

**An Analysis of Zero Tolerance Weapon Policies Related to the  
School-to-Prison Pipeline Phenomenon**

by

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# **An Analysis of Zero Tolerance Weapon Policies Related to the School-to-Prison Pipeline Phenomenon**

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Pennsylvania schools adopted zero tolerance weapon policies to comply with the federal *Gun-Free Schools Act* (1994). Weapon definitions in school policies are broader than federal or Pennsylvania statutory definitions, and disproportionately affect racial minority students (Joint State Government Commission, 2016) and low income students and precipitate the school-to-prison pipeline (Giroux, 2003).

Twelve Allegheny County school districts' weapon definitions and high schools were studied utilizing a socio-ecological model to examine external socio-economic status and internal weapon policy (Capp et al., 2017). The purpose of the study was to determine if weapon definitions and memorandum of understanding (MOU) creation and implementation is influenced by socio-economic status and race. Schools' economic disadvantage was used to designate six as working class and six as affluent.

Findings were *first*, all schools had a weapon policy broader than the Pennsylvania statute. *Second*, Office for Safe Schools (OSS) Historical Comparison Report Data demonstrated that the working class schools had over four times the arrests as affluent schools while law enforcement was called only twice as many times; working class schools had over four times the referrals to alternate education for disruptive youth, two times the out-of-school suspensions, and five times the expulsions as the affluent schools. *Third*, no schools were updating policies based on court decisions and interpretation of weapon policies. *Fourth*, while each district was required to have

an MOU with local law enforcement and provide explanations to OSS for substantive differences, one district had none, and two districts provided no explanation for differences. *Fifth*, applying the OSS analyzes to 12 Dauphin County schools revealed similar results, law enforcement was called to the affluent schools almost one-third more, while twice as many students were arrested in the working class schools.

The socio-ecological implications are that low income and racial minority students were affected by expansive district weapons policies more than their counterparts in affluent districts and all districts need increased oversight. The number of racial minority students entering the criminal justice system from schools implies that criminal justice reform must be accompanied by educational reform and zero tolerance policies expose schools to claims of educational malpractice.

Keywords: zero tolerance policies, *Gun-Free Schools Act*, weapon policies, socio-ecological approach, memorandum of understanding, discipline, Office for Safe Schools, school safety, local law enforcement, school-to-prison pipeline, cradle-to-prison pipeline, militarization, juvenile justice system, juvenile incarceration, alternative education for disruptive youth, Pennsylvania weapon statute, federal firearm statute, school resource officer, school law, active shooter, racial discrimination, restorative justice, mental health, educational reform, criminal justice reform, educational malpractice, collaboration

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## **1.0 Introduction**

### **1.1 Background of the Study**

Zero tolerance weapon policies were adopted across the nation to comply with the federal *Gun-Free Schools Act* of 1994. These policies do not promote the legal or democratic principles of equal educational opportunity (Lhamon & Samuels, 2014; Pennsylvania Bar Institute, 2015; Triplett, Allen, & Lewis, 2014). The *Gun-Free Schools Act* (1994) was enacted to curb school weapons violence and make schools safe. In the decades since the enactment, a phenomenon called the school-to-prison pipeline has developed. A study of Dauphin County, Pennsylvania school districts demonstrated that, when used in administering zero tolerance policy discipline, zero tolerance weapon policies overwhelmingly are expansive and reflect disparities in the disciplinary experience of racial minorities (Joint State Government Commission, 2016). Further, these policies have precipitated the school-to-prison phenomenon. “A growing body of literature demonstrates that urban students of color are disproportionately subjected to punitive discipline...” as a result of these policies (Triplett et al., 2014, p. 352).

The *Pennsylvania Public School Code* of 1949 authorizes all discipline related to expulsions and suspensions (Joint State Government Commission, 2016). Implementation of the *Gun-Free Schools Act* (1994) required changing the *Public School Code* of 1949 to meet the new requirements. This change did not involve any zero tolerance policies in their purest form,

however, the problem has arisen as school districts have decided to adopt zero tolerance policies on their own (Joint State Government Commission, 2016). The purpose of this study was to determine if weapon definitions and memorandum of understanding (MOU) implementation vary due to socio-economic status and race.

## **1.2 Background to My Involvement**

My interest in weapons policy in Pennsylvania schools began in 2003 when an Allegheny County Juvenile Court judge asked me to be a volunteer attorney to represent students in delinquency adjudications. As an oil and gas corporate attorney, I had no familiarity with juvenile court, and as I became more familiar with the juvenile delinquency system, I became increasingly troubled by the drama that unfolded every day. Many attorneys around me were trying to get consent decrees for their juvenile clients. A consent decree means, before juveniles are adjudicated delinquent, the attorneys must try to negotiate an agreement where the juvenile meets certain conditions, such as restitution, school attendance, or community service. The agreement usually lasts six months and, once successfully completed, the charges are dismissed. The juvenile is eligible to have their arrest record expunged six months after the charges are dismissed. Many of the children in juvenile court were nine and 10 years old. I will discuss in a later chapter that 75% of these students do not understand how to get these records expunged and live with the lifelong consequences of a criminal record.

I recall two nine-year-olds and two 10-year-olds who were not granted consent decrees, because the store owner, the victim, would not agree to it. Each child had taken between five and

twenty dollars. The store clerk had been keeping \$75 under the cash register, which was puzzling by itself. (Why keep money under the cash register and not in it?) The children had volunteered to help the clerk unload boxes in the store. Upon discovering the missing money, the clerk notified the Pittsburgh Police. The police officer related to me that he apprehended these children as they were entering the Carnegie Library in the Oakland section of Pittsburgh. When he took the children into custody, they began to cry. He told me that he intended to take them to the police station, scare them enough to know not to steal again, and then release them. He had no intention of charging these children. However, while they were in the police station, his lieutenant walked in, and he was required to formally charge these boys. There were many heart wrenching-moments in juvenile court, and this was one of them. I recall how the Pittsburgh policeman and I stood in the hallway. Two strangers, both of us very sad to almost the point of despair, both trying to keep children we did not know out of the juvenile justice system, knowing the trajectory on which these African American boys were being placed. He had not wanted them charged and now they were being denied a consent decree. I knew this was far different from the older juvenile client I had, who had attempted to enter the school with a gun. A consent decree for juveniles is best understood by adults if one likens it to the adult accelerated rehabilitative disposition for adult first time offenders.

The attorneys, their clients, and the parents of their clients met in a large bullpen waiting room to await disposition of cases. I could hear various attorneys, speaking fast and at the same time, each interviewing their clients. I realized these attorneys long ago had adjusted to the reality that there was no client confidentiality here. I remembered a slang term from law school, cattle car justice. I realized I was experiencing cattle car justice. We were herded into the bullpen to wait, then to the courtroom, and finally coming before a judge who dispensed justice, which too often

was harsh for the level of offense. Judges, though, dispense justice based on charges presented to them. Many times, I had discussions with young assistant District Attorneys (ADA) who were unwilling to reduce charges to be presented to the judge. At times it was because the aggrieved party (the victim), would not agree and other times it was solely at their discretion. Another disconnect became evident in these discussions. The ADA's advance in their position by obtaining promotions often based on the number of convictions they obtain, and charges convictions were based upon. "Most juvenile courts acquiesce to zero tolerance policies that send students to juvenile court" (Schwartz & Riser, 2001, p.132). Further, the charges presented are often derived from probations officers, and school resource officers who are located inside the school buildings. It is important to remember the legal standards schools must adhere to are different inside the school building as the legal standards and rights which would be mandated outside the school building. For instance, (1) a citizen's Fourth Amendment right against unlawful search and seizure requires the police to show probable cause off school property but only reasonable suspicion, a lower threshold than probable cause, on school property is required by the school administration to search a student and (2) school police must give Miranda warnings but school administrators are exempt (Education Law Center, 2009; *G.C. v. Bristol Township School District*, 2006; *In re R.H.*, 2002). See Appendix A for a discussion of relevant weapons caselaw.

As I waited my turn in rotation to present my case and listened to the details of each juvenile's trajectory from the schoolhouse to the courthouse, I saw another disconnection. Even though it was juvenile court, a felony conviction will be part of a student's criminal record for life. I wondered if teachers realize what happens to their students when the discipline meted out ends in an arrest or other out-of-school discipline or how that discipline places these students in a school-to-prison trajectory, even if it is discipline for minor misbehavior. I was also troubled by

the number of students who were poor and African American. I could see why the judge who had asked me to volunteer had done so, because I am African American. Simmons' (2009) studied racial minorities and found that African American males in particular are subjected to punitive classroom exclusionary discipline policies in public education. Simmons' findings were that punitive exclusionary zero tolerance disciplinary policies have become a catalyst for mass minority incarceration in the United States. I have come to know that what I experienced in those courtrooms was the school-to-prison pipeline phenomenon. As I sat in those courtrooms, I reflected on the information the public was given back in the 1980s: information that did not portray the true situation, information that juveniles were increasingly violent, and that they were predators (Reyes, 2011). Most people, including me, agreed that Pennsylvania needed to unseal juvenile records, and to try violent juveniles as adults in the criminal court system. I did not foresee students being arrested for schoolyard pranks, minor misbehavior, and lack of teacher cultural awareness. Also, juvenile crime peaked in 1994 (Reyes, 2011), the same year the *Gun-Free Schools Act* was enacted.

Many juveniles who were reported to law enforcement were arrested for weapons based on objects they used during minor misbehaving at school. This peaked my interest in the interpretation of the term, weapon. Repeatedly I witnessed students arrested in school on adult charges without the adult constitutional protections afforded citizens outside the school and for objects that most would never consider a weapon outside of school. More importantly, students were being charged with felonies for these objects, and a felony will follow these students for life. While I was supportive of the open juvenile records idea at the time, I envisioned juvenile murderers and those with clear felonious intent to commit crimes being charged. I believe many Pennsylvania citizens shared this belief. We did not envision a student being handcuffed and arrested because a parent

put a plastic knife in the lunch box. Also, I believe most Pennsylvanians would be surprised to learn students are being arrested for minor misbehavior and that matters that once would have been handled in the school by school administrators (Aull, 2012) have become part of zero tolerance exclusionary policies and created a student pathway from school to prison.

Besides the young age of the students, I also noticed in juvenile court that of the hundreds of clients I represented, all of my clients and most of the clients being represented appeared poor. My clients were African American males except for one African American female. I later discovered that Pennsylvania's disciplinary rate of expulsion and suspension from school are higher than the national average, and data reflect disparities in treatment of racial minorities. In fact, Pennsylvania's expulsion rate is in the top 25% and its out-of-school suspension rate is in the top 39% nationally and are a serious concern (Joint State Government Commission, 2016). Further, Pennsylvania's school-based arrests tripled from 1999 to 2006 (Cregor & Hewitt, 2011) after the *Gun-Free Schools Act* (1994) was enacted. That is why the following research questions were developed.

### **1.3 Research Questions Considered**

Issues related to weapons violence arise in cases where school policies are divergent from the law. When the definition and circumstances of having a weapon in school is open to school district interpretation (Education Law Center, 2009), several questions arise such as: Will the school district adhere to the Pennsylvania definition of weapon as in 24 P.S. Section 13-1317.2 (g) or the federal firearm definition in 20 U.S.C. Section 7961 (b)(3); 18 U.S.C. Section 921 (a)(3) or



create its own variation of the definition of weapon? Will court decisions be the only way to control broad and, at times arbitrary, school district weapon interpretations? Arbitrary means a weapon is not listed as a weapon in the school's weapon policy but is declared such by school administrators at the time of the infraction. Further, will school districts use zero tolerance weapon policies to push out students who do not culturally conform to the norms that the administration and/or teachers have set for the school? Studies concerning this area of school policy stated, "Zero-tolerance policies tend to push students out of public schools into the criminal justice system in a pattern of institutional racism" (Berlowitz, Frye, & Jette, 2017, p.1). Other studies also demonstrate the students who are pushed out are overwhelmingly African American (Morris, 2016; Reyes, 2011; Winn, 2011). Synthesizing these questions produces the following three research questions to guide this study:

1. How have zero tolerance policies related to the school-to-prison pipeline influenced out-of-school suspensions, expulsions, alternative education for disruptive youth and arrests?
2. How do 12 school districts in Allegheny County define weapon and ensure their students have been given their U.S. Constitutional right to notice of the definition?
3. What consequences are revealed from the analyses of the 12 school district's weapons policies, memoranda of understanding, and Safe Schools Historical Comparison Report Data?

## **1.4 Overview of Study Methods**

Too often in Pennsylvania exclusionary discipline weapon policies have been developed by school districts based on an interpretation of the term weapon, that is broader than the state or

federal definitions. This has led to unnecessary school failure and placed students on a path from school to adult prison (Joint State Government Commission, 2016; Triplett et al., 2014). The purpose of this study was to determine if weapon policy and memorandum of understanding implementation varies by socio-economic status and race.

This study is an interpretative inquiry using a socio-ecological model to study 12 select high schools in Allegheny County, Pennsylvania and categorize them by socio-economic status. High school economic disadvantage listed in the Pennsylvania Department of Education's School Performance Profile [School Performance Profile], (2017) was used to define the 12 high schools' status as six working class high schools and six affluent high schools. The socio-ecological model used in this study demonstrates the importance of studying the interrelationship between internal school district leadership and resultant weapon policies and a school's external influences including neighborhood socio-economic status (Astor, Benbenishty, & Estrada, 2009; Capp et al., 2017).

First analyzed for these high schools was the school district definition of weapon used to enforce zero tolerance weapon policies. Second, the Safe Schools Historical Comparison Report Data (2016-2017) for the high school was analyzed. The Safe Schools Historical Comparison Report Data lists student law enforcement infractions, weapons involved in the infractions, arrests, referrals to alternate education for disruptive youth, expulsions, and out-of-school suspensions. It was important to review this data to determine if these 12 select school districts follow Pennsylvania law or have their own broad definitions and to determine if enforcement of these weapon definitions are harsher for lower socio-economic status students and racial minorities. Third, weapon policies were analyzed with respect to court decisions to determine if district policies were updated based on court-made law. Fourth, each school districts' memorandum of

understanding (MOU) with local law enforcement was analyzed. The significance of this is discussed in the following section.

## **1.5 Significance of the Study**

Educating lower socio-economic status students in Pennsylvania has been an issue from the beginning of the educational system. Benjamin Franklin (1749) was a strong supporter of American education. While forming a plan for the education of youth in Pennsylvania he wrote:

The good Education of Youth has been esteemed by wise Men in all Ages, as the surest Foundation of the Happiness both of private Families and of Commonwealths. Almost all Governments have therefore made it a principle Object of their Attention, to establish and endow with proper Revenues, such Seminaries of Learning, as might supply the succeeding Age with Men qualified to serve the Publick [sic] with Honour [sic] to themselves, and to their Country....yet the best Capacities require Cultivation, it being truly with them, as with the best Ground, which unless well tilled and sowed with profitable Seed produces only ranker Weeds. (p. 2)

Franklin's words may have been written in 1749 but are applicable today. It is recognized that educators across this Commonwealth are interested in sowing profitable Seed and Cultivating the best Capacities of their students. Preventing their students from becoming ranker Weeds is an educational imperative let alone proper Revenues must be allocated. However, the internal environment of the school may create what Franklin called ranker Weeds. Schools today may be producing Angry ranker Weeds. These Angry Weeds may commit violent acts directed at the

school such as acts from an active shooter, with innocent students, teachers and staff caught in the middle of that violence. Much has been made of suburban student gunmen perpetrating violence against students, but it is important to recognize that teachers and staff also experience violence from these students (Capp et al., 2017; Triplett et al., 2014). Violent shootings occur in suburban schools by predominantly White student gunmen. However, it is urban schools with large numbers of low income and racial minorities that continue to be punished more harshly and more frequently than their White suburban counterparts. Punishments include stricter enforcement of zero tolerance policies laden with safety measures, which have made urban schools look like correctional institutions (Lhamon & Samuels, 2014; Pennsylvania Bar Institute, 2015; Triplett et al., 2014).

I realize that these are complex issues and details related to my experiences in the juvenile justice system are not readily understood by most educators and civil authorities. I needed to conduct this study to gain more specifics to help others act with appropriate information and influence weapon policy. This study will benefit educators, parents, legislators, and the judiciary, because it will enable them to gain greater understanding of the need to narrow the broad and expansive school district weapon definitions. This inquiry is necessary for meaningful system change.

This inquiry consists of chapter 2 which is a review of the literature on the school-to-prison pipeline; it explains it and discusses its relationship with zero tolerance policies. Chapter 3 discusses how the data used in this study were collected. Chapter 4 presents the results of the data collection. Chapter 5 analyzes weapon definitions and policies for the 12 high schools in the study. Chapter 6 discusses actions school districts and school administration can take to lessen the disproportionately harsh effect the school-to-prison pipeline has on low income and racial minorities. As a whole, this study delves deeply into meaningful system change.

## 2.0 Review of Related Literature

The overriding objective of a school district is to educate students. The mission of education is to cultivate student's best capacities (Franklin, 1749). Schools must create a culture in which all students feel safe and that they belong while maintaining order and punishing unacceptable student behavior with appropriate discipline. This has meaning from the weapons perspective because students in communities were bringing weapons to school, and the federal government reacted by enacting the *Gun-Free Schools Act* (1994), which amended the United States Department of Education, *Elementary and Secondary Education Act* Subpart 3, Section 4141. Crime and poverty in a community have consequences that influence the school in a locale and neighborhood. However, we cannot assume high crime neighborhoods always produce high crime ridden schools. Astor et al. (2009) believed high violence communities do not have to engender high violence schools. Rather, they believed a school principal's leadership is the most important variable in these high violence communities to curb school violence, particularly weapon violence. School reform should not be based on "packaged school violence evidence-based programs. The schools [should] demonstrate "outward" oriented ideologies, a schoolwide awareness of violence, consistent procedures, integrated use of cultural...visual manifestations of student care, and the beautification of school grounds" (p.1). These school must be considered "as a value cultivating place" (p. 13).

In this literature review, I will highlight studies relevant to my research context when available. Because I focus on 12 Allegheny County, Pennsylvania school districts and their associated high schools, I will also highlight important cases that have occurred within the City of

Pittsburgh, Allegheny County, and the Pittsburgh Public School system. In the study, I include only one of the Pittsburgh Public Schools' high schools, Taylor Allderdice High School. While that high school is not in a high crime area, the Squirrel Hill neighborhood in which the school is located, has a place in history in that in October 2018 the community experienced violence. It is now known worldwide as the site of the largest mass shooting of Jewish people in the United States, at the Tree of Life Synagogue.

As discussed earlier, zero tolerance weapon policies were adopted to comply with the federal *Gun-Free Schools Act* of 1994. This enactment was intended to curb school weapons violence and make schools safe. The federal government has now *urged* school districts to abandon these failed policies, but school districts are reluctant for various reasons. Many of these reasons will be discussed in later chapters. The federal government contends these “policies do not promote the legal or democratic principles of equal educational opportunity...and continue to punish minority students more harshly and more frequently than their White counterparts” (Triplett et al., 2014, p.352). These policies have contributed to the school-to-prison pipeline phenomenon. This phenomenon was analyzed using a socio-ecological model to include external socio-economic status and cultural influences as well as internal school weapon policy and school characteristics (Astor et al., 2009; Capp et al., 2017).

It is important to understand the definitional roots of “school” to understand the school-to-prison pipeline phenomenon. Furlong and Morrison (2000) stated that one must “distinguish between ‘school’ as a physical location for violence that has roots in the community and ‘school’ as a system that causes or exacerbates problems the individuals within experience” (p. 73). The socio-ecological approach allows for exploration of both. The former is defined as when students or intruders such as an active shooter bring weapons to school. The latter happens in the social

contexts involving the interrelationships between students, teachers, administrators, school boards and interrelationships between internal school district leadership, culture, and a school's external influences (Astor et al., 2009; Capp et al., 2017; Furlong & Morrison, 2000) including neighborhood socio-economic status. These contexts are important in the application of zero tolerance policies to low income and racial minority students. Out-of-school suspensions, expulsions, referrals to alternate education for disruptive youth (AEDY) and referrals to law enforcement are the most severe disciplinary measures a school can administer (American Academy of Pediatrics Council on School Health, 2013). These severe disciplinary measures have become commonplace in many schools, particularly lower socio-economic status schools (Togut, 2011). In the decades following the *Gun-Free Schools Act* (1994), school district policies have become zero tolerance policies, which are subjective in nature and are being applied to all sorts of minor misbehavior (Checchio, 2013; Harvard University Advancement Projects and Civil Rights Project, 2000; Reyes, 2011). To maintain discipline in public schools the Joint State Government Commission's (2016) recommendations one and four state schools:

should minimize the use of exclusionary discipline and law enforcement intervention...and move toward a system of evidence-or research-based alternative.... School districts should be given more guidance as to what constitutes a weapons violations [sic] and not as much latitude in defining weapons. (pp. 7-8)

As I discussed earlier, high violence communities do not have to engender high violence schools. The Joint State Government Commission's opinion can be distinguished from Astor et al. (2009), because Astor et al. believed high violence communities with high violence schools should not be reformed by "packaged school violence evidence-based programs" (p.1). They objected to the one-size-fits-all package. The Commission recommendation number one is in favor of

evidence-based programs. Too many studies though, assume schools in high violence communities experience high rates of violence, which could explain the higher rate of students being subjected to zero tolerance discipline in those schools. Another study empirically demonstrated the overrepresentation of African American youth in the juvenile justice systems around the nation compared to their population percentages. Their findings suggest “disproportionate patterns of school discipline and court referrals persists after controlling for poverty, urbanization, and other relevant factors” (Nicholson-Crotty, Birchmeier & Valentine, 2009, p. 1003). There are far too many studies that demonstrate racial bias in discipline. In one study, African American and Latino students received more out-of-school suspensions after controlling for over 80 individual and social variables (Fabelo et al., 2011; see also Pentek & Eisenberg, 2018) These studies raise the issue of racial bias which will be explored further in the next sections of this chapter.

## **2.1 The School-to-Prison Pipeline Explained**

Zero tolerance policies have been directed toward public school discipline and have created a pathway to prison known as the school-to-prison pipeline. The literature gives several descriptions by various organizations and scholars to analyze this school-to-prison pathway. The American Civil Liberties Union [ACLU] (2018) described it as:

a disturbing national trend wherein children are funneled out of public schools and into the juvenile and criminal justice systems. Many of these children have learning disabilities or histories of poverty, abuse, or neglect, and would benefit from additional educational and



counseling services. Instead, they are isolated, punished, and pushed out. (p.1)

The National Association for the Advancement of Colored People [NAACP] Legal Defense and Educational Fund, Inc. (n.d.) stated:

The punitive and overzealous tools and approaches of the modern criminal justice system have seeped into our schools, serving to remove children from mainstream educational environments and funnel them onto a one-way path toward prison. These various policies, collectively referred to as the School-to-Prison Pipeline, push children out of school and hasten their entry into the juvenile, and eventually the criminal justice system, where prison is the end of the road. Historical inequities, such as segregated education, concentrated poverty, and racial disparities in law enforcement, all feed the pipeline. The School-to-Prison Pipeline is one of the most urgent challenges in education today. (n.p.)

Other authors have described the pipeline as “the widely accepted process of disciplining a student, removing that student from the classroom as punishment, wondering at that student’s decreasing academic interest and skills, and watching that student flounder and eventually enter the judicial system” (Pane & Rocco, 2014, p. 3). Zero tolerance policies allow African American students in particular, to be immediately labeled as troublemakers and dangerous by school administrators following the first disciplinary incident. Students are then targeted “for teachers to refer to the office and for principals to suspend from school.... suspensions get students who disrupt classrooms out of the way” (p. 3).

The ACLU (2018) and Pane and Rocco (2014) definitions explain the school-to-prison pipeline very well. The NAACP Legal Defense and Education Fund, Inc. (n.d.) gives some of the reasons why certain students are more vulnerable to being in the school-to-prison pipeline than

others. Reading their articles in totality reflects a general consensus on the causes of the school-to-prison pipeline and its connection to zero tolerance policies.

Examining “which students are most likely to be suspended, expelled, or removed from the classroom for punishment, reveals that minorities (especially Blacks and Latinos)... are vastly overrepresented” (Noguera, 2003, p. 341). Noguera (2003) found that nationally schools more often punish students with the greatest economic, social, emotional and academics needs. Concerned educators and citizens have begun to realize that delinquent students experience extreme consequences when their misbehavior has taken them from the punishment of the school system into the penal system. Redemption for the student and recovery are almost impossible. The related literature for the school-to-pipeline phenomenon refers to a trajectory and what the ACLU (2018) and NAACP Legal Defense and Education Fund, Inc. described, all have come to be known as the school-to-prison pipeline. Students need a pathway for redemption and recovery.

Restorative justice programs in Pennsylvania provide transformative positive benefits in classroom discipline where redemption and recovery *are* possible. Research on school suspensions demonstrates that zero tolerance exclusionary discipline practices in Pennsylvania are not effective in reducing problematic behaviors. School-based restorative programs though, address problematic behavior (Gonzalez, 2012). Classroom discipline is rarely discussed and is the reason many teachers leave the profession. There is no public discourse on what happens when students and teachers interact and when teachers discipline students. Moreover, these interactions are often negative (Pane & Rocco, 2014). These disciplinary moments also lead to schools tracking lower income and racial minority students and funneling them into the school-to-prison pipeline. Tracking leads to disproportionate numbers of students from disadvantaged backgrounds being

incarcerated due to increasingly harsh school zero tolerance policies (School-to-prison pipeline, 2018).

## **2.2 The History and Evolution of the School-to-Prison Pipeline**

The school-to-prison pipeline began when youth homicide rates nearly tripled and violent youth arrests increased 70% from 1983 to 1993 (Reyes, 2011; United States Public Health Service Office of the Surgeon General, 2001). This resulted in Congress enacting the *Gun-Free Schools Act* in 1994 (20 U.S.C. Section 7961). Youth crime rates peaked between 1993 (United States Public Health Service Office of the Surgeon General, 2001) and 1994 and then dropped, but the media continued with stories as though it had not (Reyes, 2011). In fact, homicide by children dropped 56% and youth crime by 30%, but 63% of the public believed youth crime was on the increase (Ayers, Dohrn & Ayers, 2001; Dorfman & Schraldi, 2001; Heitzeg, 2014). Youth crime continued to drop through the 1990s. The United States Public Health Service Office of the Surgeon General (2001) tracked four types of serious violent behavior by youth: robbery, forcible rape, aggravated assault, and homicide. In 1999, there were 104,000 arrests of youth under the age of 18. Of those, only 1,400 were for homicide in that year. Yet, in previous years, from 1994-1998 at least 10 times as many youths reported they engaged in these violent behaviors. However, even as youth crime was continually decreasing, the media continually drove the perception that youth crime was out of control and African American youth were the ones to be feared. Yes, the media played an important role in shaping this perception, they would even zoom in on the faces of

African American youth on the television and not zoom in on the faces of majority youth (Dorfman & Schraldi, 2001; Reyes, 2011).

Earlier, as a reaction to the violence, Congress enacted *The Gun-Free Schools Act* of 1990, which was overturned as unconstitutional because it banned all guns on school property. I will not discuss the many changes Congress made which evolved into the passage of the *Gun-Free Schools Act* of 1994. Instead I will discuss what the *Gun-Free Schools Act* (1994) mandates. For example,

Each State receiving Federal funds.... shall have in effect a State law requiring local educational agencies to expel from school for a period of not less than 1 year a student who is determined to have brought...or...possessed a firearm at a school” (20 U.S.C. Section 7961 (b)(1)).

Pennsylvania enacted a statute to implement the federal statute at 24 P.S. Section 13-1317.2. This Pennsylvania statute is often referred to as Act 26. The *Gun-Free Schools Act* defines firearm with respect to students the same as it is defined in the United States Crime and Criminal Procedure Code for adults (18 U.S.C. Section 921(a)). Pennsylvania defines weapon at 24 P.S. Section 13-1317.2(g) (Education Law Center, 2009; Joint State Government Commission, 2016). Another provision of the *Gun-Free Schools Act* (1994) as adopted by the *Pennsylvania Public School Code* of 1949 provides that a local educational agency’s superintendent may make changes or modifications to the school expulsion requirement on a case-by-case basis if the modifications are in writing (24 P.S. Section 13-1317.2 (c); 20 U.S.C. 7961). However, “disciplinary sanctions such as in-school and out-of-school suspensions, expulsions, or referrals to law enforcement authorities are increasing and...contribute to what has been termed the ‘school-to-prison pipeline’ (Lhamon & Samuels 2014, p. 3). This type of discipline has negative educational and long-term consequences.

There exists a correlation between this type of harsh discipline and serious educational, social, and economic problems including: decreased academic achievement due to loss of instructional time, diminished educational engagement, increased likelihood of dropping out of school, increased behavioral problems and involvement with the juvenile justice system. Eventually, many students progress to involvement with the adult criminal justice system (Lhamon & Samuels 2014; Pennsylvania Bar Institute, 2015). Consequently, zero tolerance policies have resulted in a significant increase in school district expulsions and suspensions.

According to Togut (2011), out-of-school suspensions are more prevalent among students who receive free lunches. Low-income students receive more severe punishment and are subjected to more searches and suspensions. Evidence exists that disproportionality has occurred between racial groups when controlling for socio-economic status (Togut, 2011). One study found that twice as many suspensions were given to Black students as White students (Balfanz, Byrnes, & Fox, 2012). African American students make up 15% of the students in the Civil Rights Data Collection (2013-2014). At the same time, they constitute 36% of student expulsions, 35% of those suspended one time and 44% of students suspended more than once (Lhamon & Samuels, 2014; Pennsylvania Bar Institute, 2015). Together, African American and Hispanic students comprise over 50% of students referred to law enforcement and arrested in school. African American students are being disciplined “more harshly and more frequently because of their race than similarly situated white students. In short, racial discrimination in school discipline is a real problem” (Lhamon & Samuels, 2014, p. 3; Pennsylvania Bar Institute, 2015).

Another problem is the age of the children being incarcerated recently. The Children’s Defense Fund (2007) has begun calling the school-to-prison pipeline, the cradle-to-prison pipeline, because the age of incarceration is decreasing, and arrests of lower-age children are occurring. It

is common to arrest middle and high school students. Society has accepted that, for instance, a 12-year-old female was arrested, the police handcuffed her, paraded her through the halls of her junior high school and on to the local precinct police station. She remained handcuffed to a pole for over two hours while her mother tried to convince police to let her see her daughter. She was criminally charged and sentenced to eight hours of community service.

Her crime? Doodling with green erasable marker on her desk (Aull, 2012).

However, the cradle-to-prison pipeline is exemplified by, the arrest of a six year-old African American girl in Georgia. She was handcuffed, taken to jail, and charged with simple assault and property damage. After the police determined she was too young to be prosecuted, the school suspended her for the entire school year. Also, a five year-old African American girl in Florida was handcuffed and arrested. Ultimately, the local police decided not to press charges, but to use the video of her arrest as a positive example for training purposes. Their crimes? Both threw temper tantrums in school (Checchio, 2013). Attorney Tiffany Sizemore commented recently, that when they opened the Education Law Clinic at Duquesne University Law School here in Pittsburgh, she had thought her clients would be older students, but she stated it is “tremendously heartbreaking” that most are elementary school students (Niederberger, 2016, p.1).

The third recommendation of the Joint State Government Commission (2016) report is to not suspend a student under 10 years of age. Recently, the Pittsburgh Public School District’s (PPSD) school board approved a policy revision banning the use of exclusionary discipline for student’s kindergarten to second grade, for nonviolent minor disciplinary infractions. This policy was effective September 1, 2018 (Pittsburgh Public School District, 2017). This is important, because, for the 2014-2015 school year, 1,500 kindergarten to 5th grade students were suspended

in the PPSD (Niederberger, 2016). If this policy had been in place during that period, it would have led to a substantial reduction from the 1,500 suspensions.

The examples I used above were of Black girls, with respect to Black girls in the Pittsburgh Public School District (PPSD), a University of Pittsburgh study found “There is evidence that differential treatment of Black girls in schools is often a result of implicit biases.... Black girls in the Pittsburgh Public Schools are more than three times as likely as White girls to be suspended from school” (Goodkind, 2016, p. 3). PPSD suspended nine in 33 Black students overall while one in 33 White students were suspended. A further analysis revealed that, of those suspensions, 76% were Black students, while the PPSD Black student population was only 53%. The study concluded there are disproportionate patterns of school discipline (Niederberger, 2016). These statistics are in line with a similar pattern found statewide by the Joint State Government Commission (2016), which concluded that disparities exist in the experiences of racial minorities compared to the general student population with respect to discipline in Pennsylvania schools.

“Clearly, the grotesque over-representation of youth of color caught up in school discipline policies...illustrates that educators and educational institutions are not exempt from a kind of ‘racial profiling’ endemic to our police systems” (Meiners, 2007, p. 41; Raible & Irizarry, 2010, p.1199). There is a correlation between the over-representation and classroom exclusion. It has contributed to educational failure and participation in the penal system. Further, “labeling theory suggests that schools that discipline black youth disproportionately can create a self-fulfilling prophecy where those youth become delinquent at higher rates than their white counterparts” (Nicholson-Crotty et al., 2009, p.1008). These policies are discussed in the next section.

## **2.3 Zero Tolerance Policies**

### **2.3.1 Zero Tolerance Explained**

The *Gun-Free Schools Act* (1994) requires states to have policies written to enable implementation of the Act. Schools were reluctant to adopt policies at first, but the federal government linked compliance to federal funding for school districts. States in turn linked school district creating and adopting these policies to state education funding. The state and federal government did not anticipate the broad and expansive policies some school districts would adopt and the abhorrent administration of zero tolerance policies (Triplett et al., 2014; 20 U.S.C. Section 7961 (b)(1)). Few could disagree with schools having zero tolerance to misbehavior, but the zero tolerance policies schools adopted have “very little to do with zero tolerance, and everything to do with one-size-fits-all mandatory punishment” (Schwartz & Riser, 2001, p. 128).

Zero tolerance began as an adult criminal concept. It emerged under the three strikes era of adult sentencing and subsequently was adopted by the juvenile system. The concept is being used with students as though they reason and behave as adults. It treats minor fights, heated threats, and low risk to school safety incidents as adult crime. Zero tolerance policies allow schools to criminalize what once were school yard pranks (Checchio, 2013; Harvard University Advancement Projects and Civil Rights Project 2000; Reyes, 2011). “Zero-tolerance policies in communities and schools amounts to the criminalization of youth” (Giroux, 2003, p. 553) necessitating zero tolerance policy reform.

Many school teachers and school administrators demonstrate preconceived ideas about racial minorities. “Interviews with teachers and administrators reveal that they see no alternative



to their implementation of zero tolerance policies, because they believe that violent behaviors manifested by racial minority students are grounded in cultural norms beyond the control of public education” (Berlowitz et al., 2017, p.1). These studies demonstrate that low income students and racial minorities suffer the most from the administration of zero tolerance policies. Dunbar and Villarruel (2002) sought to understand the impact of school principal’s implementation and interpretation of the state of Michigan’s zero tolerance policy on racial minorities. They found that even though there was a notion the state policy was designed to guide compliance, each principal interviewed in the study revealed varied perceptions of the zero tolerance policy. Almost every principal had a different interpretation of the policy, which resulted in disparate implementation and dire consequences for racial minorities. The intended objective of the policy was to ensure the safety of the students; however, the policies inequitable implementation raised serious concerns.

In addition, zero tolerance policies have caused school dropout and were fueled by school shooting statistics. “Analysis reveals that through the mechanism of zero tolerance, a nation of urban minority students have been and continue to be punished for the actions of predominantly White, suburban/rural gunmen” (Triplett et al., 2014, p. 352). Punishment in this context means urban schools have been subjected to extensive safety measures so much so that these safety measures are being compared to a military facility, and the adoption of the safety measures by school boards has been called militarization. Recently, due to the media’s attention to suburban and rural community gun violence, the Pittsburgh Public School District (PPSD) police requested the school board adopt a resolution that allowed their police to be armed (Freeland & Schiller, 2018). It is well known that the Pittsburgh Public Schools have metal detectors, assigned police, and many have probation officers in many of their high schools in high crime neighborhoods. The implication is that the schools in the lower crime neighborhoods that have no metal detectors or

assigned police will not be receiving police officers to arm. However, for schools currently assigned police in the high external neighborhood crime areas, those police will be more militarized by being supplied weapons. The armed school police measure was defeated.

### **2.3.2 Militarization**

The literature reports very little on the militarization of our nation's schools. Militarization is an outgrowth of enforcing punitive zero tolerance policies. Schools look "more like prisons than institutions of education....police and drug-sniffer dogs [have] now become a common fixture in public schools" (Giroux, 2003, pp.553-554). Mass suburban/rural school shootings in schools have made school security, metal detectors, police, surveillance cameras and dogs all common place. Security measures are being implemented without knowledge of evidence-based responses.

The literature is insufficient to determine if metal detectors curb school violence. In the 2009-2010 school year, 12% of public high schools in the United States used metal detectors, 60% conducted random searches with drug-sniffing dogs, and 84% used surveillance cameras (Kupchik & Ward, 2014; United States Department of Education National Center for Education Statistics, 2009-2010). Schools are now beginning to be impacted by the consequences of dealing with the liability of untrained school resource officers' (SROs) and costly security measures. Evaluation of these measures reveal they often have no effect on crime and can actually increase anxiety and fear in a school (Hankin, Hertz, & Simon, 2011; Jonson, 2017). "Inappropriate penal theories that support zero tolerance are nurtured in schools that look increasingly like correctional institutions" (Schwartz & Riser, 2001, p.131).

The available literature on school militarization focuses on SROs. School security guards and police officers are both known as SROs. The first SROs were in Michigan schools in 1958 (Pentek & Eisenberg, 2018). They were there to oversee school desegregation. Through the years, little social scientific research has been conducted on SROs to examine their impact on school outcomes such as discipline and safety. The limited existing research on SROs has been mixed. At times it was found that the presence of law enforcement precipitates dramatic increases in all types of infractions and at times they were found to decrease arrests (Crawford & Burns, 2015; Na & Gottfredson, 2013; Pentek & Eisenberg, 2018; Theriot, 2009).

In the past few years the media has exposed many incidents in which SROs have used excessive force. The *Washington Post* ran a story with an online video from school cameras concerning my own western Pennsylvania school district, the Woodland Hills School District. The story includes a video of an officer putting his finger in the face of an autistic African American student.

The video showed the officer pull the boy by his collar and put him in a chokehold, forcing him down a hallway headed away from the camera. The officer then slammed him to the ground. Another man identified as the Woodland Hills High School Principal...quickly intervened— holding the teen's head down as the resource officer appeared to use a taser on him. (Bever, 2017)

The Woodland Hills SRO was hired by the municipality in which the high school is located. I was an elected municipal council person when this SRO was hired. The SRO was placed in the school because the school requested a police officer and agreed to pay part of the SRO's wages. SROs are found in greater numbers in schools with large numbers of students of color (Pentek & Eisenberg, 2018). Wolf (2014) conducted research to study SRO's decision-making, particularly

when making arrests, and found that SROs exercise a great deal of discretion in arrests. SROs told researchers that circumstances, not an arrestable offense might still lead to an arrest, and all but two of the SROs in the study said they had arrested students for minor offenses when they believed there were extenuating circumstances. They also remarked that school context influenced their decisions in critical ways (Wolf, 2014). It is unknown whether more training in this study would have produced a more favorable attitude toward students. Although recognizing the serious nature of having untrained street cops policing the halls of Pennsylvania schools enforcing zero tolerance policies the Joint State Government Commission (2016) in its report on Discipline Policies in Pennsylvania's public schools has proposed in recommendation number six that school resource officers and police officers in educational settings be trained in de-escalation techniques, cultural competency, implicit bias, restorative practices, child development, child psychology, communications, behavior and other topics to assist officers to work effectively.

Restorative practices mentioned in the first as well as the sixth recommendation of the Joint State Government Commission (2016) can transform a school culture into a culture of safety. A recent blog in *Education Week* extols the value of restorative practices. The article is about how restorative justice is creating school cultures where everyone feels safe. The blog stated, "Restorative justice provides students the chance to be productive, instead of violent, repairing harm by engaging everyone involved. And that benefits everyone" (Lyke & Byrd, 2018).

We have no idea what effects attending schools with so much of the militaristic attributes just mentioned are having on students. Kupchik and Ward (2014) stated,

Social scientists commonly voice concern that exclusionary security measures are most common in schools attended by poor and non-White students, yet there is little empirical basis for assessing the extent of differential exposure, as we lack research on how

exclusionary measures are distributed relative to school and student characteristics.

(p. 332)

Throughout our history we have had school disciplinary problems and school violence. What is new is the number of studies on school violence, yet those studies demonstrate little on safety measures to curb school violence. A 2009 literature search revealed 15,000 articles on school violence compared to 84 articles in the 1990s (Cornell & Mayer, 2010). Prior to zero tolerance policies, schools had been well-equipped to handle disciplinary matters without zero tolerance policies or school resource officers. For example, the Supreme Court decision in *Goss v. Lopez* in 1975 required schools to act fairly when disciplining students. Beginning in 1975, school boards had to hold an expulsion hearing to expel a student. See Appendix A. After the *Goss* decision, “suspensions were common, but expulsions were rarer” until the mid-1990s (Schwartz & Riser, 2001, p. 126) when zero tolerance began to be applied.

In fact, school shooting and school violence did not begin in the last few decades. One of the worst mass school murders in U.S. history occurred in 1927 when a school board member, not a student, killed 45 in a school. In 1966 a university student killed 16 people and wounded 31 others. However, memories fade and when the next tragic school event occurs, the media plays it up and it generates renewed interest (Cornell & Mayer, 2010) and more militarization in predominantly urban school districts occurs.

Studies demonstrate that zero tolerance policies do not produce safer schools (Triplett et al., 2014). Using the United States Department of Education National Center for Education Statistics database (2007-2008) Na and Gottfredson (2013) found 21.1% of all schools reported having at least one full-time police officer at least once per week. At the same time, there was no evidence that police officers contributed to school safety by decreasing crime with their presence.

Further, metal detectors and drug sniffing dogs were more common in schools serving low-income and youth of color. Young children living in poverty are marked as threats earlier and research suggest that teachers and school administrators rely on racist and classist stereotypes of threat when disciplining students (Kupchik & Ward, 2014). Militarization of our nation's schools is increasing, not decreasing:

Schools increasingly resemble prisons, and students begin to look more like criminal suspects who need to be searched, tested and observed under the watchful eye of administrators who appear to be less concerned with educating them than with policing their every move....Young people are quickly realizing that schools have more in common with military boot camps and prisons.... discipline and training replace education for all but the privileged....As schools become militarized, they lose their ability to provide students with the skills to cope with human differences, uncertainty. (Giroux, 2003, pp. 554, 562-563)

Kupchik and Ward (2014) utilized the United States School Survey on Crime and Safety to access security measures for their study. They found metal detectors and drug sniffing dogs did not increase safety capacity. Giroux (2003) believed images of young children handcuffed, sitting in adult courts before stern judges are,

increasingly matched by depictions of schools marked by the foreboding presence of hired armed guards in the corridors, patrolled cafeterias, locked doors, video surveillance cameras, electronic badges, police dogs, and routine drug searches. As compassion and understanding give way to rigidity and intolerance, schools become more militarized and appear as adjuncts, if not conduits to the penal system. (p. 561)

A recent commentary in *Education Week* stated, “What keeps schools safe is not teachers carrying guns or young people being placed in seclusion, but instead learning environments characterized by patience, understanding, and empathy” (Gonzalez, Etow, De La Vega, & Cribb-Fabersunne, 2018). The following section gives examples of what Giroux depicted. The next section also demonstrates how zero tolerance policies and militarization are affecting referrals to alternative education for disruptive youth (AEDY). AEDY must be carefully monitored by school districts to ensure the experience for their students is positive and not contributing to the school-to-prison pipeline.

### **2.3.3 Alternative Education for Disruptive Youth**

Research has demonstrated that zero tolerance policies have influenced out-of-school suspensions and expulsions. This section discusses zero tolerance policies’ effect on how some school districts may be handling referrals to alternative education for disruptive youth (AEDY). For instance, modification to the school expulsion requirements for a weapons violation can occur but only on a case-by-case basis and if the modifications are in writing (24 P.S. Section 13-1317.2 (c), 20 U.S.C. 7961). AEDY has been used in these modifications as an alternative to the one-year expulsion requirement.

There are many AEDY organizations that have had positive outcomes and produced productive citizens. Carswell, Hanlon, O’Grady, Watts, and Pothong (2009) provided a discussion of how to *implement* a successful alternative education program. Their alternative education discussion was intended to add to the limited but growing body of literature on alternative programs. Alternative education programs emerged in the 1960s out of a desire to meet the needs

of suburban students and also to meet the needs of poor and minority students who were underserved in the traditional public school.

Typically, students who attend these programs have been exposed to negative social and environmental risk factors. These students have a history of conduct or adjustment problems at school. Further, Carswell et al. (2009) believed operating one of these programs, although needed, is a daunting task. There are different types of alternative education programs. Their program was designed to prevent the escalation and initiation of substance abuse and violence in African American youth. Their program demonstrated the need for including the family in rehabilitation and the need to include school administration for system support. Guerin and Denti (1999) outlined what are needed to create and *operate* a successful alternative education program. They maintain that successful programs ensure teacher competency, include curricular and behavioral elements, instructional strategies and can influence student attitudes, behavior, and interpersonal skills.

The literature on alternative education for disruptive youth (AEDY), though, provides some troubling examples of how AEDY may be contributing to the school-to-prison pipeline trajectory. African American and Latino students describe a journey through school that is “increasingly punitive and isolating taught by unqualified teachers, tested on material they never reviewed, held back in grade...repeatedly suspended, and banished to alternative out-placements” (Nicholson-Crotty et al., 2009; Wald & Losen, 2003, p. 11). Students are being criminally charged for childish pranks, zero tolerance policies have created a school discipline process in which police may be involved at the slightest misbehavior and students are excluded from the classroom, many times to AEDY. Teachers routinely do not provide assignments to students not in the classroom, students fall behind and are held back in grade. This creates student hostility, alienation from the educational process, and students dropping out of school. Many states offer AEDY programs that



amount to no more than holding pens for what schools consider troublemakers (Harvard University Advancement Projects and Civil Rights Project, 2000).

Most alternative programs in Pennsylvania have been described as disruptive student programs or private alternative AEDY institutions (Education Law Center, 2009). An example of how some AEDY programs are not a good disciplinary alternative comes from a study in Mississippi:

Students at a Mississippi alternative school meet their bus in front of the local police department, where they are disciplined by police officers.... One student at this school is in a class with much older students in higher grade levels; some of these older students bully her daily.... she does not receive instruction from her teachers. Teachers merely act as monitors. (Harvard University Advancement Projects and Civil Rights Project, 2000, pp. 25-26)

That student reported she liked the alternative school day though, as it ends much earlier than the regular school day. Still in a second alternative school studied by Harvard University Advancement Projects and Civil Rights Project (2000), the instructors did no teaching just showed videos all day.

Simmons (2009) discussed an alternative school established in New Orleans by the local sheriff. The sheriff's school consisted of fifteen (15) African American males who were removed from the mainstream school for minor misbehaviors such as truancy and not doing homework. They were housed in an empty prison building, which was formerly used as a segregated school dating back to the Jim Crow era. Some of the youth were optimistic about their educational futures and believed they would be able to concentrate on studies and acknowledged their lack of hard work in the mainstream school. Since parents and the community were barred from access to the

school, supposedly for their safety, Simmons listened to the sheriff on a local radio program who boasted that education is the only way these students will succeed. One trusting mother who had gotten her education in prison wrote a letter to support the alternative school for her son. In reality, the teachers in the school were not experienced or credentialed. There were no textbooks or established curricula and instructed incorrectly. The instruction did not meet traditional standards, or even have a path to graduation and/or a high school diploma. The students were under constant surveillance by guards carrying guns, wearing boots, and carrying handcuffs. The hall monitor/guards were very militaristic according to Simmons. The bathrooms had no stalls, and the guards monitored/surveilled the bathrooms constantly. Misbehavior meant being placed in a prison-type dark room for solitary confinement or being physically struck by an armed guard. Simmons gathered her information through interviews, she,

examines the punitive culture of public education and points to its role in extending mass minority incarceration....documenting how racial minorities, and African American males in particular, are criminalized by school disciplinary policies and shows how these policies foreshorten educational careers and increase risk for incarceration. (Simmons, 2009, p. 215)

Simmons study in Louisiana is an example of why the Pennsylvania Joint State Government Commission (2016) has proposed legislative standards on AEDY and in its recommendation 10 maintains that transferring students to AEDY be used sparingly, particularly because of the catch-all word “disruptive.” There are other specific behaviors that qualify students for AEDY, but in general the term, disruptive, allows for vague and subjective interpretation. The Joint State Government Commission (2016) further reasons that the term, disruptive, should be defined and limited. Also, any language that “relates to disregard for school authority, including persistent

violation of school policy should be removed” from school disciplinary policy (Joint State Government Commission, 2016, p. 9). What the Joint State Government Commission proposed, if enacted by the Pennsylvania legislature, should help prevent from happening what Simmons (2009) found in New Orleans.

The literature review explains the school-to-prison pipeline and the disproportionate amount of African American students in the pipeline. Educators tend to solely blame the school-to-prison pipeline on student behavior and poor parenting. Those are factors, but more and more studies are finding implicit racial bias in schools is a factor that contributes to the school-to-prison pipeline. Schools have adopted zero tolerance policies that have enabled schools to push out students who do not fit what the administrators or teachers in the school perceive as normal. Those pushed out tend to be low income or African American. “Resisting zero tolerance is today’s fundamental civil rights issue” (Ayers et al., 2001, p. 87).

The literature demonstrated a pattern in which schools could push out students using out-of-school suspension, expulsions and referrals to AEDY. The latter two AEDY examples given may be extreme situations, but they point to one more area in which school districts must be vigilant. School districts referring students to AEDY should monitor the facilities, teachers, curricula, speak periodically to their students and conduct periodic inspections of the facility. AEDY is yet another part of the school-to-prison pipeline.

### **3.0 Research Data Collection**

The research methodology utilized in this study is reported in the following sections: (1) research design, (2) data collection procedures, (3) weapon data collection by school district, and (4) limitations and assumptions of the study.

#### **3.1 Research Questions**

The following research questions guided this study:

1. How have zero tolerance policies related to the school-to-prison pipeline influenced out-of-school suspensions, expulsions, alternative education for disruptive youth, and arrests?
2. How do 12 school districts in Allegheny County define “weapon” and ensure their students have been given their U.S. Constitutional right to notice of the definition?
3. What consequences are revealed from the analyses of the 12 school districts’ weapons policies, memoranda of understanding, and Safe Schools Historical Comparison Report Data?

#### **3.2 Research Design**

This dissertation methodology is a qualitative, interpretive, historical study that analyzed and interpreted historical documents using a socio-ecological method, which meant studying the internal school and administration as well as the external school and community. It has a

conceptual framework divided into two parts. Part one studied the external history and evolution of how punitive zero tolerance weapon policies have been administered, thus developing the phenomenon known as the school-to-prison pipeline. These policies were created by the federal *Gun-Free Schools Act* of 1994 and implemented in Pennsylvania by amending the *Pennsylvania Public School Code* of 1949 to create Pennsylvania's statute. The *Gun-Free Schools Act* (1994) mandated a one-year expulsion for school weapons possession (Reyes, 2006, 2011). The *Gun-Free School Act* (1994) was tied to federal funding through the United States *Elementary and Secondary Education Act* (ESEA) (Reyes, 2011; see also Reyes 2006). According to the Education Law Center (2009), the *Gun-Free Schools Act* was repealed and re-enacted in the *No Child Left Behind Act* on January 8, 2002. The *Gun-Free Schools Act* was then reauthorized under United States Department of Education *Every Student Succeeds Act* (ESSA) on December 10, 2015 (National Education Association, 2015). Part two studied the internal school and analyzed (1) 12 Allegheny County school districts' weapon policies to see if they followed the federal and Pennsylvania weapons statute or followed a national trend of expanding the weapons policy beyond their federal and state statutes by using zero tolerance weapon policies, (2) 12 Allegheny County school districts to see if they followed the Pennsylvania Model Memorandum of understanding or created their own, and (3) 12 Allegheny County and 12 Dauphin County high schools' Safe Schools Historical Comparison Report Data incidents involving law enforcement, arrests, out-of-school suspensions, expulsions, referrals to alternative education for disruptive youth (AEDY), and memoranda of understanding to determine variations based on race and socio-economic status.

In chapter 1 and chapter 2, the school-to-prison pipeline phenomenon has been defined and its history explained. In this chapter, detailed information about how the study was designed and conducted is provided. One method would not give the robust analyses needed; therefore, this

dissertation has a combination of qualitative, socio-ecological, and interpretive inquiry. “Qualitative research is a form of inquiry in which researchers make an interpretation of what they see, hear, and understand. The researcher’s interpretations cannot be separated from their own background, history, context, and prior understandings” (Creswell, 2007, p. 39; Lee & Adler, 2006). My “background, history, context, and prior understandings” have contributed in my interpretation of the school-to-pipeline phenomenon. As an attorney, I have witnessed adjudications of students who have received felony convictions for minor misbehavior in school. Now as an educator, I have witnessed other educators who have exhibited bias directed toward African American students. An African American principal related to me of how one school system ended a cultural awareness program because the African American and White teachers were arguing and exhibiting such terrible behavior toward each other. If teachers cannot discuss issues of culture among themselves, it is difficult to imagine how they can relate to the students. What I have witnessed in the judicial and educational systems has given me a unique insight into the totality of the school-to-prison pipeline and its impact on mass minority incarceration.

Students learn behavior through observing others and getting guidance from parents, teachers and members of the community. Teacher student guidance is important and cultural competence is needed as it recognizes individuals begin with lived experiences and bias. Cultural competence also recognizes that accepting others’ worldviews is hard and is a developmental process (Diller & Moule, 2005; Reyes, 2011). “Racial stereotyping may occur because of cultural differences of teachers.... cultural differences of teachers support varied perceptions of racial disparities in discipline” (Togut, 2011, p. 177). Raible and Irizarry (2010) do not call for minority teachers for minority youth (p. 1200); they believe all teachers need education about ethnic minorities. My background, history, and understanding cause me to agree with Raible and Irizarry.

More cultural awareness training is needed, and we must continue to educate all teachers about racial minorities.

In addition, this study draws on socio-ecological inquiry. To begin this study, a socio-ecological model was developed. Socio-ecological models allow a researcher to study both the internal *and* external influences on school weapon policies (Capp et al., 2017). This entailed understanding the external, physical location of a ‘school’ with roots in the community from which students bring weapons into the internal school system, and the term ‘school’ and its internal system that causes or exacerbates weapon issues by their determination of what objects are defined as weapons (Capp et al., 2017; Furlong & Morrison, 2000).

Finally, qualitative research requires documentation of the research procedure and robust data collection. This study relied heavily on documents to comprise the main data source, which is appropriate for some qualitative studies: “Documents may be the only necessary data source for studies designed within an interpretive paradigm” (Bowen, 2009, p. 29). The documents collected in this study were drawn from three primary sources. First, the school districts websites and their right to know officers provided the weapon policies and memoranda of understanding documents for analysis. Secondly, legal acts and statutes were gathered to compare to the school district weapon policies data because this is a weapon policy study. The author, First (2006), defines what makes a study a policy study: “It is research ‘specifically directed at providing policymakers with the options and information they need to solve the problems we face today’” (First, 2006, p.132; quoting Majchrzak, 1984, p. 11). Finally, the Pennsylvania Department of Education’s databases gave the economic disadvantage of the select school districts’ high schools and disciplinary matters involving weapons. The School Performance Profile gave high school data that were used to determine socio-economic status. High schools with 0% to 20% economically disadvantaged

student populations were designated affluent; high schools with 20% to 65% student populations economically disadvantaged were designated working class. No lower income schools were studied in Allegheny County. In addition, the Safe Schools Historical Comparison Report Data (2016-2017) provided a spreadsheet that listed the incidents involving law enforcement, arrests, referrals to alternate education for disruptive youth (AEDY), weapon out-of-school suspensions, weapon expulsions, and the amount and type of weapons found in the high school.

The analysis of school documents on websites and legal documents follows Bowen's (2009) theory that:

documents contain text (words) and images that have been recorded without a [this] researcher's intervention....Whereas document analysis has served mostly as a complement to other research methods, it has also been used as a stand-alone method. Indeed, there are some specialized forms of qualitative research that rely solely on the analysis of documents....understandably, documents may be the only necessary data source for studies designed with an interpretative paradigm....as in historical... research. (pp. 27-28)

This study also required a specific type of document analysis, that of legal research, to inform the study, which meant that I was searching for past historical documentation. Legal research relies on precedent set by decisions made through caselaw and is rooted in the historical nature of law. The current study required me to locate past authority and cases that govern the disposition of my research questions. An important point that educators need to understand is just as researchers study emerging questions, attorneys challenge adverse rulings by looking to see how the issue was dealt with in past authoritative decisions (Russo, 2006). In legal research, "Primary sources are those publications-in print or online that contain the actual text of law, such



as statutes, code sections, agency regulations, court decisions, or decisions of administrative law judges” (Lomio & Spang-Hanssen, 2008, p. 15). Primary and secondary data were collected through online search engines, the University of Pittsburgh library system, including *Lexis Nexis* and *Nexis Uni*. All legal cases were Shepardized, meaning no case has been overturned in a court in the United States. School districts’ websites provided access to their weapon definitions and policy documents along with access to their memorandum of understanding through Right-to-Know (RTK) requests (22 Pa. Code Section 10.11). RTK requests were obtained pursuant to the *Pennsylvania Sunshine Act*, also known as the Open Records Law (65 Pa. C.S. Sections 701-716).

### **3.3 Limitations and Assumptions**

This study was limited to 12 Allegheny County, (Western) Pennsylvania school districts. This study was approved by the University of Pittsburgh Institutional Review Board (IRB). See Appendix B for the approval notice. A limitation of this study is that the Pennsylvania Safe Schools Historical Comparison Report Data (2016-2017) listed in Tables 7 through 11 and 13 include all school law enforcement infractions, not just weapons infractions. Another limitation is that the Pennsylvania Department of Education accepts the economic disadvantage determination from each school district based on what the school district sends to them as their determination of economic disadvantage. Each school district makes its own determination of economic disadvantage using its own standards. Due to lack of standardization, economic disadvantage will vary for an individual student depending on which school district’s definition is used. I assume the schools’ calculations of economic disadvantage are similar. I also assumed the Dauphin County

school districts' weapon study conducted by the Joint State Government Commission (2016) was accurate.

## **4.0 Results**

As stated in chapter one, the purpose of this qualitative interpretive inquiry was to determine if weapon policy definitions and memorandum of understanding (MOU) implementation varies by socio-economic status and race. All the school districts in this study are in Allegheny County, Pennsylvania. Twelve of the 43 county school districts' (Allegheny Intermediate Unit, 2018) weapon policy definitions are given. The scope of the research was bounded to manage the number of variables studied. Economic disadvantage of the high schools in these districts was used to designate them as affluent or working class, which resulted in six affluent high schools and six working class high schools. To maintain homogeneity, only high schools in these 12 districts with grades nine to 12 and with enrollments between 1000 to 1800 students were studied. The data collection centered on historic documents such as the school district policies listed on their websites, the Pennsylvania Department of Education School Performance Profile (2017), and the Safe Schools Historical Comparison Report Data as detailed in the prior chapter. Weapon policy definitions are presented in this chapter, in the following sections.

### **4.1 Weapon Data Collection by School District**

Weapons data collection consisted of gathering the United States Firearms Statute definition (18 United States Code Section 921(a)(3)), the Pennsylvania Weapons Statute definition

(24 P.S. Section 13-1317.2(g)) and comparing those to the 12 select school districts' weapon policies, which contained their definitions of the term, weapon.

#### **4.1.1 Federal Firearm Definition**

Pennsylvania has adopted the federal firearm weapon definition; the federal term is defined here. I urge school boards and school administrators to read this carefully, particularly the section that describes what is not a weapon and what is a destructive device.

*The term “firearm” means (A) any weapon (including a starter gun) which will or is designed to or may readily be converted to expel a projectile by the action of an explosive; (B) the frame or receiver of any such weapon; (C) any firearm muffler or firearm silencer; or (D) any destructive device. Such term does not include an antique firearm.*

*The term “destructive device” means—*

*(A) any explosive, incendiary, or poison gas—(i) bomb, (ii) grenade, (iii) rocket having a propellant charge of more than four ounces, (iv) missile having an explosive or incendiary charge of more than one-quarter ounce, (v) mine, or (vi) device similar to any of the devices described in the preceding clauses;*

*(B) any type of weapon (other than a shotgun or a shotgun shell which the Attorney General finds is generally recognized as particularly suitable for sporting purposes) by whatever name known which will, or which may be readily converted to, expel a projectile by the action of an explosive or other propellant, and which has any barrel with a bore of more than one-half inch in diameter; and*

*(C) any combination of parts either designed or intended for use in converting any device into any destructive device described in subparagraph (A) or (B) and from which a destructive device may be readily assembled.*

*The term “destructive device” shall not include any device which is neither designed nor redesigned for use as a weapon; any device, although originally designed for use as a weapon, which is redesigned for use as a signaling, pyrotechnic, line throwing, safety, or similar device; surplus ordnance sold, loaned, or given by the Secretary of the Army pursuant to the provisions of section 4684(2), 4685, or 4686 of title 10; or any other device which the Attorney General finds is not likely to be used as a weapon, is an antique, or is a rifle which the owner intends to use solely for sporting, recreational or cultural purposes (18 United States Code Section 921(a)(3-4)), and as referenced in the Gun-Free Schools Act of 1994 (20 U.S.C. Section 7961(b)(3)).*

The Allegheny County school districts in this study have adopted the Pennsylvania definition, which includes the United States firearms definition and added broader weapon language. This dissertation has conducted an in-depth comparison of the Allegheny County school districts weapon definitions to the Pennsylvania definition. I have listed these Pennsylvania and Allegheny County school district comparisons in Tables 1 and 2. What is clear here is that the federal definition, which has been adopted by Pennsylvania states “*destructive device*” *shall not include any device which is neither designed nor redesigned for use as a weapon.*” The federal and Pennsylvania government clearly intended to exclude toy replicas and look-alikes as weapons sold to parents to be used with Halloween costumes. This will be discussed in more depth throughout this dissertation.

#### **4.1.2 Pennsylvania Weapon Definition**

Pennsylvania has adopted the federal weapons definition, defined as including but not limited to: *any knife, cutting instrument, cutting tool, nunchaku, firearm, shotgun, rifle and any other tool, instrument or implement capable of inflicting serious bodily injury* (24 P.S. Section 13-1317.2 (g)). This definition sets the minimum standards for the definition for Pennsylvania school districts. By law, school districts may provide broader definitions, and, as this study demonstrates, many do (Joint State Government Commission, 2016). The Joint State Government Commission (2016) has proposed amendments to the Public School Code of 1949 to preclude school districts' ability to do so.

The 12 select high schools are arranged in Table 1 (Affluent) and Table 2 (Working Class) and in chapter 5, Table 3, by socio-economic status. The first six are affluent and the second six are the working class schools. The italicized portion of the school policy in the following sections of this chapter is what was taken from the Pennsylvania Weapon Statute at 24 P.S. Section 13-1317.2(g).

#### **4.1.3 Affluent Schools Weapon Definitions**

Affluent high schools were determined by designating high schools with a student sample population between zero percent and 20 percent economically disadvantaged. The school district definitions that have Pennsylvania definition portions have been arranged so the Pennsylvania portion is toward the beginning of the definition in italics. Text appearing in the school district definitions that is not italicized has been added by the school districts to supplement the state's

definition or to specifically include parts of the federal definition. Finally, it was important, as you will read later in this chapter, to highlight instances of the terms: replica, look alike, operational, and sharpened wood in the districts' definitions, so I have signified those instances by underlining the terms when they occur. The affluent school districts in this study were Bethel Park, Fox Chapel, Hampton, Mt. Lebanon, Pine-Richland, and Upper St. Clair. The following sections provide the definition of weapon for each of these school districts.

#### **4.1.3.1 Bethel Park School District (2018)**

The Bethel Park School District offers the following definition of weapon: Weapon – the term *shall include but not be limited to any knife, cutting instrument, cutting tool, firearm, shotgun, rifle; impact tool or weapon; explosive devices; noxious chemicals; any tool, instrument or implement* or a replica or facsimiles of these *capable of inflicting serious bodily injury* or disruption to the educational setting. (See <http://www.bpsd.org>.)

#### **4.1.3.2 Fox Chapel School District (2018)**

The Fox Chapel School District offers the following definition of weapon: Weapon – the term *shall include but not be limited to, any knife, cutting instrument, cutting tool, nunchaku stick, firearm, shotgun, rifle, replica of a weapon, brass or metal knuckles, chemical agent such as mace, explosive devices including but not limited to pipe bombs, and/or any other tool, instrument or implement capable of inflicting serious bodily injury.*

Fox Chapel also has a definition of firearm: Firearm - includes actual firearms of any type, pellet guns, BB [*sic*] guns, and look-alike firearms, whether capable of operation and whether loaded or unloaded. (See <http://www.fcasd.edu/fcahs>.)

#### **4.1.3.3 Hampton School District (2018)**

The Hampton School District offers the following definition of weapon: Weapon – The term *shall include, but not be limited to, any knife, cutting instrument, cutting tool, nunchaku, firearm, shotgun, rifle, stick razor, machete, bomb, firearm, bb [sic] gun, pellet gun, pistol, metal knuckles, loaded cane, sword cane, pepper spray, and/or any other tool, instrument or implement capable of inflicting serious bodily injury.* The term weapon also shall include objects which have the appearance or characteristics of weapons as defined above, or objects which are intended and capable of producing bodily injury. Weapons also shall include look-alike or replica weapons which are not necessarily operable. (See <http://www.ht-sd.org>.)

#### **4.1.3.4 Mt. Lebanon School District (2018)**

The Mt. Lebanon School District offers the following definition of weapon: Weapon – *shall include, but not be limited to, any knife or other cutting instrument or cutting tool, nun-chuck stick or other martial arts devise, razor, razor blade, sharpened wood, sharpened metal, brass or metal knuckles, club, metal pipe, blackjack, chemical agent such as mace, tazer [taser], shocker or stun gun, any explosive or incendiary device, firearm (including pellet guns and B.B. [sic] guns), gun, slingshot, bow, arrow or any other similar device from which a projectile may be discharged, including a firearm or other weapon which is not loaded, or which lacks a component or device necessary to render it immediately operable, and/or any other tool, instrument or implement capable of inflicting serious bodily injury.* Weapon shall also include weapon look alike, including any instrument or implement designed to look like a weapon. (See <http://www.mtlsd.org>.)



#### **4.1.3.5 Pine-Richland School District (2018)**

The Pine-Richland School District offers the following definition of weapon: Weapon – the term *shall include but not be limited to any knife, cutting instrument, cutting tool, nunchaku, firearm, shotgun, rifle, replica of a weapon, and/or any other tool, instrument or implement capable of inflicting serious bodily injury.* (See <http://www.pinerichland.org>.)

#### **4.1.3.6 Upper St. Clair School District (2018)**

The Upper St. Clair School District has a Weapon Policy and a separate Weapon and Safe Schools Policy. I have listed definitions from both policies.

The Upper St. Clair School District offers the following definition of weapon: Weapon (from weapon policy) - *shall include but not be limited to any knife, cutting instrument, cutting tool, nunchuck stick, firearm, shotgun, rifle and any other tool, instrument or implement capable of inflicting serious bodily injury.* (See <http://www.uscsd.k12.pa.us>.)

Weapon (from weapon and safe schools policy ) - shall include “Firearms” (as defined below), as well as any substance or object which, when combined with the conduct or intent of its possession or with the circumstances in which it is being used, attempted to be used or threatened to be used, is capable of or does in fact, harm, intimidate, threaten or harass a person or those persons in the vicinity of its possessor. “Firearms” shall include firearms as defined in Section 921 of Title 18, United States Code, Section 621 of the *Pennsylvania Uniform Firearms Act* or Title 18 of the Pennsylvania Consolidated Statutes, and any shotgun or rifle or any ammunition for the same. (Section B. 2.” For the purpose of this policy, a Weapon includes a ‘Weapon look-alike.’ The Administration will act reasonably and exercise good judgment in determining what constitutes a Weapon, particularly when interpreting the danger presented by a Weapon look-

alike.”) “Weapon look-alike” shall include any implement which is designed to look like a weapon.

Table 1 provides a comparison of the specific weapons listed by the six affluent school districts’ definitions.

**Table 1.** Six (Affluent) School District Definitions of Weapons in Allegheny Co.

<b>School District (Socio-Economic Status)</b>	<b>Firearms/ Shotgun/ Rifle</b>	<b>Knife/Cutting Instrument/ Cutting Tools</b>	<b>Chemicals</b>	<b>Replicas</b>	<b>Other</b>
Bethel Park (Affluent)	Yes	Yes	Yes	Yes	Impact tool and explosive device
Fox Chapel (Affluent) **	Pellet and BB guns	Yes	Mace	Yes	Nunchaku, explosive devices, pipe bombs, brass or metal knuckles
Hampton (Affluent) **	Pistol, pellet and BB gun	Razor and machete	Pepper spray	Yes	Nunchaku, bomb, metal knuckles, loaded cane sword cane
Mt. Lebanon (Affluent) **	Firearm and gun including BB and pellet. Also, slingshot, bow, arrow or other device with projectiles	Sharpened wood, sharpened metal	Mace taser, shocker or stun gun	Yes	Nun-chuck, other martial arts device, brass or metal knuckles, club, metal pipe, blackjack, explosive or incendiary device and look-alike weapons
Pine-Richland * (Affluent)	Yes	Yes	--	Yes	--
Upper St. Clair (Affluent)	Yes	Yes	--	--	Look-alike weapons

\*Follows the state definition with the addition of replicas and/or look-alike gun.

\*\*No differentiation if the device is inoperable.

#### **4.1.4 Working Class Schools Weapon Definitions**

Working class high schools were determined by designating high schools with a student sample population between 20 percent and 65 percent economically disadvantaged. The school district definitions that have Pennsylvania definition portions have been arranged so the Pennsylvania portion is toward the beginning of the definition in italics. Text appearing in the school district definitions that is not italicized has been added by the school districts to supplement the state's definition or to specifically include parts of the federal definition. Finally, it was important to highlight instances of the terms: replica, look alike, operational, and sharpened wood in the districts' definitions, so I have signified those instances by underlining the terms when they occur. The working class school districts in this study were Baldwin-Whitehall, Gateway, North Hills, Penn Hills, Pittsburgh Public, and West Mifflin. The following sections provide the definition of weapon for each of these school districts.

##### **4.1.4.1 Baldwin-Whitehall School District (2018)**

The Baldwin-Whitehall School District offers the following definition of weapon: Weapon – *shall include, but shall not be limited to, any knife, cutting instrument, cutting tool, firearm, shotgun, rifle* or similar device from which a projectile may be discharged, including a *firearm* or other weapon which is *not loaded, or which lacks a component or device necessary to render it immediately operable* also a club, blackjack, metal knuckles, explosive device and a look-alike or replica of a weapon. (See <https://www.bwschools.net/>.)

#### **4.1.4.2 Gateway School District (2018)**

The Gateway School District offers the following definition of weapon: Weapon- the term *shall include, but not be limited to, any knife, cutting instrument, cutting tool, nunchaku, firearm, shotgun, rifle, pistol, revolver, bb [sic] or pellet gun, air rifle or air pistol, blackjack, metal knuckles, club, chain, razor, dagger, look-alike weapon, explosive device, ammunition (live or expended), projectile, chemical agent, and any other tool, instrument, or implement capable of inflicting serious bodily injury. Any tool, instrument or implement may be considered a weapon for purposes of this policy if the *tool, instrument or implement* is used for *inflicting* or threatening to inflict *bodily injury*. (See <http://www.gatewayk12.org>.)*

#### **4.1.4.3 North Hills School District (2018)**

The North Hills School District offers the following definition of weapon: Weapon/Firearms – *shall include, but not be limited to, any knife, cutting instrument, cutting tool, nunchaku, firearm, shotgun, rifle, metal knuckles, straight razor, explosive, noxious, irritating, or poisonous gas, poison, replica of a weapon and/or any other tool, instrument or implement capable of inflicting serious bodily injury, or items fashioned with the intent to use, sell, harm, threaten or harass students, staff members, parents/guardians, and patrons. (See <http://www.nhsd.net>.)*

#### **4.1.4.4 Penn Hills School District (2018)**

The Penn Hills School District offers the following definition of weapon: Weapon – the term *shall include but not be limited to any knife, cutting instrument, cutting tool, nunchaku, firearm, shotgun, rifle, look-alike gun, replica of a weapon, and any other tool, instrument or implement capable of inflicting serious bodily injury. (See <http://www.phsd.k12.pa.us>.)*

#### **4.1.4.5 Pittsburgh Public School District (2018)**

The Pittsburgh Public School District offers the following definition of weapon: Weapon – the term *shall include, but not be limited to, any knife, cutting instrument, cutting tool, nunchaku, firearm, shotgun, rifle, replica of a weapon, explosive, and/or any other tool, instrument or implement capable of inflicting serious bodily injury.* Pepper spray or mace, when threatened to be discharged, is considered a weapon as *a tool, instrument or implement capable of inflicting serious bodily injury.* (See <http://www.info.pghboe.net.>)

#### **4.1.4.6 West Mifflin School District (2018)**

The West Mifflin School District offers the following definition of weapon: Weapon shall mean any *instrument or implement for the inflicting of bodily injury* which serves no common lawful purpose, *including but not limited to, any knife, cutting instrument or cutting tool, nunchuck stick* or other martial arts device, razor, razor blade or other sharpened wood, sharpened metal, brass or metal knuckles, club, metal pipe, blackjack, chemical agent such as mace, taxer [taser], shocker or stun gun, any explosive device, *firearm* (including pellet guns and B.B. guns), gun, slingshot, bow, arrow or any other similar device from which a projectile may be discharged, including a firearm or other weapon which is not loaded or which lacks a component or device necessary to render it immediately operable. (See <http://www.wmasd.org.>) Table 2 provides a comparison of the specific weapons listed by the six working class school districts' definitions.

**Table 2.** Six (Working Class) School District Definitions of Weapons in Allegheny Co.

<b>School District (Socio-Economic Status)</b>	<b>Firearms/ Shotgun/ Rifle</b>	<b>Knife/Cutting Instrument/ Cutting Tools</b>	<b>Chemicals</b>	<b>Replicas</b>	<b>Other</b>
Baldwin-Whitehall (Working Class) **	All of those listed in and any device emitting a projectile	Yes	--	Yes	Club, blackjack, metal knuckles, explosive device
Gateway (Working Class)	Pistol, air rifle or air pistol, revolver, BB or pellet gun.	Razor and dagger	Yes	Yes	Blackjack, metal knuckles, club, chain, explosive device, ammunition, projectile, look alike weapon
North Hills (Working Class)	Yes	Straight razor	Noxious, irritating or poisonous gas	Yes	Poison and metal knuckles
Penn Hills* (Working Class)	Yes	Yes	--	Yes	Nunchaku and look-alike gun
Pittsburgh Public (Working Class)	Yes	Yes	Mace or pepper spray	Yes	Nunchaku and explosive
West Mifflin (Working Class) **	No rifle but also pellet and BB gun, shocker or stun gun, other device with a projectile	Yes and sharpened wood	Mace	--	Nunchaku /martial art, brass or metal knuckles, club, metal pipe, blackjack, taser, slingshot, bow and arrow

\*Follows the state definition with the addition of replicas and/or look-alike gun.

\*\*No differentiation if the device is inoperable.

All data in this study were publicly available and retrieved or collected from public websites.

## **5.0 Findings**

In the current study, I analyzed 12 Allegheny County school districts' weapon policies, which are presented at the end of the previous chapter. Also analyzed were the Safe Schools Historical Comparison Report Data (2016-2017) for the 12 Allegheny County school districts' respective high schools. Similarly, I analyzed the Safe Schools Historical Comparison Report Data (2016-2017) for the 12 Dauphin County high schools studied by the Joint State Government Commission (2016). The findings will be discussed in later sections of this chapter. Also analyzed were each of the 12 Allegheny County school districts memorandum of understanding (MOU). That MOU signed with local law enforcement analysis found working class schools have substantive differences from the Pennsylvania Model MOU and the implication is the Office for Safe Schools may be unaware of these differences.

### **5.1 Comparative Analysis**

The purpose of this study was to determine if weapon definitions and memorandum of understanding (MOU) implementation varied by socio-economic status and race. To do so I selected 12 Allegheny County, Pennsylvania school districts for analysis. First, I analyzed their definitions of weapon used to enforce their zero tolerance weapon policies. Second, I analyzed the Pennsylvania Safe Schools Historical Comparison Report Data (2016-2017) (that report lists student law enforcement infractions, weapons involved in the infractions, arrests, referrals to

alternate education for disruptive youth, weapon expulsions, and student out-of-school suspensions for possessing weapons). Third, I analyzed whether school districts are updating their weapon policies based on judicial decisions (judicial decisions meaning decisions made in a court of law interpreting the statutory law, which takes precedence over statutory law). Fourth, I analyzed school district MOUs used to ascertain if school districts complied with the Pennsylvania Office for Safe Schools' (OSS) MOU law at 22 Pa. Code Section 10.11. Pennsylvania law mandates that school districts sign a MOU with local law enforcement. It is a school safety measure that requires police departments in the locale of the school building having jurisdiction to sign the MOU along with the school districts' chief school administrative officer or superintendent.

As outlined in chapter 4, broad definitions of weapon were found in all 12 Allegheny County school districts. These weapon definitions have been adopted by school boards for their school districts to implement internal disciplinary weapon policies mandated to comply with the federal *Gun-Free Schools Act* (1994). These weapon policies as adopted by school boards are harsh disciplinary policies and have become known as zero tolerance policies. They are attributed to the creation of the school-to-prison pipeline (ACLU, 2018; Ayers et al., 2001; Pane & Rocco, 2014).

To ameliorate harsh zero tolerance policies, school districts have begun writing discretionary measures into their weapon policies that schools can utilize as alternative discipline to the exclusionary disciplinary measures of expulsion and out-of-school suspension. This flexibility in discipline is important and needed, because, as has been elaborated in this dissertation, exclusionary discipline causes students to fall behind in classwork and many times places them on a school-to-prison trajectory.

Generally, zero tolerance policies are part of a body of exclusionary disciplinary measures adopted to make schools safe. However, in the years since their adoption, studies show these



policies have had less impact on safety and a disproportionately negative impact on African American students. The impact consequentially takes the form of African American students being subjected to exclusion from the classroom at a higher rate than their White counterparts (Dunbar & Villarruel, 2002; Nicholson-Crotty et al., 2009; Pane & Rocco, 2014; Triplett et al., 2014).

Zero tolerance discipline is an issue the Pennsylvania Joint State Government Commission has studied. An Advisory Committee to the Joint State Government Commission (2016) on Zero Tolerance Discipline Policies was formed by enacting House Resolution 540. The Joint State Government Commission (2016) analyzed school district disciplinary weapon policies and their definitions of weapon for 12 school districts in Dauphin County in central Pennsylvania. The Advisory Committee provided the Joint State Government Commission (2016) with its report outlining legislative, regulatory and policy recommendations regarding discipline in Pennsylvania schools.

That report was generated by conducting an analysis of the central Pennsylvania school districts' weapon definitions and comparing these school district weapon definitions to the Pennsylvania state and federal weapon definitions. Pennsylvania has adopted the federal weapons statute and added to it which has made Pennsylvania's definition broader than the federal definition. The Dauphin County Pennsylvania school district weapon data is included in Table 3. I was granted permission to reprint their data (Joint State Government Commission, 2016, Appendix C, personal communication, reprinted data with permission). Even though the Joint State Government Commission determined conclusions for the whole state based on this single county, I wanted to see if Western Pennsylvania has the same patterns as Central Pennsylvania, the region of the state where the Joint State Government Commission conducted their study.

Similar to my study, the Joint State Government Commission (2016) studied 12 school districts in Dauphin County. Findings in the Dauphin County study were that four of the 12 school districts--the Lower Dauphin, Middletown, Susquehanna Township and Upper Dauphin School Districts--adopted the Pennsylvania definition, and eight did not. To study the Dauphin County school districts' socio-economic status required accessing their School Performance Profiles. It should be noted that the Williams Valley School District has a substantial portion of its property in Schuylkill County and is listed in the School Performance Profile (2017) as being located in Schuylkill County. In addition, much of Susquenita School District is in Perry County but is referred to in the Joint State Government Commission (2016) study as being a Dauphin County school district. The Dauphin County study was confined to comparing school district weapon definitions to the Pennsylvania definition. Similarly, even though the federal definition is listed in the Allegheny County study I compared 12 school districts' weapon policies to the Pennsylvania weapon definition. Both the Dauphin County and the current Allegheny County studies do not provide an in-depth comparison to the federal definition, because Pennsylvania has adopted the federal definition (Joint State Government Commission, 2016). I also examined the Allegheny County school districts' respective high school socio-economic status and set sample population parameters of these high schools that enrolled students in grades nine through 12. The current study went deeper into the Dauphin County analysis and studied the respective Dauphin County high school socio-economic status. The Dauphin County study, though, included the Steelton-Highspire School District and the Williams Valley School District. Their respective high schools enroll grades seven through 12. Also, Harrisburg City High School met the threshold designation of being a lower income status high school.

Further, high school enrollment, percent economic disadvantage, and percent African American for the four school districts in the Dauphin County study that adopted the Pennsylvania statute were:

- Lower Dauphin High School – 1,147 student enrollment, 21 percent economically disadvantaged, and 1.48 percent African American;
- Middletown High School – 656 student enrollment, 47 percent economically disadvantaged, and 8.69 percent African American;
- Susquehanna Township High School – 808 student enrollment, 41 percent economically disadvantaged, and 43.81 percent African American;
- Upper Dauphin High School – 388 enrollment, 39 percent economically disadvantaged, and 1.03 percent African American.

High school enrollment and percent economic disadvantage for the eight school districts in the Dauphin County study that did *not* adopt the Pennsylvania statute were:

- Central Dauphin High School – 1,714 student enrollment, 24 percent economically disadvantaged, and 10.39 percent African American;
- Hershey High School (Derry Township School District) -1,124 student enrollment, 17 percent economically disadvantaged, and 4.8 percent African American;
- Halifax Area High School – 280 student enrollment, 34 percent economically disadvantaged, and 1.43 percent African American;
- Harrisburg City High School – 1,056 student enrollment, 83 percent economically disadvantaged, and 56.34 percent African American;
- Millersville Area High School – 257 student enrollment, 35 percent economically disadvantaged, and 2.33 percent African American;

- Steelton Highspire High School – 577 student enrollment, 65 percent economically disadvantaged, and 52.69 percent African American;
- Susquenita High School – 517 student enrollment, 27 percent economically disadvantaged, and 0.77 percent African American;
- Williams Valley Junior Senior High School – 440 student enrollment, 53 percent economically disadvantaged, and 0.91 percent African American.

In the Joint State Government Commission (2016) study of Dauphin County high schools with a zero percent to 30% economically disadvantaged student sample populations were designated affluent (this is 10 points higher than designated in the Allegheny County study because of a cluster of schools in the 20% ranges); high schools with 30% to 65% student sample populations economically disadvantaged were designated working class; high schools with 65% to 100% student sample populations economically disadvantaged were designated lower income. According to this framework, Lower Dauphin High School, Hershey High School, Central Dauphin High School, and Susquenita High School were designated affluent high schools. Harrisburg High School was the only lower income school, and the remaining high schools were designated working class schools. These data also give a larger student enrollment than the Allegheny County study. Dauphin County enrollment ranged from 280 students enrolled to 1,714 students enrolled. The Allegheny County study had enrollments between 1,000 to 1,800 students in grades nine through 12. The eight Dauphin County schools of the 12 districts adopting and broadening the Pennsylvania statute and the objects added to their weapon policies are listed in Table 3.

**Table 3.** Eight School District Definitions of Weapons in Dauphin County

<b>School District</b>	<b>Firearms</b>	<b>Cutting Tools</b>	<b>Chemicals</b>	<b>Replicas</b>	<b>Other</b>
Central Dauphin*	--	--	Pepper mace	Yes	Toy gun or water pistol
Derry Township	--	--	Poison gas	Yes	Objects, and instruments or devices which a person reasonably believes to be a weapon or firearm and causes a reasonable person observing it to experience fear or physical injury
Halifax Area	--	--	--	Yes**	Objects which have the appearance or characteristics of weapons, which are not necessarily operable
Harrisburg City	Pellet guns, BB [ <i>sic</i> ] guns	Knives: Bowie, dirk, lock-blade, hunting	--	Yes	Not reasonably related to education, including chains, brass knuckles, nightsticks, ax handles, razors, <i>etc.</i>

Table 3 (continued)

Millersburg Area	--	Straight razors	Noxious, irritating or poisonous gases; poisons, drugs	--	Any material or substance animate or inanimate, which under the circumstances in which it is used, attempted to be used or threatened to be used is readily capable of causing death or serious physical injury. Metal knuckles. other items fashioned with the intent to use, sell, harm, threaten or harass students, staff members, parents, and patrons
Steelton Highspire	--	--	--	--	Objects which have the appearance or characteristics of weapons as defined above, or objects which are intended and capable of producing bodily injury
Susquenita	BB [ <i>sic</i> ] gun, pellet gun	--	Mace or other spray substances	Yes**	Objects which have the appearance or characteristics of weapons as defined above, or objects which are intended and capable of producing bodily injury

Table 3 (continued)

Williams Valley	--	Razor blades	Mace/pepper mace	Yes	Other weapons/implements capable of inflicting serious bodily harm
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\* In addition to the items included above, Central Dauphin School District also defines a weapon as a taser or stun gun and wearing apparel with chains and spiked accessories.

\*\* Not necessarily operable.

\*\*\* Reprinted with Permission of the Joint State Government Commission of Pennsylvania.

*NOTE 1: Lower Dauphin, Middletown, Susquehanna Township and Upper Dauphin School District adopted the Pennsylvania definition.*

*NOTE 2: From “Discipline Policies in Pennsylvania’s Public Schools Report of the Advisory Committee on Zero Tolerance School Discipline Policies” the Joint State Government Commission of Pennsylvania (2016). Copyright n.d. by the Joint State Government Commission of Pennsylvania. Reprinted with permission.*

*NOTE 3: Even though the Joint State Government Commission lists all schools in Dauphin County, part of Susquenita School District is located in Perry County and part of Williams Valley School District is located in Schuylkill County.*

*NOTE 4: The weapon definitional information reported in the Dauphin County study was accepted and not independently verified.*

The Joint State Government Commission’s (2016) study found that weapon variations among the eight Dauphin County school districts not following the Pennsylvania statute were significant. Below the study findings are summarized:

**Table 3: Dauphin County School District Findings were:**

- Four of the 12 school districts adopted the Pennsylvania definition
- Six of the 12 school districts added noxious substances such as pepper spray, mace, poisonous gases, poisons or drugs
- Seven of the 12 included replica weapons
- Three of the 12 included replicas, even if inoperable

A litany of other objects from brass knuckles, nightsticks and ax handles were also included as weapons. School districts, similarly, added pellet guns and BB [*sic*] guns in their firearm

definitions. Of the four that adopted the Pennsylvania definition according to the Joint State Government Commission (2016) only one, Lower Dauphin School District, was affluent and the three remaining school districts were working class. Whereas none of the Allegheny County schools adopted only the Pennsylvania definition. As stated earlier the Joint State Government Commission did not look at socio-economic status or have the same sample population as the current Allegheny County study. Arguably if affluent socio-economic status for the study was based on an economic disadvantage of zero percent to 30 percent and not zero percent to 20 percent as in this study, the 10% increase would have placed North Hills School District in Allegheny County as affluent.

#### **5.1.1 Comparison of Allegheny County and Dauphin County School District Weapon Definitions**

Similar analyses were conducted on 12 Allegheny County Pennsylvania school districts (See Tables 1, 2, and 4.) The findings were also grouped by socio-economic status. Table 3 showed that eight of the 12 Dauphin County school districts did not adopt the Pennsylvania statutory definition but included additions (Joint State Government Commission, 2016). None of the 12 Allegheny County school districts adopted the Pennsylvania statutory definition without additions. The additions make the weapon policy broader and more expansive compared to state and federal definitions. The latter data are listed in Table 1 and Table 2 in chapter 4. All data in this study were publicly available and retrieved or collected from public websites.



### **5.1.2 Comparison of Allegheny County School District Weapon Definitions to the Pennsylvania Statute**

A direct comparison of the 12 Allegheny County school district weapon definitions to the Pennsylvania definition is given in Table 4 along with the socio-economic status of the high schools. This comparison revealed that two of the six or (33%) of the affluent and four of the six or (67%) of the working class school districts added additional objects as weapons. Furthermore, four of the six or (67%) of the affluent and four of the six or (67%) of the working class school districts both added chemicals such as mace. Five of the six or (83%) of the affluent and five of the six or (83%) of the working class school districts added replicas and/or look-alike weapons. Three of the six or (50%) of the affluent and two of the six or (33%) of the working class school districts added inoperable weapons as a valid weapon. (See also Table 1 and Table 2.)

**Table 4.** Allegheny County School District Weapon Definitions Compared to Pennsylvania Statute

<b>High School Socio-- Economic Status</b>	<b>Follows PA Statute</b>	<b>Addition of Objects</b>	<b>Addition of Chemicals -Mace, Pepper spray etc.</b>	<b>Addition of Replica – Look Alike</b>	<b>Addition of Inoperable Weapons</b>
<b>Affluent</b>					
Bethel Park	NO	NO	YES	YES	NO
Fox Chapel	YES	YES	YES	YES	YES
Hampton	YES	YES	YES	YES	YES
Mt. Lebanon	NO	NO	YES	YES	YES
Pine-Richland	YES	NO	NO	YES	NO
Upper St. Clair	YES	NO	NO	YES	NO
<b>Working Class</b>					
Baldwin-Whitehall	NO	NO	NO	YES	YES
Gateway	YES	YES	YES	YES	NO
North Hills	YES	YES	YES	YES	NO
Penn Hills	YES	YES	NO	YES	NO
Pgh. Public (Allderdice)	YES	YES	YES	YES	NO
West Mifflin	NO	NO	YES	NO	YES

All school districts began with the Pennsylvania statutory definition and then made additions to the definition. The Department of Education regulations give the governing board of schools or school boards the authority to make rules that are necessary to govern the conduct of students. However, this authority must be within statutory and constitutional limits (22 Pa. Code Section 12.3. (a)). Some of these definitions could be challenged as unconstitutional. In our litigious society, these definitions are an area that school administrators will want to review and clarify, paying close attention to the recommendations of the Pennsylvania Joint State Government Commission (2016). This will be discussed in later sections.

#### **5.1.2.1 Significance of the findings based on socio-economic status (Table 4):**

The data reveal school districts did not follow the Pennsylvania weapons definition without additions. The data demonstrate that Allegheny County school districts' weapon policies exhibit the same broad variations in weapon definitions as the Joint State Government Commission's (2016) Dauphin County school districts. According to the Joint State Government Commission's report, eight of the 12 Dauphin County school districts (and in the current study all 12 of the 12 Allegheny County districts) added additions as weapons to the Pennsylvania definition. The implications are that if these school districts have broad and expansive weapon definition variations, perhaps many other of Pennsylvania's 500 school districts *also* have broad variations. This is explained in more depth in the following paragraphs in latter sections. (See Table 1 and Table 2.)

The findings demonstrate that expansive weapon definitions are being used to arrest students and subject them to a one-year expulsion, out-of-school suspensions, and alternate education for disruptive youth. This is happening in working class schools more often than affluent schools (Togut, 2011), and out-of-school suspensions are more prevalent among students who receive free lunches, (greater economic disadvantage) which I discuss in later sections. However, the Pennsylvania School Performance Profile (2017) lists the overall percent of African American students and economically disadvantaged students in high schools. All but one of the working class high schools have a higher percentage of African American students than the affluent high schools. The implication is that the working class schools with the higher number of African Americans and economically disadvantaged students will have higher numbers of African American and economically disadvantaged students subjected to harsh discipline. The school that had a low number of African American students was North Hills High School. North Hills was on the

borderline of my classification between affluent and working class. The overall study data arrived at the same conclusion as many studies that demonstrate schools with lower socio-economic status and more racial minorities have more stringent policies and enforce their policies more frequently against that population (Berlowitz et al., 2017). Equity dictates that policies should not vary or be enforced depending on which school district a student resides.

Further, many of the school districts do not align with the Pennsylvania Joint State Government Commission's (2016) recommendations. For instance, one working class Allegheny County school district's weapon policy, the Baldwin-Whitehall School District (2018), enacts penalties of not less than one-year expulsion for a weapon, but the policy also includes greater penalties for aggravating circumstances. Item 4 in the aggravating circumstances listed states, "By use of a weapon, attempt to cause, or intentionally or recklessly causing bodily injury to another. By use of a weapon, attempt to put another in fear of imminent bodily injury. Significant history of rules violations" (pp. 1-2). The Joint State Government Commission (2016) recommendation 10 states that school district policy "language that relates to disregard for school authority, including persistent violation of school policy should be removed.... [as] vague and subjective" (p. 9). That language gives students no notice as to what specifically precipitates the aggravating violation and may violate the student's constitutional due process notice rights. Further, the 10th recommendation also states "alternate education for disruptive youth (AEDY) programs should be used sparingly and only for the most disruptive students...language that relates to disregard for school authority, including persistent violation of school policy should be removed" from school disciplinary policy (p. 9). This language is too vague and subjective. Similarly, the term, disruptive, should be defined and limited. Using "disruptive" as a term to justify transfer to AEDY may also lead to subjective interpretation.

Appendix A lists caselaw that is relevant to weapon policy interpretation. One of those cases, a United States Supreme Court case, *Bethel School District 403 v. Fraser* (1986), a school district policy similar to Baldwin-Whitehall's, was found to be void due to vagueness. The United States Supreme Court has decided that the principle of due process requires zero tolerance policies to be clearly defined and not encourage or authorize discriminatory or arbitrary enforcement (Kim, Losen & Hewitt, 2010). The Joint State Government (2016) recommendation 10 advises elimination of all discipline related to any rules violation that is not specified in the weapon policy.

Another issue that arose in these school district weapon policies is demonstrated in *Seal v. Morgan* (2000). In *Seal*, a student challenged his weapons expulsion, which was due to a knife found in the family car that he drove to school. The school proffered no evidence that the student knew or should have known about the weapon. Lacking that evidence, the Court concluded the expulsion was not related to a rational interest. No student can use a weapon they are unaware of to injure or disrupt school operations (Kim et al., 2010). Schools should be cognizant of the *Seal* case, which raises substantive due process claims and challenges the fairness of a suspension or expulsion. This type of challenge is limited, and the case rests on the intent of the student. One Allegheny County school district appears to be acknowledging caselaw that found that schools should address the intent issue. As referenced in chapter 4, Upper St. Clair has a weapons policy and weapons and safe schools policy. The latter policy discusses the need for conduct combined with *intent* of the student.

See Appendix A for additional cases related to constitutional issues and issues defining weapons. Further, 11 of the 12 Allegheny County school districts studied included a look alike or replica as a weapon in their definitions. A local case in the Deer Lakes School District has been well reported in the media and scholarly writings. In that case, a kindergartener was suspended

from school for having a toy rubber axe affixed to his Halloween costume. The axe violated the look-alike clause of the Deer Lakes weapon policy (Lee, 1998). The Deer Lakes matter did not go to court, but in *G.S. v. West Shore School District* (1993), a Pennsylvania court decided a replica was not considered a weapon. The United States firearms statute states, “‘destructive device’ shall not include any device which is neither designed nor redesigned for use as a weapon” (18 United States Code Section 921(a)(3-4)). The federal and Pennsylvania statutes clearly intended to exclude toy replicas and look-alikes sold to parents to be used with Halloween costumes. G.S. lost his case because his intent was to do harm.

### **5.1.3 Analysis of 12 Allegheny Co. High Schools by Socio-Economic Status**

To explain how socio-economic status was determined, the inquiry began by reviewing all 43 Allegheny County school districts (Allegheny Intermediate Unit, 2017) listed in the School Performance Profile (2017). Twelve of the 43 were selected based on the criteria set for the study. The 12 school districts were found to be six working class school districts and six affluent school districts. The socio-economic status criteria were satisfied by using economic disadvantage data from the Pennsylvania Department of Education School Performance Profile (2017). I wanted to determine how economic disadvantage was derived. I e-mailed a request to the Pennsylvania Department of Education asking how it was determined. Their response was:

It is at the discretion of the District to determine if a student is economically disadvantaged. Poverty data sources such as Temporary Assistance for Needy Families cases, census poor, Medicaid, children living in institutions that are neglected or delinquent, those supported in

foster homes or free/reduced price lunch eligibility may be used. (The Pennsylvania Department of Education SPP team, personal communication, May 3, 2018)

Therefore, the Pennsylvania Department of Education accepts the economic disadvantage determination supplied by each school district based on what each school district determines at the time. The Allegheny County study used this economic disadvantage information from the School Performance Profile to determine socio-economic status of the respective school districts' high schools. Only the Pittsburgh Public School District contained more than one high school. This socio-economic characteristic was then analyzed to determine if patterns existed based on the high schools' Safe Schools Historical Comparison Report Data (2016-2017). The six high schools designated as affluent were:

- Bethel Park (1,390 high school student enrollment) at 12 percent economically disadvantaged and 2.72 percent African American;
- Fox Chapel (1,380 high school student enrollment) at 10 percent economically disadvantaged and 4.13 percent African American;
- Hampton (1,011 high school student enrollment) at 10 percent economically disadvantaged and 0.69 percent African American;
- Mt. Lebanon (1,769 high school student enrollment) at 12 percent economically disadvantaged and 1.7 percent African American;
- Pine-Richland (1,505 high school student enrollment) at 10 percent economically disadvantaged and 0.93 percent African American and
- Upper St. Clair (1,391 high school student enrollment) at 11 percent economically disadvantaged and 1.01 percent African American. Table 5 presents the total enrollment in grades 9-12, percent economic disadvantage, and percent African American students in

grades 9-12 across the six affluent high schools in the study.

**Table 5.** Sample Population for Allegheny County Affluent High Schools

Sample (Affluent) High Schools	Enrollment of Grades 9-12 and Enrolled students of 1000 - 1800	% Economic Disadvantage	% Total High School African American Students
Bethel Park	1390	12	2.72
Fox Chapel	1380	10	4.13
Hampton	1011	10	0.69
Mt. Lebanon	1769	12	1.7
Pine-Richland	1505	10	0.93
Upper St. Clair	1391	11	1.01

The six high schools designated as working class were:

- Baldwin-Whitehall (1,406 high school student enrollment) at 39 percent economically disadvantaged and 4.98 percent African American;
- Gateway (1,132 high school student enrollment) at 42 percent economically disadvantaged and 23.59 percent African American;
- Penn Hills (1,339 high school student enrollment) at 62 percent economically disadvantaged and 64.75 percent African American;
- Pittsburgh Public (Allderdice only) (1,452 high school student enrollment) at 41 percent economically disadvantaged and 40.08 percent African American;
- North Hills (1,390 high school student enrollment) at 22 percent economically disadvantaged 3.53 percent African American; and
- West Mifflin (1,031 high school student enrollment) at 53 percent economically disadvantaged and 28.81 percent African Americans. Table 6 presents the total enrollment



in grades 9-12, percent economic disadvantage, and percent African American students in grades 9-12 across the six working class high schools in the study.

**Table 6.** Sample Population for Allegheny County Working Class High Schools

Sample (Working Class) High Schools	Enrollment of Grades 9-12 and Enrolled students of 1000 - 1800	% Economic Disadvantage	% Total High School African American Students
Baldwin-Whitehall	1406	39	4.98
Gateway	1132	42	23.59
Penn Hills	1339	62	64.75
Pittsburgh Public (Allderdice)	1452	41	40.08
North Hills	1390	22	3.53
West Mifflin	1031	53	28.81

This data were also used to determine if socio-economic status had any patterns with respect to the enforcement or implementation of weapon policy. Allderdice High School in the Pittsburgh Public School District (PPSD) was chosen because it had the least number of economically disadvantaged students in the PPSD. All of the districts' other non-specialized high schools enroll grades 6-12, except Brashear High School. Brashear had the requisite 1,277 student enrollment, which fit the current study sample population; however, it was over 65% economically disadvantaged, which placed it in the lower income category. Allderdice was the only PPSD high school that was not lower income. A future study could include district high schools over 65% economically disadvantaged.

#### 5.1.4 Safe Schools Historical Weapon Data Analyzed by Socio-Economic Status

The Pennsylvania Department of Education mandates data be collected by the Office for Safe Schools pertaining to school district weapon violations. That data is then listed in the Safe Schools Historical Comparison Report annually and organized by county, school district, and each of the districts' individual schools. The 12 Western Pennsylvania and 12 Central Pennsylvania high schools' weapons data listed in the Safe Schools Historical Comparison Report Data (2016-2017) were analyzed. Table 7 and Table 8 display Allegheny County schools incidents reported to law enforcement, arrests, weapons offenses, alternate education for disruptive youth (AEDY), weapon out-of-school suspensions, and weapon expulsions.

**Table 7.** Allegheny County (Affluent) Weapon Data Reported to the Office for Safe Schools (2016-2017)

<b>High School (Socio-economic status) *</b>	<b>Incidents Involving Law Enforcement</b>	<b>Total Arrests</b>	<b>Assigned to Alternate Schools (AEDY)</b>	<b>Knife</b>	<b>Cut-ting Instru-ment</b>	<b>BB/ Pel-let</b>	<b>Other Weap-pons (plus gun)</b>	<b>Out of School Sus-pension</b>	<b>Expul-sion</b>
<b>Affluent Schools</b>									
Bethel Park	2	--	--	2	--	--	1	1	--
Fox Chapel	12	9	3	1	1	--	2	2	--
Hampton	8	3	1	1	--	--	--	--	1
Mt. Lebanon	37	--	--	--	--	--	--	--	--
Pine-Richland	10	--	--	1	--	--	6	6	1
Upper St. Clair	13	--	4	--	--	--	--	--	--
<b>Total Affluent</b>	<b>82</b>	<b>12</b>	<b>8</b>	<b>5</b>	<b>1</b>	<b>0</b>	<b>9</b>	<b>9</b>	<b>2</b>

\*Incidents involving law enforcement include other crimes.  
(See Safe Schools Historical Comparison Report Data, 2016-2017).

**Table 8.** Allegheny County (Working Class) Weapon Data Reported to the Office for Safe Schools (2016-2017)

<b>High School (Socio-economic status) *</b>	<b>Incidents Involving Law Enforce- ment</b>	<b>Total Arrests</b>	<b>Assigned to Alternate Schools (AEDY)</b>	<b>Knife</b>	<b>Cut- ting Instru- ment</b>	<b>BB/ Pel- let</b>	<b>Other Weap- ons (plus gun)</b>	<b>Out of School Sus- pens- ion</b>	<b>Expul- sion</b>
<b>Working Class</b>									
Baldwin- Whitehall	31	18	4	--	--	--	--	--	--
Gateway	12	--	--	--	--	1	2	2	--
North Hills	3	--	2	2	--	--	--	--	--
Penn Hills **	50	--	--	2	2	--	1	3	4
Pittsburgh Public (Allderdice Only)	47	33	28	6	4	1	12	12	6
West Mifflin	23	1	3	--	--	--	1	1	--
<b>Total Working Class</b>	166	52	37	10	6	2	16	18	10

\*Incidents involving law enforcement include other crimes.

\*\* Only Penn Hills High School reported a handgun possession.

(See Safe Schools Historical Comparison Report Data, 2016-2017).

The School Performance Profile's (2017) economic disadvantage and the Safe Schools Historical Comparison Report Data (2016-2017) incidents involving law enforcement, arrests, referrals to alternate education for disruptive youth (AEDY), weapon out-of-school suspensions, weapon expulsions, and the number of and type of weapons found in the high school were used to analyze the Allegheny County studies' disciplinary rate of expulsion and suspension and to explore how the data relate to disparities in treatment of racial minorities. Pennsylvania's expulsion rate is in

the top 25% in the nation and its out-of-school suspension rate is in the top 39% nationally, which are serious concerns (Joint State Government Commission, 2016). The following significant findings arose from the data analysis:

The working class high schools in Table 8 demonstrate a significant increase in all data categories compared to the affluent high schools (Table 7) such as: over four times as many arrests, while law enforcement was called twice as many times, over four times as many referrals to AEDY, two times as many out-of-school suspensions, and five times as many expulsions. Allderdice, one of the Pittsburgh Public School District's high schools, and a working class high school, had the highest number overall of data points. By itself, Allderdice had either equal or greater than the data points combined of *all* the working class high schools of total arrests, AEDY referrals, and possessions of knives, cutting instruments, BB [sic]/pellet guns and other weapon possessions as well as the number of out-of-school suspensions and expulsions.

Bethel Park, Fox Chapel, North Hills and the Pittsburgh Public (Allderdice) all had fewer expulsions than the number of weapons possessions reported to the Office for Safe Schools. The implication is that both affluent and working class high schools were exercising their right to modify the one-year statutory expulsion on a case-by-case basis (24 P.S. Section 13-1317.2(c)). Two of the six or 33% of the affluent and 33% of the working class high schools exercised their right to modify the one-year expulsion for weapons possession (24 P.S. Section 13-1317.2(c), 20 U.S.C. 7961).

Three affluent (50%) and four working class (67%) high schools all assigned students to AEDY. Penn Hills School District is an outlier. It had seven combined weapons expulsions and suspensions, but the Safe Schools Historical Comparison Report Data (2016-2017) listed only six weapon possessions, which means Penn Hills expelled more students for weapons than students

found with weapons. This could be the result of a reporting error or a data entry error. Table 7 and Table 8 demonstrate that all schools, whether affluent or working class, in the Allegheny County high school study were involved in infractions in which law enforcement was called to the school, but more working class schools were subjected to harsher penalties. The working class data demonstrated large increases in incidents involving law enforcement, AEDY, weapon out-of-court suspensions and weapon expulsions than the affluent schools.

Further, the Allegheny County School Based Probation Unit has 30 probation officers in five supervisory units and is the largest in the Commonwealth of Pennsylvania (Carlino, 2016). Students are being arrested and many are placed on probation for weapons infractions in affluent *and* working class high schools. Probation officers have been assigned to seven of the 12 school districts in this study as follows: one probation officer in each of the affluent school districts: Fox Chapel, Hampton and Pine-Richland (the latter two school districts share one), and one probation officer in each of the working class school districts: Baldwin-Whitehall, North Hills (shares one with another school district) and two in the Penn Hills School District. Allderdice has one, although there are thirteen probation officers in the entire Pittsburgh Public School District with its 54 total schools.

Tables 9-11 present the conclusions drawn from the Safe Schools Historical Comparison Report Data (2016-2017) for the high schools of the school districts used in the Dauphin County study. These schools have varied population parameters including wide ranges of enrolled grades and number of students enrolled. Further, if the socio-economic status of affluent was maintained at zero percent to 20 percent economically disadvantage as in the Allegheny County study only one high school, Hershey High School, would qualify. A number of schools were clustered in the 20 percent range, and affluent was moved from zero percent to 30 percent economically

disadvantaged. If zero percent to 30 percent had been used in the Allegheny County study, only North Hills High School would have moved to affluent.

As in the Allegheny County study, this Dauphin County data has been analyzed to determine if low income students and racial minorities' disciplinary rate of expulsion and out-of-school suspension demonstrate variations.

This analysis resulted in the following findings:

- One affluent high school, Lower Dauphin, referred as many students to alternate education for disruptive youth (AEDY) as all the other affluent and working class AEDY referrals combined. This appears to be an outlier.
- Even though law enforcement was called 91 times to the affluent schools and only 70 times for the working class schools, 22 affluent school students were arrested while almost twice as many or 40 were arrested in the working class schools.
- Harrisburg City High School, the only lower income school called law enforcement 32 times but had no resulting arrests. It did not conform to the theory that high minority lower income schools experience more harsh discipline. Except for the outlier, Lower Dauphin, all other categories listed were in line with the affluent and working class schools in Allegheny County.
- Harrisburg City High School may be an example of what Astor et al. (2009) described as a theoretically atypical school; “the term theoretically atypical schools refers to schools where the violence victimization rates are in the extreme opposite direction to what we could have predicted based on the community crime and poverty rates” (p.1). This means that high violence communities do not have to have high violence schools. Even if Harrisburg has more violence than other communities with high schools in the Dauphin

County study, Harrisburg does not have to produce a high violence school. Further, the implication from their study suggests that Harrisburg's school leadership is the important variable curbing arrests and having the school characteristics in line with the affluent and working class schools in this study.

**Table 9.** Dauphin County (Affluent) Weapon Data Reported to the Office for Safe Schools (2016-2017)

<b>High School (Socio-economic status) *</b>	<b>Incidents Involving Law Enforcement</b>	<b>Total Arrests</b>	<b>Assigned to Alternate Schools (AEDY)</b>	<b>Knife</b>	<b>Cut-ting Instru-ment</b>	<b>BB/ Pel-let</b>	<b>Other Weap-pons (plus gun)</b>	<b>Out of School Sus-pens-ion</b>	<b>Expul-sion</b>
<b>Affluent Schools</b>									
Lower Dauphin	16	8	13	1	0	0	0	1	0
Hershey (Derry Twp.)	36	0	0	0	0	0	0	0	0
Central Dauphin	39	14	4	2	1	0	0	3	0
Susquenita	1	0	1	0	0	0	0	0	0
<b>Total Affluent</b>	92	22	18	3	1	0	0	4	0

\*Incidents involving law enforcement include other crimes  
(See Safe Schools Historical Comparison Report Data, 2016-2017).

**Table 10.** Dauphin County (Working Class) Weapon Data Reported to the Office for Safe Schools (2016-2017)

<b>High School (Socio-economic status) *</b>	<b>Incidents Involving Law Enforce- ment</b>	<b>Total Arrests</b>	<b>Assigned to Alternate Schools (AEDY)</b>	<b>Knife</b>	<b>Cut- ting Instru- ment</b>	<b>BB/ Pel- let</b>	<b>Other Weap- pons (plus gun)</b>	<b>Out of School Sus- pens- ion</b>	<b>Expul- sion</b>
<b>Working Class</b>									
Halifax Area	3	0	0	1	0	0	0	0	0
Millersburg Area	1	0	0	2	0	0	0	2	0
Susque- hanna Twp.-	13	13	4	0	0	1	0	1	0
Steelton- Highspire	26	20	4	0	0	0	0	0	0
Williams Valley	7	0	0	0	0	0	0	0	0
Middletown	12	7	0	0	0	0	0	0	0
Upper Dauphin	9	0	0	2	0	0	0	2	0
<b>Total Working Class</b>	62	40	8	3	0	1	0	3	0

\*Incidents involving law enforcement include other crimes  
(See Safe Schools Historical Comparison Report Data, 2016-2017).



**Table 11.** Dauphin County (Lower Income) Weapon Data Reported to the Office for Safe Schools (2016-2017)

<b>High School (Socio-economic status) *</b>	<b>Incidents Involving Law Enforcement</b>	<b>Total Arrests</b>	<b>Assigned to Alternate Schools (AEDY)</b>	<b>Knife</b>	<b>Cut-ting Instru-ment</b>	<b>BB/ Pel-let</b>	<b>Other Weap-pons (plus gun)</b>	<b>Out of School Sus-pens-ion</b>	<b>Expul-sion</b>
<b>Lower Income</b>									
<b>Harrisburg City</b>	32	0	3	1	0	0	0	1	0
<b>Total Lower Class</b>	32	0	3	1	0	0	0	1	0

\*Incidents involving law enforcement include other crimes  
(See Safe Schools Historical Comparison Report Data, 2016-2017).

In the Dauphin County study, the affluent high schools had one-third more incidents involving law enforcement than the working class high schools; but, the working class high schools had almost twice as many arrests. The affluent high schools, though, had over twice as many referrals to alternate education for disruptive youth, although that number includes the outlier Lower Dauphin. The out-of-school suspensions and expulsions were not remarkable.

## **5.2 Memoranda of Understanding With Local Law Enforcement**

The memorandum of understanding (MOU) was analyzed for each Allegheny County school district and compared to the Pennsylvania Department of Education Office for Safe Schools Model MOU. To obtain the MOU for each of the 12 school districts, the school districts websites were accessed, and an attempt was made to download the memoranda. None of the school districts had the actual MOU uploaded to their websites. This necessitated accessing each school district's online Right to Know (RTK) section of its website. An online RTK request was filed with each of

the 12 district's open records or RTK officers named on the school district website using each respective school district's MOU form. The *Pennsylvania Sunshine Act*, also known as the *Open Records Act*, at 65 Pa. C.S. Sections 701-716, requires public organizations such as school districts and school boards to deliberate and take official action in a public meeting and that information should be available to the public. Therefore, school board information is available to the public.

Once I had obtained the MOU documents, a comparison was conducted to determine if socio-economic status created any variation in the MOU preparation and implementation. Findings revealed patterns in the working class school districts. First, one working class school district had no MOU, and, second, two working class school districts had substantive differences from the Model MOU. No explanation was given for the substantive differences although the Pennsylvania statute requires such be given to the Office for Safe Schools (22 Pa. Code Section 10.11 (c)). Five school districts created their own MOU. These MOUs did not have all the elements contained in the Model MOU, and the elements they did contain were imbedded in the documents. To evaluate these five MOUs, 10 key MOU elements were chosen from the Pennsylvania Model MOU, which are displayed in Table 12.

**Table 12.** Elements Analyzed in the Model Memorandum of Understanding

1. Have the school district (school) and local law enforcement (police) agreed to follow the policies and procedures?
2. Did the parties acknowledge their respective duties pursuant to the Safe Schools Act?
3. Did the school establish a protocol for disclosure of student information?
4. Did the parties acknowledge helping with prevention, positive behavior supports, education and deterrence measures etc. as alternatives to filing criminal charges?
5. Did the school acknowledge that they must notify police with jurisdiction over the school building?
6. Did police agree to investigate and file criminal charges only after consultation with the school?
7. Did the school state a protocol for transmitting special education and disciplinary records of disabled students?
8. Did the school state the general information that must be transmitted to police and what police need to know before entering the school building?
9. Did police agree they should take extra steps to protect the legal and constitutional rights of the student?
10. Did the police and school formulate a procedure to resolve school violence data discrepancies?

In the analyses, one working class school district, the Pittsburgh Public School District, was sent a request for a copy of its MOU. Their response included a letter from their assistant solicitor stating, “Your request for, ‘the Memorandum of Understanding between the Pittsburgh

Public School District and the Local Law Enforcement Agency that signed it' has been denied because the record does not exist.” (N.W. Williams, Assistant Solicitor in the firm of Weiss Burkardt Kramer, LLC, personal communication, April 2, 2018). No appeal was filed because the MOU did not exist (See Appendix D, Pittsburgh Public School Solicitor’s MOU Denial Letter).

All the affluent school districts and 50 percent of the working class schools followed the Pennsylvania Model or closely approximated it. All eleven of the school district’s responding had MOUs dated within the two-year, biennial period as required by law to reauthorize their MOUs (22 Pa. Code Section 10.11).

The West Mifflin School District and the Gateway School District created their own MOUs. These two school district MOUs had substantive differences from the Pennsylvania Model. The Pennsylvania Model MOU is 14-pages in length. The West Mifflin School District’s MOU consisted of two pages, approximately one page of text and one page of signatures (Appendix E). The West Mifflin MOU contained four of the 10 substantive elements chosen by this study and listed in Table 12. Those elements were numbers 1, 2, 5 and 6. The document is signed by the school board president, but the chief administering officer, who is required to sign, is defined in the law as the superintendent. The West Mifflin weapons policy mentions that an MOU is to be established with the West Mifflin and Whitaker Boroughs police departments. The actual MOU was also signed by the City of Duquesne. If one reads the weapon policy in conjunction with the MOU, the implication is that mentioning some parts of the Model OSS MOU in the weapon policy perhaps negates the necessity of an MOU compliant with the OSS MOU. It does not. West Mifflin can be commended, though, for adding “sharpened wood” in the weapons definition and being the only school district not to include replicas or look alikes as weapons in their weapon policy. Both of these are in line with current caselaw.

The Gateway School District's MOU consisted of three pages of text and one page of signatures (Appendix F). The Gateway School District MOU contained *none* of the 10 substantive elements listed in Table 12. For example, the Gateway School District's MOU was signed by the Monroeville Police Department, which was referred to in the MOU as the TERMINAL AGENCY. The Gateway School District Police Department was referred to as the NON-TERMINAL AGENCY. There was no specific definition of "terminal" and "non-terminal." The MOU was so substantively different from the MODEL OSS MOU that I present the first two paragraphs below to assist the reader to understand:

WHEREAS, the TERMINAL AGENCY accesses the Commonwealth Law Enforcement Assistance Network (CLEAN); and the NON-TERMINAL AGENCY is desirous of obtaining the services of said TERMINAL AGENCY the terms and conditions as hereinafter set forth. The NON-TERMINAL AGENCY herewith enters into this agreement pursuant to and in recognition of provisions of the Acts of General Assembly and the Laws and Ordinances governing such actions.

NOW THEREFORE IT IS MUTUALLY AGREED AS FOLLOWS:

**1. Purpose of agreement and powers to be exercised:**

The purpose of this Agreement is to provide for the joint exercise of the powers and responsibilities incurred in the operation and use of the CLEAN system access established by the TERMINAL AGENCY and the Pennsylvania State Police.

These two Gateway School District MOU paragraphs contain serious substantive differences, and the full text can be read in its entirety in Appendix F. The MOU stresses law enforcement action and violates the spirit of safety and cooperation given in the Pennsylvania Office for Safe Schools Model. In an MOU, the first two paragraphs usually are where school districts and local law

enforcement are to agree to policies and procedures. This MOU at no time mentions Gateway School District. It is signed by the Monroeville Police Chief and the Assistant Director of the Gateway School District Police. The statute dictates the MOU is to be signed by the superintendent/chief school administrator of schools (24 P.S. Section 13-1317.2 (c); 24 P.S. Section 1517 (f)).

As a consequence of creating a MOU, the MOU Statute (22 Pa. Code Section 10.11 (c)) states “statements explaining school entities’ reasons for adopting memoranda of understanding having substantive differences with the model memorandum of understanding” are to be supplied to the Pennsylvania Office for Safe Schools. Therefore, follow up Right-to-Know (RTK) requests were sent to the West Mifflin School District and the Gateway School District to obtain any statements or documents exchanged with the Office for Safe Schools explaining the substantive differences from the Pennsylvania Model. According to the West Mifflin School District RTK officer, “The district does not have any other records relating to the MOU” (D. Cmar, personal communication, May 1, 2018). The Gateway School District had not responded at the time of the publication of this study. Therefore, the implication is that no statements were exchanged with the Office for Safe Schools explaining the substantive differences from these two districts.

With respect to the six working class school districts that did not follow the Office for Safe Schools MOU exactly as it was written (five that wrote their own and one nonexistent); these MOU policy findings were consistent with Dunbar and Villarruel’s (2002) study findings. Dunbar and Villarruel found that the intended objective of the Michigan policy under consideration was to ensure the safety of the students; however, the policy’s implementation raised serious concerns. Even though there was a notion the state policy was designed to guide compliance, each principal interviewed revealed a different interpretation of the safety measure. In the Allegheny County

study, almost every MOU created by a school district that did not follow the Pennsylvania Model as it was written revealed a different interpretation, which could result in dissimilar implementation when police are needed. The memorandum of understanding findings for the Allegheny County school districts were:

- Six or (50%) of the school districts followed the Pennsylvania Model Memorandum of Understanding (MOU) and six or (50%) did not.
- Three of the six or (50%) of the working class school districts revealed substantive differences from the Model MOU.
- Three school districts created their own documents, which possessed the 10 elements embedded in their document. These three along with Gateway and West Mifflin total to five of the 12 districts created their own document and one district had none.

The Joint State Government Commission of Pennsylvania (2016) recommendation number nine stated:

With its complement of five employees, the Office for Safe Schools is not staffed to effectively audit or otherwise verify the appropriate use of grants for violence prevention programs or school resource officers, or *effectively monitor and review data reports governing school discipline* [emphasis added] and truancy from almost 3,000 public schools. (p. 9)

With the data produced in the inquiry in conjunction with the Joint State Government Commission (2016) recommendation nine, a lack of safety oversight is implied for Pennsylvania's 500 school districts. Data demonstrate 50% of the working class school districts or 25% of all of the Allegheny County school district MOUs in this study have substantive differences from the Pennsylvania

Office for Safe Schools Model MOU. These MOUs are required for the safety of students, school personnel and the community.

To demonstrate how serious it is to not have an MOU, the Pittsburgh Public School District (PPSD) with its 54 schools and almost 25,000 students (see <http://www.info.pghboe.net>) recently experienced two incidents in which an MOU may have helped. On February 22, 2018 students in the Creative and Performing Arts School (CAPA) of the PPSD poured out of school onto the streets of downtown Pittsburgh to protest the shootings of 17 students in Parkland, Florida. This also happened on April 20, 2018. The CAPA protest was not sanctioned by the PPSD, and students were told not to leave the school building. Protesting students were later disciplined (McKinney, 2018). It was fortunate for the school that this was a social media inspired peaceful protest and not a violent protest.

Further, even though the Gateway School District and the Pittsburgh Public School District have in-house police departments, the MOU statute does not exempt schools with their own police departments. In fact, the National Association of School Resource Officers (NASRO) believes court rulings reflect how serious judges take the memorandum of understanding (MOU) in resolving issues that arise when the schools' police are involved. The NASRO calls the MOU the interagency agreement. In court cases involving school resource officers (SRO), the NASRO claims judges look for evidence in the MOU of clear intent on the school district's part of the role of the SRO in which to make various findings of fact (Canady, James, & Nease, 2012).



### 5.3 Summary

The Joint State Government Commission of Pennsylvania (2016) concluded that the Office for Safe Schools (OSS) is understaffed and stated it has five employees. The implication is that five OSS employees cannot monitor school districts memorandum of understandings with all its other duties. The 2018 Pennsylvania online employee directory still lists five employees in the Office for Safe Schools (Pennsylvania Department of Education Employee Directory, 2018). The OSS monitoring of school districts MOU is important, because some school districts could have upwards of seven different law enforcement agencies having jurisdiction over different school buildings within a school district. One school district in the current study had only one police force but multiple police precincts or zones. In an emergency, a principal must know which law enforcement agency or which zone/precinct to call and the police must be prepared to accept the call.

Serious policy implications arose when studying these MOUs. It appeared some schools knew of the MOU but had not read the model MOU and implementation may have been improper. Yet, this is a Pennsylvania law, which could precipitate liability for not having this document/MOU system in place when a serious matter arises, such as an active shooter scenario.

The Joint State Government Commission also concluded that Pennsylvania's disciplinary rate of expulsion and out-of-school suspension are higher than the national average, and data reflect disparities in treatment of racial minorities. The data reveals this conclusion is aligned with the Allegheny County study. All the working class schools have higher percentages of African American students enrolled than the affluent schools, with the exception of the North Hills School District. The working class schools, compared to the affluent schools, had more than four times

the arrests, while law enforcement was called only twice as many times. Working class schools had over four times the referrals to alternate education for disruptive youth, two times the out-of-school suspensions and five times the expulsions. Table 13 provides a visual demonstration of this.

**Table 13.** Findings for Allegheny County Safe Schools Historical Comparison Report Data (2016-2017)

Comparison of Working Class and Affluent	Working Class High Schools	Affluent High Schools
Incidents involving law enforcement	166	82
Arrests	52	12
AEDY	37	8
Out-of-School Suspensions	18	9
Expulsions	10	2

For both Allegheny and Dauphin Counties, the findings of the high rate of arrests in the working class schools with the higher rate of total African American students enrolled implies that consequently, the rate of African American student expulsions and suspensions are higher for these high schools.

The *Gun-Free Schools Act* (1994), which amended the United States *Elementary and Secondary Education Act*, Subpart 3, Section 4141 as adopted by the Pennsylvania *Public School Code* of 1949 has another provision. It provides that local educational agency's superintendents may make changes or modifications to the school expulsion requirement on a case-by-case basis if the modifications are in writing (24 P.S. Section 13-1317.2 (c), 20 U.S.C. 7961). The implications of the Allegheny County data are that modifications reducing the time out of school for African American students are not being extended to them, and they are receiving more out-of-school exclusionary discipline and being referred to the Allegheny County Juvenile Justice System (Goodkind, 2016; The Pittsburgh Foundation, n.d.). These findings align with the findings

of Lhamon and Samuels (2014) nationally in their U.S. Department of Justice and U.S. Department of Education study.

To further understand why so many racial minorities are in the Allegheny County Juvenile Justice System, the literature review and study data has identified disparities and identified troubling school policy. Chapter 6 will identify school district opportunities for system change, action, and improvement (The Pittsburgh Foundation, n.d.).

## 6.0 Action, Improvement and System Change

Piantanida and Garman (2009) believed that inquiries are made to understand educational conditions and to improve educational affairs. In this study, my inquiry goals were to understand and improve school weapons policy. First (2006) stated, “The passing of a law makes it state policy” (p. 132). Policy research is defined as research that provides policymakers with information and options to solve a problem. The problem addressed in this policy research study is the school-to-prison pipeline, which zero tolerance policies have precipitated. Policy can be defined here as where to go to end the school-to-prison pipeline, and this study gives guidance to get there (First, 2006). When studying policy, the focus is on studying specific sets of public policy options (Russo, 2006).

Not discussed in this dissertation is criminal justice reform, although criminal justice reform is being discussed more of late. I discuss in this chapter how scholars are beginning to demonstrate schools are major contributors to the criminal population. I believe one cannot have criminal justice reform without educational reform. The connection between schools and prisons in the school-to-prison pipeline is stark when one examines the lack of high school diplomas of prisoners since the *Gun-Free Schools Act* (1994) was enacted. The correlation between educational failure and participation in the penal system has been well documented. A report from the Coalition for Juvenile Justice states that “dropouts are three and a half times more likely than high school graduates to be arrested” (Alliance for Excellent Education, 2013, p. 3). According to the Bureau of Justice Statistics, dropouts are eight times more likely to be in jail or prison. Further, dropouts

constitute 67% of state inmates, 56% of federal inmates and 69% of inmates in local jails (Alliance for Excellent Education, 2013; Bridgeland, Dilulio, & Morison, 2006).

The Pittsburgh Foundation released a study in 2017 and found it is essential to inform practice, identify disparities, and influence school policy by understanding “the reasons for disproportionate involvement of youth of color by race and gender” in the juvenile justice system (n.d., p. 7). The Foundation also discovered that in Allegheny County in 2012 Black youth’s rate of detention was 19 times higher than White youth’s. These high rates of Black detention in Allegheny County are why my current inquiry has sought to follow their advice and has provided opportunities for action, improvement, and meaningful system change by informing practice and identifying disparities (The Pittsburgh Foundation, n.d.). In this chapter, specific opportunities to accomplish this objective are delineated.

## **6.1 Areas for Collaboration**

While the juvenile justice system and the educational system have made strides in curtailing the number of students in the school-to-prison pipeline since I began practicing law in this area in the early 2000s, some unexpected areas need increased collaboration between these two systems. Many have made assumptions that Pennsylvania has put in place various safe schools initiatives, the juvenile justice system has undergone a major transformation, and there are judicial decisions in place providing guidance on how to interpret weapons policies. It has been assumed by many of us that implementation is naturally occurring. What is occurring appears to be what McNeal and Dunbar (2010) found in their study. McNeal and Dunbar used Michael Lipsky’s

street-level bureaucracy theory to investigate perceptions of zero tolerance policies within schools. Three major criticisms emerged: (1) policy is enforced inconsistently, (2) security is inadequate (for instance many of the metal detectors are broken etc.), and (3) security services are inadequate. In that study, students still felt unsafe more than ten years after the policy's implementation. Lipsky's characterization was that of school administrators as street level bureaucrats who were not executing the implementation process (Weatherley & Lipsky, 1977). By applying Lipsky's theory to zero tolerance, McNeal and Dunbar (2010) claim that policies are subjectively applied, and they leave room for street-level bureaucrats to infuse personal values riddled with insensitivities and bias. Further, according to McDonnell & Elmore (1987), mandates like those in the Pennsylvania safe schools laws seldom result in uniform compliance, and it appears zero tolerance policies are not the exception.

Collaboration is needed to develop procedures for implementation of zero tolerance policies. My recommendation is that in the process of commissioning new school superintendents in Pennsylvania, an in-depth understanding of the importance of the Office for Safe Schools (OSS) Model Memorandum of Understanding (MOU) must be part of the educational process. Further, an implication drawn from the conclusions that have arisen are that school resource officers, probation officers located in schools, and school board members sitting on school boards need more collaboration. While the current study suggests this is occurring for many affluent schools studied, there are working class schools that raise concerns. Without a comprehensive collaborative policy and standards between the legislature, the judicial system and the educational system, schools will not be able to determine who is responsible and the scope of the responsibility. For example, when there are substantive safety concerns with a schools MOU, at what point does the OSS intervene, and what does intervention encompass. Also with respect to school boards, my

recommendation is that just as a citizen *elected* to the minor judiciary (local magistrate) cannot take that office without passing an examination, school board members may need more intense training. This may necessitate the Pennsylvania legislature enacting legislation requiring *elected* school board members to take an examination before they are considered qualified to be seated. These are school safety issues. In our society today, an active shooter could enter a school building at any time. Before schools arm school personnel with weapons, school boards and school administration need to know what school safety measures that are in place or should be in place, and have an assessment of whether they are abiding by them.

Further, my suggestions are in line with the Joint State Government Commission's (2016) sixth recommendation. The Commission recommends that school resource officers receive training in de-escalation techniques, cultural competency, implicit bias, restorative practices, child development, child psychology, communication and behavior, and other topics to assist officers to work effectively. The Commission also added that school employees making disciplinary decisions should be able to participate in these trainings. Although not employees, the spirit in which this recommendation was written should extend these trainings to school board members because they are making disciplinary decisions by creating policy. Probation officers working in schools may need these trainings.

With respect to probation officers, students are reporting they are embarrassed to walk down the school hallway where peers can stare and observe them entering the probation office. Schools and probation departments need to be more sensitive to this issue if attorneys representing these students report students telling them it is embarrassing. Some could characterize the humiliation of going in and out of the probation office in full view of student peers as needlessly dehumanizing. In other words, "Students in resisting the dehumanizing practices of schooling, at times act in ways

that perpetuate the stereotyping” (Herr & Brown, 2011, p. 585). This needs further research, because studies have demonstrated that many times students who are disciplined and labelled delinquent, internalize the label and act in ways that confirm their delinquent status. Kaplan and Johnson (1991) have studied the results of negative social sanctions on juvenile delinquency and offer insight into this internalization and humiliation.

### **6.1.1 Mental Health Issues and Incarceration**

I have discussed the need for collaboration between the legislature, the juvenile justice system, and the educational system. I must also include the need for collaboration with the mental health community. Generally, of the incarcerated youth population, over 50% have histories of mental illness, and at least 11% have committed no offense but are awaiting community mental health treatment (Maschi, Hatcher, Schwalbe, & Rosato, 2008). The Pittsburgh Foundation released a study in 2017 that claimed 22% of all students have at least one mental health condition, but 70 % of students in the juvenile justice system have at least one mental health condition (Skowrya & Coccozza, 2006; Teplin, Abram, McClelland, Dulcan, & Mericle, 2002).

According to Professor Tracy McCant-Lewis of Duquesne University Law School, traumatic experiences involving death or violence in lower income communities create underlying mental health issues that students are forced to confront in the educational system (Checchio, 2013). Teachers are not equipped and cannot be expected to handle these mental health conditions. McCant-Lewis further believed it is cost prohibitive to continue to ignore mental health barriers to education (Checchio, 2013). Furlong and Morrison (2000) stated “that it is necessary to explore specifically what the difference is between ‘school violence’ and ‘violence in the schools’” (p. 73).



They reasoned that educators need to know the difference in order for them to understand and own their part that schools play as an organizational and institutional entity in violence occurring within their buildings.

Addressing the mental health issues of students is important because there are 100,000 youth incarcerated nationally who have been released from custody. Many are being returned to the same schools that had them arrested. Further, there are almost that many who are currently being held in placement (Anthony et al., 2010). The Pittsburgh Foundation (n.d.) studied this issue and maintained student mental health conditions are not dealt with adequately in schools and often go untreated.

School re-integration of formerly incarcerated students is increasingly an issue for schools, and African American youth receive more severe dispositions at each stage of the juvenile justice system than their White counterparts (Rattan, Levine, Dweck, & Eberhardt, 2012). This is another area in which the educational and judicial system need to collaborate. There are safety issues when an untreated student with a mental disorder is returned to the same school in which they were arrested. This student may exhibit increased anger and violence and feeling of betrayal for the previous arrest, “Being safe at school allows teachers, staff, and students to work together to reach academic milestones and develop social and emotional skills. Indeed, school safety is a prerequisite for staff and students to be able to engage in educational activities” (Capp et al., 2017, p. 2)

One former superintendent told me it cost her \$70,000 to hire a school resource officer and the same to hire a mental health professional. If this is the case, schools should have approximately the same number of mental health professionals as school resource officers (SROs). Yet, not only do schools *not* have approximately the same number of mental health professionals as school

resource officers, many have *more* individual SROs and more individual probation officers than mental health professionals. These issues spotlight the need for educational reform. The alternative to not dealing with the mental health issues at the first arrest or before re-integration is that the student does not return to school and drops out of school. According to Assistant NAACP Legal Education counsel, Matt Cregor, “ ‘Students’ first arrests double the odds of dropouts; first court appearances quadruple those odds” (Checchio, 2013, p.12).

With limited opportunity after receiving a criminal record, studies show these students eventually re-offend. In fact, of the youth who exit correctional facilities, many return to school but, overall, the majority will re-offend. The rationale for providing services for these youth is to educate them and keep them out of jail in order to lessen the human, social and economic costs to the community (Abrams & Snyder, 2010). My recommendation is a collaborative effort between the mental health system, the educational system, and the juvenile justice system to address these mental health issues. This is yet another crisis that must be addressed when discussing criminal justice reform and educational reform.

## **6.2 Judicial Influence on School District Weapon Policy**

In the school-to-prison pipeline, the judiciary are a major stakeholder when attempting to accomplish meaningful system change. It is responsible for interpreting the laws legislators enact. They do this by court decisions interpreting school districts’ zero tolerance weapon policies of which that interpretation then becomes legal precedent over the statutory law. School districts must follow these legal precedents. This study found a disconnection. It is important for schools to

understand these court decisions and interpretations as they are bound by them. If school administrations are not updating weapons policies to reflect the decisions in the latest court cases, they may be disciplining students incorrectly and inequitably. Many students may be unaware they should challenge the disciplinary decisions. This is a social justice issue, because many affluent students and parents who have the means to hire an attorney will argue in court to get the school weapons decisions reversed, whereas many lower socio-economic status students do not have access to an attorney or are not astute enough to seek legal advice.

A case in point occurred recently. This discipline was surprising because this is a settled area of the law, meaning the court has decided and superintendents should be aware of the decision. The student in question was disciplined for violating the weapons policy. The student was given out-of-school suspension for having a plastic toy knife from his Halloween costume in his backpack (Iannotti, 2018). An elementary school in a school district in a contiguous county, Washington County, Pennsylvania meted out the discipline. It appeared from the facts given, that the school district modified the one-year expulsion to an out-of-school suspension. The 10 year old had forgotten the toy weapon from his Halloween costume was in his backpack, which demonstrates his lack of intent to disrupt the educational setting and commit a violent act. The 10 year old spoke on the evening news and said he was concerned because he had a test that Friday after the suspension and wished he could have gotten an in-school suspension. His father appeared in the newscast totally confused as to why this was happening. The father said they bought the costume at Walmart's clearance rack with the big knife for \$2.97. The TV showed a plastic knife approximately 10 inches by 3 inches with a red fluid moving inside to imitate blood. The father implied that Walmart would never sell a child's Halloween costume that could be mistaken as a weapon. The father was confused and did not know where to go to seek help for his son. The

television news crew showed the family home and the family setting. These were not affluent people or people likely astute in the legality of the *Gun-Free Schools Act* (1994). This decision could have been challenged in court by an attorney. An attorney could have sought injunctive relief and returned the boy to class immediately. In Pennsylvania, this is a settled area of law; in *G.S. v. West Shore School District* (1993), a Pennsylvania court case already decided a replica should not be considered a weapon. *G.S.* lost because his intent with the replica was to hurt another student. It is important to reiterate that the United States firearms statute states, “‘destructive device’ shall not include any device which is neither designed nor redesigned for use as a weapon” (18 United States Code Section 921(a)(3-4)). The federal and Pennsylvania statutes clearly intended to exclude toy replicas and look-alikes sold to parents to be used with Halloween costumes.

It is rare for these cases to go to court; my experience is that when an attorney explains the caselaw to school administrators, they are cooperative. This is an area not taught in higher education or continuing education, and school administrators genuinely do not understand until the attorney explains relevant caselaw to them. For example, in the earlier example in which a mother mistakenly placed a plastic picnic knife in her child’s lunchbox, once the attorney explained the caselaw to that Washington County, Pennsylvania school administrator, the one-year expulsion was set aside, and the child was readmitted to school. That child has gone on to be a college graduate and a productive citizen. These African American parents were college graduates whose immediate parental engagement with their child spared their child a one-year school expulsion. However, this case is the exception, because these were parents with means; unfortunately, many low income and African American youth do not have these advantages. This is a serious social justice issue.

Further, the case of *Seal v. Morgan* (2000) is a second way to challenge this weapons discipline. It is a federal case out of the state of Tennessee. This case is a good predictor of how the federal court here in Pennsylvania would rule. The *Seal* case was appealed to the Federal Court of Appeals, the due process claims were sustained, meaning allowed. Those claims raised were substantive due process claims challenging the fairness of *Seal's* discipline. The *Seal* case rested on intent of the student. The facts in *Seal* were that a student challenged his weapons expulsion due to a knife found in the family car, which he drove to school. The school proffered no evidence the student knew or should have known about the weapon. Lacking that evidence, the Court concluded the expulsion was not related to a rational interest. No student can use a weapon they are unaware of to injure or disrupt school operations (Kim et al., 2010).

An example of a reversal of a school weapons decision and how the 12 school districts in this study responded is exemplified by one recent court case. The case in question was The Pittsburgh Public School District (PPSD) case of *S. A., a minor, by her father H.O. v. Pittsburgh Public School District* (2017). In that case, the PPCSD expelled a female student using the district weapon policy for repeatedly stabbing a male student in the neck with a pencil during an altercation in which two male students would not return her property. The one male student was treated by the school nurse and sent home.

H.O., the father of the student, was able to act on behalf of his daughter. He understood the situation, retained an attorney and defended his child in Court. H.O.'s parental engagement with his child's education spared the student, S.A., from the consequences of a one-year school weapons expulsion due to the *Gun-Free Schools Act* (1994) and its Pennsylvania implementing legislation at (24 P.S. Section 13-1317.2 (a)). Here, the PPCSD contemporaneous to the incident categorized the pencil as a weapon under the *Gun-Free Schools Act* (1994). The Commonwealth Court decided

PPSD's appeal from the Allegheny County Court of Common Pleas decision and asserted that using the legal principal of "*ejusdem generis*" (meaning "of the same kind or class"), the PPSD was contemporaneously prohibited from making a pencil a weapon when there existed no language in its school board adopted weapon definition that could remotely allow a pencil to be considered "of the same kind or class" (Trial Court Opinion at p. 5). See Appendix A for a summary of the case.

This challenge to the weapons policy rested on the fact that if a pencil is to be a weapon, it must be included in the weapon policy definition. If the weapon is not defined in the school district weapon policy, then students disciplined under the weapon policy have been denied their constitutional due process right, which requires the definition to be in the policy to serve as notice to the student. This decision is reflected by the Joint State Government Commission's (2016) comments in their recommendation four, which states that:

Pennsylvania has no purely zero tolerance discipline policies but the problems that arise with zero tolerance are largely attributable not to the language of the law, but to the application of the law from school district to school district.... School districts should be given more guidance as to what constitutes a weapons violations [*sic*] and not as much latitude in defining weapons. (pp. 1, 8)

Of the 12 school districts in this study, only two, West Mifflin and Mt. Lebanon, added "sharpened wood" to their weapon definitions. It is likely sharpened wood would satisfy the legal principle espoused in the Commonwealth Court decision of "*ejusdem generis*" or "of like kind or class." Sharpened wood is of like kind or class, compared to a pencil. I recommend all Pennsylvania school districts add "sharpened wood" to their weapons definitions. Further, 11 out of the 12 school district policies included look-alikes and replicas as weapons. As detailed earlier,

the Pennsylvania case, *G.S. v. West Shore School District* (1993), was decided against the plaintiff, G.S., but an important finding in that case was that replicas are not weapons within a school's weapon policy. A conclusion I have drawn is that some school districts may not be having the school district's legal staff or solicitors review policies to ensure they are legally correct based on current court decisions and statutory law.

### **6.2.1 Memorandum of Understanding**

This study also analyzed each of the 12 school districts' memorandum of understanding (MOU). MOUs are mandatory; the statute states: "Each chief school administrator shall execute and update, on a biennial basis, a memorandum of understanding with each local police department having jurisdiction over school property of the school entity" (22 Pa. Code Section 10.11 (a)). Therefore, each school district's chief school administrator, defined as the superintendent (24 P.S. Section 13-1317.2 (c); 24 P.S. Section 1517 (f)), is to sign an MOU with local law enforcement to establish protocol for law enforcements notification and ensuing involvement when called to the school. This is important because many school districts have several law enforcement agencies having jurisdiction over different school buildings. The school district, the principal in a building, and the local police must know, among other things, which police force has jurisdiction over a building, what student records can be given to police, and what incident information should be given. For instance, is the student record confidential, if an active shooter enters a school building, is the perpetrator controlled or is the incident active and ongoing.

I have two recommendations for action. First, the Department of Education Office for Safe Schools has provided a Model Memorandum of Understanding. School districts should use it and

add to it if necessary and not delete any information. This will ensure all substantive matters are contained within their document. School districts will be held accountable by law to the Office for Safe Schools, for all substantive differences from the Model. Second, each time a building changes a principal, the new principal in charge of the building should be added to the MOU as an addendum to ensure the new person in charge has been made aware of the local law enforcement agency with jurisdiction. When an active emergency needing law enforcement occurs, the principal must know which police force to call. This should also be explained to personnel substituting for the principal in the building. I cannot stress enough how important this is, because lives could be lost due to schools not being prepared.

### **6.3 Equity and the School District's Powers**

As previously discussed, legislators make the statutory law and the judiciary interprets the law by decisions made in court cases. The disconnect occurs when school districts do not update their policies based on court decisions. Then, juveniles may not just be expelled or receive an out-of-school suspension but may be reported to law enforcement by schools and arrested for objects that courts have ruled are not weapons. I touched upon this in the last section but will delve more deeply into this disciplinary disconnection in this section.

As discussed earlier, students are also being arrested for utensils mistakenly put in a child's lunch by a parent of which the child is not aware. Court cases interpreted by the judiciary state that, in the situation of not knowing of the utensil, a student's defense to the presumption that the student brought a weapon to school would be lack of intent. For instance, the student did not intend



or even know of the parents placing a plastic knife in the lunchbox. As in the case of *Seal v. Morgan* (2000), described earlier in this chapter and in the Appendix, the court concluded the expulsion was not related to a rational interest. No student can use a weapon they are unaware of to injure or disrupt school operations (Kim et al., 2010). This case is consistent with section 908 (b) of the Crimes Code as reiterated under the Mandatory Notifications Section of the Pennsylvania Model Office for Safe Schools Memorandum of Understanding (MOU). Also, weapons that are curios in a dramatic performance, a weapon possessed briefly as it was found or taken from an aggressor, or when it is unlikely it will be used as a weapon or other circumstances all negate intent, and, as such, there is no Office for Safe Schools or other mandatory reporting requirement. When disciplining students, schools should ensure the student has the requisite intent to possess a weapon. Strict enforcement of the one-year suspension is only appropriate if the student knew of the weapon. Modification of a one-year expulsion to an out-of-school suspension is still harsh and one of the most severe disciplinary measures a school can administer (American Academy of Pediatrics Council on School Health, 2013).

The Joint State Government Commission (2016) wrote a proposed amendment to the *Public School Code* of 1949 based on ten recommendations they developed from their Dauphin County study. These recommendations have been cited throughout this dissertation. Two of the Commission's recommendations related to discipline are recommendation number one, which concluded that schools should minimize the use of exclusionary discipline and the third recommendation that expulsions and out-of-school suspensions should be used in limited circumstances for students under the age of 10. If used for a student under the age of 10, it should be for conduct of a sexual or violent nature that endangers others. Further, an alternate educational setting should be offered to that student, and a plan of services should be put in place before the

student returns to classes. The Pittsburgh Public School District school board approved a policy revision in line with the latter recommendation banning the use of exclusionary discipline for students kindergarten to second grade for nonviolent minor disciplinary infractions. This policy became effective September 1, 2018 (Pittsburgh Public School District, 2017).

Moreover, discipline leading to an arrest, even if later dismissed in court, creates a criminal record. Students should have their criminal records expunged as soon as possible. Expungable juvenile records in Pennsylvania, are mainly records that didn't lead to a conviction or are summary convictions and a student has not been arrested for more than five years (Hollander, 2014).

Krezmien, Leone, Zablocki, and Wells (2010) conducted a longitudinal study of juvenile justice system referrals from schools. Their study covered eighth grade referrals for the period from 1995 to 2004 and found four out of five states gave greater 'school' referrals than 'overall' referrals over time and these referrals included misbehavior. One state in the study was our contiguous state, West Virginia. What this study means is that the previous juvenile crime that happens in neighborhoods/communities for these five states was less than the crime being referred by these states' schools. The conclusion is that schools are referring more juveniles to the juvenile justice system than are arrested in municipalities by municipal police. Many of these juvenile records can be expunged upon the age of majority, and a consent decree, discussed in the first chapter, the background to my involvement section, can usually be expunged after six mos. but 75% never return to do so. As Reyes (2011) noted, "Minority and low-income parents often lack the knowledge and level of sophistication to return in three to five years to the same court...to request juvenile records be expunged" (p. 484; see also Reyes, 2006).

Several areas have been covered in this section. My recommendations encompass many of these areas. Schools should adopt a policy aligning with the Joint State Government Commission's (2016) third recommendation that expulsions and out-of-school suspensions should be used in limited circumstances for students under the age of 10. School districts should collaborate with mental health organizations and discuss the issues mentioned in this section. They should also collaborate with the juvenile justice system (That discussion should begin with the probation department if they have probation officers in their buildings.). Finally, schools should try to employ as many, if not more, mental health professionals than school resource officers.

### **6.3.1 Federal Guidance to Ensure Nondiscriminatory Administration of School's Discretionary Powers**

The administration of school discipline in Pennsylvania has had a disparate impact on low income and racial minorities particularly African American students (Giroux, 2003; Joint State Government Commission, 2016; Triplett et al., 2014). As reported earlier, the Pittsburgh Public School District suspended nine in 33 African American students compared to one in 33 White students while African American students are only 53% of the student population. Studies report implicit bias in administering zero tolerance weapon policies, contributing to the school-to-prison pipeline (Berlowitz et al., 2017; Goodkind, 2016). The Goodkind (2016) study was conducted on girls in the Pittsburgh Public School District. According to Matt Cregor, assistant legal educational counsel, NAACP Legal Defense and Education Fund, "the line between acceptable and unacceptable behavior is the color line," (Checchio, 2013, p. 12). For these reasons, many have called for zero tolerance policy reform (Dunbar & Villarruel, 2002; Giroux, 2003).

On January 8, 2014, the then-United States Secretary of Education, Arne Duncan, and the United States Attorney General, Eric Holder, acknowledging the link between the administration of zero tolerance policies and the school-to-prison pipeline, released a series of guidelines to assist school districts in meeting their obligations under federal law in administering nondiscriminatory discipline (Lhamon & Samuels, 2014; Pennsylvania Bar Institute, 2015; Triplett et al., 2014). The significance of this guidance is that, at times, educators may not intuitively realize they are discriminating. “On the surface, zero tolerance policies are facially neutral. They are to apply equally to all regardless of race, class, and gender. A growing body of research suggests that these policies are anything but” neutral (Heitzeg, 2014, p. 23; see also American Bar Association, 2012; Nocella, Parmar, & Stovall, 2014).

Further, with respect to the equal educational opportunity principles espoused in *Brown v. Board of Education* (1954), zero tolerance policies do not adhere to *Brown* “and have and continue to punish minority students more harshly and more frequently than their White counterparts” (Triplett et al., 2014, p. 352; see also Hanson, 2005; Lhamon & Samuels, 2014; Pennsylvania Bar Institute, 2015). According to Triplett et al. (2014), originally, zero tolerance focused on weapons possession from an objective criminal perspective. However, circumstances have been created that allow schools to use zero tolerance policies to cover all sorts of subjectively defined misbehavior, such as disrespect, disruption, truancy and other innocent situations upon which students embark. Out of school incarceration for minor misbehavior can lead to lifelong consequences.

As an example of what is occurring regularly in our Pittsburgh community, in 2018, a student was removed from the mainstream school and arrested. Previously, the student’s mother was fined \$40.00 due to the student’s truancy. The mother paid \$20.00 to the court but did not have the additional \$20.00. The mother was allowed to pay the balance later. The student is 18

years old. The student claimed either of them would have paid but no bill or invoice was sent to them requesting payment. While incarcerated, the student missed senior comprehensive examinations needed in order to graduate.

Arguably, when incarcerated students' stories are reported, a conservative person may disagree with my conclusions and believe this is just liberal nonsense. Having worked in the conservative oil and gas industry for many years, I know my conservative brethren are practical. In this dissertation I am also advancing a case to them, that incarcerating students for minor misbehavior is not a cost-effective incarceration. Many will find the cost of incarcerating juveniles for misbehavior is unacceptable, considering that on any given day, in the United States there are 60,000 children in detention (Gupta & Lhamon, 2014). For example, the Justice Policy Institute (2015) surveyed 47 states to determine what it cost to incarcerate a juvenile. Although Pennsylvania did not respond to the survey, the Justice Policy Institute found the average of the 47 responding states was \$146,302 per *year* to incarcerate a juvenile. The average cost per *day* to incarcerate a juvenile was \$401. The average cost for an incarcerated adult, according to the Pennsylvania Corrections Secretary, is a little over \$42,000 per year (Wetzel, 2016). These types of costs are not sustainable, and the school discipline precipitating these costs are of increasing concern to the Pennsylvania Joint State Government Commission (2016).

Further, it should be noted students guilty of minor misbehavior are incarcerated with children who have committed more serious crimes. I believe misbehaving students incarcerated with students with more criminal experience is another concern. For instance, if you have students who have committed a serious crime like a drive-by shooting and it cannot be determined who was the shooter, until the shooter can be determined those students are routinely taken to juvenile incarceration where bail is not available. They are not immediately taken to an adult incarceration

facility, because they can post bail and get out of that facility before law enforcement has a chance to determine various matters such as who was the actual shooter. So, these serious criminal suspects are incarcerated with students whose only crime is skipping school or talking back to the teacher. I believe the punishment is harsh for the school infraction that has been committed. Also, these misbehaving students will then be given criminal records.

As enacted, zero tolerance policies have little to do with school safety. Triplett et al. (2014) used racial threat theory and critical race theory,

to examine the ways in which urban minorities have become the primary victims of punitive discipline, even though data show that urban schools experienced none of the rampage-style school shootings that contributed to the near universal implementation of zero tolerance policies. (p. 356)

Lhamon and Samuels (2014) maintained that the overwhelming racial disparities in student discipline that have arisen may be a result of schools engaging in racial discrimination in administering zero tolerance policies in violation of federal civil rights laws. The Department of Justice's Civil Rights Division and the Department of Education's Office of Civil Rights is tasked with enforcing the United States *Civil Rights Act* of 1964 (Title VI), 42 U.S.C. Section 2000d and its implementing regulations at Code of Federal Regulations (34 CFR 100), which prohibits discrimination based on race, color, and other covered categories (Gupta & Lhamon, 2014).

Different treatment results when there exists intentional discrimination. Several scenarios give rise to intentional discrimination for school administrators to be cognizant. The first instance is easily recognizable by school administration. For instance, when a school develops a zero tolerance weapons policy with explicit language and blatantly and intentionally discriminates by requiring students of one race to be disciplined differently than students of another race *or*

requiring only certain races be disciplined, it is illegal. That type of discrimination was found in *Sherpell v. Hamnock School District No. 5* (1985). In *Sherpell*, a federal court found the school district's discipline was racially discriminatory and unconstitutional. Hamnock School District teachers referred to the Black students with racist terms such as "nigger," "coon," and "blue gums." Further, a former teacher testified to the corporal punishment administered to the Black students and not to the White students. One Black student was left bloodied after an encounter with a teacher (Kim et al., 2010). This case demonstrates that intentional discrimination can be proven without students in similar situations if there is racial animus found with the teachers or administrators.

Second, absent the racial epithets that were the direct evidence in *Sherpell*, the state and federal agencies must use circumstantial evidence. More commonly, intentional discrimination arises when a school has a policy that appears to be neutral and does not differentiate between races, but the policy is administered in a discriminatory manner or it discriminates against a student in an area the policy does not fully address. This happens when students are similarly situated or comparable, if not identical, but are disciplined differently. For instance, if a Black student gang and a White student gang get into a fight in school, if it cannot be determined how the fight began and nothing demonstrates one side behaved differently (for instance one side had weapons), then both must be disciplined the same. If not disciplined the same, it raises an inference of intentional discrimination.

Third, another form of intentional discrimination is when the school adopts a facially neutral zero tolerance policy with the intent to target a specific racial minority. Regardless of whether all students are punished for the infraction, the policy was a means of disciplining students of a racial minority. School policies must advance a *legitimate school objective*.

The fourth and final form of intentional discrimination is when a facially neutral policy is selectively enforced against only students from a racial minority. This occurs, for example, when a school official decides to overlook or lessen the expulsion time from one year to six months for weapons possession, but a racial minority is always given the maximum discipline. This can also occur when a teacher only refers students of one race for discipline when students of all races commit the infraction (Lhamon & Samuels, 2014; Pennsylvania Bar Institute, 2015). Therefore, if a school policy appears to have a disparate impact on any group covered by these laws, the school district administration should be vigilant to avoid violations of the disparate impact theory of discrimination. Zero tolerance disciplinary policies, particularly weapon policies, may appear neutral on the surface but may have a discriminatory impact on racial minorities and other members of legally covered populations. Even if a school's disciplinary policy has a legitimate justification, such as an educational necessity, courts have determined that if there were less discriminatory alternatives available, the school has still committed a violation (Kim et al., 2010).

As a summary recommendation, school districts should review all their policies and procedures, particularly the weapon policy, to ensure they are not having a disproportionate impact on a class covered by the United States *Civil Rights Act* of 1964. School districts should track individual teacher referrals to ensure teachers are not referring for discipline only members of populations protected by the United States *Civil Rights Act* of 1964.

### **6.3.2 Power to Reduce Discipline in Lower Socio-Economic Status Schools**

High violence in lower socio-economic communities does not necessarily produce high violence schools resulting in higher disciplinary rates. Discipline can be mediated, and the school-



to-prison pipeline trajectory reduced depending on the school principal's leadership around school reform. School principal's leadership is the most important variable (Astor et al., 2009). School reform should *not* always be based on "packaged school violence evidence-based programs. The schools [should] demonstrate 'outward' oriented ideologies, a schoolwide awareness of violence, consistent procedures, integrated use of cultural and...visual manifestations of student care, and the beautification of school grounds" (Astor et al., 2009, p. 1). The socio-ecological model helps to make meaningful system change in order to address violence and other problems in schools. It provides understanding of the community in which a school is located as well as the school. Culture and socio-economic status of the surrounding community have a tremendous influence on the students who attend the school.

This understanding is needed in these schools, "It seems a lot of times teachers are intimidated and don't know how to teach or discipline children of other races and call on the juvenile justice system to discipline these students," said Tracy McCants Lewis, Professor of the Civil Rights Litigation Clinic at Duquesne University School of Law claiming, "schools are criminalizing what used to be schoolyard fights" (Checchio, 2013, p.12). I recommend addressing these school dynamics; school administration must understand the problems and context of those problems as previously enunciated. When everyone works together to understand the nested nature of schools in communities, they can then begin to understand how to work toward solving school problems (Capp et al., 2017).

### 6.3.3 Educational Malpractice

The socio-ecological model used in this dissertation has allowed me to peel back the layers of influence within the internal school and external school. To demonstrate how the federal *Gun-Free Schools Act* (1994) has influenced state government. In fact, Pennsylvania has had to amend the *Public School Code* of 1949 to add the disciplinary measures mandated in the *Gun-Free Schools Act*. I have further demonstrated how the local school boards have implemented policy to comply with the Pennsylvania law, and I have given data that demonstrate that harsh expansive local school board policies have come to be known as zero tolerance policies. These policies have gone beyond the scope of what the federal or Pennsylvania statutes have mandated. Their implementation has had a disproportionately negative effect on lower income and racial minority students. In this section, I explain why school boards and superintendents must be vigilant in administering zero tolerance policies, particularly in the weapons area. The implications that can be drawn from the conclusions in this document are that school boards and superintendents are dealing with educating students and accountability issues. The details of their weapon policies may not be foremost on their minds.

At the same time, schools' seeming insulation from educational malpractice is being chipped away in the courts. "Malpractice is a negligence claim that is grounded in the essential elements of duty of care, breach of duty, causation, and injury, and with the added elements of profession standards of conduct and arms length dealings" (Mawdsley & Cumming, 2008, p.1). By, "arms length dealing," the researchers meant relationships between outside businesses and trade organizations are too close.

Standler (2013) claimed he periodically conducts legal reviews to determine the status of educational malpractice cases. In *Sain v. Cedar Rapids School District* (2001), some educators may be surprised to learn, an Iowa Supreme Court recognized a claim of educational malpractice. A Cedar Rapids School District was determined by the Iowa Supreme Court to be in the business of supplying information and breached its duty to supply that information correctly. Sain's educational malpractice claim was distinguished from previous decisions. The *Sain* fact situation is unrelated to the usual educational malpractice claims by students of their lack of skills or academic performance due to poor teaching. Instead, in *Sain* it pertains to a specific act requiring specific information. Here, the high school counselor advised Sain to take a specific English course that did not meet National Collegiate Athletic Association (NCAA) required high school curricula. That course caused the NCAA to rule Sain ineligible to play college basketball. Unable to accept a college basketball scholarship and unable to attend the college offering the scholarship due to lack of money, Sain sued (Standler, 2013). This decision allowing a claim of educational malpractice in that Iowa Supreme Court set a legal precedent. It involved the legal principle of *stare decisis*, which means to stand by the decided, in which judges follow previously decided cases where the facts are sufficiently similar. A similar fact pattern arises with a single act of improper administration of weapons disciplinary policy by school administration.

This single act could lead to an incarceration and the consequences of a criminal record that imposes a lifelong burden upon a student in many areas. Areas such as employment, public housing, entering college, carrying a firearm, immigration status, sometimes suspension of driver's licenses, and seriously affect adult sentencing in a later criminal conviction. These areas are outlined in more detail in *The Pennsylvania Juvenile Collateral Consequences Checklist* (Listenbee, 2010; see also Dietrich, 2014).

As a further comparison, when I began this study, I could not understand why so many of the weapon policies on the Allegheny County school districts' websites were almost identical. Many non-statutory language sections of the policies were written word-for-word. They had the same policy number and were located in the same section of the various school district websites. Any policy I may have thought should have been written differently due to current caselaw was not in just that policy, but I found the same issue in many school district policies. For instance, in six of the working class Allegheny County school districts and one affluent school district, not only did the policies sound similar but they were found in the same section, section 200. Yet, all of these school districts did not have the same solicitor. I mistakenly believed school district solicitors were writing the policies. I later traced these policies to a trade organization for school districts. This trade organization claimed it provided 'legally referenced' policies at economical prices to adhere to the needs of school districts. I realized school districts using these policies may believe a 'legally referenced' policy adheres to Pennsylvania law, but the website does not state such. While 'legally referenced' may have significance in other states in which the business writing the policy for the trade organization operates, it should not be assumed these policies adhere to Pennsylvania law and are updated based on Pennsylvania caselaw. These businesses operate in many states, and it is the duty of each school board and school administrator to ensure they are implementing policies that adhere to Pennsylvania law. The reason this is important is due to the educational malpractice decision in *Sain v. Cedar Rapids School District* (2001).

A hypothetical weapons policy scenario could find educational malpractice in weapon cases. For instance, the essential elements of educational malpractice are duty of care and breach of duty by not independently reviewing the policy. Schools are the suppliers of the weapons information. When the school resource officers (SROs) are involved, they claim their involvement is based on

the policies schools have in place (Canady et al., 2012). So, SROs are exculpating themselves from liability. Suppose this supplied information by the school district was inappropriately applied due to an incorrect application of the definition of weapon. The SRO makes an arrest. A criminal record results for an inappropriately applied policy. The criminal record was caused by the school. The injury occurs when the student is denied opportunities due to the criminal record, such as entrance into the military. Also present are the added elements of breach of professional standards of conduct by being paid by taxpayers to fulfill obligations, and yet, due to the lack of arms length dealings with businesses, such as a close relationship with a trade organization for schools, a school could be seen as abrogating that duty, particularly when taxpayers are paying taxes for a school solicitor; however, schools may decide to not have the solicitor review the policy, perhaps as a school cost cutting measure.

Another cause of action besides educational malpractice could be issues of intentional discrimination as discussed in section 6.3.1 of this chapter based on deliberate indifference to how implementation of weapon policies effect covered classes under Title VI of the United States *Civil Rights Act* of 1964. Notwithstanding, the *Sain* case courts have been chipping away at educators' seeming insulation from educational malpractice in other cases. In many adverse rulings against student plaintiffs, court decision dicta in these rulings, (dicta are the remarks or opinion of the judge that are not part of the decision), give a blueprint of what evidence must be presented for the court to rule in the students' favor and against school administration in future educational malpractice cases. My recommendation for school boards and school administrators is they should have their school solicitor review all policies that are written to implement Pennsylvania law to ensure it conforms to Pennsylvania law and to the relevant caselaw. This review should be periodic to ensure new court decisions are included in policy updates.

## 6.4 Future Research

Zero tolerance policies have been studied by some of the most acclaimed organizations in the nation, although little has changed, and in some respects, it has gotten worse. Pennsylvania's expulsion and out-of-school suspensions rates are still higher than the national average, and data reflect disparities in treatment of racial minorities (Joint State Government Commission, 2016). As has been discussed, zero tolerance policies have had a major influence in creating the school-to-prison pipeline.

To break the school-to-prison pipeline trajectory, excellent recommendations have been proposed by The Pittsburgh Foundation (n.d.) (issued in 2017), the Joint State Government Commission (2016), the American Psychological Association Zero Tolerance Task Force (2008), the American Bar Association (Redfield & Nance; 2016), the NAACP Legal Defense and Education Fund, Inc. (n.d.), and the ACLU (2018). It is imperative these recommendations that already exist are implemented. That takes a commitment from stakeholders to be advocates for meaningful system change.

In the future I intend to study Pennsylvania's 500 school districts' policies and study their associated memorandum of understanding to determine if they are substantively adequate. The Pennsylvania Department of Education (PDE) collects the race of the Pennsylvania students who are arrested, suspended, expelled, given modifications to the one-year expulsion, and referred to alternative education for disruptive youth (24 P. S. section 13-1303-A). The PDE was responsive to my online questions but did not respond to my multiple requests for the race of the individuals in the above racial categories. This information is important because I attended a rural high school with few African Americans enrolled and witnessed disparate treatment from teachers. I would

like to determine if schools not associated with large numbers of enrolled African American students are experiencing disproportionate treatment in the area of weapons discipline. That demographic data should be listed on the Pennsylvania Department of Education website.

The conclusions drawn from this study with respect to weapons definitions are that 12 Allegheny County school districts' and 12 Dauphin County school districts' weapon definitions were studied. All of the Allegheny County school districts in the current study added additional objects as weapons to the Pennsylvania definition of weapon. Eight of the 12 Dauphin County school districts added objects to their weapons definitions (Joint State Government Commission, 2016). The Joint State Government Commission (2016) generalized their study data to the entire Commonwealth of Pennsylvania. They stated:

Some districts have very broad definitions, and some principals and superintendents adhere more strictly than others to those definitions. Despite having the ability to make modifications, some do not. In other cases, it can be simply a matter of the individual administrator's attitude and philosophy toward school discipline. Similarly, the definition of offenses that can result in expulsion and out-of-school suspension vary widely from school district to school district and are frequently applied subjectively. (p.1)

The current Allegheny County study as well as the Dauphin County study demonstrate how exclusionary discipline contributes to the school-to-prison pipeline. Studying the school-to-prison pipeline works well with a socio-ecological approach. It allows the researcher to consider the totality of the circumstances, studying the 'internal school' and administration as well as the 'external school' and community. There are several conceptual frameworks that can bring greater understanding of the school-to-prison pipeline using a socio-ecological approach. Revealed in this study is that more research needs to be conducted:

- to determine what long-term influence the addition of safety measures, such as police, metal detectors, drug sniffing dogs, and surveillance (also known as the militarization of schools), have on students and school culture;
- to determine if there are more weapon policy violations from middle school students, than the high school students, and if so, the reasons for this occurring;
- to determine the violations that are having elementary school children arrested, the dispensation of those violations, and to study facilities that house elementary students, if any exist;
- to determine the effect of probation officers in the schools on the students with respect to students' self-image, i.e. being seen coming and going from the probation office (Is there an emotional influence on the student's self-worth and influence on their delinquent behavior? Does delinquent behavior increase or decrease? This research should be conducted in various socio-economic status schools);
- to determine the number of mental health professionals in Pennsylvania's schools as compared to the number of school resource officers.
- to determine Pennsylvania's cost of juvenile incarceration;
- to determine why some local schools in high crime areas have very positive outcomes. Astor et al. (2009) referred to these schools as theoretically atypical schools, which need to be studied to determine if positive characteristics are transferable to other high crime areas schools that are not having the same positive outcomes.

These areas of research are important to inform practice, identify disparities, influence



school policy, and for educational reform (The Pittsburgh Foundation, n.d.). What I have witnessed in the judicial and educational systems has given me a unique insight into the totality of the school-to-prison pipeline and its impact on mass minority incarceration. As a former oil and gas research chemical engineer, I would have to say, metaphorically, as long as the educational system continues to provide feedstock into the pipeline, I believe in order to have true criminal justice reform there must be accompanying educational reform.

## **Appendix A Relevant Caselaw**

These cases are some, but not all cases that help interpret weapon policies. The law is fluid and schools must keep up with the law evolving with respect to unsettled questions around weapons interpretations, because of the reactive nature of the law. “[W]hether one is a law student or a student studying to be a school principal or superintendent, a critical element of understanding law is the underpinning of the research used by attorneys, courts, and governments in making legal decisions that impact us” (Permuth & Mawdsley, 2006, p. 1). These decisions are based on the Anglo-American legal system of legal precedent or stare decisis meaning to abide by. The highest court, the U.S. Supreme Court can make a ruling which binds lower courts and they must adhere to them. I provide, United States Supreme Court decisions and Pennsylvania decisions, which Pennsylvania courts must use as legal precedent. Federal and state decision given, that are not in the judicial circuit of western Pennsylvania are referenced, as they give the Pennsylvania court a basis in which to decide a case using the case as a reference point of how other courts have ruled in similar cases.

Judges make decisions based on prior caselaw and weight the decisions based on the order of succession from the highest ruling court being given the most weight. The legal system frowns upon judges being proactive, that is a judge who changes long settled law, unless there is a good reason. Judges make new law in primarily unsettled areas. There are many unsettled questions concerning weapons issues. Further, when attorneys challenge adverse rulings they look to legal precedent. If precedent does not agree with their position, they want to distinguish their challenge from that precedent. Finally, these cases are legal precedent, these decisions have been checked

through the Shepard's citation system to make sure they have not been overturned. Since they have not been overturned, they apply to weapons policy.

The following caselaw is relevant to zero tolerance related weapon expulsions and suspensions from school. Each of Pennsylvania's school boards have overall authority over the disciplinary process of each of the 500 school districts. School boards have non-delegable responsibilities including the duty to adopt disciplinary rules and "the duty to decide expulsion cases" (Education Law Center, 2009, p. 2). Throughout, this dissertation has provided pertinent caselaw and how the various cases impact discipline. Below are more of those cases and more cases relevant to zero tolerance weapon policy decisions that should provide guidance to students and educators on how to approach a weapon determination. For example:

(1) A pencil cannot be construed as a weapon if there is nothing in the weapon definition that can be construed as of like kind as a pencil. See *S. A., a minor, by her father H.O. v. Pittsburgh Public School District* (2017). In that case, the Pittsburgh Public School District (PPSD) appealed the decision to Commonwealth Court. Commonwealth Court reasoned that PPCSD did not respond to the student's misbehavior, but instead expelled the student based on their contemporaneous interpretation of a pencil as a weapon. The Commonwealth Court decided that construing a pencil as a weapon violated the PPCSD's own zero tolerance policy definition of weapon.

The Court asserted, that using the legal principal of *ejusdem generis* 'of the same kind or class', the PPCSD was contemporaneously prohibited from proclaiming a pencil a weapon when there existed no language in its weapon definition that could remotely allow pencil to be considered *of the same kind or class* as other defined weapon objects. Reiterating, if the weapon is not defined in the school district weapon policy, then students have been denied their due process right,

because there was no *notice* to the student. Therefore, the student has a constitutional due process challenge to the weapon definition.

(2) The case of *Seal v. Morgan* (2000), a 6<sup>th</sup> circuit court case out of Tennessee, gives a second way to challenge a weapons policy. That of raising substantive due process claims and challenging the fairness of a suspension or expulsion. This type of challenge is limited, and the case rests on intent of the student. In *Seal* a student challenged his weapons expulsion due to a knife found in the family car which he drove to school. The school proffered no evidence the student knew or should have known about the weapon. Lacking that evidence, the Court concluded the expulsion was not related to a rational interest. No student can use a weapon they are unaware of to injure or disrupt school operations (Kim et al., 2010).

(3) *Goss v. Lopez* (1975), a landmark United States Supreme Court case, established that students are entitled to a disciplinary hearing under the Due Process Clause of the Fourteenth Amendment, which prohibits states from depriving people of life, liberty or property without due process. Suspensions affect both property and liberty interests of students.

(4) In *Bethel School District 403 v. Fraser* (1986) the school district policy was found to be void for vagueness. The U.S. Supreme Court reasoned that given the unanticipated conduct which may lead to school disruption, school code may not need to be as detailed as the criminal code. School districts though, routinely create zero tolerance policies that punish for subjectively assessed conduct or poorly defined conduct. Void for vagueness is most often associated with First Amendment challenges but may also be used for due process challenges to zero tolerance policies. The U.S. Supreme Court has decided that a principle of due process, is important and that zero tolerance policies must be *clearly defined* and *not encourage or authorize discriminatory or arbitrary enforcement* (Kim et al., 2010).

(5) The case of *Ratner v. Loudoun County Public Schools* (2001) illustrates how courts will not set aside a school administration's disciplinary decision just because the school lacks compassion in administering its *weapons* policy. In this case a female student told a male classmate that she had brought a knife to school to commit suicide. The male classmate, knowing the female student had attempted suicide previously, asked the female student who happened to be his girlfriend, to give him the weapon to avoid her acting on her thoughts and urges. The female student turned the knife over to the classmate and he locked it in his locker. The school found out about the knife and asked Ratner to go to his locker and retrieve the knife. Ratner's *good deed* was punished. He was suspended for the remainder of that school term. Ratner appealed the lower court decision to no avail. Thus, decisions will *not* be overturned *unless* they are arbitrary or disproportionate (Kim et al., 2010).

(6) In *Picone v. Bangor Area School District* (2007) a student was expelled for one year for using a soft air pellet gun. The Court reasoned that shooting an air pellet gun could cause serious bodily injury. The one-year expulsion though, was reduced to one marking period by the superintendent. By law the superintendent or administrative director may reduce expulsion on a case-by-case basis if the modifications are in writing (24 P.S. Section 13-1317.2(c); Education Law Center, 2009).

(7) In *Lyons v. Penn Hills School District*, (1999) Lyons, an "A" student, found a pocketknife in school. His instructor observed him cleaning his fingernails with it and asked him to turn the knife over to him. He did and after a hearing, Lyons was expelled for one year. Lyons appealed from the zero tolerance expulsion. The district presented at the hearing an acknowledgment signed by Lyons earlier that school year, that Lyons could not possess a weapon in school. Lyons appealed to Commonwealth Court which ruled that even though Lyons signed

the acknowledgement, his parents were not made aware he signed it, and were not given a copy. The Court also found the weapons policy null and void because it did not allow the superintendent to modify expulsions and could not be constitutionally applied and violated the *Pennsylvania Public School Code*.

(8) A replica of a weapon is not a weapon as decided in *G.S. v. West Shore School District*, (1993). Even though a replica of a weapon is not a weapon, *G.S.* lost for other reasons (Education Law Center, 2009). This Cumberland County, Pennsylvania Court decision would be an interesting precedent in which to challenge the weapon policies in this study. Of the 12 select Allegheny County School District's weapon policies, 11 of the 12 gave notice that a student will be disciplined for a replica or look-alike.

(9) *New Jersey v. T.L.O.* (1985) involves a targeted search. The Fourth Amendment of the Constitution applies to searches. To search an *individually targeted student*, a school official must have reasonable suspicion *not* probable cause (probable is the greater standard applied to police searches outside of school) and the search must be reasonable in scope. No warrant is needed. In this United States Supreme Court ruling, *a teacher* was permitted to search a student's purse for contraband when they reasonably believed she had been smoking in the restroom. A strip search must meet a higher standard and will not be discussed (Education Law Center, 2009).

(10) *In re D.E.M.* (1999). is a Pennsylvania case in which the police gave an anonymous tip to school officials and withdrew. The school officials conducted the search. The Superior Court ruled against the lower court and denied the Motion to Suppress the loaded gun and knife found during the search. The Court stated that the record contained no evidence that the police coerced, dominated, or directed the actions of the school officials. Accordingly, the Court concluded that

the principal and assistant principal did not act as agents of the police and their actions are constitutional (Education Law Center, 2009).

(11) The case *In re R.H.* (2002), the court decided that *school police* must give Miranda warnings to students as they are constitutionally indistinguishable from municipal police (Education Law Center, 2009, p. 55).

(12) In *G.C. v. Bristol Township School District*, (2006) the decision concluded that *school officials* need *not* give Miranda warnings when questioning a student about behavior that violates school rules (Education Law Center, 2009, p. 55). Now school police many times have *school officials* stand nearby to circumvent Mirandizing the student, thus denying students their Miranda rights.

## Appendix B - IRB Approval

### University of Pittsburgh *Institutional Review Board*

3500 Fifth Avenue  
Pittsburgh, PA 15213  
(412) 383-1480  
(412) 383-1508 (fax)  
<http://www.irb.pitt.edu/>

#### **Memorandum**

To: Cheryl McAbee

From: Richard Guido MD, Chair

Date: 3/22/2018

IRB#: [PRO18010296](#)

Subject: An Analysis of Zero Tolerance Weapon Policies Related to the School-to-Prison Pipeline Phenomenon.

---

The above-referenced protocol has been reviewed by the University of Pittsburgh Institutional Review Board. Based on the information provided to the IRB, this project includes no involvement of human subjects, according to the federal regulations [§45 CFR 46.102(f)]. That is, the investigator conducting research will not obtain information about research subjects via an interaction with them, nor will the investigator obtain identifiable private information. Should that situation change, the investigator must notify the IRB immediately.

Given this determination, you may now begin your project.

Please note the following information:

- If any modifications are made to this project, use the **"Send Comments to IRB Staff"** process from the project workspace to request a review to ensure it continues to meet the determination.
- Upon completion of your project, be sure to finalize the project by submitting a **"Study Completed"** report from the project workspace.

**Please be advised that your research study may be audited periodically by the University of Pittsburgh Research Conduct and Compliance Office.**



## Appendix C - Permission to Use Joint State Government Commission Data

Dear Ms. McAbee: Please accept this email as written permission for you to use APPENDIX B: SELECTED SCHOOL DISTRICT DEFINITIONS OF WEAPONS from our 2016 school discipline report in your doctoral dissertation. I hope this meets your needs.

Sincerely, yh

*Yvonne Llewellyn Hursh*

Counsel  
Joint State Government Commission  
Room 108 Finance Bldg.  
Harrisburg PA 17120  
717-787-1906  
<http://jsg.legis.state.pa.us>

Please contact the sender if you received this email in error. This email and attachments are intended solely for persons involved with its content and is confidential. If you are not the intended recipient of this email, you should ignore its contents, and delete it.

**From:** McAbee, Cheryl [<mailto:CRM121@pitt.edu>]  
**Sent:** Friday, March 02, 2018 3:56 PM  
**To:** Yvonne Hursh <[yhursh@legis.state.pa.us](mailto:yhursh@legis.state.pa.us)>  
**Subject:** Permission to Use Table in Dissertation (Univ. of Pgh.)

Good Afternoon,

Yesterday I called your offices and spoke with Wendy Baker. I told Ms. Baker I was writing my doctoral dissertation at the University of Pittsburgh and was asking for permission to use one of your tables given in a Joint State Government Commission Report. That report is titled: *Discipline Policies in Pennsylvania Public Schools, Report of the Advisory Committee on Zero Tolerance School Discipline Policies, October 2016*. The Table is on Page 119 and 120.

Ms. Baker discussed and reviewed my information with you. The table was found to be a table directly generated and prepared by your organization. I was granted permission to use it in my dissertation in that it belonged to your organization. I am writing to get written confirmation of your granting of permission as the University of Pittsburgh requires. I would appreciate your E-mailing me your permission to use APPENDIX B: SELECTED SCHOOL DISTRICT DEFINITIONS OF WEAPONS. Thank you in advance.

Best Regards,  
Cheryl R. McAbee, Esq.  
EdD (expected 2018)  
University of Pittsburgh  
Department of Education  
5500 Wesley W. Posvar Hall  
230 South Bouquet Street  
Pittsburgh, PA 15260

# Appendix D - Pittsburgh Public School District Memorandum of Understanding Solicitor's Denial Letter



April 2, 2018

**VIA EMAIL (crmcabee@comcast.net)**

Cheryl R. McAbee  
2005 Garrick Drive  
Pittsburgh, PA 15235

**RE: SCHOOL DISTRICT OF PITTSBURGH RIGHT-TO-KNOW REQUEST**

Dear Ms. McAbee:

As you know, I serve as the Open Records Officer for the School District of Pittsburgh ("School District"). I received a Right-to-Know request from you on March 26, 2018, a copy of which is attached. This letter constitutes the final response to your request under the Right-to-Know Law ("RTKL"). 65 P.S. § 67.901.

Your request for, "the Memorandum of Understanding between the Pittsburgh Public School System and the Local Law Enforcement Agency that signed it" has been denied because the record does not exist. 65 P.S. § 67.705.

You have a right to appeal any denial of information in writing to Erik Arneson, Executive Director, Office of Open Records, 333 Market Street, 16th Floor, Harrisburg, PA 17126-0333. If you choose to file an appeal you must do so within fifteen (15) business days of the mailing date of this response as outlined in Section 1101. Please note that a copy of your original Right-to-Know request and this letter must be included when filing an appeal. The law requires that you state the reasons why the record is a public record and address the reasons the School District denied your request.

Very truly yours,

Nicole Wingard Williams  
Assistant Solicitor  
School District of Pittsburgh

NWW:mm  
Attachment

cc: Ebony Pugh, Public Information Officer, School District of Pittsburgh (via e-mail)  
Alin McIver, Law Department, School District of Pittsburgh (via e-mail)  
Ted Dwyer, Chief of Data, Research, Evaluation and Assessment, School District of Pittsburgh (via e-mail)  
Jennifer Jacobs, Project Specialist Data, Research, Evaluation & Assessment, School District of Pittsburgh (via e-mail)

445 Fort Pitt Boulevard • Suite 503 • Pittsburgh, PA 15219 • Phone: 412.391.9890 • Fax: 412.391.9685 • wbklegal.com

## **Appendix E - West Mifflin School District Memorandum of Understanding**

## MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding developed this \_\_\_\_ day of \_\_\_\_\_, 2017 by and between the WEST MIFFLIN AREA SCHOOL DISTRICT

A  
N  
D

The Boroughs and Police Departments of WHITAKER, WEST MIFFLIN and DUQUESNE.

A. Authority

This Memorandum of Understanding is being developed pursuant to Act 26 of 1995, Section 1303 (c), in order to establish the procedures to be followed when an incident occurs involving an act of violence or possession of a weapon on school property.

B. Reciprocity

1. It is hereby UNDERSTOOD that the parties to this Memorandum will communicate and contact each other immediately upon information that an incident has occurred involving an act of violence or possession of a weapon on school property.
2. If the incident occurs during non-school hours, every effort will be made by the Police Department to contact a school official.
3. The parties to this Memorandum may independently pursue disciplinary or criminal charges against any student for acts of violence or possession of a weapon on school property.
4. Each party shall cooperate with the other in pursuing any charges against a student.
5. The disposition of any matter involving students which occurred as the result of an act of violence or possession of a weapon on school property shall be reported to the other party, as permitted by law.

C. Definitions

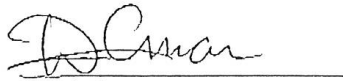
1. Act of Violence shall include the following:
  - a. an incident resulting in a serious bodily injury;
  - b. repeated offensive contact or altercations;
  - c. an incident resulting in a detention by the police or other agency; and
  - d. an incident resulting in serious property damage or vandalism.

2. School officials shall refer to any administrator or other designated person.
3. Non-school hours shall refer to any time period during which school is not in session including weekends and summer.

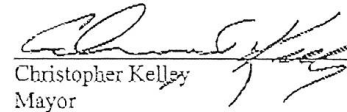
ADOPTED AND APPROVED by the following:

WEST MIFFLIN AREA SCHOOL  
DISTRICT

  
Debra Kostelnik  
President

  
Dennis Cmar  
Board Secretary

BOROUGH OF WEST MIFFLIN

  
Christopher Kelley  
Mayor


WEST MIFFLIN POLICE DEPARTMENT

  
Kenneth Davies  
Police Chief

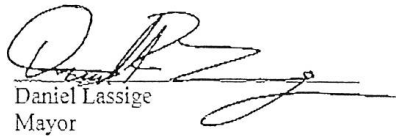
CITY OF DUQUESNE

  
Phillip Krivacek  
Mayor


DUQUESNE POLICE DEPARTMENT

  
Scott Adams  
Police Chief

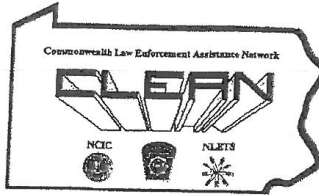
BOROUGH OF WHITAKER

  
Daniel Lassige  
Mayor

WHITAKER POLICE DEPARTMENT

  
Charles Considine  
Police Chief

## **Appendix F - Gateway School District Memorandum of Understanding**



## COMMONWEALTH LAW ENFORCEMENT ASSISTANCE NETWORK

### SERVICING TERMINAL AND NON-TERMINAL AGENCY

# Agreement

THIS AGREEMENT made and entered into this 14 day March 2017  
by and between Monroeville Police Department , here after known as Terminal  
Terminal Agency  
Agency and Gateway School District Police , here after referred to as Non-Terminal  
Non-Terminal Agency  
Agency.

Rev. 03/04

*Date was entered 3/16/17*

## *Witnesseth*

WHEREAS, the TERMINAL AGENCY accesses the Commonwealth Law Enforcement Assistance Network (CLEAN); and the NON-TERMINAL AGENCY is desirous of obtaining the services of said TERMINAL Agency on the terms and conditions as hereinafter set forth. The NON-TERMINAL AGENCY herewith enters into this agreement pursuant to and in recognition of provisions of the Acts of General Assembly and the Laws and Ordinances governing such actions.

### **NOW THEREFORE IT IS MUTUALLY AGREED AS FOLLOWS:**

**1. Purpose of agreement and powers to be exercised:**

The purpose of this Agreement is to provide for the joint exercise of the powers and responsibilities incurred in the operation and use of the CLEAN system access established by the TERMINAL AGENCY and the Pennsylvania State Police.

**2. Agency to Administer Agreement and its Powers:**

The agency to administer and execute this agreement shall be the TERMINAL AGENCY, which shall possess the common powers specified herein and shall exercise those powers pursuant to law.

**3. Services provided by TERMINAL AGENCY:**

The TERMINAL AGENCY shall permit the NON-TERMINAL AGENCY, when authorized, access to files available through the CLEAN system. This shall include files available from CLEAN, the National Crime Information Center (NCIC), and the International Justice and Public Safety Information Sharing Network (NLETS).

**4. NON-TERMINAL AGENCY Qualifications and Responsibilities**

The NON-TERMINAL AGENCY shall conform to the standards and security measures established by the Pennsylvania State Police and the TERMINAL AGENCY.

The Administrator of the NON-TERMINAL Agency shall be responsible for ensuring that all CLEAN transactions by said agency are for criminal justice purposes ONLY. For the purpose of this agreement, a criminal

Rev. 03/04





justice purpose shall be defined as an activity directly related with the administration of the criminal justice system and defined as any activity dealing with the prevention, control or reduction of crime and/or traffic related incidents; the apprehension, detention, pretrial release, post trial release, prosecution, adjudication, correctional supervision or rehabilitation of accused persons or criminal offenders; criminal identification or traffic related activities; or, the collection, storage, dissemination or usage of criminal history record information.

The administrator shall ensure personnel receive and maintain an adequate level of training by the Terminal Agency Coordinator (TAC), regarding CLEAN/NCIC Rules and Security Policies, relating to CLEAN information received by a NON-TERMINAL Agency. A roster of NON-TERMINAL AGENCY personnel shall be identified on record forms furnished by and returned to the TERMINAL AGENCY. This roster is a list of personnel that the administration has authorized to have access to CLEAN. Any changes in personnel or duty status will necessitate an immediate notification to the TERMINAL AGENCY.

**5. Data Forms and Specifications:**

It shall be the responsibility of the TERMINAL AGENCY to provide the format for entry of data into the system. It shall be the responsibility of the NON-TERMINAL AGENCY to provide data for input into CLEAN on the proper format or forms as specified by the TERMINAL AGENCY. The accuracy and timeliness of the information provided shall be the responsibility of the NON-TERMINAL AGENCY. A hard copy of all records entered into CLEAN/NCIC on behalf of the NON-TERMINAL AGENCY shall be provided to the NON-TERMINAL AGENCY. It shall be the responsibility of the NON-TERMINAL AGENCY to review the information entered for accuracy. Any inaccuracy shall be brought to the attention of the TERMINAL AGENCY immediately. In addition, all measures for purging or canceling entries as set forth in CLEAN/NCIC rules and regulations will be adhered to in order to enhance the reliability of all data.

All records entered into CLEAN/NCIC are subject to an on-going validation process that requires the NON-TERMINAL AGENCY to affirm the validity and accuracy of those records. NON-TERMINAL AGENCY shall validate their records on a monthly basis and return those validation listings to the TERMINAL AGENCY in a timely manner. Records that are not validated in a timely manner will be canceled by the TERMINAL AGENCY. The data provided to the TERMINAL AGENCY by the NON-TERMINAL AGENCY will be relevant to the criminal justice process. The completeness and accuracy of information entered into

Rev. 03/04



the system is paramount. Case files will be maintained by the NON-TERMINAL AGENCY for all records entered into CLEAN/NCIC. These files will be maintained in a manner consistent with currently established criminal justice practices. The NON-TERMINAL AGENCY will cooperate with regular auditing of the system to assure the reliability of stored data.

#### **6. Security and Privacy of Information**

The data stored in CLEAN/NCIC is documented criminal justice information and this information must be protected to ensure correct, legal, and efficient dissemination and use. The individual receiving a request for criminal justice information must ensure the person requesting the information is authorized to receive the data. The stored data in CLEAN/NCIC is sensitive and shall be treated accordingly. An unauthorized request or receipt or dissemination of CLEAN/NCIC information could result in civil and/or administrative proceedings.

The TERMINAL AGENCY shall limit access to CLEAN/NCIC data to law enforcement/criminal justice agencies, and other agencies as designated by CLEAN Administration, whose ORI has been assigned to the TERMINAL AGENCY through a mutual agreement between the TERMINAL AND NON-TERMINAL AGENCIES with proper notification to the CLEAN Administration Section. The NON-TERMINAL AGENCY receiving CLEAN/NCIC information shall assume the responsibility for and ensure the information is restricted to Criminal Justice/Law Enforcement use. Unauthorized disclosure or misuse of system data by the NON-TERMINAL AGENCY will be cause for immediate termination of access to CLEAN/NCIC information and cancellation of this agreement. Any infraction of CLEAN/NCIC rules and regulations shall be immediately reported to the CLEAN Administrative Section.

#### **7. TERMS OF AGREEMENT**

This agreement shall remain in force unless or until: (1) Either party to this Agreement cancels the agreement by giving sixty (60) days written notice to the other party of its intention to cancel, unless sooner terminated by casualty. (2) Termination occurs as a result of non-compliance with the specifications of this contract.

Rev. 03/04


IN WITNESS WHEREOF, the parties hereto have set their names and seals by their officers thereunto duly authorized, the day and year first above written.

TERMINAL AGENCY:

KENNETH D. COLE

Representative's Printed Name

Kenneth D. Cole

Signature

CHIEF OF POLICE

Title

NON-TERMINAL AGENCY:

Jonathon Pawlowski

Representative's Printed Name

[Signature]

Signature

Assistant Director

Gateway School District Police

Title

**A SIGNED COPY OF THIS AGREEMENT SHALL BE MAINTAINED BY INVOLVED AGENCIES.**

Rev. 03/04

Date was entered in 2/10/17

[Signature]

## Bibliography

Abrams, L. S., & Snyder, S. M. (2010). Youth offender reentry: Models for intervention and directions for future inquiry. *Children and Youth Services Review*, 32(12), 1787-1795. doi:10.1016/j.childyouth.2010.07.023

Allegheny Intermediate Unit. (2018). *Map of Allegheny County School Districts*.

Retrieved from <http://www.aiu3.net/Level2.aspx?id=1412>

Alliance for Excellent Education. (2013). Saving futures, saving dollars: The impact of education on crime reduction and earnings. Washington, DC: Alliance for Excellent Education. Retrieved from

<http://all4ed.org/wp-content/uploads/2013/09/SavingFutures.pdf>

American Academy of Pediatrics Council on School Health. (2013). Out-of-school suspension and expulsion. *Pediatrics*, 131(3). doi:10.1542/peds.2012-3932

American Bar Association. (2012, December). *Ending the school-to-prison pipeline* (Issue

Brief of Laurel G. Bellows before the U.S. Senate). Retrieved from

[https://www.americanbar.org/content/dam/aba/uncategorized/GAO/2012dec12\\_prisonpipeline\\_s.authcheckdam.pdf](https://www.americanbar.org/content/dam/aba/uncategorized/GAO/2012dec12_prisonpipeline_s.authcheckdam.pdf)

American Civil Liberties Union [ACLU]. (2018). School-to-Prison Pipeline. *ACLU Newsletter*.

Retrieved from <https://www.aclu.org/print-taxonomy/55>

American Psychological Association Zero Tolerance Task Force. (2008). Are zero tolerance policies effective in the schools?: An evidentiary review and recommendations. *The American Psychologist*, 63(9), 852-862. doi:10.1037/0003-066X.63.9.852

Anthony, E. K., Samples, M. D., de Kervor, D. N., Ituarte, S., Lee, C., & Austin, M. J. (2010).

- Coming back home: The reintegration of formerly incarcerated youth with service implications. *Children and Youth Services Review*, 32(10), 1271-1277.  
doi:10.1016/j.childyouth.2010.04.018
- Astor, R. A., Benbenishty, R., & Estrada, J. N. (2009). School violence and theoretically atypical schools: The principal's centrality in orchestrating safe schools. *American Educational Research Journal*, 46(2), 423-461. doi:10.3102/0002831208329598
- Aull, E. H. (2012). Zero tolerance, frivolous juvenile court referrals, and the school-to-prison pipeline: Using arbitration as a screening-out method to help plug the pipeline. *Ohio State Journal on Dispute Resolution*, 27(1), 179. Retrieved from  
<http://www.lexisnexis.com/1nacui2api/delivery/PrintDoc.do?fromCartFullDoc=false&...>
- Ayers, W., Dohrn, B., & Ayers, R. (2001). *Zero tolerance: Resisting the drive for punishment in our schools: A handbook for parents, students, educators, and citizens*. New York, NY: New Press.
- Baldwin-Whitehall School District. (2018). Retrieved from <https://www.bwschools.net/>
- Balfanz, R., Byrnes, V., & Fox, J. (2012). *Sent home and put off-track: The antecedents, disproportionalities, and consequences of being suspended in ninth grade*. Los Angeles, CA: The Civil Rights Project.
- Berlowitz, M. J., Frye, R., & Jette, K. M. (2017). Bullying and zero-tolerance policies: The school to prison pipeline. *Multicultural Learning and Teaching*, 12(1), 7-25.  
doi:10.1515/mlt-2014-0004
- Bethel Park School District. (2018). Retrieved from <http://www.bpsd.org>
- Bethel School District 403 v. Fraser, 478 U.S. 675 (1986).

- Bever, L. (2017, May 4). Video shows principal holding a student's head while he's shocked with a stun gun attorney says. *Washington Post*, p. 1. Retrieved from [https://www.washingtonpost.com/news/education/wp/2017/05/04/shocking-videos-show-officials-sassaulting-children-at-high-school-attorneys-says/?noredirect=on&utm\\_term=.ee14b7d80f1f](https://www.washingtonpost.com/news/education/wp/2017/05/04/shocking-videos-show-officials-sassaulting-children-at-high-school-attorneys-says/?noredirect=on&utm_term=.ee14b7d80f1f)
- Bowen, G. A. (2009). Document analysis as a qualitative research method. *Qualitative Research Journal*, 9(2), 27-40.
- Bridgeland, J., Dilulio, J., & Morison, K. (2006). The silent epidemic: Perspectives of high school dropouts. Washington, DC: Civic Enterprises. Retrieved from <https://docs.gatesfoundation.org/Documents/TheSilentEpidemic3-06FINAL.pdf>
- Brown v. Board of Education of Topeka, 347 U.S. 483 (1954).
- Canady, M., James, B., & Nease, J. (2012). *To protect and educate: The school resource officer and the prevention of violence in schools*. Hoover, AL: National Association of School Resource Officers.
- Capp, G., Moore, H., Pitner, R., Iachini, A., Berkowitz, R., Astor, R., & Benbenishty, R. (2017). School Violence. *Oxford Research Encyclopedia of Education*. Retrieved from <http://education.oxfordre.com/view/10.1093/acrefore/9780190264093.001.0001/acrefore-9780190264093-e-78>.
- Carlino, R. (2016). *Allegheny County Juvenile Probation Annual Report*. (Internal document). Retrieved from: <file:///C:/Users/OWner1/AppData/Local/Microsoft/Windows/INetCache/IE/GK9Z0GXA/2016.pdf>
- Carswell, S. B., Hanlon, T. E., O'Grady, K., E., Watts, A. M., & Pothong, P. (2009). A preventive

- intervention program for urban African American youth attending an alternative education program: Background, implementation, and feasibility. *Education & Treatment of Children*, 32(3), 445-469. Retrieved from <http://pitt.idm.oclc.org/login?url=https://searchproquestcom.pitt.idm.oclc.org/docview/202685539?accountid=14709>
- Checchio, C. (2013, Winter). School-to-prison pipeline: Criminalizing the schoolyard fight. *JURIS the Duquesne Law School Newsmagazine*, p. 12. Retrieved from [file:///C:/Users/lewist1/Downloads/du-juris\\_winter\\_2013.pdf](file:///C:/Users/lewist1/Downloads/du-juris_winter_2013.pdf)
- Children's Defense Fund. (2007). The state of America's children. Retrieved from <http://www.childrensdefense.org/library/data/cradle-to-prison-pipeline-overview-fact-sheet-2009.pdf>
- Civil Rights Data Collection (2013-2014) United States Department of Education Office for Civil Rights *A first look*. Retrieved from <https://www2.ed.gov/about/offices/list/ocr/docs/2013-14-first look.pdf>
- Cornell, D. G., & Mayer, M. J. (2010). Why do school order and safety matter? *Educational Researcher*, 39(1), 7-15. doi:10.3102/0013189X09357616
- Crawford, C., & Burns, R. (2015). Preventing school violence: Assessing armed guardians, school policy, and context. *Policing: An International Journal of Police Strategies & Management*, 38(4), 631-647. doi:10.1108/PIJPSM-01-2015-0002
- Cregor, M., & Hewitt, D. (2011). Dismantling the school-to-prison pipeline: A survey from the field. *Poverty & Race*, 20(1), 5-7.
- Creswell, J. W. (2007). *Qualitative inquiry & research design: Choosing among five approaches* (2nd ed.). Los Angeles, CA: Sage Publications.

- Dietrich, S. M. (2014, June). The lifelong impact of a criminal record. In S. M. Dietrich (Chair), *The lifelong impact of a criminal record*. Symposium conducted at the meeting of the Pennsylvania Bar Institute, Philadelphia, PA.
- Diller, J. V., & Moule, J. (2005). *Cultural competence: A primer for educators*. Belmont, CA: Thomson/Wadsworth.
- Dorfman, L., & Schiraldi, V. (2001). *Off balance: Youth, race & crime in the news*. Justice Policy Institute.
- Dunbar, C., & Villarruel, F. A. (2002). Urban school leaders and the implementation of zero-tolerance policies: An examination of its implications. *Peabody Journal of Education*, 77(1), 82-104. doi:10.1207/S15327930PJE7701\_5BFW1-F04F-41YG-00000-00&context=1516831.
- Education Law Center (2009). *Fairness in school discipline in Pennsylvania*. Retrieved from [https://www.elc-pa.org/wp-content/uploads/2013/08/ELC\\_Guide\\_FairnessinDiscipline\\_Sept09.pdf](https://www.elc-pa.org/wp-content/uploads/2013/08/ELC_Guide_FairnessinDiscipline_Sept09.pdf)
- Fabelo, T., Thompson, M. D., Plotkin, M., Carmichael, D., Marchbanks, M. P., & Booth, E. A. (2011). *Breaking schools' rules: A statewide study of how school discipline relates to students' success and juvenile justice involvement*. New York, NY: Council of State Governments Justice Center.
- First, P. (2006). Researching legal topics from a policy study perspective. In S. Permuth, R. D. Mawdsley, L. Adler, G. H. Baldwin, D. W. Van Berkum, K. G. Buckner, J. M. Ferron, P. F. First, D. H. Goldenberg, K.Y. Hogarty, J. D. Kromrey, K. E. Lane, J. Lee, A. J. Onwuegbuzie, C.J. Russo, & J. A. Sughrue (Eds.), *Research methods for studying legal issues in education*. Dayton, OH: Education Law Association.



Fox Chapel School District. (2018). Retrieved from <http://www.fcasd.edu/fcahs>

Franklin, B. (1749). *Proposals relating to the education of youth in Pensilvania* [sic]. Ben Franklin's 1749 pamphlet on the aims of education. University of Pennsylvania Archives and Record Center, Philadelphia, PA. Retrieved from <http://www.archives.upenn.edu/primdocs/1749proposals.html>

Freeland, L.H., & Schiller, M. (2018, October 22). Proposal for armed guards at Pittsburgh public schools sparks protest. *KDKA 2 CBS Pittsburgh*, p. 1.  
Retrieved from <https://pittsburgh.cbslocal.com/2018/10/22/pittsburgh-public-schools-armed-guards-proposal-protest/>

Furlong, M., & Morrison, G. (2000). The school in school violence: Definitions and facts.

*Journal of Emotional and Behavioral Disorders*, 8(2), 71-82.

doi:10.1177/106342660000800203  
Gateway School District. (2018). Retrieved from <http://www.gatewayk12.org>

Gateway School District. (2018). Retrieved from <http://www.gatewayk12.org>

G.C. v. Bristol Township School District, No. 05-4800 (E.D. Pa 2006)

Giroux, H. (2003). Racial injustice and disposable youth in the age of zero tolerance.

*International Journal of Qualitative Studies in Education*, 16(4), 553-565.

doi:10.1080/0951839032000099543

Gonzalez, T. (2012). Keeping kids in schools: Restorative justice, punitive discipline, and the school to prison pipeline. *The Journal of Law and Education*, 41(2), 281. Retrieved from <http://www.lexisnexis.com/lnacui2api/delivery/PrintDoc.do?fromCartFullDoc=false&file...>

Gonzalez, T., Etow, A., De La Vega, C., & Cribb-Fabersunne, C. (2018, November 5). Beware the unintended consequences of the school safety movement. *Education Week*, p. 2.

Retrieved from <https://edweek.org/ew/articles/2018/11/06/beware-the-unintended-consequences-of-the-school.html?print+1>

Goodkind, S. (2016). *Inequalities Affecting Black Girls in Pittsburgh and Allegheny County Data Snapshot*, (Research Report). Retrieved from FISA Foundation website:

<http://fisafoundation.org/2016/10/new-report-inequities-affecting-black-girls-in-pittsburgh-and-allegheny-county/>

Goss v. Lopez, 419 U.S. 565 (1975).

G. S. v. West Shore School District, 28 Pa D.&C. 4<sup>th</sup> 465, 471 (Cumberland County Ct. C.P.1993).

Guerin, G., & Denti, L. (1999). Alternative education support for youth at-risk. *The Clearing House*, 73(2), 76-78. Retrieved from <http://pitt.idm.oclc.org/login?url=https://search-proquest-com.pitt.idm.oclc.org/docview/196857994?accountid=14709>

Gun-Free Schools Act, 20 U.S.C. Section 7961 (1994). Retrieved from

<https://www2.ed.gov/policy/elsec/leg/esea02/pg54.html>

Gupta, V. & Lhamon, C. E. (2014). United States Department of Education & United States Department of Justice. *Dear Colleague Letter: Civil Rights in Juvenile Justice*

*Residential Facilities* Retrieved from <https://www2.ed.gov/policy/gen/guid/correctional-education/csso-state-attorneysgeneral-letter.pdf>

Hampton School District. (2018). Retrieved from <http://www.ht-sd.org>

Hankin, A., Hertz, M., & Simon, T. (2011). Impacts of metal detector use in schools: Insights from 15 years of research. *Journal of School Health*, 81(2), 100-106. doi:10.1111/j.1746-1561.2010.00566.x

- Hanson, A. (2005). Have zero tolerance school discipline policies turned into a nightmare? The American dream's promise of equal educational opportunity grounded in *Brown v. Board of Education*. *UC Davis Journal of Juvenile Law & Policy*, 9, 289-378.
- Harvard University Advancement Projects and Civil Rights Project. (2000). *Opportunities suspended: The devastating consequences of zero tolerance and school discipline*. Report from a National Summit on Zero Tolerance: Washington, D. C.
- Retrieved from <https://eric.ed.gov/?id=ED454314>
- Heitzeg, N.A. (2014). Criminalizing education: Zero tolerance policies, police in the hallways, and the school to prison pipeline. In A. J. Nocella, P. Parmar, & D. Stovall (Eds.), *From education to incarceration: Dismantling the school-to-prison pipeline* (pp. 11-36). New York, NY: Peter Lang.
- Herr, K., & Brown, T. L. (2011). Masculinities and the schooling of middle-school boys. In S. E. Tozer, B. P. Gallegos, A. M. Henry, M. B. Greiner, & P. G. Price (Eds.), *Handbook of research in the social foundations of education* (pp. 583-592). New York, NY: Routledge.
- Hollander, M. G. (2014, June). Clearing a criminal record: The expungement and pardon process. In S. M. Dietrich (Chair), *The lifelong impact of a criminal record*. Symposium conducted at the meeting of the Pennsylvania Bar Institute, Philadelphia, PA.
- Iannotti, R. (2018, November 1). Boy, 10, suspended after school finds plastic knife from Halloween costume in his backpack. *KDKA 2 CBS Pittsburgh*, p.1. Retrieved from <https://pittsburgh.cbslocal.com/2018/11/01/ringgold-elementary-student-suspended-halloween-prop-bookbag/>
- In re R.H., 568 Pa. 1, 791 A.2d 331 (2002).

- Joint State Government Commission (2016). *Discipline policies in Pennsylvania's public schools: Report of the advisory committee on zero tolerance school discipline policies* (2015 House Resolution 540). Harrisburg, PA: General Assembly of the Commonwealth of Pennsylvania. Retrieved from [http://jsg.legis.state.pa.us/publications.cfm?JSPU\\_PUBLN\\_ID=449](http://jsg.legis.state.pa.us/publications.cfm?JSPU_PUBLN_ID=449)
- Jonson, C. L. (2017). Preventing school shootings: the effectiveness of safety measures. *Victims & Offenders, 12*(6), 956-973.
- Justice Policy Institute. (2015). *The tip of the iceberg: What taxpayers pay to incarcerate youth* [Fact sheet]. Retrieved from [http://www.justicepolicy.org/uploads/justicepolicy/documents/factsheet\\_costs\\_of\\_confinement.pdf](http://www.justicepolicy.org/uploads/justicepolicy/documents/factsheet_costs_of_confinement.pdf)
- Kaplan, H. B., & Johnson, R. J. (1991). Negative social sanctions and juvenile delinquency: Effects of labeling in a model of deviant behavior. *Social Science Quarterly, 72*(1), 98-122.
- Kim, C. Y., Losen, D. J., & Hewitt, D. (2010). *The school-to-prison pipeline: Structuring legal reform*. New York, NY: New York University.
- Krezmien, M. P., Leone, P. E., Zablocki, M. S., & Wells, C. S. (2010). Juvenile court referrals and the public schools: Nature and extent of the practice in five states. *Journal of Contemporary Criminal Justice, 26*(3), 273-293. doi:10.1177/1043986210368642
- Kupchik, A., & Ward, G. (2014). Race, poverty, and exclusionary school security: An empirical analysis of U.S. elementary, middle, and high schools. *Youth Violence and Juvenile Justice, 12*(4), 332-354.
- Lee, J., & Adler, L. (2006). Legal research: The "traditional:" method. In S. Permuth, R. D.

- Mawdsley, L. Adler, G. H. Baldwin, D. W. Van Berkum, K. G. Buckner, J. M. Ferron, P. F. First, D. H. Goldenberg, K.Y. Hogarty, J. D. Kromrey, K. E. Lane, J. Lee, A. J. Onwuegbuzie, C. J. Russo, & J. A. Sughrue (Eds.), *Research methods for studying legal issues in education*. Dayton, OH: Education Law Association.
- Lee, C. J. (1998, November 03). School suspends kindergartner whose costume violates weapon policy. *Pittsburgh Post-Gazette*. Retrieved from <http://old.post-gazette.com/regionstate/19981103ax2.asp>
- Lhamon, C. E., & Samuels, J. (2014). United States Department of Education & Department of Education & United States Department of Justice. *Joint dear colleague letter on the nondiscriminatory administration of school discipline*. Retrieved from <https://www2.ed.gov/about/offices/list/ocr/letters/colleague-201401-title-vi.html>
- Listenbee, R. L. (2010, June). The Pennsylvania juvenile collateral consequences checklist. In T. G. Wilkinson (Chair), *Juvenile injustice in Luzerne County: What can be done to restore faith in the system?* Symposium conducted at the meeting of the Pennsylvania Bar Institute, Philadelphia, PA.
- Lomio, J. P., & Spang-Hanssen, H. S. (2008). *Legal research methods in the U.S. & Europe* (1<sup>st</sup> ed.). Copenhagen, Denmark: DJØF Pub.
- Lyke, B., & Byrd, S. (2018, November 25). Restorative justice creates a culture of safety – learning is social & emotional. *Education Week* p. 1. Retrieved from [https://blogs.edweek/learning\\_social\\_emotional/2018/08/restorative\\_justice\\_creates\\_a\\_culture\\_of\\_safety.html?print=1](https://blogs.edweek/learning_social_emotional/2018/08/restorative_justice_creates_a_culture_of_safety.html?print=1)
- Lyons, A., a minor, & Lyons, R. and Lyons, D., natural parents, and in their own right v. Penn Hills School District, et al., 723 A.2d 1073, 1999 Pa. Commw. LEXIS 16

- (Commonwealth Court of Pennsylvania January 8, 1999, Filed ). Retrieved from <https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:3VJ2-BF20-0039-438F-00000-00&context=1516831>
- Majchrzak, A. (1984). *Methods for policy research*. Beverly Hills, CA: Sage
- Maschi, T., Hatcher, S. S., Schwalbe, C. S., & Rosato, N. S. (2008). Mapping the social service pathways of youth to and through the juvenile justice system: A comprehensive review. *Children and Youth Services Review*, 30(12), 1376-1385.  
doi:10.1016/j.childyouth.2008.04.006
- Mawdsley, R. D., & Cumming, J. J. (2008). Educational malpractice and setting damages for ineffective teaching: A comparison of legal principles in the USA, England and Australia. *Education and the Law*, 20(1), 25-46. doi:10.1080/09539960802114344
- Mawdsley, R. D., & Permuth, S. (2006). *Research methods for studying legal issues in education*. Dayton, OH: Education Law Association.
- McDonnell, L.M., & Elmore, R. F. (1987). Getting the job done: Alternative policy instruments. *Educational Evaluation and Policy Analysis*, 9(2), 133-152.
- McKinney, M. (2018, February 22). Pittsburgh CAPA students to be disciplined for walkout. Demonstration honored memory of 17 killed in last week's shooting at a Florida high school. *Pittsburgh Post-Gazette*, (p.1). Retrieved from <http://www.post-gazette.com/news/education/2018/02/21/CAPA-students-walkout-Florida-shooting-Parkland-Pittsburgh/stories/201802210127>.
- McNeal, L., & Dunbar, C. (2010). In the eyes of the beholder: Urban student perceptions of zero tolerance policy. *Urban Education*, 45(3), 293-311. doi:10.1177/0042085910364475
- Meiners, E. R. (2007). *Right to be hostile: Schools, prisons, and the making of public enemies*.

- New York, NY: Routledge.
- Morris, M. W. (2016). *Pushout: The criminalization of black girls in schools*. New York, NY: The New Press.
- Mt. Lebanon School District. (2018). Retrieved from <http://www.mtlds.org>
- Na, C., & Gottfredson, D. C. (2013). Police officers in schools: Effects on school crime and the processing of offending behaviors. *Justice Quarterly*, 30(4), 1-32. doi:10.1080/07418825.2011.615754
- National Association for the Advancement of Colored People [NAACP] Legal Defense and Education Fund, Inc. (n.d.). *Overview*. Dismantling the school-to-prison pipeline (para. 2). Retrieved from [http://www.naacpldf.org/files/case\\_issue/Dismantling\\_the\\_School\\_to\\_Prison\\_Pipeline.pdf](http://www.naacpldf.org/files/case_issue/Dismantling_the_School_to_Prison_Pipeline.pdf)
- National Education Association. (2015). Opportunity + action = Great public schools for every student Every Student Succeeds Act school discipline. Retrieved from <https://www.nea.org/assets/docs/ESSA%20Fact%20Sheet%20-%20School%20Discipline%20121415.pdf>
- New Jersey v. T.L.O., 469 U.S. 325 (1985).
- Nicholson-Crotty, S., Birchmeier, Z., & Valentine, D. (2009). Exploring the impact of school discipline on racial disproportion in the juvenile justice system. *Social Science Quarterly*, 90(4), 1003-1018. doi:10.1111/j.1540-6237.2009.00674.x
- Niederberger, M. (2016, October 21). I am a black girl and...there are ways to end the school-to-prison pipeline. Child advocates offer solutions in Pittsburgh. *Public Source*, pp. 1-5. Retrieved from <http://publicsource.org/there-are-ways-to-end-the-school-to-prison-pipeline-child-advocates-offer-solutions-in-pittsburgh/>

- Nocella, A. J., Parmar, P., & Stovall, D. (2014). *From education to incarceration: Dismantling the school-to-prison pipeline*. New York, NY: Peter Lang.
- Noguera, P. A. (2003). Schools, prisons, and social implications of punishment: Rethinking disciplinary practices. *Theory into Practice*, 42(4), 341-350.  
doi:10.1207/s15430421tip4204\_12
- North Hills School District. (2018). Retrieved from <http://www.nhsd.net>
- Pane, D. M., & Rocco, T. S. (2014). The issue/school-to-prison pipeline. In *Transforming the school-to-prison pipeline: Lessons from the classroom* (pp. 3-14). doi:10.1007/978-94-6209-449-9
- Penn Hills School District. (2018). Retrieved from <http://www.phsd.k12.pa.us>
- Pennsylvania Bar Institute. (2015). Notice of language assistance dear colleague letter on the nondiscriminatory administration of school discipline. *School Law* (121-146). Mechanicsburg, PA: Pennsylvania Bar Institute.
- Pennsylvania Department of Education Employee Directory. (2018). Retrieved from <http://www.dgs.pa.gov/About/Pages/Directory.aspx>
- Pennsylvania Department of Education Office for Safe Schools Historical Comparison Report Data [Safe Schools Historical Comparison Report Data]. (2016-2017). Retrieved from [https://www.safeschools.state.pa.us/\(S\(dtopipzgulyb3zui1l2pxiu\)\)/Main.aspx?App=6a935f44-7cbf-45e1-850b-e29b2f1ff17f&Menu=dbd39a1f-3319-4a75-8f69-d1166dba5d70&res=](https://www.safeschools.state.pa.us/(S(dtopipzgulyb3zui1l2pxiu))/Main.aspx?App=6a935f44-7cbf-45e1-850b-e29b2f1ff17f&Menu=dbd39a1f-3319-4a75-8f69-d1166dba5d70&res=)
- Pennsylvania Department of Education School Performance Profile [School Performance Profile]. (2016-2017). Retrieved from <http://www.paschoolperformance.org/>
- Pennsylvania Memorandum of Understanding Statute, 22 Pa. Code Section 10.11



Pennsylvania Public School Code of 1949 ( Act of March 10, 1949 (P.L.30, No.14) Section 1318: 24 P.S. Section 13- 1318)

Pennsylvania Sunshine Act, 65 Pa.C.S. Sections 701-716. Retrieved from

<http://www.openrecords.pa.gov/SunshineAct.cfm>

Pennsylvania Weapons Statute, 24 P.S. Section 13-1317.2(g)

Pentek, C., & Eisenberg, M. E. (2018). School resource officers, safety, and discipline: Perceptions and experiences across racial/ethnic groups in Minnesota secondary schools. *Children and Youth Services Review*, 88, 141-148. doi:10.1016/j.childyouth.2018.03.008

Piantanida, M. & Garman, N. (2009). *The qualitative dissertation: A guide for students and faculty*. Thousand Oaks, CA: Corwin Press.

Picone v. Bangor Area School District, 936 A. 2d. 556 (Pa. Commw. Ct. 2007).

Pine-Richland School District. (2018). Retrieved from <http://www.pinerichland.org>

Pittsburgh Public School District. (2018). Retrieved from <http://www.pps.k12.pa.us/allderdice/site/default.asp>

Pittsburgh Public School District (2017, December). Board Approves Policy Revision Banning the Use of Exclusionary Discipline of K-2 Students for Non-violent Minor Disciplinary Infractions [press release].

Raible, J., & Irizarry, J. G. (2010). Redirecting the teacher's gaze: Teacher education, youth surveillance and the school-to-prison pipeline. *Teaching and Teacher Education*, 26(5), 1196-1203. doi:10.1016/j.tate.2010.02.006

Ratner v. Loudoun County Public Schools, 16 Fed. Appx. 140, 141 (4<sup>th</sup> Circ. 2001). Unpublished

Rattan, A., Levine, C. S., Dweck, C. S., & Eberhardt, J. L. (2012). Race and the fragility of the legal distinction between juveniles and adults. *PloS One*, 7(5), e36680.

doi:10.1371/journal.pone.0036680

- Redfield, S. E., & Nance, J. P. (2016). American bar association: Joint task force on reversing the school-to-prison pipeline. *The University of Memphis Law Review*, 47(1), 1.
- Reyes, A. H. (2006). *Discipline, achievement, and race: Is zero tolerance the answer?* Lanham, MD: Rowman & Littlefield Education.
- Reyes, A. H. (2011). School discipline and the criminalization of youth. In S. E. Tozer, B. P. Gallegos, A. M. Henry, M. B. Greiner, & P. G. Price (Eds.), *Handbook of research in the social foundations of education* (pp. 469-488). New York, NY: Routledge.
- Russo, C. J. (2006). Legal research: The “traditional:” method. In S. Permuth, R. D. Mawdsley, L. Adler, G. H. Baldwin, D. W. Van Berkum, K. G. Buckner, J. M. Ferron, P. F. First, D. H. Goldenberg, K.Y. Hogarty, J. D. Kromrey, K. E. Lane, J. Lee, A. J. Onwuegbuzie, C. J. Russo, & J. A. Sughrue (Eds.), *Research methods for studying legal issues in education*. Dayton, OH: Education Law Association.
- S. A., a minor, by her father H.O. v. Pittsburgh Public School District, 1590 C.D. 2016 (Pa. Commw. CT. 2017).
- Sain v. Cedar Rapids School District, 626 N.W.2d 115, 118 (Iowa 2001).
- School-to-prison pipeline. (2018). In *Wikipedia*. Retrieved December 10, 2018, from [https://en.wikipedia.org/wiki/School-to-prison\\_pipeline](https://en.wikipedia.org/wiki/School-to-prison_pipeline)
- Schwartz, R. & Riser, L. (2001). Zero tolerance as mandatory sentencing. In W. Ayers, B. Dohrn, & R. Ayers (Eds.), *Zero tolerance: Resisting the drive for punishment in our schools: A handbook for parents, students, educators, and citizens* (pp.126-135). New York, NY: New Press.
- Sherpell v. Humnoke School Dist. No. 5 of Lonoke, 619 F. Supp. 670 (E.D. Ark. 1985).

Seal v. Morgan et al., 229 F. 3d 567 (2000).

Simmons, L. (2009). End of the line: Tracing racial inequality from school to prison.

*Race/Ethnicity: Multidisciplinary Global Contexts*, 2(2), 215-241. Retrieved from

<http://www.jstor.org/stable/25595013>

Skowrya, K. & Coccozza, J. (2006). A blueprint for change: Improving the system response to youth with mental health needs involved with the juvenile justice system. Delmar, NY:

National Center for Mental Health and Juvenile Justice. Retrieved from

[https://www.ncmhjj.com/wp-content/uploads/2013/07/2006\\_A-Blueprint-for-Change.pdf](https://www.ncmhjj.com/wp-content/uploads/2013/07/2006_A-Blueprint-for-Change.pdf)

Standler, R. B. (2013, March 9) Educational malpractice law in the USA. p.24. Retrieved from

<http://www.rbs2.com/edumal3.pdf>

Teplin, L. A., Abram, K. M., McClelland, G. M., Dulcan, M. K., & Mericle, A. A. (2002).

Psychiatric disorders in youth in juvenile detention. *Archives of General Psychiatry*, 59(12), 1133-1143. doi:10.1001/archpsyc.59.12.1133

The Pittsburgh Foundation, A 100 Percent Pittsburgh Pilot Project [The Pittsburgh Foundation].

(n. d.). *A Qualitative Study of Youth and the Juvenile Justice System*. Retrieved from

<https://pittsburghfoundation.org/sites/default/files/100%20Percent%20Pittsburgh%20--%20Youth%20and%20Juvenile%20Justice%20Report.pdf>

Theriot, M. T. (2009). School resource officers and the criminalization of student behavior.

*Journal of Criminal Justice*, 37(3), 280-287. doi:10.1016/j.jcrimjus.2009.04.008

Togut, T. D. (2011). The gestalt of the school-to-prison pipeline: The duality of overrepresentation of minorities in special education and racial disparity in school discipline on minorities.

*American University Journal of Gender, Social Policy, and the Law*, 20(1), 163.

- Triplett, N. P., Allen, A., & Lewis, C. W. (2014). Zero tolerance, school shootings, and the post Brown quest for equity in discipline policy: An examination of how urban minorities are punished for white suburban violence. *The Journal of Negro Education*, 83(3), 352.
- United States Civil Rights Act of 1964 (Title VI), 42 U.S.C. Sections 2000c et seq.
- United States Crimes and Criminal Procedure Definitions (Firearm), 18 U.S.C. Section 921(a).
- United States Department of Education, Elementary and Secondary Education Act, Subpart 3, Section 4141. Retrieved from <https://www2.ed.gov/policy/elsec/leg/esea02/pg54.html>
- United States Department of Education, Every Student Succeeds Act, Pub. L. 114-95 (2015). Retrieved from <https://www.congress.gov/bill/114th-congress/senate-bill/1177/text>
- United States Department of Education; National Center for Education Statistics (2007-2008). Retrieved from <http://nces.ed.gov>
- United States Department of Education; National Center for Education Statistics (2009-2010). Retrieved from <http://nces.ed.gov>
- United States Firearms, 20 U.S.C. Section 7961
- United States Public Health Service Office of the Surgeon General. (2001). *Youth violence: A report of the surgeon general*. Retrieved from <https://www.ncbi.nlm.nih.gov/pubmed/20669522>
- Upper St. Clair School District. (2018). Retrieved from <http://www.uscsd.k12.pa.us>
- Wald, J., & Losen, D. J. (2003). Defining and redirecting a school-to-prison pipeline. *New Directions for Youth Development*, 2003(99), 9-15. doi:10.1002/yd.51
- Weatherley, R. & Lipsky, M. (1977). Street-level bureaucrats and institutional innovation: Implementing special-education reform. *Harvard Educational Review*, 47(2), 171-197.

- West Mifflin School District. (2018). Retrieved from <http://www.wmasd.org>
- Wetzel, Hon. John E. (2016). Luncheon Speaker. In Pennsylvania Bar Institutes' Law Policy Forum 2016. *Mass incarceration a provocative discussion of the legal, constitutional and social issues*. Pittsburgh, Pennsylvania: Pennsylvania Bar Institute.
- Winn, M. T. (2011). *Girl time: Literacy, justice, and the school-to-prison pipeline*. New York, NY: Teachers College Press.
- Wolf, K. C. (2014). Arrest decision making by school resource officers. *Youth Violence and Juvenile Justice*, 12(2), 137-151.