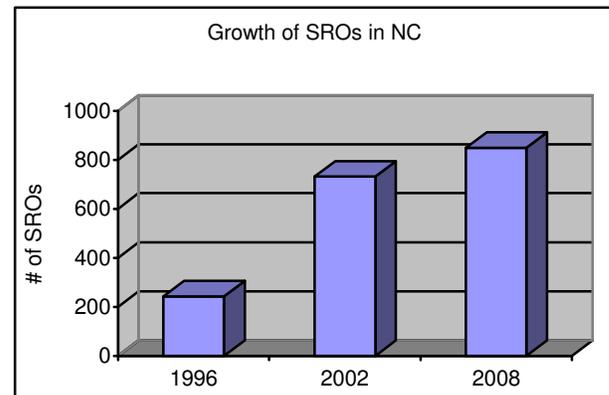
How the STPP Works in Wake County

Feeding the STPP Directly through School-Based Delinquency Complaints

Undoubtedly, schools have the important responsibility of maintaining safety and orderliness.¹⁶ However, schools do not have absolute and unfettered power. They must also respect students’ dignity and individual legal rights. “In our system, state-operated schools may not be enclaves of totalitarianism.”¹⁷ WCPSS has taken the draconian approach of enforcing school rules through surrounding its students with police officers, watching students with surveillance cameras, forcing them to pass through metal detectors, bringing police dogs to school, searching students’ belongings, and filing complaints against them in court. The effect of such an environment is the creation of a self-fulfilling prophecy—students who are expected to act like criminals and who are treated like criminals are consequently more likely to behave like criminals.¹⁸

The over-policing and criminalization of students in schools has quietly been on the rise during the last 15 years. As of last school year, there were 849 school resource officers working in public schools across North Carolina, a 249% increase since 1996.¹⁹ A school resource officer (SRO) is “a

certified law enforcement officer who is permanently assigned to provide coverage to a school or a set of schools.”²⁰ Over 96% of North Carolina’s SROs carry pepper spray, a TASER, or both.²¹

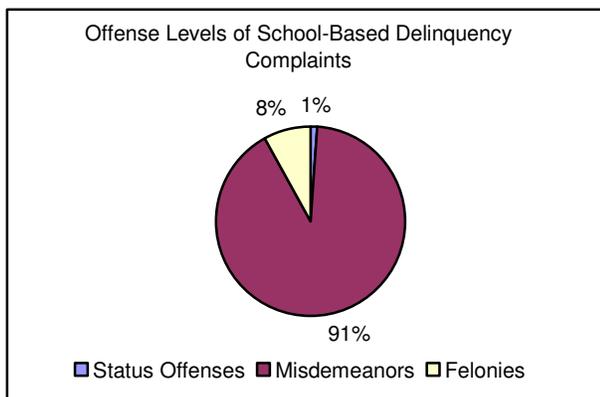


Nowhere is the over-policing problem in North Carolina greater than in WCPSS where there is at least one SRO covering every traditional high school and middle school.²² In addition, WCPSS policies authorize intrusive practices far beyond what courts would permit for equivalent criminal cases. WCPSS students are often interrogated at school by administrators and with SROs present. The students are questioned without proper *Miranda* warnings, without their parents or guardians present, and without a lawyer. Students often give statements to principals expecting leniency for telling the truth and not expecting that their good-faith statements will be used against them in court once the school files a juvenile delinquency or adult criminal complaint. Also, WCPSS policies provide that “[p]eriodic general inspections of lockers may be conducted by school authorities for any reason at any time without notice, without student consent, and without a search warrant.”²³ School officials may search a student’s person, personal effects (e.g., purse, book bag, etc.) and automobile based solely on a “reasonable suspicion” that a student possesses “unauthorized materials”—which is a much less demanding standard than the “probable cause” equivalent used in criminal cases.²⁴ Finally, students’ statements and items discovered during searches at school are often turned over to prosecutors and used against students in delinquency and criminal cases.

WCPSS has been exploiting these policies to file an obscenely high number of delinquency complaints against its own students. During the state fiscal year 2008-2009, there were 2,436 delinquency complaints filed in Wake County, 30% of which were

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“school-based.”²⁵ But these complaints were not for the violent, dangerous type of behavior one might expect. Rather, the vast majority (84%)²⁶ of school-based delinquency complaints were for minor misdemeanors.²⁷ During the 2008-2009 school year, WCPSS did not have any reported incidents of rape, sexual offenses, death, violent assaults, or setting fires.²⁸ Moreover, in WCPSS, less than 7% of the “reportable acts of crime and violence” were actually for “violent offenses.”²⁹



Consequences of School-Based Delinquency Complaints

The consequences of court-involvement are devastating for students both academically and emotionally.³⁰ Detained youth are separated from their families and more likely to be depressed and engage in suicide and self-harm.³¹ They are also more likely to recidivate and get pulled deeper into the system.³² Judges, juvenile court counselors, and probation officers report a growing frustration with being overwhelmed with relatively minor cases that schools used to resolve on their own. A Family Court judge in Clayton County, Georgia, where real STPP reform is taking place, recently commented: “Research has confirmed a strong link between court referrals and academic success. A first time arrest during high school nearly doubles the chances that a student will drop out of school, while a court appearance nearly quadruples those chances.³³ WCPSS can reduce these negative outcomes by stopping the over-policing and criminalization of the very students that it has been entrusted to teach and nurture.

Feeding the STPP Indirectly through Excessive Use of Suspensions

WCPSS also indirectly feeds the STPP through its use of out-of-school suspensions. WCPSS is the single worst district in North Carolina when it comes to long-term suspending students. Statistically speaking, WCPSS punishes its students more harshly than other districts for committing the exact same offense.³⁴ Not only that, but WCPSS has redefined what constitutes a long-term suspension so as to systematically exclude children from school for longer lengths of time. Even though state law defines a long-term suspension as an out-of-school suspension lasting anywhere from eleven school days through the end of the school year,³⁵ WCPSS redefined long-term suspension to require “removal from the school system for the remainder of the school year.”³⁶ This drastically punitive approach means a student who is long-term suspended during the beginning of the school year will be out of school for over one hundred days in Wake County while they might have only received an eleven-day long-term suspension in another district.

During the 2007-2008 school year, WCPSS handed down the highest number of long-term suspensions in the entire state: 1,103.³⁷ Even though WCPSS is the largest district in the state, this number was still grossly disproportionate. WCPSS students accounted for 9.2% of public school students in North Carolina,³⁸ but received 21.1% of all long-term suspensions in the state.³⁹ Last school year, WCPSS gave out 1,015 long-term suspensions, again the most of any county in North Carolina. To put this in perspective, WCPSS gave 975 more long-term suspensions than Charlotte-Mecklenburg County, which has nearly the same size student population as WCPSS.⁴⁰ Two schools in Wake County—William G. Enloe High School and Garner Magnet High School—each gave more long-term suspensions last year than 107 (of the 115) school districts in the state.⁴¹ To make matters even worse, these figures do not reflect the total number of students removed from school since they do not include the students who are subsequently placed at an alternative educational center.⁴²

Consequences of School Exclusion

Virtually everyone recognizes the immense importance of a high-quality education for children.⁴³ In the landmark decision *Brown v. Board of Education*, the Supreme Court of the United States wrote: “It is doubtful that any child may reasonably

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be expected to succeed in life if he is denied the opportunity of an education.”⁴⁴ Yet WCPSS has long-term suspended more than 1,000 students each of the last five years, and the consequences are devastating.⁴⁵ Study after study reveals the destructive effects of suspensions and expulsions. The negative consequences include:

- accelerating the course of possible delinquency by providing youth with little parental supervision and more opportunities to socialize with deviant peers;
- increasing conduct detrimental to the safety of families and communities (when children are out of school, they are more likely to engage in physical fights, to possess a weapon, and to use alcohol, tobacco, and drugs);
- generating feelings of alienation and failure that lead excluded students to unemployment, gangs, and crime;
- leading to isolation, suicidal ideation, and substance abuse;
- intensifying conflicts with adults;
- creating a self-fulfilling belief that a student is incapable of abiding by schools’ social and behavioral codes;
- decreasing motivation to learn;
- worsening academic performance (including failing grades and retention); and
- increasing the likelihood of dropping out.⁴⁶



Long-term suspended students in WCPSS face three grim options: 1) no educational services at all; 2) on-line courses;⁴⁷ or 3) three to six hours per week of home/hospital services for students who qualify for special education.⁴⁸ Obviously, it is a problem when thousands of school-age children go

for extended periods of time without any educational services. Online classes pose their own concerns—What if a student does not have access to a computer with the internet at home or the transportation necessary to access free internet at a public library or instructional center? If students doing online lessons have questions about the material or need help with an assignment, whom do they ask? What about the other benefits of attending a real school, such as free and reduced lunch, exercise in gym class, extracurricular activities, socialization, and supervision? What if a student is not computer literate? Home/hospital services—consisting of meeting with a teacher for a few hours per week—have their attendant host of problems as well. Providing exceptional children with three to six hours of tutoring for an entire week is clearly problematic. Not only do these children face negative consequences due to being removed from the school setting, but such limited home/hospital services also denies them the free, appropriate public education in the least restrictive environment to which they are entitled under federal⁴⁹ and state law.⁵⁰ In order to stop feeding the STPP, WCPSS must cease its punitive practices, reduce the shockingly high number of students who are long-term suspended, and provide students with adequate alternative educational services.

Racial Disparities in the STPP

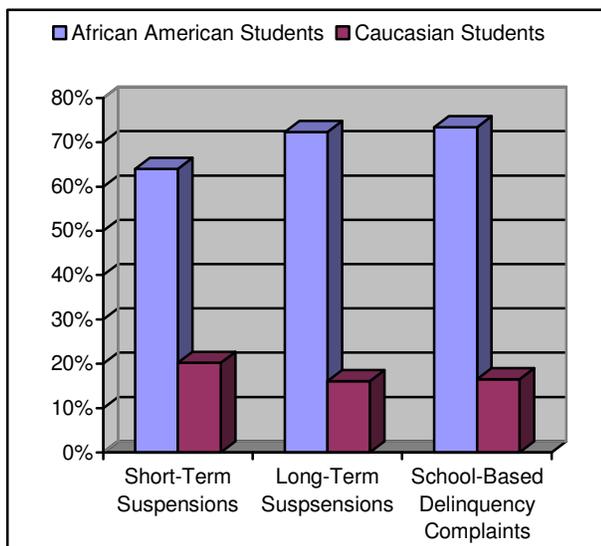
The STPP is not a color-blind phenomenon in WCPSS. African American students are disproportionately represented both in the direct feeder of the STPP—school-based delinquency complaints—as well as in the indirect feeder—school suspensions.

During state fiscal year 2007-2008, African American students received 73.4% of all school-based delinquency complaints⁵¹ even though they only accounted for 30.7% of WCPSS’ population.⁵² In contrast, only 16.5% of school-based delinquency complaints were filed against Caucasian students⁵³ although they made up 52.6% of WCPSS’ population.⁵⁴

Similar disproportionate representation is found in school exclusion. During the 2007-2008 school year, African American students received 64.0% of the total short-term suspensions and 72.3% of the total long-term suspensions in the WCPSS, compared to 20.2% and 16.1% for Caucasian students, respectively.⁵⁵ That means that the rate of long-term suspensions among African American students was 7.8 times greater than the

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rate among Caucasian students.⁵⁶ Moreover, a total of twenty-five students were expelled by WCPSS over a three year period—and twenty-four (96.0%) of them were African American.⁵⁷ African Americans are not only over-represented as a whole in school exclusion, but they also receive a disproportionate share of the most severe discipline consequences.



Part of the disproportionately high rates of suspension for African American students results from a higher rate of reported rule violations. However, the fact remains that African American students are also being punished more severely for the same offenses. To draw the most accurate racial comparisons, one must compare first time offenders (i.e., students who have not previously been suspended or expelled since students with past suspensions or expulsions are often disciplined more harshly for the same offense) who commit only one offense (i.e., students who were disciplined for only one specific infraction since students who receive one suspension for multiple infractions often receive harsher punishments). This essentially compares “apples to apples.” Such a comparison for the 2008-2009 school year reveals that for first time offenders who committed a minor assault, 73.9% of African American students were long-term suspended, whereas only 21.4% of Caucasian students were long-term suspended for the same offense.⁵⁸ Statistically, an African American student is many times more likely to be long-term suspended than a Caucasian student for other offenses as well: 3.9 times more likely for assault on school personnel; 2.7 times more likely for possession of a

weapon; and 2.5 times more likely for assault with serious injury.⁵⁹

Consequences of Racial Disparities in the STPP

Not only are African American students in WCPSS disciplined at a much higher rate—even for the same offense—but they also disproportionately suffer the negative outcomes associated with school suspension. This phenomenon is reflected in poor test results, high drop out rates, and an avalanche of delinquency complaints in Wake County. At the end of the 2007-2008 school year, 78.1% of eighth grade Caucasian students were at or above achievement level III in reading and math.⁶⁰ The same could be said for only 31.0% of eighth grade African American students.⁶¹ The disparities continue into high school. During the 2007-2008 school year, African American students made up 30.7% of all students in WCPSS,⁶² yet accounted for 48.8% of all drop out events among students in high school.⁶³ Moreover, their percentage of all drop out events is on the rise, while the percentage of total drop outs represented by Caucasian students is on the decline.⁶⁴ Finally, overall rates of juvenile delinquency complaints reflect significant racial disparities. In 2008, the rate of delinquency complaints for African American youth was nine times higher than the rate for Caucasian youth.⁶⁵ WCPSS clearly plays a role in creating disproportionate minority contact in the juvenile justice system since such a large percentage of delinquency complaints comes from its public schools.⁶⁶

It is undeniable that African American children across Wake County generally have worse indicators of child well-being than Caucasian children. For example, 17.6% of African American households are female headed with children and no husband present (versus 3.7% of Caucasian households); the median income for African American families is \$48,947 (versus \$95,506 for Caucasian families); and the poverty rate for African American families with related children under age eighteen is 17.7% (versus 5.2% for Caucasian families).⁶⁷ Additionally, African American children represent a disproportionately large percentage of substantiated reports of abuse and neglect and children in the custody of the Department of Social Services in Wake County.⁶⁸

Children with negative indicators of child well-being bring those hardships with them to school every day. Undoubtedly, parents and communities must do more to ensure their students are

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successful. However, matters can only be made worse for students by kicking them out of the classroom. While the school system cannot solve all social ills, it must be part of the solution, not part of the problem. The policies and practices of WCPSS clearly demonstrate the way the School System currently feeds the STPP with the children from our community. One thing is certain—children, schools, and communities would benefit immeasurably from reducing the STPP in Wake County.

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Conclusion

In *Brown v. Board of Education*, the Supreme Court of the United States wrote “education is perhaps the most important function of state and local governments.”⁶⁹ Yet when a school district adopts policies and practices that directly and indirectly feed the STPP, education is perversely used to worsen inequalities, stifle progress, and produce injustice. Data on WCPSS demonstrates the reality and pervasiveness of the current STPP crisis in terms of school-based delinquency complaints, school suspensions, and racial disparities.

This is not to say that all teachers, administrators, and schools participate in the STPP to the same degree. WCPSS has many teachers and administrators who are highly effective and care deeply about their students. They approach their work with great passion and dedication. These teachers and administrators have some of the most difficult jobs in the world and should be commended for all they do to create a better future for Wake County.

However, the data cannot be ignored any longer. The very children who most need an education are being pushed out of school and down the path of a lifetime of failure. Now is the time for WCPSS to dismantle its STPP. That process begins with the Board of Education and the Superintendent. They must show the leadership and courage to challenge the status quo and “end business as usual” in Wake County. The children and families—and even the teachers and administrators—who are trapped in the STPP cannot be overlooked and abandoned for yet another year.

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¹ *Making Choices: Diversity, Student Assignment and Quality in Wake's Public Schools*, Wake Education Partnership, p. 11 (2003).

² See Gerald Grant, *Hope and Despair in the American City Why There Are No Bad Schools in Raleigh* (2009).

³ See *Diversity Drives Wake Schools Race*, Independent Weekly, September 16, 2009; *Gerald Grant on Wake's School Success*, Independent Weekly, May 20, 2009.

⁴ WakeGOV.com, National Recognitions and Accolades, <http://www.wakegov.com/about/accolades.htm>.

⁵ Wake County, North Carolina, WakeGov.com.

⁶ *School to Prison Pipeline: Fact Sheet*, New York Civil Liberties Union.

⁷ *Id.*

⁸ *Id.*

⁹ Email from North Carolina Department of Juvenile Justice and Delinquency Prevention (October 19, 2009) (on file with authors).

¹⁰ See National Center for Education Statistics, "Digest of Education Statistics" (2006).

¹¹ *Report to the Joint Legislative Education Oversight Committee, Consolidated Data Report, 2007-08*, North Carolina Department of Public Instruction, p. 25.

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.* at 34.

¹⁵ *Id.* at 25.

¹⁶ See *New Jersey v. T.L.O.*, 469 U.S. 325, 339-40 (1985).

¹⁷ *Tinker v. Des Moines Ind. Comm. School Dist.*, 393 U.S. 503, 511 (1969).

¹⁸ See *Safety with Dignity: Alternatives to the Over-Policing of Schools*, New York Civil Liberties Union, Annenberg Institute for School Reform, and Make the Road New York, p. 21 (2009); Paul J. Hirschfield, *Preparing for Prison? The Criminalization of School Discipline in the USA*, *Theoretical Criminology*, Vol. 12, No. 1, pp. 79-101 (2008); Miriam Rokeach and John Denvir, *Front-Loading Due Process: A Dignity-Based Approach to School Discipline*, 67 *Ohio St. L. J.* 277, 294 (2006) (citation omitted); Christina L. Anderson, *Double Jeopardy: The Modern Dilemma for Juvenile Justice*, 152 *U. Pa. L. Rev.* 1181, 1202 (2004), citing John Braithwaite, *Crime, Shame, and Reintegration* 18 (1989) and Robert K. Merton, *Social Theory and Social Structure* 421-36 (1957); *Dismantling the School-to-Prison Pipeline*, NAACP Legal Defense and Educational Fund, Inc., p. 4.

¹⁹ *Annual School Resource Officer Census, 2008-2009*, North Carolina Department of Juvenile Justice and Delinquency Prevention, Center for the Prevention of School Violence, p. 1.

²⁰ North Carolina Department of Juvenile Justice and Delinquency Prevention, Center for the Prevention of School Violence, School Resource Officer, http://www.ncdjjdp.org/cpsv/school_resource_officer.html (last visited Oct. 1, 2009).

²¹ *Supra* note 19, at 1.

²² See *id.* at 10.

²³ WCPSS, Board Policy, Search and Seizure, 6600.2.

²⁴ WCPSS, Board Policy, Search and Seizure, 6600.1, 6600.3.

²⁵ See *supra* note 9.

An additional fifty-one complaints were filed for offenses occurring on "school/college grounds or property," but were not classified as "school-based."

²⁶ See *id.*

²⁷ Misdemeanors Class 1-3 are defined as "Minor" in the North Carolina Department of Juvenile Justice and Delinquency Prevention Annual Reports. To view annual reports, visit: www.ncdjjdp.org/statistics/annual.html.

²⁸ See Email from North Carolina Department of Public Instruction (September 24, 2009) (on file with authors).

²⁹ See *id.*

Violent offenses, as defined by State Board of Education Policy Number SS-A-006, include: assault resulting in serious injury; assault involving use of a weapon; sexual assault not involving rape or sexual offense; sexual offense; robbery without a dangerous weapon; taking indecent liberties with a minor; robbery with a dangerous weapon; kidnapping; rape; and death by other than natural causes.

³⁰ See Barry Holman and Jason Ziedenberg, *The Dangers of Detention: The Impact of Incarcerating Youth in Detention and Other Secure Facilities*, Justice Policy Institute, pp. 9-10 (2006); Jeffrey Fagan and Martin Guggenheim, *Preventative Detention and the Judicial Prediction of Dangerousness for Juveniles: A Natural Experiment*, 86 *J. Crim. L. & Criminology* 415, 429 (1996).

³¹ See Holman & Ziedenberg, *supra* note 30, at 8-9.

³² See *id.* at 4-5.

³³ Marie Leech, *New Plan Aims to Reduce Arrests Virtually All Charges Involve Minor Offenses*, Birmingham News, October 10, 2009.

³⁴ To draw such a definitive conclusion accurately, one must compare the infractions that minimize variations in reporting practices among the 117 districts in North Carolina. One must also compare the discipline of "first time offenders" who only commit one offense in order to avoid the fact that some students are punished more harshly because of past infractions or because they committed multiple infractions on a given occasion. Under state policy and federal law, school districts must report twenty-nine different offenses to the North Carolina Department of Public Instruction (seventeen required under North Carolina statute and under federal statute). For eighteen of the twenty-nine total offenses, at least one student in WCPSS and one student in another county committed the offense. The WCPSS long-term suspends a higher percentage of students for eleven of the eighteen (61.1%) offenses. See *supra* note 28; Email from North Carolina Department of Public Instruction (October 1, 2009) (on file with authors).

³⁵ N.C.G.S.A. § 115C-391

³⁶ WCPSS, Board Policy, Due Process, 6530.3(A) (emphasis added).

³⁷ See *supra* note 11, at 23, 67.

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³⁸ *Statistical Profile 2008*, North Carolina Department of Public Instruction, p. 61.

³⁹ *Supra* note 11, at 34, 64.

⁴⁰ Email from North Carolina Department of Public Instruction (September 17, 2009) (on file with authors).

⁴¹ *See supra* note 28; *supra* note 39.

⁴² WCPSS, Board Policy, Due Process, 6530.10 (“Assignment to in-school suspension or an alternative educational center shall not be considered as a suspension from school.”).

⁴³ *See e.g., Plyer v. Doe*, 457 U.S. 202, 221, 223 (1982).

⁴⁴ *Brown v. Bd. of Educ. of Topeka, Shawnee County, Kan.*, 347 U.S. 483, 493 (1954).

⁴⁵ The state Board of Education must report the number of students who have been suspended to the General Assembly each year. *See* N.C.G.S.A. § 115C-12(27). For access to the yearly reports, visit: www.dpi.state.nc.us/research/discipline/reports/.

⁴⁶ *See Safety with Dignity*, *supra* note 18, at 9-11; Simone Marie Freeman, *Upholding Students’ Due Process Rights: Why Students Are in Need of Better Representation at, and Alternatives to, School Suspension Hearings*, 45 *Fam. Ct. Rev.* 638, 640 (2007); Jane Conoley, et. al, *Are Zero Tolerance Policies Effective in the Schools? An Evidentiary Review and Recommendations*, American Psychological Association Zero Tolerance Task Force (2006); *One Out of Ten: The Growing Suspension Crisis in North Carolina*, Action for Children North Carolina (formerly the North Carolina Child Advocacy Institute), p. 5 (2005); *Opportunities Suspended: The Devastating Consequences of Zero Tolerance and School Discipline*, Advancement Project and Harvard Civil Rights Project, pp. 9-11 (2000); Eric Blumenson and Eva S. Nilsen, *One Strike and You’re Out? Constitutional Constraints on Zero Tolerance in Public Education*, 81 *Wash. U. L. Q.* 65, 82-83 (2003); *Out-of-School Suspension and Expulsion; Derailed: The Schoolhouse to Jailhouse Track*, Advancement Project, p. 7 (2003); *Unintended Consequences: The Impact of Zero Tolerance and Other Exclusionary Policies on Kentucky Youth*, Building Blocks for Youth, pp. 8-9 (2003); *Dismantling the School-to-Prison Pipeline*, *supra* note 18, at 2; *Out-of-School Suspension and Expulsion*, *American Academy of Pediatrics, Committee on School Health, Pediatrics*, Vol. 112, No. 5, pp. 1206-07 (2003); Alicia C. Insley, *Suspending and Expelling Children from Educational Opportunity: Time to Reevaluate Zero Tolerance Policies*, 50 *Am. U. L. Rev.* 1039, 1069-70 (2001); *Alternatives to Out-of-School Suspension*, Southern Poverty Law Center.

⁴⁷ *See Resource Guide*, WCPSS, Student Support Services, p. 5, <http://www.wcpss.net/isd/sss/ss-resource-guide.pdf> (last visited December 3, 2009); Ray Martin, *Alternative Schools Close*, *The News and Observer*, June 17, 2009.

⁴⁸ *See Resource Guide*, *supra* note 45, at 6.

⁴⁹ *See* 20 U.S.C. § 1400 et seq.

⁵⁰ *See* N.C.G.S.A. § 115C-107 et seq.

⁵¹ *See* Email from North Carolina Department of Juvenile Justice and Delinquency Prevention (September 29, 2009) (on file with author).

⁵² *Supra* note 38, at 17.

⁵³ *See* Email, *supra* note 49.

⁵⁴ *Supra* note 38, at 17.

⁵⁵ *Supra* note 11, at 67.

⁵⁶ *Id.*

⁵⁷ *Id.*; *Report to the Joint Legislative Education Oversight Committee, Annual Study of Suspensions and Expulsions, 2006-2007*, North Carolina Department of Public Instruction, p. 80; *Report to the Joint Legislative Education Oversight Committee, Annual Study of Suspensions and Expulsions, 2005-2006*, North Carolina Department of Public Instruction, p. 84.

⁵⁸ *See* Email, *supra* note 28.

⁵⁹ *See id.*

⁶⁰ Reports of Disaggregated State, School System (LEA) and School Performance Data for 2006–2008, North Carolina Department of Public Instruction, available at <http://www.ncpublicschools.org/accountability/reporting/leaperformancearchive/> (last visited December 3, 2009)

⁶¹ *Id.*

⁶² *Statistical Profile*, *supra* note 38.

⁶³ *Dropout Report, 2007-2008*, North Carolina Department of Public Instruction, p. 31.

⁶⁴ *Id.*; *Report to the Joint Legislative Education Oversight Committee, Annual Report on Dropout Events and Rates, 2006-2007*, North Carolina Department of Public Instruction, Table 6, p. 35; *Report to the Joint Legislative Education Oversight Committee, Annual Report on Dropout Events and Rates, 2005-2006*, Department of Public Instruction, Table 6, p. 24.

⁶⁵ *See* Email from North Carolina Department of Juvenile Justice and Delinquency Prevention (September 14, 2009) (on file with authors).

⁶⁶ African American children in Wake County are disproportionately represented in the juvenile delinquency system. The population of children ages ten to seventeen in Wake County is 24.9% African American, yet 71.6% of all delinquency complaints to juvenile court are against African American children. The inequities only magnify deeper into the STPP. African American children represent 75.0% delinquency petitions filed; 79.0% of delinquent adjudications; 87.5% of Youth Development Center commitments; and 100% of Superior Court transfers. *See id.*

⁶⁷ American Community Survey: Wake County, U.S. Census Bureau (2008)

⁶⁸ In state fiscal year 2007-2008, African American children made up 45.6% of substantiated reports of abuse and neglect, whereas Caucasian children made up 47.6%. Between July 2008 and June 2009, the total unique number of children in foster care under Department of Social Services custody 64.6% African American and 32.4% white. *See* University of North Carolina at Chapel Hill Jordan Institute for Families website, Child Welfare in North Carolina, retrieved September 30, 2009, <http://ssw.unc.edu/ma/>.

⁶⁹ 347 U.S. at 493.