



# Black People vs. Educational Culprits Engaged in Our Systemic Mass Incarceration in the United States of America

Shaun R. Harper

University of Southern California

## ABSTRACT

Eight culprits in the systematic mass incarceration of black people are interrogated in this fictitious courtroom proceeding. Each defendant is somehow involved in the ecosystem of schooling that ruins the lives of millions of black students and their families via racist discipline policies and practices. Accountability for the insufficient preparation of prospective teachers and school leaders, as well as the inadequacy of professional development experiences for educators who currently work in schools across the United States, are emphasized in questions posed to defendants in this trial. Some others who contribute to and sustain the school-to-prison pipeline are implicated in the closing argument.

I am not a legal scholar, but I know more than enough about the miscarriage of justice against black people in the United States. Numerous researchers have provided compelling evidence showing the roles schools play in disproportionately and systematically routing black Americans to juvenile detention facilities, jails, and prisons (e.g., Annamma et al., 2019; Morris & Perry, 2017; Novak, 2018; Rocque & Snellings, 2018; Skiba, Arredondo et al., 2014; Skiba et al., 2011; Weissman, 2015; Winn, 2011). These and hundreds of other studies compel me to argue for criminal action against long-time culprits in the mass incarceration of black citizens. My understanding of the schooling–mass incarceration nexus extends far beyond what I read in books, peer-reviewed journals, research reports, and newspaper articles. It is also much deeper than the quantitative data that Edward J. Smith and I furnished in our report on the disproportionate impact of school suspension and expulsion on black students in 3,022 public K-12 school districts across 13 southern states (see, Smith & Harper, 2015). My understanding is also qualitative, in some ways autoethnographic. As the sibling of one formerly incarcerated person and family member of far too many others, I know firsthand how educational and legal systems co-mingle to ultimately ruin the lives of an unforgivably high number of black Americans. In my view, one black life ruined in the name of schooling is an unforgivably high number.

I am not a lawyer, but I am taking on the identity of one in this essay. Imagine what would happen if we, the black citizens of this nation, collectively brought forth a lawsuit against every aspect of an educational system that repeatedly contributes to our high rates of detention and incarceration. In this fictitious trial, I am representing the plaintiffs: millions of black people whose lives the school-to-prison pipeline has ruined. Presented below are questions I would pose and evidence-based arguments I would present to several defendants, each of whom I and others have identified as complicit in the incarceration of far too many black people. I would beg the judge and jury to consider the systemic nature of my claims, as opposed to viewing one defendant as singlehandedly responsible. In the sections below, sworn testimony is sought from eight professionals who are involved in the ecosystem of schooling. I fully expect objections from uninformed lawyers who represent them. Notwithstanding, I will ask the court to permit me to continue seeking truth and engaging facts in my interrogations of these defendants.

### **Defendant one: Teacher education department chair**

You teach in a school of education at a university, specifically you currently lead a teacher preparation program, yes? Let us take a look at Exhibit A: the curriculum for your program. Can you tell the court in which courses your students learn about implicit bias, other people's as well as their own? Where in this curriculum do teacher candidates learn about the racialized aspects of school discipline practices and policies? What *specifically* do they learn about this topic and how is this learning formally assessed? And is it only in one or two courses, or do your students learn about the school-to-prison pipeline and other related topics elsewhere in your program? How much do your faculty colleagues, including adjunct instructors, know about the schooling–mass incarceration nexus and its devastating impact on black people? How do you know what your colleagues know about this topic? Is it something you all talk about in faculty meetings and on the curriculum revision committee? Just to be sure, please tell the court what you, the department chair, know about this topic and whose research informs your understanding – citing specific scholars and studies would be most ideal. How confident are you that the teachers your program prepares will not go into schools and refer black boys to principals' offices for the same, or perhaps even less, disruptive behaviors than those of their white male classmates? How can you be so sure about this? Can you say with confidence, and preferably with evidence, that previous graduates of your program are not currently doing this in the schools at which they teach? Is this not an important thing for you and your colleagues to know and proactively address? I have no further questions for this witness, your Honor.

### **Defendant two: Educational leadership department chair**

You teach in the college of education at your university, specifically you currently lead the department that prepares K-12 school principals, superintendents, and other leaders, yes? You realize that it is ultimately principals and assistant principals who suspend and expel children from schools, right? What is the race of the students they disproportionately kick out of school? And why does this disproportionality occur? In addition to chairing your department, you also are a researcher. What can you tell the court about the 436-page School Discipline Consensus Report (Morgan et al., 2014)? A report from the African American Policy Forum (Crenshaw et al., 2015) on the disproportionately high rates of school suspension among black girls received extensive press. Did you read that report? The researchers found that 90% of all girls expelled from New York City public schools in 2011–12 were black. Why do you think that is? Since the release of this report, additional research on black girls and their disproportionately high rates of suspension and expulsion have been published in books and peer-reviewed journals (e.g., Addington, *in press*; Annamma et al., 2019; Carter Andrews et al., 2019; Hines-Datiri & Carter Andrews, 2020; Morris, 2016; Morris & Perry, 2017). How often do you read peer-reviewed journals? How many peer-reviewed journal articles have you read on this topic over the past three years? How many faculty meeting conversations have you and your educational leadership department colleagues had about reports and peer-reviewed studies on race, gender, and school suspension since you became chair? Which of your colleagues teach about this in their courses? What *specifically* do they teach? What would the principals, superintendents, and other school leaders who are recent graduates of your programs tell the court they learned about the school–mass incarceration nexus in courses they took at your university? How confident are you that they entered into their current roles with the mindfulness and skills required to redress longstanding racial inequities in school discipline? How confident are you that they are not doing the exact same thing to black children that researchers have repeatedly documented occurs in schools all across America? How can you be so sure? How do you collect evidence on this? I have no further questions for this witness, your Honor.

### **Defendant three: Education school accreditor**

Your organization accredits schools and colleges of education that are situated in higher education institutions, yes? And you use a series of metrics and processes to ascertain the quality and rigor of academic offerings within education schools, correct? I understand your reviews are extensive. But can

you tell the court *specifically* what you look for in determining the goodness with which an education school teaches about race, racism, and racial equity? Do your reviews include any focus on how the topic of school discipline is taught and learned? Do you expect institutional actors to map where, what, and how they teach about this particular topic? How routinely do your team of accreditors look for this? Do I understand correctly that most institutions are successful in their accreditation pursuits – meaning, you either accredit or reaccredit the overwhelming majority of colleges and schools of education that seek your stamp of approval? Should an entity that annually produces teachers and principals who ruin the lives of dozens, hundreds, and in some instances, thousands of black students by suspending and expelling them for subjective, mostly harmless, actions keep being reaccredited by you? Most of the educators who do this to black people are graduates of accredited colleges and schools of education. Given this, what do you think accreditation organizations such as yours ought to do to hold education schools more accountable? And what must you do to hold yourselves more accountable? I have no further questions for this witness, your Honor.

#### **Defendant four: K-12 school superintendent**

Black kids comprise only 18% of students enrolled in the district you lead, but are 62% of those suspended and 67% of children expelled from your schools. Why is this? Let us take a look at Exhibit B: a graph showing the durability of these trends over the past 20 years. You have been superintendent six of these years. What have you *specifically* done to address this issue during your tenure? Why have you not done more? I now present to the court Exhibit C: data showing that school discipline inequities are even worse for black students with disabilities in the superintendent’s district, a trend that is consistent with published studies like Gage et al. (2019). Why does your district suspend and expel black students with disabilities at higher rates than it does their classmates who also have been placed in special education? I thought you should know that we tracked hundreds of people who grew up in this city, attended schools in your district, and are now serving time in state and federal prisons. More than 90% of those persons are black. I see a clear school–mass incarceration nexus here that is localized and very likely consistent with the county-level explicit racial biases revealed in Riddle and Sinclair’s (2019) analysis of federal data including more than 32 million students attending nearly 96,000 schools. Do you see a clear school–mass incarceration nexus here that implicates your district? I have no further questions for this witness, your Honor.

#### **Defendant five: School board president**

As I indicated to your superintendent, more than 90% of persons who attended schools in your district and are now serving time in state and federal prisons are black. Are board members aware that your schools reliably supply so many black students to prisons? How many conversations have you all had about this in board meetings since you have been its chair? No credible evidence confirms that black children are genetically predisposed to behaving disruptively, violently, or otherwise inappropriately in schools or our larger society (Skiba, Chung et al., 2014; Skiba et al., 2002). So why, then, are they suspended and expelled so much more often than anyone else? In your opinion, what can the board do to assume greater responsibility for this? Why has the board not taken these actions before now? In many instances, it is teachers who refer students to principals’ offices for so-called disciplinary infractions, and it is principals and assistant principals who ultimately kick students out of school. Principals report to the superintendent in this district. And the superintendent serves at the pleasure of the board you lead. What must the board do to hold all district employees accountable for dismantling the school-to-prison pipeline? Do you think all board members, including yourself, should resign if the district’s disproportionality data do not drastically improve within the next three years? Should the board be held criminally liable now? I have no further questions for this witness, your Honor.

### Defendant six: K-12 principal

I have just one question for you: why do you and your assistant principals suspend and expel black girls, black boys, and black genderqueer students for seemingly minor and subjective things like “having an attitude,” harmless dress code violations: hairstyles, and being outside of classrooms without a hall pass, yet you let their white classmates get away with skipping school, vandalizing school property, smoking cigarettes and marijuana on your supposedly smoke-free campus, showing up to prom and other school events visibly intoxicated, calling black classmates the n-word, broadcasting reenactments of the murder of George Floyd on Instagram and TikTok, and other outrageous actions? I have no further questions for this witness, your Honor.

### Defendant seven: K-12 teacher

I have only three questions for you: (1) What did you learn about the school-to-prison pipeline and racialized aspects of school discipline in your teacher preparation program; (2) what have you learned about this in professional development experiences that have been offered to educators at your school since you became a teacher there; and (3) is it at all plausible that you somehow contribute to the school-to-prison pipeline by unconsciously referring higher numbers of black students to the principal’s office for the same and, in some instances, less problematic actions than you refer their white classmates? Actually, I know I said just three questions, but please allow me to ask you to consider just a few more. Has anyone ever brought to your attention that you disproportionately refer higher numbers of black students to the principal’s office for discipline? Do you know how long you have been doing this? For the entirety of your tenure at this school and at the one at which you worked before this. Every single year according to the data here in Exhibit D. Why do you think you do this year after year after year? Is it intentional? And let us have the court take a look at Exhibit E: a data table that shows you are not the only teacher in your school who does this – almost all your other colleagues do, too. How do you think suspensions and expulsions ultimately affect black students’ lives? How do you feel about your participation and the complicity of your colleagues in the systematic mass incarceration of black people? Look in the faces of the black parents of incarcerated teens and adults who are seated in the courtroom today. Look at them. On behalf of all the teachers in your school, is there anything you want to say to these families? I have no further questions for this witness, your Honor.

### Defendant eight: School resource officer

*The Washington Post* highlighted an officer physically attacking a black student at Spring Valley High School in Columbia, South Carolina (Izadi & Brown, 2015). I now present Exhibit F: a video recording of the incident. Have you seen this? What do you think about it? Can you imagine anything this girl could have done to deserve this violent attack? Do you think something like this could occur in the school at which you work? How can you be so sure it would not? Is what we just saw in this video compliant with what you and other school resource officers are taught in your training? Actually, can you tell the court what you were taught *specifically* about black people in the training you received prior to assuming your current role? What did you learn about implicit racial bias, and about the racialization of school discipline practices? Were you and others ever afforded opportunities to reflect deeply on roles you could potentially play in dismantling the school-to-prison pipeline? Let us take a look at Exhibit G: the photo on the left is the predominantly black school at which you work, and the picture on the right was taken at a predominantly white school in your district. Which school has the metal detector and three school resource officers who look like uniformed cops? Why does the entry of your workplace look more like a prison than it does a school? Is it because most of the students there are black? One study using statistics from the U.S. Department of Education (Mowen & Parker, 2017) found that schools became 1440% more likely to utilize metal detectors as the proportion of black students increased. How do you think these metal detectors, surveillance cameras everywhere, frequent searches of backpacks and lockers, and random

pat-downs at the start of most school days affect students in your school? How do you think these things inform your view of these children, and the manner in which you and your fellow officers interact with them? I have repeatedly asked about the training you received prior to becoming a school resource officer. But what about your ongoing professional development – how do you and your colleagues *specifically* interrogate your views and assumptions about black students? In recent trainings, did you all consider the roles you play in school discipline decisions and outcomes for black students in particular, given how disproportionately they are affected? I have no further questions for this witness, your Honor.

## Closing argument

I submit to the court that an irrefutable connection between schooling and the mass incarceration of black people has been established in published research and in this trial. Indeed, each defendant here is culpable. I could have also presented compelling evidence to show how textbook manufacturers systematically misrepresent black people, and how implicit and explicit racial biases show up on the pages they print and distribute to schools across America. I also could have shown how the absence of black history, culture, and interests in textbooks leads to boredom among many black students in classrooms, and that boredom plays a role in their misbehavior. I chose not to call textbook makers and adopters to the stand.

I also could have interrogated executives engaged in the big business of standardized testing. These racially biased exams are often used to track black students into lower-level, academically less rigorous courses. Brilliant, extremely promising black students whose test scores tell them and their teachers that they are not smart may just be responding to these low-expectation environments through oppositional behaviors. I most certainly would have placed the onus on racially stratified educational tracks and on the standardized tests that place black students on them, as opposed to blaming black children for their own miseducation.

Police officers who racially profile and harass black girls, black boys, and black genderqueer students in transit to and from school also could have been called to testify. And then there are city council members and state legislators who, year after year, refuse to do something about zoning policies that keep many black families trapped in poor neighborhoods with chronically underfunded schools that cyclically supply black people to juvenile detention centers, jails, and prisons. These are just a few of the numerous contributors to the school-to-prison pipeline whom I could have called to the stand. But I will not further delay the judge and jury by interrogating additional witnesses in this case. I conclude my closing argument here, but I will never rest my case until the eight culprits standing trial in this case and their accomplices are held accountable for their contributions to the mass incarceration of my people.

## Disclosure statement

No potential conflict of interest was reported by the author.

## Notes on contributor

*Shaun R. Harper* is the Clifford and Betty Allen Professor in the Rossier School of Education at the University of Southern California. He also is founder and executive director of the USC Race and Equity Center. Dr Harper served as the 2020–21 American Educational Research Association president and the 2016–17 Association for the Study of Higher Education president. He was inducted into the National Academy of Education in 2021.

## References

Addington, L. A. (in press). Keeping Black girls in school: A systematic review of opportunities to address exclusionary discipline disparity. *Race and Justice*. <https://doi.org/10.1177/2153368720988894>

- Annamma, S. A., Anyon, Y., Joseph, N. M., Farrar, J., Greer, E., Downing, B., & Simmons, J. (2019). Black girls and school discipline: The complexities of being overrepresented and understudied. *Urban Education, 54*(2), 211–242. <https://doi.org/10.1177/0042085916646610>
- Carter Andrews, D. J., Brown, T., Castro, E., & Id-Deen, E. (2019). The impossibility of being “perfect and white:” Black girls’ racialized and gendered schooling experiences. *American Educational Research Journal, 56*(6), 2531–2572. <https://doi.org/10.3102/0002831219849392>
- Crenshaw, K., Ocen, P., & Nanda, J. (2015). *Black girls matter: Pushed out, overpoliced, and underprotected*. African American Policy Forum.
- Gage, N. A., Whitford, D. K., Katsiyannis, A., Adams, S., & Jasper, A. (2019). National analysis of the disciplinary exclusion of Black students with and without disabilities. *Journal of Child and Family Studies, 28*(7), 1754–1764. <https://doi.org/10.1007/s10826-019-01407-7>
- Hines-Datiri, D., & Carter Andrews, D. J. (2020). The effects of zero tolerance policies on Black girls: Using critical race feminism and figured worlds to examine school discipline. *Urban Education, 55*(10), 1419–1440. <https://doi.org/10.1177/0042085917690204>
- Izadi, E., & Brown, E. (2015, October 27). FBI, Justice Department investigating S.C. police officer who threw student across classroom. *The Washington Post*. <https://wapo.st/3vRzPz0>
- Morgan, E., Salomon, N., Plotkin, M., & Cohen, R. (2014). *The school discipline consensus report: Strategies from the field to keep students engaged in school and out of the juvenile justice system*. The Council of State Governments Justice Center.
- Morris, E. W., & Perry, B. L. (2017). Girls behaving badly? Race, gender, and subjective evaluation in the discipline of African American girls. *Sociology of Education, 90*(2), 127–148. <https://doi.org/10.1177/0038040717694876>
- Morris, M. W. (2016). *Pushout: The criminalization of Black girls in schools*. The New Press.
- Mowen, T. J., & Parker, K. F. (2017). Minority threat and school security: Assessing the impact of Black and Hispanic student representation on school security measures. *Security Journal, 30*(2), 504–522. <https://doi.org/10.1057/sj.2014.42>
- Novak, A. (2018). The association between experiences of exclusionary discipline and justice system contact: A systematic review. *Aggression and Violent Behavior, 40*(1), 73–82. <https://doi.org/10.1016/j.avb.2018.04.002>
- Riddle, T., & Sinclair, S. (2019). Racial disparities in school-based disciplinary actions are associated with county-level rates of racial bias. *Proceedings of the National Academy of Sciences, 116*(17), 8255–8260. <https://doi.org/10.1073/pnas.1808307116>
- Rocque, M., & Snellings, Q. (2018). The new disciplinology: Research, theory, and remaining puzzles on the school-to-prison pipeline. *Journal of Criminal Justice, 59*(1), 3–11. <https://doi.org/10.1016/j.jcrimjus.2017.05.002>
- Skiba, R. J., Arredondo, M. I., & Williams, N. T. (2014). More than a metaphor: The contribution of exclusionary discipline to a school-to-prison pipeline. *Equity & Excellence in Education, 47*(4), 546–564. <https://doi.org/10.1080/10665684.2014.958965>
- Skiba, R. J., Chung, C., Trachok, M., Baker, T. L., Sheya, A., & Hughes, R. L. (2014). Parsing disciplinary disproportionality: Contributions of infraction, student, and school characteristics to out-of-school suspension and expulsion. *American Educational Research Journal, 51*(4), 640–670. <https://doi.org/10.3102/0002831214541670>
- Skiba, R. J., Horner, R. H., Chung, C., Rausch, M. K., May, S. L., & Tobin, T. (2011). Race is not neutral: A national investigation of African American and Latino disproportionality in school discipline. *School Psychology Review, 40*(1), 85–107. <https://doi.org/10.1080/02796015.2011.12087730>
- Skiba, R. J., Michael, R. S., Nardo, A. C., & Peterson, R. L. (2002). The color of discipline: Sources of racial and gender disproportionality in school punishment. *The Urban Review, 34*(4), 317–342. <https://doi.org/10.1023/A:1021320817372>
- Smith, E. J., & Harper, S. R. (2015). *Disproportionate impact of K-12 school suspension and expulsion on Black students in southern states*. University of Pennsylvania, Center for the Study of Race and Equity in Education.
- Weissman, M. (2015). *Prelude to prison: Student perspectives on school suspension*. Syracuse University Press.
- Winn, M. T. (2011). *Girl time: Literacy, justice, and the school-to-prison pipeline*. Teachers College Press.