**House Corrections and Juvenile Justice Committee**
**HB2264**
**Wednesday, February 8, 2017**

Chairman and Members of the Committee,

On behalf of my wife, Kathleen Harnish McKune, who could not be present today, and I thank you for this opportunity to present our concerns and proposals for modifications to SB367.

We believe that overall SB367 Kansas made significant progress in addressing needed reform and funding for Juvenile Justice. However, as is the case with most process improvements as comprehensive as SB367, there is still a need to refine in order to achieve further quality improvement and equitable treatment of our youth.

As is often the case in advocacy efforts, personal situation launched our efforts informed by our professional experience:

- On April 27, 2016 our 15-year old son was falsely accused of pulling the fire alarm at Olathe Northwest High School.
- The video evidence "against" him was poorly reviewed and did not follow any standard operating procedures.
- Our son vehemently denied pulling the fire alarm when questioned by the SRO and three different school administrators.
- The SRO and Assistant Principals insisted they had solid video evidence that he did it. Our 15-year old son asked to see the evidence and was told "You will see it in court."
- After a school administrator suggested that because our son can be impulsive (due to his medical diagnosis noted on his IEP) that he could have done it and not known; at which point, having endured on his own, four different adult interrogations, he falsely admitted to having done it but not remembering having done it.
- There was no parent present during any of the interrogation of our 15-year old son regarding his possible commitment of a crime at the school.
- The Notice to Appear (NTA) paperwork was completed and the 10-day suspension issued at which point his dad, Jim, arrived from work. Jim asked to see the video evidence and was told "It is in a different building." As like most people, Jim did not feel he could challenge the SRO nor school administrators. After a brief meeting with his son, Jim signed the paperwork and took him to his house. When you read the NTA, as a parent unfamiliar with the legal process you believe your only options are to sign the NTA or let the SRO take your child to JIAC directly. In this stressful situation, it is unclear of what you can/should do if you believe your child is innocent when the SRO and school administrators believe your child's false confession.
- The evidence was only thoroughly reviewed when a male ONW student came to the office at the end of the school day to let administrators know a girl pulled the alarm. That thorough review of the video evidence clearly indicated our son could not have possibly pulled the fire alarm. The NTA and Suspension were withdrawn.
- Both of us were leading a leadership training during this morning time frame. By the time we were able to pick up our messages at lunch break, all decisions were already made. Kathleen, his mom, has been the key advocate since our son's first IEP was put in place in 3rd grade. Waiting for our involvement would have done no damage but only improved the process.
- Without the brave ONW student coming forward, our son would now have a juvenile record (with fingerprints and photograph on file and shared with the KBI/FBI) for a crime he was pressured into falsely confessing to WITHOUT any parent or advocate representation. It is even more disturbing knowing he has an IEP.

- When we asked our son why he admitted to pulling the fire alarm when he knew he did not do it, he said, "I didn't know what else to do. I kept telling them I didn't do it and they kept telling me they had video evidence that I did. So I told them I did it but didn't remember doing it." He told us he was sobbing and had an "emotional breakdown" when he did so.
- Having experienced this trauma first hand, we began talking to numerous other parents of high school students and were shocked to learn just how often this type of questioning/interrogation without representation leading to suspension, expulsion, and arrest happens in our systems.

Given our findings, coupled with our extensive and relevant backgrounds (David as the Warden of Lansing Correctional facility for 21 years and as Director of the Johnson County Juvenile Detention Center for 3 years and Kathleen as a process improvement expert for over 25 years), we decided to advocate for systems improvement on behalf of all juveniles. We experienced how this process can be improved. We are committed to helping to do so.

As a result of our firsthand experience, discussions with other parents, and identifying several places where the system was in need of process improvement, we began researching the topic on a state and national level. What we found was eye opening. Like so many parents would naturally do, when we were initially told that our son had "confessed", we took it as valid at face value. Our research has revealed study after study that youth simply lack the ability to withstand the rigors of questioning and interrogation by adults. The American Psychological Association (APA) published a paper showing that in 328 cases of exoneration, fully 44% of juveniles had falsely confessed – of **youth between the ages of 12 to 15, the percentage was a staggering 75% false confession** rate. This demonstrates the critical necessity of having a parent/guardian/attorney present anytime a youth is going to be questioned by the SRO/Police about a possible criminal violation (whether custodial or pre-custodial) or when being questioned by school officials about serious behavioral violations that could lead to suspension, expulsion, and/or referral to law enforcement.

Our research has led us to four proposed legislative changes as follows:
(In the interest of time, I will only present a minimal summary of each, attached to this testimony paper are appendices with greater detail and proposed legislative change.)

**Issue #1: Parental Representation for Police Interrogation and School Suspensions**
Current law provides for parental representation only for children under the age of 14 when being interrogated by police about a possible crime, whereas minor children are designated as under the age of 18. We are advocating that all minor children be provided the right to parental representation, which can only improve the process and help lessen the rate of false confessions (44% in all minor children, 75% in children 12 – 15 years old as compared to 13% for adults). Here are a few examples of where parental approval is required for all minor children:

| | | | |
|---|---|---|---|
| School field trips | Vaccinations | Counseling | IEP evaluations |
| Marriage | Piercings | Tattoos | Driving permit |

It seems only reasonable that parents should be allowed to be present for something as potentially serious and life-changing as interrogation about a possible crime. Please see **Appendix A** for statute language and further background.

Current law, KSA 72-8902 provides for formal hearings and thus parental or legal representation for suspensions of more than 10 days. 10 day or less require only the student to be present. **Appendix E**: **The Impact of Juvenile Justice on our Children** summarizes extensive research indicating the significant negative impact on students of suspensions and expulsions as well as contact with the juvenile justice system. Again, parent representation can only improve the process and ensure children receive due process.

**Issue #2: Delay of fingerprints and photographs until after adjudication**
Current law, SB 367 Sec. 31, KSA 2015 Supp. 38-2313, provides that fingerprints and photographs MAY be taken "immediately upon taking the juvenile into custody or upon first appearance or in any event before final sentencing". Not a single parent we have encountered would like to have their innocent child fingerprinted and photographed with instant uploads to KBI and FBI criminal justice system. This places innocent children at risk of having their pictures and records pulled for inclusion in video line ups thereby greatly increasing their risk of being falsely accused yet again. It seems reasonable to amend current law to ensure only children that are determined to be guilty (upon adjudication) are fingerprinted and photographed. Expungement of juvenile records not only carries a monetary cost but subjects the innocent child and their family to additional process burden in addition to the fact that an expunged juvenile record is never completely deleted from criminal justice data bases, it is only CLOSED to other than law enforcement agencies. We propose that photographs and fingerprints be taken upon adjudication. Please refer to **Appendix B** for additional detail and specific statutory language.

**Issue #3: Improved Training**
Given the propensity of children to falsely confess (APA study cited earlier) as well as research showing that the standard police interrogation process for adults focuses on obtaining confessions whereas the interrogation process endorsed by the US Dept. of Justice, Office of Community Oriented Policing Services focuses on obtaining the truth. From my experience as the Warden of LCF and Director of Johnson Co. Juv. Detention Center in reviewing hundreds of pieces of video and audio evidence, it seems only reasonable to include training on the evaluation, use, and retention of such evidence. It is worth noting that I follow-up discussions with Director Pavey of the Ks Law Enforcement Training Center, he was impressed enough with the research to include our training topics into the Best Practices curriculum of the Center. Please refer to **Appendix C** for additional information and specifics we propose for SB 367, Sec. 14 language.

**Issue #4: De-criminalize Minor Actions by Students and Treat as Disciplinary Matters**
SB 367, Sec. 57 provides language that allows for campus police to enforce the rule and regulations of school boards. This is in direct contradiction to the recommendations of the Director of the US Dept. Of Education and the Department of Justice, Office of Community Oriented Policing Services when they state that school codes of conduct and school discipline should be the sole province of the school administrators. In all of our research and in reviewing the very intent of SB 367, this seems to us to be an oversight of language left in SB367 since the very nature of SB 367 is moving us away from involving police in disciplinary matters better addressed by school administrators and thereby reducing referrals to law enforcement. For amending Section 57, (e), please refer to **Appendix D** for additional information and specific statutory language.

Thank you for your time and consideration of these matters. From our collective career experience and extensive research into the current system, we know these four proposals will further the work of the Kansas legislature via the tremendous progress of SB367 in improving the juvenile justice system and in facilitating the reduction of referrals to the juvenile justice system.

I would be glad to answer any questions you might have.

# Appendix A

## Legislative Issue #1: Parental Representation

Parental representation at suspension hearings or SRO/police interviews should be a right for children ages 14 - 17. Under current law, children under the age of 14 must have parental representation when being questioned about a possible crime. Children aged 18 and older are afforded all adult rights regarding representation. This leaves a gap for children ages 14 – 17. In addition to our personal experience with this, there have been numerous similar occurrences nationally. A very recent example: On Friday, August 12, 2016 a federal judge in Wisconsin made national news by ordering the release of Mr. Dassey, 26, in 90 days unless the authorities give him a new trial. Part of the judge's ruling included the fact that Mr. Dassey falsely confessed to a murder at age 16 without a parent or attorney present during interrogation. Read more: at http://nyti.ms/2b3PRNd. Additionally, research shows that juveniles are much more likely than adults to falsely confess which again makes parental representation even more important. (see citation below)

The same issue applies to hearings conducted by the school in determining short-term suspension (suspensions of 10 days or less). The school is free to move forward with the suspension without any involvement of the parents or other representative by simply giving the student an oral or written notice that they are going to conduct the hearing immediately following the most basic, minimal procedures of due process. Considering (1) the potential dire impact of missing 2 full weeks of school (**which is 5% of the school year**) on most children, especially since no school provides short term suspension pupils with alternative school options; (2) that children inherently lack the development, maturity, executive functioning, and reasoning ability to make sound decisions regarding their best interest; and (3) the extremely high likelihood that children with falsely confess to actions they did not commit as a means to end the stress of the confrontation/hearing/interview. (see American Psychological Association CYF News, December 2014, "No Illusions: Developmental considerations in adolescent false confessions" – it states in part "In an evaluation of 328 exoneration cases, **44 percent** of juveniles falsely confessed, compared to 13 percent of adults. Among the youngest cases, involving 12 – 15 year-olds, **75 percent** falsely confessed" (emphasis added)

**We propose that the language in KSA 2012 38-2333 be modified as indicated below** (*proposed changes in highlighted italics* and strikethrough.

**38-2333. Juvenile less than ~~14~~ *18*, admission or confession from interrogation.** (a) When the juvenile is less than ~~14~~ *18* years of age, no admission or confession resulting from interrogation ~~while in custody or under arrest~~ may be admitted into evidence unless the confession or admission was made following a consultation between the juvenile's parent or attorney as to whether the juvenile will waive the right to an attorney and the right against self-incrimination. It shall be the duty of the facility where the juvenile has been delivered to make a reasonable effort to contact the parent immediately upon the juvenile's arrival unless the parent is the alleged victim or alleged codefendant of the crime under investigation.

(b) When a parent is the alleged victim or alleged codefendant of the crime under investigation and the juvenile is less than ~~14~~ *18* years of age, no admission or confession may be admitted into evidence unless the confession or admission resulting from interrogation ~~while in custody or under arrest~~ was made following a consultation between the juvenile and an attorney, or a parent who is not involved in the investigation of the crime, as to whether the juvenile will waive the right to an attorney and the right against self-incrimination. It shall be the duty of the facility where the juvenile has been delivered to make reasonable effort to contact a parent who is not involved in the investigation of the crime immediately upon such juvenile's arrival.

(c) After an attorney has been appointed for the juvenile in the case, the parent may not waive the juvenile's rights.

**History:** L. 2006, ch. 169, § 33; Jan. 1, 2007.

**In addition to changing current law and MOUs to require parental representation when any child under the age of 18 is being questioned about a possible crime, we propose that the language in KSA 79-7902 be modified** to *(proposed changes in highlighted italics* & ~~strikethrough~~*)*

**72-8902. Duration of suspension or expulsion; notice; hearings, opportunity afforded, waiver, time, who may conduct.**
(a) A suspension may be for a short term not exceeding 10 school days, or for an extended term not exceeding 90 school days. An expulsion may be for a term not exceeding 186 school days. If a suspension or expulsion is for a term exceeding the number of school days remaining in the school year, any remaining part of the term of the suspension or expulsion may be applied to the succeeding school year.
(b) (1) Except as authorized in provision (2), no suspension for a short term shall be imposed upon a pupil without giving the pupil notice of the charges and affording the pupil an opportunity for a *formal* hearing thereon *per KSA 72-8903*. The notice may be oral or written and the hearing may be held immediately after the notice is given *pursuant to 72-8902,(b) (2)*. ~~The hearing may be conducted informally but shall include the following procedural due process requirements: (A) The right of the pupil to be present at the hearing; (B) the right of the pupil to be informed of the charges; (C) the right of the pupil to be informed of the basis for the accusation; and (D) the right of the pupil to make statements in defense or mitigation of the charges or accusations. Refusal of a pupil to be present at the hearing will constitute a waiver of the pupil's opportunity for a hearing.~~
(2) A short-term suspension may be imposed upon a pupil forthwith, and without affording the pupil a hearing if the presence of the pupil endangers other persons or property or substantially disrupts, impedes or interferes with the operation of the school.
(c) A written notice of any short-term suspension and the reason therefor shall be given to the pupil involved and to the pupil's parent or guardian within 24 hours *following the hearing* ~~after the suspension has been imposed~~ and, in the event the pupil has not been afforded a hearing prior to any short-term suspension *pursuant to 72-8902,(b) (2)*, an opportunity for an ~~informal~~ hearing shall be afforded the pupil as soon thereafter as practicable but in no event later than 72 hours after such short-term suspension has been imposed. Any notice of the imposition of a short-term suspension that provides an opportunity for an ~~informal~~ hearing after such suspension has been imposed shall state that failure of the pupil to attend the hearing will result in a waiver of the pupil's opportunity for the hearing.

## Appendix B

**Legislative Issue #2: Don't Enter Fingerprints/Photos Until After Adjudication**

- Practice varies from jurisdiction to jurisdiction due to the discretion allowed in Section 31.
- The fingerprints are instantaneously transmitted to the KBI for their further distribution to the FBI.
- The photograph is instantaneously transmitted to the law enforcement database. These photographs may then be randomly selected by L.E. for mugshot line-ups.

Having an innocent child's fingerprints and photographs in the "juvenile criminal justice system" is wrong.

**We propose that the language in KSA 2015 Supp. 38-2313 be modified as indicated below** (*proposed changes in highlighted italics* and strikethrough – except that strikethrough in the following are from the final bill, not proposed herein: paragraph (a)(2) ~~subsection (a) of~~; (a)(3) ~~subsection (n)(1) or (n)(2) of~~; and (e) ~~subsection (a)(2) of~~.)

Sec. 31. K.S.A. 2015 Supp. 38-2313 is hereby amended to read as follows: 38-2313. (a) Fingerprints or photographs shall not be taken of any juvenile who is taken into custody for any purpose, except that:

(1) Fingerprints or photographs of a juvenile may be taken if authorized by a judge of the district court having jurisdiction;

(2) a juvenile's fingerprints shall be taken, and photographs of a juvenile may be taken, ~~immediately upon taking the juvenile into custody or upon first appearance or in any event~~ *upon adjudication and in any event* before final sentencing, before the court for an offense which, if committed by an adult, would constitute the commission of a felony, a class A or B misdemeanor or assault, as defined in ~~subsection (a) of~~ K.S.A. 2015 Supp. 21-5412*(a)*, and amendments thereto;

(3) fingerprints or photographs of a juvenile may be taken under K.S.A. 21-2501, and amendments thereto, if the juvenile has been: (A) Prosecuted as an adult pursuant to K.S.A. 2015 Supp. 38-2347, and amendments thereto; or (B) taken into custody for an offense described in ~~subsection (n)(1) or (n)(2) of~~ K.S.A. 2015 Supp. 38-2302*(s)(1) or (s)(2)*, and amendments thereto;

(4) fingerprints or photographs shall be taken of any juvenile admitted to a juvenile correctional facility; and

(5) photographs may be taken of any juvenile placed in a juvenile detention facility. Photographs taken under this paragraph shall be used solely by the juvenile detention facility for the purposes of identification, security and protection and shall not be disseminated to any other person or agency except after an escape and necessary to assist in apprehension.

(b) Fingerprints and photographs taken under subsection (a)(1) or (a)(2) shall be kept readily distinguishable from those of persons of the age of majority. Fingerprints and photographs taken under subsections (a)(3) and (a)(4) may be kept in the same manner as those of persons of the age of majority.

(c) Fingerprints and photographs of a juvenile shall not be sent to a state or federal repository, except that:

(1) Fingerprints and photographs may be sent to the state and federal repository if authorized by a judge of the district court having jurisdiction;

(2) a juvenile's fingerprints shall, and photographs of a juvenile may, be sent to the state and federal repository if taken under subsection (a)(2) or (a)(4); and

(3) fingerprints or photographs taken under subsection (a)(3) shall be processed and disseminated in the same manner as those of persons of the age of majority.

(d) Fingerprints or photographs of a juvenile may be furnished to another juvenile justice agency, as defined by K.S.A. 2015 Supp. 38-2325, and amendments thereto, if the other agency has a legitimate need for the fingerprints or photographs.

(e) Any fingerprints or photographs of an alleged juvenile offender taken under the provisions of ~~subsection (a)(2) of~~ K.S.A. 38-1611*(a)(2)*, prior to its repeal, may be sent to a state or federal repository on or before December 31, 2006.

(f) Any law enforcement agency that willfully fails to submit any fingerprints or photographs required by this section shall be liable to the state for the payment of a civil penalty, recoverable in an action brought by the

attorney general, in an amount not exceeding $500 for each report not made. Any civil penalty recovered under this subsection shall be paid into the state general fund.

(g) The director of the Kansas bureau of investigation shall adopt any rules and regulations necessary to implement, administer and enforce the provisions of this section, including time limits within which fingerprints shall be sent to a state or federal repository when required by this section.

Nothing in this section shall preclude the custodian of a juvenile from authorizing photographs or fingerprints of the juvenile to be used in any action under the Kansas parentage act, K.S.A. 2015 Supp. 23-2201 et seq., and amendments thereto.

## Appendix C

**Legislative Issue #3: Improved Training**

Improve SRO and School Administrator training as mandated by **SB 367 Section 14.** SB367 clearly establishes the goal of the training to be "creating a skill development training for responding effectively to misconduct in school while minimizing student exposure to the juvenile justice system." (emphasis added) David oversaw hundreds of video investigations in his 21 years as Warden of the state penitentiary. Not a single standard operating procedure was utilized when the SRO and three school administrators reviewed the video evidence in our son's arrest at school. This led to the false accusation and false confession of an innocent 15-year-old student.
Secondly, the interview techniques that are used on adults are not appropriate for use on children, false confessions from children occur at an alarmingly high rate as a result. From the American Psychological Association – "In an evaluation of 328 exoneration cases, **44 percent** of juveniles falsely confessed, compared to 13 percent of adults. Among the youngest cases, involving 12 – 15-year-olds, **75 percent** falsely confessed".[1] In reference to the interview techniques, see "takepart – The Proven Way to Keep More Innocent Teens From Confessing to Murder (and Why Police Won't Adopt It)", Tracy Tullis, Jun 17, 216; and Innocence Project, News 10-16-2015 – "Why are Youth Susceptible to False Confessions?"

We proposed these changes during the Attorney General's regulatory process, but the AG felt it was appropriate to stay with the specific language of SB367. However, in subsequent discussion with Director Ed Pavey of the Ks Law Enforcement Training Center, he was sufficiently convinced to place these additional topics of training into the Best Practices Curriculum of the school, even though he lacks the authority to require them in the approval of training per SB367.

**We propose that the required training curriculum be expanded to include interviewing and evidentiary process and procedures** *(proposed changes in highlighted italics)*

New Sec. 14. (a) The attorney general shall, in collaboration with the Kansas law enforcement training center and the state board of education, promulgate rules and regulations by January 1, 2017, creating a skill development training for responding effectively to misconduct in school while minimizing student exposure to the juvenile justice system.
(b) The skill development training shall include, but not be limited to, the following:

(1) Information on adolescent development;
(2) risk and needs assessments;
(3) mental health;
(4) diversity;
(5) youth crisis intervention;
(6) substance abuse prevention;
(7) trauma-informed responses; and
(8) other evidence-based practices in school policing to mitigate student juvenile justice exposure.
(9) *Methodology for conducting interviews with the goal being to obtain the truth as opposed to obtaining a confession*
(10) *Reviewing, analyzing, and saving evidence – audio, video, interviews, and physical*

(c) The superintendent of each school district or the superintendent's designee and any law enforcement officer primarily assigned to a school shall complete the skill development training.

[1]See American Psychological Association CYF News, December 2014, "No Illusions: Developmental considerations in adolescent false confessions"

## Appendix D

**Legislative Issue #4: De-criminalize Minor Actions by Students and Treat as Disciplinary Matters**

We need to de-criminalize the immature and impulsive decisions children make -- neuroscience tells us they have underdeveloped frontal lobes thereby limiting their executive functioning and impulse control. Counties in the states of Connecticut and Florida have developed innovative signed agreements between the school and the police limiting the circumstances under which students can be arrested at school. (See Juvenile Justice Reform in Connecticut: How Collaboration and Commitment Have Improved Public Safety and Outcomes for Youth. https://www.nttac.org/index.cfm?event=trainingCenter.resourceinfo&eventID=353&dtab=3 and http://www.modelsforchange.net/publications/594 for Broward County Florida MOU.) The MOUs for Windham, Connecticut and Broward County, Florida are recognized as "Best Practice" MOUs for establishing clear guidelines of behaviors which are clearly school disciplinary matters versus those necessary to involve L.E./SROs. While there is still room for improvement in these MOUs, they provide an excellent framework for crafting MOUs for the state of Kansas. Given the data regarding the negative impact of arresting and/or placing children in the juvenile detention system, alternatives should be developed so that arrest and/or detention is utilized only in cases of threats to the safety of the child or others. Children who are arrested at school are **3 times** more likely to drop out of school. Students who drop out of school are **8 times** more likely to be arrested in the future than children who graduate.

The language in SB 367 should be modified to make it clear that school discipline is not within the purview or responsibility of the SRO/campus police officer. **US Department of Education Director John B. King, Jr. stated in an open letter to the education professionals – "School districts that choose to use SROs should incorporate them responsibly into school learning environments and ensure that they have no role in administering school discipline."**
The Department of Justice, Office of Community Oriented Policing Services, issued a bulletin "Fact Sheet: Memorandum of Understanding Fact Sheet" which stated "When schools, communities, and law enforcement agencies work together to creatively tackle problems, they may be able to achieve a number of positive outcomes, including…. an increased understanding of an SRO's roles and responsibilities, including an understanding that school code of conduct violations and routine discipline of students remains the responsibility of school administrators and that law enforcement actions (such as arrest, citations, ticketing, or court referrals) are only to be used as a last resort for incidents that involve criminal behavior or when it becomes necessary to protect the safety of students, faculty, and staff from the threat of immediate harm;"

**We therefore propose that SB367 Section 57, (e) be modified as indicated below** (*proposed changes in highlighted/italics* and strikethrough):

(e) ~~In addition to enforcement of state law, county resolutions and city ordinances, campus police officers shall enforce rules and regulations and rules and policies of the board of trustees or school board, whether or not violation thereof constitutes a criminal offense.~~ *Memorandums of Understanding developed pursuant to Section 58 (i) shall include language establishing that school security officers/campus police officers have no role in administering school discipline.* While on duty, campus police officers shall wear and display publicly a badge of office. No such badge shall be required to be worn by any plain clothes investigator or departmental administrator, but any such officer shall present proper credentials and identification when required in the performance of such officer's duties. In performance of any of the powers, duties and functions authorized by this section, K.S.A. 22-2401a, and amendments thereto, or any other law, campus police officers shall have the same rights, protections and immunities afforded other law enforcement officers.

# Appendix E

**The Impact of Juvenile Justice on our Children**
Statistics and Data Compiled by David McKune and Kathleen Harnish McKune
December 2016

**Kansas Appleseed & KS ACLU survey**

- Nearly all (95%) respondents said they would choose to live in a community that invested in rehabilitation programs for youth in trouble with the law, as oppose to incarceration.
- A majority (89%) of respondents said they would be "more likely" to start a business in a community that had a wide range of rehabilitation programs for youth who get in trouble with the law, as opposed to incarceration.

**The High Cost Of Harsh Discipline And Its Disparate Impact; University of California June 2, 2016**

In the U.S., only **71 percent of tenth graders** who received a suspension graduated from high school, compared to **94 percent of tenth graders who did not** receive a suspension. In other words, being suspended is associated with a **23 percentage-point decrease in the likelihood of graduating**.

Some may resist calling for changes to discipline policy or practice on the grounds that suspensions cost the school nothing and help teachers maintain a more effective learning environment. If graduation rates inform the latter assumption, these findings add more robust evidence that suspensions damage academic outcomes.

**Education Leaders Report - Nat Assoc of State Boards of Ed - Advancing School Discipline Reform Aug 2015**

- When school discipline practices are aligned with efforts to promote the conditions and opportunities to learn, academic achievement improves
- Conversely, when school discipline does not promote the conditions for learning, it is a risk factor and is related to lower academic achievement
- US schools often rely on punitive and exclusionary forms of discipline—sanctions, office referrals, corporal punishment, suspensions, and expulsions—that fail to improve safety and undermine attendance
- In the 2011–12 school year, approximately **3.5 million** students received in-school suspension, 1.9 million students received a single out-of-school suspension, **1.55 million** students received multiple out-of-school suspensions, and **130,000** students were expelled
- The latest national data available, school year 2011–12, show that **students with disabilities are twice as likely** to be suspended as students without disabilities
- In 2009–10, while **5 percent** of districts had suspension rates that were 25 percent or higher, **34 percent** of districts had suspension rates that were 25 percent or higher for students with disabilities
- In a nationally representative study, adolescents who identify as "non-heterosexual" had between a 1**.25 and 3 times greater odds** of being sanctioned in school compared with their heterosexual peers
- Though one might think that students disciplined at higher rates misbehave more, the disproportionality in discipline is in fact not rooted in disparate levels of student misbehavior (Skiba and Williams 2014). Rather, students of color, students with disabilities, and students who identify as LGBT appear to be punished more severely for the same offenses
- If a student is **suspended just once in ninth grade**, the likelihood of his **dropping out doubles** (**16 percent** for those not suspended compared with **32 percent for those suspended once**).
- Districts and schools have also been implementing restorative practices, which schools can use to prevent and address conflict and poor behavior. These practices include restorative circles, family group conferences, social emotional learning, and affective questioning.

**"A Generation Later: What We've Learned about Zero Tolerance in Schools", Vera Institute of Justice, Center on Youth Justice, Issue Brief December 2013**

Although zero tolerance policies were created to respond to students caught with a weapon at school, only **5%** of serious disciplinary actions nationally in recent years involve possession of a weapon

In Maryland, less than **2%** of suspensions and expulsions involved a weapon
In Colorado, less than **1%** of suspensions and expulsions involved a weapon

By contrast, nationally **43%** of expulsions and out-of-school suspensions lasting a week or longer were for insubordination

In national longitudinal study, youth with a prior suspension were **68%** more likely to drop out

In 2012 people with HS diploma earned national median earnings of $815

Those without HS diploma earned $471

Unemployment nationally was 6.8%

Unemployment without HS diploma was 12.4%

**American Psychological Association CYF News (/pi/families/resources/newsletter/index.aspx) | December 2014 (/pi/families/resources/newsletter/2014/12/index.aspx)**

**No illusions: Developmental considerations in adolescent false confessions**

**Are teens at risk for falsely confessing to crimes, and if so, what can we do about it?**

In an evaluation of 328 exoneration cases

**44 percent** of juveniles falsely confessed, compared to 13 percent of adults.

Among the youngest cases, involving 12 to 15 year olds, **75 percent** falsely confessed

(Gross, Jacoby, Matheson, Montgomery, & Patil, 2005).

**"Guiding Principles, A Resource Guide for Improving School Climate and Discipline" U.S. Dept. of Education, January 2014**

African-American students w/o disabilities are more than **3X** as likely as whit peers w/o disabilities to be suspended or expelled

12% of students in US receive special education services. Yet they make up:

19% of students suspended

20% of students receiving out-of-school suspension once

25% of students receiving multiple out-of-school suspensions

19% of students expelled

23% of students referred to law enforcement

23% of students receiving a school related arrest

Texas study of 1 million students:

60% of students were suspended or expelled at least once over a six year period between 7th to 12th grade – 15% of those disciplined 11 or more times

95% of out-of-school suspensions were for non-violent, minor disruptions such as tardiness or disrespect

Research indicates an association between higher suspension rates and lower schoolwide academic achievement and standardized test scores

**Robin L. Dahlberg, *Arrested Futures: The Criminalization of School Discipline in Massachusetts's Three Largest School Districts*, (2002)**

Students who are **arrested at school are 3X more likely to drop out** than those who are not

Kids with cognitive or emotional issues are **8X** more likely to be arrested in schools

Students who don't graduate high school are **8X** more likely to be arrested than cohorts who do

The cost of housing. Feeding, and caring for prison inmates is nearly **3X** that of educating public school students

Students of color and students with disabilities are disproportionately subject to school-based arrests

**1/3** of all juveniles behind bars are students with disabilities

**Benda,B.B. and Tollet, C.L. (1999) "A Study of Recidivism of Serious and Persistent Offenders Among Adolescents." Journal of Criminal Justice, Vol. 27, No. 1 111-126**

Prior Incarceration was a greater predictor of recidivism than carrying a weapon, gang membership, or poor parental relationship

Poor Parental Relationship – **0.6X**

Membership in Gang – **2.0X**

Carrying a Weapon – **3.3X**

Prior Commitment – **13.5X**