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ARTICLES

A CALL FOR AN INTERSECTIONAL FEMINIST RESTORATIVE JUSTICE APPROACH TO ADDRESSING THE CRIMINALIZATION OF BLACK GIRLS

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INTRODUCTION

The persistent criminalization and pathologizing of Black youth in the U.S. educational system is a fundamental driver for their entry into the criminal legal system.[1] Despite decades of

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1 Elana Needle, *National Racial Justice Coalition Renews Demand that Schools Address Racial Disparities in Discipline and that OCR, U.S. Department of Education, Enforce Laws Prohibiting Discrimination in Student Discipline*, ADVANCEMENT PROJECT (Aug. 5, 2019), https://advancementproject.org/news/national-racial-justice-coalition-renews-demand-that-schools-address-racial-disparities-in-discipline-and-that-ocr-u-s-department-of-education-enforce-laws-prohibiting-discrimination-in-student-dis/ [https://perma.cc/T273-JL6C]; DANIEL J. LOSEN & AMIR WHITAKER, UCLA CIV. RTS. PROJECT & ACLU, 11 MILLION DAYS LOST: RACE, DISCIPLINE, AND SAFETY AT U.S. PUBLIC SCHOOLS PART 1, at 2, 5, 10–12 (2019), https://www.aclu.org/sites/default/files/field_document/final_11-million-days_ucla_aclu.pdf [https://perma.cc/T93M-B6KU]; ADVANCEMENT PROJECT, EDUCATION ON LOCKDOWN: THE SCHOOLHOUSE TO JAILHOUSE TRACK 11, 15–16, 24 (2005), https://www.njjn.org/uploads/digital-library/Education-on-Lockdown_Advancement-Project_2005.pdf [https://perma.cc/3947-K6MC]; *DSC Fact Sheets on School Pushout*, DIGNITY IN SCHS., https://dignityinschools.org/resources/dsc-created-fact-sheets/ [https://perma.cc/BT76-TS4Q] (last visited June 12, 2022); *Reducing Student and Teacher Dropout Rates in Mississippi*, S. POVERTY L. CTR. (Apr. 1, 2008), https://www.splcenter.org/20080331/reducing-student-and-teacher-dropout-rates-mississippi [https://perma.cc/52WP-MY3R].

evidence of the far-reaching harms of the "school-to-prison pipeline"[2] and, more recently, demands from Black Lives Matter activists to defund school police,[3] the role of schools in criminalizing Black girls has been left out of mainstream academic discourse.[4] This occurs even though Black girls experience some of the most subjective and discriminatory practices in schools[5] and evidence of an upward trend in discipline disparities since the mid-2000s.[6] For Black girls with disabilities the data reveals an even starker picture: Black girls are five times more likely to be suspended than are white, nondisabled girls and Black girls experience the highest disparity for rates of referrals to law enforcement at six times more than white, nondisabled girls.[7]

The absence of Black girls from the larger portrait of youth criminalization and anti-criminalization efforts is sadly not surprising. Across multiple fields, scholars and advocates, have failed to fundamentally embed intersectional approaches into their work.[8] A rich body of literature[9] critically explores systemic, structural, and individual drivers of disparate outcomes, but this approach is not representative of the dominant theory and

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[2] *See* Thalia González, *Race, School Policing, and Public Health*, 73 STAN. L. REV. ONLINE 180, 185–86 (2021).

[3] *See* Thalia González & Emma Kaeser, *School Police Reform: A Public Health Imperative*, 74 SMU L. REV. F. 118, 118 (2021).

[4] *See, e.g.*, Carrie Spector, *Schools Need to Acknowledge Their Part in the Criminalization of Black Youth, Stanford Scholar Says: Stanford Education Professor Subini Ancy Annamma Talks About the Role School Play in Creating a Culture of Punishment Against One Student*, STAN. NEWS (June 18, 20202), https://news.stanford.edu/2020/06/18/school-systems-make-criminals-black-youth/ [https://perma.cc/5SAW-PLPT].

[5] Subini Annamma et al., *Animating Discipline Disparities Through Debilitating Practices: Girls of Color and Inequitable Classroom Interactions*, TCHRS. COLL. REC. (2020), https://www.tcrecord.org/Content.asp?ContentId=23280 [https://perma.cc/TM2F-AVHT].

[6] The newest data from the U.S. Department of Education's Office for Civil Rights Data Collection ("CRDC") shows that Black girls are subject to some of the highest rates of overrepresentation across all measures of discipline and policing in schools. GEO. L. CTR. ON POVERTY & INEQ., DATA SNAPSHOT: 2017-2018—NATIONAL DATA ON SCHOOL DISCIPLINE BY RACE AND GENDER 1–4 (2020) [hereinafter GEO. L. CTR. POVERTY & INEQ., DATA SNAPSHOT: 2017-2018].

[7] Thalia González, Alexis Etow & Cesar De La Vega, *A Health Justice Response to School Discipline and Policing*, 71 AM. U. L. REV. 11 (forthcoming 2022) (analyzing the 2017 CIVIL RIGHTS DATA COLLECTION).

[8] *See, e.g.*, Meg Upchurch, *Gender Bias in Research*, in COMPANION TO WOMEN'S AND GENDER STUDIES 139, 151 (2020).

[9] *See* discussion *infra*.

research guiding practice or policy. [10]   We argue that such examinations are fundamental if one seeks to name and dismantle youth criminalization as a form of systemic oppression.

In this Article we focus our attention on school-based restorative justice ("RJ") as presenting a critical area for embedding intersectional frameworks and approaches at the levels of movement, practice, policy, and law reform.[11] RJ is a primary intervention[12] to prevent youth criminalization in

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[10] KIMBERLÉ CRENSHAW, BLACK GIRLS MATTER: PUSHED OUT, OVERPOLICED AND UNDERPROTECTED 8 (Afr. Am. Pol'y F. 2015) [hereinafter BLACK GIRLS MATTER] ("The risks that Black and other girls of color confront rarely receive the full attention of researchers."). This absence is mirrored in the relative lack of attention to police violence against Black women and the incarceration of Black adult women, who have experienced the largest *growth* in incarceration numbers. *See generally* Kimberlé W. Crenshaw, *From Private Violence to Mass Incarceration: Thinking Intersectionally About Women, Race, and Social Control*, 59 UCLA L. REV. 1418 (2012); ANDREA J. RITCHIE, INVISIBLE NO MORE: POLICE VIOLENCE AGAINST BLACK WOMEN AND WOMEN OF COLOR (2017).

[11] A systematic review of secondary school-based RJ research reveals that there are only four studies specifically examining the experiences and perceptions of girls of color. Ann Schumacher, *Talking Circles for Adolescent Girls in an Urban High School: A Restorative Practices Program for Building Friendships and Developing Emotional Literacy Skills*, SAGE OPEN. 1 (2014); Vanessa Marie McPhail, *Perceptions of Restorative Practices Among Black Girls: Talking Circles in an Urban Alternative Middle School* (Dec. 2019) (Ed.D. dissertation, University of Louisville) (Think IR); Tonya R. Featherston, *An Experimental Study on the Effectiveness of a Restorative Justice Intervention on the Social Aggression, Social Problem Solving Skills, and Prosocial Behaviors of African American Adolescent Girls* (2014); THALIA GONZÁLEZ & REBECCA EPSTEIN, BUILDING FOUNDATIONS OF HEALTH AND WELL BEING IN SCHOOLS: A STUDY OF RESTORATIVE PRACTICES AND GIRLS OF COLOR, GEO. L. CTR. POVERTY AND INEQUALITY (2021) [hereinafter BUILDING FOUNDATIONS]; Thalia González & Rebecca Epstein, *Critical Race Feminism, Health and Restorative Practices in Schools*, MICH J. GENDER & L. (forthcoming 2022). This pattern of gender bias in research is repeated in the research on RJ programs in the juvenile and criminal justice systems. Little research focuses on girls' and womens' experiences with RJ other than as victims. See Kathleen Daly, *Girls, Peer Violence, and Restorative Justice*, 41 AUSTL. & N.Z. J. CRIMINOLOGY 109 (2010). For exceptions, see, e.g., Jodie Hodgson, *Offending Girls and Restorative Justice: A Critical Analysis*, YOUTH JUSTICE 1 (2020); Emily Gaarder & Denise Hesselton, *Connecting Restorative Justice with Gender Responsive Programming*, 15 CONTEMP. JUST. REV. 239 (2012) . Even less RJ research examines the experiences of women or girls of color and the experiences of LGBTQ and gender nonconforming youth of color. There are some notable exceptions to this inattention to racialized gender in school-based RJ. *See, e.g.,* COLORIZING RESTORATIVE JUSTICE: VOICING OUR REALITIES (Edward C. Valandra & Wanjbli Wapȟáha Hokšíla eds., 2020); Donna Coker, *Feminist Response to Campus Sexual Assault in the Republican Era: Crime Logic, Intersectional Public Health, and Restorative Justice*, *in* THE POLITICIZATION OF SAFETY (Jane Stoever ed., 2019).

[12] *See, e.g.,* TREVOR FRONIUS ET AL., WESTED JUST. & PREVENTION RSCH. CTR., RESTORATIVE JUSTICE IN U.S. SCHOOLS: AN UPDATED RESEARCH REVIEW 1 (2019), https://www.wested.org/wp-content/uploads/2019/04/resource-restorative-justice-in- u-s-schools-an-updated-research-review.pdf; Thalia González, *Restorative Justice From the*

schools.[13] RJ has been adopted in school contexts with positive outcomes ranging from diminished reliance on punitive discipline to promoting protective health factors. Though the empirical literature is limited, this Article draws on three studies to underscore the potential of RJ to place Black girls at the center of what should be the anti-criminalization and RJ discourse. This Article concludes with a call for research that further examines the efficacy of RJ to promote the well-being of Black girls.

Simply put, this Article is a call for change, not only in the disparate impact of school criminalization practices on Black girls, but to the unidimensional approach to reform. There is an urgency to simultaneously dismantle harmful norms in schools, confront intersectional oppression, and prioritize the resilience and well-being of Black girls.

I. PATHWAYS TO THE CRIMINALIZATION OF BLACK GIRLS: BEYOND THE SCHOOL-TO-PRISON-PIPELINE

The "school-to-prison pipeline" ("STPP") captures the ways in which exclusionary discipline, including school policing practices, increases the risks for student involvement in the criminal legal system. Racial disproportionality in the application of exclusionary discipline is well documented. However, much of the attention to the consequences of exclusionary discipline has focused on Black boys, despite the fact that Black girls are expelled, suspended, and arrested in appallingly disproportionate numbers. Indeed, a recent analysis of U.S. Department of Education's Office for Civil Rights Data Collection ("CRDC") data shows that Black girls received in-school suspensions (11.2%) and out-of-school suspensions (13.3%) at rates almost twice their share

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Margins to the Center: The Emergence of the New Norm in School Discipline 60 HOW. L.J. 267, 275 (2016); ANNE GREGORY & KATHERINE R. EVANS, NAT'L EDUC. POL'Y CTR., THE STARTS AND STUMBLES OF RESTORATIVE JUSTICE IN EDUCATION: WHERE DO WE GO FROM HERE? 6 (2020), https://nepc.colorado.edu/sites/default/files/publications/Revised%20PB%20Gregory_0.pdf [https://perma.cc/N3DE-YF5C]; Marilyn Armour, *Restorative Practices: Righting the Wrongs of Exclusionary School Discipline*, 50 U. RICH. L. REV. 999, 1015–23 (2016).

[13] In addition to the presence of RJ programs at the local level in nearly all states, school and district practices and policies, twenty-one states and the District of Columbia have adopted laws specific to school-based restorative justice. Thalia González et al., *Restorative Justice, School Reopenings and Educational Equity: A Contemporary Mapping and Analysis of State Law*, 55 UC DAVIS L. REV. 43, 47–48 (2021) (an empirical analysis of state restorative justice laws).

of total student enrollment (7.4%).[14] Further, Black girls were 4.19 times more likely to be suspended and 3.66 times more likely to be arrested at school than were white girls.[15]

But the experiences of Black girls in increasingly harsh school climates is not simply one of numerical disparities. Exclusionary discipline is associated with five main categories of negative health outcomes: "lower educational attainment, impacted mental health, diminished health protective factors, physical violence, and risk of justice system involvement."[16] Furthermore, police interactions in schools and "punitive discipline each produce stress, depression, distress, post-traumatic stress and trauma symptoms."[17] Black girls simultaneously face racialized sexism[18] and significant sexual harassment and assault—experiences that are often ignored or normalized by school authorities.[19] All of which have serious physical and mental health consequences.[20] And, school officials frequently misinterpret Black girls self-defense efforts as aggression.[21] For Black girls who have experienced other trauma or adversity, this environment may magnify risk factors and existing vulnerabilities, including the

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[14] U.S. EDUC. DEP'T, OFF. CIVIL RTS., CIVIL RIGHTS DATA COLLECTION, 2017-18 STATE AND NATIONAL ESTIMATIONS (June 2021), http://ocrdata.ed.gov/estimations/2017-28.

[15] GEO. L. CTR. ON POVERTY & INEQ., DATA SNAPSHOT: 2017-2018, *supra* note 6, at 1; 2017-18 STATE AND NATIONAL ESTIMATIONS, *supra* note 14.

[16] González, Etow & De La Vega, *supra* note 7.

[17] *Id.*; *See, e.g.*, Mark Cameron & Sandra M. Sheppard, *School Discipline and Social Work Practice: Application of Research and Theory to Intervention*, 28 CHILDREN & SCH. 15, 15–16 (2006); Dylan B. Jackson et al., *Police Stops Among At-Risk Youth: Repercussions for Mental Health*, 65 J. ADOLESCENT HEALTH 627, 631 (2019); MEGAN FRENCH-MARCELIN & SARAH HINGER, BULLIES IN BLUE: THE ORIGINS AND CONSEQUENCES OF SCHOOL POLICING 30–31 (2017); HEALTH IMPACT PARTNERS AND FRESNO BARRIOS UNIDOS, HEALTH AND CULTURAL WEALTH: STUDENT PERSPECTIVES ON POLICE-FREE SCHOOLS IN FRESNO, CALIFORNIA 6–7 (2021).

[18] *See, e.g.*, Angela Onwuachi-Willig, *What About #UsToo?: The Invisibility of Race in the #MeToo Movement*, 128 YALE L.J. F. 105, 116 (2018).

[19] *See, e.g.*, NAACP, LEGAL DEF. & EDUC. FUND & NAT'L WOMEN L. CTR., UNLOCKING OPPORTUNITY FOR AFRICAN AMERICAN GIRLS: A CALL TO ACTION FOR EDUCATION EQUALITY 25 (2014); Sonja C. Tonnesen, *"Hit It and Quit It": Responses to Black Girls' Victimization in School*, 28 BERKELEY J. GENDER, L. & JUST. 1, 5 (2013).

[20] KRISTIN HENNING, THE RAGE OF INNOCENCE: HOW AMERICA CRIMINALIZES BLACK YOUTH 225 (2021) ("Black adolescents who report frequent experiences of being insulted, excluded, and teased about their race or ethnicity develop symptoms such as hypervigilance, panic, distrust, increased aggression, substance abuse, shame, self-harm, emotional detachment, and depression.").

[21] *See* NAACP, *supra* note 19, at 25; Tonnesen, *supra* note 19, at 5.

burden of multi-system involvement.[22] For example, research shows that girls in the juvenile justice system have higher adverse childhood experience ("ACE") scores than do boys[23] and their experiences of traumatic experiences are significantly higher than the national average.[24] Black girls experience significant rates of dating violence, sexual assault, and sexual harassment, rendering schools as sites for additional traumatic experiences.[25]

The convergence of such institutional harms for some Black girls can produce a profound "disconnection" from school.[26] School connectedness, a protective factor, is defined as the "extent to which students feel personally accepted, respected, included, and supported by others in their school environment."[27] The effects of school disconnection can manifest in diverse ways, including school absence and "has far-reaching negative consequences, from hindering cognitive and social development . . . to being more likely to be retained, less likely to graduate, and more likely to be

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[22] *See, e.g.*, Judith Warner, *The Unequal Toll of Toxic Stress*, AM. PROGRESS (Nov. 17, 2017), https://www.americanprogress.org/article/unequal-toll-toxic-stress/ [https://perma.cc/HMG4-7RZP]; KIMBERLYN LEARY, MENTAL HEALTH & GIRLS OF COLOR, Issue Brief, Georgetown Law Center on Poverty & Inequality at https://genderjusticeandopportunity.georgetown.edu/wpcontent/uploads/2020/06/Mental-Health-and-Girls-of-Color.pdf; Francine T. Sherman, *Justice for Girls: Are We Making Progress?*, 59 UCLA L. REV. 1584, 1601 (2012) ("Girls in the [juvenile] justice system are more likely than boys to have experienced sexual assault, rape, or sexual harassment, and early sexual abuse is common among girls victimized by commercial sexual or exploitation.").

[23] YAEL CANNON ET AL., N.M. SENTENCING COMM'N, ADVERSE CHILDHOOD EXPERIENCES IN THE NEW MEXICO JUVENILE JUSTICE POPULATION (2016) (explaining that girls in juvenile justice system reported higher ACE scores than did their male counterparts); Michael T. Baglivio & Nathan Epps, *The Interrelatedness of Adverse Childhood Experiences Among High-Risk Juvenile Offenders*, 14 YOUTH VIOLENCE & JUV. JUST. 179, 183 (2015) (reporting that girls reported higher scores than boys across all ten categories of adverse childhood experiences).

[24] Juliette Noel Graziano & Eric F. Wagner, *Trauma Among Lesbians and Bisexual Girls in the Juvenile Justice System*, 17 TRAUMATOLOGY 45, 45 (2011).

[25] *See, e.g.*, NAACP, *supra* note 19, at 24; CRENSHAW, *supra* note 10, at 34. Black women experience higher rates of sexual violence than do white women. *See* MICHELE C. BLACK ET AL., NATIONAL INTIMATE PARTNER AND SEXUAL VIOLENCE SURVEY: 2010 SUMMARY REPORT 20 (2011), https://www.cdc.gov/violenceprevention/pdf/nisvs_report2010-a.pdf (reporting that 22% of Black non-Hispanic women had lifetime experience of rape compared to 18.8% of white women and 14.6% of Hispanic women).

[26] BUILDING FOUNDATIONS, *supra* note 11.

[27] Carol Goodenow, *The Psychological Sense of School Membership Among Adolescents: Scale Development in Educational Correlates*, 30 PSYCH. SCHS. 79, 80 (1993). *See also* González, Etow & De La Vega, *supra* note 7.

referred to the juvenile justice system."[28] Qualitative studies of school disconnection have shown it to be a common experience for Black girls.[29] For example, research found that behavior teachers perceive as "defiant" or "talking with an attitude," Black girls perceive as necessary for self-protection against teacher disdain or hostility. "[I]n the world of [Black] girls' experience, teachers started and/or escalated tense situations with the girls, making them feel like they had to talk with an attitude in order to defend themselves or to resist what they perceived to be disrespectful behavior (attacks on their cultural being)."[30]

Similarly, a study of Black girls convened by the African American Policy Forum concluded that the girls believed that their teachers and counselors did not care about them and instead, viewed them as "loud and rowdy, [and] ghetto."[31]

However, exclusionary discipline—as existing within the STPP narrative—is only a part of a larger ecosystem of control and punishment policies, practices, and norms that criminalize Black girls. System intersectionality—the co-influential relationships and interactions between the education, child welfare, and juvenile justice systems—also drives their criminalization. Collectively, these three systems form a network that formally and informally reinforces racialized sexism.[32] The negative compounding effect of these structures and systems operates at

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[28] THALIA GONZALEZ & REBECCA EPSTEIN, GEO. L. CTR. POVERTY & INEQ., INCREASING SCHOOL CONNECTEDNESS FOR GIRLS: RESTORATIVE JUSTICE AS A HEALTH EQUITY RESOURCE 4 (2020).

[29] CRENSHAW, *supra* note 10, at 24–25.

[30] Jacqueline B. Koonce, *"Oh, Those Loud Black Girls!": A Phenomenological Study of Black Girls Talking with an Attitude*, 8 J. LANGUAGE & LITERACY EDUC. 27, 39 (2012). Koonce writes that "[a] constant throughout the girls' narratives is their feelings of living in a hostile ecology at their school" that "makes the girls feel uneasy and unhappy . . . ." *Id.* at 39. White teachers may fail to appreciate the harms of racist teasing, viewing it as a mutual harassment or "normal" teasing. *See* Rochelle Arms Almengor, *Women Colorizing Restorative Justice in White-Led Institutions, in* COLORIZING RESTORATIVE JUSTICE: VOICING OUR REALITIES 131 (Edward C. Valandra & Wanjbli Wapháha Hokšíla eds., 2020).

[31] CRENSHAW, *supra* note 10, at 29.

[32] *See generally* DOROTHY ROBERTS, SHATTERED BONDS: THE COLOR OF CHILD WELFARE (2009); Kele M. Stewart, *Re-Envisioning Child Well-Being: Dismantling the Inequitable Intersections Among Family Regulation, Juvenile Justice and Education*, 11 COLUM. J. RACE & L. (forthcoming 2022); Dorothy Roberts, *Prison, Foster Care, and the Systemic Punishment of Black Mothers*, 59 UCLA L. REV. 1474, 1476, 1491 (2012) [hereinafter Roberts, *Prison, Foster Care*].

both the individual and community level.[33] As child welfare expert Professor Kele Stewart notes, "the education system serves as a funnel to both [the child welfare and juvenile justice] systems."[34] As mandatory reporters of child abuse and neglect, school authorities are important drivers of child welfare system involvement, which has long been recognized for its racialized and gendered biases, with the most direct impact on Black families.[35] Foster care, in turn, is recognized as a pathway to criminalization for girls. [36] Girls are more likely to experience abuse in foster care placements and more likely to be placed in secure detention facilities for running away—behavior frequently prompted by abuse.[37]

Black girls are particularly vulnerable to the operation of this system intersectionality. This is true in part because, as critical race feminist scholar Dorothy Roberts describes, Black mothers are devalued and criminalized[38]—leaving their children more vulnerable to child welfare intervention and removal.[39] Thus, the criminal legal and child welfare systems jointly produce and reproduce negative stereotypes of Black mothers as unfit and dangerous,[40] increasing punitive outcomes for their children:

> The joint production of [these] stereotypes in the child welfare and prison systems helps to explain why juvenile justice authorities send black delinquents to juvenile detention while referring white delinquents to informal alternatives for the same offenses. . . . Because they perceive [B]lack single mothers as incapable of providing adequate supervision of their children,

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[33] *See, e.g.,* Arline T. Geronimus et al., *"Weathering" and Age Patterns of Allostatic Load Scores Among Blacks and Whites in the United States,* 96 AM. J. PUBLIC HEALTH 826, 826–33 (2006).

[34] Stewart, *supra* note 32, at 3, 6 (explaining that these three systems "function in . . . similar . . . ways" in the lives of Black children: they "isolate Black children and destroy the family"; "pathologize and label Black children as defective and disruptive"; and "fail to provide nurturing, developmentally appropriate, or trauma-informed care, and inflict new trauma on children").

[35] *Id.* at 6–7.

[36] Sherman, *supra* note 22, at 1602.

[37] *Id.* at 1601–02.

[38] Roberts, *Prison, Foster Care, supra* note 32, at 1491–93 ("The joint production of stereotypes [of black mothers' unfitness] in the child welfare and prison systems helps to explain why juvenile justice authorities send black delinquents to juvenile detention while referring white delinquents to informal alternatives for the same offenses.").

[39] *Id.* at 1493. *See also* Stewart, *supra* note 32, at 6 ("Mandatory reporting laws . . . subject[ ] Black families to hyper-surveillance.").

[40] Roberts, *Prison, Foster Care, supra* note 32, at 1492.

officials believe they are justified in placing these children under state control.[41]

As Stewart notes, each of these systems, "pathologize[s] and label[s] Black children as defective [and] disruptive."[42] Each system is a site for traumatic experiences and each can create profound feelings of being unloved and disconnected. As Stewart describes, for example, the high levels of instability that is true for foster care placement for adolescents of color "reinforces the idea that the child is unlovable and worsens a child's trauma and [problematic] behaviors."[43]

Disparities in outcomes for Black girls across all three systems also exist in the context of gender-based violence, including sexual harassment and assault.[44] Additionally, all three systems reinforce gender normativity—penalizing girls for behavior that "violate[s] gender norms of obedience and sexual purity,"[45] with Black girls most significantly at risk to be perceived by system actors as failing to conform to these gender norms.[46] In schools, for example, they are cast as defiant[47] or hypersexualized[48] and disciplined for infractions that are "largely based on school officials' interpretations of behavior"[49] including "disobedience,"

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[41] *Id.* at 1492–93.

[42] Stewart, *supra* note 32, at 6.

[43] *Id.* at 8.

[44] *See* RIGHTS4GIRLS, *The Juvenile Justice System and Domestic Child Sex Trafficking*, https://rights4girls.org/wp-content/uploads/2018/09/JJ-DCST-UPDATED-SEPT-2020_Final-1-1-1.pdf [https://perma.cc/VQV4-SVU8] (last visited Jan. 29, 2022); *see also* BRITTANY DAVIS, CRIMINALIZATION OF BLACK GIRLS IN THE JUVENILE LEGAL SYSTEM: OVERVIEW OF PATHWAYS TO CONFINEMENT AND STRATEGIES FOR SUPPORTING SUCCESSFUL REENTRY 4 (2020).

[45] Cynthia Godsoe, *Contempt, Status, and the Criminalization of Non-Conforming Girls*, 35 CARDOZO L. REV. 1091–1109 (2014). *See also* Alesha Durfee, *Arresting Girls for Dating Violence: The Importance of Considering Intersectionality, in* ACROSS THE SPECTRUM OF WOMEN AND CRIME: THEORIES, OFFENDING, AND THE CRIMINAL JUSTICE SYSTEM (Susan F. Sharp et al. eds., 2016) (describing the research on arrest rates for dating violence found that African American girls were significantly more likely to be arrested than white girls or boys or African American boys).

[46] *See, e.g.*, Edward W. Morris & Brea L. Perry, *Girls Behaving Badly? Race, Gender, and Subjective Evaluation in the Discipline of African American Girls*, 90 SOCIO. EDUC. 127, 144 (2017). *See also* Jamilia J. Blake et al., *Unmasking the Inequitable Discipline Experiences of Urban Black Girls: Implications for Urban Educational Stakeholders*, 43 URB. REV. 90, 100 (2011); Jyoti Nanda, *Blind Discretion: Girls of Color & Delinquency in the Juvenile Justice System*, 59 UCLA L. REV. 1502, 1529–30 (2012).

[47] Morris & Perry, *supra* note 46, at 144.

[48] *Id.* at 138.

[49] *Id.* at 144. *See also* Blake et al., *supra* note 46, at 100; Nanda, *supra* note 46, at 1502.

"disruptive behavior," and dress code violations.[50] Black girls are subjected to the phenomenon of *adultification*—that is, they are viewed as older, more responsible, more culpable, more knowledgeable about sex, and less innocent than are white girls.[51] Recent qualitative research on adultification indicates it is a normalized form of bias that results in the projection and perpetuation of stereotypes of Black women as angry, aggressive and hypersexualized onto Black girls.[52]

In schools, like other systems, Black girls' experiences are understood through an axis of class, in addition to race and gender. As intersectional scholar and activist Monique Morris observes:

> Black girls are . . . place[d] . . . into polarizing categories: they are either "good" girls or "ghetto" girls who behave in ways that exacerbate stereotypes about Black femininity . . . . When Black girls do engage in acts that are deemed "ghetto"—often a euphemism for actions that deviate from social norms tied to a narrow, White middle-class definition of femininity—they are frequently labeled as nonconforming and thereby subject to criminalizing responses.[53]

To illustrate the centrality of education to this web of oppression, we draw on the phenomenon of pushout. Pushout refers to the "multiple ways in which racial, gender, and socio-economic inequity converge to marginalize Black girls in their learning environments." [54] Pushout exposes how schools are central to increasing Black girls' risk of experiencing structural inequalities that link criminalization across a continuum.[55] Low education attainment and the health consequences of alienating school experiences deepens social inequalities that increase the

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[50] Morris & Perry, *supra* note 46.

[51] REBECCA EPSTEIN, JAMILIA J. BLAKE, & THALIA GONZÁLEZ, GEO. L. CTR. POVERTY & INEQ., GIRLHOOD INTERRUPTED: THE ERASURE OF BLACK GIRLS' CHILDHOOD (2017), https://genderjusticeandopportunity.georgetown.edu/wp-content/uploads/2020/06/girlhood-interrupted.pdf [https://perma.cc/T856-PUSP] (noting that the first study of adultification of Black girls found that when compared to white girls, adults viewed Black girls as more adult, as needing less protection or nurturing, and as more knowledgeable about sex beginning as early as age 5).

[52] JAMILIA BLAKE & REBECCA EPSTEIN, GEO. L. CTR. POVERTY & INEQ., LISTENING TO BLACK WOMEN & GIRLS: LIVED EXPERIENCES OF ADULTIFICATION 1–13 (2019), https://genderjusticeandopportunity.georgetown.edu/wpcontent/uploads/2020/06/Listening-to-Black-Women-and-Girls.pdf [https://perma.cc/ZBZ3-H73G] (a national qualitative study of Black girls and women ages 12 to over 60).

[53] MONIQUE W. MORRIS, PUSHOUT: THE CRIMINALIZATION OF BLACK GIRLS IN SCHOOLS 10 (2016).

[54] *Id.* at 13.

[55] *Id.* at 4–5.

likelihood of criminalization for Black girls and women. Put another way, Black women and girls experience a confluence of vulnerabilities to criminalization associated with poverty, racialized bias, and gendered roles. Consider, for example, the ways in which the receipt of welfare,[56] public housing,[57] and the racially disproportionate attention of child welfare authorities subjects poor Black mothers to intense and disproportionate government surveillance.[58] The surveillance and invasions of privacy facilitated and required by these systems create, in turn, substantial opportunities for criminalization.[59] Poverty and economic insecurity also make Black women more vulnerable to the risk of intimate partner violence, which further increases their risk for criminalization.[60] This occurs, for example, when women defend themselves against abuse[61] or when they are prosecuted as co-conspirators or accessories in crimes committed by their more culpable abusive male partner.[62]

II. SCHOOL RESTORATIVE JUSTICE & BLACK GIRLS

Over the last two decades, RJ has become a leading alternative to zero tolerance and exclusionary discipline policies that have long fueled the school to prison nexus. Early restorative school programs were modeled after juvenile justice processes and provided a promising alternative to harsh discipline for school

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[56] *See, e.g.*, Kaaryn Gustafson, *The Criminalization of Poverty*, 99 J. CRIM. LAW & CRIMINOL. 643, 646–47 (2009) (describing the ways that increased prosecution of "welfare fraud" has resulted in criminalizing poverty).

[57] *See* Priscilla A. Ocen, *The New Racially Restrictive Covenant: Race, Welfare, and the Policing of Black Women in Subsidized Housing*, 59 UCLA L. REV. 1540, 1540 (2012) (describing the use of code enforcement, including unannounced visits, to drive Black women from subsidized housing).

[58] *See generally* ROBERTS, *supra* note 32.

[59] For example, since the 1990s, prosecutors have become increasingly aggressive about investigating welfare fraud, despite the documented reality that welfare payments are insufficient to support a family. *See* Gustafson, *supra* note 56, at 659.

[60] *See* Michael L. Benson & Greer L. Fox, NCJ 199709, *Concentrated Disadvantage, Economic Distress, and Violence Against Women in Intimate Relationships* II-3-3, II-3-5 (2004), https://www.ojp.gov/pdffiles1/nij/199709.pdf [https://perma.cc/JS7U-TEG5] (male unemployment and economic insecurity linked to substantially higher rates of male-on-female IPV in heterosexual married couples); BLACK ET AL., *supra* note 25, at 24.

[61] Donna Coker & Ahjané D. Macquoid, *Why Opposing Hyper-Incarceration Should Be Central to the Work of the Anti-Domestic Violence Movement*, 5 U. MIAMI RACE & SOC. JUST. L. REV. 585, 589 (2015).

[62] *Id.*

infractions.[63]   As the field has evolved, a significant body of evidence has emerged illustrating how RJ operates as anti-criminalization practice and policy. For example, data affirms RJ reduces recidivism or repeat offending, school suspensions, and police citations.[64] As one study indicates, the suspension rate in Denver's school system was halved after the system adopted a RJ model.[65] Racial disparities in discipline were decreased as well; suspension rates of Black students fell 7.2% and the racial gap in suspension decreased nearly 4%.[66] Further, a multi-year analysis of a RJ program in Minnesota public schools shows a 45% reduction in behavior-related referrals and 63% reduction in suspensions.[67] Similar findings have been reported from a number of other districts.[68] Over time, RJ models have evolved from a more limited focus as an alternative method of responding to discipline. Current models correspond to three main categories: proactive, reactive, or both.[69]

> In proactive practices, the central focus is on developing community, engaging in social-emotional learning, and building youth empowerment and resilience-building practices. Reactive models aim to address disciplinary infractions, repair harm, and restore relationships. In whole-school models—in which restorative practices are spread throughout all levels of the school community and where . . . both proactive and reactive practices co-exist . . . .[70]

The whole-school approach is widely accepted as the most successful RJ intervention model.[71]   This approach seeks to develop and enhance relational ecology at each level to support the

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[63] González, *supra* note 12, at 274.

[64] *Id.* at 276–77. *See also* FRONIUS ET AL., *supra* note 12, at 21–32 (reviewing impact of school-based restorative justice in the United States).

[65] González, *supra* note 12, at 278.

[66] Thalia González, *Socializing Schools: Addressing Racial Disparities in Discipline Through Restorative Justice, in* CLOSING THE SCHOOL DISCIPLINE GAP: EQUITABLE REMEDIES FOR EXCESSIVE EXCLUSION 151, 154 (Daniel J. Losen ed., 2015).

[67] GONZÁLEZ & EPSTEIN, *supra* note 28, at 9.

[68] *See generally* González, *supra* note 12.

[69] *See* GREGORY & EVANS, *supra* note 12; Armour, *supra* note 12.

[70] González et al., *supra* note 13, at 48.

[71] A "whole-school" RJ approach is aimed at "establish[ing] a nonauthoritarian [school] culture of high expectations with high levels of support that emphasizes doing things 'with' someone as opposed to doing things 'to' or 'for' someone." Armour, *supra* note 12, at 1017.

entire community.[72] Students and teachers develop new skills to resolve conflicts, address problematic classroom behavior in non-punitive and non-discriminatory ways, decreasing overall reliance on classroom management responses grounded in punishment and exclusion.[73] Evidence from schools that implemented the whole-school approach exhibited upward trends in school safety and positive school climate[74] coupled with reductions in suspensions and expulsions,[75] decreases in school absenteeism,[76] and school discipline racial disproportionality.[77] A longitudinal analysis of RJ in multiple schools in the Oakland Unified School District indicates that RJ reduced suspensions and the discipline gap, improved academic outcomes, and facilitated students' "caring

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[72] JON KIDDE, VT. AGENCY OF EDUC., WHOLE-SCHOOL RESTORATIVE APPROACH RESOURCE GUIDE: AN ORIENTATION TO A WHOLE-SCHOOL RESTORATIVE APPROACH AND GUIDE TOWARD MORE IN-DEPTH RESOURCES AND CURRENT RESEARCH (Dec. 8, 2017), https://education.vermont.gov/sites/aoe/files/documents/edu-integrated-educationalframeworks- whole-school-restorative-approach-resourceguide0_0.pdf.

[73] David Knight & Anita Wadhwa, *Expanding Opportunity Through Critical Restorative Justice: Portraits of Resilience at the Individual and School Level*, 11 SCHS.: STUD. EDUC. 11, 14–16 (2014); TALAYA L. TOLEFREE, KOINONIA LEADERSHIP ACAD., A COMPREHENSIVE APPROACH FOR IMPLEMENTING SCHOOL-BASED RESTORATIVE PRACTICES 7–12, 18 (2017), https://genderpolicyreport.umn.edu/wp-content/uploads/2018/01/KLA-RP-Report-1.15.18-2.pdf [https://perma.cc/5Y7Q-8KAX].

[74] Anne Gregory et al., *The Promise of Restorative Practices to Transform Teacher-Student Relationships and Achieve Equity in School Discipline*, 26 J. EDUC. & PSYCH. CONSULATION 325, 326–27 (2016); Thalia González, Heather Sattler & Annalise J. Buth, *New Directions in Whole-School Restorative Justice Implementation*, 36 CONFLICT RESOL. Q. 207, 208–09, 211, 217 (2018).

[75] CATHERINE H. AUGUSTINE ET AL., CAN RESTORATIVE PRACTICES IMPROVE SCHOOL CLIMATE AND CURB SUSPENSIONS? AN EVALUATION OF THE IMPACT OF RESTORATIVE PRACTICES IN A MID-SIZED URBAN SCHOOL DISTRICT 47–51 (2018), https://www.rand.org/content/dam/rand/pubs/research_reports/RR2800/RR2840/RAND_RR2840.pdf [https://perma.cc/SS8B-TNHX]; Ayesha K. Hashim, Katharine O. Strunk & Tasminda K. Dhaliwal, *Justice for All? Suspension Bans and Restorative Justice Programs in the Los Angeles Unified School District*, 93 PEABODY J. EDUC. 174, 186–87 (2018); Paul Carroll, Evaluating Attempts at the Implementation of Restorative Justice in Three Alternative Education High Schools, at xiv (2017) (Ph.D. dissertation, University of California, Merced) (ProQuest).

[76] AUGUSTINE ET AL., *supra* note 75, at 51, 53.

[77] *Id.* at 278. *See also* SONIA JAIN ET AL., RESTORATIVE JUSTICE IN OAKLAND SCHOOLS IMPLEMENTATION AND IMPACTS: AN EFFECTIVE STRATEGY TO REDUCE RACIALLY DISPROPORTIONATE DISCIPLINE, SUSPENSIONS AND IMPROVE ACADEMIC OUTCOMES 47–54 (2014) (Whole-school RJ program in Oakland school system saw suspensions fall by half from 34% to 14%, with lower percentage suspended for peer RJ program participants; the percentage of students who were chronically absent from school decreased in RJ schools compared to non-RJ schools; reading levels and graduation rates improved in RJ schools as compared to non-RJ schools; there was a reduction in RJ schools in the percentage of African American students suspended.).

relationships with adults, and with other peers."[78] Approximately 70% of staff surveyed report that RJ improved the school climate and 67% of students felt that RJ improved their emotional and social skills.[79]

Despite the attention of reformists, educators, and legislators alike on RJ as a remedy to school-based criminalization and dehumanization of youth of color, the experiences and perceptions of Black girls—and more broadly girls of color—with restorative practices can be described as scant at best.[80] In addition, much of the scholarly literature continues to focus on RJ as discipline-focused, rather than proactive[81]—a focus that "further entrenches [RJ] . . . as a 'fix' for student behavioral issues," rather than as a means of empowerment and connection-building.[82]

Proactive, "community-building" or in health-centered terminology "upstream" RJ models can more effectively center the lived experiences of Black girls and create spaces of wellbeing and resilience.[83] Grounded in relationality, proactive RJ—in the form of circles[84]—are deeply rooted in narrative construction, which allows for the dismantling of dominant power relations and the creation of new ways of seeing and existing.[85] Understood in this context, they can operate as sites of power and emancipation for Black girls, supporting their empowerment and offering a rebuttal to the pernicious racialized sexism and stereotypes that mark their school experiences.[86]

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[78] JAIN ET AL., *supra* note 77, at vi.

[79] *Id.* at 41.

[80] *See supra* note 11.

[81] *See generally* González & Epstein, *supra* note 11 (arguing the framing and naming of restorative practices as an "alternative" to punitive and exclusionary discipline has shaped the literature whereby restorative practices are cast as behavioral intervention aimed at reducing discipline incidents and replacement for punitive and exclusionary practices minimizing the proactive and upstream potential of it).

[82] *Id.* at 6.

[83] BUILDING FOUNDATIONS, *supra* note 11, at 18.

[84] In school settings, circles may be facilitated by teachers and/or students and occur as part of a regular class or during common school hours, such as assemblies. While variations in circle practice exist, they most often begin with establishing shared guidelines and values. *See* Donna Coker, *Restorative Approaches to Intimate Partner Violence & Sexual Harm,* OHIO ST. J. DISPUTE RESOL. (forthcoming 2022).

[85] Thalia González, *Reorienting Restorative Justice: Initiating a New Dialogue of Rights Consciousness, Community Empowerment and Politicization,* 16 CARDOZO J. CONFLICT RESOL. 457, 461 (2015).

[86] *Id.* at 466.

We examine outcomes from three studies to illustrate these possibilities.[87] First is Ann Schumacher's two year ethnographic study of a school-based proactive RJ program.[88] Her research focused on talking circles with an ethnically diverse cohort of high school girls.[89] The circles were constructed as "four parts, including 'checking in' (briefly sharing momentary feelings), 'burning issues' (sharing problems or concerns), 'topic of the day' (discussing student-generated topics), and 'closing' (reading inspirational quotes or making a wish for the week)."[90] Symbolic rituals cemented student commitment to the guidelines, including confidentiality.[91] In addition, the use of a "talking piece" was important "because it explicitly prompted impulse control and focused listening."[92]

Schumacher found that girls who participated in the talking circles developed greater empathy for others, greater self-efficacy, were better able to manage their anger, and improved their capacity to listen.[93] The girls saw the circle as a "safe space," which Schumacher attributes to three factors—"their ability to trust each other, not feeling alone, and not being judged."[94] Schumacher noted that "[b]eing happy to be together and deepening friendships was a primary leitmotif that permeated the Circle meetings . . . ."[95] The mutual support in the circle helped participants improve self-confidence.[96] For example, one participant shared her boyfriend's rude text messages in the circle. "Her shocked peers exclaimed, 'You gotta stand up to him! You can't let him treat you that way!' "[97] The girl subsequently reported that as a result of her

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[87] We omit from discussion a fourth study of Black girls' experience with school-based RJ because of significant differences in methodology and focus. *See* Featherston, *supra* note 11 (describing the impact of Real Talk 4 Girls, a "psycho-educational [program] aimed at developing social problem solving skills & pro-social behaviors in adolescent girls").

[88] Schumacher, *supra* note 11, at 3.

[89] *Id.*

[90] *Id.*

[91] For example, they engaged in a Ribbon Tying Ceremony where each girl tied "her" ribbon on the wrist of the person to her left "while describing someone who was influential in making her the good person she is today." *Id.* The facilitator explained that "[t]he circle of ribbons . . . symbolized their commitment to one another, to the . . . code of confidentiality and to the values of trust, honesty, and respect." *Id.*

[92] *Id.* at 9.

[93] *Id.* at 7–8.

[94] *Id.* at 1, 5.

[95] *Id.* at 4.

[96] *Id.* at 8.

[97] *Id.*

peers' reaction, she was speaking up to her boyfriend and demanding that he treat her more respectfully.[98]

The second study is Vanessa McPhail's 2019 qualitative case study of Black girls' perceptions of talking circles in an alternative school.[99] The girls expressed considerable frustration that some facilitator teachers dominated conversations in circle and failed to enforce "talking piece" rules, allowing students to speak out of turn and while someone else was talking.[100] As a consequence, they emphasized the importance of having a circle keeper who "g[ot] along with kids well," enforced the rules, and had the right attitude.[101] They were unanimous in feeling that the talking circles would be much improved if boys were not included.[102] As one participant noted: "Boys, they just take it all like a joke. They have issues, but they don't wanna talk about it."[103]

Despite the problems the students identified with circles, they all credited their experiences in circle with positive changes.[104] They felt that participating in the circle helped them become more social.[105] One participant noted:

> My attitude, my demeanor, academically—everything has changed. Usually I'm not . . . focused in school stuff . . . . Because usually I'm more focused about my phone and outside of school and talking to my friends and playing and joking around. . . . [N]ow after [the talking circle experience], I [am] just more focused on my work and determined. I know what I want to do in life, and I don't want to be slacking around . . . .[106]

As was the case with Schumacher's research, girls in McPhail's study described talking circles as helping them to build more trusting relationships with staff and other students and increase feelings of empathy. One girl explained, "I can trust a lot . . . more people now that I got to know them, and students—it's just I think it's hard for me, but some students have it way worse than me."[107]

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[98] *Id.* at 8–9.

[99] McPhail, *supra* note 11, at vi.

[100] *Id.* at 61.

[101] *Id.* at 68.

[102] *Id.* at 58.

[103] *Id.*

[104] *Id.* at 62.

[105] *Id.* at 63.

[106] *Id.*

[107] *Id.* at 66.

The third study we examine is a 2021 qualitative study of sixty-seven Black and Latina girls who had participated in school-based proactive RJ in four states and the District of Columbia.[108] Conducted by Thalia González and Rebecca Epstein, this study expanded Schumacher's preliminary findings and added a new dimension—the connection between proactive RJ with protective health factors and positive mental health outcomes. Across all of the focus groups, girls identified RJ as helping to build stronger relationships with teachers and peers. Their perceptions of teachers who facilitated circles were transformed, shifting from unrelatable to humanized. The girls expressed that RJ created spaces of bi-directional power sharing:

> [S]he [the teacher who leads RPs] makes you feel comfortable and safe. It's a place where . . . you're not judged. And you're not, you know, bashed about anything you say or do in the circle.[109]

Similar to the findings of Schumacher and McPhail, the nonjudgmental space in the circle deepened peer relationships and created a sense of social belonging.[110] Girls in their study, consistent with McPhail's work, also reported improvements in their social and emotional skills and highlighted how RJ allowed for new pathways to express and control their anger and increase empathy for others.[111] One girl reflected:

> I was that hard-headed kid that didn't want to listen; that didn't respect people. I thought I knew everything, like I had been here before. You know, it [restorative practices] just opened up my eyes; like, just sitting down, you know, talking.[112]

RJ also functioned as a space where girls could recognize and confront racialized sexism.

> I don't think we will be able to, like, talk about things if guys were here . . . because they wouldn't know how it feels, . . . walking down, like, a hallway or somewhere and just, like, feeling really anxious about it because people are staring at you. . . . [T]hey're staring at your body, not at you because you're pretty, but mostly because of, like, your body. And it's just, like, being scared of, like, walking home at, like, at night, you know? And they [boys] are scared because, like, "Oh, they can, like, beat me up,"

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[108] BUILDING FOUNDATIONS, *supra* note 11.

[109] *Id.* The study referred to proactive RJ as "restorative practices" and thus the acronym was "RP." *Id.*

[110] In six focus groups, girls associated RJ with a "more egalitarian and collaborative classroom culture, . . . supported a positive school climate." *Id.*

[111] *Id.* at 17.

[112] *Id.* at 17.

but . . . us [girls], it's more like "I really hope I don't get raped. . . ."[113]

As one girl candidly shared, RJ provided a "safe space to . . . let go of every pain you bring inside."[114] For girls whose circles were female-only, RJ "promote[d] support for harms that are disproportionately experienced by girls."[115] These girls described how the RJ process allowed them to talk about sexual abuse and to address their related feelings of shame.[116]

CONCLUSION

An intersectionality approach to research allows for a critical examination of how systems interact to create complex forms of individual and structural harm. In the case of youth criminalization vis-à-vis schools, its application brings into view the unique risks and vulnerabilities for Black girls that are often hidden when single-axis analysis—for exampe, race-only or gender-only—are applied to discipline disparities. The pathways for criminalization for Black girls are simply not isolated to the results of school discipline. Instead, discipline is interwoven within a matrix of harms that create far reaching consequences from diminished physical and mental health and well-being, to reinforcing cycles of poverty. In considering how the current education justice movement has framed discipline from outcomes (the "school-to-prison pipeline") to remedial responses (restorative justice), this Article aims to disrupt the current discourse and center Black girls.

Though there are many areas in which one can apply an intersectionality approach, this Article draws attention to the use of proactive restorative circles practices. As demonstrated in the studies described above, RJ in this form can reduce the endemic harms that Black girls face in school. The benefits range from promoting and strengthening connectedness, to providing safe spaces to confront racialized sexism, while increasing Black girls resilience and well-being. We draw particular attention to connectedness as a key protective factor for ameliorating the harms of pervasive racialized sexism and decreasing risk factors for pushout. When school communities are healthy for Black girls the benefits extend far beyond strictly educational outcomes—

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[113] *Id.* at 19.
[114] *Id.* at 16 (quoting a participant).
[115] *Id.* at 19.
[116] *Id.* at 18.

their life chances are improved. We theorize that such improvements lessen their overall vulnerability to criminalization as adults.

In identifying the significance of proactive RJ as an anti-criminalization policy and practice that supports Black girls, we wish to draw attention to future direction in research.[117] First, future work should examine the role of facilitators. As girls' experiences in McPhail's research illustrate, facilitator (circle keeper) skills are important to circle efficacy. Not only should the circle keeper insist that the values and circle processes be upheld, including taking turns talking and listening respectfully, she should also "pay[ ] attention to culture, diversity, and equity."[118] International restorative justice scholar Christina Parker notes that this requires becoming comfortable with uncomfortable conversations, including discussions of race.[119]   Similarly, restorative justice practitioners and educators David Knight and Anita Wadhwa argue that RJ circle keepers should encourage students' critical thinking that "empower[s] students to question why the world operates as it does, and to become agents to change conditions with which they disagree."[120]

Second, in line with González and Epstein's findings, subsequent research should explore further how RJ empowers girls to identify and confront racialized sexism, whether sharing histories of abuse with their peers or learning to stand up to a verbally abusive boyfriend.[121] Third, scholarly attention should be paid to community-based RJ programs that serve to empower and to provide a sanctuary for racialized youth. Such programs operate

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[117] Our thinking about the direction of future research has been informed by and benefitted from conversations with Dr. Ahjané Billingsley.

[118] Christina Parker, *Who's In and Who's Out? Problematizing Peacemaking Circles, in* DIVERSE CLASSROOMS IN COLORIZING RESTORATIVE JUSTICE: VOICING OUR REALITIES 70 (Edward C. Valandra & Waŋbli Wapȟáha Hokšíla eds., 2020).

[119] *Id.*

[120] Knight & Wadhwa, *supra* note 72, at 25; *Erin Levitas Initiative*, UNIV. MARYLAND FRANCIS KING CAREY SCH. L., https://www.law.umaryland.edu/Programs-and-Impact/Other-Initiatives/Erin-Levitas-Initiative/   [https://perma.cc/2HEQ-YYSE]. The Erin Levitas Initiative for Sexual Assault Prevention provides an example of a program that encourages critical inquiry. The Initiative is a co-ed restorative dialogue circle program with middle school students for the prevention of sexual harm. *Id.* "The curriculum covers verbal and non-verbal communication skills, safe use of social media and technology, positive gender norms, healthy boundaries, consent and bystander intervention." *Id. See also* Interview with Quince Hopkins, Director, Erin Levitas Initiative for Sexual Violence Prevention-University of Maryland Francis King Carey School of Law (Feb. 15, 2021) (notes on file with author).

[121] Schumacher, *supra* note 11.

adjacent to formal school programs and should be understood as part of a larger continuum of anti-criminalization efforts. S.O.U.L Sisters Leadership Collective ("SSLC"), a community-based organization with programs in New York City and Miami, provides a salient example. SSLC's purpose is to "mobilize systems-involved girls, femmes, and TGNC youth of color—Black, Brown, and Indigenous—to interrupt cycles of state violence, poverty, and oppression."[122] SSLC's Sisterhood Academy develops youth leadership in "trauma-informed" ways that are "based in restorative practices and social justice education [and] action."[123] Their program incorporates restorative practices and connects members to opportunities for social justice engagement.[124]

Fourth, upcoming work should expand understandings of how RJ is a pathway to building youth leadership and engaging Black girls in defining and redefining social movements. Restorative Justice for Our Youth ("RJOY") exemplifies this idea.[125] RJOY has launched demonstration RJ projects in schools in Oakland for more than two decades and was a prime mover for the city-wide adoption of school-based RJ.[126] In addition to initiating school-

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[122] *See Our Mission and Values*, S.O.U.L SISTERS LEADERSHIP COLLECTIVE, https://soulsistersleadership.org/about/our-mission-vision/ [https://perma.cc/U8FB-CUE4] (last visited Jan. 29, 2022). S.O.U.L stands for "Sisters Organizing for Understanding & Leadership." *Id.* "TGNC" refers to "trans and gender nonconforming." *Id.*

[123] *Programs*, S.O.U.L SISTERS LEADERSHIP COLLECTIVE, https://soulsistersleadership.org/what-we-do/programs/ [https://perma.cc/V45Z-VN4L] (last visited Aug. 17, 2022).

[124] *Id.* Similarly, The National Compadres Network incorporates circles in work with boys and men of color. The founder notes:

> We boys and men of color get criminalized early on in our schooling as marginalized men, . . . that manifests itself later in our relationships and in our community. In this patriarchal and racist society, all men and boys have been impacted . . . we all need healing, rebalancing, rights of passage, and support and decolonization, to return to our sacredness and know how to manage ourselves in an honorable way in this often oppressive disconnected, toxic society. To that end, National Compadres Network views the restorative process as intersectional and intergenerational. Beyond any single intervention, the program is seen as a commitment by individuals, families, communities, and systems. . . .

AMANDA CISSNER ET AL., CTR. CT. INNOVATION, *A NATIONAL PORTRAIT OF RESTORATIVE APPROACHES TO INTIMATE PARTNER VIOLENCE: PATHWAYS TO SAFETY, ACCOUNTABILITY, HEALING, AND WELL-BEING* 107 (2019), https://www.courtinnovation.org/sites/default/files/media/document/2019/Report_IPV_12032019.pdf [https://perma.cc/X8S6-GDJ7].

[125] *See About RJOY*, RJOY, rjoyoakland.org; *see also* FANIA DAVIS, THE LITTLE BOOK OF RACE AND RESTORATIVE JUSTICE: BLACK LIVES, HEALING & US SOCIAL TRANSFORMATION (2019).

[126] *About RJOY, supra* note 125.

based RJ projects, RJOY runs community-based restorative circles for youth and others.[127] As in the case with SSLC, RJOY engages youth members to become advocates for systemic change in schools to meet the needs of the youth of color.[128]

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[127] *Id.*

[128] *Id.* School-based programs can offer similar opportunities for youth leadership, both by engaging with community-based projects and through encouraging critical thinking and supporting leadership skills in school-based circles. For examples of RJ processes, created in response to harm, that engage responsible persons in larger social change, see, e.g., JENNIFER J. LLEWELLYN ET AL., REPORT FROM THE RESTORATIVE JUSTICE PROCESS AT THE DALHOUSIE UNIVERSITY FACULTY OF DENTISTRY (2015) (in response to a sexual harassment claim against 13 male dentistry students for sexually demeaning comments posted about female classmates on a Facebook page, both claimants and responsible students engaged in an RJ process that resulted in changes to the curriculum and operation of the school); Sujatha Baliga, *A Different Path for Confronting Sexual Assault*, VOX (Oct. 10, 2018), https://www.vox.com/first-person/2018/10/10/17953016/what-is-restorative-justice-definition-questions-circle [https://perma.cc/8FRW-L8PB] (as a result of a restorative dialogue in response to high school-based incident of sexual harm, responsible student volunteered to become involved in anti-rape work and education on his college campus).