

**The LDA Podcast:**

## **Race, Disability, and School Punishment**

**Lauren Clouser:**

Welcome to the LDA podcast, a series by the Learning Disabilities Association of America. Our podcast is dedicated to exploring topics of interest to educators, individuals with learning disabilities, parents, and professionals to work towards our goal of creating a more equitable world. Hi, everyone.

Welcome to the LDA podcast. I'm here today with Harold Jordan. Harold Jordan is a nationwide education equity coordinator at the ACLU of Pennsylvania and also the author of [Beyond Zero Tolerance, Discipline and Policing in Pennsylvania Schools](#). Harold also serves on LDA's professional advisory board. So, Harold, thank you so much for being with us today.

**Harold Jordan:**

Happy to join you to talk about these important issues. I should add that I came to this work as a parent, and, actually, my activism on school issues goes back to my youth. I come from a family with a lot of teachers, administrators in it. I was an active advocate as a parent. My kids went to public schools K to 12, and I've done a lot of work on education policy over the years, including in more recent years addressing issues of [school safety](#) and the misuse and inappropriate use of police in schools. I've authored a whole bunch of other [reports](#) and studies on those issues as well.

But, basically, I'm somebody who cares about equity and fairness, and that kids being treated fairly. I came to learn over the last decade or decade and a half that some of the problems with equity have a particular impact on [students with disabilities and students of color with disabilities](#), which we'll get into today.

**Lauren Clouser:**

Definitely. Well, we're so excited to have you and your expertise and to delve into this topic a lot further. But before we get too far in, would you be able to tell us what the school to prison pipeline is? What do we mean when we say that?

**Harold Jordan:**

The school to prison pipeline is a term that was coined several decades ago to explain to the public and to people in school communities this phenomenon of young people getting involved in the justice system, the criminal justice system, through something that happens at school, either during a school day or in school property or school related. And to especially call attention to the fact that the numbers of young people who have some contact with the justice system through a school related incident have gone up dramatically in the last couple of decades – esp. during the last 25 years. And so that's the original idea.

I think it's important to think about the school to prison pipeline in a way that's both literal and as a metaphor. It's not always the case that kids go directly from school to arrest and to prison. That is one pathway for some young people. But, you know, what the school to prison pipeline also refers to is this notion that you put large numbers of school students out of school for a broad range of reasons, and, therefore, you take them off the educational track through the use of out of school suspensions. Leave aside, for a minute, the issue of arrests increasing in schools.

But, you know, what has historically over the last 30 years increased dramatically is the use of out of school suspensions in a broad range of circumstances, in too broad a range of circumstances, I would argue. And so, even though the result was not always prison or youth detention or anything like that, the result is kids being thrown off the path of finishing education.

You'll find that schools which have tougher discipline policies, discipline policies that are vague, are ones where kids are less likely to finish school or less likely to have to excel in schools even if they finish. And so that also places them in a category of folks who are more likely to have some contact with the justice system later in life, as soon as 6 months after they finish school. In fact, [the largest school discipline study ever done](#), ever conducted was of a million high school students in the state of Texas where their records were tracked over a 6-year period of time showed that being suspended from school, especially repeatedly, contributed in the immediate sense - I mean within months - to kids having some contact with the juvenile or adult criminal justice system.

**Lauren Clouser:**

Yeah. I'm so glad you brought up the different sides of the school to prison pipeline, and we'll be diving into both of those. But I wanted to ask why does this school to prison pipeline disproportionately impact students of color and students with disabilities? Those are the main groups that we see that are disproportionately impacted. What factors are at play?

**Harold Jordan:**

We've always known that certain forms of discrimination you see in schools disproportionately impact certain groups of students, whether it's because of stereotyping or the [denial of opportunities](#) in the sense of not being exposed to classes like Algebra and courses like that, which we know are tied to success, especially to postsecondary school success. That is not a new revelation.

What we have come to understand through research and data confirms the personal experiences of many young people, and that punishment is heavily skewed. Today, the student who is most likely to be suspended out of school, especially repeatedly or to be arrested, is a [Black male student with a disability](#). That's gonna be true in most of the states in this country, with slight exceptions for states with large numbers of indigenous

students, such as western states. There, those students are more likely to be suspended or arrested. These trends have held for some period of time.

It's just now that we've come to document this pattern. And I think there are a number of factors that contribute to it. Some of it is due to just good old-fashioned stereotyping, implicit bias or explicit bias. We see this reflected in studies that have been done of early childhood educators that look at which types of students they tend to observe more carefully than others. There's a famous [series of studies](#) where educators were shown a film. They were told in advance that they can expect that some of the students would exhibit difficult behaviors. The study itself tracked the eye movements of early childhood educators. And as it turns out, there was no difficult behavior in the film. But the educators were more prone to watch the Black students than other students in the classroom. We know that [adults who work with small children](#) carry suspicion or bias, whether it's conscious or not.

We also know that the problem of suspicion and bias has escalated with the growing involvement of law enforcement in schools, which is one of the major school discipline trends of the last couple of decades.

The numbers and the roles of police have grown. The policing models that are common in schools today have police being there at least 2 or 3 days a week, so that police are in the halls, and they have much more interaction with students. We actually know that when that is the case, those students are more likely - Black students in particular - to have interactions with those officers in schools.

And just this summer (2024), the Government Accountability Office out with a [study](#) that took a close look at the impact of school policing programs. And they also concluded that Black students and students with disabilities are more likely to have contact with police, and they actually are more likely to go to school where there are police even if you control for the level of gang activity and the other levels of violence in the school or in the nearby community. So, some students are more likely to have contact with police in their everyday schooling experience.

When it comes to students with disabilities, the categories of disability where Black students and especially Black male students are heavily represented are ones where the discipline is most harsh. Look at something like emotional disturbance, which is one of the categories under the Individuals with Disabilities Education Act. As it turns out, Black students, and Black male students in particular, tend to be overly assigned to that category. And as it also turns out, that is the category where discipline is the most frequent. And you could track that to the level of the number of days that kids are out of school. Black male students with a disability are not only more likely to be suspended. They're more likely to be suspended for a larger number of days, say for 5 days and more. These Black male students with disabilities who are classified as having emotional disturbance as their official classification category.

There are lots of things going on here.

I think that one of the issues is the failure to provide services, supports, and protections that kids are entitled to under both IDEA and Section 504 of the Rehabilitation Act. There's also the growing use of law enforcement.

There are other kinds of biases in addition to the ones I've talked about already, such as adultification bias, the assumption that Black students are older and more threatening than others so that they're less in need of protections traditionally granted to young people who are teenagers. This is a problem for both [males](#) and [females](#). And they're treated more like they have the capacity to understand the consequences of what their actions are versus white kids of the same age. So there are a number of different contributing factors to all of this.

**Lauren Clouser:**

Well, and I want to return to, police in schools later, but I want to talk right now about suspensions and how harmful it is to implement discipline that removes students, especially students who could have a learning disability and who are already struggling in school. Why is it so harmful for that form of discipline to take place?

**Harold Jordan:**

Well, we know that from the research that in terms of every measure of success or opportunity that these students are disadvantaged. They are less likely to finish school, less likely to complete school successfully even if they complete school, more likely to have developed a negative relationship with school, and more likely to have the sort of discontinuation of education. There are many studies documenting this problem. So, you know, what happens in schools really has an impact on your life. And when you're talking about large numbers of kids in different communities, they have an impact on the greater community, including future employment, not just future education, but future employment.

**Lauren Clouser:**

Yeah. Well and I'm not sure how popular this has been or if you've caught wind of it in Pennsylvania yet, but, some schools, there have been reports that they utilize off the books or informal suspensions where they're not officially recorded. So why are these off record suspensions so problematic, and how can they especially violate the rights of students with disabilities?

**Harold Jordan:**

Well, there are many situations in which students are just sent home, but it's not recorded in the school records. And in many cases, parents are not told that their children are being sent home from school. So they're just saying, just go home for the day. And that's, I think, the kind of thing that people mean when they talk about [off the book suspensions](#). Clearly, it's not a problem everywhere, but it's a problem in certain

school districts more than others. It's a [problem in DC](#). It has been documented in other places as well. And if you don't track a potential problem, then you can't address it.

And it also means that those students cannot use the sort of [due process](#) that they are entitled to. Almost every state has some provision in their education code which says something like this. If a kid is going to be suspended for x number of days, they can go to a hearing, have a meeting, give their side of the story, see what the evidence is against them, appeal it one step up from the principal to the school board, etc.

And that's what's referred to as due process. But if the suspension is not on the books and a kid is just sent home, then they can't utilize this sort of due process to be able to talk about what actually happened. And the one thing we know about schools and about teenagers is that oftentimes what you see when you see a behavior that you don't like in the hallway, it doesn't completely tell the whole story, in other words. There's often something behind it.

And I know from many years of working with young people and working in schools that, for example, sometimes, the kid who's disciplined is the kid who's the victim of bullying. But if you just look at what happens in the hall, a kid who defends himself from bullying is sometimes the one who is punished. Without due process you don't find out what's truly going on in the school environment that may be a contributing factor.

**Lauren Clouser:**

Well and can we talk a little bit about the prevalence of school staff shortages, especially right now after the pandemic, especially, school counselor shortages? How can that impact discipline practices in a school?

**Harold Jordan:**

The federal government, the US Department of Education, has been collecting data on the number of professional staff members of different sorts that are in public schools or schools that receive public funding. And that includes counselors, psychologists, social workers, and school psychologists in particular. School psychologists are the professional staff who are best equipped to work with students.

And we know from nationwide and state-level data that in most states there is a shortage of these staff members in schools. If you look at what the professional organizations in those areas, for example, the National Association of School Psychologists, recommend as the right ratio of school psychologists to students, you'll find that most of the states in this country and even within those states, there are really extreme pockets of understaffing with the kinds of adults who should be working with young people. To be a little bit more specific, the current [recommendation from the National Association of School Psychologists](#) is that there should be 1 school psychologist for every 500 students. Now that's the current recommendation, and what you'll find is that there are only really a small handful of states, maybe about 4 states in the country, where that ratio was met. So that gives you some sense of the problem.

**Lauren Clouser:**

Definitely. Well and I wanted to talk about in the presentation you had sent, you had included an example where a school did not have a school nurse, but instead had a police resource officer. I wanted to talk a little bit more about the prevalence of police officers and resource officers in school, how they're starting to fill these roles that are typically occupied by school counselors or nurses and how that impacts the school to prison pipeline.

**Harold Jordan:**

That's a really important topic. We know from working with the federal data collected by the US Department of Education that there are many students in schools where they see a police officer every day, but there is no counselor or nurse or school psychologist. And we know that this is a problem. There are some [nationwide estimates](#) of the extent to which that's a problem; but let me just say it's a serious problem if you compare the commitment of schools to having police officers in school which are not adequately staffed in other ways with other adult professional staff. In many cases, even when school officials claim that a police officer is not a substitute for a professionally trained adult they use them that way. And when cops are present, they are the adults that are dealing with young people.

Administrators and teachers will often send a young person to the School Resource Officer, which is another way of saying police, or they'll send the police to deal with a cell phone violation or things that are really not traditional policing matters. It's not the same as trying to deal with a situation where there's some kind of serious assault in a school. Instead, you find police officers interacting with students about a wide range of issues that typically come up in schools. And that's how they are used in schools.

When you look very carefully at why students are arrested - to the extent to which that information is available - you'll see a concerning pattern. We produced a January 2022 [study of Allegheny County](#), which is Pittsburgh and the surrounding areas, that came out in January 2022, where we looked at why kids were arrested. And as it turns out, less than 1% of the reasons for arrest have to do with weapons. But you'll find large number of arrests for other things in schools. When you look at the data from Los Angeles Unified School District, you'll find that a large number of the situations in which police are called to intervene or things that are really social or personal or social behavioral issues that are not appropriately handled by police.

**Lauren Clouser:**

Even when these school resource officers or police officers in school aren't arresting students, which we know can have very negative long-term consequences, some school police will still issue a citation for students like you were just saying for minor infractions. Is this a better route to go, or how is this still harmful?



**Harold Jordan:**

It is not. Now every state has a different law when it comes to the sort of legal implications of receiving a citation. But let me break it down to you very quickly, very simply. A citation looks like a traffic ticket. It's actually called a "non-traffic citation" in Pennsylvania, and it literally looks like a traffic ticket. The idea is that in minor matters - things like disorderly conduct, vaping, small things - police can just write a ticket. The problem with that is the ticket orders you to appear before a magistrate judge. And in Pennsylvania, it's completely outside of the juvenile system, so you don't have the protections of a juvenile defender. It's before an adult magistrate in adult court. That's the way it works in Pennsylvania. It's different in different states. So in essence, because those young people don't have the protections that they would have if they were in the juvenile system, they have what is potentially an adult record for something that is minor. It is minor to the point that kids would not ordinarily be for those behaviors, and they're kind of in a catch 22 situation. If they don't plead guilty and they're found guilty, they will have to pay fines and fees, and if they don't meet those conditions then they're put into the juvenile system.

And I think this is a harmful practice. It is one that schools could end by just saying we're not gonna allow our police to do that with kids in schools. We're not gonna punish kids in its way. So what that means is that kids have early contact with police and the justice system for things that are just really minor, and that are considered by schools to be minor.

**Lauren Clouser:**

Yeah. And how can this sort of negative interaction, whether it's a citation or something as extreme as an arrest, how does that impact a student's future from there?

**Harold Jordan:**

Well, the legal impact is different in [different states](#) because the law is different in every state.

But [in Pennsylvania](#), it becomes an adult criminal record. While you can apply later on to have your record cleared (or expunged) after you've met the conditions set by the judge, the process is much more likely to be successful if you hire a lawyer. Most people don't understand the implications of this system, so they may walk around with these citations and find out years later that they're still in a record. And, also, if you are asked whether you've ever been convicted of a crime the honest answer to the question would be "yes" whether on a college or job application because it came through the adult system as opposed to the juvenile system. All this for something extremely minor for which a kid is not ordinarily arrested.

It's a bizarre feature of our laws in Pennsylvania and in some other states. In my mind, it raises a larger question about the kind of adults should work with our youth in schools.

It all also raises the question whether anybody ever bothered to get to the bottom of what actually happened in that incident, and whether it's something that should be punished that way. For example, take vaping. Do police need to be involved with things like that. Is that the way that you address these issues in schools? I would say no. We know in general, not just in schools, is that early contact with the justice system tends to feed future contact.

**Lauren Clouser:**

Well, then I have one more question for you, Harold, before I let you go, and it's a broad one. But what are some things that we can do to help make schools a safer and more equitable place?

**Harold Jordan:**

That's a big question.

**Lauren Clouser:**

Yes.

**Harold Jordan:**

Let me tackle it from different angles. I think one is that you have to have a fundamental commitment to being fair to students and their families. And by being fair, I mean being equitable in terms of how you treat them and making sure that you're not treating different kids who do the same thing differently based on their background or color or gender, etc. I mean there has to be a fundamental commitment to fairness so that you're not arbitrarily punishing certain students more than others who do the same thing. And we know that that is a [widespread problem in schools](#).

The second thing is that it's important to make sure that kids and families are provided the services and supports and protections that they're entitled to. And in this case, we're talking about entitled to under IDEA and Section 504.

We often find that discipline takes the place of a "manifestation determination" or an appropriate adjustment to the agreed upon support program for those kids, known as the Individualized Education Plan. A lot of times the overuse of punishment reflects the failure to provide services and supports.

I think it's also important to reduce the use of law enforcement in everyday matters in schools, not just to have a statement in your code of conduct that law enforcement officers are not involved in discipline, but to actually operationalize that to say these are the kinds of incidents for which it is not appropriate to have law enforcement involvement. Period. Few school districts have such policies. I think that would help the situation.

There needs to be more training on bias, including implicit bias.



And I think within a school community it's important to look at the data. The data tells you something. It may not tell you why certain things are happening; but it'll tell you who it's happening to. Schools collect a lot of data. It will give you some clues as to when and where incidents tend to happen, what part of the building, what time of the day. Schools can even tell whether there are certain teachers who tend to refer students to the front office more. On this last issue, there has been a good bit of research. And what it shows is that if one looks at front office referrals – which kids are sent to the principal's office and therefore most likely to be disciplined - you will find that there's a racial difference. White students tend to be referred to the front office for behaviors that are objectively measured, such as cigarette smoking. Black students tend to be referred to the front office for behaviors that are subjectively measured, such as disorder, disrespect, things that you can't really put your hand on in terms of a specific behavior. We know that from the research.

I think that a lot of reform can be done from within if a school community is committed to it. And I think it's important that the government be prepared to step in when necessary, such as the Office of Civil Rights of the US Department of Education, to investigate those schools and to encourage them to adopt better practices. State human relations agencies can also play a constructive role.

**Lauren Clouser:**

Well, those are all really good points, and I really appreciate you taking the time to share your expertise on this. And before we wrap up, I just wanted to ask, is there anything that I didn't ask that you wanted to mention or bring up?

**Harold Jordan:**

I firmly believe that progress is possible. I don't hold negative views about what is possible. But you have to be committed to actually working with kids, understanding them, understanding their families, and engaging the families where possible in schools to be a part of the solution.

**Lauren Clouser:**

Yeah. Definitely. Well, Harold, thank you so much for taking time out of your schedule to talk to us today, and, I'm excited to hear you so much for taking time out of your schedule to talk to us today, and, I'm excited to possibly talk to you in the future as well.

**Harold Jordan:**

Thank you.

**Lauren Clouser:**

Thank you for listening to the LDA podcast. To learn more about LDA and to get valuable resources and support, visit [ldaamerica.org](http://ldaamerica.org).