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Keidra McGriff

Texas Southern University, keidra88@sbcglobal.net

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Keidra McGriff, Esq.
Texas Southern University
keidra88@sbcglobal.net

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The Overrepresentation of Youth with Disabilities in the Juvenile Justice System

Abstract

This paper discusses the contributing factors and effects of youth with disabilities in the juvenile justice system. The disabilities discussed will be those of social, emotional, learning, and behavioral; presenting disconnections between these children, youth, educational system, and juvenile justice system. The juvenile justice system encompasses youth with behavior attributed to their disability that has been criminalized and thereby labeled as a delinquent. A juvenile delinquent is defined as "a minor who...commits anti-social or criminal acts, like vandalism or violence" (Dictionary.com, 2016). Such behavior could be disorderly conduct or temper tantrums that is criminalized as assault or general disruption and that typically occurs in a classroom or school setting resulting in temporary arrest or detention by police officers. Statistics, research mechanisms, and data vary state-to-state, but "some federal data show that kids with disabilities are overrepresented in the state's detention facilities" (Mader & Butrymowicz, 2014).

Keywords: disabilities, juvenile justice system, No Child Left Behind

I. Academic Legislature

A. Zero-Tolerance Policy

Zero-tolerance policies were created for school districts to help control campus violence, gun attacks in particular, and to control the presence of drugs on school campuses. However, "only five percent of serious disciplinary actions nationally in recent years involve possession of a weapon" (Kang-Brown et al., 2013). The intent was to protect schools and prevent tragedies such as those at Columbine High School in 1999, Sandy Hook Elementary in 2012, and countless other school massacres; however, there has been an adverse effect. The reality is zero-tolerance policies have deviated from their inception and now include school infractions that have become criminalized. School officials no longer have the ability to evaluate incidents on a case-by-case basis. Due to the zero-tolerance policy, infractions now involve law enforcement and/or the removal of students from school (Kang-Brown et al., 2013). Once zero-tolerance was expanded, out-of-school suspension and expulsion increased, as well as funding for school security and law enforcement (Kang-Brown et al., 2013). Zero-tolerance policies coupled with increased law enforcement presence essentially feed into the School-to-Prison Pipeline (Elias, 2013).

School discipline policies, such as zero-tolerance, "do not take into account students with disabilities" (Mader & Butrymowicz, 2014). Intended for serious behavior, school discipline policies, such as zero-tolerance, inadvertently or advertently, punish disrespect or noncompliance (Mader & Butrymowicz, 2014). This misappropriation of school policy "lead[s] schools to disproportionately suspend special education students, whose actions may be manifestations of their disability" (Mader & Butrymowicz, 2014).

B. No Child Left Behind Act of 2001

The No Child Left Behind Act was passed with the goal of "improving the academic achievement of the disadvantaged" (No Child Left Behind Act of 2001). The reality is that children are being left behind. The Act is primarily legislated upon educational interests, and not discipline. If children with disabilities are forced out of their educational environments because of behavioral challenges that can be related to their disability, their academic achievement is disadvantaged. Children with learning disabilities are being criminalized and placed in detention facilities at rates exceeding their counterparts without those disabilities. As of 2013, students having disabilities that accounted for the disability to learn was 8.6%, yet those same students with learning disabilities accounted for 32% of detained juveniles (Elias, 2013). Statistics also show that 20% of the population in the juvenile justice system has a learning disability, while accounting for only 10% of the overall population (Schabner, 2015). There is also racial disparity. While 1 in 11 White children with disabilities have been suspended, 1 in 4 Black children with disabilities have been suspended (Elias, 2013). So can it be said that no child is left behind?

The only mention of children with disabilities in the Act can be found in one of its 12 ways to accomplish the purpose of the Act - "meeting the educational needs of low-achieving

children in our Nation's highest-poverty schools, limited English proficient children, migratory children, children with disabilities, Indian children, neglected or delinquent children, and young children in need of reading assistance" (No Child Left Behind Act of 2001).

C. Individuals with Disabilities Education Act (IDEA)

IDEA is referred to as the "special education law" because it protects the educational rights for individuals characterized as having special education needs (Mallet, 2012). Not exhaustive of all the disabilities covered, the disabilities that tend to most affect juveniles are learning disabilities, autism, and serious emotional disturbance (Mallet, 2012).

The disabilities defined under IDEA are as follows:

Learning disability - a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, that may manifest itself in an imperfect ability to listen, think, speak, read, write, spell, or do mathematical calculations. This includes conditions such as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia (Skibbie, 2004).

Autism - a developmental disability significantly affecting verbal and nonverbal communication and social interaction, which adversely affects a child's educational performance (Skibbie, 2004).

Emotional disturbance - a condition exhibiting one or more of the following characteristics over a long period and to a marked degree that adversely affects a child's educational performance: an inability to learn that cannot be explained by intellectual, sensory, or health factors; an inability to build or maintain satisfactory interpersonal relationships with peers and teachers; inappropriate types of behavior or feelings under normal circumstances; a general pervasive mood of unhappiness or depression; or a tendency to develop physical symptoms or fears associated with personal or school problems (Skibbie, 2004).

D. Individualized Education Plan/Individual Education Program (IEP)

To determine if a student needs special education services, there must be notice and consent from the parents to evaluate the student using validated assessment measures (Mallet, 2012). If it is determined the student qualifies for special education services, "school districts are required to have an Individualized Education Plan (IEP) in effect" (Mallet, 2012). During an IEP-development meeting, a minimum of five people take part in the meeting – the student's parent or guardian, special education teacher, regular education teacher, the child, and someone capable of interpreting the evaluation results (Mallet, 2012). One of the mandatory provisions that are to be included in an IEP is "a statement of present educational performance identifying how the youth's disability affects involvement and/or progress in the general school curriculum" (Mallet, 2012). This mandatory statement should have the effect of instructing school personnel of the student's disability and the course of action if that environment is disturbed. A student with a disability cannot and should not be treated as a counterpart without a disability if the behavior

can be attributed to their disability. Unfortunately, there are not any records available to see how many juvenile cases where there is a disability are referred to IEP before criminal charges or detainment.

II. Contributions to the detention of youth with disabilities

The correlation between disability and delinquency has been associated with a lack of training and knowledge amongst teachers, school administration, juvenile courts, and juvenile detention centers (Skibbie, 2004). Along with the lack of training, there are characteristics associated with certain disabilities that make some juveniles more vulnerable to be subject to the juvenile justice system and thus increasing the disproportionality (Skibbie, 2004). "The path to prison often starts very early for kids who struggle to manage behavioral or emotional disabilities in low-performing schools that lack mental health care, highly qualified special education teachers, and appropriately trained staff" (Mader & Butrymowicz, 2014).

A. Characteristics of youth with disabilities

Youth with disabilities tend to disassociate themselves from their peers, school, and their community (Skibbie, 2004). Disassociation leads to a lack of social skills and "poor decision-making abilities" (Skibbie, 2004). This combination o increases the chances of delinquent behavior. In addition to a lack of social skills, students with disabilities may struggle with directions or instructions, as well as the ability to form positive interactions with disciplinary figures (Skibbie, 2004). Failure in school also plays a role in the delinquent behavior of youth with disabilities (Skibbie, 2004). It is my opinion that the behavior is associated with the disability, but because of strict policies such as zero tolerance, the behavior is taken out of context.

Different disabilities pose different challenges. Juveniles with learning disabilities have the challenges of lack of memory or attention, processing information, struggling to read and comprehend, struggling to write and communicate clearly, as well as difficulties with regular social skills (Skibbie, 2004). A report published in 2005 states that between 35.6% and 46% of youth in detention facilities have learning disabilities (Kvarfordt, Purcell, & Shannon, 2005).

Juveniles with learning disabilities may have difficulty taking instruction from teachers, law enforcement, and/or court personnel. This is not delinquent behavior, rather they simply process information differently and are thus mishandled. For example, individuals with autism have varying coping mechanisms. Some individuals with autism do not like to be touched. While feeling threatened, they might physically react. But because zero-tolerance policies are prioritized over their disability, their behavior is labeled combative or disruptive or threatening, any of which could lead to removal from school and/or being criminalized.

"Kids with learning disabilities that are not properly remediated in a school setting start to dislike school, or act up at school, or do things to distract from the fact that they're not doing

well" (Mader & Butrymowicz, 2014). When children with disabilities are nurtured at an early age, they are more adaptive to the school environment and accepting of the difficulties, thus not presenting many discipline problems (Mader & Butrymowicz, 2014).

Juveniles with disabilities that affect their emotional equilibrium have the challenges of "low self-esteem and poor social skills," both of which sometimes tend to lead to poor performance in the classroom (Skibbie, 2004). Poor performance leads to increased dropout rates (Skibbie, 2004). Increased dropout rates lead to behavior that increases involvement with the justice system (Skibbie, 2004). Once juveniles with disabilities encounter the justice system, the likelihood of them remaining in the system increases. "Students with emotional disabilities are three times more likely to be arrested before leaving high school than the general population" (Mader & Butrymowicz, 2014).

Juveniles with mental disorders have the challenge of "direct interference with decision-making" (Skibbie, 2004). Juveniles with mental disorders simply cannot make decisions as a reasonable juvenile would. "Experts say that students with emotional disabilities can be impulsive, inattentive, or aggressive, behavior that gets them in trouble" (Mader & Butrymowicz, 2014).

Juveniles with behavioral disorders, such as Attention Deficit Hyperactivity Disorder (ADHD), have the challenges of short attention spans and difficulty paying attention, especially for extended periods. Speculatively, behavioral disorders seem to affect minority youth at a higher rate than other races.

B. Teachers and Administration

The PACER Center reported, "one of the main reasons special needs children are jailed more than their peers is because teachers aren't trained in how to manage kids who are insubordinate or disruptive" (Skibbie, 2004). Students should not be punished for "being aggressive or acting out" as a characteristic of their disability (Skibbie, 2004). Rather, teachers should be trained and educated on handling students with disabilities.

Initial referrals to law enforcement come from school staff when the criminalized behavior is displayed at school. Teachers are the controllers of their classrooms and are who typically decide to involve a school resource officer. Teachers, principals, and administration must change their expectations and involvement of school resource officers in manners that can be resolved in the classroom or without removing the student from the school system altogether (Theriot, 2009). When teachers refer students for reprimand by the school resource officer rather than handle disruptive situations themselves, they are essentially depriving the students of their education (Elias, 2016). In no way should a teacher allow a disruptive student to control the classroom or have their way; however, students' behavior must be evaluated by asking if the student is being disruptive or participating in criminal and threatening behavior. There are educational environment disciplinary problems and then there is criminal behavior. When typical misbehavior becomes criminalized, it contributes to the school-to-prison pipeline (Elias, 2016).

When teachers or principals involve school resource officers for schoolhouse fights or scuffles between students, these incidents get classified as criminal assaults, and disrupting class becomes criminal disorderly conduct (Theriot, 2009). Suspensions are often the introduction to the justice system for children with disabilities (Mader & Butrymowicz, 2014). Misconduct should be disciplined, but is there any consideration of disabilities when assessing punishment? There are "frequent suspensions for fighting or 'talking back' to teachers, and being rambunctious in the hallways" (Mader & Butrymowicz, 2014). Speculatively, these are examples of typical school-aged behavior. Again speculatively, some behaviors can be attributed to medically diagnosed disabilities, which justify behavior in certain instances and certain degrees.

U.S. Department of Education data obtained from Public Integrity show the disproportionate rates of referrals for Black, Hispanic, White, and students with a disability referred to police and courts (Zubak-Skees & Wieder, 2015). As of October 2015, the top 10 states of disproportionate referrals for students with a disability are Virginia, Delaware, Wisconsin, New Hampshire, Montana, South Dakota, Wyoming, Minnesota, Idaho, and Vermont (Zubak-Skees & Wieder, 2015). The statistics are the number of students with a disability referred per 1000 students; Virginia 33.4, Delaware 29.8, Wisconsin 24.6, New Hampshire 23.6, Montana 23.1, South Dakota 20.9, Wyoming 20.4, Minnesota 17.8, Idaho 15, and Vermont 14.7 (Zubak-Skees & Wieder, 2015).

Utah had a rate of 10.3 students with a disability per 1000 students referred to police and courts (Zubak-Skees & Wieder, 2015). As of October 2014, Utah had a 5% rate of out-of-school suspension for students with special needs (Mader & Butrymowicz, 2014). Utah is conveniently and productively a state that implements preventative action. "Keeping all students in school is a priority," as it should be nationwide (Mader & Butrymowicz, 2014). Instead of being dependent upon school resource officers to diffuse and handle disruptive behavior, the "educators are taught to prevent disruptive behavior from leading to arrest" (Mader & Butrymowicz, 2014). The "staff is trained in crisis de-escalation...teachers and administrators are given strategies for calming down students with behavioral disabilities without touching them" (Mader & Butrymowicz, 2014). Administrators are provided with workshops by the Utah Department of Education that focuses on crisis intervention strategies (Mader & Butrymowicz, 2014). Included in the crisis intervention strategies workshops are "referring special education students to mental health services instead of suspending them;" whereas a private treatment program would be the last resort (Mader & Butrymowicz, 2014).

C. School Resource Officers

School resource officers (SROs) are sworn law enforcement officers assigned to school campuses (Theriot, 2009). Their tasks include "patrolling school buildings and grounds, investigating criminal complaints, handling students who violate school rules or laws and trying to minimize disruptions during the school day and after-school activities" (Theriot, 2009).

With the increase in presence of school resource officers in schools, they have taken on the role of criminalizing our youth. SRO presence rose by 38% in 10 years (1997-2007) (Elias,

2016). The majority of arrests that take place on school campuses are for disruptive behavior rather than nonviolent criminal offenses (Elias, 2016). A few examples of authority given to SROs include "authority to stop, frisk, detain, question, search and arrest schoolchildren on and off school grounds;" arrest youth for minor classroom disruptive incidents; and permanently stationed on the high school campus (Elias, 2016). SROs are taking typical school disruption and arresting youth, in turn criminalizing them. Arresting students for school infractions have a more detrimental long-term effect than a short-term solution (Stoughton & Gupta-Kagan, 2015).

Quoted from an article after an incident involving a female high school student in South Carolina and an SRO, "School resource officers should be "focused on protecting the physical safety of the school [and] preventing the criminal conduct of persons other than students." Educators, not officers, should handle routine school discipline. When an officer is involved in everyday discipline, from enforcing school rules and teacher directives to responding to adolescent defiance or disobedience, the result is "inappropriate student referrals to law enforcement" (Stoughton & Gupta-Kagan, 2015).

Research shows that SROs "have received extensive training in school-based policing" (Theriot, 2009). In the writing of this paper, there was no research to show that SROs are properly trained to assess and handle youth with disabilities or correctly handle conflict resolution when dealing with youth with disabilities.

"School resource officers can and should be more than a uniformed presence in schools; they should be mentors, counselors, and role models, especially for disadvantaged youth. They should be guardians, protecting their students from unnecessary indignity and harm. An officer's interactions with students can shape the way the students perceive and interact with officers for years to come" (Stoughton & Gupta-Kagan, 2015). SROs can make an impact on not only youth in general but youth with disabilities. To an individual that struggles with personal relationships or socially in general due to their disability, positive interaction can potentially diffuse a situation before it escalates. If a student with a disability is having an episode where they are disconnected and may potentially react violently or aggressively, the last thing that is needed is an equally violent or aggressive encounter with someone of authority. SROs should take the opportunity to be positive reinforcement and authority in our youth's lives.

One approach to reducing school-based arrests is for school resource officers to change their approach when dealing with disruptive students (Theriot, 2009). Arresting a youth that has not committed an actual criminal act should be the very last resort (Theriot, 2009). Virginia legislators have approved a proposal that relieves "school police that is funded by state grant requirements" from enforcing school rules, allowing them to focus on criminal justice matters, rather than school discipline" (Ferriss, 2016).

D. Court System/Detention

It is reported that some states do not have a process to screen juveniles for disabilities during intake or first appearance in court (Skibbie, 2004). Juveniles are entitled to representation

just as adults are; additionally, juveniles can waive counsel as well as enter pleas without representation (Skibbie, 2004). The problem is that the vast majority of juveniles may not be in a position to intelligently and willingly make such a decision, especially juveniles with a disability. These juveniles are allowed to essentially represent themselves or proceed without representation by an attorney, and when coupled with no prior screenings, can fall victim to the justice system. When juveniles navigate the justice system by themselves, their disabilities go untreated, often resulting in their addition to the juvenile population in the justice system.

The effectiveness of the system to accurately and completely identify disabilities can be essential— information about a youth's disability may be relevant at every stage of a juvenile court case. It may help to determine whether formal delinquency proceedings should proceed or suggest important directions for investigation and case strategy. Information about the disability often helps to explain behavior in a way that facilitates constructive intervention, and it is essential to arriving at a disposition that will both meet the youth's rehabilitative needs and comply with IDEA requirements (Skibbie, 2004).

Unless a youth is at a detention facility for three days or longer, they are not officially enrolled in school at such a facility (Kvarfordt, Purcell, & Shannon, 2005). "After enrollment, the special education status is determined either by identifying that the youth has an existing Individual Education Plan (IEP), or by assessment of the detention center" (Kvarfordt, Purcell, & Shannon, 2005). Ironically, if schools referenced IEPs, some students may not even encounter detention facilities. For the most part, youth in detention facilities for fewer than three days special education status or needs isn't tracked (Kvarfordt, Purcell, & Shannon, 2005).

III. Criminalized Juveniles with Disabilities

A. KMR

At the age of 12, KMR had been charged with a misdemeanor and a felony arrest (Ferriss, 2015). KMR is also autistic (Ferriss, 2015). KMR's first school infraction came when he was 11, had an emotional meltdown, and kicked a trashcan at school (Ferriss, 2015). He was charged with misdemeanor disorderly conduct (Ferriss, 2015). KMR's second infraction came when his principal sent the school office after he walked out of class without permission (Ferriss, 2015). KMR left the classroom to catch up with other students that had already exited (Ferriss, 2016). When the officer grabbed KMR, he struggled to break away and was wrestled to the floor (Ferriss, 2015). KMR was charged with disorderly conduct and felony assault on a police officer (Ferriss, 2015).

In neither of these instances was it taken into consideration that KMR is autistic and the disorderly conduct was possibly a result of this disability. These are the types of infractions that should not be criminalized. Instead, resources should be available within the school system .

KMR is a resident of Virginia and data shows that in Virginia, as well as across the nation, African American students and "special needs" students are disproportionately referred to law enforcement (Ferriss, 2016). The jurisdiction where KMR is located has reformed "school police agreements to more narrowly define the role of police at schools" (Ferriss, 2016). A proposal that has been approved by Virginia legislators "ensures that special-needs students accused of disorderly conduct can immediately submit behavioral assessments to court as evidence supporting an argument that the student's actions were not willful" (Ferriss, 2016). Instead of filing criminal charges, students are encouraged to ask for time and ways to deal with their meltdowns, including time in a quiet place or going for a walk (Ferriss, 2016).

The charges against KMR were dropped and KMR enrolled at a school that is tailored to students with special needs (Ferriss, 2016).

B. CG

As an 8-year-old, CG was arrested, placed in a straitjacket, and charged with assault after throwing a tantrum ("Couple Suing After 8-year-old Arrested", 2015 July 14). In CG's case, because he has autism, there was a crisis intervention plan that was to be followed ("Couple Suing After 8-year-old Arrested", 2015 July 14). During a breakdown, CG hit his teacher, which resulted in his arrest ("Couple Suing After 8-year-old Arrested", 2015 July 14). It was stated in his crisis intervention plan that some of his high-risk behaviors included hitting, so his school was very well aware of the possibilities of him hitting others ("Couple Suing After 8-year-old Arrested", 2015 July 14). The plan even went on to inform them what to do to calm his behavior ("Couple Suing After 8-year-old Arrested", 2015 July 14).

As of July 2015, CG's parents reported they would be initiating suit against Sumner County Board of Education and Sumner County Sheriff's Office ("Couple Suing After 8-year-old Arrested", 2015 July 14). As a result of the arrest and restraint, CG was traumatized, placed on probation, and transferred to a different school ("Couple Suing After 8-year-old Arrested", 2015 July 14).

C. JR

In 2013, JR, an 8-year-old autistic girl, was handcuffed and arrested at her school in Alton, Illinois after she attempted to hit a school resource officer and "tore" up two classrooms (Levy, 2013). It was not specified what "tore up" actually means or refers to. At the time of the incident, JR's guardian told reporters that JR suffered from separation anxiety and depression (Levy, 2013). It is not reported whether JR's school was aware of her disabilities, nor was it reported if there was an Individual Education Plan in place because of her disabilities.

The police and superintendent saw fit to not only handcuff an 8-year-old child, but to handcuff her wrists, ankles assembled with a belt around her waist (Levy, 2013). The school district reported that involving law enforcement is typically the last resort for an unruly student (Levy, 2013). JR's guardian was contacted before law enforcement, at which time he informed

them he was on his way to pick her up (Levy, 2013). Knowing JR's guardian was on his way, law enforcement was still called.

There is no report of charges being filed against JR, but her guardian did remove her from the school.

D. S.R. and L.G.

In August 2015, there was reportedly a lawsuit filed against a school resource officer for allegedly violating the civil rights of two students, 8-year-old S.R and 9-year-old L.G. (Lee, 2015). The suit, filed on behalf of the children by the Children's Law Center in Kentucky, Dinsmore & Shohl, and the American Civil Liberties Union, claims that the student's civil rights were violated, as well as the Americans with Disabilities Act, by being illegally handcuffed and restrained (Lee, 2015). S.R. is a Latino boy and L.G. is an African American girl (Lee, 2015). Both S.R. and L.G. had been previously diagnosed with attention deficit hyperactivity disorder (ADHD) (Lee, 2015). S.R. was also diagnosed with post-traumatic stress disorder (Lee, 2015).

The incident involving S.R. happened in November 2014 (Lee, 2015). It is not reported what led to the involvement of the school resource officer other than failure to comply with instructions given by school authorities (Lee, 2015). It is just reported that S.R. was handcuffed while the school resource officer instructed him to sit down as he was told (Lee, 2015). S.R. cried and expressed he was in pain throughout the ordeal (Lee, 2015).

The incident involving L.G. was earlier in 2015 (Lee, 2015). L.G. was disrupting her classroom and a school resource officer was requested to escort her to an in-school suspension room (Lee, 2015). It was not reported how L.G. was being disruptive. L.G. was subsequently detained in a police cruiser (Lee, 2015). The lawsuit also alleges separate incidents involving the same school resource officer; one of "which resulted in L.G. going to a hospital for psychiatric assessment and treatment" (Lee, 2015).

Kenton County Chief Deputy reported that he did not "consider handcuffing [children] to be a use of force that would be subject to an internal investigation" (Lee, 2015). Case law has established "that overly tight handcuffing can constitute excessive force" (Wall v. County of Orange, 2004).

E. CB

At the age of 12, CB was charged with three counts of assault (Mader & Butrymowicz, 2014). CB has bipolar disorder and hit several teachers when they attempted to intervene between Cody and another student (Mader & Butrymowicz, 2014). CB was taken to the local court, and then sent to a mental health facility where he stayed for 12 days (Mader & Butrymowicz, 2014). Upon release, he was charged with assault (Mader & Butrymowicz, 2014).

Because he is bipolar, CB has issues with anger (Mader & Butrymowicz, 2014). CB would have outbursts when he argued with other children and adults (Mader & Butrymowicz, 2014). If touched while in an angry rage, CB would try to get away, hitting others in the midst (Mader & Butrymowicz, 2014). Run-ins with bullies would turn into full-fledged fights (Mader & Butrymowicz, 2014). Although CB had an Individual Education Program (IEP) and his behavior could be attributed to his disability, CB was not allowed to return to school (Mader & Butrymowicz, 2014).

IV. What Happens Once These Youth Are in the System?

Detention facilities are occupied with juveniles they were not created to house. Detention centers were founded to house juveniles that committed violent offenses and/or had a potentially high risk of committing additional offenses before their trial (Holman, n.d.). Juveniles are separated from their families, schools, and communities when detained, negatively impacting their economic well-being, social well-being, and education. In addition to the separation, these juveniles face isolation because of their disability. Incarceration or detention of these juveniles runs the risk of exacerbating their disability. If a juvenile with a disability has not adapted to their everyday environments, chances are they will struggle to adapt when placed in an "overcrowded, understaffed facilit[y]" (Holman, n.d.).

Youth in detention facilities are worse off due to lack of treatment while in custody. Detaining youth in juvenile detention facilities can antagonize their disabilities, therefore increasing their "acting out, social behavior, and self-harm" ("Fact Sheet: Youth with Mental Illness in the Criminal Justice System", n.d.). It has been reviewed that "detention has a profoundly negative impact on young people's mental and physical well-being, their education, and their employment" (Holman, n.d.). If a juvenile already has poor mental health before being detained, detention is more likely to make them want to commit suicide or self-harm. (Holman, n.d.). It has not been shown that mass detention of youth reduces crime, so what is the benefit of incarcerating youth, especially those with disabilities?

Learning disabilities impact a youth's cognitive and development abilities, as well as their judgment (Mallet, 2010). Educational researchers have reported that roughly 40% of youth with learning disabilities that have been incarcerated struggle significantly upon their return to school (Holman, n.d.). The problems that children face upon their return to school after incarceration are not fair to a student that never should have been arrested in the first place.

There needs to be counseling and therapy available, training for teachers and school faculty and staff, and training for workers in the justice system, including officers, detention intake, judges, attorneys, and other court personnel. As a society, we need to be accountable for our youth and get them the help they need instead of allowing them to become victims of the justice system. The effects of detention are unfortunate for any youth detained or incarcerated, but it is even more cruel and unusual for those that should not be subjected to such an environment.

V. Conclusion

Students with social disabilities, emotional disabilities, learning disabilities, and behavioral disabilities are being overly criminalized.. Speculatively, it appears the most affected disabilities are autism, attention deficit disorder, and attention deficit hyperactivity disorder.

Although some students have individualized education plans to inform and assist with their disabilities, the individualized education plans or programs do not overcome the lack of training of teachers, administration, school resource officers, and court personnel.

Essentially, a vast majority of youth contact with the justice system stems from interaction with school resource officers, thus creating the school-to-prison pipeline. School resource officers are being allowed to handle school matters, which essentially results in the criminalization of children and youth. There is a lack of balance between the intended role of school resource officers what their presence has resulted in schools across the nation.

Legislation that has been implemented in schools across the nation is not safeguarding students with disabilities as it should. Zero-tolerance policies are allowing children and youth to be criminalized for simply not following instructions from school authorities; whereas zero-tolerance policies were implemented to protect schools from drugs, violence, and subsequent school massacres. No Child Left Behind was implemented to improve the academic achievement of the disadvantaged. Disadvantaged students with social disabilities, emotional disabilities, learning disabilities, and behavioral disabilities are being displaced from classrooms and sometimes schools. Although the Disabilities Education Act was implemented to protect the educational rights of individuals characterized as having special education needs, the educational rights of students with disabilities are not being protected, as again those with social disabilities, emotional disabilities, learning disabilities, and behavioral disabilities are being displaced from classrooms and sometimes schools. Individualized Education Plans or Programs are intended to assist school teachers and administration with a plan specifically tailored to the student based upon their disability. However, these plans are disregarded, even where it is documented that a student may react violently in certain situations and under certain circumstances.

Children and youth are being criminalized for behavior that is attributed to their respective disabilities. Children as young as six are being arrested and charged with assault for not wanting to be restrained by a teacher or school resource officer when it is documented to not touch such a child amid a breakdown.

Children and youth are being harmed more than they are being helped. They are being subjected to detention facilities and thus exacerbating their disabilities or even developing new disabilities, such as post-traumatic stress disorder, depression, or suicidal thoughts and actions. A system that once stood for educating our children and youth has turned into a pipeline to the criminal justice system.

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