

From: USDOJ-Office of Public Affairs (SMO) (JMD) [<mailto:USDOJ-Office.of.Public.Affairs@usdoj.gov>]
Sent: Tuesday, November 29, 2016 3:56 PM
To: USDOJ-Office of Public Affairs (SMO) (JMD) <USDOJ-Office.of.Public.Affairs@usdoj.gov>
Subject: DEPARTMENT OF JUSTICE FILES STATEMENT OF INTEREST IN SOUTH CAROLINA STATEWIDE SCHOOL-TO-PRISON PIPELINE CASE

Note: The SOI is attached as a PDF file.



Department of Justice

FOR IMMEDIATE RELEASE
TUESDAY, NOVEMBER 29, 2016
WWW.JUSTICE.GOV

(202) 514-2007
TTY (866) 544-5309

DEPARTMENT OF JUSTICE FILES STATEMENT OF INTEREST IN SOUTH CAROLINA STATEWIDE SCHOOL-TO-PRISON PIPELINE CASE

WASHINGTON – The Justice Department filed a statement of interest late yesterday in the case of *Kenny et al. v. Wilson et al.* articulating the United States’ position that laws invoked to charge juveniles must include clear standards to ensure that they are enforced consistently and free from discrimination. In the filing, the department explains that vague statutes enforced arbitrarily contribute to the “school-to-prison pipeline,” the cycle of harsh school discipline that brings young people into the justice system and disproportionately affects, among others, students of color and students with disabilities.

In *Kenny*, a case before the U.S. District Court for the District of South Carolina, a proposed class of students and a non-profit youth services organization allege that two state laws – the disturbing schools statute and the disorderly conduct statute – are unconstitutionally vague. As a consequence, plaintiffs assert, the laws do not provide students with notice of what conduct is criminally prohibited and they lead to arbitrary and discriminatory enforcement.

“The criminalization of everyday and ordinary childhood behavior under imprecise statutes can have disastrous and discriminatory consequences,” said Principal Deputy Assistant Attorney General Vanita Gupta, head of the Civil Rights Division. “Laws must provide officers with sufficient guidance to distinguish between innocent and delinquent conduct and ensure that all children receive the full protections of our Constitution. We must remain vigilant to ensure law enforcement practices do not unnecessarily remove children from the classroom and place them in a pipeline to prison.”

In the filing, the department explains that “significant racial disparities in the enforcement of a criminal statute may indicate that the statute is unconstitutionally vague” in violation of the due process clause of the 14th Amendment. Laws that lack clear standards and

do not provide sufficient guidance to law enforcement can lead to arbitrary or discriminatory enforcement. In *Kenny*, the plaintiffs allege that African-American students are nearly four times more likely to be referred for criminal “disturbing schools” charges than white students and that the disparity is even starker in certain counties. Plaintiffs further allege that such racial disparities in the school context are not explained by differences in behavior across racial groups.

In *Kenny*, the plaintiffs also allege that enforcement of the two state statutes drives large numbers of young people into the juvenile and criminal justice systems, criminalizes common youthful behavior, likely results in disparities on the basis of disability and subjects students to punishment that is not proportionate to the charged misconduct.

The department’s statement of interest also provides examples from the department’s juvenile justice and law enforcement experience to illustrate the link between vague standards and unconstitutional practices. The brief represents one of the department’s many efforts in recent years to address the school-to-prison pipeline.

Kenny et al. v. Wilson et al. was filed in August 2016. The court will hold a hearing on all pending motions on Dec. 8, 2016.

#

16-1392

DO NOT REPLY TO THIS MESSAGE. IF YOU HAVE QUESTIONS, PLEASE USE THE CONTACTS IN THE MESSAGE OR CALL THE OFFICE OF PUBLIC AFFAIRS AT 202-514-2007.