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Sogand Falahatpour  
*University of Richmond School of Law*

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A GARDENER'S TALE<sup>1</sup>: CONFRONTING RACIAL  
DISCRIMINATION AT THE INTERSECTION OF THE  
SCHOOL-TO-PRISON PIPELINE AND ADOLESCENT HEALTH

*Sogand Falahatpour\**

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<sup>1</sup> Camara Phyllis Jones, *Levels of Racism: A Theoretic Framework and a Gardener's Tale*, 90 AM. J. PUB. HEALTH 1212, 1213–14 (2000) (presenting an allegory about a gardener with two flower boxes, rich and poor in soil, and red and pink flowers representing the relationship between levels of racism and the impact of racism on health).

\* Sogand Falahatpour, J.D., Class of 2021 at the University of Richmond School of Law.

## ABSTRACT

*Racism is a public health crisis and it is killing Black youth. Systemic racism in education is a root cause of a long list of inequities faced by Black youth. These inequities compound over the years and create extreme hurdles to academic success and, in many cases, are hazardous to overall health.*

*The school-to-prison pipeline is a severe health equity issue affecting Black children and adolescents. Racism is a core social determinant of health that has a profound impact on child and adolescent health. Moreover, health is not just an individual matter; institutional and structural forces influence who has access to the opportunities and resources needed to thrive. The racial inequities fueling the school-to-prison pipeline must be viewed through a public health lens to identify leverage points for intervention.*

*A Gardener's Tale, a theoretical framework, presents racism's effects on three levels: institutionalized, personally mediated, and internalized.<sup>1</sup> This framework presents an allegory about a gardener with two flower boxes and illustrates the relationship between the three levels of racism and their impact on health outcomes.<sup>2</sup> This comment seeks to dissect the social and legal inequities and racism embedded in America's soil and the dangers of a Gardener that is not concerned with equity.*

*Part I introduces racism as a social determinant of health and the resulting health inequities as a pervasive public health crisis. Part II explores institutionalized or structural racism nationally, followed by a discussion of Personally Mediated Racism in Public Education that Perpetuate the School-to-Prison Pipeline, specifically in Virginia, focusing on the combination of resource starvation: physical and emotional and overly punitive disciplinary systems. Part III outlines the theory of racial inequality and social integration perpetuating the School-to-Prison Pipeline and creating A Public Health Emergency for Black Youth. Part IV surveys the role of Internalized Racism on Psychological Functioning and Risk Behaviors in Black Youth. Lastly, Part V outlines some of the countless effective and evidence-based Best Practices & Alternative Discipline Strategies and briefly surveys recently enacted and proposed legislation.*

## INTRODUCTION

“Achieving health equity requires valuing everyone equally with focused and ongoing societal efforts to address avoidable inequalities, historical and contemporary injustices, and the elimination of health and health care disparities.”<sup>3</sup>

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<sup>2</sup> *Id.*

<sup>3</sup> Shobha Srinivasan & Shanita D. Williams, *Transitioning from Health Disparities to a Health Equity Research Agenda: The Time Is Now*, 129 PUB. HEALTH REPS. 71, 72 (2014).

The first step in achieving health equity is to define it: “if it hurts people, if it kills people, it’s a public health issue.”<sup>4</sup> Racism is defined as a “‘system of structuring opportunity and assigning value based on race, that unfairly disadvantages some individuals and communities,’ and advantages others.”<sup>5</sup> We must address racism as what it is: a powerful, structural force that restricts optimal health for all.<sup>6</sup> Whether explicit or implicit, racism operates at the individual, community, and systemic level.<sup>7</sup> Racism can impact health via several pathways: (1) reduced access to employment, housing, and education and increased exposure to risk factors (avoidable contact with police); (2) adverse cognitive and emotional processes and associated psychopathology; (3) allostatic overload; (4) declining participation in healthy behaviors and increased engagement in negative, unhealthy behaviors (e.g., substance abuse); and (5) physical injury as a result of racially-motivated violence.<sup>8</sup>

Communities nationwide gathered in the summer of 2020 to express the disgust and grief at the impacts of cultural, racial, and historical trauma.<sup>9</sup> Police violence is only one example of structural racism within our criminal justice system. Mass incarceration of people of color further illustrates how racial inequity and discriminatory practices perpetuate racialized health disparities within our criminal justice system.<sup>10</sup> The consequences extend far beyond a jail sentence when a Black individual enters the criminal justice system.<sup>11</sup>

A growing number of state and local government leaders and health organizations acknowledged racism as a critical public health concern by declaring racism a public health crisis.<sup>12</sup> Among the organizations are the

<sup>4</sup> Christine Vestal, *Racism Is a Public Health Crisis, Say Cities and Counties*, PEW CHARITABLE TRS. (June 15, 2020), <https://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2020/06/15/racism-is-a-public-health-crisis-say-cities-and-counties>.

<sup>5</sup> Jennifer Jee-Lyn Garcia & Mienah Zulfacar Sharif, *Black Lives Matter: A Commentary on Racism and Public Health*, 105 AM. J. PUB. HEALTH 27, 27 (2015).

<sup>6</sup> See *Racism and Health*, AM. PUB. HEALTH ASS’N, <https://www.apha.org/topics-and-issues/health-equity/racism-and-health> (last visited Feb. 20, 2021).

<sup>7</sup> Chloe Edwards, *Virginia Must Declare Racism as a Public Health Crisis*, VA. KIDS (Sept. 17, 2020), <https://vakids.org/our-news/blog/virginia-must-declare-racism-as-a-public-health-crisis>.

<sup>8</sup> Yin Paradies et al., *Racism as a Determinant of Health: A Systematic Review and Meta-Analysis*, 10 PLOS ONE 1, 2 (2015).

<sup>9</sup> See Crystal Milner, *‘It just weighs on your psyche’: Black Americans on mental health, trauma, and resilience*, STAT (July 6, 2020), <https://www.statnews.com/2020/07/06/it-just-weighs-on-your-psyche-black-americans-on-mental-health-trauma-and-resilience/>.

<sup>10</sup> Connor Maxwell & Danyelle Solomon, *Mass Incarceration, Stress, and Black Infant Mortality*, CTR. FOR AM. PROGRESS (June 5, 2018), <https://www.americanprogress.org/issues/race/reports/2018/06/05/451647/mass-incarceration-stress-black-infant-mortality/>.

<sup>11</sup> See generally NAT’L RSCH. COUNCIL, *THE GROWTH OF INCARCERATION IN THE UNITED STATES: EXPLORING CAUSES AND CONSEQUENCES* 5–7 (Jeremy Travis et al. eds., 2014).

<sup>12</sup> *Racism is a Public Health Crisis*, AM. PUB. HEALTH ASS’N (2021), <https://www.apha.org/topics-and-issues/health-equity/racism-and-health/racism-declarations>.

American Public Health Association, the American Medical Association, the American Academy of Pediatrics, and the American College of Emergency Physicians.<sup>13</sup> The Department of Public Health has recognized that social determinants of health, including racism-propelled adverse socioeconomic conditions, are key drivers of health disparities.<sup>14</sup> Yet, public health concerns are often discussed without any acknowledgment of their connection to racism.<sup>15</sup> Local, state, and national goals to eradicate racialized health disparities alone will be ineffective if we ignore the growing body of research declaring health disparities and discrimination as by-products of racism.<sup>16</sup> Social determinants of health—the conditions in which people are born and live, work, and play—are key drivers of health inequities killing Black Americans.<sup>17</sup> Now more than ever, it is time for a race-conscious approach to public health to focus on institutional and societal systems in place that negatively affects health outcomes.<sup>18</sup>

Racism is rooted in the foundation of the nation, especially exhibited in Virginia. As the former capital of the Confederacy, the Commonwealth has a long and embedded history of discrimination against Black people.<sup>19</sup> A prominent example of structural racism is present in our educational systems through the school-to-prison pipeline.<sup>20</sup> The school-to-prison pipeline results in systemic, discriminatory, and disproportionate disadvantages among Black individuals.<sup>21</sup> Therefore, it is important to understand that efforts to diminish racialized health disparities will not have a long-standing impact without considering structural inequities within our educational system.<sup>22</sup> Implementation of a reformative public health paradigm requires a multilevel

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<sup>13</sup> *Id.*; Jacqueline Howard, *Racism is a public health issue and 'police brutality must stop,' medical groups say*, CNN (June 1, 2020), <https://www.cnn.com/2020/06/01/health/racism-public-health-issue-police-brutality-wellness-bn/index.html>.

<sup>14</sup> See NAT'L CTR. FOR HEALTH STATS., HEALTHY PEOPLE 2010 FINAL REVIEW O-18 (2012), [https://www.cdc.gov/nchs/data/hpdata2010/hp2010\\_final\\_review.pdf](https://www.cdc.gov/nchs/data/hpdata2010/hp2010_final_review.pdf).

<sup>15</sup> See Paradies et al., *supra* note 8, at 2–3.

<sup>16</sup> Srinivasan & Williams, *supra* note 3, at 72.

<sup>17</sup> See NAT'L ACAD. OF SCIS., COMMUNITIES IN ACTION: PATHWAYS TO HEALTH EQUITY 1 (James N. Weinstein et al. eds., 2017).

<sup>18</sup> See *id.* at 12.

<sup>19</sup> See Chloe Edwards, *Advocate to Declare Racism As A Public Health Crisis in Virginia*, ACES CONNECTION (Jan. 29, 2021), <https://www.acesconnection.com/blog/advocate-to-declare-racism-as-a-public-health-crisis-in-virginia>.

<sup>20</sup> Nancy A. Heitzeg, *Education Or Incarceration: Zero Tolerance Policies And The School To Prison Pipeline*, F. ON PUB. POL'Y 1, 1–2 (2009).

<sup>21</sup> *Id.*

<sup>22</sup> Gilbert C. Gee & Chandra L. Ford, *Structural Racism and Health Inequities: Old Issues, New Directions*, 8 DU BOIS REV. 115, 117 (2011).

and interdisciplinary approach to racialized educational systems and their direct association to health disparities among Black communities.<sup>23</sup>

## I. BLACK MINDS MATTER: THE SCHOOL TO PRISON PIPELINE IS A PUBLIC HEALTH CRISIS

### A. Institutionalized Racism & Inaction in the Face of Need

*"Racism is a system of structuring opportunity and assigning value based on the social interpretation of how one looks (which is what we call "race"), that unfairly disadvantages some individuals and communities, unfairly advantages other individuals and communities, and saps the strength of the whole society through the waste of human resources."*<sup>24</sup>

- Camara Phyllis Jones, MD, MPH, PhD

The School-to-Prison Pipeline is a prominent example of structural racism, including inequitable access to education and bias in the criminal system.<sup>25</sup> These conditions contribute to severe mental and physical health issues and begin in early childhood, continue in youth, and throughout Black Americans' lifetime.<sup>26</sup>

Federal and state policies and practices have long perpetuated and systematically discriminated against communities of color by limiting access to necessary resources to change these systems.<sup>27</sup> As the former capital of the Confederacy and epicenter of the American slave trade, Virginia has a long history of racism against Black Americans.<sup>28</sup> It is important that Virginia formally acknowledges past and present racism in the Commonwealth as a public health crisis and finds solutions to the problem.

In Virginia, health inequities cost a reported 917 million dollars over three years in 2012.<sup>29</sup> On January 26, 2021, the Virginia House passed House Joint

<sup>23</sup> David Satcher & Eve J. Higginbotham, *The Public Health Approach to Eliminating Disparities in Health*, 98 AM. J. OF PUB. HEALTH 400, 401–402 (2008).

<sup>24</sup> Camara Phyllis Jones, *Toward the Science and Practice of Anti-Racism: Launching a National Campaign Against Racism*, 28 ETHNICITY & DISEASE 231, 231 (2018).

<sup>25</sup> NAACP LEGAL DEF. & EDUC. FUND, INC., *DISMANTLING THE SCHOOL-TO-PRISON PIPELINE* (2018), [https://www.naacpldf.org/wp-content/uploads/Dismantling\\_the\\_School\\_to\\_Prison\\_Pipeline\\_\\_Criminal-Justice\\_\\_.pdf](https://www.naacpldf.org/wp-content/uploads/Dismantling_the_School_to_Prison_Pipeline__Criminal-Justice__.pdf).

<sup>26</sup> See Maria Trent et al., *The Impact of Racism on Child and Adolescent Health*, 144 PEDIATRICS 1, 2, 4 (2019).

<sup>27</sup> See Sabrina Moreno, *Doctors, state officials and advocates push to pass legislation declaring racism a public health crisis in Virginia*, RICH. TIMES-DISPATCH (Jan. 22, 2021), [https://richmond.com/news/local/doctors-state-officials-and-advocates-push-to-pass-legislation-declaring-racism-a-public-health-crisis/article\\_c9f8ef69-b6a2-5695-9b90-9f5a3f629ad8.html](https://richmond.com/news/local/doctors-state-officials-and-advocates-push-to-pass-legislation-declaring-racism-a-public-health-crisis/article_c9f8ef69-b6a2-5695-9b90-9f5a3f629ad8.html).

<sup>28</sup> *Id.*

<sup>29</sup> Chloe Edwards, *Take Action: Declare Racism as a Public Health Crisis in VA*, VA. KIDS (Jan. 20, 2021), <https://vakids.org/our-news/blog/organizational-individual-sign-on-racism-as-a-public-health-crisis>.

Resolution No. 537, a bill introduced by Delegate Lashrecse Aird to declare racism as a public health crisis in Virginia.<sup>30</sup> The bill discusses how systemic racism has manifested as a determinant of health through persistent racial disparities in criminal justice, education, health care, and employment, to name a few.<sup>31</sup>

*B. Personally Mediated Racism in Public Education that Perpetuate the School-to-Prison Pipeline in Virginia*

*“It is easier to build strong children than to repair broken men.”*

– Frederick Douglass

“Every child deserves access to high-quality and equitable educational opportunities without fear of discrimination or criminalization.”<sup>32</sup> Personally mediated racism is where prejudice, intentional and unintentional, includes acts of commission as well as omission.<sup>33</sup> This level of racism manifests as a lack of respect, suspicion, devaluation, scapegoating, and dehumanization.<sup>34</sup> The academic and achievement gaps between Black students and their white peers indicate these continued inequities in opportunities to learn in our country's schools.

Over the last three decades, a significant body of research has analyzed and assessed the intersection of the pervasive racial disparities in education and criminal justice systems.<sup>35</sup> The cumulation of the criminal justice system's punitive approach has bled into our education system, excluding students from public educational systems by redirecting and funneling them towards the prison.<sup>36</sup> Collectively referred to as the school-to-prison pipeline, the punitive disciplinary policies and practices have been described by the NAACP as “one of the most urgent challenges in education today.”<sup>37</sup> While our schools are meant to symbolize our society's commitment to providing children with the resources and knowledge necessary to become productive citizens, it has instead complemented and reinforced systems of social

<sup>30</sup> *Id.*; H.J. Res. 537, 2021 Gen. Assemb., Reg. Sess. (Va. 2021).

<sup>31</sup> Va. H.J. Res. 537.

<sup>32</sup> Sierra Campbell, *The Counseling Not Criminalization in Schools Act Will Encourage Important Shifts Away from Police Officers in Schools*, CHILDREN'S DEF. FUND (Aug. 12, 2020), <https://www.childrensdefense.org/blog/counseling-not-criminalization-in-schools-act/>.

<sup>33</sup> Jones, *supra* note 1.

<sup>34</sup> *Id.* at 1213.

<sup>35</sup> See Chauncey D. Smith, *Deconstructing the Pipeline: Evaluating School-to-Prison Pipeline Equal Protection Cases Through a Structural Racism Framework*, 36 FORDHAM URB. L.J. 1009, 1016 (2009).

<sup>36</sup> NAACP LEGAL DEF. & EDUC. FUND, INC., *supra* note 25.

<sup>37</sup> *Id.*

inequity already in place.<sup>38</sup> Interrupting the Pipeline caused by institutional racism requires a new paradigm that recognizes the dramatic and permanent consequences for children of color's social, physical, and mental development.<sup>39</sup>

The school-to-prison pipeline is rooted in three levels of racism represented in significant sociological inequities including: lack of resources: both physical and emotional, racial discrimination, socioeconomic status, and the rise in zero-tolerance policies.<sup>40</sup> Minor offenses that once led students to an administrator's office or detention are instead leading to suspension, expulsion, and arrests.<sup>41</sup>

### *C. Lack of Resources: Physical and Emotional*

*"The nature of the criminal justice system has changed. It is no longer primarily concerned with the prevention and punishment of crime, but rather with the management and control of the dispossessed."*

- Michelle Alexander

“[T]he School-to-Prison Pipeline begins with a lack of resources, both physical and emotional.”<sup>42</sup> Specifically, the inadequacies of public education in neglected and under-resourced areas of concentrated poverty set students up to fail.<sup>43</sup> Schools notorious for being School-to-Prison Pipelines suffer from serious resource deficiencies evidenced by insufficient funding, unqualified teachers, and a lack of guidance counselors.<sup>44</sup> As a result of these resource deficiencies, students are locked into second-rate educational environments where inadequate resources for counselors, special education services, and even school supplies do not receive the attention they require.<sup>45</sup> The Pipeline disproportionately impacts low-income students of color and those with special needs because they grow up in contexts that set them up for poor health and education outcomes.<sup>46</sup>

<sup>38</sup> See Erin M. Carr, *Educational Equality and the Dream That Never Was: The Confluence of Race-Based Institutional Harm and Adverse Childhood Experiences (ACEs) in Post-Brown America*, 12 GEO. J. L. & MOD. CRITICAL RACE PERSPS. 115, 137 (2020).

<sup>39</sup> *Id.*

<sup>40</sup> Fatema Ghasletwala, *Examining the School-to-Prison Pipeline: Sending Students to Prison Instead of School*, 32 J. C.R. & ECON. DEV. 19, 20 (2018).

<sup>41</sup> *Id.* at 29.

<sup>42</sup> *Id.* at 20.

<sup>43</sup> NAACP LEGAL DEF. & EDUC. FUND, INC., *supra* note 25.

<sup>44</sup> AMIR WHITAKER ET AL., AM. CIV. LIBERTIES UNION, COPS AND NO COUNSELORS: HOW THE LACK OF SCHOOL MENTAL HEALTH STAFF IS HARMING STUDENTS 4–5 (2019), <https://www.aclu.org/report/cops-and-no-counselors>.

<sup>45</sup> *School to Prison Pipeline*, ACLU, <https://www.aclu.org/issues/juvenile-justice/school-prison-pipeline> (last visited Mar. 4, 2021).

<sup>46</sup> NAT'L ACAD. OF SCIS., *supra* note 17, at 8.



### D. Special Education

Addressing inequities in identification and service provision is a very important target for reducing gaps in educational achievement and access. Early identification and sustained intervention have tremendous benefits and improve mental health, academic performance, and opportunities and could continue to confer protective effects on mental health, educational attainment, social mobility, and career success.<sup>47</sup>

### E. From Rehabilitation to Punitive Paradigms

Schools have often been both hostile and challenging environments for Black youth—many experience individual discrimination from other students and teachers and institutional racism results in chronic underfunding.<sup>48</sup> Zero-tolerance policies requiring specific punishments for misbehavior are one of the school-to-prison pipeline's core contributors.<sup>49</sup> An entire body of scholarship has consistently documented the powerful and far-reaching adverse effects of zero tolerance and punitive discipline measures; in recent decades, schools have abandoned in-school suspensions for a tough-love approach to student discipline.<sup>50</sup> Zero tolerance and exclusionary punitive measures were adopted nationwide following a string of school shootings and the passage of the Gun-Free Schools Act of 1994.<sup>51</sup> As schools nationwide began adopting zero-tolerance policies, the number of suspensions and expulsions nearly doubled for minority students.<sup>52</sup>

What is most troublesome about zero-tolerance policies is that they apply regardless of the seriousness of the behavior, mitigating circumstances, or unique circumstances of the incident.<sup>53</sup> Although lawmakers enacted these policies to handle the most serious offenses, school districts began to adopt and implement the "broken windows" theory of policing.<sup>54</sup> This theory emphasizes punishing minor offenses to make a community feel safer and deter

<sup>47</sup> MARGARITA ALEGRÍA ET AL., WILLIAM T. GRANT FOUND., DISPARITIES IN CHILD AND ADOLESCENT MENTAL HEALTH AND MENTAL HEALTH SERVICES IN THE U.S. 14 (2015), <http://wtgrantfoundation.org/library/uploads/2015/09/Disparities-in-Child-and-Adolescent-Mental-Health.pdf>.

<sup>48</sup> *Id.*

<sup>49</sup> Farnel Maxime, *Zero-Tolerance Policies and the School To Prison Pipeline*, SHARED JUST. (Jan. 18, 2018), <https://www.sharedjustice.org/domestic-justice/2017/12/21/zero-tolerance-policies-and-the-school-to-prison-pipeline>.

<sup>50</sup> Danielle Weatherby, *Student Discipline and the Active Avoidance Doctrine*, 54 U.C. DAVIS L. REV. 491, 503 (2020).

<sup>51</sup> *Id.* at 503–04.

<sup>52</sup> Libby Nelson & Dara Lind, *The school to prison pipeline, explained*, JUST. POL'Y INST. (Feb. 24, 2015), <http://www.justicepolicy.org/news/8775>.

<sup>53</sup> Rocio Rodriguez Ruiz, Comment, *School-To-Prison Pipeline: An Evaluation of Zero Tolerance Policies and Their Alternatives*, 54 HOUS. L. REV. 803, 808 (2017).

<sup>54</sup> Maxime, *supra* note 49.

from more serious crimes.<sup>55</sup> This eventually broadened the scope to include non-violent and non-criminal behaviors such as excessive absences, defiance of authority, and defacing school property.<sup>56</sup>

“[P]unitive school discipline policies not only deprive students of educational opportunities, but fail to make schools safer places.”<sup>57</sup> “In fact, this research on suspensions indicated that despite frequent use, such exclusionary discipline practices are not effective in reducing problematic behaviors.”<sup>58</sup> The presence of zero tolerance and punitive discipline policies within schools also has long-term negative effects on the student by increasing the likelihood of future disciplinary problems and eventually increasing contact with the juvenile justice system.<sup>59</sup>

In its 2018 report, the ABA Coalition on Racial & Ethnic Justice (COREJ) found that “African-American students comprised only sixteen percent of the student population during the 2011–2012 school years, but they represented thirty-two percent of students who received an in-school suspension; thirty-three percent of students who received one out-of-school suspension; forty-two percent of students who received more than one out-of-school suspension; and thirty-four percent of students who were expelled.”<sup>60</sup> Zero-tolerance policies are a by-product of racial segregation, and these policies complement other forms of institutionalized racism.<sup>61</sup> Exclusionary practices, such as suspension, interfere with educational progress and perpetuate a cycle of failure.<sup>62</sup> Exclusionary discipline has proven to be an ineffective means of behavior modification.<sup>63</sup> The proximate cause of the student's behavior is not addressed through exclusion and therefore serves as a function of behavior reinforcement rather than behavior modification.<sup>64</sup>

The criminalization of school discipline and the ever-present role of school resource officers (SROs) has shifted the educational system's

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<sup>55</sup> *Id.*

<sup>56</sup> Christopher A. Mallett, *The School-to-Prison Pipeline: A Critical Review of the Punitive Paradigm Shift*, 33 CHILD & ADOLESCENT SOC. WORK J. 15, 18 (2016).

<sup>57</sup> Thalia Gonzalez, *Keeping Kids in Schools: Restorative Justice, Punitive Discipline, and the School to Prison Pipeline*, 41 J. L. & EDUC. 281, 282 (2012).

<sup>58</sup> *Id.* at 288.

<sup>59</sup> *Id.* at 282–83.

<sup>60</sup> AM. BAR ASS'N TASK FORCE ON REVERSING THE SCHOOL-TO-PRISON PIPELINE, REPORT, RECOMMENDATIONS AND PRELIMINARY REPORT 6 (2018).

<sup>61</sup> Carr, *supra* note 38, at 126.

<sup>62</sup> Christine A. Christle et al., *Breaking the School to Prison Pipeline*, 13 EXCEPTIONALITY 69, 70 (2005).

<sup>63</sup> *Id.*

<sup>64</sup> See David Osher et al., *How Can We Improve School Discipline*, 39 EDUC. RESEARCHER 48, 48 (2010).

responsibility from prevention and protection of the student body.<sup>65</sup> These intensive, inherently re-traumatizing practices create discriminatory educational settings that resemble prisons more so than schools, functioning as a mechanism for control rather than fostering a healthy educational setting.<sup>66</sup>

The presence of SRO's within schools has been linked to the school-to-prison pipeline's persistence and has disproportionately harmed youth of color and students with disabilities.<sup>67</sup> While the officer's presence of SROs in schools was meant as a means of protection, it has instead increased criminalization and arrests for low-level and relatively minor transgressions.<sup>68</sup> A 2020 study found that school police placement led to “increased reliance on surveillance, unreasonable search and seizure, inappropriate sharing of confidential information, activities to develop student informants in the school, and an emphasis on formal controls [that] create[d] an environment of fear and distrust, reduce[d] perceived legitimacy of police, weaken[ed] the school's sense of community, and diminish[ed] students' willingness to confide in school staff when they are experiencing problems.”<sup>69</sup> The presence of and interactions with police hinders achievement and further reinforces trauma for students struggling with mental health.<sup>70</sup> The daily placement of police roaming the halls in schools has had a detrimental effect on the overall school climate.<sup>71</sup> Youth of color have been the target of aggressive and persistent police threats and use of physical force.<sup>72</sup> SROs have now become the response to any minor student misbehavior to maintain "order" in classrooms instead of school personnel.<sup>73</sup> These students have reported disturbingly higher rates of anxiety, trauma, and post-traumatic stress disorders.<sup>74</sup>

There is considerable evidence that Black students and students with disabilities have been disproportionately singled out and arrested for relatively

<sup>65</sup> Matthew T. Theriot, *School Resource Officers and the Criminalization of Student Behavior*, 37 J. CRIM. JUST. 280, 280 (2009).

<sup>66</sup> *See id.*

<sup>67</sup> Denise C. Gottfredson et al., *Effects of School Resource Officers on School Crime and Responses to School Crime*, 19 CRIMINOLOGY & PUB. POL'Y 905, 909 (2020).

<sup>68</sup> *See id.* at 911.

<sup>69</sup> *Id.* at 928.

<sup>70</sup> *See id.*

<sup>71</sup> ACLU, BULLIES IN BLUE: THE ORIGINS AND CONSEQUENCES OF SCHOOL POLICING 32 (2017), [https://www.aclu.org/sites/default/files/field\\_document/aclu\\_bullies\\_in\\_blue\\_4\\_11\\_17\\_final.pdf](https://www.aclu.org/sites/default/files/field_document/aclu_bullies_in_blue_4_11_17_final.pdf).

<sup>72</sup> Heitzeg, *supra* note 20, at 2; Jason P. Nance, *Dismantling the School-to-Prison Pipeline*, 48 ARIZ. ST. L. J. 313, 318 (2016).

<sup>73</sup> Heitzeg, *supra* note 20, at 2; Nance, *supra* note 72.

<sup>74</sup> CITIZENS FOR JUV. JUST. & STRATEGIES FOR YOUTH, HOW DO SCHOOL RESOURCE OFFICERS IMPACT RACIAL EQUITY IN THE NATION'S SCHOOLS: A REVIEW OF RESEARCH & SCHOLARSHIP 4-5 (2020), <https://strategiesforyouth.org/sitefiles/wp-content/uploads/2020/12/How-Do-SROs-Impact-Racial-Equity-in-Schools.pdf>.

minor school-based offenses.<sup>75</sup> An analysis of federal data by the Education Week Research Center found that 43 states and the District of Columbia reported that Black students are arrested at disproportionately high levels; further, 28 states reported that “the share of arrested students who are Black is at least ten percentage points higher than their share of enrollment in schools with at least one arrest.”<sup>76</sup> “In 10 of those states, that gap is at least 20 percentage points.”<sup>77</sup> Black boys are at the highest risk nationally and are three times more likely to be arrested at school than their white male peers.<sup>78</sup> Predictably, the most recent data published by the U.S. Department of Education found that Black students are more likely than students in any other racial or ethnic group to attend schools with police.<sup>79</sup> According to research conducted by the U.S. Department of Education, bad or worse behavior is not the explanation for the disproportionate treatment and overrepresentation of black students and students with special needs.<sup>80</sup> The negative disproportionalities might make sense if the removal resulted in safer schools or improved outcomes, but that is not the case.<sup>81</sup> In fact, the Disciplinary Disparity Collaborative reports that regardless of the method, studies have shown no evidence of Black students engaging in more seriously disruptive behaviors warranting higher rates of exclusion and punishment.<sup>82</sup>

#### *F. Virginia: A "Hot Spot" for Referrals*

Zero-tolerance policies, exclusionary disciplines, and school policing exploit and reinforce trauma allowing race-based social inequity and the school-to-prison pipeline to continue.<sup>83</sup> Every young person disproportionately subject to harsher punishments based on their race or pushed out of schools into the juvenile justice system is a missed opportunity for schools and communities to guide these youth into productive members of society.<sup>84</sup>

<sup>75</sup> *Id.* at 12.

<sup>76</sup> Evie Blad & Alex Harwin, *Black Students More Likely to Be Arrested at School*, EDUCATIONWEEK (Jan. 24, 2017), <https://www.edweek.org/leadership/black-students-more-likely-to-be-arrested-at-school/2017/01>.

<sup>77</sup> *Id.*

<sup>78</sup> *Id.*

<sup>79</sup> *Id.*

<sup>80</sup> SARAH E. REDFIELD & JASON P. NANCE, THE AMERICAN BAR ASSOCIATION JOINT TASK FORCE ON REVERSING THE SCHOOL-TO-PRISON PIPELINE PRELIMINARY REPORT, 2016 A.B.A. CRIM. JUST. SECTION & COUNCIL FOR RACIAL & ETHNIC DIVERSITY IN THE EDUC. PIPELINE 20–21.

<sup>81</sup> See Maxime, *supra* note 49.

<sup>82</sup> See PRUDENCE CARTER ET AL., DISCIPLINE DISPARITIES SERIES: OVERVIEW 4 (2014), [https://safesupportivelearning.ed.gov/sites/default/files/Discipline\\_Disparities\\_Overview.pdf](https://safesupportivelearning.ed.gov/sites/default/files/Discipline_Disparities_Overview.pdf); see also REDFIELD & NANCE, *supra* note 80.

<sup>83</sup> Lisa Pilnik, *The School-to-Prison Pipeline: Incarceration Replacing Education is a Public Health Issue*, 21 CITY LIGHTS 1, 1 (2015), [https://juvjustice.org/sites/default/files/ckfinder/files/CityLights-March\\_2015-Adolescent\\_Health\\_Issue\\_0.pdf](https://juvjustice.org/sites/default/files/ckfinder/files/CityLights-March_2015-Adolescent_Health_Issue_0.pdf).

<sup>84</sup> *Id.*

In the spring of 2015, the Center for Public Integrity (CPI) released a study that reported schools in Virginia refer students to law enforcement three times more often than the national average.<sup>85</sup> First, students with disabilities — defined broadly as students with physical limitations and those with emotional issues — were disproportionately more likely to be suspended or expelled.<sup>86</sup> Second, the data uncovered significant racial disparities.<sup>87</sup> African Americans account for 23.9 percent of the student population in Virginia, yet 38.3 percent of referrals to schools' juvenile courts.<sup>88</sup> These disparities begin at the school level and are maintained through actual referrals to juvenile justice and involvement with the courts.<sup>89</sup>

In 2017, the Legal Aid Justice Center released *Suspended Progress*, a brief that highlighted the state of exclusionary disciplinary practices in the Commonwealth of Virginia's public school system.<sup>90</sup> The report results revealed hundreds of thousands of students excluded from school for weeks and even months at a time for mostly non-violent, minor misbehavior and "status" offenses including attendance violations.<sup>91</sup> The Commonwealth used access to education as a punitive measure for misbehavior, depriving students most in need.<sup>92</sup> During the 2016-2017 academic year, Virginia schools had issued over 127,800 out-of-school suspensions to over 73,000 students.<sup>93</sup> Suspensions were issued to students as young as pre-k to 3rd grade, with 18,000 short-term suspensions and over 111 long-term suspensions.<sup>94</sup> Data revealed that most of these disciplinary actions were taken in response to minor offenses such as cell phone possession, minor insubordination, defiance, and use of inappropriate language.<sup>95</sup>

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<sup>85</sup> Cassie Powell, "One of the Worst:" *The School-to-Prison Pipeline in Richmond*, RVAGOV.COM (Mar. 2016), <http://www.rvagov.com/#!blank-1/gqnoj>.

<sup>86</sup> *Id.*

<sup>87</sup> Susan Ferriss, *Virginia Tops Nation in Sending Students to Cops, Court: Where Does Your State Rank?*, CTR. FOR PUB. INTEGRITY (Feb. 19, 2016), <https://publicintegrity.org/education/virginia-tops-nation-in-sending-students-to-cops-courts-where-does-your-state-rank/>.

<sup>88</sup> *Id.*

<sup>89</sup> *Id.*

<sup>90</sup> AMY WOOLARD ET AL., LEGAL AID JUST. CTR., *SUSPENDED PROGRESS 2018: AN UPDATE ON THE STATE OF EXCLUSIONARY DISCIPLINE & ALTERNATIVE EDUCATION IN VIRGINIA'S PUBLIC SCHOOLS I* (2018), <https://www.justice4all.org/wp-content/uploads/2018/10/FullSuspendedProgress2018.pdf>.

<sup>91</sup> *Id.*

<sup>92</sup> *Id.* at 2.

<sup>93</sup> *Id.* at 1.

<sup>94</sup> *Id.*

<sup>95</sup> *Id.*

## II. SCHOOL-TO-PRISON PIPELINE: A PUBLIC HEALTH EMERGENCY FOR BLACK YOUTH

### A. *Theory of Racial Inequality and Social Integration*

“The theory of racial inequality and social integration addresses the psychological pathways by which racial-discrimination experiences influence mental and physical health.”<sup>96</sup> Many of the studies linking social inequality with health outcomes are based on a stress model that postulates that inequalities result in chronic stress that triggers physiological responses that increase the likelihood of disease and mortality in children.<sup>97</sup> When experiences chronically challenge biological systems, the body's resilience and ability diminish, and potentially result in disease.<sup>98</sup> The resulting impact of the exposure to this stress and on multisystem function is referred to as the “allostatic load.”<sup>99</sup> Research has linked exposure to social stress and decreased immune function.<sup>100</sup> Biomarkers of allostatic load include increased heart rate, abnormal variation in cortisol levels, acute inflammation and antibody exposure, obesity, and symptoms of diabetes, to name a few.<sup>101</sup>

### B. *Mental Health*

“Mental Health is recognized as a central determinant of individual well-being, family relationships, and engagement in society.”<sup>102</sup> The first meta-analysis to focus specifically on racism and health using a comprehensive and rigorous search protocol found that racism is significantly related to poorer health.<sup>103</sup> The meta-analysis consisted of 293 studies reported and 333 articles located and found a stronger relationship for poor mental health than physical health.<sup>104</sup> Current meta-analysis data suggest that exposure to racial discrimination may be associated with biological and psychological changes that are complex and long-lasting, influencing health outcomes in the future.<sup>105</sup> The stronger association between racism and mental health outcomes, compared to physical health, question the mechanisms by which racism affects health. “[E]xposure to racism may be implicated in hypothalamic-pituitary-adrenal (HPA) axis dysregulation that, in turn...damage[s] bodily

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<sup>96</sup> Kathy Sanders-Phillips et al., *Social Inequality and Racial Discrimination: Risk Factors for Health Disparities in Children of Color*, 124 PEDIATRICS S176, S178 (2009).

<sup>97</sup> *Id.* at S179.

<sup>98</sup> *Id.*

<sup>99</sup> *Id.*

<sup>100</sup> *Id.*

<sup>101</sup> *Id.*

<sup>102</sup> ALEGRÍA ET AL., *supra* note 47, at 1.

<sup>103</sup> See Paradies et al., *supra* note 8, at 27–28.

<sup>104</sup> See *id.* at 24.

<sup>105</sup> Sanders-Phillips et al., *supra* note 97, at S180.

systems and leads to physical outcomes such as CVD and obesity. . . . The impacts of racism on the dysregulation of cognitive-affective regions such as the prefrontal cortex . . . amygdala, and thalamus share similarities with pathways leading to anxiety, depression, and psychosis.”<sup>106</sup> Moreover, neuroimaging studies have identified activation of these regions correlated with distress levels and are analogous to the activation of regions involved in physical pain.<sup>107</sup> Neurobiological changes like these are “precursors to racism-related vigilance and rumination which are emerging as health risk factors in their own right.”<sup>108</sup>

Black adolescents have excessive levels of unmet need for mental health care, with about 80% of those who need care not receiving it.<sup>109</sup> For example, Black children often are considered the most underserved population and are only half as likely to participate in programs than their Caucasian peers.<sup>110</sup> In the absence of preventative or early intervention programs, these children are left to receive substandard, if any, mental health services through juvenile justice or welfare programs.<sup>111</sup>

Additionally, youth raised in impoverished communities are disproportionately disadvantaged and predictably have higher depression and substance abuse rates.<sup>112</sup> Youth exposed to adverse childhood experiences (ACEs) are at the greatest risk of not having regular health maintenance and correlate with short and long-term physical and mental health consequences.<sup>113</sup> Aggressive and delinquent behavior often emerges following trauma exposure and is directly associated with impairment in school functioning.<sup>114</sup> Additional studies in adolescents have found that children exposed to these conditions demonstrated deficits in attention, abstract reasoning, and long-term memory for verbal information compared to their peers.<sup>115</sup> Schools are an integral setting for supporting students whose trauma, chronic stress, ACEs, and special needs interfere with their mental health and school success.

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<sup>106</sup> *Id.*

<sup>107</sup> *Id.*

<sup>108</sup> *Id.*

<sup>109</sup> Sheryl H. Kataoka et al., *Unmet Need for Mental Health Care Among U.S. Children: Variation by Ethnicity and Insurance Status*, 159 AM. J. PSYCHIATRY 1548, 1551 (2002).

<sup>110</sup> *See id.* at 1548.

<sup>111</sup> *See* Tessa Heller, *Mandatory School-Based Mental Health Services and the Prevention of School Violence*, 24 HEALTH MATRIX 279, 294–95 (2015).

<sup>112</sup> S. HOOVER ET AL., NAT’L CTR. FOR SCH. MENTAL HEALTH, *ADVANCING COMPREHENSIVE SCHOOL MENTAL HEALTH: GUIDANCE FROM THE FIELD* 14 (2019).

<sup>113</sup> *Id.*

<sup>114</sup> *See* LISA H. JAYCOX ET AL., *COGNITIVE BEHAVIORAL INTERVENTION FOR TRAUMA IN SCHOOLS*, at xiii (2d ed., Rand Corp. 2018).

<sup>115</sup> *See generally id.*

### III. INTERNALIZED RACISM: PSYCHOLOGICAL FUNCTIONING AND RISK BEHAVIORS IN BLACK YOUTH

Racism and poor mental health outcomes have long been correlated for Black individuals.<sup>116</sup> Lack of access to resources, low-quality services, and an understandable distrust in our healthcare system stack the barriers to treatment and prevention.<sup>117</sup> Black people have long been misdiagnosed with many psychiatric disorders rooted in racist origins to pathologize their behavior.<sup>118</sup>

The development of racial awareness in children of color poses a critical developmental challenge.<sup>119</sup> Children of color must somehow build a healthy self-concept, decrease psychological distress, and identify coping strategies in the face of racial discrimination that consistently undermine the actualization of their goals.<sup>120</sup> Merton's theory of anomie<sup>121</sup> argues that it is the disjunction between goals and legitimate means to attain those goals that leads an individual to innovate or participate in deviant or criminal activity.<sup>122</sup> Anomie is characterized by feelings of lack of control and hopelessness over life outcomes and develops when children perceive contradictions between opportunities in the larger society and actual opportunities in their own life experiences.<sup>123</sup> Exposure to societal attitudes and stereotypes among children developing inference-making skills can foster negative perceptions about their own group.<sup>124</sup> This racial discrimination can increase low self-worth, increase self-consciousness, and decrease self-efficacy.<sup>125</sup> These belief-systems deteriorate youth mental health at an especially vulnerable life stage and foster anger, depression, and symptoms of anxiety.<sup>126</sup> In adolescence, Black youth show greater awareness of social status conditions and are especially influenced by racial discrimination through personal experience or

<sup>116</sup> Paradies et al., *supra* note 8, at 17.

<sup>117</sup> *Id.* at 2.

<sup>118</sup> Abby Quirk, *Mental Health Support for Students of Color During and After the Coronavirus Pandemic*, CTR. FOR AM. PROGRESS (July 28, 2020), <https://www.americanprogress.org/issues/education-k-12/news/2020/07/28/488044/mental-health-support-students-color-coronavirus-pandemic/>.

<sup>119</sup> Sanders-Phillips, *supra* note 96.

<sup>120</sup> See ALEGRIA ET AL., *supra* note 47, at 7, 10.

<sup>121</sup> Christian Wickert, *Anomie Theory (Merton)*, SOZTHEO (Mar. 28, 2019), <https://soztheo.de/theories-of-crime/anomie-strain-theories/anomie-theory-merton/?lang=en>. Merton's anomie theory is that most people strive to achieve culturally recognized goals. *Id.* The state of anomie is triggered when access is blocked to entire groups of people, resulting in deviant behaviors like rebellion, retreat, ritualism, and/or conformity. *Id.*

<sup>122</sup> *See id.*

<sup>123</sup> Sanders-Phillips, *supra* note 96.

<sup>124</sup> *Id.*

<sup>125</sup> *Id.*

<sup>126</sup> *Id.* at §180.



observation.<sup>127</sup> The realization of membership in a devalued social group carries the potential of feelings of extreme anger and anomie.<sup>128</sup> These experiences have enduring effects on mental and physical health into adulthood. Many public health researchers have argued that exposure to racial discrimination and social inequality creates a chronic biological challenge to human regulatory systems.<sup>129</sup> Various sampling schemes and methodologies have found consistent physiological reactivity and arousal, such as elevated heart rates and elevated blood pressure in response to racial discrimination.<sup>130</sup>

#### IV. TOWARDS A BRIGHTER FUTURE: BEST PRACTICES

Schools are de facto mental health care providers for young people.<sup>131</sup> Many factors contribute to the school-to-prison pipeline, but schools play a key role in accelerating or intervening.<sup>132</sup> Schools can magnify the circumstances known to amplify development and education to minimize the burdens of adversity while opportunities are advanced.<sup>133</sup>

School personnel is uniquely positioned to know students, learn their history and family dynamics, and provide education and resources; doing so depends on building strong conditions for learning and addressing the students' social, emotional, and academic needs.<sup>134</sup> All school personnel from K-12 should have the knowledge and resources to assess and intervene, even if they are not trained, mental health professionals. Enhancing educators' and school leaders' professional capacity to create and sustain strong learning conditions is crucial to students' and society's well-being.<sup>135</sup>

##### *A. Restorative Justice or Restorative Practices*

The U.S. Department of Education defines restorative justice ("RJ") practices as "non-punitive disciplinary responses that focus on repairing harm done to relationships and people, developing solutions by engaging all parties

<sup>127</sup> See Trent et al., *supra* note 26, at 2.

<sup>128</sup> See *id.* at 4.

<sup>129</sup> See Alissa Greenberg, *How the stress of racism can harm your health - and what that has to do with COVID-19*, PBS (July 14, 2020), <https://www.pbs.org/wgbh/nova/article/racism-stress-covid-allostatic-load/>.

<sup>130</sup> Sanders-Phillips, *supra* note 96, at S179–S180.

<sup>131</sup> See generally Steve Jacob & Alberto Coustase, *School Based Mental Health: A De-Facto Mental Health System for Children*, 18 J. HOSP. MKTG. & PUB. RELS. 197 (2008).

<sup>132</sup> See Elise Cappella et al., *Enhancing Schools' Capacity to Support Children in Poverty: An Ecological Model of School-Based Mental Health Services*, 35 ADMIN. POL'Y MENTAL HEALTH 395, 397 (2008).

<sup>133</sup> See Osher et al., *supra* note 64, at 51.

<sup>134</sup> See *id.* at 49.

<sup>135</sup> See *id.* at 48.

affected by the harm and accountability.”<sup>136</sup> The RJ process involves the offender, victim, community (e.g., teachers, administrators, and other students), and a facilitator.<sup>137</sup> The practice proceeds in two steps: a facilitated dialogue about the harms and needs of all participants and a development plan for how all parties will contribute to repairing and preventing harm and restoring relationships.<sup>138</sup> Examples of successful RJ processes include peer mediation, class meetings, restorative circles, and community conferencing.<sup>139</sup> Research has shown that RJ practices in schools are more effective than traditional punitive responses and reduce harmful behaviors.<sup>140</sup> Further, RJ practices mitigate racial disparities present in traditional discipline practices.<sup>141</sup> Reduction in punitive practice has been shown to create an overall positive school culture with higher academic success and lower dropout rates.<sup>142</sup>

### *B. School-wide Positive Behavior Interventions and Supports*

School-wide Positive Behavior Interventions and Supports ("PBIS") is an evidence-based three-tiered systems approach to supporting the social and emotional needs of all children.<sup>143</sup> More than 21,000 schools across the nation utilize PBIS.<sup>144</sup> Data from numerous studies have shown “improvements in disciplinary behavior, school climate, organizational health, student bullying behavior and peer victimization, and academic achievement.”<sup>145</sup> Tier 1 practices establish a foundation of consistent, proactive support while presenting unwanted behaviors.<sup>146</sup> Tier 2 practices support students who are at risk for developing more serious behaviors before they begin.<sup>147</sup> Tier 3 consists of

<sup>136</sup> See U.S. DEP'T OF EDUC., GUIDING PRINCIPLES: A RESOURCE GUIDE FOR IMPROVING SCHOOL CLIMATE AND DISCIPLINE 24 (2014), <https://www2.ed.gov/policy/gen/guid/school-discipline/guiding-principles.pdf>.

<sup>137</sup> TREVOR FRONIUS ET AL., WESTED JUST. & PREVENTION RSCH. CTR., RESTORATIVE JUSTICE IN U.S. SCHOOLS: AN UPDATED RESEARCH REVIEW 10 (2019).

<sup>138</sup> *Id.* at 5.

<sup>139</sup> *Id.* at 8.

<sup>140</sup> *Id.* at 17.

<sup>141</sup> *Id.* at 19.

<sup>142</sup> Claudia G. Vincent et al., *Effectiveness of Schoolwide Positive Behavior Interventions and Supports in Reducing Racially Inequitable Disciplinary Exclusion*, in CLOSING THE SCHOOL DISCIPLINE GAP: EQUITABLE REMEDIES FOR EXCESSIVE EXCLUSION 13, 16 (Daniel Losen ed., 2015) (referencing studies which suggest that implementation of SWPBIS results in less school discipline incidents and higher academic success).

<sup>143</sup> See Karen Elfner Childs et al., *The Relationship Between School-Wide Implementation and Supports and Student Discipline Outcomes*, 18 J. POSITIVE BEHAV. INTERVENTIONS 1, 1 (2015).

<sup>144</sup> *Id.*

<sup>145</sup> *Id.*

<sup>146</sup> See *Tier 1: What is Tier 1 Support?*, CTR. ON PBIS, <https://www.pbis.org/pbis/tier-1> (last visited Feb. 19, 2021).

<sup>147</sup> *Tier 2: What is Tier 2 Support?*, CTR. ON PBIS, <https://www.pbis.org/pbis/tier-2> (last visited Feb. 17, 2021).

higher intensity interventions for students at high risk and rely on assessments to determine student needs.<sup>148</sup>

### C. SEL and Racial Literacy

Social-Emotional Learning ("SEL") specifically teaches students emotional and social skills in an academic setting.<sup>149</sup> SEL is the process through which children and adults apply the knowledge, attitude, and skill necessary to understand and manage a range of emotions, set and achieve goals, show and feel empathy, establish and maintain healthy relationships and make responsible decisions.<sup>150</sup> Research has shown that implementing SEL leads to a reduction in problem behaviors like physical aggression and disruption.<sup>151</sup> These, in turn, lead to an increase in academic achievement and graduation rates and a more positive attitude towards school.<sup>152</sup>

Research has shown that even in schools at various stages of implementing school-wide positive behavior supports, Black students were still over three times more likely than white students to be suspended for behavioral offenses.<sup>153</sup> Part of the reason for this disparity could be the shortage of trauma-informed teachers of color. While educators from different racial, ethnic and social backgrounds can successfully teach low-income students of color, the disconnect occurs from a lack of understanding and separation from students' out-of-school lives.<sup>154</sup> For example, attributing poor school performance to deficient ability levels can result from misinterpretation of culturally specific behaviors. Further, the inability to establish a positive student relationship can lead to classroom discipline challenges. A vital component to SEL includes fostering racial literacy to understand racial dynamics to foster authentic inter-racial relationships.<sup>155</sup>

### D. Trauma-Informed Care

Trauma-informed care ("TIC") is a systematic way of responding to individuals who have a history of trauma and recognizing the role, presence, and

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<sup>148</sup> Tier 3: What is Tier 3 Support?, CTR. ON PBIS, <https://www.pbis.org/pbis/tier-3> (last visited Feb. 17, 2021).

<sup>149</sup> What is SEL?, CASEL, <https://casel.org/what-is-sel/> (last visited Feb 21, 2021).

<sup>150</sup> *Id.*

<sup>151</sup> Vincent, *supra* note 142, at 216.

<sup>152</sup> Roger Weissberg, *Why Social and Emotional Learning Is Essential for Students*, EDUTOPIA (Feb. 15, 2016), <https://www.edutopia.org/blog/why-sel-essential-for-students-weissberg-durlak-domitrovich-gullotta>.

<sup>153</sup> See Vincent, *supra* note 142, at 1.

<sup>154</sup> *Id.* at 17.

<sup>155</sup> Positive Action Staff, *The Five Social Emotional Learning (SEL) Core Competencies*, POSITIVE ACTION (Sept. 4, 2020), <https://www.positiveaction.net/blog/sel-competencies>.

effect from that trauma that is pervasive in the individual's life.<sup>156</sup> TIC addresses the impact of trauma and aims to be collaborative, supportive, and skill-based.<sup>157</sup> Three factors improve the ability of traumatized children to function: "(1) increasing the strength of parent-child/ surrogate caregiver relationships, (2) providing and improving cognitive skills, and (3) giving children the ability to self-regulate their attention, emotion, and behavior."<sup>158</sup> Close attention to each of these factors is important in considering how to best assist children in school and implement trauma-informed care processes. TIC programs must be applied to all children and not just those with trauma exposure. Classroom cohesion is correlated with achievement levels for all levels and produces less conflict and disorganization.<sup>159</sup> TIC will benefit all students and not only those who have been subject to ACEs or traumatic experiences.<sup>160</sup>

Childhood trauma activates elevated levels of stress hormones like cortisol and catecholamines which are responsible for the "fight or flight" response.<sup>161</sup> The stress response system's activation can lead to impulsive behaviors, emotional dysregulation, and limited executive functioning that perpetuate the SPP.<sup>162</sup> In 2016, the National Survey of Children's Health concluded that Black children are an overrepresented population of children with ACEs, and over six in every ten experience at least one ACE.<sup>163</sup> Generations of disinvestment in these communities expose and condition children at an early age to systems of race-based social inequity.<sup>164</sup> The fact that exposure to ACEs may be continued through intergenerational transmission of trauma is especially alarming. Intergenerational trauma is expressed in a variety of forms, including maladaptive socioemotional symptoms and poor health.<sup>165</sup> In fact, the magnitude of this "chain of risk" is so potent that some studies have even

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<sup>156</sup> Ellen Yaroshefsky & Anna Shwedel, *Changing the School to Prison Pipeline: Integrating Trauma Informed Care in the New York City School System*, in *Collected Essays Impact: Threat of Economic Inequality*, N.Y. L. SCH. IMPACT CTR. PUB. SERV. L.J. 99, 105 (2015), [https://scholarlycommons.law.hofstra.edu/faculty\\_scholarship/918](https://scholarlycommons.law.hofstra.edu/faculty_scholarship/918).

<sup>157</sup> *Id.*

<sup>158</sup> *Id.*

<sup>159</sup> *Id.* at 106.

<sup>160</sup> *Id.*

<sup>161</sup> See Michael D. De Bellis & Abigail Zisk, *The Biological Effects of Childhood Trauma*, 23 CHILD & ADOLESCENT PSYCHIATRIC CLINICS N. AM. 185, 187 (2015).

<sup>162</sup> See Jonathan E. Sherin & Charles B. Nemeroff, *Post-traumatic Stress Disorder: The Neurobiological Impact of Psychological Trauma*, 13 DIALOGUES CLINICAL NEUROSCIENCE 263, 263–64 (2011).

<sup>163</sup> Vanessa Sacks & David Murphey, *The prevalence of adverse childhood experiences, nationally, by state, and by race or ethnicity*, CHILD TRENDS (Feb. 20, 2018), <https://www.childtrends.org/publications/prevalence-adverse-childhood-experiences-nationally-state-race-ethnicity>.

<sup>164</sup> See *id.*

<sup>165</sup> See Claudia Buss et al., *Intergenerational Transmission of Maternal Childhood Maltreatment Exposure: Implications for Fetal Brain Development*, 56 J. AM. ACAD. CHILD & ADOLESCENT PSYCHIATRY 373, 374 (2017).

indicated its impact before childbirth.<sup>166</sup> Countering the manifestation and perpetuation of race-based ACE's in the SPP requires an honest assessment of present-day inequities within the educational system.

### *E. Cultural Competency and Implicit Bias Training*

In 2007, the Virginia Department of Health released a resource manual for developing cultural competence. The Culturally Responsive Practices are divided into four critical levels: culturally responsive schools, culturally responsive educators, culturally responsive leadership, and culturally responsive pedagogy and teaching.<sup>167</sup> The four levels represent components of the educational system that can be transformed through culturally responsive practices to better serve students marginalized by race. Culturally responsive practices identify and situate student outcomes through an equity lens and are supported by culturally responsive pedagogies, identifying capacity building needs, and creating spaces for continuous community input and support.<sup>168</sup>

The unequal use of punitive discipline and zero-tolerance policies can easily be attributed to both conscious and unconscious racial bias of teachers, administrators, SROs, and other school personnel.<sup>169</sup> Students of color are often victims of pervasive implicit racial biases and decisions related to school discipline.<sup>170</sup> The ramifications of these disparities, such as the school-to-prison pipeline, can have considerable negative consequences that affect students' overall life trajectories.<sup>171</sup>

### CONCLUSION

The study of inequality in education and health has grown rapidly with a focus on quantifying the extent of the problem, identifying causal mechanisms, and developing and implementing interventions to eliminate the disparities. Even so, inequities persist and the health of Black children and adolescents highlights the intersection of various forms of inequality. The developing minds of children are shaped by the different settings in which they live and interact.<sup>172</sup> All students are more likely to thrive in safe, caring,

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<sup>166</sup> See, e.g., *id.*

<sup>167</sup> See *Cultural Competence*, VA. DEP'T OF EDUC., <https://www.virginiaisforlearners.virginia.gov/cultural-competence/> (last visited Feb. 25, 2021).

<sup>168</sup> *Id.*

<sup>169</sup> See Thomas Morris, *Implicit Bias and the School to Prison Pipeline*, 15 *ESSAI* 87, 89 (2017).

<sup>170</sup> See *id.*

<sup>171</sup> CHERYL STAATS, *IMPLICIT RACIAL BIAS AND SCHOOL DISCIPLINE DISPARITIES: EXPLORING THE CONNECTION* 1–2 (2014).

<sup>172</sup> See Kendra Cherry, *How Experience Influences Child Development*, VERYWELLMIND (Nov. 27, 2019), <https://www.verywellmind.com/experience-and-development-2795113>.

positive, and engaging learning environments.<sup>173</sup> Greater investment in public health and a deeper understanding of what is fueling racial health disparities will help reduce the health and achievement gaps perpetuating the school-to-prison pipeline. Providing young children with healthy environments in which they can grow is not only essential for their development but their long-term health. By acknowledging the consequences of racial discrimination and addressing these inequalities through interventions and prevention programs, we can foster empowerment and behavioral changes in Black youth. Society will suffer in the future if today's youth are not given the proper resources, and opportunities needed to thrive in society.

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<sup>173</sup> See Caroline Waldman, *Four Elements for Creating a Positive Learning Environment*, ALL FOR EXCELLENT EDUC. (Nov. 7, 2016), <https://all4ed.org/four-elements-for-creating-a-positive-learning-environment/>; see also Becton Loveless, *Strategies for Building a Productive and Positive Learning Environment*, EDUC. CORNER, <https://www.educationcorner.com/building-a-positive-learning-environment.html> (last visited Feb. 15, 2021).

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