

PREVENTION V. PUNISHMENT:

**Threat Assessment, School Suspensions,
and Racial Disparities**

JustChildren

A Program of the Legal Aid Justice Center

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Prevention v. Punishment

THREAT ASSESSMENT, SCHOOL SUSPENSIONS, AND RACIAL DISPARITIES

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EXECUTIVE SUMMARY

Racial disparities in school discipline today are troubling. Nationally, nearly one third of black male high school and middle school students undergo suspension, while only one in ten white males are suspended. In Virginia, black males are suspended at approximately twice the rate of white males in elementary, middle, and high schools. Black females are suspended at more than twice the rate of white females. There are racial disparities even when controlling for a variety of other factors, such as poverty and delinquency. Because suspension is linked to school dropout and delinquency, reducing disparities in suspension rates could help reduce school dropout and delinquency rates for all students, but especially for black males.

This report presents new evidence that the implementation of Virginia Student Threat Assessment Guidelines (VSTAG) in Virginia public schools is associated with marked reductions in both short-term and long-term school suspensions. Furthermore, use of VSTAG is associated with reductions in the racial disparity in long-term suspensions. Schools using VSTAG have substantially lower rates of school suspensions, especially among black males, who tend to have the highest suspension rates.

In 2013, Virginia became the first state in the country to mandate the formation of threat assessment teams in all its schools. In light of this new data, it is important for schools to take this mandate seriously. In order to reap the benefits of threat assessment, however, it must be carefully implemented and balanced with student rights, all with the goal of improving school safety and climate for everyone. In addition to the seven recommendations found at the end of this report discussing ways for schools and communities to implement threat assessment safely and fairly, we also make the following policy recommendations:

1. The Virginia General Assembly should ensure that sufficient funding is available to provide school employees and law enforcement employees assigned to work in schools training in threat assessment, as well as other interventions that can help reduce suspension rates and improve student behavior.
2. The Virginia Department of Education and The Virginia Department of Criminal Justice Services should draft a model memorandum of understanding between schools and law enforcement for implementing threat assessment procedures and related efforts to maintain school safety.
3. The Virginia Department of Juvenile Justice should collect data on school-based arrests, referrals to law enforcement by schools or school resource officers, and filing of delinquency petitions or criminal complaints based on conduct occurring at school.
4. The General Assembly should require that schools ensure that students who are suspended or expelled continue to make academic progress during periods of disciplinary removal.

I. INTRODUCTION

Following the 1999 shootings at Columbine High School, authorities in law enforcement and education recommended that schools adopt a threat assessment approach rather than a zero tolerance approach to violence prevention.¹ Threat assessment was an unfamiliar concept to educators, so researchers in the Curry School of Education at the University of Virginia took on the challenge of developing a set of model guidelines for K-12 schools. These guidelines allow school-based multidisciplinary teams to evaluate and resolve student threats so that the students can remain in school rather than be suspended.

Over the past ten years, the Virginia Student Threat Assessment Guidelines (VSTAG) have become widely used in Virginia schools as well as schools nationwide. Based on a series of field tests and controlled studies, VSTAG has been recognized as an evidence-based practice in the federal government's National Registry of Evidence-Based Programs and Practices.

In contrast, multiple studies have found that suspension does not improve student behavior or academic performance, and can be regarded as an ineffective practice. For example, one study found that the chances of dropping out of high school double with the first suspension.² After controlling for demographics, attendance, and course performance, "each additional suspension further decreases a student's odds of graduating high school by 20%."³

In 2013, the Virginia General Assembly passed legislation mandating all Virginia public schools to maintain threat assessment teams. This report describes the impact of VSTAG on suspension rates and makes recommendations for the successful implementation of VSTAG as a model threat assessment program for Virginia schools.

II. THE DETRIMENTAL EFFECTS OF SCHOOL SUSPENSION

Suspensions keep thousands of Virginia’s children out of school each year. In 2011-12, there were 181,090 suspensions of students from Virginia schools.⁴ Contrary to perception, suspension is not just for dangerous teenagers. In 2011-2012, over 29,600 short-term suspensions were issued to elementary school students.⁵ Furthermore, the majority of suspensions in Virginia are not for offenses that threaten the health or safety of other students or staff. In the 2011-2012 school year, 65% of short-term suspensions were for non-violent acts of misconduct, such as defiance, classroom disruption, and use of electronic or cellular phones in school.⁶ That same year, 2,012 students were suspended for *more than 10 days* for behavior that did not involve weapons, drugs, or injury or threat to another person.⁷

By the Numbers

In 2011-12, Virginia schools administered:

- 746 expulsions
- 7,825 long-term suspensions or modified expulsions
- 173,265 short-term suspensions

This is a rate of 1,010 suspensions or expulsions per school day.

Source: Virginia Dep’t of Education

Suspensions for challenging, non-dangerous behavior may give the classroom a temporary reprieve from disruption, but students seldom return repentant and ready to learn. To the contrary, a suspension can accelerate a downward spiral of academic failure, missed instructional time, and continued acting out in order to mask failure and avoid schoolwork that is too difficult. If it were true that school suspension motivates students to improve their behavior and sends a constructive message to classmates, schools that use suspension more often should produce higher academic performance than schools that make less frequent use of suspension. In fact, several studies have found that, among schools with similar student characteristics, schools with high suspension rates have lower academic achievement.⁸

Not only do suspensions fail to improve student behavior, but today’s suspended youth are more likely to become tomorrow’s dropouts. In 2011, the Council of State Governments studied suspension in Texas and published *Breaking Schools’ Rules*. The findings provide convincing evidence that over-reliance on suspension increases the probability of grade retention, school dropout, and juvenile justice system involvement.⁹ Likewise, a study at the University of Virginia’s Curry School of Education found that Virginia high schools that use suspension the most have the highest dropout rates, even after controlling for student demographics and attitudes.¹⁰ In other words, suspension does not make schools safer or more orderly. If anything, suspension contributes to higher rates of misbehavior and school failure. As the Virginia Department of Education has concluded, “traditional approaches to student discipline have not been effective in reducing disruptive behavior, vandalism or the dropout rate.”¹¹

III. RACIAL DISPARITIES IN SCHOOL DISCIPLINE

Across the country, the use of suspension has increased substantially over the last four decades, particularly for students of color. A new study by UCLA's Civil Rights Project documents a dramatic increase in suspension rates for secondary school students since 1972, with a substantially widening gap between black and white students. In the 1972-1973 school year, 6.1% of white students and 11.8% of black students were suspended, a gap of 5.7 percentage points. In 2009-2010, that gap grew to 17.2 percentage points (7.1% white versus 24.3% black). Nationally, the racial gap is highest for black males, who are suspended at a rate of 30% in high school and 31% in middle school, generating gaps of 20 and 21 points, respectively, with white males.¹²

There are large racial disparities between black and white students in both short-term and long-term suspensions in Virginia.¹³ Figure 1 below shows that black males are suspended at approximately twice the rate as white males in elementary, middle, and high schools. Black females are suspended at more than twice the rate as white females. These rates are based on 2011-12 unduplicated¹⁴ suspension data for all 1,791 Virginia public schools classified as elementary (or primary), middle, or high schools.¹⁵

Figure 2 shows equally large racial disparities for long-term suspensions, although it should be noted that long-term suspensions are much less common, and the rate is calculated as the number of suspensions per 1,000 students (the short-term rate is suspensions per 100 students).

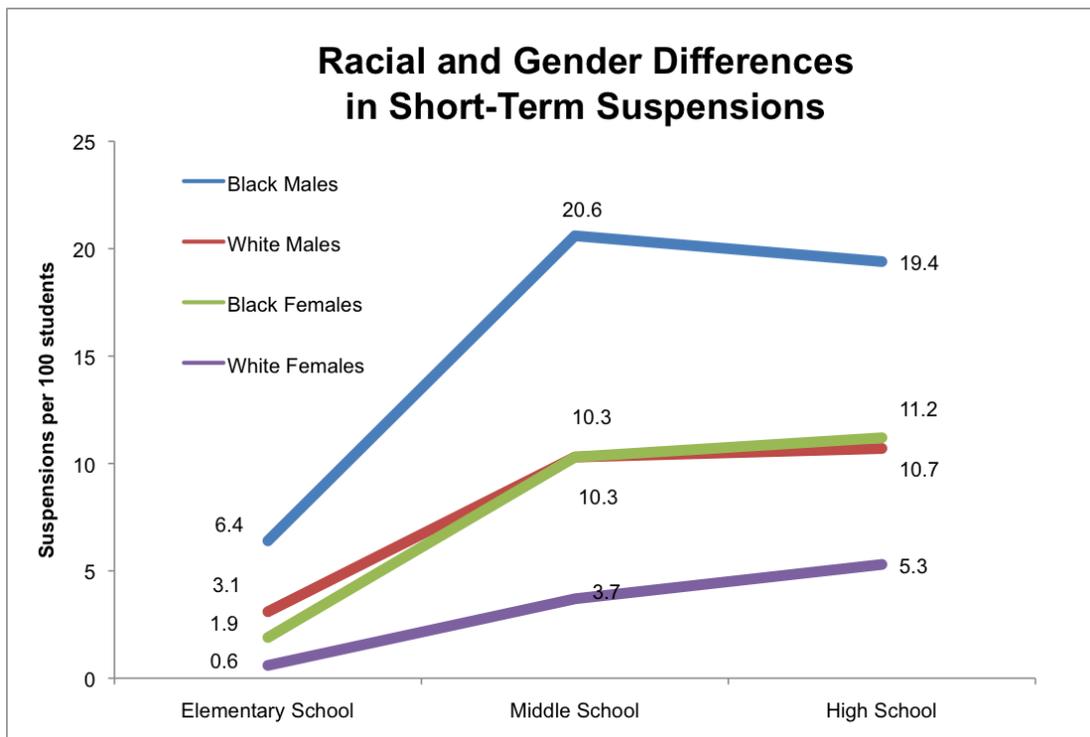


Figure 1

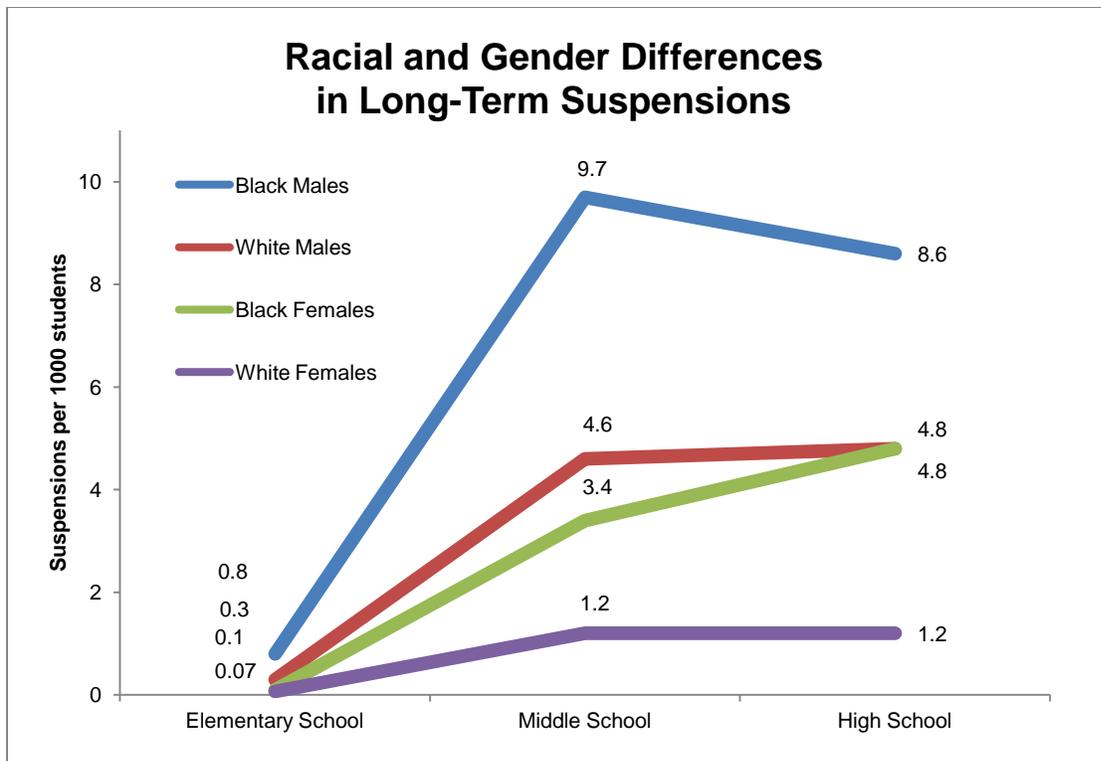


Figure 2

The high rates of suspensions among black students cannot be fully attributed to higher family poverty or to higher rates of serious misbehavior.¹⁶ Nor can their suspension rates be attributed to higher rates of delinquent behavior, such as property crimes, drug sales, or violent behaviors.¹⁷ Instead, several studies have found that high rates of minority suspension are associated with minor, typically more subjective, disciplinary infractions.¹⁸ In other words, most black students are being suspended for relatively minor misbehavior such as being loud or disruptive in class. In Virginia, black students are 67% more likely to be suspended for disruptive or disrespectful offenses than white students.¹⁹

Studies have found no support for the hypothesis that black students misbehave more often. Instead, research has supported the hypothesis that black students may be victim to more resource inequities than white students. Low-income students of color are more likely to attend schools with lower quality resources and facilities, higher teacher turnover, and a lower percentage of highly qualified teachers. These schools tend to also have a poor school climate. A 2011 study of 199 Virginia high schools found that schools rated by students as having the lowest levels of support and academic expectations had the highest rates of suspension *and* the largest black-white suspension gap.²⁰ Within these schools, students of color are referred more often and receive more severe punishments for less serious behavior.

IV. CREATING SAFE, FAIR, AND SUPPORTIVE SCHOOLS

In order for students to be academically successful, they must be surrounded by a safe and positive learning environment. There is strong evidence that this can be achieved without suspensions or expulsions. Schools should focus on a broader effort to create positive school climates and use alternatives to suspension. Positive Behavioral Interventions and Supports (PBIS),²¹ the professional development program My Teaching Partner,²² and school-based psychosocial violence prevention programs²³ are just a few evidence-based programs that improve student behavior without resorting to suspension. This Report demonstrates that *Virginia Student Threat Assessment Guidelines* is associated with reductions in the racial discipline gap, as well as lower suspension rates overall.

School Gun Suspension: 2nd-Grade Boys, Booted for Pointing Pencils, Return to Class

Seven-year old Christopher and his classmate were suspended for making shooting noises while pointing pencils at each other. The boys' horseplay violated Suffolk Public Schools' zero-tolerance ban on weapons.

Source: HuffPost

DEALING WITH THREATENING BEHAVIOR: A FOCUS ON STUDENT THREAT ASSESSMENT

Following the 1999 Columbine shooting, reports by the FBI, U.S. Secret Service, and U.S. Department of Education urged schools to refrain from the use of zero tolerance discipline practices. While there is no single definition for zero tolerance discipline policies, it generally refers to the belief that punishment should be given for any rule violation, including minor and unintentional rule violations. For example, one rule might be that students are not allowed to possess any prescription drugs at school, and a student is suspended for having acne medication in her locker.²⁴ Often, school administrators using a zero tolerance approach are less likely to assess or consider the reasons a student breaks a rule.

Instead of zero tolerance, the U.S. Department of Education has urged schools to adopt a flexible, less punitive approach to violence prevention known in law enforcement as “threat assessment.”²⁵ Although the term “threat assessment” is unfamiliar to most educators, it is a violence prevention strategy that begins with an evaluation of persons who threaten to harm others and is followed by interventions designed to reduce the risk of violence. A key aspect of threat assessment is its emphasis on considering the context and meaning of the student’s behavior and taking action that is proportionate to the seriousness of the student’s actions. This approach regards a threat as a sign of frustration or conflict that might be amenable to intervention, rather than simply a violation of rules that must be punished.

In the absence of any established approach to threat assessment in schools, a research group at the University of Virginia developed an innovative model, the *Virginia Student Threat Assessment Guidelines* (VSTAG).²⁶ The Virginia model of threat assessment is an approach to violence prevention that emphasizes early attention to problems such as bullying, teasing, and other forms of student conflict before they escalate into violent behavior. School staff members are encouraged to adopt a flexible, problem-solving approach, as distinguished from a more punitive, zero tolerance approach to student misbehavior.

This training is intended to promote broader changes in the nature of staff-student interactions around disciplinary matters and to encourage a more positive school climate in which students feel treated with fairness and respect.

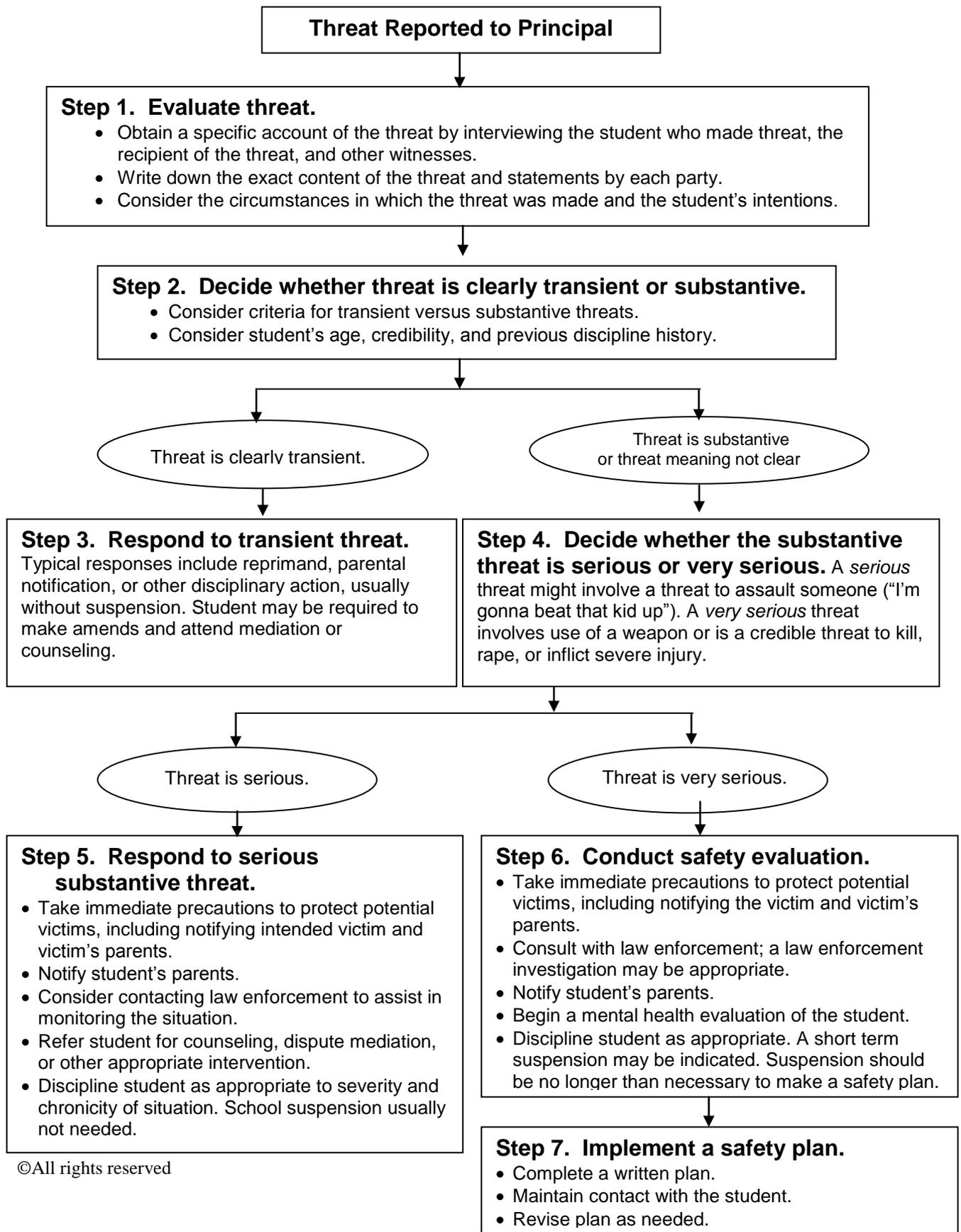
The VSTAG uses a decision tree (see Figure A) to guide threat assessment teams through a process of evaluating the seriousness of student threats and taking appropriate action. The threat assessment process places major emphasis on resolving problems and conflicts that stimulated a student's threatening behavior. The process also includes disciplinary consequences for student misbehavior, but discourages the use of school suspension except in the most serious cases. School resource officers serve on threat assessment teams because of their role in school safety and security, and they may conduct law enforcement investigations in cases where there is concern that a student is planning or preparing to carry out a violent crime. However, very few student threat assessments result in an arrest or delinquency charges.

Virginia High School Student Suspended for Spitballs

In 2010, a Virginia high school honors student was suspended for the rest of the school year for blowing plastic spitballs through a hollowed-out pen at people's backpacks during lunch. The student was charged with three counts of assault.

Source: FoxNews.com

FIGURE A. DECISION TREE FOR STUDENT THREAT ASSESSMENT.



CAN THREAT ASSESSMENT REDUCE RACIAL DISPARITIES?

Every day, teachers and other school personnel make assessments of student behavior and exercise judgment about whether behavior has crossed the line from ordinary horseplay into a disciplinary infraction or threat to safety. This ability to properly assess student behavior has historically been based on the teacher's and administrator's knowledge of the student. But with school budget cuts, increased class sizes, and growing administrative duties, the ability of teachers and administrators to develop personal relationships with students has dwindled. One study has concluded that the discipline gap exists because teachers and administrators are often less familiar with their minority students, less trusting or sympathetic in their view of them, and sometimes more concerned about their behavior.²⁷ Threat assessments place emphasis on gathering information and evaluating the context and motive for the student's behavior, and thus, could make a difference in the suspension and expulsion rates of black students.

In two controlled studies, University of Virginia researchers found that Virginia schools using the VSTAG were less likely than non-VSTAG schools to suspend a student for making a threat²⁸ and showed reductions in annual schoolwide suspension rates.²⁹ A statewide analysis of 1,795 schools³⁰ found that use of VSTAG was associated with greater reductions in suspensions.³¹

In this new study, University of Virginia researchers examined 2011-2012 student-level suspension data for 663 secondary (middle, high, or combined) schools. Short-term and long-term suspension rates (unduplicated³² counts of students) were compared for schools using the Virginia model (VSTAG) versus all other schools, based on reports by school principals on the 2011-2012 Virginia School Safety Audit. These analyses controlled for school differences in enrollment size and percentage of students receiving free or reduced price meals. In other words, all of the suspension rates are adjusted for the statistical effects due to the size of the school or the poverty level of the student body.³³

This new analysis by University of Virginia researchers found that secondary schools using the Virginia threat assessment model had lower rates of both short-term and long-term suspensions than other schools, which typically rely on a zero tolerance approach. As shown in Figure 3, schools using the Virginia model had 9.2 short-term suspensions/100 students in contrast to 10.8 short-term suspensions/100 students in schools not using the model. This represents a difference of approximately 15%. For long-term suspensions, the contrast was 3.6 suspensions/1,000 students among schools using the threat assessment model versus 4.8 among schools not using the model, a difference of approximately 25%. To put these results in perspective, a decrease of 15% for the 62,942 students in our data set who received one or more short-term suspensions in Virginia secondary schools would mean 9,441 fewer students would receive short-term suspensions. A decrease of 25% for the 3,060 students in our data set who received long-term suspensions would mean 765 fewer students would receive long-term suspensions.

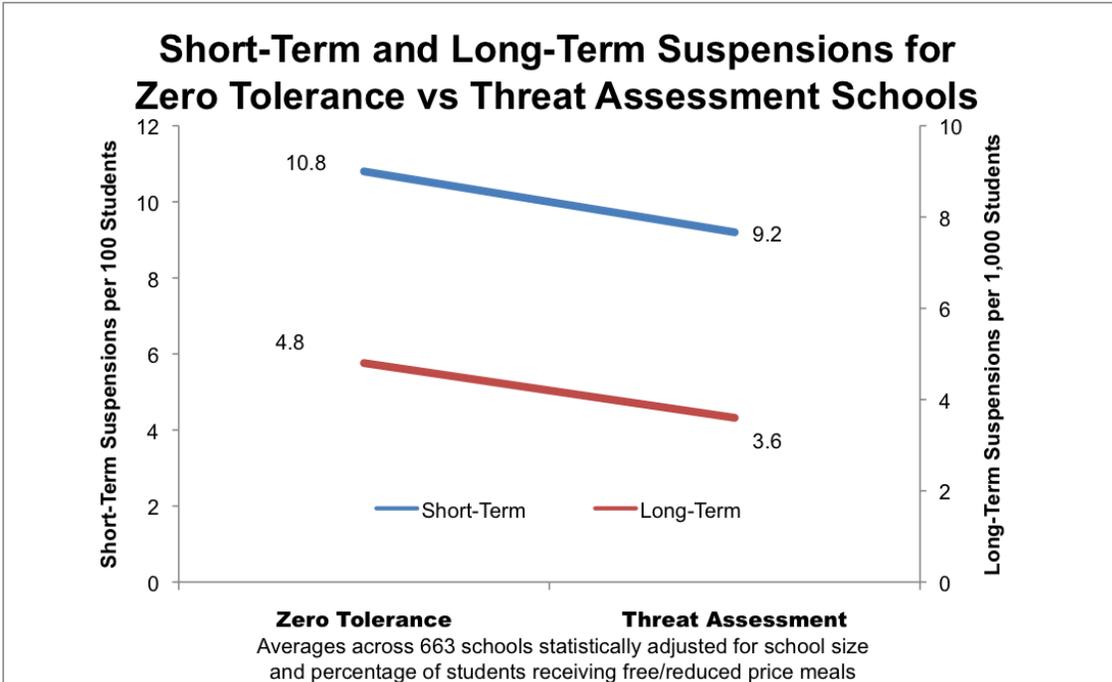


Figure 3

An additional series of analyses examined the suspension rates for subgroups of black and white males and females. As shown in Figure 4, short-term suspensions were lower in schools using the Virginia model for all four race-by-gender groups. The lower rates for white males, black females, and white females were statistically significant, but the lower rate for black males fell short of statistical significance ($p = .075$).

For long-term suspensions, the rates were lower for all four groups, too, but only the lower rate for black males was statistically significant (see Figure 5).

The racial disparity in suspension rates for black and white students can be gauged as the difference between the two groups. For short-term suspensions, the racial disparity is similar in the two groups of schools for both males and females, although the overall levels of suspension are reduced. In the case of long-term suspensions, however, the disparity between white and black males is notably lower in schools using the Virginia threat assessment model. In schools using the Virginia model, the disparity between white and black males is 3.3 percentage points ($7.6 - 4.3$) versus 6.1 percentage points ($11.2 - 5.1$) in zero tolerance schools not using the model. The difference between 3.3 and 6.1 is statistically significant ($p = .04$).

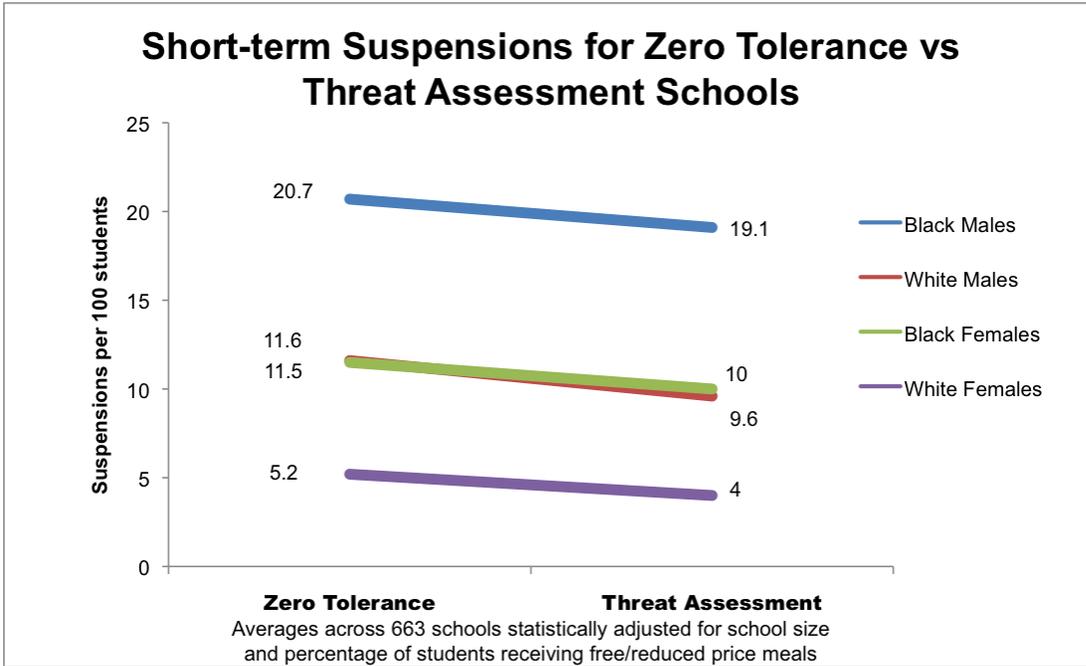


Figure 4

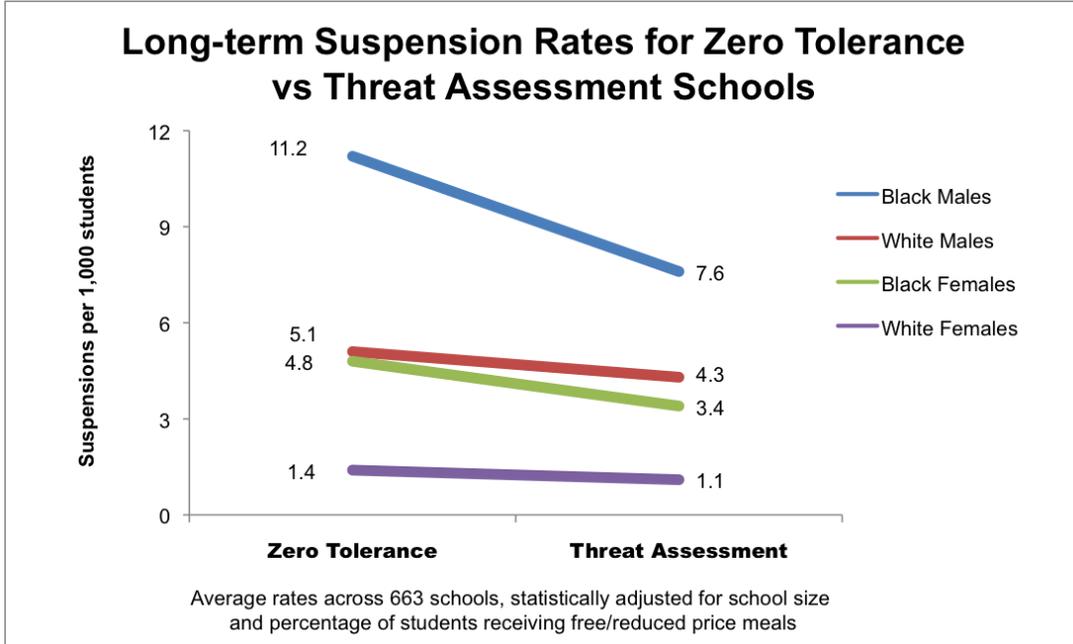


Figure 5

V. RECOMMENDATIONS FOR USING THREAT ASSESSMENT SAFELY AND FAIRLY

There are good reasons to believe that our schools are quite safe. Since 1993, only 2% of all youth homicides have occurred in schools.³⁴ And in the past thirty years, only 2 homicides have occurred at Virginia primary and secondary schools.³⁵ Children are safer from serious violent crime in schools than almost any other place, including their homes.³⁶ The challenge for school leaders is to maintain the safety of Virginia schools without over-reacting or under-reacting to student threats of violence.

This year, in response to the tragic shootings at Sandy Hook Elementary, Virginia became the first state in the country to mandate the formation of threat assessment teams in all its schools. Currently, over 1,000 of Virginia's schools are using the *Virginia Student Threat Assessment Guidelines* (VSTAG).

Our research has shown that schools implementing the Virginia model tend to have lower suspension rates and, for long-term suspensions, narrower racial discipline gaps. In order to reap the benefits of threat assessment, however, it must be carefully implemented and balanced with student rights, all with the goal of improving school safety and climate for everyone. We have seven recommendations for how to implement threat assessment safely and fairly.

1. Don't overreact.

Most threats are transient ones that are not serious and can be quickly resolved.³⁷ Transient threats may be rhetorical remarks or expressions of anger (such as "I could strangle you for that") that do not express a genuine, sustained intent to harm. Pointing a pencil like a gun would be an obvious example of a transient threat. At worst, transient threats express temporary feelings of anger or frustration that can be resolved on the scene or in the counselor's office.

It is not necessary to take special safety precautions when responding to transient threats. School personnel should ensure that these threats are resolved through explanations and apologies. Where appropriate, counseling and education can be provided. School counselors routinely help students to resolve conflicts and find more appropriate ways to express their feelings.

Students do not have to be suspended for making a threatening statement. Many threats can be resolved without suspension. If the student responds positively to the initial intervention (*i.e.* calms down and apologizes), the threat can be resolved, and the process ends. More than two-thirds of threats are resolved in this efficient manner.

Substantive threats, on the other hand, express intent to physically injure someone beyond the immediate situation. In this situation, there is at least some risk the student will carry out the threat. Substantive threats require the school to take some protective action, including

cautioning the student about the consequences of carrying out the threat, providing supervision so that the threat is not carried out at school, and calling the student's parents or caretakers so that they can assume responsibility for the student after school. A typical case might be one student threatening to fight another.

For very serious substantive threats, such as threats to shoot or kill someone, there are some additional steps under the model. *It is important to note that very few threats reach this level.* The first additional step is to conduct a more comprehensive evaluation of the student, including a mental health assessment to recommend strategies to address the problem or conflict underlying the threat. Students who make very serious threats may be depressed or experiencing emotional difficulties that require attention. They may be victims of bullying or embroiled in some other conflict or problem they cannot resolve. School mental health staff members are there to help. The team will identify appropriate interventions for the student, such as counseling or dispute mediation.

When dealing with very serious substantive threats, which are rare, the threat assessment model recommends a series of responses. Schools should take precautions to protect the potential victims, which usually includes notifying the intended victim and victim's parents, as well as the student's parents. Schools should avoid provocative responses and strive to de-escalate tense or stressful situations. As the Virginia Department of Criminal Justice Services advises, "actions that intimidate, threaten, or humiliate the subject can provoke the individual and lead to undesirable consequences."³⁸ In the most serious cases, the school resource officer may undertake a law enforcement investigation to determine whether a student has acquired weapons or taken other concrete steps to carry out a serious act of violence. The officer may provide increased security if there is heightened concern about a potential act of violence. In the vast majority of threat cases, there is no need for an arrest or juvenile court charges, but the availability of a law enforcement officer allows the team to address the full range of possible circumstances. Based on all of the information gathered in a threat assessment, the team formulates a plan to resolve the threatening situation and help the student continue his or her education. Research with the Virginia model has shown that almost all students can continue in their original school, and relatively few cases require school transfer.

2. Protect confidential student information.

There are various laws regarding the confidentiality of educational and medical records. A school's authority to release information about a student is governed by The Family Educational Rights and Privacy Act (FERPA). Under FERPA, a school is required to provide certain privacy protections for education records it maintains. Under FERPA, a school may not disclose personally identifiable information from a student's education records to a third party unless the student or a parent has provided written consent.³⁹ Students have the right to file a complaint against a school that has failed to comply with FERPA.⁴⁰

FERPA does contain a “health and safety” exception that allows schools to share information from a student’s education records without consent. FERPA provides that schools “may disclose personally identifiable information from an education record to appropriate parties, including parents of an eligible student, in connection with an emergency if knowledge of that information is necessary to protect the health or safety of the student or other individuals.”⁴¹ According to the U.S. Department of Education and U.S. Secret Service, “schools must define the term ‘health and safety emergency’ narrowly, and are permitted to disclose information from education records only to those individuals who need the information in order to protect the student and others.”⁴² The U.S. Department of Education further advises that this “exception is limited to the period of the emergency and generally does not allow for a blanket release of personally identifiable information from a student’s education records.”⁴³

In addition, the Health Insurance Portability and Accountability Act (HIPAA) guarantees the privacy of medical records. Under HIPAA, identifiable medical information cannot be disclosed without the consent of the individual unless disclosure is expressly permitted by HIPAA. Generally under HIPAA, before anyone can access psychological records, informed consent is required.⁴⁴ There is, however, a health and safety exception for consent in situations where uses and disclosures are allowed to avert a serious threat to the health or safety of a person or the public.⁴⁵ Virginia law also protects confidential medical records.⁴⁶ Like HIPAA, Virginia law contains exceptions to the consent requirement, such as in circumstances where there is a serious threat to the health or safety of the individual, others, or the public.⁴⁷

Threat assessment teams potentially have access to a student’s intimate health and mental health records contained in the student’s school records. Because threat assessment teams can include members who are not school staff (e.g., school resource officers), it is important that schools understand their legal obligations to protect students’ confidential records. School divisions should make sure that employees understand when the “health and safety” exception to FERPA’s privacy protections permits them to give outside law enforcement access to personally identifiable information from students’ education records.⁴⁸ In addition to protecting students’ confidential records for legal reasons, threat assessment teams must consider how the sharing of private information will affect students’ relationships with school staff. If students know their private conversations will be shared with others, this may have a chilling effect on students’ willingness to consult with trusted staff members when they are having difficulties. Sharing of information may also result in students being less candid when speaking to service providers in schools.

3. Clarify the role of law enforcement and use court referrals only as a last resort.

It is important to clarify the role of law enforcement officers on the threat assessment team. There are a number of important legal and policy questions that schools should consider and address through policy, procedures, and training.

First, when *may* schools give law enforcement access to a student's education records? Different rules apply to security personnel employed by the school division. FERPA allows school districts to designate employees, usually security staff, as "law enforcement units."⁴⁹ Like any other school employees, "law enforcement units" employed by the school may have access to student records if they have a "legitimate educational interest."⁵⁰ Schools must provide parents with written notice which employees serve as "law enforcement units."⁵¹ The privacy rules governing disclosure to non-school employees (e.g., school resource officers) was discussed thoroughly in the previous section.

Second, when *must* schools report incidents to law enforcement? There are certain instances of serious school misconduct that the principal of a school must immediately report to local law enforcement.⁵² However, the Virginia General Assembly recently amended Virginia Code § 22.1-279.3:1 to clarify that the law enforcement reporting requirement does not require that formal charges be filed. The amendment invites schools and law enforcement to work together to deal with low-level offenses informally through graduated sanctions and educational programming and without the filing of a formal delinquency petition.

Third, when *should* threat assessment teams report incidents to law enforcement? Threat assessment teams may decide to consult with law enforcement officers assigned to work at their schools for threats or actions that fall outside of the enumerated offenses listed in the above statute. However, arrests and court involvement should be regarded as a last resort because of the potential for negative effects on students. A 2006 study of national data found that court involvement was associated with a detrimental effect on educational outcomes, particularly for youth with a low level of delinquency.⁵³ "Arrest doubles the probability of [high school] dropout even when controlling for arrest expectations, college expectations, prior and concurrent delinquency, grade retention, school suspension, middle school grade point average, and a number of demographic factors."⁵⁴ A more recent study found that "[a]mong Chicago adolescents otherwise equivalent on pre-arrest characteristics, 73% of those arrested later dropped out of high school compared with 51% of those not arrested, a substantial difference of 22 percent."⁵⁵ The authors concluded that the process that leads to dropping out is adversely influenced by institutional responses, and not just by individual propensity for misbehavior and academic failure.⁵⁶

School divisions should address these issues in a memorandum of understanding (MOU) with local law enforcement agencies that provide officers assigned to work in their schools. The MOU should address what actions will trigger police involvement and risk of arrest. When negotiating MOUs, communities should consider designing a system to divert low-level offenses from juvenile court to workshops or mediation. Such approaches have been successful in reducing school-based referrals to juvenile court.⁵⁷ Communities should also make sure that school resource and security officers receive training on the following items:

- 1) adolescent development and psychology;
- 2) strategies for diffusing potentially volatile situations;
- 3) recognizing symptoms of trauma and abuse (and related behaviors) in children and adolescents,
- 4) recognizing manifestations of students' disabilities;
- 5) evidence-based programs for improving school climate; and
- 6) the short-term and long-term effects of court involvement on the likelihood of recidivism and disengagement from school.⁵⁸

Finally, schools should consider including school resource and security officers in any training on programs designed to improve school climate, including trauma-sensitive approaches, restorative justice, Positive Behavioral Interventions and Supports (PBIS), and, of course, threat assessment.⁵⁹

4. Protect student rights.

All students are entitled to certain due process protections – namely the right to notice, a hearing, and an opportunity to appeal – before educational services are removed.⁶⁰ In *Goss v. Lopez*, the United States Supreme Court held that public education is a property interest protected by the Due Process Clause of the U.S. Constitution.⁶¹ “At the very minimum, therefore, students facing suspension and the consequent interference with a protected property interest must be given *some* kind of notice and afforded some kind of hearing.”⁶²

The Virginia Code authorizes schools to suspend or expel students for “sufficient cause.”⁶³ There are three ways schools in Virginia may discipline students by exclusion. Schools could impose a short-term suspension, which is any suspension for ten days or fewer. Schools can impose a long-term suspension, which is anywhere between 11 and 364 days. Schools can also impose an expulsion, which is for 365 days.

When implementing threat assessments, schools should keep students' rights in mind. Schools are not permitted to issue informal suspensions by sending students home without providing due process. Schools are also not permitted to tell a parent that a child is suspended indefinitely until he or she receives a threat assessment. For cases involving very serious substantive threats, schools may consider short-term suspensions or other alternative educational options for the purpose of assessing an imminent threat. However, schools must follow statutory procedures when imposing suspensions. The specific procedures vary depending on the length of the suspension, but they always include written notice (or oral notice for short-term suspensions) of the disciplinary charges, an opportunity to present the student's version of what occurred, and notice of the right to appeal to the superintendent or school board. During a suspension, a school should continue the threat assessment process with the goal of

developing a plan for the student’s return to school or the continuation of educational services in an appropriate environment.

In Virginia, schools always have the option to keep a student in school. Local school boards are authorized – and in most cases they are required – to consider a set of factors or “special circumstances” before suspending or expelling the student.⁶⁴ Even in cases of drugs or firearms, the presumption of expulsion may be rebutted by considering special circumstances. The school board always has the discretion to recommend a reduced punishment, or to permit the student to attend an alternative school or program.⁶⁵

Children with disabilities receive extra protections when the school seeks to suspend or expel them, or to change their placements. If a school proposes to suspend a student with a disability for more than ten school days, it must first determine whether the conduct was a “manifestation” of the student’s disability. (That is, whether the behavior was caused by, or substantially and directly related to the child’s disability, or whether the incident was the direct result of the school’s failure to provide the child with services in his or her Individualized Education Program or IEP.)⁶⁶ If the behavior is a manifestation of the child’s disability, then the child cannot be suspended or expelled and must be returned to the student’s original placement. If the behavior is not a manifestation, then the child can be suspended or expelled, but the school must continue to provide a free and appropriate public education.⁶⁷

School leaders should ensure that these procedures are followed when conducting a threat assessment for a student with a disability. If a student with a disability makes a substantive threat, schools should consider convening a meeting of the student’s Individualized Education Program Team to discuss whether the student needs additional supports or services, and to revise the IEP accordingly. Schools may not attempt to resolve perceived threats by unilaterally changing the frequency, duration, intensity, or placement of the special education and related services provided pursuant to the student’s IEP.⁶⁸

In Virginia, except in cases of drugs and firearms, a decision to expel a student must be based on the following:

1. The nature and seriousness of the violation;
2. The degree of danger to the school;
3. The student’s disciplinary history;
4. The appropriateness and availability of alternative education;
5. The student’s age and grade level;
6. The results of any mental health, substance abuse, or special education assessments;
7. The student’s attendance and academic records; and
8. Such other matters as deemed appropriate.

Virginia Code Ann. § 22.1-277.06.

A school may remove a student with a disability from the current educational placement and place the child in an interim alternative educational setting for no more than 45 days without regard for whether the child's behavior was a manifestation of his or her disability under three specific circumstances.⁶⁹ A school may do so if while at school, on school premises, or at a school function, a child (1) carries or possesses a dangerous weapon capable of causing death or serious bodily injury; (2) knowingly possesses or uses drugs, or sells or solicits the sale of controlled substances; or (3) inflicts serious bodily injury upon another person.⁷⁰ "Serious bodily injury" means "bodily injury that involves substantial risk of death, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ or mental faculty."⁷¹ Even in these serious circumstances, a free and appropriate education must be provided to the student with a disability who is removed to an interim alternative educational setting.

5. Remember that a public education must be free to all.

Schools may not require parents to pay for private evaluations or private treatment services as conditions of re-enrollment. Requiring parents to pay for a private assessment is a violation of the Virginia Constitution's guarantee that a free public education is available to all children of school age in the Commonwealth. Further, an Attorney General's opinion states that school boards may not impose fees as a condition of continued school enrollment.⁷² (Specifically, a school board was not permitted to require a student to pay for substance abuse counseling services as a condition of continued enrollment.⁷³) It is the parents' prerogative to secure private evaluations for their children and release those evaluations to the school for consideration in the school's threat assessment process. However, it is improper for schools to require parents to obtain a private evaluation of a student at the family's expense.

6. Conduct threat assessments promptly.

When a student is identified as making a threat of violence, the school must be prepared to conduct a threat assessment in a prompt and timely manner. A delay in completing a threat assessment may expose others to harm if the threat is carried out. Another concern is that a student's education may be disrupted while waiting for an evaluation to be completed. A benefit of the University of Virginia threat assessment model is that trained school personnel can resolve most threats promptly and efficiently without school suspension. More serious and complex cases can often be resolved in a few days and do not require a long-term suspension. Students should not be required to spend weeks or months out of school while awaiting a threat assessment.

7. Implement effective long-term solutions.

If we want schools to be truly safe, and not just create the appearance of safety, we should invest in evidence-based practices for reducing school violence. According to the FBI, the U.S.

Secret Service, and other authorities on violence prevention, “the most effective way to prevent many acts of violence targeted at schools is by maintaining close communication and trust with students and others in the community.”⁷⁴ In order to accomplish this goal, we should support schools in creating and implementing a positive school climate. Research in Virginia secondary schools has demonstrated that schools characterized by an authoritative school climate – one that has both strict-but-fair discipline and supportive staff-student relationships – have lower rates of student aggression and misbehavior, more respectful behavior toward teachers, and fewer discipline problems resulting in school suspension.⁷⁵ Furthermore, in supportive school climates students are more willing to seek help when a classmate threatens violence or brings a weapon to school.⁷⁶

When confronted with a student who has made a threat, professionals often resort to school suspension. However, the U.S. Secret Service and Department of Education caution that suspension may not be the best course of action for the longer term and advise threat managers to consider the most effective and least damaging course of action.⁷⁷ “Those with the responsibility to manage a student assessed as posing a threat of targeted violence should consider options for the long term management of threatening situations in the context of the primary goal of prevention. The response with the greatest punitive power may or may not have the greatest preventative power.”⁷⁸

VI. POLICY RECOMMENDATIONS

1. The Virginia General Assembly should ensure that sufficient funding is available to provide school employees and law enforcement employees assigned to work in schools training in threat assessment, as well as other interventions that can help reduce suspension rates and improve student behavior. Examples of other interventions include Positive Behavioral Interventions and Supports (PBIS), trauma-informed intervention, and restorative justice.
2. The Virginia Department of Education and The Virginia Department of Criminal Justice Services should draft a model memorandum of understanding (MOU) between schools and law enforcement for implementing threat assessment procedures and related efforts to maintain school safety. The model MOU should describe the relationship between the school and law enforcement, how law enforcement will be incorporated into the schools’ threat assessment teams and related efforts to improve climate (including diversion of low-level offenses), how training will be delivered, and how information will be shared while protecting the confidentiality of student information.
3. The Virginia Department of Juvenile Justice should collect data on school-based arrests, referrals to law enforcement by schools or school resource officers, and filing of delinquency petitions or criminal complaints based on conduct occurring at school. The data should be

disaggregated and summarized for the public by school, charge, arresting agency, gender, age, race/ethnicity, disability and English proficiency status.

4. The General Assembly should require that schools ensure that students who are suspended or expelled continue to make academic progress during periods of disciplinary removal, albeit in another educational setting if necessary.

CONCLUSION

By properly implementing threat assessment protocols, investing in promising violence prevention programs like restorative justice, and expanding Positive Behavioral Interventions and Supports,⁷⁹ Virginia can reduce school violence and give students the resources and support they need to be successful.

¹ Mary Ellen O'Toole, PhD, *The School Shooter: A Threat Assessment Perspective*, National Center for the Analysis of Violent Crime, Federal Bureau of Investigation (2000), available at <http://www.fbi.gov/stats-services/publications/school-shooter>; Robert A. Fein, et al., *Threat Assessment in Schools: A Guide to Managing Threatening Situations and to Creating Safe School Climates*, U.S. Secret Service & U.S. Dep't of Educ. (May 2002), available at www.secretservice.gov/ntac/ssi_guide.pdf.

² Robert Balfanz, et al., *Sent Home and Put Off-Track: The Antecedents, Disproportionalities, and the Consequences of Being Suspended in the Ninth Grade*, 8 (Dec. 21, 2012).

³ *Id.* at 9.

⁴ Va. Dep't of Educ., *Discipline, Crime, and Violence School Year 2011-2012*, 12-15 (June 2013), available at http://www.doe.virginia.gov/statistics_reports/school_climate/discipline_crime_violence/11-12_annual_report.pdf.

⁵ Data provided to JustChildren by the Virginia Department of Education.

⁶ Va. Dep't of Educ., *Discipline, Crime, and Violence School Year 2011-2012*, 12-15 (June 2013), available at http://www.doe.virginia.gov/statistics_reports/school_climate/discipline_crime_violence/11-12_annual_report.pdf.

⁷ *Id.* at 25.

⁸ Dan Losen & Tia Elena Martinez, *Out of School & Off Track: The Overuse of Suspensions in American Middle and High Schools*, The Center for Civil Rights Remedies at UCLA's Civil Rights Project (2013), available at http://civilrightsproject.ucla.edu/resources/projects/center-for-civil-rights-remedies/school-to-prison-folder/federal-reports/out-of-school-and-off-track-the-overuse-of-suspensions-in-american-middle-and-high-schools/OutOfSchool-OffTrack_UCLA_4-8.pdf.

⁹ Tony Fabelo, Ph.D., et al., *Breaking Schools' Rules: A Statewide Study of How School Discipline Relates to Students' Success and Juvenile Justice Involvement*, The Council of State Governments Justice Center & Public Policy Research Institute (July 2011), available at http://issuu.com/csgjustice/docs/breaking_schools_rules_report_final-1?e=2448066/1603396.

¹⁰ University of Virginia Curry School of Education, *Practical Findings from the Virginia High School Safety Study, How Are Suspension Rates Related to Dropout Rates?* Issue 7, available at <http://curry.virginia.edu/uploads/resourceLibrary/vhss-one-pager-issue-7.pdf>.

¹¹ H. Douglas Cox, *Report on the Department of Education's Effective Schoolwide Discipline Initiative*, Presentation at the Va. Bd. of Educ. Meeting (Oct. 27, 2011), available at http://www.doe.virginia.gov/boe/meetings/2011/10_oct/agenda_items/item_k.pdf (last visited Dec. 1, 2013).

¹² Dan Losen & Tia Elena Martinez, *Out of School & Off Track: The Overuse of Suspensions in American Middle and High Schools*, The Center for Civil Rights Remedies at UCLA's Civil Rights Project (2013), available at http://civilrightsproject.ucla.edu/resources/projects/center-for-civil-rights-remedies/school-to-prison-folder/federal-reports/out-of-school-and-off-track-the-overuse-of-suspensions-in-american-middle-and-high-schools/OutOfSchool-OffTrack_UCLA_4-8.pdf.

¹³ In Virginia, school suspensions of 1-10 days are classified as short-term, and suspensions for more than 10 days are classified as long-term. Readers will observe that suspension rates are comparable in middle and high schools, but much lower in elementary schools. For this reason, subsequent analyses focused on the combined group of middle and high schools, referred to as secondary schools.

¹⁴ Unduplicated means each student is counted only one time in our analyses. This means the students in our data sets are suspended one or more times.

¹⁵ Data provided to Dr. Cornell by the Virginia Department of Education (2013).

¹⁶ Robert Balfanz, et al., *Sent Home and Put Off-Track: The Antecedents, Disproportionalities, and the Consequences of Being Suspended in the Ninth Grade* (Dec. 21, 2012).

- ¹⁷ Tracey L. Schollenberger, *Racial Disparities in School Suspension and Subsequent Outcomes: Evidence from the National Longitudinal Survey of Youth 1997*, Paper presented at the Closing the School Discipline Gap: Research to Practice, Washington, DC (Jan. 2013), available at http://civilrightsproject.ucla.edu/events/2013/copy_of_closing-the-school-discipline-gap-agenda.
- ¹⁸ Russell J. Skiba, et al., *The Color of Discipline: Sources of Racial and Gender Disproportionality in School Punishment*, 34 *The Urban Review* 317-342 (Dec. 2002); Dan Losen & Tia Elena Martinez, *Out of School & Off Track: The Overuse of Suspensions in American Middle and High Schools*, The Center for Civil Rights Remedies at UCLA's Civil Rights Project (2013), available at http://civilrightsproject.ucla.edu/resources/projects/center-for-civil-rights-remedies/school-to-prison-folder/federal-reports/out-of-school-and-off-track-the-overuse-of-suspensions-in-american-middle-and-high-schools/OutOfSchool-OffTrack_UCLA_4-8.pdf.
- ¹⁹ Anna Heilbrun, et al., *Principal Attitudes Regarding Zero Tolerance and Racial Disparities in School Suspensions*, Presented at the American Psychological Association Annual Convention, Honolulu, Hawaii (2013).
- ²⁰ Anne Gregory, Ph.D, et al., *The Relationship of School Structure and Support to Suspension Rates for Black and White High School Students*, 48 *American Educational Research Journal* 904-934 (2011).
- ²¹ From 2007-2011, Virginia schools implementing the state's PBIS program have decreased office discipline referrals by 29% for general education students and 51% for special education students; decreased in-school suspensions by 45% for general education students and 65% for special education students; decreased out-of-school suspensions by 75% for general education students and 86% for special education students; and saved 9.2 hours of administrative time and 4.6 hours of instructional time weekly (data provided by the Virginia Department of Education).
- ²² Evidence shows My Teaching Partner has increased student performance on standardized tests across racial groups and increased positive student engagement and peer interactions. Statistically, studies have also shown that implementation of My Teaching Partner eradicated the discipline gap between African American and white students, compared to a control classroom where African American students were twice as likely to be suspended than white students. See Anne Gregory, et al., *The Promise of a Teacher Professional Development Program in Reducing the Racial Disparity in Classroom Exclusionary Discipline*, chapter in *Closing the Discipline Gap*, Teachers College Press (2014), chapter available at <http://civilrightsproject.ucla.edu/resources/projects/center-for-civil-rights-remedies/school-to-prison-folder/state-reports/the-promise-of-a-teacher-professional-development-program-in-reducing-the-racial-disparity-in-classroom-exclusionary-discipline/gregory-teacher-development-ccrr-conf-2013.pdf>.
- ²³ Sandra Jo Wilson, PhD & Mark W. Lipsey, PhD, *School-Based Interventions for Aggressive and Disruptive Behavior: Update of a Meta-Analysis*, *American Journal of Preventative Medicine*, 130-143 (Aug. 2007).
- ²⁴ Valerie Strauss, *5 Myths about Zero-Tolerance Disciplinary Policies*, *The Washington Post* (Mar. 11, 2011), available at <http://voices.washingtonpost.com/answer-sheet/discipline/5-myths-about-zero-tolerance-d.html>.
- ²⁵ Robert A. Fein, et al., *Threat Assessment in Schools: A Guide to Managing Threatening Situations and to Creating Safe School Climates*, U.S. Secret Service & U.S. Dep't of Educ. (May 2002).
- ²⁶ Dewey Cornell, et al., *Guidelines for Student Threat Assessment: Field-Test Findings*, 33 *School Psychology Review* 527-546 (2004).
- ²⁷ Anne Gregory & Rhona S. Weinstein, *The Discipline Gap and African-Americans: Defiance or Cooperation in the High School Classroom*, 46 *Journal of School Psychology* 455-475 (2008).
- ²⁸ Dewey Cornell, et al., *A Randomized Controlled Study of the Virginia Student Threat Assessment Guidelines in Grades K-12*, 41 *School Psychology Review* 100-115 (2012).
- ²⁹ Dewey Cornell, et al., *Reductions in Long-Term Suspensions Following Adoption of the Virginia Student Threat Assessment Guidelines*, 95 *Bulletin of the National Association of Secondary School Principals* 175-194 (2011).
- ³⁰ Virginia Department of Criminal Justice Services, *The 2012 Virginia School Safety Audit Survey Results* (2013), available at www.dcjs.virginia.gov/vcss/audit/index.cfm.
- ³¹ Dewey Cornell & Peter Lovegrove, *Student Threat Assessment as a Method of Reducing Student Suspensions*, chapter in *Race and Gender Disparities in School Discipline*, Center for Civil Rights Remedies, UCLA (2012).
- ³² Unduplicated means each student is counted only one time in our analyses. This means the students in our data sets are suspended one or more times.
- ³³ Technical details of the statistical analyses are available from Dr. Cornell.
- ³⁴ National Center for Education Statistics, *Indicators of School Crime and Safety: 2011*, see Table 2.1 (Feb. 2012), available at www.bjs.gov/content/pub/pdf/iscs11.pdf.
- ³⁵ National School Safety Center, *School Associated Violent Deaths* (Mar. 2010), available at <http://www.schoolsafety.us/media-resources/school-associated-violent-deaths>.
- ³⁶ Interdisciplinary Group on Preventing School and Community Violence, *A Call for More Effective Prevention of Violence* (Dec. 19, 2012), available at <http://curry.virginia.edu/articles/sandyhookshooting>.
- ³⁷ Dewey Cornell, Ph.D & Peter Sheras, Ph.D, *Guidelines for Responding to Student Threats of Violence Book*, Sopris West (2006). All general principles of VSTAG are attributed to this source.
- ³⁸ Dewey Cornell, PhD, *Recommended Practices for Virginia College Threat Assessment*, Virginia Department of Criminal Justice Services (Apr. 2009).
- ³⁹ U.S. Dep't of Educ., *FERPA General Guidance for Students* (Feb. 2011), available at <http://www2.ed.gov/policy/gen/guid/fpco/ferpa/students.html>.
- ⁴⁰ *Id.*
- ⁴¹ 34 CFR 99.36.
- ⁴² Robert A. Fein, et al., *Threat Assessment in Schools: A Guide to Managing Threatening Situations and to Creating Safe School Climates*, U.S. Secret Service & U.S. Dep't of Educ., 36 (May 2002), available at www.secretservice.gov/ntac/ssi_guide.pdf.
- ⁴³ U.S. Dep't of Educ., *Balancing Student Privacy and School Safety: A Guide to the Family Educational Rights and Privacy Act for Elementary and Secondary Schools* (Oct. 2007), available at <http://www2.ed.gov/policy/gen/guid/fpco/brochures/elsec.pdf>.
- ⁴⁴ 45 C.F.R. §164.508(a)(2).
- ⁴⁵ 45 C.F.R. § 164.512(j)(1).
- ⁴⁶ VA. CODE ANN. §32.1-127.1:03 et seq.

⁴⁷ VA. CODE ANN. §32.1-127.1:03(D)(6). See also VA. CODE ANN. §54.1-2400.1(B) (“A mental health service provider has a duty to take precautions to protect third parties from violent behavior or other serious harm only when the client has orally, in writing, or via sign language, communicated to the provider a specific and immediate threat to cause serious bodily injury or death to an identified or readily identifiable person...if the provider reasonably believes, or should believe according to the standards of his profession, that the client has the intent and ability to carry out that threat immediately or imminently...The duty to protect does not attach unless the threat has been communicated to the provider by the threatening client while the provider is engaged in his professional duties.”)

⁴⁸ FERPA does not prohibit disclosure to authorities of information obtained through the employee’s personal knowledge or observation.

⁴⁹ See 34 C.F.R. § 99.8.

⁵⁰ See 34 C.F.R. § 99.31; see also U.S. Dep’t of Educ., *Balancing Student Privacy and School Safety: A Guide to the Family Educational Rights and Privacy Act for Elementary and Secondary Schools* (Oct. 2007), available at <http://www2.ed.gov/policy/gen/guid/fpco/brochures/elsec.pdf>.

⁵¹ U.S. Dep’t of Educ., *Balancing Student Privacy and School Safety: A Guide to the Family Educational Rights and Privacy Act for Elementary and Secondary Schools* (Oct. 2007), available at <http://www2.ed.gov/policy/gen/guid/fpco/brochures/elsec.pdf>.

⁵² These offenses are those that occur on school property, during a school-sponsored activity, or on a school bus, related to: (a) assault and battery that results in bodily injury, sexual assault, death, shooting, stabbing, cutting, wounding, or stalking any person; (b) conduct involving alcohol, drugs, steroids, or imitation controlled substances, including the theft or attempted theft of student prescription medications; (c) any threats against school personnel; (d) illegally carrying a firearm; (e) any illegal conduct with firebombs, explosives, incendiary devices, or hoax explosive devices; or (f) real or false bomb threats. VA. CODE ANN. § 22.1-279.3:1(D).

⁵³ Gary Sweeten, *Who Will Graduate? Disruption of High School Education by Arrest and Court Involvement*, 23 Justice Quarterly, 462 (Dec. 2006).

⁵⁴ *Id.* at 478.

⁵⁵ David S. Kirk and Robert Sampson, *Juvenile Arrest and Collateral Educational Damage in the Transition to Adulthood*, 86 Sociology of Education 36-62 (2013).

⁵⁶ *Id.*

⁵⁷ Donna St. George, *Judge Steve Teske Seeks to Keep Kids with Minor Problems Out of Court*, Washington Post (Oct. 17, 2011), available at http://articles.washingtonpost.com/2011-10-17/lifestyle/35280676_1_school-discipline-student-discipline-russell-skiba.

⁵⁸ See Johanna Wald and Lisa Thureau, *First, Do No Harm*, Charles Hamilton Houston Institute for Race & Justice (Mar. 2010), available at <http://www.modelsforchange.net/publications/261>.

⁵⁹ See *id.*

⁶⁰ The primary source of state discipline law in Virginia is Code Sections 22.1-276 *et seq.*

⁶¹ *Goss v. Lopez*, 419 U.S. 565, 574 (1975).

⁶² *Id.* at 579.

⁶³ VA. CODE ANN. § 22.1-277.

⁶⁴ VA. CODE ANN. § 22.1-277.06.

⁶⁵ VA. CODE ANN. § 22.1-277.06(C).

⁶⁶ 8VAC20-81-160(D).

⁶⁷ 8VAC20-81-160(D).

⁶⁸ 8VAC20-81-170(E).

⁶⁹ 34 C.F.R. § 300.530(g).

⁷⁰ *Id.*

⁷¹ 34 C.F.R. § 300.530(i)(3); 8VAC20-81-10.

⁷² See 1981-82 Va. Rep. Att’y Gen. 144 (1982).

⁷³ *Id.*

⁷⁴ Interdisciplinary Group on Preventing School and Community Violence, *A Call for More Effective Prevention of Violence* (Dec 19, 2012), available at <http://curry.virginia.edu/articles/sandyhookshooting>.

⁷⁵ Anne Gregory, Ph.D, et al., *The Relationship of School Structure and Support to Suspension Rates for Black and White High School Students*, 48 American Educational Research Journal 904-934 (2011); Anne Gregory, Ph.D, et al., *Authoritative School Discipline: High School Practices Associated with Lower Student Bullying and Victimization*, 102 Journal of Educational Psychology 483-496 (May 2010); Anne Gregory, Ph.D, et al., *Teacher Safety and Authoritative School Climate in High Schools*, 118 American Journal of Education 401-425 (Aug. 2012).

⁷⁶ Megan Eliot, et al., *Supportive School Climate and Student Willingness to Seek Help for Bullying and Threats of Violence*, 48 Journal of School Psychology 533-553 (Dec. 2010).

⁷⁷ Robert A. Fein, et al., *Threat Assessment in Schools: A Guide to Managing Threatening Situations and to Creating Safe School Climates*, U.S. Secret Service & U.S. Dep’t of Educ., 64 (May 2002).

⁷⁸ *Id.* at 65.

⁷⁹ H. Douglas Cox, *Report on the Department of Education’s Effective Schoolwide Discipline Initiative*, Presentation at the Va. Bd. of Educ. Meeting (Oct. 27, 2011), available at http://www.doe.virginia.gov/boe/meetings/2011/10_oct/agenda_items/item_k.pdf (last visited Dec. 1, 2013).