The Trouble with Both Ends of the School-to-Prison Pipeline: 
The Unjust Punishment and Inadequate Education of American Youth with Disabilities

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Abstract

This paper will examine both ends of the school-to-prison pipeline, focused around students with disabilities. A presentation of some basic statistics on discipline in public schools will be followed by an overview of studies which have examined the prevalence of students with disabilities and the condition of special education in these facilities. This will lead to an examination of the United States Department of Education’s Civil Rights Data Collection (CRDC), its past findings, and its recent push for increased data collection pertaining to the discipline and incarceration of youth with disabilities. This paper will argue why the pipeline is not only a detriment to the development and long term success of individuals with disabilities, but is becoming a major contributor to long-term, macro-level systemic inequity.

Keywords: School-to-prison pipeline, discipline, disabilities, CRDC
Introduction

The issues that students with disabilities are faced with in both US public schools and juvenile justice facilities are exacerbated versions of those faced by their non-disabled peers. Youth with disabilities are being unfairly disciplined in school and when placed in juvenile justice facilities, often as a result of disciplinary issues, these marginalized students are receiving an inadequate education. The acts of discipline being administered in public schools are inappropriate and cause for concern because there is documentation of students with disabilities receiving punishments which would be deemed inappropriate or outright unacceptable for their non-disabled peers. And research indicates that the rates at which these students are being repeatedly disciplined in public schools are extremely high, which is likely a leading factor of students with disabilities comprising a significantly higher percentage of the incarcerated youth population than overall population composition would predict. Once placed in a juvenile justice facility, these students are receiving classroom instruction which does not meet their educational needs, and in some cases, no education at all. The entrenched inequalities faced by the disability community through the current systems of discipline and incarceration are not only detrimental to individual young persons with disabilities, but also have a domino effect which makes them major contributors to macro-level systemic inequity.

Discipline in Public Schools

UCLA’s Center for Civil Rights Remedies (CCRR) has gathered facts on the school-to-prison pipeline and-created safequalityschools.org. This website publishes accessible infographics which demonstrate the prevalence of unfair punishments being delivered to predominantly minority students in US public schools at astronomical rates. Some of the most alarming statistics presented pertain to the likelihood of various students being suspended at least once during the course of their academic careers. Studies found that one in twenty white students
will be suspended at least once, while the same can be said of one in six black students and one in four black students with disabilities (“Ending the Schoolhouse to Jailhouse Track”).

So often is the school-to-prison pipeline discussed through a racial lens, yet students with disabilities are being targeted for disciplinary action by the system at higher rates than any racial minority. And because disability transcends racial categories, all parties involved ought to be concerned with the subjugation of this population. Furthermore, raw data from the US Department of Education's 2011-2012 Civil Rights Data Collection revealed that “twenty percent of secondary school students with disabilities were suspended in a single school year, compared with fewer than ten percent of their peers without disabilities” (“Raw Data”).

Regarding the draconian zero tolerance policies which an increasing number of schools across the nation have recently begun to implement, CCRR remarks that “this approach lowers educational outcomes, damages relationships within schools, and diverts funding from providing high quality educational experiences” (“Ending the Schoolhouse to Jailhouse Track”). By suspending students as young as three years old (preschoolers) and putting zero tolerance or three strike policies in place, American public schools are no longer “preparing young people for success” but rather “they are conditioning them for a life of incarceration” (Ibid). Moreover, out-of-school suspensions and outright expulsions are a major disruption to a child’s educational progress and lead to increased drop-out rates (Lee et. al; Wald and Losen 3).

**Prevalence of Disabled Youth in Juvenile Justice Facilities**

The US Department of Education (ED)’s Civil Rights Data Collection (CRDC) defines a juvenile justice facility as a:

Public or private facility that confines pre-adjudicated/pre-convicted individuals, post-adjudicated/pre-convicted individuals, or both. Justice facilities include short-term (90 calendar days or less) and long-term (more than 90 calendar days) facilities, such as correctional facilities, detention centers, jails, and prisons…For the purposes of the
CRDC, only individuals up to 21 years of age who are confined in justice facilities are of interest. (“Definitions”)

Krezmien, Mulcahy, and Leone surveyed 555 “detained and incarcerated boys in one mid-Atlantic state,” examining their “academic achievement, mental health history, and special education status” in order to compare the incarceration rates of detained and committed youth with and without disabilities (445). An analysis of the data showed that a majority of study participants had undergone therapy, been medicated, and identified as disabled.

Similarly, Quinn et al. sought to determine how many students with disabilities were being housed in juvenile justice facilities nationally. The study designated five disability classifications¹ and concluded that all youth with disabilities, no matter which category their disability was classified in, were more likely to wind up in a justice facility than those without disabilities. The study also found that youth with disabilities comprised a significantly higher percentage of the detained population than the percent of youth with disabilities in the overall national population.

**Special Education in Juvenile Justice Facilities**

As part of the discovery phase of a lawsuit brought against an unidentified state’s juvenile justice facilities, research examined the pre-existing special education programs in the state, as well as the infrastructure which supports these programs. Included in special education programs are disability related services, which youth with disabilities are entitled to in the US, regardless of where they are receiving an education. This study found that *some* students with

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¹ Emotional disturbance, specific learning disabilities, mental retardation, other health impairments, and multiple disabilities.
identified disabilities were receiving services within juvenile justice facilities in the state, but very few of these students were receiving supplementary services\(^2\) (Leone).

More recently, a case was filed against Contra County Juvenile Hall (CCJH) and a variety of the Californian County’s elected officials for their failure to provide any form of education to students with disabilities while housed in the juvenile detention center. According to a brief written by the Department of Justice’s Civil Rights Division, the plaintiffs are claiming that this facility “locks young people with disabilities in solitary confinement for up to 23 hours a day and deprives them of education.” Two of the plaintiffs, both youth with documented disabilities who were placed in CCJH, were placed in solitary confinement by facility administrators and experienced detrimental effects as a direct result. One of the plaintiffs was hospitalized for three weeks after he “suffered a mental breakdown...and was found smearing feces on the wall” (US DOJ). The other student, who had been “in full-time special education since first grade,” fell severely behind in his studies after being held in CCJH for almost three years and having received “no mental health services and only cursory special education services for his learning and visual problems” (Ibid). The most appalling part of this case is the fact that by law, “juvenile halls in California exist solely for the purpose of rehabilitation not punishment” and children with disabilities “are being subjected to egregious and inhumane maximum security-like prison conditions,” stated Public Counsel Education Rights Director Laura Faer (Ibid).

A proper primary and secondary education is critical to the development of all young persons in our society and when students receive an inadequate education, they are also less prepared for higher level education, and lack a competitive edge in the job market. The importance of development is especially true for persons with disabilities who experience

\(^2\) Supplementary services include physical, occupational, fine motor, and speech therapy, all necessary components of the proper care and education of persons with a variety of disability types.
developmental delays and require additional services to facilitate cognitive, social, and physical growth. Students with disabilities are also less likely to attend higher education institutes due to inaccessibility, a lack of sufficient accommodations, and the prevalent attitude amongst educators and parents that they are not capable of thriving at the collegiate level. The issue of job market competitiveness is exacerbated tenfold for students with disabilities, in part because of the often inaccessible and unaccommodating nature of traditional workplaces, but also because employers tend to shy away from hiring persons with disabilities for fear of the increased costs associated with creating reasonable accommodations and lowering production rates/poor performance.

**Intro to the CRDC**

As an intern at the US Department of Education (ED), I spent three months in the fall of 2014 researching methods of discipline in schools and the state of education in domestic justice facilities. For the past few decades, ED’s Office for Civil Rights has released the Civil Rights Data Collection (CRDC) survey every other year to all public schools in the US. The survey asks questions regarding the education of male versus female students, students with a wide variety of racial backgrounds, students covered under Section 504 and IDEA, and students classified as having Limited English Proficiency (“Raw Data”). Collection of this data is a way to inform the public of the existence and pervasiveness of problems within the nation’s public schools, which is important for parents of students with disabilities to know when choosing where to educate their children (in some states, students with disabilities may choose to attend a public school outside of their district). Additionally, the data aids policymakers in making informed

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3 The following racial categories are included in the CRDC: Hispanic or Latino, American Indian or Alaska Native, Asian, Native Hawaiian or other Pacific Islander, Black or African American, White, and two or more races.

4 Section 504 and IDEA protect the rights of students with disabilities.
improvements to the creation, implementation, and evaluation of legislation pertaining to the education of historically marginalized populations.

One of the primary problems with the CRDC is the fact that schools were not mandated to complete the assessment until the release of the 2013-2014 survey. But justice facilities were not included in this mandate because prior to the 2013-2014 survey, none of the CRDC questions specifically pertained to these institutions, despite the fact that they are required to provide youth with an education. The 2013-2014 CRDC included a slew of optional questions for justice facilities to answer, all of which are intended to be mandatory on the 2015-2016 survey, pending the approval of the White House Office of Management and Budget. If the inclusive survey is approved, both public schools and justice facilities will be asked to report how often they punish students by using mechanical restraints (i.e. handcuffs), physical restraints (the use of physical contact to subdue), or by secluding students in an area from which they cannot leave, such as a closet (“Definitions”). Justice facilities will also have to report the total number of days students spend in school per year, hours per week that educational services are offered, and how many students participated in educational programs for less than 15 days, 15-30, 31-90, 91-180, and 180+ (the typical school year operates for 180 days).

Regarding special education, the 2015-2016 CRDC will require justice facilities to state how many of their residents are classified under Section 504 and IDEA, but as Leone notes in his research, there is no system in place to identify students as having disabilities while in these facilities, which means that if a student had not been diagnosed with a disability prior to being sent to a facility, that student would not receive accommodations. This creates inequalities on socio-economic lines because students from low-income families are less likely to have been able to afford the testing required for disability diagnosis or access to a consistent health care provider who knows their child and was able to officially diagnose their particular disability. The
CRDC also fails to ask facilities whether or not they create an appropriate, parent-approved Individualized Education Plan for these students, which they are entitled to in public schools.

Conclusion

The disciplinary system in public schools targets students with disabilities, which increases the likelihood of these students being sent to detention facilities. While locked up, they receive inadequate services, a subpar education, and unjust punishments, thus further widening the gap between them and their non-disabled peers in terms of their cognitive, social, and physical development, as well as future job prospects. By tolerating subpar services, we as a society are condoning the inequalities created and perpetuated by the state, though our nation prides itself on providing equal rights and opportunities for all.

But if the nation’s leading educational survey has not yet fully addressed these issues, it is difficult to expect the general public to demand governmental change from elected officials. It is also unrealistic to demand the enactment of effective legislation from politicians when constituents are not pushing for systemic change. And politicians are not incentivized to stick their neck out for the implementation of costly services for either the disabled or delinquent populations (let alone the cross-section of the two), given that neither of these demographics is known for high voter turnouts.

Beyond the individual students with disabilities who are being fed into the school-to-prison pipeline, the system also establishes and reinforces a perceived inequality between all persons with and without disabilities. Students with disabilities are being punished more frequently and aggressively than their non-disabled peers, and when students witness this inequitable treatment, they create the misperception that students with disabilities are more delinquent in nature and that it is acceptable to treat them with less respect. This creation of social scripts is detrimental
because the consequent perceptions of reality surrounding persons with disabilities were constructed on the basis of unjust treatment by authority figures.

There is no single issue struggle in our cross cultural world and because disability transcends racial, political, geographic, and socioeconomic divisions, the disability rights movement is one which our entire society ought to feel invested in because whether or not they realize it, they are.
Works Cited


