

# WHEN DID MAKING ADULTS MAD BECOME A CRIME?

The Role of the Bench and Bar in  
Dismantling the School-to-Prison  
Pipeline

# CHAPTER ONE

## WHAT IS ZERO TOLERANCE?

HOW IS IT USED IN SCHOOLS?

WHY IS IT USED?

DO THE BENEFITS OUTWEIGH THE NEGATIVE?

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"There's a zero tolerance policy for bringing weapons to school. Do you want to explain how this rolled up newspaper got into your locker?"

IN THIS DAY AND AGE,  
WE CAN'T SHOW ANY  
MERCY OR COMPASSION  
TO CRIMINALS...



For more  
THANKS  
KIM STEIN!



SCHOOL DISTRICTS  
**ZERO  
TOLERANCE  
POLICIES**

...SO FOR YOU,  
IT'S THE  
**MAXIMUM  
PUNISHMENT!!**

NEXT  
CASE!



WE'RE  
TOAST.

GOLF  
!



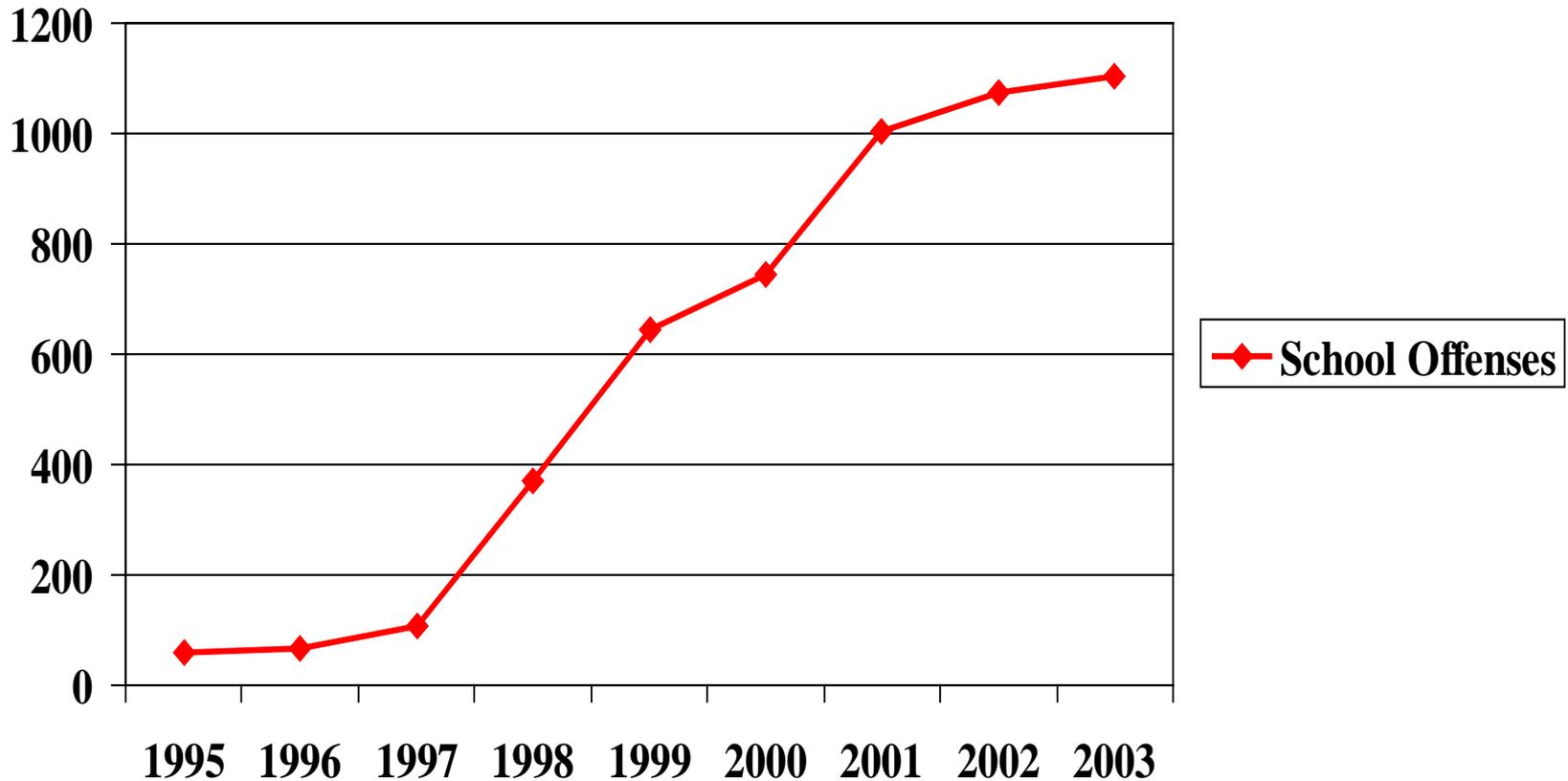
UNITED STATES HAS THE HIGHEST  
INCARCERATION RATE OF ANY COUNTRY!



# DEFINITION

“A philosophy or policy that mandates the application of pre-determined consequences, most often severe and punitive in nature, that are intended to be applied regardless of the seriousness of behavior, mitigating circumstances, or situational context.”

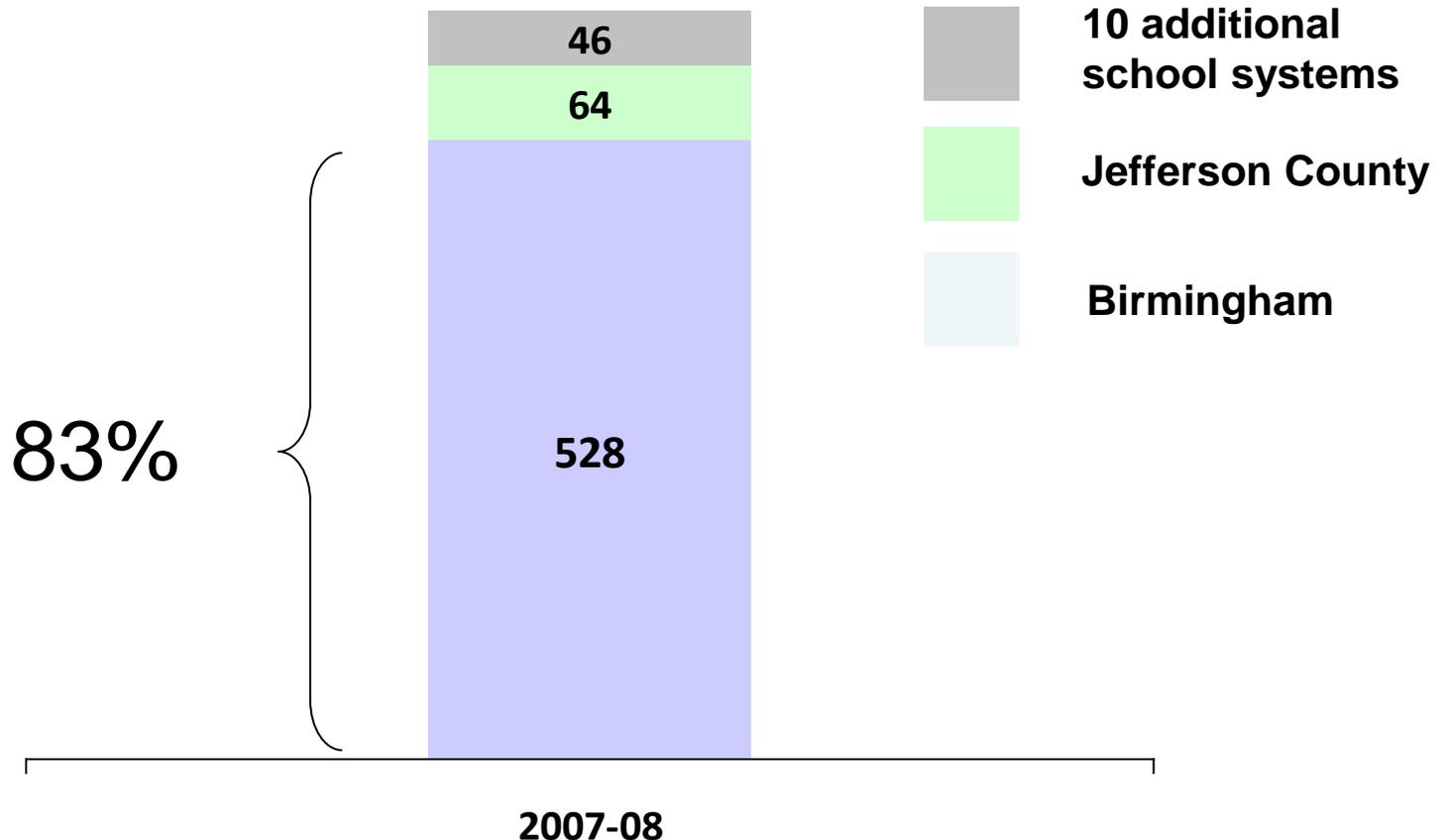
# IMPACT OF ZERO TOLERANCE ON SCHOOL CAMPUS



Over 2000% increase in Juvenile Arrests  
on campus

# Birmingham educated only 25% of the county's public school students, but accounted for 83% of school referrals in 2007-2008

**SCHOOL REFERRALS TO JEFFERSON COUNTY FAMILY COURT,  
2007-08 SCHOOL YEAR**



# CHAPTER TWO:

## THE PROBLEM WITH ZERO TOLERANCE

# ADOLESCENT BRAIN RESEARCH

- Frontal lobe of brain filters emotion into logical responses is not developed until age 25.
- Kids are neurologically wired to do stupid things!
- Kids are still under neurological construction.
- Kids are being hard-wired and need positive influences such as school.

# SCHOOL CONNECTEDNESS

- School connectedness is a strong protective factor against delinquency. US Surgeon General. (2001). *Youth Violence: A Report of the Surgeon General*.
- School connectedness is linked to lower levels of substance abuse, violence, suicide attempts, pregnancy, & emotional distress. *Journal of School Health* 72 (4).
- OSS of elementary & middle school students contributes to drop-out rates. Predictors of Suspension & Negative School Outcomes: A Longitudinal Investigation (2003)



El Estupido, California's School District



NEWS EXCLUSIVE

# CITY SCHOOLS RELY ON ARRESTS TO KEEP ORDER



NEWS STAFF/LINDA STELTER

Birmingham Police Officer Eric Poole patrols the halls at Wenonah High School, where he has been a school resource officer for four years. Poole communicates with teachers and administrators by two-way radio.



Police respond to a recent fight at Parker High School.

## Too many incidents turned into criminal charges, officials say

By **MARIE LEECH**  
and **CAROL ROBINSON**  
*News staff writers*

The Birmingham city school system has become a pipeline to the courts.

Records show criminal incidents in city schools topped 1,000 last year, and more than half of those students were arrested and taken to family court.

Birmingham, with 27,525 students, accounts for about 25 percent of the public school popu-

lation in Jefferson County, but 82 percent of the arrests that are referred to the Jefferson County Family Court.

Court officials say an attempt to restore order and gain control in the Birmingham system has had the opposite effect — criminalizing students, flooding Family Court with cases that once would have been handled in a principal's office, and ceding control of school property to police.

See **SCHOOLS** | Page 8A

### WHAT OFFICIALS SAY

#### WHEN THE SYSTEM WORKS . . .

In September, a Parker High School student's trust in a school resource officer led officers to an armed man just a half-block from the school.

The 18-year-old student confided in the Birmingham police officer that another teen called her cell phone and threatened to kill her, along with her boyfriend, after school. She gave the officer a description of the teen and his SUV. Moments later, school resource officers stopped his car and found a loaded assault-type rifle in plain view.

#### . . . AND WHEN IT DOESN'T

A 16-year-old boy at Jackson Olin High School was pushed to the ground, sprayed with Mace and handcuffed for yelling a curse word in the hallway.

A 17-year-old boy at Carver High School was sprayed and arrested for being loud and "boisterous."

A 13-year-old boy at Jones Valley K-8 School was arrested for being in the cafeteria after his lunch time, being loud when questioned about his presence there and bumping into the school resource officer as he left the cafeteria.

An 11-year-old boy at Riggins Alternative School was arrested for being at school while on suspension.

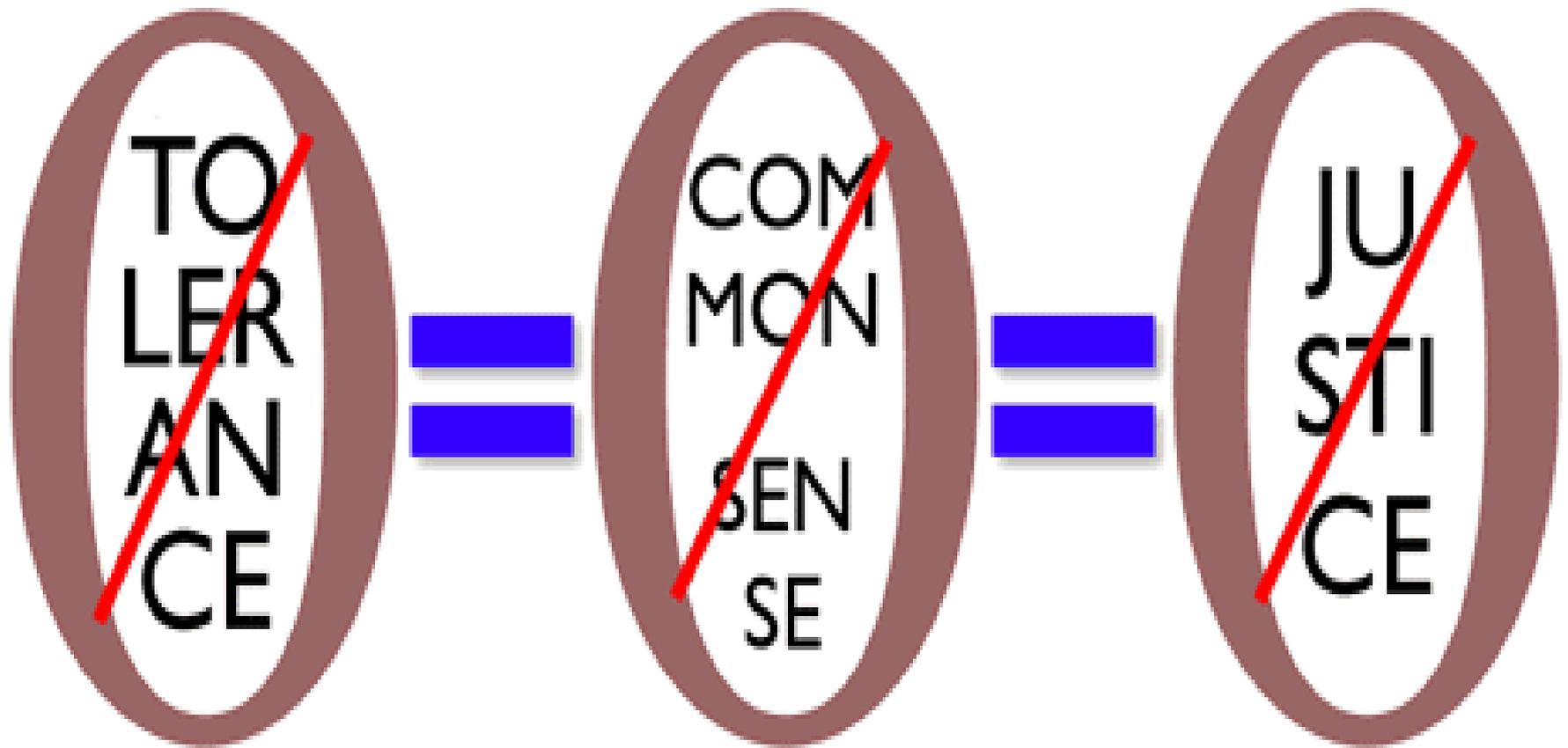
Sources: Birmingham Police Department and Jefferson County Family Court



# Research shows a strong link between court referrals and dropout rates

- A student arrested in high school is twice as likely to drop out
- A student who appears in court during high school is four times as likely to drop out

Sweeten, Gary, Who Will Graduate? Disruption of High School Education by Arrest and Court Involvement. 24.4, Justice Quarterly, 462-480 (December 2006).

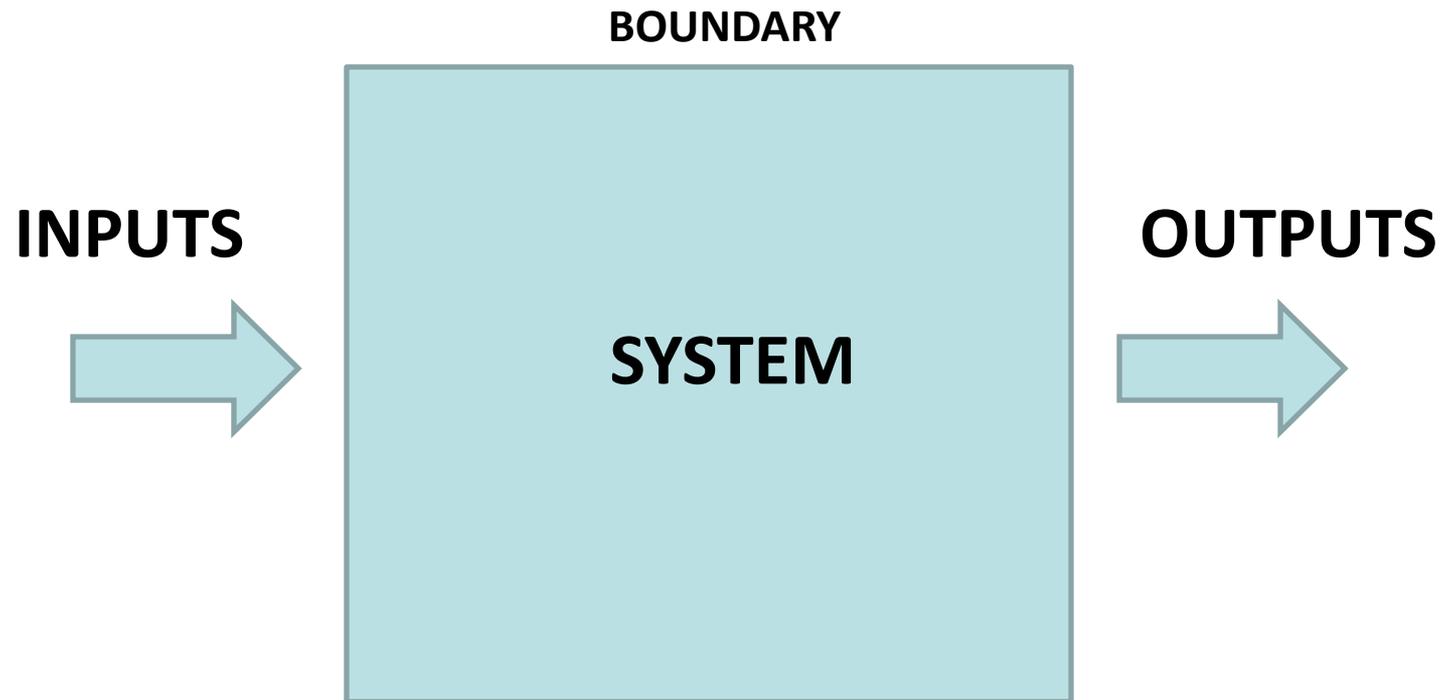


**Challenge rigid absolute bureaucratic policies enforced mindlessly and inflexibly by educational administrators**

# CHAPTER FOUR

Dismantling the School to Prison  
Pipeline through System Change

# SYSTEMS THEORY

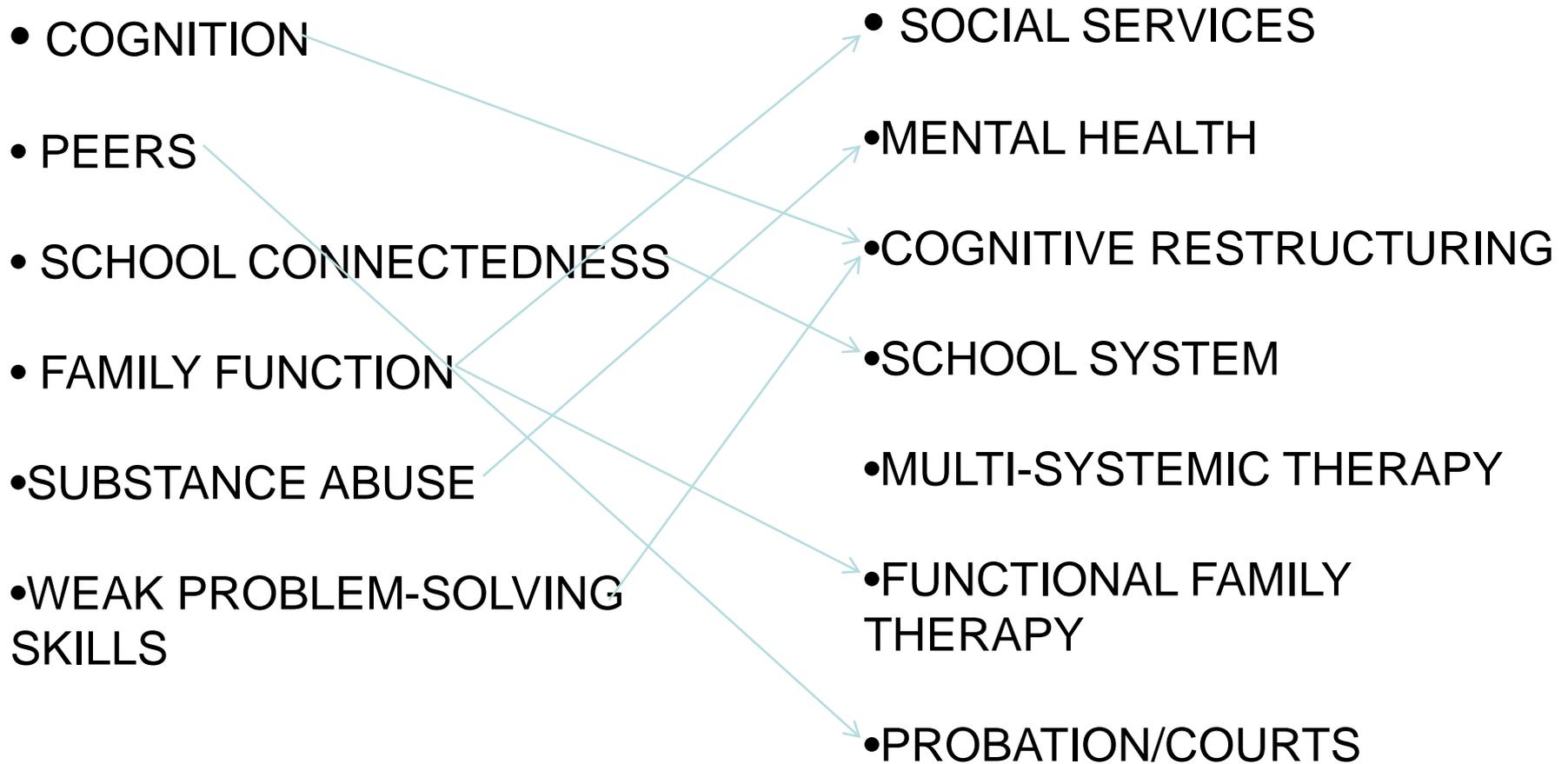


# LINEAR PROGRAMMING MODEL

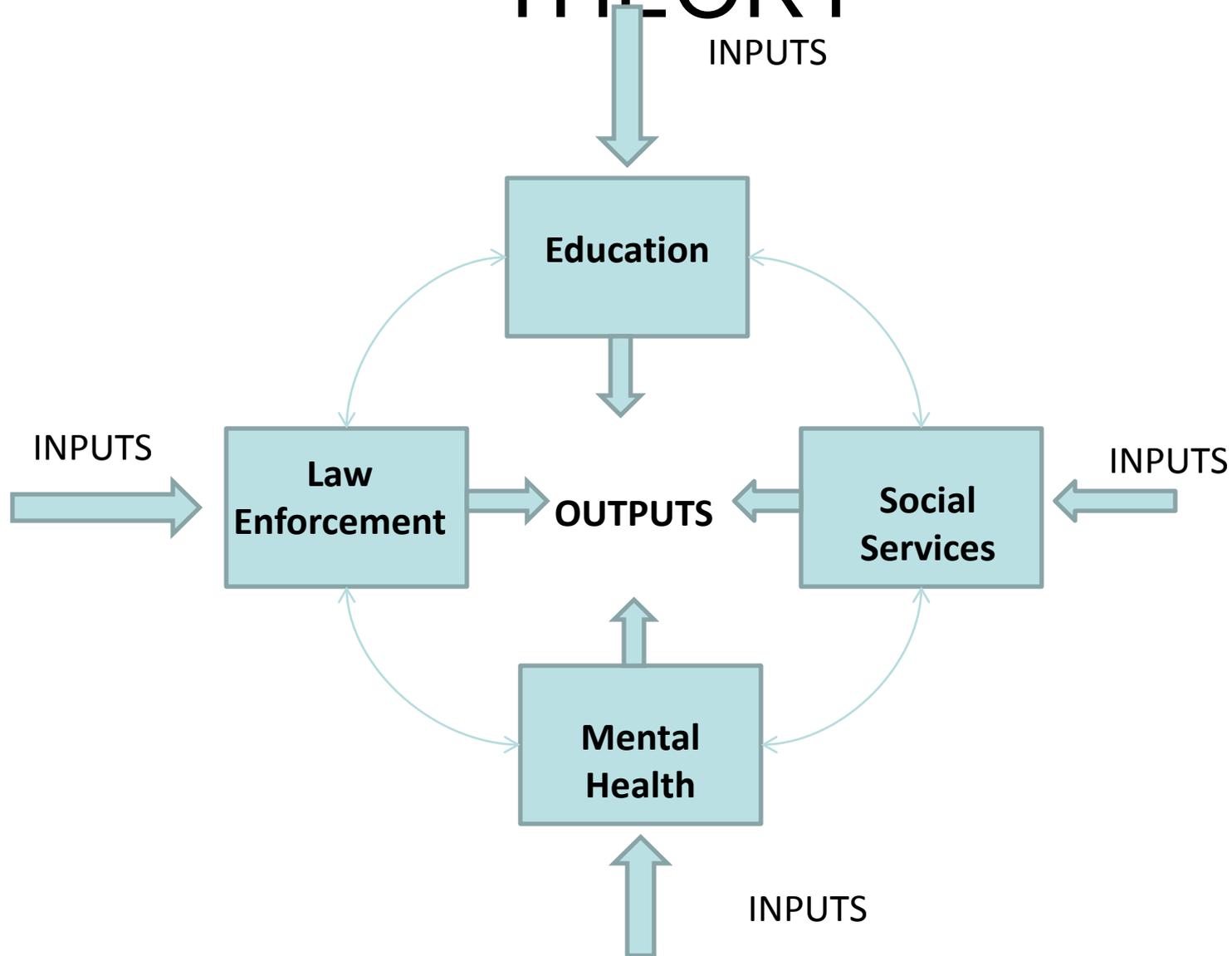
those values of  $X$ , the variables that maximize the linear objective  $Z$  while simultaneously satisfying the imposed linear constraints and the non-negativity constraints.

Bozeman, B. *Public Management and policy Analysis*, St. Martin Press, Inc. New York (1979), 309.

# Juvenile Justice System=The Community



# MULTI-INTEGRATED SYSTEM THEORY



# The Steps of System Change

- Judicial Leadership
- Identify Stakeholders
- Develop Single Page White Paper
- Meet with Stakeholder Head
- Stakeholder Meetings
- Identify Neutral Facilitator
- Develop Meeting Guidelines (Consensus Building)
- Get it in Writing!

# Special Role of Juvenile Judge

- National Center for State Courts Rehnquist Award for Judicial Excellence in 2004 was awarded to a state juvenile court judge of Santa Clara County, California, Superior Court Judge Leonard Perry Edwards II . Judge Edwards spoke to the special role of the juvenile court judge.
- “When parenting fails, when informal community responses are inadequate, our juvenile and family courts provide the state’s official intervention in the most serious cases involving children and families. We are the legal equivalent to an emergency room in the medical profession. We intervene in crises and figure out the best response on a case-by-case, individualized basis. In addition, we have to get off the bench and work in the community. We have to ask these agencies and the community to work together to support our efforts so that the orders we make on the bench can be fulfilled. We have to be the champions of collaboration.

# JUDGE AS CONVENER

The role of the judge in launching this first step is a potentially powerful one. Judges are uniquely able to bring people to the table. The court provides a neutral environment in which key stakeholders can work together. As a practical matter, juvenile judges can begin this process by finding supporters from outside the judicial system who share the view that the court should convene all the players and encourage collaboration.

# STAKEHOLDERS

- Law Enforcement
- Schools
- Mental Health
- Social Services
- NAACP
- Parent
- Youth
- Court
- Prosecutor
- Defender

# WHITE PAPER

- Data;
- Research around school and community safety and graduation rates;
- Stakeholder Expertise;
- Meeting Process;
- Protocol & Sustainability.
- Keep it short.

# SCHOOL OFFENSE PROTOCOL AGREEMENT

- Focused Acts: Affray, DPS, DC, Obstruction
- First Offense/Warning
- Second Offense/Referral to Workshop
- Third Offense/Complaint Filed



**School Offense Agreement Signed by all Police Chiefs, School Superintendent, Juvenile Judges, DFCS Director, and other partners on July 8, 2004**

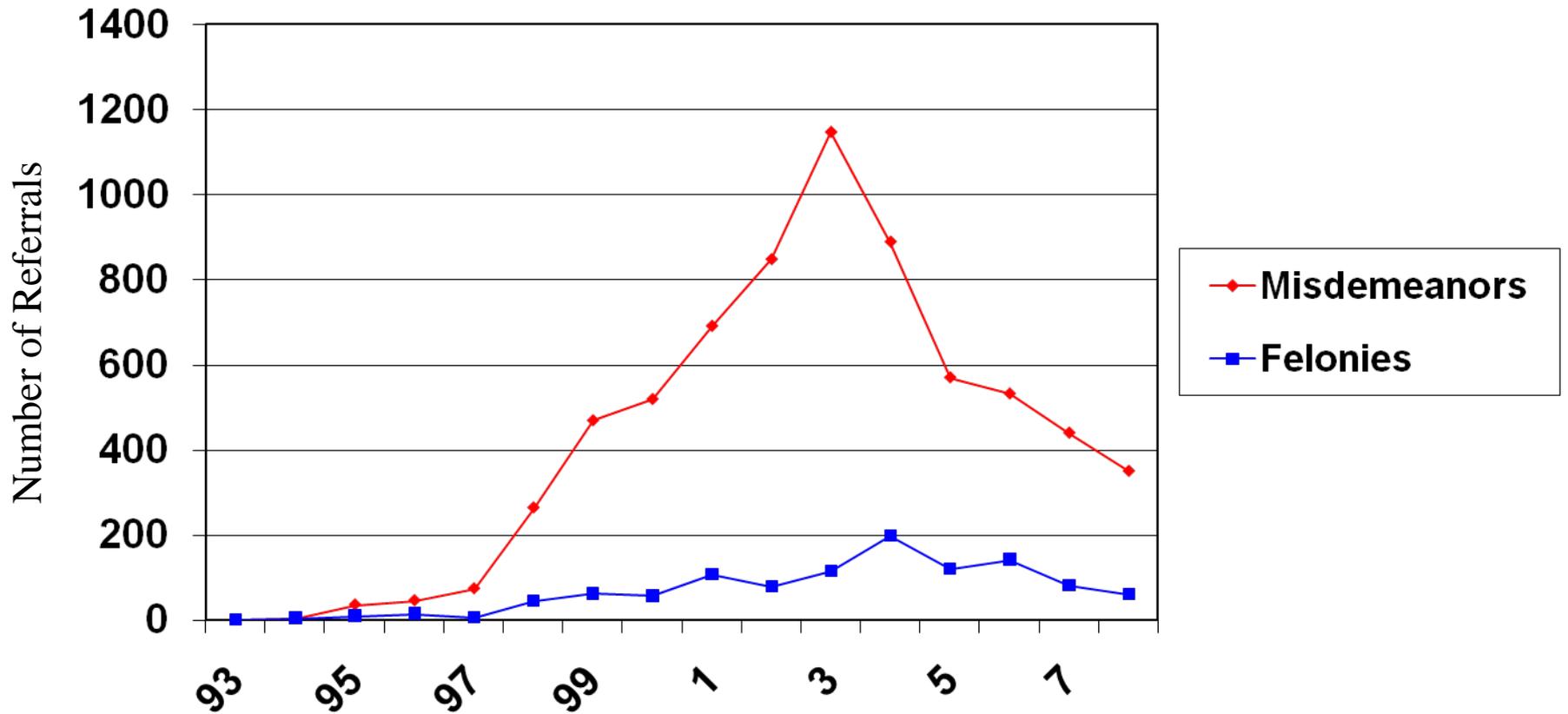
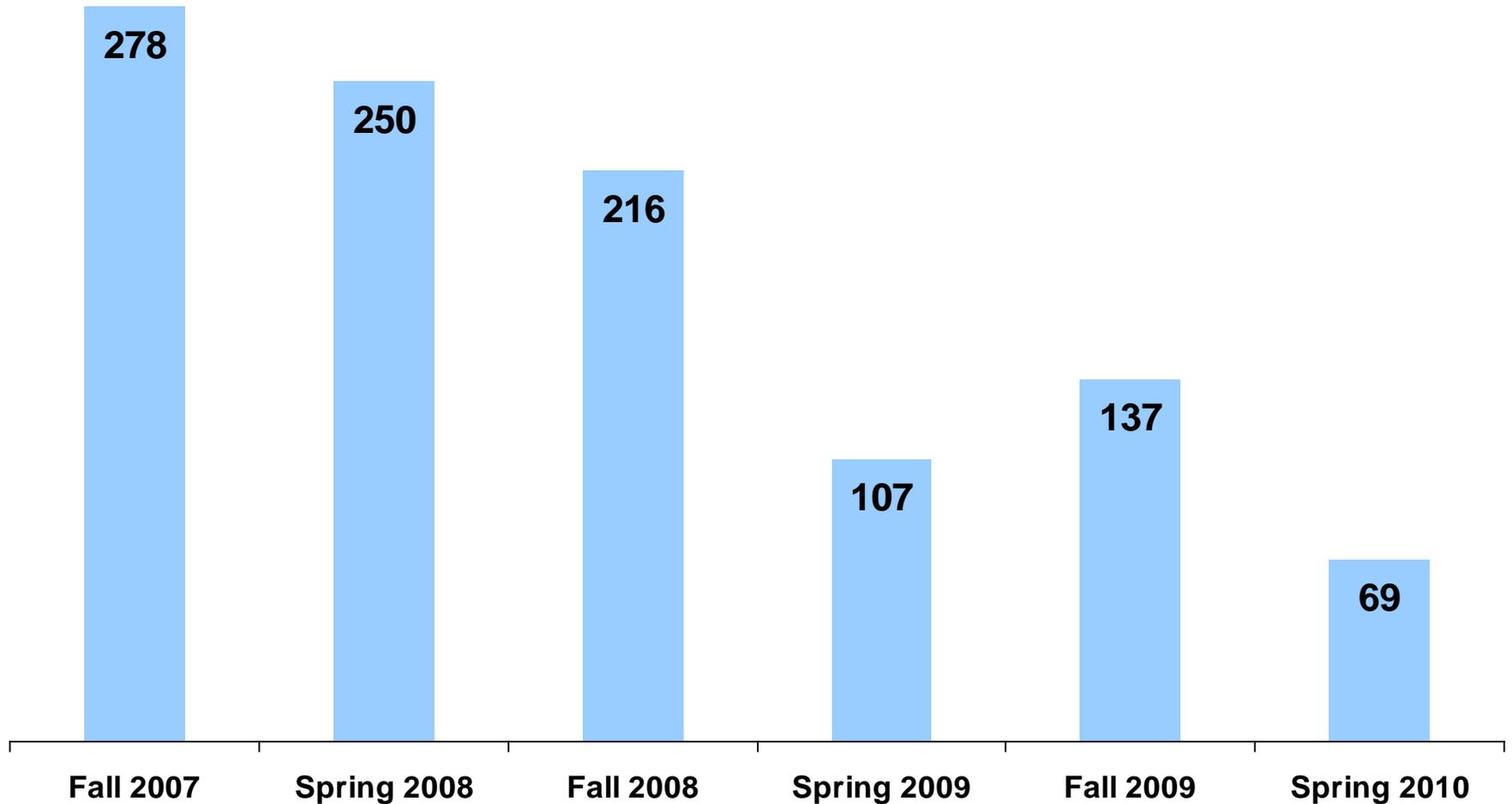


Figure 3. Line graph showing the increase in referrals after police placed on campus and the decrease after the protocol became effective in 2004.

Discussion alone produced a big drop in referrals, but a written document is critical for sustained results.

**COURT REFERRALS FROM BHAM SCHOOLS,  
BY SEMESTER**



**COUNTY OF CLAYTON  
UNIFORM NOTICE OF OFFENSE  
SCHOOL RESOURCE OFFICER**

Upon \_\_\_\_\_  
 Month \_\_\_\_\_ (Day) \_\_\_\_\_ (Year) \_\_\_\_\_ at \_\_\_\_\_

a.m.  
 p.m.

Name \_\_\_\_\_ DOB \_\_\_\_\_  Male  
 Female

Grade \_\_\_\_\_ Location \_\_\_\_\_ School \_\_\_\_\_

Parent/Guardian \_\_\_\_\_ Address \_\_\_\_\_

Home Phone \_\_\_\_\_  
 Other Phone \_\_\_\_\_

Offense \_\_\_\_\_  
 In violation of Code Section \_\_\_\_\_  
 Remarks \_\_\_\_\_

SRO's after periodic reviews requested a "Level" box to reflect the use of their discretion to issue another warning or referral in lieu of the next step.

SRO's also requested the discretion to make a variety of referral, or take other action

**WARNING:** LEVEL

You are hereby warned for the above-cited offense in violation of the laws of the State of Georgia and the code of conduct of the Clayton County Public School System. You are further warned that conduct involving certain focused acts that include fighting, disorderly conduct, obstruction of a police officer (failure to obey the lawful commands of a police officer), and disrupting the school may result in other action that may include attendance by the student and parent in a school conflict education class, mediation, or other program (failure to attend will result in the filing of delinquent charges against the student in the juvenile court) or filing of a complaint in juvenile court if the student has already attended such a program or if the conduct involves a felony or a non-focused misdemeanor act. A copy of this Warning will be sent to your parent, guardian or custodian and kept on file in the school office. You must conduct yourself in a manner required by the code of conduct provided to you and your parent, guardian or custodian and by the laws of the State of Georgia or you will be subject to further action.

**REFERRAL:** LEVEL

You have been cited for the above offense and you and a parent, guardian or custodian will be referred to a program indicated below and sponsored by the Juvenile Court of Clayton County. You are being referred because you have previously been cited for a similar delinquent act and warned or the officer considers your conduct after investigation to constitute an act of "bullying" and immediate action to address your conduct is required. This referral will be sent to your parent, guardian or custodian, the Juvenile Court of Clayton County, and kept on file in the school office. This referral does not constitute a formal complaint to the juvenile court, but will be used by the court to arrange for your attendance at the program as indicated below. Failure to respond to the court or attend the program as instructed will result in formal action brought against the student by the filing of the above-cited offense in the juvenile court.

You and your parent, guardian or custodian are referred to:

School Conflict Education Workshop  
 Mediation  
 Other \_\_\_\_\_

<p><b>SCHOOL USE ONLY</b>          Parent notified by:  <input type="checkbox"/> Phone <input type="checkbox"/> In person <input type="checkbox"/> Mail          Date of Notice _____</p>
---

**STUDENT ACKNOWLEDGEMENT AND RECEIPT:** The undersigned hereby acknowledges service of this Warning/Referral and receipt of copy of same.  
 SIGNATURE \_\_\_\_\_

**SRO CERTIFICATION:** The undersigned has just and reasonable grounds to believe, and does believe, that the student named herein has committed the offense set forth  
 SIGNATURE \_\_\_\_\_ Badge # \_\_\_\_\_



*PBIS INDIANA SERIES ON HEA 1419  
MODEL SCHOOL DISCIPLINE PLANS*

**MODULE A**

**REFORMING SCHOOL DISCIPLINE:  
ZERO TOLERANCE, SUSPENSION,  
EXPULSION AND ALTERNATIVES**

# CHAPTER FIVE: School Safety

Engaging Students to Promote  
Safety in the Schools

**“Schools are a microcosm of  
the community”**

Sgt. Marc Richards  
Supervisor, SRO Unit  
Clayton County Police  
Department

# ALLEGORY OF THE SCHOOL

BY OFFICER ROBERT GARDNER  
Clayton County Police

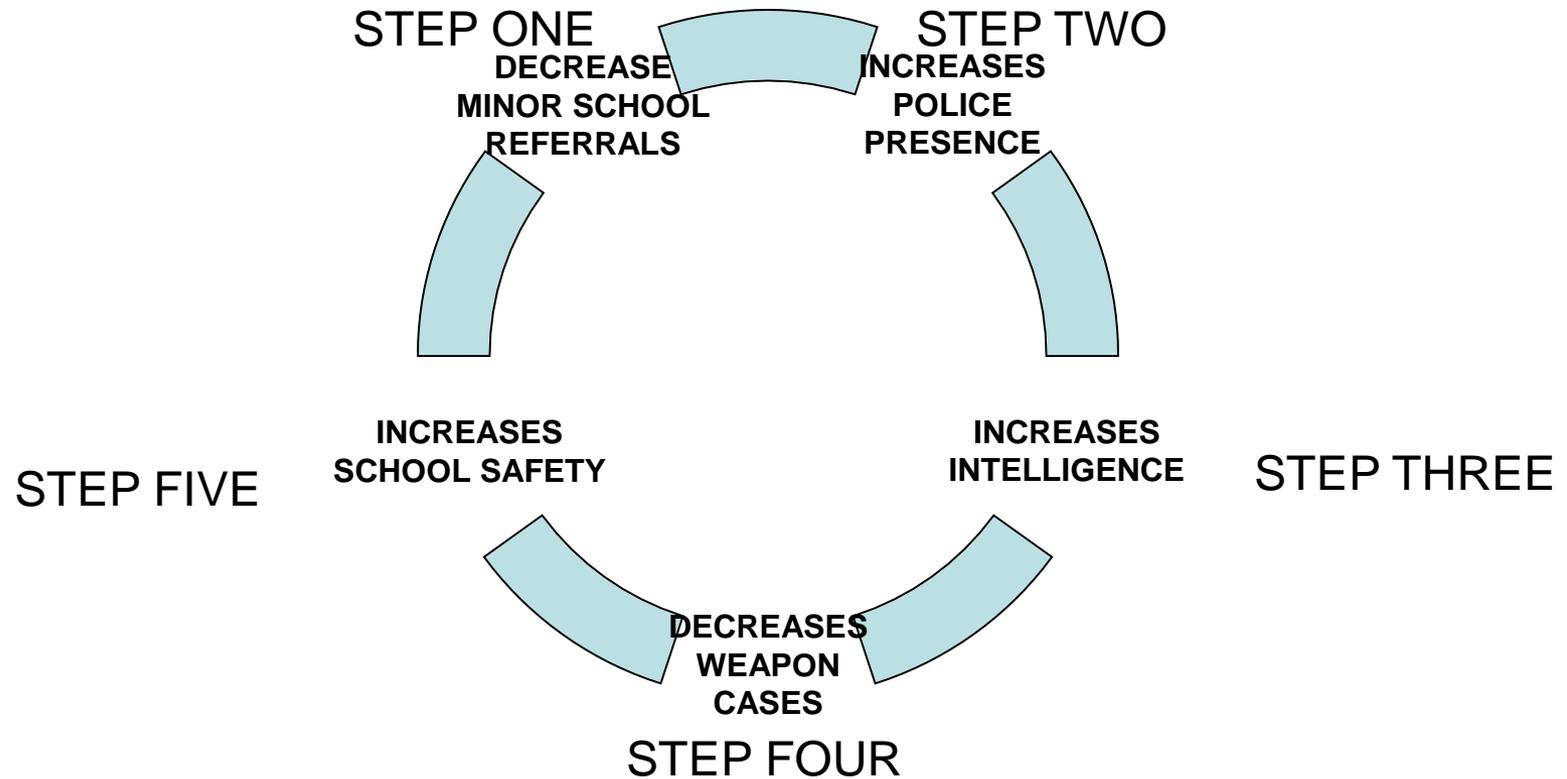
LAMBS

SHEEP

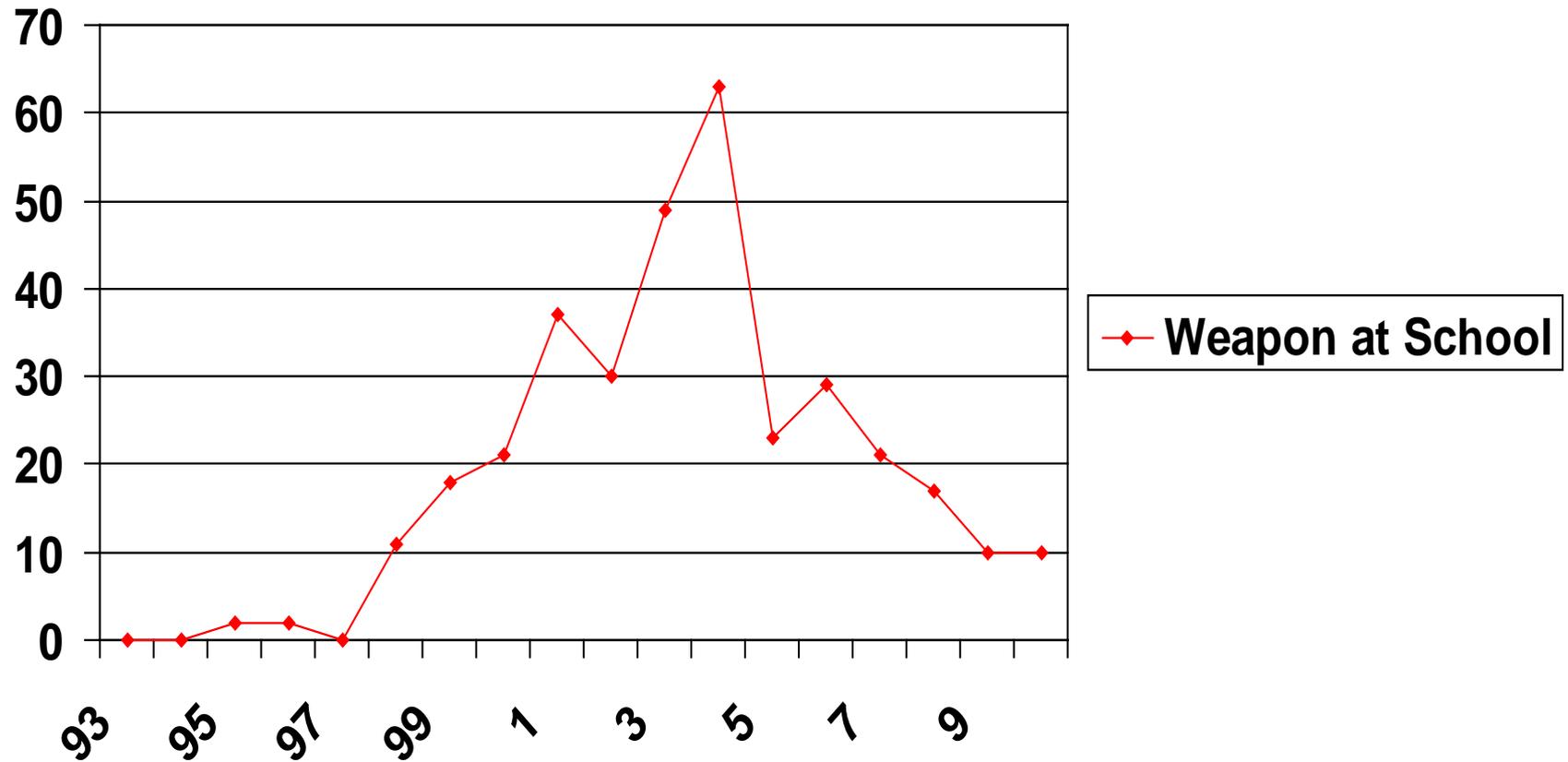
WOLVES

THE SCHOOL

# PROTOCOL EFFECT ON SCHOOL SAFETY



# PROTOCOL INCREASES POLICE INTELLIGENCE



# EFFECTIVE USE OF PROTOCOL PROMOTES SAFETY



# AVOIDING A TRAGEDY & MEDIA DILEMNA

How will the media & community respond if a person comes on school campus with a gun while your SRO is at intake booking a student for a school fight or disorderly conduct?

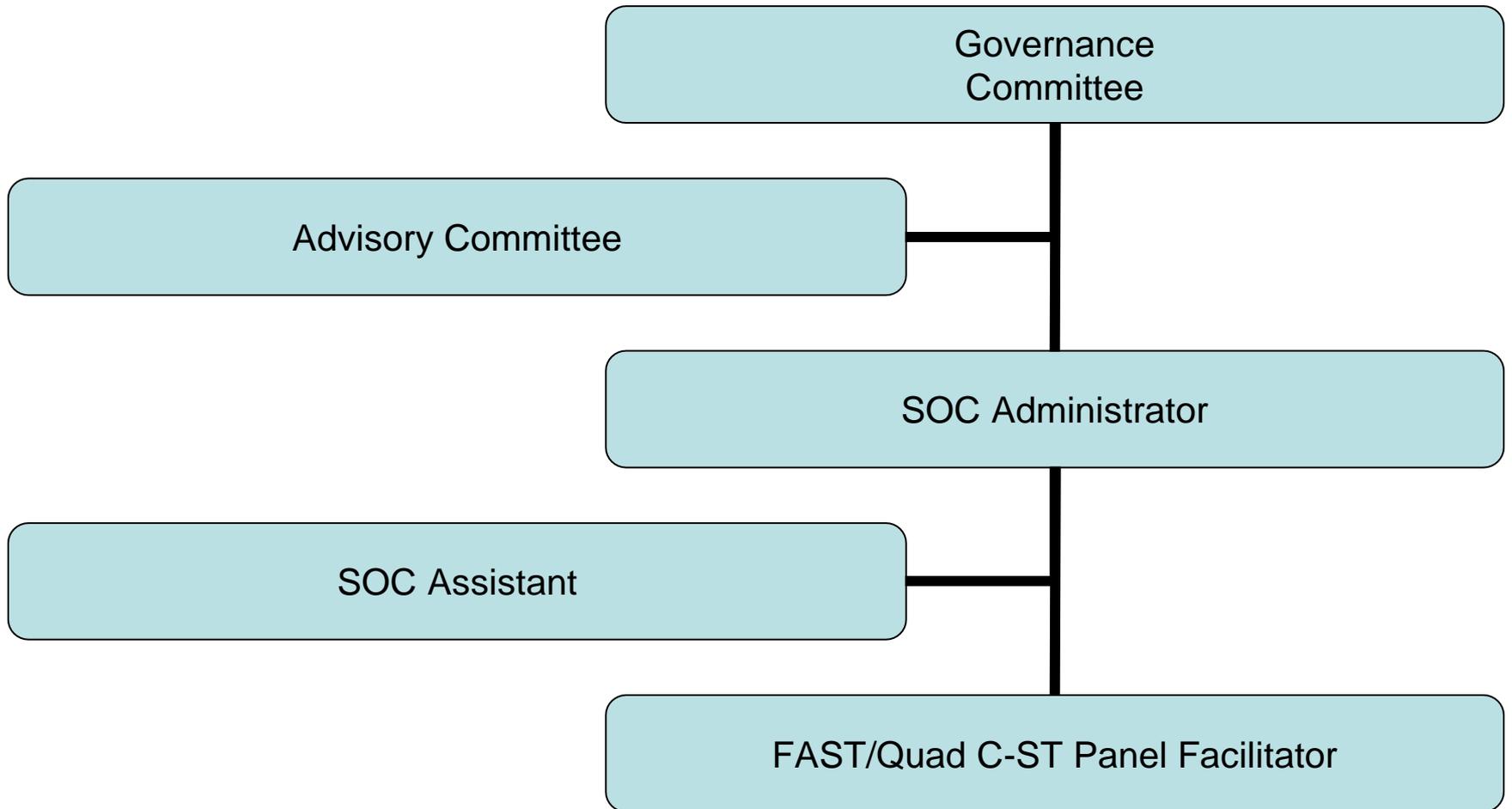
# CHAPTER SIX: Increase Graduation Rates

Who would ever think that keeping  
kids in school will increase  
graduation rates?

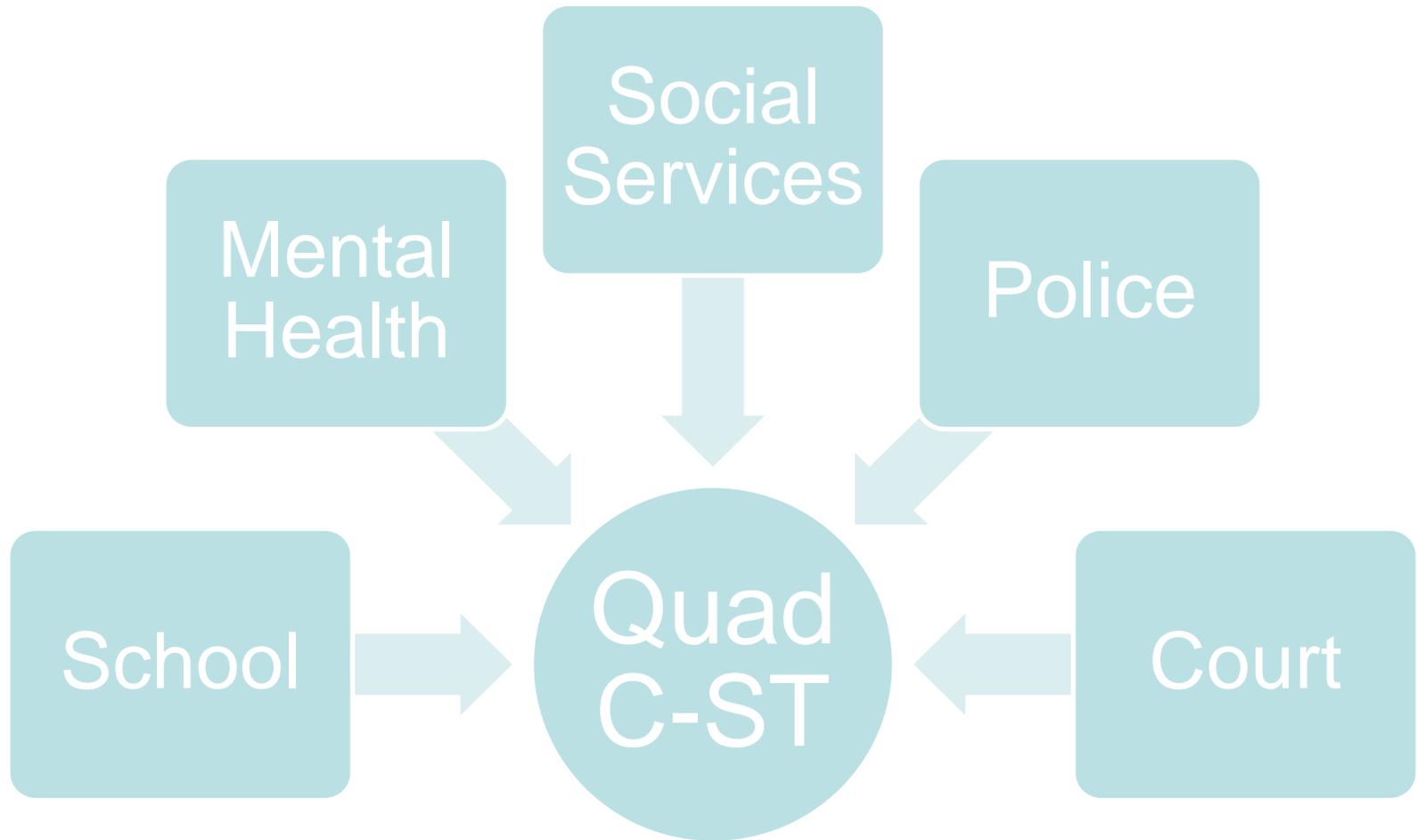
# THE RESEARCH



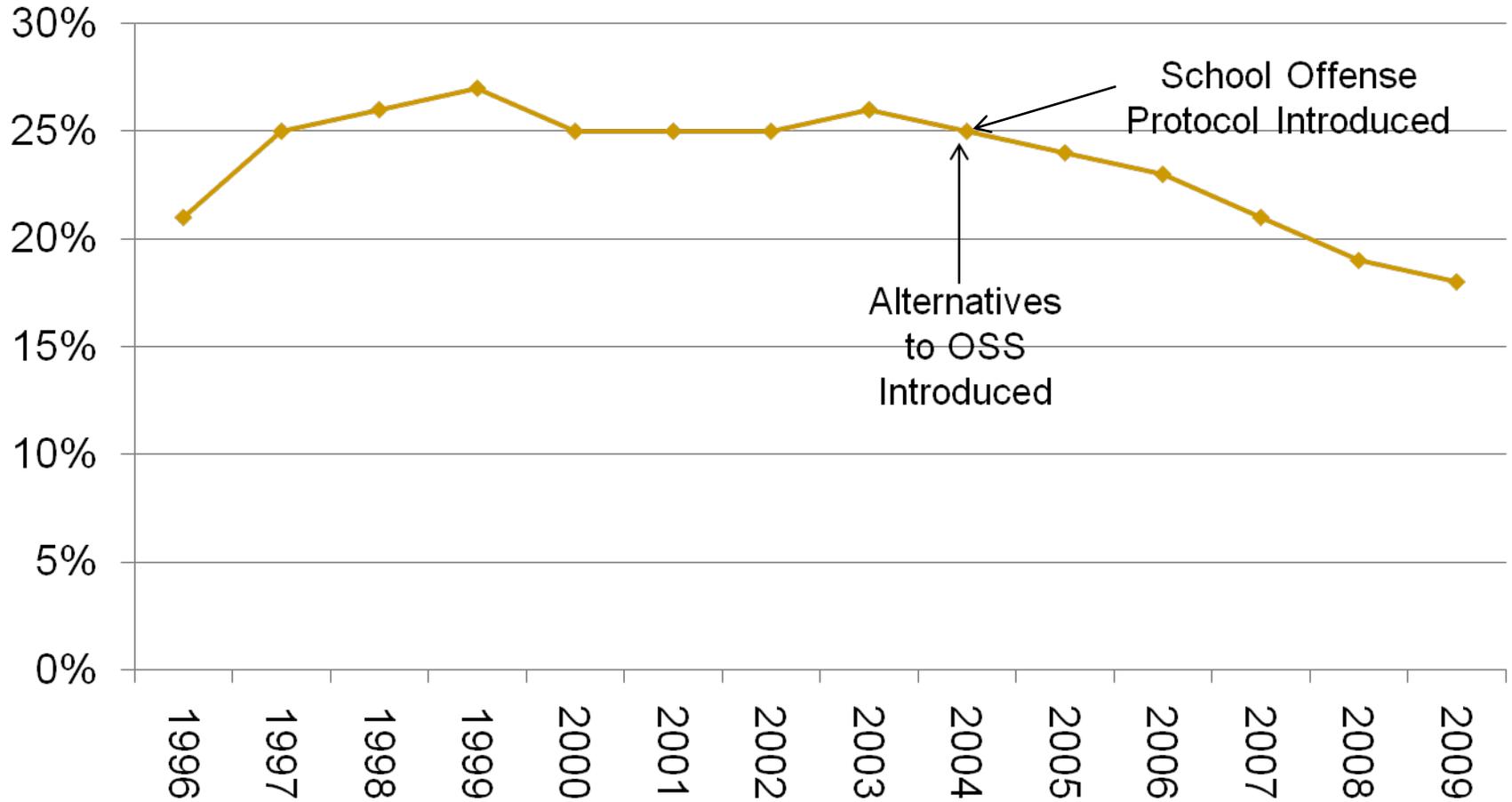
# Multi-System Integrated Services Governance Structure



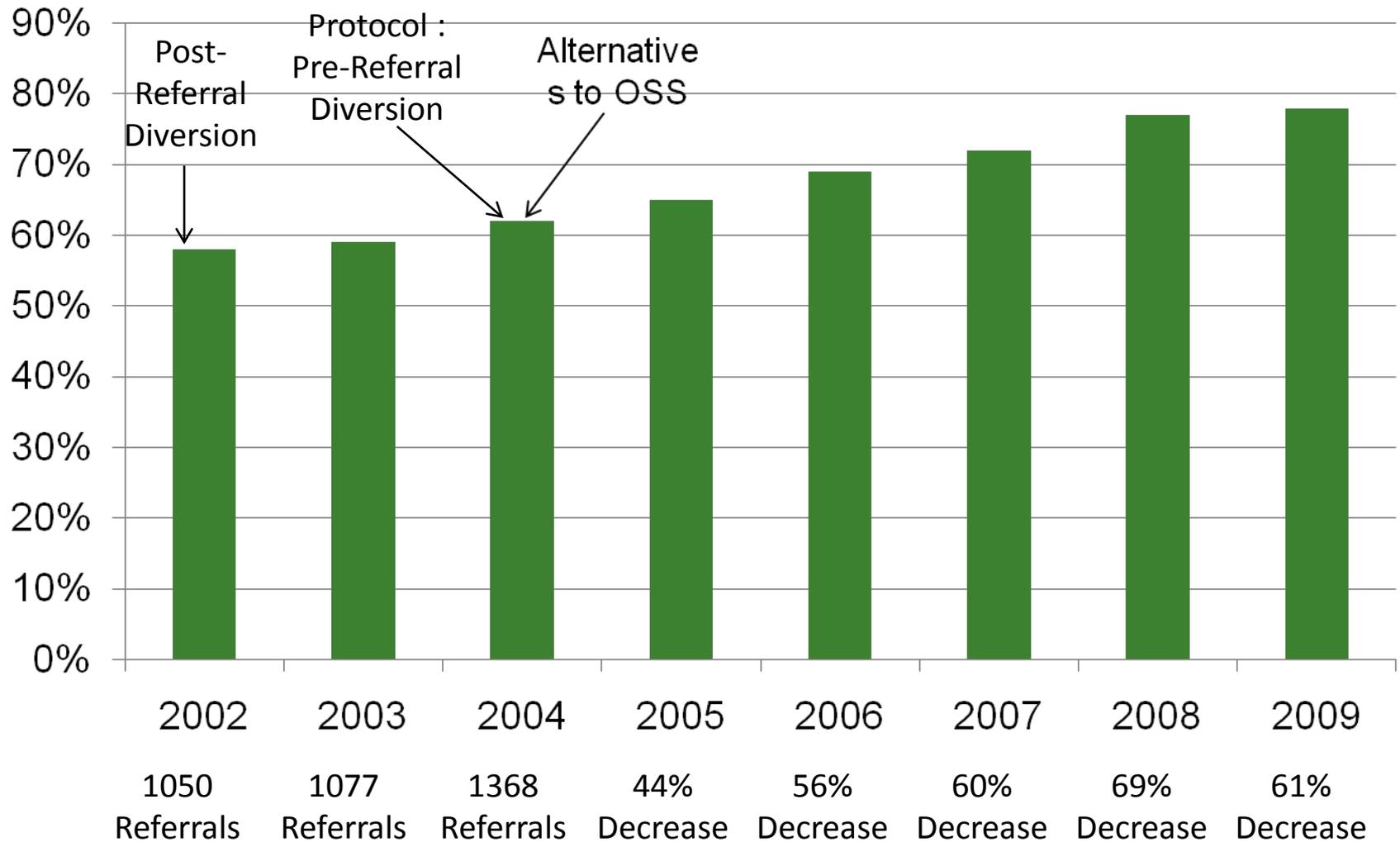
# Single Point of Entry



# OUT-OF-SCHOOL SUSPENSION MIDDLE SCHOOL



# GRADUATION RATES

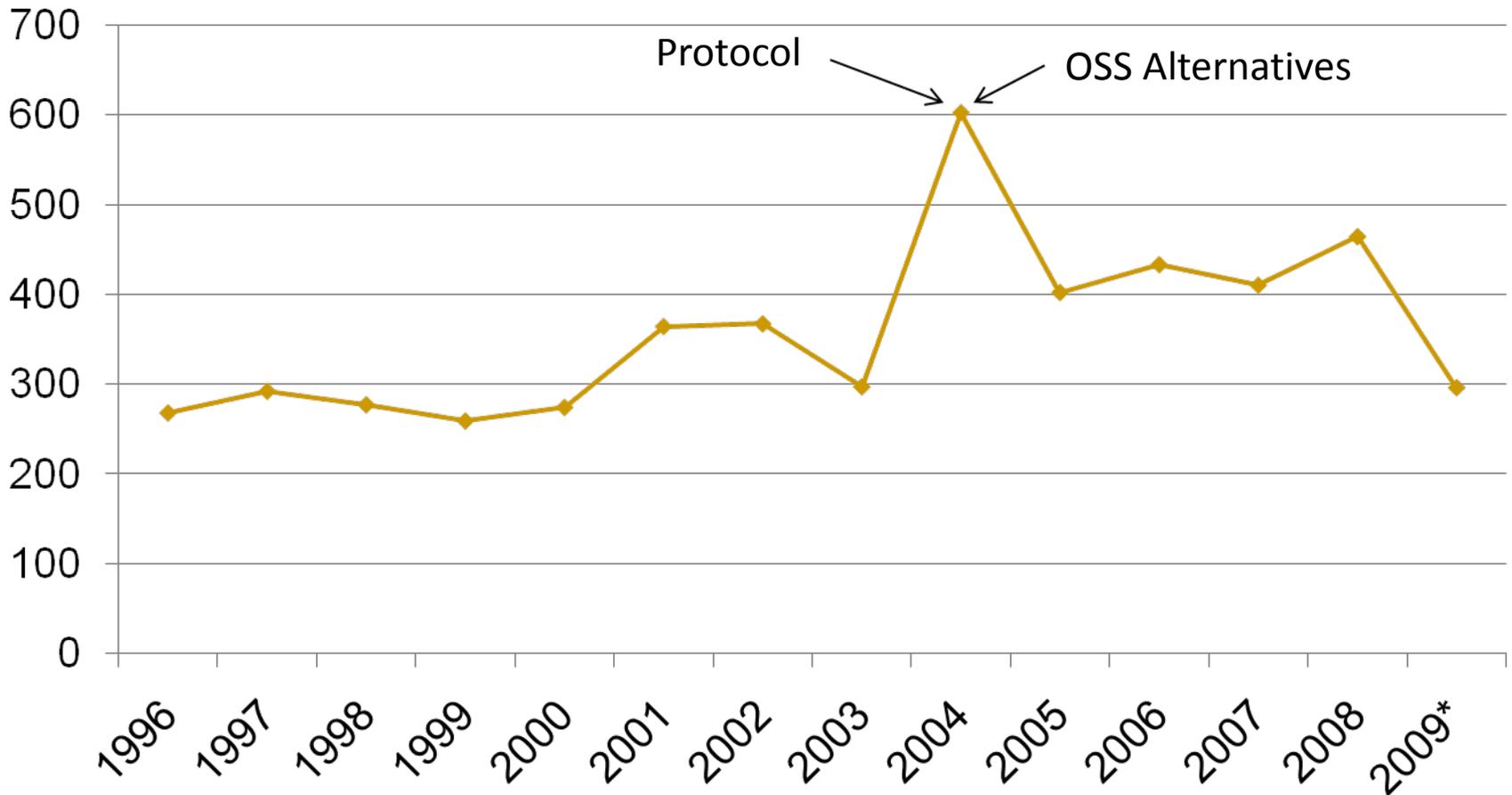


# CHAPTER SEVEN

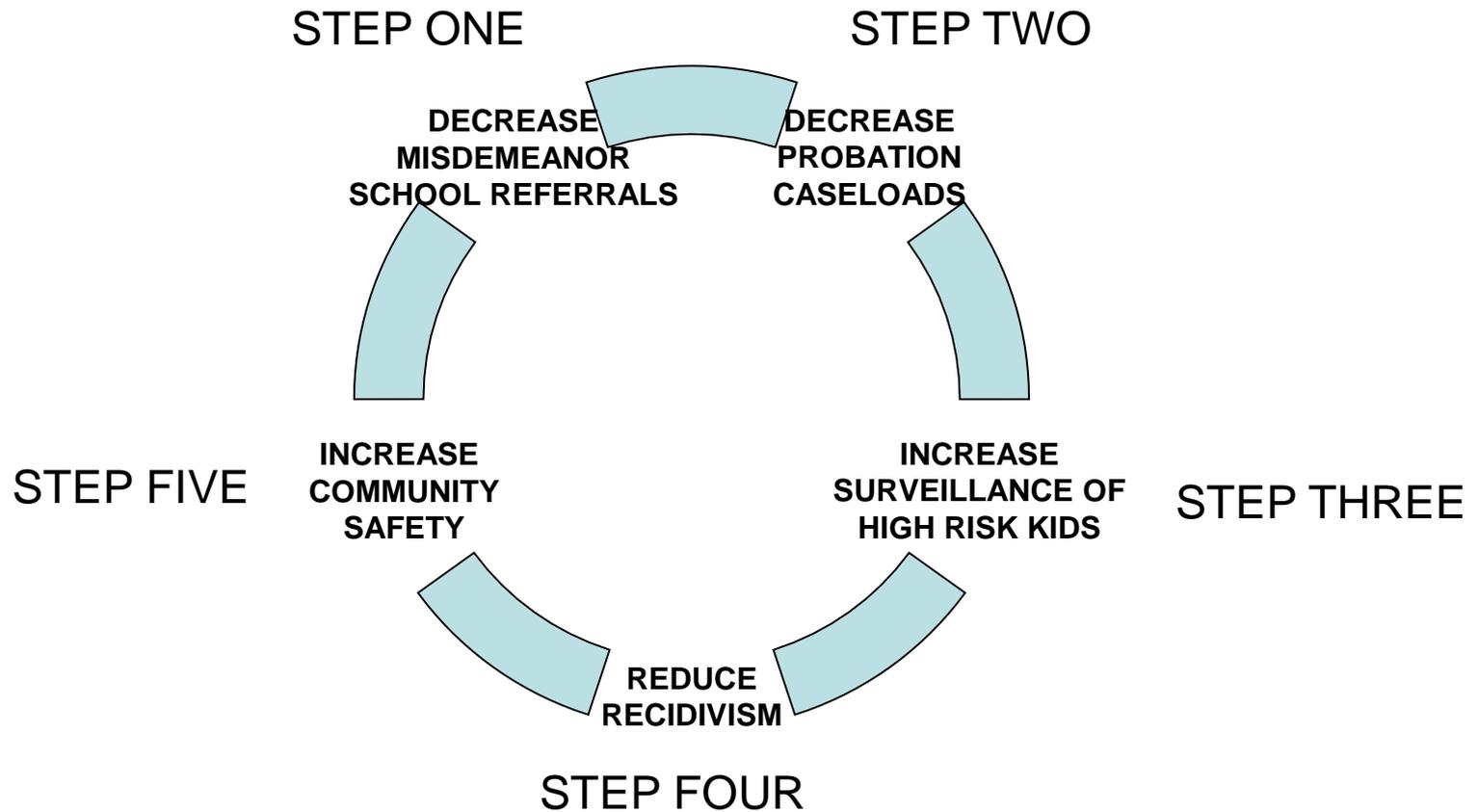
## Improving Community Safety

# FELONY RATES

So goes graduation; so goes juvenile  
crime



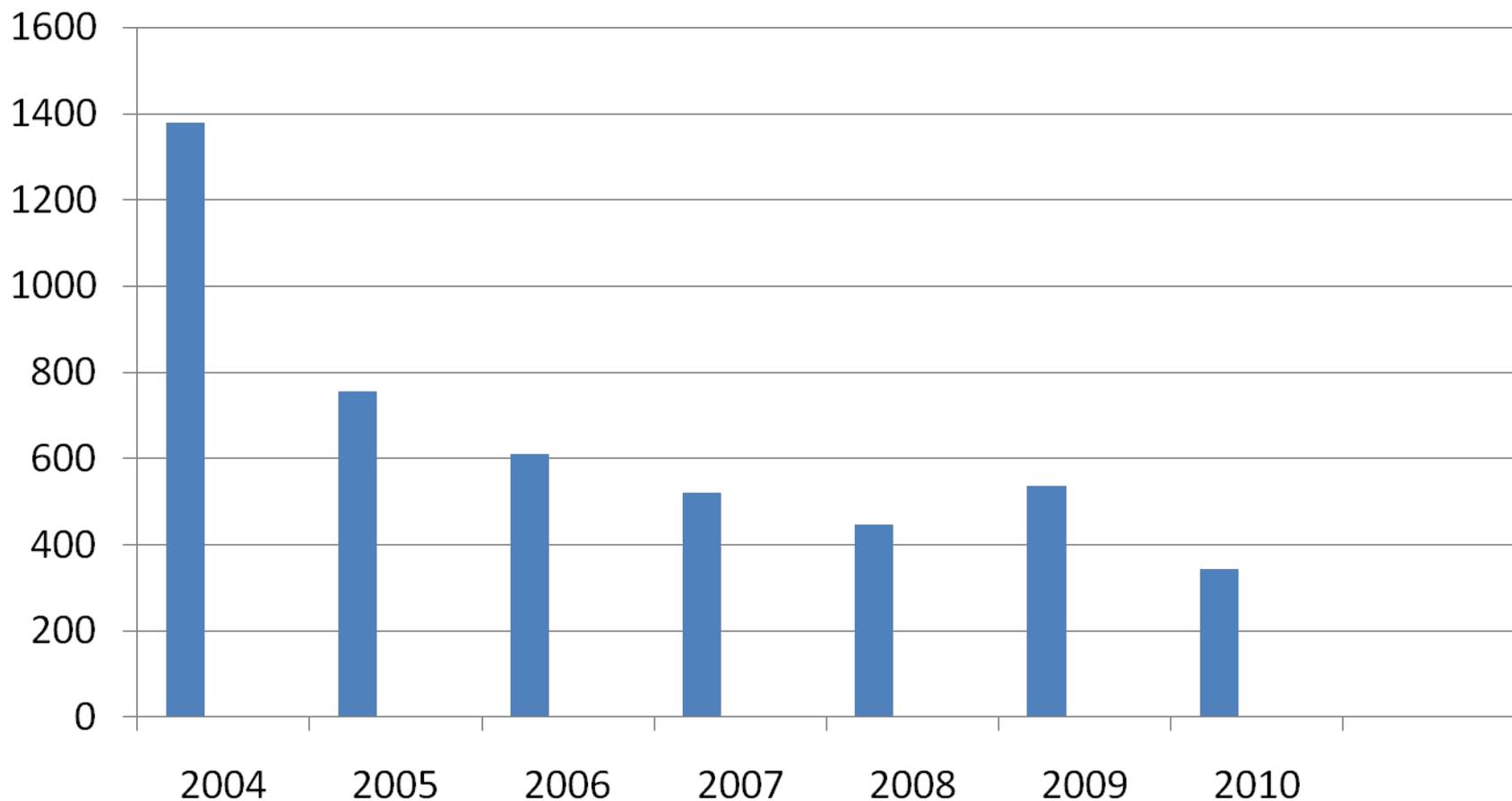
# PROTOCOL EFFECT ON COMMUNITY SAFETY



# CHAPTER EIGHT:

## Reducing Racial & Ethnic Disparities

# REFERRAL BY YOUTH OF COLOR



# CHAPTER NINE

## Avoiding Legal Liability

# Honig v. Doe

We think it clear, however, that Congress very much meant to strip school systems of the *unilateral* authority they had traditionally employed to exclude disabled students, particularly emotionally disturbed students, from school. In so doing, Congress did not leave school administrators powerless to deal with dangerous students; it did, however, deny school officials their former right to “self-help,” and directed that in the future the removal of disabled students could be accomplished only with the permission of the parents or, as a last resort, the courts.. at 323–24.

*Justice Brennan*

# The Case of Chris L.

*Morgan v. Chris L.*, 927 F. Supp. 267 (E.D. Tenn. 1994), *aff 'd*, 106 F.3d 401 (6th Cir. 1997), *cert. denied*, 520 U.S. 1271 (1997).

- Middle School Student
- ADHD
- School's Failure to work IEP
- Juvenile Complaint Referral
- Due Process Hearing
- Litigation

# Federal District Court

The court relied in part on a Tennessee IDEA due process opinion that ordered a school system “to do everything it can” to dismiss a juvenile court petition.

# U.S. Court of Appeals

The court stated that, “pursuant to the IDEA’s procedural safeguards . . . the school system must adopt its own plan and institute an M-team meeting before initiating a juvenile court petition for this purpose.”

# Racial Discrimination & Deliberate Indifference

- The present system results in documented disproportionate minority contact that violates the US Constitution if the requisite discriminatory intent or purpose is shown;
- This disparity cannot be accounted for by purely racially neutral factors;
- Injuries flow from this disparity, specifically from the disproportionately high detention rate for youth of color; and
- Highly effective, replicated, and less costly alternatives would substantially reduce DMC and these methods have been made known to official decision-makers and have not been utilized.

# Chapter Ten

## The Role of the Bar

# Defending Against a School Referral Case

- Delinquent child defined;
- Did the school take corrective action?
- Did the parents take correct action?
- Does the school have the ability to address the underlying problem?
- Do the parents have the resources to address the underlying problem?

# QUESTIONS

[Steve.teske@co.clayton.ga.us](mailto:Steve.teske@co.clayton.ga.us)