

# DENVER, COLORADO

Denver Public Schools Facts and Figures (2003-04)	
Total Student Enrollment	72,489
Student Demographics:	
American Indian	1.2%
Black	18.9%
Asian	3.1%
Latino	57.0%
White	19.7%
Percentage of students from low-income families (receive reduced-priced or free lunch)	63%
Number of Schools	148
Source: Denver Public Schools, 2003-2004 Facts & Figures, www.dpsk12.org/aboutdps (last visited Feb. 9, 2005)	

## The Problem

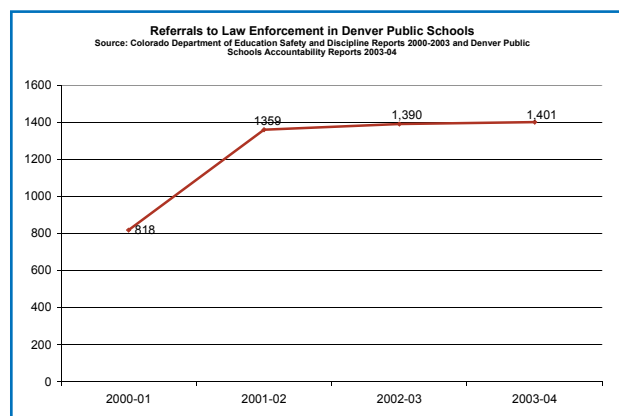
Like most school districts across the country, Denver Public Schools (DPS) has drawn a line in the sand and is taking a zero tolerance approach to school discipline by using both school disciplinary measures and police involvement to address even the most trivial acts of student misconduct. Although public discussions about the need for a zero tolerance approach to school discipline in Colorado typically begin with the 1999 shooting incident at Columbine High School, the State adopted zero tolerance years before. In 1993, the state legislature mandated the expulsion of students who are found with dangerous weapons or drugs or who commit a robbery or serious assault in school.<sup>46</sup> But DPS policies have gone far beyond disciplining students for those serious offenses.

The dramatic rise in expulsions and suspensions in Denver Public Schools demonstrate that DPS is zealously cracking down on youthful behaviors. The number of expulsions meted out by DPS rose from 116 in the 2000–2001 school year to 146 in 2003–2004.<sup>47</sup> More than half of the expulsions during the 2003–2004 school year (53%)<sup>48</sup> were for subjective, non-violent acts such as disobedience, detrimental behavior (e.g., threats of physical harm), and “other violations of code of conduct” (e.g., bullying).

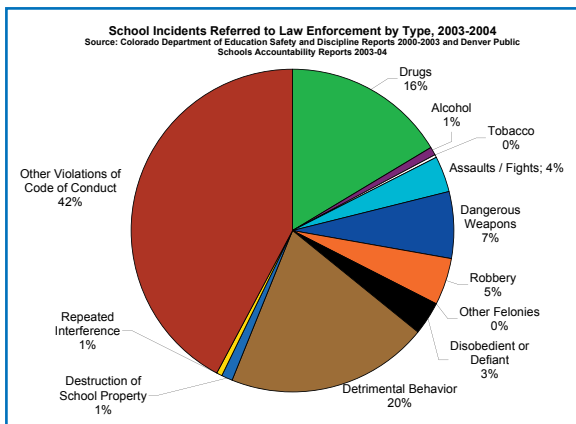
Also, over the past four years the number of out-of-school suspensions in Denver’s public schools has increased from 9,846 in the 2000–2001 school year to 13,423 in 2003–2004.<sup>49</sup> Like expulsions, the data indicates that students are being pushed out of school for subjective, non-violent offenses – 86% in the 2003–2004 school year<sup>50</sup>

“How can you discipline students and teach them a lesson if you kick them out of school—give them a vacation?”  
– 12th grade Denver student

The zero tolerance approach in Denver does not, however, stop at school expulsions and suspensions. Students are also being referred to law enforcement at increasing rates. These referrals, through tickets and/or arrests, grew by 71% between 2000 and 2004,<sup>51</sup> even though the DPS student population grew by only 2% during that same time period. During the 2003–2004 school year the number of referrals to law enforcement swelled to 1,401.



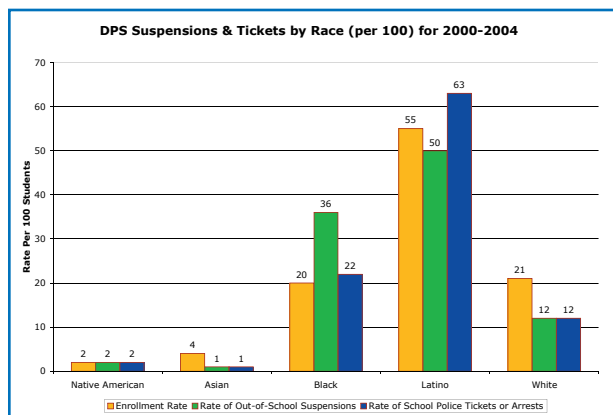
Contrary to what one may expect, the increasing criminalization of Denver students has nothing to do with a rise in dangerous crime. Most students referred to law enforcement in Denver are not perpetrators of serious crimes; instead, their acts are so minor it is difficult to characterize them.



For example, the most widely reported offense (42%) that led to referrals during the 2003–2004 school year was “other violations of code of conduct,” which includes being a member of an “unauthorized organization,” destruction of non-school property, use of obscenities, disruptive appearance, use of slurs, bullying, and minor fights.<sup>52</sup> Another 20% of the referrals were for “detrimental behavior,” defined as behavior on or off school property that is detrimental to the welfare or safety of other pupils or of school personnel, including behavior that creates a threat of physical harm to the child or to other children.<sup>53</sup> More serious conduct, such as carrying dangerous weapons and drug violations, accounted for only 7% and 17%, respectively, of referrals to police.

### Race Matters

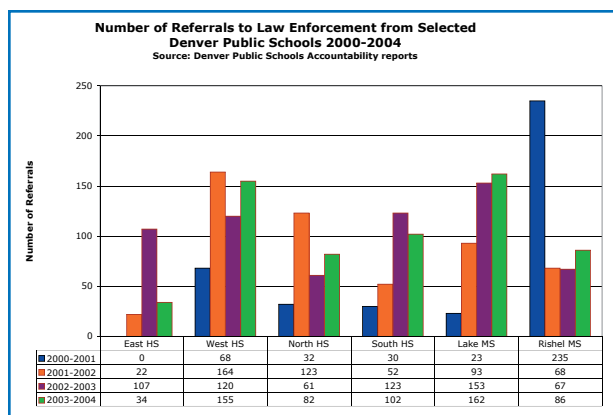
Denver’s harsh disciplinary practices fall more heavily on youths of color. Racial disparities in Denver’s disciplinary practices exist in both suspensions and referrals to law enforcement. Students of color in Denver public schools are 70% more likely to be disciplined (suspended, expelled, or ticketed) than their White peers.<sup>54</sup> Black students are three times more likely to receive out-of-school suspensions than White students, while Latino students are four times more likely to receive out-of-school suspensions than White students.



The pattern of racial disparity in discipline continues with tickets, but Latino students have replaced Black students as the most targeted group: in the 2003–2004 school year, Black students in DPS were given tickets at twice the rate of White students, while Latino students were given tickets at seven times the rate of their White peers.<sup>55</sup>

### Dissecting the Cause

The schoolhouse-to-jailhouse track was closely examined at six Denver public schools—East, West, North, and South High Schools, as well as Lake and Rishel Middle Schools—which were the only schools that reported 100 or more student referrals to law enforcement for one or more years during 2000–2004. In addition to studying the data, interviews of school personnel, juvenile court judges, lawyers, and surveys of students were conducted.



The track in Denver is fueled by the fact that the district-wide school discipline policy is lengthy, cumbersome, and ambiguous; also, enforcement of the district policy varies from school to school. As a result, there are misunderstandings and confusion. For example, a student may be disciplined if she “interferes with a school’s ability to provide education opportunities to other students,” or has a “personal appearance or lack of hygiene that is disruptive.”<sup>56</sup> To make matters worse, there is nothing in the DPS district-wide school discipline policy warning that particular conduct is subject to arrest or tickets, but such a warning does exist in some school codes of conduct. Consequently, students and parents are often caught off guard when students receive tickets for conduct that occurred in school.

### ***The Role of Police***

DPS uses both school district security and officers from the Denver Police Department on its campuses. Each high school has at least three security officers and one police officer; middle schools have at least one security guard, but only some have a police officer; elementary schools are patrolled by a mobile unit of security guards.<sup>57</sup>

With an annual budget of approximately \$1.2 million,<sup>58</sup> the security force of DPS is charged with maintaining security, managing conflict, and “mak[ing] sure that people who belong in schools are there and people who do not belong are removed. They do not do discipline.”<sup>59</sup>

DPS also receives law enforcement assistance from the Denver Police Department. In 2004, DPS paid the Denver Police Department \$152,000 for 14 school resource officers.<sup>60</sup> Police officers are supposed to maintain a limited role in school matters. In fact, the contract between DPS and the Police Department specifies that school police will only intervene in student conduct issues that may be considered a crime, not a violation of school rules or policies. However, this is far from what is occurring—

school police frequently issue tickets and court summonses for student behavior that should have been handled by schools and parents.

Interviews reveal that police are regularly involved in DPS disciplinary matters. For example, in 2000–2001 at Rishel Middle School, whose 235 referrals to law enforcement dwarfed all other schools in Denver, police re-enforced the school administration’s strict disciplinary philosophy. Sandra Just, principal at Rishel, who began her tenure during the 2000–2001 school year, explained that police were called to send the message to students that the school “meant business” and that their actions had consequences.<sup>61</sup> In due time, Just discovered that the referrals were an ineffective deterrent to inappropriate conduct because students started to believe that the tickets were “no big deal.” The next year, Just changed her approach and referrals dropped to 68. Just now encourages school staff to develop individualized solutions to disciplinary problems and utilizes in-school programs, such as peer mediation, to resolve behavior problems.<sup>62</sup>

At East High School, tickets are also sometimes used for discipline reinforcement. Principal Kathy Callum applies a “double indemnity” philosophy. For example, according to Callum, students involved in a fight are typically suspended and ticketed. She believes that suspensions provide a cooling off period and tickets demonstrate to students that there are consequences to actions. Officer Dudley, who has been at East since 1998, agrees that in some cases the “double” punishment approach is needed, but very often simply talking to students is an effective way to address behavior problems.<sup>63</sup> Officer Dudley believes that his role is two-fold: 1) to make sure that laws are enforced and 2) to “break down the walls that prevent communication between youths and police.”<sup>64</sup> In the final analysis, East High School’s referrals have declined. According to Callum, “There’s no magic formula, you just need to care about the kids.”<sup>65</sup>

There is much disagreement about the proper role of police in Denver schools. Some school administrators believe that having both a security force and school police presence is a viable option if school police are assigned to schools for educational purposes as well as law enforcement.<sup>66</sup> However, many students complain that the presence of both security and school police officers makes schools “feel like prisons” and that the presence increases hostility because some officers do not respect students.<sup>67</sup> Parents also raise concerns that youths of color are targeted for extreme measures.



Remington Simms (student) and Myron Simms (father)

Ticket issued for incident in middle school:

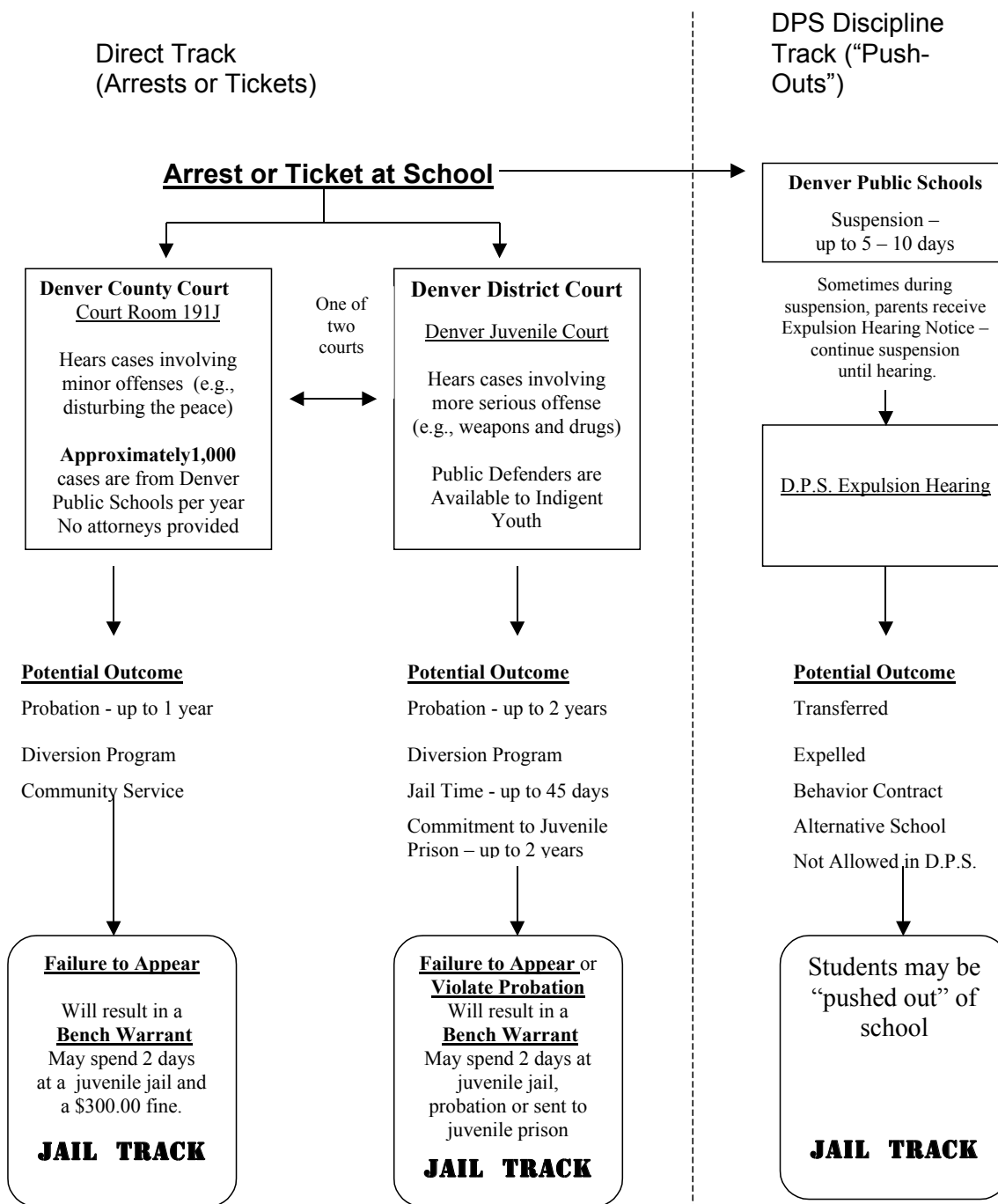
*“In the eighth grade, a boy pulled up my skirt at school in front of everyone during lunch. I punched him and we started to fight. The security guard came and broke up the fight and we went to the student advisor’s office. The advisor talked to us about what had happened and called the cops,” said Remington. Remington was charged with assault and disturbing the peace.”*

*“They called me after she got the ticket,” recalls Mr. Simms. “School administrators should not abuse their power – and they don’t have to go over board. Just sit down with the students, parents, and teachers to solve it there [in the school]. You don’t have to be friends, but you can fix it without . . . [going to court]” said Remington.*

## The Denver Route

Denver’s Schoolhouse-to-Jailhouse Track has two routes: one is through referrals to law enforcement from school, and the other is through school exclusionary practices (suspensions, expulsions, and dropouts) that may lead to the same destination: the juvenile justice system.

### DENVER SCHOOLHOUSE-TO-JAILHOUSE TRACK



School exclusionary practices leave youths on the streets, often with no supervision and deprived of opportunities to further their development. As described by Gerald Whitman, Denver Chief of Police: “From the outside looking in [students] become a problem to police when they are expelled” from school and are picked up by police after committing minor offenses on city streets.<sup>68</sup> This sentiment is echoed by Patrick Hedrick, program director of the Safe City Diversion Program, who noted that most tickets given to youths on the streets have been issued during school hours to students who have been suspended or expelled.<sup>69</sup>

For some students, the brush with law enforcement occurs inside the schoolhouse. In Denver public schools, students who are ticketed or arrested are sent to Denver County Court—Juvenile Division (also known as Courtroom 191J) for offenses such as trespassing or minor fights. For more serious offenses, such as weapons possession or assault, youths are sent to Denver Juvenile Court.

### **Denver County Court - Courtroom 191J**

Typically, students in 191J have been charged with “unlawful acts in or around schools” (defined as behavior that prevents the “orderly conduct of the activities, administration or classes of any school . . .”).<sup>70</sup> Students may either plead guilty or not guilty, or request that the prosecutor amend or dismiss the charges.<sup>71</sup> First-time offenders, students involved in minor incidents, and, in rare cases, second-time offenders, may be referred to the Denver Safe City Diversion Program, which typically involves community service and counseling.<sup>72</sup> Those who plead guilty are usually placed on probation for up to one year with conditions. Any unexcused absences, suspensions, or poor grades can lead these students back to court on a violation of probation.



Aaron, 11<sup>th</sup> grader

### **Issued a ticket in school for fighting one of his classmates**

*“[My classmate] just harassed me and picked on me and started problems. I knew him. He used to be my friend,” explained Aaron. “[The day of the fight] I was in the hallway with my friends and he came up and started pushing and shoving me. He hit me first and I hit him back. He went to tell the officer who works at [my school].*

*The officer did not want to hear anything I had to say. He gave me a ticket. The assistant principal suspended me after the police officer told her that [my classmate] pressed charges. I was charged with assault and unlawful acts around school grounds.”*

*Although this was Aaron’s first time in trouble, he was required to appear in Courtroom 191J where he was found guilty of the charges and ordered to complete two months of anger management and two days of community service. Aaron believes he should not have been sent to court for fighting in school. “It’s not right. It’s messed up.”*

Most cases in Courtroom 191J are dismissed upon completion of a diversion program. In 2004, 863 cases involving unlawful acts in or around schools were filed in Courtroom 191J; of these, 68% were dismissed—many as a result of successful completion of a diversion program.<sup>73</sup> However, the effects may remain. These youths will have a “record” unless they formally request to have it expunged (removed) from the court files, which can be done one year after the successful completion of a diversion program.<sup>74</sup>

Year	Number of Cases Filed	Number of Cases Dismissed	Percentage of Cases Dismissed
2001	811	476	59%
2002	1,156	606	52%
2003	1,042	365	35 %
2004	863	586	68 %

This high rate of dismissal indicates what many students, lawyers, and court administrators have argued; that is, a majority of the cases in 191J should never go to court, including cases involving trespass on school property and public fighting. For example, many of the trespass cases involve suspended students who return to school to retrieve something.<sup>75</sup> The following story illustrates this point:

*Michael, an 11<sup>th</sup> grader, and his friends learned they were going to be “jumped.” “We told the two deans that these guys were going to come looking for trouble,” Michael explained. The deans said, “We’ll watch for it—we’ll keep our eyes open.”*

*Despite the dean’s assurances, the fight occurred and the school suspended Michael and his friends. “They told us we were participating in gang activity . . . They suspended us.” During his suspension, Michael returned to school to pick up his younger sister and was given a ticket for trespassing on school grounds. “No one was able to pick up my sister. We live outside of the school bus [route]. I went to pick her up. The security officer saw me.*

*He called the dean and told the dean to come over. The dean called the principal and said, ‘We have Michael ... out here. Should we give him a warning or a ticket?’ There was no pause. [The principal] said to give him a ticket.”*

Another disturbing aspect of Courtroom 191J is that most poor youths and parents appear in court without an attorney because public defenders are not available to them. Court officials claim that municipal code violations, including those in 191J, are not entitled to a public defender because the offenders are “not facing jail time.” However, for some students jail may be a consequence. Students who fail to appear in court on the date and time stated on the ticket or who fail to comply with the court’s order may find themselves in juvenile prison.<sup>76</sup> Unfortunately, students may be especially vulnerable to the risk of a warrant because they may not understand that they must appear in court and may be too scared or embarrassed to tell their parents or guardians that they were ticketed. In fact, of the 1,042 cases filed in Courtroom 191J in 2003, about 31% involved students who failed to appear in court or failed to comply with the court’s order.<sup>77</sup> In light of this potentially detrimental risk that youths face, free legal representation should be provided for poor youths in Courtroom 191J.

### Denver Juvenile Court

| *“Sending kids to court for fighting is not the answer.”*  
| *-Vivian Burgos, Juvenile Attorney*

More serious incidents, such as assault or weapons possession, are referred to Denver Juvenile Court, where the student may be sentenced to time in a juvenile detention facility. While the actual number of school cases filed in this court is unknown because the court does not maintain this data, interviews with judges, lawyers, and court administrators suggest that hundreds of school cases are heard in Denver Juvenile Court each year. Most of these school-related cases result in only probation for up to two years.

Lawyers and court officials agree that most school cases do not deserve the attention of Denver Juvenile Court. Karen Ashby, presiding judge for Denver Juvenile Court, reports that the typical school cases involve possession of weapons, destruction of property (e.g., graffiti), and assaults.<sup>78</sup> Many of the assault cases are third degree assault—the lowest level of assault that may be dealt with in her court. She complains that she has even heard cases involving minor “pushing matches,” and that such cases should be handled by the school and parents. Lawyers who represent students in juvenile court agree. Vivian Burgos, an attorney who has defended youths for more than eight years, believes that “sending kids to court for fighting is not the answer” and that many of the weapons cases should also be handled at the school level.<sup>79</sup> As an example, Burgos cites a case she handled involving a student charged with possession of a weapon—a butter knife, which the student used to lock and unlock his house.

DPS has adopted a “double jeopardy” approach to school discipline, which has pushed students out of schools, through suspensions and expulsions, and pushed them into juvenile courts, through tickets and arrests, sometimes for one act of childish behavior that would have warranted nothing more than in-school detention or a reprimand only 15 years ago. There is no question that schools should be safe so that students can learn, but the overly zealous use of zero tolerance and school police is not the answer.

Our research has shown that in Denver, the practice of shifting the responsibility of student discipline to local law enforcement and juvenile courts simply does not work. While police presence in schools has been a breath of fresh air for some parents and school administrators, it has become a menace to many Latino and Black students who are disproportionately the target of tickets and arrests. The majority of students who appear in court for minor school indiscretions are sent by frustrated judges and attorneys to diversion programs where they perform a few hours of community service and are told to “sin no more.” Surely, school administrators could have done the same.

*“There are other ways to do things . . . Don’t just send them [students] home. Don’t call the police, don’t call the courts, keep them in school.”*

*-Timothy Turley, Program Manager for DPS Prevention and Intervention Services*

When asked what changes should be made to reduce the number of students being disciplined for minor acts of misconduct, school administrators, court officials, parents, and students have consistently stated that more in-school programs and counseling are needed to create a positive learning environment where students feel that they are being respected and treated fairly, and where teachers can do more teaching and less punishing. While DPS has begun offering several prevention and intervention programs, such as bullying prevention and restorative justice, school administrators have complained that these programs are being used at only a few schools because of limited financial and human resources. More needs to be done to keep Denver students in schools and out of the juvenile justice system.