



STATE OF DELAWARE  
**STATE COUNCIL FOR PERSONS WITH DISABILITIES**  
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**MEMORANDUM**

DATE: June 26, 2015

TO: The Honorable Jack Markell

FROM: Ms. Daniese McMullin-Powell, Chairperson  
State Council for Persons with Disabilities

RE: H.B. 126 (Minimum Age of Prosecution)

The State Council for Persons with Disabilities (SCPD) has reviewed H.B. 126 which would disallow prosecution of child for conduct occurring when the child was under the age of 10. Instead, young children could be referred to appropriate intervention and treatment programs. Indeed, their participation in such programs could be court ordered or otherwise required. The legislation adopts the American Bar Association (ABA) standard (age 10) as the minimum age of responsibility for juvenile prosecutions. The synopsis notes that at least eleven (11) other states, including Pennsylvania, have the adopted the ABA standard. SCPD has the following observations.

First, the legislation is consistent with recent public policy and public sentiment. For example, in 2010, legislation (H.B. 347) was enacted to limit school reporting of child offenses to the police. Prior to 2010, schools were required to report "criminal" conduct of any child age 9 or older to the police. The mandatory reporting threshold was changed to age 12 for most offenses as a matter of public policy. See, e.g., the attached June 4, 2010 News Journal editorial which describes the discipline of a 6 year old Delaware student who brought his Cub Scout utensil to school to eat his lunch. Referrals of young children to law enforcement has been a matter of historic concern. See, e.g., the referral of a 6 year old to the Attorney General for "offensive touching" of a teacher (attached 12/12/96 and 12/13/96 News Journal articles).

Second, young children can be traumatized and terrorized by police involvement. In 2013, the Delaware Supreme Court criticized the intense police questioning of an innocent 8 year old who was informed he could be arrested if he didn't tell the truth and incarcerated where "people are

mean and children are treated like criminals” and “siblings would be upset and would not be able to see them.” See attached July 11, 2013 News Journal article.

Third, nationally, a model which diverts troubled children from arrests to support services has proven effective. See attached December 2, 2013 New York Times article. See also attached National Center for Mental Health & Juvenile Justice, “Better Solutions for Youth with Mental Health Needs in the Juvenile Justice System” (2014), published at <http://www.modelsforchange.net/publications/519> .

Fourth, the federal government is promoting interventions which divert children from the juvenile and criminal justice systems. See attached January 9, 2014 News Journal article. In part, this initiative recognizes the disproportionate discipline and prosecution of minorities. Id. See also attached January 10, 2014 News Journal article. As the above “Better Solutions” publication notes, “between 65% to 70% of youth in contact with the juvenile justice system have a diagnosable mental health disorder” and many would be better served by diversionary programs.

Thank you for your consideration and please contact SCPD if you have any questions regarding our observations on the proposed legislation.

cc: Mr. Andrew Lippstone, Office of the Governor  
Ms. Lindsay O’Mara, Office of the Governor  
Mr. Brendan O’Neill, Office of the Public Defender  
Ms. Tania Culley, Office of Child Advocate  
Mr. Brian Hartman, Esq.  
Governor’s Advisory Council for Exceptional Citizens  
Developmental Disabilities Council

HB 126 minimum age of prosecution 6-23-15

6-4-10

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Journal  
Newspaper  
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Publisher  
  
John Sweeney  
Editorial Page Editor

QUOTE OF THE DAY  
"This has hijacked his entire legislative agenda."

Historian Douglas Brinkley on President Obama's reputation after the Gulf oil spill

VIEW

# Common-sense approach to school discipline needed

Delaware law requires that all crimes by students 9 and older be reported to police. A new bill, endorsed by the state Senate on Wednesday, raises the age to 12.

Parents across the country have been urging elected officials

## ZERO TOLERANCE

to rethink the wisdom of kicking kids out of school for innocent infractions. The dismissal of a 6-year-old Downes Elementary School student who had a Cub Scout utensil — part knife, fork and spoon — to eat his lunch with put the national spotlight on Delaware's law. District policy required that the child spend 45 days in an alternative school.

The Christina District Board of Education ultimately overturned that requirement, but not before the state joined the ranks of oth-

ers whose attempts to reduce school crime have appeared laughable.

Other states have recognized the foolishness done by such a blanket approach. Two years ago, Florida lawmakers ordered school boards to first make sure that only students who pose a serious threat are expelled. They removed petty misconduct as grounds for expulsion or arrest.

Last year, Texas started requiring that intent, self-defense, disciplinary history and whether the child has special needs be considered in suspension cases.

Those specific mandates respect the discretion of school officials. But first, let's raise the mandatory age for reporting offenses to police, which House Bill 347 does. It sets a reasonable marker for invoking zero tolerance policies.

# Girl, 6, in trouble for 'offensive touching'

By TERRI SANGINITI  
Staff reporter

MIDDLETOWN — To first-grader Stephanie Martin, it was a harmless love tap on her teacher's rear end.

To Appoquinimink school district officials and the attorney general's office it was "offensive touching," worthy of a possible five-day suspension.

District officials allege that during recess Friday afternoon at Silver Lake Elementary School, 6-year-old Stephanie poked primary teacher Laurie Wicks in the buttocks.

Wicks reported the incident Monday to principal Gail Quimby, who suspended Stephanie.

"I'm confused," said Stephanie's mother, Gerrie Martin. "She likes Mrs. Wicks and was doing this as a love pat for attention. And they want to get her for offensive touching."

A 4-year-old state law requires district officials to report to authorities such crimes as offensive touching, assaults, extortions and crimes involving weapons and drugs.

The law was designed to force school districts to involve law enforcement in cracking down on crime in schools. It fines school officials \$250 for a first offense and \$500 for a second offense if they fail to notify authorities.

Appoquinimink school officials said their hands were tied by the law in this case.

"This House Bill 85 is the law of the land and we have to be careful of how it's interpreted," said district Superintendent Tony Marchio.

See STEPHANIE — A4

# Stephanie: 'I told her I'm sorry'

FROM PAGE A1

School officials have allowed Stephanie to remain in school while her mother appeals the suspension. Martin is scheduled to meet with Marchio at 1 p.m. today to discuss the suspension.

"We have to work through situations and do in our heart what's best for the kid. Based on the information, I'm going to do what's right," Marchio said.

State House Education Committee member Rep. Philip D. Cloutier, R-Heatherbrooke, said the law was not designed to apply in cases like this.

"The system here has failed. We should learn from it. We certainly don't hope to engage the Attorney General and state police every time a first-grader has a tantrum."

School officials contacted the attorney general's office, which informed them that the incident with Stephanie and Wicks qualified as offensive touching under the law. However, police had not been called as of Wednesday and Stephanie has not been charged with any crime.

Ronald A. Meade, who oversees student discipline for the state, said, "It's very rare for children in grades K-3 to violate H.B. 85."

"Students in grades K-3 have been exempt except under extraordinary circumstances from being reported from those offenses because they don't understand," Meade said.

Martin said Quimby told her Monday she felt the law should not be applied to youngsters in the first, second and third grade.

Quimby could not be reached Wednesday for comment.

Wicks declined to comment

Wednesday night because the incident is under investigation.

"Mrs. Quimby said she is devastated with the whole scenario," Martin said. "She considers H.B. 85 inappropriate for first-, second- and third-grade babies. The principal told me herself it would not benefit Stephanie to be suspended."

Since H.B. 85 became law, Cloutier said teachers statewide sometimes resent the mechanics of the law, which requires they report all infractions. However, he said they don't dispute the law's purpose to control discipline in the classroom.

"Nothings suggests [the law] is at fault. People are at fault," he said.

A number of incidents in schools have involved police and resulted in suspensions since the law was passed.

In 1994, a 15-year-old William Penn High School student was expelled from the Colonial School District after he showed up for school with a part of a Halloween costume that resembled a weapon.

This past year, a 5-year-old kindergartner was suspended for three days from Richey Elementary School in Newport after he pulled a 4½-inch knife from his book bag to show students on a school bus. Last month a Burnett Elementary School student in Wilmington was suspended for five days for discharging pepper spray on a crowded school bus. Police were called in each incident.

Martin said Stephanie has been upset ever since she was sent to the principal's office Monday and told she was being suspended.

"She said, 'Mommy, I was only

giving her a love tap, and I told her I'm sorry and I keep getting in trouble.'"



Stephanie Martin

Stephanie.

## TODAY'S WEATHER

HIGH LOW  
47 40

# First-grader is cleared in 'love tap'

## Sponsor says law wasn't meant for cases like this

By ROBERT MOORE  
Staff reporter

A "love tap" that almost led to a 6-year-old's suspension from first grade has legislators rethinking the law that Appoquinimink school officials blame for their actions.

Still known by its legislative designation, House Bill 86 was drafted in 1993 in response to complaints about school violence and about image-conscious

school administrators who failed to report crimes in their classrooms.

Now, the case of 6-year-old Stephanie Martin, whose mother said she was to be suspended for giving her teacher a "love tap" on the backside to get her attention during recess, has forced even the sponsors of the bill to acknowledge its flaws. Legislators say they will review the law during their next session.

See LAW — A12

## Superintendent blames media

By TERRI SANGINITI  
Staff reporter

ODESSA — First-grader Stephanie Martin, threatened with the wrath of the Appoquinimink School District for giving a teacher a "love tap" on the rear end, Thursday got off with nary a slap on the wrist.

After a 20-minute meeting with District Superintendent Tony Marchio, Stephanie's mother emerged with news the 6-year-old would not be suspended.

Surrounded by reporters outside district headquarters, a grinning Gerrie Martin said, "I set out to

fight for this 6-year-old and I wasn't going to give up. I feel like I've won now. She's going to be OK with this."

After meeting with all parties — teacher Laurie Wicks, who received Stephanie's attention, alternately called a "love tap" or "poke"; Silver Lake Elementary School Principal Gail Quimby; and Gerrie Martin — Marchio said no action was warranted.

He attributed the drama to media overreaction and the "dilemma" faced by school officials trying to comply with H.B. 86, a controversial state law requiring schools to report student crimes, including assaults, extortion and offensive touching.

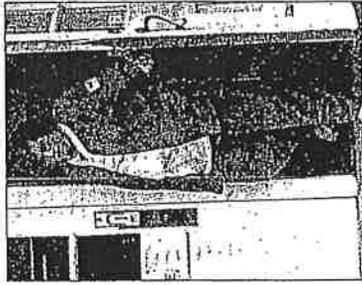
The incident occurred during recess Dec. 6. School officials reported the contact to the attorney general's office, which advised that the child's action constituted of-

fensive touching and a reportable offense under H.B. 86 — but not one that would be prosecuted.

On Monday, Gerrie Martin said, school officials called and asked her to pick up Stephanie from school because she was being suspended — a sanction put on hold pending the outcome of Thursday's meeting, which was not attended by her daughter.

Marchio said he "did what I am compelled to do and interpret the law with common sense and with the best interest of the student in mind." He said Stephanie, who has apologized, would never have been suspended.

"It's really unfortunate, but a lot of times we can get so bogged down in things that it's really unclear as to what we can't do and what we should do," he said. "I think we've all learned a lesson."



The News Journal/CHUCK MCGOWEN  
Gerrie Martin leaves Appoquinimink School District headquarters after meeting with superintendent.

# Law: Some say it hurts more than helps

FROM PAGE A1

"When the bill was written, it was never our intent for something like this to be prosecuted," said Rep. Oakley M. Banning, D-Middletown, a co-sponsor of the bill which passed into law in 1993.

The Appoquinimink School District on Thursday reversed its decision to suspend Stephanie over the Friday incident at Silver Lake Elementary School in Middletown.

The district's claim that H.R. 85 forced its hand in the case has focused attention, once again, on the intent and the history of the law.

"I don't want to see the law watered down, but I am concerned that it is hurting more than it is helping our children," said Margaret Tansley, president of the Delaware Congress of Parents and Teachers.

The bill set strict reporting requirements that were to ensure school officials notify police of alleged assaults, offensive touching incidents, terroristic threats and extortion by students or parents on school property. It also required that any offenses involving drugs or weapons be reported. Failure to re-

the newspaper. See how bad you are?"

Since it went into effect in the 1993-1994 school year, critics of the law came from all corners. Parents blamed it for a jump in expulsions and suspensions. The American Civil Liberties Union, concerned with students' understanding of the law, put on a conference to field questions about the law.

Rep. Stephanie A. Ulbrich, R-Newark South, a legislative advocate on school issues, said she already has some ideas about how to tighten the law to avoid "unintended consequences like [the Appoquinimink] case," she said.

She said she would consider easing the penalties against teachers and principals for violating the law.

"Without suggesting that a major overhaul of the bill take place, I do think we need to take a thorough look at it," said Ulbrich.

Others said giving school officials more discretion might be the answer. "I don't know whether we gave them authority to use common sense," said Rep. Banning.

"Without suggesting that a major overhaul of the bill take place, I do think we need to take a thorough look at it."

Rep. Stephanie A. Ulbrich,  
R-Newark South

port incidents covered by the law could result in fines of \$250 or more.

But, critics say, the law makes no allowances for the very young. They also complained that, as written, the law strips teachers and principals of the discretion to deal with minor infraction before involving law enforcement.

"I am very concerned that we don't end up stigmatizing children," Tansley said. "What are we saying in this case? That the only way we can communicate with our children is to say, 'Look, here is your picture on the front page of



The New York Times

"A STORY THAT  
SEIZES YOU WITH A  
VISCERAL FORCE."  
— *USA Today*

December 2, 2013

# Seeing the Toll, Schools Revise Zero Tolerance

By LIZETTE ALVAREZ

FORT LAUDERDALE, Fla. — Faced with mounting evidence that get-tough policies in schools are leading to arrest records, low academic achievement and high dropout rates that especially affect minority students, cities and school districts around the country are rethinking their approach to minor offenses.

Perhaps nowhere has the shift been more pronounced than in Broward County's public schools. Two years ago, the school district achieved an ignominious Florida record: More students were arrested on school campuses here than in any other state district, the vast majority for misdemeanors like possessing marijuana or spraying graffiti.

The Florida district, the sixth largest in the nation, was far from an outlier. In the past two decades, schools around the country have seen suspensions, expulsions and arrests for minor nonviolent offenses climb together with the number of police officers stationed at schools. The policy, called zero tolerance, first grew out of the war on drugs in the 1990s and became more aggressive in the wake of school shootings like the one at Columbine High School in Colorado.

But in November, Broward veered in a different direction, joining other large school districts, including Los Angeles, Baltimore, Chicago and Denver, in backing away from the get-tough approach.

Rather than push children out of school, districts like Broward are now doing the opposite: choosing to keep lawbreaking students in school, away from trouble on the streets, and offering them counseling and other assistance aimed at changing behavior.

These alternative efforts are increasingly supported, sometimes even led, by state juvenile justice directors, judges and police officers.

In Broward, which had more than 1,000 arrests in the 2011 school year, the school district entered into a wide-ranging agreement last month with local law enforcement, the juvenile

justice department and civil rights groups like the N.A.A.C.P. to overhaul its disciplinary policies and de-emphasize punishment.

Some states, prodded by parents and student groups, are similarly moving to change the laws; in 2009, Florida amended its laws to allow school administrators greater discretion in disciplining students.

“A knee-jerk reaction for minor offenses, suspending and expelling students, this is not the business we should be in,” said Robert W. Runcie, the Broward County Schools superintendent, who took the job in late 2011. “We are not accepting that we need to have hundreds of students getting arrested and getting records that impact their lifelong chances to get a job, go into the military, get financial aid.”

Nationwide, more than 70 percent of students involved in arrests or referrals to court are black or Hispanic, according to federal data.

“What you see is the beginning of a national trend here,” said Michael Thompson, the director of the Council of State Governments Justice Center. “Everybody recognizes right now that if we want to really find ways to close the achievement gap, we are really going to need to look at the huge number of kids being removed from school campuses who are not receiving any classroom time.”

Pressure to change has come from the Obama administration, too. Beginning in 2009, the Department of Justice and the Department of Education aggressively began to encourage schools to think twice before arresting and pushing children out of school. In some cases, as in Meridian, Miss., the federal government has sued to force change in schools.

Some view the shift as politically driven and worry that the pendulum may swing too far in the other direction. Ken Trump, a school security consultant, said that while existing policies are at times misused by school staffs and officers, the policies mostly work well, offering schools the right amount of discretion.

“It’s a political movement by civil rights organizations that have targeted school police,” Mr. Trump said. “If you politicize this on either side, it’s not going to help on the front lines.”

Supporters, though, emphasize the flexibility in these new policies and stress that they do not apply to students who commit felonies or pose a danger.

“We are not taking these tools out of the toolbox,” said Russell Skiba, a school psychology professor at Indiana University who promotes disciplinary changes. “We are saying these should be tools of last resort.”

In Broward County, the shift has shown immediate results, although it is too early to predict overall success. School-based arrests have dropped by 41 percent, and suspensions, which in 2011 added up to 87,000 out of 258,000 students, are down 66 percent from the same period in 2012, school data shows.

Under the new agreement, students caught for the first time committing any of 11 nonviolent misdemeanors are no longer arrested and sent to court. Rather, they attend counseling and perform community service.

Nor do students face suspension for minor infractions. Instead, they also attend a program called Promise for three days or more. Repeat offenders get several chances to change their behavior before more punitive measures kick in.

One recent afternoon, an 18-year-old senior sat in the cafeteria at the Pine Ridge Alternative Center, where students are sent in lieu of a suspension, and spoke with a psychology graduate student on a counseling team. The girl had been caught with a small amount of marijuana in her car on her high school campus, a misdemeanor that would have led to a suspension or arrest in the past. It was the first time she had gotten in trouble at school.

"I was freaking out," she said. Her first fear was that she would be barred from prom. Here, though, she saw the larger picture and came to view the incident as "her second chance."

She learned about bullying and drugs and alcohol. "It was a slap in the face," she said. "I don't even want to smoke anymore."

Other students here learn to manage their anger, if that is their issue. Parents are involved in the process. And counselors have helped identify problems at home including abusive situations, something that administrators said underscores how invaluable the counseling component has been for the Promise program, said Belinda Hope, the principal at Pine Ridge.

Mr. Runcie and others said the more punitive measures tended to make a bad situation worse. Suspended and expelled children would be home alone or on the street, falling behind academically. Those arrested could be stigmatized by criminal records.

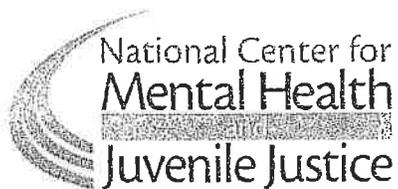
"The data showed an increase in the harshness of the disciplinary practices in schools — what was once a trip to the principal's office is now a trip to the jail cell," said Judith Browne Dianis, co-director of the Advancement Project, a civil-rights group involved in the effort.

Juvenile judges were among the first to express alarm over the jump in the number of students appearing in court on misdemeanors, an increase they said is tied to the proliferation of school police officers.

"We started to see the officers as a disciplinary tool," said Judge Elijah H. Williams of Broward County Circuit Court, a juvenile judge who said he was "no flaming liberal" but saw the need for change. "Somebody writes graffiti in a stall, O.K., you're under arrest. A person gets caught with a marijuana cigarette, you're under arrest."

# Better Solutions for Youth with Mental Health Needs in the Juvenile Justice System

By the Mental Health and Juvenile Justice Collaborative  
for Change: A Training, Technical Assistance and Education  
Center and a member of the Models for Change Resource  
Center Partnership



## Introduction

Sarah, an eighth grader, was experiencing problematic behavior in middle school. In sixth and seventh grades, she was repeatedly getting into trouble for starting fights with other students and making statements about her interest in harming others. Instead of referring her to the police, the school referred her to a diversion program.

Upon referral, Sarah met with a mental health clinician who administered the Massachusetts Youth Screening Instrument-2, a mental health screening tool. The screen indicated a need for follow-up, so she underwent a clinical evaluation where it was determined that Sarah had some mental health issues, primarily related to trauma after witnessing the murder of one of her parents several years ago. She was referred to therapy to help with her anger issues and her depression. Her guardian became engaged in therapy with her, and in-home visits by the young girl's social worker resulted in the development of an academic plan that included support in school and constant check-ins to monitor progress.

As a result, Sarah's aggressive behavior subsided and her academic performance improved substantially, all without any involvement with the juvenile justice system.

What makes Sarah's success story possible? What can be done to create positive outcomes for more youth with mental health needs in the juvenile justice system?

**Whenever safe and appropriate, youth with mental health needs should be prevented from entering the juvenile justice system in the first place.**

The short answer is this: whenever safe and appropriate, youth with mental health needs should be prevented from entering the juvenile justice system in the first place. For youth who *do* enter the system, a first option should be to refer them to effective treatment within the community. For those few who require placement, it is important to ensure that they have access to effective services while in care to help them re-enter society successfully.

There's no denying that these outcomes come with practical challenges. But we know that reform is possible – with the right people collaborating to build systems that help communities improve the way they respond to youth with mental health needs.

The aim of this paper is to encourage and support other communities to work toward similar reform for these youth.

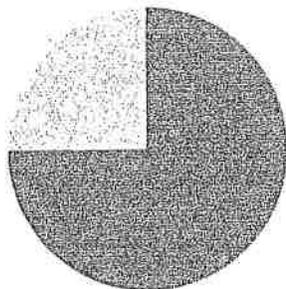
### **How widespread is the challenge of mental health in America's juvenile justice system?**

Each year, more than 600,000 youth in America are placed in juvenile detention centers, and close to 70,000 youth reside in juvenile correctional facilities on any given day.<sup>1</sup> Youth in the juvenile justice system experience mental health disorders at a rate that is more than three times higher than that of the general youth population.<sup>2</sup>

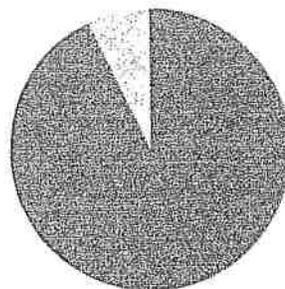
Studies have consistently documented that:

1. 65% to 70% of youth in contact with the juvenile justice system have a diagnosable mental health disorder;
2. Over 60% of youth with a mental health disorder also have a substance use disorder; and
3. Almost 30% of youth have disorders that are serious enough to require immediate and significant treatment.<sup>3</sup>

In addition, youth in the juvenile justice system have higher rates of exposure to traumatic experiences:



At least **75%** of youth in the juvenile justice system have experienced traumatic victimization.<sup>4</sup>



**93%** of youth in detention reported exposure to "adverse" events including accidents, serious illnesses, physical and sexual abuse, domestic and community violence - and the majority of these youth were exposed to six or more events.<sup>5</sup>

Many of these youth are unnecessarily placed in or referred to the juvenile justice system for relatively minor, non-violent offenses, often in a misguided attempt to obtain treatment services that are lacking in the community.<sup>6</sup> However, the unfortunate irony of this approach is that the mental health services typically available to youth in the juvenile justice system are often inadequate or simply unavailable, as documented by a series of investigations conducted by the U.S. Department of Justice.<sup>7</sup>

Instead of relying on the justice system to address a youth's mental health needs, it is now recognized that the more appropriate and effective response involves community-based treatment interventions that engage youth and their families.

## **What new scientific breakthroughs can help youth with mental health needs who come into contact with the juvenile justice system?**

Over the last decade, significant advances in research, program and resource development have resulted in a wide array of new tools and new knowledge that can help the juvenile justice and related child-serving systems improve their response to youth with mental health needs. These advancements include:

- New research-based mental health screening and assessment tools and protocols to guide their use with youth in the juvenile justice system.
- New evidence-based intervention and treatment programs that produce positive results and are cost-effective.
- Adolescent development and brain research that has greatly enhanced our understanding of adolescent behavior and a youth's capacity for change. This greater understanding has also influenced juvenile justice law and policy.

Building on these advancements and embracing a "research to practice" continuum, the John D. and Catherine T. MacArthur Foundation created *Models for Change: Systems Reform in Juvenile Justice* – a national juvenile justice initiative aimed at developing successful and replicable reform models in select states that could be shared and adapted by other jurisdictions across the country. Through this work, states such as Pennsylvania, Illinois, Louisiana and Washington, and later Colorado, Connecticut, Ohio and Texas, have changed their policies and practices to better meet the mental health needs of youth involved in the juvenile justice system.

While the individual states identified the specific areas of reform they wished to address, all aimed (and succeeded) at implementing reforms that effectively held young people accountable for their actions, provided for their rehabilitation, protected them from harm, increased their life chances and managed the risk they posed to themselves and to others.

The ensuing work undertaken in the states and communities mentioned above has resulted in new models, publications, toolkits and training curricula that not only document the system improvements that have occurred over the last decade but also provide guidance to other sites interested in tackling similar reforms. Significant innovations related to mental health emerged, including resources such as:

- New school, probation and police-based diversion models for youth with mental health needs
- New mental health training resources for juvenile justice staff and police
- Resources to support family involvement within the juvenile justice system
- Advanced protocols and processes for screening and assessment to identify mental health needs and risk among juveniles
- New resources for implementing evidence-based practices for justice-involved youth
- New guidelines for juvenile competency

Here's a closer look at efforts in two leading states:

### Louisiana

Louisiana has transformed its juvenile justice system to embrace evidence-based practices<sup>1</sup> (EBPs) for youth. Following criticism, including an investigation by the Department of Justice, for their over-reliance on institutional care for youth in the juvenile justice system and the conditions of confinement that existed within the state's correctional institutions, the state has moved in a decidedly different direction.



With support from MacArthur, Louisiana has actively worked to reduce its reliance on incarceration and increase awareness of and the availability of community, evidence-based practices for youth. In just a few short years the state has increased the use of research-based behavioral health screening and assessment instruments and recently moved to statewide adoption of the Structured Assessment of Violence Risk in Youth (SAVRY) - a research based risk assessment instrument for youth. In addition, they have substantially increased the availability of EBPs in the state (there are now statewide Functional Family Therapy teams) and in turn, increased the number of youth with access to these services to almost 50%. More youth are receiving services in the community, fewer youth are placed in in-home care and public safety has improved.

The transformation was recognized when Louisiana was cited at the 2012 Blueprints for Violence Prevention Conference as "among the top four states in this country to show growth in evidence-based community programs."

<sup>1</sup> Evidence based practices or programs (also called EBPs) refer to prevention or treatment approaches that have been proven to work with scientific evidence.

### Connecticut

Zero tolerance policies in Connecticut's schools were contributing to high rates of school arrest and expulsion, particularly for youth with behavioral and mental health needs. In response, the state created the School-Based Diversion Initiative (SBDI) which uses mental health responders (provided by Emergency Mobile Psychiatric Service [EMPS] units) to respond to school-based incidents involving youth with mental health needs as an alternative to contacting the police or referring to juvenile court.



The program is designed to reduce the number of school arrests, suspensions and expulsions by linking youth with mental health needs who are at risk of juvenile system involvement with appropriate community based services and supports. The program, piloted in two schools in 2009, has expanded to 17 middle schools in 9 communities. A 2012 evaluation by the Connecticut Center for Effective Practice found that student arrests in participating schools has significantly decreased, as have suspensions and expulsions. At the same time, EMPS referrals and utilization have increased.

## How can more communities adopt these better solutions for youth with mental health needs in the juvenile justice system?

The advancements across the country for youth with mental health needs are significant. Many more jurisdictions are searching for new ways to help youth with mental health needs in the juvenile justice system. These systems could benefit substantially from this new knowledge and these new resources if they had the opportunity. Now they do. The MacArthur Foundation recently supported the establishment of the Mental Health Juvenile Justice Collaborative for Change: A Training, Technical Assistance and Education Center to promote the expansion of research-based mental health reforms.

The Collaborative for Change, coordinated by the National Center for Mental Health and Juvenile Justice (NCMHJJ) at Policy Research Inc., is a dedicated effort to share these new innovations and actively support their adaption, replication and expansion in the field. Partners in this effort include the National Youth

Screening and Assessment Project at the University of Massachusetts Medical School and the Technical Assistance Collaborative.

The Collaborative for Change is designed to serve juvenile justice and mental health system administrators, policy makers, program providers and direct care staff by providing a wide array of technical assistance and support services on mental health and juvenile justice including:

- A web-based resource center (<http://cfc.ncmhjj.com>) that provides around the clock, online access to information and practical resources
- A Help Desk, staffed by NCMHJJ professionals, prepared to answer general questions beyond the scope of the website.
- Consultation and assistance for more complex requests provided by NCMHJJ professionals and subject matter experts working with the Collaborative. This consultation is provided by email, phone or in special cases, on-site technical assistance.
- On-site training by experienced national trainers

Over 25 national, state and local mental health and juvenile justice leaders are working with the Collaborative for Change to help provide this assistance to the field. Many of these experts were responsible for the actual development and implementation of the mental health innovations coming out of Models for Change and the Mental Health/Juvenile Justice Action Network. This "peer to peer" approach is a key component of the Collaborative's technical assistance and training strategy.

### What can be done?

There is growing recognition among researchers and practitioners across the country that:

- There are large numbers of youth with mental health needs involved with the juvenile justice system.
- Many of these youth would be better served in community-settings with access to effective evidence-based treatments.
- Some of these youth will not be appropriate for diversion to the community but still deserve access to effective treatment while they are involved with the juvenile justice system.

Acknowledging these facts is the first step. The next step involves taking appropriate action. However, in order to take this action, most communities need guidance around the best strategies, tools, program models and interventions to implement in order to effectively address the problems. Drawing on the lessons learned and knowledge gained from model states, the Collaborative for Change is aimed at providing this assistance to the field.

Visit the Collaborative for Change at <http://cfc.ncmhjj.com>, or phone the toll-free Help Desk at 1-866-962-6455.

### The substantive focus of the Collaborative for Change includes:

1. Mental health screening within juvenile justice settings
2. Diversion strategies and models for youth with mental health needs
3. Adolescent Mental Health Training for Juvenile Justice Staff and Police
4. Guidance around the implementation of evidence-based practices
5. Training and resources to support family involvement in the juvenile justice system
6. Juvenile competency

## About the Models For Change Resource Center Partnership

The Mental Health Juvenile Justice Collaborative for Change is a project of the National Center for Mental Health and Juvenile Justice and is supported by the John D. and Catherine T. MacArthur Foundation, as part of its Models for Change Resource Center Partnership.

The Resource Center Partnership works to advance juvenile justice systems reform across the country by providing state and local leaders, practitioners and policymakers with technical assistance, training, and the proven tools, resources and lessons developed through the John D. and Catherine T. MacArthur Foundation's Models for Change: Systems Reform in Juvenile Justice initiative.

The Partnership is anchored by four complementary, connected Resource Centers that address four important issues in juvenile justice:

- Mental health: The Mental Health and Juvenile Justice Collaborative for Change, led by the National Center for Mental Health and Juvenile Justice. For more information, visit: [cfc.ncmhjj.com](http://cfc.ncmhjj.com)
- Stronger legal defense for indigent youth: National Juvenile Defender Center. For more information, visit: [njdc.info/resourcecenterpartnership.php](http://njdc.info/resourcecenterpartnership.php)
- Appropriate interventions for youth charged with non-delinquent-or status-offenses: The Status Offense Reform Center, led by the Vera Institute of Justice. For more information, visit: [www.statusoffensereform.org](http://www.statusoffensereform.org)
- Coordinated systems of care for young people involved in both the juvenile justice and child protective systems: The Robert F. Kennedy National Resource Center for Juvenile Justice, led by the RFK Children's Action Corps. For more information, visit: [www.rfknrcjj.org](http://www.rfknrcjj.org)

The Partnership also includes a strategic alliance of national experts and organizations representing state leaders, mayors, judges, law enforcement, prosecutors, corrections professionals, court personnel and justice reform advocates. These partners further enrich the tools, best practices and training offered by the Centers and provide direct connections to professionals working in juvenile justice.

For more information about the Models for Change Resource Center Partnership, visit: [modelsforchange.net/resourcecenters](http://modelsforchange.net/resourcecenters)

## Mental Health and Juvenile Justice Collaborative for Change: A Training, Technical Assistance and Education Center

The Mental Health and Juvenile Justice Collaborative for Change, led by the National Center for Mental Health and Juvenile Justice, is a training, technical assistance, and education center designed to promote and support adoption of new resources, tools, and program models to help the field better respond to youth with mental health needs in the juvenile justice system.

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# Feds urge change in school discipline

By Kimberly Heifling  
Associated Press

WASHINGTON — The Obama administration on Wednesday pressed the nation's schools to abandon what it described as overly zealous discipline policies that send students to court instead of the principal's office. Even before the announcement, school districts around the country have been taking action to adjust the policies that disproportionately affect minority students.

Attorney General Eric Holder said problems often stem from well-intentioned "zero-tolerance" policies that can inject the criminal justice system into school matters.

"A routine school disciplinary infraction should land a student in the principal's office, not in a police precinct," Holder said.

But it's about race, too, the government said in a letter accompanying the new guidelines it issued Wednesday.

"In our investigations, we have found cases where African-American students were disciplined more harshly and more frequently because of their race than similarly situated white students," the Justice Department and Education Department said in the letter to school districts. "In short, racial discrimination in school discipline is a real

problem." The guidelines are not the first administration action regarding tough-on-crime laws or policies of the 1980s and '90s that have lost support more broadly since then. Holder announced last summer that he was instructing federal prosecutors to stop charging nonviolent drug offenders with crimes that carry mandatory minimum sentences, a change affecting crack cocaine sentences that have disproportionately affected minorities. And just before Christmas, President Barack Obama commuted the sentences of eight people serving long drug sentences.

In Delaware, the Christina School District was part of a three-year investigation by the U.S. Department of Education's Office of Civil Rights.

The federal investigation, which was made public in December 2012, was focused on determining if the district discriminated against black students by disciplining them more frequently and more harshly on the basis of race than similarly situated white students, a U.S. Department of Education spokesman said at the time.

The state's largest school district entered into an agreement with the U.S. Department of Education's Office of Civil Rights to take several corrective actions in the fu-



Attorney General Eric Holder, shown in 2010, issued new recommendations Wednesday on classroom discipline that seek to end apparent discrimination. AP

ture — including strategies to avoid suspending or expelling misbehaving students, improved support services for disruptive students and better training for teachers and administrators.

The federal school discipline recommendations announced Wednesday are nonbinding. They encourage schools to ensure that all school personnel are trained in classroom management, conflict resolution and approaches to de-escalate classroom disruptions — and understand that they are responsible for administering routine student discipline instead of security or police officers.

Still, Education Secretary Arne Duncan has acknowledged the challenge is finding the proper balance to keep schools safe and orderly.

## AMONG THE RECOMMENDATIONS

- » Ensure that school personnel understand that they, not security or police officers, are responsible for administering routine student discipline.
- » Draw clear distinctions about the responsibilities of school security personnel.
- » Provide opportunities for school security officers to develop relationships with students and parents.

The policies often spell out uniform and swift punishment for offenses such as truancy, smoking or carrying a weapon. Violators even end up with a criminal record.

In Akron, Ohio, Superintendent David W. James said a recent analysis found higher percentages of black students being disciplined in almost every category. He said he's been criticized for not suspending black kids seen by teachers as a threat where he didn't think action was warranted.

James said he hopes the administration's effort will provide leverage for districts with parents, teachers and communities.

"If we're supposed to be here for these kids, what we want to try to do is work with them to find alternatives, to really drill

down and find out what it is we're doing that's not meeting their needs," he said.

In many parts of the country, there already has been a shift toward recognizing that school discipline policies can be discriminatory, said Judith Browne Dianis, co-director of the Advancement Project, a think tank that specializes in social issues affecting minority communities.

Associations representing teachers, principals, school superintendents and school board members agreed that a disparity exists. "Numbers don't lie. They are there," said Beverly Hutton, a former high school principal in New Jersey who is director of professional development at the National Association of Secondary School Principals.

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COMMENT

# School discipline is broken and in need of a fix

Most of us have heard the saying: The definition of insanity is doing the same thing over and over again and expecting a different result.

Unfortunately, this approach has guided discipline policies in Delaware schools for years through the widespread use of overly punitive "zero tolerance" responses to student misbehavior. The result is stu-

## DELAWARE VOICE SHANNON GRIFFIN

dents are repeating grades, dropping out of school and being pushed out of the classroom into the juvenile justices system, and students of color are feeling the impact of these policies more than their peers.

The good news is that a more rational approach to school discipline is being promoted by the federal government. After research suggested that substantial racial disparities in discipline date were not explained by more frequent or more serious mis-

behavior by students of color, on Wednesday, Attorney General Eric Holder and Education Secretary Arne Duncan announced new guidance to help school districts without discriminating on the basis of race, color or national origin.

Discipline reform is sorely needed in Delaware where out-of-school suspensions are used too often and unfairly. Statewide, 74 percent of all students suspended for 10 days or more are boys; 52 percent are African-American. In fact, African-American and Latino students are suspended three to four times more often than their white peers, even in schools where they represent a substantially lower enrollment rate. A federal investigation into the Christina School District found that African-American students were punished more harshly than white students for the same misbehaviors, and that African-Americans experiencing their first referral were more than three times more likely than white

students to have the suspension be out-of-school, rather than in-school.

Many Delaware children are being kept out of school for minor offenses that can and should be handled inside school. Some of these offenses are too broadly defined and interpreted, such as defying authority, inappropriate behavior and defiance of school authority; other behaviors are as minor as cellphone or dress code violations.

In times gone by, wise cracks or insubordination were understood as typical adolescent rebellion and addressed accordingly. Now, students can expect to be suspended for these behaviors, sometimes for days, missing essential learning time in the classroom.

The bottom line is that too many students never catch up, particularly those already struggling academically.

This leads to a domino effect of disastrous consequences that we all pay for in the form of poverty, violence

and prison costs. Yes, there is a need for discipline, particularly in the cases of serious and dangerous offenses. But we must also work to create positive school climates that keep students learning and provide opportunities for them to understand accountability and responsibility using more restorative measures.

The new federal guidance can help Delaware address discipline differently. Specifically, it recommends that schools:

- » Undertake a comprehensive approach to classroom management and student behavior by using evidence-based prevention strategies;
- » Promoting social and emotional learning, involving students through peer mediation and restorative justice programs; and
- » Reducing inappropriate referrals to law enforcement.

Maintain clear, consistent age-appropriate policies that allow students to improve their behavior prior to disciplinary action; involve families, students and school personnel when being developed; provide for adequate due process; remove students from the classroom as a last resort; ensure that alternative settings provide academic instruction; and return students to class as soon as possible.

» Train all school personnel to apply school discipline policies and practices in a fair and equitable manner.

» Use ongoing, data-driven efforts, including gathering feedback from families, students, teachers and school personnel to prevent, identify, reduce and eliminate discriminatory discipline and unintended consequences.

By taking a more common-sense approach, we can better ensure equal access to public education for all students and a system the justly implements discipline without regard to race, gender, socioeconomic status, or ability.

Shannon Griffin is the ACLU of Delaware Community/Project Organizer. Her work is focused on creating safe and productive public schools for all students.