

Gardiner Foundation Project: Criminal Justice Themes and Summary of Investigation

Kelly Bare and Florence Barbour

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I. Overarching Themes

“Nonwhites on Long Island were arrested at nearly five times the rate for whites, according to an analysis of police and court records from the years 2005-2016.”

<https://projects.newsday.com/long-island/unequal-justice-part-1/>

Long Island is comprised of two counties—Suffolk County law enforcement under the innovative leadership of Sheriff Errol Toulon (James Dzurenda is the Nassau County Sheriff)—as well as 124 independent school districts, each under its own leadership.

Our education and criminal justice systems are connected at the root via what is commonly understood as “discipline”:

- “With every disciplinary infraction a student receives, the probability of them being a product of the criminal justice system at some point increases” (Diem & Welton, 2020, p. 116).

The United States is experiencing a suspension crisis nationwide that starts in preschool and disproportionately impacts Black and brown students. Long Island is no exception.

- The prekindergarten expulsion rate is 3.2 times higher than the average rate for K-12 students nationally. While this statistic is alarming, this practice is by no means an anomaly (Skiba, et al., 2002; Meek & Gilliam, 2016)
- In New York State, schools in urban/suburban high-need districts were nearly five times as likely to suspend students as schools in low-need school districts.
 - Suspension rates are highest in high schools, but racial disparities are greatest in elementary/middle schools.
 - Schools impose the most disproportionate discipline on Black female students.
- Black students on Long Island are about five times more likely than Whites to be suspended from their public schools
 - Given the landscape, Long Island is a patchwork of discipline policies: Each district has its own code of conduct. Some districts are moving away from punitive and toward restorative practices, in keeping with a national trend.
 - Still, analysis of available 2017 OCR data on in-school and out-of-school suspensions from middle and high schools in a sampling of four Long Island districts shows that in every case
 - Black students were overrepresented among suspended students relative to overall school demographics
 - White students were underrepresented among suspended students, relative to overall school demographics
 - In more diverse districts, we tend to see the most disproportionality in terms of discipline rates by race.

Through our research, we wanted to learn:

- *How do students, educators, law enforcement, officers of the court system, and advocates describe their lived experiences with the school-to-prison pipeline on Long Island?*

II. Historical Events and Turning Points:

- Long Island was specifically engineered to be stratified by race and class
- Nassau County Police Department established in 1925; Suffolk in 1960
 - NASSAU COUNTY- In 1925, concerned about rising crime rates, the County Board of Supervisors voted to create the Nassau County Police Department. The expansion accelerated dramatically following World War II with the rapid suburbanization of the county. It reached 1,000 officers in six precincts by 1950. A seventh precinct was opened in 1955 and an eighth followed five years later. In March 2012 the Levittown station was chosen to be the first to be reduced to a "Community Policing Center" followed by the 5th Precinct in Elmont, and 6th Precinct in Manhasset. The 5th Precinct has since reopened. In April 2019 the County announced an agreement had been reached between the Democrat County executive and Republican-controlled County legislature, and on April 10, 2019, the 6th Precinct in Manhasset and the 8th Precinct in Levittown were reopened, restoring the department to its original 8 precinct size.
https://en.wikipedia.org/wiki/Nassau_County_Police_Department
 - SUFFOLK COUNTY- Prior to 1960, law enforcement in Suffolk County was the responsibility of local towns and villages as well as the New York State Police. The demographic transformation of the county following World War II, however, forced a change. The rapid suburbanization of those years brought with it a dramatic rise in traffic and crime that threatened to overwhelm the 33 separate law enforcement agencies then operating within Suffolk County. Voices demanding a unified county police force, similar to the one already operating in neighboring Nassau County, grew louder. Following the passage, in 1958, of state legislation creating the county executive form of government, a referendum was held on the creation of a county police force. The five western towns — Babylon, Huntington, Islip, Smithtown and Brookhaven — voted in favor. The five eastern towns — Riverhead, Southold, Shelter Island, East Hampton, and Southampton — opted to retain their own police forces, and do so to this day, with the Suffolk County Police Department providing support and specialized services. The Suffolk County Police Department officially came into being on January 1, 1960, with 619 sworn members.
https://en.wikipedia.org/wiki/Suffolk_County_Police_Department
- The 1960s brought a marked increase in the racialization of the dialogue around crime on a national level; Long Island was no exception
 - 1955- Deinstitutionalization of the mentally ill begins, closing of mental hospitals and reduction in overall state care for people with serious mental illness; 58 Jails and prisons eventually take up the slack.
 - 1964- Goldwater campaign uses explicitly racial language to discuss crime. Conservatives conflate riots, street crime, and political activism.

- 1965- Johnson creates Office of Law Enforcement Assistance, with support from left and right. OLEA provides funding and programs to expand and improve state and local criminal justice systems.
- 1968- Johnson calls for “war on crime” in context of war on poverty and other root causes. Omnibus Crime Control and Safe Streets Act passes Congress, but with major modifications from conservatives that give most funding control to the states. Johnson considers a veto, but the assassination of Robert F. Kennedy dissuades him.
- 1973- New York Governor Nelson Rockefeller enacts toughest drug laws in the nation, punishing possession of even small amounts of drugs with 15 years to life.
- At the same time, and into the 1970s, some reform and relief efforts were led by earnest White social workers, lawyers, and organizers; churches and synagogues played a major role in efforts toward social justice
 - This happened in concert with Black-led community efforts, and manifested as things like youth empowerment programs, community courts, and even broken-windows policing (which, our interviews suggest, has been misapplied).
 - Still, there was a big piece missing: as one of our interview subjects said, “*no one wanted to know what was going on at home*” and “*we didn’t want to talk about the big monsters in the room.*” School, which could push you out and set you on an unproductive and dangerous path, didn’t have a healing orientation, or any resources, such as social workers, to support people suffering the effects of trauma and intersectional oppression.
- Moving into the 1980s: Enter the era of the War on Drugs, zero tolerance, and prison proliferation—nationwide trends; again, Long Island is no exception
 - 1983- Supreme Court claims that people cannot be incarcerated for failing to pay debts. Corrections Corporation of America, the first and largest of contemporary private prison corporations, was founded.
 - 1984- Sentencing Reform Act prescribes mandatory minimums and eliminates judicial discretion.
 - 1986- Anti-Drug Abuse Act institutes 100:1 disparity—a minimum sentence of five years without parole for possessing five grams of crack cocaine (mostly used by Blacks), and the same punishment for 500 grams of powder cocaine (used mainly by Whites).
 - 1994- Clinton signs Violent Crime Control and Law Enforcement Act, the “largest crime bill in the history of the country,” which is sponsored by then-Senator Joe Biden. Among its provisions are \$9.7 billion for prisons, funding for 100,000 new police officers, and the system of Byrne grants. The act also bans incarcerated people from receiving Pell Grants for college. Additionally, it gives the DOJ the power to sue police departments for civil rights infractions. The Violence Against Women Act is part of the bill.
 - 1994- Zero-tolerance policies in the United States became widespread in 1994, after federal legislation required states to expel for one year any student who

- brought a firearm to school or lose all federal funding. These policies are promoted as preventing drug abuse and violence in schools.
 - 1996- Clinton signs welfare reform, increasing obstacles for people convicted of drug felonies to access the social safety net, and immigration reform, which increases deportation for noncitizens convicted of past and current crimes.
- The turn of the millennium brought 9/11 and its seismic and ongoing impacts on American culture and politics
 - 2002- President George W. Bush establishes the Department of Homeland Security and shortly thereafter US Immigration and Customs Enforcement (ICE) was formed.
 - 2010- Federal Fair Sentencing Act reduces 100:1 disparity between crack and powder cocaine to 18:1. Michelle Alexander publishes *The New Jim Crow*. Marc Levin founds “Right on Crime,” the conservative group promoting mass incarceration reform.
 - 2014- Obama administration reverses its policy on asylum seekers, deciding that ICE will detain all arriving Central American families, even those judged to be “fleeing a credible threat” who will likely be granted asylum. California voters pass Proposition 47, which reclassifies many non-serious, non-violent property and drug crimes as misdemeanors.
- Into the second decade of the new millennium, thanks to the work of advocates and the media, attention finally begins to be drawn to the school-to-prison pipeline and disproportionality. The “Stolen Time” report, highlighting high and deeply disproportionate suspension rates using 2016-17 New York State data, was a breakthrough moment <https://equityinedny.edtrust.org/stolen-time/>.
- In the Trump era, we experience an ever-more-deeply polarized politics, which includes a re-awakened consciousness—in a lot of ways, we’re “back to the 1960s”
 - Following the police-involved killing of George Floyd in Minneapolis in May 2020, Cuomo directed all police departments to develop plans to work more harmoniously with community members, and to implement those plans by April 2021 to receive state funding.
 - Influential leaders in a variety of roles, who have been honing more holistic approaches for years, increasingly implement “radical” policies intended to address root causes, an approach embodied by Judge Camacho and Sheriff Toulon.
 - Long Island mirrors the polarization that is exemplified nationwide. This is evidenced by the voices of those who reside and work on the Island.

III. Narratives/Themes Presented:

Our research into the lived experiences of students, educators, law enforcement, officers of the court system, and advocates with the school-to-prison pipeline on Long Island identified five key problem areas as well as possible antidotes to each, as evidenced by work being done in the area.

PROBLEM 1: Children not feeling safe or that they belong

- Kids feeling unsafe, uncared for, and unwelcome
- Not feeling safe isn't only felt in school, it is also in their neighborhood or home
- Feeling unsafe was not only physical but emotional.

ANTIDOTE: Creating a community of care

- Remember: "Behavior is communication"
- Build trust and relationships
- Tell kids they are NOT the problem
- "Adults need to apologize when they get it wrong."

PROBLEM 2: Oppressive societal constructs

- Racism and intersectional oppression
- Anti-immigrant sentiment
- Segregation
- All of which perpetuates most harm on those who are marginalized in multiple ways—i.e., special needs; LGBTQIA+

ANTIDOTE: Culturally sustaining practices

- Culturally responsive teaching & learning (Gay, 2018)
- Antiracist recommendations (Diem & Welton, 2020)
- Promote youth voice
- Hire more educators of color
- Address implicit bias and anti-blackness
- Help students feel more included and connected to their school community

PROBLEM 3: Trauma

- Adverse Childhood Experiences (ACES) experiencing violence, abuse, or neglect; witnessing violence; growing up in a household with substance abuse, mental health issues, suicide, incarceration (Source: CDC)
- Triggers "survival brain"; poor decision-making
- Linked to chronic health problems, mental illness, and substance use
- Painful to face and talk about, so young people think they are alone, damaged, broken—and at fault (disempowered)
- "They don't want to know"
- "I blamed myself for everything"

ANTIDOTE: Resilience

- Trauma-informed practice; healing-centered engagement (Ginwright, 2020)
- Acknowledging what happened: voice; storytelling
- Recognizing and building resilience: individual and community strength
- "I look at myself as a warrior, right? Like I'm a survivor"
- "There's nobody stronger than us"

PROBLEM 4: Punitive disciplinary policies

- Individual codes of conduct; highly subjective
- Harsh, exclusionary punishments
- Zero tolerance
- High-stakes testing puts pressure on teachers and administrators
- Schools as prisons: “safety” officers; metal detectors
- Time out of school—learning time lost; home instruction wildly inadequate
- These attitudes mirrored in other systems: DSS, PINS, courts

ANTIDOTE: Restorative practices

- Restorative Justice >>> Restorative Practice
- “Restorative practice is used for healing”
- Social work, guidance: “Counselors, not Cops”
- Legislation (NY State Safe and Supportive Schools Act)
- Advocacy for families—know your rights
- Innovative leaders inside the court system who integrate restorative, caring, and healing practices into existing systems

PROBLEM 5: Long Island culture & identity

- CHALLENGES
 - Deeply segregated by design
 - Living in a very polarized place
 - Long Island culture both entwined with NYC and its “success” culture and a supposed escape from city crime and grime
 - Silence
- Persistent myths
 - Wealth—it’s now pockets of wealth amidst poverty
 - Demographics of incarcerated—majority now White
 - Gangs are the biggest problem—human trafficking is now a significant issue on Long Island as well.

ANTIDOTE: Coming together

- Community collaborations are necessary
- Having honest conversations
- Name it and call it out
- There is enough to go around

In conclusion: There is a growing awareness of three related things:

1. the role of trauma and adverse childhood experiences
2. that “behavior is communication” in school settings and community interactions
3. the reality of the school-to-prison pipeline and the need to disrupt it

Accepting these truths leads to a more intentional response that addresses the interrelated root causes. Long Island youth (and their families as well as other people trying to support them) are wrestling an “octopus”:

- Racism & intersectional oppression
- Poverty
- Toxic stress at home (including experiencing homelessness)
- Toxic stress at school
- Mental health challenges
- Substance abuse
- Human trafficking
- Gangs

RELATIONSHIPS (UBUNTU) ARE THE KEY

However, this is a paradigm shift, and it is taking time to fully manifest. Transformation will require shifts in three areas:

- Scarcity >>> Abundance
- Deficit lens >>> Asset lens
- Punitive >>> Restorative

IV. Related Issues:

Segregation & educational inequality through separate/unequal/tracked programming

Ten of the 16 New York State school districts with 80% or more Black and Latino students are on Long Island. These 10 hyper-segregated districts are not only racially segregated, with 93% of their students Black and Latino, but also economically segregated, with 70% of their students economically disadvantaged (AQE, 2017).

The below table compares the mean graduation rate (2018-19 school year) and mean percentage of students graduating with a “Regents with advanced designation” diploma in those 10 districts with the same data from a sample of 10 Long Island districts enrolling at least 85 percent White and Asian students. The majority-White-and-Asian school district sample was culled from a Patch.com report on Long Island’s “best places to live,” in turn derived from a 2019 Niche.com (tagline: “Find Where You Belong”) report on the “best places to live in the United States.”

	Majority Black/Latino districts*	Majority white districts**
Mean graduation rate	73.3 %	96.7%
% graduating “Regents with advanced designation”	18%	81.2%

*Hempstead, Roosevelt, Freeport, Westbury, Copiague, Amityville, Wyandanch, Brentwood, Central Islip, Uniondale

**Syosset, Jericho, Garden City, Great Neck, Manhasset, Three Village, Herricks, Roslyn, East Williston, Bellmore-Merrick

V. References:

Publications:

Alexander, M. (2012). *The new Jim Crow*. The New Press.

Diem, S., & Welton, A. (2020). *Anti-racist educational leadership and policy: Addressing racism in public education*. Routledge.

Gay, G. (2018). *Culturally responsive teaching: Theory, research, and practice (Third edition.)*. Teachers College Press.

Ginwright, S. (2020). *The future of healing: Shifting from trauma informed care to healing centered engagement*. Medium.

Love, B. (2019). *We want to do more than survive*. Beacon Press.

Meek, S. E., & W. S. Gilliam. (2016). *Expulsion and suspension in early education as matters of social justice and health equity*. NAM Perspectives. Discussion Paper, National Academy of Medicine, Washington, DC. doi: 10.31478/201610e

Van der Kolk, B. (2014). *The body keeps the score*. Penguin.

Links:

<http://www.ageny.org/wp-content/uploads/2017/02/NYS-Perpetuates-educational-inequity-on-Long-Island-final-2.pdf>

<https://data.nysed.gov/profile.php?county=058> (Suffolk)

<https://data.nysed.gov/profile.php?county=028> (Nassau)

<https://patch.com/new-york/gardencity/best-places-live-long-island-2019>

<https://www.niche.com/blog/best-places-to-live-in-america-by-state/>

Suffolk County Sheriff Errol Toulon formed a Prison Pipeline Task Force in the fall of 2018:

<https://bayshore.greaterlongisland.com/2019/05/15/suffolk-county-is-working-toward-cracking-the-prison-pipeline-problem/>

Unlocking the Door to Learning: Trauma-Informed Classrooms & Transformational Schools:
<https://www.elc-pa.org/wp-content/uploads/2015/06/Trauma-Informed-in-Schools-Classrooms-FINAL-December2014-2.pdf>

Adverse Childhood Experiences (ACEs):
<https://www.cdc.gov/violenceprevention/aces/index.html>

<https://www.americanprogress.org/issues/early-childhood/reports/2015/10/08/122867/point-of-entry/>

https://equityinedny.edtrust.org/wp-content/uploads/sites/5/2019/08/Stolen-Time_2018.pdf

<https://www.newsday.com/long-island/education/schools-suspensions-students-racial-disparity-1.24329928>

<https://projects.newsday.com/long-island/unequal-justice-part-1/>

<https://projects.newsday.com/long-island/unequal-justice-part-2/>

<https://www.nysenate.gov/legislation/bills/2019/s767/amendment/b>

<https://osg.ca.gov/sg-report/>