

Maurice A. Deane School of Law at Hofstra University

## Scholarship @ Hofstra Law

---

Hofstra Law Faculty Scholarship

---

2015

### Changing the School to Prison Pipeline: Integrating Trauma Informed Care in the New York City School System, in *Collected Essays Impact: Threat of Economic Inequality*

Ellen Yaroshefsky

*Maurice A. Deane School of Law at Hofstra University*

Anna Shwedel

Follow this and additional works at: [https://scholarlycommons.law.hofstra.edu/faculty\\_scholarship](https://scholarlycommons.law.hofstra.edu/faculty_scholarship)

---

#### Recommended Citation

Ellen Yaroshefsky and Anna Shwedel, *Changing the School to Prison Pipeline: Integrating Trauma Informed Care in the New York City School System, in Collected Essays Impact: Threat of Economic Inequality*, 1 99 (2015)

Available at: [https://scholarlycommons.law.hofstra.edu/faculty\\_scholarship/918](https://scholarlycommons.law.hofstra.edu/faculty_scholarship/918)

This Article is brought to you for free and open access by Scholarship @ Hofstra Law. It has been accepted for inclusion in Hofstra Law Faculty Scholarship by an authorized administrator of Scholarship @ Hofstra Law. For more information, please contact [lawscholarlycommons@hofstra.edu](mailto:lawscholarlycommons@hofstra.edu).

# Changing the School to Prison Pipeline: Integrating Trauma-Informed Care in the New York City School System

Ellen Yaroshefsky and Anna Shwedel<sup>1</sup>

In the past decade, national, state and local, attention has focused sharply on the various ways in which our country's education and criminal justice systems fail our youth, notably youth of color who fall at or below the poverty line. The term "school to prison pipeline" spotlighted the connection between school suspensions and court involvement. The phenomenon has been well documented.<sup>2</sup> Beginning in the 1970s with the implementation of zero tolerance in schools, the rates of suspensions of young people skyrocketed through 2012.<sup>3</sup> In New York City alone, the numbers and percentages of suspensions were alarming. The relationship between suspension and criminal justice involvement was made clear. The suspensions disproportionately affect Black and Latino youth, notably those who come from low-income districts.<sup>4</sup> Students with special needs are disproportionately suspended.<sup>5</sup>

In the last five years, New York State—among others—has focused upon the middle to end of the pipeline: juvenile detention and jail facilities. It has devoted significant resources in an attempt to change the culture and practice in the so-called "juvenile justice" system.<sup>6</sup> The studies and data overwhelmingly demonstrate that the punitive approach that was operational for scores of years is counterproductive and dangerous, and all but ensures that these children are doomed to failure as measured by any criteria—education, jobs, family, and community involvement.

---

<sup>1</sup> Ellen Yaroshefsky is Clinical Professor of Law and the Director of the Youth Justice Clinic and the Jacob Burns Center for Ethics in the Practice of Law at the Benjamin N. Cardozo School of Law. Anna Shwedel is a 2015 Cardozo Law School graduate and was a student in the Youth Justice Clinic.

<sup>2</sup> The term "school to prison pipeline" refers to the process and practices, exacerbated by zero tolerance policies, where children are funneled from public schools suspensions into the juvenile and criminal justice system. *What is the School-to-Prison-Pipeline?*, ACLU (Apr. 14, 2015), <https://www.aclu.org/what-school-prison-pipeline?redirect=racial-justice/what-school-prison-pipeline>. In recent years, many have challenged the term and instead use the term "School climate" to refer to ways in which the school system needs improvement to reduce suspensions. See *City Announces School Climate Reforms*, NYC DEP'T OF EDUCATION (Feb. 13, 2015), <http://schools.nyc.gov/Offices/mediarelations/NewsandSpeeches/2014-2015/City+Announces+School+Climate+Reforms.htm>.

<sup>3</sup> Fernanda Santos, *Sharp Rise in Suspensions at City's Schools is Cited*, N.Y. TIMES, Jan. 27, 2011, <http://www.nytimes.com/2011/01/28/nyregion/28suspend.html>. See also NYC COMPTROLLER JOHN C. LIU, *THE SUSPENSION SPIKE: CHANGING THE DISCIPLINE CULTURE IN NYC'S MIDDLE SCHOOLS 1* (2013), available at [http://comptroller.nyc.gov/wp-content/uploads/documents/NYC\\_MiddleSchools\\_Report.pdf](http://comptroller.nyc.gov/wp-content/uploads/documents/NYC_MiddleSchools_Report.pdf).

<sup>4</sup> Data from the 10-year period covering 1999-2000 to 2008-2009 show that while Black students make up only 33 percent of the city's public school population, they constitute more than half of the suspensions every year. NEW YORK CIVIL LIBERTIES UNION, *EDUCATION INTERRUPTED 8* (Jan. 2011), available at [http://www.nyclu.org/files/publications/Suspension\\_Report\\_FINAL\\_noSpreads.pdf](http://www.nyclu.org/files/publications/Suspension_Report_FINAL_noSpreads.pdf).

<sup>5</sup> Over the course of the 2012-2013 school year, students with special needs accounted for 34.1 percent of the suspensions, despite only being 12 percent of the overall population. Shoshi Chowdhury, *New Data Show Decrease in NYC School Suspensions, But Next Mayor Still Has Work to Do*, DIGNITY IN SCHOOLS (Nov. 1, 2013), <http://www.dignityinschools.org/press-release/new-data-show-decrease-nyc-school-suspensions-next-mayor-still-has-work-to-do>. Further, on Wednesday, May 20, 2015, Advocates for Children settled a class action lawsuit with the New York City Department of Education. The lawsuit alleged that children with special needs were unlawfully denied certain legal protections after suspension and were excluded from certain activities in school. *E.B. et al. v. New York City Dep't of Education et al.*, Stipulation and Agreement of Settlement, No. 02 CV 5118 (ENV/MDG) (May 13, 2015) available at [http://www.advocatesforchildren.org/sites/default/files/library/eb\\_stip\\_may\\_2015.pdf?pt=1](http://www.advocatesforchildren.org/sites/default/files/library/eb_stip_may_2015.pdf?pt=1).

<sup>6</sup> Anecdotally, observers contrast the existing case-processing system with one that actually provides a measure of justice and assistance to those snared within its confines.

Facing high rates of recidivism, a lack of rehabilitation and increasing numbers of juvenile incarceration, New York and other states have adopted therapeutic models in youth detention facilities.<sup>7</sup> These include behavior management programs, as well as trauma-informed care. Trauma-informed care calls for us to examine the underlying trauma in a child's life and the ways that incarceration contributes to the impact of trauma. Its implementation leads to an examination of ways to provide services to youth in lieu of punitive detention.<sup>8</sup>

As a part of juvenile and criminal justice reform, the State closed down seven of its state prisons<sup>9</sup> and developed the Close to Home program in 2012.<sup>10</sup> That program, which is yet to be fully implemented, is a sea change in the way in which New York City treats its court-involved youth. The fundamental notion is that a rehabilitative, rather than a correctional model, is the appropriate and necessary approach to improve the lives of these youth. Close to Home facilities use a range of rehabilitative and evidence-based programs. These include therapeutic methods designed to provide youth with the skills and abilities to manage their lives, providing necessary rehabilitative programs and resources during and after their stay in the Close to Home facility. The programs include the use of trauma-informed care.<sup>11</sup>

The NYC Administration for Children's Services worked in partnership with nationally recognized hospitals and mental health services to establish state of the art trauma-informed mental health screening and programs in the juvenile detention facilities. Bellevue Hospital Center's Child Study Center established these programs to "immediately help traumatized children and young people by providing effective screening and counseling and . . . [by providing] a framework to train and educate staff within juvenile detention facilities to ensure more successful outcomes."<sup>12</sup>

Similar rehabilitative programs are in the process of being implemented for the 16- and 17-year-olds who are housed in the notorious, draconian jail facility at Rikers Island.<sup>13</sup> That adult facility is based upon a punitive correctional model. Despite more than a decade-long attempt to "raise

---

<sup>7</sup> ELLEN YAROSHEFSKY, YOUTH JUSTICE CLINIC, BENJAMIN N. CARDOZO SCHOOL OF LAW, RETHINKING RIKERS: MOVING FROM A CORRECTIONAL TO A THERAPEUTIC MODEL FOR YOUTH 29-39 (January 2014), available at [https://cardozo.yu.edu/sites/default/files/YJCFeb2\\_0.pdf](https://cardozo.yu.edu/sites/default/files/YJCFeb2_0.pdf).

<sup>8</sup> Sue Burrell, *Trauma and the Environment of Care in Juvenile Institutions*, NATIONAL CHILD TRAUMATIC STRESS NETWORK 2 (Aug. 2013) [hereinafter Burrell], [http://www.nctsn.org/sites/default/files/assets/pdfs/jj\\_trauma\\_brief\\_environmentofcare\\_burrell\\_final.pdf](http://www.nctsn.org/sites/default/files/assets/pdfs/jj_trauma_brief_environmentofcare_burrell_final.pdf).

<sup>9</sup> *Governor Cuomo Announces Closure of Seven State Prison Facilities*, GOVERNOR ANDREW M. CUOMO (June 30, 2011), <https://www.governor.ny.gov/news/governor-cuomo-announces-closure-seven-state-prison-facilities> (press release); see also Thomas Kaplan, *New York Has Some Prisons to Sell You*, N.Y. TIMES, May 27, 2012, [http://www.nytimes.com/2012/05/28/nyregion/closed-new-york-prisons-prove-hard-to-sell.html?\\_r=0](http://www.nytimes.com/2012/05/28/nyregion/closed-new-york-prisons-prove-hard-to-sell.html?_r=0).

<sup>10</sup> Liz Robbins, *Last Chance for Mone't: Program Keeps Troubled New York Youth Close to Home*, N.Y. TIMES, May 3, 2013, [http://www.nytimes.com/2013/05/05/nyregion/program-keeps-troubled-new-york-youth-close-to-home.html?pagewanted=all&\\_r=0](http://www.nytimes.com/2013/05/05/nyregion/program-keeps-troubled-new-york-youth-close-to-home.html?pagewanted=all&_r=0); Jennifer Jensen Ferone et al., *The Close to Home Initiative and Related Reforms in Juvenile Justice*, VERA INST. OF JUSTICE (January 2014), <http://www.vera.org/sites/default/files/transition-brief-placement-juvenile-justice-reform.pdf>.

<sup>11</sup> NYC ADMINISTRATION FOR CHILDREN'S SERVICES, CLOSE TO HOME: AN OVERVIEW OF NON-SECURE PLACEMENT 1, available at [http://www.nyc.gov/html/acs/downloads/pdf/Close\\_to\\_Home\\_12.pdf](http://www.nyc.gov/html/acs/downloads/pdf/Close_to_Home_12.pdf). See also RICHARD MENDEL, NO PLACE FOR KIDS: THE CASE FOR REDUCING JUVENILE INCARCERATION, 5-12 (2011), available at <http://www.aecf.org/m/resourcedoc/aecf-NoPlaceForKidsFullReport-2011.pdf>.

<sup>12</sup> *Mayor Bloomberg Announces Partnership With NYU Langone Medical Center And Bellevue Hospital To Improve Trauma Services In City's Child Welfare And Juvenile Justice Systems*, NYC (Feb. 12, 2013), <http://www1.nyc.gov/office-of-the-mayor/news/060-13/mayor-bloomberg-partnership-nyu-langone-medical-center-bellevue-hospital-to> (press release, quoting Dr. Jennifer F. Havens, Director, Child and Adolescent Psychiatry, Bellevue Hospital Center).

<sup>13</sup> See *De Blasio Administration Ends Use of Punitive Segregation for Adolescent Inmates on Rikers Island*, NYC (Dec. 17, 2014), <http://www1.nyc.gov/office-of-the-mayor/news/566-14/de-blasio-administration-ends-use-punitive-segregation-adolescent-inmates-rikers-island#/0> (press release).

the age,” New York remains one of two states continuing to process 16- and 17-year-old youths as adults in the criminal justice system.<sup>14</sup> Hopefully, such rehabilitative programs will be effectively implemented at Rikers Island.

With increased attention focused upon the need for rehabilitative justice measures for court involved youth comes the recognition that restorative, rather than suspension and other punitive, measures should be adopted in our school systems.<sup>15</sup> Of course, programs that are necessary and appropriate in detention facilities may not be those readily adopted in schools. However, the concepts underlying trauma-informed care and other programs addressed to emotional and behavioral change are comparable. At the very least, our educational systems should implement effective approaches as early as possible in children’s lives to assist them in coping with traumatic experiences. Necessarily, each school, city, district, and state will have a unique approach depending on the needs of the institution and its students.

This essay describes trauma-informed care approaches that have been utilized successfully in schools in other jurisdictions and argues that this, among other approaches, should be adopted in the educational system in New York City. Waiting until youth enter a jail setting is too late. Of course, each school, city, district, and state will have a unique approach depending on the needs of the institution and its students.

New York City’s education system has the largest school district in the country, with over 1,800 public schools serving 1.1 million students.<sup>16</sup> Some of those students are able to access an innovative, successful, and competent education.<sup>17</sup> However, many students do not have these same opportunities, notably students in low-income areas of Brooklyn and the Bronx. Schools face increasing cuts in resources and aids, with spending on arts and drama cut and support staff laid off.<sup>18</sup> There is a stunning lack of coordinated services, a high reliance upon suspensions, and

---

<sup>14</sup> North Carolina is the other state that continues to treat 16- and 17-year-olds as adults, although there is proposed legislation to change this. Campaign Fact Sheet, *Raise the Age Campaign Fact Sheet*, RAISE THE AGE NY, <http://raisetheageny.com/get-the-facts> (last visited June 7, 2015).

<sup>15</sup> SHAENA M. FAZAL, ESQ., YOUTH ADVOCATE PROGRAMS, POLICY AND ADVOCACY CENTER, SAFELY HOME (June 2014), *available at* <http://www.yapinc.org/Portals/0/Documents/Safely%20Home%20Preview/safelyhome.pdf> (explaining the importance of community-based programs and their effectiveness over traditional incarceration models).

<sup>16</sup> *About Us*, NYC DEP’T OF EDUCATION, <http://schools.nyc.gov/AboutUs/default.htm> (last visited Apr. 18, 2015).

<sup>17</sup> Many of the city’s top public schools, including the so-called “exam schools” (such as Stuyvesant, Brooklyn Tech, and Bronx Science) as well as specialty art schools provide top-notch educations to New York City children. However, these schools have a selective admissions program and lack diversity. The overall New York City public school system has almost 30 percent Black students and about 40 percent Latino. However, of the 5,103 students who were offered admission into the eight specialized high schools for the 2015-2016 entering year, only 5 percent were Black students and 7 percent were Latino. Elizabeth Harris, *Lack of Diversity Persists in Admissions to New York City’s Elite High Schools*, N.Y. TIMES, Mar. 5, 2015, [http://www.nytimes.com/2015/03/06/nyregion/lack-of-diversity-persists-in-admissions-to-selective-new-york-city-high-schools.html?\\_r=0](http://www.nytimes.com/2015/03/06/nyregion/lack-of-diversity-persists-in-admissions-to-selective-new-york-city-high-schools.html?_r=0); Alia Wong, *The Cutthroat World of Elite Public Schools*, THE ATLANTIC, Dec. 4, 2014, <http://www.theatlantic.com/education/archive/2014/12/the-cutthroat-world-of-elite-public-schools/383382/>.

<sup>18</sup> Fernanda Santos, *Lessons in Austerity: How City Principals Make Budgets Work*, N.Y. TIMES, Aug. 17, 2011, <http://www.nytimes.com/2011/08/18/nyregion/five-new-york-city-school-principals-talk-budget-cuts.html>; *Accelerating Arts Education Funding Cuts and Loss of Arts Teachers Paint Grim Picture for City Schools*, THE CENTER FOR ARTS EDUCATION (June 2011), <http://www.cae-nyc.org/sites/default/files/docs/Research-Brief-Accelerating-Arts-Education-Cuts-June-2011.pdf>.

few community-based resources where students and parents can turn for assistance.<sup>19</sup> Many of these students live in poverty. It is estimated that 31 percent of children in New York City live in poverty; it is 45 percent in the Bronx and 35 percent in Brooklyn.<sup>20</sup>

As schools and their students struggle with these inequities, trauma-informed care has emerged as a partial measure to address economic inequality. While trauma is prevalent everywhere, there is a higher exposure to trauma in low-income communities that can have devastating effects in its community. Trauma-informed care presents an opportunity to address the combination of the factors of poverty, lack of assistance, and deteriorating urban education institutes. When children are exposed to better ways of learning through investments in early education, there are long-term and short-term intellectual and academic gains for the youth's well-being and benefits to the community as a whole.<sup>21</sup>

## Zero Tolerance Policies and Juvenile Justice

Zero tolerance policies in schools are a major factor contributing to the cycle of ineffective schooling and students' interaction with the criminal justice system. Zero tolerance includes punitive disciplinary codes, security measures in schools including policing and metal detectors, and suspensions and arrests. It has been termed the "criminalization of school discipline" because our society treats student misbehavior as we treat adult criminal conduct.<sup>22</sup> On average, more than 3 million children are suspended from school yearly nationwide.<sup>23</sup> Of these suspensions, students of color are disproportionately represented.<sup>24</sup> Because of zero tolerance policies, "disruptive behavior" and "other" violations are the basis for suspensions. These violations include significant numbers of students charged with being defiant and being disruptive.<sup>25</sup> Many of the violations involve subjective or discretionary judgments by teachers or school administrators; Black students are disproportionately suspended for these behaviors.<sup>26</sup>

---

<sup>19</sup> Donna Lieberman, New York Civil Liberties Union Executive Director, *The Impact of School Suspensions, and a Demand for Passage of the Student Safety Act*, NYCLU (Jan. 23, 2008), <http://www.nyclu.org/content/impact-of-school-suspensions-and-demand-passage-of-student-safety-act> (testimony before the New York City Council Committees on Education and Civil Rights; discussing the over reliance on suspensions and poor quality of Alternative Learning Centers with reports of "inappropriate or non-existent learning materials, overcrowding, and lack of supervision"). See MICHAEL HOLZMAN, THE SCHOTT FOUNDATION FOR PUBLIC EDUCATION A ROTTING APPLE: EDUCATION REDLINING IN NEW YORK CITY 15 (Apr. 17, 2012), available at <http://www.schottfoundation.org/docs/redlining-full-report.pdf>.

<sup>20</sup> THE INSTITUTE FOR CHILDREN, POVERTY & HOMELESSNESS, ON THE MAP: THE ATLAS OF HOMELESSNESS IN NEW YORK CITY 13 (Oct. 2014) [hereinafter *ON THE MAP*], available at [http://www.icphusa.org/PDF/reports/OnTheMap\\_TheAtlasofFamilyHomelessnessinNewYorkCity.pdf](http://www.icphusa.org/PDF/reports/OnTheMap_TheAtlasofFamilyHomelessnessinNewYorkCity.pdf). This report analyzes a combination of the 2012 United States Census Data and data from the New York City Department of City Planning.

<sup>21</sup> Cynthia Hudley, *Education and Urban Schools*, THE SES INDICATOR (May 2013), <http://www.apa.org/pi/ses/resources/indicator/2013/05/urban-schools.aspx>.

<sup>22</sup> Kerrin C. Wolf, *Booking Students: An Analysis of School Arrests and Court Outcomes*, 9 NORTHWESTERN J. L. & SOC. POL'Y 58, 60 (2013).

<sup>23</sup> NEW YORK CIVIL LIBERTIES UNION, A, B, C, D, STPP: HOW SCHOOL DISCIPLINE FEEDS THE SCHOOL-TO-PRISON PIPELINE 8 (Oct. 2013) [hereinafter A, B, C, D, STPP], available at [http://www.nyclu.org/files/publications/nyclu\\_STPP\\_1021\\_FINAL.pdf](http://www.nyclu.org/files/publications/nyclu_STPP_1021_FINAL.pdf).

<sup>24</sup> Carla Amurao, *Fact Sheet: How Bad Is the School-to-Prison Pipeline?*, TAVIS SMILEY REPORTS, (Mar. 28, 2013), <http://www.pbs.org/wnet/tavissmiley/tsr/education-under-arrest/school-to-prison-pipeline-fact-sheet/>.

<sup>25</sup> Jane Ellen Stevens, *Trauma-Sensitive Schools Are Better Schools, Part 2*, THE HUFFINGTON POST, June 27, 2012, [http://www.huffingtonpost.com/jane-ellen-stevens/trauma-sensitive-schools\\_b\\_1625924.html](http://www.huffingtonpost.com/jane-ellen-stevens/trauma-sensitive-schools_b_1625924.html); Jane Ellen Stevens, *Massachusetts, Washington State Lead U.S. Trauma-Sensitive School Movement*, ACES TOO HIGH NEWS, May 31, 2012, <http://aces toohigh.com/2012/05/31/massachusetts-washington-state-lead-u-s-trauma-sensitive-school-movement/>.

<sup>26</sup> A, B, C, D, STPP, *supra* note 23, at 8-9.

Further, there is a clear link between suspensions and children who require special education. Black students with special needs face the highest suspension rate of all groups.<sup>27</sup> In fact, zero tolerance extends to even the youngest children in the New York City educational system. In the 2010-2011 school year, ninety-three four-year-olds were suspended, and a third of them had an individualized education plan.<sup>28</sup> Even though the rate of New York City school suspensions has decreased in the past few years, the existing rate of suspensions evidences a need to reexamine the approaches to learning and to discipline.<sup>29</sup> Individuals and organizations, including the New York Civil Liberties Union and the Dignity in Schools campaign, have long advocated for significant changes in the disciplinary code and its implementation. Notably, there have been proposals to change or delete B-21, the “insubordination” provision, from the code.<sup>30</sup> In spring 2015, there were changes to the disciplinary code in the definition of B-21 as well as changes to require schools to get approval from the Department of Education before authorizing a suspension and requiring the Police Department to track the use of handcuffs.<sup>31</sup> There is hope that the 2015 changes are “just a start.”<sup>32</sup>

Once a student has been suspended, the student’s chances of dropping out or entering the criminal justice system increase drastically.<sup>33</sup> With each subsequent suspension, the chances increase.<sup>34</sup> When youth are jailed and put into detention centers, they develop or exacerbate a negative self image that they are “bad,” worthless, and incapable of change. Once court involved, it is difficult for any youth to break that negative cycle without coordinated and targeted services to address each individual’s specific and unique needs. A punitive model of juvenile detention

---

<sup>27</sup> *Id.* at 1.

<sup>28</sup> *Id.* at 24.

<sup>29</sup> Beth Fertig, *New York City Schools Chief Outlines Discipline Changes That Scale Back Suspensions*, WNYC (Feb. 13, 2015), <http://www.wnyc.org/story/schools-chancellor-proposes-ways-reduce-suspensions/>.

<sup>30</sup> *Fact Sheet: School Discipline and The Pushout Problem*, DIGNITY IN SCHS., [http://www.dignityinschools.org/files/DSC\\_Pushout\\_Fact\\_Sheet.pdf](http://www.dignityinschools.org/files/DSC_Pushout_Fact_Sheet.pdf) (nationally “[t]he majority of suspensions are for minor misbehavior, including ‘disruptive behavior,’ ‘insubordination,’ or school fights, which can be interpreted in subjective and biased ways (even unintentional)’”) (citing RUSSELL SKIBA ET AL., ARE ZERO TOLERANCE POLICIES EFFECTIVE IN THE SCHOOLS? A REPORT BY THE AMERICAN PSYCHOLOGICAL ASSOCIATION TASK FORCE (2006); A, B, C, D, STPP, *supra* note 23. The pre-2015 B-21 infraction is for “Defying or disobeying the lawful authority or directive of school personnel or school safety agents in a way that substantially disrupts the educational process.” The April 2015 B-21 infraction is “Defying or disobeying the lawful authority or directive of school personnel or school safety agents in a way that substantially disrupts the educational process and/or poses a danger to the school community.” NYC DEP’T OF EDUCATION, CITYWIDE STANDARDS OF INTERVENTION AND DISCIPLINE MEASURES 25 (2013), *available at* <http://schools.nyc.gov/NR/rdonlyres/188AF3E2-F12B-4754-8471-F2EFB344AE2B/0/DiscCodebooklet2013final.pdf>. The 2015 revision indicates that this behavior does not include uncooperative/noncompliant or disorderly such as using profane language or wearing prohibited clothing or bringing prohibited items to school. NYC DEP’T OF EDUCATION, CITYWIDE BEHAVIORAL EXPECTATIONS TO SUPPORT STUDENT LEARNING 28 (2015), *available at* <http://schools.nyc.gov/NR/rdonlyres/CD69C859-524C-43E1-AF25-C49543974BBF/0/DiscCodebookletApril2015FINAL.pdf>.

<sup>31</sup> Elizabeth A. Harris, *Suspension Rules Altered in New York City’s Revision of School Discipline Code*, N.Y. TIMES, Feb. 13, 2015, [http://www.nytimes.com/2015/02/14/nyregion/suspension-rules-altered-in-new-york-citys-revision-of-school-discipline-code.html?\\_r=0](http://www.nytimes.com/2015/02/14/nyregion/suspension-rules-altered-in-new-york-citys-revision-of-school-discipline-code.html?_r=0).

<sup>32</sup> *Id.* (quoting Kim Sweet, Director, Advocates for Children).

<sup>33</sup> Rachel Wilf, *Disparities in School Discipline Move Students of Color Toward Prison*, CENTER FOR AMERICAN PROGRESS (Mar. 13, 2012), <https://www.americanprogress.org/issues/race/news/2012/03/13/11350/disparities-in-school-discipline-move-students-of-color-toward-prison/>; *see also* SAFE QUALITY SCHOOLS, A PROGRAM OF THE ADVANCEMENT PROJECT (last visited Mar. 31, 2015), *available at* <http://safequalityschools.org/>.

<sup>34</sup> *Id.*



and incarceration not only fails to prevent recidivism, but it increases the chances of recidivism.<sup>35</sup> Advocates, officials, and the public at large must embrace new models for students at an earlier stage to effectively educate them and reduce their chances of becoming court involved.

Recently, the De Blasio administration created the NYC School Climate and Discipline Leadership Team.<sup>36</sup> Among its tasks is to examine the appropriate programs and practices to create an improved school climate.<sup>37</sup> These include forms of restorative justice, collaborative problem-solving, and—as this paper discusses—trauma-informed care.

Several other states and districts have begun to implement trauma-informed care into their schools with positive effects. There are several approaches to incorporating these programs into schools, but all are dependent upon increased awareness and education about the need for trauma-informed care. This conversation must begin in New York City: principals, advocates, lawyers, educators, social workers, teachers, counselors, psychologists, city officials, and mental health practitioners must form an interdisciplinary coalition and begin to discuss how we can reform our schools—particularly our troubled schools—to better address children’s needs.

## Trauma and Trauma-Informed Care

Trauma is defined as a response to a stressful experience where a person’s ability to cope is dramatically undermined.<sup>38</sup> It impacts children from a wide variety of backgrounds and manifests in varying degrees for different reasons. Traumatic events can include not only physical threats but also emotional maltreatment, neglect, abandonment, and devastating loss.<sup>39</sup> Many more children are traumatized than educators and advocates realize. A 2011 U.S. Department of Justice-funded survey showed that more than 60 percent of youth (birth to age seventeen) in this country had been exposed to violence in the past year and that nearly 50 percent of children had been assaulted in that time frame.<sup>40</sup>

---

<sup>35</sup> In *Roper v. Simmons*, 543 U.S. 551, 577 (2005), the Court recognized that, because of their lack of maturity and underdeveloped sense of responsibility, juveniles make “impetuous and ill-considered actions and decisions,” and are unlikely to consider the possible punishment before acting. See also BARRY HOLMAN & JASON ZIEDENBERG, JUSTICE POLICY INSTITUTE, THE DANGERS OF DETENTION: THE IMPACT OF INCARCERATING YOUTH IN DETENTION AND OTHER SECURE FACILITIES 5 (2006).

<sup>36</sup> The impetus for school climate reforms was the result of a School-Justice Partnership Task Force under the leadership of the Hon. Judith S. Kaye, former Chief Judge of the New York Court of Appeals. The May 2013 Task Force Report recommended a Mayoral initiative and a series of programs. NEW YORK CITY SCHOOL JUSTICE PARTNERSHIP TASK FORCE, KEEPING KIDS IN SCHOOLS AND OUT OF COURT: REPORT AND RECOMMENDATIONS (May 2013), available at <https://www.nycourts.gov/ip/justiceforchildren/PDF/NYC-School-JusticeTaskForceReportAndRecommendations.pdf>. In February 2015, Mayor De Blasio created the New York School Climate and Discipline Leadership Team. It is a collaborative effort, composed of principals, parents, students, and union representatives, as well as representatives from the Department of Education, the NYPD, and various other governmental city agencies. The team is led by two co-chairs: the Senior Advisor to the Mayor’s Office of Criminal Justice Vincent Schiraldi and Department of Education Chief of Staff Ursulina Ramirez. The co-chairs report to several public officials directly as well as to the public. *City Announces School Climate Reforms*, NYC DEP’T OF EDUCATION (Feb. 23, 2015), <http://schools.nyc.gov/Offices/mediarelations/NewsandSpeeches/2014-2015/City+Announces+School+Climate+Reforms.htm>.

<sup>37</sup> *Id.*

<sup>38</sup> SUSAN F. COLE ET AL., HELPING TRAUMATIZED CHILDREN LEARN: SUPPORTIVE SCHOOL ENVIRONMENTS FOR CHILDREN TRAUMATIZED BY FAMILY VIOLENCE (2005) [hereinafter HTCL].

<sup>39</sup> *Id.* at 18.

<sup>40</sup> Allison Hyra and Jessica R. Kendall, *Op-Ed: Translating the Science of Childhood Stress into Youth Service Practice*, JUVENILE JUSTICE: INFORMATION EXCHANGE (Apr. 29, 2015), [http://jjiie.org/translating-the-science-of-childhood-stress-into-youth-service-practice/108667/?utm\\_source=JJIE+Website+Updates&utm\\_campaign=46e6f576da-Weekly\\_Newsletter\\_April\\_30\\_2015&utm\\_medium=email&utm\\_term=0\\_a8f2f6272f-46e6f576da-129157253](http://jjiie.org/translating-the-science-of-childhood-stress-into-youth-service-practice/108667/?utm_source=JJIE+Website+Updates&utm_campaign=46e6f576da-Weekly_Newsletter_April_30_2015&utm_medium=email&utm_term=0_a8f2f6272f-46e6f576da-129157253)

Psychological trauma can result from a wide range of conditions and factors under which children live, including the effects of growing up in poverty and neighborhoods with high incidents of crime, parental loss and abuse, neglect, alcoholic parents, and forms of harassment.<sup>41</sup> There are between 78,000 and 80,000 homeless school-age children in New York City. They sleep in New York City streets, the subway system, public spaces, and the municipal shelter systems, where they face these kinds of psychological triggers.<sup>42</sup> Resulting trauma from these life circumstances can affect the child's brain development.

The results of trauma may be extreme. In the immediate, children encounter difficulty processing information, understanding how to approach threatening situations, moderating their emotions, and trusting adults. Many children feel helpless and overwhelmed.<sup>43</sup> Post-trauma diagnoses can range from attention-deficit-hyperactive disorder, anxiety, oppositional defiant disorder, and depression, among others.<sup>44</sup> Children may exhibit behaviors of being withdrawn, defiant, impulsive, reactive, and aggressive. In the longer term, children who are exposed to trauma are linked with a higher rate of chronic diseases as adults.<sup>45</sup>

Trauma-informed care is generally defined as a systematic way of responding to individuals who have a history of trauma, and recognizing the role, presence, and effect from that trauma that is pervasive in the individual's life.<sup>46</sup> As a model of care, it addresses the effects of this trauma and aims to be collaborative, supportive, and skill-based.<sup>47</sup>

There are three factors that improve the ability of traumatized children to function. These are (1) increasing the strength of parent-child/ surrogate caregiver relationships, (2) providing and improving cognitive skills, and (3) giving children the ability to self-regulate their attention, emotion, and behavior.<sup>48</sup> Attention to each of these factors is important in considering how to best assist children in school and to implement trauma-informed care processes.

---

<sup>41</sup> Ashlee Loughan and Robert Perna, *Neurocognitive Impacts for Children of Poverty and Neglect*, AMERICAN PSYCHOLOGICAL ASSOCIATION (July 2012), <http://www.apa.org/pi/families/resources/newsletter/2012/07/neurocognitive-impacts.aspx>

<sup>42</sup> The Institute for Children, Poverty & Homeless determined that there were 77,915 homeless students in the New York City school districts. ON THE MAP, *supra* note 20, at 8. See also Andrea Elliott and Rebecca R. Ruiz, *New York is Removing Over 400 Children from 2 Homeless Shelters*, N.Y. TIMES Feb. 21, 2014, <http://www.nytimes.com/2014/02/21/nyregion/new-york-is-removing-over-400-children-from-2-homeless-shelters.html>, COALITION FOR THE HOMELESS, <http://www.coalitionforthehomeless.org/basic-facts-about-homelessness-new-york-city/>.

<sup>43</sup> HTCL, *supra* note 38, at 55-56.

<sup>44</sup> *Id.* at 21. Other diagnoses include ADD, conduct disorders, phobias, and borderline personality disorders. *Id.*

<sup>45</sup> Jane Ellen Stevens, *Massachusetts, Washington State Lead U.S. Trauma-sensitive School Movement*, ACES TOO HIGH NEWS, May 31, 2012, <http://acestoohigh.com/2012/05/31/massachusetts-washington-state-lead-u-s-trauma-sensitive-school-movement/> (citing *Adverse Childhood Experiences Study*, CENTERS FOR DISEASE CONTROL AND PREVENTION (May 13, 2014), <http://www.cdc.gov/violenceprevention/acestudy/>). The chronic diseases included heart diseases, lung cancer, diabetes, autoimmune diseases, depression, violence, being a victim of violence, and suicide.

<sup>46</sup> CONNECTICUT DEPT' OF CHILDREN AND FAMILIES: TRAUMA-INFORMED CARE PRACTICE GUIDE (Sept. 2012), available at [http://www.ct.gov/dcf/lib/dcf/trauma-informed\\_care/pdf/trauma-informed\\_care\\_-\\_policy\\_\\_september\\_2012.pdf](http://www.ct.gov/dcf/lib/dcf/trauma-informed_care/pdf/trauma-informed_care_-_policy__september_2012.pdf).

<sup>47</sup> ANN JENNINGS, MODELS FOR DEVELOPING TRAUMA-INFORMED BEHAVIORAL HEALTH SYSTEMS AND TRAUMA-SPECIFIC SERVICES (2004), available at <http://www.theannainstitute.org/MDT.pdf>.

<sup>48</sup> HTCL, *supra* note 38, at 43 (citing child psychologists Marsten and Coastworth).



## Trauma-Informed Care in Schools

It is particularly important that any trauma-informed care program be applied to all children and not focus solely on children identified with trauma exposure: there is a correlation between achievement levels for all students when there is cohesion in the classroom, where the trauma-informed care approach has been adopted for the entire school. It produces less conflict and disorganization.<sup>49</sup> Consequently, the trauma-sensitive approach will benefit all children in the school, not only those who have been subject to traumatic experiences.

One program that has achieved considerable success is the Trauma and Learning Policy Initiative (“TLPI”). TLPI, in collaboration with Massachusetts Advocates for Children and Harvard Law School, has developed a framework (the “Flexible Framework”) that provides schools and educators with the tools for incorporating trauma-sensitive approaches. The approach has six key elements: 1) developing a schoolwide infrastructure and culture; 2) training staff; 3) developing relationships with mental health professionals; 4) incorporating academic instruction for children; 5) utilizing non-academic strategies; and 6) strengthening the school policies, procedures, and protocols.

These six factors provide the framework to establish trauma-informed schools. Additionally, the TLPI has a series of four key questions that assist a school in establishing the infrastructure and processes to be undertaken to set up such a program. The TLPI stresses that each school’s program is unique and that it is essential that the school engage in its own internal process to determine priorities and resolutions.<sup>50</sup>

TLPI identifies key components for any successful program.<sup>51</sup> First, it is critical that the principal be an enthusiastic actor in order to effectively implement trauma-sensitivity into the school. Then there must be a coalition and strategic team in the school as well as advocates on the outside who are supportive of the transition. The school and district must assess their own resources, issues, priorities, and capabilities before even attempting to implement the framework.

In building the coalition and team, there must also be a sense of urgency. TLPI’s guide for *Creating and Advocating for Trauma-Sensitive Schools* stresses that this sense of commitment to change amongst a wide range of stakeholders is essential in transitioning to a trauma-sensitive school. Engaging in the process allows teachers, staff, and community members to transform the framework into actual program for positive change they may see within the school.<sup>52</sup> The framework needs careful development within each school.

One essential aspect of trauma-informed schools is the creation of stable and supportive classrooms that are linked with mental health providers. The framework recommends a practicum model “in which staff interact with each other and with a mental health clinician who has expertise

---

<sup>49</sup> UCLA CENTER FOR MENTAL HEALTH IN SCHOOLS, SCHOOL ENGAGEMENT, DISENGAGEMENT, LEARNING SUPPORTS, & SCHOOL CLIMATE 17, available at <http://smhp.psych.ucla.edu/pdfdocs/schooleng.pdf>.

<sup>50</sup> SUSAN F. COLE ET AL, TRAUMA LEARNING POLICY INITIATIVE: HELPING TRAUMATIZED CHILDREN LEARN, VOLUME 2, CREATING AND ADVOCATING FOR TRAUMA-SENSITIVE SCHOOLS 28 (2013) [hereinafter HTCL Vol. 2].

<sup>51</sup> This summary of TLPI’s recommendations is, by no mean, exhaustive. TLPI’s materials discuss the steps to create programs in greater detail, *Helping Traumatized Children Learn*, and *Creating and Advocating for Trauma-Sensitive Schools*. We have chosen to highlight several points that have particular relevance to NYC schools.

<sup>52</sup> HTCL Vol. 2, *supra* note 50, at 37.

in trauma and its impact in the classroom. In these sessions, staff can review difficult cases and process their own experiences, learning from each other and from the clinician.”<sup>53</sup>

The actual programs and skills that are necessary and effective in implementing trauma-informed care include those where staff learns de-escalation techniques, and behavior management techniques, including how to reduce bullying. Staff will develop opportunities to role-play communications with parents, and create lesson plans. Additionally, teachers will learn to present material in several different ways to appeal to different learning styles, and identify a child’s “island of competence.”<sup>54</sup> They will certainly utilize nonverbal approaches to learning.

Staff training includes clarifying the different roles of the mental health professional and the teacher.<sup>55</sup> The flexible framework does not intend for teachers to become therapists. Rather, it teaches educators to recognize the signs of trauma, and asks what support (both externally and internally) the staff may need in order to work with traumatized children.

Once teachers are given tools to control the classroom and utilize a standard of trauma-informed care, they must also engage and re-engage their students who are no longer connected to the classroom. Some students who have disengaged from the learning process can develop or have already developed behavioral, emotional, and/ or learning problems. There are a variety of strategies for re-engagement, but some include: discussing openly with the student why, specifically, they have disengaged from learning, eliminating testing and performance standards that leads to scaled evaluation of students, highlighting student accomplishments, and creating opportunities for decision-making.<sup>56</sup>

In addition to trauma-informed care, schools may adopt a range of restorative justice and behavioral models to improve the school climate. Restorative justice models seek to build students’ social and emotional skills through collaborative, community building processes. One example is restorative circles where harm has occurred to individuals in the school. These circles provide students with a sense of belonging and responsibility. Restorative justice programs also provide alternative interventions in lieu of punitive suspensions.<sup>57</sup>

There are also evidence-based positive behavior management programs and collaborative problem-solving models that can be utilized effectively in conjunction with trauma-informed care in schools.<sup>58</sup>

---

<sup>53</sup> HTCL, *supra* note 38, at 58.

<sup>54</sup> These are just a few of the examples that *Helping Traumatized Children Learn* suggests.

<sup>55</sup> HTCL, *supra* note 38, at 52.

<sup>56</sup> UCLA CENTER FOR MENTAL HEALTH IN SCHOOLS, *supra* note 49, at 8. Performance-based standards in lieu of the national testing focus mandated by No Child Left Behind may be extremely effective for all students, not only those who have disengaged.

<sup>57</sup> See, e.g., Belinda Hopkins, *Restorative Justice in Schools*, 17 Support for Learning 3 (2002), available at <http://www.transformingconflict.org/system/files/libraryfiles/Doc%20-%20Restorative%20Justice%20in%20Schools%202002%20-%20Support%20>; Morningside Center for Teaching Social Responsibility, <http://www.morningsidecenter.org/publications>.

<sup>58</sup> See, e.g., Positive Behavior Management Strategies <http://www.safeandcivilschools.com/>; Dr. Ross Green, LOST AT SCHOOL (2014) (discussing Collaborative Problem Solving in schools)

## Discipline Policies

Finally, a particularly important aspect of reforming schools is the reexamination of the existing school discipline policies with a trauma-based lens. Because of the differences between a school that is trauma-sensitive, and one that is not, TLPI specifically recommends that new policies may have to be created in order for schools to truly be compatible.<sup>59</sup>

The framework focuses on holding children accountable for their inappropriate behavior but *balancing* their actions with an understanding of traumatic behavior. This will likely result in changes to the discipline policies by addressing infractions and their corresponding punishments. By teaching rules, following routines, and minimizing educational disruptions, schools can address behavior before it spirals out of control.<sup>60</sup>

## Community Integration

As schools reconsider their existing policies, they must consider effective collaboration with the community. This is a recommendation that has, like many others, been echoed repeatedly by advocates who have effectively implemented trauma-informed care in school systems. Notably, TLPI recommends that schools reach out and establish connections with other organizations, individuals or resources before a referral is necessary, therefore laying the groundwork for future cases.<sup>61</sup> Additionally, each school should appoint a liaison from its staff who communicates with “health and mental health providers, the department of social services, law enforcement, the court system, and other state agencies.”<sup>62</sup>

Community integration in New York City is particularly difficult, as oftentimes educators who work at the schools are not in fact from the local communities. Further, effective provision of services outside the school is an ongoing challenge for the largest school system in the country. Outside services are often unavailable; sometimes educators may be unsure of issues of confidentiality and avoid referrals altogether. Developing sufficient outside resources is a challenge that is essential for many children. Since 2014, the Mayor’s Office and the Department of Education have been working on developing and significantly increasing the numbers of Community Schools.<sup>63</sup> These schools are designed to support the “whole needs” of the child, including social, emotional, physical, and academic needs.<sup>64</sup> It is hoped that these schools will offer comprehensive services so that their students, notably in low-performing schools, will have significant opportunities to thrive.

---

<sup>59</sup> HTCL, *supra* note 38, at 68.

<sup>60</sup> *Id.* at 69.

<sup>61</sup> *Id.* at 75.

<sup>62</sup> *Id.* at 76.

<sup>63</sup> *De Blasio Administration’s First 45 Community Schools Get Paired with Community Partners and Prepare for 2015 Launch*, NYC DEP’T OF EDUCATION (Dec. 1, 2014), <http://schools.nyc.gov/Offices/mediarelations/NewsandSpeeches/2014-2015/De+Blasio+Administration%E2%80%99s+First+45+Community+Schools+Get+P>.

<sup>64</sup> *Chancellor Fariña Announces Creation of New Office of Community Schools*, NYC DEP’T OF EDUCATION (Jan. 21, 2015), <http://schools.nyc.gov/Offices/mediarelations/NewsandSpeeches/2014-2015/Chancellor+Fari%C3%B1a+Announces+Creation+of+New+Office+of+Community+Schools.htm>.

## A Successful Example of a Trauma-Sensitive School

The school district of Brockton, Massachusetts, is a success story for integrating trauma-sensitive care into their schools. The director of pupil personnel services within the district, Sal Terrasi, learned about the link between childhood trauma and later adult diseases, as well as the impact of trauma on the brain. Armed with this type of data, Mr. Terrasi pushed to create a trauma-informed school district.<sup>65</sup>

Initially, the entire school worked with the local law enforcement, the Department of Child and Family Services, the Department of Mental Health, the Department of Youth Services, and a group of local counseling agencies. Mr. Terrasi was an enthusiastic leader. He held meetings with TLPI, parents, and educators, and carefully considered their feedback. The school combined several models, including collaborative problem-solving and positive behavioral support interventions.<sup>66</sup> Twenty-three schools instituted plans that utilized these processes, and, as a result, suspensions and expulsions have significantly dropped. One elementary school saw a 40 percent drop in suspensions among its 826 students in kindergarten through fifth grade.<sup>67</sup>

Brockton has created ways for local police and counselors to work together, identifying children in whose homes and families the police have been involved. The police notify school personnel of circumstances in which they believe that students may be experiencing trauma at home. Reports indicate the success of this integration and sharing of information.

By applying a trauma-sensitive lens to their school district, Brockton was able to increase insight and responsive behavior for students, teachers, and administrators and to unite the community. Upon employing this lens, they combined behavioral intervention and collaborative problem-solving models for their school.

## Next Steps for Applying Trauma-Sensitive Care in New York City

Adopting trauma-sensitive care in New York City schools will take a considerable amount of advocacy, passion, and collaboration. In order for TLPI's process to truly take hold, there must be a true culture change within the system, and trauma-sensitivity must be woven into its fabric.

Initially, the adoption of trauma-informed care is dependent upon the formation of a coalition within New York City of people passionate about instituting such a change. Before any school district has been able to successfully adjust to a trauma-sensitive lens, there was an interdisciplinary coalition pushing for the change on all levels: with the legislature, policy-makers, non-profit organizations, educators, principals, academics, and mental health professionals.

Because of the sheer size of New York's educational system, such programs simply cannot be immediately worked into entire New York City school districts. Rather, it must be introduced slowly and within an initial pilot program. Such a pilot program should utilize effective data about individual schools to determine which of the 172 schools are open to, and could benefit from, such support. That support may not be limited to trauma-informed care, but might include

---

<sup>65</sup> Stevens, *supra* note 45.

<sup>66</sup> Jane Ellen Stevens, *Trauma-Sensitive Schools Are Better Schools, Part 2*, THE HUFFINGTON POST, June 27, 2012, [http://www.huffingtonpost.com/jane-ellen-stevens/trauma-sensitive-schools\\_b\\_1625924.html](http://www.huffingtonpost.com/jane-ellen-stevens/trauma-sensitive-schools_b_1625924.html).

<sup>67</sup> Stevens, *supra* note 45.

other holistic approaches such as restorative and collaborative justice models. One method is unlikely to work for all schools. Any program must be individualized and tailored to its students, teachers, principal, parents and community.

It remains clear that the current educational system is an amalgamation of dysfunction for many New York City children. By adopting a version of restorative justice models that may integrate trauma-informed care, coordinate services across communities, and change ineffective and damaging discipline policies, New York City can develop a more positive school environment. Hopefully, the work of the Mayor's Leadership Team on School Climate will make strides toward the adoption of approaches to assist children to be safe and to grow and learn.<sup>68</sup> •

---

<sup>68</sup> Hopefully there will be a collaborative effort to implement such trauma-informed care in the schools without litigation. Community efforts in Los Angeles resulted in a recently-filed lawsuit seeking to compel a school district to implement trauma-informed care. *Students, Teachers file Landmark Federal Class Action Complaint Demanding School Address Learning Needs of Children Affected by Violence and Trauma*, PUBLIC COUNSEL (May 18, 2015), <http://www.publiccounsel.org/stories?id=0172>.