



The Spring Valley High Incident: The Impact of Overpolicing in Schools on Female Students of Color

On October 26, 2015, a South Carolina school resource officer slammed a female African-American student to the classroom floor for “causing a disruption in class”—refusing to give up her cell phone. Several students caught the horrific scene with their cell phone cameras. The video footage shows the officer standing over the seated student, just before he places his arm around her neck and yanks her backwards.¹ The student’s desk tips over and both the student and the desk go crashing to the floor. Not letting go, the officer then proceeds to jerk the student, with his arm still wrapped around her and the desk.

After the officer’s brutal “disciplining” of this student, she and Niya Kenny, another female classmate, were arrested by the officer and charged with “disturbing school,” a misdemeanor offense as codified in S.C. Code Ann. § 16-17-420. According to reports, the school resource officer arrested Ms. Kenny after objecting to the abusive treatment of her classmate by the school resource officer, encouraging other classmates to film the incident, and protesting the arrest of the initial student. (The record of Ms. Kenny’s arrest is open for public review, since at the time of her arrest she was 18 years old, unlike the 16-year-old victim who remains unidentified by officials.)

The Villanova University Charles Widger School of Law’s Institute To Address Commercial Sexual Exploitation applauds Ms. Kenny for taking a stand against the injustice that occurred in that classroom. By taking a stand against the violence used against her classmate, Ms. Kenny brought national and international attention to the events of that day.² Standing up

¹ Dana Ford, Greg Botelho, & Kevin Conlon, Spring Valley High School Officer Suspended After Violent Classroom Arrest, CNN (Oct. 27, 2015), www.cnn.com/2015/10/27/us/south-carolina-school-arrest-video/.

² Matthew Teague, South Carolina Sheriff's Deputy On Leave After Dragging Student From Her Desk, The Guardian (UK) (October 17, 2015), <http://www.theguardian.com/us-news/2015/oct/27/south-carolina-sheriffs-deputy-on-leave-after-forceful-classroom-arrest>.

against violence and injustice should be not be treated as a crime. As such we join those calling for the Richland County prosecutors to drop the charges against Ms. Kenny.¹

In South Carolina, the role of school resource officers was created pursuant to S.C. Code Ann. § 5-7-12, which authorizes the designation of an armed police officer “to act as a law enforcement officer, advisor, and teacher [within the] school district.” Additionally, S.C. Code Ann. § 5-7-12 provides that school resource officers “shall have statewide jurisdiction to arrest persons committing crimes in connection with a school activity or school-sponsored event.”

Media coverage of the violent and brutal treatment of this girl quickly turned to a discussion about the student’s role in the officer’s actions – focusing on whether the student fought back or resisted the officer in any manner.² However, there was a crucial point missing from the media’s coverage—what is the potential effect of treating a student like a criminal, handcuffing and arresting her? What effect could this type of violence and trauma have on the future of this young woman as well as other children who are introduced to the to prison system as children through what has been coined the “School to Prison Pipeline”?³

The American Bar Association has characterized The School to Prison Pipeline as “an epidemic plaguing schools across the nation.”⁴ It impacts students, “especially those already disadvantaged,” and subjects them to being “suspended, expelled, and in even arrested for minor offenses that once were handled in the principal’s office, but today land them in the juvenile or criminal justice systems.”⁵ This system, which statistically disproportionately targets students of color, can confuse, alienate, and harden children who are in need of assistance, not criminal punishment.⁶ This harsh treatment can lead to children not only falling behind in school, but also

¹ Kenrya Rankin, Activists Petition South Carolina to #DropTheCharges for Spring Valley Students, ColorLines (Dec. 15, 2015), <https://www.colorlines.com/articles/activists-petition-south-carolina-dropthecharges-spring-valley-students>.

² Alex Kaplan, Media Figures Blame Student After She Is Slammed To The Ground By Police Officer, Media Matters For America (Oct. 28, 2015) <http://mediamatters.org/research/2015/10/28/media-figures-blame-student-after-she-is-slamme/206478>.

³ What Is The School-To-Prison Pipeline?, ACLU (2015), <https://www.aclu.org/fact-sheet/what-school-prison-pipeline> (hereinafter ACLU, “Schools-to-Prisons”).

⁴ School-To-Prison Pipeline Must Be Dismantled, Stakeholders Tell ABA, American Bar Association (Feb. 7, 2015), www.americanbar.org/news/abanews/aba-news-archives/2015/02/school-to-prisonpip.html.

⁵ Id.

⁶ Carla Amurao, Fact Sheet: How Bad Is The School-To-Prison Pipeline?, Tavis Smiley Reports (Nov. 18, 2015), www.pbs.org/wnet/tavissmiley/tsr/education-under-arrest/school-to-prison-pipeline-fact-sheet/.

can lead to them dropping out of school completely, and in serious cases, falling into a life of crime.

Kimberlé Crenshaw, Professor of Law at Columbia University and the lead author of “Black Girls Matter: Pushed Out, Overpoliced and Underprotected,”⁷ explained this devastating scenario in the following way. “School is now a place where punishment and discipline are prioritized over serving students and educating them... Any moment where a student falls outside scripted behavior becomes an opportunity for law enforcement to come in, criminalizing ordinary things people do every day.”⁸ Additionally, as noted in the report, *Sexual Abuse to Prison Pipeline*, girls who enter the juvenile justice system are more likely to reenter the justice system again due to traumatic experiences they endure while in the juvenile justice system and childhood trauma that was never properly addressed.

Moreover, the US Attorney General’s Task Force on Children Exposed to Violence found that childhood trauma such as, sexual abuse, sexual violence, or molestation, all can be associated with a child’s later involvement in the juvenile justice system. This was noted in “*The Sexual Abuse To Prison Pipeline: The Girls’ Story*,” a study published by the Human Rights Project for Girls, Georgetown Law Center on Poverty and Inequality, and the Ms. Foundation for Women.⁹ This study found that young women who experience sexual violence, abuse, or another forms of trauma are more likely to act out, resulting in encounters with police and entrance into the juvenile justice system. The study also noted that young women of color (African-Americans, Latinas, and Native Americans) make up a large portion of the juvenile justice system, though most are there due to minor non-violent offenses that involve acting in manner “unsuitable of a young woman.”¹⁰ The study also noted that young women, especially those of color, have a one in four chance of experiencing some form of sexual violence by the age of 18, increasing the chances they will act out and enter the juvenile justice system. Though there has

⁷ Kimberlé Williams Crenshaw, Priscilla Ocen, & Jyoti Nanda, Black Girls Matter: Pushed Out, Overpoliced and Underprotected, African American Policy Forum (2015) www.atlanticphilanthropies.org/sites/default/files/uploads/BlackGirlsMatter_Report.pdf.

⁸ Avianne Tan, Violent SC Arrest Reflects How African-American Girls Are Disproportionately Disciplined in Schools, Study Author Says, ABC News (Oct. 29, 2015) abcnews.go.com/US/violent-sc-arrest-reflects-black-girls-disproportionately-disciplined/story?id=34824293.

⁹ Malika Saada Saar, Rebecca Epstein, Lindsay Rosenthal, & Yasmin Vafa, The Sexual Abuse To Prison Pipeline: The Girls’ Story, Center on Poverty and Inequality: Georgetown Law (2015).

¹⁰ Avianne Tan, et al., *supra*.

not been any report that the South Carolina teen was a victim of any type of sexual abuse, she had been placed in foster care recently, which is a form of trauma that could have contributed to her behavior during the October 26th events.¹¹

How did we end up with this system that treats school-aged children as criminals? Some scholars point to the zero tolerance policies that followed the 1999 Columbine High School shooting.¹² Other scholars blame education professionals who are overwhelmed with overcrowded classrooms, not always professionally qualified, and under the pressure of reaching test score benchmarks. Still, other scholars point to overzealous policing efforts that are now a common feature at schools that rely on police rather than administrators and teachers to enforce and maintain discipline in schools.¹³ This type of school structure leads to far more children being subjected to school-based arrests for non-violent offenses.¹⁴

Because the Spring Valley High officer was acting in his capacity as a school resource officer, the physical interaction he had with the female student could have easily been overlooked by officials, had it not been for the cell phone videos taken by other students. Moreover, as many everyday citizens have pointed out on social media, if the same actions had been taken by a parent or teacher, they would have immediately been arrested or at least questioned for their actions.¹⁵

Currently there is a movement in the education and civil rights communities to change how school resource officers are used throughout school districts around the country.¹⁶ These efforts are focused on trying to limit the number of school-based arrests for actions that would have been considered routine student behavior at a different time in history.

¹¹ Saada Saar, et al., *supra*.

¹² Jamelle Bouie, Lessons In Brutality, Slate (Oct. 27, 2015) www.slate.com/articles/news_and_politics/politics/2015/10/spring_valley_high_school_resource_officer_ben_field_s_violent_arrest_of.html.

¹³ Carla Amurao, Facts Sheet: How Bad Is The School-To-Prison Pipeline?, PBS.org (2015) www.pbs.org/wnet/tavissmiley/tsr/education-under-arrest/school-to-prison-pipeline-fact-sheet/.

¹⁴ ACLU, “Schools-to-Prisons,” *supra*.

¹⁵ Dana Ford, Greg Botelho, & Kevin Conlon, Spring Valley High School Officer Suspended After Violent Classroom Arrest, CNN (Oct. 27, 2015) www.cnn.com/2015/10/27/us/south-carolina-school-arrest-video/.

¹⁶ Evie Blad, State Laws That Can Lead To School Arrests Targeted For Change, Education Week (Jan. 26, 2016) www.edweek.org/ew/articles/2016/01/27/state-laws-that-can-lead-to-school.html.

Encouragingly, more just and effective models are emerging. A recent article published by the National Law Review highlights a model from Illinois, in which school administrations and school resource officers enter a memorandum of understanding (MOU), which “outlines the roles and responsibilities of the [student resource officer] while on school grounds.”¹⁷ Additionally, the MOUs clearly state how the school resource officers will be used in assisting and partnering with officials.¹⁸ Another benefit of using MOUs is the fact that it provides each school district the opportunity to critically reflect on whether school resource officers are even necessary, or whether issues can be better addressed using more traditional methods that rely on administrators and teachers to maintain school discipline.

In the Spring Valley High incident, not one but two African American female students were arrested and charged with disturbing school—a criminal charge that could possibly follow them for years. Sadly, the use of draconian punishments against African American girls in our nation’s schools is not uncommon. Indeed, a 2014 study conducted by the U.S. Department of Education’s Office for Civil Rights found that African-American females are suspended at “a rate six times higher than their Caucasian female counterparts.”¹⁹ Furthermore while African-American girls are only “14% of the American population, they make up 33.2% of the juvenile justice population.”²⁰ The Spring Valley High incident illustrates how and why these troubling statistics have become the “new normal” for African American girls in American schools.

We can and must do better in securing justice and safety for our most vulnerable children. While students may need to be disciplined at times, school discipline must be handled, first and foremost, by school officials, administrators, teachers, counselors, social workers, and mental health professionals - *instead of police*. Police should only be brought into the school

¹⁷ Wade Blumenshine, [A South Carolina High School Student’s Arrest Leads to Close Examination of School Resource Officers Roles & Responsibilities](http://www.natlawreview.com/article/south-carolina-high-school-student-s-arrest-leads-to-close-examination-school), The National Law Review (Feb. 3, 2016)

www.natlawreview.com/article/south-carolina-high-school-student-s-arrest-leads-to-close-examination-school.

¹⁸ Id.

¹⁹ [Civil Rights Data Collection: Data Snapshot \(School Discipline\)](http://www2.ed.gov/about/offices/list/ocr/docs/crdc-discipline-snapshot.pdf), U.S. Department of Education Office for Civil Rights (March 21, 2014) www2.ed.gov/about/offices/list/ocr/docs/crdc-discipline-snapshot.pdf.; *See also*, Nia-Malika Henderson, [Study: Black Girls Suspended At Higher Rates Than Most Boys](http://www.washingtonpost.com/blogs/she-the-people/wp/2014/03/21/study-black-girls-suspended-at-higher-rates-than-most-boys/), The Washington Post (Mar. 21, 2014) www.washingtonpost.com/blogs/she-the-people/wp/2014/03/21/study-black-girls-suspended-at-higher-rates-than-most-boys/.

²⁰ Kali Nicole Gross, [Drop The Charges Against The Students In Spring Valley High School](http://www.huffingtonpost.com/kali-nicole-gross/dee-barnes-straight-outta_b_8023016.html), The Huffington Post: The Blog (Oct. 29, 2015) www.huffingtonpost.com/kali-nicole-gross/dee-barnes-straight-outta_b_8023016.html, citing Saada Saar, et al., *supra*.

environment as a last resort in serious situations. This shift in school culture would give students the chance for a future without the stigma of a criminal record and, more broadly, could assist in changing the fractured relationship between minority communities and the police, thus having the potential to create a better future for all.

Note: The school resource officer was fired on Wednesday, October 28, 2015 after being suspended and banned from school district property the day after the incident.²¹ Disruption of school charges are assumed to be pending against both students arrested. Niya Kenny has a court date scheduled for after the end of the legislative session, per South Carolina Richland County 5th Judicial Circuit Public Index website.

²¹ Emma Brown, T. Rees Shapiro, & Elahe Izadi, S.C. Sheriff Fires Officer Who Threw Student Across A Classroom, The Washington Post (Oct. 28, 2015) www.washingtonpost.com/news/education/wp/2015/10/28/s-c-sheriff-to-announce-results-of-investigation-sinto-officer-who-threw-student/.