Brown's Dream Deferred: Lessons on Democracy and Identity from Cooper v. Arron to the School-to-Prison Pipeline

Lia Epperson

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One of the most disturbing factors presently limiting educational advancement is the significant racial disparity in the apportionment of school discipline. Due to a series of state-enacted policies throughout the last two decades, school districts across the nation have adopted so called “zero tolerance policies” that apportion the harshest of criminal punishments for minor nonviolent offenses. Through such state policies, students of color—and particularly African American children—are overwhelmingly more likely to suffer suspension, expulsion, and/or arrest, often for nonviolent infractions. This phenomenon is commonly referred to as the “school-to-prison pipeline.” Today’s school-to-prison pipeline all too often prevents students of color from entering the classroom, a practice that harkens back to the era of state-endorsed racial violence and massive resistance to school desegregation decades ago.
This Essay seeks to situate current policies that disproportionately target and criminalize black schoolchildren and limit their educational opportunities in the historic context of the state-inspired violence that followed Brown v. Board of Education's mandate to racially desegregate schools.\textsuperscript{5} In the wake of Brown's order to desegregate schools "with all deliberate speed,"\textsuperscript{6} the structural "massive resistance"\textsuperscript{7} undertaken by southern-state governors, along with state-encouraged racial mob violence, thwarted educational opportunities for children throughout the southern states.\textsuperscript{8} This official and vigilant violence, perpetrated at the explicit behest of, or with implicit support from state officials, stifled the ability of students to engage in the form of civic participation that Brown held to be "the very foundation of good citizenship."\textsuperscript{9} Such tactics also twisted children's perceptions of identity. Massive resistance to the Court's ruling taught white children that they were entitled to defy the law.\textsuperscript{10} It taught black students that even after successfully advocating for the right to equal education, it can be denied.\textsuperscript{11} It also set the course for lawlessness and disorder in schools that before this time had been models of order and decorum. Today's school-to-prison pipeline represents a form of punishment whose violent effects have similar negative consequences for children of color and their conceptions of agency, identity, and justice.

I. THE NARRATIVE OF STATE-INSPIRED RACIAL VIOLENCE IN THE EDUCATIONAL SPHERE

No set of legal institutions or prescriptions exists apart from the narratives that locate it and give it meaning. For every constitution there is an epic, for each decalogue a scripture.\textsuperscript{12}

Race relations have consistently informed constitutional interpretations of educational equity over time. Scholar Robert

\begin{itemize}
\item \textsuperscript{5} (Brown I), 347 U.S. 483 (1954).
\item \textsuperscript{6} Brown v. Bd. of Educ. (Brown II), 349 U.S. 294, 301 (1955).
\item \textsuperscript{7} A policy developed by Virginia Senator Harry F. Byrd Sr. to prevent the desegregation of schools after Brown I and Brown II. See infra Part II.
\item \textsuperscript{8} Cooper v. Aaron, 358 U.S. 1, 12 (1958) (detailing how an angry mob prevented students from attending school).
\item \textsuperscript{9} Brown I, 347 U.S. at 493.
\item \textsuperscript{10} John Charles Boger, Willful Colorblindness: The New Racial Piety and the Resegregation of Public Schools, 78 N.C. L. REV. 1719, 1733 (2000) (discussing the fight to desegregate schools led by the NAACP and other civil rights organizations and leaders).
\item \textsuperscript{11} Id. at 1732 (discussing the resistance the Brown I decision received).
\item \textsuperscript{12} Robert M. Cover, Foreword: Nomos and Narrative, 97 HARV. L. REV. 4, 4 (1983) (footnotes omitted).
\end{itemize}
Cover's seminal thesis on law as a tool of violence has particular resonance when one considers the intricate connections between racial violence and the role of public education in teaching children civic values. As early as Horace Mann and the common schools movement, social and legal scholars have supported the role of education as a vital pillar of our society. In schools, children learn essential civic values that foster their ongoing engagement in our democracy. While the Supreme Court has not found a fundamental right to education under the Constitution, it has repeatedly and vociferously noted that education is critical to the very strength and regeneration of our democracy. As the Court famously declared in Brown, "Education is perhaps the most important function of state and local governments," and once provided by a state, it "is a right which must be made available to all on equal terms."

In the domain of education, however, such judicial pronouncements have not yielded adequate educational opportunity for all children. This is particularly the case today for children of color. After some significant gains, a number of societal and legal factors have left schools more segregated now than they have been at any point in the last forty years. Decades of evidence show that

while integrated schools produce a host of benefits, including greater civic engagement, segregated minority schools with high concentrations of poverty severely limit students' educational opportunities and outcomes. This is especially troubling when one considers that in a few years, ethnic minorities will likely become the majority of school-aged children.

Robert Cover has said that legal prescriptions only exist as part of the "narratives that locate [them] and give [them] meaning." In the educational sphere, the narrative of state-inspired violence has had a profoundly destructive effect on the ability to realize the judicial directive to make education "available to all on equal terms." Brown's mandate to desegregate schools did not destroy the seeds of racial violence first planted during the founding of the nation. While the Brown ruling may have helped sound the death knell for a host of the most virulent forms of racial violence, southern schoolchildren experienced persistent and pervasive racial violence endorsed by southern-state officials who refused to comply with the Supreme Court's edict. This state violence, in turn, had a direct and pernicious effect on the inculcation of constitutional values and civic engagement for students of all races.

The story of Cooper v. Aaron—the Supreme Court's response to state intransigence and racial violence in Arkansas over school desegregation—illustrates this well. It is important to recall


20. For a detailed analysis of these factors, see Lia Epperson, True Integration: Advancing Brown's Goal of Educational Equity in the Wake of Grutter, 67 U. Pitt. L. Rev. 175, 199 (2005).

21. There are severe racial disparities in high school graduation and college matriculation rates today. Fifty percent of all African American, Latino, and Native American students will not complete high school. NAACP LEGAL DEF. & EDUC. FUND, INC., CLOSING THE GAP: MOVING FROM TO REALITY IN OPENING DOORS TO HIGHER EDUCATION FOR AFRICAN-AMERICAN STUDENTS 4 (2005), available at https://edpolicy.stanford.edu/sites/default/files/publications/closing-gap-moving-rhetoric-reality-opening-doors-higher-education-african-american-students.pdf. Less than 20% of all African American schoolchildren will attend college. Id.


23. Cover, supra note 12.


25. Id.; see also infra Part III.

Cooper's narrative, as it informs present-day barriers to educational opportunity. Today's school-to-prison pipeline represents a form of punishment that is akin to structural racial violence. While we no longer live in an era of the type of state-endorsed racial violence at issue in Cooper, we do live with its aftermath. Current forms of systemic racial violence, such as the school-to-prison pipeline, have similar negative effects on students learning the very values the Supreme Court has deemed critical to the development and regeneration of a strong democracy. These policies stifle democratic ideals and reinforce a notion of law as a violent punisher rather than as a protector of constitutional values.

II. Brown's Educational Promise and Massive State Resistance

Brown remains one of the most renowned cases in Supreme Court history, in part because of its varied interpretations. In our constitutional lexicon, jurists, scholars, and advocates from all places on the political spectrum claim the case as a victory for a host of principles ranging from a color-blind ideal\(^\text{27}\) and the primacy of formal equality\(^\text{28}\) to the principle of antisubordination\(^\text{29}\) and the need to dismantle a system of racial apartheid.\(^\text{30}\) Yet, one may see the most consensus around the interpretation of Brown as a declaration of education's critical role in teaching democratic values.\(^\text{31}\) In pronouncing state-mandated racial segregation of schools abhorrent to the Constitution, the Court held:

[Education] is required in the performance of our most basic public responsibilities, even service in the armed forces. . . . Today it is a principal instrument in awakening the child to cultural values, in preparing him for later professional training, and in helping him to adjust normally to his environment. In these days, it is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education. Such an opportunity, where the [S]tate has undertaken to provide it, is a right which must be made available to all on equal terms.\(^\text{32}\)


\(^{29}\) Id.


\(^{32}\) Id.
In subsequent rulings, the Court has continued to underscore the role that education plays in fostering civic engagement and in strengthening our democracy. Public schools, as the cornerstone of American society, impart students with the knowledge, moral compass, and skills to effectively navigate and thrive in a participatory democracy. *Brown* included racial integration as a part of that civic ideal. The idea that children of diverse backgrounds would go to school together fostered the hope that as a nation, they would learn to live and work together in service of a stronger democracy.

Equally as important, perhaps, is the message *Brown* sent to African American schoolchildren at the time. *Brown* validated the role of African American children as integral members of American society whose voices were critical to the strength of the nation. In overturning the doctrine of racial segregation espoused in *Plessy v. Ferguson*, the Court put the nail in the coffin of traditional Jim Crow policies in the South, which had endorsed lethal forms of oppression and racial violence. The successful litigants of *Brown* showed that African American children can be victorious advocates for the Constitution and active members of participatory American democracy. For those students, *Brown* represented law as liberation and the protection of the constitutional ideal of equality. At the same time, it taught a valuable lesson to white students, as segregation had “worked a terrible evil” on them as well.

Yet in the wake of the Court’s unanimous ruling, most southern students lost the opportunity to realize *Brown*’s valuable lessons of an equal opportunity to education and the “importance of education to our democratic society” as a result of state-endorsed violence directly contradicting the Supreme Court’s edict. In fact, the nation faced a constitutional crisis of epic proportions. Invoking the doctrines of “interposition” and “nullification,” southern governors, legislators, and other executive officials engaged in their own form...
of constitutional interpretation. Deeming Brown unconstitutional, they asserted that states need not adhere to or enforce the order to desegregate public schools. Spearheading a campaign of "massive resistance," Virginia Senator Harry Byrd hailed interposition as a "perfectly legal means of appeal from the Supreme Court order." Embracing this vision of the rule of law, Virginia, as well as every state in the Deep South, passed interposition resolutions.

This constitutional crisis, raising all manner of questions on the meaning and role of federalism and judicial supremacy, unfolded on the streets every day in communities across the country. American schoolchildren became caught in the crosshairs of state-inspired violence. Thus, while Brown has been lauded as a beacon of constitutional protection in the dark history of race relations in the United States, the massive resistance to school desegregation following the decision was a form of law as state-inspired structural violence. Children in public schools—the very people in the very institutions most directly responsible for carrying out the democratic legacy of our nation—felt the violence of state law most acutely.

III. THE ARKANSAS EXAMPLE: COOPER V. AARON

The story of Arkansas Governor Orval Faubus, the "Little Rock Nine," and the impact of judicial pronouncements on state-sanctioned violence is illustrated in Cooper v. Aaron. In Brown's wake, southern-state leaders, like Faubus, used the rule of law to maintain racially segregated public schools and foment racial violence. The Cooper case culminated in the Supreme Court declaring the supremacy of its constitutional interpretations and orders.

The case began with Faubus's refusal to adhere to Brown's directive to desegregate schools. Rather than admitting nine black students to Little Rock Central High School, Faubus blocked their

40. Cooper v. Aaron, 358 U.S. 1, 8 (1958) (discussing the State of Arkansas's plan to nullify the holding of Brown I).
43. 358 U.S. 1 (1958).
44. Id. at 18.
entrance with the force of the Arkansas National Guard.\textsuperscript{45} In fact, he ordered the National Guard to block the children's entrance using bayonets and clubs.\textsuperscript{46} When a federal district court enjoined Faubus from blocking the students' entrance, he withdrew the troops and allowed the black students to be attacked by angry white mobs.\textsuperscript{47} In doing so, Faubus lent the State of Arkansas's imprimatur to the mobs spewing racial hatred.\textsuperscript{48}

Faubus taught Arkansas children a very different lesson than the \textit{Brown} Court. While \textit{Brown} taught children how to be civically engaged, successful \textit{defenders} of the law, Faubus and other state officials preached state \textit{defiance} of federally adjudicated constitutional law as a necessary part of our constitutional structure. As Faubus stated: "I was not elected Governor of Arkansas to surrender all our rights as citizens to an all-powerful federal autocracy."\textsuperscript{49} In calling on the National Guard to block African American students' access to desegregated education, Faubus sent the treacherous and powerful message to schoolchildren of all races that structural violence is a part of our government order and that there is a critical role to be played by law enforcement on school grounds to maintain such order. He stated:

\begin{quote}
To the students who are concerned, I say that in the years to follow, when you have come to realize the importance of maintaining our form of government, and the importance of preserving the great freedoms and privileges which we have known, you will be happy and proud to remember that you suffered inconvenience and personal sacrifice, and thereby made a worthwhile contribution to the maintenance of our dual system of government.\textsuperscript{50}
\end{quote}

Although he spoke of "freedoms and privileges,"\textsuperscript{51} Faubus and other state officials' use of law enforcement to thwart the constitutional remedy of desegregation represented law as repression. Rather than serving as \textit{advocates} of the law, African

\begin{itemize}
\item \textsuperscript{45} \textit{Id.} at 8.
\item \textsuperscript{46} \textit{Id.} at 11.
\item \textsuperscript{47} \textit{Id.} at 1.
\item \textsuperscript{48} The Little Rock School Board itself noted, "The legislative, executive, and judicial departments of the state government opposed the desegregation of Little Rock schools by enacting laws, calling out troops, making statements vilifying federal law and federal courts, and failing to utilize state law enforcement agencies and judicial processes to maintain public peace." \textit{Id.} at 15.
\item \textsuperscript{50} \textit{Id.}
\item \textsuperscript{51} \textit{Id.}
\end{itemize}
American schoolchildren became objects of the law, lacking either authority or agency. Such use of law as violence has the potential, if left unchecked, to breed disengagement and social disintegration.

IV. COOPER'S LEGACY: LESSONS ON DEMOCRACY AND IDENTITY

The constitutional rights of [black children] are not to be sacrificed or yielded to the violence and disorder which have followed upon the actions of the Governor and Legislature.52

The Little Rock school board petitioned the federal district court to delay integration53 and thus give judicial credence to the state-sanctioned violence blocking black students’ entrance to Central High School. The NAACP Legal Defense Fund, under the direction of Thurgood Marshall, represented the Little Rock Nine and urged the Court to adhere to Brown's directive.54 Marshall argued that the Arkansas governor and legislature deprived children of their constitutional rights.55 During oral argument at the Supreme Court, Marshall spoke eloquently and forcefully about the uniquely American hydra that he had spent the better part of his life working to behead. His words encapsulated the multifaceted and seemingly intractable predicament of aligning our nation’s democratic ideals and long-standing commitment to education with the reality of racial subjugation, discord, and violence. His argument is particularly powerful in its voicing of the important lessons on democracy and identity that were at stake as a result of the state-sanctioned violence at the school gates. Marshall first spoke of what allowing state-sanctioned violence in the wake of Brown's constitutional directive to desegregate schools would teach “Negro children”:

[W]e have to think about these ... Negro children that went through this every day, and their parents that stayed at home wondering what was happening to their children, listening to the radio about the bomb threats.... I don’t see how anybody under the sun could ... tell them: All you have done is gone. You fought for what you considered to be democracy and you lost. And you go back to the segregated school from which you came.56

Marshall also articulated the unique role that public education plays in teaching American children civic values that are necessary

52. Id. at 16.
53. Id. at 10.
55. Id.
56. Id.
to thrive in our democratic society and the singular importance of state compliance with the rule of constitutional law as articulated by the Supreme Court:

Education is not the teaching of the three R's. Education is the teaching of the overall citizenship, to learn to live together with fellow citizens, and above all to learn to obey the law. And the damage to the education in Arkansas and in Little Rock and in Central High comes about through the order... which says that not only the school board and the state can and should submit to mob violence and threats of mob violence but that the federal judiciary likewise should do so. I don't know of any more horrible destruction of principle of citizenship than to tell young children that, those of you who withdrew, rather than to go to school with Negroes... come back, all is forgiven.57

Ultimately, Marshall stressed that these lessons in democracy and citizenship are perhaps most important for white students: "I worry about the white children in Little Rock who are told, as young people, that the way to get your rights is to violate the law and defy the lawful authorities. I'm worried about their future."58 Marshall cautioned the Court that nothing less than a "definitive decision"59 regarding the supremacy of the judicial order to desegregate would provide students the necessary protection from state-sanctioned mob violence.60

In an unusual opinion signed by all nine Justices, the Supreme Court held that the Constitution's Supremacy Clause61 prohibited states from passing legislation overriding Brown and thus prohibited the state from endorsing the violence of massive resistance.62 Today, Cooper is taught in almost every constitutional law class around the country to highlight the role of judicial supremacy in our constitutional structure.63 In declaring that the U.S. Constitution is "the supreme law of the Land," and the federal

57. Id.
58. Id. (emphasis added).
59. Id.
60. Id.
61. The Supremacy Clause reads: "This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding." U.S. CONST. art. VI, cl. 2.
62. Allen Ides, Judicial Supremacy and the Law of the Constitution, 47 UCLA L. REV. 491, 491 (2000) (noting that while judges do not have a monopoly on constitutional interpretation, the Supreme Court is supreme in interpreting what constitutes "the law of the Constitution" (emphasis added)).
63. Id.
judiciary is "supreme in the exposition of the law of the Constitution." Cooper also emphasized the "fundamental and pervasive" right of children to a desegregated education. It provided a clear disavowal of state-inspired violence as a mechanism to thwart educational opportunity.

V. THE SCHOOL-TO-PRISON PIPELINE: EMBEDDING VIOLENCE IN EDUCATION

What happens to a dream deferred?
Does it dry up
like a raisin in the sun?
Or fester like a sore—
And then run?
Does it stink like rotten meat?
Or crust and sugar over—
like a syrupy sweet?

Maybe it just sags
like a heavy load.

Or does it explode?66

Unfortunately, the Court's declaration of judicial supremacy did not result in a clear path for school desegregation. Sustained resistance, demographic shifts, and changing laws and policies have resulted in continued racial inequality in educational opportunity. Schools are not unscathed from the state-sanctioned violence of massive resistance; they carry the scars in current systems of racial subjugation and inequity. Embittered and broken, many school systems now serve a disciplinary function over education. The illustration of the state-inspired violence that unfolded on school grounds in the wake of Brown provides a meaningful context for the scourge that we call the school-to-prison pipeline. The structural violence of the school-to-prison pipeline echoes the brutal legacy of state-inspired violence of massive resistance to school desegregation. Both the violence of massive

64. Cooper, 358 U.S. at 18.
65. Id. at 19.
resistance and the criminalization of today's students of color highlight a failure to produce excellent education for all students. Instead, we are left with social disintegration in many classrooms and a bureaucratizing of draconian discipline procedures that leave students powerless and illprepared to be active members of a democracy. These are twenty-first century consequences of those state laws and policies that thwarted principles of equity in education and true democracy espoused in Brown.

The school-to-prison pipeline refers to a series of state and local policies adopted with rapid frequency over the last two decades that increases the presence of law enforcement in schools, apportions harsh in-school and criminal penalties for minor student infractions, and ultimately precipitates increased student involvement in the criminal justice system. By utilizing increased funding, many schools have become strongholds protected by significant police presence. Today, almost half of all public schools have assigned police officers, and 60% of high school teachers note that armed police officers are stationed on school grounds. Due to this increased presence of law enforcement in schools, the most “policed” group of people outside of jails and prisons is public school students.

Following strong “tough on crime” rhetoric advocating zero-tolerance policies to combat school-based violence, several states implemented severe criminal sanctions, penalties, and prosecutions of youth for minor misconduct occurring in schools. These policies were a response to a perceived increase in school-based violence. Yet, evidence suggests that instances of school violence and other

69. Amurao, supra note 3.
73. See generally RUSSELL J. SKIBA, ZERO TOLERANCE, ZERO EVIDENCE: AN ANALYSIS OF SCHOOL DISCIPLINARY PRACTICES 1 (2000).
74. Id. at 10.
disruptions are stable if not on the decline—and have been since 1985.  

Young students of color are disproportionately affected by zero-tolerance policies and law enforcement officials in schools. Though the disparity may be due in part to racialized perceptions of conduct, there is no evidence that the overcriminalization of African American students is due to higher rates of misbehavior. African American students are suspended or expelled at three times the rate of white students. In addition, black girls are suspended at higher rates than girls of any other race or ethnicity. For those students of color who have been identified as having a disability, the racial disparities in rates of school discipline are even more troubling. More than 25% of boys of color and nearly 20% of girls of color with disabilities receive an out-of-school suspension. Perhaps most disturbing are the ways in which the increased presence of law enforcement in public schools results in physical restraint of black schoolchildren. Black students represent only 19% of students with disabilities, but they comprise 36% of disabled students who are physically restrained at school.

While white students are routinely disciplined for specific, serious violations, similar behavior by students of color is deemed

75. AM. PSYCHOL. ASS'N, ZERO TOLERANCE TASK FORCE REPORT 4 (2006).
77. ADVANCEMENT Project, supra note 71, at 15.
78. U.S. DEP'T OF EDUC., supra note 2.
79. Id.
80. Studies have repeatedly revealed a persistent overrepresentation of minority children in certain disability categories. RACIAL INEQUALITY IN SPECIAL EDUCATION, at xvii (Daniel J. Losen & Gary Orfield eds., 2002) ("[E]vidence suggests that Black over-representation is substantial in state after state . . . that cannot be explained in terms of social background or measured ability.").
81. U.S. Dep't of Educ., supra note 2. The Office for Civil Rights of the U.S. Department of Education defines students with disabilities who are served by the Individuals with Disabilities Education Act ("IDEA") as: "Children (students) having mental retardation, hearing impairment (including deafness), speech or language impairment, visual impairment (including blindness), serious emotional disturbance (hereafter referred to as emotional disturbance), orthopedic impairment, autism, traumatic brain injury, developmental delay, other health impairment, specific learning disability, deaf-blindness, or multiple disabilities, and who, by reason thereof, are eligible to receive special education and related services under the . . . [IDEA] according to an individualized education program, individual family service plan, or service plan." Id. at 21.
82. Id. at 1.
83. Id. Physical restraint is defined as a "mechanical device or equipment designed to restrict their freedom of movement." Id.
criminal. More than 70% of students who are arrested in school or delivered to law enforcement are black or Hispanic. In contrast, white students, who comprise more than 50% of student enrollment, comprise only 41% of students referred to law enforcement and 39% of those subject to school-related arrest. With each suspension, expulsion, and arrest for violations as minor as tardiness, a student loses an opportunity for a fully engaged public education and moves closer to the juvenile or criminal justice system.

Although less virulent than the state-sanctioned racial violence of Governor Faubus's era, communities of color experience the effects of the school-to-prison pipeline as a similarly destructive set of policies. Both exact a concrete toll on students' ability to exercise the right outlined in Brown and underscored in Cooper to an equal education that will foster greater civic engagement and participation. In a very tangible way, both phenomena exact a form of punishment on black children that has significant short- and long-term consequences.

First, like the state-endorsed violence of massive resistance that limited students' ability to receive a sound education, punitive discipline measures block students from the classroom. Consider the 2009 example of a six-year-old boy in Newark, Delaware, who brought his Cub Scouts camping utensil to school for use at lunch. Because the utensil had a small knife, he was suspended for forty-five days. In St. Louis, Missouri, students may receive ten-day suspensions for tardiness and may be expelled for dress code violations. The result of such punitive disciplinary measures is a material loss of education for many students.

These short-term consequences have damaging, unintended long-term effects. Through these policies, students are denied the knowledge they need to be productive members of society. By

84. See generally Catherine Y. Kim, Policing School Discipline, 77 BROOK. L. REV. 861 (2012) (noting that white students and students of color are often punished differently for the same behavior).
86. U.S. DEP'T OF EDUC., supra note 2.
87. For example, in Akron, Ohio, a student can be expelled for tardiness. ADVANCEMENT PROJECT, supra note 71, at 14. In St. James Parish, Louisiana, for example, parents of white students were notified after the first behavioral offense while black students were often detained or expelled for the same first-time offense. Cynthia Gordy, The Root: The Far-Reaching Teachings of Russlynn Ali, NPR.ORG (Apr. 20, 2011, 10:26 AM), http://www.npr.org/2011/04/20/135568364/the-root-the-far-reaching-teachings-of-russlynn-ali.
88. ADVANCEMENT PROJECT, supra note 71, at 13.
89. Id.
90. Id. at 14.
limiting real opportunities for classroom learning and interaction, such forms of punishment stifle the civic engagement necessary for a participatory democracy. Such policies increase the likelihood of student involvement with the criminal justice system, thus precipitating a long-term loss of political participation and economic opportunity. Students who are incarcerated and receive criminal records have decreased employment prospects.

In addition to the loss of learning opportunities, the tighter relationship between law enforcement and schools wreaks havoc on students' perceptions of their own life opportunities, identities, and places in society. Just as the state-sanctioned violence of massive resistance left African American students without a voice, "policed" schools teach students to see law as punishment rather than as protection. Instead of serving as creative institutions that build active and engaged citizens, schools become structures where students learn to be voiceless, powerless, and objectified by the law.

The damage to students' agencies and identities is particularly acute for students of color, who are disproportionately and unequally the target of such punitive disciplinary measures. One of Brown's primary arguments in support of desegregation detailed the harmful effects of racial segregation on identity: "To separate [black children] from others of similar age and qualifications solely because of their race generates a feeling of inferiority as to their status in the community that may affect their hearts and minds in a way unlikely ever to be undone." State-sponsored massive resistance reinforced this stigmatization. In the context of school-discipline policies, students, and particularly African American students, experience the stigma of criminalization. This breeds shame, humiliation, and a shaping of their identity as an unworthy investment.

CONCLUSION

The historical narrative of access to educational opportunity teaches us that state governments have played a detrimental part in orchestrating and enacting blatant racial violence as well as more subtle forms of structural violence or racialized punishment that we see in the school-to-prison pipeline. By examining these practices, we see the challenge that law's violence poses for equal education


and the development of democratic ideals. The institutional and legal responses to school desegregation and the school-to-prison pipeline offer one context that has significant implications for the future. At their core, both of these phenomena place limits on the educational opportunities of black children. And in both instances, such limits are the result of state-endorsed policies of violence or punishment. While the southern states' massive resistance may be a more terroristic vision of state-endorsed racial violence, in each instance, state governments have enacted policies that have taught students lessons antithetical to our country's legal pronouncements regarding the role of education in advancing society.

Cooper was meant to be a victory and reinforcement of black students' agency, but the overcriminalization of black students reinforces notions of powerlessness in the face of state punishment. As activist Jane Addams once said, "The child becomes largely what he is taught; hence we must watch what we teach, and how we live." 93 If throughout history one is taught lessons of violence and punishment through exclusion, rejection, racial segregation and subjugation, massive resistance, and ultimately the criminalization of school discipline, then civic ideals like duty, responsibility, and political participation can never be fully achieved. In the end, it is our democracy and the democratic principles expressed in Brown that surely suffer.