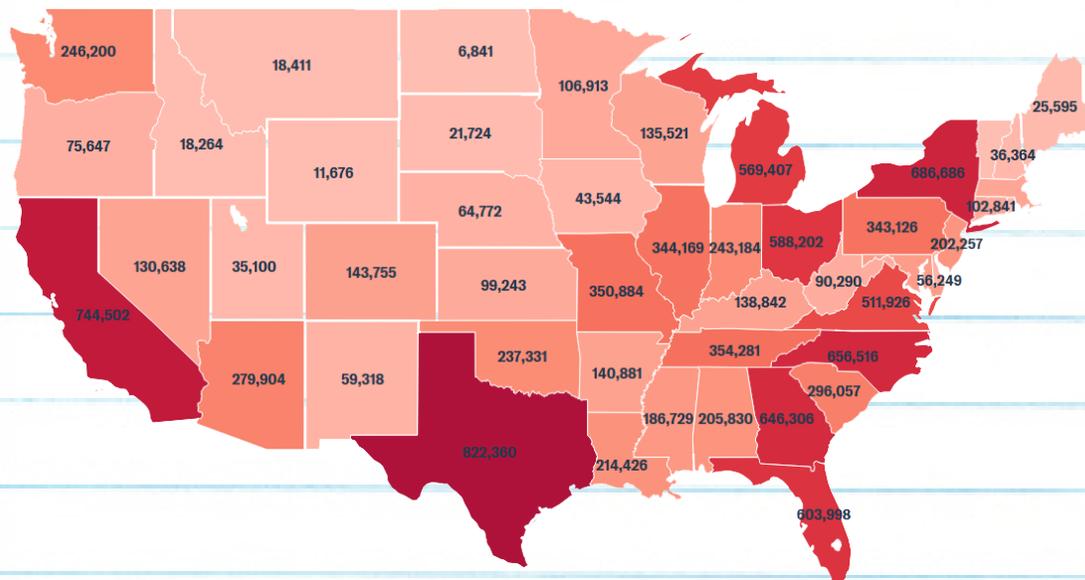


# 11 MILLION DAYS LOST

## RACE, DISCIPLINE, AND SAFETY AT U.S. PUBLIC SCHOOLS

### PART 1

A JOINT REPORT BY THE CENTER FOR CIVIL RIGHTS REMEDIES OF UCLA'S CIVIL RIGHTS PROJECT  
AND THE AMERICAN CIVIL LIBERTIES UNION OF SOUTHERN CALIFORNIA



BY DANIEL J. LOSEN and AMIR WHITAKER



The Center for Civil Rights Remedies  
at The Civil Rights Project | *Proyecto Derechos Civiles*



# INTRODUCTION

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We issue this report amid rising concerns that the resources needed for school personnel in order to improve school climate are inadequate.

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This descriptive summary of new state and national level data demonstrates the disparate impact of harsh discipline on educational opportunity, as well as raises several concerns including the adequacy of resources used for school personnel that can improve school climate and possible misunderstandings of school safety issues. Specifically, this snapshot highlights new data showing the days of lost instruction resulting from the use of suspension. Unlike all prior reports, these data are not estimates but based on the actual reports from nearly every public school in the nation. It provides vital information to parents, students, educators, advocates, researchers, policy makers and others interested in the impact of discipline disparities on educational equity and opportunity.<sup>1</sup>

We issue this report amid rising concerns that the resources needed for school personnel, who are essential to in improving school climate, are inadequate. In addition, possible misunderstandings of school safety issues may prompt the federal government to rescind important guidance for public school administrators on how to identify and remedy unjust discipline policies. If educators and policymakers overlook the harmful and disparate educational impact of harsh discipline they will likely make counter-productive decisions on how to spend scarce education dollars that will exacerbate the inequity in opportunity described in this report.

This report is the first of two data snapshots of the school-to-prison pipeline in America. It starts with inequitable access to instruction due to disparities in discipline. The second report will explore data on support staff, and serious offenses reported in school, along with disaggregated data on school-based arrests and referrals to law enforcement across all major racial subgroups. Those findings will be previewed in the discussion section of this report. In this

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first report, readers will see how out-of-school suspensions disproportionately impact instruction for children of color and students with disabilities in each state. The subsequent report will enable readers to compare how states dedicate resources toward police and school resources officers versus how they support counselors, for teachers, special educators, and mental and physical health personnel.

Unfortunately, deeply disturbing incidents of school gun-violence have spurred policymakers to consider adding more police to schools and some have gone as far as to suggest that safety problems were made worse by federal civil rights guidance that prompts schools to “rethink” discipline policies that may contribute to unjustifiable discipline disparities. The suggestion that the federal guidance on school discipline and civil rights be rescinded has been met with strong opposition from a diverse group of stakeholders and policymakers including Council of Great City Schools, organizations representing leading charter school organizations, schools administrators<sup>2</sup>, and teachers’ unions. Most recently a letter supporting the guidance from 11 state attorneys general who point out the “lack of any credible evidence connecting these policies to the school shootings that lead to the creation of the Commission.”<sup>3</sup>

Meanwhile, the idea that missing days of instruction impacts academic performance is a logical one, even if it remains difficult to quantify in precise terms.<sup>4</sup> One study on chronic absenteeism, for example, found that missing three or more days of instruction before taking the national assessment of reading in grade 4 lowered scores, on average by a full grade level, even after controlling for other variables.<sup>5</sup> Several studies, including our own recent research report conducted by Dr. Russell Rumberger compared cohorts of similar students and concluded that after controlling for other reasons that students do not graduate on time, suspension alone contributes to an estimated 7 point lower graduation rate.<sup>6</sup> Moreover, based on economic studies of costs associated with dropping out, our research demonstrated that there are serious negative economic costs implicated by the increased dropout risks that could be attributed to suspension.<sup>7</sup> Among the strongest findings on the harm from suspension come from a 2018 study published in the peer-reviewed journal *Youth & Society* which concluded that after 12 years had passed, students who were suspended were less likely to have graduated from high school or college and more likely to have been arrested or on probation.<sup>8</sup> The study controlled for 60 variables including socio-economic status and delinquency to compare suspended students to their otherwise similar peers, ruling out most other factors that might have explained the differences. These studies and many more contributed to the recent conclusion of the non-partisan Government Accountability Office report issued in March 2008 that students who are suspended from school “lose important instructional time, are less likely to graduate on time, and more likely to repeat a grade, drop out of school, and become involved in the juvenile justice system.”<sup>9</sup>

Given this strong research base, the differences in lost instruction from

out-of-school suspension suggest a profoundly disparate educational impact. Although the national data implicate deeply disturbing differences, we believe readers will be shocked to see the depth of the divide in the most disparate states. The report concludes with research-based recommendations for addressing these disparities.

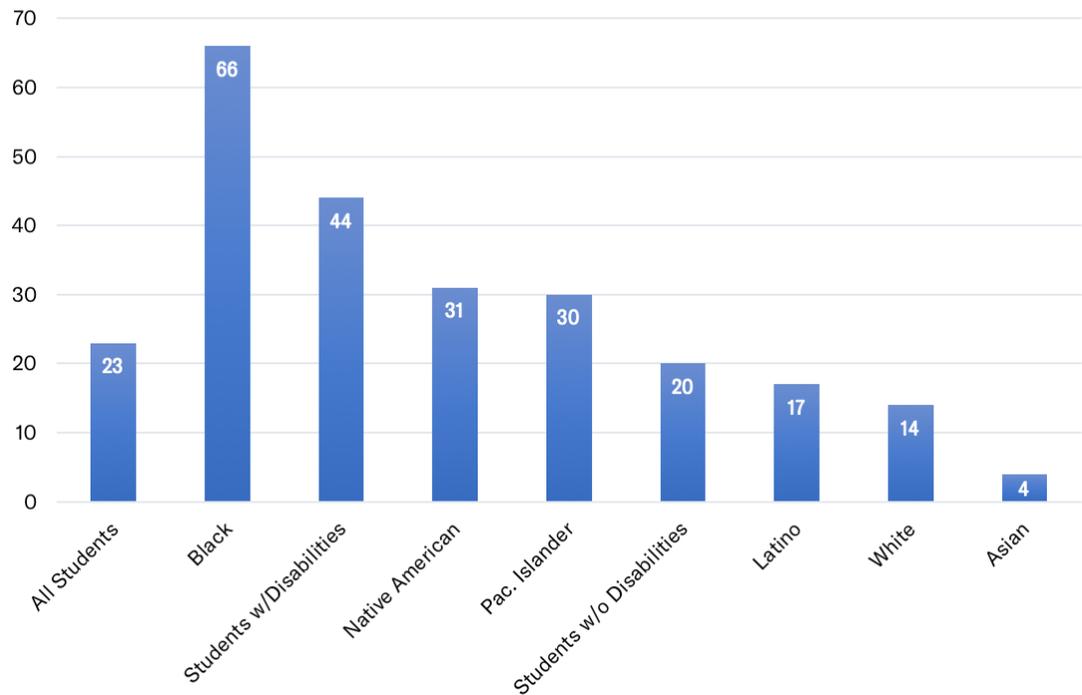
All the data provided in this report were collected from the 2015-16 academic year by the U.S. Department of Education's Office for Civil Rights. This is also known as the Civil Rights Data Collection (CRDC). The data are from over 96,000 schools, and include nearly every public school in the United States. This report is called a snapshot because it is purely descriptive and covers only one of several school discipline metrics collected by the CRDC.<sup>10</sup> Nor does this report produce any new findings about causal relationships between lost instruction and negative academic outcomes. The relationship between missing school and negative outcomes, generally, is well established and obvious to most.<sup>11</sup> Instead, the purpose of this report is to raise awareness about the new data and about profound differences in lost instruction from discipline. It is the first report of its kind covering all the major racial/ethnic groups, as well as students with disabilities, and the first to highlight disparities in lost instruction for every state as well as at the national level. We've also published an [interactive map data dashboard](#) to visually represent the data. Additional maps have been published by the ACLU to with county level visualizations. We hope to publish a comprehensive report regarding these issues, including district level analyses, in the coming year.

## **DRAMATIC DIFFERENCES IN DAYS OF LOST INSTRUCTION**

School discipline disparities contribute to learning opportunity disparities, and one study suggests that school suspensions account for approximately one-fifth of Black-White racial differences in school performance.<sup>9</sup> The data collection year 2015-16 was the first time every school was required to collect and report data on the days of lost instruction due to out-of-school suspensions. However, when the U.S. Department of Education provided a summary of the latest release of the CRDC results in April, 2018 they failed to mention this new data element. In the past, the Department's Office of Civil Rights would point out new data elements, and the concerns they raised about educational inequality. The Trump administration's failure to even mention these new data raises concern that they will not pay attention to the serious civil rights issues raised by racially disparate discipline.

## **NATIONAL DISPARITIES IN DAYS OF LOST INSTRUCTION**

The data are disturbing on many levels. Nationally, school children lost over 11 million days of instruction (11,360,004) as a result of out-of-school suspension. That's roughly 66 million hours of missed instruction or more than 63,000 school years of lost learning. As this report demonstrates, the time lost was not distributed evenly.



**Chart A: Days of Lost Instruction per 100 Students by Race and Disability in 2015-16**

The state and national level data presented in this snapshot are built up from the school level data. In order to enable comparisons despite enrollment differences for each subgroup, the number of days lost are divided by enrollment and multiplied by 100 to provide the days lost per 100 students enrolled. Nationally, students lost instruction at a rate of 23 days lost per 100 enrolled. The same calculation was used to give a clear sense of the impact on instruction experienced by each group.

The graph shows that, nationally, Black students lost 66 days of instruction compared to just 14 days for White students. This difference of 52 more days lost for Blacks than Whites means that Blacks lost nearly 5 times the amount of instruction as Whites and nearly 17 times the amount lost by Asian American students who at 4 days per 100, lost the lowest amount of instruction of any of the racial/ethnic groups.

Similarly profound disparities are observed between students with and without disabilities. The former lost 44 days of instruction, which was more than double the loss experienced by their non-disabled peers (20 days per 100). The state tables show just how large the differences in lost instruction are among groups nationally, and within each state. Readers can compare their state to others, or to the national average. The ten states with the highest rates and largest disparities are highlighted.

## LARGE AMOUNTS OF LOST INSTRUCTION AND PROFOUND STATE DISPARITIES RESULT FROM DISPARITIES IN HOW SCHOOLS SUSPEND STUDENTS OUT-OF-SCHOOL

Some of the most notable findings from the state analyses include the following:

- North Carolina happened to have the highest rate for all students (not counting DC) with an average of 51 days lost per 100 students. The impact, however, was not felt equally.
- Native American students in North Carolina lost 77 days per 100 enrolled.
- Latino students lost the most instruction in New Hampshire's schools at 55 days of instruction per 100 enrolled. There were roughly 9,800 Latino students enrolled and they lost over 5,300 days of education due to suspension. In 3 more states, Oklahoma, Michigan, and Ohio, Latinos lost 34 days of instruction, which was two or more times their national average (17 days).
- Both Hawaiian/Pacific Islanders and Asian American students experienced the most lost instruction in Hawaii where they lost 75 and 24 days per 100 respectively. Hawaii was also the worst state for Students with Disabilities who lost 95 days per 100 enrolled, 53 more days lost per 100 than students without disabilities at 42.

Black girls lost 1.7 million days of instruction or 45 days for every 100 enrolled. This is nearly twice the national average for all students.

In far too many states, the loss of instruction experienced by Black students, dwarfed even the worst state-level losses in instruction experienced by these other subgroups.<sup>13</sup>

- In Missouri, Black students lost 122 days of instruction per 100 enrolled. There were roughly 145,000 Black students enrolled and they lost a total of over 177,000 days of instruction in the state.
- Black students lost over 100 days per 100 enrolled in each of the 5 worst states for Black students: Ohio; Michigan; Mississippi; Tennessee; and Virginia.
- In each of these five states Black students lost between 47 and 100 more days than White students.
- Tennessee and Virginia were also among the 5 worst states for students with disabilities. While this snapshot does not cover the confluence of race and gender it is worth noting that while there are only 3.9 million Black boys enrolled in school, together they lost more than 3.4 million days of instruction due to suspension. That means that nationally, Black boys lost 86 days for every 100 enrolled.
- Black girls lost 1.7 million days of instruction or 45 days for every 100 enrolled. This is nearly twice the national average for all students.

**TABLE 1** on the following page provides the data for each of the major racial/ethnic subgroups for each state. Readers can sort the data dashboard or spreadsheet that comes with this snapshot to see the state ranking of each state for each of the subgroups. The table lists states in alphabetical order. The states (and DC) highlighted in red were among the worst 10 for that particular subgroup.

**TABLE 2** simply describes the disparities between the rates provided in Table 1. For example, the national Black-White gap of 53 days is found by subtracting the days lost by Whites per 100 from those lost by Blacks.

Many readers who are familiar with the way discipline data are reported to the public may not be accustomed to the reporting of days of lost instruction due to out-of-school suspensions. It is also worth noting that these numbers are *not* estimates, but actual reports on days of lost instruction.<sup>14</sup> The U.S. Department of Education required reporting of days lost for the first time in this data set to give educators and civil rights advocates a clearer idea of the impact of suspensions on instruction. The reporting of lost instruction also helps cure one of the limits with comparing suspension rates which are based on unduplicated counts of students, and found in all prior Office of Civil Rights reports of suspension. Comparing rates of students suspended does not adequately reflect possible differences (by subgroup) in suspension length or the impact from more frequent and repeated use of suspensions, which we know from our prior research is experienced by students with disabilities more than their non-disabled peers.<sup>15</sup>

**TABLE 1** DAYS OF LOST INSTRUCTION BY STATE, RACE, AND DISABILITY STATUS PER 100 STUDENTS IN 2015-16

| DAYS LOST PER 100 STUDENTS |                   |              |                |                          |                           |                 |                |                |                            |                               |
|----------------------------|-------------------|--------------|----------------|--------------------------|---------------------------|-----------------|----------------|----------------|----------------------------|-------------------------------|
|                            | Total Days Lost   | All Students | Black Students | Native American Students | Pacific Islander Students | Latino Students | White Students | Asian Students | Students with Disabilities | Students without Disabilities |
| <b>NATION</b>              | <b>11,360,004</b> | <b>23</b>    | <b>66</b>      | <b>31</b>                | <b>30</b>                 | <b>17</b>       | <b>14</b>      | <b>4</b>       | <b>44</b>                  | <b>20</b>                     |
| <b>AK</b>                  | 32,065            | 24           | 60             | 34                       | 48                        | 24              | 18             | 5              | 48                         | 21                            |
| <b>AL</b>                  | 205,830           | 28           | 59             | 15                       | 11                        | 8               | 13             | 5              | 30                         | 27                            |
| <b>AR</b>                  | 140,881           | 29           | 82             | 21                       | 14                        | 16              | 16             | 4              | 42                         | 28                            |
| <b>AZ</b>                  | 279,904           | 25           | 62             | 42                       | 16                        | 27              | 18             | 6              | 39                         | 23                            |
| <b>CA</b>                  | 744,502           | 12           | 39             | 24                       | 12                        | 12              | 10             | 3              | 26                         | 10                            |
| <b>CO</b>                  | 143,755           | 16           | 38             | 21                       | 13                        | 20              | 12             | 4              | 37                         | 14                            |
| <b>CT</b>                  | 102,841           | 19           | 56             | 19                       | 6                         | 32              | 7              | 3              | 44                         | 16                            |
| <b>DC</b>                  | 41,759            | 51           | 69             | 19                       | 20                        | 14              | 2              | 3              | 112                        | 42                            |
| <b>DE</b>                  | 56,249            | 41           | 88             | 25                       | 8                         | 28              | 18             | 4              | 78                         | 34                            |
| <b>FL</b>                  | 603,998           | 22           | 45             | 19                       | 10                        | 14              | 16             | 3              | 35                         | 20                            |
| <b>GA</b>                  | 646,306           | 37           | 72             | 18                       | 27                        | 21              | 15             | 5              | 54                         | 35                            |
| <b>HI</b>                  | 75,241            | 41           | 34             | 42                       | 75                        | 31              | 28             | 24             | 95                         | 35                            |
| <b>IA</b>                  | 43,544            | 9            | 35             | 6                        | 10                        | 10              | 6              | 2              | 23                         | 7                             |
| <b>ID</b>                  | 18,264            | 6            | 10             | 20                       | 6                         | 7               | 6              | 1              | 13                         | 6                             |
| <b>IL</b>                  | 344,169           | 17           | 51             | 13                       | 10                        | 12              | 9              | 2              | 32                         | 15                            |
| <b>IN</b>                  | 243,184           | 24           | 74             | 16                       | 5                         | 20              | 15             | 5              | 46                         | 20                            |
| <b>KS</b>                  | 99,243            | 20           | 91             | 23                       | 7                         | 23              | 12             | 7              | 38                         | 18                            |
| <b>KY</b>                  | 138,842           | 20           | 67             | 16                       | 8                         | 14              | 15             | 4              | 24                         | 20                            |
| <b>LA</b>                  | 214,426           | 30           | 49             | 22                       | 9                         | 16              | 15             | 5              | 43                         | 28                            |
| <b>MA</b>                  | 118,366           | 13           | 31             | 12                       | 4                         | 24              | 8              | 2              | 25                         | 10                            |
| <b>MD</b>                  | 164,796           | 18           | 36             | 13                       | 7                         | 11              | 9              | 2              | 40                         | 16                            |
| <b>ME</b>                  | 25,595            | 14           | 34             | 22                       | 4                         | 15              | 14             | 4              | 36                         | 10                            |
| <b>MI</b>                  | 569,407           | 38           | 110            | 34                       | 15                        | 35              | 20             | 6              | 67                         | 34                            |
| <b>MN</b>                  | 106,913           | 12           | 48             | 40                       | 3                         | 16              | 6              | 3              | 33                         | 9                             |
| <b>MO</b>                  | 350,884           | 38           | 122            | 36                       | 16                        | 24              | 22             | 8              | 73                         | 33                            |
| <b>MS</b>                  | 186,729           | 38           | 62             | 22                       | 8                         | 13              | 15             | 5              | 53                         | 36                            |
| <b>MT</b>                  | 18,411            | 12           | 21             | 44                       | 5                         | 13              | 8              | 2              | 26                         | 11                            |
| <b>NC</b>                  | 656,516           | 42           | 95             | 77                       | 27                        | 28              | 21             | 5              | 85                         | 37                            |
| <b>ND</b>                  | 6,841             | 6            | 12             | 29                       | 4                         | 5               | 3              | 2              | 13                         | 5                             |
| <b>NE</b>                  | 64,772            | 21           | 98             | 35                       | 14                        | 22              | 12             | 5              | 49                         | 16                            |
| <b>NH</b>                  | 36,364            | 20           | 59             | 33                       | 13                        | 55              | 17             | 5              | 46                         | 15                            |
| <b>NJ</b>                  | 202,257           | 15           | 43             | 10                       | 4                         | 19              | 6              | 2              | 30                         | 12                            |
| <b>NM</b>                  | 59,318            | 18           | 38             | 23                       | 5                         | 18              | 13             | 4              | 28                         | 16                            |
| <b>NV</b>                  | 130,638           | 28           | 82             | 27                       | 24                        | 25              | 18             | 8              | 49                         | 26                            |
| <b>NY</b>                  | 686,686           | 25           | 65             | 28                       | 2                         | 22              | 16             | 5              | 53                         | 20                            |
| <b>OH</b>                  | 588,202           | 34           | 111            | 19                       | 7                         | 34              | 17             | 6              | 63                         | 29                            |
| <b>OK</b>                  | 237,331           | 34           | 93             | 31                       | 41                        | 35              | 27             | 8              | 57                         | 30                            |
| <b>OR</b>                  | 75,647            | 13           | 27             | 26                       | 14                        | 15              | 12             | 3              | 28                         | 11                            |
| <b>PA</b>                  | 343,126           | 20           | 63             | 15                       | 7                         | 31              | 10             | 4              | 37                         | 17                            |
| <b>RI</b>                  | 23,345            | 17           | 32             | 42                       | 6                         | 25              | 11             | 5              | 29                         | 14                            |
| <b>SC</b>                  | 296,057           | 39           | 72             | 38                       | 16                        | 20              | 21             | 5              | 65                         | 35                            |
| <b>SD</b>                  | 21,724            | 16           | 54             | 45                       | 9                         | 20              | 10             | 5              | 38                         | 13                            |
| <b>TN</b>                  | 354,281           | 36           | 105            | 27                       | 10                        | 19              | 15             | 6              | 85                         | 28                            |
| <b>TX</b>                  | 822,360           | 16           | 44             | 10                       | 7                         | 15              | 7              | 2              | 32                         | 14                            |
| <b>UT</b>                  | 35,100            | 5            | 20             | 9                        | 7                         | 10              | 4              | 4              | 12                         | 4                             |
| <b>VA</b>                  | 511,926           | 40           | 102            | 26                       | 12                        | 22              | 23             | 3              | 78                         | 35                            |
| <b>VT</b>                  | 7,722             | 9            | 22             | 23                       | 2                         | 5               | 9              | 4              | 23                         | 7                             |
| <b>WA</b>                  | 246,200           | 23           | 64             | 47                       | 34                        | 27              | 18             | 7              | 57                         | 18                            |
| <b>WI</b>                  | 135,521           | 16           | 86             | 20                       | 4                         | 17              | 7              | 3              | 47                         | 11                            |
| <b>WV</b>                  | 90,290            | 32           | 91             | 10                       | 16                        | 23              | 30             | 9              | 55                         | 28                            |
| <b>WY</b>                  | 11,676            | 12           | 26             | 31                       | 6                         | 17              | 10             | 6              | 27                         | 10                            |

**TABLE 2** STATE AND NATIONAL GAPS IN LOST INSTRUCTION PER 100 STUDENTS IN 2015-16\*

| STATE         | SWD-SWoD Days Lost Gap per 100 | Black-White Days Lost Gap per 100 | Latino-White Days Lost Gap per 100 | Native American -White Days Lost Gap per 100 |
|---------------|--------------------------------|-----------------------------------|------------------------------------|--|
| <b>NATION</b> | <b>24</b>                      | <b>53</b>                         | <b>4</b>                           | <b>17</b>                                    |
| AK            | 28                             | 42                                | 6                                  | 16   |
| AL            | 3                              | 46                                | -5                                 | 2  |
| AR            | 14                             | 66                                | 0                                  | 5  |
| AZ            | 16                             | 44                                | 9                                  | 24   |
| CA            | 16                             | 29                                | 1                                  | 14   |
| CO            | 23                             | 26                                | 8                                  | 9  |
| CT            | 29                             | 48                                | 25                                 | 11   |
| DC            | 71                             | 67                                | 12                                 | 16   |
| DE            | 44                             | 71                                | 10                                 | 7  |
| FL            | 15                             | 29                                | -2                                 | 2  |
| GA            | 19                             | 56                                | 6                                  | 3  |
| HI            | 60                             | 5                                 | 2                                  | 13   |
| IA            | 17                             | 29                                | 4                                  | 0  |
| ID            | 8                              | 4                                 | 1                                  | 14   |
| IL            | 17                             | 42                                | 3                                  | 4  |
| IN            | 26                             | 59                                | 5                                  | 1  |
| KS            | 20                             | 80                                | 11                                 | 11   |
| KY            | 4                              | 53                                | -1                                 | 1  |
| LA            | 15                             | 34                                | 2                                  | 7  |
| MA            | 16                             | 24                                | 16                                 | 4  |
| MD            | 24                             | 28                                | 2                                  | 5  |
| ME            | 26                             | 20                                | 1                                  | 8  |
| MI            | 33                             | 90                                | 15                                 | 14   |
| MN            | 24                             | 42                                | 9                                  | 34   |
| MO            | 40                             | 100                               | 2                                  | 14   |
| MS            | 17                             | 47                                | -2                                 | 7  |
| MT            | 16                             | 14                                | 5                                  | 36   |
| NC            | 48                             | 74                                | 7                                  | 56   |
| ND            | 8                              | 9                                 | 2                                  | 26   |
| NE            | 33                             | 85                                | 10                                 | 23   |
| NH            | 31                             | 41                                | 37                                 | 15   |
| NJ            | 18                             | 36                                | 13                                 | 4  |
| NM            | 12                             | 25                                | 5                                  | 10   |
| NV            | 23                             | 64                                | 7                                  | 9  |
| NY            | 33                             | 50                                | 6                                  | 13   |
| OH            | 33                             | 94                                | 17                                 | 2  |
| OK            | 27                             | 66                                | 8                                  | 4  |
| OR            | 17                             | 14                                | 3                                  | 14   |
| PA            | 20                             | 53                                | 22                                 | 5  |
| RI            | 15                             | 21                                | 14                                 | 31   |
| SC            | 30                             | 51                                | -1                                 | 16   |
| SD            | 25                             | 44                                | 10                                 | 35   |
| TN            | 56                             | 90                                | 4                                  | 12   |
| TX            | 18                             | 37                                | 8                                  | 3  |
| UT            | 7                              | 16                                | 7                                  | 5  |
| VA            | 44                             | 78                                | -2                                 | 2  |
| VT            | 16                             | 13                                | -4                                 | 14   |
| WA            | 39                             | 45                                | 8                                  | 28   |
| WI            | 36                             | 79                                | 10                                 | 13   |
| WV            | 26                             | 62                                | -7                                 | -20  |
| WY            | 16                             | 16                                | 6                                  | 21   |

SWD = Students with disabilities  
 SWoD = Students without disabilities

\*Some of the gaps in this table do not perfectly match the data reported in Table 1 due to distortions from rounding.

## DISCUSSION

It is important to consider these data disparities in light of calls for more police in schools. We hope readers will consider these data on lost instruction, and our preview of personnel shortages in light of other research findings suggesting that school police and strict security measures are positively associated with increased suspension rates and disparities.<sup>16</sup> Further, as highlighted by Education Week’s Research Center’s recent survey of school resource officers, they see their primary responsibility to be “enforcing laws,” and 93% carried a gun and 97% carried handcuffs.<sup>17</sup> Most would agree that given their purpose, tools and training, if we add more police to our schools it’s logical to expect that more students would be arrested for school-based behavior.

A wide spectrum of policy-makers and children’s advocates, including many conservatives, have expressed concerns with how adding more police to schools will impact educational outcomes and endanger the civil rights of children, by criminalizing a wide range of adolescent behaviors. For example, Brian Saady writing for the American Conservative recently asked, “Why is behavior that used to be disciplined within the school system now being outsourced to the police? There are a number of factors, but the most notable is the increase in the number of police officers stationed on school campuses, i.e. school resource officers (SRO).”<sup>18</sup> Thus, adding police in the interest of safety from outside threats, would make students less safe.

In addition to the questionable wisdom of adding police patrols to our children’s school hallways, investing in policing when resources are scarce, also means less money for counselors, teachers, and other student support personnel. At one recent federal commission on school safety session, the Chair of the Arkansas Board of Education pointed out that there was a serious teacher and school counselor shortage in many Arkansas districts, yet counselors were critically important to preventing violence and keeping students safe.<sup>19</sup>

In the report that follows this one we will cover the data on school personnel that will enable readers to see which states are under-resourced in terms of counselors and mental health personnel. The 2015-16 dataset was the first time every public school was required to report staffing information regarding the number of full time equivalent social workers, nurses, counselors, and psychologists. Although our analyses are not complete, it is safe to say that most schools, districts, and states are severely below student-to-staff ratios recommended by professional and expert organizations. For example, over 36 million students were enrolled in 55,000 schools that did not meet the American School Counselors Association’s recommended ratio of 250-to-1 student-to-counselors.<sup>20</sup> Nationally, there was a student-to-counselor ratio of 444-to-1, suggesting that counselors are seriously overworked with a student caseload that is 78% greater than what is recommended by professionals.

In our next reports we will also examine the profound differences in school-based arrests and referrals to law enforcement. We know from the data that nationally, among racial groups, Black students have the highest risk for being arrested at school as well as for being referred to law enforcement. Unfortunately, there are serious issues with inaccurate and underreporting of school arrests and law enforcement referrals. For example, both New York City and Los Angeles reported zero school-based arrests. In prior

years, many districts that reported zero arrests confirmed that they did not keep track of those data despite the federal requirement to report the data to the U.S. Department of Education. Technically, this means that there is likely a good deal of non-compliance with a federal requirement. We believe the under-reporting is especially challenging to our understanding of what is really happening to Black students and children with disabilities. Moreover, it is deeply disturbing to witness the current administration's call for more police in schools when the potential negative impact of police presence remains hidden by grossly inaccurate reporting.

The serious concerns about adding police to schools and inaccurate data about the use of police by schools has been raised by civil rights advocates under prior administrations, but is more acute now given the parallel deep reduction in the budget for federal education civil rights enforcement and clear indications (such as the pardoning of Sherriff Arpaio) that inappropriate racial profiling by police, generally, is not considered a legitimate concern by this administration. Further, as referenced in the introduction, research findings we have published previously suggests that investing in police and other security measures is correlated with higher and more disparate rates of out-of school suspensions.<sup>21</sup> Although this cited study bundled SROs and police with other security measures, further research focused on policing alone may find that the well-intended and racially neutral addition of police to school campuses despite the laudable goal of protecting children against violence may fail to fulfill that purpose. If other resources, such as investing in counselors, teachers, social workers or other health personnel prove to be far more effective in preventing shootings as well as other violence, adding police instead of addressing shortages in these other personnel areas may have the kind of unjustifiable disparate impact on the educational and life outcomes of children of color that the federal discipline guidance warns against.

Although this first report and the recommendations that follow focus on the disparities in lost instruction, we believe that this overarching federal context describes urgent circumstances. Fortunately, states and districts and schools can decide to actions like those recommended in the federal rethink school discipline guidance package now, or even after the federal guidance is rescinded. There is a great deal more that educators can do, on their own initiative.

## **RECOMMENDATIONS**

- Policymakers at all levels should give greater consideration to the profound inequities in days of lost instruction due to out of school suspensions when reviewing discipline policy.
- Educators should review disaggregated data for their school on lost instruction due to discipline at least annually.
- Schools and districts should annually report disaggregated discipline data, including days of lost instruction, to parents and members of the greater community.
- State-level administrators should carefully review resource inequities when making budget decisions regarding allocations intended to improve school climate and security.
- Parents, educators, advocates, and member of the media should demand that more accurate data are collected and annually reported to the public, that include data on referrals to police, and school based arrests.
- States should pursue reforms through legislation to include discipline disparities as part of the ESSA indicators, similar to the requirements that have been put in place by the state of

California.

- States should adopt OCR's 2014 guidance on school discipline as their own.
- Policymakers should avoid spending additional dollars on police in states and districts that already have inadequate resources for teachers, counselors, and personnel that provide mental health supports and services.
- The federal government must take stronger steps to ensure that all the CRDC reporting requirements are met, especially data regarding the school-based arrests or referral to law enforcement.
- Whenever possible, members of the media should request and report the data on days of lost instruction when covering stories about school discipline reform or questions of equitable educational opportunity.
- Parents and local advocates should request data on lost instruction and bring their concerns about excessive and disparate discipline to the attention of both administrators and state and local education boards.
- Where they have the capacity, advocates should request that their local district provide them with the Civil Rights Data Collection (CRDC) disaggregated discipline data for the 2017-18 academic year, including but not limited to data on days of lost instruction.

# Appendix A: Details on Methods and Data Cleaning

## **Data Omissions**

Although there are over 50 million students enrolled in U.S. schools, this analysis excluded schools enrolling hundreds of thousands of students to improve precision. Our analysis included 49,977,268 students total.

**Students identified as having disabilities under “Section 504” only:** This report excluded these students because the Civil Rights Data Collection did not collect data on their days lost and arrest/referral disaggregated by race. Their omission did not have an impact on what is reported for students with disabilities identified under the IDEA. However, schools with less than 8 students with are not publicly reported in enrollment because of data suppression. However, many of these schools still publicly reported arrests for the students.

**Students in juvenile justice facilities:** We excluded 608 schools from the analysis composed solely of students in juvenile justice facilities. These schools enrolled over 30,000 students. Although this information is valuable, these educational settings vary significantly from traditional schools and deserved separate treatment. Most of the schools did not report days lost to suspensions, and no arrests were reported since the students have already been arrested and adjudicated.

**Students in virtual schools:** For similar reasons we removed “virtual” schools and districts. When most students are attending school from their own home, they are not experiencing school arrests, suspensions, and have varying or no access to counselors and other support staff. These schools enrolled more than 227,000 students and were identified by words like “virtual” “cyber” “online” “connections academy” and “Electronic Classroom of Tomorrow” in the school name.

**Students in Pre-K settings:** This analysis removed over 1,600 pre-K schools that enroll over 258,000 students to focus on K-12. However, it is worth noting there were roughly 208 counselors and 65 law enforcement officers at these pre-K schools.

**Data source:** The data used in this report, which covers the 2015-16 school year, comes from the Civil Rights Data Collection (CRDC), a survey administered by the U.S. Department of Education’s Office for Civil Rights (OCR). The data are sometimes referred to as the “OCR” data and sometimes as the “CRDC”. The two are identical. These data were made available to the public in April 2018. The data and more details about the data collection can be found online at <http://ocrdata.ed.gov>. The state and national level data presented in this snapshot are built up from the school level data.

**Sample:** The OCR gathered data from every public school in the nation.

**Calculating Days of Lost Instruction Rates:** In order to enable comparisons despite enrollment differences for each subgroup, the number of days lost are divided by enrollment and multiplied by 100 to provide the days lost per 100 students enrolled. The days of lost instruction does not include any of the days lost due to in-school suspensions, expulsions, transfers to disciplinary alternative programs, school-based arrests and referrals to law enforcement.

# ENDNOTES

- 1 We believe it is noteworthy that this first time information on lost instruction from out of school suspensions was not even mentioned by the U.S. Department of Education when they released their own snapshot of the recent civil rights data collection they reported to the public several months ago. The reasons for the administration's overlooking these new data are not known and are beyond the scope of this analysis.
- 2 Educators for Excellence, *Letter to Secretary DeVos and Attorney General Sessions* (July 10, 2018).  
[http://e4e.org/sites/default/files/school\\_discipline\\_letter.pdf](http://e4e.org/sites/default/files/school_discipline_letter.pdf)  
  
The AFT signed onto the aforementioned letter. NEA support is inferred from their official policy statement on school discipline. See NEA, *Policy Statement on the Discipline and The School-to-Prison Pipeline*, (July, 2016) retrieved from <https://ra.nea.org/2016/07/06/nea-takes-stand-school-prison-pipeline/> and link retrieved from <https://ra.nea.org/delegate-resources/policy-statement-on-discipline/>
- 3 Re: States' opposition to withdrawal of School Discipline Guidance Package, (August 24,2018) Undersigned by Attorneys General of California, Connecticut, the District of Columbia, Illinois, Iowa, Maryland, Massachusetts, New Jersey, New York, Oregon, and Washington.  
[https://ag.ny.gov/sites/default/files/federal\\_school\\_discipline\\_guidance\\_multistate\\_ag\\_letter\\_v.6\\_08.24.2018.pdf](https://ag.ny.gov/sites/default/files/federal_school_discipline_guidance_multistate_ag_letter_v.6_08.24.2018.pdf)
- 4 Readers should note that there is one "working paper" that some have cited to refute this assumption, but that has been seriously criticized, in part because it did not attempt to look at the impact of suspension on achievement in the same year the suspension occurred.  
  
See Brea L.Perry & Daniel J.Losen, NEPC Review: Understanding a Vicious Cycle: Do Out-of-School Suspensions Impact Student Test Scores? National Education Policy Center (June 1, 2017) retrieved from <https://nepc.colorado.edu/thinktank/review-discipline>
- 5 Ginsburg, A., Jordan, P., & Chang, H. (2014). Absences add up: How school attendance influences student success. Retrieved from [http://www.attendanceworks.org/wp-content/uploads/2017/05/Absences-Add-Up\\_September-3rd-2014.pdf](http://www.attendanceworks.org/wp-content/uploads/2017/05/Absences-Add-Up_September-3rd-2014.pdf)
- 6 See, Russell W. Rumberger and Daniel J.Losen, *The Hidden Cost of California's Harsh School Discipline*, The Civil Rights Project at UCLA, (2017) Retrieved from <http://www.schooldisciplinedata.org/ccrr/docs/CostofSuspensionReportFinal.pdf>
- 7 See: Russell W. Rumberger & Daniel J. Losen, *The High Cost of Harsh Discipline and Its Disparate Impact*, The Civil Rights Project at UCLA, (2016) Retrieved from [http://www.schooldisciplinedata.org/ccrr/docs/UCLA\\_HighCost\\_6-2\\_948.pdf](http://www.schooldisciplinedata.org/ccrr/docs/UCLA_HighCost_6-2_948.pdf)
- 8 Janet Rosenbaum (2018). Educational and Criminal Justice Outcomes 12 Years After School Suspension. Youth & Society. Retrieved from <http://dx.doi.org/10.1177%2F0044118x17752208>
- 9 Jacqueline M. Mowicki, *Discipline Disparities for Black Students, Boys and Students with Disabilities*, GAO (March 2018).  
<http://www.gao.gov/assets/700/690828.pdf>
- 10 The full CRDC includes several other data points relevant to concerns of inequity in educational opportunity, outcomes and the treatment of students not covered in this snapshot. They include suspensions rates, disciplinary transfers, expulsions, and more. CCRR and the ACLU intended to conduct a more comprehensive analyses of these data points in the course of the next year and a half. For prior reports on school discipline disparities please visit our website: [www.schooldisciplinedata.org](http://www.schooldisciplinedata.org). Please visit the full CRDC reporting website at [ocrdata.ed.gov](http://ocrdata.ed.gov).
- 11 Morris, E. W., & Perry, B. L. (2016). The punishment gap: School suspension and racial disparities in achievement. *Social Problems*, 63(1), 68-86, Retrieved online at <https://academic.oup.com/socpro/article/63/1/68/1844875>
- 12 Morris, E. W., & Perry, B. L. (2016). The punishment gap: School suspension and racial disparities in achievement. *Social Problems*, 63(1), 68-86, Retrieved online at <https://academic.oup.com/socpro/article/63/1/68/1844875>
- 13 A simple comparison of days lost without adjusting for enrollment may give a false impression of equity. For example, in California, the total days lost for White and Black students was nearly the same, but there are nearly 4 times as many White students enrolled. Our metric adjusts for enrollment differences by describing the data in terms of days lost per 100 enrolled.
- 14 Only days lost due to *out-of-school* suspension were reported. Prior reports published by the Center for Civil Rights Remedies were estimates of days lost due to discipline in California, Massachusetts, and for every state for students with disabilities were based on a broader array of disciplinary *removals* which included in-school suspensions, too.  
  
*See*, Losen, D. J. & Whitaker, A. (2017). *Lost instruction: The disparate impact of the school discipline gap in California*. The Civil Rights Project/Proyecto Derechos Civiles. Los Angeles, CA. and  
  
Losen, D. J., Sun, W. L., & Keith, M. A. (2017). *Suspended education in Massachusetts: Using days of lost instruction due to suspension to evaluate our schools*. Los Angeles: Civil Rights Project-Proyecto Derechos Civiles.

Therefore, because this report is based on the actual reported days of lost due to out-of-school suspensions *alone*, it should be considered a more conservative representation of the impact on instruction from disciplinary removal. For this reason, the count of days lost tend to be lower than estimations in those prior reports.

- 15 The CRDC still provides the data on rates of out-of-school and in-school suspension. Rates of out-of-school suspension are calculated by dividing the number of students suspended at least once by their total enrollment. Extensive analysis of these rates at the elementary and secondary level are covered in our prior discipline reports and data webtool along with two state reports (MA and CA) estimating days of lost instruction. Most important, OCR reports data on students receiving just one out-of-school suspension and those receiving two or more. Our analysis of the data in 2009-10 found that those with disabilities had more students in the two or more category than the just once category. This difference was greatest among Black students and Black students with disabilities were the most likely group to be suspended repeatedly. See Losen & Gillespie, (2012) *Opportunities Suspended: The Disparate Impact of Disciplinary Exclusion from School*
- 16 Nance, J.P., (2017) *Student Surveillance, Racial Inequalities, and Implicit Racial Bias*, *Emory Law Journal* 66 (2017): 765–837;  
  
Finn, J.D., & Servoss, T.J. (2015). *Security measures and discipline in American high schools*. In D. J. Losen (Ed.), *Closing the school discipline gap: Equitable remedies for excessive exclusion* (pp. 44058). New York: Teachers College Press.
- 17 Editorial Projects in Education, Research Center Report, *School Policing: Results of a National Survey of School Resource Officers, August 2018*.
- 18 In *Throwing Children Away: The School to Prison Pipeline*, the American Conservative writer Brian Saady explores how adding police to schools invariably means involving them in school discipline and an increase in children behind bars.  
<https://www.theamericanconservative.com/articles/throwing-children-away-the-school-to-prison-pipeline/>
- 19 See Federal Commission on School Safety Field Visit – Arkansas, August 1, 2018, statement of Dr. Jay Barth, Chair of the Arkansas State Board of Education's statements at including beginning at 1:49:20 and 2:21:30 emphasizing the problem of a shortage of counselors. Retrieved from <https://www.youtube.com/watch?v=CAvkyAYMFSE>
- 20 American School Counselors Association, *Press Release*, access here [www.schoolcounselor.org/press](http://www.schoolcounselor.org/press)
- 21 See Finn & Servoss, *supra* endnote 16.