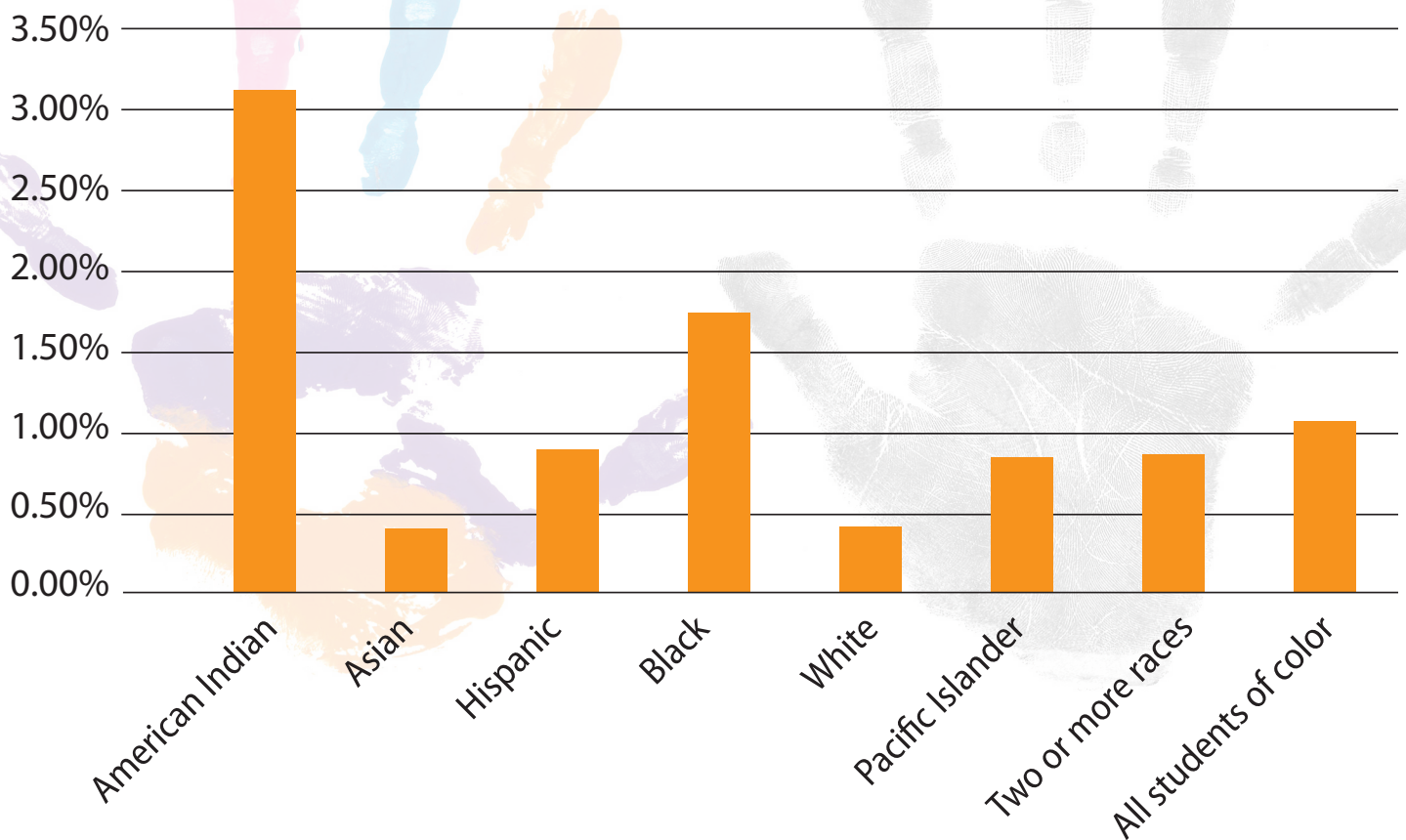


DISPARITIES IN DISCIPLINE:

A Look at School Disciplinary Actions for Utah's American Indian Students

Percent of Student Demographic Referred to Law Enforcement



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A Look at School Disciplinary Actions
for Utah's American Indian Students**

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EXECUTIVE SUMMARY

A number of recent studies and reports have examined the school-to-prison pipeline (STPP) and its impact on students of color. Few, if any, of these documents have focused on the troubling and undeniable effects of the pipeline on American Indian students. Nationally, 22% of all American Indian students receive disciplinary action at school, compared to 14.1% of all white students.¹ In Utah, these students are almost four times (3.8) more likely to receive a school disciplinary action compared to their white counterparts.

American Indians occupy a unique place in our country's history. Past policies of assimilation removed a generation of American Indian children from their families.² This community continues to rank at or near the bottom of nearly every social, health, and economic indicator.³ These factors have resulted in unique vulnerabilities for this student population that demand focus and additional resources.

This Report is the first to analyze publicly available data from the U.S. Department of Education, collected for the 2011 school year, with a focus on American Indian students in Utah.

Utah is pushing American Indian students into the pipeline at alarming rates. In 2011, the most recent year for which data is available, this student population comprised the smallest student demographic in the state and the was most frequently expelled, referred to law enforcement, and arrested for school related incidents—all the most severe forms of school disciplinary action. When students are removed from their traditional learning environments due to suspensions and expulsions, they are more likely to enter the juvenile justice system, the adult criminal justice system, and/or to drop out of school.⁴ In 2014, 31% of American Indian students in Utah dropped out of high school, compared to a state average of 15%.⁵

The data also indicates that:

- Fifty-five American Indian students in kindergarten through sixth grade were referred to law enforcement in 2011. In comparison, not a single white student in elementary school received this action.
- American Indian students are almost four times more likely to receive school discipline than their white counterparts.
- American Indian students are seven and a half times more likely to be expelled compared to white students.
- American Indian students are the single most likely student population in Utah to be referred to law enforcement. They are 3 times more likely to receive this action than all other students of color and almost 8 times more likely than white students.

- American Indian students are the single most likely student population in Utah to be arrested at school. They are almost 4 times more likely to receive this action than all other students of color and more than 6 times more likely than white students.
- Thirty percent of American Indians diagnosed with a disability under the Individuals with Disabilities Education Act (IDEA) or Section 504 of the Rehabilitation Act of 1973 received a disciplinary action.

This information should be of great concern to those who care about the continued vitality of Utah's education system and its ability to prepare all students to grow into contributing and productive members of our community.

INTRODUCTION

Referral to Law Enforcement – Safe School Violation: Two [American Indian] boys entered the teacher’s lounge looking for a teacher and finding it empty decided to look in the refrigerator. They saw two bottles of Dr. Pepper took them and drank them. This is a theft and the boys will be referred to law enforcement.

– School disciplinary report, San Juan school district.

This scenario played out in a Utah middle school in 2014. Taking a soda from a faculty refrigerator was labeled a safe school violation for two American Indian students. Across the nation, American Indian students are more than one and a half times more likely to receive a school disciplinary action than their white counterparts.⁶ The likelihood is even higher for more severe forms of school disciplinary action, such as referrals to law enforcement and school related arrests. Nationally, 22% of all American Indian students receive a school disciplinary action. In Utah, students in this population are expelled, referred to law enforcement and arrested at alarming rates. They are almost four times more likely than white students to be disciplined.⁷ They are the smallest student demographic in the state and yet have the highest percentage of students who are expelled, referred to law enforcement and arrested at school.⁸

This Report will provide an overview of the school-to-prison pipeline generally, with a focus on the disproportionality of school disciplinary actions for American Indian students. Part I will provide a brief introduction to the school-to-prison pipeline. Part II provides a summary of the unique history and factors that contribute to the vulnerabilities of this student population. Part III will present a detailed analysis of the disparity in school disciplinary actions in Utah. This analysis includes elementary school discipline rates and a statewide examination of disproportionality in suspensions, expulsions, referrals to law enforcement and school related arrests. It will also present data for American Indian students identified as having a disability. Generally speaking, the data for this student population will be compared to data for the white student population.

METHODOLOGY

Since 1968, the federal Department of Education has collected data from our nation’s public schools through its Civil Rights Data Collection (“CRDC”). The data is intended for use by the department’s Office of Civil Rights in its enforcement and monitoring efforts regarding equal educational opportunity.⁹ The CRDC collects a variety of information including student enrollment, educational programs and services. It disaggregates the data by race/ethnicity, gender, limited English proficiency and disability.¹⁰

The numbers on which this Report relies are the most comprehensive and recent nation-wide statistics available and were released to the public in the spring of 2014 for the 2011 school year. The 2011-12 CRDC collected data from a universe of all public schools and school districts, including juvenile justice facilities, charter schools, alternative schools, and schools serving students with disabilities.¹¹ Among other things, the data tracks the number of disciplinary actions at these schools. Categories of disciplinary actions reported include: in-school suspension, only one out-of-school suspension, more than one out-of-school suspension, expulsion with educational services, expulsion without educational services, expulsion under a zero tolerance policy, referral to law enforcement, and school related arrest.

Analysis in this report focuses primarily on the percentage of each student demographic receiving a disciplinary action at school and draws comparisons between those populations. It is important to note that students can receive more than one action. Out-of-school suspensions are broken out into only

one out-of-school suspension and more than one out-of-school suspension. All other actions are not cumulative. For example, if one student is referred to law enforcement on two different occasions, n=2. If two students are each referred to law enforcement once, n=2. In both cases, there were two referrals in that student group. Although this may inflate the reported percentage of total population receiving action, the raw number of actions in the student population is accurate and comparisons can still be accurately drawn.¹²

This Report sometimes uses the same methodology as *From Fingerprint to Fingerprints: The School to Prison Pipeline in Utah*, which focused primarily on expected actions compared to actual actions.¹³ This was accomplished by comparing the number of students enrolled to the number of disciplinary actions given to arrive at a predicted value. For example, if there are 80 white students in a 100 student population and 10 students were disciplined, it's predicted that 8 of these students would be white. Some numbers are different from those in that report however, because the majority of analysis in *From Fingerprint to Fingerprints* included only the student population without disabilities. This report includes all students in the population, both with and without disabilities.

The charts, graphs and statistics presented below are based upon independent analysis of the raw data made available by the CRDC. That data, along with a searchable school and district database, is available at www.ocrddata.ed.gov.

I. The School to Prison Pipeline Across the Nation

The school to prison pipeline is the collection of education and public safety policies and practices that push our nation's schoolchildren out of the classroom and into the juvenile justice system, or the criminal justice system.¹⁴ For example, many schools have "zero-tolerance" policies for drug-related and other activities that have caused a dramatic shift away from traditional in-school discipline towards greater reliance on juvenile justice interventions for common school misbehavior.¹⁵ This comes at a significant cost to state agencies and takes students out of the normal education process, where they are less likely to receive adult supervision and more likely to be exposed to other students who have committed violent offenses, gang members, or other bad influences.¹⁶

Today, nearly half of all public schools have assigned police officers.¹⁷ School-based police officers, frequently referred to as school resource officers or SRO's, are the fastest growing segment of law enforcement.¹⁸ The National Association of School Resource Officers estimates that more than 10,000 police officers serve in schools nationwide.¹⁹ These officers' roles vary significantly across schools, with some charged primarily with enforcement of criminal laws, while others are focused on mentoring, counseling, and teaching duties.²⁰ A recent study by a professor at the Levin College of Law found that a key, yet understudied, component of the pipeline is the increased presence of law SRO's.²¹ The study shows clear, visible differences in the rates of referrals to law enforcement, suggesting that a SRO's weekly presence increases the number of students who will be involved in the justice system.²² It suggests the most glaring difference is the rate of referral for lower-level offenses, such as fighting without using a weapon or making a threat without using a weapon, more than doubles when a school has regular contact with an SRO.²³ The placement of SRO's often inadvertently feeds the pipeline.²⁴

Recent estimates are that one in three students will be suspended at some point between kindergarten and 12th grade.²⁵ New research shows that suspension rates are closely correlated with dropout and delinquency rates, and they have tremendous economic costs for the suspended students.²⁶ When students are removed from their traditional learning environments due to suspensions and expulsions, they are more

likely to enter the juvenile justice system, the adult criminal justice system, and/or to drop out of school.²⁷ The exclusion of students from school for disciplinary reasons is directly related to lower attendance rates, increased course failures, and can set a student on a path of disengagement from school.²⁸ Dropping out of high school has serious consequences for the income and employment potential of the students who do so, and for the communities they live in. There is no direct link between the decision to drop out and prison but there is evidence that dropouts are exposed to many of the same socioeconomic forces that are often gateways to crime.²⁹

II. History and Factors Contributing to American Indian Student Vulnerabilities

Although there has been increased focus on the school-to-prison pipeline and its impact on students of color, little has been written on its impact on American Indians.³⁰ American Indians occupy a unique place in this country.³¹ They are classified by sociologists as among those “involuntary minorities” who were coercively incorporated into American society.³² They are separated by culture, language, polity, and religion.³³ A small number of Indian nations have experienced remarkable success in their economic development endeavors, but a significant number of tribes remain mired in poverty and dependent on federal assistance.³⁴

In the nineteenth and twentieth centuries, the federal government had a policy of assimilation that resulted in Indian children being removed from their Indian homes and placed in non-Indian homes or boarding schools.³⁵ A primary example of this policy was the federal boarding school system, in which Native American children were taken from their homes and placed in federal and church-run institutions around the country.³⁶ Once there, they were denied the right to speak their language, practice their religion, or partake in any cultural practices.³⁷ In the late 60’s and 70’s conservative estimates indicated that one-third of all American Indian children were being separated from their families and placed in foster care, adoptive homes, or educational institutions.³⁸

American Indians are regularly identified as among the poorest communities in the United States.³⁹ As the United States Civil Rights Commission explains, “Native Americans still suffer higher rates of poverty, poor educational achievement, substandard housing, and higher rates of disease and illness.”⁴⁰ They continue to rank at or near the bottom of nearly every social, health, and economic indicator:⁴¹

- About one in four American Indians and Alaska Natives were living in poverty in 2012.⁴² Nine states—including Utah—have poverty rates of 30 percent or more for American Indians and Alaska Natives.⁴³
- Because most of the land owned by individual Indians on reservations is generally held in trust by the Federal government for the benefit of tribes or their members, they cannot mortgage it for loans like other Americans.⁴⁴
- In 2013, the overall unemployment rate for the United States was 7.4 percent; the rate for American Indians and Alaska Natives was 12.8 percent.⁴⁵
- Drug abuse exacts a heavy toll on Native Americans and Alaskan Natives in the U.S. In 2009, 18.3% of American Indians or Alaska Natives age 12 or older were current users of illicit drugs, compared to 8.8% of whites.⁴⁶
- Adequate roads and housing, clean water and sanitation, telephones and electricity are in short supply on many reservations.⁴⁷

Six Indian tribes in Utah are recognized as official entities across twelve reservations. According to the 2010 Census, there are 50,064 people in Utah who reported as American Indian alone or in combination with another race.⁴⁸ Of this total, 7,853 are students and account for 1.3% of the total student population.⁴⁹ These students are spread throughout Utah in both rural and urban areas. Approximately 40% of American Indian students were in enrolled in rural schools, with the remaining 60% in urban schools.⁵⁰ Unfortunately, the schools near reservations in Utah are ranked among the worst in Utah, with over one fifth of the total American Indian student population in schools identified as the lowest performing in the state.⁵¹

Together, these factors create a student population already extremely vulnerable to low graduation rates. As the section below shows, the data indicates that these vulnerabilities are being compounded by the frequent use of school discipline and law enforcement, instead of being mitigated by positive behavioral interventions and supports.

III. Findings: Discipline of American Indian Students in Utah

The school-to-prison pipeline is thriving in Utah, particularly among American Indian students, who are actively and disproportionately being pushed out of school by suspensions, expulsions, referrals to law enforcement and school related arrests.

In 2014, the Utah State Office of Education reported an 83% graduation rate.⁵² Although the rate for American Indian students has been increasing in recent years, only 65% of this population is graduating compared to 86% of white students.⁵³ Graduation rates for other racial groups are shown below.

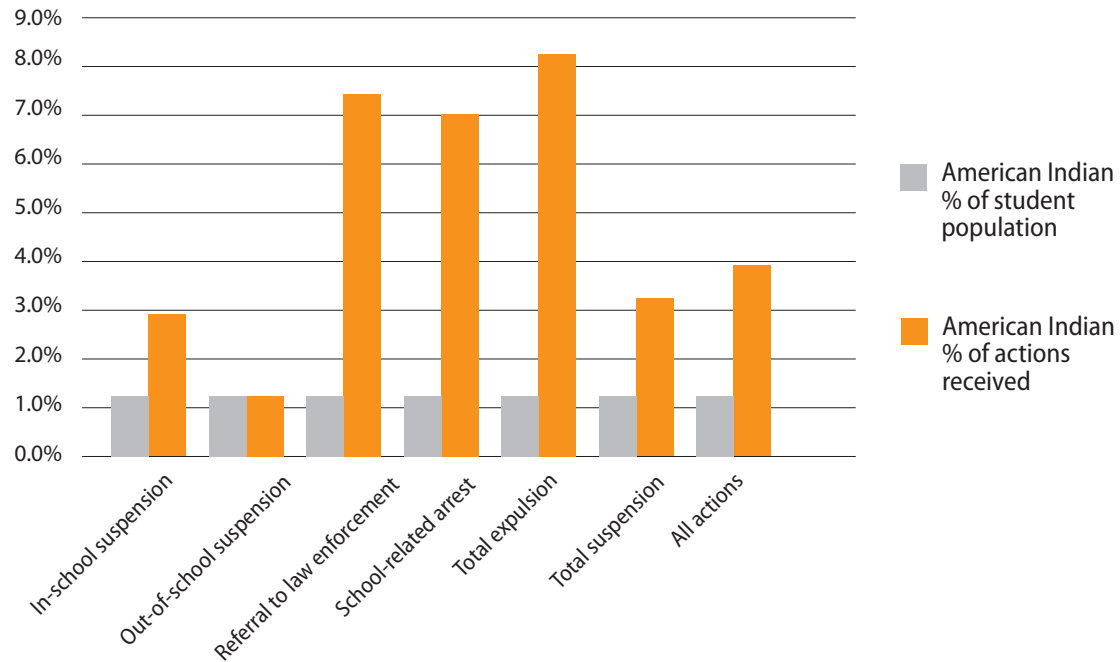
Figure 1 Four Year Graduation Rate

	2010	2011	2012	2013	2014
All students	75%	76%	78%	81%	83%
Asian	75%	72%	78%	79%	85%
Black	60%	61%	61%	68%	66%
American Indian	55%	57%	61%	65%	65%
White	79%	80%	82%	85%	86%
Hispanic/Latino	55%	57%	63%	68%	72%
Pacific Islander	69%	69%	73%	77%	82%
Students with disabilities	55%	59%	61%	65%	67%

Across every category of punishment, students of color in Utah are more likely to receive a school disciplinary action than their white counterparts. American Indian students feel the brunt of this inequity. This student population comprises 1.3% of the total student population in Utah. All things being equal, it is expected that this demographic would account for 1.3% of all disciplinary actions. Instead, this student group received three times as many disciplinary actions than expected, with expulsions, referrals to law enforcement and school related arrests accounting for the most severe disproportionality.

Figure 2 Percent of Actions Received

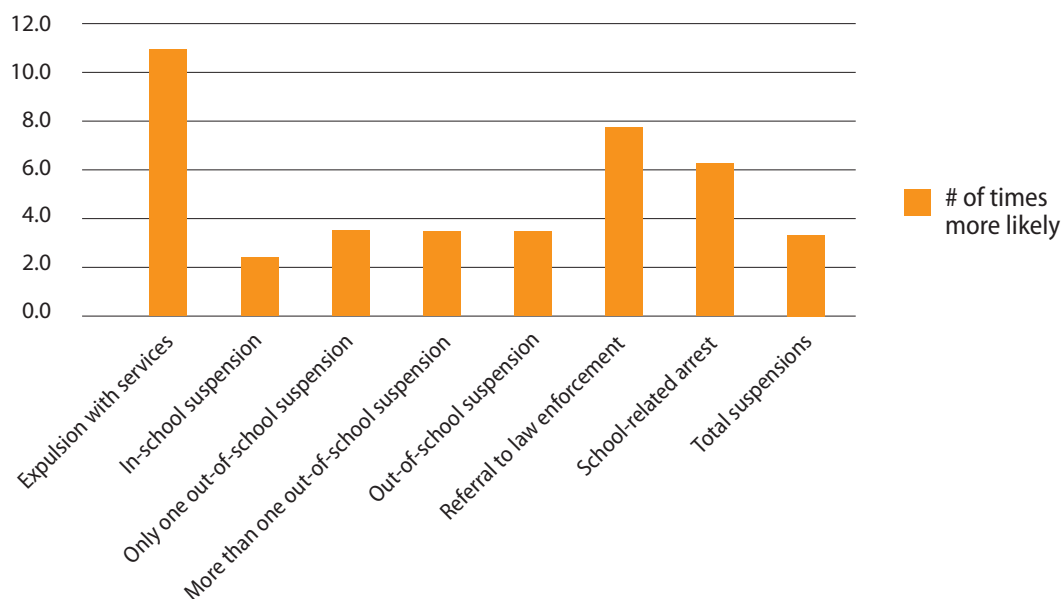
Percent of Actions Received Compared to % of Student Population



Moreover, when compared to their white counterparts, the likelihood of receiving school discipline is distressing. Three point nine percent of all white students in Utah received a school disciplinary action compared to 14.8% of all American Indian students, making them 3.8 times more likely to receive an action. In every category, American Indian students are significantly more likely to be disciplined compared to white students.

Figure 3 Likelihood of Receiving Action Compared to White Students

American Indian Students Likelihood to Receive Action Compared to White Students



Nationwide, American Indian students are roughly 3 times more likely to be expelled and to be referred to law enforcement than their white counterparts.⁵⁴ The disparity in Utah is even worse, where American Indian students are 7.5 times more likely to be expelled than white students and nearly 8 times more likely⁵⁵ to be referred to law enforcement than white students.

Times More Likely than White Students to Receive a Disciplinary Action

	Utah	Nationwide
Suspension	3.3	1.8
Expulsion	7.5	3.0
Referral to Law Enforcement	7.1	2.6
School Related Arrest	6.2	0.5

The disparity in school discipline rates begins in elementary school. It continues into middle and high school, with statewide disproportionality in suspensions, expulsions, referrals to law enforcement and school related arrests.

A. Elementary School Rates

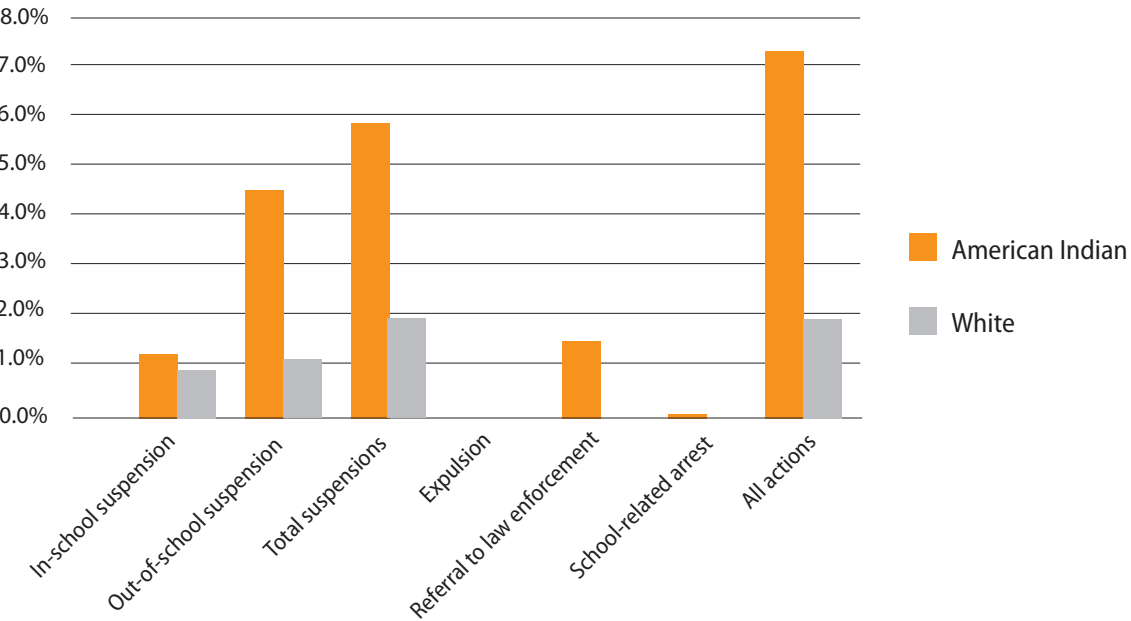
The school-to-prison pipeline for American Indian students in Utah starts in elementary school. There is evidence that expulsion or suspension early in a child’s education is associated with expulsion or suspension in later school grades. Young students who are expelled or suspended are as much as 10 times more likely to drop out of high school, experience academic failure and grade retention, hold negative school attitudes, and face incarceration than those who have not.⁵⁷ Arguably, no student in this grade range should be expelled, referred to law enforcement or arrested at school except in the most extreme cases.

Utah has 545 schools that serve students from kindergarten to grade six.⁵⁸ Students in this grade range received 7,767 disciplinary actions.⁵⁹ In every category of punishment, American Indian students received a disproportionate amount of actions compared to white student population.

Nearly three hundred (293) American Indian students in elementary schools received a school disciplinary action, meaning roughly seven percent (7.3%) of all American Indian students enrolled in elementary school were disciplined. Compared to white students, American Indian students in elementary school are almost four times⁶⁰ more likely to receive an action. Perhaps the most alarming comparison is in referrals to law enforcement. Fifty-five American Indian students in kindergarten through sixth grade were referred to law enforcement in 2011. In comparison, not a single white student received this action. Four American Indian students in this grade range were arrested at school and two were expelled.

Figure 4 Percent of Elementary School Actions Compared to White Students

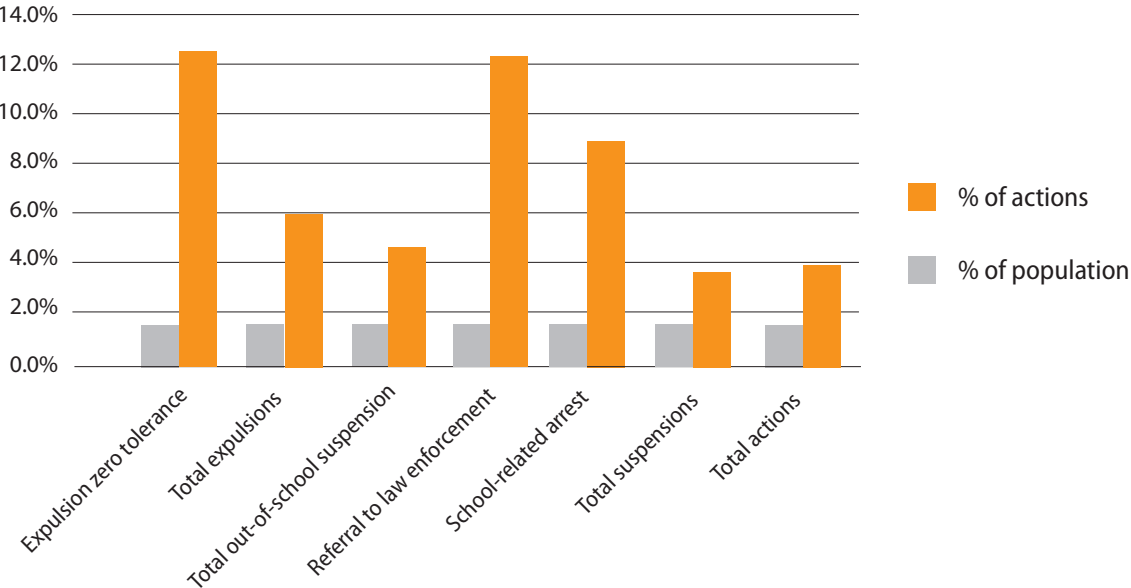
Percent of Demographic Receiving Action



American Indian students in Utah’s elementary schools account for 1.3% of the total elementary school population, yet in every category, received more than 1.3% of the actions given. It is expected that 102 American Indian students would receive actions, however 293 were given to American Indian students, making them almost three times more likely to receive an action than expected.⁶¹ In all discipline categories, American Indian students received more actions than expected. Most alarming is that 1.3% of the total student population received 12.5% of all expulsions under a zero tolerance policy, 12.2% of all referrals to law enforcement and 8.7% of all school related arrests.

Figure 5 Disciplinary Actions for American Indian Students in Elementary School

Elementary School Disciplinary Actions for American Indians



B. Suspensions

The available data tracks three types of school suspension: in-school suspensions, only one out-of-school suspension and more than one out-of-school suspension. An in-school suspension is an instance in which a child is temporarily removed from his or her regular classroom(s) for at least half a day but remains under the direct supervision of school personnel. Out-of-school suspension means excluding a student from school for disciplinary reasons for one school day or longer. This does not include students who served their suspension in the school.

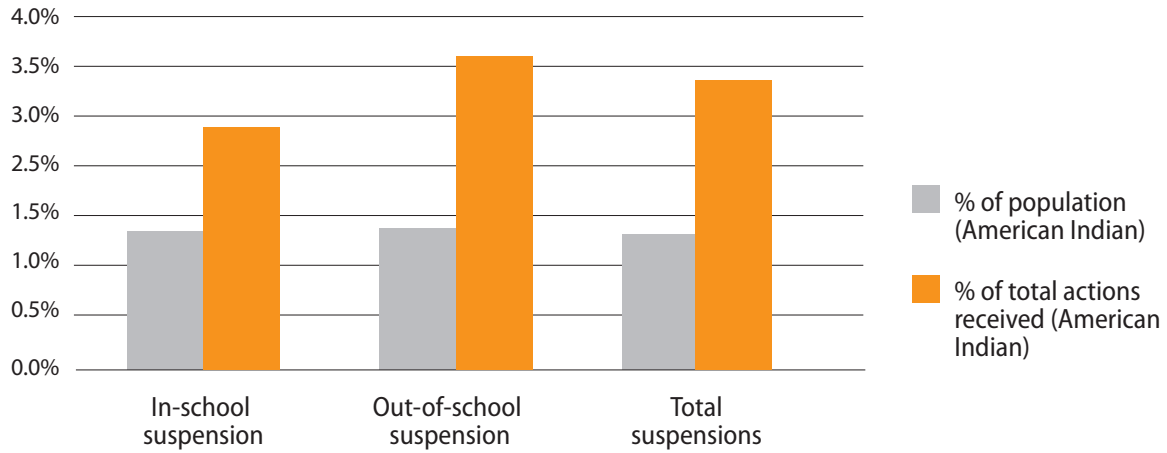
American Indian students are 2.7 times more likely than white students to receive an in-school suspension. When looking at the more severe form of out-of-school suspensions, American Indian students are 2.7 times more likely than all other students to receive an out-of-school suspension and 3.6 times more likely to receive an out-of-school suspension compared to white students. Overall, 10.8% of all American Indian students received a suspension. The table below shows a comparison to other student demographics:

	American Indian	Asian	Hispanic	Black	White	Pacific Islander	2 or More Races
In School Suspension	3.2%	1.0%	2.3%	4.0%	1.2%	2.1%	2.0%
Only one Out of School Suspension	4.6%	1.6%	2.6%	5.2%	1.3%	3.4%	2.6%
More than One Out of School Suspension	3.0%	0.8%	2.1%	4.3%	0.8%	1.8%	1.6%
Total Out of School Suspension	7.6%	2.4%	4.7%	9.5%	2.1%	5.2%	4.2%
Total Suspensions (in & out)	10.8%	3.4%	7.0%	13.5%	3.3%	7.3%	6.2%

This student population comprises 1.3% of the total student population in Utah. All things being equal, it is expected that this demographic would account for 1.3% of all disciplinary actions. This is not the case. Instead, this student group received two and a half times as many disciplinary actions than expected. The chart below shows the percentage of the student population compared to the percentage of actions this group received by suspension type.

Figure 6 Suspension Rates for American Indian Students

Percent of Population Compared to Percent of Actions Received

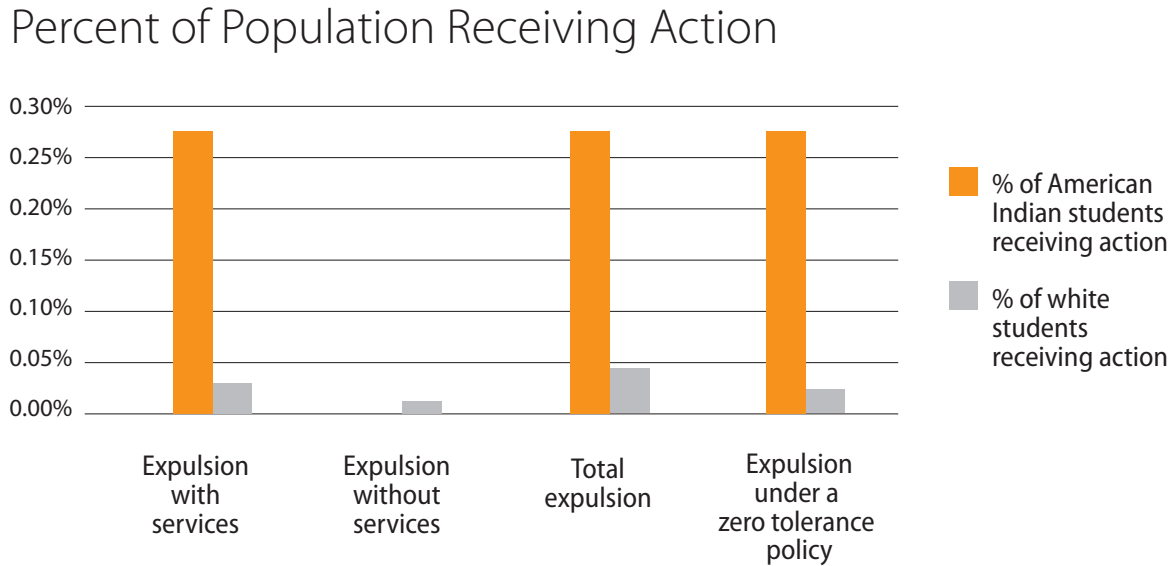


C. Expulsions

The data tracks two kinds of expulsion, those in which the student receives educational services, and those in which they do not. There is a third reported category, expulsions under zero tolerance policies. An expulsion under a zero tolerance policy is the removal of a student from the school setting for an extended length of time because a policy that results in mandatory expulsion of any student who commits one or more specified offenses (for example, offenses involving guns, or other weapons, or violence, or similar factors, or combinations of these factors). These may be with or without services and are reflected in each of those categories.⁶²

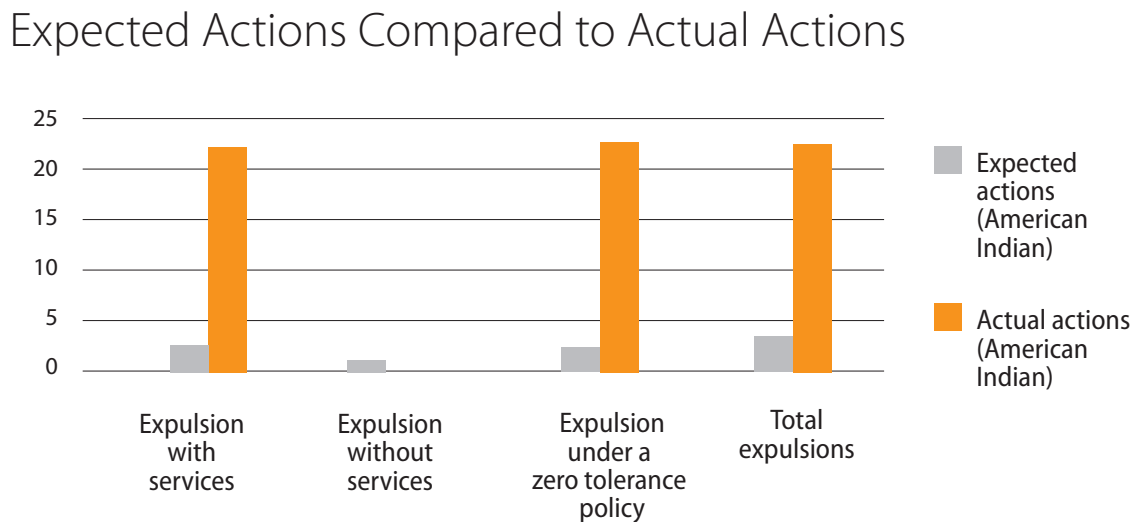
American Indian students are 11 times more likely to be expelled with educational services than white students. For both expulsion types combined, American Indian students are seven and a half times more likely to be expelled. All of the expulsions given to American Indian students in 2011 were given under zero tolerance policies.

Figure 7 Percent of American Indian Population Receiving Action



Based on the 265 expulsions given in Utah schools, it is expected that 3 American Indian students would receive this action. Instead, this demographic received 22, making them six times more likely than expected to be expelled. All expulsions were given under a zero tolerance policy, and all were expulsions with educational services.

Figure 8 Expected Actions Compared to Actual Actions



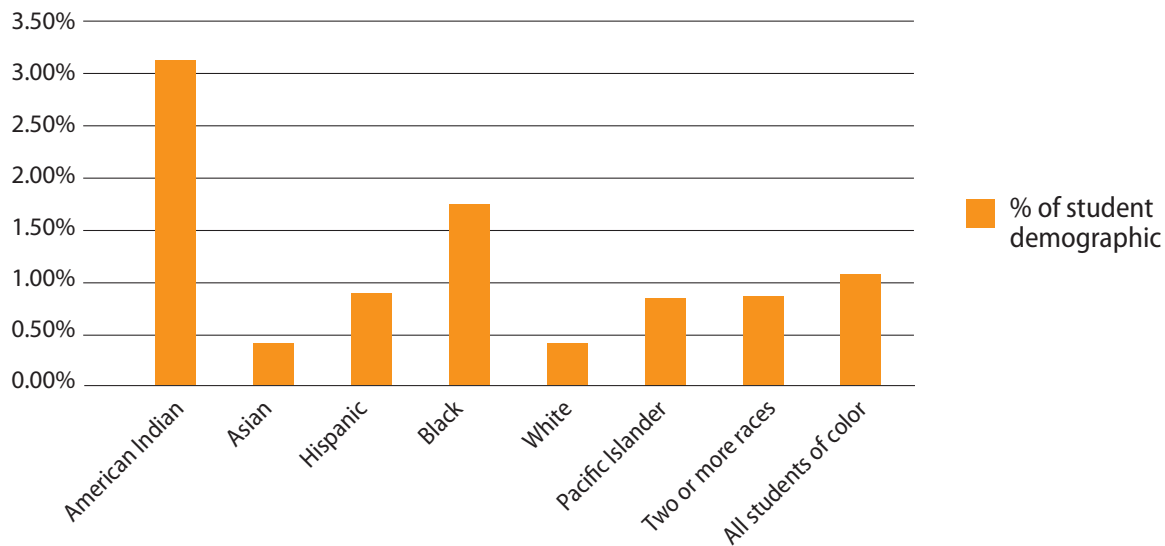
D. Referrals to Law Enforcement

Referral to law enforcement is an action by which a student is reported to any law enforcement agency or official, including a school police unit, for an incident that occurs on school grounds, during school-related events, or while taking school transportation, regardless of whether official action is taken.⁶³ Students receiving a referral to law enforcement can face a variety of consequences, including being detained, having to miss school to go to court, being fined, having to agree to other sanctions such as probation, and possibly being suspended or expelled by their school.⁶⁴

American Indian students are the single most likely student population in Utah to be referred to law enforcement. As shown below, 3.2% of all American Indian students were referred to law enforcement. This student population is 3 times more likely to receive this action than all other students of color and almost 8 times⁶⁵ more likely than white students.

Figure 9 Percent of Populations Referred to Law Enforcement

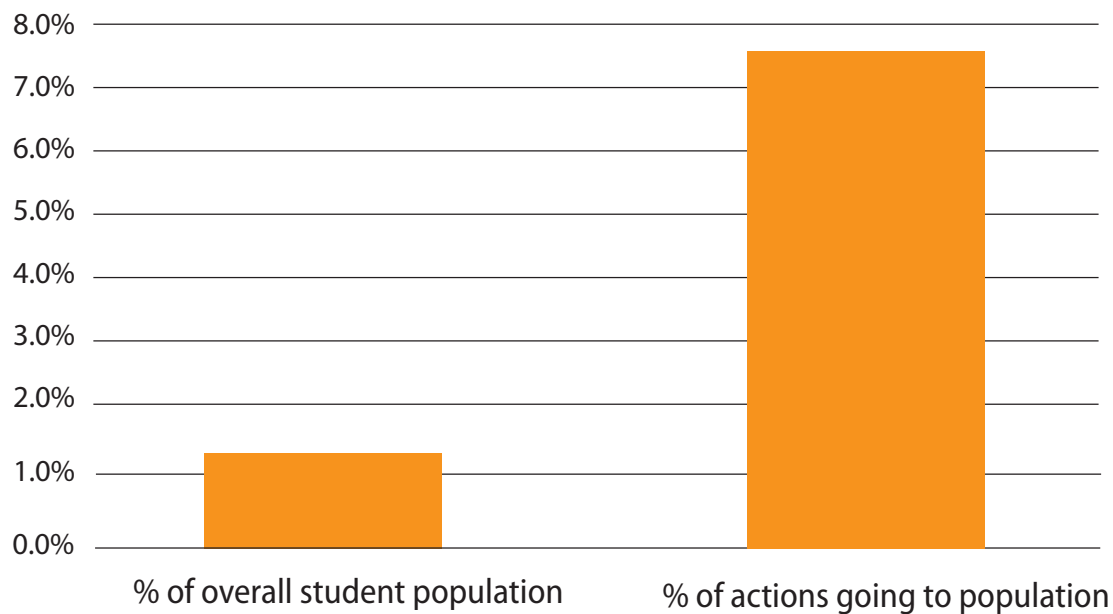
Percent of Student Demographic Referred to Law Enforcement



In total, there were 3,317 referrals to law enforcement in Utah schools in 2011. This number, by itself, is alarming. American Indians, which account for 1.3% of the total student population, were predicted to receive 44 of these actions.⁶⁶ Instead, this group received 249, accounting for 7.5% of all referrals to law enforcement. This is 205 more referrals than expected.

Figure 10 American Indian Referrals to Law Enforcement

Referrals to Law Enforcement: American Indian



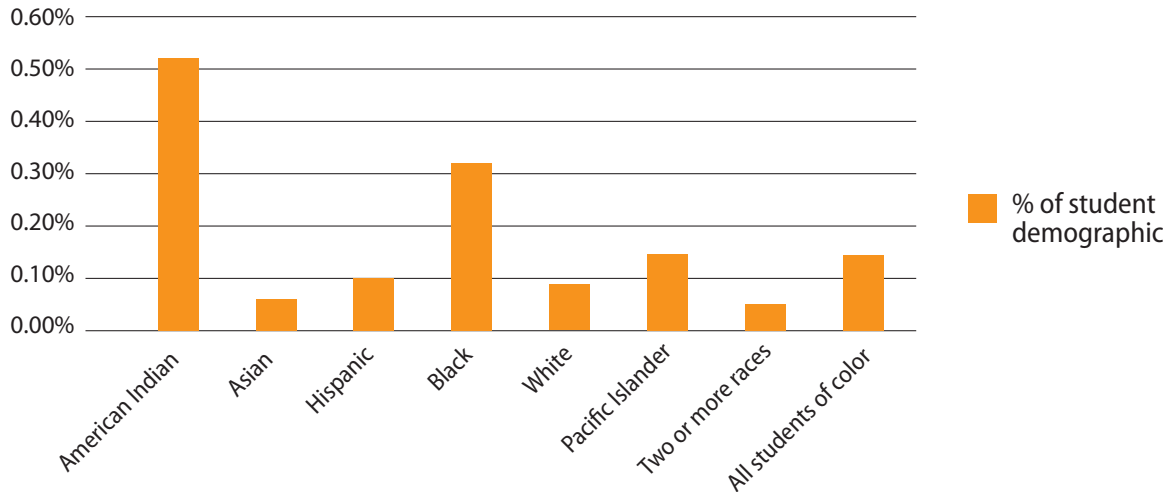
E. School-Related Arrests

A school-related arrest is an arrest of a student for any activity conducted on school grounds, during off-campus school activities (including while taking school transportation), or due to a referral by any school official.

American Indian students are the single most likely student population to be arrested at school. They are almost 4 times more likely⁶⁷ to receive this action than all other students of color and more than 6 times more likely⁶⁸ than white students. In total, there were 591 school-related arrests in Utah schools in 2011. Based on the percentage of American Indians in the student population, it is expected this group would receive 8 of these actions.⁶⁹ Instead, this group received 42, accounting for more than 7% of all school-related arrests.⁷⁰

Figure 11 Percent of Student Populations Arrested at School

Percent of Student Demographic Arrested at School



F. Students with Disabilities

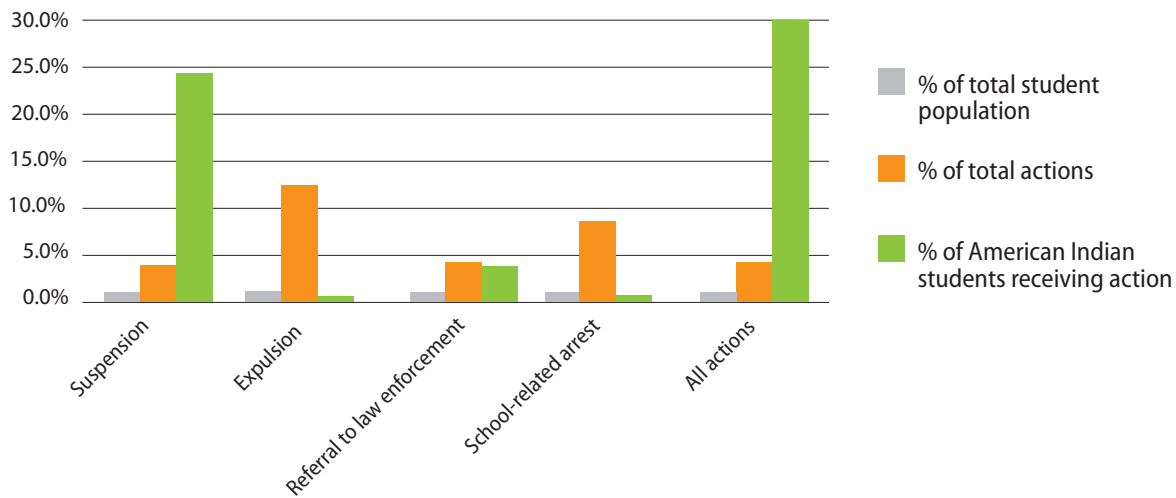
American Indian students identified with disabilities fare even worse than American Indian students who have not been identified with a disability. This is particularly alarming because these students are protected by the Individuals with Disabilities Education Act (IDEA.) IDEA is a federal statute designed to ensure children with disabilities have access to a free and appropriate public education that addresses their unique educational needs and to ensure states, parents, and educators have sufficient resources to carry out the goals and policies of the IDEA.⁷¹ It affords protection to students with disabilities facing disciplinary action in public schools.⁷² Students with identified disabilities are provided an Individual Education Plan (“IEP”).⁷³ Children with IEP’s are, under the law, guaranteed a manifestation review—a process in which a team decides whether the behavior that resulted in discipline was a manifestation of that child’s disability and, if so, whether the school was providing adequate services to help prevent the misconduct.⁷⁴

Disabilities that qualify students to receive services within their school under the IDEA include learning disabilities, vision and hearing impairments, speech and language impairments, traumatic brain injuries, and emotional disturbances, among others.⁷⁵ Emotional disturbances are particularly hard to evaluate, but often lead to the type of disruptive behavior that results in disciplinary action.⁷⁶

In 2011, Utah 74,307 students were identified as students with disabilities under IDEA and Section 504 of the Rehabilitation Act.⁷⁷ American Indian students accounted for 1.2% of this total, yet received 4% of all actions, making them 3.3 times more likely than expected to receive an action. More troubling, is that 30% of this student population received an action. When compared to white students identified as having a disability, they are 4.3 times more likely to be disciplined at school.

Figure 12 American Indian Students with Disabilities Receiving Action

American Indian Students with Disabilities



These students feel the brunt of the inequality in expulsions under a zero tolerance policy. This demographic is almost 14 times more likely⁷⁸ than expected to be expelled under such a policy. Thirty-three American Indian students identified as having a disability were referred to law enforcement, making them almost 5 times more likely⁷⁹ to receive this action than white students. Ten were arrested at school, making them 8.5 times more likely to receive this action compared to white students identified as having a disability.

G. District Specific Data

There is a marked difference in student populations in referrals to law enforcement and school related arrests, with American Indian students in rural areas being much more likely than American Indian students in urban schools to receive this action. In urban locations, 1.2% of all American Indian students were referred to law enforcement. In rural schools, the number is much higher, with 6.6% of this student population being referred. In urban areas, American Indian students are 3.6 times more likely to be arrested at school, compared to American Indian students in rural areas, which are 15 times more likely.

Some school districts in Utah are excluding American Indians from school through disciplinary actions at much higher rates than others.

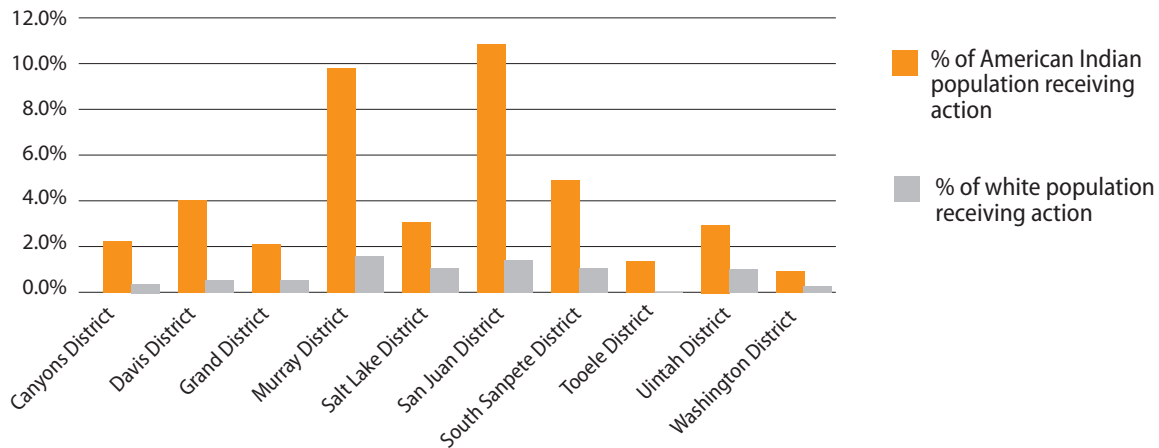
- In 2011, the South Sanpete district gave 23.8% of the American Indian student population a disciplinary action.⁸⁰ In comparison, 3.7% of white students received an action.
- The San Juan district, with the highest number of American Indians students in Utah, gave 22.5% of all American Indian students an action compared to just 5.3% of white students, making them 4.2 times more likely to receive an action.⁸¹
- American Indian students in the Davis district were 49 times more likely to be expelled than white students, and in the Iron district, they were 15 times more likely.

The rate at which some districts refer American Indian students to law enforcement is disturbing.

- In the San Juan district, more than 1 in 10 American Indian students received this action, making them 8 times more likely to receive this action than white students.⁸²
- In one high school in the San Juan district, almost 30% of American Indian students⁸³ are referred to law enforcement.⁸⁴ An elementary school in that same district referred over 17% of all American Indian students.⁸⁵
- In the Canyons district, American Indian students are 6.8 times more likely than white students to be referred to law enforcement.
- In the Davis district, American Indian students are 6.7 times more likely than white students to be referred to law enforcement.

Figure 13 Districts With Greatest Disparity for Referrals to Law Enforcement

Referral to Law Enforcement: Districts with Highest Disparity



Statistics for the most disproportionate districts for school related arrests include:

- In the Iron district, 1.7% of all American Indian students were arrested at school compared to 0.3% of white students, making them 5 times more likely to receive this action.
- In the San Juan district, 1.5% of all American Indian students received this action, compared to no white students.
- In the Uintah district, this student population was 6.3 times more likely than white students to be arrested at school.

IV. Conclusion

The data present by this Report is deeply troubling. If we are to begin to reverse these alarming trends in dropout rates and disproportionality in disciplinary actions among American Indians we must begin the conversation now, with the data as a starting point. The extent and magnitude of the discipline disparity must be made known to educators, administrators, policymakers and community members in Utah.

APPENDICES

Appendix A - Location of American Indians and American Indian Students in Utah

Six Indian tribes in Utah are recognized as official entities: Confederated Tribes of the Goshute Reservation, Northwestern Band of Shoshoni Nation, Paiute Indian Tribe of Utah, Skull Valley Band of Goshute Indians in Utah, Navajo Nation and the Utah Navajo Chapters, and Ute Indian Tribe of the Uintah & Ouray Reservation.⁸⁶

Indian country in Utah consists of twelve reservations, the largest⁸⁷ of which are the Uintah & Ouray reservation located in Duchesne, Uintah and Grand⁸⁸ counties, and the Navajo Nation reservation located in San Juan County.⁸⁹ Other reservations are the Shivwits Indian reservation⁹⁰ in St. George, Utah; the Goshute reservation,⁹¹ located approximately seventy miles southeast of Wendover, Utah; Skull Valley reservation⁹² in Toole County; Koosharem Band reservation⁹³ in Sevier county; the Kanosh Band reservation⁹⁴ in Milliard county; White Mesa Ute reservation⁹⁵ in San Juan county; Northwestern Band of Shoshone⁹⁶ in Box Elder County; and three reservations in Iron county, the Cedar Band reservation,⁹⁷ Indian Peaks Reservations⁹⁸ and the Piute Indian reservation.⁹⁹

The school districts that serve these students on these reservations are:

District	Reservation	# of American Indian students	% of American Indian students
San Juan	Navajo Nation	1,487	47.7%
	White Mesa Ute		
Uintah County	Uintah and Ouray	529	7.5%
Duchesne County	Uintah and Ouray	280	6.8%
Sevier	Koosharem Band	167	3.5%
	Kanosh Band Sevier		
Iron County	Piute Indian	242	2.8%
Kane	Navajo Nation	32	2.4%
Washington County	Shivwits Indian	489	1.8%
Carbon	Uintah and Ouray	41	1.2%
Tooele	Skull Valley	154	1.1%
Beaver County	Cedar Band	17	1.0%
	Indian Peaks		
Box Elder	Northwestern Band of Shoshone	94	0.8%

Other school districts with a large American Indian enrollment that are not located near a reservation are:

District	Location	# of American Indian Students	% of American Indian Students
Granite School District	Salt Lake City, Utah	1,076	1.6%
Salt Lake District	Salt Lake City, Utah	368	1.5%
Weber District	Ogden, Utah	152	1.2%
Logan District	Logan, Utah	75	1.2%
Murray District	Murray, Utah	83	1.1%
Canyons District	Sandy, Utah	275	0.8%
Nebo District	Spanish Fork, Utah	184	0.6%
Davis District	Farmington, Utah	399	0.6%
Alpine District	American Fork, Utah	379	0.6%
Jordan District	West Jordan, Utah	279	0.6%

Appendix B – Districts with the Highest Disparity

All Actions Combined (Suspension, Expulsion, Referral to Law Enforcement, School Related Arrest)

Figure 14 Districts with Greatest Disparity: Total Actions

Percent of Student Population Receiving Action:
Total Actions

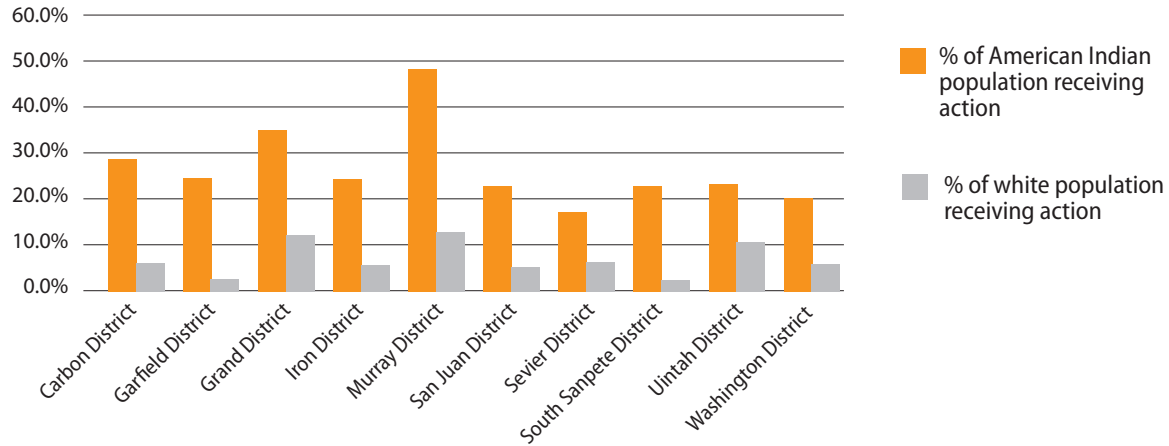


Figure 15 Districts with Greatest Disparity: Suspensions

Percent of Student Population Receiving Action:
Suspensions

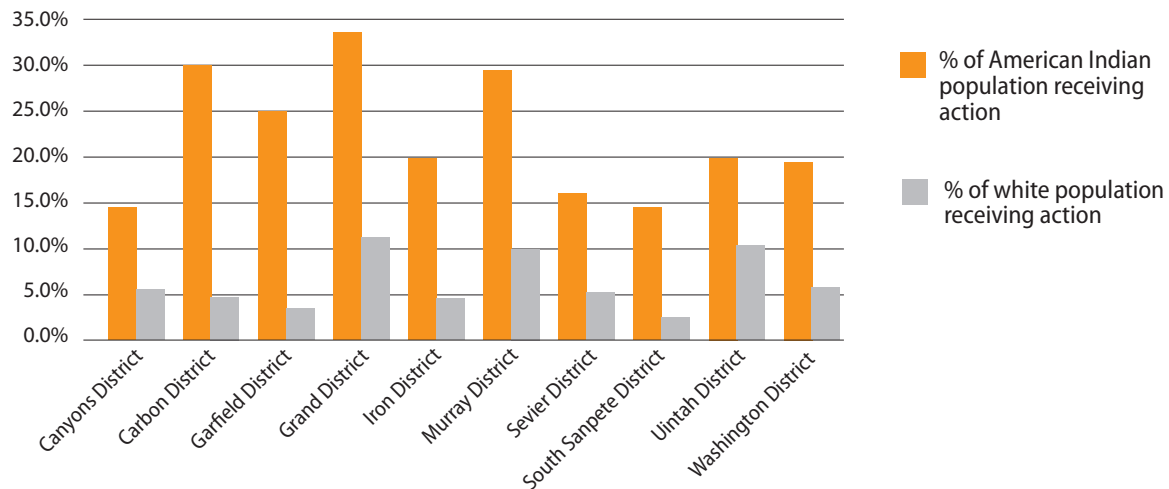
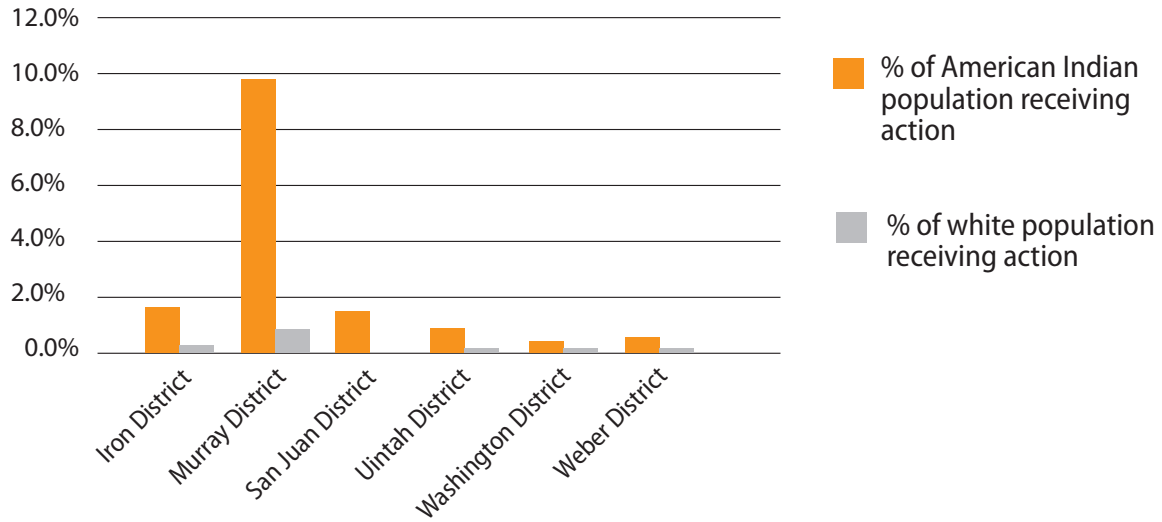


Figure 16 Districts with Greatest Disparity: School-Related Arrests

Percent of Student Population Receiving Action: School-Related Arrest



Appendix C - Schools with Highest Disparity By Action Type

Figure 17 Schools with Greatest Disparity: Suspensions

Percent of Student Population Receiving Action:
Suspensions

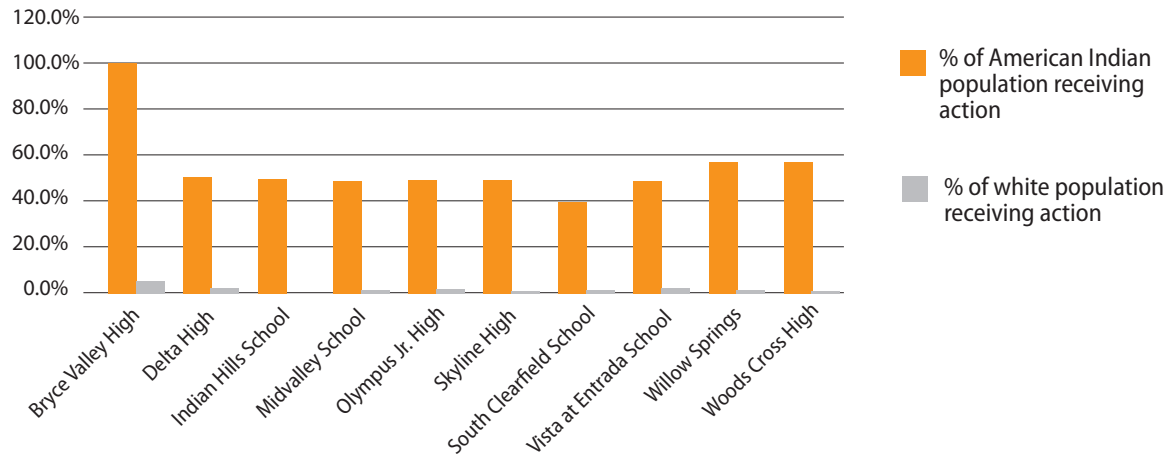


Figure 18 Schools with Greatest Disparity: Expulsions

Percent of Student Population Receiving Action:
Expulsions

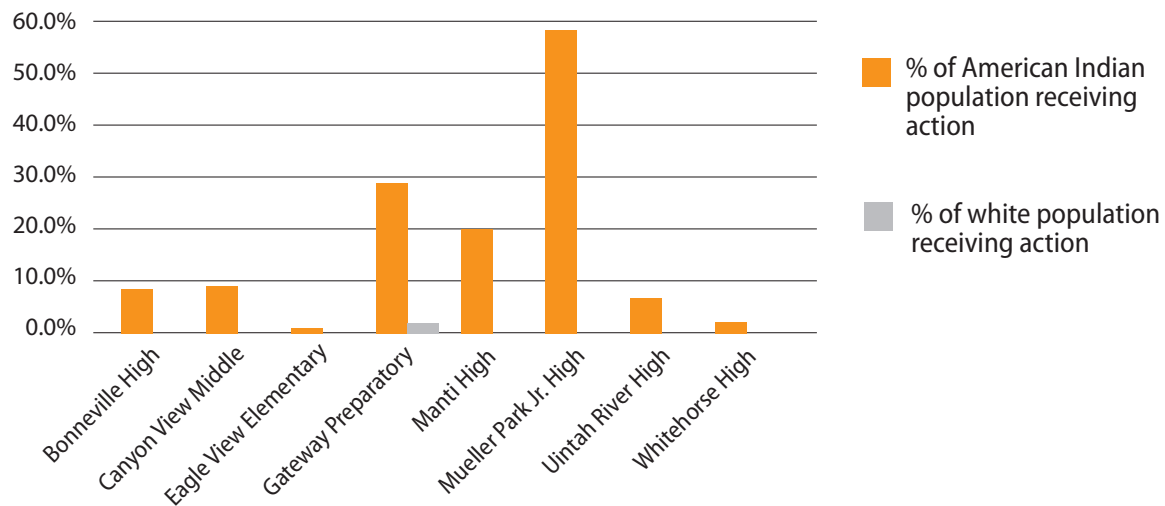


Figure 19 Schools with Greatest Disparity: Referrals to Law Enforcements

Percent of Student Population Receiving Action:
Referrals to Law Enforcements

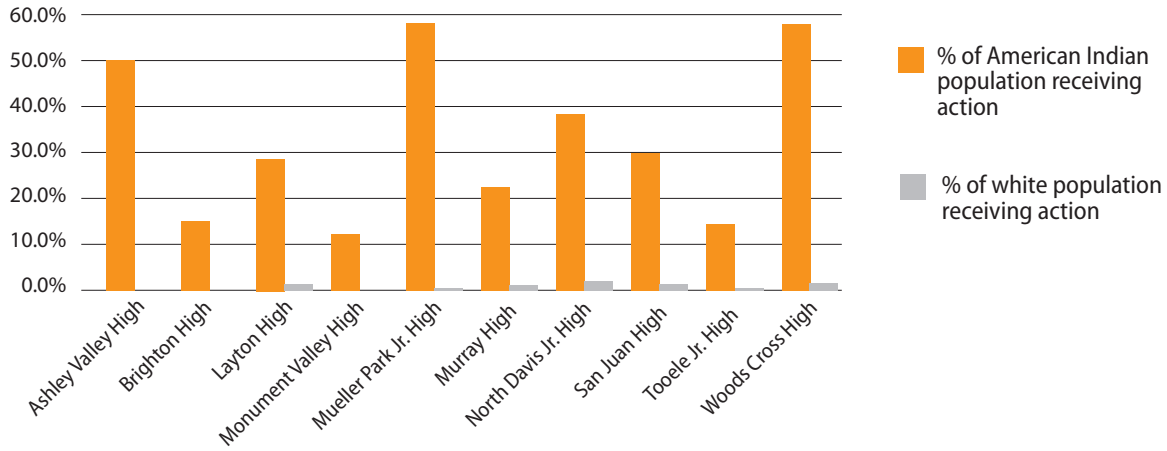
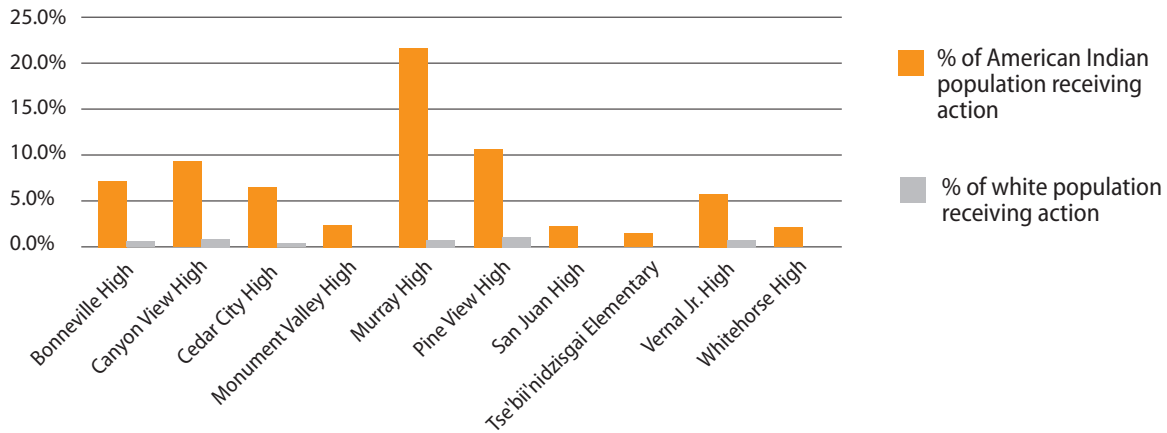


Figure 20 Schools with Greatest Disparity: School-Related Arrests

Percent of Student Population Receiving Action:
School-Related Arrests



¹The statistics presented in this Report are based upon independent analysis of the raw data made available by the Civil Rights Data Collection. That data, along with a school by school searchable database, is available at <http://ocrdata.ed.gov/>. Additional information on methodology available in the Methodology section of this report.

²Cheyaña L. Jaffke, *The “Existing Indian Family” Exception to the Indian Child Welfare Act: The States’ Attempt to Slaughter Tribal Interests in Indian Children*, 66 La. L. Rev. 733, 734 (2006).

³U.S. Comm’n on Civil Rights, *A Quiet Crisis: Federal Funding and Unmet Needs in Indian Country*, ix (July 2003), available at <http://www.usccr.gov/pubs/na0703/na0204.pdf>.

⁴Deborah N. Archer, *Introduction: Challenging the School-to-Prison Pipeline*, 54 N.Y.L. Sch. L. Rev. 867, 868 (2010).

⁵Utah State Office of Educ., 2014 *Cohort Graduation and Dropout Rate Report*, available at <http://www.schools.utah.gov/data/Superintendents-Annual-Report/2014/GraduationReport.aspx>.

⁶The numbers in this paragraph are based on independent analysis of the OCR data.

⁷3.8 times.

⁸In 2011, American Indian students comprised 1.3% of the student population. Three point two percent (3.2%) of this demographic were referred to law enforcement and 0.5% were arrested at school and 0.3% were expelled.

⁹Office for Civil Rights, U.S. Department of Education, <http://www2.ed.gov/about/offices/list/ocr/data.html>. (Last visited 4/6/2015)

¹⁰*Id.*

¹¹Office for Civil Rights, U.S. Department of Education, 2011-12 Civil Right Data Collection Questions and Answers, <http://ocrdata.ed.gov/downloads/FAQ.pdf>.

¹²In both scenarios, assuming a student population of 100, the percentage would be 2%, even though one student received two actions.

¹³*From Fingerprint to Fingerprints* was issued by the Public Policy Clinic in the Fall of 2014 and is available at <https://app.box.com/s/7ylyziug6ims8ahuwa06> or <http://www.law.utah.edu/projects/public-policy-practicum/>.

¹⁴Archer, *supra* n. 4 at 868.

¹⁵*N.C. v. Com.*, 396 S.W.3d 852, 863 (Ky. 2013) (citing Marc Levin, Texas Public Policy Foundation, *Schooling a New Class of Criminals? Better Disciplinary Alternatives for Texas Students*, *Policy Perspective* 7 (March 2006).

¹⁶*Id.*

¹⁷Barbara Raymond, *Assigning Police Officers to Schools*, U.S. Department of Justice, Community Oriented Policing Services Office, Problem-Oriented Guides for Police Response Guides Series No. 10, p. 1, Washington, DC, (April 2010), available at <http://ric-zai-inc.com/Publications/cops-p182-pub.pdf>.

¹⁸National Association of School Resource Officers, <https://nasro.org/>. (Last Visited 4/6/2015).

¹⁹*Id.*

²⁰Peter Finn & Jack McDevitt, *National Assessment of School Resource Officer Programs*, 43 (Feb. 2005), available at <https://www.ncjrs.gov/pdffiles1/nij/grants/209273.pdf>.

²¹Jason P. Nance, *Students, Police and the School-to-Prison Pipeline*, Wash. U. L. Rev. (March 2015) forthcoming.

²²*Id.* at 41.

²³*Id.*

²⁴See Civil Rights Project at Harvard University & The Advancement Project, *Opportunities Suspended: The Devastating Consequences of Zero Tolerance and School Discipline* (Jun. 2000); see also New York Civil Liberties Union & American Civil Liberties Union, *Criminalizing the Classroom: The Over-Policing of New York City Schools*, 6 (2007).

²⁵ Dan Losen, *Are We Closing the School Discipline Gap?* The Center for Civil Rights Remedies, (Feb. 2015), available at <http://civilrightsproject.ucla.edu/resources/projects/center-for-civil-rights-remedies/school-to-prison-folder/federal-reports/are-we-closing-the-school-discipline-gap/losen-are-we-closing-discipline-gap-2015-summary.pdf>.

²⁶ *Id.*

²⁷ Archer, *supra* n. 4 at 868.

²⁸ Robert Balfanz, Vaughan Byrnes, and Joanna Fox, *Sent Home and Put Off-Track: The Antecedents, Disproportionalities, and Consequences of Being Suspended in the Ninth Grade* (Dec. 2012), available at <http://civilrightsproject.ucla.edu/resources/projects/center-for-civil-rights-remedies/school-to-prison-folder/state-reports/sent-home-and-put-off-track-the-antecedents-disproportionalities-and-consequences-of-being-suspended-in-the-ninth-grade/balfanz-sent-home-ccrr-conf-2013.pdf>

²⁹ Andrew Sum, Ishwar Khatiwada, Joseph McLaughlin et.al. *The Consequences of Dropping Out of High School; Joblessness and Jailing for High School Dropouts and the High Cost to Taxpayers*, (October 2009), available at http://www.northeastern.edu/clms/wp-content/uploads/The_Consequences_of_Dropping_Out_of_High_School.pdf.

³⁰ Chauncey D. Smith, *Deconstructing the Pipeline: Evaluating School-to-Prison Pipeline Equal Protection Cases Through A Structural Racism Framework*, 36 Fordham Urb. L.J. 1009 (2009); Deborah N. Archer, *Introduction: Challenging the School-to-Prison Pipeline*, 54 N.Y.L. Sch. L. Rev. 867 (2009/2010); Jeffrey D. Spitzer-Resnick, *Children in School: Student Discipline and the School-to-Prison Pipeline*, Wis. Lawyer, (Sep. 2014); Lia Epperson, *Brown's Dream Deferred: Lessons on Democracy and Identity from Cooper v. Aaron to the "School-to-Prison Pipeline"*, 49 Wake Forest L. Rev. 687 (2014).

³¹ Willard Hughes Rollings, *Citizenship and Suffrage: The Native American Struggle for Civil Rights in the American West, 1830-1965*, 5 Nev. L.J. 126 (2004).

³² See Brackette F. Williams, *A CLASS ACT: Anthropology and the Race to Nation Across Ethnic Terrain*, 18 Ann. Rev. Anthropology 401-44 (1989).

³³ Rollings, *supra* n. 31 at 126.

³⁴ Joseph P. Kalt & Stephen Cornell, *The Redefinition of Property Rights in American Indian Reservations: A Comparative Analysis of Native American Economic Development*, 121-150 in *American Indian Policy: Self-Governance and Economic Development* 121, 126-27, edited by L.H. Leglers and F.J. Lyden, Westport, CT, Greenwood Press (1994).

³⁵ Cheyaña L. Jaffke, *The "Existing Indian Family" Exception to the Indian Child Welfare Act: The States' Attempt to Slaughter Tribal Interests in Indian Children*, 66 La. L. Rev. 733, 734 (2006).

³⁶ Lorie M. Graham, *Reparations, Self-Determination, and the Seventh Generation*, 21 Harv. Hum. Rts. J. 47, 51-52 (2008).

³⁷ See Peter Farb, *Man's Rise To Civilization* 257-68 (1968).

³⁸ See, e.g., Hon. James Abourezk, *The Role of the Federal Government: A Congressional View, in The Destruction Of American Indian Families*, 1, 12 (Steven Unger ed., 1977); H.R. Rep. No. 1386, 95th Cong., 2d Sess. 9, 11 (1978), reprinted in 1978 U.S.C.C.A.N. 7530.

³⁹ Armen H. Merjian, *An Unbroken Chain of Injustice: The Dawes Act, Native American Trusts, and Cobell v. Salazar*, 46 Gonz. L. Rev. 609, 611 (2011).

⁴⁰ U.S. Comm'n on Civil Rights, *supra* n.3.

⁴¹ *Id.*

⁴² Pew Research Center, June 2014, <http://www.pewresearch.org/>. (Last Visited 4/6/2015).

⁴³ See, e.g., U.S. Dep't of Commerce, U.S. Census Bureau, *Poverty Rates for Selected Detailed Race and Hispanic Groups by State and Place: 2007-2011*, issued February 2013.

⁴⁴ *Id.*

⁴⁵ United States Department of Labor, Bureau of Labor Statistics, *Labor Force Characteristics by Race and Ethnicity: 2013*, issued August 2014.

⁴⁶ Office of National Drug Control Policy, 2009 National Survey on Drug Use and Health (September 2010) available at http://www.whitehouse.gov/sites/default/files/ondcp/issues-content/native-americas/fig1_lg.jpg.

⁴⁷ Energy Info. Admin., *Energy Consumption and Renewable Energy Development Potential on Indian Lands*, ix (Apr. 2000) (noting that 14.2% of Indian homes on reservations have no access to electricity, compared to 1.4% for all U.S. households).

⁴⁸ People who responded to the 2010 census survey indicating race alone are referred to as “race alone.” People who reported more than one tribe, such as Navajo and Ute would also be included in race alone. This can be viewed as the minimum number of people reporting as American Indian or Alaska Native. Individuals who chose more than one of the six race categories on the census are referred to as “in combination.”

⁴⁹ Office for Civil Rights, U.S. Department of Education, <http://ocrdata.ed.gov/>. (Last Visited 4/6/2015).

⁵⁰ Schools located in cities with a general population under 30,000.

⁵¹ According to the Utah State Office of Education, Utah had a total of 316 Title 1 schools in 2014, a designation made based on socio-economic demographics that qualify schools for supplemental federal funding. Each year, the State Office of Education identifies Title 1 schools in three categories: priority, focus and reward. The lowest performing 5 percent of Title 1 schools in the state are identified as “priority” schools, with the next 10 percent of lowest-performing schools identified as “focus” schools. Both priority and focus schools are required to implement school improvement strategies. There are ten priority schools, which have 1,054 American Indian students. There are 31 focus schools, which have 621 American Indian students.

⁵² Utah State Office of Educ., *supra* n. 5.

⁵³ *Id.*

⁵⁴ 3.0 times more likely to be expelled and 2.6 times more likely to be referred to law enforcement.

⁵⁵ 7.7 times.

⁵⁶ L.R. Mendez, *Predictors of suspension and negative school outcomes: A longitudinal investigation*, New Directions for Youth Development, 17-33, Issue 99, 12 Van Egeren, L.A., Kirk, (2003).

⁵⁷ Lamont, J. H., Devore, et.al, *Out-of-school suspension and expulsion*. Pediatrics, 131(3), e1000-e1007 (2013); Petras, H., Masyn, et al, *Who is most at risk for school removal? A multilevel discrete-time survival analysis of individual- and context-level influences*. Journal of Educational Psychology, 103, 223 (2011); American Psychological Association, *Zero Tolerance Task Force Report An evidentiary review and recommendations*, (2008).

⁵⁸ Utah has 77 additional schools that serve grades 1-6 along with additional grades in 7-12. These schools were not included in the total, as the disciplinary actions are not broken out by grade. Generally speaking, these students range in age from 5 to 12 years old.

⁵⁹ *From Fingerprint to Fingerprints* reported 1,230 actions in school with “elementary” in the title. This means that “elementary” is actually in the name of the school. If a school name is “Smith Elementary School,” it is included, but a school named “Smith School” is not. This analysis looked at the grades served in each school, as reported to the CRDC.

⁶⁰ 3.9 times.

⁶¹ 2.9 times.

⁶² For example, assume fifteen students are expelled, ten of which were a result of a zero tolerance policy, and five of which were expelled with educational services for other reasons. Further assume that two of those expelled under a zero tolerance received educational services while the other eight did not. Expulsions under zero tolerance would be reported as 10. The “expelled with services” count would be 7, the expelled without services would be 8, totaling the 15.

⁶³ Office for Civil Rights, U.S. Department of Education, <http://www2.ed.gov/about/offices/list/ocr/data.html>. (Last Visited 4/6/2015).

⁶⁴ The Advancement Project, *Opportunities Suspended: The Devastating Consequences of Zero Tolerance and School Discipline*, 12, (June 2000).

⁶⁵ 7.7 times.

⁶⁶ 1.3% of 3,315 = 44

⁶⁷ 3.8 times.

⁶⁸ 6.2 times.

⁶⁹ There were 591 total actions. American Indians account for 1.3% of the population. All things being equal, it is expected they would receive 1.3% of the actions.

⁷⁰ 7.1%.

⁷¹ 20 U.S.C. §1400(d) (2012).

⁷² Mark McWilliams and Mark P. Fancher, *Undiagnosed Students with Disabilities Trapped in the School-to-Prison Pipeline*, 89-Aug Mich. B.J. 28, 29 (2010).

⁷³ 34 C.F.R. § 300.530 (2013).

⁷⁴ McWilliams, *supra* n. 72 at 29.

⁷⁵ 20 U.S.C. §1401(3)(A)(i) (2012).

⁷⁶ 34 C.F.R. §300.8(c)(4)(i) (2013).

⁷⁷ Section 504 of the Rehabilitation Act of 1973 is a national law that protects qualified individuals from discrimination based on their disability. Under this law, individuals with disabilities are defined as persons with a physical or mental impairment which substantially limits one or more major life activities. People who have a history of, or who are regarded as having a physical or mental impairment that substantially limits one or more major life activities, are also covered.

⁷⁸ 13.8 times.

⁷⁹ 4.6 times.

⁸⁰ Ten disciplinary actions were given to a population of 42 American Indian students.

⁸¹ 1,484 white students received 79 actions. 1,487 American Indian students received 335 actions.

⁸² 10.8% of the American Indian student population referred to law enforcement in 2011.

⁸³ 29.7 percent.

⁸⁴ San Juan High school had an American Indian population of 148 students. Forty four referrals went to this student population in 2011. In comparison, the school had a white population of 391 students, receiving 7 referrals.

⁸⁵ TSE' BII' NIDZISGAI Elementary has an American Indian population of 256 students. Forty-four referrals were given to this student population in 2011.

⁸⁶ <http://www.bia.gov/cs/groups/public/documents/text/idc002652.pdf>. (Last Visited 4/6/2015)

⁸⁷ As measured in square miles.

⁸⁸ Duchesne, Uintah and Grand Counties are located in the Northeast portion of Utah.

⁸⁹ San Juan County is located in the Northwest portion of Utah along the Arizona border. The Navajo Indian reservation spans the corners of Utah, Arizona and New Mexico.

⁹⁰ Utah Division of Indian Affairs; information can be found at <http://heritage.utah.gov/Utah-indian-affairs/Utah-tribes>.

⁹¹ Utah Division of Indian Affairs.

⁹² *Id.*

⁹³ Piute Indian Tribe of Utah website; www.utahpiautes.org. (Last Visited 4/6/2015)

⁹⁴ *Id.*

⁹⁵ Utah Division of Indian Affairs.

⁹⁶ *Id.*

⁹⁷ Piute Indian Tribe of Utah website; www.utahpiautes.org. (Last Visited 4/6/2015).

⁹⁸ *Id.*

⁹⁹ *Id.*

The University of Utah S. J. Quinney College of Law Clinical Program

The College of Law's Clinical Program allows students to gain hands-on experience while earning academic credit in a wide range of diverse settings, from judicial chambers and civil rights organizations to business, technology and environmental placements, in local community agencies and in international arenas. The program was recently ranked second in the nation by the National Jurist magazine for the number of opportunities it provides for clinical experiences in the community.

Clinics include a classroom component, which helps students prepare for their legal work and offers a forum for students to reflect on their experiences. Clinical placements help students to develop a range of practice-related skills and to gain insights into their strengths and career preferences. Clinic students donated 40,000 hours of service in 2012-2013.

The Public Policy Clinic provides second and third year law students at the S. J. Quinney College of Law with an opportunity to effect public policy change through public education, the legislative process, and litigation. The Clinic is currently focused on helping to put an end to the school-to-prison pipeline in Utah.

For more information, visit law.utah.edu

For more information on the Public Policy Clinic or the School to Prison Pipeline
visit publicpolicyclinic.com or law.utah.edu or email the clinic at
publicpolicyclinic@law.utah.edu