

LET BLACK GIRLS LEARN: PERCEPTIONS OF BLACK FEMININITY AND ZERO-TOLERANCE POLICIES IN SCHOOLS

ARTICLE

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INTRODUCTION

ON A MONDAY IN A SOUTH CAROLINA HIGH SCHOOL, A BLACK¹ GIRL REFUSED a white police officer’s requests to leave class.² Within seconds, as she sat in her desk the officer grabbed the student’s arm, placed his own around her neck and flipped her backwards. After dragging her out of her desk, across the floor, and hurling her to the ground, he commanded “Give me your hands.”³ The officer then told another student, “I’ll put you in jail next.”⁴ Student recordings of the incident went viral. Though the officer was later fired, he faced

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¹ See Lori L. Tharps, *The Case for Black With a Capital B*, N.Y. TIMES (Nov. 18, 2014), https://www.nytimes.com/2014/11/19/opinion/the-case-for-black-with-a-capital-b.html?_r=0. Though “Black” as a racial category tends to appear in lowercase in most mainstream writing, I will capitalize the word as a reference to it not only being a proper name, but a reference to a cultural, ethnic, and diasporic group. This choice further emulates the stylistic choice of authorities in intersectional feminist studies like Kimberlé Williams Crenshaw and Monique M. Morris, whose work is the foundation of this article.

² See Richard Fausset & Ashley Southall, *Video Shows Officer Flipping Student in South Carolina, Prompting Inquiry*, N.Y. TIMES (Oct. 26, 2015), https://www.nytimes.com/2015/10/27/us/officers-classroom-fight-with-student-is-caught-on-video.html?_r=0.

³ *Id.*

⁴ *Id.*

no charges for his behavior.⁵ The girl, on the other hand, was arrested and suspended right after the incident.⁶

On a Tuesday in a North Carolina high school, a Black girl was trying to break up a fight to defend her sister. A white police officer intervened and, in an attempt to break up the fight, picked the girl up and slammed her to the ground.⁷ The girl was unresponsive on the ground until he picked her up again. The officer was placed on administrative leave after a nine-second clip of the encounter uploaded by a student received more media attention.⁸ According to the girl's mother, the police officer's use of excessive force caused her daughter to suffer a concussion.⁹

Episodes of this nature are not endemic to the South, let alone the U.S. mainland. Last summer, in Puerto Rico, a Black girl was accused of assaulting a few of her classmates.¹⁰ For at least two years, these classmates harassed Alma Yadira Cruz Cruz, a special needs student, calling her *negra sucia* (dirty negro), *pelo de caíllo* (twig hair) and *mona* (monkey).¹¹ Ignored by school administrators, Alma tried to put an end to the racial harassment she faced on a daily basis. In return, Alma was expelled, and the Puerto Rico Department of Justice charged Alma with

⁵ See Chris Sommerfeldt, *Disgraced South Carolina officer will not face charges for hurling student across classroom*, N.Y. DAILY NEWS (Sept. 3, 2016), <http://www.nydailynews.com/news/national/s-won-face-charges-hurling-student-classroom-article-1.2776576>.

⁶ See Anya Kamenetz, *The Untold Stories of Black Girls*, NPR (Mar. 23, 2016), <http://www.npr.org/sections/ed/2016/03/23/471267584/the-untold-stories-of-black-girls>. A classmate, Niya Kenny, who witnessed the violent altercation, spoke up against the police officer's actions and was swiftly arrested and sent to a detention center; see *Kenny v. Wilson*, ACLU (Nov. 29, 2016) <https://www.aclu.org/cases/kenny-v-wilson>; Amy Davidson Sorkin, *What Niya Kenny Saw*, THE NEW YORKER (Oct. 30, 2015), <https://www.newyorker.com/news/amy-davidson/what-niya-kenny-saw>.

⁷ See Shaun King, *KING: Video of officer slamming N.C. girl to the ground reveals how little some cops care about black kids*, N.Y. DAILY NEWS (Jan. 4, 2017), <http://www.nydailynews.com/news/national/king-slammed-n-girl-shows-cops-feel-black-kids-article-1.2934267>.

⁸ See CBS North Carolina, *Video shows officer slamming student at Rolesville High School*, WNCN (Jan. 3, 2017), <http://wncn.com/2017/01/03/video-shows-officer-slamming-student-at-rolesville-high-school>.

⁹ *Id.*

¹⁰ See Gamaliel Ramos Oliver, *Puerto Rico: Departamento de Justicia 'cierra las puertas' de la menor acosada racialmente*, UNIVISION (Aug. 15, 2017), <http://www.univision.com/puerto-rico/wkaq-am/entrenamiento/puerto-rico-departamento-de-justicia-cierra-las-puertas-de-la-menor-acosada-racialmente>.

¹¹ *Id.* (translation by author).

battery, criminal threatening and disturbing the peace, exposing Alma to the possibility of jail time.¹² A year later, the Puerto Rico Department of Justice withdrew its case, citing confidentiality concerns.¹³

The hypervisibility of Black girls being abused in viral videos and news stories in this vein stands in chronic contrast with the invisibility that characterizes popular narratives about their presence in and encounters with the criminal justice system. The starkest policy example of this disconnect lies in President Barack Obama's My Brother's Keeper initiative, which was surprisingly silent on the challenges faced by our brothers' Black sisters.¹⁴ On a more individualized and perhaps significant note, few know about Tajai Rice, Tamir Rice's sister, who ran to her brother's side after he was shot by police in Cleveland, Ohio. After witnessing her brother's death, officers tackled Tajai Rice (fourteen years old at the time), handcuffed her and placed her in the back of a squad car with the man who had just killed her brother.¹⁵ Black girls' invisibility in this space mimics the larger trend of how criminal justice policies and safeguards both exclude and under-protect Black women despite them being overrepresented in the United States prison system.¹⁶

Black girls' experiences are largely excluded from mainstream research and public policy debates about punitive policies in public education; in other words, there is a dearth of attention and data on this subject. The data that *is* available, however, suggests that Black girls are profoundly affected by zero-tolerance policies in schools. The U.S. Department of Education's most recent data on school discipline reveals a nationwide pattern of racial disparity in the use of punitive disciplinary measures on Black students.¹⁷ During the 2011-2012 school year, Black students were suspended more than three times as often as their white counterparts.¹⁸ Black girls, on the other hand, were suspended six times as often as white

¹² See *id.*, *Protesta contra el racismo y atropellos en escuela de Carolina*, PRIMERA HORA (July 19, 2017), <http://www.primerahora.com/noticias/gobierno-politica/nota/protestacontraelracismoyatropellosenesueladecarolina-1236387>; Benjamín Torres Gotay, *Los niños que enfrentan mano dura ante los tribunales*, EL NUEVO DÍA (Apr. 8, 2017), <https://www.elnuevodia.com/noticias/locales/nota/losniñosqueenfrentanmanoduraantelostribunales-2308948>.

¹³ See Benjamín Torres Gotay, *Justicia desiste del caso contra estudiante de educación especial*, EL NUEVO DÍA (Feb. 12, 2018), <https://www.elnuevodia.com/noticias/tribunales/nota/justiciadesistedelcasocontraestudiantedeeducacionespecial-2397941/>.

¹⁴ See Kimberlé Williams Crenshaw, *The Girls Obama Forgot*, N.Y. TIMES (July 29, 2014), <https://www.nytimes.com/2014/07/30/opinion/Kimberl-Williams-Crenshaw-My-Brothers-Keeper-Ignores-Young-Black-Women.html>.

¹⁵ See Elliott McLaughlin, *Tamir Rice's teen sister 'tackled,' handcuffed after his shooting, mom says*, CNN (Dec. 9, 2014), <http://www.cnn.com/2014/12/08/us/cleveland-tamir-rice-mother>.

¹⁶ See, e.g., Kali Nicole Gross, *African American Women, Mass Incarceration, and the Politics of Protection*, 102 J. AM. HIST. 25 (2015).

¹⁷ See U.S. DEP'T OF EDUC. OFF. FOR CIV. RIGHTS, CIVIL RIGHTS DATA COLLECTION: DATA SNAPSHOT SCHOOL DISCIPLINE (2014), <http://ocrdata.ed.gov/Downloads/CRDC-School-Discipline-Snapshot.pdf>.

¹⁸ *Id.* at 1.

girls.¹⁹ The disciplinary disparities against Black girls become clearer when considering that, even though Black girls constitute sixteen percent of the female student population, they also represent about one-third of all girls referred to law enforcement and more than one-third of all female school-based arrests.²⁰ It is important to note that although Black boys are disciplined more than any other group, these rates imply that the combined impact of race and gender likely has a stronger effect on Black girls' experiences with punitive policies in school.

In this Article, I will argue that zero-tolerance policies in schools over-criminalize Black girls' behavior without providing meaningful ways for them to engage with and focus on their education. I will first trace the history of zero-tolerance from its origins in the 1980s to its expansion into schools. I will then address the effects of zero-tolerance policies on girls of color, focusing on Black girls and how perceptions about their behavior, predominantly described as having an *attitude*, influence school and legal authorities' decisions. I will lastly follow Black girls' stories about their educational experiences to demonstrate what is missing from mainstream narratives and present what criminal justice reformers, educators and other actors can gain from understanding punitive policies in schools from a racialized and gendered lens.

I. BLACK GIRLS AND THE SCHOOL-TO-PRISON PIPELINE

A. Zero-Tolerance Policies: From the Streets to the Classroom

Zero-tolerance policies evolved from a policing theory first espoused by academics George L. Kelling and James Q. Wilson called *broken windows*.²¹ They worked off the premise that trivial, relatively innocuous behaviors like public drinking and panhandling were in reality signals that more serious crimes would eventually flourish in a community. To prevent neighborhoods from turning into "inhospitable and frightening jungle[s]," they espoused that infractions of misbehavior should not be tolerated, but penalized.²²

The *broken windows* theory later morphed into zero-tolerance policing, a line that subsequently became President Reagan's mantra in the War on Drugs.²³ The

¹⁹ *Id.* at 3.

²⁰ *Id.* at 1.

²¹ See George L. Kelling & James Q. Wilson, *Broken Windows*, ATLANTIC MONTHLY (Mar. 1982), <https://www.theatlantic.com/magazine/archive/1982/03/broken-windows/304465>.

²² *Id.*

²³ Ashley Fantz, *Cops in class: Is 'zero tolerance' still the right approach?*, CNN (Oct. 30, 2015), <http://www.cnn.com/2015/10/29/us/police-schools-punishment-zero-tolerance/index.html>.

new national policy marked the start of the era of hyper-aggressive policing, increasingly punitive sentencing and racially disparate law enforcement.²⁴ Zero-tolerance policing also took hold in Puerto Rico in the early 1990s, translating overseas as Governor Pedro Rosselló's *Mano Dura contra el Crimen* (Iron Fist Against Crime) initiative.²⁵ Mimicking the mainland's policies, the *Mano Dura* regime gave way to interventionist policing tactics like operating raids in homes and employing police occupation of housing projects.²⁶ Some scholars credit these tactics with *locking out* black and poor communities on the island by not only restricting those groups' movements, but also cementing social inequality in Puerto Rico.²⁷

It was not until the Clinton administration, however, that zero-tolerance rhetoric began to seep into the school system in response to delinquency. In 1994, the *Safe Schools Act* allocated \$3 million to schools that complied with its mandate to formalize punitive procedures and cooperate with legal authorities.²⁸ *The Gun-Free School Zones Act* was also passed that year, which required schools to expel students for bringing a weapon to campus.²⁹ Then, in 1999, the school shootings at Columbine heightened public fear of school violence, which led to a renewed call for hyper-surveillance in the name of safety. While zero-tolerance policies were designed to discourage people from engaging in criminal behavior, its effect on schools was to usher in high rates of suspension, expulsion, school-based arrests and alternative disciplinary placements for minor offenses.³⁰ As is also the case for zero-tolerance policing, these disciplinary policies have had mixed results in terms of being successful in reducing crime in schools.³¹

The uptick in school policing provoked policymakers to coin the term *school-to-prison pipeline*, which is used as a metaphor to describe the lived experiences of students of color in schools and their increased chances to come into contact

24 See Judge Frederic Block, *Racism's Hidden History in the War on Drugs*, HUFFINGTON POST (Jan. 3, 2013), http://www.huffingtonpost.com/judge-frederic-block/war-on-drugs_b_2384624.html; Hannah LF Cooper, *War on Drugs Policing and Police Brutality*, 50 SUBSTANCE USE & MISUSE 1188 (2015); Jamie Fellner, *Race, Drugs, and Law Enforcement in the United States*, 20 STAN. L. & POL'Y REV. 257 (2009).

25 See FERNANDO PICÓ, *DE LA MANO DURA A LA CORDURA* (1999); DORA NEVARES MUÑOZ, *EL CRIMEN EN PUERTO RICO: TAPANDO EL CIELO CON LA MANO* (3rd ed. 2008).

26 See ZAIRE ZENIT DINZEY-FLORES, *LOCKED IN, LOCKED OUT: GATED COMMUNITIES IN A PUERTO RICAN CITY* 29 (2013); See NEVARES MUÑOZ, *supra* note 25, at 151-52; JOEL A. VILLA, *CRIMEN Y CRIMINALIDAD EN PUERTO RICO: EL SUJETO CRIMINAL* 226 (2008).

27 See Zaire Zenit Dinzey-Flores, *Gated Communities for the Rich and the Poor*, 12 CONTEXTS 24, 26 (2013); HELEN ICKEN SAFA, *THE URBAN POOR OF PUERTO RICO: A STUDY IN DEVELOPMENT AND INEQUALITY* (1974).

28 See RONNIE CASELLA, *AT ZERO TOLERANCE: PUNISHMENT, PREVENTION, AND SCHOOL VIOLENCE* (2001).

29 See LIZBET SIMMONS, *THE PRISON SCHOOL: EDUCATIONAL INEQUALITY AND SCHOOL DISCIPLINE IN THE AGE OF MASS INCARCERATION* 124 (2017).

30 *Id.* at 125.

31 See, e.g., Carly Berwick, *Zeroing out Zero Tolerance*, ATLANTIC (Mar. 17, 2015), <https://www.theatlantic.com/education/archive/2015/03/zeroing-out-zero-tolerance/388003>.

with the criminal justice system. In her report, *Race, Gender, and the School-to-Prison Pipeline*, Monique W. Morris summarizes the term as one that “refers to the collection of policies, practices, conditions, and prevailing consciousness that facilitate both the criminalization within educational environments and the processes by which this criminalization results in the incarceration of youth and young adults.”³² In 2010, the Advancement Project found that while school-based arrests are the most direct route into the school-to-prison pipeline, “out-of-school suspensions, expulsions, and referrals to alternative schools also push[ed] students out of school[s] and closer to a future in the juvenile and criminal justice systems.”³³

B. By the Numbers: School Discipline’s Disparate Impact on Black Girls

The empirical data behind the school-to-prison pipeline notion suggests that Black students are as overrepresented in the school-to-prison pipeline as Black youth are in the criminal justice system. For instance, Black youth represent sixteen percent of the American youth population, but are more than four times as likely to be arrested as whites.³⁴ In the school context, since 1991, Black students have experienced higher levels of exclusionary discipline than any other group of students.³⁵

The state of New York tends to replicate the national trend of exclusionary discipline disproportionately affecting students of color, but particularly Black students, in schools. According to the report on arrest and summonses of the New York Civil Liberties Union, 94.3 percent of 283 school-based arrests during the 2014-2015 school year were of Black (58.3 percent) and Latino (36 percent) students.³⁶ Black and Latino students have been arrested at similarly high rates during the more recent quarters of the 2016 school year.³⁷ Perhaps even more strikingly, the rate of suspensions (out of a total of 44,626 for the 2014-2015 school year)

³² MONIQUE W. MORRIS, *RACE, GENDER, AND THE SCHOOL-TO-PRISON PIPELINE: EXPANDING OUR DISCUSSION TO INCLUDE BLACK GIRLS 2* (2012), <http://schottfoundation.org/sites/default/files/resources/Morris-Race-Gender-and-the-School-to-Prison-Pipeline.pdf>.

³³ ADVANCEMENT PROJECT, *TEST, PUNISH, AND PUSH OUT: HOW “ZERO TOLERANCE” AND HIGH-STAKES TESTING FUNNEL YOUTH INTO THE SCHOOL-TO-PRISON PIPELINE 4-5* (2010), https://b3cdn.net/advancement/do5cb2181a4545db07_r2im6caqe.pdf.

³⁴ See Joshua Rovner, *Racial Disparities in Youth Commitments and Arrests*, THE SENTENCING PROJECT (Apr. 1, 2016), <http://www.sentencingproject.org/wp-content/uploads/2016/04/Racial-Disparities-in-Youth-Commitments-and-Arrests.pdf>.

³⁵ See John M. Wallace *et al.*, *Racial, Ethnic, and Gender Differences in School School Discipline among U.S. High School Students: 1991-2005*, 59 NEGRO EDUC. REV. 47 (2008).

³⁶ See N.Y. CIV. LIBERTIES UNION, *STUDENT SAFETY ACT REPORTING ON ARRESTS AND SUMMONSES* (2015), https://www.nyclu.org/sites/default/files/ssa_FactSheet_2014-2015.pdf.

³⁷ See N.Y. CIV. LIBERTIES UNION, *STUDENT SAFETY ACT REPORTING* (2016), https://www.nyclu.org/sites/default/files/SSA_factsheet_2016_Q1.pdf; N.Y. CIV. LIBERTIES UNION, *STUDENT SAFETY ACT REPORTING* (2016), https://www.nyclu.org/sites/default/files/SSA_factsheet_2016_Q2.pdf.

neared 90 percent for Black (51.7 percent) and Latino (35.8 percent) students.³⁸ Further, Black students make up less than thirty percent of public school enrollment but account for more than fifty percent of school-based arrests in these datasets, which also mirrors nationwide trends.³⁹

Morris acknowledges that Black boys comprise most of the previously mentioned statistics, but she provides a critical assessment of the *pipeline* framework and how it tends to further marginalize Black girls. She argues that the *pipeline* not only “obscure[s] the experiences of Black girls,”⁴⁰ but also that its “patriarchal framework limit[s] a broader conceptualization of [the] carceral forces in the lives of Black girls . . . [.]”⁴¹ Morris unpacks the pipeline’s patriarchal framework by discussing the differences between the pathways to incarceration that both Black boys and girls face. For example, while Black boys are penalized primarily for disciplinary reasons, Black girls are scrutinized according to their adherence to or deviation from social norms that correspond with idealized white, middle-class definitions of femininity.⁴² In addition, Morris suggests that mainstream research on violence and racial threat focuses on stereotypes of Black men and perceived threats to public safety, which neither fully addresses these same stereotypes in a school setting nor considers how ideas of racial threat might vary when Black girls are involved.⁴³ In her view, the fixation on the experiences of Black males further corrupts data on Black girls because their experiences are not compared to those of other girls.⁴⁴ Morris’ contention becomes more salient when considering that, among the nation’s ten highest suspending districts, Black girls with disabilities experience the highest suspension rate of all girls.⁴⁵

Columbia Law School and UCLA professor Kimberlé Williams Crenshaw’s recent work builds on Morris’ take on the *pipeline* framework’s erasure of the experiences of Black girls. In *Black Girls Matter*, Crenshaw provides compelling data on the disproportionate rates of punishment for Black girls in Boston and New

³⁸ See N.Y. CIV. LIBERTIES UNION, STUDENT SAFETY ACT REPORTING ON SUSPENSIONS (2015), https://www.nyclu.org/sites/default/files/SSA_Suspension_FactSheet_2014-2015_final.pdf.

³⁹ See N.Y. CIV. LIBERTIES UNION, STUDENT SAFETY ACT REPORTING (2016), https://www.nyclu.org/sites/default/files/SSA_factsheet_2016_Q1.pdf; N.Y. CIV. LIBERTIES UNION, STUDENT SAFETY ACT REPORTING, (2016), https://www.nyclu.org/sites/default/files/SSA_factsheet_2016_Q2.pdf.

⁴⁰ MORRIS, RACE, GENDER, AND THE SCHOOL-TO-PRISON PIPELINE, *supra* note 32, at 3.

⁴¹ *Id.*

⁴² *Id.* at 5.

⁴³ *Id.* at 6.

⁴⁴ *Id.* at 10.

⁴⁵ See DANIEL J. LOSEN & JONATHAN GILLESPIE, OPPORTUNITIES SUSPENDED: THE DISPARATE IMPACT OF DISCIPLINARY EXCLUSION FROM SCHOOL 28 (2012), <https://www.civilrightsproject.ucla.edu/resources/projects/center-for-civil-rights-remedies/school-to-prison-folder/federal-reports/upcoming-ccrr-research/losen-gillespie-opportunity-suspended-2012.pdf>.

York City public schools, two minority-majority districts.⁴⁶ The report notes that its overall findings match the nationwide racial disparity in punitive discipline against Black students. In terms of discipline, Black girls represented sixty-one and fifty-six percent of all girls disciplined in Boston and New York City, respectively, compared to white girls, who comprised five percent of such girls in both cities.⁴⁷ While Black girls in both cities outnumbered white girls (three to one in Boston; two to one in New York City), Black girls were subjected to school discipline at least ten times more than white girls.⁴⁸ Black boys, who made up similar percentages of disciplined students, were disciplined six to eight times more than whites.⁴⁹ Therefore, compared to Black boys, Black girls have a higher chance of being subjected to school discipline.

Crenshaw's data also shows how expulsion rates paint an even starker picture of the effect of zero-tolerance policies on Black girls. In both Boston and New York City, no white girls were expelled during the 2011-2012 school year.⁵⁰ To capture the severity of the discrepancy, however, Crenshaw posited that expelling even one white girl in New York would reveal a fifty-three-to-one ratio of Black girls being expelled compared to white girls.⁵¹ Using the same assumption in Boston, the ratio of Black girls being expelled compared to that of white girls would be ten-to-one.⁵² Suspension rates in both cities were equally disjointed, with Black girls being suspended at ten to twelve times the rate of white girls. The rates at which Black girls would either be expelled or suspended outpaced, if not doubled, Black males' rates. Because these numbers do not explain what kinds of behavior merited exclusionary discipline, I will supplement them with narratives from the people who employ exclusionary discipline as well as the people affected most by these policies.

II. DISCRETIONARY ZERO-TOLERANCE POLICIES IN SCHOOLS AND THE ROLE OF HAVING AN ATTITUDE

Though it is true that zero-tolerance in schools stems from federally mandated policies, localities maintain significant discretion in determining what kinds of student behavior will result in disciplinary action. For example, possession of a firearm or illicit drugs might amount to an automatic suspension, but individual

⁴⁶ See KIMBERLÉ WILLIAMS CRENSHAW ET AL., BLACK GIRLS MATTER: PUSHED OUT, OVERPOLICED, AND UNDERPROTECTED 17-20 (2015), https://static1.squarespace.com/static/53f20d90e4bob80451158d8c/t/54dcc1ece4b001c03e323448/1423753708557/AAPF_BlackGirlsMatterReport.pdf.

⁴⁷ *Id.* at 19.

⁴⁸ *Id.*

⁴⁹ *Id.* at 19-20.

⁵⁰ *Id.* at 21.

⁵¹ *Id.*

⁵² *Id.*

schools have more leeway in establishing policies related to school dress codes. The amount of discretion inherent in such rules reflects how certain characteristics might explain the discrepancies in the distribution of punitive policies. In this Part, I will describe how perceptions of race and gender-based characteristics intersect in and directly influence Black girls' experiences in school through preconceptions of them as having an *attitude*.

As previously discussed, race is a trait that heavily factors into which students are more likely to receive exclusionary punishments, even though students of color are not prone to misbehaving at a higher rate than white students.⁵³ Some researchers have hypothesized that Black students might receive harsher punishments more frequently due to racial bias, perceptions that Blacks are disproportionately involved in violence and the *adultification* of Black youth, a term that refers to people misperceiving a juvenile acting out as signs of ferocity that must be controlled.⁵⁴ Other studies have captured disturbing data that suggests that Black composition in schools is likely related to increased use of expulsion, suspension and other exclusionary disciplinary measures required by zero-tolerance policies.⁵⁵

According to Morris, Black girls have become the fastest-growing population to experience school suspensions and expulsions partly due to schools' use of vague categories, such as *willful defiance*. The term is a subjective category for student misbehavior encompassing offenses that include verbal altercations with a teacher, refusing to remove a hat in school or failing to complete an assignment.⁵⁶ In other words, the catch-all category of *willful defiance* formalizes punishment for students who are considered insubordinate. *Willful defiance* has been criticized particularly because it is so indeterminate; any behavior perceived as flippant automatically becomes a transgression. The term has also been critiqued for how often it is used to suspend children of color.⁵⁷

Some school districts took note of the disparate impact of *willful defiance* and how it particularly harmed Black students. L.A. Unified, for instance, banned suspensions for *willful defiance* in a five-to-two vote back in 2013.⁵⁸ During deliberations, some teachers expressed concern that the ban would give some students a *free pass* and perhaps contribute to lowering academic scores.⁵⁹ Data from the

⁵³ Wallace et al., *supra* note 35; Russell J. Skiba et al., *The Color of Discipline: Sources of Racial and Gender Disproportionality in School Punishment*, 34 URB. REV. 317 (2002).

⁵⁴ See Henry Giroux, *Racial injustice and disposable youth in the age of zero tolerance*, 16 INT'L J. QUALITATIVE STUD. EDUC. 553 (2003); See also ANN ARNETT FERGUSON, *BAD BOYS: PUBLIC SCHOOLS IN THE MAKING OF BLACK MASCULINITY* (2000).

⁵⁵ See Kelly Welch & Allison Ann Payne, *Exclusionary School Punishment: The Effect of Racial Threat on Expulsion and Suspension*, 10 YOUTH VIOLENCE & JUVENILE JUST. 155, 166 (2012).

⁵⁶ See MONIQUE W. MORRIS, *PUSHOUT: THE CRIMINALIZATION OF BLACK GIRLS IN SCHOOLS* 70 (2017).

⁵⁷ *Id.*

⁵⁸ See Teresa Watanabe, *L.A. Unified bans suspension for 'willful defiance'*, L.A. TIMES (May 14, 2013), <http://articles.latimes.com/2013/may/14/local/la-me-laUSD-suspension-20130515>.

⁵⁹ *Id.*

California Department of Education, however, indicated that as school suspension rates fell, academic achievement rates rose for every racial group in the state.⁶⁰ While that evidence does not necessarily imply causation, it suggests that shifting away from exclusionary discipline likely has or could produce a positive effect on a school's overall climate. Nevertheless, the arbitrary category of *willful defiance* is still used in many other states and educational systems across the country.⁶¹

In her book *Pushout*, Morris expands on how perceptions of Black girls' *bad attitude* contribute to continued discrepancies in punishment. Morris describes that attitude as "infamous."⁶² She states that, regardless of background, readers likely think of "a brown-skinned young woman with her arms folded, lips pursed, and head poised to swivel as she gives a thorough 'eye-reading' and then settles into either an eye roll or a teeth-sucking dismissal."⁶³ Having an *attitude*, however, is not a specific or concrete characteristic. More often than not, a Black girl's *attitude* is determined by those who come into contact with her; it is not a product of self-assessment and reflection. Morris uses this term as an *open inquiry* that informs how adults engage with Black girls as well as how Black girls visualize themselves.⁶⁴

Morris also recognizes that this perception of Black girl *attitude* stems from long-held stereotypes that characterize Black femininity as "dominant, overbearing, and unreasonably demanding of Black men,"⁶⁵ which is the complete opposite of white femininity, typically thought of as being "passive, frail, and deferential to men."⁶⁶ These harmful hyperboles persist in school contexts, adversely affecting both Black and white girls. Morris argues that for Black girls specifically, the persistence of this *angry Black woman* trope causes misunderstandings when Black girls speak their mind, are *loud* or stand up for themselves when they feel they have been disrespected by classmates or by adults.⁶⁷

In a telling exchange, Marcus, a Black administrator at a California high school, told Morris of an instance when a Black girl could be subject to disciplinary treatment. In class, a Black girl yelled that she did not understand the course material, to which her teacher responded: "Did you come to school to learn?"⁶⁸ The

60 See Jane Meredith Adams, *California student suspension rate drops as 'willful defiance' punishments decline*, EDSOURCE (Nov. 23, 2015), <https://edsources.org/2015/california-student-suspension-rate-drops-as-willful-defiance-punishments-decline/90989>.

61 See MORRIS, *PUSHOUT*, *supra* note 56.

62 *Id.* at 58.

63 *Id.*

64 *Id.*

65 *Id.* at 58-59.

66 *Id.* at 59.

67 *Id.*

68 *Id.*

same girl later replied, “You come to school to teach?”⁶⁹ Commenting on the incident, Marcus said: “[O]ur babies can be kind of snappy The sisters bring a lot of attention to themselves They’re not docile.”⁷⁰ He also added that he gets referrals for “the simplest reasons.”⁷¹

Marcus’ comments reveal the doubly racist and sexist undertones of this kind of well-intentioned assessment. While this particular student might not have phrased her frustration in the most palatable of terms, that does not cancel out the fact that she expressed not only that she was not grasping the material, but also that she needed help. Marcus’ observations imply that it would be preferable for this student, because of the intersection of her race and gender (note his use of the word *sisters*), to neither be seen nor heard. In addition, by admitting that students are referred to his office for “the simplest reasons,”⁷² he suggests, but does not seem to acknowledge, that this incident was not a severe problem and could have been handled differently. Instead of addressing this student’s concern in a way that did not question her interest in school, school officers called for meekness and missed a learning opportunity.

III. BLACK GIRLS SPEAK OUT

Pushout contains illuminating conversations between Morris and girls ages fifteen to twenty-three from New Orleans, Chicago, New York, Boston, Northern and Southern California and other cities about *bad* behavior and having an *attitude*. Throughout these discussions, Morris found that Black girls described their *attitude* primarily as a reaction to feeling disrespected.⁷³ Contrary to the assumption that having an *attitude* is little more than an instinctive, angry reaction to random events, Morris explains that the Black girls she spoke to described their attitude as “[living] along a continuum of responses to disrespectful or degrading triggers in their lives—many of which were present in their learning environments.”⁷⁴ I will go through several of these girls’ testimonies to capture the tensions that they have to balance in seemingly unimportant interactions.

Shai, a Black girl in Chicago, feels disrespected when her classmates make her feel unintelligent. Shai, who goes to a mostly white school, noticed how differently her classmates reacted to her difficulties with math than to those of a white, female peer. She said: “Okay, I’m terrible in math. So when little Suzie gets the question wrong, it’s like, ‘Aww . . . you got the question wrong.’ It’s funny. When I get the question wrong, it’s like, ‘Oh, she’s slow. What’s wrong with her?’”⁷⁵ When

69 *Id.*

70 *Id.*

71 *Id.*

72 *Id.*

73 *Id.* at 85.

74 *Id.* at 86.

75 *Id.*

describing her reaction to this inconsistency, Shai explained that comments like that anger her because they nullify that she takes her education seriously and is at school to learn.⁷⁶ She added, “It does not only make me want to fight them . . . it makes me want to ask them, why would they say something like that? The fact that I’m the only Black kid in the school, it’s like, ‘Oh, are we back in the 1950’s now?’”⁷⁷ Here, Shai feels degraded because of the generalization that because she might be bad at math, she is *slow* (i.e. not smart). She is also faced with disparate treatment in racialized terms, for stereotypes about Black and white girls permeate her classmates’ comments, and suggest that Shai is not simply struggling momentarily, but rather is incompetent. It is also troubling to see how these tensions remind Shai of a time when schools in the United States were legally segregated by race.

Malaika, a Black girl in the Bay Area, faces similar stigma to Shai when she tries to voice her opinions. Malaika also expressed that she has been suspended constantly since the first grade.⁷⁸ She told Morris of an episode where a teacher was yelling at her and Malaika wanted to talk to her mother. The teacher then tried to remove Malaika from the classroom, which angered Malaika and caused her to tell the teacher to *shut up*.⁷⁹ Soon after, the teacher tried to put Malaika in a corner, and Malaika refused. Her mother later spoke with administrators, who decided to have Malaika complete her work in the principal’s office for three days. Reflecting on the incident, Malaika said:

I just got a smart mouth. I don’t be meaning for it to come out like that, but if there’s something on my mind and my heart, I just say it. Even if it don’t got nothing to do with me, if one student’s getting treated unfair from the next student, I’m a raise my hand and put my input in They’ll be like, “You is not the teacher, why are you talking?”⁸⁰

The reaction that Malaika gets from her teachers is similar to the comments that Marcus, the school administrator from California, made about Black girls not being *docile*. Malaika is further confused by contradictory statements from school officials who encourage students to be outspoken. Malaika stated: “They’re always telling us to voice our opinions, but then when we [do, we get] in trouble. . . . I think they’re just mad ‘cause I’m telling the truth, you know?”⁸¹ In this case, Malaika is faced with an issue that most children (and frankly, even adults) have to deal with in contexts including, but not limited to, school: when to speak truth to power. Malaika is unsettled at the thought that a classroom is not a place for truth. Given the recurrent nature of her suspensions, this should be a moment when a

⁷⁶ *Id.* at 86-87.

⁷⁷ *Id.* at 87.

⁷⁸ *Id.*

⁷⁹ *Id.*

⁸⁰ *Id.* at 88.

⁸¹ *Id.*

teacher takes some time to converse with Malaika about her insights to avoid turning miscommunication into a conflict. Suspension, on the other hand, could result in an eventual suppression of her instinct to stand up for her classmates.

Paris, a transgender Black girl in New Orleans, feels like she has to put on an *attitude* to protect her physical safety. Paris, who began her transition at sixteen, was not involved in fights until her freshman year of high school.⁸² Because she was at the same school during those four years, most of her classmates knew who she was. Problems arose, however, with incoming freshmen who did not know Paris and had “different mentalities.”⁸³ Paris stated, “I always had to make an example out of one or two people. Eventually, the rest of the freshman class realized, ‘Well, maybe Paris is not the one to play with.’”⁸⁴ Paris explained that this came from her feeling “like [she] had to defend [herself].”⁸⁵ A victim of bullying at school, Paris admitted that she maybe listened to her mother’s advice selectively. “Because my mama always told me . . . people do to you what you *allow* them to do to you. . . . [W]ell, then I’m not going to *allow* them to do *anything*.”⁸⁶ Noting that Paris’ aggression was in response to bullying, Morris notes that Paris’ precarious physical safety speaks to “the prevailing culture of oppression around her gender identity,”⁸⁷ and the lack of protection in schools for students who transition during their teenage years.

Though not explicitly connected to having an *attitude*, Black girls also face punitive discipline due to their appearance. School dress codes have at times focused on banning traditionally Black hairstyles, such as dreadlocks, afros and cornrows, describing them in facially-neutral words like *distracting* or *not presentable*.⁸⁸ For instance, administrators of an Orlando private school threatened a twelve-year-old Black girl with expulsion if she did not cut her hair.⁸⁹ The school called for this extreme measure after the girl’s family complained to the school that students were bullying her for wearing her hair in an afro.⁹⁰

Dress codes can also police girls’ sexuality and marginalize them because of their class background. Morris spoke to a Black girl in New Orleans who told her

82 *Id.* at 90.

83 *Id.* at 91.

84 *Id.*

85 *Id.*

86 *Id.*

87 *Id.* at 92.

88 See, e.g., Allison Ross, *Attica Scott: Hair policy ‘stinks of racism’*, COURIER J. (July 28, 2016), <http://www.courier-journal.com/story/news/education/2016/07/28/attica-scott-hair-policy-institutional-racism/87656240> (a Kentucky high school’s policy stated that “hair styles that are extreme, distracting, or attention-getting will not be permitted” and specifically banned dreadlocks, cornrows and twists in hair, among others).

89 See *Update: African-American girl won’t face expulsion over ‘natural hair’*, CLICKORLANDO (Nov. 27, 2013), <http://www.clickorlando.com/news/update-african-american-girl-wont-face-expulsion-over-natural-hair>.

90 *Id.*

that her school would send students home for not having on the right shoes or for not wearing a belt.⁹¹ The particularities of these school decisions are beyond the scope of this article, as I focus primarily on students' interactions with peers and school officials. Nevertheless, it is valuable to mention these appearance-based standards to illustrate how punitive policies in education continue to expand the boundaries of what counts as *defiant* behavior.

The experiences of Shai, Malaika and Paris are specific in their storytelling but not unique in their struggle. These three girls, living in fairly different parts of the country, depict how their perceived attitude is a barrier that prevents classmates and school officials from truly listening to them and seeing them as individuals. That barrier, informed by stereotypes, implicit biases and institutionalized racism and sexism robs Black girls of a fair opportunity to engage with and learn in their school environments. As the stories of Shai, Malaika and Paris indicate, oftentimes these girls, like most students their age, are dealing with the inner turmoil that is cloaked by perceptions of having an *attitude*. The problem here, however, is that Black girls primarily bear the brunt of this disconnect through exclusionary discipline. The continued, practically automatic, use of these curt and problematic responses to individual Black girls' concerns, in turn, distances these students from their school environments and communities during critical formative years.

IV. WHAT WE CANNOT SEE IN THE CLASSROOM

In mid-March of 2017, there was a massive public outcry in response to an image claiming that fourteen Black girls had gone missing from the nation's capital in one day. While the image turned out to be inaccurate, it brought attention to how, to this day, Black girls and women are still incredibly socially vulnerable.⁹² Much of the frustration underlying the faulty missing girls' story was the reality that Black girls and women are barely talked about, seen from or heard from in the public square. This historic and systemic omission, which subjects Black girls and women to a series of injustices and inequities, replicates itself in schools.

Instead of providing Black girls and women with a space to address these wrongs, schools use punitive measures to respond to even the most sensitive of situations, like instances of sexual assault, sexual abuse and trauma. These punitive measures usually augment Black girls' exposure to incarceration and the criminal justice system, which makes schools' willingness to use punitive measures becomes even more questionable.

⁹¹ See MORRIS, PUSHOUT, *supra* note 56, at 93.

⁹² Morgan Jerkins, *How America Fails Black Girls*, N.Y. TIMES (Mar. 29, 2017), https://www.nytimes.com/2017/03/29/opinion/how-america-fails-black-girls.html?emc=edit_th_20170330&nl=to-daysheadlines&nid=39046554&r=1 (referencing the statement that “[i]n a letter to the Justice Department and the F.B.I. last week, Representative Cedric Richmond of Louisiana, the chairman of the Congressional Black Caucus, and Eleanor Holmes Norton, who represents the District of Columbia in Congress, noted that 10 children of color had disappeared from their homes in the nation's capital in two weeks, a stunning number that initially got little notice”).

Indeed, there is much about Black girls' lives that we cannot see or easily perceive, particularly when it comes to their experiences with trauma. The D.C. story led many to point out the strong connection between youth leaving home and experiencing physical, emotional or sexual abuse. In a 2016 report, the National Conference of State Legislatures showed that "46 percent of runaway and homeless youth reported being physically abused, 38 percent reported being emotionally abused, and 17 percent reported being forced into unwanted sexual activity by a family or household member."⁹³ Keeping these statistics and the aforementioned narratives from Black girls across the country in mind, it is important for educators and reformers to understand that when children lash out, it is typically because something else is bubbling beneath the surface. Whether due to abuse, neglect, homelessness or having an incarcerated family member, trauma presents students with yet another barrier to achieving academic progress.

Girls of color who are coping with trauma have little to no recourse at school. Specifically, zero-tolerance discipline policies seem notably blind to and ultimately unfit to handle problems stemming from gender-based violence and harassment in schools. As previously discussed, it is often the case that, when school officials are faced with a Black female student who seems disengaged or is acting out, she is usually suspended, expelled or referred to law enforcement. When schools use zero-tolerance discipline policies against young sexual assault survivors, whose behavioral deviations might be a response to trauma, administrators contribute to students feeling disconnected from their schools. This detachment becomes even more concerning when considering that "[o]ne of the most persistent and salient traits among girls who have been labeled 'delinquent' is that they have failed to establish a meaningful and sustainable connection with schools."⁹⁴

The Sexual Abuse to Prison Pipeline, a report by the Georgetown Law Center, describes how "sexual abuse is one of the primary predictors of girls' entry into the juvenile justice system."⁹⁵ The report presents state and regional data about overwhelmingly high rates of sexual violence among girls in the juvenile justice system.⁹⁶ For instance, one in four girls will experience some form of sexual violence before they reach eighteen years of age. While there are no comprehensive national datasets about incarcerated girls' history with sexual violence, the Georgetown Law Center report included staggering numbers from California, South Carolina and Florida where delinquent girls experienced sexual abuse at rates of 81, 81 and 31 percent, respectively.⁹⁷ Multi-state studies from the National

⁹³ See National Conference of State Legislatures, *Homeless and Runaway Youth*, NCSL (Apr. 14, 2016), <http://www.ncsl.org/research/human-services/homeless-and-runaway-youth.aspx>.

⁹⁴ MORRIS, PUSHOUT, *supra* note 56, at 2.

⁹⁵ MALIKA SAADA SAAR ET AL., *THE SEXUAL ABUSE TO PRISON PIPELINE: THE GIRLS' STORY* 5 (2015), https://rights4girls.org/wp-content/uploads/r4g/2015/02/2015_COP_sexual-abuse_layout_web-1.pdf.

⁹⁶ *Id.* at 7-11.

⁹⁷ *Id.* at 10-11.

Child Traumatic Stress Network from 2013 reported rates of sexual assault and physical abuse at thirty-nine and forty percent, respectively.⁹⁸

While data from the U.S. Department of Justice's Office of Juvenile Justice and Delinquency Prevention demonstrates that girls are neither engaging in criminal activity at higher rates nor are becoming increasingly violent, girls have been increasingly incarcerated over the past two decades.⁹⁹ The Georgetown Law Center report posits that part of this increase in incarceration rates is due to the "aggressive enforcement of non-serious offenses that are rooted in the experience of abuse and trauma."¹⁰⁰ There is evidence that suggests that minor offenses like running away and truancy, some of the leading cause of arrests for girls, actually stem from girls' traumatic experiences with sexual violence.¹⁰¹

The Georgetown Law Center report also details the story of a high school student named Sasha to better illustrate how zero-tolerance policies in schools do not effectively respond to girls who have experienced sexual violence. After news of Sasha's rape became social media fodder for her classmates, she no longer felt safe on campus and soon became truant.¹⁰² School district administrators denied her transfer requests. They also threatened to refer Sasha to the child welfare system because Sasha's mother, in trying to home school Sasha, was keeping her from school.¹⁰³ Sasha eventually dropped out. Two years out of school, she was arrested on petty theft charges. It was only then, after her arrest, that a therapist identified her trauma as the cause of her truancy.¹⁰⁴

Sasha's episode represents an instance where zero-tolerance policies, in an attempt to keep a girl in school, ended up grossly neglecting a student's needs and actually exacerbated her inability to operate in a school environment. This problem develops into something more serious when girls of color need to be protected from school officials because they are the ones sexually harassing or abusing students.¹⁰⁵ Because of zero-tolerance policies' nearsightedness, it is imperative that

98 *Id.* at 11.

99 *Id.* at 7.

100 *Id.*

101 See A.B.A. & NAT'L BAR ASS'N, *Justice by Gender: The Lack of Appropriate Prevention, Diversion and Treatment Alternatives for Girls in the Justice System*, 9 WM. & MARY J. WOMEN & L. 73 (2002); SAADA SAAR ET AL., *supra* note 95, at 7.

102 See SAADA SAAR ET AL., *supra* note 95, at 18.

103 *Id.*

104 *Id.*

105 See, e.g., Casey Quinlan, *Girls coping with trauma are often met with harsh discipline at school*, THINKPROGRESS (Sept. 26, 2016), <https://thinkprogress.org/girls-coping-with-trauma-are-often-met-with-harsh-discipline-at-school-ce0928dea4c8> (the Department of Justice (DOJ) found cases in Allentown, Pennsylvania where guards would either sexually harass students or threaten students with disciplinary action unless students gave them some form of sexual contact; the DOJ's report also described an incident where a security guard called a student a "sexy young chocolate lady" and asked if he could "put his private area on her back").

schools incorporate plans for responding to students' experiences with sexual misconduct into their discipline policies. Although that might imply a massive demand for school resources, there are cost-effective ways to begin to work with already accessible information on the issue. In 2016, for instance, the Obama administration attempted to nationalize trauma prevention and response work through an interactive online toolkit called *Safe Place to Learn: Prevent, Intercede, and Respond to Sexual Harassment of K-12 Students*.¹⁰⁶ While not comprehensive, this type of resource encourages school administrators to reconsider their excessive use of disciplinary punishment and reframe their approach to classroom management.

CONCLUSION

Examining the ways that zero-tolerance policies in schools particularly affect Black girls reveals how these policies are criminalizing behavior that is not violent or criminal *per se*, but rather behavior that does not coincide with racialized and gendered disciplinary codes. As they stand, zero-tolerance policies translate into heightened scrutiny and hyper-surveillance of Black girls in schools. Believing that these policies were introduced to schools simply as a crime prevention tactic ignores the larger issue of how policies based on ideas of racialized male violence are being used disproportionately against Black girls for minor behavioral infractions. The rates at which Black girls are targeted by zero-tolerance policies imply not only that Black girls are more likely to be excluded from school settings, but also that, because of those disruptions in their education, they are increasingly likely to be exposed to the criminal justice system. These disturbing patterns beg the question: if zero-tolerance policies were enacted in schools to root out signs of criminal activity, what are they really policing by overexerting their reach on Black girls?

Like previous discussions of having a suggested attitude, zero-tolerance policies' focus on policing Black femininity is nothing new. In his book *The Condemnation of Blackness*, Khalil Gibran Muhammad recounts how, at the start of the twentieth century, even progressive reformers were fixated on saving Black women from their perceived moral shortcomings. For example, Frances Kellor, social reformer, founder of the National League for the Protection of Colored Women and Cornell Law School graduate, was said to have a mission to defend Black women's female virtue. In reality, however, she believed that Black women lacked both the moral fiber and "will of their own that [could] be mobilized in the

¹⁰⁶ See Valerie Jarrett & Catherine Lhamon, *Trauma-Informed School Discipline and Preventing Sexual Assault*, HUFFINGTON POST (Sept. 19, 2016), http://www.huffingtonpost.com/valerie-jarrett/trauma-informed-school-di_b_12081976.html; NAT'L CENTER ON SAFE SUPPORTIVE LEARNING ENVIRONMENTS, *Safe Place to Learn* (2017), <https://safesupportivelearning.ed.gov/safe-place-to-learn-k12>.

defense of their own interests,”¹⁰⁷ for the “problem was ‘located in black women themselves.’”¹⁰⁸ This sentiment, exemplifying the perceived moral deficits of Black femininity, depicts the racism and sexism that today undergirds the misapplication of zero-tolerance policies that criminalize Black girls’ behavior.

Moreover, zero-tolerance policies reinforce and legitimize the pervasive racism and sexism present in all corners of the United States, indiscriminately branding the lives of Black girls from a very young age. On a more colloquial but equally meaningful note, Rutgers University sociologist Zaire Zenit Dinzey-Flores describes how her Black features turned into markers of marginality growing up in Ponce, Puerto Rico. In the prologue of her groundbreaking work, *Locked In, Locked Out*, she writes:

I was told that I looked like a boy because of my short cropped afro; I was asked by classmates how it felt to be a “negra” [Black woman]; I was assigned to play the only credible role for a negra in the elementary school Christmas play (a Raggedy Ann). Race had been drawn for me at six, in school, as a dividing line.¹⁰⁹

Although Dinzey-Flores does not get into punitive policies *per se*, her experience of informal social punishment conveys the significance of being singled out as a Black girl in the classroom. She sensed an evident racial divide that limited how her peers and teachers viewed her, as well as what they believed she could do.¹¹⁰ Zero-tolerance policies, as currently applied, reproduce the same effect: segregating Black girls.

The urgency of the effects that zero-tolerance policies have on the education and the lives of Black girls across the country make this topic deserving of further study. For instance, it would be useful to have more data on what kinds of behavioral infractions Black girls are disciplined for in comparison to other girls. Further research is also needed to explore the role of implicit bias in the application of

¹⁰⁷ KHALIL GIBRAN MUHAMMAD, THE CONDEMNATION OF BLACKNESS: RACE, CRIME, AND THE MAKING OF MODERN URBAN AMERICA 134 (2011); see also Hazel V. Karby, *Policing the Black Woman’s Body in an Urban Context*, 18 CRITICAL INQUIRY 739 (1992).

¹⁰⁸ GIBRAN MUHAMMAD, *supra* note 107.

¹⁰⁹ DINZEY-FLORES, LOCKED IN, LOCKED OUT: GATED COMMUNITIES IN A PUERTO RICAN CITY, *supra* note 26, at 2.

¹¹⁰ This level of discrimination that is so often associated with the continental United States is still well and alive in Puerto Rico. See ELNUEVODIA.COM, *El racismo continúa vivo en Puerto Rico*, EL NUEVO DÍA (Jan. 12, 2017), <https://www.elnuevodia.com/noticias/locales/nota/elracismocontinua-vivoenpuertorico-2280417> (describing how Blacks in Puerto Rico have lower chances of finding employment due to racism, discrimination and a lack of labor protections regarding both of those issues); Ana Teresa Rodríguez Lebrón, *Alma contra el racismo en Puerto Rico*, EL NUEVO DÍA (Aug. 20, 2017), <https://www.elnuevodia.com/opinion/columnas/almacontraelracismoenpuertorico-columna-2350380>.

these policies on Black girls, particularly when studies of preschool teachers suggest that Black teachers are also influenced by problematic notions of race.¹¹¹ While I briefly compared the effects of zero-tolerance policies in the contiguous United States to those in Puerto Rico, future studies would do well to specifically look into the racial and gendered implications of punitive discipline in the Puerto Rican education system, as the literature is scant.¹¹²

This Article invites researchers, policymakers, and educators to continue work aimed at remedying some of the more alarming effects of zero-tolerance policies in schools. Morris, for one, provides a series of alternatives to using punishments in schools that focuses primarily on restorative justice and positive behavioral intervention systems.¹¹³ The concept of restorative justice originates from criminal justice techniques in which people convicted of crimes are held accountable by facing the people who have been harmed by their actions.¹¹⁴ In schools, restorative justice uses similarly inclusive processes that focus on values like community, empathy, and responsibility.¹¹⁵ Restorative justice aims to provide “non-confrontational forum[s] for students to talk through their problems, address their underlying reasons for their own behaviors, and make amends both to individuals who have been affected as well as to the larger school community.”¹¹⁶ Positive behavioral intervention systems are programs that build from behavioral psychology to devise behavioral change strategies.¹¹⁷ These programs place equal emphasis on having students learn positive behavior as well as academic subjects.¹¹⁸ Teams of educators, community members, and family members usually develop “positive and support-focused interventions” in order to respond to student misbehavior in a consistent and encouraging way.¹¹⁹

¹¹¹ See Melinda D. Anderson, *Even Black Preschool Teachers are Biased*, THE ATLANTIC (Sept. 28, 2016), <https://www.theatlantic.com/education/archive/2016/09/the-high-standard-set-by-black-teachers-for-black-students/501989>.

¹¹² See, e.g., Hilda Lloréns et al., *Racismo en Puerto Rico: ¿problema negado?*, 80GRADOS (July 21, 2017), <http://www.80grados.net/racismo-en-puerto-rico-problema-negado/>.

¹¹³ See MORRIS, PUSHOUT: THE CRIMINALIZATION OF BLACK GIRLS IN SCHOOLS, *supra* note 61, at 222-42.

¹¹⁴ See JENNI OWEN ET AL., INSTEAD OF SUSPENSION: ALTERNATIVE STRATEGIES FOR EFFECTIVE SCHOOL DISCIPLINE 27 (2015), https://law.duke.edu/childedlaw/schooldiscipline/downloads/instead_of_suspension.pdf.

¹¹⁵ See Susan Dominus, *An Effective but Exhausting Alternative to High-School Suspensions*, N.Y. TIMES MAGAZINE (Sept. 7, 2016), <https://www.nytimes.com/2016/09/11/magazine/an-effective-ut-exhausting-alternative-to-high-school-suspensions.html>.

¹¹⁶ Emily Richmond, *When Restorative Justice in Schools Works*, ATLANTIC (Dec. 29, 2015), <https://www.theatlantic.com/education/archive/2015/12/when-restorative-justice-works/422088/>.

¹¹⁷ See OWEN, *supra* note 115 at 13.

¹¹⁸ *Id.*

¹¹⁹ *Id.*

School districts should also collaborate with local groups and nonprofits to ensure the implementation of site-specific policies that support rather than inhibit Black girls. For example, *My Sister's Keeper Collective* in Philadelphia stands out for having created an Educational Advocacy Program where at-risk girls are paired with an educational advocate whose mission is to make sure that the assigned student attains access to high quality education.¹²⁰ In addition, schools should improve their curricula so that they are trauma-informed and culturally competent, as well as provide educators and administrators with training in behavior management and conflict resolution.¹²¹ In doing so, educators, and consequently other students, will begin to abandon their stereotypical perceptions of Black girls and engage with them in the classroom based on who they are.

More importantly, teachers and school administrators should take note of the substantial effects of zero-tolerance policies on Black girls and do better by them. Current zero-tolerance policies in schools encourage more door-shutting, as opposed to creating spaces where teachers and administrators can respond to and connect with students. While there is an obvious need for order in classrooms, there is no way to truly facilitate learning when a significant part of the class has been pushed out through exclusionary discipline. Being cognizant of racialized and gendered behavioral dynamics, school administrators and teachers need to be mindful of what might be affecting students' learning inside and outside the classroom. After all, they are already aware of students' developmental changes. It does not seem like a quantum leap to also be mindful of and understand how race and gender might influence a particular student's education the same way that his or her age might do so.

¹²⁰ See *The Educational Advocate Program*, MY SISTER'S KEEPER COLLECTIVE (2015) <https://www.mysisterskeepercollective.com/curriculum> (last visited Jan. 2, 2018).

¹²¹ See, e.g., Dorothy Hines-Datiri & Dorinda J. Carter Andrews, *The Effects of Zero Tolerance Policies on Black Girls: Using Critical Race Feminism and Figured Worlds to Examine School Discipline*, URB. EDUC. (Feb. 2017), at 17; Nathern S. Okilwa & Catherine Robert, *School Discipline Disparity: Converging Efforts for Better Student Outcomes*, 49 URB. REV. 239 (2017).