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Project Proposal: ACLU Women's Rights Project Protecting Girls of Color in Schools

Part I – Challenging Criminalization of Girls of Color in Schools in South Carolina

Young girls of color face a number of barriers to education compared to their white counterparts. One of those barriers is the increased criminalization of minor school misconduct. The “disturbing schools” statute in South Carolina, a law that has been on the books since 1962, broadly prohibits any interference or disturbance of students or teachers, and acting in an “obnoxious manner.” The law was recently used to handcuff and arrest a black female high school student for using her phone in class. A video of the incident surfaced, showing the student violently thrown to the ground by a white male officer. The vagueness of the statute leads to subjective enforcement by the predominantly white, male officers, who may be motivated by implicit biases based on race and sex.

There has been much focus and media attention on the treatment of black male youth by police officers, an important and disturbing disparity, but many of these conversations and research ignore the violence similarly inflicted on young black girls. According to the Department of Education statistics for 2011-2012, black boys were suspended at three times the rate of white boys, while black girls were suspended at six times the rate of white girls. Black women are also much more likely to be incarcerated and be victims of police violence than white women.

In this part of the project, I will work in conjunction with the Women's Rights Project and the Racial Justice Project at the ACLU to litigate this issue in South Carolina. I would collect data on the disparate use of the statute against youth of color and research possible legal theories to challenge the disturbing schools statute. These arguments will likely center on the statute's vagueness, which has led to subjective and discriminatory enforcement.

Part II – Including Girls of Color in Educational Opportunities and Programming

Some steps have been taken to address the educational barriers facing youth of color, but many of these programs are leaving girls out of the picture. Two years ago, in response to the verdict in Trayvon Martin's case, President Obama launched My Brother's Keeper (MBK), a task force designed to address the educational barriers facing youth of color. While the task force relied on data demonstrating the disparities in access for all youth of color, the emphasis and implementation have been focused on young boys. As many have pointed out, including intersectional scholar and critical race theorist Kimberle Crenshaw, MBK ignores the similar disparities faced by young girls of color in education and the criminal justice system compared to white girls.

As Crenshaw highlights in her report, *Black Girls Matter*, public policy debates often fail to address the risks faced by young girls of color in schools. Data indicate that the racial disparity in education is just as great as, and by some measures even larger than, the racial disparity among boys. Girls of color also face additional barriers such as increased risk of sexual assault, greater familial obligations, and risk of pregnancy, all of which take a toll on their ability to access education. The goal of this project is to use civil rights law and sex discrimination jurisprudence to implement Crenshaw's aims, which call for equitable funding, research, advocacy and programming for girls of color in education.

There has been a growing trend to address the educational barriers for young boys of color through single-sex education. The Empowering Males of Color program in Washington, D.C. is one example. The program plans to open an all-male college prep high school in the D.C. public school system in the fall of 2016. Its mission is to promote practices that will empower male youth of color, though the high school will be open to boys of all races, likely in anticipation of violation of various federal and local anti-discrimination laws.

The goal of my project is to use civil rights law as a tool for including underprivileged girls in the programs currently aimed only at assisting boys, in recognition of the disparities and barriers to access for all youth of color. I will conduct the legal research and analysis of sex-segregation in the D.C. public school system, and elsewhere in the country. I would research the possible claims to be made under the equal protection clause of the fourteenth amendment, under Title IX of the education amendments, and the relevant D.C. anti-discrimination statutes.

The next aspect of this project would be to obtain and examine the data on which Empowering Males of Color in DCPS relied in establishing this school. Data indicates that young girls of color face similar disparities compared to white girls as boys of color do to white boys. The aim of this research would be to show DCPS has ignored the data about young girls of color and the data does not support single-sex education geared only at boys. Based on these findings, the WRP may proceed to litigate against the DCPS for sex discrimination. This project may also involve research about the possible benefits and harms of sex-segregated education. Many scholars contend that sex-segregated learning environments serve to reinforce harmful sex stereotypes, and a single-sex model is not needed to combat the distinct barriers facing all youth of color in public school systems.

The goal of this project is to achieve access and inclusion for girls of color to educational programming and schooling that will prepare them for success. The efforts to fund and advocate for remedying racial disparities in education is imperative, but girls of color are being left out of these programmatic interventions.

Funding and Timeline:

I plan on applying to two-year fellowships like the Skadden and Equal Justice Works, and one-year fellowships such as the Harvard Public Service Venture Fund. Harvard supports roughly 20 students per year through PSVF. Harvard students are also eligible to apply for fellowships with the Yale Initiative for Public Interest Law and the Berkeley Law Foundation. I plan to adjust the project scope and timeline accordingly based on the funding received.