

**PROTECTING CHILDHOOD:  
A BLUEPRINT FOR  
DEVELOPMENTALLY  
APPROPRIATE SCHOOL  
POLICING IN VIRGINIA**

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JustChildren Program

 **LEGAL AID  
JUSTICE CENTER**

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## JUSTCHILDREN PROGRAM OF THE LEGAL AID JUSTICE CENTER

The JustChildren Program is Virginia's largest children's law program. The Program relies on a range of strategies to ensure that the Commonwealth's most vulnerable young people receive the services and supports they need to lead successful lives in their communities. From our Charlottesville, Richmond, Petersburg, and Falls Church offices, we:

- Provide free legal advice and representation to low-income children who have unmet needs in the education, foster care, and juvenile justice systems;
- Conduct trainings and produce educational materials for students, parents, service providers, lawyers, and others to help them become more informed and skilled advocates;
- Provide consultations and technical assistance for grassroots organizations, service providers, and attorneys;
- Build coalitions and participate in other collaborative efforts; and
- Advocate for public policies and systemic reforms that keep children in school and living successfully in their communities.

JustChildren is a program of the Legal Aid Justice Center (LAJC), a 501(c)(3) nonprofit organization. LAJC's mission is to serve those in our communities who have the least access to legal resources.

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# CONTENTS

Executive Summary	3
A Note about Suspension & Expulsion	6
Historical & National Context	8
Problems	10
Recommendations	22
Appendix A: National Guidance	49
Appendix B: Other Notable Examples of State and Local Laws and Policies	56
Appendix C: Model Memorandum of Understanding	59
Appendix D: Model Forms	76
Endnotes	86

## EXECUTIVE SUMMARY

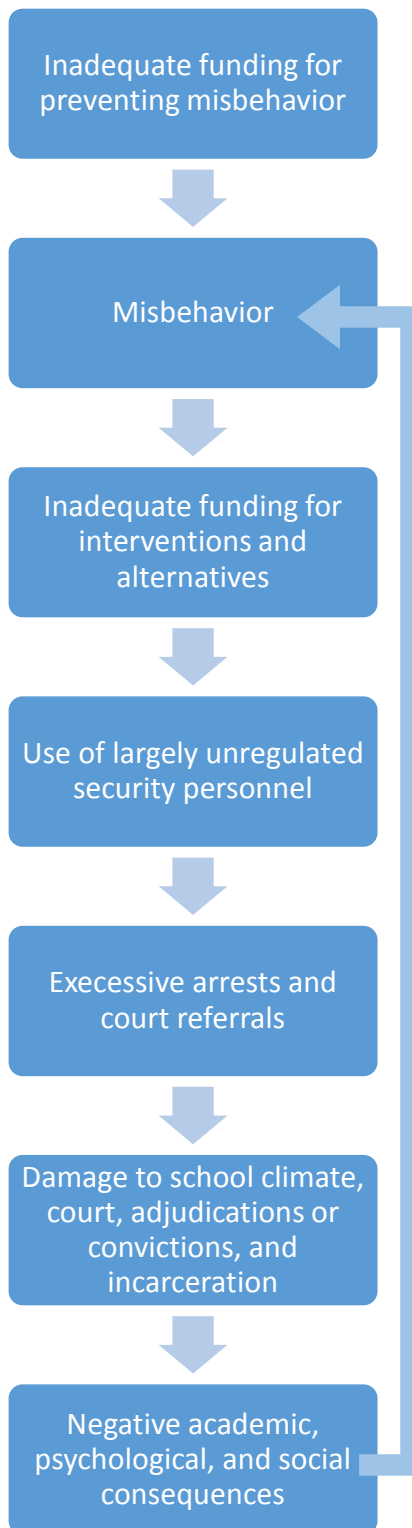
School security personnel are increasingly commonplace in Virginia's public schools. There are two types. School resource officers (SROs) are certified law enforcement officers who are typically employed by local law enforcement agencies and assigned to provide coverage to public schools.<sup>3</sup> School security officers (SSOs) are individuals employed by school divisions to maintain order and discipline in their assigned schools.<sup>4</sup> To date, little analysis of school policing in the Commonwealth exists. This report aims to change that.

The pages that follow describe the problems with school policing in Virginia and then provide recommendations for reforms. The appendices include tools for lawmakers and policymakers, such as a model memorandum of understanding (MOU) that school divisions and law enforcement agencies can use to incorporate best practices. The goals of this report are two-fold: 1) to stress the acute need for reform and create a more nuanced understanding of specific problems related to school policing; and 2) to advance proven reforms.

### Problems

Laws, policies, and practices related to school policing in Virginia are problematic for a variety of reasons. First, SROs and SSOs cost taxpayers tens of millions of dollars every year, notwithstanding little evidence that they improve school safety. Meanwhile, public schools, especially those in low-wealth communities,<sup>5</sup> do not have the resources they need to adequately prevent student misbehavior and provide positive and productive interventions when misbehavior occurs.<sup>6</sup>

Additionally, SROs are not required to have any specialized training, and neither SROs nor SSOs are required to have experience working with youth. Moreover, their roles and responsibilities are blurry and vary from school-to-school and division-to-division. Finally, no state agency collects and publishes data about school-based searches, interrogations, uses of force, arrests, or court referrals.<sup>7</sup>



These omissions and design flaws, combined with the under-funding of public schools, have been a recipe for disaster. Virginia leads the nation in the rate of school-based referrals to law enforcement.<sup>8</sup> African American students and students with disabilities are disproportionately referred.<sup>9</sup> A referral to law enforcement alone may negatively impact students and school climate.

Students are also being funneled from the school system to the already over-burdened justice system, often for typical adolescent misbehavior, such as “disorderly conduct” and truancy, which should be handled by school officials. Merely having to go to court may cause a student to feel alienated and stigmatized. Court involvement exacerbates a student’s risk of dropping out. Students who are adjudicated delinquent or criminally convicted may face incarceration or other out-of-home placements, the financial hardship of court costs, school exclusion, and a plethora of potentially lifelong collateral consequences that may negatively impact opportunities related to post-secondary education, employment, civic participation, and housing. Ultimately, criminalizing student behavior makes schools less safe and damages communities.

### *Recommendations*

The recommendations in this report are based upon guidance from researchers, government agencies, lawmakers and policymakers, judges, civil rights and education justice organizations, and others.<sup>10</sup> Most of the recommendations are focused on changes on the state level that will expeditiously usher in positive changes and create more consistency across divisions, thereby minimizing unfair geographic disparities. For example, the Virginia General Assembly should:

- Provide adequate resources for localities to implement proven and developmentally appropriate strategies for improving school climate, preventing student misbehavior, and productively intervening when misbehavior occurs;
- Clarify that SROs are responsible for enforcing criminal laws and intervening in serious threats to physical safety, not for routine school discipline issues or enforcing codes of student conduct;
- Require comprehensive, on-going training for SROs and SSOs;
- Remove misdemeanors and non-crimes from the list of school-based acts that must be reported to law enforcement;
- Eliminate school-based “disorderly conduct” charges against students;
- End the mandatory participation of Commonwealth’s Attorneys in truancy cases; and
- Require MOUs between school divisions and law enforcement agencies providing SROs.

Also on the state level, the Virginia Department of Education (VDOE), in collaboration with the Virginia Department of Criminal Justice Services (DCJS), should:

- Annually collect and make publicly available disaggregated data on school-based referrals to law enforcement, arrests, and delinquency and criminal complaints;

- Revise its regulations to include school policing data in accreditation standards and school performance report cards; and
- Issue a comprehensive model MOU.

Finally, local school divisions and law enforcement agencies should adopt the reforms described in this report, regardless of whether they are mandated by the state. For example, localities can and should adopt, in time for the start of the 2016-17 school year, an MOU that clarifies the roles of security personnel, requires comprehensive training for SROs, prohibits arrests and complaints for minor misbehavior, increases stakeholder involvement, expands data collection and publication, and incorporates other improvements described in this report.

### *Caveats*

This report comes with three important caveats. First, it is not an indictment of law enforcement officers or school security personnel. As is the case in any profession, there are individuals who act responsibly and effectively, and there are others who need improvement. Some officers build positive relationships with and serve as valuable resources for students and staff, respect the authority of educators and the educational mission of schools, help create a feeling of physical and emotional safety, and only use force, arrests, and court referrals as very last resorts. Others do not. The changes described herein will help ensure that all officers are like the best officers.

As a second caveat, schools are not islands unto themselves and do not exist in a vacuum. Schools and law enforcement officers should not and cannot be solely responsible for student behavior and school safety. Parents, communities, and other systems serving young people (*e.g.*, child welfare, mental health, juvenile justice, etc.) share in the obligation.

Third, none of the recommendations in this report are silver bullets. School security is a complex issue that requires delicate balancing. How can lawmakers and policymakers *both* promote school safety *and* positive school climate; *both* provide protections for students *and* not tie the hands of security personnel; *both* ensure meaningful consequences for misbehavior *and* no unnecessary court involvement; *both* provide statewide consistency *and* allow for local flexibility? The recommendations in this report contemplate these competing concerns and are designed to strike an appropriate balance. If adopted, they will help ensure that school policing laws, policies, and practices are fair to students and consistent with both positive youth development and school culture, all while still allowing security personnel to carry out their purposes more effectively. They will also improve school safety and academic achievement, and if adopted comprehensively, they will make Virginia a national leader and model for keeping students in classrooms and out of courtrooms.

## A NOTE ABOUT SUSPENSION & EXPULSION

Suspension and expulsion, although beyond the scope of this report, are key contributors to pushing students out of classrooms and on a path to courtrooms. Suspended and expelled students lose the protective factors and positive socialization of schooling, and instead, are at an increased risk of psychological and emotional problems, academic failure, school dropout, substance abuse, and gang involvement. Consequently, they are more likely to engage in delinquent and criminal activity, and become court-involved.<sup>11</sup>

A study conducted by the Public Policy Research Institute and the Justice Center of the Council of State Governments, tracked nearly a million Texas middle school students for six years. The researchers concluded:

When a student was suspended or expelled, his or her likelihood of being involved in the juvenile justice system the subsequent year increased significantly ... When controlling for campus and individual student characteristics, the data revealed that a student who was suspended or expelled for a discretionary violation was nearly three times as likely to be in contact with the juvenile justice system the following year.<sup>12</sup>

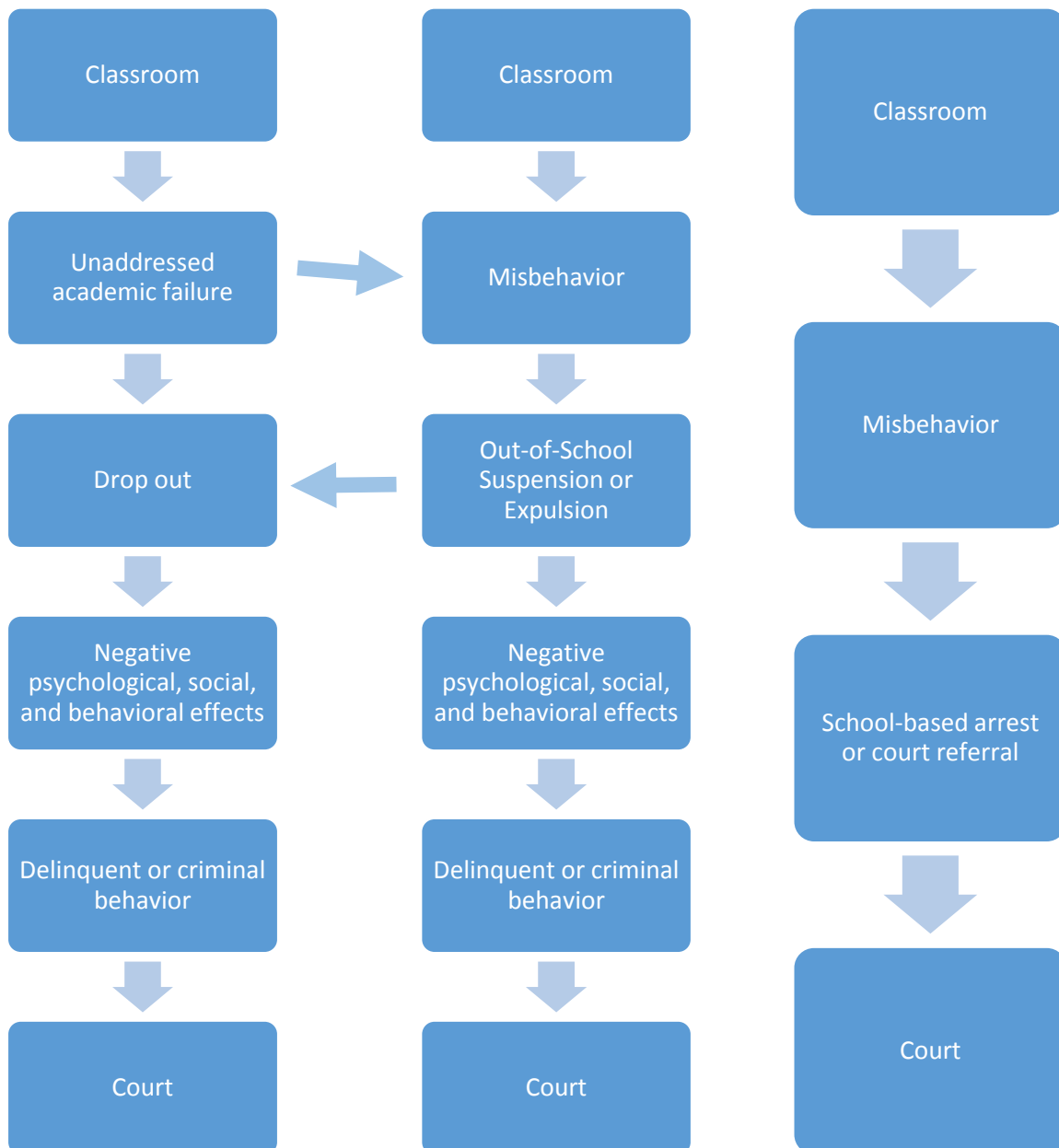
Nevertheless, last school year, Virginia's public schools short-term suspended (*i.e.*, excluded for one to 10 school days) nearly 70,000 students and long-term suspended (*i.e.*, excluded for up to 364 calendar days) approximately 3,000 students.<sup>13</sup> Worse yet, suspensions are typically for relatively minor offenses. During 2013-14, over 70% of all out-of-school suspensions were for defiance/insubordination, disruption, minor physical altercations, obscene/inappropriate language/gestures, disrespect, or cell phones.<sup>14</sup> Finally, African American students and students with disabilities are bearing the brunt of school pushout. African American students and students with disabilities were 23% and 12% of the total student population, but received 58% and 28% of suspensions and expulsions, respectively.<sup>15</sup>

Lawmakers and policymakers must address excessive suspensions and expulsions in Virginia, in addition to school policing issues, in order to prevent any student from unnecessarily being out of the classroom and in the courtroom. Many of the recommendations in this report would decrease not only school-based arrests and court referrals, but also suspensions and expulsions. Lawmakers and policymakers should also adopt additional proven methods of reducing suspensions, such as codes of student conduct that tier offenses by grade level and severity, prohibit out-of-school suspensions for first-time minor offenses, require the use of non-exclusionary interventions and alternatives, mandate consideration of mitigating factors, and narrowly tailor the lengths of long-term suspensions. A comprehensive approach would also

"Research indicates that excessive use of exclusionary discipline has a negative impact on the learning environment, student achievement, graduation rates, and rates of juvenile crime and delinquency." – Steven Staples, Va. Superintendent of Pub. Instruction, Memo #277-15

include implicit bias training for school staff, improved alternative education, and incorporating suspension and expulsion data into school and division report cards and accreditation standards.

## Pathways from the Classroom to the Courtroom





## HISTORICAL & NATIONAL CONTEXT

**Over the past two decades**, on the heels of expanding “tough on crime” policies, widespread fears about “juvenile superpredators,” and high profile school shootings, “zero tolerance” policies and the presence of security personnel in schools increased dramatically.<sup>16</sup> In 1997, fewer than 10,000 law enforcement officers – called school resource officers (SROs) – patrolled public schools full-time. Recent estimates place the current number of SROs at 17,000 to 20,000.<sup>17</sup> In the wake of unanticipated negative consequences flowing from these policies and practices, an increasing number of states and localities have begun to rethink the highly punitive school discipline laws, policies, and practices, including school policing, that became so pervasive.<sup>18</sup>

**Emerging research** suggests that the presence of law enforcement officers in schools increases the number of students – disproportionately students of color and students with disabilities – who are funneled into the justice system for minor, adolescent behaviors that would be more appropriately and efficiently handled as “teachable moments” by educators. Young people who are court-involved, adjudicated or convicted, and incarcerated are stigmatized, marginalized, and significantly more likely to experience academic failure and mental health problems. They are also more likely to have additional contact with the justice system. Unnecessary school-based arrests and court referrals also weigh heavily on an already overburdened justice system. Moreover, unregulated and overly aggressive school security practices pollute the educational environment by creating an atmosphere of suspicion, hostility, and fear. Finally, as state and local governments struggle to generate adequate revenue and public education systems experience budget cuts and resource starvation, lawmakers and policymakers have begun to question the wisdom of spending valuable tax dollars on unproven school security practices.

"Tough on crime" policies



Fear of "juvenile superpredators"



Zero tolerance and school policing expansion



Rethinking reactionary, harsh school discipline

“Our schools must be a pathway to opportunity, not a pipeline to prison.”  
– Arne Duncan, U.S. Sec’y of Educ., Press Release, 10/30/15

**School policing reforms are underway** across the country. School districts and law enforcement agencies have entered into memorandums of understanding designed to advance mutual principles and goals, clarify the roles of SROs, improve communication and consistency, and minimize potential negative effects of school policing. They have also formed agreements to divert students who commit minor offenses toward positive, rehabilitative alternatives and away from the justice system.

**National reform efforts** aimed at reversing the criminalization of students and schools are also underway. In January 2014, the U.S. Departments of Education and Justice jointly released a “School Discipline Guidance Package” clarifying that schools are responsible for ensuring non-

“For many young people, our schools are increasingly a gateway to the criminal justice system.” – U.S. Sen. Dick Durbin (D-IL), Press Release, 12/12/12

discriminatory school discipline by SROs and detailing best practices in school policing.<sup>19</sup> The Departments have also developed other new school discipline resources,<sup>20</sup> held school discipline summits,<sup>21</sup> and increased enforcement of non-discrimination laws in cases involving school policing.<sup>22</sup> The Senate Judiciary Subcommittee on the Constitution, Civil Rights, and Human Rights held the first-ever hearing on ending the school-to-prison pipeline;<sup>23</sup> the Justice Center of the Council of State Governments has a “School Discipline Consensus Project;”<sup>24</sup> the

National Council of Juvenile and Family Court Judges has a “School Pathways to the Juvenile Justice System Project;”<sup>25</sup> academics, researchers, national experts, and foundations have come together to study and develop solutions to the school discipline crisis;<sup>26</sup> and advocacy organizations across the country are fighting for school discipline reform.<sup>27</sup>

**Virginia** more fully began to join the nationwide movement for school discipline reform after the Center for Public Integrity (CPI) released a report, in April 2015, exposing the Commonwealth as first in the nation with regard to the rate of school-based referrals of students to law enforcement.<sup>28</sup> In May 2015, Governor Terry McAuliffe asked his Children’s Cabinet<sup>29</sup> to recommend policy changes in response to the CPI report.<sup>30</sup> More recently, and just days after the infamous incident in South Carolina in which an SRO attacked a student, Governor McAuliffe announced the initiation of a “Classrooms not Courtrooms” initiative, which will focus on reducing suspensions and expulsions, school-based referrals to law enforcement and courts, and race and disability disparities.<sup>31</sup>

“Virginia schools in a single year referred students to law enforcement agencies at a rate nearly three times the national rate ... In Virginia, some of the individual schools with highest rates of referral — in one case 228 per 1,000 — were middle schools, whose students are usually from 11 to 14 years old.” – The Center for Public Integrity, 4/10/15

## PROBLEMS

### PROBLEM 1: RESOURCE STARVATION

Virginia public schools – especially in low-wealth communities – do not have all of the resources they need to adequately prevent misbehavior and productively intervene when misbehavior occurs.<sup>32</sup> In 2012, Virginia ranked 34<sup>th</sup> among the 50 states in total per pupil educational expenditures adjusted for regional cost differences, and was about \$2,000 per pupil below the national average.<sup>33</sup> According to the Joint Legislative Audit and Review Commission (JLARC), the auditing arm of the General Assembly, Virginia school systems spent \$10,148 per student in 2014, a 12.5% decline from the \$11,595 that schools spent per student in 2009, after adjusting for inflation.<sup>34</sup> In 2013-14, Virginia’s public schools had four and a half guidance counselors and librarians, combined, for every 1,000 students.<sup>35</sup> A November 2015 report from The Commonwealth Institute shows that:

“With education resources being cut nationwide, many educators are so caught up in trying to do more with less, and many are not aware that when they remove a student from the classroom, they may be unknowingly feeding the school-to-prison pipeline. We’ve got to make more educators aware and we’ve got to give them better tools and skills.” – Kevin Gilbert, Nat’l Educ. Ass’n Executive Comm., *NEA Today*, 1/5/15

Taking into account growing student enrollment, Virginia’s schools are missing over 11,000 positions, including 4,200 teachers. Also missing from Virginia’s schools are an additional 1,500 instructional staff, who should be assisting teachers in the classroom and helping students outside of it, and 5,500 support staff, who should be keeping the schools safe and running, getting students to and from class, and caring for student’s physical and behavioral health.<sup>36</sup>

The impacts of such resource starvation are acutely problematic for two reasons. First, child poverty is increasing and widespread, and it is more expensive for schools to meet the needs of students living in poverty. From 2001 to 2013, the rates of children living in poverty and in low-income households in Virginia increased from 11% to 16% and from 29% to 35%, respectively.<sup>37</sup> See Figure 1. As child poverty increased, direct state aid per student, adjusted for inflation, decreased by 14.5% from 2009 to 2016.<sup>38</sup>

Second, Virginia’s school divisions are inequitably funded. School divisions in wealthier cities and counties generally have significantly higher local contributions to total per pupil expenditures (PPE).<sup>39</sup> This additional funding can dwarf any small state and federal supplements high poverty localities receive. For example, see Figures 2 and 3 for a comparison of Arlington County Public Schools and Norfolk Public Schools.

As schools struggle to maintain reasonable class sizes, sufficient instructional resources, and adequate supports for students and teachers,<sup>40</sup> teachers and administrators are less able to prevent misbehavior and more likely to rely on school security personnel to manage behavior. In many schools with staffing shortages, security personnel are viewed as an “extra body” to be used as needed, rather than as someone to intervene only in serious safety matters.

Figure 1: Rate of child poverty in Virginia (2001 to 2013)

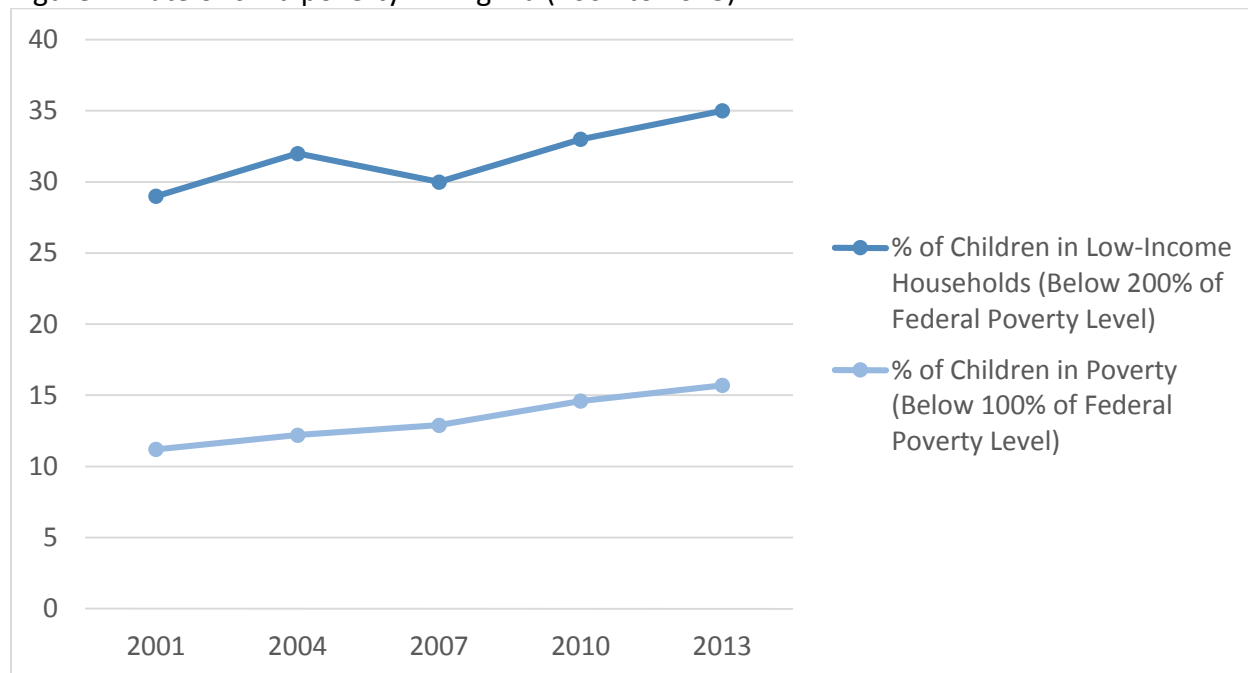


Figure 2: Per pupil expenditure (2013-14)<sup>41</sup>

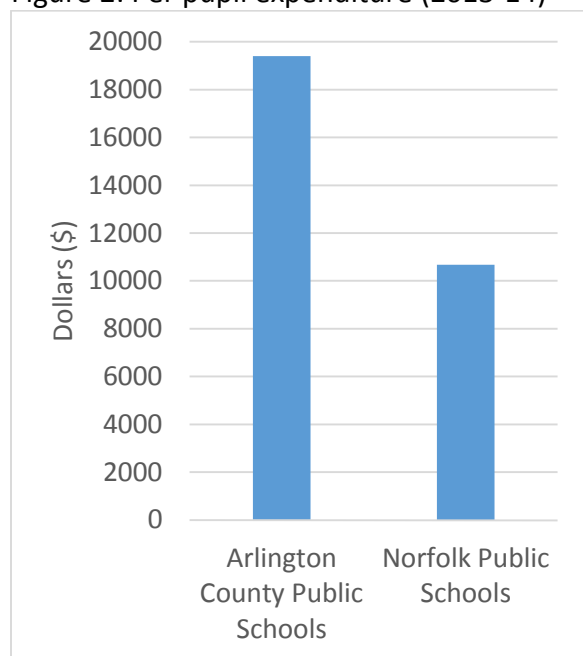
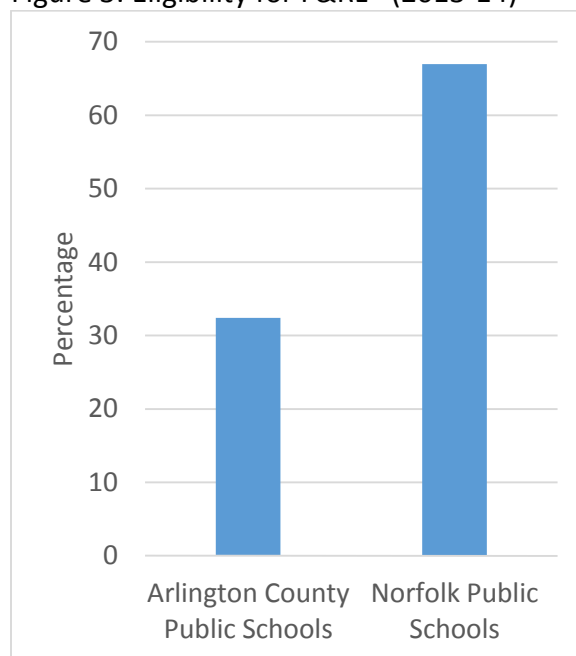


Figure 3: Eligibility for F&RL\* (2013-14)<sup>42</sup>



\* F&RL = free and reduced-price lunch

## PROBLEM 2: QUESTIONABLE RETURN ON INVESTMENT

In light of the funding crisis in public education, localities would be well-served to use their limited resources wisely. Nevertheless, tens of millions of local and state taxpayer dollars are being used every year to station security personnel in Virginia's public schools, even though little is known about their effectiveness in improving school safety or their harm to students, staff, and learning environments.

There are two common types of security personnel patrolling Virginia's public schools: school resource officers and school security officers. Additionally, in a survey about safety practices in all Virginia schools during the 2013-14 school year, 44 schools reported having "other" types of security personnel – presumably private security officers –<sup>43</sup> working full-time.<sup>44</sup>

"Despite their popularity, few studies are available which have reliably evaluated the effectiveness of SROs ... Most existing SRO research does not tell us if these hoped-for benefits are achieved." – U.S. Dept. of Justice, *Assigning Police Officers to Schools*, Apr. 2010, p. 7

### School Resource Officers

School resource officers (SROs) are defined in state law as "certified law-enforcement officer[s] hired by the local law-enforcement agency to provide law-enforcement and security services to Virginia public elementary and secondary schools."<sup>45</sup> SROs are employed by local sheriffs' departments or police departments.<sup>46</sup> Most SROs serve one school,<sup>47</sup> and most high schools and middle schools have SRO coverage.<sup>48</sup>

The number of SRO positions in Virginia has approximately doubled over the last 15 years. In 2000, there were 427 SRO positions in Virginia.<sup>49</sup> Then, in 2004, there were 530 SRO positions.<sup>50</sup> A 2013 fiscal impact statement from the Virginia Department of Planning and Budget (DPB) noted that 935 schools had either a part-time or full-time SRO. In responses to a survey of all schools for the 2013-14 school year, 630 schools reported having a full-time SRO.<sup>51</sup>

SROs come with a steep price tag. According to the DPB, "the estimated first year cost of a new full-time SRO is \$128,000, including salary, benefits, operating costs, and equipment (e.g., weapons, uniforms, radios, and vehicles). The second year and ongoing costs will be an estimated \$69,000 per position. In addition, the cost to train each new participant is estimated at \$225." Therefore, the average cost of a new SRO for the first five years is \$404,225. In 2013,

"[A] police officer's regular presence at a school significantly increases the odds that school officials will refer students to law enforcement for various offenses, including seemingly minor offenses. This finding has serious implications as lawmakers and school officials continue to deliberate over whether to use their limited resource to hire more law enforcement officers to patrol school grounds." – Dr. Jason Nance, Univ. of Florida, *Students, Police, and the School-to-Prison Pipeline*

the DPB estimated that adding 1,046 full-time SROs in Virginia would cost taxpayers \$133,900,000 for the first year alone, with an ongoing annual cost of \$72,200,000.<sup>52</sup>

Among the full-time SRO positions at the 630 schools in 2013-14:

- 50% were funded by a law enforcement agency;
  - 10% were funded by a school division;
  - 24% were funded by a combination of a law enforcement agency and school division; and
  - 2% were funded by other sources.<sup>53</sup>
- \* 15% of respondents did not know the source of funding for SROs.

Every year, local and state government spend tens of millions of dollars on SROs even though there has never been a comprehensive, methodologically sound study of SROs in the Commonwealth.<sup>54</sup> Moreover, national research about SROs is limited and conflicting, and much of it lacks methodological rigor.<sup>55</sup> Some existing research suggests that SROs:<sup>56</sup>

- Increase the likelihood of students being arrested and referred to the justice system, especially for lower level offenses;<sup>57</sup>
- Contribute to racial disparities in school discipline;<sup>58</sup>
- Do not reduce crime rates in schools;<sup>59</sup> and
- Increase misbehavior and disorder by disrupting the learning environment, producing alienation and mistrust among students, creating adversarial relationships, and undermining the legitimacy of school staff.<sup>60</sup>

Additionally, stories from across the country of students being injured and traumatized by excessive force appear with increasing frequency.<sup>61</sup> In fact, individuals, organizations, and media outlets across the country are calling into questions the presence of SROs in the first place.<sup>62</sup>

On the other hand, some studies suggest that SROs can have a positive impacts, including reducing more serious school violence;<sup>63</sup> making the majority of students and parents feel safer;<sup>64</sup> and increasing orderliness and crime reporting.<sup>65</sup> However, as one study from the U.S. Department of Justice notes, “Typically, studies that report positive results from SRO programs rely on participants’ perceptions of the effectiveness of the program rather than on objective

“School Resource Officers: Safety Priority or Part of the Problem?” – *U.S. News & World Report*, 1/30/15

“Do Cops in Schools Do More Harm Than Good?” – *Time*, 10/29/15

“Police in Schools: Keeping Kids Safe, or Arresting Them for No Good Reason?” – *The Washington Post*, 11/8/15

“Police in Schools: Why Are They There?” – *CNN*, 10/30/15

“What Happens When Police Become School Disciplinarians?” – *PBS NewsHour*, 10/28/15

“Why Are Police Disciplining Students?” – *The Atlantic*, 10/29/15

“Debate on Armed Police in Schools: Needed for Kid Safety or Part of the Student-to-Prison Pipeline?” – *Democracy Now*, 1/16/13

evidence.”<sup>66</sup> The DCJS has similarly concluded: “Most studies examining the effectiveness of SROs in schools are based on perceptions of SRO effectiveness, rather than on actual measures of crime and violence at schools.”<sup>67</sup>

“SROs in and of themselves do not create a safe environment.”  
– New MOU in Henrico County

### *School Security Officers*

School security officers (SSOs) are defined by state law as individuals who are:

employed by the local school board for the singular purpose of maintaining order and discipline, preventing crime, investigating violations of school board policies, and detaining students violating the law or school board policies on school property or at school-sponsored events and who is responsible solely for ensuring the safety, security, and welfare of all students, faculty, staff, and visitors in the assigned school.<sup>68</sup>

During the 2013-14 school year, about 17% of schools had at least one full-time SSO. This percentage has remained relatively steady over the past seven school years, with a high of 19% in 2007-08,<sup>69</sup> and a low of 15% in 2012-13.<sup>70</sup> Some schools have two or even three SSOs.<sup>71</sup> In 2007, the DCJS estimated that there were 1,100 SSOs across the Commonwealth.<sup>72</sup>

SSOs are employed and funded solely by local school divisions.<sup>73</sup> Their pay varies greatly – from approximately \$11/hour to \$30/hour – based on their school division and level of experience. For example:

- In Hampton City Public Schools, SSOs are paid \$11.22 to \$17.85 per hour.<sup>74</sup>
- In Newport News Public Schools, SSOs are paid \$12.16 to \$21.22 per hour.<sup>75</sup> (The division has 63 SSOs, in addition to SROs at each secondary school.<sup>76</sup>)
- In Chesterfield County Public Schools, SSOs are paid \$13.19 to \$22.52 per hour.<sup>77</sup>
- In Culpeper County Public Schools, SSOs are paid \$14.03 to \$23.28 per hour.<sup>78</sup>
- In Fairfax County Public Schools, SSOs are paid \$17.56 to \$30.99 per hour.<sup>79</sup>
- In Arlington Public Schools, SSOs are paid \$18.79 to \$30.44 per hour.<sup>80</sup>

SSOs are often paid more per hour than bus drivers, custodians, cafeteria workers, registrars, office assistants, and general education instructional assistants.

There has never been a study on the effectiveness or impact of SSOs in Virginia. The closest attempt at studying the effectiveness occurred in 2001, after the General Assembly requested that the Virginia State Crime Commission examine the role, responsibilities, training, and authority of SSOs and “school safety specialists.” The Commission’s report provided an overview of SSOs and made five recommendations, but no conclusions about effectiveness.<sup>81</sup>



### PROBLEM 3: INADEQUATE QUALIFICATIONS

The *only* statewide requirement to become an SRO is being a certified law enforcement officer.

To become an SSO in Virginia, one must:

- Undergo a criminal background check;
- Possess a high school diploma, GED, or equivalent;
- Be at least 21 years of age;
- Possess a valid driver's license, if required by the job;
- Be certified through the Virginia DCJS SSO Certificate Program;<sup>82</sup> and
- Be hired by the local school board.<sup>83</sup>

To “have any hope in succeeding ... it has to be the right officer that’s placed in this position” – Maurice Canady, Exec. Dir., Nat. Ass’n of SROs, *U.S. News & World Report*, 1/30/15

In a study of SROs in 16 Massachusetts school districts, researchers found that, in the opinion of police chiefs, the “ability to work well with children” was a critical consideration in selecting SROs.<sup>84</sup> In Virginia, unless mandated by local policies, neither SROs nor SSOs *must* have *any* prior experience working with children and youth.

### PROBLEM 4: UNCLEAR ROLES & RESPONSIBILITIES

According to the DCJS, SROs’ duties are supposed to, but are not required to, include:

- Law enforcement officer – *e.g.*, investigating, documenting, and reporting crimes, and attending court sessions;
- Law-related educator – *e.g.*, providing in-service training for school staff and conducting parent presentations and programs;
- Community liaison – *e.g.*, establishing collaborative relationships with parents and community resources; and
- Role model – *e.g.*, being approachable for students who have issues and concerns.<sup>85</sup>

“If you have police on your campus, you need to be clear what it is you’re asking them to do.” – Catherine Lhamon, U.S. Asst. Sec’y of Educ. for Civ. Rights, The Center for Public Integrity, 4/10/15

The state statute that codifies the DCJS SROs Grants Program and Fund states that SROs “shall be employed to help ensure safety, to prevent truancy and violence in schools, and *to enforce school board rules and codes of student conduct*.”<sup>86</sup> The mandate to enforce school rules conflicts with recommendations from the National Association of School Resource Officers (NASRO) and the U.S. Departments of Education and Justice, which both recommend that SROs *not* be involved in enforcing school rules.



According to the DCJS, typical SSO tasks include:

- Patrolling school buildings and grounds to ensure compliance with school rules and regulations;
- Greeting visitors to ensure compliance with established visitor procedures;
- Reporting any out-of-the-ordinary incidents or conditions;
- Reporting school conduct violations and crimes in accordance with school policies and state laws;
- Taking authorized action to protect persons and property; and
- Participating in school safety and crisis response planning and action.<sup>87</sup>

There are no state statutes or regulations that require or prohibit any activities by SROs, except that by definition, they provide “law-enforcement and security services.”<sup>88</sup> Unless prohibited by local policies, SROs are allowed, by omission, to intervene in minor, non-criminal violations of school rules, such as arresting elementary school students for disorderly conduct. Moreover, unless required by local policies, SROs do not have to be a law-related educator, community liaison, or role model.<sup>89</sup>

Likewise, the only statewide parameters for SSOs are implicitly established in the statutory definition of SSOs, which requires them to maintain order and discipline, prevent crime, investigate violations of school board policies, detain students violating the law or school board policies, and generally ensure the safety, security, and welfare of individuals on school property.<sup>90</sup> Thus, there are no consistent limitations on when SSOs may refer students to court, disrupt learning, or detain students for minor violations of school board policies, such as possessing a cell phone or interrupting class.<sup>91</sup>

## PROBLEM 5: INADEQUATE TRAINING

There are no statewide training requirements for SROs, except for positions funded by the “Virginia SRO Incentive Grants Fund.” Grant-funded SROs must complete DCJS-approved SRO Basic Training within the first four months of the grant cycle.<sup>92</sup>

In order to become an SSO, one must be certified through the DCJS Certificate Program.<sup>93</sup> The compulsory minimum training consists of a 32-hour course developed and approved by the DCJS. The training includes the role and responsibility of SSOs, relevant state and federal laws, school and personal liability issues, security awareness in the school environment, mediation and conflict resolution, disaster and emergency response, and student behavioral dynamics.<sup>94</sup> SSO certification is valid for two years.

Within those two years, SSOs are required to receive 16 hours of school security-related training

“You’d better have some additional training for [SROs], and you’d better make sure it’s the right person, or you’re going to wind up potentially giving your department a black eye.” – Maurice Canady, Exec. Dir., NASRO, *The Atlantic*, 11/5/15

and have their point of contact submit a recertification application and accompanying documentation to the DCJS.<sup>95</sup>

Since summer 2015, the DCJS has begun offering an expanded curriculum for SROs and SSOs that includes the following topics over four days:<sup>96</sup>

- Hot Topics and Recent Legislation
- Role of School Administrators, the Emergency Manager, and Other School Leaders in School Safety
- Role of SROs and SSOs in School Safety
- School Safety Audit Components
- Addressing Bullying in Schools
- Crisis Planning
- Suicide Prevention
- How the Teen Brain Works
- Recognizing & Responding Effectively to Youth with Mental Health Issues and Traumatized Youth
- Asserting Authority Effectively with Teens
- Search and Seizure
- Community Demographics & Implications for Officers (Risk & Predictive Factors)
- Cultural Factors Affecting Teens' Behaviors
- Juvenile Justice for Law Enforcement
- School Safety Trends (Gangs, Human Trafficking, Drugs, etc.)
- Connecting Youth to Youth-Serving Community-Based Programs
- Effective Strategies for School-Based Policing
- Legal Issues in Schools
- Suspicious Activity and Behavior Reporting
- Cultural Awareness

## PROBLEM 6: EXCESSIVE REFERRALS TO LAW ENFORCEMENT

State law requires principals to immediately report to local enforcement over 40 acts if they occur on school property or at a school-sponsored activity.<sup>97</sup> School and law enforcement personnel report that this requirement is incredibly burdensome, undercuts the exercise of their professional judgment in handling minor offenses, and can be distracting from the work of maintaining safety and order in the schools.

“Virginia parents send their children to school to learn, not to end up in the juvenile justice system.” – Brian Coy, Gov. Terry McAuliffe’s spokesman, *The Center for Public Integrity*, 5/14/15

Additionally, school personnel have unlimited discretion to refer students to law enforcement for all other offenses. Consequently, law enforcement officers are frequently called upon to discipline students. Referral to law enforcement is defined by the U.S. Department of Education’s Civil Rights Data Collection (CRDC) as “an action by which a student is reported to any law enforcement agency or official, including a school police unit, for an incident that occurs on school grounds, during school-related events, or while taking school transportation, regardless of whether official action is taken.”<sup>98</sup> According to the most recent CRDC data

“When I was in high school in the ’90s, if you got in a fight, you got suspended, your parent got called in, you had to spend time talking to the counselor. Now, you’re facing assault charges.” – Donald Coleman, Chair, Richmond School Board, *Richmond Times-Dispatch*, 4/10/15

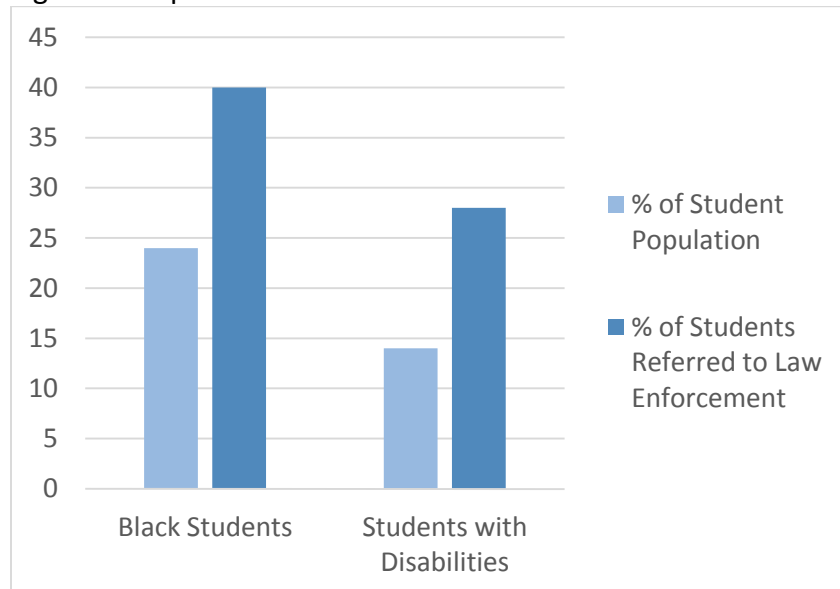
(2011-12), 17,863 Virginia public school students were referred to law enforcement, giving the Commonwealth the highest rate of school-based referrals to law enforcement in the nation.<sup>99</sup> Fortunately, according to JoAnn Burkholder, the Director of Student Services in the VDOE, reported that school-based referrals to law enforcement declined to 13,134 in 2012-13 and 11,576 in 2013-14.<sup>100</sup>



## PROBLEM 7: RACE & DISABILITY DISPARITIES

African American students and students with disabilities are disproportionately referred to law enforcement in Virginia. In 2011-12, African American students were 24% of the total population, but 40% of students referred to law enforcement. Students with disabilities were 14% of the total population, but 28% of students referred to law enforcement.<sup>101</sup> Studies have consistently provided no evidence that African American students are engaging in more frequent or more severe misbehavior that could warrant such disparities.<sup>102</sup> See Figure 4.

Figure 4: Disparities in school-based referrals to law enforcement



“The disproportionate use of school discipline on African-Americans and students with disabilities is totally unacceptable here in Virginia ... We cannot have our schools viewed as hostile environments where children are branded as criminals.” – Gov. Terry McAuliffe, *The Roanoke Times*, 10/30/15

“The law enforcement referrals are clearly excessive, and the gaps, the disproportionate impact on minorities and special needs students with disabilities is unacceptable.” – Anne Holton, Va. Sec’y of Educ., *The Center for Public Integrity*, 10/14/15

## PROBLEM 8: UNNECESSARY SCHOOL-BASED ARRESTS & COURT REFERRALS

Unless restricted by local policy, SROs and school staff, including SSOs, have unlimited discretion to file complaints for all delinquent acts, no matter how minor, irrespective of the student's age, and regardless of mitigating factors. This unbridled power results in school-based court referrals for minor offenses. For example:

- From September 2014 to January 2015 in Henrico County, 38% of school-based complaints were for “disorderly conduct.” Notably, African American students were 37% of the division’s population, but were subjected to 77% of school-based complaints.
- In 2013-14 in Richmond City, 22% of school-based complaints were for “disorderly conduct.”
- In 2013-14 in Chesterfield County, 14% of school-based complaints were for “disorderly conduct.” Notably, African American students were 26% of the division’s population, but were subjected to 54% of school-based complaints; and 117 complaints were filed against students age 12 and younger.<sup>103</sup>

“Schools cannot divest themselves of responsibility for the nondiscriminatory administration of school safety measures and student discipline by relying on school resource officers ... security guards or other ... law enforcement personnel.”  
– U.S. Departments of Education and Justice, *Dear Colleague Letter*, 1/8/14

Court-involvement is often unnecessary and harmful for youth, their families, their communities, and the Commonwealth. First, students often face excessive dual punishment – they are suspended from school *and* sent to court for the same underlying offense. Additionally, students who become court-involved often must miss school to attend meetings with probation officers and court dates. They also face a risk of destructive potential legal consequences, including:<sup>104</sup>

- Financial hardship from court costs;<sup>105</sup>
- Out-of-home placement (*e.g.*, detention center or juvenile prison);<sup>106</sup>
- Enhanced punishments in sentencing in adult circuit court;<sup>107</sup>
- Exclusion from school or reassignment to alternative education;<sup>108</sup>
- Negative impact on college admissions applications;<sup>109</sup>
- Restrictions on certain types of employment (*e.g.*, providing care to children, the elderly, or people with disabilities);<sup>110</sup>
- Ineligibility to become a foster or adoptive parent;<sup>111</sup>
- Ineligibility for public housing;<sup>112</sup>
- Family eviction from public housing;<sup>113</sup>

“Charging the kids ought to be the last thing we’re doing instead of the first or second.” – Tyrone Nelson, Vice-Chair, Henrico County Bd. of Supervisors, *Richmond Times-Dispatch*, 5/30/15

- Denial or loss of a driver's license;<sup>114</sup>
- Ineligibility to possess a firearm;<sup>115</sup>
- Registration as a sex offender;<sup>116</sup> and
- Public access to their records.<sup>117</sup>

Students who are incarcerated encounter additional possible harms. While in detention centers, correctional centers, jails, or prisons, they experience:



- Physical and emotional detachment and decreased societal, familial, and peer ties;
- Socialization with negative peer influences;
- Falling further behind educationally; and
- Risk of violence, abuse, and other forms of mistreatment.<sup>118</sup>

Upon release, they face increased risks of:

- Academic failure;
- Worsened mental health issues and risk of self-harm;
- Recidivism;
- Economic strain and psychological duress on family members; and
- Reduced success in the labor market and increased financial hardship.<sup>119</sup>

“Once you’re in the system, the likelihood you’re going to stay in that system is great.”  
 – Brian Moran, Va.  
 Sec. of Pub. Safety,  
 The Center for Public  
 Integrity, 10/14/15

## PROBLEM 9: LACK OF DATA, ACCOUNTABILITY, & TRANSPARENCY

From accreditation ratings to report cards, students, teachers, schools, and divisions are constantly under a microscope. The VDOE collects and publishes data about enrollment, test scores, advanced program participation, promotion and retention, suspensions and expulsions, dropouts, graduation rates, staffing, funding, and a whole host of other areas.<sup>120</sup> The DCJS, which administers trainings for SROs and SSOs and houses the Virginia Center for School and Campus Safety,<sup>121</sup> collects and publishes data about crisis and emergency planning, threat assessments, bullying, gang activity, and other school safety metrics. Every year, the VDOE publishes a “Discipline, Crime, and Violence Annual Report,”<sup>122</sup> and the DCJS publishes its “School Safety Audit Survey Results.”<sup>123</sup> However, to date, neither the VDOE nor the DCJS, nor any other state entity, has published any data about school-based uses of force, arrests, or court referrals.<sup>124</sup> Few, if any, localities, publish such data either.

The primary problems with the absence of data are that schools, divisions, law enforcement agencies, the VDOE, and the DCJS cannot objectively identify: a) individuals who deserve praise, need more training and supervision, or who should be replaced; or b) policies and practices that need to be replicated, modified, eliminated, or replaced.

To make matters worse, students and parents typically are not:

- Involved in the formation of, or even Informed of, any policies or regulations related to SROs and SSOs;
- Involved in selecting or providing feedback about security personnel; or
- Provided a complaint or grievance process specific to SROs and SSOs.



Students and parents are, therefore, more likely to become confused and frustrated, officers are not always held accountable when necessary, and school divisions and law enforcement agencies do not benefit from the collective wisdom.

#### No Student and Parent Involvement

- Ignorance
- Miscommunication and confusion
- Frustration and animosity

**vs.**

#### Student and Parent Involvement

- Understanding
- Buy-in and support
- Collective wisdom

## RECOMMENDATIONS

### RECOMMENDATION 1: INVEST IN PREVENTION, INTERVENTIONS, & ALTERNATIVES

The General Assembly should provide adequate resources for localities to implement proven and developmentally appropriate strategies for improving school climate, preventing student misbehavior, and productively intervening when misbehavior occurs.

The General Assembly should allocate new, adequate, recurring funding to be used by divisions for proven and developmentally appropriate strategies for improving school climate, preventing student misbehavior, and productively intervening when misbehavior occurs. Examples of proven strategies – each of which is described below – that could be funded are multi-tiered system of support, systems of care, trauma-informed practices, social and emotional learning programming, staff training, and restorative justice.<sup>125</sup> The VDOE should also receive funding to:

- Administer the funds;
- Form a commission of experts to develop guidelines and provide technical assistance for school divisions; and
- Monitor and evaluate implementation.

“There has to be an alternative to sending kids to jail or juvenile detention centers. I think in law enforcement today, with all that's going on across the country, we have to change from being warriors to guardians.” – Alfred Durham, Richmond Police Chief, NBC12, 6/10/15

#### *Multi-Tiered System of Support*

Multi-tiered system of support (MTSS) is a framework that promotes school improvement through research-based academic and behavioral practices. To oversimplify, MTSS is a newer framework that combines two existing frameworks:<sup>126</sup> Response to Intervention (RTI)<sup>127</sup> and Positive Behavioral Interventions and Supports (PBIS).<sup>128</sup> RTI involves academic interventions, where PBIS involves behavioral interventions. MTSS typically involves three levels. See Figures 5 and 6. If implemented well, each level involves:

- A team-based approach (schools typically have a “leadership team,” which may also be the “child study team”);
- Staff professional development;
- Evidence-based strategies;
- Culturally relevant implementation;

“We’ve got to do a better job of helping young people deal with their issues before sending them into the criminal justice system.” – Donald Coleman, Richmond School Board Chair, *The Richmond Times-Dispatch*, 4/10/15



- Frequent and continuous progress monitoring; and
- Data-based decision-making (*i.e.*, using data to decide when to move students between tiers, what interventions to attempt, etc.).

Figure 5: MTSS tiers

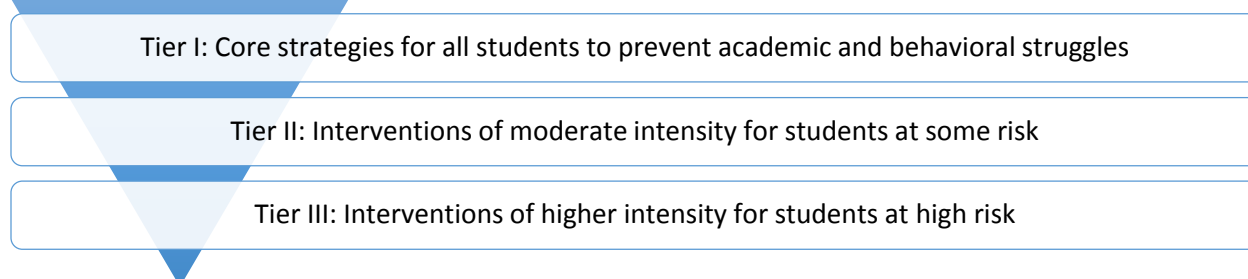


Figure 6: Examples of RTI and PBIS strategies

Tier	RTI Examples	PBIS Examples
I	<ul style="list-style-type: none"> <li>• High-quality core instruction</li> <li>• Universal screenings of students</li> </ul>	<ul style="list-style-type: none"> <li>• Defining core behavioral expectations, and communication and teaching what those behaviors look like in various school settings</li> <li>• Effectively designing the physical environment of the classroom</li> <li>• Acknowledging and rewarding appropriate behavior</li> <li>• Establishing a consistent continuum of consequences for inappropriate behavior</li> </ul>
II	<ul style="list-style-type: none"> <li>• More instructional time</li> <li>• Small group instruction</li> </ul>	<ul style="list-style-type: none"> <li>• Increased adult supervision</li> <li>• Increased instruction and practice with self-regulation and social skills</li> <li>• Increased antecedent manipulations</li> </ul>
III	<ul style="list-style-type: none"> <li>• Smaller group instruction</li> <li>• One-on-one assistance</li> </ul>	<ul style="list-style-type: none"> <li>• Functional behavioral assessments</li> <li>• Individualized plans of support</li> <li>• Wraparound supports that actively involves family and community supports and resources</li> </ul>

Research has shown that the PBIS framework is effective in reducing the need for disciplinary action, improving school climate, and improving students' academic, social, emotional, and behavioral health outcomes.<sup>129</sup>

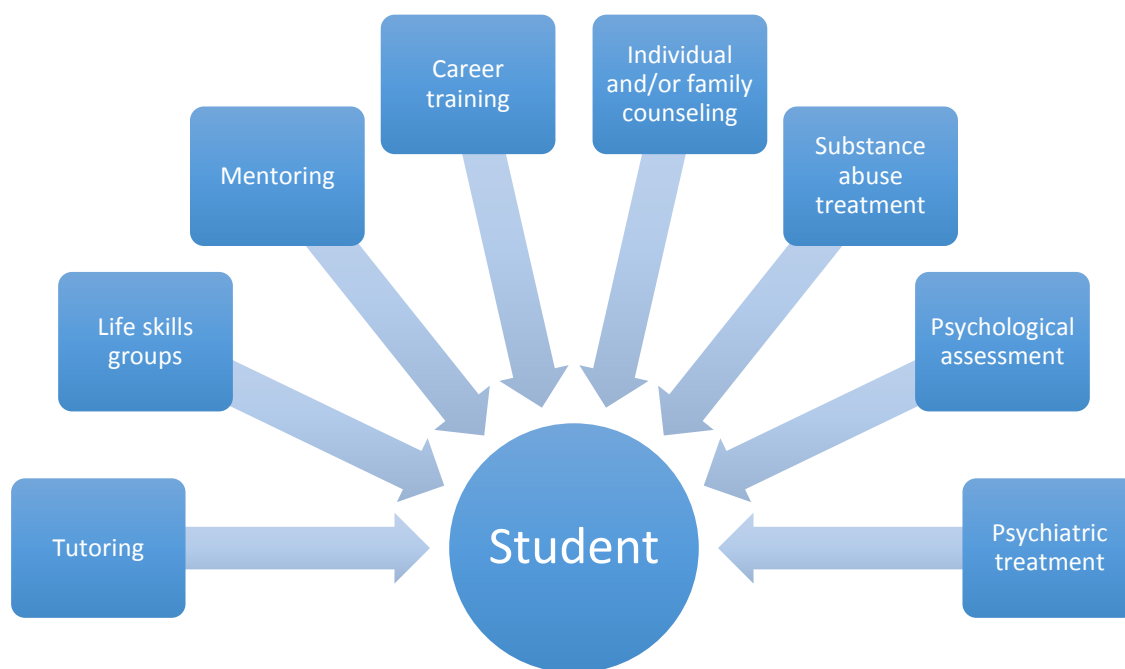
The VDOE's Division of Special Education and Student Services has a Virginia Tiered Systems of Support (VTSS) initiative.<sup>130</sup> It provides training, coaching, technical assistance, and resources to schools and divisions.<sup>131</sup> However, VTSS is not required and only implemented in a limited number of schools.<sup>132</sup>



## Systems of Care

A systems-of-care (SOC) approach focuses on providing students with greater access to comprehensive, coordinated services designed to address their behavioral health and related needs. See Figure 7. SOC often involves combining funding sources and local partnerships with nonprofit organizations, health professionals, private providers, and public agencies, including universities and colleges, health and substance abuse clinics, community foundations, and mental health, juvenile justice, and child welfare agencies. The partnership can be formed using an MOU, or the services can be part of a community school model (*i.e.*, a school that offers a comprehensive set of services). Regardless, when schools are partners in SOC, results include fewer arrests, sustained mental health improvements, reduced suicide-related behaviors, improved school attendance and achievement, and decreased placements in juvenile facilities.<sup>133</sup>

Figure 7: Types of services in SOC



## Trauma-Informed Schools

Trauma is a response to a negative external event or series of events that: a) is experienced by an individual as physically and emotionally harmful or threatening; and b) has lasting adverse effects on the individual's physical, social, or emotional well-being. See Figure 8. There are two types of trauma. Acute trauma results from a single, sudden, usually unexpected event, such as a rape, a bad car accident, a natural disaster, or loss of a loved one. Chronic trauma arises from long-standing, repeated events, such as sexual or physical abuse, witnessing intimate partner violence or community violence, living through war and displacement, or serious illness.<sup>134</sup> Research suggests that approximately 25% to 50% of U.S. children will experience at least one traumatic event by age 16.<sup>135</sup>

**Figure 9: Seven key elements of trauma-informed systems**

- 1) Screen routinely for trauma exposure and symptoms;
- 2) Implement culturally appropriate, evidence-based assessments and treatments for traumatic stress and symptoms;
- 3) Provide resources to children, families, and providers on trauma, its impact, and treatment options;
- 4) Build on the strengths of children and families impacted by trauma;
- 5) Address parent and caregiver trauma;
- 6) Collaborate across child-serving systems to coordinate care; and
- 7) Support staff by minimizing and treating secondary traumatic stress, which can lead to burnout.

Trauma-informed approaches represent a holistic method of shaping organizational culture, policies, and practices to be sensitive to the experiences and needs of traumatized individuals. See Figure 9.<sup>136</sup> Schools should be trauma-informed because:

- Many students experience trauma;
- The cognitive and psychological impacts of trauma impact students' learning and behavior at school;
- Punitively disciplining students may re-traumatize them and exacerbate the effects of trauma (See Figure 10);
- Trauma-informed schools reduce misbehavior, seclusions and restraints, suspensions, and expulsions;<sup>137</sup> and
- Trauma-informed schools improve school climate, academic achievement, safety, and staff job satisfaction.<sup>138</sup>

At the heart of trauma-informed schools is the belief that students' actions are a direct result of their experiences, and when students act out or disengage, the question that should be asked is not "what's wrong with you," but rather "what happened to you?" By being sensitive to students' past and current experiences with trauma, educators can break the cycle of trauma, prevent re-traumatization, and engage a child in learning and finding success.

Trauma-informed schools:

- Have a shared understanding and recognition among all staff of the potential effects of trauma on attendance, grades, test scores, classroom behavior, etc.;

**Figure 8: Possible effects of trauma**

- Acting out
- Aggression
- Anxiety
- Avoidance of people and places
- Confusion
- Depression
- Disorientation
- Distrustfulness
- Impaired short-term memory
- Moodiness/irritability
- Poor hygiene and appearance
- Substance abuse

Difficulty with:

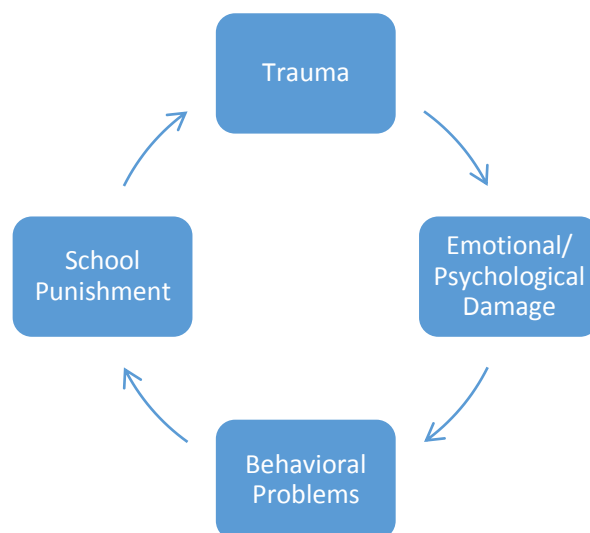
- Anticipating consequences
- Concentration
- Eating and sleeping
- Goal setting
- Impulse control
- Inter-personal relationships
- Organizing and planning
- Social cues

School:

- Absenteeism
- Decreased reading ability
- Academic failure
- Poor relationships with peers and staff
- Suspension and expulsion
- Dropping out

- Review policies (e.g., school discipline policies) to ensure that they reflect an understanding of the role of trauma in student behaviors;
- Consider students' trauma histories and needs in every aspect of service delivery;
- Provide relevant professional development for staff;
- Maintain consistent routines, expectations, and consequences for students;
- Model respectful, caring, nonviolent relationships for students;
- Identify students who are in need of help due to trauma;
- Help traumatized students regulate their emotions (e.g., social and emotional learning programming);
- Build close and positive relationships with students and their caretakers;
- Discover and build on students' individual interests and competencies;
- Provide mental health services for traumatized students;<sup>139</sup>
- Identify, develop relationships with, and utilize community supports and services; and
- Encourage and facilitate student participation in positive extracurricular activities.<sup>140</sup>

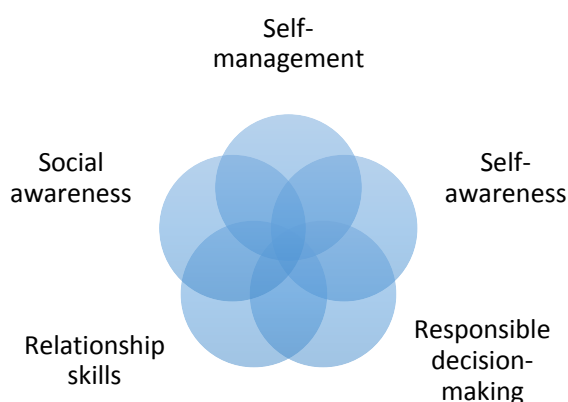
Figure 10: Cycle of trauma in school discipline



### Social and Emotional Learning Programming

Social and emotional learning (SEL) is the process through which children and adults acquire and effectively apply the knowledge, attitudes, and skills necessary to understand and manage emotions, set and achieve positive goals, feel and show empathy for others, establish and maintain positive relationships, and make responsible decisions.<sup>141</sup> See Figure 11.<sup>142</sup> SEL programs are designed to create learning environments that meet the developmental needs of students, including feelings of belonging, safety, and community, and thus provide ideal conditions for success across the domains of their lives – academics, relationships, personal, and later in the workforce.<sup>143</sup> The social and emotional education of children may be provided through a variety of diverse efforts, including as classroom instruction (i.e., directly teaching skills), extracurricular activities, implementing specific instructional and classroom-management practices, and involvement in community service.<sup>144</sup> Character education, Responsive Classroom,

Figure 11: Five interrelated sets of cognitive, affective, and behavioral competencies

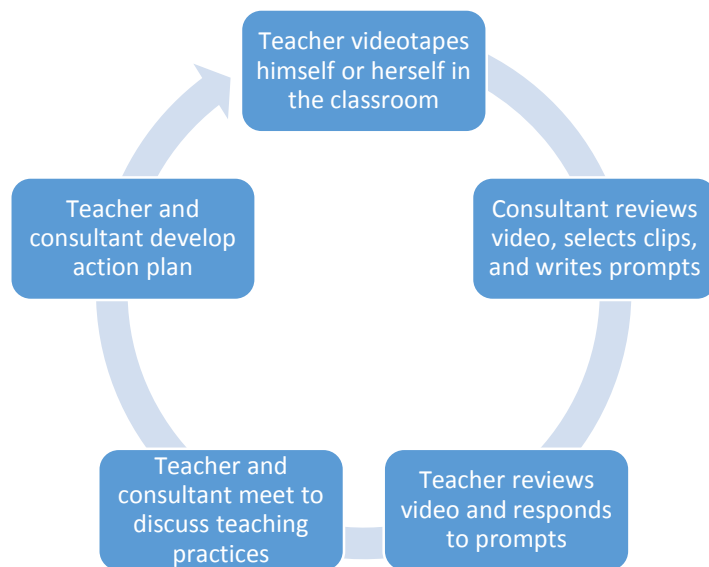


and Promoting Alternative THinking Strategies (PATHS) are common examples of approaches that involve SEL.<sup>145</sup> SEL programming has been shown to improve school climate and attendance, and reduce negative behavioral incidents.<sup>146</sup>

### *Training: My Teaching Partner*

Offering supportive relationships to students and effective teacher-student interactions are essential to preventing misbehavior.<sup>147</sup> My Teaching Partner (MTP) is a system of professional development supports designed to improve teacher-student interactions and student engagement.<sup>148</sup> MTP provides online resources and activities, coaching, and video feedback for teachers.<sup>149</sup> See Figure 12.<sup>150</sup> MTP can increase student achievement and reduce the frequency of misbehavior and racial disparities.<sup>151</sup>

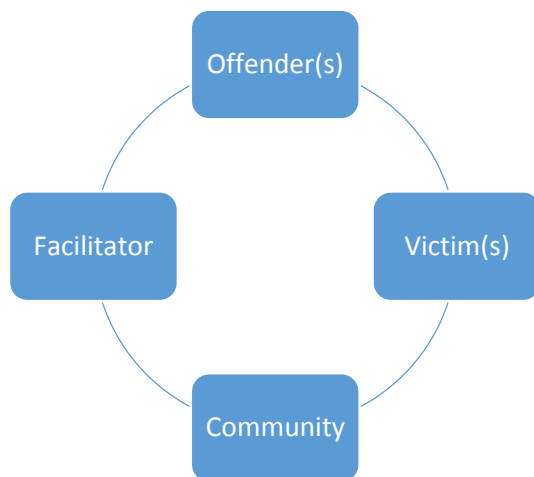
Figure 12: MTP Process



### *Restorative Justice*

Broadly, restorative justice (RJ) is a philosophy, culture, and set of values. In the school discipline context, the U.S. Department of Education defines RJ practices as, “non-punitive disciplinary responses that focus on repairing harm done to relationships and people, developing solutions by engaging all persons affected by a harm, and accountability.” The RJ process generally involves the offender, victim, community (e.g., staff, family, and other students), and a facilitator, all of whom are sitting in a circle. See Figure 13. It proceeds in two steps: (1) a non-adversarial, facilitated dialogue about the harms and needs of participants; and then (2) the development of a plan for how everyone involved will contribute to repairing the harm done, preventing future harm, and restoring relationships.

Figure 13: RJ Process Participants



Examples of RJ processes include community conferencing, class meetings, peer juries, peer mediation, and circle processes. Examples of RJ outcomes are apologies, restitution, and community service. RJ processes can be used for non-disciplinary reasons, such as for a teacher

to introduce lesson plans, for a student to discuss a struggle she is having (e.g., worrying about an ill relative, witnessing violence, or facing peer pressure), or for discussing current events or controversial issues.

RJ has been used successfully in elementary, middle, and high schools across the country,<sup>152</sup> including in Baltimore,<sup>153</sup> Chicago,<sup>154</sup> Cleveland, Denver,<sup>155</sup> Madison, Minneapolis,<sup>156</sup> New Orleans, New York,<sup>157</sup> Oakland,<sup>158</sup> Palm Beach, Philadelphia,<sup>159</sup> Portland, San Francisco,<sup>160</sup> districts across Texas,<sup>161</sup> Fairfax County (Virginia),<sup>162</sup> and Loudoun County (Virginia).<sup>163</sup>

Using restorative practices, Loudoun County Public Schools reduced its rates of suspension and referrals to law enforcement by about 40% over three years. - *Leesburg Today*, 5/14/15

Figure 14: Restorative justice versus traditional school discipline (e.g., suspensions and court referrals)

	Traditional Discipline	Restorative Justice
<b>Focuses &amp; Goals</b>	<ul style="list-style-type: none"> <li>• Retribution and punishment for the offender</li> <li>• Enforce rules</li> <li>• Address offender</li> <li>• React swiftly</li> </ul>	<ul style="list-style-type: none"> <li>• Addressing harms, healing, learning, and growth for all involved</li> <li>• Building relationships and community</li> <li>• Prevention and meaningful process</li> </ul>
<b>Questions</b>	<ul style="list-style-type: none"> <li>• What rule was broken?</li> <li>• Who broke the rule?</li> <li>• What punishment is warranted?</li> </ul>	<ul style="list-style-type: none"> <li>• Who was harmed and what harm was done?</li> <li>• What are the needs and responsibilities of all affected?</li> <li>• How do all affected parties address needs and repair harms?</li> </ul>
<b>Results</b>	<ul style="list-style-type: none"> <li>• Exclusion and isolation</li> <li>• Stigmatization and alienation</li> <li>• Offender accepts punishment</li> <li>• Mental health problems for offender</li> <li>• Victim not heard/has less satisfaction</li> <li>• High recidivism</li> <li>• Lower attendance and graduation rates</li> <li>• Disparities</li> <li>• Damage to school climate</li> </ul>	<ul style="list-style-type: none"> <li>• Inclusion and connectedness</li> <li>• Repaired, restored, and strengthened relationships</li> <li>• Offender takes responsibility</li> <li>• Social and emotional learning for all involved</li> <li>• Victim heard/has more satisfaction</li> <li>• Lower recidivism, suspensions, and court referrals</li> <li>• Higher attendance and graduation rates</li> <li>• Reduced disparities</li> <li>• Improved school climate</li> </ul>

## **PROMISING PRACTICES PROFILE: DIVERSION AGREEMENTS**

### **Clayton County, Georgia**

Steven Teske, a juvenile court judge in Clayton County, Georgia, formed a working group of members of the juvenile justice system, law enforcement, school system, social services groups, and community organizations, and a neutral facilitator. The team reviewed data, solicited input, and educated stakeholders on best practices. It then signed a collaborative agreement aimed at reducing school-based juvenile court referrals and racial disparities. The agreement prohibits referrals of middle and high school students for most misdemeanors, including fighting, disrupting school, disorderly conduct, most obstruction of police, and most criminal trespass, unless: a) the student commits a third or subsequent similar offense during the school year; and b) the principal conducts a review of the student's behavior plan. Under the agreement, students receive a warning after the first offense and a referral to a mediation or conflict training program after the second offense. The agreement also prohibits referrals of elementary school students for misdemeanors.

The group also created a Child Study Team to serve as a single point of entry for all child-serving agencies, including schools, when referring children, youth, and families at risk for petition to the court. The Team met regularly to assess the needs of students at risk for court referral and to recommend an integrated services action plan to address the students' disruptive behavior. The Team consisted of a mental health professional, the student's school social worker and counselor, a social services professional, a juvenile court officer, approved child service providers, and a trained facilitator provided by the court. The Team linked the child and family to an array of evidence-based treatment programs such as functional family therapy, multi-systemic therapy, cognitive behavioral programming, wrap-around services, and more. The Team has evolved into the Clayton County System of Care.

In 2004, Clayton County had 1,400 juvenile court referrals. By the end of the 2011-12 school year, the number of referrals had declined by 83%. There was also a dramatic reduction in serious weapons on campus and an increase in graduation rates.<sup>164</sup>

### **Jefferson County, Alabama**

In Jefferson County, Alabama, Judge Brian Huff led efforts to create and implement an initiative similar to the one led by Judge Teske. Subsequently, school-based court referrals in Jefferson County declined from 528 in 2007-08 to 174 in 2010-11; and cases in the juvenile court overall dropped by nearly 40%.<sup>165</sup>

## **PROMISING PRACTICES PROFILE: DIVERSION AGREEMENTS**

### **Connecticut School-Based Diversion Initiative**

In 2009, the Child Health and Development Institute of Connecticut – in partnership with the Judicial Branch Court Support Services Division, the State Department of Education, the Connecticut Department of Children and Families, and the Department of Mental Health and Addiction Services – started the School-Based Diversion Initiative (SBDI) to: a) reduce the frequency of discretionary in-school arrests, expulsions, and out-of-school suspensions; b) link youth who are at risk of arrest to appropriate school- and community-based services and supports; and 3) build knowledge and skills among school staff to recognize and manage behavioral health crises in the school.

The SBDI works with middle and high schools to: a) provide training and professional development to help school personnel identify children with behavioral health needs; b) build connections between schools and effective community-based mental health services, including those that may serve as an alternative to arrest, suspension, and/or expulsion; and c) revise schools' policies and practices to increase capacity for responding to the mental health needs of all students.

Schools participating in the SBDI developed new policies for addressing school discipline and signed formal agreements with local law enforcement and community-based mental health agencies.

The SBDI has served 21 schools across 10 school districts and continues to expand to additional schools each year. Among schools participating since 2010, the average reduction in court referrals during their first year was 45%. Schools that participated in SBDI in the 2012-13 school year reduced arrests by an average of 20%, with some schools reducing arrests by over 90%.<sup>166</sup>

## **PROMISING PRACTICES PROFILE: DIVERSION AGREEMENTS**

### **Philadelphia Police School Diversion Program**

The Philadelphia Police School Diversion Program (PSDP) – led by the Philadelphia Police Department (PPD), in partnership with the School District of Philadelphia, the Philadelphia Department of Human Services (DHS), and a local mediation organization and university – started in May 2014 in 214 Philadelphia public schools.

When a delinquent act occurs in school, the principal or school police officer contacts the PPD. The responding PPD officer reviews school records and conducts interviews with the involved individuals, the child’s teacher, and the child’s counselor or advisor. Based on the information gathered, the PPD officer determines whether or not the student is eligible for diversion. Students are eligible for diversion if they are: a) age 10 or older; b) have no previous juvenile record; and c) have committed a misdemeanor (*e.g.*, weapons possession, other than a firearm, criminal trespass, or disorderly conduct) on school grounds. If the student is eligible for diversion, then a DHS social worker visits the student’s home and conducts interviews within 72 hours. If the social worker determines that additional services are needed, he or she explains the terms and conditions of the PSDP to the family. If the family agrees, they are referred to an “Intensive Prevention Services” provider who conducts a thorough intake and determines the specific services to help the student change his or her behavior. The provider assigns a case manager to the family and schedules services. Over the course of a family’s participation, a social worker visits the home at least twice each month for up to a year and stays in contact with school officials.

During the first year of the PSDP, participating schools saw a 17% reduction in school-based behavioral incidents, a 54% reduction in arrests, and a 75% reduction in expulsions and school disciplinary transfers.<sup>167</sup>



## RECOMMENDATION 2: CLARIFY ROLES & RESPONSIBILITIES

The General Assembly should revise the Virginia Code to clarify the roles of SROs and circumscribe their functions in schools to align with national recommendations.

The NASRO and the U.S. Departments of Education and Justice have clearly stated that SROs should not be involved in routine school discipline matters or enforce school board policies, including codes of student conduct.<sup>168</sup> Even some Virginia school divisions are incorporating this recommendation into their MOU with law enforcement.<sup>169</sup>

The General Assembly should delete the language in Virginia Code § 9.1-110(A) that is marked out in the excerpt below.

*School resource officers shall be certified law-enforcement officers and shall be employed to help ensure safety, and to prevent truancy and violence in schools, ~~and to enforce school board rules and codes of student conduct.~~*

State legislators should also revise the definition of SROs in Virginia Code §§ 9.1-100 and 9.1-101 to add the underlined language in the excerpt below.

*School resource officer means a certified law-enforcement officer hired by the local law-enforcement agency to provide law-enforcement and security services to Virginia public elementary and secondary schools. School resource officers are responsible for enforcing criminal laws and serious threats to physical safety, and shall not be responsible for routine school discipline issues or enforcing codes of student conduct.*

*“At no time should the SRO recommend or make decisions about student discipline or otherwise involve himself/herself directly or indirectly in disciplining a student.” – New MOU in Lynchburg City*

*“Schools should also ensure that school-based law enforcement officers do not become involved in routine school discipline matters.” – U.S. Dept. of Educ., *Guiding Principles*, Jan. 2014, p. 9*

*MOUs should “prohibit SROs from becoming involved in formal school discipline situations that are the responsibilities of school administrators.” – NASRO, *Best Practices for School Policing*, 8/14/15*

*“When it comes to formal discipline... there’s no place for law enforcement.” – Maurice Canady, Exec. Dir., NASRO, *Teaching Tolerance*, Summer 2015*

*An SRO “shouldn’t be a disciplinarian. That should not be his role. That’s the role of the school and the teachers to do that.” – Alfred Durham, Richmond Police Chief, *Richmond Times-Dispatch*, 10/29/15*

### RECOMMENDATION 3: IMPROVE TRAINING

The General Assembly and DCJS should require comprehensive, on-going training for SROs and SSOs.

States across the country – *e.g.*, California,<sup>170</sup> Indiana,<sup>171</sup> Kentucky,<sup>172</sup> Louisiana,<sup>173</sup> New Jersey,<sup>174</sup> South Carolina,<sup>175</sup> Tennessee,<sup>176</sup> and Texas<sup>177</sup> – require training for SROs. Virginia law requires training for SSOs, who do not carry weapons or have the power to arrest, but not for SROs, who do have such powers. All SROs and SSOs should receive training necessary to ensure they are prepared to work in schools and effectively and safely with children and youth:<sup>178</sup>

- Contents of the local agreement between the school division and law enforcement agency providing SROs;
- Child and adolescent development and psychology;
- Working with students who have disabilities, mental health issues, and experience with abuse and trauma;
- Recognizing manifestations of disabilities;
- Methods schools use to provide extra support to individual students (*e.g.*, 504 Plans, Individualized Education Programs (IEPs), Behavioral Intervention Plans (BIPs), Virginia Tiered System of Support, etc.);
- Relevant state and federal laws, including those related to students' rights with respect to special education, searches and seizures, interrogations, excessive force, seclusion and restraint, harassment, bullying, discrimination, and privacy;
- Safe and age-appropriate responses to misbehavior, including restraint and de-escalation techniques;
- Implicit bias and cultural competency;
- Positive Behavioral Interventions and Supports (PBIS) and other practices proven to prevent misbehavior and improve school climate;
- Conflict resolution techniques, including mediation and restorative justice;
- Short- and long-term consequences of justice system involvement for students; and
- Utilizing local school division and community resources, including alternatives to arrests and court referrals (*e.g.*, mediation, substance abuse counseling, mental health services, and community service).

“SROs must not only be well-chosen but also well-trained. Studies suggest that traditional police training often does not provide adequate instruction on topics relevant to school-based law enforcement ... This lack of specialized training results in SROs who may be ill-equipped to fulfill key roles, jeopardizing the success of the SRO program and hindering school safety.” – Nat. Ctr. for Mental Health Promotion and Youth Violence Prevention, Brief, Sept. 2013

Virginia Code § 9.1-102(44) requires training for SSOs. The General Assembly should add to the following underlined language to the statute:

*Establish, in consultation with the Department of Education and the Virginia State Crime Commission, compulsory minimum standards for employment and job-entry and in-service training curricula and certification requirements for school security*

*officers and school resource officers, which training and certification shall be administered by the Virginia Center for School and Campus Safety pursuant to § 9.1-184. Such training standards shall include, but shall not be limited to: the role and responsibility of school security officers; relevant state and federal laws; school and personal liability issues; security awareness in the school environment; mediation, restorative justice, and conflict resolution; disaster and emergency response; ~~and~~ student behavioral dynamics; contents of the local agreement between the school division and law enforcement agency providing SROs; child and adolescent development and psychology; working with students who have disabilities, mental health issues, and experience with trauma; recognizing manifestations of disabilities; methods schools use to provide extra support to individual students; relevant state and federal laws, including those related to special education, searches and seizures, interrogations, excessive force, seclusion and restraint, harassment, bullying, discrimination, and privacy; safe and age-appropriate responses to misbehavior, including restraint and de-escalation techniques; implicit bias and cultural competency; positive Behavioral Interventions and Supports (PBIS) and other practices proven to prevent misbehavior and improve school climate; short- and long-term consequences of justice system involvement for students; and utilizing local school division and community resources, including alternatives to arrests and court referrals. The Department shall establish an advisory committee consisting of local school board representatives, principals, superintendents, teachers, students, parents, school resource officers, and school security officers ~~personnel~~ to assist in the development of these standards and certification requirements;*

The DCJS should then revise its regulations accordingly. Lawmakers should also allocate adequate funding for state agencies to plan and coordinate trainings, and for local division and law enforcement agency personnel to attend trainings.

### Virginia Parent Teacher Association (VPTA) 2015 Legislative Priorities

#### “7. School Resource Officer (SRO) Training

- VAPTA supports legislation to establish uniform guidelines for the hiring and training of all School Resource Officers (SROs).
- VAPTA seeks to ensure that all SRO’s receive initial training on school-based situations prior to assignment in a school and participate in additional training over the course of their assignment.
- VAPTA seeks dedicated funding to enable localities to offer Department of Criminal Justice Services (DCJS) or similar SRO training such that school and public safety budgets are not compromised.”

## PROMISING PRACTICES PROFILE: SRO TRAINING

### Strategies for Youth

Strategies for Youth (SfY) is a national nonprofit training and policy organization dedicated to improving police-youth interactions and to reducing disproportionate minority contact.

The first day of SfY's Policing the Teen Brain training focuses on the seismic changes of the teen brain in a series of components that focuses on the nature of adolescent development. Presented by a psychologist or psychiatrist, this part of the curriculum describes the brain structure, psyche, and behavioral characteristics of adolescents. This day culminates with a component on how to assert authority effectively with youth. The second day of the training demonstrates the impacts of nurture and environmental factors, including culture, socio-economic conditions of youth, and how the juvenile legal system treats youth behaviors. This day also involves presentations of youth-serving community-based organizations who describe the services they offer for youth which can be used in lieu of arrests and court referrals.

Three aspects of SFY's approach make it unique. First, SfY customizes its training to each law enforcement agency through a pre-training assessment and policy review. This ensures that the training meets the expressed needs of law enforcement officers in any given department and properly reflects the specific needs of youth in each jurisdiction.

Second, every training involves youth in role plays. Youth are paid to participate in improvisational acting in skits where they respond to officers' assertion of authority and explain why they are more or less likely to comply with law enforcement. Officers routinely describe the skits as "jelling" the training by demonstrating through interactions how youth respond to them.

Third, SfY is committed to making its training a core piece of all law enforcement training and part of departments' "training DNA." As a result, SfY promotes use of a train-the-trainer approach in which departments develop the expertise, in collaboration with local psychologists/psychiatrists to present the trainings in a sustainable manner at in-service and new recruit trainings. SfY provides a train-the-trainer training and coached trainings, as well as ongoing technical assistance to ensure fidelity to the model and strong outcomes.

The outcomes of SfY's trainings, where data has been provided by law enforcement agencies prior to and after the trainings, indicates immediate reduction in use of arrest for low-level offenses, reductions in status offense referrals, and increased referrals to and connections with youth-serving community-based organizations, and an array of officer initiatives that address development of relationships between police and youth.<sup>179</sup>

## RECOMMENDATION 4: REDUCE REFERRALS TO LAW ENFORCEMENT

The General Assembly should revise the Virginia Code to remove misdemeanors and non-crimes from the list of school-based offenses that must be reported to law enforcement.

As described above, Virginia Code § 22.1-279.3:1(B) requires that over 40 acts be reported by school officials to law enforcement.<sup>180</sup> The General Assembly should revise the statute to remove misdemeanors and non-crimes. Doing so would still allow school officials to discretionarily report serious offenses, but would not force them or SROs to divert their time and attention away from other more important duties to process unnecessary referrals.

## RECOMMENDATION 5: REDUCE COURT-INVOLVEMENT

The General Assembly should revise the Virginia Code to eliminate school-based “disorderly conduct” charges against students and mandatory participation of Commonwealth’s Attorneys in truancy cases.

Virginia Code § 18.2-415 makes “disorderly conduct in public places” a crime. Part C of the statute specifically prohibits:

disrupt[ing] the operation of any school or any activity conducted or sponsored by any school, if the disruption (i) prevents or interferes with the orderly conduct of the operation or activity or (ii) has a direct tendency to cause acts of violence by the person or persons at whom, individually, the disruption is directed.

“The problem here is not a kid walking in (to schools) with a gun. The numbers are being driven up by disorderly conduct.” – Arne Duncan, U.S. Sec’y of Educ., Press Release, 10/30/15

This vague, subjective standard creates a wide net that captures large numbers of students who exhibit expected adolescent behavior. The General Assembly should add the following language to the end of the statute.

*This section shall not apply to the acts of elementary and secondary students that occur in school buildings, on school grounds, or during school-sponsored activities.*

This addition will reduce unnecessary court-involvement without tying the hands of school administrators or law enforcement officers who will still be able to file complaints for more serious disorderly behavior (e.g., assault on a school official, gang activity, terrorist threats, etc.). Other states have made similar changes. For example, in 2013, Texas passed laws that limit the ability of school police to issue tickets and that eliminate most charges for “disruption of class.”<sup>181</sup>

The legislature should also revise Virginia Code § 22.1-268, which currently *requires* Commonwealth Attorneys to participate in *all* truancy cases. The statute should be revised to remove the marked through text and add the underlined text:

~~It shall be the duty of the a~~Attorneys for the Commonwealth of the several counties and cities ~~to~~may prosecute ~~all~~ cases arising under this article. Juvenile and domestic relations district courts shall have exclusive original jurisdiction for the trial of such cases.

## RECOMMENDATION 6: IMPROVE DATA COLLECTION & PUBLICATION

The VDOE and DCJS should collect and make publicly available annual data on school-based referrals to law enforcement, arrests, and delinquency and criminal complaints.

States across the country – *e.g.*, Arkansas,<sup>182</sup> Colorado,<sup>183</sup> Connecticut,<sup>184</sup> Florida,<sup>185</sup> Kentucky,<sup>186</sup> and Maryland<sup>187</sup> – require data about school policing to be collected. Virginia schools are already required by state and federal laws to collect data about school-based referrals to law enforcement and arrests.<sup>188</sup> The Virginia legislature should pass a new statute requiring the VDOE and DCJS to collect and make publicly available (consistent with applicable privacy laws) data about school-based arrests and court referrals, disaggregated by:

- Division;
- School;
- Title of person who made the arrest or referral;
- Employer of person who made the arrest or complaint;
- Alleged offense(s);
- Student age;
- Student grade;
- Student sex;
- Student race;
- Student disability status;
- Student English language learner status;
- Outcome of referral (*e.g.*, dismissal, diversion, adjudication, etc.)

The VDOE should make the data available in a public, searchable database, like the VDOE does for demographics,<sup>189</sup> Standards of Learning (SOL) test results,<sup>190</sup> graduation rates,<sup>191</sup> suspension and expulsion,<sup>192</sup> and other important areas.

“Schools should closely monitor any school-based law enforcement officer program to ensure that the program ... does not create any negative unintended consequences, and to assess the impact of other law enforcement involvement on campus. Such monitoring requires comprehensive data collection on officer activity, including, if appropriate, data on any school-based arrests, citations, searches, and referrals. Disaggregated data on these activities should also be publicly reported consistent with applicable federal, state, and local privacy laws ... schools should review, analyze, and act on this data as necessary to eliminate any negative unintended consequences stemming from the use of a school-based law enforcement officer program” – U.S. Dept. of Educ., *Guiding Principles*, Jan. 2014, p. 11

Finally, the General Assembly should allocate adequate funding for the Departments and localities to collect and report the data.

## **PROMISING PRACTICES PROFILE: BROAD STATE STATUTES AND REGULATIONS**

### **Colorado**

Colorado law requires:

- SROs to be familiar with the provisions of the discipline code of the school to which the officer is assigned; and
- Law enforcement agencies employing SROs to prepare a report containing disaggregated data about investigations, arrests, summonses, and tickets.<sup>193</sup>

Colorado law also:

- Declares that the involvement of students in the criminal or juvenile justice systems should be avoided when addressing minor misbehavior that is typical for a student based on his or her developmental stage;
- Requires every school district to implement proportionate discipline that reduces the number of out-of-school suspensions, expulsions, and referrals to law enforcement;
- Requires districts to implement prevention strategies, restorative justice, peer mediation, counseling, and other approaches designed to minimize student exposure to the juvenile and criminal justice systems;
- Improves the collection of disaggregated data around school-based arrests, tickets, and court referrals; and
- Enhances the training of SROs.<sup>194</sup>



## **PROMISING PRACTICES PROFILE: BROAD STATE STATUTES AND REGULATIONS**

### **Maryland**

Maryland regulations require that school districts report to the State Department of Education data on school arrests and referrals to law enforcement. The regulations further state that:

- When possible and appropriate, arrest by police should be made during non-school hours and away from the school premises;
- When an arrest on school premises during school hours is necessary, the responsible school official must ascertain the facts from the arresting officer so the official can fully advise the parent and other school officials of the nature of the charge, the identity of the arresting officer, and the location of the student;
- When an arrest takes place on school premises or during school hours, every effort must be made by school officials to inform the parent immediately, and thereafter, to promptly advise the local superintendent of schools; and
- Arrest on school premises during school hours must be effectuated in such a manner as to avoid both embarrassment to the student being arrested and jeopardizing the safety and welfare of other students.<sup>195</sup>

Maryland regulations further require that, upon receipt of information from a law enforcement agency of an arrest of a student for a reportable offense, the local superintendent promptly provide the school principal of the school in which the student is enrolled with the arrest information, including the charges. Then, the school principal, with appropriate staff members, must immediately develop a plan that addresses appropriate educational programming and related services for the student and that maintains a safe and secure school environment for all students and school personnel. The school principal must also request that the student's parent participate in the development of the plan and submit information that is relevant to developing the plan.<sup>196</sup>

Moreover, Maryland regulations prohibit police investigations involving the questioning of students on school premises, unless in connection with a crime committed on the premises or in connection with an investigation which, if not immediately permitted, would compromise the success of that investigation or endanger the lives or safety of the students or other persons. A school official should be present throughout that questioning.<sup>197</sup>

Finally, Maryland regulations require that every effort be made to conduct searches in a manner that minimizes disruption of the normal school routine and minimizes embarrassment to students affected.<sup>198</sup>



## RECOMMENDATION 7: IMPROVE ACCOUNTABILITY

The VDOE should revise its regulations to include school policing data in accreditation standards and performance report cards.

Pursuant to state law,<sup>199</sup> the VDOE assigns one of the following accreditation ratings to nearly all Virginia public schools: fully accredited; conditionally accredited; partially accredited; or accreditation denied.<sup>200</sup> The ratings are currently based solely on standards of learning (SOL) test scores and graduation rates.<sup>201</sup> They are “designed to ensure that an effective educational program is established and maintained in Virginia's public schools.”<sup>202</sup> According to the VDOE:

[T]he accreditation standards:

- Provide an essential foundation of educational programs of high quality in all schools for all students.
- Encourage continuous appraisal and improvement of the school program for the purpose of raising student achievement.
- Foster public confidence.
- Assure recognition of Virginia's public schools by other institutions of learning.
- Establish a means of determining the effectiveness of schools.<sup>203</sup>

The VDOE must also produce “school performance report cards” for every division and school.<sup>204</sup> The report cards include information about enrollment, advanced programs, career and technical education, teacher qualifications, school safety, SOL test results, graduation rates, and percentage of expenditures for instruction.<sup>205</sup>

The VDOE should incorporate school-based arrest and court referral data into standards of accreditation and report cards because:

- School policing directly impacts school performance, which accreditation ratings and report cards are supposed to reflect;
- Regularly making the data public and creating accreditation consequences will cause divisions and law enforcement agencies to be more sensitive to whether students and schools are being over-criminalized and whether school safety policies and practices are having a disparate impact on certain groups of students, and it will create an incentive to remedy problems; and
- Students, parents, and communities should know what it is happening in their schools.

“[P]ositive relationships don’t get built when we’re arresting them.”  
– Douglas Middleton,  
Henrico Police Chief,  
*Richmond Times-Dispatch*, 5/30/15

## RECOMMENDATION 8: CLEAR, CONSISTENT, EFFECTIVE MEMORANDUMS OF UNDERSTANDING

The General Assembly should require local MOUs, and the VDOE and DCJS should jointly issue a comprehensive model MOU.

The U.S. Department of Justice,<sup>206</sup> U.S. Department of Education,<sup>207</sup> NASRO,<sup>208</sup> Council of State Governments,<sup>209</sup> National Center for Mental Health Promotion and Youth Violence Prevention,<sup>210</sup> advocacy organizations,<sup>211</sup> and others strongly recommend that law enforcement agencies and school divisions that have an SRO program enter into a written memorandum of understanding (MOU) (sometimes called a memorandum of agreement or an interagency agreement). In fact, the DCJS requires that SRO program grantees have an MOU in place; however, not all SRO programs receive grants.<sup>212</sup>

An MOU is a legal document, contract, and policy instrument. A good MOU establishes mutual understanding and clear expectations, incorporates best practices, and complies with all applicable laws. In the context of school policing, MOUs “should be created through a collaborative process that includes stakeholders from education, law enforcement, and the wider community.” A collaborative MOU process with good stakeholder representation includes:

- Students and parents;
- School division staff (e.g., teachers, student support staff, school administrators, SSOs, the superintendent, the security director, and the disciplinary review officer);
- School board members;
- Law enforcement personnel, including SROs;
- Juvenile justice system personnel (e.g., juvenile and domestic relations (JDR) court judges, prosecutors, defense attorneys, and probation officers);
- Mental health and social services personnel; and
- County supervisors or city council members.<sup>213</sup>

There are no state laws or regulations requiring localities to have an MOU. The VDOE has never issued a model MOU, or even guidelines. The last time that the DCJS issued a model MOU was in 2004.

“Every jurisdiction with a school and law enforcement partnership should have an MOU that clearly defines the roles and responsibilities of the individual partners involved, including school districts, boards or departments of education, school administration officials, law enforcement agencies (including SROs), and students and parents.” – U.S. Dept. of Justice Office of Cmty. Oriented Policing Services, *Fact Sheet*, Sept. 2013, p. 10

“Schools and districts should document the expectations for officers’ roles through clear, written policies or MOUs between school administrators and law enforcement personnel.” – U.S. Dept. of Educ., *Guiding Principles*, Jan. 2014, p. 10

“Every law enforcement agency that places an officer in a school should have in place a memorandum of understanding (MOU).” – NASRO, *Best Practices*, 8/14/15

The General Assembly should pass a law requiring local MOUs to be in place and reviewed regularly with community input. The following is suggested language for the statute:

- A. All law enforcement agencies employing one or more school resource officers, as defined in § 9.1-101, shall have in place a written memorandum of understanding with the school division in which the school resource officer(s) is assigned.
- B. The memorandum shall address, at a minimum:
  - i. Searches of students by law enforcement;
  - ii. Questioning of students by law enforcement;
  - iii. The use of force on students by law enforcement;
  - iv. Referrals of students to law enforcement;
  - v. Calls for service from law enforcement;
  - vi. Arrests of students by law enforcement;
  - vii. School-based court referrals of students;
  - viii. Alternatives to arrests and court referrals;
  - ix. Data collection and reporting;
  - x. Qualifications for school resource officers;
  - xi. Selection of school resource officers;
  - xii. Training of school resource officers;
  - xiii. Responsibilities and duties of school resource officers;
  - xiv. Assignment and coverage of school resource officers;
  - xv. Communication between school resource officers and school administrators;
  - xvi. Student records and information;
  - xvii. A process for student, parent, and staff feedback;
  - xviii. A system for grievances or complaints against school resource officers;
  - xix. The names and signatures of representatives from the school division and law enforcement agency who are authorized to contract on behalf of the division or agency; and
  - xx. The date upon which the agreement was signed by each party.
- C. The memorandum shall be reviewed and revised, as necessary, at least once every two years.
- D. Students, parents, and school staff in the school division to which the school resource officer is assigned shall be offered opportunities to provide input on the memorandum.
- E. A copy of the current memorandum shall be:
  - i. Provided to the Virginia Center for School and Campus Safety;
  - ii. Provided to all staff and SROs; and
  - iii. Made publicly available by, at a minimum, posting it on the law enforcement agency's website and the school division's website.

## **PROMISING PRACTICES PROFILE: STATE LAWS & REGULATIONS REQUIRING MOUs**

### **Delaware**

Delaware regulations require all local school districts, charter schools, and alternative programs to: establish a written policy on effectively communicating and working with law enforcement agencies; and develop a memorandum of agreement (MOA) with each law enforcement agency that provides services to it. Each MOA must be approved and, from time to time, revised by the Delaware Department of Education.<sup>214</sup>

### **New Jersey**

New Jersey regulations require local boards of education to adopt and implement policies and procedures to ensure cooperation between school staff and law enforcement authorities. The policies and procedures must contain:

- Specific procedures for and responsibilities of staff in summoning law enforcement authorities onto school grounds for the purpose of conducting law enforcement;
- Specific procedures and responsibilities of staff for notifying parents in instances of law enforcement interviews involving their children;
- Provisions for in-service training of school staff concerning the policies and procedures;
- An MOU with appropriate law enforcement authorities;
- An annual process for the chief school administrator and appropriate law enforcement officials to discuss the implementation and need for revising the MOU, and to review the effectiveness of policies and procedures; and
- Provisions for directing inquiries or complaints received by school staff regarding interviews, investigations, arrests, or other operations conducted by sworn law enforcement officers to the appropriate law enforcement agency.

The policies and procedures must be made available annually to all school staff, students, and parents.<sup>215</sup>

## PROMISING PRACTICES PROFILE: STATE LAWS & REGULATIONS REQUIRING MOUs

### Connecticut

Connecticut law requires every board of education with an SRO to enter into an MOU with the law enforcement agency. The MOU must include provisions addressing daily interactions between students and school personnel and SROs, and may include a graduated response model for student discipline.<sup>216</sup>

### Pennsylvania

Pennsylvania regulations require:

- Each chief school administrator to execute and update, on a biennial basis, an MOU with each local police department having jurisdiction over school district property;
- On a biennial basis, a school entity to file with the Department of Education's Office for Safe Schools an MOU with each local police department having jurisdiction over school district property; and
- The Board of Education, on a biennial basis, to review and, as necessary, revise its model MOU.<sup>217</sup>

Regardless of whether the General Assembly passes a statute that requires localities to have an SRO program MOU, the VDOE and DCJS should jointly issue a new, comprehensive model MOU, and then review and revise it, as necessary, at least every two years. The model MOU should contain all of the elements listed in part B of the sample statute above, as well as the recommendations in Figure 15. The Appendix of this report contains a model MOU that incorporates the recommendations.

Figure 15: Examples of MOU elements that foster positive youth development and school climate, and that should be included in a model MOU from the VDOE and DCJS and in local MOUs.

SRO qualifications and selection:
<ul style="list-style-type: none"> <li>• Desire to work with students, parents, and school division personnel</li> <li>• Experience working well with children and youth</li> <li>• Personality traits necessary for working successfully with children and youth (<i>e.g.</i>, approachable, friendly, empathetic, flexible, patient, mature, etc.)</li> <li>• Work history free of any substantiated complaints of excessive force, racial profiling, harassment, or discrimination</li> <li>• Students, parents, and staff involved in selection</li> </ul>
Duties of SROs:
<ul style="list-style-type: none"> <li>• Meet with the school principal (and other staff, as necessary) at least monthly</li> </ul>

- Be visible and approachable on campus
- Act as a mentor and role model for students
- Attend school staff meetings, school events, and community events
- Hold community forums with students, parents, staff, and other community members at least twice a year
- Connect families with community resources

#### Deployment of SROs:

- Each only covers one school to facilitate relationship-building<sup>218</sup>

#### Searches by SROs:

- No searches unless there is probable cause to believe the student has a weapon, illegal drugs or alcohol, stolen property, or evidence needed to prevent physical harm
- School administrator present
- No stop and frisks, strip searches, or metal detectors
- Outside of the presence of staff (except school administrators) and students
- Parent notified, as soon as practicable

#### Interrogations by SROs:

- No interrogations unless there is probable cause to believe the student has committed or will commit an offense that poses a clear threat to physical safety
- Heightened warnings against self-incrimination in the student's primary language
- School administrator and parent are notified of the impending questioning and provided a reasonable opportunity to be present

#### Use of force by SROs:

- No physical force unless there is a clear and immediate threat of serious bodily injury
- Only the minimum amount of force necessary to end the serious threat

#### Arrests and court referrals by SROs and court referrals by school staff:

- Prohibited for minor offenses, such as disorderly conduct, possession of tobacco, and abusive language
- Alternatives – *e.g.*, restorative justice, community service, counseling, and Saturday school – encouraged
- Arrests occur outside of the presence of staff (except school administrators) and students
- Parent and school administrator notified as soon as practicable

#### Grievance/complaint system:

- Well-publicized in a variety of languages to all students, parents, and staff
- Readily available forms at all schools and online, and in a variety of languages
- Confidential, thorough, unbiased, timely process
- Written findings
- Officer removed while serious allegations are investigated and permanently removed if serious allegations are substantiated

#### Other elements:

- No threats to contact probation officers or immigration officials
- No warrants executed on school property unless there is probable cause that a student poses a real and immediate threat to physical safety; a judicial warrant specifically directs the arrest of the student in a school; or there is probable cause to believe the student is a flight risk

## **PROMISING PRACTICES PROFILE: BROAD LOCAL MOUS AND SCHOOL BOARD POLICIES**

### **Denver, Colorado**

In 2004, the Denver Public Schools (DPS) and Denver Police Department (DPD) modified their MOU to limit when an officer may cite or arrest a student, and mandated yearly training to take a restorative justice approach on school discipline. After the MOU was modified, law enforcement referrals dropped from 1,399 in 2003-04 to 512 in 2011-12.

In February 2013, the agreement was further modified with significant community involvement. The new “Intergovernmental Agreement” mandates that:

- SROs understand that DPS has adopted a Discipline Policy that emphasizes the use of restorative approaches to address behaviors, and is designed to minimize the use of law enforcement intervention;
- SROs differentiate between disciplinary issues and crime problems and respond appropriately;
- Parents be notified as soon as possible when students are ticketed or arrested;
- Students be questioned, when necessary, in a manner and time when it has the least impact on a student’s schooling;
- SROs be notified if a student involved in a school-based infraction possesses disabilities and/or an IEP and who therefore may require special treatment or accommodations;
- SROs meet with community stakeholders at least once per semester and with school administration upon request; and
- DPD officers be trained on their role within DPS’ schools and on the rights afforded to students.<sup>219</sup>

## **PROMISING PRACTICES PROFILE: BROAD LOCAL MOUs AND SCHOOL BOARD POLICIES**

### **Broward County, Florida**

In November 2013, the Broward County School District and several local law enforcement agencies worked with a group of juvenile justice and community partners to develop a collaborative agreement on school discipline. The agreement provides school officials with guidance on when to consult with police and promotes the use of graduated sanctions for student misbehavior.

The Role of Officers section further states that “law enforcement officers shall follow the steps and guiding questions” in a decision flow chart that indicates when officers arrest or do not arrest for both first and repeat misdemeanor offenses outlined in the code of conduct matrix. For non-violent misdemeanors like trespassing, harassment, incidents related to alcohol, possession of a misdemeanor amount of marijuana and drug paraphernalia, administrators are instructed to try and resolve the situation without an arrest. The agreement outlines the path officers will take for specified misdemeanor offenses that warrant alternatives to arrest, including using civil citations and the Preventing Recidivism through Opportunities, Mentoring, Interventions, Supports & Education (PROMISE) diversion program.

Broward County led the state in the rate of school-based arrests in 2011-12, with 1,054 arrests. By 2013-14, school-based arrests had dropped 42% to 449. Additionally, the recidivism rate for students who go through the diversion program is low.<sup>220</sup>

### **San Francisco, California**

In January 2014, the San Francisco Unified School District (SFUSD) and the San Francisco Police Department reached an agreement that:

- Dictates that “police involvement should not be requested in a situation that can be safely and appropriately handled by the district’s internal disciplinary procedures;”
- Spells out requirements for graduated steps before a student can be arrested;
- Limits how arrests are to be carried out on campuses;
- Requires that officers refrain from questioning detained students for at least an hour or until parents have sufficient time to travel to a campus from their job or home;
- Requires monthly written reports with detailed data from the Police Department;
- Requires principals to be consulted and to take into consideration concerns expressed by students and parents, prior to the assignment of a new SRO;
- Requires SROs to participate in positive student activities;
- Provides for a complaint process; and
- Requires opportunities for a student advisory council to provide feedback.<sup>221</sup>



## **PROMISING PRACTICES PROFILE: BROAD LOCAL MOUs AND SCHOOL BOARD POLICIES**

### **Oakland, California**

In 2012, the Oakland School Police Department enacted a policy allowing for citizen complaints. Under the policy, citizens have multiple mechanisms for filing complaints, including online, via mail, and in person. Anonymous complaints are permitted. Investigations must be conducted and written reports to complaints generally must be made within 45 days. Complainants can appeal the report to the superintendent, who must investigate the appeal and issue written findings. Complainants may then appeal to the school board, which must also issue written findings. Forms have been created in six languages for the community to report officers who behave inappropriately, to report officers who handled situations exceptionally well, and to make general recommendations. Forms and flyers explaining the process are required to be available in every school in the district. Finally, the Office of the Chief of Police is required to prepare a detailed, semi-annual statistical summary on complaints that is publicly available.<sup>222</sup>

In May 2014, the Oakland Unified School District (OUSD) passed board policies that provide:

- OUSD must develop district-wide interventions to help schools showing the greatest disparities in contacts and arrest rates for African American students, and share information about the interventions with the Board two times per year;
- No school police officer or school safety officers shall act as a school disciplinarian and law enforcement shall only be used as a last resort;
- Alternatives to police involvement, such as the use of restorative justice practices, must be tracked and documented, and a plan of support created for students who have multiple law enforcement contacts;
- A private location out of sight and hearing of other students should be arranged whenever the arrest of a student is necessary, to avoid invasion of the student's privacy and disruption on the school campus;
- Data on referrals to law enforcement, citations, and arrests must be tracked and shared with the Board of Education, and OUSD must develop an action plan to address any disproportionate minority contact;
- School police officers shall tell any student that he or she may have a parent or guardian present before and during an interrogation, and that the student may decide to wait for the parent or guardian before questioning begins; and
- School police shall make every effort to handle out of school law enforcement-related issues that are not school-related.<sup>223</sup>

In August 2014, the OUSD and Oakland Police Department (OPD) finalized an MOU for their School Safety Officers ("COPS Grant") Program. The MOU provides:

- Officers will not solicit truancy information from school sites – only in the event that a school principal refers students who are truant to a COPS Grant officer should law enforcement become involved in a student's truancy status;
- OPD will provide OUSD with a written report twice a year regarding designated school site crime incidents and the number of arrests of students made by COPS Grant and OPD officers disaggregated by race, gender, and ethnicity;
- OUSD will not notify or request COPS Grant officers or OPD officers for disciplinary issues like trespassing, loitering, profanity, defiance, verbal abuse, and truancy;
- OUSD must notify the parent or guardian of a student immediately after a police arrest is made; and
- If any officer wants to question a student, OUSD must receive oral consent from the student's parent or guardian before releasing the student to any law enforcement officer.<sup>224</sup>

## APPENDIX A: NATIONAL GUIDANCE

### Guidance from the U.S. Departments of Education and Justice

In January 2014, the U.S. Departments of Education and Justice published a school discipline guidance package. A “Dear Colleague Letter” that is part of the package included the following non-exhaustive list of recommendations about how schools can appropriately use law enforcement.

- Clearly define and formalize roles and areas of responsibility to govern student and school interaction with SROs and other security or law enforcement personnel.
- Document the roles and responsibilities of SROs and security or law enforcement personnel in a written agreement or MOU between the school and appropriate law enforcement and/or related agencies.
- Ensure that SROs and other security or law enforcement personnel effectively support school climate and discipline goals by promoting a safe, inclusive, and positive learning environment, and mentoring and otherwise supporting the education of students;
- Provide opportunities and approaches for SROs and other security or law enforcement personnel, school personnel, students, and parents to develop a trusting and positive relationship with one another.
- Ensure that school personnel understand that they, rather than SROs and other security or law enforcement personnel, are responsible for administering routine student discipline.
- Establish procedures and train school personnel and school volunteers on how to distinguish between disciplinary infractions appropriately handled by school officials versus major threats to school safety or serious school-based criminal conduct that cannot be safely and appropriately handled by the school’s internal disciplinary procedures, and how to contact law enforcement when warranted.
- Regularly meet with SROs and other security or law enforcement personnel who work in the school to ensure that they receive training to work effectively and appropriately with elementary and secondary students. Such training may include instruction in bias-free policing, including instruction on implicit bias and cultural competence; child and adolescent development and age appropriate responses; practices demonstrated to improve school climate; restorative justice techniques; mentoring; classroom presentation skills; conflict resolution; privacy issues; and working collaboratively with school administrators.

“We’ve tried to be very clear in our guidance that schools are responsible for the actions that their school police engage in when they’re at the school site, so that there’s not a way of saying, ‘Well, that was the police, and not us.’” – Catherine Lhamon, U.S. Assistant Sec’y of Educ. for Civil Rights, The Center for Public Integrity, 4/10/15

- Ensure compliance with the Family Educational Rights and Privacy Act (FERPA) if SROs or other security or law enforcement personnel are permitted access to personally identifiable information from students' education records, such as disciplinary records.
- Collect data and monitor the actions that SROs and other security or law enforcement personnel take against students to ensure nondiscrimination.<sup>225</sup>

"The school-to-prison pipeline must be challenged every day."  
 – Arne Duncan, U.S. Sec'y of Educ., Speech, 1/8/14

The package also included a guidance document that draws from emerging research and best practices to describe key principles and related action steps that can help guide state- and locally-controlled efforts to improve school climate and school discipline. The guidance includes action steps for schools that seek to foster positive school climates. One of the action steps is to "[e]nsure that any school-based law enforcement officers' roles focus on improving school safety and reducing inappropriate referrals to law enforcement." To achieve this action step, the Departments recommend the following:

- Recognize that arrests or referrals to law enforcement can have negative collateral consequences for students, and that students of color and students with disabilities may experience disproportionate contact with law enforcement and the justice system.
- Ensure that school-based law enforcement officers do not become involved in routine school disciplinary matters.
- Ensure that school-based law enforcement officers' roles focus on improving school safety and reducing inappropriate referrals to law enforcement.
- Document the expectations for officers' roles through clear, written policies or MOUs between school administrators and law enforcement personnel.
- Document examples of the types of conduct or incidents that generally would not meet the definition of an immediate threat to school safety, such as tardiness, loitering, use of profanity, dress code violations, and disruptive or disrespectful behaviors.
- Train officers on:
  - How to distinguish between, and appropriately respond to, disciplinary infractions appropriately handled by school officials on the one hand, and major threats to safety or serious criminal conduct that requires law enforcement involvement on the other;
  - Basic childhood and adolescent development;
  - Age-appropriate responses;
  - Disability issues;
  - Conflict resolution;
  - De-escalation techniques;
  - Bias-free policing (including implicit or unconscious bias and cultural competence);
  - Restorative practices;

- How to identify and refer for services those students exposed to trauma and violence;
  - Student privacy rights;
  - Working with specific groups of students, such as those at risk for dropping out of school, trauma, social exclusion, or behavior incidents; and
  - The negative collateral consequences associated with youth involvement in the juvenile and criminal justice systems, and how to prevent and reduce such involvement through use of alternative strategies, such as referral to local programs, including local mental health programs.
- Closely monitor any school-based law enforcement officer program to ensure that the program is meeting school safety goals and does not create any negative unintended consequences, and to assess the impact of other law enforcement involvement on campus.
  - Collect and make publicly available comprehensive, disaggregated data on officer activity, including, if appropriate, data on any school-based arrests, citations, searches, and referrals.
  - Develop a complaint process that allows student or community concerns about officer activities to be efficiently raised and addressed.<sup>226</sup>

### **U.S. Department of Justice Statement of Interest in *S.R. & L.G. v. Kenton County, et al.* (Kentucky School Handcuffing Case)**

On October 2, 2015, the U.S. Department of Justice filed a Statement of Interest in a case in the Eastern District of Kentucky. The case involved two elementary school children who alleged that an SRO violated their rights under the Fourth and 14th Amendments and Title II of the Americans with Disabilities Act (ADA) when the SRO handcuffed them in school, behind their backs, above their elbows, and at their biceps, after the children exhibited conduct arising out of their disabilities.<sup>227</sup> The Statement read, in part:

An improperly implemented SRO program can unnecessarily exacerbate the school-to-prison pipeline and cause significant harm to students. In the absence of sufficient training and clear policies to limit SROs' duties and ensure that educators, rather than SROs, are responsible for student behavior and discipline, officials are more likely to criminalize minor school infractions and to push students unnecessarily into the school-to-prison pipeline. Students can suffer lasting harmful consequences after an interaction with law enforcement. Indeed, students who experience coercive force by those in the criminal justice system are more likely to miss critical instructional time, struggle in class, disengage from learning, feel stigmatized or alienated, drop out, become involved in the juvenile justice system, and miss future educational opportunities. They face a greater risk of drug use, emotional difficulties, and low self-esteem. These law enforcement interactions can leave students feeling traumatized, anxious, humiliated, and deeply fearful of school. For children with disabilities, who may experience

disproportionate contact with law enforcement in schools, such interactions can exacerbate the disability and the very behaviors that led to the SRO interaction.

Best practices developed for implementing SRO programs demonstrate that, in efforts designed to help promote a safe learning environment in school, the role of SROs should be carefully circumscribed to ensure they do not become involved in routine disciplinary matters. SROs should use their law enforcement powers judiciously, to focus on safety, to avoid disability-based discrimination, and to avoid unnecessary criminalization of childhood behavior and perpetuation of the school-to-prison pipeline. These practices, if implemented, help ensure that schools and law enforcement agencies effectively protect school safety while avoiding violations of the federal rights of students ...

An SRO's role "should be focused on school safety, with the responsibility for addressing and preventing serious, real, and immediate threats to the physical safety of the school and its community." SROs should not enforce the school code of conduct or engage in routine discipline of students; indeed, the authority and responsibilities of disciplinarian fall squarely in the hands of school administrators. This is particularly important when SROs are assigned to elementary schools, because in most elementary schools actual threats to physical safety are extremely rare.

SROs should use law enforcement actions, such as arresting students, only as a last resort and only for serious criminal conduct or when necessary to protect students and staff from a threat of immediate harm. Because of their inherent power in the school setting, SROs should be particularly careful not to escalate or criminalize age-appropriate childhood behavior and should leave routine discipline to school officials. Proper training and an explicit delineation of an SRO's limited role is critical to forging a successful school/SRO partnership that minimizes the potential risks of having a law enforcement presence at a school, such as improper criminal responses to disability-related behavior and exacerbation of the school-to-prison pipeline.

To be effective, SROs and law enforcement agencies need to ensure that their responsibilities in the school setting are clearly delineated. As noted above, an SRO should not be an enforcer of school codes of conduct or become a substitute for traditional in-school discipline. Where it is necessary for an SRO to intervene to protect safety, the officer should deploy a range of non-punitive alternatives and select the least coercive measure for each incident.

SROs should receive specialized training to prepare for the unique challenges and demands of working with children, especially children with disabilities. "Children and adolescents' responses differ from adults because of fundamental neurobiological factors and related developmental stages of maturation." An SRO

should receive as much pre-service training as possible before he or she ever enters a school, as well as continued training and proper monitoring throughout his or her work.

It is particularly important that SROs be trained to recognize and respond appropriately to youth behavior that may be a manifestation of disability. Indeed, appropriate training can help law enforcement agencies avoid interactions that violate children's rights under federal civil rights laws[.]”<sup>228</sup>

## President's Task Force on 21<sup>st</sup> Century Policing

In May 2015, the President's Task Force on 21<sup>st</sup> Century Policing released its *Final Report*. The *Report* included the following action items related to SROs:

- 4.6.2: “In order to keep youth in school and to keep them from criminal and violent behavior, law enforcement agencies should work with schools to encourage the creation of alternatives to student suspensions and expulsion through restorative justice, diversion, counseling, and family interventions.”
- 4.6.3: “Law enforcement agencies should work with schools to encourage the use of alternative strategies that involve youth in decision making, such as restorative justice, youth courts, and peer interventions.”
- 4.6.4: “Law enforcement agencies should work with schools to adopt an instructional approach to discipline that uses interventions or disciplinary consequences to help students develop new behavior skills and positive strategies to avoid conflict, redirect energy, and refocus on learning.”
- 4.6.5: “Law enforcement agencies should work with schools to develop and monitor school discipline policies with input and collaboration from school personnel, students, families, and community members.”
- 4.6.6: “Law enforcement agencies should work with schools to create a continuum of developmentally appropriate and proportional consequences for addressing ongoing and escalating student misbehavior after all appropriate interventions have been attempted.”
- 4.6.8: “Law enforcement agencies and schools should establish memoranda of agreement for the placement of School Resource Officers that limit police involvement in student discipline.”<sup>229</sup>

“Ensuring that our educational system is a doorway to opportunity – and not a point of entry to our criminal justice system – is a critical, and achievable, goal.” –  
Former Attorney Gen.  
Eric Holder, Press  
Release, 7/21/11

## Council of State Governments

In June 2014, the Justice Center of the Council of State Governments published *The School Discipline Consensus Report*, a comprehensive set of consensus-based and field-driven recommendations to improve conditions for learning for all students and educators, better support students with behavioral needs, improve police-school partnerships, and keep students out of the juvenile justice system for minor offenses. More than 100 advisors representing policymakers, school administrators, teachers, behavioral health professionals, police, court leaders, probation officials, juvenile correctional leaders, parents, and youth from across the country helped develop more than two dozen policies and 60 recommendations to keep more students in productive classrooms and out of courtrooms. An additional 600 individuals from various disciplines and perspectives shared examples of promising practices that are also presented in the report.<sup>230</sup> The report includes the following recommendations:

- Involve a diverse group of stakeholders and review multiple data sources to evaluate the need for officers on a school campus to maintain school safety while contributing to a supportive learning environment and minimizing students' involvement in the juvenile justice system.
- Ensure that policies clearly define officers' roles and the criteria for when to engage police in non-emergency situations that will help minimize arrests while addressing victims' needs.
- Train teachers, administrators, staff, and police about when to directly involve officers with student misconduct on campus and about available alternatives to arrest.
- Collect and analyze school-based arrest and referral data to help determine whether school and police personnel are adhering to policies regarding the involvement of officers and responses to student misconduct.
- Recruit and select officers who are committed to maintaining safety while promoting supportive learning environments and helping reduce youths' risk for involvement in the juvenile justice system.
- Ensure that law enforcement agencies and training authorities, in collaboration with school leaders, provide appropriate training for officers on school policies, practices, and working with youth in a school setting.
- Tailor school-based officers' supervision and evaluation to their defined roles and goals to effectively support officers' efforts and to monitor their progress.
- Understand the legal issues that school-based officers and other police personnel serving schools encounter.
- Ensure that school-police information-sharing principles advance school safety goals and facilitate

"For the relationship between a school and local law enforcement agency to be successful, police, students, parents, and school staff and leaders must employ a collaborative process to design, implement, and monitor the interface between officers and the school community." – Council of State Governments, *School Discipline Consensus Report*, p. xvi



the provision of services and supports to students, without increasing stigmatization or violating privacy mandates.

- Outline in writing officers' roles and authority as defined through the collaborative process for determining the parameters of the school-police partnership.<sup>231</sup>

## New York City School-Justice Partnership Task Force

In fall 2009, the New York State Permanent Judicial Commission on Justice for Children, Advocates for Children of New York, and leadership from the judiciary, education, and law enforcement communities came together for a symposium to share innovative practices for keeping more students in school and out of courts. This symposium inspired the creation of the “New York City School-Justice Partnership Task Force: Keeping Kids in School and Out of Court” in June 2011. The ultimate goal of the Task Force was to develop recommendations for the New York City school and justice systems that would promote safe, respectful, and supportive learning environments; reserve the use of punitive measures – including school suspension, arrest, and summons – for the most egregious cases; address the over-representation of exclusionary discipline among students of color and students receiving special education services; and assist in re-entry for those youth involved in the justice system.<sup>232</sup>

The Task Force heard from experts from around the City and country on promising practices. It examined data to improve understanding of the challenges and look for bright spots – schools that were succeeding even in the face of a wide array of challenges. Task Force members visited local schools and heard from principals and students about what they needed. Members learned from each other and debated what avenues would be best.<sup>233</sup>

The Task Force's recommendations included:

- Develop a “graduated response protocol” and build school-level capacity to support its implementation to resolve student misbehavior at the school level without the use of suspensions, summonses, or arrests, and thereby, commit to reserve court for the most egregious cases.
- Revise school report cards to measure and report on positive innovation in school discipline.
- Track school arrests and summonses by school, including breakdowns by sex, age, race, ethnicity, and disability status.
- Integrate school safety agents with the assigned school administration team to develop, support, and work toward the shared goals of improving school engagement and attendance and reducing suspensions, summonses, and arrests.
- Identify skills needed and provide applicable training for school safety agents based on youth development principles to promote culturally competent skills and positive interaction with students.
- Assure routine conferencing between principals and school safety agents prior to an arrest or a summons.<sup>234</sup>



## APPENDIX B: OTHER NOTABLE EXAMPLES OF STATE AND LOCAL LAWS AND POLICIES

### State Efforts

**California** law encourages clear guidelines and prioritizes positive school discipline:

As comprehensive school safety plans are reviewed and updated, the Legislature encourages all plans, to the extent that resources are available, to include clear guidelines for the roles and responsibilities of mental health professionals, community intervention professionals, school counselors, school resource officers, and police officers on school campus, if the school district uses these people. The guidelines may include primary strategies to create and maintain a positive school climate, promote school safety, and increase pupil achievement, and prioritize mental health and intervention services, restorative and transformative justice programs, and positive behavior interventions and support.<sup>235</sup>

**New Hampshire** law requires school districts to resolve behavior issues through educational interventions before filing a juvenile delinquency petition:

Absent serious threats to school safety, when a delinquency petition is filed by a school official, including a school resource officer ... or when a petition is filed by a local police department as a result of a report made by a school official or school resource officer, based upon acts committed on school grounds during the school day, information shall be included in the petition which shows that the legally liable school district has sought to resolve the expressed problem through available educational approaches, including the school discipline process, if appropriate, that the school has sought to engage the parents or guardian in solving the problem but they have been unwilling or unable to do so, that the minor has not responded to such approaches and continues to engage in delinquent behavior, and that court intervention is needed.<sup>236</sup>

New Hampshire law further requires that:

[W]hen a school official, including a school resource officer assigned to a school district ... or a local police department as a result of a report made by a school official or school resource officer, files a petition involving a minor with a disability ..., upon submission of a juvenile petition, but prior to the child's initial appearance, the legally liable school district shall provide assurance that prior to its filing:

- a) It was determined whether or not the child is a child with a disability ...;
- b) If the school district has determined that the child is a child with a disability, a manifestation review ... occurred;
- c) If the child's conduct was determined to be a manifestation of the child's disability, the school district followed the process set forth in 20 U.S.C. section 1415(k)(1)(F); and
- d) It has reviewed for appropriateness of the minor's current individualized education program (IEP), behavior intervention plan, and placement, and has made modifications where appropriate.<sup>237</sup>

## Local Efforts

The **Buffalo (New York)** Public Schools Code of Conduct states that the building principal or his or her designee should only notify law enforcement when there is a violation of the Standards for Community-wide Conduct and Intervention Supports that *requires* referral to the police.<sup>238</sup>

In August 2014, the **Los Angeles (California)** Unified School District (LAUSD) adopted a policy that:

- Requires district police to refer students to school administrators or an off-campus city resource center if they are involved in crimes such as theft, damaging school property, fighting, or possession of tobacco, alcohol or marijuana; and
- Limits arrests for battery unless there is an injury that requires medical attention or a pattern of repeat offenses.<sup>239</sup>

In May 2013, the LAUSD adopted a School Climate Bill of Rights, which requires the district to:

- Review and evaluate all current school police policies, practices, and training relating to the equitable treatment of students;
- Review the data on the use of school-based citations and arrests, and identify and remedy frequent use at individual school sites;
- Establish clear guidelines regarding the roles and responsibilities of campus police officers;
- Handle the majority of misconduct administratively by utilizing school-based interventions that are intended to maximize student engagement in the classroom and school setting; and
- Implement school-wide positive behavioral interventions and supports and restorative justice programs in lieu of the use of citations and arrests.<sup>240</sup>

In December 2010, the **New York City (New York)** Council approved the Student Safety Act, which mandates quarterly reporting by the New York Police Department (NYPD) on arrests and summonses issued by officers in the NYPD's School Safety Division. The data must be disaggregated by penal code, patrol borough, gender, race, age, and disability.<sup>241</sup>

In September 2013, the **Pasadena (California)** Unified School District and Pasadena City Council approved an MOU with police.<sup>242</sup> The MOU:

- Limits the student infractions that school administrators can report to the police to serious crimes, such as bringing a weapon on campus or selling drugs, and requires that all other smaller disciplinary issues be handled by district staff;
- Limits when police may question and arrest students in school;
- Provides students with protections from self-incrimination;
- Requires officers to submit regular data to school administrators to help keep track of students who might be having problems and channel them into the correct intervention programs; and
- Requires a complaint process be in place.<sup>243</sup>

The **Rochester (New York)** City School District's Safety and Security Department conducts a daily review of arrest data and a bi-weekly review of suspension data.<sup>244</sup>

In June 2014, the **Wake County (North Carolina)** Public School System (WCPSS) adopted a new MOU that requires specialized trainings for SROs and more robust data collection.<sup>245</sup> Trainings now include topics such as working with students with disabilities and special needs; student records and privacy issues; cultural competency and nondiscriminatory administration of school discipline; positive behavioral interventions and supports; restorative justice and alternatives to incarceration programs; and mediation and conflict resolution processes with students. Each law enforcement agency must, at least quarterly, each provide to WCPSS reports of the aggregated number of referrals (reported by race, gender, and school assignment) of students by the SRO to the adult criminal justice system, juvenile petitions, teen court referrals, and/or referrals to the Campbell Law School mediation program.<sup>246</sup>

In December 2013, WCPSS adopted a policy limiting the conduct of off-campus law enforcement officers who attempt to question, search, or arrest students on school property.<sup>247</sup>

## APPENDIX C: MODEL MOU

### MEMORANDUM OF UNDERSTANDING

#### Introduction

This memorandum of understanding (“MOU”) is effective as of July 1, 2016 and concerns the relationship between the Anywhere City Police Department (“ACPD”) and the Anywhere City Public Schools (“ACPS”).

#### **I. GOVERNING PRINCIPLES**

ACPS, ACPD, and this MOU are guided by the following principles:

- A. Excellent public education is essential to the well-being of individuals, communities, and the Commonwealth of Virginia.
- B. To provide an excellent education for all students, schools must be safe.
- C. Preventing misbehavior is paramount in maintaining safe schools.
- D. Positive relationship-building and a supportive school culture are crucial methods of preventing misbehavior.
- E. Students who misbehave should face consequences that are effective, developmentally appropriate, and fair; that help them learn from their mistakes; that minimize loss of instruction time, and that address the root causes of their misbehavior. Whenever possible, alternatives to arrests and court referrals – *e.g.*, referrals to restorative justice, community service, mental health, mentoring, restitution, and substance abuse programs – are best.
- F. Searching and interrogating students, and arresting and referring students to court, unless absolutely necessary, is counterproductive to the role of schools.
- G. Meaningful engagement of all stakeholders – including students, parents, and teachers – is essential to school safety and positive school climate.

#### **II. PURPOSES**

This MOU aims to:

- A. Promote school safety and positive school climate;
- B. Promote effectiveness and accountability;
- C. Minimize the number of students unnecessarily out of the classroom, arrested at school, and court-involved; and
- D. Create a common understanding among ACPS board members, staff, parents, and students; ACPD officers and staff; local court system actors; and the broader community:

- i. That school administrators and teachers are ultimately responsible for school discipline and culture;
- ii. That law enforcement should not be involved in the enforcement of school rules; and
- iii. That clear delineation of the roles and responsibilities of law enforcement, with regular review by all stakeholders, is essential.

### III. DEFINITIONS

- A. Firearm: “any weapon, including a starter gun, that will, or is designed or may readily be converted to, expel single or multiple projectiles by the action of an explosion of a combustible material or the frame or receiver of any such weapon” (Va. Code § 22.1-277.07(E))
- B. Parent: “any parent, guardian, legal custodian, or other person having control or charge of a child” (Va. Code § 22.1-1)
- C. School administrator: a principal, assistant principal, dean of students, or other senior administrator of an ACPS school
- D. School Resource Officer (“SRO”): “a certified law-enforcement officer hired by the local law-enforcement agency to provide law-enforcement and security services to Virginia public elementary and secondary schools” (Va. Code § 9.1-101)
- E. School Security Officer (“SSO”): “an individual who is employed by the local school board for the singular purpose of maintaining order and discipline, preventing crime, investigating violations of school board policies, and detaining students violating the law or school board policies on school property or at school-sponsored events and who is responsible solely for ensuring the safety, security, and welfare of all students, faculty, staff, and visitors in the assigned school” (Va. Code § 9.1-101)
- F. Student: an individual enrolled as a student in the ACPS
- G. Stop and frisk searches: when a law enforcement officer: (i) has a reasonable belief, based on specific and articulable facts, that a specific individual possesses something illegal; (ii) stops the individual; and (iii) “pats down” the individual to determine if the individual has something illegal
- H. Weapon: “(i) any pistol, revolver, or other weapon designed or intended to propel a missile of any kind by action of an explosion of any combustible material; (ii) any dirk, bowie knife, switchblade knife, ballistic knife, machete, razor, slingshot, spring stick, metal knucks, or blackjack; (iii) any flailing instrument consisting of two or more rigid parts connected in such a manner as to allow them to swing freely, which may be known as a nun chahka, nun chuck, nunchaku, shuriken, or fighting chain; (iv) any disc, of whatever configuration, having at least two points or pointed blades which is designed to be thrown or propelled and which may be known as a throwing star or oriental dart” (Va. Code § 18.2-308)

## All Law Enforcement Officers

This section applies to all ACPD officers, including school resource officers (“SROs”), at all times and on all ACPS property. Sections applicable to school safety officers (“SSOs”) are noted. The intent of this section is to give clear guidance to law enforcement officers and school officials, and to ensure law enforcement is involved in only the prevention and investigation of crime, and not in the enforcement of school rules and policies. This section is not intended to be a recitation of existing law. Instead, it spells out heightened protections for students and parents that are more consistent with the unique setting of schools, the mission of ACPS, and the special characteristics of young people.

### **IV. SEARCHES**

- A. Prior to searching a student, a student’s possessions, or a student’s locker, officers shall:
  - i. Have probable cause to believe the student possesses:
    - 1. A weapon;
    - 2. Illegal drugs or alcohol;
    - 3. Stolen property; or
    - 4. Evidence needed to prevent physical harm;
  - ii. Notify a school administrator of the impending search, unless there is a clear and immediate threat to physical safety; and
  - iii. Provide the school administrator with an opportunity to be present during the impending search, unless there is a clear and immediate threat to physical safety.
- B. Probable cause, as it is used in this section, means all of the circumstances would lead a reasonable person to believe the student possesses a weapon, drugs, alcohol, stolen property, or evidence needed to prevent imminent physical harm to a person.
- C. An officer may search a student without probable cause, only if, prior to the search, the officer has voluntary, clear, written consent from the student’s parent or the student, if the student is in high school.
  - i. Consent from elementary and middle school students is invalid.
- D. All searches shall:
  - i. Occur outside of the presence of staff (except school administrators) and other students, unless there is a clear and immediate threat to physical safety; and
  - ii. Be reasonable in scope.
- E. As soon as practicable, the student’s parent shall be notified of the search via telephone or email, or in-person.
- F. Officers shall not:
  - i. Use metal detectors without first meeting the probable cause threshold in Parts A and B of this section;

- ii. Conduct strip searches;
  - iii. Conduct stop and frisk searches; or
  - iv. Participate in searches conducted by school staff, unless the principal or assistant principal requests the officer be present for safety reasons.
- G. Officers shall make a record of each search of a student.<sup>1</sup>
- H. This section also applies to SSOs.

## **V. QUESTIONING**

- A. Unless there is a clear and immediate threat to physical safety, officers shall, prior to any questioning of a student about his or her involvement in a delinquent or criminal offense:
  - i. Possess probable cause to believe the student has committed, or will commit in the foreseeable future, an offense that poses a clear threat to physical safety;
  - ii. Communicate heightened, developmentally appropriate warnings against self-incrimination to the student in the student's primary language;
  - iii. Notify the student's parent of the impending questioning, and provide the parent with a reasonable opportunity to be present during the questioning; and
  - iv. Notify a school administrator of the impending questioning, and provide him or her with an opportunity to be present during the questioning.
- B. Heightened, developmentally appropriate warnings against self-incrimination shall include the following:
  - i. "You have the right to remain silent. You do not have to talk to me."
  - ii. "Anything you say to me can be used against you in court or for suspension or expulsion from school."
  - iii. "You have the right to have a parent, guardian, or lawyer here while I question you. If you want one of them here, you do not have to talk to me until he or she arrives."
  - iv. "If you go to court for delinquency or criminal charges, you will have a lawyer."
- C. If the student exercises his or her right to remain silent, the officer shall immediately end the questioning.
- D. Officers shall make a record of each questioning of a student.<sup>2</sup>
- E. This section also applies to SSOs.

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<sup>1</sup> See Appendix D for a model form.

<sup>2</sup> See Appendix D for a model form.

## VI. USE OF FORCE

- A. Officers shall not unholster a firearm on ACPS property, unless there is a reasonable basis to believe someone on the property may use a firearm or other weapon to cause death.
- B. Officers, including SROs and SSOs, shall not use physical force unless there is a clear and immediate threat of serious bodily injury.
- C. Physical force includes, but is not limited to, the use of:
  - i. Physical restraint (*e.g.*, putting a student's arm behind his or her back);
  - ii. Handcuffs and other restraint devices;
  - iii. Pepper spray and mace;
  - iv. TASERs and stun guns; and
  - v. Firearms.
- D. If physical force is used, officers, including SROs and SSOs, shall:
  - i. Complete "Use of Force Reporting Form"; and
  - ii. Provide a copy of the form to:
    - 1. His or her supervisor;
    - 2. The school principal; and
    - 3. The student's parent in his or her primary language.<sup>3</sup>
- E. The officer's supervisor and the school principal shall maintain a record of the forms.
- F. SSOs shall not possess or use:
  - i. Restraint devices;
  - ii. Pepper spray or mace;
  - iii. TASERs or stun guns;
  - iv. Firearms; or
  - v. Other weapons.

## VII. ARRESTS AND COMPLAINTS

- A. Officers shall have the authority to arrest non-students on ACPS property when there is probable cause to believe the non-student committed or is committing a criminal offense.
- B. Neither officers nor ACPS employees shall file a delinquency complaint (also known as a "referral" to the local court service unit) or a criminal complaint against a student, or contact a student's probation officer, for:
  - i. Minor offenses that occur while the student is lawfully on ACPS property or at an ACPS sponsored-event; or
  - ii. Obstructing justice with respect to minor offenses (Va. Code § 18.2-460).
- C. SROs shall not arrest students for minor offenses.
- D. For purposes of this section, "minor offenses," include:

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<sup>3</sup> See Appendix D for a model form.



- i. Abusive language (Va. Code § 18.2-416);
  - ii. Assault or assault and battery, without bodily injury (Va. Code § 22.1-279.3:1);
  - iii. Disorderly conduct (Va. Code § 18.2-415);
  - iv. Gambling (Va. Code § 18.2-326);
  - v. Petit larceny (Va. Code § 18.2-96);
  - vi. Possession of tobacco (Va. Code § 18.2-371.2); and
  - vii. Trespassing (Va. Code § 18.2-128).
- E. Unless aggravating factors are present and documented in writing, neither officers nor ACPs employees shall file a delinquency or criminal complaint against a student, for:
  - i. Grand larceny (Va. Code § 18.2-95);
  - ii. Injuring property (Va. Code § 18.2-137);
  - iii. Obstructing justice with respect to offenses not listed part D of this section (Va. Code § 18.2-460);
  - iv. Possession of marijuana (Va. Code § 18.2-250.1);
  - v. Possession of alcohol (Va. Code § 4.1-305); and
  - vi. Threats to school employees (Va. Code § 18.2-60(B)).
    - 1. Examples of aggravating factors include:
      - a. A documented history of similar behavior;
      - b. Involvement of a weapon;
      - c. Especially egregious facts (*e.g.*, stolen property worth over \$1,000, possession of more than an ounce of marijuana, etc.); or
      - d. Refusal to participate in a reasonable alternative consequence.
- F. Officers and school administrators shall consider using alternative consequences for the offenses listed in Parts D and E of this section, including, but not limited to:
  - i. A behavioral intervention plan;
  - ii. Parent notification;
  - iii. Community service;
  - iv. Restorative justice or mediation;
  - v. Counseling;
  - vi. Substance abuse treatment; or
  - vii. Saturday school.
- G. Unless there is a clear and immediate threat to physical safety, officers shall, prior to arresting a student on campus:
  - i. Notify a school administrator of the impending arrest; and
  - ii. Provide the school administrator with an opportunity to be present during the arrest.
- H. Unless there is a clear and immediate threat to physical safety, all arrests shall occur outside of the presence of school staff and other students.

- I. As soon as practicable after arresting a student, an officer shall notify, by phone or in-person, the student's parent of:
  - i. The arrest;
  - ii. The basis for the arrest; and
  - iii. The location at which the parent can meet the student.
- J. An officer or ACPS employee who files a complaint against a student shall provide a copy of the complaint to the student's parent within two business days of filing the complaint.
- K. Nothing in this MOU shall prohibit:
  - i. Officers from lawfully arresting a student off of ACPS property for an offense that is committed off of ACPS property; or
  - ii. Officers and school staff from filing a complaint against a student for an offense that occurred off of ACPS property and/or during non-school hours.
- L. Nothing in this MOU shall limit the right of private individuals (*i.e.*, non-ACPD and non-ACPS employees) to file complaints against other private individuals.
- M. SSOs shall not have the authority to arrest anyone.

## **VIII. TRANSPORTING STUDENTS**

- A. Officers shall not transport students anywhere off of ACPS property unless:
  - i. The student is under arrest and the student's continued presence on ACPS property poses a threat to physical safety or a substantial disruption to the school environment; or
  - ii. The officer is transporting the student for purposes of positive relationship-building and has express permission from the student's parent.
- B. If transporting a student is necessary and permissible under this section, the officer shall notify a school administrator and the student's parent, as soon as practicable, of:
  - i. The reason for the transport; and
  - ii. The destination of the student.

## **IX. DATA**

- A. The ACPD and ACPS shall work together to collect data on all of the following that occur on ACPS property:
  - i. Uses of force;
  - ii. Searches;
  - iii. Questioning;
  - iv. Arrests; and

- v. Complaints (*i.e.*, referrals to court).<sup>4</sup>
- B. The data shall be disaggregated by:
  - i. Action taken (*i.e.*, use of force, search, arrest, or court referral);
  - ii. Officer's name;
  - iii. Officer's position (*e.g.*, SRO, SSO, etc.);
  - iv. Location (*e.g.*, school name);
  - v. Student's name;
  - vi. Student's age;
  - vii. Student's grade;
  - viii. Student's race;
  - ix. Student's gender;
  - x. Student's disability status (*i.e.*, Individualized Education Program or 504 Plan vs. no plan);
  - xi. Student's limited English proficiency status (*i.e.*, limited English proficient or not limited English proficient);
  - xii. Student's offense(s); and
  - xiii. Offense(s) with which student was charged (if applicable).
- C. By September 1<sup>st</sup> of each year, the ACPS shall make available on its website a detailed summary of the data from the previous school year.
- D. The ACPD and ACPS shall also comply with any statewide and federal (*e.g.*, Civil Rights Data Collection) reporting requirements.

## School Resource Officers and School Security Officers

### **X. QUALIFICATIONS**

- A. Prerequisites to being selected as an SRO or SSO shall include:
  - i. A desire to work with students, parents, and ACPS personnel;
  - ii. Experience working well with children and youth;
  - iii. Personality traits that are necessary for working successfully with children and youth (*e.g.*, approachable, friendly, empathetic, flexible, patient, mature, able to work with people from different racial, ethnic, and cultural backgrounds, etc.); and
  - iv. A work history free of any substantiated complaints of excessive force, racial profiling, harassment, or discrimination.
- B. SROs must fulfill all requirements necessary to become a certified law enforcement officer.
- C. SSOs must:
  - i. Be at least 22 years of age;
  - ii. Possess a high school diploma; and
  - iii. Pass a criminal background check.

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<sup>4</sup> See Appendix D for a model form.

## **XI. SELECTION**

All SROs and SSOs shall be selected by a committee that includes at least one individual from each of the following groups:

- A. Students;
- B. Parents;
- C. School instructional and student support staff (*e.g.*, teachers, counselors, psychologists, and social workers);
- D. School administrators (*e.g.*, principals and assistant principals); and
- E. Law enforcement.

## **XII. TRAINING**

- A. Prior to becoming an SRO or SSO, one must have received training in the following areas within the previous three years:
  - i. Contents of the this MOU;
  - ii. Child and adolescent development and psychology;
  - iii. Working with students who have disabilities, mental health issues, or a history of abuse and trauma;
  - iv. Methods schools use to provide extra support to individual students (*e.g.*, 504 Plans, Individualized Education Programs (IEPs), Behavioral Intervention Plans (BIPs), Child Study Intervention Teams, etc.);
  - v. Students' rights with respect to special education, searches and seizures, interrogations, excessive force, harassment and bullying, and discrimination;
  - vi. Students' privacy rights under state and federal law;
  - vii. Safe restraint and de-escalation techniques;
  - viii. Implicit bias and cultural competency;
  - ix. Positive Behavioral Interventions and Supports (PBIS) and other evidence-based practices that have been proven to improve school climate;
  - x. Bullying and harassment;
  - xi. Conflict resolution techniques, including mediation and restorative justice;
  - xii. Short- and long-term consequences for students of involvement with the justice system; and
  - xiii. Utilizing local school division and community resources, including their use as alternatives to arrests and court referrals (*e.g.*, mediation, substance abuse counseling, mental health services, and community service).

- B. All SROs and SSOs shall receive training in all of the aforementioned on at least a triennial basis (*i.e.*, every three years).
- C. All trainings must be:
  - i. Conducted by a qualified trainer; and
  - ii. Approved in advance by the SRO's or SSO's supervisor.

### **XIII. RESPONSIBILITIES**

SROs and SSOs shall be familiar with and comply with:

- A. The contents of this MOU;
- B. Relevant ACPS school board policies and regulations;
- C. Relevant ACPD policies and regulations;
- D. Relevant ACPS emergency management plans; and
- E. Relevant state and federal laws and regulations, including those related to special education, suspension and expulsion, search and seizure, interrogation, seclusion and restraint, use of force, discrimination, and student privacy.

### **XIV. DUTIES**

- A. *Communication, Relationship-Building, and Education* – SROs and SSOs shall:
  - i. Promptly respond to communications from students, parents, staff, and community members;
  - ii. Meet with the school principal (and other staff, as necessary) at least monthly to discuss:
    - 1. Programming;
    - 2. Current crime trends; and/or
    - 3. Areas of concern;
  - iii. Act as a mentor and role model for students;
  - iv. When possible, build positive relationships with the community by attending:
    - 1. School staff meetings;
    - 2. School events; and
    - 3. Community events involving the students of the school to which the officer is assigned;
  - v. Meet with students, parents, staff, and other community members at least twice a year – in September and January – to:
    - 1. Provide training on public safety topics (using a training curriculum that is approved, in writing, by the officer's supervisor);
    - 2. Review data that must be collected pursuant to this MOU;
    - 3. Receive feedback on school climate issues and his or her performance; and

4. Discuss possible improvements to this MOU, the officer's activities, safety protocols at the school, etc.;
  - vi. Teach classes about public safety issues upon request by the principal (using a class curriculum that is approved, in writing, by the officer's supervisor and the school principal); and
  - vii. Be knowledgeable about resources in the school, school division, and community that support students – *e.g.*, afterschool and summer programs, mentoring programs, mental health services, and substance abuse treatment – and, when appropriate, share this information with students, parents, and staff.
- B. At the end of each month, each SRO and SSO shall submit, to his or her supervisor, a report accounting for their activities under Part A of this section.<sup>5</sup>
- C. *Safety Activities*
  - i. SROs and SSOs may:
    1. Intervene in incidents involving weapons, drugs, or a clear and imminent risk of serious physical injury to a person on ACPS property;
    2. Request assistance from law enforcement officers only when necessary to prevent an imminent, serious physical injury on ACPS property;
    3. Inspect security equipment and request repairs when necessary;
    4. Regularly patrol interior and exterior school grounds, except classrooms, computer labs, libraries, and other areas where instruction takes place;
    5. Work with ACPS staff to:
      - a. Develop an emergency management plan; and
      - b. Conduct emergency drills; and
    6. Comply with all provisions set forth in Sections III through IX above.
  - ii. SROs may also:
    1. Take custody of and process drugs and weapons found on ACPS property; and
    2. Intervene when non-students engage in delinquent or criminal activities on ACPS property.
  - iii. SSOs may also assist school staff with:
    1. Student arrival, class change, lunch, and dismissal;
    2. Maintaining safety and order; and
    3. Carrying out other duties upon request by the school principal.
- D. *Duty Hours*
  - i. The workday for SROs and SSOs begins 15 minutes prior to the time students begin to arrive and ends 15 minutes after student dismissal.

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<sup>5</sup> See Appendix D for a model form.

- ii. In the event that an SRO or SSO must be away from campus during the school day, the SRO or SSO will notify his or her supervisor and the principal of the school to which he or she is assigned.

## **XV. ASSIGNMENT AND COVERAGE**

To facilitate relationship-building:

- A. SROs and SSOs shall be assigned to one school on a full-time basis, rather than on a part-time basis and/or to multiple schools; and
- B. Whenever possible and appropriate, SROs and SSOs shall be assigned to a school for a minimum of three years.

## **XVI. CALLS FOR SERVICE**

- A. For purposes of this section, a call for service is a request for the SRO or another law enforcement officer to provide assistance with school discipline or law enforcement matters on ACPS property.
- B. Only school administrators may request assistance from the SRO or another law enforcement officer, unless there is a clear and imminent threat to physical safety, in which case, others (*e.g.*, students, parents, and teachers) may request assistance.
- C. The school administration and the SRO shall maintain a written record of all calls for service.<sup>6</sup>

## **XVII. STUDENT RECORDS AND INFORMATION**

- A. All records created or maintained by SROs and SSOs shall remain confidential, unless release of the records is allowed by law.
- B. SROs shall not:
  - i. Have access to students' education records, unless the student's parent (or the student, if he or she is age 18 or older), provides written consent for ACPS to release the records; or
  - ii. Provide any official ACPD document or juvenile court record to school division personnel, unless otherwise required by law.

## **XVIII. OFFICE SPACE AND EQUIPMENT**

- A. ACPS shall provide SROs with office space and furniture.
- B. ACPD shall provide SROs with all other necessities, including a uniform, office supplies, a phone, a laptop, and a vehicle.

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<sup>6</sup> See Appendix D for a model form.

- C. At all times while on school campuses, SROs and SSOs shall carry a radio with which to communicate with school administrators.

## **XIX. GRIEVANCES**

- A. Any student, parent, ACPS employee, or ACPD employee who believes an SRO has violated a law, policy, or this MOU may file a grievance with the SRO's ACPD supervisor.
- B. Any student, parent, ACPS employee, or ACPD employee who believes an SSO has violated a law, policy, or this MOU may file a grievance with the principal of the school to which the SSO is assigned.
- C. A standard grievance form shall be available in English and Spanish, and to the extent possible, in each of the other primary languages spoken by students and parents in the division.<sup>7</sup>
- D. Grievance forms shall be available:
  - i. On the ACPD website;
  - ii. On the ACPS website;
  - iii. On each ACPS school's website;
  - iv. At each ACPS school; and
  - v. At the ACPS central office.
- E. Grievances shall be filed within 30 calendar days of the date on which the grievant (*i.e.*, the person who is filing the grievance) knew or should have known about the officer's alleged misconduct. Exceptions to the timeframe may be granted if just cause is shown.
  - i. Grievances must be signed.
  - ii. Grievances may be submitted in writing or orally.
    - 1. If the grievance is submitted in writing, a standard complaint form shall be used.
    - 2. If the grievance is submitted orally, the grievant shall sign the grievance after it is transcribed.
  - iii. Grievances may be submitted anonymously.
  - iv. Grievances may be submitted in the grievant's native language;
  - v. Grievances may be submitted via:
    - 1. The ACPS website (for SSOs) or ACPD website (for SROs);
    - 2. Email;
    - 3. Mail; or
    - 4. Hand-delivery.
- F. Within two work days of receiving the grievance, the supervisor or principal shall:
  - i. Provide a copy of the grievance to the officer; and
  - ii. Acknowledge, in writing, receipt of the grievance to the grievant.

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<sup>7</sup> See Appendix D for a model form.



- G. If a grievance is filed against an SRO, the supervisor shall provide a copy of the grievance, within two business days of receiving the grievance, to the principal of the school to which the SRO is assigned.
- H. If allegations of serious misconduct by an officer are pending, that officer shall not be on ACPS property and shall not interact with students.
- I. The officer who is the subject of the grievance shall be allowed to submit a written response.
  - i. The response shall be submitted to the supervisor or principal within 10 calendar days of the officer receiving notice of the grievance.
  - ii. The response, if submitted in a timely manner, shall be:
    - 1. Considered as part of the investigation; and
    - 2. Attached to the written findings.
- J. Within 30 calendar days of the filing of a grievance, the supervisor or principal shall:
  - i. Conduct a thorough and impartial investigation of the allegation(s) in the grievance; and
  - ii. Issue a written report.<sup>8</sup>
- K. If additional time is required to complete the investigation and report, the 30-calendar day period may be extended for 15 calendar days, but only with the written consent of the grievant.
- L. An investigation may include, but is not limited to:
  - i. Interviewing and obtaining written statements from the grievant and witnesses;
  - ii. Reviewing photographic evidence and/or video footage; and
  - iii. Reviewing documentary evidence submitted by witnesses, the grievant, and/or the officer.
- M. The written report must include:
  - i. The written grievance;
  - ii. The officer's written response, if one is submitted in a timely manner;
  - iii. A description of the investigation;
  - iv. Findings of fact (*i.e.*, a detailed description of what the investigator believes occurred and what, if any, laws, policies, or MOU provisions were violated);
  - v. If a violation occurred, what remedies must be effectuated (*i.e.*, what has to be done to make up for the harm caused by the violation(s));
  - vi. The signature of the supervisor or principal;
  - vii. The date the report was completed;
  - viii. The date the report was issued; and
  - ix. An appeal form with the option to request an in-person hearing.
- N. The supervisor or principal must issue a copy of the written report to:
  - i. The grievant; and
  - ii. The officer.

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<sup>8</sup> See Appendix D for a model form.

1. If a grievance is filed against an SRO, the supervisor must issue a copy of the written report to the principal of the school to which the SRO is assigned.
- O. The grievant and/or officer may appeal the supervisor's or principal's report within five calendar days of receiving the report by submitting an appeal form to the supervisor or principal via:
- i. The ACPS website (for SSOs) or ACPD website (for SROs);
  - ii. Email;
  - iii. Mail; or
  - iv. Hand-delivery.<sup>9</sup>
- P. Bases for appeal include, but are not limited to:
- i. Procedural violations (*i.e.*, the supervisor or principal did not follow the procedures described in this section);
  - ii. Inadequate investigation;
  - iii. Inaccurate, incomplete, or unsupported findings of fact; or
  - iv. Inadequate or excessive remedies.
- Q. Within three work days of receiving the appeal form, the supervisor or principal shall forward the form and report to the school board clerk.
- R. A panel, including one representative from each of the following groups, shall review and rule on appeals:
- i. ACPS school board;
  - ii. ACPD personnel; and
  - iii. ACPS students and parents.
- S. None of the panel members may have a conflict of interest, such as:
- i. Having a pre-existing relationship with the student, officer, or their families; or
  - ii. Being a witness to the incident that led to the complaint.
- T. If the appellant (*i.e.*, person who filed the appeal) makes a timely and proper request for a hearing on the appeal form, the hearing shall take place within 10 business days of the submission of the appeal form.
- U. At the hearing, which shall be closed to the public:
- i. The grievant and officer shall each have up to 15 minutes to present his or her case;
  - ii. The grievant and officer may be represented by an attorney or non-attorney advocate; and
  - iii. An audio recording of the hearing shall be made.
- V. Within 20 calendar days of the appeal being submitted, the panel shall issue a written report.<sup>10</sup>
- i. The report shall contain:
    1. Findings of fact;

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<sup>9</sup> See Appendix D for a model form.

<sup>10</sup> See Appendix D for a model form.

2. If a violation occurred, what remedy or remedies must be effectuated;
    3. The signature of each panelist;
    4. The date the report was completed; and
    5. The date the report was issued.
  - ii. The written decision shall be issued to:
    1. The grievant;
    2. The officer;
    3. The officer's supervisor; and
    4. The principal of the school to which the officer is assigned.
- W. If allegations of serious misconduct by an officer are substantiated, that officer shall be permanently prohibited from being on ACPS property.
- X. All documents and information related to the complaint shall remain confidential, unless:
  - i. Subject to a subpoena issued by a judge; or
  - ii. The allegation of the officer's misconduct is substantiated, in which case, the report(s) shall become part of the officer's personnel file.
- Y. For purposes of this section, "serious misconduct" includes, but is not limited to:
  - i. Excessive force resulting in physical injury;
  - ii. Sexual harassment; or
  - iii. Using racial or homophobic slurs.
- Z. Nothing in this policy shall limit:
  - i. Legally mandated due process for students, ACPS employees, or ACPD employees; or
  - ii. The right of a private party to pursue legal action in a court of law.

## **XX. OTHER PROVISIONS FOR SROs**

- A. The cost of SROs shall be paid by ACPS and ACPD as set forth in a separate contract, which shall be attached to this MOU.

## **Additional Provisions**

### **XXI. MISCELLANEOUS PROVISIONS**

- A. A copy of this MOU and each of the forms mention herein, shall be:
  - i. Provided to all students and parents during the first week of each school year in English or Spanish, and to the extent possible, in each of the other primary languages spoken by students' parents in the division;
  - ii. Posted on the ACPD website, the ACPS website, and the websites of all ACPS schools; and
  - iii. Provided to the Anywhere City:
    1. Juvenile and Domestic Relations Court judges;

2. Public Defender's office;
  3. Commonwealth Attorney's office; and
  4. Court Service Unit.
- B. ACPS and ACPD shall comply with any mandatory data reporting requirements in state law.
- C. Any ACPS employee who violates the provisions of this MOU shall be subject to appropriate discipline as determined by the ACPS school board.
- D. ACPD and ACPS personnel shall not contact, or threaten to contact, immigration officials about an undocumented student or parent.

## **XXII. TERMS OF AGREEMENT**

- A. This MOU shall be reviewed and revised, as necessary, by ACPS's school board and ACPD's leadership on an annual basis.
- B. This MOU remains in force until such time as either party, with 60 days notice, withdraws from the agreement by delivering a written notification of such rescission to the other party.

The ACPS and ACPD agree to follow the policies and procedures contained in this MOU.

**For ACPS:**

**For ACPD:**

\_\_\_\_\_  
Chair, School Board of Anywhere City

\_\_\_\_\_  
Chief, Anywhere City Police Department

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

## APPENDIX D: MODEL FORMS

### SCHOOL RESOURCE OFFICER (SRO)/SCHOOL SECURITY OFFICER (SSO) GRIEVANCE

#### Student (if applicable)

Name		Student ID #	
Date of Birth		Age	
Grade		School	
Address		City, State Zip	
Phone		Email	

#### Parent(s) (if applicable)

Name 1		Name 2	
Address		Address	
Phone 1		Email 1	
Phone 2		Email 2	

#### Complainant (if not a student or parent)

Name		Title	
Organization			
Address		City, State Zip	
Phone		Email	

#### SRO or SSO

SRO		OR	SSO	
Name			Name	
School			School	

#### Others Present/Witnesses

Name	Student, Parent/Guardian, Staff, or Other

#### Incident Information

Date		Time	
Location			

#### Type(s) of Misconduct (mark with an "X" all that apply)

<input type="checkbox"/>	Impermissible search	<input type="checkbox"/>	Harassment or bullying
<input type="checkbox"/>	Impermissible questioning	<input type="checkbox"/>	Discrimination
<input type="checkbox"/>	Impermissible use of force	<input type="checkbox"/>	Other (specify):

**Incident Description** (Include as much detail as possible. Attach additional pages, if necessary.)

**Requested Remedies** (What are you seeking from this complaint?)

**Additional Information** (if available)

*To the best of my knowledge, all of the information above is true.*

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

**FOR OFFICE USE ONLY**

Received By		Date Received		Complaint #	
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**SCHOOL RESOURCE OFFICER (SRO)/SCHOOL SAFETY OFFICER (SSO) GRIEVANCE RESPONSE**

Complaint #		Date Prepared	
Grievant		Officer	

**Description of Investigation** (Include all information considered.)**Findings of Fact** (Include any specific laws, regulations, and/or policies violated, if applicable.)**Remedies** (Include individual and systemic remedies, if necessary.)

*To the best of my knowledge, all of the information above is true.*

---

Printed Name

---

Signature

---

Date

**GRIEVANCE APPEAL****Person Submitting Appeal**

Name				Complaint #			
Title (check one)	<input type="checkbox"/> Student	<input type="checkbox"/> Parent	<input type="checkbox"/> SRO	<input type="checkbox"/> SSO	<input type="checkbox"/> Other (specify):		
Address				City, State Zip			
Phone				Email			

**Reason(s) for Appeal** (Attach additional pages, if necessary.)
**Requested Outcome** (What are you seeking from this appeal?)
**Additional Information** (if available)
**Hearing** (check one)

<input type="checkbox"/> I <u>do</u> want an in-person panel hearing.	<input type="checkbox"/> I <u>do not</u> want an in-person panel hearing.
---	---

*To the best of my knowledge, all of the information above is true.*

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

**FOR OFFICE USE ONLY**

Received By		Date Received		Complaint #	
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**GRIEVANCE APPEAL RESPONSE****Hearing** (if applicable)

Date		Time		Complaint #	
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**Panel Members**

Name	Title	Signature

**Outcome** (check one)

<input type="checkbox"/>	Report Fully Adopted	<input type="checkbox"/>	Findings of Fact Modified (only)
<input type="checkbox"/>	Remedies Modified (only)	<input type="checkbox"/>	Findings of Fact and Remedies Modified
<input type="checkbox"/>	Additional Investigation Ordered	<input type="checkbox"/>	Other (specify):

**Modifications to Facts and/or Remedies** (if applicable)

--

**Additional Investigation and Reasons for Ordering** (if applicable)

--

**Response**

Issued By		Date	
Issued To		Method of Issuance	

**SCHOOL-BASED COURT REFERRAL FORM****Student**

First Name		Middle Name	
Last Name		Nickname	
Division		School	
Grade		IEP/504 Plan	<input type="checkbox"/> Yes <input type="checkbox"/> No
Address		LEP	<input type="checkbox"/> Yes <input type="checkbox"/> No
City, State Zip		Phone	
Date of Birth		Age	
Height		Weight	
		Sex	
		Race	
		Eyes	

**Parent(s)/Guardian(s)**

	Parent/Guardian 1	Parent/Guardian 2
Name		
Address		
Phone		
Notified?	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No

**Complainant**

Name		Title/Position	
Employer		Badge No.	

*I, the Complainant, hereby affirm that, to the best of my knowledge, there exists the following evidence establishing probable cause that the student named above did commit the following offense(s).*

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**Offense(s)**

Date		Time	
School		Address	
Code Section	Offense	Code Section	Offense
Description (attach additional pages, if necessary)			

**Response(s)**

Arrest	<input type="checkbox"/> Yes <input type="checkbox"/> No	Restraints	<input type="checkbox"/> Yes <input type="checkbox"/> No	Detention	<input type="checkbox"/> Yes <input type="checkbox"/> No
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**FOR SRO SUPERVISOR AND PRINCIPAL USE ONLY**

Received By		Date Received	
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**USE OF FORCE FORM****Student**

Name		Date of Birth	
Division		School	
Grade		IEP/504 Plan	<input type="checkbox"/> Yes <input type="checkbox"/> No
Sex	<input type="checkbox"/> Male <input type="checkbox"/> Female	Race	

**Officer**

Name		Title/Position	
Employer		Badge No.	

**Force Used** (check all that apply)

<input type="checkbox"/>	Gun/Firearm	<input type="checkbox"/>	Handcuffs/Other Restraint Device	<input type="checkbox"/>	Physical Restraint (ex. arm hold)
<input type="checkbox"/>	TASER/Stun Gun	<input type="checkbox"/>	Pepper Spray/Mace	<input type="checkbox"/>	Other (specify):

**Incident Description**

Date		Time	
School		Division	
Arrest	<input type="checkbox"/> Yes <input type="checkbox"/> No	Complaint	<input type="checkbox"/> Yes <input type="checkbox"/> No
Facts (attach additional pages, if necessary)			

**Witnesses**

Name	Position (ex. student, teacher, administrator, officer)

**Parent Notification**

Parent Name		Notifier Name	
Date		Time	
		Method of Delivery	

*To the best of my knowledge, all of the information above is true.*

Officer Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**FOR OFFICER'S SUPERVISOR AND PRINCIPAL USE ONLY**

Received By		Date Received	
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**QUESTIONING OR SEARCH FORM****Student**

Name		Date of Birth	
Division		School	
Sex	<input type="checkbox"/> Male <input type="checkbox"/> Female	Race	
Grade		IEP/504 Plan	<input type="checkbox"/> Yes <input type="checkbox"/> No

**Officer**

Name		Title/Position	
Employer		Badge No.	

**Officer Action** (Check all that apply.)

<input type="checkbox"/>	Questioning	<input type="checkbox"/>	Search
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**Incident Description**

Date		Time	
School		Division	
Arrest	<input type="checkbox"/> Yes <input type="checkbox"/> No	Complaint	<input type="checkbox"/> Yes <input type="checkbox"/> No
Narrative (attach additional pages, if necessary)			

**Others Present**

Name	Position (ex. student, teacher, administrator, officer)

**Parent Notification**

Parent Name		Notifier Name	
Date		Time	
		Method of Delivery	

*To the best of my knowledge, all of the information above is true.*

Officer Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**FOR OFFICER'S SUPERVISOR AND PRINCIPAL USE ONLY**

Received By		Date Received	
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**CALLS FOR SERVICE TRACKING FORM**

Division		School		School Year	
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Date & Time	Name & Title of Caller	Reason for Call	SRO Name & Action Taken

*To the best of my knowledge, all of the information above is true.*

Officer Signature: \_\_\_\_\_ Date: \_\_\_\_\_

FOR OFFICER'S SUPERVISOR AND PRINCIPAL USE ONLY			
Received By		Date Received	

**NON-LAW ENFORCEMENT ACTIVITIES TRACKING FORM****School Resource Officer (SRO)**

Name		Title/Position	
Employer		Badge No.	

**Activities**

Date & Time	Location	Activity Type	Description
		<input type="checkbox"/> Attended school/community event <input type="checkbox"/> Taught/led group/class/team <input type="checkbox"/> Provided mentoring/counseling <input type="checkbox"/> Other (Specify):	
		<input type="checkbox"/> Attended school/community event <input type="checkbox"/> Taught/led group/class/team <input type="checkbox"/> Provided mentoring/counseling <input type="checkbox"/> Other (Specify):	
		<input type="checkbox"/> Attended school/community event <input type="checkbox"/> Taught/led group/class/team <input type="checkbox"/> Provided mentoring/counseling <input type="checkbox"/> Other (Specify):	
		<input type="checkbox"/> Attended school/community event <input type="checkbox"/> Taught/led group/class/team <input type="checkbox"/> Provided mentoring/counseling <input type="checkbox"/> Other (Specify):	
		<input type="checkbox"/> Attended school/community event <input type="checkbox"/> Taught/led group/class/team <input type="checkbox"/> Provided mentoring/counseling <input type="checkbox"/> Other (Specify):	
		<input type="checkbox"/> Attended school/community event <input type="checkbox"/> Taught/led group/class/team <input type="checkbox"/> Provided mentoring/counseling <input type="checkbox"/> Other (Specify):	
		<input type="checkbox"/> Attended school/community event <input type="checkbox"/> Taught/led group/class/team <input type="checkbox"/> Provided mentoring/counseling <input type="checkbox"/> Other (Specify):	
		<input type="checkbox"/> Attended school/community event <input type="checkbox"/> Taught/led group/class/team <input type="checkbox"/> Provided mentoring/counseling <input type="checkbox"/> Other (Specify):	

*To the best of my knowledge, all of the information above is true.*

SRO Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**FOR SRO SUPERVISOR AND PRINCIPAL USE ONLY**

Received By		Date Received	
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## ENDNOTES

<sup>1</sup> Attorney, JustChildren Program, Legal Aid Justice Center; currently, only licensed in North Carolina and awaiting licensure in Virginia.

<sup>2</sup> Legal Director, JustChildren Program, Legal Aid Justice Center; licensed LAJC attorney responsible for this material; 1000 Preston Ave., Ste. A, Charlottesville, VA 22903; (434) 529-1810; angela@justice4all.org.

<sup>3</sup> VA. CODE ANN. § 9.1-101 (2015).

<sup>4</sup> VA. CODE ANN. § 9.1-101 (2015).

<sup>5</sup> Mitchell Cole & Michael Cassidy, *Unsettling Divide, Education Cuts Hit High-Poverty School Divisions the Hardest*, The Commonwealth Institute (Dec. 2014), available at [http://www.thecommonwealthinstitute.org/wp-content/uploads/2015/01/unsettling\\_divide\\_v3a.pdf](http://www.thecommonwealthinstitute.org/wp-content/uploads/2015/01/unsettling_divide_v3a.pdf).

<sup>6</sup> The Commonwealth Institute, *K-12 Education: Demographics and Funding for Select School Divisions (2015)* (Jul. 8, 2015), <http://www.thecommonwealthinstitute.org/2015/07/08/k-12-education-demographics-and-funding-for-select-school-divisions-2015/>.

<sup>7</sup> Reportedly, a field has been added to the juvenile delinquency complaint form that indicates whether the complaint was filed by an SRO. However, school-based complaints may be filed by others, such as principals and SSOs. Therefore, even though the SRO field is a good update, additional improvements need to be made to capture critical information.

<sup>8</sup> The Department of Education, *Civil Rights Data Collection*, [http://ocrdata.ed.gov/StateNationalEstimations/Projections\\_2011\\_12](http://ocrdata.ed.gov/StateNationalEstimations/Projections_2011_12) (last visited Dec. 13, 2015); Susan Ferriss, *Virginia Tops Nation in Sending Kids to Cops, Courts: Where Does Your State Rank?*, The Center for Public Integrity (last updated Sep. 11, 2015, 6:38 P.M.), <http://www.publicintegrity.org/2015/04/10/17089/virginia-tops-nation-sending-students-cops-courts-where-does-your-state-rank>.

<sup>9</sup> This report uses “African American” instead of “Black.” However, the data sources use “Black.”

<sup>10</sup> Dignity in Schools Campaign, *Solutions for Los Angeles School Police Department*, 3-9 (Oct. 2010), available at <http://www.thestrategycenter.org/report/solutions-los-angeles-school-police>; Dignity in Schools Campaign, *Model School Code*, 41-50 (Aug. 2012), available at <http://www.dignityinschools.org/our-work/model-school-code>; ACLU, *Hard Lessons*, 47-50 (Nov. 2008), available at <https://www.aclu.org/report/hard-lessons-school-resource-officer-programs-and-school-based-arrests-three-connecticut>; Lisa Thureau & Johanna Wald, *First, Do No Harm*, Harvard Institute for Race and Justice, 10-12 (May 3, 2010), <http://www.charleshamiltonhouston.org/2010/05/first-do-no-harm/>; Catherine Kim & I. India Geronimo, *Policing in Schools*, ACLU (Aug. 2009), available at [https://www.aclu.org/files/pdfs/racialjustice/whitepaper\\_policinginschools.pdf](https://www.aclu.org/files/pdfs/racialjustice/whitepaper_policinginschools.pdf); The Advancement Project, *Proposed Memorandum of Understanding Between the School District and Police Department*, (Feb. 26, 2013), available at <http://www.advancementproject.org/resources/entry/proposed-memorandum-of-understanding-between-the-school-district-and-police>; Lisa Thureau & Johanna Wald, *Controlling Partners*, Harvard Institute for Race and Justice, 1017-20 (2009), available at <http://www.nylslawreview.com/wp-content/uploads/sites/16/2013/11/54-4.Thureau-Wald.pdf>; Emily Morgen et. al., *The School Discipline Consensus Report*, The Council of State Governments Justice Center, 183-267 (June 3, 2014), available at [http://csgjusticecenter.org/wp-content/uploads/2014/06/The\\_School\\_Discipline\\_Consensus\\_Report.pdf](http://csgjusticecenter.org/wp-content/uploads/2014/06/The_School_Discipline_Consensus_Report.pdf); Robin Dahlberg, *Arrested Futures*, ACLU, 37 (Spring 2012), available at [https://www.aclu.org/files/assets/maarrest\\_reportweb.pdf](https://www.aclu.org/files/assets/maarrest_reportweb.pdf); Deborah Fowler, *Texas School-to-Prison Pipeline*, Texas Appleseed, 155-61 (Dec. 2010), <http://www.texasappleseed.org/sites/default/files/03-STPPTicketingandArrests.pdf>; Amanda Petteruti, *Education Under Arrest*, Justice Policy Institute, 31-32 (Nov. 15, 2011), available at [http://www.justicepolicy.org/uploads/justicepolicy/documents/educationunderarrest\\_fullreport.pdf](http://www.justicepolicy.org/uploads/justicepolicy/documents/educationunderarrest_fullreport.pdf); The Advancement Project, *Education on Lockdown*, 46-47 (Mar. 2005), available at [http://b3cdn.net/advancement/5351180e24cb166d02\\_mlbrqxlh.pdf](http://b3cdn.net/advancement/5351180e24cb166d02_mlbrqxlh.pdf); Russell Wolff & Jack McDevitt, *School/Police Partnerships*, 16-20 (Dec. 2008), available at <http://www.mass.gov/eopss/funding-and-training/justice-and-prev/grants/shannon-csi/shannon-pub-5.pdf>; National Juvenile Justice Network, *School Discipline & Security Personnel, A Tip Sheet for Advocates on Maximizing School Safety and Student Success* (Oct. 2015), <http://www.njjn.org/our-work/school-discipline--security-personnel>.

- <sup>11</sup> Russell Skiba et. al, *Are Zero Tolerance Policies Effective in Schools? An Evidentiary Review and Recommendations*, The American Psychological Association Zero Tolerance Task Force (Aug. 9, 2006), available at <http://www.apa.org/pubs/info/reports/zero-tolerance-report.pdf>; The American Academy of Pediatrics, *Policy Statement Out of School Suspension and Expulsion*, 8-12 (2013), available at <http://pediatrics.aappublications.org/content/131/3/e1000>; Robert Belfanz et. al, *Sent Home and Put Off-Track: The Antecedents, Disproportionalities, and Consequences of Being Suspended in the Ninth Grade*, Everyone Graduates Center, School of Education, Johns Hopkins University, 2-3 (Dec. 21, 2012), <http://civilrightsproject.ucla.edu/resources/projects/center-for-civil-rights-remedies/school-to-prison-folder/state-reports/sent-home-and-put-off-track-the-antecedents-disproportionalities-and-consequences-of-being-suspended-in-the-ninth-grade/balfanz-sent-home-ccrr-conf-2013.pdf>; Russell J. Skiba et. al, *New and Developing Research on Disparities in Discipline*, The Atlantic Philanthropies, 2 (Mar. 2014), available at [http://www.indiana.edu/~atlantic/wp-content/uploads/2015/01/Disparity\\_NewResearch\\_010915.pdf](http://www.indiana.edu/~atlantic/wp-content/uploads/2015/01/Disparity_NewResearch_010915.pdf); Daniel Losen et. al, *Eliminating Excessive and Unfair Exclusionary Discipline in Schools Policy Recommendations for Reducing Disparities*, The Atlantic Philanthropies (Mar. 2014), available at [http://www.indiana.edu/~atlantic/wp-content/uploads/2015/01/Disparity\\_Policy\\_010915.pdf](http://www.indiana.edu/~atlantic/wp-content/uploads/2015/01/Disparity_Policy_010915.pdf).
- <sup>12</sup> Council of State Governments Justice Center & Public Policy Research Institute, *Breaking Schools' Rules: A Statewide Study of How School Discipline Relates to Students' Success and Juvenile Justice Involvement*, xii (Jul. 2011), available at [https://csgjusticecenter.org/wpcontent/uploads/2012/08/Breaking\\_Schools\\_Rules\\_Report\\_Final.pdf](https://csgjusticecenter.org/wpcontent/uploads/2012/08/Breaking_Schools_Rules_Report_Final.pdf).
- <sup>13</sup> The Virginia Department of Education, *Safe Schools Information Resource*, <https://p1pe.doe.virginia.gov/pti/> (last visited Dec. 13, 2015).
- <sup>14</sup> The Virginia Department of Education, *Discipline, Violence, and Crime Annual Report School Year 2013-2014*, 22 (Aug. 2015), available at [http://www.doe.virginia.gov/statistics\\_reports/school\\_climate/discipline\\_crime\\_violence/13-14\\_annual\\_report.pdf](http://www.doe.virginia.gov/statistics_reports/school_climate/discipline_crime_violence/13-14_annual_report.pdf).
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- <sup>16</sup> The Advancement Project, *Test, Punish, and Push Out: How "Zero Tolerance" and High-Stakes Testing Funnel Youth into the School to Prison Pipeline*, 9-10 (March 2010), available at [https://b3cdn.net/advancement/d05cb2181a4545db07\\_r2lm6cage.pdf](https://b3cdn.net/advancement/d05cb2181a4545db07_r2lm6cage.pdf).
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<sup>28</sup> Susan Ferriss, *Virginia Tops Nation in Sending Kids to Cops, Courts: Where Does Your State Rank?*, The Center for Public Integrity (last updated Sep. 11, 2015, 6:38 P.M.), <http://www.publicintegrity.org/2015/04/10/17089/virginia-tops-nation-sending-students-cops-courts-where-does-your-state-rank>.

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<sup>86</sup> VA. CODE ANN. § 9.1-110(A) (2002) (emphasis added).

<sup>87</sup> Virginia Department of Criminal Justice Services, *Virginia Juvenile Law Handbook for School Administrators*, 21, <http://www.virginiarules.com/juvenile-law-handbook/JLH-2011.pdf> (last visited July 8, 2015); see also Virginia Department of Criminal Justice Services, *School Security Officer Program Module 1: Student Guide*, 1-5 <http://www.dcjs.virginia.gov/vcscs/SSOCurriculum/Student/SchoolSecurityOfficerModule1-Manual.pdf> (last visited July 8, 2015).

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<sup>112</sup> 24 C.F.R. §§ 5.856 (2001), 5.903(A) (2001), 960.204 (2001).

<sup>113</sup> 24 C.F.R. §§ 966.4(l)(5)(iii) (2010), 982.551(l) (2015), 982.552(c)(1)(i) (2015), 982.553(b) (2015).

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<sup>118</sup> Richard A. Mendel, *No Place for Kids: The Case for Reducing Juvenile Incarceration*, Annie E. Casey Foundation, 5-9 (2001), available at <http://www.aecf.org/m/resourcedoc/aecf-NoPlaceForKidsFullReport-2011.pdf>; The Vera Institute of Justice, *The Unintended Consequences of Incarceration*, 51-55 (Jan. 1996), available at <http://www.vera.org/sites/default/files/resources/downloads/uci.pdf>.

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