



Introduction

introduction



JA'EISHA SCOTT: 5 YEARS OLD. 40 POUNDS. KINDERGARTEN STUDENT. ALLEGED FELON?



A year ago, in St. Petersburg, Florida, little Ja'eisha Scott sat in her classroom counting jelly beans as part of a math exercise. When Ja'eisha's teacher ended the game, the five-year-old became upset and threw a temper tantrum. Eventually, Ja'eisha calmed down and sat quietly in a school administrator's office. Despite her calm demeanor, local police arrested and handcuffed the forty-pound five-year-old and placed her in the back of a police cruiser. She

remained in the police cruiser for three hours even though her mother arrived at the scene shortly after the arrest. During that time, according to Tricia C.K. Hoffler, attorney for Ja'eisha,

[The police] were trying to get the State Attorney to arrest this five-year-old kindergarten baby—that's what she was. They were trying to get her arrested for assault and battery charges. When that didn't work, ... they tried ... to have her institutionalized, taken to a mental institution. And when that didn't work, then they wanted to have Child Protective Services take her out of the custody of her mother. ... Her mother was on her way to the school and came within about 15 or 20 minutes. And so for that three-and-a-half hours, she demanded the release of her child, and they refused. And her child saw her mother outside the window of the police car. And if you can imagine—and it's the unthinkable, the unthinkable—that your baby is sitting in the back seat of a car, yelling and crying, and screaming for the people that protect her and that the police, law enforcement, and the school refused to release her into her mama's custody.

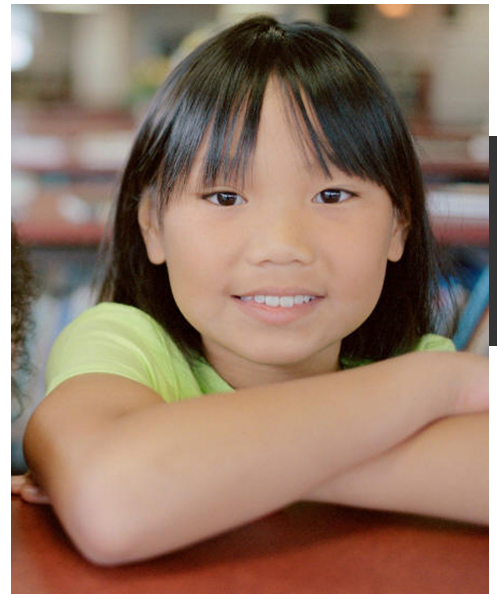
Months later, under public pressure, the St. Petersburg police department changed its arrest procedures for children under age 8 to permit the use of handcuffs only if a child is armed or violent. Also, the Pinellas County Schools Superintendent reportedly told principals not to call city police for discipline issues at elementary schools except in "life-threatening" situations. While these efforts are laudable, the emotional scars remain for Ja'eisha and thousands of other children and youth in Florida who are treated like criminals for minor age-appropriate behavior.

In April 2005, many of us watched in horror a nationally broadcast videotape of five-year-old Ja'eisha Scott being pinned down and handcuffed by police officers and tearfully taken away for throwing a temper tantrum at school. Far from being an anomaly, Ja'eisha, a kindergartener at Fairmount Park Elementary School in St. Petersburg, was yet another casualty of Florida's practices of unnecessarily criminalizing children, particularly children of color, for an overly broad range of conduct at school.

Throughout Florida, children are being arrested and funneled into the juvenile and criminal justice systems for minor incidents at school. The presence of law enforcement in schools is visible at every turn: police officers, metal detectors, tasers, canine units, drug sweeps, SWAT teams, biometric hand readers, and surveillance cameras are as common as books in our schools today. While a safe school environment is a necessity and disruptive behavior must be addressed in order to promote a productive learning environment, the reality is that a large number of the incidents now handled by school police and juvenile courts constitute minor age-appropriate behavior that could be—and were once—handled by a trip to the principal's office or a call home to a parent.

Statewide there were 26,990 school-related referrals to the Florida Department of Juvenile Justice during the 2004-05 school year. Over three-quarters of school-based referrals (76 percent) were for misdemeanor offenses such as disorderly conduct, trespassing, or assault and/or battery, which is usually nothing more than a schoolyard fight.¹

In addition to turning to police as disciplinarians, Florida schools increasingly utilize internal discipline methods that focus on isolation and removal instead of addressing the underlying behavioral problem. In fact, the growth in the number of out-of-school suspensions has outpaced the growth of the student population by almost two-to-one. Out-of-school suspensions rose from 385,365 during the 1999-00 school year to 441,694 in 2004-05, a 14 percent increase, even though the student population increased by only 8.4 percent.²



Multiple reasons have been advanced to explain this school discipline crisis in Florida. Advocates, parents, and youth believe that racial and cultural intolerance among some school administrators and teachers results in the unfair discipline of students of color. Also, the inadequacies of the public educational system in Florida, especially in areas of concentrated poverty, have set students up to fail. The consequences of continuing resource deficiencies and inequities—such as a lack of experienced or certified teachers and guidance counselors, advanced instruction, early intervention programs, extracurricular activities, and safe, well-equipped facilities—create educational environments that neglect the needs of students and make them feel disengaged from their schools. Ironically, schools often turn to suspensions or arrests because they are not given the resources—experienced guidance counselors, after-school programs, and intervention programs, to name just a few—to deal with the resulting behavioral issues in any other ways.

1 Florida Department of Juvenile Justice, Office of Research and Planning, Research and Evaluation Unit, *Analysis of FY 2004-05 School-Related Referrals* (Sept. 2005).

2 Florida Department of Education, *SESIR Incident Summaries, 2002-2003, 2003-2004, and 2004-2005 Statewide Report on School Safety and Discipline Data*.

Also, demands for greater accountability, extensive testing regimes, and harsh sanctions imposed on schools and teachers actually encourage schools to remove students whom they believe are likely to drag down a school's test scores. For example, there is evidence that some schools in Florida respond to the pressure of high-stakes testing by "selectively disciplining" or "pushing out" low-performing students so that they will not be present at school on dates when the Florida Comprehensive Assessment Tests are administered.³

Finally, zero tolerance school discipline policies, which were originally intended to expel students who were in possession of firearms, are being used in Florida to impose mandatory suspension, expulsion, and police referral on students for minor school infractions. The problematic policies exist at both the state and local level.

At the state level, Florida law requires schools to develop zero tolerance policies for potentially broad, ill-defined categories of behavior such as "crime" and "victimization of students."⁴ Because virtually any childish misbehavior can be categorized as a "crime" under vague criminal offenses such as "disorderly conduct" and even an insignificant schoolyard fight can be labeled as "victimization," existing state law can be interpreted as requiring school districts to apply zero tolerance policies to even the most innocuous student misbehavior. At the local level, many school districts have chosen to read the state law in just this way and have adopted overly broad zero tolerance policies. Hillsborough County, for example, includes the vague offense of "major disruption to a school function" in its list of zero tolerance infractions.⁵ In Broward County, a student reportedly was charged with disruption of school function for shouting "WHOO-WHOO" as he watched a fight between two other students.⁶

These punitive practices fall hardest on students of color, especially Black children. In the 2004-05 school year, Black students received 46 percent of out-of-school suspensions and police referrals, but comprised only 22.8 percent of the student population.⁷



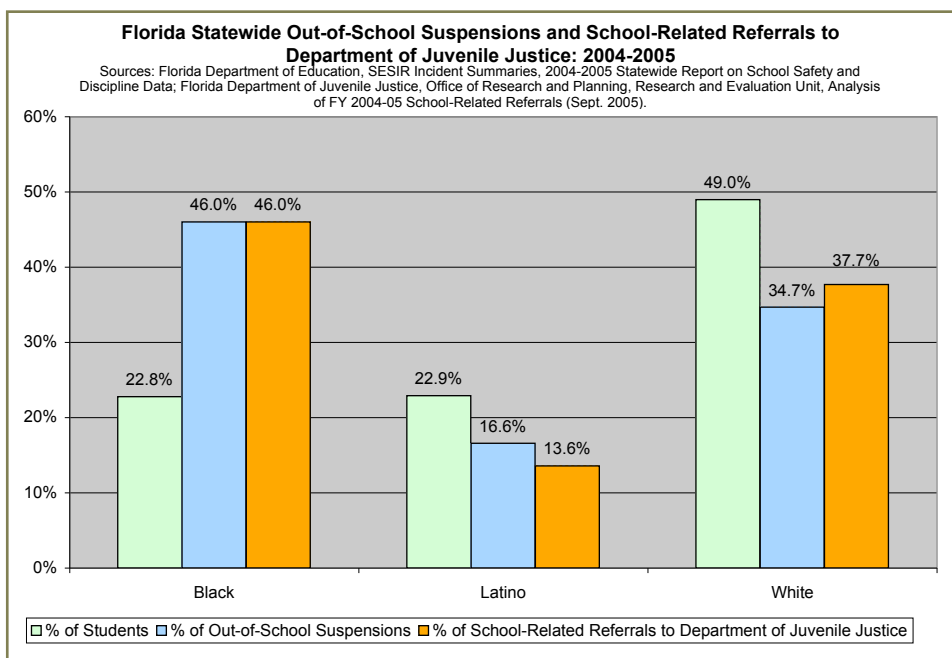
3 David N. Figlio, *Testing, Crime and Punishment*, University of Florida and National Bureau of Economic Research, at 21 (Mar. 2005).

4 Fla. Stat. § 1006.13 (2005).

5 School District of Hillsborough County, *Student Handbook 2004-05*, at 8a.

6 Transcript of the Broward County Public Hearing on School Discipline, at 34-35 (Oct. 18, 2005).

7 Florida Department of Education, *SESIR Incident Summaries, 2004-2005 Statewide Report on School Safety and Discipline Data*; Florida Department of Juvenile Justice, *2004-05 School-Related Referrals*, *supra* note 1, at 2, 4.



Racial disparities in school discipline have been documented and acknowledged by school districts for decades. Yet very little has been done to address the problem. Researchers have found that these disparities could not be attributed to other factors such as the socioeconomic status or disability of students.⁸ Also, there is no credible evidence that Black students misbehave more than their White peers,⁹ and some studies show that Black students receive more severe school punishments for less severe behavior (e.g., “disrespect of authority”).¹⁰

Students with disabilities are also increasingly targeted for out-of-school suspensions and arrests in Florida. For example, in Pinellas County, 26.5 percent of students enrolled in exceptional centers (schools that serve only students with disabilities) were suspended at least once during the 2004-05 school year; one center in the county suspended almost 70 percent of its students at least once that year.¹¹ Likewise, state juvenile court administrators and education advocates have reported a growing number of children with disabilities being referred to the juvenile justice system.

The harm posed by these discipline practices cannot be overstated. In some instances, children who are repeatedly and unjustly suspended or arrested miss countless days of school, fall behind in their classes, become discouraged and drop out of school altogether. Because many parents cannot take time off from work to stay home with their children, suspensions may lead to juvenile crime as these children spend their time unsupervised and hanging out with other children who are out of school.¹² Moreover, removing a child from school does nothing to address underlying causes of behavioral problems.

⁸ School Board of Broward County, Office of the Superintendent, *Student Suspensions in Broward County Public Schools*, Research Brief, at 16 (March 2006); Russell J. Skiba, et al, *The Color of Discipline*, Indiana Education Policy Center (June 2000).

⁹ Skiba, *The Color of Discipline*, *supra* note 8.

¹⁰ *Id.*; Advancement Project and The Harvard Civil Rights Project, *Opportunities Suspended: The Devastating Consequences of Zero Tolerance and School Discipline*, at 6-7 (June 2000).

¹¹ Pinellas County Schools, *Suspensions from August 2004 to May 2005*, at 5.

¹² Russell J. Skiba, et al, *Consistent Removal: Contributions of School Discipline to the School-Prison Pipeline – DRAFT*. Presented at the Harvard Civil Rights Project School-to-Prison Pipeline Conference (cited with permission of author).

Finally, the impact of the criminalization of children by their schools may outlive their teenage years. In Florida, arrests for certain offenses, such as assault and petit theft, become part of a child's criminal record and are automatically retained well into their adult years, in some instances permanently becoming a part of their adult records.¹³ Although a young person may request the expungement (destruction) of the records sooner in some cases, they must still report an arrest to certain future employers, such as criminal justice agencies and departments of education.¹⁴

Last Fall, in response to the arrest of the five-year-old girl in St. Petersburg, and growing discontent with unfair school discipline, the Florida State Conference NAACP, Advancement Project, and the NAACP Legal Defense and Educational Fund conducted public hearings throughout the state on the increasingly harsh school discipline policies and practices in Florida's public schools. The purposes of the hearings were to: gain a better understanding of disciplinary practices in various school districts; raise public awareness about the negative impact of "law and order" approaches used to address typical student misbehavior; expose the connections between disparities in educational opportunities and extreme discipline policies; discuss best practices for keeping schools safe without criminalizing children; and encourage efforts toward reform. There were five hearings covering six Florida counties: Pinellas/Hillsborough (St. Petersburg, FL), Duval (Jacksonville, FL), Palm Beach (West Palm Beach, FL), Broward (Fort Lauderdale, FL), and Miami-Dade (Miami, FL).

The hearings brought together hundreds of parents, students, elected officials, school and juvenile court personnel to dialogue about the problem. Participants acknowledged that children and youth learn best in environments that are safe and free of disruptions, but were concerned that school districts have turned away from education-based approaches to discipline and now handle too many instances of typical student misbehavior by relying on law enforcement and the courts, and imposing punishments that needlessly remove students from school.

Arresting Development outlines the testimony and information gathered at the hearings, and identifies school discipline trends. It concludes that in each of the target counties, schools districts have spent millions of dollars for school police officers who spend most of their time disciplining students for conduct that should be addressed by school programs, counseling, and parental involvement. Ultimately, parents, students, educators, and other stakeholders must work collaboratively to reach an agreement on the best path to take to keep schools safe and stop the unnecessary criminalization of Florida's students.

13 Fla. Stat. § 943.051 (3) (2005).

14 Fla. Stat. § 943.0585 (2005).