Restoring Justice: Community Organizing to Transform School Discipline Policies

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I. Introduction

Although public education activism is hardly new, the emergence of community organizing as a strategy to reform and challenge punitive school discipline policies is a more recent phenomenon. Community organizing efforts, like the work of Padres y Jóvenes Unidos[1] in Denver, South Central Youth Empowered Through Action[2] and Community Asset Development Re-defining Education[3] in Los Angeles, Southwest Youth Collaborative[4] in Chicago, Southwest Organizing Project[5] in New Mexico, and People Organized in the Defense of Earth and Her Resources[6] in Texas, have grown exponentially over the last decade. Since the early 1990s, dozens of community organizations across the country have launched campaigns to improve public schools.[7] Prompted by the persistent breakdowns and inequities of the public education system, parents, students, and community leaders organized themselves and targeted administrators, district officials, and local politicians with a wide range of demands.[8] School reform organizing has developed most

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[1] http://www.padresunidos.org/ending-school-jail-track.

[2] http://cocosouthla.org/youth/scyeamission.

[3] http://www.cadre-la.org/.

[4] http://www.swyc.org/.

[5] http://www.swop.net/aboutswop.htm.

[6] http://www.poder-texas.org/.

[7] Kavitha Mediratta, Norm Fruchter & Inst. for Education and Social Policy, New York Univ., Mapping the Field of Organizing for School Improvement: A Report on Education Organizing in Baltimore, Chicago, Los Angeles, the Mississippi Delta, New York City, Philadelphia, San Francisco, and Washington, D.C. (2002); Kavitha Mediratta & Inst. for Education and Social Policy, New York Univ., Constituents of Change: Community Organizations and Public Education Reform 1-48 (2004); Mark R. Warren, *Communities and Schools: A New View of Urban Education Reform*, 75(2) Harv. Educ. Rev. 133, 152-168 (2005); Kavitha Mediratta, *Outside In: Communities in Action for Education Reform*, 46(3) Theory into Prac. 194, 194-198 (2007); Kavitha Mediratta, Seema Shah & Sara McAlister, Community Organizing for Stronger Schools: Strategies and Successes 27-31 (Harvard Education Press 2009).

[8] Warren, *supra* note 8, at 152-168; Eric Zachary, Shola Olatoye & Inst. for Education and Social Policy, New York Univ., A Case Study: Community Organizing for School Improvement in the South Bronx (2001); M. Elena

rapidly in low-income neighborhoods and districts where communities of color have long suffered from poor performing schools, shortages of qualified teachers, low academic achievement, high dropout rates, and the devastating impact of intertwined punitive policies leading students into the juvenile justice system.[9]

Lopez, Family Involvement Network of Educators, Harvard Family Research Project, *Transforming Schools Through Community Organizing: A Research Review* (2003); Suzanne Blanc, Joanna Brown, Aida Nevarez-La Torre, Chris Brown & Chicago IL Cross City Campaign for Urban School Reform, Case Study: LSNA, Logan Square Neighborhood Association (2002); Kavitha Mediratta, *Outside In: Communities in Action for Education Reform*, 46(3) Theory into Prac. 194, 194-198 (2007); Jeannie Oakes, John Rogers, Gary Blasi & Martin Lipton, *Grassroots Organizing, Social Movements, and the Right to High-Quality Education*, 4 Stan. J. C.R. & C.L. 339, 340-342 (2008); Mediratta, Shah & McAlister, *supra* note 8.

[9] Mediratta, Shah & McAlister, *supra* note 8; Warren, *supra* note 8; Mediratta, *supra* note 9; Zachary & Olatoye, *supra* note 9; Advancement Project, *Education on Lockdown: The Schoolhouse to Jailhouse Track*, Advancement Project (2005), http://www.advancementproject.org/sites/default/files/publications/FINAL EOLrep.pdf [hereinafter Advancement Project, *Education*]; Augustina Reyes, *The Criminalization of Student Discipline Programs and Adolescent Behavior*, 21 St. John's J. Legal Comment. 73, 77-78 (2006); Seema Shah & Kavitha Mediratta, *Negotiating Reform: Young People's Leadership in the Educational Arena*, 117 New Directions for Youth Dev. 43, 43-46 (2008); Mississippi Youth Justice Project, Southern Poverty Law Center, *Effective Discipline for Student Success: Reducing Student and Teacher Dropout Rates in Mississippi*, Southern Poverty Law Center (2008), http://www.splcenter.org/sites/default/files/downloads/effective_discipline _MS.pdf; Heather Cobb, Symposium Response, *Separate but Unequal: The Disparate Impact of School-Based Referrals to Juvenile Court*, 44(2) Harv. C.R.-C.L. L. Rev. 581, 582-588 (2009); Deborah N. Archer, *I School-to-Prison Pipeline Symposium – Introduction: Challenging the School-to-Prison Pipeline*, 54(4) N.Y.L. Sch. L. Rev. 867, 868-870 (2010); Louisiana School-to-Prison Reform Coalition, *Effective Discipline for Student Success: Reducing Student and Teacher Dropout Rates in Louisiana*, Southern Poverty Law Center (2009), http://www.splcenter.org/sites/default/files/downloads/LA_Reducing_Stud ent_Dropout.pdf; Advancement Project, *Test, Punish, and Push Out: How "Zero Tolerance" and High-Stakes Testing Funnel Youth into the School to Prison Pipeline*, Advancement Project (2010),

As researchers, policy advocates, lawyers, academics, and educators have consistently documented, punitive discipline policies not only deprive students of educational opportunities, but also fail to make schools safer places.[10] The presence of zero tolerance and punitive discipline policies within schools also have negative effects on the offending student, by increasing the likelihood of future disciplinary problems, and ultimately increased contact with the juvenile justice system.[11] One need look no further than the harsh reality of school discipline policies documented by the Advancement Project in its 2010 report, *Test, Punish & Push Out: How "Zero Tolerance" and High Stakes Testing Funnel Youth Into the School-Prison-Pipeline*, to understand why local communities have utilized organizing as a strategy to reform broken discipline policies that have led to a tripling of the national prison population from 1987 to 2007.[12] In fact, in many school districts across the United States children are far more likely to be arrested at school than they were a

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http://www.advancementproject.org/sites/default/files/publications/rev_fin.pdf [hereinafter Advancement Project, *Test*].

[10] Advancement Project, *Education*, *supra* note 10; Advancement Project, *Test*, *supra* note 10; Russell John Skiba, *Zero Tolerance, Zero Evidence: An Analysis of School Disciplinary Practice*, Indiana Education Policy Center (2000); Jeanne B. Stinchcomb, Gordon Bazemore & Nancy Riestenberg, *Beyond Zero Tolerance* 4(2) Youth Violence and Juv. Just. 123, 124 (2006); American Psychological Association Zero Tolerance Task Force, *Are Zero Tolerance Policies Effective in the Schools?: An Evidentiary Review and Recommendations* 63(9) The Am. Psychologist 852, 852-862 (2008).

[11] Advancement Project, *Education*, *supra* note 10; Advancement Project, *Test*, *supra* note 10; American Psychological Association Zero Tolerance Task Force, *supra* note 11; Cobb, *supra* note 10; Reyes, *supra* note 10; Children's Defense Fund, *America's Cradle to Prison Pipeline*, Children's Defense Fund (2007), http://www.childrensdefense.org/child-research-data-publications/data/cradle-prison-pipeline-report-2007-full-highres.pdf; Joseph B. Tulman & Douglas M. Weck, *Shutting off the School-to-Prison Pipeline for Status Offenders with Education-Related Disabilities,* 54(4) N.Y.L. Sch. L. Rev. 875, 877 (2010); Ronald C. Lewis, *A Multi-System Approach to Dismantling the "Cradle to Prison" Pipelines*, The Houston Lawyer 1, 1-4 (2009).

[12] Advancement Project, *Test*, *supra* note 10, at 9.

generation ago.[13]   Furthermore, the number of students suspended from school each year has nearly doubled from 1.7 million in 1974 to 3.1 million in 2000.[14]   Consider, for example, in 2006 one in every fourteen students was suspended at least once during the academic year.[15]

As the number and intensity of organizing efforts has grown, communities have begun to transform the nature of school discipline in increasingly visible ways.[16]   These campaigns are not traditional education reform efforts, but rather are propelled by forces outside the school system, like the traditionally disenfranchised communities underserved by public schools.   Through local community organizing, a number of alternative prevention and intervention strategies have been implemented across the country. The scope of this article is therefore twofold: first, to broadly consider community organizing for school discipline policy reform and second, to highlight the specific impact of an organizing campaign that led to the implementation of a restorative justice program and adoption of a new school discipline policy in Denver, Colorado. This multifaceted strategy for education reform, restorative justice program implementation and district-wide discipline policy change, not only focuses on eliminating unnecessary suspensions, expulsions and ticketing of students, but promotes healthier school communities while positively impacting larger issues of school safety, high dropout and low graduation rates.   Part I provides an introduction to and context for community organizing for school discipline policy reform. Part II outlines the negative

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[13] Archer, *supra* note 10, at 868.

[14] Johanna Wald & Daniel J. Losen, *Defining and Redirecting a School-to-Prison Pipeline*, 99 New Directions for Youth Dev. 9, 10 (Wiley Publications, Inc. 2003).

[15] Advancement Project, *Education*, *supra* note 10.

[16] Mediratta, Shah & McAlister, *supra* note 8; Mediratta, supra note 8; Interview with Lalo Montoya, Organizer, Padres y Jóvenes Unidos, in Denver, Colo. (May 26, 2010); Interview with Daniel Fuentes, Student Advisor, North High Sch., in Denver, Colo. (May 26, 2010); Interview with Benjamin Cairns, Restorative Justice Coordinator, North High Sch., in Denver, Colo. (May 27, 2010); Interview with Maisie Chin, Dir./Co-Founder, CADRE, in L.A., Cal. (July 13, 2010).

impacts of punitive school discipline policies. Part III presents a broad foundation for understanding community organizing for school discipline policy reform. Part IV discusses the multi-year organizing campaign of Padres y Jóvenes Unidos for school discipline policy reform in Denver, Colorado. Part V explores the impact of the restorative justice program and the new discipline policy in Denver Public Schools District. Part VI considers the role that community organizing for school discipline policy reform will play in creating a sustainable solution to restoring justice in public schools.

II. Impact of Punitive Discipline Policies in Schools

A. *Increased Student Drop Out*

To truly understand the importance of community organizing to reform discipline in schools, one must consider the far-reaching negative impacts of zero tolerance and other punitive discipline measures. Researchers have consistently shown that school communities, comprised of students, parents, teachers, and administrators, fulfill important roles in affirming norms and other positive social values that impact student engagement.[17] Unfortunately, as schools districts across the country adopted harsher punitive discipline policies, which rely on exclusion as a mechanism for controlling school communities, they began to systematically deprive students of

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[17] Warren, *supra* note 8, at 137; Allison Ann Payne, Denise C. Gottfredson & Gary D. Gottfredson, *Schools as Communities: The Relationships Among Communal School Organization, Student Bonding, and School Disorder*, 41(3) Criminology 749, 751-753 (2003); Roger D. Goddard, *Relational Networks, Social Trust, and Norms: A Social Capital Perspective on Students' Chances of Academic Success*, 25(1) Educ. Evaluation and Pol'y Analysis 59, 59-62 (2003); Mark T. Greenberg, Roger P. Weissberg, Mary Utne O'Brien, Joseph E. Zins, Linda Fredericks, Hank Resnik & Maurice J. Elias, *Enhancing School-Based Prevention and Youth Development Through Coordinated Social, Emotional, and Academic Learning*, 58(6) The Am. Psychologist 466, 468-469 (2003); Martha Mac Iver & Douglas Mac Iver, Mid-Atlantic Equity Center, The George Washington Center for Equity and Excellence in Education, *Beyond the Indicators: An Integrated School-Level Approach to Dropout Prevention* (2009).

educational opportunities and simultaneously fail to make schools safer places.[18]   Simply put, students who are not engaged in school communities or excluded from their school community are more likely to dropout.[19]

In recent years, qualitative research has been conducted to examine the impact of discipline policies on students removed from the school community, either through suspension or expulsion.   Once removed from schools, students experience decreased academic achievement, further fueling negative attitudes and leading to increased dropout rates.[20]   As researchers have consistently emphasized, understanding how punitive discipline serves as a pushout factor for many students is an important first step in developing and implementing plans to reduce the number of

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[18] Advancement Project, *Education*, *supra* note 10; Advancement Project, *Test*, *supra* note 10; Russell John Skiba & Kimberly Knesting, *Zero Tolerance, Zero Evidence: An Analysis of School Disciplinary Practice*, *in* 92 New Directions for Youth Development 17, 17-18 (Russell John Skiba & Gil G. Noam eds., Wiley Periodicals, Inc. 2002); Russell Skiba & Kimberly Knesting, *Zero Tolerance, Zero Evidence*, *in* 72 New Directions for Youth Development 17, 36-37 (R. Skiba & G. Noam eds., 2001); Tara Brown, *Lost and Turned Out*, 42(5) Urb. Educ. 432, 437-439 (2007); Cara Suvall, Essay, *Restorative Justice in Schools: Learning from Jena High School*, 44(2) Harv. C.R.-C.L. L. Rev. 547, 550-553 (2009).

[19] Mac Iver & Mac Iver, *supra* note 18, at 5, 15; Martha Mac Iver, *What Reform Left Behind* 40(1) Educ. and Urb. Soc'y 3-35 (2007); Lyndsay Pinkus, *Using Early-Warning Data to Improve Graduation Rates: Closing Cracks in the Education System*, Alliance for Excellent Education (2008), http://www.all4ed.org/files/EWI.pdf.

[20] Brown, *supra* note 19; Elizabeth Stearns & Elizabeth Glennie, *When and Why Dropouts Leave High School*, 38(1) Youth & Soc'y 29, 31-32 (2006); Robert Balfanz, Lisa Herzog & Douglas J. Mac Iver, *Preventing Student Disengagement and Keeping Students on the Graduation Path in Urban Middle-Grades Schools: Early Identification and Effective Interventions*, 42(4) Educ. Psychologist 223, 228 (2007); Robert Balfanz, Center for Social Organization of Schools, *What your Community Can Do to End its Drop-Out Crisis: Learnings from Research and Practice* (2007); Robert Balfanz, Joanna Hornig Fox, John M. Bridgeland, Mary McNaught & America's Promise Alliance, *Grad Nation: A Guidebook to Help Communities Tackle the Dropout Crisis*, Everyone Graduates Center (2009), http://www.every1graduates.org/PDFs/GradNation_Guidebook_Final.pdf.

dropouts and increasing graduation rates.[21] While many of the factors leading to student disengagement are not school-related, the behavioral indicators of student disengagement, such as poor attendance and suspensions, manifest themselves directly at school.   Early warning indicators for student dropout include receiving an unsatisfactory behavior grade or suspension at the middle school level or suspension in ninth grade.[22] For example, data collected in five Colorado districts with high numbers of dropouts showed that students who dropped out were roughly twice, and sometimes nearly three times as likely to have been suspended at least once over the four-year period of 2003-2004 to 2006-2007.[23]   In fact, analysis of the 2006-2007 dropouts in the Denver Public Schools indicated that 10% had been suspended at least once during the two-year period 2005-2007, compared to 6% of graduates.[24]   The data from Colorado is not an isolated instance, but rather reflects an alarming trend across the country. In 2009, the Southern Poverty Law Center reported that the annual average dropout rate for each grade of high school (9th-12th grades) in Louisiana is 6.9%, which totaled more than 14,000 students, placing Louisiana fifth highest in the nation in percentage of high school dropouts.[25] The report found that significant numbers of Louisiana students dropped out due to disproportionate reliance on punitive discipline,

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[21] Brown, *supra* note 19; Stearns & Glennie, *supra* note 21; Balfanz, Fox, Bridgeland, McNaught & America's Promise Alliance, *supra* note 21; Valerie E. Lee & David T. Burkam, *Dropping out of High School: The Role of School Organization and Structure*, 40(2) Am. Educ. Res. J. 353, 358-360 (2003).

[22] Mac Iver & Mac Iver, *supra* note 18, at 9, 24.

[23] Martha Abele Mac Iver, Robert Balfanz & Vaughan Byrnes, The Center for Social Organization of Schools,

Johns Hopkins University, *Dropouts in the Denver Public Schools: Early Warning Signals and Possibilities for Prevention and Recovery* 14, 19 (2009).

[24] Mac Iver, Balfanz & Byrnes, *supra* note 24, at 19.

[25] Louisiana School-to-Prison Reform Coalition, *supra* note 10, at 2; 2006-2007 Louisiana State Education Progress Report, La. Dep't of Educ. 17, 20-21   (2008), http://www.louisianaschools.net/LDE/pair/StateReport0607/09-Louisianas_students.pdf.

such as suspension and expulsions, placement in alternative schools, and referrals to law enforcement.[26] Similarly, the 2007 Texas Appleseed report, *Texas' School-to-Prison Pipeline: Dropout to Incarceration*, showed that the 1995 reforms and school discipline policies had a major, deleterious impact on the rate of school dropouts and juvenile involvement with the criminal justice system.[27] The report found that more than a third of Texas public school students dropped out in 2005-2006,[28] one in three juveniles sent to the Texas Youth Commission were school dropouts,[29] and more than 80% of Texas prison inmates are dropouts.[30]

B. Pushing Youth Into the School-to-Prison Pipeline

Emerging in the late 1980s, zero tolerance policies became widespread in the early 1990s.[31] Zero tolerance can be viewed comprehensively as a composite of perspectives related to punishment, deterrence, and incapacitation.[32] Beginning with a national focus on drug-related offenses, the concept of zero tolerance has been aligned with crime-related politics.[33] As a result, zero tolerance became the rallying cry

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[26] Louisiana School-to-Prison Reform Coalition, *supra* note 10, at 3.

[27] *Texas' School-to-Prison Pipeline: Dropout to Incarceration*, Texas Appleseed   (2007), http://www.texasappleseed.net/pdf/Pipeline%20Report.pdf.

[28] *Id.* at 2.

[29] *Id.* at 1-2.

[30] *Id.* at 1.

[31] Advancement Project, *Education*, *supra* note 10, at 15-16; Advancement Project, *Test*, *supra* note 10, at 9-11, 17; Archer, *supra* note 10, at 868-869; American Psychological Association Zero Tolerance Task Force, *supra* note 11, at 852; Tona M. Boyd, Symposium Response, *Confronting Racial Disparity: Legislative Reponses to the School-to-Prison Pipeline*, 44(2) Harv. C.R.-C.L. L. Rev. 571, 573-575 (2009); Ralph C. Martin, II, *Zero Tolerance Policy Report*, Am. Bar Ass'n (2001), http://www.abanet.org/crimjust/juvjus/zerotolreport.html; Johanna Wald & Daniel J. Losen, *Out of Sight: The Journey Through the School-to-Prison Pipeline*, *in* Invisible Children in the Society and its Schools 23, 25 (Sue Books ed., 2d ed. 2006).

[32] Stinchcomb, Bazemore & Riestenberg, *supra* note 11, at 125-128.

[33] Advancement Project, *Education*, *supra* note 10, at 15; Advancement Project, *Test*, *supra* note 10, at 9; Stinchcomb, Bazemore & Riestenberg, *supra* note 11, at 124; Boyd, *supra* note 32.

in the war against youth crime. This war spread quickly from the streets into the schools and intolerance was declared against serious offenses, such as possession of weapons, to minor offenses, such as talking back to teachers.[34]   Zero tolerance policies in schools clearly reflect an approach to discipline that mirrors the criminal justice system. As in the criminal context, the mandatory punishments of school zero tolerance policies are designed to be highly punitive in order to send a strong deterrent message. Although zero tolerance resonates politically, studies have shown it is ineffective as a corrective measure.[35]   Instead, students are put at a greater risk for entering the juvenile justice system and become disconnected from the school community. The link between exclusionary discipline practices, such as zero tolerance, and delinquency has often been referred to as the school-to-prison pipeline.[36]

   Underlying zero tolerance, suspension, and expulsion is the belief that punishment is a just consequence for misbehavior.[37]   Therefore, under zero tolerance policies, students are suspended or expelled for a single occurrence of certain specified conduct. Consider the following examples of

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[34] Advancement Project, *Test*, *supra* note 10, at 13-14; Stinchcomb, Bazemore & Riestenberg, supra note 11, at 127.

[35] Advancement Project, *Test*, *supra* note 10, at 17; American Psychological Association Zero Tolerance Task Force, *supra* note 11; Stinchcomb, Bazemore & Riestenberg, *supra* note 11, at 130; Russell Skiba & M. Karega Rausch, *Zero Tolerance, Suspension, and Expulsion: Questions of Equity and Effectiveness*, *in* Handbook of Classroom Management: Research, Practice, and Contemporary Issues 1063-1077 (Carolyn M. Evertson & Carol S. Weinstein eds., Lawrence Erlbaum Associates 2006); Brenda Morrison, Restoring Safe School Communities 60 (Federation Press 2007).

[36] Mediratta, Shah & McAlister, *supra* note 8; Warren, *supra* note 8; Mediratta, *supra* note 9; Zachary & Olatoye, *supra* note 9; Advancement Project, *Education*, *supra* note 10; Reyes, *supra* note 10; Shah & Mediratta, *supra* note 10; Mississippi Youth Justice Project, *supra* note 10; Cobb, *supra* not 10; Archer, *supra* note 10; Louisiana School-to-Prison Reform Coalition, *supra* note 10; Advancement Project, *Test, supra* note 10; American Psychological Association Zero Tolerance Task Force, *supra* note 11; Boyd, *supra* note 32; Martin, supra note 32; Wald & Losen, *supra* note 32.

[37] Stinchcomb, Bazemore & Riestenberg, *supra* note 11, at 125-126.

zero tolerance policies in action:

- A fourteen-year old student was given a $364 police citation for using an expletive in class.[38]

- A twelve-year old student was arrested for "disrupting a school function." The disruption was that the student had "passed gas."[39]

- A fourteen-year old disabled student with no criminal record was referred to police for allegedly stealing $2 from another student.[40]

- A six-year old student who brought a retractable camping knife to use at school during lunch was suspended for forty-five days and referred to an alternative school during the suspension.[41]

- A thirteen-year old student was suspended and ordered into a program for substance abuse for taking Tylenol obtained from another student for a headache.[42]

- A thirteen-year old student was removed from school in handcuffs for writing "Okay" on a desk.[43]

- A twelve-year old disabled student warned other students in the lunch line not to eat all the potatoes, or "I'm going to get you." The student was suspended for two days. Later referred to police by the principal, the student was charged with making "terroristic threats." The student was incarcerated for two weeks

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[38] Advancement Project, Test, *supra* note 10, at 13.
[39] *Id.*
[40] Martin, *supra* note 32.
[41] Advancement Project, Test, *supra* note 10, at 13.
[42] Advancement Project, Test, *supra* note 10, at 14.
[43] Advancement Project, Test, *supra* note 10, at 13.

while awaiting trial.[44]

Unfortunately, rather than correct student misbehavior, exclusionary discipline policies actually promote increased student suspensions, increased poor academic achievement, loss of reputation among peers, social isolation, psychological problems, and ultimately juvenile delinquency. As research has consistently shown, there is a continuum of entry points into the school-to-prison pipeline range from early school-based behavior problems that result in suspensions, expulsions, or alternative education program placements, to more serious law breaking and probation violations which involve the juvenile justice system and, ultimately, criminal prosecution and incarceration by the adult penal system.[45] Scholars, lawyers, policymakers, educators, and activists have labeled the school-to-prison pipeline as one of the most urgent civil rights challenges.[46] Given that school-based referrals to

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[44] Martin, *supra* note 32.

[45] Mediratta, Shah & McAlister, *supra* note 8; Warren, *supra* note 8; Mediratta, *supra* note 9; Zachary & Olatoye, *supra* note 9; Advancement Project, *Education*, *supra* note 10; Reyes, *supra* note 10; Shah & Mediratta, *supra* note 10; Mississippi Youth Justice Project, *supra* note 10; Cobb, *supra* not 10; Archer, *supra* note 10; Louisiana School-to-Prison Reform Coalition, *supra* note 10; Advancement Project, *Test, supra* note 10; American Psychological Association Zero Tolerance Task Force, *supra* note 11; Boyd, *supra* note 32; Martin, supra note 32; Wald & Losen, *supra* note 32; Paul Hirschfield, *Preparing for Prison?* 12(1) Theoretical Criminology 79, 79-91 (2008); Community Asset Development Re-defining Education (CADRE), Mental Health Advocacy Services, Inc. & Public Counsel Law Center, *Redefining Dignity in Our Schools: A Shadow Report on School-Wide Positive Behavior Support Implementation in South Los Angeles 2007-2010, Executive Summary*, Cmty Asset Dev. Re-defining   Educ.   3,   5-6   (2010),   http://www.cadre-la.org/media/docs/9995_RedefDignityShadowReptExecSumm.final2.pdf.

[46] Interview with Fuentes, *supra* note 17; Interview with Cairns, *supra* note 17; Interview with Montoya, *supra* note 17; Interview with Chin, *supra* note 17; Archer, *supra* note 10, at 868; Advancement Project, *Test*, *supra* note 10, at 15-16; Advancement Project & Civil Rights Project, *Opportunities Suspended: The Devastating Consequences of Zero Tolerance and School Discipline Policies* (Advancement Project 2000); NAACP Legal Defense and Education Fund, Inc., *Dismantling the School-to-Prison Pipeline*,   NAACP   LDF   (2006), http://naacpldf.org/files/case_issue/Dismantling_the_School_to_Prison_Pi

the juvenile court system represent such an important entry point into the prison system, understanding methods through which students are referred are critical. In this context, an explicit focus on reducing racial disparities is essential, since punitive discipline practices and policies have increased the vulnerability of minority students who have historically received unequal treatment in schools.[47] As numerous studies have clearly illustrated, punitive disciplinary practices exclude students across racial and ethnic lines.[48] For example, in the 2006-2007 school year, there was no state in which African American students were not suspended more often than white students.[49] Similarly, in 40 states and the District of Columbia, Latino students experienced unequal application of

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peline.pdf; Anthony V. Alfieri, Essay, *Post-Racialism in the Inner City: Structure and Culture in Lawyering*, 98(4) Geo. L.J. 921, 957-960 (2010); Interview with Robert Schwartz, Exec. Dir., Juvenile Law Center, in Gainesville, Fla. (Feb. 19, 2010); Interview with Ryan McKillop, Teacher, North High Sch., in Denver, Colo. (May 27, 2010).

[47] Advancement Project, *Test*, *supra* note 10, at 21-24 (For example, in Ohio the number of out-of-school suspensions per Black student increased by 34% in three years, from 2004-2005 to 2007-2008); Michael Krezmien, Peter Leone, & Georgianna Achilles, *Suspension, Race, and Disability: Analysis of Statewide Practices and Reporting*, 14(4) J. of Emotional and Behav. Disorders 217, 217 (2006); Pamela Fenning & Jennifer Rose, *Overrepresentation of African American Students in Exclusionary Discipline: The Role of School Policy*, 42(6) Urban Educ. 536, 541-549 (2007).

[48] Wald & Losen, *supra* note 15, at 10-11; Advancement Project, *Test*, *supra* note 10, at 15, 20-24; Brown, *supra* note 19, at 436; Alfieri, *supra* note 47, at 959; Adira Siman, Note, *Challenging Zero Tolerance: Federal and State Legal Remedies for Students of Color*, 14 Cornell J.L. & Pub. Pol'y 327, 329 (2005); Russel J. Skiba, Robert S. Michael, Abra Carroll Nardo & Reece Peterson, *The Color of Discipline: Sources of Racial and Gender Disproportionality in School Punishment*, Indiana Education Policy Center (2000), http://www.indiana.edu/~safeschl/cod.pdf; Robin L. Dahlberg, Am. Civ. Liberties Union, *Locking Up Our Children: The Secure Detention of Massachusetts Youth After Arraignment and Before Adjudication*, Am. Civ. Liberties Union (2008), http://www.aclu.org/pdfs/racialjustice/locking_up_our_children_web_ma.pdf; Michelle Alexander, The New Jim Crow: Mass Incarceration in the Age of Colorblindness 95-101 (New Press 2010).

[49] Advancement Project, *Test*, *supra* note 10, at 21.

discipline policies.[50]

C. Failure to Keep Schools Safe

Punitive discipline policies simply do not create safer school environments. In 2006, a taskforce of the American Psychological Association published an evidentiary review of studies over the prior ten years evaluating the effectiveness of zero tolerance policies. The study concluded that the presence and use of exclusionary zero tolerance policies did not improve school safety.[51] Additionally, it concluded that schools with higher suspensions and expulsions resulting from zero tolerance policies had less satisfactory ratings of overall school climate.[52] The study also found that out-of-school suspensions and expulsions did not reduce the likelihood of future student misconduct.[53] These findings are not isolated. Researchers have determined that suspension and expulsion policies cannot be correlated with any certainty with overall school safety or improved student behavior.[54] They attribute this finding, and the suspension recidivism rate, to the fact that school exclusion, in and of itself, offers students no help in addressing the behaviors that got them in trouble.[55] Instead of promoting learning in a safe environment, zero tolerance policies promote an irrational climate of fear.[56] Furthermore, studies focused on school safety find that when schools approach discipline through responsive, reintegrative, and restorative mechanisms they are more effective at maintaining safe communities.[57] By developing more balanced responses

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[50] *Id.*

[51] American Psychological Association Zero Tolerance Task Force, *supra* note 11, at 853-854.

[52] American Psychological Association Zero Tolerance Task Force, *supra* note 11, at 854.

[53] American Psychological Association Zero Tolerance Task Force, *supra* note 11, at 854-856.

[54] Skiba & Knesting, *supra* note 19, at 32.

[55] Brown, *supra* note 19, at 435.

[56] Morrison, *supra* note 36, at 61; Interview with Fuentes, *supra* note 17; Interview with Cairns, *supra* note 17.

[57] Morrison, *supra* note 36, at 73-120; Payne, Gottfredson & Gottfredson, *supra* note 18, at 750-751; Stinchcomb, Bazemore & Riestenberg, *supra*

to school-based misbehavior, schools can promote improved academic environments, which in turn improve school safety.[58] Policies that focus on repairing the harm, establishing accountability, and developing a strong school community have been found to prevent future actions.[59] As research has shown, students feel safer and more connected to schools when they perceive their teachers to have high expectations for good behavior, demonstrate that they care, and implement discipline fairly and tolerantly.[60]

III. Community Organizing For Education Reform

In 1997, a group of high school students in South Los

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note 11, at 132-142; Interview with Fuentes, *supra* note 17; Brenda Morrison, *Regulating Safe School Communities: Being Responsive and Restorative*, 41(6) J. of Educ. Admin. 689, 690-694, 701-702 (2003); Brenda Morrison, Peta Blood & Margaret Thorsborne, *Practicing Restorative Justice in School Communities: Addressing the Challenge of Culture Change*, 5(4) Pub. Org. Rev. 335, 337-338 (2005); Michael Wenzel, Tyler Okimoto, Norman Feather & Michael Platow, *Retributive and Restorative Justice*, 32(5) Law & Hum. Behav. 375, 376-378 (2008).

[58] Stinchcomb, Bazemore & Riestenberg, *supra* note 11, at 136-139; Interview with Fuentes, *supra* note 17; Interview with Cairns, *supra* note 17; Morrison, *supra* note 58; Interview with McKillop, *supra* note 47; Interview with Kenneth Chavez, Officer, Sch. Res. Office, North High Sch., Denver Police Dep't, in Denver, Colo. (Nov. 12, 2009); David R. Karp & Beau Breslin, *Restorative Justice in School Communities*, 33(2) Youth & Soc'y 249, 251-266 (2001); Interview with Timothy Turley, Program Manager, Denver Public Sch. Prevention and Intervention Services, in Denver, Colo. (Mar. 12, 2009); Interview with Benjamin Cairns, Restorative Justice Coordinator, North High Sch., in Denver, Colo. (Nov. 11, 2009); Interview with Robin Graham, Student Advisor, Smedley Elementary Sch., in Denver, Colo. (May 27, 2010).

[59] Interview with Fuentes, *supra* note 17; Interview with Cairns, *supra* note 17; Interview with Turley, *supra* note 59; Interview with Chavez, *supra* note 59; Gordon Bazemore, *The Fork in the Road to Juvenile Court Reform*, 564(7) The Annals of the Am. Acad. of Pol. & Soc. Sci. 81, 81-108 (1999); Gordon Bazemore, *Young People, Trouble, and Crime: Restorative Justice as a Normative Theory of Informal Social Control and Social Support*, 33(2) Youth & Soc'y 199, 199-226. (2001).

[60] Clea A. McNeely, James M. Nonnemaker & Robert W. Blum, *Promoting School Connectedness: Evidence from the National Longitudinal Study of Adolescent Health*, 72(4) J. of Sch. Health 138, 144-46 (2002).

Angeles began organizing to change conditions in local schools.[61] Their goal was to call attention to the overcrowded and decaying conditions of school facilities. Through surveys and community forums, South Central Youth Empowered thru Action (SCYEA) gathered data on the conditions of school facilities and developed proposals for repairing their schools.[62] SCYEA successfully convinced the superintendent and the school board to direct $153 million to repair the oldest, most-crowded and most-dilapidated schools.[63] After this victory, SCYEA began to consider the quality of education in Los Angeles schools.[64] In 2000, the youth of SCYEA led a coalition that achieved victory mandating the "A-G" curriculum, a college-prep curriculum, for all Los Angeles high school students in the Los Angeles Unified School District.[65] In 2007, SCYEA and Community Coalition waged another successful campaign, which prioritized South LA high schools for support through the Quality Education Investment Act, earning over $350 million for all South LA high schools, middle schools and fourteen elementary schools.[66]

Southwest Organizing Project's (SWOP) youth rights program began in the 1980s.[67] Jovenes Unidos was its first formal project, with the goal to provide cultural education oriented toward Chicano history that was missing from the school system.[68] Since its inception, SWOP's youth organizing project has successfully limited the arming of school security guards, defeated a proposed statewide curfew, and called attention to the Albuquerque Police Department's

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[61] Mediratta, Shah & McAlister, *supra* note 8, at 30.

[62] Mediratta, *supra* note 8, at 194-195; see also http://cocosouthla.org/youth/scyeamission.

[63] *Id.*

[64] *Id.*

[65] *Id.*

[66] *Grants List*, Edward W. Hazen Foundation (2008), http://www.hazenfoundation.org/index.php?s=52&q=1&y=2008&p=&o=3

[67] http://www.swop.net/what-we-do.

[68] *Youth Organizing*, SWOP, http://www.swop.net/youth-organizing.

practice of racial profiling.[69]   Since 2005, SWOP has worked
as part of a multiracial coalition to fight against the heavy
police   presence   in   Albuquerque   Public   Schools.[70]
Specifically, the Albuquerque Public Schools board and local
security guards pressed for a new policy that would have
allowed police and security guards to carry guns at school
during school hours.[71]   After SWOP and other organizations
launched an organizing, outreach, and advocacy campaign, the
proposed policy did not receive the sufficient number of votes
for passage by the school board.[72]

Since 2001, Community Asset Development Re-
defining Education (CADRE), a South Los Angeles
organizing-centered organization has lead a movement for
systemic social change to stop pushout of students from Los
Angeles Unified School District.[73]   Led by parents, CADRE
has used grassroots, door-to-door community canvassing to
speak with over 4,000 parents.[74]   In 2003, CADRE began
intensive community-based research to understand the needs
and concerns of parents in South Los Angeles.[75]   After
completing this research, CADRE launched a parent-led
organizing campaign focused on addressing school discipline
practices in South Los Angeles schools.   In 2005, CADRE
held a people's hearing demanding a district response to the
pushout crisis in South Los Angeles schools.   In 2007, as a
result of their organizing efforts, the Los Angeles Unified
School District adopted a revised school discipline policy,
which emphasized positive behavior and early intervention
over suspensions and expulsions, and provided specific roles

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[69] *Southwest Organizing Project, Albuquerque, NM*, Stop the Schoolhouse
to   Jailhouse   Track,   http://www.stopschoolstojails.org/sop-
newmexico.html.
[70] *Id.*
[71] *Id.*
[72] *Id.*
[73] Community Press Release, Cmty. Asset Dev. Re-defining Educ., A
Parent-Led Victory in the Fight to End Pushout in L.A. Schs. (June 2007)
(on file with author); Interview with Chin, *supra* note 17.
[74] Interview with Chin, *supra* note 17.
[75] *Id.*

for parent engagement and monitoring.[76] In 2010, CADRE released a report assessing the progress the Los Angeles Unified School District had made since 2007 in remedying the pushout crisis.[77] The report presents a comparative analysis of rates of suspension, involuntary transfer, and expulsion, finding serious policy noncompliance and failure to implement necessary measures to address the student pushout crisis.[78]

In response to the high number of suspensions, expulsions, school arrests and pushouts in the New Orleans Recovery School District, in 2009, the Juvenile Justice Project of Louisiana launched a community-led school discipline policy reform campaign.[79] The Schools First project aims to reduce the number of suspensions, expulsions, and arrests in schools, as well as to ensure a seamless educational transition between secure facilities and schools for youth involved in the juvenile justice system.[80] The on-going goals of the campaign are to reduce the number of suspensions and expulsions, increase the use of school-based interventions, reduce the number of youth entering the juvenile justice system, and ensure that the rights of all students are protected in discipline hearings and actions.[81]   Since its creation, the Schools First project has successfully revised the New Orleans Recovery School District discipline policy and obtained a guarantee from the Superintendent of the New Orleans Recovery School District to establish a district-wide Discipline Oversight Committee comprised of parents, students, advocates, and community members that will monitor and analyze school discipline data to make recommendations for reform.[82]

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[76] *Id.*

[77] Cmty. Asset Dev. Re-defining Educ., *supra* note 46.

[78] Cmty. Asset Dev. Re-defining Educ., *supra* note 46, at 1; Interview with Chin, *supra* note 17.

[79] Interview with Malik Rahim, Co-Founder and Dir., Common Ground Collective, in New Orleans, La. (December 30, 2009); *Schools First*, The Juvenile Justice Project of Louisiana, http://jjpl.org/new/?page_id=19.

[80] *Schools First*, The Juvenile Justice Project of Louisiana, http://jjpl.org/new/?page_id=19.

[81] *Id.*

[82] Juvenile Justice Project of Louisiana, Juvenile Justice Reform Report Card (Feb. 1, 2010) (on file with author).

The examples above illustrate why members of the most vulnerable communities across the country view reform to school discipline policies and practices worth fighting for.[83] Without changes from the current model of zero tolerance and punitive discipline, this country will simply lose another generation of youth into the system.[84] It is striking that community members without positions of economic or political power are organizing outside the education system to build and use power to reform their schools. Such grassroots activism reflects the widely-held and deeply-felt conviction that access to high-quality and equitable education is an essential and fundamental right. Twenty years ago, one would have been hard-pressed to find examples of community organizing efforts to reform education, much less a specific focus on challenging school policies that have pushed students away from an academic track towards a future in the juvenile justice system.[85]

Historically, community development and organizing groups typically focused their efforts on such issues as environmental justice, affordable housing, jobs, and public services.[86] In the late 1980s and early 1990s, however, this began to change as communities shifted increasing attention to the crisis in their own public schools.[87] Angered by the inequities, breakdowns and obstructions, parents and activists began targeting schools, districts and public officials with a wide range of demands.[88] Some of these efforts were local

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[83] Oakes, Rogers, Blasi & Lipton, *supra* note 9, at 340; Warren, *supra* note 8, at 134-136.

[84] Advancement Project, *Test*, *supra* note 10, at 20-23; Interview with Chin, *supra* note 17.

[85] Warren, *supra* note 8, at 133-134; Mediratta, Shah & McAlister, *supra* note 8, at 16-20; Mediratta, *supra* note 8, at 195.

[86] Warren, *supra* note 8, at 133-134; Mediratta, Shah & McAlister, *supra* note 8, at 27-29.

[87] Robert Halpern, Rebuilding the Inner City: A History of Neighborhood Initiatives to Address Poverty in the United States 83-85 (Columbia University Press) (1995); Mediratta, Shah & McAlister, *supra* note 8, at 27; Mediratta, *supra* note 8, at 195; Zachary & Olatoye, *supra* note 9, at 2, 4-5.

[88] *Id.*; Interview with Chin, *supra* note 17.

actions to bring about small changes in school facilities: doors on bathroom stalls, lighting on school grounds, acquisition of textbooks.[89]   Others were part of sophisticated statewide campaigns to change the fundamental balance of power that underpins the inequities and shortcomings found in predominately poor urban schools.[90]   Rejecting traditional forms of parent and student involvement, for example parent-teacher associations and student governments, organizing efforts aimed at exposing and changing conditions and power dynamics in schools.[91]   Early campaigns were rooted in organizations whose diversity reflects that of organizing in general.[92]   Informal groups focusing on just one school might work alongside professional organizers marshalling all the resources of a national organizing network.[93]   Regardless of their institutional setting, these new community-based education activists raised new issues, challenged new constituencies, and articulated new demands. Early successes in several states and cities sparked more efforts, and by the late 1990s there were dozens of organizations across the nation where education issues featured prominently on the agenda for change.[94]   Increased access to research, data, legal, and policy expertise helped organizers transition their efforts from local campaigns in single schools or districts to statewide

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[89] Mediratta, Shah & McAlister, *supra* note 8, at 16; Interview with Chin, *supra* note 17.

[90] Warren, *supra* note 8, at 152-162 (discussing examples of Texas Industrial Areas Foundation and Logan Square Neighborhood Association); Mediratta, Shah & McAlister, *supra* note 8, at 17-20, 31-33; Blanc, Brown, Nevarez-La Torre & Brown, *supra* note 9, at 15-16.

[91] Kavitha Mediratta & Jessica Karp, Inst. for Educ. and Soc. Policy, New York University, Parent Power and Urban School Reform: The Story of Mothers on the Move 3-8 (2003); Kaitha Mediratta, Norm Fruchter & Anne Lewis, Inst. for Educ. and Soc. Policy, New York Univ., Organizing for School Reform: How Communities are Finding Their Voices and Reclaiming Their Public Schools (2002).

[92] Interview with Erikson Albrecht, Founder, We Change LA, in L.A., Cal. (Mar. 15, 2010); Mediratta, Shah & McAlister, *supra* note 8, at 17-20 (Table 1.1).

[93] Warren, *supra* note 8, at 152-162, Blanc, Brown, Nevarez-La Torre & Brown, *supra* note 9, at 9-12; Zachary & Olatoye, *supra* note 9, at 3-10.

[94] Mediratta, *supra* note 8, at 197.

or national efforts for systemic change.[95] While the scope of this article is limited to community organizing efforts to reform school discipline policies, there are many well-documented examples of community organizing to change school climate,[96] build social capital,[97] improve school facility conditions,[98] address issues of testing and accountability,[99] increase parent engagement,[100] revitalize communities,[101] develop community schools,[102] and open charter schools.[103]

Community organizing for school reform must be distinguished from community involvement. Community involvement is generally understood as participation in school and home-based activities that support student learning.[104] Community involvement is also often driven and controlled by school priorities. Unlike community or parent involvement projects whose goals focus on an individual child's school success, the goals of school reform organizing focus on the intentional building of power among parents, students, and community residents to transform the accountability of

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[95] Interview with Chin, *supra* note 17; Interview with Montoya, *supra* note 17; Interview with Albrecht, *supra* note 93; Mediratta, Shah & McAlister, *supra* note 8, at 32-33.

[96] Mediratta, Shah & McAlister, *supra* note 8, at 43-46; Interview with Montoya, *supra* note 17; Interview with Chin, *supra* note 17.

[97] Warren, *supra* note 8, at 137-138; Lopez, *supra* note 9, at 4-5.

[98] Blanc, Brown, Nevarez-La Torre & Brown, *supra* note 9; Zachary & Olatoye, *supra* note 9; Interview with Erickson Albrecht, *supra* note 93; Interview with Chin, *supra* note 17.

[99] Shah and Mediratta, *supra* note 10, at 43-44.

[100] Interview with Montoya, *supra* note 17; Interview with Chin, *supra* note 17; Blanc, Brown, Nevarez-La Torre & Brown, *supra* note 9.

[101] Warren, *supra* note 8, at 134-135.

[102] Interview with Estevan Leyva, Teacher, Franklin High School, in L.A., Cal. (May 2, 2010); *Id.* at 140-145 (discussing Quitman Street Community School).

[103] Interview with Estevan Leyva, Teacher, Franklin High School, in L.A., Cal. (Apr. 15, 2010); Interview with Scott Petri, Teacher, Abraham Lincoln High School, in L.A., Cal. (Jan. 20, 2010); *See* Warren, *supra* note 8, at 146-151 (discussing Camino Nuevo Charter Academy); Interview with Estevan Leyva, *supra* note 103.

[104] Mediratta, *supra* note 8, at 197; Lopez, *supra* note 9, at 1.

schools and promote systemic change.[105] While community organizing for school reform may involve helping individual students and reforming single schools, most efforts are aimed at systemic change.[106] At its foundation, organizing strives to build and leverage grassroots power to counter the imbalances of traditional political powers that impose inequity on schools and neighborhoods.[107] A key source of neighborhood-based power is the ability to mobilize large numbers of people to act. In this way, education reform organizing engages participants in inquiring into how the immediate problems they recognize in schools fit into a larger social, economic, historical, and political context. This then leads to identifying likely solutions to those problems, and constructing an agenda for change. For example, Make the Road New York (MRNY), which began organizing in 2002, became one of the first youth organizations to organize against the implementation of small high schools in their neighborhood.[108] As a mobilizing tool, MRNY conducted surveys and held focus groups of parents, residents, and youth about their experience with high school education in their community.[109] MRNY then released a report, which outlined the community's vision for reform. In 2008, building on the power it has established in the community MRNY and other community groups held

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[105] Dennis Shirley, Community Organizing for Urban School Reform 4-8 (Univ. of Tex. Press) (1997); Celina Su, Streetwise for Book Smarts: Grassroots Organizing and Education Reform in the Bronx 28-32 (Cornell Univ. Press) (2009); Mediratta, *supra* note 8, at 197-198; Lopez, *supra* note 9, at 1-2; Interview with Chin, *supra* note 17.

[106] John M. Beam & Sharmeen Irani, Nat'l Ctr. for Schs. & Cmtys, Fordham Univ., ACORN Education Reform Organizing: Evolution of a Model 15 (2003); Mediratta, Shah & McAlister, *supra* note 8, at 31-33; Interview with Chin, *supra* note 17; Interview with Erickson Albrecht, *supra* note 93.

[107] Saul D. Alinsky, Reveille for Radicals 12-14 (Univ. of Chic. Press) (1945); Mark Warren, Dry Bones Rattling: Community Building to Revitalize American Democracy 18-33 (Princeton Univ. Press) (2001); Marshall Ganz, *What is Organizing?*, 33 Social Policy 16, 16-17 (2002); Mediratta, Shah & McAlister, *supra* note 8, at 20-26.

[108] *Who We Are*, Make the Road New York, http://www.maketheroad.org/whoweare.php.

[109] Mediratta, *supra* note 8, at 197.

community protests and hearings to demand accountability for the use of overly aggressive police tactics in schools and passage of the Student Safety Act.[110]

IV. Padres y Jóvenes Unidos "Ending The School To Jail Track" Campaign

Padres Unidos was created as a result of harsh exclusionary practices at Valverde Elementary School by administrators who refused to stop the practice of forcing Latino students to eat their lunches from the cafeteria floor as a form of punishment.[111] In 1992, after a year-long organizing campaign, and successful replacement of the administrative leadership at Valverde Elementary School, community members formally founded Padres y Jóvenes Unidos (Padres) as a means to organize for educational justice, equity and excellence in Denver Public Schools (DPS).[112] In 2000, Padres was established to link parents and students seeking to reform DPS.[113]

Founders of the organization realized that attempting school reform in isolation from students was not a meaningful strategy.[114] Through collaboration, Padres has been able to build new, stronger, and more effective relationships to reform education policies and practices. Padres was initially formed to address the specific issues of low quality education and academic performance, and high suspension and expulsions from Cole Middle School, but has ultimately evolved into a community-based organization concerned with college preparation, the school-to-prison pipeline, immigrant student rights, and food justice.[115] The campaign for reform of Cole

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[110] Press Release, Make the Road New York Staff, Hundreds Rally Against Overly Aggressive Police Tactics in Schs., Demand Passage of Student Safety Act (August 14, 2008) (on file with author).

[111] Interview with Montoya, *supra* note 17; *see also History & Accomplishments*, Padres Unidos, http://padresunidos.org/history-accomplishments.

[112] *Id.*

[113] *Id.*

[114] Interview with Montoya, *supra* note 17.

[115] *Id.*

Middle School was not only successful, through the implementation of a restorative justice program which decreased police issued tickets or citations to juvenile court by 60%, but also it helped foster new relationships between Padres and school leaders.[116] The campaign also established a relationship between Padres and the Advancement Project, to address the district-wide impact of zero tolerance and punitive discipline policies.[117]

In 2003, Padres and the Advancement Project began a two-year collaboration to collect data on the impact of punitive discipline in Denver Public Schools, which led to the publication of the Advancement Project's 2005 report, *Education on Lockdown: The Schoolhouse to Jailhouse Track*.[118] This report highlighted the dramatic rise in expulsions and suspensions in Denver Public Schools and the criminalization of Denver youth. As part of its newly formed "Ending the Schoolhouse to Jailhouse Track" campaign, in 2004, Padres conducted a survey of over half the North High School student body to identify key issues for reform.[119] Padres also engaged in community-based research assessing the impact of punitive discipline in DPS by interviewing students, judges, parents, and community allies. Padres presented their findings to Escuela Tlatelolco, Denver

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[116] *Id.*

[117] *Id.*; The Advancement Project is a policy, communications and legal action group committed to racial justice. The Advancement Project was created to develop and community-based solutions based on the same high quality legal analysis and public education campaigns that produced the landmark civil rights victories of earlier eras. Collaboration between Padres and the Advancement Project represents one component of the Advancement Project's national campaign, "Ending the Schoolhouse to Jailhouse Track." The goals of this campaign are to document and expose the use of zero tolerance and punitive disciplinary policies; develop and implement school discipline reform at the local level; strengthen the capacity of the youth and parents involved school discipline reform; and facilitate a national conversation about systemic reforms. *Ending the Schoolhouse to Jailhouse Track*, Advancement Project, http://www.advancementproject.org/our-work/schoolhouse-to-jailhouse.

[118] Advancement Project, *Education*, *supra* note 10; Interview with Montoya, *supra* note 17.

[119] Interview with Montoya, *supra* note 17.

Classroom Teachers Association, and other community organizations.[120] The research was met with an overwhelming positive response and was endorsed by all groups.[121]

Recognizing the negative impact of punitive discipline, the vague nature of the DPS discipline policy, and that enforcement of the policy varied from school to school, Padres began an intensive organizing campaign to reform the DPS discipline policy, not only addressing the disproportionate number of the suspensions, expulsions, tickets, and arrests, but also advancing adoption of alternative strategies to punitive discipline.[122] For example, according to the DPS Student Discipline policy, school principals "may develop a remedial discipline plan that shall address the student's disruptive behavior. Individual schools can determine what disruptive behavior would lead to removal from class, suspension, and potentially expulsion."[123] As a result, the risk of expulsion under the policy varied from school to school and was dependent upon the individual schools' suspension and discipline policies.[124] Further, the disciplinary process in place district-wide excluded meaningful, reparative actions to the community and individuals that were harmed in a student infraction.[125] As in other districts across the country, students were simply punished, often by exclusion from school and without consequences that involved addressing the harm that was done.

In 2005, Padres and the Advancement Project began negotiations with DPS to revise the discipline policy language

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[120] *Id.*

[121] *Id.*

[122] Interview with Benjamin Cairns, Restorative Justice Coordinator, North High School, in Denver, Colo. (Aug. 13, 2009); Interview with Montoya, *supra* note 17.

[123] Myriam L. Baker, Denver Pub. Schs., Denver Public Schools Restorative Justice and Disciplinary Reform Project. CDE Expelled and At-Risk Student Services Grant: First Year Report 2006-2007 (2007).

[124] *See* Interview with Cairns, *supra* note 59.

[125] Interview with Benjamin Cairns, Restorative Justice Coordinator, North High School, in Denver, Colo. (Dec. 17, 2009; *See* Interview with Cairns, *supra* note 17; Interview with Cairns, *supra* note 59; Interview with Fuentes, *supra* note 17.

and consider ending the punitive practices in Denver schools.[126] At the same time, Padres worked in collaboration with DPS on the development and implementation of a pilot restorative justice program at four DPS sites, Skinner Middle School, Horace Mann Middle School, Lake Middle School, and North High School.[127] Padres believed that the implementation of a Restorative Justice Program would serve as a catalyst for continued changes at the district level.[128] Padres pursued a multifaceted organizing strategy for school reform, which included collaboration with DPS to create accountability among all stakeholders and build the capacity for change.[129] Throughout the campaign Padres organized protests and student walkouts, joined educational alliances, held press conferences, met with district leaders, engaged in community canvassing, and used other organizing tactics to promote discipline policy reform in DPS.[130] Despite continued resistance by DPS, in August 2008 Padres won the approval of a discipline policy in DPS that revised the punitive discipline practices.[131] Since implementation of the Restorative Justice Program in 2006, and adoption of the new discipline policy in 2008, Padres has observed and documented tangible differences in DPS.[132] While their work is far from over, the "Ending the Schoolhouse to Jailhouse Track" campaign was successful in bringing an end to DPS's disproportionate reliance on exclusionary punitive discipline. As Part III documents, the Restorative Justice Program and revised DPS discipline policy present successful models for how school districts can move away from the use of harsh punitive discipline measures and promote student accountability, increased attendance and academic achievement, parental engagement, and school safety.[133]

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[126] Interview with Montoya, *supra* note 17.

[127] *Id.*; Interview with Cairns, *supra* note 17.

[128] Interview with Montoya, *supra* note 17.

[129] *Id.*

[130] *Id.*

[131] *Id.*; *see* also http://padresunidos.org/ending-school-jail-track.

[132] Interview with Montoya, *supra* note 17.

[133] Interview with Cairns, *supra* note 17; Interview with Cairns, *supra* note 59.

V. Denver Public Schools' Restorative Justice Program
and Revised District Discipline Policy

A. Background

From the 2000-2001 to 2004-2005 school years, DPS reported a dramatic increase in the number of in-school suspensions, from 1,864 to 4,859, and out-of-school suspensions, from 9,846 to 13,487.[134]   The 13,487 out-of-school suspensions in 2005 generally ranged from five to ten days, i.e., 67,435 to 134,870 days of education lost.[135]   During that time period, there was also a 71% increase in the total number of police-issued tickets and arrests within DPS, although the student population only rose 2%.[136]   Of the police-issued tickets, 68% were for minor incidents that included the use of obscenities, disruptive appearance, and shoving matches.[137]   A disproportionate number of the suspensions, expulsions, police-issued tickets, and arrests were among Latino and African American students. In the 2004-2005 school year, Latino students represented 70% of the tickets issued, though they represented only 58% of the overall student population.[138]   African American students represented 35% of all expulsions and 34% of all out-of-school suspensions, though they represented only 19% of the student population.[139]

In response to community pressure, discussed in Part II, and documentation of the increased number of school suspensions and expulsions, in May 2006 DPS proposed implementation of a Restorative Justice Program as an alternative to the exclusive use of punitive discipline at Skinner Middle School, Horace Mann Middle School, Lake Middle School, and North High School.[140] All four schools

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[134] Baker, *supra* note 124, at 1.

[135] *Id.*

[136] *Id.*

[137] *Id.*

[138] *Id.*

[139] *Id.*

[140] *Id.*; Interview Benjamin Cairns, Restorative Justice Coordinator, North High School, in Denver, Colo. (Mar. 26, 2010).

were identified as high-need, with some of the district's largest numbers of suspensions, tickets, and arrests. In the 2004-2005 school year, there were 288 out-of-school suspensions, five expulsions, and 68 tickets and arrests at North High School;[141] 350 out-of-school suspensions, four expulsions, and 72 tickets and arrests at Skinner Middle School;[142] 220 out-of-school suspensions, three expulsions, and 22 tickets and arrests at Horace Mann Middle School;[143] and 288 out-of-school suspensions, five expulsions, and 58 tickets and arrests at Lake Middle School.[144]

B. Impact of The Denver Public Schools Restorative Justice Program

1. *2006-2007 Restorative Justice Program*

At the end of the 2006-2007 school year, 213 students were referred to the pilot Restorative Justice Program at the four schools.[145] The reduction in out-of-school suspensions from the baseline school year, 2004-2005, was 29% (reflecting a decrease from 1,146 to 835).[146] Expulsions were reduced at Skinner Middle School by 100% and 43% at Horace Mann Middle School.[147] Cumulatively, there were 26% fewer students expelled across the four schools in the 2006-2007 school year.[148]

2. *2007-2008 Restorative Justice Program*

In the 2007-2008 school year, 812 students were

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[141] Baker, *supra* note 124, at 4.

[142] *Id.*

[143] *Id.*

[144] Baker, *supra* note 124, at 4-5.

[145] Baker, *supra* note 124, at 8; Interview Cairns, *supra* note 140 (*explaining that the only full-year program implemented was at North High School, the programs at Skinner Middle School, Horace Mann Middle School, and Lake Middle School were implemented mid-year*).

[146] Baker, *supra* note 124, at 13.

[147] Baker, *supra* note 124, at 14.

[148] *Id.*

referred to the Restorative Justice Program.[149] In addition to the four pilot schools, restorative justice was piloted at Abraham Lincoln High School, Rishel Middle School and Kunsmiller Middle School.[150] Of the 1,090 infractions involving 812 students, 139 were in lieu of out-of-school suspension, and 39 had a reduced length of suspension due to participation in the Restorative Justice Program.[151] District-wide outcomes of the Restorative Justice Program reflected positive progress in addressing the negative impacts of punitive discipline. For example, in all four of the original pilot schools there was a continued decrease in school expulsions, from 23 in 2005-2006 to 6 in 2007-2008.[152] Suspensions were also reduced at all four schools. At Horace Mann Middle School, suspensions decreased from 218 (2005-2006 baseline year) to 77 (2007-2008),[153] and at Skinner Middle School, suspensions decreased from 249 (2005-2006 baseline year) to 154 (2007-2008).[154]

School-based outcomes of the Restorative Justice Program reflect that 15% of referred students showed an 87% reduction in the number of office referrals during the second semester compared to the first semester and 13% had an average reduction of 92% in the number of out-of-school suspensions in the second semester.[155] Referred students also showed an improvement in attendance and tardiness. Specifically, 13% of all students referred to the Restorative Justice Program improved their attendance and 18% improved their tardiness.[156] Additionally, 13% of all referred students reduced the average number of their out-of-school suspensions and 10% reduced office referrals they received.[157] Based on

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[149] Myriam L. Baker, Denver Pub Schs., DPS Restorative Justice Project Executive Summary 2007-2008 (2008); Interview with Cairns, *supra* note 126.

[150] *Id.*

[151] Baker, *supra* note 150, at 1.

[152] Baker, *supra* note 150, at 6-7.

[153] Baker, *supra* note 150, at 6.

[154] *Id.*

[155] Baker, *supra* note 150, at 5.

[156] Baker, *supra* note 150, at 3.

[157] *Id.*

data collected in the 2007-2008 school year, students who showed improvements in these areas were also more likely to have participated in multiple restorative justice interventions.[158] This data suggests that there is a significant and positive relationship between the number of restorative justice interventions and student improvement in attendance and discipline.

3. *2008-2009 Restorative Justice Program*

In the 2008-2009 school year 1,235 students were referred to the Restorative Justice Program.[159] During the 2008-2009 school year, 223 cases referred for restorative intervention were in lieu of out-of school suspension.[160] An additional eleven cases had reduced suspension due to participation in the Restorative Justice Program.[161] At North High School, two cases were referred for restorative intervention as a condition for no new police-issued tickets.[162]

A comparison of the baseline school year 2005-2006 to the 2008-2009 school year reveals an overall reduction of over 5,400 suspensions in schools with a restorative justice program.[163] Expulsions likewise exhibited a downward trend. Analysis of expulsions in the prior two years showed reductions ranging from 32% to 75%.[164] A survey of 311 students, who participated in at least three restorative interventions during the 2008-2009 school year, was completed to assess the impact of involvement in multiple interventions and measure attendance.[165] School attendance was used as an indicator of school engagement. In the survey, period absences were compared from the first quarter of the 2008-2009 school year to the last quarter of the previous year. Over 30% of the students sampled showed improvement in

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[158] Baker, *supra* note 150, at 3.
[159] Myriam L. Baker, Denver Pub. Schs, DPS Restorative Justice Project: Year Three. Year End Report 2008-2009 (2009).
[160] Baker, *supra* note 160, at 18.
[161] Baker, *supra* note 160, at 14.
[162] *Id.*
[163] Baker, *supra* note 160, at 15.
[164] Baker, *supra* note 160, at 16.
[165] *Id.*

school attendance and timeliness.[166] The reduction in period absences per quarter was 50% and over 60% in period tardies.[167] There was also reduction in the average instances of office referrals and out-of-school suspensions by nearly 90%.[168]

The results of the Denver Public Schools Restorative Justice Program are valuable, despite potential limitations. The data collected at each Restorative Justice Program site confirms that when schools adopt non-punitive alternatives to address discipline they can reduce entry into the school-to-prison pipeline and positively impact educational performance.

C. Denver Public Schools' Discipline Policy Presents a Model for Protecting Students From the Harsh Impacts of Punitive Discipline

As discussed *infra*, in 2008 the organizing efforts of Padres culminated in the adoption of a new DPS discipline policy. The new DPS discipline policy reflects changes and protections for students from the negative impacts of punitive discipline in several key areas. First, it limits the use of suspensions and expulsions.[169] Under DPS policy, students can only be expelled for the most serious misbehavior, and can only be suspended out-of-school for serious infractions or if misbehavior is repeated. The amount of time that a student can be suspended out-of-school is limited.[170] The DPS policy also limits suspensions for student conduct off campus. Specifically, "A student may not be suspended for conduct that occurs off of school property and outside the school day unless the conduct substantially disrupts, or will substantially

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[166] *Id.*

[167] *Id.*

[168] Baker, *supra* note 160, at 10.

[169] Denver Public Schools Policy, JK-R Sections 3-1 and 3-2 (2010), http://static.dpsk12.org/gems/sabin/studentdiscipline.pdf .

[170] *Id.*

disrupt, the school environment, or seriously endangers the welfare or safety of other students or school personnel."[171]

Second, it limits the use of law enforcement in schools. Specifically, the DPS policy places express limitations on the use of law enforcement personnel. The policy states that it "is the goal of the [District] that the juvenile and criminal justice systems be utilized less frequently to address school-based misconduct."[172] While Colorado law requires the referral of some school-based crimes to law enforcement, the policy limits the involvement of law enforcement to those offenses and only a few more serious offenses. For all other offenses, school officials are prohibited from referring the student to the police.[173]

Third, it focuses on eliminating the disproportionate impact of punitive discipline on students of color. The DPS policy states, "In order to serve all students and to prepare them to be members of an increasingly diverse community, school and staff must build cultural competence"[174] and "strive to eliminate any institutional racism and any other discrimination that presents barriers to success."[175] District policies also require schools to eliminate racial disparities in school discipline, and compel "monitoring the impact of their actions on students from racial and ethnic groups or other protected classes that have historically been over-represented among those students who are suspended, expelled, or referred to law enforcement."[176]

Fourth, the DPS policy outlines, step-by-step, the protections afforded to students and their parents or guardians during suspension or expulsion proceedings.[177] Special

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[171] Denver Public Schools Policy, *supra* note 170, at JK-R Section 6-1.
[172] Denver Public Schools Policy, *supra* note 170, at JK-R Sections 3-1 and 3-2.
[173] *Id.*
[174] Denver Public Schools Policy, *supra* note 170, at JK Section II.F, JK-R Sections 1-4.
[175] *Id.*
[176] *Id.*
[177] Denver Public Schools Policy, *supra* note 170, at JK-R Section 6.

emphasis is given to notification, the right to appeal, and the right to a fair hearing.

Fifth, the DPS policy requires individual schools and the district to "evaluate and monitor the effectiveness of the school discipline plan using school disciplinary data disaggregated by race, ethnicity, and sex of student."[178] Schools are also required to submit annual reports detailing the following: 1) intervention and prevention strategies; 2) number of referrals, in-school suspensions, out-of-school suspensions, expulsions, tickets, and arrests, disaggregated by race, ethnicity, age, grade, disability, and gender of the students; 3) differences in referrals among staff members; and 4) application of the discipline policy. Schools are also "encouraged to establish a discipline committee of school personnel, parents, and students to develop, monitor, and evaluate school discipline policy and school climate." [179]

Given that one of the greatest predictors of future involvement in the juvenile system is a history of disciplinary referrals at school, discipline policies such as DPS's, which shift away from punitive policies, are essential for education reform. Additionally, the use of non-punitive discipline measures, such as restorative justice, promotes student accountability that decreases student discipline incidents.[180] During the 2008-2009 and 2009-2010 school years, qualitative interviews were conducted with students, teachers, and school administrators to assess whether the use of non-punitive discipline responses created accountability for student actions.[181] Consistent with past research on the use of school-

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[178] Denver Public Schools Policy, *supra* note 170, at JK-R Section 7.

[179] *Id.*

[180] Baker, *supra* note 160, at 10.

[181] *See* Interview with Cairns, *supra* notes 17, 59, 123, 126, 141; Interview with Chavez, *supra* note 59; Interview with Fuentes, *supra* note 17; Interview with Graham, *supra* note 59; Interview with Patricia Lopez, North High School, Counselor, in Denver, Colo. (May 27, 2010); Interview with McKillop, *supra* 47; Interview with North High School students, in Denver, Colo. (May 20-21, 2009); Interview with North High School students, in Denver, Colo. (Nov. 12-13, 2009); Interview with North High School students, in Denver, Colo. (Apr. 19, 2010); Interview with North High School students, in Denver, Colo. (April 21, 2010);

based restorative justice, respondents consistently identified increased accountability among students for their actions as a key aspect of the Restorative Justice Program.[182] Respondents linked increased student accountability and a decrease in discipline incidents as associated with the use of non-punitive discipline measures.[183]

With respect to parental and community engagement, in the 2008-2009 school year, 437 parents and 202 other family members attended restorative justice interventions with their students.[184] In addition to contact with parents about the restorative justice program, outreach was conducted about the new discipline policy with approximately 800 other individuals in the community and schools.[185] Discipline policies, such as DPS's, that promote increased involvement with parents and local community members ultimately increase the social capital of the school community. As researchers have found, increased social capital in schools reduces student delinquency and behavior,[186] improves student achievement,[187] and establishes relationships between educators and community members that help to develop a common vision for reform.[188]

Interview with Kenna Moreland, Teacher, North High School, in Denver, Colo. (May 26, 2010); Interview with Beth Pino, Teacher, North High School, in Denver Colo. (May 26, 2010); Interview with Tamara Sealy, Teacher, North High School, in Denver, Colo. (May 27, 2010); Interview with Kari Searles, Teacher, North High School, in Denver, Colo. (May 27, 2010).

[182] *Id.*

[183] *Id.*

[184] Baker, *supra* note 160, at 6-7.

[185] Baker, *supra* note 160, at 7.

[186] Morrison, *supra* note 36, at 73-120; Morrison, Blood & Thorsborn, *supra* note 58; Payne, Gottfredson & Gottfredson, *supra* note 18, at 750-751; Stinchcomb, Bazemore & Riestenberg, *supra* note 11, at 132-142; Wenzel, Okimoto, Feather & Platow, *supra* note 58.

[187] Balfanz, *supra* note 21; Balfanz, Fox, Bridgeland & McNaught, *supra* note 21; MacIver & MacIver, *supra* note 18.

[188] Mediratta, Shah & McAlister, *supra* note 8, at 31-32, 183-189; Warren, *supra* note 8.

VI. Conclusion

Organizing is not simply about solving problems, it is about empowering people, having choices, and beginning to dream of new ways of doing things. Organizing groups tap into communities' sense of justice by challenging them to consider the world, not as it is, but as it should be. In this sense education reform organizing campaigns are not only intended to impact school policies, but develop the skills and leadership in individuals, particularly students, to create broad systemic change. Consider the story of Lalo Montoya: as a student at North High School he watched fellow students expelled, suspended, and dropout due to harsh discipline policies.[189] He became involved with the work of Padres while a student at North High School and after graduation joined the organization as its lead organizer for the "Ending the Schoolhouse to Jailhouse Track" campaign.[190] It was under his and other Padres organizers leadership that the campaign led to the implementation of a district-wide Restorative Justice Program, first piloted at North High School, and a revised discipline code that no longer relies on zero tolerance and punitive measures.

Community organizers across the country can play a significant role in reversing the negative impacts of punitive discipline policies. By organizing to reform school discipline policies, communities can change the educational experience of students from what is, one focused on exclusion and zero tolerance, to what it should be, one focused on academic achievement. Punitive discipline and the arbitrary enforcement of zero tolerance policies have not only pushed students out of the classroom, but into the juvenile justice system.[191] The disparate impact on students of color of punitive discipline demands further organizing and community action campaigns focused on transforming current

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[189] Interview with Montoya, *supra* note 17; Interview with Cairns, *supra* note 17.

[190] Interview with Montoya, *supra* note 17.

[191] *See supra* notes 10-12, 19, 26-28, and 32.

educational approaches.[192]   Educators and administrators acting within the four walls of schools will not address the impact of punitive discipline without continued pressure from active and engaged communities.

Powerful arguments and passionate calls for linking education to social transformation in poor communities of color have been made before. Given the staggering statistics documenting the disappearance of students from schools each year, communities must not only identify the problems associated with punitive discipline, but also shape the solutions that reflect an institutional paradigm shift with respect to school discipline.   While it is important to remember that a long history of educational research suggests that achieving school transformation requires an extended period of time, the campaigns highlighted in this article reflect the ability of local organizing efforts to force districts to prioritize education. Colorado, California, Illinois, New York, and Texas are not isolated instances of community organizing creating change, but rather a movement for restoring justice in public schools.

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[192] See *supra* notes 46-49.