The Atlantic

How America Outlawed Adolescence

At least 22 states make it a crime to disturb school in ways that teenagers are wired to do. Why did this happen?

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ONE MONDAY MORNING LAST FALL, at Spring Valley High School in Columbia, South Carolina, a 16-year-old girl refused to hand over her cellphone to her algebra teacher. After multiple requests, the teacher called an administrator, who eventually summoned a sheriff's deputy who was stationed at the school. The deputy walked over to the girl's desk. "Are you going to come with me," he said, "or am I going to make you?"

Niya Kenny, a student sitting nearby, did not know the name of the girl who was in trouble. That girl was new to class and rarely spoke. But Kenny had

heard stories about the deputy, Ben Fields, who also coached football at the school, and she had a feeling he might do something extreme. “Take out your phones,” she whispered to the boys sitting next to her, and she did the same. The girl still hadn’t moved. While Kenny watched, recording with her iPhone, Fields wrenched the girl’s right arm behind her and grabbed her left leg. The girl flailed a fist in his direction. As he tried to wrestle her out of her chair, the desk it was attached to flipped over, slamming the girl backwards. Then he reached for her again, extracting her this time, and hurled her across the classroom floor.

The other kids sat unmoving, hunched over their desks. The teacher and the administrator stood in silence. As Fields crouched over the girl to handcuff her, Kenny tried to hold her phone steady. Her legs were shaking and her heart was hammering in her chest. If this was really happening, she thought, someone needed to know about it—someone, apparently, outside that room. “Put your hands behind your back,” Fields ordered the girl, sounding excited, out of breath. “Gimme your hands! Gimme your hands!”

Finally, in an unnaturally high voice, Kenny blurted: “Ain’t nobody gonna put this shit on Snapchat?” The administrator tried to quiet her down, saying her name over and over, but she would not be silenced. “What the fuck?” she said, her voice rising further. “What the fuck?” Then she hit the Post button on her phone’s Snapchat app.

As Deputy Fields crouched over the girl to handcuff her, Kenny tried to hold her phone steady.

Videos taken by Kenny and other students ended up online, and the story went viral that night. The girl who was thrown was black, like Kenny, and the footage of her being flung across the classroom by a white police officer inflamed debates about race and law enforcement. Hillary Clinton tweeted that there was “no excuse” for such violence, while the singer Ted Nugent praised Fields for teaching a lesson to “a spoiled, undisciplined brat.”

After Fields handcuffed the girl, another deputy arrived to escort her out of the classroom. She would be released to her guardian later that day. Then, according to Kenny, Fields turned to her. “You got so much to say?,” Fields asked. “Come on.”

Kenny did not speak. She got up and put her hands behind her back.

THE NEXT DAY, the principal called the incident “horrific,” and the school-board chair said it represented an “outrageous exception to the culture, conduct, and standards in which we so strongly believe.” Richland County Sheriff Leon Lott, who oversees the officers at Spring Valley, said he was sickened by the videos and was investigating his deputy’s actions. He added in passing that Niya Kenny had been arrested for “contributing to the chaos.” None of the other officials mentioned her name.

Kenny’s case did not receive much attention from officials because it was not unusual. Her arrest was based on a law against “disturbing school,” a mysterious offense that is routinely levied against South Carolina students. Each year, about 1,200 kids are charged with disturbing school in the state—some for yelling and shoving, others for cursing. (In fact, the girl who was thrown from her desk was charged with disturbing school too, though the public uproar focused on the use of force.) State law makes it a crime to “disturb in any way or in any place the students or teachers of any school” or “to act in an obnoxious manner.” The charge, which has been filed against kids as young as 7, according to the American Civil Liberties Union, is punishable by up to 90 days in jail or a $1,000 fine.

Niya Kenny and her mother, Doris Ballard-Kenny, in Columbia, South Carolina, August 2, 2016 (André Chung)

At least 22 states and dozens of cities and towns currently outlaw school disturbances in one way or another. South Dakota prohibits “boisterous” behavior at school, while Arkansas bans “annoying conduct.” Florida makes it a crime to “interfere with the lawful administration or functions of any educational institution”—or to “advise” another student to do so. In Maine, merely interrupting a teacher by speaking loudly is a civil offense, punishable by up to a $500 fine.

In some states, like Washington and Delaware, disturbing-school laws are on the books but used relatively rarely or not at all. In others, they have become a standard classroom-management tool. Last year, disturbing school was the second-most-common accusation leveled against juveniles in South Carolina, after misdemeanor assault. An average of seven kids were charged every day that schools were in session.

Each year in Maryland, Florida, and Kentucky, about 1,000 students face the charge. In North Carolina, the number is closer to 2,000. Nationwide, good data are hard to come by. Some states, like Nevada and Arizona, do not track how many times juveniles are charged with this offense. (In Arizona, a court

official would tell me only that the number is somewhere between zero and 5,375 arrests a year.) But figures collected by *The Atlantic* suggest that authorities charge juveniles with some version of disturbing school more than 10,000 times a year. This number does not even include older teenagers who are charged as adults.

Over the years, judges around the country have landed on various definitions of *disturbance*. In Georgia, a court concluded, a fight qualifies as disturbing school if it attracts student spectators. But a Maryland court found that attracting an audience does not create a disturbance unless normal school activities are delayed or canceled. In Alabama, a court found that a student had disturbed school because his principal had had to meet with him to discuss his behavior; an appeals court overturned the ruling on the grounds that talking with students was part of a principal's job.

Maryland lawmakers worried that the state's disturbing-school law "could be applied to a kindergarten pupil throwing a temper tantrum."

Just this summer in New Mexico, a federal appeals court upheld a school police officer's decision to arrest and handcuff a 13-year-old who had repeatedly burped in gym class, ruling that "burping, laughing, and leaning into the classroom stopped the flow of student educational activities, thereby injecting disorder into the learning environment." The decision reads like an *Onion* article, albeit one that goes on for 94 pages.

When teenagers talk back, scream obscenities, or otherwise behave badly, adults must call them out and hold them accountable. That's how kids learn. In time, most kids outgrow their delinquent ways. Police and policy makers who defend these laws say they make classrooms safer. But the laws have also been used to punish behavior that few reasonable people would consider criminal. Defiance is a typical part of adolescence, so putting teenagers in jail for swearing or refusing to follow an order is akin to arresting a 2-year-old for having a meltdown at the grocery store. It essentially outlaws the human condition. And the vagueness of the laws means they are inevitably applied

unevenly, depending on the moods and biases of the adults enforcing them. In South Carolina, black students like Kenny are nearly four times as likely as their white peers to be charged with disturbing school.

THE ORIGINAL SCHOOL “DISTURBANCE” in South Carolina, the one that started it all, was flirting.

During the Progressive era, with women beginning to vote and race riots breaking out across growing urban centers, lawmakers seized on flirting as a menace to social order. New York City police set up flirting dragnets, using “pretty blonde girls as bait,” according to a syndicated newspaper column from June 1920. “The enormous recent growth of the crime of flirting … must be ascribed to a growing laxity of conduct in general, and also to the rise of the short skirt,” the article continued. “It should be promptly and drastically suppressed.”

In 1919, a South Carolina state lawmaker and attorney named John Ratchford Hart, distressed by incidents of men flirting with students at the all-white women’s college in his district, proposed a law to prohibit any “obnoxious” behavior or “loiter[ing]” at any girls’ school or college in the state. Violators would face up to a $100 fine or 30 days in jail.

From the beginning, the disturbing-school law was intended to keep young people in their place. But it would evolve with threats to the status quo. Forty-eight years later, after black students organized a series of nonviolent marches against segregation in the rural enclave of Orangeburg, South Carolina, the county’s representative in the statehouse—a former teacher named F. Hall Yarborough—proposed a bill to broaden the law to criminalize obnoxious behavior at all schools, single-sex and coed. Yarborough was alarmed not only by the uprisings in his own district but by civil-rights and antiwar protests on campuses across the country. He spoke obliquely of the activists he hoped to fend off with the expanded law. “I’m interested in keeping outside agitators off campus,” he told the Associated Press. The bill sailed through the statehouse. No hearings were held.

Not long after that, black students from South Carolina State College led a multiday protest against a segregated bowling alley in Orangeburg. One night, after the protesters had returned to campus, someone threw a banister that hit a state trooper in the head. Police opened fire, shooting 30 unarmed students and killing three black teenagers, in what would become known as the Orangeburg Massacre. The governor signed South Carolina’s newly expanded disturbing-school bill into law three weeks later.

A student-led civil-rights protest in Orangeburg, South Carolina, in 1968, during which police killed three black teenagers. An expanded disturbing-school bill was signed into law soon after. (Associated Press)

It’s hard to overstate the tension that crackled through the country back then. Peaceful protests far outnumbered violent ones, but it did not necessarily feel that way. From January 1969 to April 1970, more than 8,200 bomb threats, attempted bombings, and actual bombings were attributed to student protests. “These are not just college students out on a panty raid,” a Texas legislator warned his colleagues. “These are revolutionaries dedicated to destroying our system.”

In the midst of the turmoil, the U.S. Supreme Court ruled in 1969 against a Des Moines, Iowa, school district, finding that students had a right to protest peacefully on school grounds. In this case, the Court said, the teenage plaintiffs could wear black armbands in protest of the Vietnam War, as long as they did so without “materially and substantially” disturbing class. Justice Hugo Black issued an ominous dissent. “It is the beginning of a new revolutionary era of permissiveness in this country,” he wrote. “Groups of students all over the land are already running loose, conducting break-ins, sit-ins, lie-ins, and smash-ins.”

Following the federal ruling, state and local officials passed a flurry of laws that would punish students who *were* disturbing class, anywhere from universities to elementary schools. At the time, it’s worth remembering, black students weren’t just protesting; they were also integrating white classrooms, backed by the federal government. “As soon as we started introducing black bodies into white schools, we got these laws,” says Jenny Egan, a public defender for juveniles in Maryland who regularly represents clients charged with disturbing school. “That’s not a coincidence.”

The maneuvering was part of a broader legislative cold war: As Michelle Alexander documents in her book, *The New Jim Crow*, after the Civil Rights Act dismantled formal segregation, politicians stopped demanding “segregation forever” and began calling for “law and order.”

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In September 1970, President Richard Nixon’s Commission on Campus Unrest reported that more than 30 states had passed nearly 80 laws to counter student unrest. It warned that “legislators in a majority of states have passed antistudent and antiuniversity laws that range from the unnecessary and ill-directed to the purely vindictive.” Amid the hysteria, some legislators

proposed laws that were already on the books: In Kansas City, Missouri, police came out against a new disturbing-school statute because it would have duplicated not one but five existing city laws. Maryland lawmakers worried that the state's disturbing-school law "could be applied to a kindergarten pupil throwing a temper tantrum."

Still, the laws did not become integral to school discipline until the 1990s, when fears of rising gang- and drug-related violence—followed by a series of high-profile school shootings—led to the widespread installation of police officers in school hallways. By 1998, more than 100 South Carolina school districts, including Niya Kenny's, had brought in police, formally known as "school resource officers." After the Columbine High School shootings in Colorado the next year, South Carolina's Safe Schools Task Force recommended increasing the number of officers, and the state's Department of Education requested $14 million to pay for them—double the previous year's budget. (The fact that a full-time officer was employed at Columbine but was unable to stop the shooters did not seem to discourage hiring in other districts.)

By the early '90s, America's juvenile crime rate had begun to drop, a trend that would continue for the next two decades. It would be logical to assume that school police officers contributed to this decline. But there is little reliable evidence to support or refute that theory. What we do know is that the drop in crime began before police arrived in most schools. And once police were in place, they tended to keep busy. According to an analysis of 2,650 schools published in the *Washington University Law Review* earlier this year, students at schools with police officers were significantly more likely to be reported to law enforcement for low-level offenses than students at schools without police, even after controlling for the neighborhood crime rate, the demographics of the schools, and a host of other variables.

Sheriff Leon Lott, who oversees the officers at Spring Valley High School, has criticized South Carolina’s disturbing-school law. “You could chew gum and be arrested,” he says. (André Chung)

Previously, principals had needed to call the police to make an arrest; by the late ’90s, in many schools, the police were already there. And while they were not technically supposed to get involved in workaday school-discipline issues, the disturbing-school laws rendered all manner of common misbehavior illegal. Some officers worked hard to build relationships with students and resolve problems before they escalated. But most did not have adequate training to manage adolescents, who are wired to proclaim their independence. “Most law-enforcement officers are trained to assert authority, to take control of the situation,” says Mark Soler, the executive director of the Center for Children’s Law and Policy, who has trained school police officers. “In a school context, that’s bad advice.” From 2000 to 2016, according to South Carolina’s data, the disturbing-school charge was filed against students in the state 33,304 times.

THE HANDCUFFS DEPUTY FIELDS used on Kenny were tight, pressing against her skin. “I just had this one tiny hope,” she told me later, “that he might just try to scare me and let me go.”

This was Kenny’s second time taking Algebra I. She’d failed it as a freshman, too busy socializing to do math. But as a senior, she was more focused: She had to pass the class in order to graduate. Until that morning, everything had been going according to plan. She had an A, and the teacher seemed to like her. If, for example, she took out her phone in class, he would give her a look, and she’d put it away.

Fields took her to another room, where Kenny says he and the administrator started yelling at her. “What did you think you were doing in there?,” Fields asked. Kenny started to wonder whether she had misjudged the situation. If the deputy’s actions were so wrong, why was she the only one saying so? “I started thinking I was the bad guy,” Kenny told me. “Like maybe I’d done the wrong thing.” Suddenly she thought of what her mother would say about her arrest. She started crying, and Fields asked for her phone. She handed it over but admitted that she’d already posted the video.

André Chung

Around 12:30 in the afternoon, another deputy led Kenny outside—still in handcuffs—to meet a police van. (Officers at Spring Valley can decide to release a student to a guardian after an arrest, as they had done with the girl who was thrown, but not with Kenny.) Standing there, in front of her school on Sparkleberry Lane, where she’d run cross-country and sung in the gospel choir, she started sobbing. The handcuffs were not a prop. She was going to jail. That’s when she decided she would never come back to Spring Valley High

School. As with many kids who get arrested at school, something shifted in her head, and she concluded that she did not belong there anymore.

Kenny climbed into the police van, which took her to the Alvin S. Glenn Detention Center, in Columbia. She had recently celebrated her 18th birthday, and would be processed as an adult. Inside the facility, an officer ordered her to take off her boots so they could be searched. Then she was fingerprinted, photographed, and led into a holding room with about 20 other detainees. The room was frigid, and she crossed her arms to keep warm. Someone asked her why she was there, and she said that she'd yelled at a police officer in school. "Yelling?" a correctional officer said. "And they booked you in here for that?"

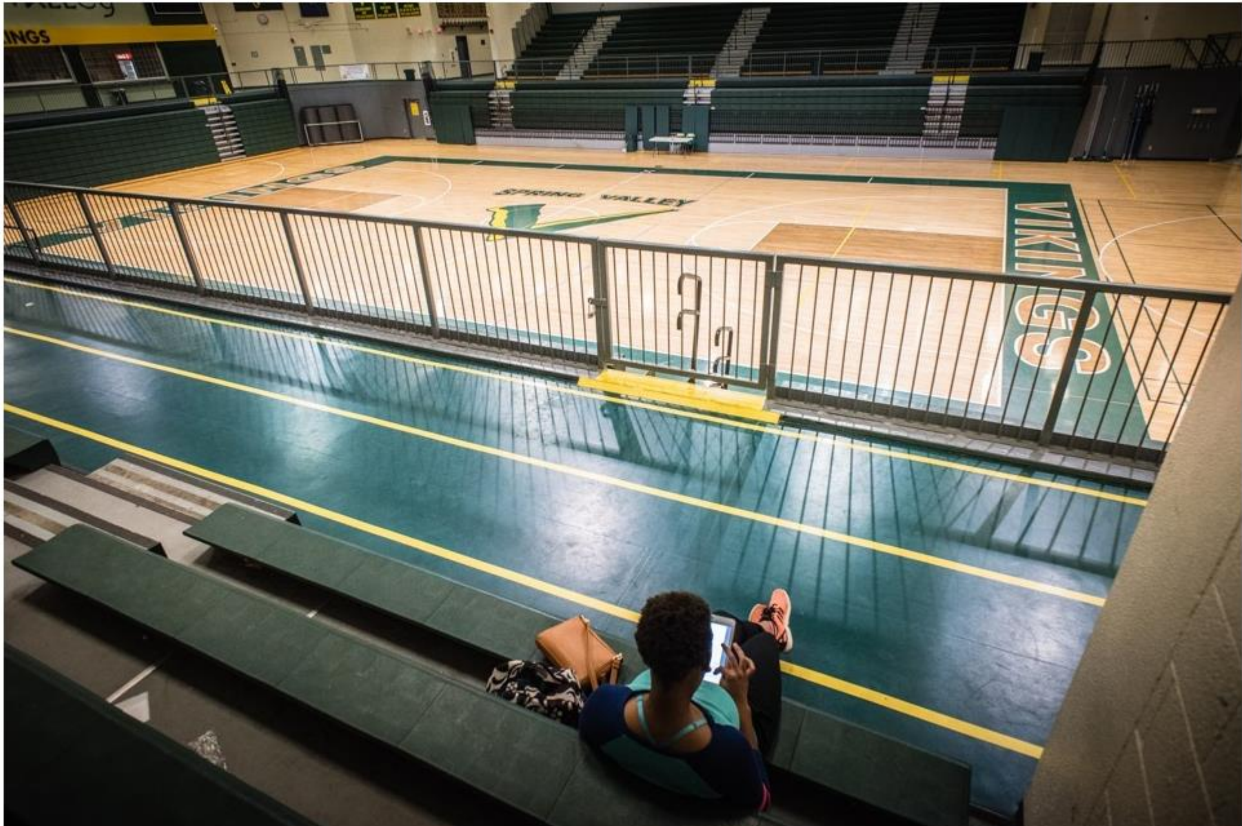
After a bond hearing, where she was told she would be let go until her court date, Kenny was sent back to the holding room to wait for release. With nothing else to do, she watched a TV mounted in the corner, which was playing the evening news on mute. That's when Kenny saw a video of her Algebra I classroom flash across the screen. "Did you see that?," Kenny shouted. "That's my classroom! That is why I am in here!" The other detainees looked over to watch. "Everybody was like, 'Are you serious? You don't need to be in here,' " she told me. "I was like, 'All right, I'm not going to get in trouble with my mom.' "

Shortly after 8 o'clock in the evening, about nine hours after her arrest, Kenny was released. Her mother, Doris Ballard-Kenny, hugged her in the parking lot. "I saw the video," Ballard-Kenny said. "I am proud of you." Standing outside the jail's barbed-wire fence, Kenny looked tired but resolute as she spoke to a TV reporter. "I had never seen nothing like that in my life, a man use that much force on a little girl," she said, shaking her head back and forth. "A big man, like 300 pounds of full muscle. It was like, no way, no way. You can't do nothing like that to a little girl."

That night, Kenny couldn't sleep. She had a crushing headache, the kind that comes from crying for too long. In the morning, she asked her mother to take the day off work to be with her. For the first time since elementary school, she was scared to be home by herself.

"Before this, I had a sense of pride for Spring Valley High School," Kenny's mother told me later. "It's one of the better schools in Columbia. A lot of the affluent kids go there." Spring Valley regularly makes *The Washington Post*'s list of America's "most challenging" high schools, based on the number of advanced tests taken by students. It is not a violent school or a destitute one. But in the course of a single day, it had unraveled some of the most important

lessons she had instilled in her daughter. “She has always been taught to speak up for people. If you see an injustice being done, help the person,” Ballard-Kenny said. “That’s what she was doing. And it’s almost like it’s making what I taught her obsolete.”



The gym at Spring Valley High School (André Chung)

Kenny’s arrest was not the first disciplinary controversy in her school district; in fact, a group of black parents had already created an association to help students who felt they’d been unfairly disciplined under the disturbing-school law and district policies. In the year leading up to the incident, the district had set up task forces on diversity and discipline, and hired a chief diversity officer to help address these concerns.

But the law-and-order culture remained powerful at Spring Valley—as it does across the state. Although Ben Fields was fired two days after the incident, he was not accused of committing any crime. Nor was the teacher or the administrator, both of whom kept their jobs (the administrator has since transferred to a school about an hour north of Spring Valley). None responded to requests for comment. In a survey of South Carolinians conducted by Public Policy Polling shortly after the videos went viral, almost half of the respondents said they opposed the decision to fire Fields. Only a third

supported the decision. About 100 Spring Valley students—some of them football players who had been coached by Fields—walked out of class in protest of his dismissal. No one was arrested. An email from the school-board chair, released to *The Atlantic* in response to a Freedom of Information Act request, shows that administrators knew about the protest in advance but felt that stopping it would have caused "more disruption of school" than allowing it.

"We were just upset," says Caleb, a black student who helped organize the walkout. (He requested that I use only his first name.) He acknowledged that Fields had used "definitely, probably, too much force—a little bit," but, he said, "we didn't think he deserved to be fired." Caleb did not know Kenny, but he had seen the video from the classroom, featuring her yelling "What the fuck?," and he had little sympathy for her. "I wouldn't have been surprised if someone had said, like, 'Man, this isn't right,' " he says. "But cursing, yelling, screaming like that definitely was not necessary." Like other students I met, Caleb seemed to expect more self-control from a teenage girl than from a sheriff's deputy.

As a society, our understanding of teenagers has not caught up to the science. In the past 15 years, neuroscientists have discovered that a teenager's brain is different in important ways from an adult's brain. It is more receptive to rewards than to punishment, and the parts that control impulses and judgment are still under construction. Which means that back talk and fake burps are predictable teenage acts—to be corrected, not prosecuted.

In September, almost a year after the arrests, the local solicitor, Dan Johnson, dropped the disturbing-school charge against the girl who had been thrown. The girl had indeed disturbed school, Johnson wrote in a 12-page explanation of his decision, but the case had been "compromised" by the firing of Fields—a punishment that might prejudice "prospective jurors" against the deputy's side of the story. (The fact that this girl was underage and therefore would have faced a judge, not a jury, went unmentioned.) He also noted that hospital X-rays taken after the arrest suggested that the girl's wrist had been fractured, but he declined to charge Fields, citing insufficient proof of a crime. (His report included a statement from Fields claiming that the girl had resisted arrest and punched him twice during the encounter, and that her desk had fallen over "because of the momentum that [her] movements had created.")

Johnson also dismissed the disturbing-school charge against Kenny. "There is simply not enough evidence to prove each and every element" of the alleged offense, he wrote. Kenny's attorney had expected such a dismissal, which

happens in about one-fifth of juvenile arrests in South Carolina. But damage had already been done. Regardless of GPA, race, or prior offenses, students who have been arrested are nearly twice as likely as their peers to drop out of high school, even if they never go to court, according to a 2006 study by the criminologist Gary Sweeten. “Just being arrested can have long-term consequences,” says Josh Gupta-Kagan, an assistant professor specializing in juvenile justice at the University of South Carolina School of Law. “Teenagers start to see the school as out to get them.”

“America generally loves crime and punishment—this idea that punishment somehow corrects behavior, that it teaches kids a lesson,” says Jenny Egan, the Maryland public defender. In reality, the more involvement kids have with the legal system, the worse their behavior gets. Kids who get arrested *and* appear in court are nearly four times as likely to drop out of high school, Gary Sweeten found. But most people in the chain of decision making—from the state lawmaker to the teacher to the principal to the school police officer to the prosecutor—do not realize how much damage their actions can do, Egan says: “I don’t think a majority of people in the system understand what it does to a child to put him in handcuffs and take him to court—at the very moment when he is trying to figure out who he is in the world.”

Kids facing disturbing-school charges in South Carolina are typically offered punishment outside the court system, such as community service. If they’ve already taken this option in the past—or if they’ve been convicted of other charges on top of disturbing school—they can be incarcerated or placed on probation, a layer of surveillance that boosts their chances of getting re-arrested for things as trivial as missing a day of school. In many juvenile cases, judges will make parents a party to the case, meaning that they are legally bound to report a child who comes home after a court-ordered curfew or violates any other probation condition.

Aleksandra Chauhan, a public defender in South Carolina, says that classroom arrests should not serve as ejection buttons for educators who run out of patience. (André Chung)

"It's so easy to get into the system and so hard to get out," says Aleksandra Chauhan, a public defender for juveniles in Columbia. The system clings to kids. Which is why advocates like Chauhan argue that arrests should be a last resort, the nuclear option reserved for truly dangerous cases, not ejection buttons pressed whenever adults run out of patience. "We criminalize juvenile behavior that is considered normal by psychologists," she says. "We are creating criminals. I really believe that."

THE UNEXPECTED STANDOUT in reforming disturbing-school laws is the state of Texas. Until recently, Texas had one of the worst records in the country on juvenile justice. Police were charging 275,000 kids a year with "disrupting class" and other low-level offenses. Nearly three in five students were suspended or expelled at least once between seventh and 12th grade, according to an in-depth analysis of nearly 1 million Texas students that came out in 2011. Over time, the Texas school system had become a quasi-authoritarian state, one that punished some kids far more than others.

When it came to clear-cut offenses, like using a weapon, African American students were no more likely than other students to get in trouble in Texas. But they were far more likely to be disciplined for *subjective* violations like disrupting class. Even after controlling for more than 80 variables, including family income, students' academic performance, and past disciplinary incidents, the report found that race was a reliable predictor of which kids got disciplined.

Then, five years ago, a juvenile-court judge invited Wallace B. Jefferson, the chief justice of the Texas Supreme Court, to spend a day observing her courtroom. Jefferson watched in silence as parents and children, most without lawyers, stutter-stumbled through formal legal rituals many of them did not seem to understand. He was startled not just by the power imbalance but by the fact that he hadn't known about it before.

The first African American on the state's Supreme Court, Jefferson had spent most of his career defending organizations and corporations, not children. He'd never realized how the legal system was funneling kids from schools to detention centers. "These are families in distress—very often uneducated parents trying to deal with troubled youth, many of whom have mental-health issues," he told me. "If it were my kid, I would be in that courtroom filing pleadings to dismiss. But many of the kids were from broken homes and very modest financial means." After his day in juvenile court, Jefferson met with Texas legislators to see what could be done. It turned out that many were as disgusted by the status quo as he was. They were tired of reading news stories about kids getting charged with disrupting class for spraying perfume or throwing paper airplanes. It was a waste of taxpayer dollars, not to mention embarrassing.

Students at schools with police officers were significantly more likely to be reported to law enforcement.

"I guess it made some people feel good, like they were tough," John Whitmire, a state senator who joined forces with Jefferson, told me. He had chaired the Texas legislature's criminal-justice committee for almost two decades, and no one would have called him soft on crime. "I'm as tough as anybody there is on adults and on juveniles who will cut your throat and hurt you violently," he said. "But the screwups, whether adult or juvenile, I believe we have better results if we work with 'em." Like other lawmakers I interviewed, Whitmire made a point of mentioning that he himself may have been charged with disrupting school if the law had been enforced during his own childhood.

It took a lot of "talk, talk, talk," as Whitmire put it, but lawmakers on the left and the right answered Jefferson's call. Among other changes, they reined in the state's law against disrupting class. Texas students could no longer be charged with this offense at their own schools. Nor could students younger than 12 be charged with any low-level misdemeanor at school. Before charging older kids, officers had to write up formal complaints with sworn statements from witnesses—and some schools were required to try common-sense interventions (like writing a letter to parents or referring the student to counseling) before resorting to a legal charge.

The reforms took effect on September 1, 2013, the beginning of a new school year. Two months later, David Slayton, the head of the Texas Office of Court Administration, checked the charging data for juveniles. "I was floored," he told me. "It had dropped like a rock." He asked his staff to send him the data each subsequent month to make sure the numbers weren't a fluke. They weren't. That year, the number of charges filed for minor offenses like disrupting class dropped 61 percent. Thanks to the reforms, some 40,000 charges were *not* filed against kids. And there was no evidence that school safety suffered as a result. The number of juvenile arrests for violent crimes, which had been declining before the reforms, continued to fall, as did the number of expulsions and other serious disciplinary actions in schools. "It's

been a remarkable achievement for our state," Slayton said. "The pendulum has swung back a little bit."

Over the years, South Carolina lawmakers have tried to do what Texas has done. After Kenny's arrest, several told me they were hopeful that reforms would finally happen, given all the bad press that the viral videos had brought to the state. Even Sheriff Lott, the official in charge of the officers in Kenny's district, has called for changes. "You could chew gum and be arrested, technically, for disturbing school," he told me. "There's too much discretion."

In April, a bill that would have eliminated the charge for students at their own school, like the one Texas had passed, came up for a subcommittee hearing in the South Carolina legislature. A solicitor and former teacher named Barry Barnette testified against the proposal. "There's kids that will not obey the rules. And you've got to have discretion for that officer," he said. "I wish it was a perfect world where the students were always well behaved and everything. It's not that way." A representative of the South Carolina Sheriffs' Association issued a statement arguing that the disturbing-school law should stay in place because without it, officers might be forced to charge students with more-serious offenses—like disorderly conduct or assault and battery.

This argument sounds sensible, but in fact both of those charges can carry less serious penalties under South Carolina code than the disturbing-school charge—a point that was not made at the hearing. Chauhan, the public defender in Columbia, testified in favor of the bill, as did an ACLU lawyer. In the end, it never made it past the subcommittee.

This year, lawmakers in Massachusetts and Virginia also tried to reform their disturbing-school laws. In each case, critics repeated the same essential objection: Police need to have this tool in their toolkit. It didn't seem to matter that police have access to hundreds of other tools, from disorderly conduct to disturbing the peace to a variety of other catchall charges.

In August, frustrated by a lack of action, ACLU lawyers filed a federal lawsuit against the state of South Carolina, alleging that the disturbing-school law is overly vague and violates due-process rights guaranteed under the Fourteenth Amendment. "The Disturbing Schools statute creates an impossible standard for school children to follow and for police to enforce with consistency and fairness," the complaint said. The lead plaintiff is Niya Kenny.

WHEN I LAST SAW KENNY, in March, over dinner at a Red Lobster near Spring Valley High School, she was wearing oversize glasses, a knit cardigan, and

purple Puma sneakers. Her mother sat next to her, wearing an #EveryBlackGirl T-shirt. Kenny ordered raspberry lemonade and seafood pasta, apologizing for how tired she was. She hadn't slept the night before. A childhood friend had been robbed and shot to death a few days earlier, and she'd come directly from the funeral.

After dropping out of high school, Kenny had started taking classes four days a week at a continuing-education center for adults. Getting a GED had seemed like the fastest way to move on with her life. Still, she was aware that she was missing out. "I should be prom-dress shopping," she told me. "Paying my senior fees to get my cap and gown." Instead, she was spending most of her time outside of her GED classes working at a fast-food restaurant a mile from the high school. Every week or two, a stranger would recognize her: "Are you the girl from the news?" Sometimes, depending on her mood, she'd say, "No, that's not me."

Kenny said she was thinking about joining the military. Her arrest record should be expunged under South Carolina law, now that the charges have been dropped, but she will still have to disclose the arrest before she can enlist.

This is not the first time someone in her family has been accused of disturbing school, as it turns out. In 1968, the year South Carolina enacted the expanded disturbing-school law, Kenny's great-great-granduncle, the Reverend H. H. Singleton II, sent his children to a white school for the first time. Someone burned a cross on his lawn and another outside the church where he preached. Twenty years later, Singleton was fired from his job as a middle-school teacher, accused of causing a "disruption"—through his involvement in the local NAACP chapter, he had supported a group of black high-school football players who were protesting a coach's decision to bench a black quarterback. It took two years, but a court eventually ruled that he'd been wrongfully terminated, and he returned to school. Now Kenny and her mother are hoping the ACLU lawsuit will interrupt this pattern. "I'm looking at it long-term," Kenny's mother said. "Ten years from now, when kids are reading their South Carolina history, they will read the name Niya Kenny."

Protesters at the Columbia courthouse ask for disturbing-school charges to be dropped against Kenny and the girl who was thrown. (Jeffrey Collins / AP)

When I asked Kenny what else lawmakers should do to fix the system, besides changing the law, she answered without hesitation. Take police officers out of schools, she said, and replace them with counselors. It sounds sensible, particularly in schools, like Spring Valley, that have relatively few violent incidents. Starting this school year, the U.S. Department of Justice, which helps fund the officers in Richland County schools, is requiring more outside oversight and training to ensure that they are not involved in enforcing classroom discipline in the future—the result of an audit that began before Kenny's arrest. (The department is also conducting a civil-rights review of what happened at Spring Valley.) But the idea of removing officers altogether is not being considered in her district or across most of the country.

Once police are invited into the schoolhouse, they're rarely asked to leave. Debbie Hamm, the superintendent of Kenny's district, is quick to note that Spring Valley is a "very orderly school." But she would not recommend removing the officers: "The safety and security—and the feeling of safety and security—in our schools is really, really important."

Sheriff Lott says he has never considered removing the officers from any Richland County schools. “That one incident doesn’t define our program,” he told me. “Every day, we have 87 school resource officers who are doing a great job. Our focus is not on how many kids we arrest but on how many problems we prevent.” Last school year, according to the sheriff’s department, deputies “successfully resolved” 6,251 conflicts. Lieutenant Curtis Wilson, a spokesperson for the department, told me that a successful resolution includes a range of outcomes, from counseling students to arresting them. “Let’s say you have a victim,” says Wilson, “and we are able to successfully identify the [perpetrator] and remove him from the school. Now school can continue. So that is a successful resolution.”

In September, Kenny moved to New York City for an internship at the African American Policy Forum, a think tank. After moving her into a Brooklyn apartment, she and her mother went to a nearby Chipotle. Kenny, social as always, chatted easily with one of the employees. The woman suggested that Kenny come work there for extra spending money, and they set up an interview for the next day. “They didn’t even know who she was,” Kenny’s mother told me happily.