



**Testimony of the Children's Defense Fund-New York  
For the New York City Council Committee on Public Safety  
Oversight Hearing on the Fiscal Year 2018 Preliminary Budget  
March 30, 2017**

Good afternoon. My name is Charlotte Pope and I am the Youth Justice Policy Associate with the Children's Defense Fund-New York (CDF-NY). The Children's Defense Fund's (CDF) Leave No Child Behind® mission is to ensure every child a healthy start, a head start, a fair start, a safe start and a moral start in life, and successful passage to adulthood with the help of caring families and communities. Through CDF's Cradle to Prison Pipeline® Campaign—a national initiative to stop the funneling of children, especially poor children and children of color, down life paths that often lead to arrest, conviction and incarceration—CDF-NY works to replace punitive school discipline and safety policies in New York City schools with social and emotional supports that encourage a positive school climate.

Thank you to Chair Gibson, and to the members and staff of the City Council Committee on Public Safety for this opportunity to testify before the oversight hearing on the Fiscal Year 2018 Preliminary Budget.

**Overview**

At the root of CDF-NY's advocacy is the understanding that criminal justice responses to student behavior in school fall short in preventing conflict and harm from happening, disrupt the schooling process and students' educational trajectories, and do not provide the structure, support, or quality of relationships that influence students' feelings of safety.<sup>1</sup> **Our testimony today speaks to the need to restore and expand funding for the Council's Restorative Justice Initiative to \$5 million in FY2018, and details how this school climate initiative can and should be a meaningful part of larger community safety efforts.**

We see that funding in the Mayor's Preliminary Budget for School Safety, a sum paid by the DOE to the NYPD through an intra-city payment, increased by \$5 million since the FY2017 Adopted Budget, reaching \$285,200,000. Because of the Council's Student Safety Act, we know that from January 1 to December 31, 2016, there were over 5,800 reported police interventions in New York City public schools, impacting students as young as four. There were over 1,200 arrests, 900 summonses, and 1,900 uses of restraints, and despite some declines in these numbers, troubling racial disparities have remained consistent on a system-wide level.<sup>2</sup> CDF-NY further understands that students who experience measures like arrests and summonses in school are more likely to also experience grade retention, reduced educational achievement, weakened social bonds and negative attitudes toward school, and end up missing or leaving school altogether.<sup>3</sup>

For the past two years, CDF-NY has participated in the School Safety Working Group of the Mayor's Leadership Team on School Climate and Discipline alongside other advocates, students, teachers, school staff and administrators, and representatives of City government. Despite the extensive

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<sup>1</sup> Justice Policy Institute. (2011). *Education Under Arrests: The Case Against Police in Schools*. Washington, DC: Author. Retrieved from [http://www.justicepolicy.org/uploads/justicepolicy/documents/educationunderarrest\\_fullreport.pdf](http://www.justicepolicy.org/uploads/justicepolicy/documents/educationunderarrest_fullreport.pdf).

<sup>2</sup> New York Policy Department. (2017). 2016 SSA Report by Precinct. Retrieved from [http://www.nyc.gov/html/nypd/html/analysis\\_and\\_planning/reports.shtml](http://www.nyc.gov/html/nypd/html/analysis_and_planning/reports.shtml).

<sup>3</sup> Armour, M. (2016). Restorative Practices: Righting the Wrongs of Exclusionary School Discipline. *University of Richmond Law Review*, 50(3):999.

recommendations of the Mayor's Leadership Team to fund supports that lessen the reliance on police interventions in schools, the Preliminary Budget does not contain the investment that is needed to meet the goal of minimizing punitive measures which disproportionately impact students of color and students with Individualized Education Plans (IEPs).<sup>4</sup> In our testimony today we urge the city to shift resources toward positive approaches, and more systemic, high quality supports with an intentional focus on early intervention and culture change.

### ***Police Interventions in Schools***

Research tells us that police interventions in school do little to prevent school violence and instead serve as a source of racial disparity, causing damaging immediate and long-term impacts on students.<sup>5</sup> According to the NYPD's Student Safety Act 2016 data, 35 percent of the over 900 summonses issued to students were for disorderly conduct. Summonses for disorderly conduct are especially concerning as the category includes a range of behavior subjectively determined to be disruptive, and research tells us that a school's regular contact with law enforcement leads school officials to redefine student behaviors as criminal justice issues rather than as social or emotional matters.<sup>6</sup> These incidents could be handled in any number of ways besides issuing criminal court summonses that require students to miss school, especially considering that contact with court increases the chances a high school student will leave school<sup>7</sup> or otherwise experience educational instability.<sup>8</sup>

Of particular relevance to the Public Safety Committee, the Student Safety Act indicates that the majority (64 percent) of arrests that happen in schools are made by NYPD Patrol Officers—outside of the NYPD's School Safety Division. In 2016, School Safety Agents made only 11 percent (or 158) of all arrests, and the Uniformed Task Force of the SSD made 4 percent (or 58) of all arrests.<sup>9</sup> The dependence on law enforcement to respond to school disciplinary matters increases the number of youth referred to the justice system, and leads to social isolation, psychological difficulties, alienation from school, and decreased academic achievement.<sup>10</sup> Further, studies have determined that exclusionary discipline and safety cannot be correlated with any certainty to overall school safety or improved student behavior, and instead promote a climate of fear.<sup>11</sup> When schools instead approach discipline through responsive, re-integrative, and restorative processes, they are more effective at maintaining safe communities.<sup>12</sup> Educators have long recognized that creating a truly safe environment depends on creating a positive school climate based on trust, respect, and open communication among members of the school community.<sup>13</sup>

Policies that focus on repairing the harm, establishing accountability, and developing a strong school community have been found to prevent future conflict without removing students from their educational opportunities.<sup>14</sup> By developing more balanced responses to student behavior, such as restorative justice, schools can promote stronger academic environments, which in turn improve school safety.<sup>15</sup>

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<sup>4</sup> The Mayor's Leadership Team on School Climate and Discipline. (2016). *Maintaining the Momentum: A Plan for Safety and Fairness in Schools*. New York, NY: Author. Retrieved from [http://www1.nyc.gov/assets/sclt/downloads/pdf/SCLT\\_Report\\_7-21-16.pdf](http://www1.nyc.gov/assets/sclt/downloads/pdf/SCLT_Report_7-21-16.pdf).

<sup>5</sup> Mayer, M.J., and Leone, P.E. (2007). School Violence and Disruption Revisited: Equity and Safety in the School House. *Focus on Exceptional Children*, 40(1): 1-28.

<sup>6</sup> Nance, J.P. (2016). Students, Police, and the School-To-Prison Pipeline. *Washington University Law Review*, 93(4): 919-987.

<sup>7</sup> Sweeten, G. (2006). "Who Will Graduate? Disruption of High School Education by Arrest and Court Involvement," *Justice Quarterly*, 23 (4): 462-480.

<sup>8</sup> Kirk, D.S., and Sampson, R.J. (2012). Juvenile Arrest and Collateral Educational Damage in the Transition to Adulthood. *Sociology of Education*, 88(1):36-62. Retrieved from <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4192649/>.

<sup>9</sup> These numbers are taken from school data, as precinct level data does not indicate command.

<sup>10</sup> Varnham, S. (2005). Seeing Things Differently: Restorative Justice and School Discipline. *Education and the Law*, 17(3):87-104.

<sup>11</sup> Morrison, B.E., Blood, P., and Thorsborne, M. (2005). Practicing Restorative Justice in School Communities: The Challenge of Culture Change. *Public Organization Review: A Global Journal*, 5:335-357.

<sup>12</sup> Payne, A.A., Gottfredson, D.C., and Gottfredson, G.D. (2003). Schools as Communities: The Relationships Among Communal School Organization, Student Bonding, and School Disorder. *Criminology*, 41(3):749-778.

<sup>13</sup> Fein, R. (2004). *Threat Assessment in Schools: A Guide to Managing Threatening Situations and to Creating Safe School Climates*. Washington, DC: United States Secret Service and United States Department of Education. Retrieved from <https://www2.ed.gov/admins/lead/safety/threatassessmentguide.pdf>.

<sup>14</sup> Justice Policy Institute. (2011). *Op. Cit.*

<sup>15</sup> Stinchcomb, J.B., Bazemore, G., and Riestenberg, N. (2006). Beyond Zero Tolerance: Restoring Justice in Secondary Schools. *Youth Violence & Juvenile Justice*, 4:123-147.

## **Restorative Practices**

School-based restorative justice is a whole-school approach focused on relationships, reconciliation, and student inclusion in the school community as a means of addressing issues of school climate and the school-to-prison pipeline.<sup>16</sup> In recent years diverse models of restorative justice have been implemented in schools across the country to address concerns about the significant negative impact of exclusionary discipline. Evaluations of those models and the growing body of literature on schools committed to the implementation of restorative practices provide strong evidence of its positive outcomes for students, teachers, families, and the broader community:

- Increased academic achievement;<sup>17</sup>
- Reduced use of suspensions and expulsions;<sup>18</sup>
- Reduced racial disparities;<sup>19</sup>
- Fewer disciplinary infractions and office referrals;<sup>20</sup>
- Fewer incidents of unwelcome student behavior,<sup>21</sup> including victimization and bullying;<sup>22</sup>
- Decreased rates of violent behaviors;<sup>23</sup>
- Decreased arrests;<sup>24</sup>
- Increased perceptions of safety;<sup>25</sup>
- Decreased absenteeism, and increased attendance and graduation rates;<sup>26</sup>
- Improved school morale and climate;<sup>27</sup>
- Reduced recidivism;<sup>28</sup>
- Increased healthy relationships, and social-emotional understanding and skills;<sup>29</sup>
- Increased respect for teachers and school staff;<sup>30</sup> and
- Increased satisfaction among all school community members.<sup>31</sup>

The theory behind restorative practices is to empower people to resolve conflict or harm together,<sup>32</sup> and prevent unwelcome behavior and subsequent police intervention by facilitating relationship-building, setting clear behavioral expectations, and maintaining a positive school climate.<sup>33</sup> One of the goals of

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<sup>16</sup> Haft, W. (2000). More Than Zero, The Cost of Zero Tolerance and the Case for Restorative Justice in Schools. *Denver University Law Review*, 77: 795.

<sup>17</sup> Schiff, M. (2013). Dignity, disparity and desistance: Effective restorative justice strategies to plug the “school-to-prison pipeline.” Center for Civil Rights Remedies National Conference, Closing the School to Research Gap: Research to Remedies Conference, Washington, DC.

<sup>18</sup> Campbell, H., McCord, J., Chapman, T., & Wilson, D. (2013). Developing a Whole System Approach to Embedding restorative practices in Youth Reach Youth Work and Schools in County Donegal. Donegal ETB Restorative Practices Report. Northern Ireland: University of Ulster

<sup>19</sup> Gregory, A., Bell, J., & Pollock, M. (2014, March). How educators can eradicate disparities in school discipline: A briefing paper on school-based interventions. Discipline Disparities Series: Interventions.

<sup>20</sup> IBID

<sup>21</sup> Penny, M. F. (2015). The use of restorative justice to resolve conflict in schools. All student theses, Paper 65, Governors State University. Illinois: University Park.

<sup>22</sup> Morrison, B. (2007). *Restoring safe school communities: A whole school response to bullying, violence and alienation*. Sydney, Australia: Federation Press.

<sup>23</sup> Karp, D.R., and Breslin, B. (2001). Restorative Justice in School Communities. *Youth and Society*, 249.

<sup>24</sup> High Hopes Campaign. (2012). *From Policy to Standard Practice: Restorative Justice in Chicago Public Schools*. Retrieved from <http://www.dignityinschools.org/sites/default/files/FromPolicyToStandardPractice.pdf>.

<sup>25</sup> Payne, A.A., and Welch, K. (2017). The Effect of School Conditions on the Use of Restorative Justice in Schools. *Youth Violence and Juvenile Justice*, 1-17.

<sup>26</sup> Rideout, G., Roland, K., Salinitri, G., & Frey, M. (2010). Measuring the effect of restorative justice practices: Outcomes and contexts. *EAF Journal*, 21, 35.

<sup>27</sup> Campbell et al. (2013). *Op. Cit.*

<sup>28</sup> Gardella, J. H. (2015). Restorative practices: For school administrators considering implementation. Vanderbilt University. Retrieved from <https://my.vanderbilt.edu/tn-s3-center-vanderbilt/files/2014/05/Restorative-practices-booklet-9.26.15-copy.pdf>.

<sup>29</sup> Armour (2016). *Op. Cit.*

<sup>30</sup> Gregory et al. (2014). *Op. Cit.*

<sup>31</sup> Karp, D. R., & Frank, O. (2015). Anxiously awaiting the future of restorative justice in the United States. *Victims & Offenders*, 11(1):50-70.

<sup>32</sup> Karp, D., and Clear, T.R. (2000). Community Justice: A Conceptual Framework. In C.M. Friel (Ed.), *Boundaries Changes in Criminal Justice Organizations*, vol. 2. (pp. 323-368). Washington, DC: National Institute of Justice.

<sup>33</sup> Osher, D., Bear, G.G., Sprague, J.R., and Doyle, W. (2010). How Can We Improve School Discipline? *Educational Researcher*, 39(1): 48-58.

school-based restorative practice is for all individuals involved in a conflict, and those in the larger community, to recognize and understand the harmfulness of their behaviors and to prevent the reoccurrence of the behavior.<sup>34</sup> Given the negative consequences of punishment for individual students and for the overall school climate, schools must be supported in restoratively challenging law enforcement responses to student behavior.

### ***The Council's Restorative Justice Initiative***

In 2015, the New York City Council first allocated \$2.4 million for the implementation of a restorative justice pilot program to “change the culture of the chosen 15 schools’ approach to school disciplinary policies.” Today each participating school has a school-based restorative justice coordinator who has developed a school-specific needs-based strategic plan and who is providing ongoing training and professional development to school staff, and is engaging and developing positive relationships with students, parents, and families. Tremendous need and demand exists for this initiative—while 115 schools were invited by the DOE’s Office of Safety and Youth Development (OSYD) to apply in December 2015, only 15 of the over 50 schools that submitted thorough applications expressing interest could be selected for participation. Those 15 “beginner” schools work in a network of 25 schools, ten of which are considered “intermediate” or “mentor” schools that offer site visits, provide guidance, and share best practices. **CDF-NY respectfully asks that the Council allocate \$5 million to this Restorative Justice Initiative in FY 2018: \$2.4 million to support and ensure the sustainability of schools involved in the Restorative Justice Initiative, and \$2.6 million to allow for the expansion of the program to an additional number of schools, as well as provide interested schools with professional development designed to improve school climate and build capacity to implement restorative practices.**

Schools can perform restorative justice in many ways along a continuum, including peer mediation programs, classroom community meetings, youth courts, or community circles (where members of the community engage in conversation to build relationships or teach restorative concepts and skills). Chosen from each borough for their high need and their high rates of suspension, the fifteen schools are represented by 12 different council members. In our conversations with those participating in the Restorative Justice Initiative, we have learned that many of the 15 schools are dramatically reducing their reliance on suspension. Today, principals, deans, and counselors are being trained in restorative practices and how to perform community circles, including family care conferencing, discipline conferencing, and some advanced training in remedying conflict. Schools are pursuing different projects according to need, and some have created peer mediation programs, advisory courses, parent groups, or are carrying out weekly circles. Some schools hold their department meetings in circles; other schools have faculty meetings in circles. National research tells us that these types of circles lead to a sense of teacher ownership over the discipline process, and encourage improved relationships, meaningful dialogue, the prevention of conflict, and academic and social achievement.<sup>35</sup> Aside from continuing professional development for school staff, the restorative justice coordinators funded through the initiative meet with their peers in specialized committees, and submit a report to OSYD each month on their projects, what they’ve accomplished, and what challenges they face.

Last fiscal year the Mayor’s Preliminary Budget made new investments to support school climate reforms in a few select areas of the City, developed in part by the Mayor’s Leadership Team on School Climate and Discipline. It is important to acknowledge that those pilot projects were allocated funding for *four* years, from FY2017 to FY2020,<sup>36</sup> and reflect the understanding that true school culture change takes time.<sup>37</sup> While we strongly believe in the importance of these initiatives, we urge the Council to continue and increase the investment in the Council’s whole-school restorative justice model that includes sustainable full-time school-based staff, youth and parent leadership, continuing professional

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<sup>34</sup> Stinchcomb et al. (2006). *Op. Cit.*

<sup>35</sup> Oretaga, L. (2016). Outcomes of a restorative circles program in a high school setting. *Psychology of Violence*, 6(3):459-468.

<sup>36</sup> New York City Office of Management and Budget. (2016, January). January 2016 Financial Plan Detail. Retrieved from [http://www1.nyc.gov/assets/omb/downloads/pdf/tech1\\_16.pdf](http://www1.nyc.gov/assets/omb/downloads/pdf/tech1_16.pdf).

<sup>37</sup> Anyon, Y., Gregory, A., Stone, S. Farrar, J,m Jenson, J.M., McQueen, J., Downing, B., Greer, E., and Simmons, J. (2016). Restorative Interventions and School Discipline Sanctions in a Large Urban School District. *American Educational Research Journal*, 53(6):1663-1697.

development opportunities, and district-wide coordination. Most research indicates that restorative policies will be sustained in schools and continually produce positive results only when restorative justice ideas are adopted as a philosophy by the entire school population rather than implemented as one program in one classroom or at one level of administration.<sup>38</sup> By continuing and expanding the Council's Restorative Justice Initiative in particular, we have a remarkable opportunity to sincerely and strategically transform schools from an inequitable, punitive model to an alternative, preventative and restorative model that aligns with youth development principles and improves school climate and safety.

**Conclusion**

CDF-NY applauds the Council's leadership and acknowledges that the Restorative Justice Initiative has provided a promising step toward the long-term institutionalization of restorative approaches in schools citywide. We look forward to a budget that restores and increases funding for the Restorative Justice Initiative to \$5 million—a much needed investment that focus on the moral, social, and academic development of youth rather than their punishment and removal.

Thank you again for this opportunity to testify.

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<sup>38</sup> Payne, A.A, and Welch, K. (2015). Restorative Justice in Schools: The Influence of Race on Restorative Discipline. *Youth & Society*, 47(4): 539-564.